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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Colleton County

Honorable Marvin H. Dukes, III, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JAMES AUSTIN EDWARD TOWNSEND,

APPELLANT

APPELLATE CASE NO. 2025-000414

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**[THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
STATE’S EXHIBIT NO. 1 (BROOKE BENTLEY FORENSIC INTERVIEW) AND
STATE’S EXHIBIT NO. 3 (DISK INTERVIEW BY LT. BALLARD)]**

State of South Carolina	)	
	)	In the Circuit Court
County of Colleton	)	
	)	
	)	
State of South Carolina	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case #: 2023-GS-15-00267
	)	
James Austin Edward	)	
Townsend, Jr.,	)	
	)	
Defendant.	)	
_____	)	

Colleton County Courthouse
February 24, 2025-February
27, 2025

TRANSCRIPT OF HEARING

B E F O R E

The Honorable Marvin H. Dukes, III

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

Assistant Solicitor Julie Kate Keeney
Attorney for the State of South Carolina

David S. Mathews, Esquire
Attorney for Defendant

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msingletary@sccourts.org

1 before? I think you all have some pleas for me or
2 something, right?

3 MS. KEENEY: I'm sorry what was the last
4 question?

5 THE COURT: Was there anything else on this case
6 before we conclude on this? So the question was, did the
7 Solicitor's Office have some pleas?

8 MS. KEENEY: We do not.

9 THE COURT: Oh, so we're down until for a while.
10 All right, well, that'll give me an opportunity to try to
11 figure this stuff out then. Anything else for this record
12 then before we take a quick break?

13 MS. KEENEY: None from the state.

14 MR. MATHEWS: No sir.

15 THE COURT: All right, then we'll be at ease
16 until we qualify the jury, I guess.

17 **(There was a break in the proceedings)**

18 THE COURT: All right, ladies and gentlemen of
19 the jury, we're about to begin the trial of the case of
20 State of South Carolina versus James Austin Townsend.
21 Can I get the state to call the case, please.

22 MS. KEENEY: May it please the court. The State
23 calls James Austin Townsend for trial under indictment
24 number 2023-GS-15-00267, criminal sexual conduct with a
25 minor first degree.

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1 to swear them in a minute. But where am I going to stand?
2 Let's see.

3 MS. KEENEY: Well I'm going to, we're not going
4 to --- this isn't a now issue. This is later, so we're
5 going to move this back.

6 THE COURT: Oh, okay, just testing it out. All
7 right, I don't know if that was ...

8 **(Off the Record)**

9 THE COURT: Good morning.

10 JURY: Good morning.

11 THE COURT: I hope everybody got a good bit of
12 rest last night. As I said yesterday sometimes we get you
13 here at a certain time and then we launch into some
14 things that have to be taken up outside of your presence
15 and so we've done that. We've covered all the ground.
16 We've gotten some things done that were important to get
17 done. Did everyone follow the instructions about no
18 research, no discussions, all of that?

19 JURORS: Yes sir.

20 THE COURT: Okay. Good, good, good. Well, now
21 I'm going to ask the clerk to swear you, and then I've
22 got some things to tell you before we begin the trial.

23 CLERK OF COURT: Everyone, please stand and
24 raise our right hand. Do you solemnly swear or affirm
25 that you shall well and truly try and true deliverance

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1 make between the State of South Carolina and the accused
2 at the bar and a true verdict give according to the
3 evidence and the law so help you God?

4 JURORS: We do.

5 CLERK OF COURT: You may be seated.

6 THE COURT: Thank you very much. Ladies and
7 gentlemen, I will read from a book which is sometimes
8 annoying to watch someone do, but it's important, because
9 what I'm going to read for you is the official approved
10 list of things that you need to know before, before we
11 begin. So I would ask you, even though it might be a
12 little boring to watch me read, to pay attention and I'll
13 get through it fairly quickly. But before we begin this
14 trial, I want to tell you that this trial probably will
15 be different from what you might expect. Many people do
16 not have the chance to attend actual court sessions as
17 you are doing now and may think from watching television
18 or movies or reading books that trials are always full of
19 high drama and intense action and ripping circumstances,
20 while all of these things may be true at times, this
21 trial is not for entertainment. It is a fundamental part
22 of our democracy, an effort to make sure that justice is
23 done between the parties before the court. Making sure
24 that justice is done is often slow, deliberate and
25 repetitive, the opposite of what you may have seen on

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1 television or movies or read in books. The courtroom is a
2 place of honor dedicated to the protection and
3 preservation of citizens rights through what many have
4 called the greatest justice system ever created. The
5 attorneys appearing before you are advocates for the
6 parties they represent, but first and foremost, they are
7 officers of the court sworn to uphold the integrity and
8 fairness of our judicial system and help you in the
9 search for truth. You should expect them to be
10 professional, competent and ethical in the representation
11 of their client's interests. You are also expected to be
12 professional, reasonable and ethical. Thank you for
13 accepting the important responsibility of jury service
14 and for your contribution today to our jury system.

15 What I will now say is intended to serve as an
16 introduction to the trial. These remarks are not a charge
17 on the law. I will instruct you on the applicable law at
18 the end of the trial, before you retire to consider your
19 verdict. This is merely an explanation of the procedure
20 that we will follow during the trial, so that you might
21 better understand what may be happening. In this
22 particular trial, which is anticipated to take just a
23 couple of days, we are not going to take notes, and so
24 you'll have to pay attention and remember all this. If this
25 were a multi week trial, we would have notes, but we're not

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1 going to do that today, so please pay close attention. The
2 defendant is charged by an indictment filed in this court
3 and read to you yesterday with the crime of criminal sexual
4 conduct with a minor first offense, the elements of which
5 will be explained to you later. The indictment is simply
6 the charge by which the case is brought into court. It is
7 not, in any sense, evidence of any of the allegations it
8 contains. The defendant has pled not guilty to the
9 indictment. The state, therefore has the burden of proving
10 each of the elements of the indictment beyond a reasonable
11 doubt. Proof of beyond a reasonable doubt is proof that
12 leaves you firmly convinced of the defendant's guilt. It
13 will be your duty, ladies and gentlemen, to decide whether
14 the state has met that burden. Your purpose as jurors is to
15 find and determine the facts. You are the sole Judge of the
16 facts. If at any time I make any comment regarding the
17 facts, you must disregard it. You are to determine the
18 facts from testimony you hear and other evidence introduced
19 in court, it is up to you to determine the inferences which
20 you feel may properly be drawn from the evidence. It is
21 especially important that you perform your duty of
22 determining the facts diligently and conscientiously,
23 because ordinarily, there is no way to correct an erroneous
24 determination of the facts by a jury. On the other hand,
25 and with equal emphasis, the same law that makes you the

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1 judges of the facts, makes me the judge of the law. The law
2 is given by the court is the only law you may consider, you
3 may accept and follow it, even though you may disagree with
4 it. I cannot tell you what the facts are, and you cannot
5 disagree with me about what the law is or should be. Your
6 job is to take the law as it is given to you and apply it
7 to the facts as you find them from the testimony of the
8 witnesses and any other evidence that is introduced. After
9 doing that, you will render your verdict, a verdict under
10 the solemn oath that you just took as jurors. Until I tell
11 you that you may begin to deliberate, you must not discuss
12 this case with anyone, including your fellow jurors,
13 friends, family members and anyone involved in the case.
14 The attorneys and parties in this case have been advised
15 they are not to talk to you at all. So if you see anyone
16 involved in the case and they do not even say hello, they
17 are not being unfriendly. They are just following my
18 instructions.

19 You must make your decision based solely on the
20 evidence presented here in this court. This means that
21 during the trial, you must not conduct any independent
22 research about the facts of the case, the evidence
23 presented, or the people and organizations involved in any
24 way with the trial. Please do not try to find out any
25 information from any source outside the courtroom. In other

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1 words, you must not look at dictionaries or other reference
2 materials, search the internet, websites or blogs or use
3 any other electronic tools to get information about this
4 case or to help you decide the case. You may not use
5 computers, telephones, cell phones, smartphones, tablets,
6 the internet or other tools of technology with
7 communication capabilities at any time, while you were in
8 the courtroom or during your deliberations. During your
9 breaks for meals, you may use these devices, however, you
10 must not use these devices to communicate with anyone about
11 the case until the case is over. This means you must not
12 use cell phone calls, emails, text messages, instant
13 messages, Twitter or any blog chat room or website,
14 including Facebook, Google, MySpace, LinkedIn, YouTube or
15 any social media websites to send or receive information
16 about this case. This includes information about a party,
17 a witness, an attorney or a court officer, news accounts
18 about the case, research on any topics raised, any topics
19 you think would be helpful in deciding the case or any
20 testimony presented by any witness. During the trial, do
21 not read, listen to or watch any news reports about this
22 case. This includes anything that may be in the newspapers,
23 on the internet, radio or television. You must not consider
24 anything that you have read or heard about the case outside
25 the courtroom, whether before or during the trial.

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1 Information on television, radio, the internet or from
2 other sources might be wrong or incomplete. In our
3 judicial system, it's important that you are not influenced
4 by anything or anyone outside of the courtroom. If you
5 become aware of another jurors violation of these
6 instructions, please inform me immediately. It is important
7 that you keep an open mind and not decide on any issue in
8 the case until all of the evidence has been presented, the
9 parties have made their closing arguments, and I have
10 instructed you on the law. It is your solemn responsibility
11 to determine the guilt or innocence of the defendant, and
12 your verdict must be based solely on the evidence that is
13 as it is presented to you in the trial and on the law as I
14 instruct you during and at the close of the trial. In just
15 a moment, the solicitor will make what is called an opening
16 statement, in which the solicitor will explain to you the
17 issues, what the issues are, or at least, what the
18 solicitors thinks the issues are. The attorney for the
19 defendant may also make an opening statement, although he's
20 not required to do so. What the attorneys tell you during
21 their opening statements is not evidence. It is only their
22 contention as to what the issues are. The evidence will be
23 presented to you by the testimony of sworn witnesses from
24 this witness stand, or by exhibits that may be introduced
25 into evidence. From time to time during the trial, you may

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1 hear one of the lawyers say something like, Your Honor, I
2 believe we have a question of law or a matter of law to
3 discuss with you or your honor, may we approach the bench,
4 or sometimes I, myself, might find it necessary to excuse
5 you from the courtroom for a short while so the attorneys
6 and I might discuss a matter of law. The reason for this is
7 because you are the judges of the fact and sometimes when
8 I'm discussing matters of law with the attorneys, it may be
9 necessary for me to make some comment as to the facts in
10 connection with ruling whether or not a particular law
11 applies. I'm not supposed to tell you what I think the
12 facts are, so I will excuse you from the courtroom while
13 these discussions take place, so that in no way will you be
14 influenced by anything that I might say or do in connection
15 with the facts. In determining what the true facts are, you
16 must decide whether or not the testimony of the witness is
17 believable. It will be my responsibility to rule as a
18 matter of law as to whether certain testimony is admissible
19 at all or not, but once the testimony is admitted, whether
20 or not you believe it is solely for you to determine. In
21 deciding whether to believe a witness, you have the right
22 to consider the interest of any witness, the bias of any
23 witness, the prejudice of any witness, the opportunity for
24 the witness to have seen the matters and things about which
25 the witness may testify, and the way the witness acts on

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1 the witness stand, you have a right to consider anything
2 that is in the record that will help you evaluate the
3 testimony of the witnesses. That means it is your duty to
4 pay close attention to these witnesses, to observe the
5 witnesses, to listen to the witnesses and to pay close
6 attention to the attorneys and the court. Don't let your
7 thoughts wander, but give strict attention to the testimony
8 so at the end of all of the testimony, after the arguments
9 of counsel and the charge on the law by the court, you will
10 then be in a position to determine what the true facts are
11 and to apply the law to those facts, and thus render a
12 verdict. It is your added duty, Mr. Forman, to preside in
13 the jury room and be the jurors spokesperson here in court.
14 It will also be your duty to write the verdict, but I will
15 give you further instructions about that at the conclusion
16 of the trial. In order to preserve everyone's rights, I
17 will give the parties an opportunity to object anything
18 I've said. Anything we need to take up outside the presence
19 of the jury before we begin?

20 MS. KEENEY: None from the State.

21 MR. MATHEWS:: No, sir.

22 THE COURT: All right, then we will now begin the
23 trial. Happy to hear from you.

24 MS. KEENEY: May it please the court. Good
25 morning.

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1 JURY: Good morning.

2 MS. KEENEY: In March of 2023, six year old [REDACTED] MINOR
3 [REDACTED] was doing what kids do outside playing with her
4 friends in her neighborhood and playing what she thought
5 was an innocent game of hide and go seek
6 but 21 year old Austin Townsend turned this innocent little
7 game into a sick, predatorial game. He took [REDACTED] MINOR, who
8 likes to be called [REDACTED] MINOR, behind the building, and then
9 took his hand, put it down her pants and penetrated her
10 with his fingers. And when he was done, he told her, don't
11 tell anyone what I did, because we'll get in trouble. So
12 [REDACTED] MINOR runs off, and at first she doesn't tell anyone,
13 because she doesn't want anybody to get in trouble. But a
14 couple of days go by and she tells her sister, older
15 sister, [REDACTED] SISTER, what happened. And [REDACTED] SISTER went and told her
16 mom, Candice and Candice did what her mom does. She called
17 the cops, and the cops respond and they investigate. And
18 you're going to hear from the cops that responded, you're
19 going to hear from the family members involved, and you're
20 going to hear from [REDACTED] MINOR, and finally, you're going to hear
21 what the defendant had to say for himself.

22 Now the defendant is charged with criminal sexual
23 conduct with a minor first degree, and what that means is
24 that I have to prove to you beyond a reasonable doubt that
25 he committed a sexual battery on a child under the age of

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11. And so when a sexual battery is defined by statute, and the judge is going to tell you all this at the end of all the evidence, it is any type of sex, whether it's vaginal or anal sex, any type of oral sex, which we call cunnilingus or fellatio or an type of penetration, however slight, to any of the openings, whether it's vaginal or anal openings, but that's the part that we're talking about here, putting his fingers in her vagina. Some people call it digital penetration. Some people call it more crude things, but that's what we're doing today. And so after you hear all the evidence and the judge charges you on the law, I'm going to ask that you come back with a guilty verdict. Thank you.

THE COURT: Mr. Mathews.

MR. MATHEWS:: Mr. Foreman, ladies and gentlemen of the jury, this is --- you've listened to what the state says that they can prove. If they don't prove it, however else you may feel about these charges, then you have to find my client not guilty. I think the evidence will show that on the day that this was supposed to have happened the defendant's brother, Mr. Townsend's brother Andrew Tye was out there, was watching this. The police never talked to him, but you'll hear from him. But the most important thing you heard at the beginning is what you need to remember at

25

Mr. Smith - Examination by Ms. Keeney

the end, and that is, this is your call, whatever you all decide that goes, but the state has the burden of proof. Nobody has to prove their innocence, and the state has to prove every element. I think, when you've heard all the evidence, you will conclude that they have not proved beyond a reasonable doubt all the things that they said they could prove.

THE COURT: Thank you. Please call your first witness.

MS. KEENEY: The state calls Deputy Jeramine Smith to the stand.

DEPUTY CLERK: Do you solemnly swear or affirm that the testimony you give this court in this trial to be the truth so help you God?

MR. SMITH: Yes.

DEPUTY CLERK: Thank you. Have a seat on the witness stand. State your name and spell your last name for the record.

MR. SMITH: Jeramine Smith. S-M-I-T-H.

Mr. Jeramine Smith - Examination by Ms. Julie Kate Keeney

Q. Officer Smith, where do you work?

A. Colleton County Sheriff's Office.

Q. What's your position there?

A. Corporal on road patrol.

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1 Q. Okay, and as a corporal on road patrol, what are some
2 of your general duties?

3 A. Respond to public services, property taxes and
4 anything and everything.

5 Q. Okay. And in March of 2023 were you also a corporal,
6 or were you on road control for the Colleton County
7 Sheriff's Office?

8 A. Yes.

9 Q. And on March 20th of 2023, did you respond to [REDACTED]
10 [REDACTED] MINOR'S RESIDENCE in Walterboro, South Carolina?

11 A. Yes.

12 Q. And why did you respond? What was it in reference to?

13 A. It was in reference to a reported sexual assault.

14 Q. Okay. And what county is that [REDACTED] MINOR'S RESIDENCE address
15 in?

16 A. It's in Colleton County.

17 Q. Okay. And when you responded to that address, who did
18 you meet with?

19 A. I met with [REDACTED] MINOR's parents, Candice and Herbert Heyl.

20 Q. Candice and Herbert Heyl, parents of the victim?

21 A. Yes.

22 Q. Okay. And did you meet with anyone else besides the
23 parents?

24 A. I also met with the victim.

25 Q. Okay, and when you met with the victim, do you recall

1 how old she was at the time?

2 A. I want to say six, approximately.

3 Q. Okay, six years old. And did you meet with her sister

4 **SISTER** as well?

5 A. Yes.

6 Q. Okay. And you conducted, like short interviews of
7 them?

8 A. Yes.

9 Q. Okay. And when you interviewed the victim **MINOR**, did
10 you do a detailed interview with her?

11 A. No, just a brief statement just what happened.

12 Q. Okay. And why do you not do a detailed interview with
13 the victim?

14 A. Mainly because that's left up to the forensic
15 interviewer that has to be scheduled.

16 Q. Okay, forensic interview that's like a professional
17 that interviews ...

18 A. Yes.

19 Q. ... children of suspected abuse?

20 A. Yes.

21 Q. Okay, and when you did interview **MINOR**, did she make
22 a disclosure of sexual abuse to you?

23 A. Yes.

24 Q. Okay. Did she say when it happened?

25 A. Approximately within a month prior. I'm not sure.

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State of South Carolina vs. James Austin Townsend 125Mr. Smith - Cross by Mr. Mathews

Q. Okay, so in March 2023, it didn't happen that day, correct?

A. No.

Q. Okay. Did she say where it happened?

A. She said near a small house next door, approximately 622 Evergreen Lane.

Q. Okay, so that would have still been in Colleton County, correct?

A. Yes.

Q. Okay. Did you have another involvement in this case?

A. Other than doing the report, no.

Q. Okay, you do a report. And who does this case get turned over to?

A. We contact our investigator and their department assigns cases to detectives.

Q. Okay, do you know what detective got assigned?

A. I believe it's Detective Ballard.

Q. Okay. Thank you. No further questions.

THE COURT: Mr. Mathews please.

Mr. Jeramine Smith - Cross Examination by Mr. David Mathews

Q. Corporal, you look dressed up today. I hope everything's okay, a funeral or anything to go to?

A. No.

Q. You just like looking nice. I guess that's good. Okay,

1 you were a road officer at that time, correct?

2 A. Yes.

3 Q. And so during that time, you had a body cam, I guess?

4 A. Yes.

5 Q. And was it operational that day?

6 A. I believe so.

7 Q. Okay. And when you take a body cam, what do you do
8 with it? When do you, what do you do with it at the is it
9 at the end of the day, at the end of the shift. When do you
10 do anything with it?

11 A. As far as what on the body cam.

12 Q. Yeah, don't you? You bring it and it's downloaded,
13 right?

14 A. Yes.

15 Q. Okay. Do you do that at the end of the shift, at the
16 end of the day, at the end of the week? How frequently do
17 you drop your body cam off to be downloaded?

18 A. In between shifts or sometimes, sometimes throughout
19 the night if we have down time.

20 Q. Okay, but not more than a day late. You went
21 downloaded pretty quick, right?

22 A. Yes.

23 Q. Okay, and your body cam you would have, you would have
24 been able to see your conversations with MINOR and her
25 mother and everybody else that was there?

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1 A. Yes.

2 Q. Okay, you initially reported. Have you had a chance to
3 review your incident report?

4 A. I looked over it.

5 Q. Okay. And you concluded at that time, based on that,
6 that there was no penetration. Is that correct?

7 A. That is what the parents told me.

8 Q. Okay, so Mama said there was no penetration?

9 A. Yes.

10 Q. Okay, did she use that word, or is that word you
11 chose?

12 A. I asked the parents what was said.

13 Q. Okay. What response did you get?

14 A. They said that there was no penetration.

15 Q. Okay, all right, so maybe outside the clothes or
16 something like that, but not, and this is a young child,
17 obviously, right?

18 A. Yes.

19 Q. If there was penetration, would you recommend that
20 there be a rape kit or something to determine whether
21 there's any physical manifestation?

22 A. Yes.

23 Q. Okay, and you didn't recommend that because the
24 indication you got was there was no penetration?

25 A. Yes.

Mr. Smith - Redirect by Ms. Keeney

Q. Do you know what happened to --- once you drop your body cams off, do you see them after that?

A. No.

Q. Okay. Do you have access to it after that?

A. Yes.

Q. You do? Okay. Did you remove at any time the body cam in this case?

A. We don't have access to do that.

Q. Okay. That's what I was asking. Okay, who does?

A. I'm honestly not sure, maybe records.

Q. Above your pay grade records of having maybe the investigator, but not you?

A. No.

Q. Okay, so you dropped it off, and as far as you know, that's where it is?

A. Yes sir.

Q. Okay, all right. I don't have anything further from this witness, Your Honor.

Jeramine Smith - Redirect by Ms. Julie Kate Keeney

Q. Did you ask MINOR the victim in this case, specifically if there was any penetration, or whatever word you want to use for that?

A. No.

Q. No, you're just going off of what the parents said?

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1 A. Yes.

2 Q. And why did you not ask [REDACTED] specifically if there
3 was penetration?

4 A. Well, it's because she's a child, and all the
5 information was to be done during the forensic interview.

6 Q. To the people that are trained to ask children about
7 abuse?

8 A. Yes.

9 Q. Thank you.

10 MS. KEENEY: No further questions.

11 MR. MATHEWS:: Nothing further.

12 THE COURT: Thank you so much, sir. Any objection
13 to this witness being excused?

14 MR. MATHEWS:: No, Your Honor. He looks like he's
15 got big things to do.

16 THE COURT: Thank you so much.

17 MS. KEENEY: The state calls [REDACTED]

18 DEPUTY CLERK: Please place your left hand on the
19 Bible, raise your right hand. Do you swear or affirm that
20 you're going to tell the truth and nothing but the truth to
21 this court in this trial?

22 MS. HEYL: Yes.

23 DEPUTY CLERK: Thank you. Now you can have a seat
24 on the witness stand. Repeat your name and please spell
25 your last name for the court reporter.

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1 Ms. SISTER - Examination by Ms. Keeney

2 SISTER: My full name?

3 DEPUTY CLERK: Just your last name.

4 SISTER: SISTER.

5 SISTER - Examination by Ms. Julie Kate Keeney

6 Q. SISTER, how old are you?

7 A. 14.

8 Q. And what grade are you in?

9 A. 8th.

10 Q. What school do you go to?

11 A. I'm homeschooled.

12 Q. Okay, who homeschools you?

13 A. My mom and dad.

14 Q. Okay, who's your mom and dad? What's their names?

15 A. Candice Heyl and Herbert Heyl.

16 Q. Okay. And where do you live?

17 A. My address?

18 Q. Yeah.

19 A. MINOR'S RESIDENCE.

20 Q. And that's here in Colleton County?

21 A. Yes ma'am.

22 Q. And do you have any brothers or sisters?

23 A. Two younger. I have two younger siblings.

24 Q. Okay, who are they?

25 A. SISTER and MINOR.

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1 Q. Okay. And are they older or younger than you?

2 A. Younger.

3 Q. How old is **BROTHER** now?

4 A. 11.

5 Q. And how old y'all call her **MINOR**. How old is **MINOR**?

6 A. Eight.

7 Q. She's eight now. Okay, I want to take you back to
8 March 20, of 2023 when all this came out when the police
9 came. Can you tell me kind of what happened? Do you know
10 why the police were called? Did **MINOR** make a disclosure of
11 sexual assault to you?

12 A. Yes ma'am.

13 Q. Okay. Did she say where the sexual assault happened?

14 A. She pointed it out in the yard on the side of the
15 house.

16 Q. Can we talk a little bit louder? I'm sorry. I can
17 barely hear.

18 A. She pointed into the yard, into the she showed me on
19 the side of the yard where it was.

20 Q. Okay. Whose yard would she point to?

21 A. Neighbors. The side yard.

22 Q. The side yard. Okay. And did she say when the sexual
23 assault happened?

24 A. When they were playing hide go seek.

25 Q. When they were playing hide go seek, okay. And when

1 she told you that information, what did you do?

2 A. I went over and told whoever was in the yard. I'm not
3 sure what family relations they are.

4 Q. Oh, you said something to ...

5 A. Yeah.

6 Q. ... to people that live there? Okay. Did you tell any
7 of your parents?

8 A. I told my mom later that night.

9 Q. Okay. And what did your mom do?

10 A. She went in talking to my sister. And she called the
11 cops.

12 Q. Okay. And did the police eventually come?

13 A. Yes ma'am.

14 Q. Okay. Thank you.

15 MS. KEENEY: No further questions.

16 MR. MATHEWS:: I might have some Your Honor, I may
17 not. I have nothing further.

18 THE COURT: Thank you so much. You can step down.

19 MS. KEENEY: May this witness be excused?

20 THE COURT: Yes, she may.

21 MS. KEENEY: I'm going to have her sit in the
22 courtroom with her family. The state calls Candice Heyl.

23 DEPUTY CLERK: Put your left hand on the Bible
24 raise your right hand please. Do you swear or affirm the
25 testimony you are to give the court in this trial, to be

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State of South Carolina vs. James Austin Townsend 133**Candice Heyl - Examination by Ms. Keeney**

the truth so help you God?

MS. HEYL: I do.

DEPUTY CLERK: Thank you. Have a seat on the witness stand. State your name and spell your last name for the court reporter.

MS. HEYL: My name is Candice Heyl. Last Name Heyl, H, E, Y, L.

Ms. Candice Heyl - Direct Examination by Ms. Julie Kate Keeney

Q. Candice, where are you from?

A. Originally, I'm from New Jersey.

Q. Okay. And where do you live now?

A. I live in Colleton County.

Q. Okay, that's Walterboro?

A. Yes.

Q. How long have you lived about Walterboro address?

A. About three and a half years now.

Q. Okay. And who are you married?

A. Yes, I am.

Q. Who are you married to?

A. Herbert Heyl.

Q. And do y'all have any children?

A. Yes, we do. We have three kids.

Q. Okay, who are your children?

1 A. SISTER , BROTHER and MINOR .

2 Q. Okay, we just heard SISTER testify, correct?

3 A. Yes.

4 Q. How old is SISTER now?

5 A. SISTER is 14.

6 Q. And how old is MINOR ?

7 A. MINOR is eight.

8 Q. Okay, she's eight. And how old is BROTHER ?

9 A. BROTHER is 11.

10 Q. Okay. And what do you do for a living?

11 A. I am a stay at home mom.

12 Q. Okay. And do your kids go to public school, private
13 school, or something else?

14 A. I homeschool them.

15 Q. You home school them. Okay, and can you tell us what
16 MINOR 's birthday is?

17 A. It is /2016.

18 Q. So in March, March 20, 2023, when law enforcement got
19 involved, why did you call law enforcement?

20 A. I called them because my daughter SISTER had come to
21 me and disclosed information and sexual assault on my at
22 the time, six year old daughter, MINOR and I called the
23 cops because that's what you do.

24 Q. You reported it?

25 A. You report it.

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1 Q. Yes, ma'am. So at the time in March 2023, [MINOR] was
2 six years old, correct?

3 A. Yes ma'am.

4 Q. Okay. And did you speak with [MINOR] about what
5 happened?

6 A. I had asked her what happened, and told her to tell me
7 everything that she could remember. And going off of that,
8 I had called the police. I didn't want to push any further,
9 because I did not want to traumatize the child.

10 Q. Okay. And so, [MINOR], did she make a disclosure of
11 sexual assault to you?

12 A. Yes, she did.

13 Q. Did she say when it happened?

14 A. She had said it was when they were playing hide go
15 seek together.

16 Q. Okay. And was it in the month of March or something
17 else?

18 A. It was --- she stated that it was a few weeks prior to
19 me actually being told about it, because she was nervous
20 and scared, because she was told to keep it a secret.

21 Q. Okay. And did she say where it happened?

22 A. She said it had happened over on our side lot. There
23 are two houses that are on that property that share that
24 lot together and it is over at that house.

25 Q. Okay. And that's in Colleton County?

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1 A. Yes, ma'am.

2 Q. Okay. And did you know James Austin Townsend that well
3 prior to this?

4 A. Only knowing their names and their ages, that was
5 really about all I had gone off of. We had met the parents,
6 but we had not fully met him of having conversations,
7 sitting down, having barbecue or anything else like that.
8 I could tell you his name, I could tell his age, and I
9 could pick him out. That's it.

10 Q. Okay, so you knew what he looked like, but he wasn't
11 some like best friend?

12 A. No he had never entered into my house.

13 Q. Okay, do you see him in the courtroom today?

14 A. Yes, ma'am.

15 Q. Can you please point him to the point?

16 A. He's right there?

17 Q. Okay, is he wearing ...

18 A. He is in that blue shirt.

19 Q. Okay, thank you. Let the record reflect that you have
20 identified the defendant. So he's not someone that comes
21 over to the house that y'all have hardly any interactions
22 with, right?

23 A. No.

24 Q. Do you know where he lived?

25 A. Yes, he had lived in the brick house that was on the

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1 property next to us.

2 Q. Okay, so he's a neighbor that lived close by?

3 A. Yes.

4 Q. And do you recall, or do you remember how old he was
5 in March of 2023?

6 A. I believe he was 19 or 20 years old at that time.

7 Q. Okay, but are you sure about that?

8 A. I did not give you an exact answer. It was a
9 guesstimate.

10 Q. Okay, you're good. Did you once law enforcement came,
11 did you end up taking **MINOR** to a forensic interview at
12 Hopeful Horizon?

13 A. Yes, I did.

14 Q. Okay. And did you take her to the doctor or anything
15 like that?

16 A. No, I did not take her to the doctor because we hadn't
17 been disclosed the information yet.

18 Q. Okay. Did you specifically ask **MINOR** if there was
19 penetration or any sort of words?

20 A. No, I did not. I let her tell me her story, and I went
21 off exactly that and left it alone, because the
22 professionals who takes care of that.

23 Q. Okay. So she never said that he didn't penetrate her?

24 A. No, she never said that he didn't and I did not ask at
25 all whatsoever.

Candice Heyl - Cross by Mr. Mathews

Q. Okay, and so when the police asked you about was there penetration, you didn't really pry into that. You just kind of went off the basic thing of what she said?

A. I don't even recollect the police officer asking us if there was penetration, he just asked what the story was and I told him exactly, verbatim what MINOR had told me, and we went off of that.

Q. Okay, thank you.

MS. KEENEY: No further questions.

MR. MATHEWS:: May it please the Court.

THE COURT: Yes sir.

Ms. Candice Heyl - Cross Examination by Mr. David Mathews

Q. Ms. Heyl, you really don't want to be here. Is that true?

A. I do want to be here.

Q. You do.

A. I want justice to be served for my child.

Q. I see okay. What exactly --- at the risk of, the state didn't ask. I'm probably stepping into it right now. But what exactly did MINOR tell you happened? You said she told you verbatim.

Q. MINOR said they went and played hide, go seek, that Austin had asked her if he wanted to be her partner. So they went off together over by the pump house. She then

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1 stated he had then stated that he put her hand down his ---
2 her pants, and he touched where she went potty. I said, is
3 that all that happened? And she started bursting into
4 tears. I said, okay, **MINOR**, that's okay. I called the
5 police, and I let the police take it into her hands.

6 Q. Okay. Did anybody mention to you the possibility of
7 having a rape kit done?

8 A. No, they also did not ask about penetration, ask about
9 rape, or ask if we wanted a rape kit done.

10 Q. Did anybody ask you that?

11 A. No, nobody asked it. I think the last person that I
12 talked to was the forensic investigator that was doing the
13 forensic investigation on my child.

14 Q. I see. Okay. So are you familiar with how ...

15 A. I am very familiar with how the rape kits work, and
16 I'm also very familiar that they do not actually show
17 anything at all whatsoever of finger penetration.

18 Q. How are you familiar with that?

19 A. By doing my own research online.

20 Q. Ah, as an online, you teach your children at home, so
21 the source of information in your home is you. Is that
22 right?

23 A. We use curriculum, actually, that is provided by the
24 state.

25 Q. Okay. As far as doing the research, why wouldn't you

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1 let the people that are if you say you consult with a
2 forensic actually. Let me ask my questions. I know you're
3 eager to go here. You said you are. You didn't wait for
4 Officer Ballard to tell you to do stuff, or you did it on
5 your own. What did you do?

6 A. I followed what I was instructed to do, and yes, I did
7 do my own research in the meantime, but I did not base any
8 of my choices on my own research, only what the
9 professionals told me to do.

10 Q. Okay. And you thought the rape kit was unnecessary
11 from your research?

12 A. I thought a rape kit was unnecessary because I was
13 told in forensics that we did not need to get one.

14 Q. Okay.

15 A. Her forensic interview was also about two weeks after
16 we actually called the police.

17 Q. Or maybe even a month, huh? Somewhere around there?

18 A. I can not give you an exact date.

19 Q. Well, you talking about verbatim and all that sort of
20 stuff. And, like I said, we didn't know as far as that
21 goes, because obviously, what you're talking about is
22 important. If you've got an intact timer, wouldn't digital
23 penetration, I don't know your research. You don't know ...

24 MS. KEENEY: This is outside this witnesses ...

25 MR. MATHEWS:: She said she's done her own

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State of South Carolina vs. James Austin Townsend 141

1 research, Your Honor. And I just want to ask --- she's
2 talking verbatim. She's taken a very aggressive stance.
3 And I feel like I'm entitled to ...

4 THE COURT: Hold on a second. What's the
5 objection?

6 MS. KEENEY: That this is outside of her expertise
7 and not relevant for this witness.

8 THE COURT: Isn't this --- she's a fact witness.
9 You're asking her questions that are best left to an
10 expert.

11 Q. Did you use the word ...

12 MR. MATHEWS: I will try to rephrase things and
13 move along and approach it differently.

14 THE COURT: All right. Thanks.

15 Q. Does did **MINOR** know what penetration was, what the
16 phrase meant?

17 A. We didn't ask her, before the forensic interview, we
18 did not ask her while the police officer was there. Nobody
19 asked **MINOR** about penetration at all whatsoever while
20 I was present with my child.

21 Q. Okay, okay. I don't want to get in ... You're
22 certainly not an expert. Clearly you're not. You've done
23 the research.

24 A. I never stated to be one.

25 Q. Pardon me?

1 A. I never stated to be one.

2 Q. You did the research though.

3 A. I did not say that I was an expert.

4 Q. Okay. You said that you made the decision first of
5 all that a rape kit wouldn't help. You said that.

6 A. No, I did not say that. I decided to not get a rape
7 kit I thought it would not. I did not know that my child
8 was penetrated by anyone at all when we were calling the
9 cops and giving the cops our case.

10 MR. MATHEWS: No further questions, Your Honor.

11 MS. KEENEY: No, Your Honor.

12 THE COURT: Thank you so much. You may return to
13 your seat.

14 MS. KEENEY: The state calls MINOR

15 DEPUTY CLERK: Do you swear or affirm you're
16 telling the truth and nothing but the truth to this court?

17 MS. HEYL: Yes.

18 DEPUTY CLERK: Okay, thank you. Come back up. Have
19 a seat in the witness stand. Might want to move the
20 microphone down to where we can hear you. Okay, repeat your
21 name and spell your last name for the court reporter. Go
22 ahead.

23 MS. HEYL: My name is MINOR . MINOR

24 .

25 Ms. MINOR - Examination by Ms. Julie Kate Keeney

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1 Q. What do you like to be called? Do you like to be
2 called MINOR?

3 A. (Nods head affirmatively)

4 Q. Is that a yes? Remember you have to say yes or no.
5 Okay?

6 A. Yes.

7 Q. Okay. MINOR, how old are you?

8 A. Eight.

9 Q. You're eight. Do you remember your birthday?

10 A. No.

11 Q. No. Do you know what grade you're in?

12 A. I'm in first grade.

13 Q. First grade. What school do you go to?

14 A. Homeschool.

15 Q. Okay. Who teaches you homeschool?

16 A. My mom and dad.

17 Q. Okay. Do you have a favorite subject?

18 A. Math.

19 Q. Oh, you like math. That's a hard one. Who do you know
20 your mom and dad's name?

21 A. Candice Heyl and Herbert Heyl.

22 Q. Do you have any brothers or sisters?

23 A. Yes.

24 Q. Yes, okay. Do you have a sister?

25 A. Yes.

1 Q. What's her name?

2 A. **SISTER**

3 Q. And is she older or younger than you?

4 A. Older.

5 Q. And you have a brother?

6 A. Yes.

7 Q. And what's his name?

8 A. **BROTHER**.

9 Q. Okay, Is he older or younger than you?

10 A. Older.

11 Q. So you're the youngest?

12 A. Yes.

13 Q. Okay. **MINOR**, I want to take you back to March of 2023,
14 when you were six years old, okay. Can you tell the jury
15 what happened with Austin?

16 A. He touched me.

17 Q. Okay, and where were y'all at when he touched you?

18 A. We were at the pump house.

19 Q. The pump house, okay. And was that near your house or
20 near his house, or something else?

21 A. Near his house.

22 Q. Near his house, okay. And what were y'all doing? Were
23 you behind the pump house, in front or in front of the pump
24 house?

25 A. Behind the pump house.

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1 Q. Okay. And what were y'all doing behind the pump house?

2 A. I can't remember.

3 Q. Okay, were you outside that day?

4 A. Yes.

5 Q. Were y'all playing games?

6 A. Yes.

7 Q. Okay, what game were you playing?

8 A. Hide go seek.

9 Q. Okay, so you were playing hide go seek with Austin,
10 and were there other people playing too?

11 A. Yes.

12 Q. Okay, and so you and Austin were behind the pump
13 house, correct?

14 A. Yes.

15 Q. Playing hide go seek?

16 A. Yes.

17 Q. And what happened? Tell the jury exactly what
18 happened.

19 A. He touched me when we went and behind the pump house.

20 Q. Okay, where did he touch you?

21 A. Where I go pee.

22 Q. Where you go pee? Okay. And what did he touch you
23 with? Like, what body part of his did he touch you with?

24 A. Hand.

25 Q. Okay, so he touched you with his hand, where you go

1 pee?

2 A. Yes.

3 Q. Okay. And was that over your clothes or under your
4 clothes or something else?

5 A. Under.

6 Q. Okay, so he put his hand under your clothes?

7 A. Yes.

8 Q. And what did his hand do, or what did his fingers do
9 at that point?

10 A. I can't remember.

11 Q. Okay, did his fingers touch the outside of the place
12 where you pee, the inside of where you pee, or something
13 else?

14 A. The outside.

15 Q. It touched the outside of where you pee?

16 A. Yes.

17 Q. Are you sure?

18 A. Yes.

19 Q. Okay. And do you remember what his fingers did?

20 A. No.

21 Q. No. Did he say anything to you?

22 A. He told me to keep it a secret.

23 Q. He told you to keep it a secret. Why did he say that?

24 A. I can't remember.

25 Q. Okay. And did you keep it a secret for a little bit?

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1 A. Yes.

2 Q. Yes, okay. And did you eventually tell somebody?

3 A. Yes.

4 Q. Who did you tell?

5 A. My mom and sister.

6 Q. Okay. And do you remember doing a forensic interview
7 with the lady who told you it was going to be recorded?

8 A. No.

9 Q. No, you don't remember Ms. Brooke with red hair?

10 A. Yes I do.

11 Q. Okay, you remember Ms. Brooke? Do you remember that
12 she asked you, you told her that Austin touched you where
13 you go pee, correct?

14 A. Yes.

15 Q. And ...

16 MR. MATHEWS:: Objection Your Honor. She's
17 starting to lead. She's answered the question. I think
18 she's just trying to get a different answer.

19 THE COURT: I'll let you lead a little bit because
20 she's young, but ...

21 Q. Okay. Do you remember Ms. Brooke asking you if Austin
22 touched you on the outside of the place you go pee, or the
23 inside of where you go pee, or was it something else?

24 A. Outside.

25 Q. You remember what you said was the outside?

1 A. Yes.

2 Q. Okay. Do you see Austin in the courtroom today?

3 A. Yes.

4 Q. Okay, you know where he's sitting?

5 A. He's over there.

6 Q. Okay, and he's got a what color shirt does he have on?
7 Can you tell from there?

8 A. Blue.

9 MS. KEENEY: Okay, let the record reflect she's
10 identified the defendant.

11 Q. Thank you.

12 MS. KEENEY: No further questions.

13 MR. MATHEWS:: No questions, Your Honor.

14 THE COURT: Thank you. You may step down. Be
15 careful.

16 MS. KEENEY: Judge. I need to set up the
17 technology. Can we take a five minute break?

18 THE COURT: Let's call it a 10 minute break. So
19 we're going to take a quick break. We'll be taking several
20 of them during this trial. Please don't discuss the case or
21 anything about it with each other while you are back in the
22 jury room. Thank you.

23 (Jury break 10:41)

24 THE COURT: Anything before we take a break?

25 MS. KEENEY: No, Your Honor.

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1 MR. MATHEWS:: Your Honor, just I would renew my
2 objection to Ms. Brooke testifying, Hopeful Horizons. It's
3 just going to be rehab assignment right now, and I object
4 for the same reason that it's an attempt to bolster what
5 now looks like a matter, but so I renew that objection.

6 THE COURT: All right. Thank you so much. It's
7 made for the record. I'm going to deny your motion to
8 suppress, and we'll take a ten minute break or so.
9 (Jury enters courtroom 11:00 a.m.)

10 THE COURT: Okay. Back on the record. Please
11 proceed.

12 MS. KEENEY: The state calls Brooke Bentley.

13 DEPUTY CLERK: Do you swear or affirm the
14 testimony you give this court in this trial would be the
15 truth so help you God?

16 MS. BENTLEY: I do.

17 CLERK OF COURT: Thank you. Have to sit on the
18 witness stand. Repeat your name and spell your last name
19 for the record.

20 MS. BENTLEY: Brooke Bentley. Bentley, B-E-N-T-L-
21 E-Y.

22 MS. KEENEY: May it please the Court.

23 THE COURT: Please proceed.

24 **Ms. Brooke Bentley - Direct Examination by Ms. Julie Kate**
25 **Kenney**

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1 Q. Ms. Bentley, where do you live now?

2 A. I live in Alabama.

3 Q. Okay, and what do you do in Alabama career wise?

4 A. I am a therapist at a private practice.

5 Q. Okay, so you're a therapist. Did you go to school to
6 be a therapist?

7 A. Yes.

8 Q. What kind of degree do you have?

9 A. I have a Master's of Arts in professional counseling.

10 Q. Okay, you are a licensed counselor?

11 A. Yes.

12 Q. And where did you work prior to moving to Alabama?

13 A. I was at Hopeful Horizons.

14 Q. And what's Hopeful Horizons?

15 A. A Children's Advocacy Center.

16 Q. And how long did you work at Hopeful Horizons?

17 A. A little short of eight years.

18 Q. And what was your position at Hopeful Horizons?

19 A. I was a clinician there. So I was a therapist as well
20 as a forensic interviewer.

21 Q. Okay. And so a forensic interviewer. What was the main
22 description of that job?

23 A. So forensic interviewer is someone who talks to
24 children when there is any type of allegation or suspicion
25 of child abuse or neglect.

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1 Q. Okay. And on April 20, 2023, you had the opportunity
2 to do a forensic interview on the victim in this case,
3 MINOR?

4 A. Yes.

5 Q. How old was she at the time of the forensic interview?

6 A. She was six.

7 Q. Okay. I'm going to show you what has been marked as
8 a state's exhibit one.

9 THE COURT: Objection?

10 MR. MATHEWS: No objection.

11 Q. Okay. So, one of the things that you do, a way that
12 you might ask questions is you'll ask the questions, they
13 answer it, and then you take that question and repeat it in
14 your next question and repeat it in your next --- to
15 reinforce the story, is that right?

16 A. It's just to make sure that we're on the same page.

17 Q. Okay. So, somebody might say that guy touched my
18 butt, and you'll say something like, when that guy touched
19 your butt what was the next thing that happen. So they
20 say something and then you repeat it and move on from it.
21 Okay. And what you frequently, I guess, you see a lot of
22 --- try to determine whether there's any coaching, if you
23 can. Is that true?

24 A. Sometimes that does come up.

25 Q. Okay.

1 Ms. Bentley - Cross Examination by Mr. Mathews:

2 Ms. Bentley - Redirect Examination by Ms. Keeney:

3 MS. KEENEY: I don't have any further questions
4 for now.

5 Ms. Brooke Bentley - Cross Examination by Mr. David
6 Matthews

7 Q. And that is parents telling or other people telling
8 their children what they want them to say?

9 A. Correct.

10 Q. Okay. I don't have any further questions subject to
11 the video.

12 THE COURT: All right. Thank you so much.

13 Ms. Brooke Bentley - Redirect by Ms. Julie Kate Keeney

14 Q. Ms. Bentley you talked about the forensic training
15 that you did to become a forensic interviewer, is it safe
16 to say that not every person knows how to properly
17 interview a child that's been suspected of abuse?

18 A. Correct.

19 Q. That's why law enforcement don't, they tend not to get
20 into details with them?

21 A. Correct.

22 Q. They wait for the forensic interviewer to do it?

23 A. Yes.

24 Q. Thank you. At this time, the State would like to
25 publish state's exhibit one.

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1 (State's Exhibit One, Disk, played for the jury)

2 MR. MATTHEWS: I don't have any further questions.

3 THE COURT: All right. You may step down.

4 MS. KEENEY: May this witness be excused?

5 THE COURT: Yes. No objections?

6 MR. MATTHEWS: No objections.

7 THE COURT: All right. Yes.

8 MS. KEENEY: The state ...

9 THE COURT: Go ahead.

10 MS. KEENEY: Are you ready for me to call my next
11 witness?

12 THE COURT: How long will the next witness be? I'm
13 just thinking about the midday break.

14 MS. KEENEY: I think total would probably be 40
15 minutes.

16 THE COURT: Why don't we, y'all's preference do
17 y'all want a break now?

18 MR. MATTHEWS: I'm hungry.

19 MS. KEENEY: We can let the jury decide. I'm good
20 to push through but then this is my last witness, so.

21 THE COURT: Okay.

22 MS. KEENEY: Let's see what the jury wants to
23 decide.

24 THE COURT: Why don't we do that. Well let's see.
25 It's 40 minutes for you and then cross examination for you.

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1 I don't want to overtax them too much. That would be two
2 and a half hours without a break conceivable between that.
3 Let's do that. Let's go ahead and break for lunch. Members
4 of the jury, before you didn't have a whole lot to talk
5 about but now you've seen some evidence. Don't discuss it
6 with one another, don't do any research. I think everyone
7 understands the instructions. Is that correct?

8 JURORS: Yes sir.

9 THE COURT: You can talk about the weather or
10 anything you want but not about this trial, not the people
11 in the trial, not the evidence you've seen, nothing like
12 that. Any questions about that?

13 JURORS: No sir.

14 THE COURT: What is the minimum amount of time it
15 takes to go out and get lunch and get back here? Is 45
16 minutes is that enough time to take a break and eat lunch?
17 Is that doable? Let's try to do that then. Let's try to be
18 back in 45 minutes and we will see what we can do. We will
19 get started after that. Any questions about any of that?
20 All right, we will see you in about 45 minutes or so.

21 **(Jury excused for lunch break 11:56-12:45 PM)**

22 **(Court lunch break)**

23 **(February 25, 2025 PM)**

24 **Mr. Ballard - Examination by Ms. Keeney:**

25 THE COURT: All right, anything for the record

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State of South Carolina vs. James Austin Townsend 155**Mr. Ballard - Examination by Ms. Keeney**

before we bring the jury back in?

MR. MATHEWS:: Nothing from the defense, Your Honor.

THE COURT: Let's bring them back in please.

(Jury enters courtroom 1:07)

THE COURT: Okay. Did anyone discuss the case with anyone, did any research or anything like that?

JURORS: No sir.

THE COURT: Thank you so much. Please call your next witness.

MS. KEENEY: The state calls Sergeant William Ballard.

CLERK OF COURT: You swear to tell the truth, nothing but the truth, so help you God?

MR. BALLARD: Yes sir.

CLERK OF COURT: Have a seat. State your first and last name. Spell your last name for the record, please.

MR. BALLARD: William Ballard, B-A-L-L-A-R-D.

Mr. William Ballard - Direct Examination by Ms. Julie Kate Keeney

Q. Sergeant Ballard, where do you work?

A. The Colleton County Sheriff's Office.

Q. What's your position there?

A. I work in the criminal investigation divisions, and I

1 do the special victims crime unit.

2 Q. Okay, and in March of 2023, because how long have you
3 worked at the Colleton County Sheriff's Office?

4 A. I've been in the sheriff's office since 2018.

5 Q. Okay, so in March of 2023 you were working for the
6 Colleton County Sheriff's Office?

7 A. Yes ma'am.

8 Q. And were you in the same similar position,
9 investigations, Special Victims Unit?

10 A. Yes ma'am.

11 Q. Okay. And were you assigned to investigate this case?

12 A. Yes ma'am.

13 Q. Okay. And in March 20, 2023 this case was reported to
14 your office, correct?

15 A. Correct.

16 Q. And do you know the location incident the jurisdiction
17 was in?

18 A. I believe it was [REDACTED], which is here in
19 Colleton County.

20 Q. Okay. And the victim in this case, do you remember her
21 name?

22 A. [REDACTED].

23 Q. And do you know how old she was at the time of the
24 incident?

25 A. Six years old.

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1 Q. And were you able to develop a suspect?

2 A. Yes ma'am.

3 Q. Who was a suspect?

4 A. It was Mr. Austin Townsend.

5 Q. Okay.

6 A. He was a neighbor of the victim.

7 Q. Okay, James Austin Townsend?

8 A. James Austin Townsend.

9 Q. Goes by Austin?

10 A. Correct.

11 Q. And how old was he at the time of the incident?

12 A. 21.

13 Q. Thank you. And do you see him in the courtroom today?

14 A. He's sitting next to Mr. Mathews.

15 Q. Okay. Thank you.

16 MS. KEENEY: Let the record reflect he identified
17 the defendant.

18 Q. When you got assigned this case, what steps did you do
19 in your investigation?

20 A. The next day, the 21st is when I received the incident
21 report. On that day, I reviewed the narrative of the
22 incident report to see what my next step would be, where
23 the claim of a possible sexual assault took place. I then
24 made contact with the mother Ms. Candice, in which I told
25 her that in order for me to continue an investigation, I

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1 would need to contact Hopeful Horizons to conduct the
2 forensic interview.

3 Q. Okay, and so did you contact Hopeful Horizons
4 for a forensic interview?

5 A. I did. The same day I talked to Ms. Candice. I saved
6 me a copy of the incident report and I sent that via email
7 to the, I guess the appointment coordinator, Ms. Kaminsky,
8 who then gives me a date and time and location on when the
9 forensics will be.

10 Q. Did you instruct the Heyl family to take MINOR to a
11 doctor being medical for a sexual assault kit?

12 A. I did not based on the original narrative of the
13 report, I did not advise them to actually seek medical at
14 that time.

15 Q. Okay. And when you investigate cases where there's,
16 let's say, an actual like rape, like, when I say rape, I
17 mean like penile penetration or anal is it common to then
18 make them go do a medical and try to collect that evidence?

19 A. Yes, ma'am it would be.

20 Q. And what type of evidence are they collecting in those
21 cases?

22 A. They'll take photographs of the penetrated area to
23 determine if there's any type of injuries, and they'll also
24 collect swabs for DNA collection to be compared to victim
25 offender in those cases.

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1 Q. Swabs, try to look like semen.

2 A. Semen, yes.

3 Q. Okay. Do you normally find semen in a digital
4 penetration case?

5 A. Sometimes ...

6 Q. You find semen in a digital ...

7 A. Oh I'm sorry, not in the digital, no ma'am.

8 Q. Okay, and did you have the opportunity to interview
9 the defendant Austin Townsend on April 27 of 2023?

10 A. I did.

11 Q. Okay. When you interviewed him. Where did you
12 interview him at?

13 A. At the Colleton County headquarters in our Criminal
14 Investigations Unit, where we have three separate
15 interviews.

16 Q. And was that interview recorded?

17 A. Audio and video, yes, ma'am.

18 Q. Okay. And was he under arrest at the time?

19 A. He was.

20 Q. And had he been informed of the allegations and the
21 warrant?

22 A. If I recall correctly, he was arrested the day prior
23 when his warrant was served to him of the allegations for
24 the charge, yes,

25 q. And they read out the warrant, correct?

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1 A. Yes. It would give the probable cause for the charge.

2 Q. Which alleges digital penetration?

3 A. Correct. In the warrant.

4 Q. When you interviewed the defendant on April 27, did
5 you threaten him in any way?

6 A. No ma'am.

7 Q. Did you promise him in anything in exchange for a
8 statement?

9 A. I did not.

10 Q. Did you coerce him in anyway to make a statement?

11 A. No.

12 Q. Did he appear to be intoxicated or under the influence
13 of any drugs or alcohol when he gave a statement?

14 A. No ma'am.

15 Q. And did he appear to have any mental or physical
16 disabilities to the extent that it would impair his ability
17 to understand what was going on with the questions being
18 asked of him?

19 A. No, ma'am, his answers to my questions were consistent
20 with what I was asking him.

21 Q. Okay, so you asked him a question and his response
22 made sense?

23 A. Correct.

24 Q. Okay. Did you advise him of what we all know as the
25 Miranda rights?

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1 A. I did.

2 MS. KEENEY: I'm going to mark this as State's
3 exhibit two.

4 MR. MATHEWS:: Subject to my objection, Your
5 Honor.

6 MS. KEENEY: May I approach the witness?

7 THE COURT: You may.

8 Q. I'm going to show you what I've marked as states
9 exhibit two. Do you recognize this document?

10 A. Yes, ma'am. This is the random warning and waiver that
11 I presented Mr. Townsend prior to conducting the interview.

12 Q. Okay. And can you tell the jury what that form says,
13 Miranda rights? Can you just read it out ...

14 MS. KEENEY: Oh, I'm sorry. At this time, can the
15 state move to admit state exhibit two as evidence.

16 THE COURT: Yes. Two is in. Objections noted.

17 MS. KEENEY: Permission to published?

18 THE COURT: Yes.

19 Q. Can you read out what the Miranda warnings are?

20 A. So the top few blocks are his personal information,
21 name, date of birth, social security number, things of that
22 nature. And then he is presented with his Miranda rights,
23 where, at which he's instructed to initial during
24 everyone's being asked or he can initial them all at the
25 end. And his Miranda rights are: You do have the right to

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1 remain silent. Anything you say can and will be used
2 against you in the court of law. You have the right to talk
3 to an attorney and have your attorney present with you
4 while you're being questioned. If you cannot afford an
5 attorney, one will be appointed to represent you before any
6 question if you wish, and you can decide, decide at any
7 time to exercise these rights and not answer any questions
8 or make any statements. Once those are done, he is to
9 initialed AT, Austin Townsend, next to each one. After
10 that, it states, do you understand each of these rights I
11 have read to you, which he wrote, yes. Then below that is
12 the waiver of rights, where it states, I have read The
13 above statement of my rights. I understand each of those
14 rights, having my rights in mind, I'm willing to waive them
15 and answer questions and or make a statement. I do not want
16 an attorney at this time. I further understand that I am
17 under no pressure by way of threats or coercion, and that
18 no promises have been made. Then under that is spots for
19 him to print and sign his name, and also I print and sign
20 my name, then it is dated and time stamped at the time of
21 the completion of the form, not per se, the actual
22 beginning of the interview.

23 Q. So did Austin Townsend say that he understood his
24 rights?

25 A. Yes.

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1 Q. And did he say to you that he wished to waive those
2 rights?

3 A. He was willing to speak with me in regards to those.

4 Q. Did he ever say he wanted an attorney or wanted to be
5 silent?

6 A. No, ma'am.

7 Q. Okay.

8 MS. KEENEY: I'm going ...

9 MR. MATHEWS: Your Honor, before this is admitted
10 into evidence, I'd like to ask Officer Ballard questions,
11 precatory to that, and obviously all of this is subject to
12 my other objections. But before it gets admitted, I'd like
13 to ask him some questions about his preparation.

14 THE COURT: Please proceed.

15 MS. KEENEY: I'm not done getting him too
16 authenticate it.

17 THE COURT: Oh, sorry, go ahead. Let's do that,
18 and then we'll get back.

19 MS. KEENEY: May I approach the witness?

20 THE COURT: You may.

21 Q. I'm going to show you what I mark as state's exhibit
22 three. Do you recognize that item?

23 A. Yes, ma'am. This is a Disk containing a representation
24 of the interview with Mr. Townsend.

25 Q. Okay and is that ...

1 A. On the initial date on the disk.

2 Q. So you reviewed this actual disk correct?

3 A. Yes.

4 Q. And did you review this in anticipation of court?

5 A. Correct.

6 Q. And with me?

7 A. Yes.

8 Q. And this was, I'm going ahead and guess Mr. Mathews
9 questions, so was this connected to a Disk device attached
10 to my computer when you watch this?

11 A. Yes ma'am.

12 Q. And is this a fair and accurate depiction of the
13 interview subject to court order redactions is this a fair
14 amount of depiction of the defendants interview on April 27
15 of 2023?

16 A. Yes, ma'am, that is one of the three disks that I
17 reviewed.

18 Q. Okay. You you reviewed ...

19 A. Each version of the interview. I reviewed all three.

20 Q. There were different redactions that we anticipate the
21 court might want?

22 A. Yes ma'am.

23 Q. Okay thank you.

24 MS. KEENEY: This time the state moves to admit
25

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State of South Carolina vs. James Austin Townsend 165Mr. Ballard - Voir Dire Examination by Mr. Mathews:

this as States exhibit three.

THE COURT: Yes, sir.

MR. MATHEWS:: Yeah, I'd like to ask Officer Ballard some questions before it's published and subject to my earlier objection.

THE COURT: Yes, sir, go ahead.

Officer Ballard - Voir Dire Examination by Mr. Mathews:

Q: Officer Ballard, how are you today?

A: I'm doing well. And you?

Q: Hanging in there. In reference to Ms. Keeney's long question about his intellectual disabilities ...

MS. KEENEY: Judge, this doesn't go to the authenticity of this.

THE COURT: Yes, we can get to that part. But what about the disks?

MR. MATHEWS:: Well, okay, before we went into the interview, like I said, it colors the jury's view to see it before I've had a chance to ask these questions, but if they will reserve judgment until after I've done my cross, then we can go forward.

THE COURT: All right. Well, then that will be State's three. Subject to the objection.

(State's Three was entered)

MS. KEENEY: Permission to publish?

Mr. Ballard - Cross Examination by Mr. Mathews:

THE COURT: Granted. How many minutes did the final version end up being?

MS. KEENEY: I think it's around 20. Don't hold me to that.

(Disk played for jury)

MS. KEENEY: No further questions for this witness.

THE COURT: Thank you. Mr. Mathews.

MR. MATHEWS: Thank Your Honor.

Mr. William Ballard - Cross Examination by Mr. David Mathews

Q. Officer Ballard other than a jail cell, other than a prison cell, how is the truth going to open any doors? If that is the truth, how is the truth going to open any doors for Mr. Townsend?

A. As far as --- so him, his truth is his first step to him.

Q. Okay. Because you had said that I told you, telling the truth will open a lot of doors?

A. Telling the truth could open doors.

Q. Okay.

A. I didn't say a lot of doors.

Q. How much difference in the sentence do you think it would make whether he told the truth or not?

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1 MS. KEENEY: Objection. What's the relevance
2 here.

3 MR. MATHEWS: Well, we can approach if you'd like
4 Your Honor.

5 THE COURT: Let's do this. Let's give the jury a
6 little break, and we'll take this up outside the presence
7 of the jury. Don't discuss anything. Standard instructions.
8 Let you stretch your legs for a few minutes.

9 **(Jury break)**

10 THE COURT: All right, the objection had to do,
11 I guess, with the, I don't know if you were going towards
12 the voluntary nature or what was the ...

13 MR. MATHEWS: I was, I was going to a, obviously,
14 even if the court allows a confession, the jury doesn't
15 have to. As a mixed question of fact on the law, the jury
16 could still conclude that it was a voluntary statement. As
17 a result, you know, the difference between his
18 understanding of what he's talking about, and what he's
19 actually looking at is a huge difference. He says there
20 that I was hoping my girlfriend's going to be up here in a
21 couple of months. I hope I'll be out and be able to see
22 her, which under no set of facts with that particular
23 charge was that a possibility none, and his the fact that
24 he thought that there was some chance of it shows that he
25 did not have the ability to, he didn't understand the

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1 I will --- I presume I am okay to ask him about the missing
2 videos.

3 THE COURT: If he knows, understands, I don't know
4 what department he's in with regards to that.

5 MR. MATHEWS: Well, he'd already testified earlier
6 on the on the first voluntariness hearing.

7 THE COURT: As to the missing videos. I just can't
8 remember. I know that what I heard a minute ago.

9 MS. KEENEY: I don't have an objection to
10 that.

11 THE COURT: All right. How long have we let the
12 --- I told them, 10 minutes. They been out for 10 minutes?
13 What did I say?

14 Madam Court Reporter: Take a break.

15 THE COURT: I didn't give them 10 minutes. All
16 right, then let's bring them back in.

17 **(Jury enters court room 1:55 PM)**

18 MR. MATHEWS: May it please the court?

19 THE COURT: Please proceed.

20 **Mr. William Ballard - Continued Cross Examination by Mr.**
21 **David Mathews**

22 Q. So I had asked you officer, what doors could his truth
23 open?

24 A. With his willingness to give a statement and admit to
25 his faults it, you know, he's being considered as

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1 cooperating and not as, you know, that someone that just
2 doesn't show remorse or anything else, you know, that
3 begins to help him.

4 Q. Okay, how does that help him? Like a preacher helps
5 somebody?

6 A. Sir?

7 Q. Are you talking like a preacher? Save your soul or?

8 A. I mean, it could be that way. It could be where he
9 made a comment of, you know, his cooperating with his mom
10 like his mom told him to, as far as what the family --- I
11 mean it's, you know, it's a statement I use to where he
12 understands that not cooperating or telling false
13 information does not help you.

14 Q Okay. So you regularly Tell that to people because
15 you're worried about their soul?

16 A. I can be, yes.

17 Q. Okay, right. Were you concerned at all when you talked
18 to him and he said he did not know how to print and he was
19 just learning cursive?

20 A. No sir, cursive. Quite frankly, cursive is not even
21 taught in school right now.

22 Q. Okay, so when he couldn't sign something or didn't
23 that didn't concern you?

24 A. No, sir.

25 Q. Okay.

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1 A. Him being able to give me his social security number
2 means more to me than his ...

3 Q. And he said he didn't used to remember that he was
4 proud of himself, right?

5 A. Correct.

6 Q. Okay, like a 10 or 11 year old, maybe?

7 A. I know grown adults that can't give me their social
8 security numbers.

9 Q. You said, while your hand was down her shorts, you
10 were aware that she wasn't wearing shorts, she was wearing
11 long pants, right? You said, while your hand was down ---
12 and when you say --- you didn't even attempt to say he
13 penetrated. You said, attempt to penetrate. You didn't say
14 penetrate, because you knew that that didn't
15 happen, correct?

16 A. I do believe I did say penetrate.

17 Q. You said, tried.

18 A. Well, the statute reads ever so slight. So just
19 because he did not fully penetrate, penetrate could be just
20 inside.

21 Q. Well, now, see, you're drawing a legal conclusion now,
22 right? You knew that there was no penetration, that's why
23 you asked that. Is that correct?

24 A. No, sir, I was basing my charge off of penetration.

25 Q. Okay. And if it comes out that there was no

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1 penetration, then you didn't do your charge, right? Is that
2 correct?

3 A. No, sir, I stand by my charge based on the information
4 from the victim.

5 Q. Okay, you've asked --- okay, information from the
6 victim, but you've now heard this, and it wasn't
7 penetration, it was outside. You heard this, right?

8 A. I heard testimony today.

9 Q. Right.

10 A. But I also based it off the forensic interview, which
11 is a more.

12 Q. You want to make sure you have all the information you
13 can when you investigate, particularly something like this,
14 right?

15 A. Sure.

16 Q. Okay, and so you made a point of looking at the first
17 officer's body cam, correct?

18 A. No, sir.

19 Q. You did not?

20 A. No sir, I don't watched body cam. I don't need to
21 watch body cam to start these investigations.

22 Q. No? If there were --- you would not have recommended
23 a rape kit if you saw there was penetration, you wouldn't
24 have to look for tears or anything like that?

25 A. If it was documented that there was penetration, it

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1 would have been done that night by the officer, yes, sir.

2 Q. Okay, all right, so that's fine. So you knew there
3 wasn't penetration, or you wouldn't have ordered a rape
4 kit?

5 A. Based on the initial incident report, there was
6 nothing stating penetration from what the mother told the
7 responding officer.

8 Q. Right. But you heard testimony today that she said the
9 same, didn't you? We were all here, you didn't see it?

10 A. From my understanding, the information was given to
11 the officer that there wasn't --- there was no statement of
12 penetration, correct. So, therefore, I did not request to
13 do medical at that time.

14 Q. And at that point, we're talking about DNA stuff which
15 you wouldn't expect to find, but tearing and stuff like
16 that with a young child and a grown man, you would expect
17 to see tearing if there were penetration, right?

18 A. Possibly, yes.

19 Q. Okay, in Jermaine Smith's --- as far as you made no
20 attempt you said to look at --- you have the authority to,
21 if you want to, to pull that video, correct?

22 A. To view and save, yes.

23 Q. Okay, but you didn't do that?

24 A. No, I did not look for his body cam, because with the
25 child crimes, I don't base my charge off of the report. The

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1 initial report is what gets to the forensic interview, and
2 the statement of the actual victim is what I base my charge
3 on, not from a parent or care giver.

4 Q. Do you know if there even is body cam left at this
5 point?

6 A. I'm not sure. I don't, like I said, I don't use the
7 initial officer's body cam from a third party to make the
8 charge, I don't do that.

9 Q. In what world is old information worth more than new?
10 If you report something --- if you see something right
11 away, isn't that the best chance to see something fresh?
12 Isn't that the best chance to see the truth?

13 A. It would be the same as the incident report if, based
14 on what you're asking me, the information in the incident
15 report reflects what he heard.

16 Q. But the body cam, when all the people are present,
17 wouldn't that --- Wouldn't you want to --- right after this
18 happened, wouldn't you want to see that? Isn't information
19 going to get better as time goes by?

20 A. There's nothing contradictory from the victim's
21 statement outside of whether there was penetration or not.
22 There was no other contradiction for me to view.

23 Q. But you didn't even look.

24 A. No, sir, I don't.

25 Q. Any of those kids could have said, yeah, I saw it. Did

Mr. Ballard - Redirect Examination by Ms. Keeney

you interview Andrew Todd?

A. I did not.

Q. Did anybody?

A. I wasn't --- I don't recall being told, at the time, that he was present during the actual incident. There was only two people present at the incident, and that was the defendant and the victim.

MR. MATHEWS: I don't have any further questions, Your Honor.

THE COURT: Thank you. Redirect?

MS. KEENEY: Yes, Your Honor.

Mr. William Ballard - Redirect Examination by Ms. Julie Kate Kenney

Q. When you interviewed the defendant Austin Townsend, did he indicate if he graduated high school or not?

A. I believe he did, yes.

Q. Okay. Did he indicate if he had a job?

A. He worked as a painter I believe is what he stated.

Q. And could he drive a car?

A. He could.

Q. And you said you reviewed the forensic interview, correct?

A. Forensic and reviewed the case.

Q. And the forensic interview was the basis for your

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1 charge, including penetration, correct?

2 A. Correct.

3 Q. Did the victim disclose in the forensic interview,
4 penetration?

5 A. Yes.

6 Q. More than once? I mean, not more than one time, but
7 did she say on multiple times that he penetrated her?

8 A. Yes.

9 Q. And when you interviewed the defendant, he initially
10 said nothing happened, correct?

11 A. Correct.

12 Q. And then he said that he tried to penetrate her
13 vagina with his fingers, correct?

14 A. Yes.

15 Q. Thank you.

16 MS. KEENEY: No further questions.

17 MR. MATHEWS: No recross, Your Honor.

18 THE COURT: All right, you may step down, sir.
19 Thank you. Anything else from the state?

20 MS. KEENEY: At this time, the state rest.

21 **(STATE REST)**

22 THE COURT: Why don't we give the jury a break,
23 and then we'll deal with these motions. Y'all go ahead and
24 take another break.

25 **(Jury break 2:05 PM)**

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1 MS. KEENEY: I'm sorry. I do have a matter if
2 that's okay. It's about a juror.

3 THE COURT: All right.

4 MS. KEENEY: The young lady in the back row, she
5 was sleeping during the testimony, and so that causes the
6 state some concern about her paying attention multiple
7 witnesses here saw it including myself, and I just don't
8 know how to go about that.

9 MR. MATHEWS: Your Honor, I have no problem with
10 the state's motion for a mistrial.

11 MS. KEENEY: I'm not moving for a mistrial, we
12 have alternates to replace her.

13 MR. MATHEWS: And that's the just ... Like I said,
14 as far as listening, I mean, it's sometimes hard. Lawyers
15 go on and on. It's hard to listen to us sometimes.

16 THE COURT: I'll keep an eye on them when they
17 come back in, I'll let them know that today will end, and
18 if they would please just pay attention. This is very
19 important to the state and the defense, and if they would
20 please pay attention, I would appreciate it.

21 MS. KEENEY: Thank you.

22 THE COURT: Thank you. I don't know how to raise
23 your hand and let me know if that happens again, but I'll
24 try to keep an eye on that particular juror. Thank you. Any
25 motions, the state is rested.

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1 MR. MATHEWS: I mean, it's close. I mean, really,
2 as far as it goes, there might be information from which a
3 jury could conclude that this is a CSC first. There might
4 be, there might not be. I mean, it's a --- I'm not going to
5 argue hard, because I know that for all her shortcomings,
6 Ms. Keeney is going to be prepared a response. I will leave
7 it in the court's discretion. I think it's close though, as
8 to whether or not there's enough evidence to go forward.

9 MS. KEENEY: May it please the court. Obviously,
10 the standard is viewing the evidence in the light most
11 favorable to the state. Your Honor, saw the forensic
12 interview, heard the victim said on two occasions that he
13 put his hand in the inside of the part where she goes to
14 the bathroom, which would indicate penetration. Plus you
15 have the defendant's statement, so we would rely on that.

16 THE COURT: I think evidence does exist to defeat
17 the motion, so I'm going to respectfully deny your motion
18 Mr. Mathews. All right, anything before we bring the jury
19 back in?

20 MS. KEENEY: We need to figure out if Mr. Mathews
21 is going to present a case?

22 MR. MATHEWS: Well, I need to find out if my
23 witnesses are here.

24 THE COURT: I need to ask him the questions, I
25 guess. Or do you want to take a break and see if your ...

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1 THE COURT: You've considered it?

2 MR. TOWNSEND: Yes sir.

3 THE COURT: You understand that you have the right
4 to testify if you'd like?

5 MR. TOWNSEND: Yes sir.

6 THE COURT: And you understand that you have the
7 right not to testify?

8 MR. TOWNSEND: Yes sir.

9 THE COURT: And tell me what you'd like to do
10 again.

11 MR. TOWNSEND: I don't want to testify.

12 THE COURT: All right, thank you so much, sir. You
13 may have a seat.

14 MR. TOWNSEND: You welcome, Your Honor.

15 THE COURT: All right, who you got?

16 MR. MATHEWS: I got Andrew Tye first.

17 THE COURT: All right, let's get the jury back in
18 and then I just didn't know if they had made it here yet.

19 **(Jury enters courtroom 2:15 pm)**

20 THE COURT: Thank you. There's some matters, as
21 I think I explained to you when we started, that always
22 need to be taken up outside the presence of the jury, and
23 we handle those things. I know it's after lunch. It's a
24 nice sunny day outside and everybody's had a big lunch, and
25 this is the time everyone gets a little bit sleepy but it's

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State of South Carolina vs. James Austin Townsend 188Mr. Tye - Examination by Mr. Mathews

important that everyone pay attention, and I appreciate it if y'all would give whoever is sitting in this chair your full attention. We've got a few more hours of this today than we should be good. So, yes sir.

MR. MATHEWS: The defense calls Andrew Tye.

CLERK OF COURT: Place your left hand, raise your right hand. Do you swear or affirm and tell the truth of all truth and nothing but the truth in this trial?

MR. TYE: I do.

DEPUTY CLERK: Thank you. Have a seat on the witness stand. Please repeat your name and spell your last name to the court reporter.

MR. TYE: My name is Andrew Tye, last name T-Y-E.

MR. MATHEWS: May it please the Court

Mr. Andrew Tye - Direct Examination by Mr. David Mathews

Q. Mr. Tye you know that fellow right there? Who is that?

A. My little brother.

Q. Okay and tell me something about James. Tell the jury about James.

Q. Well, when he was home, when he was where he was he was taken care of his grandmother. He's definitely mentally challenged. I don't care what anybody else says, he'll definitely tell you what you want to hear for sure. You know, he's very easily manipulated. I promise you right

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1 now he don't know half of what's about to happen to him.
2 He's mentally I mean, he's a kid, man. I mean, you think
3 about who he's outside playing with, you know, what I'm
4 saying. He's not me. He's not you.

5 Q. Mr. Tye you've lived in Colleton County?

6 A. Yes, sir.

7 Q. Did your brother live nearby you?

8 A. Right next door.

9 Q. Right next door, okay. And y'all have the same mom.

10 A. Yes, we did.

11 Q. Okay. You've heard something, I guess, about a day
12 that they were playing hide go seek and that, he, your
13 brother, was arrested a while after that?

14 A. And that's kind of all I heard. But I would say on
15 that day, I know my mom was outside majority of the time I
16 was outside doing different little things in the yard,
17 working on cars, working on bikes, cleaning up the yard,
18 different little things. My kids was out there
19 as well.

20 Q. How old would your kids have been, 2023?

21 A. Drew was like, probably like 9 or 10, like nine, and
22 my little girls are was like, so like four and two.

23 Q. And were they out there in the in the yard with
24 your brother?

25 A. My oldest son and my little girl were.

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1 Q. Okay, that's Drew and ...

2 A. Callie.

3 Q. Okay, all right. And do you recall there being a time
4 when either you or your mom was not out in the yard?

5 A. Not at the same time. No, sir.

6 Q. Okay, so there might be some time where you left?

7 A. Yes, sir.

8 Q. But she was out there?

9 A. Yes, sir.

10 Q. And there might be some time where she left, but you
11 were out there?

12 A. Yeah. I mean, we heard some things from his dad in
13 Tennessee for whatever little thing he has going on in
14 Tennessee. So we definitely supervised him around kids for
15 sure.

16 Q. Okay, all right, what's the --- what's the longest
17 period of time where either you or your mom was not
18 watching your brother?

19 A. I say five minutes max.

20 Q. Do the police ever talked to you?

21 A. No. Nobody ever talked to me until this week.

22 Q. Okay, well, I talked to you last week.

23 A. Well, last week. Yes, sir.

24 MR. MATHEWS: I don't have any further questions,
25 Your Honor.

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Mr. Tye - Cross Examination by Ms. Keeney

Mr. Tye - Redirect Examination by Mr. Mathews

THE COURT: Thank you. Any questions of this witness?

Mr. Andrew Tye - Cross Examination by Ms. Julie Kate Keeney

Q. Mr. Tye, what's your middle name?

A. Edward.

Q. Is your date of birth [REDACTED], 1997?

A. Yes, ma'am.

Q. Were you convicted of giving false information on February 26 of 2015?

A. Yeah.

Q. Were you convicted of failure to stop for a blue light on August 19 of 2021?

A. (Nods head affirmatively).

Q. Is that a yes?

A. Yes, ma'am.

Q. Thank you.

MS. KEENEY: No further questions.

Mr. Andrew Tye - Redirect by Mr. David Mathews

Q. Mr. Tye, are you telling the jury the truth?

A. I most definitely am.

MR. MATHEWS: No further questions.

THE COURT: Thank you. You may step down, sir.
Thank you. You are released.

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State of South Carolina vs. James Austin Townsend 192**Ms. Beliveau - Examination by Mr. Mathews**

MR. MATHEWS: May he be excused, Your Honor?

THE COURT: He may. No objection from the state?

MS. KEENEY: No objection.

MR. MATHEWS: The defense will call Angela Believue.

DEPUTY CLERK: Place your left hand on the Bible, raise your right hand. Do you swear or affirm your testimony you're about to give this court in this trial will be the truth?

MS. BELIEVUE: I do.

DEPUTY CLERK: Thank you. Have a seat in the witness stand. Repeat your name and spell your last name for the record please.

MS. BELIVEAU: Angela Beliveau, B-E-L-I-V-E-A-U.

Ms. Angela Beliveau - Direct Examination by Mr. David Mathews

Q. And what is your what is your rank officer?

A. I'm not an officer. I'm a records clerk.

Q. Record clerks. Okay, your daddy works for the Sheriff's Office, doesn't he?

A. Yes sir.

Q. Who's your dad?

A. Steve Bassell.

Q. He's been there a little while.

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1 A. Just a little bit. He's been there all my life.

2 Q. I know he's proud of you. What is your job at the
3 sheriff's office?

4 A. Records clerk.

5 Q. Okay, and in the last few weeks have you been asked to
6 get any records, in this case, James Townsend?

7 A. I have.

8 Q. And were you asked to seek to get the body cam of
9 Officer Smith?

10 A. Yes, sir.

11 Q. And there was a body cam at one time, was there not?

12 A. I don't know that for certain.

13 Q. But there's not one now?

14 A. Correct.

15 Q. Who has authority to pull those records?

16 A. Download?

17 Q. Or download, pull them.

18 A. Officers, myself, administration.

19 Q. Okay, and they're supposed to put them back sometime,
20 but they don't always?

21 A. They're on a software but it has storage where they're
22 all uploaded to from the actual video equipment, and then
23 they stay on that software, unless they're purged or
24 downloaded.

25 Q. Okay, so who the CID have the authority to go and pull

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1 those things and maybe purge them?

2 A. Yes, sir.

3 Q. Okay, but for whatever reason ...

4 A. I'm sorry you said purge them?

5 Q. Well, pull them.

6 A. Pull them.

7 Q. Okay, but they're back there, and who, who normally
8 does the purging?

9 A. It's part of the program.

10 Q. Okay.

11 A. We have different parameters. If they're not
12 categorized, they could maybe not stay on the system as
13 long as others would stay on.

14 Q. What is the least amount of time that you keep them?

15 A. It depends. I don't put in the parameters. Usually
16 that's up to the department. I'm not certain.

17 Q. Okay, all right. You had, I think you were asked, I
18 think, would it be fair to say that sometimes the officers
19 pull their own videos and you don't go back behind them to
20 look for the others. Is that fair?

21 A. Correct. It's up to the officer. They need necessary
22 to their case.

23 Q. Okay, so somebody got something --- that video is not
24 there and it's not your fault, is that accurate?

25 A. Correct.

Ms. Beliveau - Cross Examination by Ms. Keeney

MR. MATHEWS: Nothing further, Your Honor.

Ms. Angela Beliveau - Cross Examination by Ms. Julie Kate Keeney

Q. I just want to make sure I understand the body cam process. When an officer has his body cam on, does he like hook it up to a docking station for it to go to the server?

A. That's right.

Q. Okay. So for example, if Jermaine Smith, you don't know for a fact that officer Jermaine Smith actually turned his body cam on when he initially responded. Correct?

A. Correct.

Q. Okay, so had he turned it on, he would have then had you put it into the docking station, correct?

A. Yes, to the best of my knowledge that's how it works.

Q. And then it would go to the server, correct?

A. Right.

Q. And then if you, any officer Ballard, whoever could then save it from the server. Correct?

A. Could.

Q. But to your knowledge, Officer Ballard, or Jermaine Smith couldn't delete it from the server, correct?

A. Correct.

Q. It would just automatically get deleted if a certain time goes by and it's not saved, correct?

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State of South Carolina vs. James Austin Townsend 196Ms. Beliveau - Redirect Examination by Mr. Mathews

A. Correct.

Q. Okay, so you don't have any evidence that anybody intentionally deleted the video. Correct?

A. Correct.

Q. Okay. It might have just been something that got not saved and written over. Correct?

A. That's right.

Q. Thank you.

MR. KEENEY: No further questions.

MR. MATHEWS: Just a follow up on that overwrite.

Ms. Angela Believeau - Redirect Examination by Mr. David Mathews

Q. So some of those folks need space or something like that, they can get overwritten. Did I hear that correctly? What did Ms. Keeney say when she said override? The question she just asked, whatever that was I didn't fully understand.

A. Well, I'm not sure if I can repeat the question back to you what she just asked me, but not overwrite. Someone would have to override the parameters as far as if it were deleted or not.

Q. Okay.

A. If it wasn't, again, categorized it would automatically, according to the parameters, purged from the

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1 system so it wouldn't be over, you wouldn't override. Say
2 you delete one video and then you save another. It
3 doesn't work out.

4 Q. Okay. You say, override. Okay, what is, what is the
5 natural life span of a criminal sexual conduct first degree
6 video?

7 A. That's a broad question.

8 Q. Do you keep things on the server longer if they are
9 more serious crimes?

10 A. Yes, sir.

11 Q. Okay, and would that be one of the very longest that
12 particular charge?

13 A. Yes, sir.

14 Q. Okay, so how long normally would it take for that to
15 be purged?

16 A. If it were categorized as an arrest, I believe the
17 longest span is 365 days. But again, I'm not one hundred
18 percent. I don't set those parameters. If it were not
19 categorized at all, it could be 14 days.

20 Q. Okay, all right, unless somebody acts to save it, I
21 guess?

22 A. If it's categorized to a category with a larger span,
23 opposed to not categorized at all, which is not retained as
24 long.

25 Q. But a CSC with a minor is the longest span, right?

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State of South Carolina vs. James Austin Townsend 198**Ms. Beliveau - Recross Examination by Ms. Keeney**

A. Quite certain that would be considered an arrest, technically, but that would be the longest. Yes, sir.

Q. Okay.

MR. MATHEWS: Nothing further, Your Honor.

THE COURT: Anything else from the state?

Ms. Angela Believeau - Recross Examination by Ms. Julie Kate Keeney

Q. You're aware that Jermaine Smith was the initial responder for this in March of 2023, correct?

A. Correct.

Q. And the defendant was not arrested until the end of April, correct?

A. Correct.

Q. Which was more than a month and had gone by, correct?

A. Yes.

Q. And for his arrest, there is a video of his actual arrest by Chad McDowell. Correct? Officer McDowell arrested him?

A. Correct.

Q. And so that video would have been characterized as an arrest at the time correct?

A. Had the officer edited the category.

Q. And which must have happened, because we still have Chad McDowell's video, correct?

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1 A. Not necessarily we have it because we've downloaded it
2 manually. It was not actually categorized as an arrest, and
3 it is also no longer on the system, just like Jermaines.

4 Q. Okay, so it's no longer there. So for this case,
5 number one, you're not sure if Jermaine even had the body
6 cam on, correct?

7 A. Correct.

8 Q. And if he did, then, clearly it just didn't get saved.
9 Correct?

10 A. Correct. Thank you.

11 MS. KEENEY: No further questions.

12 MR. MATHEWS: Nothing further.

13 THE COURT: All right. Thank you so much. You may
14 step down. Any objection to releasing this was witness?

15 MR. MATHEWS: No sir.

16 THE COURT: Leave us if you would like. Anything
17 else?

18 MR. MATTHEW: The defense rest, Your Honor.

19 THE COURT: All right, thank you. All right, we're
20 taking a lot of breaks at this part of the trial, so if
21 y'all wouldn't mind leave us for a few minutes, and then
22 we'll bring you back in here and give you the next
23 steps.

24 **(Jury Break 2:31)**

25 THE COURT: All right, thank you. So I'm thinking

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1 we let them go for today. We have them come back at 9:30 we
2 use the next couple of hours to sort out the issues that
3 we've spoken about and get the charge hammered out. For
4 your purposes, we have the jury pool come back in at 11:00
5 tomorrow, and we have them come back at 9:30 I guess. Does
6 that work for everybody?

7 MR. MATHEWS: 9:30 would be fine.

8 MS. KEENEY: I think maybe 11 might be a little
9 early for the jury pool charge if we're going to charge
10 will probably take 45 minutes, and then arguing probably,
11 I mean, I'm not going to be long probably ...

12 THE COURT: Noon?

13 MS. KEENEY: Yes. Okay. So if you would please
14 for ...

15 DEPUTY CLERK: Yes, and I will make sure that
16 noon tomorrow.

17 MS. KEENEY: Did we confirm that there was enough
18 left in the pool?

19 THE COURT: How many do we have left?

20 DEPUTY CLERK: Well, we have ...

21 THE COURT: How many do we need?

22 DEPUTY CLERK: We had 61 when we pulled the 14,
23 so there should be enough left unless ...

24 THE COURT: What's the minimum number if you count
25 ...

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1 DEPUTY CLERK: Thirty-Five is the minimum.

2 THE COURT: Okay, so we're good and we can
3 figure out what the other lawyer, whoever it is, whether or
4 not we even want to deal with is that attorney here? I
5 guess not. We can sort that out tomorrow, but we do have
6 another. All right, so I'll get the jury back in. Give them
7 the standard instructions not to talk to anybody. Ask them
8 to be here at 9:30 in the morning, and then we'll break for
9 the day, except we'll try to get together and sort all this
10 stuff out. Does that sound like a plan that works?

11 MS. KEENEY: Works for the state.

12 THE COURT: All right, if you could bring the
13 jury back in, please.

14 **(Jury enters courtroom)**

15 **THE COURT:** All right. Thank you all for being so
16 attentive. We've got one final part of this trial, but we
17 have to prepare for it, and the lawyers need a few hours to
18 do so, so we're certainly not going to keep you here for
19 those few hours and then have more hours this evening. So
20 what we plan to do is ask you to please be here promptly at
21 9:30 AM in the morning for the final portion of this trial.
22 I'll sound like a broken record, of course, but don't
23 discuss anything you've heard with anyone. Don't do any
24 research. Don't discuss anything amongst yourselves. Not on
25 any sort of internet, any sort of social media. Don't look

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1 at any newspaper articles. If there are any about this, no
2 TV accounts, absolutely nothing. Please continue to keep
3 your minds totally open. Tomorrow, we'll have final
4 arguments from the state and the defense, and I'll give you
5 the charge as far as what the law is. But in the meantime,
6 again, please follow the instructions and just don't
7 discuss anything at all with anyone about this, and don't
8 do any research. Anyone have any questions about any of
9 that? All right, then we'll see y'all tomorrow morning at
10 9:30 AM hope to get started.

11 **(Jury excused for the day 2:37 PM)**

12 THE COURT: All right, thank you. Did you all
13 want to take a break before we start discussing lesser
14 included and all of that?

15 MS. KEENEY: Yes. I need to copy a few things.

16 THE COURT: Okay. All right, let's take a 10 to 15
17 minute break.

18 **(Court break 2:38-2:47 PM)**

19 MR. MATHEWS: You know, Julie Kate isn't in here
20 but Jill is just, just briefly. That is what Ralph King
21 Anderson, for his successor, says is in effect after the
22 Omnibus Crime Act of 2010 once they numbered the offenses
23 that the lesser included, if you're talking about assault
24 with the intent to commit under the CSC statute, you just
25 go by the numbers, and that was the intent. You go by the

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1 numbers, and it doesn't specifically, I don't see a list of
2 the lesser included for CSC with a minor, but presumably
3 the model would be the same. You have numbers now, and
4 presumably the second is lesser of a first and the third is
5 a lesser of a second, and and so that seems to be the
6 system since the Omnibus Crime Act passed in 2010 and that,
7 along with the rationale behind the case, I handed up In
8 the other Ralph King Anderson or his successor listing is
9 an alternative to CSC with a minor first.

10 THE COURT: What --- Well, we'll wait till
11 everybody's back unless you wanted to.

12 MS. CONTESTABILE: Judge, I believe she's going to
13 print case law that specifically discusses this in the
14 lesser included offenses. So if your honor is okay, she
15 told me that she will be here just 30 seconds.

16 THE COURT: Yeah, that's all good. We're all back
17 on the record, you get a chance. So Mr. Mathews, I
18 understand you want to discuss some lesser included.

19 MR. MATHEWS: Yes, sir. Your Honor, I've got two
20 opinions here. One of them is charging criminal sexual
21 conduct, third or second even, if necessary. But a third,
22 particularly is what I'm looking at as a lesser included
23 since the passing of the Omnibus Crime Act in 2010 criminal
24 sexual conduct with --- with a minor, is part of a system.
25 One of the cases in this he ended up as State versus

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1 Hernandez, that said that the common law system has been
2 largely replaced by the Omnibus Crime Act and numbering of
3 things. Certainly the facts in this case suggest the
4 possibility of a criminal sexual conduct with a minor third
5 degree since there is ample evidence that there was not any
6 penetration. It's my understanding that the state would
7 just love, in spite of what Officer Ballard said about it,
8 I think I charged correctly. I think that while officer
9 Ballard may be prepared to ride or die on penetration, I
10 think probably Ms. Keeney would like to hedge your bets by
11 including assault with the intent to --- one of the things
12 that --- and of course, the state's asking for a lesser
13 included to its own case when they could have elected at
14 the beginning to charge that probably should have didn't,
15 but to ask for a lesser --- for them to ask for a lesser
16 included that is the exact same sentence, it's at best
17 disingenuous. This is not a, it's not a lesser included in
18 the classic sense the word they could have charged at the
19 beginning, presumably. But in any event, the CSC with a
20 minor charges are pretty clear that they require
21 penetration. One of the Ralph King Anderson Jr, or his
22 successor in this book on this is the most recent edition
23 to the request to charge book, and it lists as lesser
24 included offenses under the Omnibus Act for criminal sexual
25 conduct. It doesn't say with a minor, but criminal sexual

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1 conduct as just going down the line. You know, from a first
2 you can go to it. Lesser includes, includes, second, third,
3 whatever I mean, to the extent that the evidence allows it.
4 And the fact that something may be a lesser included
5 doesn't mean it necessarily should be charged every time if
6 the evidence doesn't suggest it. In this particular case,
7 the evidence suggests quite strongly that even though the
8 state charged a criminal sexual conduct with minor first
9 degree, there is ample evidence that there was not
10 penetration, and as a result of lesser included to suggest.
11 Under the old common law, before the Omnibus Crime Act, Ms.
12 Keeney submitted a case from before that that says lewd act
13 is not a lesser included of criminal sexual conduct first.
14 However, that was before the Omnibus Crime, where they were
15 numbered first, second and third degree. In this case,
16 third, based on the facts of this case looks like it should
17 be charged as a lesser included and I'd ask that the state
18 not be allowed to ask for assault with intent to commit
19 first degree, because the sentence is exactly the same, and
20 it's just an attempt to cover up a mistake that they made
21 at the beginning by charging the wrong thing.

22 THE COURT: Yes, ma'am. And, you know what you
23 gave me three State versus Nortons, but I don't think I
24 have a Hernandez. I've got a State v. Green and State
25 versus Norton.

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1 MS. KEENEY: I have another one.

2 THE COURT: Okay, and this one's, of course,
3 ABHAN. I'm happy to hear from you.

4 MS. KEENEY: May it please the court state versus
5 Hernandez was given to Your Honor so that we can tell what
6 the test is for the lesser included. In South Carolina it
7 is the elements test. In Hernandez, they were trying to
8 get ABHAN charge because under the old common law that's
9 what happened. If you had a CSC case, they would charge
10 ABHAN, if there was evidence of lesser. Hernandez said,
11 no, no. The legislature has codified the assault crimes and
12 has listed out what is a lesser included and what's not and
13 they did not, they listed ABHAN as a lesser included of
14 attempted murder, but not CSC. So Hernandez stands for,
15 okay, we do the elements test. We're not doing old,
16 traditional common law principles of charging lesser
17 included. We look and compare the elements of the charges.
18 Then I handed Your Honor State versus Norton, which is
19 Supreme Court case, and that citation is a 28 SC 95. That
20 case was about whether or not lewd act was a lesser
21 included CSC with a minor. So lewd act is CSC with a minor
22 third degree, the elements are exactly the same. The
23 legislature just codified lewd act and called it CSC with
24 a minor third degree, and then made it a most serious
25 offense. That was the change in the law back then. So State

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1 versus Norton specifically says we did the element step.
2 And quite frankly, I would actually love for CSC with a
3 minor third degree to be charged, but it's improper, and I
4 know that if the jury came back with a verdict because we
5 charged it, I know that that conviction will get reversed,
6 because State versus Norton is clear. I think that case, he
7 was tried for CSC first, acquitted and then the prosecutor
8 went and charged him with lewd act, found guilty of that,
9 and they said that that was proper because lewd act was not
10 a lesser included, so jeopardy did not attach. So why does
11 that? I'd actually love CSC with a minor, third degree be
12 charged but it's just improper, and I just know that if he
13 got convicted of it, it would get flipped on appeal. So
14 that leaves us to what should be charged. What does the
15 evidence support? Number one, you have to pass the elements
16 test. Is it actual lesser included offense. And then number
17 two, is there evidence in the record to support the lesser
18 charge? So then that brings us to State versus Green. And
19 Your Honor, do you have a copy of that case? Okay. 406 SC
20 589. That was a burglary case. A prosecutor charged
21 burglary, indicted for burglary. The Judge, I believe,
22 directed, oh, let me make sure I don't want to misread it.
23 I don't know who wrote the verdict, but the state asked for
24 the lesser of attempted burglary to be charged because
25 there was dispute of whether or not entry was made into the

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1 building or the dwelling, which one it was. And the
2 defendant appealed, he gets convicted of attempted
3 burglary, appeals that conviction, and the Supreme Court
4 says, if you look over to page four, second paragraph, it
5 says state asked the trial to charge attempted burglary as
6 a lesser included. To prove attempt, the state must prove
7 that the defendant committed an overt act beyond mere
8 preparation in furtherance of the intent to commit the
9 crime. Where an intent crime exists, it is properly
10 considered a lesser included offense of the completed
11 offense so long as the completed offense is a felony. So we
12 don't have attempted misdemeanors, but we do have attempted
13 felonies, and that obviously, this is a felony no matter
14 how you look at it. And it said, notably in Hyatt, which I
15 also have a copy of, which is another Supreme Court case,
16 276 SC 72. Notably in Hyatt, our Supreme Court found no
17 logic in the defendant's position that an attempted offense
18 is not a lesser included offense of a completed offense. So
19 here, there is evidence not only is the attempted CSC minor
20 first degree, a recognized crime, which we see in State
21 versus Reed. Court of Appeals said attempted CSE with a
22 minor is a crime in South Carolina. So while only it is a
23 lesser included offense of CSC with a minor, first degree,
24 there's also evidence in this record to support the charge.
25 Because while yes, the victim did waffle in her testimony

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1 as children, you know, no child is perfect as far to put an
2 eight year old up on the witness stand. That's why we have
3 forensic interview. She said in her forensic there was
4 penetration. In her testimony she didn't, I understand
5 that. But his own client says in the interview he tried to
6 penetrate her with his fingers, which would be an overt
7 act, which would support an attempt charge.

8 Thank you.

9 MR. MATHEWS: Your Honor, basically, Reed also
10 predates the Omnibus Crime Act. The other cases the defense
11 was asking for was not asked. Was asking for a charge. In
12 this case, the state wants protection from its own charge.
13 They have elected to proceed with the completed act, and
14 they should ride that horse if that's they can't come back
15 there and say this or that. They clearly said of that. And
16 the officer testified that I'm going with completed and I
17 don't, I'd like to have a charge of CSC with a minor third,
18 that might be an appropriate thing. Maybe I'm wrong on
19 that. If it gets overturned, I've made plenty mistakes, and
20 I'll make plenty of mistakes more, but certainly it looks
21 more like it. Looks like it, as opposed to an attempt, when
22 you're charging the original and you've got the facts
23 supposedly right before you. The officer said at the
24 beginning, the first Officer, Jermaine Smith, no
25 penetration. There was waffling in the forensic interview

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1 with leading questions and stuff and we're all great
2 buddies, and let's spend the day talking about pets. I
3 wanted that in there because I wanted the jury to see
4 that's part of the process. But in the end, when it came
5 down to here today, under oath, she said, under oath, she
6 said there was no penetration. In fact, it may not --- it
7 sounds like, it sounds like, if it's anything, it's CSC
8 with a minor third, which is most serious, and it carries
9 up to 15 years. And I don't, I may be wrong in asking for
10 it, but I don't want the jury, I sure don't want the jury
11 to, you know, if it's up or down on nothing, but not giving
12 the state the ability to, you know, I'm not asking for an
13 attempt. I don't want an attempt. It's not if it's a lesser
14 included, the state could have opted from that beginning,
15 but I don't want it, particularly since the sentence is
16 exactly the same. All it does is give the state an out for
17 the mistake they made and how they chose to indict the
18 case. This was their choice, and now they're just
19 saying, Well, you know, it's a, it's a, it's a cop out. It
20 is a, it's a dirty trick. It is fooling the jury, because
21 sure enough, they're going to believe that that means less,
22 attempt means less. They got to be thinking that because
23 it sounds like less, and in some cases, maybe it is and in
24 that case, maybe it would ask for it, but certainly not, it
25 doesn't. I mean, I had to call --- anyway. It's --- I think

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1 it would be, it should be up or down or with a lesser
2 included of CSC, a minor third and anything the state
3 attempting to get a second bite at the apple, just, I don't
4 know, I don't think it's the law, but if it's the law, then
5 it's, it's a, it's a, it's a damn --- and I would ask the
6 court to deny the state's attempt to get charged for
7 attempted criminal sexual conduct with a minor first. I am
8 asking for a charge on CSC with a minor third, right or
9 wrong. But you know, first choice, CSC with a minor third
10 is an option. Second choice, straight up or down, and no
11 choice at all on allowing the state to have a second bite
12 of the apple.

13 THE COURT: It's not the code section, is not the
14 crime of CSC first with a minor completed or attempted,
15 isn't that what it said?

16 MS. KEENEY: That's what the header says. We can
17 look at the CDR Code. I'm not for sure.

18 THE COURT: I thought 656 ...

19 MR. MATHEWS: The statute just says, Your Honor,
20 a person is guilty of criminal sexual conduct with a minor
21 in the first degree if the actor engages in a sexual
22 battery of the victim who is less than 11 years of age, or
23 then it just describes section two that has nothing to do
24 with this case. Sexual battery, the victim, who is 16
25 years of age and the actors have been previously convicted

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1 of, so that doesn't apply. So (A)1 says sexual battery.

2 THE COURT: But I mean 16-3-656, says assault with
3 intent to commit criminal sexual conduct described in the
4 above sections, plural, shall be punishable as if criminal
5 sexual conduct was committed.

6 MR. MATHEWS: It does, and in the Ralph King
7 Anderson court of successor, we request a charge on that
8 all of the charges listed in that, I know it says prior
9 section, but all the ones I see listed by Professor
10 Anderson involved criminal sexual conduct, not of a minor.
11 All of the things that I see in there describe things that
12 apply to and it follows this statute. It says a lesser
13 included of attempted criminal sexual conduct, first
14 degree, a lesser included is attempted sexual attempted
15 criminal sexual conduct, second degree and attempted
16 criminal sexual conduct in the third degree. And then it
17 says ... so it's got a list of the things in there. But
18 once you start numbering stuff and listing things as as
19 lesser included that that only list criminal sexual things
20 listed in Anderson are only CSC, not CSC with a minor
21 cases. And like I said, through all our Julie Kate is quite
22 diligent. Ms. Keeney quite diligent, and has found nothing
23 directly on point that says it is. It's found in different
24 ways and in other times and in other places, but nothing
25 that says that it's not other than other than since before

1 the Omnibus Crime Act 2010.

2 THE COURT: Yes, ma'am.

3 MS. KEENEY: Well, when you type in the CDR code
4 for criminal sexual conduct with a minor, which is 385 the
5 event section is 163655, and includes 163656, I don't think
6 there's any any doubt that intent is at least a lesser
7 included. It's just a question of whether there's evidence
8 in the record to support the lesser included. And it
9 doesn't matter that I'm the one asking for it, because in
10 the burglary case, they couldn't approve entry so they
11 asked for a lesser included of attempted burglary. Got it.
12 He got convicted of it, and the Supreme Court said that
13 that was proper. So who requests the charge isn't the
14 relevant, that's whether there's evidence in the record to
15 support the lesser charge.

16 THE COURT: The charge that we're thinking about
17 would be third, not second, because the ages don't work on
18 second.

19 MR. MATHEWS: That correct?

20 MA. KEENEY: Second has completely different ages.
21 Third is what he is asking for, but State versus Norton
22 clearly says that that's improper and not a lesser
23 included.

24 MR. MATHEWS: As far as the attempt that's got to
25 be something close to --- I don't know if it's misconduct,

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1 but it's certainly, it's certainly not, it's not fair. They
2 could have charged that at the beginning, they didn't, and
3 the officer said that's what I'm writing. I charged
4 correctly. And now if they are permitted the benefit of
5 their own mistake, well, that that's gotta violate due
6 process. It's gotta.

7 MS. KEENEY: I want to say something because time
8 after time, prosecutors get accused of prosecutory
9 misconduct. I have no control of what an eight year old
10 little girl says on that witness stand when she's in front
11 of the person that she's saying did this, in front of a
12 jury, a room full of strangers, when she had repeatedly
13 said in her forensic interview that there was penetration.
14 So I'm sorry that I charged based on what she said in a
15 forensic interview, and I met with her multiple times, and
16 she said there was penetration, and your client said he
17 tried to penetrate her. So please try and accuse me of
18 prosecutorial misconduct for charging what the evidence is
19 saying.

20 MR. MATHEWS: I don't know if it is, but it's a
21 denial ...

22 MS. KEENEY: Right. You shouldn't say it if you
23 don't know what you're talking about.

24 THE COURT: All right. So the statute includes
25 attempt, all right. I mean, that's --- he was charged with

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1 the crime which includes that particular statute. Are you
2 saying you just didn't know this was ...

3 MR. MATHEWS: Well, there's evidence that there
4 was not even an attempt, because this was answered by
5 somebody who's got a mind like a child to a leading
6 question. And so, you know, yeah, there's, there was that,
7 there is that evidence. And of course, his brother
8 testified and say anything. And I think probably, looking
9 at the video, it seems to me like he said it. But, like I
10 said, the experts disagree with me. They're probably right
11 and I'm probably wrong. But I know that allowing the state
12 to make up for its mistake at this point is gotta deny the
13 process. It's gotta, I mean, it's just, it's not, it's
14 fundamentally unfair.

15 THE COURT: And tell me exactly what the mistake
16 is.

17 MR. MATHEWS: The mistake is the statute is very
18 clear that it's a completed thing. It says a sexual battery
19 was completed, and yet you might have an attempt as a
20 lesser included, although that charge is misleading because
21 it suggests to the jury, well, it's lesser, so it's not as
22 bad when it's exactly the same thing. It is a, it is a, you
23 know, the statute says the actor engages in a sexual
24 battery, which is defined as an intrusion, and she can
25 argue all she wants, however slight. She can argue that,

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1 they do all the time. But you know, who is under a
2 particular --- the question is whether or not there's a
3 sexual battery, and if there's not, then to say that
4 there's an attempted sexual battery in a particular, you
5 know, you know, Your Honor, you're the Judge, and whatever
6 you do, I go home. I go home. And if you're wrong, then the
7 Court of Appeals, the Supreme Court, will pick it up. If
8 I'm wrong, I'll get PCR. That's fine. I'll come down and
9 testify. That's fine. I don't have any problem with that.
10 But you know if you've got a choice to argue something that
11 may possibly be true but isn't fair, and to argue something
12 that's fair, it seems like the easy choice to this person
13 who's never going to be in that position. But anyway, it is
14 a --- it seems fundamentally unfair to allow the state to
15 argue attempt when they're going along says its battery.

16 THE COURT: But just to be clear, the statute that
17 he's charged under includes attempt. I mean is that, am I
18 misreading that?

19 MR. MATHEWS: Well, no, the particular statute
20 says a person is guilty of criminal sexual conduct of a
21 minor in the first degree if the actor engages in sexual
22 battery with a victim who's less than 11 years of age,
23 that's what it says. And as far as an attempt in another,
24 a separate statute, it doesn't reference attempt in this
25 statute. It would be helpful if it did, we wouldn't have

1 any, you wouldn't have to ask for a lesser included because
2 it'd be in the statute, but it's not. There's a separate
3 statute that says an attempt is created, but according to
4 Ralph King Anderson or his successor, according to that if
5 that applies to not CSC with a minor after the numbering
6 system, but to a criminal sexual conduct. You know, I'm not
7 --- never been in the General Assembly, so I couldn't tell
8 you what what they intended, but I know that there is a
9 numbering system now, and that's what you're looking at and
10 that statute was not eliminated but at least one
11 commentator believes that that applied, appears to believe,
12 based on the request to charge in Ralph E Anderson, appears
13 to apply to criminal sexual conduct.

14 THE COURT: And the header, I'm looking at the
15 electronic version, but maybe we all are. But the header is
16 criminal sexual conduct with a minor or attempt. Is that
17 accurate?

18 MS. KEENEY: Yes, sir.

19 MR. MATHEWS: Yeah, that's, I don't doubt it.
20 Mine says 163-655, criminal sexual conduct with a minor,
21 aggravated, circumstances, penalties, repeat offender.
22 That's what I see. But as far as what the header says, the
23 body of it says, completed battery. And Your Honor, you're
24 going to do what you're going to do. I've said all I need
25 to say.

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1 THE COURT: And you've preserved it for the
2 record. I think I agree with the state on this, and so
3 let's do this. It'll be, it'll be just the first now I've
4 got to come up with --- Do y'all have proposed charges?

5 MS. KEENEY: Judge, I would look at State versus
6 Reed regarding the attempt. Page seven.

7 THE COURT: Page seven.

8 MS. KEENEY: They're talking about second degree
9 CSC with a minor because that was what the age range was
10 that case. It says because the elements of CSC with a
11 minor, attempted CSC with a minor in the second degree are
12 an attempt, number one. Number two, to engage in a sexual
13 battery. Three, with a victim. And Four, that's the age.
14 That would be different for us, because it would be under
15 11. And then I think you would charge the mens rea
16 paragraph there regarding specific intent and about overt
17 act. I think that would be what your charge would be
18 pursuant to State versus Reed on page seven. Do you see
19 where I'm saying that. The first paragraph on page seven?

20 THE COURT: Yes, a person guilty. I guess I was
21 trying to figure out.

22 MS. KEENEY: If you go down towards the bottom it
23 says, the elements of CSC with a minor in the second degree
24 are, and it list those elements and then the next
25 paragraph. Generally, the mens rea of an intent crime is

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1 one of specific intent. You see all that?

2 THE COURT: Yes.

3 MS. KEENEY: And then you keep going down. The
4 state must prove the defendant specific intent was, that's
5 for the middle paragraph. State must prove the defendant's
6 specific intent was accompanied by some overt act beyond
7 your --- I think that is the appropriate attempt.

8 THE COURT: All right. Mr. Mathews, you'd
9 actually given me. I'm thinking what you gave me three dash
10 nine. I guess it was just ...

11 MR. MATHEWS: That's the numbering system for the
12 request to charge. So those aren't statute sections. Those
13 are sections within the South Carolina request to charge.

14 THE COURT: I understand. It was a proposed
15 charge on, appeared to be on attempt and everything. I
16 don't know if that ...

17 MR. MATHEWS: No. That's just to look at the
18 commentary on, and that is a that just that was by opening
19 on which one of those that was by way of example, and the
20 example for an attempt, all those things that it cites as
21 lesser included refer to CSC rather than CSC with a minor
22 things.

23 THE COURT: No, but I know you gave it to me for
24 a different purpose, and probably for the top part of the
25 last page. I just meant it happened to go on to the

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1 proposed charge it looks like, you know. I mean with regard
2 to assault at the bottom of the page and all that, do you
3 have a way to reduce that to a form that I can use. I think
4 y'all know my clerk is ...

5 MS. KEENEY: We can type it out. Are you talking
6 about just that charge or you won't like all charges typed
7 out?

8 THE COURT: Well, tell me what the rest of them
9 are, because, again, I've got.

10 MS. KEENEY: CSC minor first and attempt.

11 THE COURT: And then, I mean, I've got the usual
12 about to read you the charge, the law, you know, the one
13 paragraph, like here it comes kind of thing. But then we've
14 got that, I'm assuming we'll have a paragraph on reasonable
15 doubt. I mean, do y'all have a proposed charge of any kind?

16 MS. KEENEY: No, normally we just do the standard
17 reasonable doubt. Firmly convinced ...

18 THE COURT: Right.

19 MS. KEENEY: You know, without absolute certainty,
20 that standard.

21 THE COURT: I can put all that together. I just
22 need, I guess what you've proposed. And do you have
23 anything a proposal ...

24 MR. MATHEWS: I think I've already said too much,
25 so I'm not going to say anything more.

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1 THE COURT: All right. Well, if y'all wouldn't
2 mind put that part together tonight, maybe. Well, it's only
3 3:30 but ...

4 MS. KEENEY: I'll do it then email it to
5 everybody.

6 THE COURT: That would be great.

7 MS. KEENEY: And then special verdict form you
8 were talking about.

9 THE COURT: I don't know if we need that. When I
10 looked at that code section again, I think that's in a
11 plea. Is that --- I didn't see it. When I looked at it the
12 second time, I thought, oh no, that's just a plea where
13 there has to be ... That's in 655 (d)1 ...

14 MS. KEENEY: I don't see anything that special
15 there.

16 THE COURT: And again, I think it had to do with
17 the plea there. It says in the case of a person pleading
18 guilty or nolo contendere or a violation of the subsection,
19 the judge must make specific findings on the record
20 regarding what type of conduct constitutes the sexual
21 battery, including sexual anal intercourse by person or
22 intrusion by an object. So that's just a plea, it sounds
23 like, So, we don't need that. Just maybe, if you all could
24 do a standard issue one with the caption, that would be
25 great.

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1 MS. KEENEY: Yes.

2 THE COURT: And what else can we do?

3 MR. MATHEWS: Do 50 push ups.

4 THE COURT: I can't do that anymore. It's been a
5 long time.

6 MR. MATHEWS: I can't run very fast, very far. My
7 brother still runs 100 mile races. He recently did a 240
8 mile road he is 63 still able to run that far.

9 THE COURT: Wow. I can't do that. Anything from
10 the state?

11 MS. KEENEY: No, Your Honor.

12 THE COURT: So I guess we'll gather at a little
13 before 9:30 and if you could put that stuff together, and
14 then we'll just sort through whatever I'm going to read.
15 And I guess I'll need a copy of it to handle the jurors.

16 MS. KEENEY: Yes sir, I'll email it once I get it
17 done I'll email it.

18 THE COURT: Yeah, and use mine not my clerk's.

19 MS. KEENEY: I always send it to all three.

20 THE COURT: Thank you.

21 MS. KEENEY: Thank you, Judge.

22 THE COURT: So all right, anything else we can do?
23 All right then guess I'll see you guys, maybe some point
24 after nine.

25 **(End of Hearing)**

Day 3, February 26, 2025

THE COURT: This is the case of State versus James Townsend.

MS. KEENEY: May it please the Court?

THE COURT: Yes ma'am.

MS. KEENEY: Judge, I've been thinking about it for a few minutes and about charges that you gave us back in chambers and the verdict form. I know we had a lot of talk yesterday about what's the lesser included, what's not and I've cited all that case law in State versus Reed and said that, you know, these are the elements that attempted CSC with a minor, and about the overt act beyond your preparation. And I submitted that jury charge proposed to your email yesterday. I feel like that's the law in South Carolina. I don't know that this charge accurately, I mean, this charge doesn't hurt me, to be clear. I mean, it helps me, if anything, but I just feel like it is a lesser included, and the way it's being charged right now, from your charges is that it's the same thing as CSC minor, first degree. I understand you did your research and that's your ruling. I just want to put on the record, I don't know if maybe a special verdict form or, you know, we talked about special verdict form before, about whether or not they need to say we found a sexual battery occurred versus attempt. I just want to put my concerns on the record, but

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1 the charge doesn't necessarily hurt me I just don't know if
2 it's the right law. I think it's technically should be
3 submitted as a lesser included, but thank you for hearing
4 me.

5 THE COURT: Thank you so much.

6 MR. MATHEWS: Your Honor. I think what I've
7 already said, and I don't think it should be in there at
8 all, but I think the form is correct.

9 THE COURT: Thank you. Well, let's do this. You
10 all have copies of the latest version of the proposed
11 charge, which is in two separate stapled packages. One of
12 them is the general final charge, and the other one is the
13 specific crime. Any comments with regard to that?

14 MS. KEENEY: No, Your Honor.

15 MR. MATHEWS: No, Your Honor.

16 THE COURT: All right, all right, then let's get
17 the jury back in then, please. All right the states going
18 to open the info, law and facts and then anything in reply.

19 MS. KEENEY: Yes, Your Honor.

20 THE COURT: Thank You.

21 (Jury enters courtroom at 9:50 AM)

22 THE COURT: Good morning.

23 JURORS: Good morning.

24 THE COURT: Let's see, this should be perhaps the
25 final day of this. In a little while, I'm going to read you

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1 a few things. You're going to hear closings, summations
2 from counsel, and then I'm going to read you the charges,
3 and then the case will be yours. Did everyone follow the
4 instructions last night, not do any research, not speak
5 with anyone? Would it be accurate to say that all of you
6 have followed the instructions throughout?

7 JURORS: Yes, sir.

8 THE COURT: Okay. Fantastic. All right, then,
9 ladies and gentlemen, the parties have presented their
10 evidence in the case, it is now time for the attorneys to
11 make their closing arguments. The arguments of the
12 attorneys are not evidence in this case, their statements
13 and arguments are meant to help you understand the evidence
14 and to apply the law to the evidence. You should disregard
15 any remark, statement or argument which is not supported by
16 the evidence presented during the trial or the law that I
17 will explain to you after the arguments. Yes, ma'am happy
18 to hear from you.

19 MS. KEENEY: Austin Townsend preyed on six year
20 old **MINOR** **██████** in his sick, twisted game. This case, to
21 me, isn't really a matter of if something happened, it's
22 about what happened. Now I've charged him with criminal
23 sexual conduct with a minor in the first degree, and I told
24 you in the beginning what that required. It requires a
25 sexual battery, that he committed sexual battery on a child

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1 under the age of 11. And a sexual battery includes any type
2 of penetration with anything. This is a digital
3 penetration case. The judge is also going to tell you that
4 an attempt to commit a sexual battery is the same as if it
5 happened. So we treat an attempt the same as if it actually
6 happened. What happened? You heard from **MINOR**'s forensic
7 interview that there was a sexual battery. She said two
8 times that he touched her on the inside of her part where
9 she goes potty, twice. Now, I recognize that when she got
10 to the courtroom, she said outside, I can't hide from that.
11 I know that's what she said. I know y'all heard it. But the
12 truth, well, the fact is, is that we're in a courtroom,
13 she's eight years old, in front of a room full of
14 strangers, in front of the man that did this to her. So she
15 is understandably nervous and scared to the point where she
16 couldn't even remember her birthday. So I submit to you
17 that the forensic interview that was done just weeks after
18 this event is the most reliable piece of evidence of what
19 happened that day because she's in a controlled environment
20 with a lady who is trained on how to question children who
21 are suspected to be abused.

22 Now I know there's been a lot of talk about,
23 well, when it got reported out, the mom said there was no
24 penetration. You heard about that? No. You heard that the
25 mom never asked, and we're not here to beat up for not

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1 asking, because she didn't want to traumatize her kid
2 anymore. She wanted to report it to law enforcement and
3 have the professions handle it. You heard from Jermaine
4 Smith, the deputy that responded, that he didn't ask MINOR
5 either. So it wasn't a matter of her saying, Oh, he didn't
6 penetrate me. It was a matter that nobody asked. Last time
7 I checked, six year olds don't go around saying, Oh, he
8 penetrated me, or, I'm sorry to be --- because it's really
9 what everyone calls it, oh, he fingered me. Six year olds
10 won't say that. Six year olds who have been abused say
11 exactly what Matthew did. He touched me in the place where
12 I go potty. They don't say penetrate. That's not in their
13 vocabulary. That is why we take these children to forensic
14 interviews, to be interviewed by the people who know how to
15 do it, even I'm not good at it and I've been doing this for
16 thirteen years.

17 How else do we know? Well, let's consider the
18 defendant's own statement. He told you it happened, he
19 lied, he minimized and then finally, he said, you're right,
20 I did it. I tried to penetrate her vagina with my fingers.
21 He told officer Ballard that, you heard it, you heard it
22 out of his own mouth. Not only did you hear that, he heard
23 that he did it in a place where he knew nobody would see
24 him, and that after he got done, he told her not to tell
25 anyone, because they would get in trouble. I'd also like

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1 you to think about this, because you're going to be the
2 judges of the credibility of the witnesses. And think about
3 the credibility just means believability. Who do you
4 believe? MINOR has zero reason to make this up, zero. They
5 didn't really know him from Adam. He is some random
6 neighborhood man who is playing hide go seek with six year
7 olds that he's neighbors with. This isn't a case where it's
8 a mom and a dad going through a divorce, and the mom tries
9 to get the kid to say something against the dad to set him
10 up. This is --- this is practically a stranger to them.
11 MINOR has zero reason to make it up and consistently say
12 that she was sexually abused by that man sitting right
13 there. I'm going to ask you to find him guilty of CSC with
14 a minor, criminal sexually conduct with a minor first
15 degree. He committed sexual battery, digital penetration,
16 however slight that's the start, you don't have to fully
17 insert --- However slight equals penetration and intent is
18 counted the same as if it happened under South Carolina
19 law. Find him guilty. Thank you.

20 MR. MATHEWS: May it please the Court?

21 THE COURT: Yes, sir.

22 MR. MATHEWS: Good morning.

23 JURORS: Good morning.

24 MR. MATHEWS: I know y'all have gone through it,
25 it hasn't been long, but it's not an easy thing to go

1 through, and I appreciate y'all, and I know James
2 appreciates y'all being here and listening to this. First,
3 to address a couple of things, the most troublesome thing
4 about this is, is what they said was the defendant's
5 statement, it was, except he didn't say, I sexually
6 penetrated her, or I penetrated her with my finger, or I
7 attempted to. He said, Yes, I did okay, and that's not the
8 same thing. You had a chance to listen to the forensic,
9 Hope Horizons Brooke Bentley. You had a chance to listen to
10 her, and she said they try to take care not to ask leading
11 questions. They do ask questions that basically, in my
12 opinion, amount to the same thing, but a leading question
13 is to ask a question that already has the answer that you
14 want in it. You did this, didn't you? Yes, I did. It's not
15 the same as I took her, I put my hand down her pants and
16 attempted to penetrate her vagina. That's not a legal,
17 okay, that's an answer of one's own, rather than an answer
18 that's suggested. And Ms. Bentley said some other things
19 about this, and it applies to children, but it applies to
20 people also. You look to the first 30 minutes, or 25
21 minutes, or whatever of that Hopeful Horizons video and
22 it's all about establishing a relationship, asking about
23 the pets, asking about how are things at home, and laughing
24 and getting to know her, so that you can develop a rapport,
25 so that you can become buddies, and that way, when you

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1 suggest an answer, you'll get the answer you want. It's
2 easy to see perhaps, why I didn't get --- I got the answers
3 I wanted sometimes, but they weren't necessarily from my
4 buddies. I got the answers I wanted by asking tough
5 questions, and those tough questions weren't necessarily
6 asked. Leading questions produce that with your buddy, and
7 Brooke Bentley spent a half an hour becoming [REDACTED]'s buddy,
8 and so did officer Ballard with James. James's brother came
9 and told you that he thinks like a child himself. He also
10 said he was out there in the yard with his own children who
11 were playing out there with James and [REDACTED] and her
12 siblings. They were all out there. This is in daylight out
13 there. And he said that either he or his mother were
14 watching the entire time, all maybe max five minutes. They
15 weren't watched max five minutes, otherwise everything was
16 watched. So then one of the things that came up in Brooke
17 Bentley's interview was she asked and stopped asking when
18 she didn't get the answer she wanted. Were you wearing long
19 pants, or were you wearing short pants? Or were you wearing
20 a dress? I was wearing long pants. Were your pants up or
21 down? They were up. Okay, so how did this happen? How did
22 this happen with long pants pulled up and you're out there
23 outside with somebody watching mostly the entire time. If
24 something did happen, it happened over the clothes, which
25 is maybe criminal sexual conduct with a minor third degree,

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1 which is not charged today. Presumably, if the state wanted
2 to, maybe they could come back and do it later, but that's
3 not what he's charged with. Perhaps they can prove that.
4 But clearly they can't prove penetration, so now, well,
5 it's an attempt. It's clearly not, and they knew that based
6 on Officer Ballard's question, did you attempt? Not did you
7 do? It's leading. It suggests an answer. But even he knew,
8 and Mama knew, and she did research on this, why didn't you
9 get a rape kit? Why didn't you have a doctor look and see
10 because you wouldn't see semen, but you'd see tears.
11 Because if something like that happened, it's likely, or
12 possible, it's likely that there would be some tears,
13 because a big hand and a little area for a child, you're
14 going to see something, swelling, redness, something.
15 Detective Ballard said, well, you know, maybe. But to not
16 even try, not even to look, is to know that there was not
17 a completed penetration, never, they knew that. They knew
18 it from the beginning. Officer Smith, when he came out
19 there he said he would have recommended it if there been
20 any indication of it, and it wasn't just wasn't there any
21 indication, she did the research. She looked so she had
22 considered the possibility of it. The aunt they were
23 together for a month prior to this Hopeful Horizons
24 interview, I asked Brooke Bentley, is coaching a problem?
25 She said, sometimes it is so you don't get the answer you

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1 want, you say, well, look at the Hopeful Horizons. But
2 there are two other times. One, you got to see --- you got
3 to see the child's demeanor and everything like that. Does
4 this look like somebody was torn up? I know it's hard, and
5 I didn't ask any questions because, you know, she's a kid,
6 but this does not look like some tragic thing happened.
7 Nothing, not Hopeful Horizons, and you got to see with your
8 own eyes. Nothing. Mama said there was crying and stuff.
9 And maybe if there would, if Detective Ballard, God bless
10 him, if he had bothered to look at Jermaine Smith's videos
11 while he still could you were charged with something. They
12 retained it a little bit longer, but those were the more
13 serious, most serious offenses. They take them. They keep
14 them a little bit longer. But he had 365, days to pull that
15 up, and he said, I didn't look at it. You don't want to
16 look at something where you have all the witnesses there
17 two days after an alleged event happened, and you don't
18 look and then it gets destroyed. They're going to put
19 everything on Brooke. They're going to put everything on
20 Brooke Bentley, who's her buddy, and who asked the
21 question, well, after this happened, repeating it,
22 reinforcing it. After this happened, then what happened?
23 Those are leading questions and they're questions from your
24 buddy, from your friend, that's who, that's who Brooke
25 became to her, her friend. You can call me if there's a

1 problem down later on. And that's the answer she wanted,
2 because that's the way the questions were asked. But when
3 she saw what happened with the other hand? Because you want
4 to know that, right? If somebody is facing, two fully
5 dressed people facing each other, and one hand is down the
6 short, long pants, not shorts, not a dress, because it was
7 ask, was it shorts? Was it a dress? Was it long pants? And
8 she said, long pants. Now that wasn't that wasn't leading.
9 She came up with the correct --- But you're facing
10 somebody. If you've got a hand down here like this, to a
11 child, in the daylight with people all over the place, and
12 your brother or mother standing sitting right there
13 watching, what are you doing with the other hand? Because
14 you would know that, anybody would know that, are you
15 holding? Are you doing anything? Those questions weren't
16 asked because they're hard questions, and these are the
17 questions that have to be asked before you, take a man's
18 freedom, before you do that. And like I said, if it is over
19 the clothes, as it looks like perhaps it was the state can
20 charge CSC with a minor, third, they have that option.
21 Still do. But this was not a criminal sexual conduct with
22 a minor first, at least --- you know what you decide what
23 it is, you have the power. Each and every one of you has
24 the power in this case. Your decision has to be unanimous,
25 and the state has to prove it beyond a reasonable doubt.

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1 And here's the thing, trying to prove your innocence is a
2 tough thing, particularly when you've got --- when you're
3 not real smart. Okay, proving your innocence is a very
4 difficult thing to do. That's why the state has to prove
5 something beyond a reasonable doubt that's worth and they
6 haven't done that. I'm sure that you'll have a chance to
7 hear Ms. Keeney come up again and mop things up as she sees
8 best, and you won't get a chance to hear from me again. But
9 there are a couple of things. First of all, the way the
10 questions were asked makes a difference. And at the last
11 part of the interview of James, they were walking out
12 together, buddies. He says, tell them the truth, and the
13 truth is what I tell you the truth is by my leading
14 questions. Tell them the truth will open doors for you.
15 And this is funny, right, because they're walking out and
16 did pretty good, didn't I? I told you the truth, didn't I?
17 I told you what you wanted to hear. As Andrew, his brother,
18 said he'll say anything like that, and he's got daddy
19 issues clearly. He said his dad's been in and out of jail
20 and on probation and all that sort of stuff. At least he's
21 trying something now, but he's got daddy issues, and he's
22 got a father figure right there. Now, you gotta tell the
23 truth. Truth will open doors. The only door it's going to
24 open is to a prison, but he doesn't know that and he's
25 bonding. They spend some time bonding, and they walk out

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1 together. You know, you're all right with me, you're all
2 right with me. And that wouldn't probably work with me,
3 because I know the system, but it's going to work with
4 somebody who thinks like a child. And Officer Ballard even
5 asked one of the questions, wrong, if he'd done a little
6 bit more research, maybe he'd asked it right. He said when
7 you put your hands down her shorts, it's long pants, it's
8 not shorts okay, sure, yeah, I did that. Nah. I put my
9 hands down her shorts, or long pants. And you said, maybe
10 it was, come on, you know, she meant --- he meant
11 underpants maybe. Except Brooke Bentley took great pains
12 to distinguish between shorts, a dress and long pants,
13 because some are easier to get into than others. Long pants
14 are the hardest. It's up to you. It's up to you. Whatever
15 you want to do. You get to decide. I hope that you will
16 find James Townsend not guilty, because the state has not
17 proved its case beyond a reasonable doubt.

18 MS. KEENEY: Let's talk about the rape kit. As you
19 know, he told **MINOR** not to tell anyone, so she didn't for
20 a couple of weeks, and then when she finally did, that's
21 when law enforcement responded. Rape kits mainly are to
22 collect DNA, semen, things like that. They take swabs,
23 you've heard that. You're not going to find any of that
24 weeks later after something happened from a digital
25 penetration case that's not going to happen. Now, he says

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1 they could have noticed some damage, some redness. Think
2 about it. Penetration is however slight. You would not
3 expect damaged hymen from any type of slight penetration.
4 That's not going to happen. Now, he wants to talk about,
5 oh, pants. And how could this have happened with her pants
6 were on? Well, I don't know about y'all, but and this is
7 gross, but you can put your hand down a child or anyone's
8 pants with your pants being on. That's not out of the realm
9 of possibilities. I could do it right now if I wanted to.
10 She's focused on, Oh, what was going on with the other
11 hand. Um, six year old MINOR, was focused on that hand that
12 was touching her vagina, not the other hand. He wants to
13 talk about how, oh, he acts like a child. His brother even
14 said it, and they don't trust him enough to leave him alone
15 five minutes. Well, maybe that is true. Maybe they don't
16 trust enough to leave him alone five minutes with kids, but
17 last time I checked, you can digitally penetrate with
18 someone in less than five seconds. It doesn't take five
19 minutes. Not to mention he says he did it in a place, he
20 did it in a place where he knew nobody would see him. He
21 knew it. He wants to say that Officer Ballard put the words
22 in his mouth. This is a 21 year old man who has a job,
23 drives a car, graduated high school and said when Ballard
24 said you tried to penetrate her vagina with your finger. He
25 said, yes, I did. I'm not gonna lie. He said multiple times

1 as he's walking out the door, he goes, I know I lied to you
2 at first but I told the truth, hopefully that will help me
3 out. I can't help it that people can be delusional and they
4 think they can get probation for molesting a child. That's
5 not on Officer Ballard that he has some false hope that
6 he's going to get probation for this. Okay, that's not his
7 fault. He didn't promise that. Did you hear Ballard say,
8 Oh, you'll get probation if you tell me what I want to
9 hear, or I'll dismiss the charge if you tell me what I want
10 to hear. He never said that. He said. I --- you know, first
11 of all, if you actually watch the interview, he starts
12 confessing before, you can see it. He starts confessing
13 before Ballard even makes the comment about honesty could
14 open doors for you. He says exactly, I remember because I
15 watched it thirty times, Ballard says that the truth is,
16 because I know you're lying, you had that little girl
17 behind that building and he said, you're right. Yes, I did.
18 And then Ballard makes the comment about, you know, being
19 honest could, you know, open doors. And then that's when he
20 said he tried to penetrate the little girl. Okay, so he
21 starts confessing before that comment was even made. And
22 quite frankly, honesty does normally help, right? But at
23 the end of the day, he's charged with molesting a child.
24 I'm sorry you don't get probation for that, that was never
25 promised to you, that's just your own delusion.

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1 He talks about how I haven't proved it beyond a
2 reasonable doubt. Let me tell you this. Beyond a
3 reasonable doubt, the judge is going to give you a charge
4 and he's going to tell you that if you're firmly convinced
5 he's guilty, you must find him guilty. Now there are very
6 few things in life that we know with absolute certainty.
7 The law does not require that I prove to you beyond every
8 doubt. It's a reasonable doubt. He said, oh, we don't get
9 the answers we want, Brooke didn't get the answers she
10 wants. Let me tell you about answers that we want. This
11 family right here, the answer that they wanted was for this
12 to never have happened. Okay, that's the answer they want
13 but that's not the reality that we live in, because this
14 man preyed on a six year old little girl and took her
15 behind a building where he knew that his family or noone
16 else would find and he took advantage of her, and that's
17 why we came. And no that isn't the answer we wanted, but
18 that's why we're here, because of his actions. Please find
19 him guilty.

20 THE COURT: All right, ladies and gentlemen, I
21 told you at the beginning of this there would be some
22 things that I would be reading to you, that I am the person
23 that determines what the law is in a case like this and all
24 of you determine what the facts are. So as I read through
25 this, if it sounds like I'm commenting on the facts at all,

1 please disregard that, because I'm not. I'm just telling
2 you what the law is.

3 I remind you that during this trial, you and I
4 have certain duties to perform. As the trial judge it's my
5 responsibility to preside over the trial of the case and
6 also I have the duty to rule on the admissibility of
7 evidence offered during the trial. You are to consider only
8 the competent evidence before you. If there was any
9 testimony ordered stricken from the record in this case,
10 during the trial, you must disregard that testimony. You
11 are to consider only the testimony which is presented from
12 this witness stand, any exhibits which have been made part
13 of the record, in this case, and any stipulations of
14 counsel. I have the additional duty to charge you the law
15 applicable to this case.

16 As the presiding judge, I'm the sole Judge of the
17 law in the case, and it is your duty as jurors to accept
18 and apply the law as I now state it to you. If you already
19 have any idea as to what the law is or what the law ought
20 to be, and it does not agree with what I now tell you the
21 law is, you must abandon this idea, because you were sworn
22 to accept the law and apply the law exactly as I state it
23 to you. In every case tried in this court before a jury,
24 the jury becomes the sole and exclusive judge of the facts
25 on a case, a trial judge cannot intimate, state, comment or

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1 make any statement to a trial jury about the facts in the
2 case. Since you, the jury, are the sole judges of the facts
3 in the case, you are not to infer from what I have said
4 during the process of this trial, ruling upon the
5 admissibility of evidence or otherwise or anything that I
6 say now during the course of this instruction to you that
7 I have any opinion about the facts in the case, the law
8 does not allow me to have an opinion about the facts in the
9 case. This is a matter solely for you, the jury, to
10 determine. As jurors it is your duty to determine the
11 effect, value, weight and truth of the evidence presented
12 during the trial.

13 The indictment charges the defendant with
14 criminal sexual conduct with a minor first degree. I remind
15 you that the fact the defendant was arrested, charged and
16 indicted in this case is not evidence in this case and
17 cannot be considered by you as evidence of guilt in this
18 case, nor does it create any presumption or inference of
19 guilt. This document is simply the formal written
20 instrument which contains the charge made against the
21 defendant. It is the formal document by which this case is
22 brought into this court. The defendant has pled not guilty
23 to this indictment, and that plea puts the burden on the
24 state to prove the defendant guilty. A person charged with
25 committing a criminal offense in South Carolina is never

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1 required to prove himself innocent. I charge you that it is
2 an important rule of law that the defendant in a criminal
3 trial, no matter what the seriousness of the charge may be,
4 will always be presumed to be innocent of the crime for
5 which the indictment was issued, unless guilt has been
6 proven by evidence satisfying you of that guilt beyond a
7 reasonable doubt. The presumption of innocence does not end
8 when you begin your deliberations, but it accompanies the
9 defendant throughout the trial until you reach a verdict of
10 guilt based on evidence satisfying you of that guilt beyond
11 a reasonable doubt. The presumption of innocence is like a
12 robe of righteousness placed on the shoulders of the
13 defendant, which remains with the defendant until it has
14 been stripped from the defendant by evidence satisfying you
15 of the defendant's guilt beyond a reasonable doubt. The
16 presumption of innocence is not mere legal theory. It is
17 not just a legal phrase. It is a substantial right to which
18 every defendant is entitled unless you the jury are
19 satisfied from the evidence of the defendant's guilt beyond
20 a reasonable doubt.

21 What is reasonable doubt in the law? A reasonable
22 doubt is the kind of doubt that would cause a reasonable
23 person to hesitate to act. The state has the burden of
24 proving the defendant guilty beyond a reasonable doubt.
25 Some of you may have served as jurors in civil cases where

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1 you were told that it is only necessary to prove that a
2 fact is more likely true than not true, such as by the
3 greater weight or preponderance of the evidence. In
4 criminal cases, the state's proof must be more powerful
5 than that. It must be beyond a reasonable doubt. Proof
6 beyond a reasonable doubt is proof that leaves you firmly
7 convinced of the defendant's guilt. There are very few
8 things in this world that we know with absolute certainty,
9 and in criminal cases, the law does not require proof that
10 overcomes every possible doubt. If, based on your
11 consideration of the evidence, you are firmly convinced the
12 defendant is guilty of the crime charged, you must find the
13 defendant guilty. If, on the other hand, you think there
14 is a real possibility the defendant is not guilty, you must
15 give the defendant the benefit of the doubt and find him
16 not guilty.

17 There are two types of evidence which are
18 generally presented during a trial. Direct evidence and
19 circumstantial evidence. Direct evidence is the testimony
20 of a person who claims to have actual knowledge of a fact,
21 such as an eyewitness. It is evidence which immediately
22 establishes the main fact to be proved. Circumstantial
23 evidence is proof of a chain of facts and circumstances
24 indicating the existence of a fact. It is evidence which
25 immediately establishes collateral facts from which the

1 main fact may be inferred. Circumstantial evidence is based
2 on inference and not on personal knowledge or observation.
3 The law makes absolutely no distinction between the weight
4 or value to be given to either direct or circumstantial
5 evidence, nor is it a greater degree of certainty required
6 of circumstantial evidence than of direct evidence. You
7 should weigh all of the evidence in the case. After
8 weighing all of the evidence if you are not convinced of
9 the guilt of the defendant beyond a reasonable doubt, you
10 must find the defendant not guilty. Necessarily, you must
11 determine the credibility of witnesses who have testified
12 in the case. Credibility simply means believability. It
13 becomes your duty as jurors to analyze and to evaluate the
14 evidence and determine which evidence convinces you of its
15 truth. In determining the believability of witnesses who
16 have testified in this case, you may believe one witness
17 over several witnesses, or several witnesses over one
18 witness. You may believe a part of the testimony of a
19 witness and reject the remaining part of the testimony of
20 that same witness. You may believe the testimony of a
21 witness in its entirety or reject the testimony of a
22 witness in its entirety, you may consider whether any
23 witness has exhibited to you any interest, bias, prejudice
24 or other motive in this case. You may also consider the
25 appearance and manner of a witness while on the witness

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1 stand. I will give you a copy of these instructions in
2 written form. During your deliberations, you may refer to
3 the instructions to guide your decision making, you must
4 consider the instructions as a whole and not follow some
5 and ignore others. Please return the instructions to the
6 court at the time your verdict is rendered.

7 I instruct you and emphasize that the fact the
8 defendant did not testify is not a factor to be considered
9 by you in any way in your deliberation and in your
10 consideration on the question of guilt or innocence of the
11 defendant, it must not be considered by you in any manner
12 whatsoever. A defendant has the constitutional right to
13 remain silent, and the assertion of this right must not be
14 considered by you in your deliberations. I repeat, under
15 your oath, you are required to draw no conclusion
16 whatsoever from the fact the defendant in this case did not
17 testify. The fact that this defendant did not testify
18 should not even be discussed in the jury room. The burden
19 of proof, as I've stated to you, is on the state. The
20 defendant is not required to prove his innocence. The
21 burden of proof remains on the state to prove guilt beyond
22 a reasonable doubt. In order to establish criminal
23 liability, criminal intent is required. For example, the
24 mental state required to be proven by the state for a
25 particular crime might be purpose, intent, knowledge,

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recklessness or criminal negligence. Criminal Intent must be proven by the state beyond a reasonable doubt. Criminal Intent is always a matter that must be determined by the jury from the circumstances surrounding the situation. There is no way to prove intent to a mathematical certainty. There is no way medical science can dissect a person's brain and determine what the person had in mind. So the law says that criminal intent may be inferred from the circumstances shown to have existed. This is how you make a determination of whether or not the element requiring intent was present. It is not necessary to establish intent by direct and positive evidence, but intent must be established by inference in the same way as any other fact, by taking into consideration the acts of the parties and all the facts and circumstances of the case. Criminal Intent is a mental state, a conscious wrongdoing. It is up to you to determine what the defendant intended to do based on the circumstances shown to have existed. Criminal Intent can arise from action or a failure to act. It may arise from negligence, recklessness or an indifference to duty or consequences that is considered by the law to be the equivalent of criminal intent.

There has been evidence presented that witnesses have made prior statements which are not consistent with the witnesses present testimony. You may use this evidence

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1 to decide whether to believe the witness. You may also use
2 the evidence of the earlier contradictory statement to
3 determine the truth of those statements. It is up to you to
4 decide whether to believe the earlier statement, or the
5 testimony given at trial. If a witness is shown to have
6 knowingly testified untruthfully concerning any material
7 matter, you may consider this in determining whether to
8 trust the witnesses testimony as to other matters, you may
9 reject all the testimony of that witness, or give it all or
10 part of the testimony, the weight that you think it
11 deserves. A person who has a past criminal record is
12 competent to testify during a trial. A past record does not
13 affect the ability of that witness to testify. The past
14 record may only be considered by you, if at all, in
15 determining the witness's believability. Remember, you are
16 the sole judges of the facts in the case and the
17 believability of any and all of the witnesses.

18 In this case, there are allegations of spoliation
19 or destruction of evidence. The state not only has the
20 burden of proof of guilt, but also has the burden of
21 producing evidence which would establish the innocence of
22 the defendant. When evidence is lost or destroyed by a
23 party, you may infer the evidence which was lost or
24 destroyed by the party would have been adverse to that
25 party. If you find first the evidence was spoiled or

1 destroyed, and if you further find the evidence could help
2 establish the innocence of the defendant you may consider
3 those facts in deciding whether or not the state has met
4 its burden of proof. A statement alleged to have been made
5 by the defendant has been admitted in evidence in this
6 case, while the court has determined that the statement is
7 admissible, I instruct you that you make the final, I'm
8 sorry, you make the ultimate decision of whether or not the
9 defendant made the statement. If the defendant did make
10 the statement, you must determine whether the statement was
11 made by the defendant voluntarily and of his own free will.
12 This means the statement was not caused by pressure, force,
13 fear, threats, coercion or intimidation, or by hope or a
14 promise of leniency or a reward of any kind. In determining
15 whether the statement was voluntary, you should consider
16 both the characteristics of the defendant and the details
17 of the questioning. Some of the factors you must consider
18 are, the age of the defendant, the defendant's education or
19 lack of education, the defendant's mental ability or
20 capacity, the defendant's IQ or intelligence, the
21 defendant's background and environment, the place and
22 length of detention, the nature of the questioning and the
23 advice or lack thereof to the defendant of his
24 constitutional rights, including, but not limited to the
25 right to remain silent, that any statement could be used

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1 against him in a court of law, the right to have a lawyer
2 present, that if he could not afford a lawyer a lawyer
3 would be appointed to represent him without any cost and
4 that he could make a statement at any time. You must
5 carefully consider all of the surrounding circumstances.
6 Let me reread something and that he could stop making a
7 statement. I read that wrong a moment ago. I apologize so
8 let me read that again. A lawyer would be appointed to
9 represent him without any cost, and that he could stop
10 making a statement at any time. You must carefully consider
11 all of the surrounding circumstances before you give any
12 weight to an alleged statement. The state has the burden
13 of proving beyond a reasonable doubt that the alleged
14 statement was voluntary. If you determine it was, you may
15 give the statement any further consideration you deem
16 proper. You must decide what weight, if any, should be
17 given to the alleged statement. If you determine the
18 alleged statement was not the free and voluntary statement
19 of the defendant, you should not consider the statement at
20 all.

21 The defendant is charged with first degree
22 criminal sexual conduct with a minor. South Carolina code
23 of laws, section 16-3-655 requires the state must prove
24 beyond a reasonable doubt that the defendant engaged in the
25 sexual battery with the victim. A sexual battery is sexual

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1 intercourse, cunnilingus, fellatio, anal intercourse, or
2 any intrusion, however slight of any part of a person's
3 body or any object into the genital or anal openings on
4 another person's body, except when the intrusion is
5 accomplished for medical, recognized treatment or
6 diagnostic purposes. The state must then prove beyond a
7 reasonable doubt that the victim was less than 11 years old
8 at the time of the sexual battery. Consent, willingness,
9 indifference or ignorance on the part of the minor, if any,
10 as to what was taking place does not in any way effect the
11 charge of criminal sexual conduct with a minor, because an
12 unmarried woman under the age of 14 cannot legally consent
13 to sexual intercourse. I further charge you that section
14 16-3-656, of the law of South Carolina states that an
15 attempt to commit a sexual battery on a child is to be
16 considered the same as if the act was committed.

17 All right. I'm going to ask the bailiffs to take
18 you back to the jury room for a moment so we can discuss
19 things outside of your presence. I would ask that the
20 alternates be separated from the jury at this point and
21 kept in a different place for a few moments. It may be that
22 we take some things up and bring you back in. If we don't,
23 your signal to begin deliberating will be the receipt of
24 the exhibits. When you receive the exhibits, you may begin
25 to deliberate. Until that time, I would ask you again to

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1 continue not to discuss the case, not to talk about any
2 part of it, talk about the beautiful weather outside,
3 whatever you want, but don't discuss the case until you
4 receive the exhibits. That will be your signal to begin to
5 deliberate. Any questions about any of that? Okay, all
6 right, if you would separate the alternates from the jury
7 and take them back.

(Jury Exits courtroom 10:29 AM)

9 THE COURT: Okay, anything for the record?

10 MR. MATHEWS: The only thing that I noticed that
11 most of the time the jurors are instructed that the order
12 in which the verdict forms are placed does not have, you
13 just have to go in some order. I don't mean anything. I
14 don't mean to suggest one is more appropriate than the
15 other, but I have to put down some order guilty or not
16 guilty. That's frequently done. I don't know that it really
17 matters, but it is something that is typically done.

18 THE COURT: All right.

19 MS. KEENEY: I do think we have to bring them back
20 out to go over the verdict form and instruct them that
21 their verdict must be unanimous. Then the only other thing
22 is just subject to what I said before we began opening
23 about my objection to the charge ...

24 MR. MATHEWS: We're clear on that. My ongoing
25 too. But I think that's accurate. I think that you have to

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1 be instructed --- I know it's on the form, but --- I just
2 know that it's always been done. I have to research that
3 and the order of the verdict placement is you just have to
4 pick something.

5 THE COURT: All right, so I'm going to bring them
6 back out. I'm going to instruct them, if their
7 deliberations result in a unanimous guilty verdict, they'll
8 check guilty, that there's no rhyme or reason to the
9 guilty, and then not guilty, that had to be one or the
10 other.

11 MR. MATHEWS: Whatever decision they reach has to
12 be unanimous, and I wouldn't say it has to be unanimous
13 guilty, but any decision you reach has to be unanimous, and
14 take no inference from the order in which I placed that I
15 had to put something. I can't remember the exact language.
16 As many times as I've heard it, I can't remember exactly.

17 MS. KEENEY: Yes, like, don't put any emphasis on
18 what's first, guilty versus not guilty. Just one has to go
19 first.

20 THE COURT: Let me ask you this --- Go ahead.

21 MS. KEENEY: I'm sorry. And that we send --- can
22 send some of the exhibits back and the other are disks, if
23 they want to review anything that was on video we'll have
24 to bring them back.

25 MR. MATHEWS: Yes, ask the foreman to send out a

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1 note.

2 THE COURT: I can do all that. Let me ask this, is
3 it safe as far as y'all believe to let the alternates go at
4 this point?

5 MR. MATHEWS: Once they receive the evidence, Your
6 Honor.

7 MS. KEENEY: Yes.

8 THE COURT: All right, we'll hold on to them then.
9 All right, can we bring the whole crowd, alternates and all
10 back in then?

11 MS. KEENEY: And so the only thing that should be
12 going back is the Miranda form states two, okay? Because
13 the rest are disk.

14 THE COURT: They can come back and watch it.
15 (Jury enters courtroom 10:33 AM)

16 THE COURT: All right. Thank you. I knew in
17 reading all of that I would forget something, and so what
18 I have forgotten is the instructions on the verdict form.
19 You will receive the verdict form, and after you deliberate
20 and you reach a unanimous verdict, you may choose either
21 guilty or not guilty on this form. Now, guilty is first and
22 not guilty is second. Sometimes it's the other way. It's
23 simply random. The fact that guilty appears before not
24 guilty should not influence in any way any of your
25 decisions. It's just the way the form is written. So once

State of South Carolina vs. James Austin Townsend 253

1 you have deliberated and reach a unanimous verdict, Mr.
2 Foreman, it will be your obligation to take a look at this
3 form and select whichever the verdict is and then sign that
4 form, date that form, and let the bailiffs know that you
5 have reached a verdict. Now the exhibits that go back, two
6 of them are DVD disks. They will do you no good back there.
7 If there is a desire to view the DVD disks, send a note out
8 through the bailiffs and we can arrange to have that
9 happen, but you will not receive the disks, but know that,
10 because they won't do you any good, but know that those are
11 in evidence, and the video footage that you've already seen
12 is available to you. Anything else?

13 MS. KEENEY: No sir.

14 MR. MATHEWS: No sir.

15 THE COURT: All right, please take them back once
16 again and also separate the alternates.

17 (Jury exits courtroom 11:29 AM)

18 THE COURT: Who's got an unmarked verdict form?
19 I made a little ink mark here near it's not near guilty or
20 not guilty, but it's ink on the things.

21 DEPUTY CLERK: I can always print you another
22 one.

23 THE COURT: Thank you. All right. Yes, these are
24 the verdict form and the two parts of the charge. So you
25 want to let Mr. Mathews double check?

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State of South Carolina vs. James Austin Townsend 254

1 MR. MATHEWS: I've seen it. I'm good.

2 THE COURT: All right. And then so we ended up
3 with, it's actually just one exhibit that will go back?

4 MS. KEENEY: Yes sir.

5 THE COURT: Everything else was a courts exhibit
6 that doesn't come in.

7 MADAM COURT REPORTER: Well, one and three are
8 states, but they're disk. We are holding on to them.

9 THE COURT: Okay, let's first do something with
10 the --- well, let's, let's go ahead and give them --- Any
11 objection to going ahead and giving them the ...

12 MS. KEENEY: No sir.

13 MR. MATHEWS: No sir.

14 THE COURT: All right, yes, if you would give that
15 to them, and then once that door is closed, bring the
16 alternates out.

17 (Deliberations begin 11:27 AM)

18 (Alternates enter courtroom)

19 THE COURT: Okay, thanks. Thank you both for
20 serving. It seems like after you've heard all of this you
21 should be back in the room with the jury panel, but your
22 presence here was just as important as anything they're
23 doing back there. Had you not been here, we most certainly
24 would have lost a couple of jurors to the flu or something,
25 and we would not have been able to proceed with the trial.

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1 So I appreciate, I know both of you paid attention the
2 whole time, and I really appreciate that. I know that the
3 parties appreciate that and appreciate your presence here.
4 Technically, I can't let you go yet. Well, you can go
5 until 11:45 but you're still on the jury pool, and then
6 come back in and we're going to try to figure out a way to
7 let you go for the week, if we can, based on the numbers.
8 Do you have any questions? You're welcome to stay here if
9 you'd like.

10 JUROR: Come back at 11:45?

11 THE COURT: Okay, 11:45 was the time, right Lori?

12 DEPUTY CLERK: Yes, sir.

13 THE COURT: Okay, and just come back in with the
14 others where you came into the jury pool the first time
15 through that door. And I would ask you not to discuss this
16 case with anyone until there's a verdict. So when you hear
17 there's a verdict, and we'll let you, if you have any
18 questions, you can call or we'll probably still be sitting
19 here. But until then, please don't discuss anything
20 associated with the case. And until there is a verdict,
21 anything from parties?

22 MS. KEENEY: No, Your Honor.

23 MR. MATHEWS: No sir.

24 THE COURT: All right, then you all have any
25 questions? All right, thank you so much. All right, let's

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State of South Carolina vs. James Austin Townsend 256

1 be off the record for a second here.

2 **(Off the record)**

3 THE COURT: We would like to see the video of the
4 interrogation with the officer and James Townsend. So if
5 y'all could just let them know it'll take us a minute to
6 set that up.

7 MADAM COURT REPORTER: That's Court's Number six,
8 Your Honor.

9 THE COURT: All right. Nobody thinks we need a
10 written response to that right?

11 MR. MATHEWS: No.

12 THE COURT: Okay, I'm gonna try this time and
13 watch it from here. Let's bring the jurors back in please.
14 (Jury enters courtroom 11:03 AM)

15 THE COURT: Okay, everyone was able to see it?
16 Please return to the jury room.

17 **(Jury exits courtroom 11:27 AM)**

18 THE COURT: Anything for the record?

19 MS. KEENEY: Not from the state, Your Honor.

20 MR. MATHEWS: None from the defense, Your Honor.

21 THE COURT: All right, we'll be off the record
22 again.

23 **(Off the record)**

24 THE COURT: All right back on the record. I'm
25 told that we have a verdict. Please bring in the jury.

State of South Carolina vs. James Austin Townsend 257

1 (Jury enters courtroom 12:39 PM)

2 THE COURT: Mr. Foreman, I am told you have a
3 verdict?

4 MR. FOREMAN: Yes sir.

5 THE COURT: Would you please hand the verdict form
6 to the bailiff. Madam Clerk, could you publish the
7 verdict, please?

8 MADAM CLERK: In the matter of the state of South
9 Carolina versus James Austin Edward Townsend, indictment
10 number 2023-GS-15-00267, the jury finds the defendant
11 guilty of first degree criminal sexual conduct with a minor
12 under 11 years of age.

13 THE COURT: Thank you. Could you please poll the
14 jurors?

15 MADAM CLERK: Yes, sir. Juror 233, is this your
16 verdict?

17 JUROR 233: Yes, ma'am.

18 MADAM CLERK: Is this still your verdict?

19 JUROR 233: Yes, ma'am.

20 MADAM CLERK: Juror number 73, is this your
21 verdict?

22 JUROR 73: Yes.

23 MADAM CLERK: Is this still your verdict?

24 JUROR 73: Yes.

25 MADAM CLERK: Juror number 218, is this your

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State of South Carolina vs. James Austin Townsend 258

1 verdict?

2 JUROR 218: Yes.

3 MADAM CLERK: Is this still your verdict?

4 JUROR 218: Yes.

5 MADAM CLERK: Juror number 34 is this your
6 verdict?

7 JUROR 34: Yes.

8 MADAM CLERK: Is this still your verdict?

9 JUROR 34: Yes.

10 MADAM CLERK: Juror number 99, is this your
11 verdict?

12 JUROR 34: Yes.

13 MADAM CLERK: Is this still your verdict?

14 JUROR 34: Yes.

15 MADAM CLERK: Juror number 143, is this your
16 verdict?

17 JUROR 143: Yes.

18 MADAM CLERK: Is this still your verdict?

19 JUROR 143: Yes.

20 MADAM CLERK: Juror number 236, is this your
21 verdict?

22 JUROR 236: Yes.

23 MADAM CLERK: Is this still your verdict?

24 JUROR 236: Yes.

25 MADAM CLERK: Juror number 170, is this your

1 verdict?

2 JUROR 170: Yes.

3 MADAM CLERK: Is this still your verdict?

4 JUROR 170: Yes.

5 MADAM CLERK: Juror number 46, is this your
6 verdict?

7 JUROR 46: Yes.

8 MADAM CLERK: Is this still your verdict?

9 JUROR 46: Yes.

10 MADAM CLERK: Juror number 106, is this your
11 verdict?

12 JUROR 106: Yes.

13 MADAM CLERK: Is this still your verdict?

14 JUROR 106: It is.

15 MADAM CLERK: Juror number 152, is this your
16 verdict?

17 JUROR 152: Yes.

18 MADAM CLERK: Is this still your verdict?

19 JUROR 152: Yes.

20 MADAM CLERK: Juror number 230, is this your
21 verdict?

22 JUROR 230: Yes.

23 MADAM CLERK: Is this still your verdict?

24 JUROR 203: Yes, sir.

25 THE COURT: Thank you. The verdict has been

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State of South Carolina vs. James Austin Townsend 260

1 rendered. The jury has been polled, anything from counsel
2 before I release this jury.

3 MS. KEENEY: Not from the state.

4 MR. MATHEWS: No sir.

5 THE COURT: Members of the jury, I know this was
6 a difficult case. I thank you all for your attention. I
7 thank you all for doing your civic duty. Obviously, none of
8 this would work in the society we live in without people
9 like you who show up when you get the jury notice and
10 actually come and pay attention and take care of these
11 things. And so I want to thank you. I know everyone wants
12 to thank you. For now, though, you are released. You're
13 welcome to come back in and watch we have another trial
14 beginning. Obviously, the courthouse is always open to you
15 for anything, but your duty as jurors is concluded and you
16 may have gathered from the questions at the beginning you
17 will not get or you should not get another notice for three
18 years or so to be on another jury, but we thank you very
19 much.

20 (Jury excused for the week)

21 THE COURT: Thank you. All right. Anything from
22 counsel?

23 MR. MATHEWS: Just the standard motions. I think
24 there was evidence. I'd like to request Your Honor to order
25 a pre-sentence investigation. It's not something that's

State of South Carolina vs. James Austin Townsend 261

1 done in every case but the judge has the authority to do
2 that and probation will do a short study, and will issue a
3 report, and I'd ask for a pre sentence investigation.

4 MS. KEENEY: I don't really see what the point of
5 that is. It's between twenty-five years mandatory minimum,
6 up to life in prison. I just don't see the point. The
7 victims have waited almost two years for this, the verdicts
8 in and it's time to sentence him.

9 THE COURT: I think you can certainly argue in
10 mitigation the issues that we've previously discussed, but
11 I don't see that ...

12 MR. MATHEWS: Your Honor if it were a mandatory 25
13 years there wouldn't be any point and if the sentence is
14 going to be 25 years, I guess I don't need it. But if there
15 were, because it has an unlimited upper cap, that would be
16 the reason for doing that. And you know, if it is, I
17 understand that 25 is the minimum. If that's going to be
18 the sentence. He has no prior record. And you know it is
19 --- so it's a pretty brutal statute, but I understand in
20 some cases it would be, it would be appropriate. I don't
21 know if it is in this case, Your Honor. I just ask the
22 court to impose the minimum, or again, I request a pre-
23 sentence investigation.

24 THE COURT: Let's do this. I can certainly take
25 that up at the end of the argument, so I'll hold that

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1 thought. But other than that, I guess we can go ahead and
2 proceed.

3 MS. KEENEY: Yes, Your Honor, I believe I have
4 some members of at least one member of the victim's family
5 who would like to speak.

6 MS. HEYL: My name is Candance Heyl.

7 THE COURT: Y'all hold --- Mr. Mathews.

8 MR. MATHEWS: I'm sorry Your Honor.

9 THE COURT: Y'all are just a little bit loud down
10 there, so thank you. Did y'all need a moment to speak?

11 MR. MATHEWS: I don't know that it would help. I
12 just got questions, and I told you I always doubted his
13 competency, and sometimes he just says stuff.

14 THE COURT: So well --- as soon as we hear from
15 the victims, if you need a break to speak with him, we can
16 certainly do that. If you don't mind, just kind of quiet
17 from over there for a minute. Please proceed.

18 MS. HEYL: This is a long two years. My
19 daughter's life, yes, in that video, it looks like she is
20 jumping around and so happy, but those are actually nervous
21 tics. When a child fidgets and can't sit still anymore, it
22 means that they're not at peace. They're not at ease. My
23 child cannot be without me for even five minutes. I cannot
24 go to the bathroom at a public area without my child
25 feeling like there's some other stranger that is going to

1 do something to her. Her entire childhood was basically
2 taken from her. Her innocence is gone. This didn't just
3 affect her but it affected our entire family, our entire
4 way of life has changed to the point that my daughter
5 doesn't even feel safe to go outside and play by herself
6 anymore. That's not okay. I want that to be taken into
7 consideration, because he didn't, nobody asked him to ---
8 Nobody forced him to. He thought that with his own mind and
9 logic to do what he did to my child. It's not like I have
10 and I don't want another child to have to go through that
11 at all. And that's now left up to us. Well, you to decide
12 what happens and what goes further for him, and I just want
13 you to take that into consideration. And that's all.

14 THE COURT: Thank you very much.

15 MS. KEENEY: Judge the State offered to plea as
16 charged for 25 years, the minimum. That was rejected in a
17 second appearance. We are now asking for 35 years. I've
18 said it from the beginning. I think he's a predator. I know
19 that prior bad acts, obviously, I didn't try to get into
20 them. I wasn't going to try to, you know, do any type of
21 404(b) argument, but I knew about them, and it was, you
22 know, you heard the pre trial interview where he talked
23 about it and how he did time in Tennessee for it, but then
24 he got out and was a juvenile, which to me that he knew
25 what he was doing was wrong, because he already known from

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1 the Tennessee stuff, because he got in trouble but you
2 can't do stuff like that to children. I understand he has
3 a low IQ, but he's a functioning adult, and that's why the
4 evaluators found him competent, and that he obviously knew
5 what he was doing was wrong. He said it in the interview,
6 and so we're asking for 35. Thank you. No prior record.

7 THE COURT: Anything else?

8 MS. KEENEY: Nothing from the state.

9 THE COURT: Yes sir.

10 MR. MATHEWS: Your Honor, that's pretty hefty ---
11 you know, 25 was appropriate at the beginning, it probably
12 still is. I, you know, and like I said, you've seen a lot.
13 You've seen the --- you've seen the evaluation. So you are
14 aware that he does have a 59 IQ or some there whereabouts.
15 One was like 61 --- was 59. You know, it's a bad thing to
16 be charged with. The facts in this case are not, they're
17 not 25 year facts. They're certainly not 35 year facts. It
18 looked to me like it probably should have been a CSC third,
19 which is zero to 15. Obviously, that's not what the jury
20 has found, so we've got what we've got. But I would just
21 ask the court for the minimum.

22 THE COURT: All right. Thank you all very much. I
23 know you all would love to get an answer out of me this
24 very second but I want to think about it and I want
25 to give it some thought. It's a serious matter for

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1 certainly for both sides, and I want to give it some
2 consideration. And so I will, I'm happy to either set a
3 time tomorrow that we can talk. I understand some people
4 might not even be in town. I can have a WebEx or whatever
5 y'all would like to do.

6 MS. KEENEY: Can we do 9 AM tomorrow?

7 THE COURT: Yes, yes, because we'll probably start
8 that other trial about 9:30. So Mr. Mathews, does that
9 work with you?

10 MR. MATHEWS: Yes, sir.

11 THE COURT: WebEx is fine.

12 MR. MATHEWS: I'll still be here tomorrow. I've
13 got another plea I've got to do tomorrow.

14 THE COURT: Okay, all right, well, then nine
15 o'clock, we'll deal with that. So do we need WebEx or not?

16 MS. KEENEY: We do not.

17 THE COURT: Okay. Because I can certainly set it
18 up if we need it. All right, let me give this some thought
19 and I'll tell y'all something at 9:00. All right then.
20 That's what we'll do. Thank you.

21 **February 27, 2025**

22 THE COURT: All right, let's go back on the record
23 in the Townsend case. As you know, yesterday, the jury
24 convicted Mr. Townsend of criminal sexual conduct with a
25 minor first degree, and we were already in the middle of

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State of South Carolina vs. James Austin Townsend 266

1 another trial, so I took this under advisement until this
2 morning, and so I've had plenty of time to think about it.
3 The state of course, would like, I'm sorry, the defendant
4 would like the minimum sentence, the minimum, of course, is
5 25. The state is requesting 35. I've thought about the
6 severity of this. This is one of the --- it's designated as
7 a most serious crime in South Carolina. It's designated as
8 a violent crime in South Carolina. From the penalties in
9 the statute itself, the legislature certainly considers it
10 one of the most violent crimes within the statute. It goes
11 everywhere from 25 years to in some cases death. This is
12 a serious matter. With regard to the aggravating
13 circumstances I've taken into account the trauma to the
14 victim, the trauma to the family, that trauma may very well
15 go on forever, and I hope everyone gets the help they need
16 in that regard to lessen that. With regard to mitigation,
17 I understand that there was enough of a concern with regard
18 to competency to do not one, but two evaluations of this
19 defendant. Now, both of them did turn out such that Mr.
20 Townsend, they found you know what you're doing. You have
21 the ability to discern right from wrong. The ability to be
22 tried in this court, and that's exactly what happened. I
23 can't overlook, however, the IQ finding, and again, I was
24 presented with one of the evaluations, but told that they
25 were exactly the same. And the IQ was, I believe 59 to 61

1 was the number I saw on the one, and I understand it was
2 about the same on the other one, that's again the
3 evaluation said competent the evaluations plural said
4 competent. The IQ puts Mr. Townsend, and apparently I
5 looked it up 2.2% of people who take IQ tests fall into
6 that second to the lowest category. Again, that's not a
7 scientific research I did, but I did look at some of it
8 last night out of curiosity. So there's some mitigation
9 there.

10 I understand Mr. Townsend lost his mother during
11 the course of this. I understand his father figure was
12 never someone who was helpful in his life. But again, that
13 doesn't help what happened, what a jury has found you
14 guilty of. I'm going to sentence you to 30 years in the
15 Department of Corrections, you'll be placed on sex offender
16 registry. I'm going to order no contact ever with the
17 victim or the victim's family. And that will be the
18 sentence of the court.

19 MS. KEENEY: Your Honor, a restraining order for
20 the victim?

21 THE COURT: Okay. Is that the family as well or
22 just ...

23 MS. KEENEY: It is, I can add the family as well.

24 THE COURT: Can you add this? I understand
25 statutorily Mr. Townsend will get some credit for time

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State of South Carolina vs. James Austin Townsend 268

1 served.

2 MS. KEENEY: Yes, Your Honor. I can look it up.
3 He's been incarcerated the entire time. Let me look. 673
4 days.

5 THE COURT: Say that again?

6 MS. KEENEY: 673 days.

7 THE COURT: All right. Anything else from anyone?

8 MR. MATHEWS: No, sir.

9 THE COURT: Good luck to you, sir, I hope you get
10 the help you need. And to the family, good luck to you.

11 **(End of Trial)**

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ARREST WARRANT

2023A1510100126

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Colleton

THE STATE

23-0931

against

James Austin Edward Townsend, Jr

Address:

Walterboro, SC 29488-

Phone:

Sex: M Race: W Height: 5 6 Weight: 131

DL State: SC DL #:

DOB: Agency ORI #: SC0150000

Prosecuting Agency: Colleton County Sheriff

Prosecuting Officer: William R Ballard, III - S00414

Offense: Sex / Criminal sexual conduct with minor or
Attempt - victim under 11 yrs of age - First degree

Offense Code: 0385

Code/Ordinance Sec. 16-03-0655(A)(1)

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality ofis to be arrested and brought before the court to be
dealt with according to the law.

APR 26 2023

(L.S.)

Non-Suspect Judge County
Sheriff's Office

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant James A. E. Townsend Jr
on 4-26-23Cpl C. McDowell S-758
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
P O Box 620
101 Hampton Street
Walterboro, SC 29488

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Colleton

Personally appeared before me the affiant William R Ballard, III who

being duly sworn deposes and says that defendant James Austin Edward Townsend, Jr

did within this county and state on or about 3/13/2023 violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Colleton)

in the following particulars:

DESCRIPTION OF OFFENSE: Sex / Criminal sexual conduct with minor or Attempt - victim under 11 yrs of age - First degree

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:That on or around the 13th of March 2023, located around RESIDENCE in Colleton County, State of South Carolina, the
Defendant did violate Title 16 Chapter 3 Section 655, subsection A (1) of the South Carolina Code of Laws 1976 as Amended. The
Defendant, James Townsend Jr, did fondle and penetrate with his fingers the six (6) year old female victims, vagina. The
Defendant knew the victim to be a minor and committed this act while playing and having the juvenile "hide" with him in the yard
This information was obtained during a recorded interview with the juvenile and statements from family. OCA#23-0937

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Colleton

Affiant's Address 394 Mable T. Willis Blvd.

Walterboro, SC 29488-

Affiant's Telephone (843)549-2211

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 3/13/2023 defendant James Austin Edward Townsend, Jr

did violate the criminal laws of the State of South Carolina (or ordinance of
☒ County/ ☐ Municipality of Colleton) as set forth below:

DESCRIPTION OF OFFENSE: Sex / Criminal sexual conduct with minor or Attempt - victim under 11 yrs of age - First degree

Having found probable cause and the above affiant having sworn before me; you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable
Sworn to and subscribed before me

on 4/25/2023

Signature of Issuing Judge

Hannet Ashby Bonds (Magistrate)

Judge Code: 7351 71666

Judge's Address Post Office Box 1732

Walterboro, SC 29488-

Judge's Telephone (843)549-1122

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

BAIL set by

Judge 100
 on 4/27/23
 Type and Amount: 100
 Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____
 on _____
 Defendant Attorney _____
 Decision 100

DISPOSITION before

Judge _____
 on _____
 by _____
 (indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition _____
 Sentence _____

JURORS

WITNESSES

Name: _____
 Address: _____
 Telephone: _____

Name: _____
 Address: _____
 Telephone: _____

Name: _____
 Address: _____
 Telephone: _____

Name: _____
 Address: _____
 Telephone: _____

Name: _____
 Address: _____
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Name: _____
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Name: _____
 Address: _____
 Telephone: _____

Name: _____
 Address: _____
 Telephone: _____

CODEFENDANTS



Appointed
 MAGISTRATE

4/27/23

Appointed Public Defender
 as Attorney on 4/27/23

154
WITNESSES

Colleton County Sheriff's Office

23-0937

L. Bostland
[Signature]

ARREST WARRANT NUMBER

2023A1510100126

ACTION OF GRAND JURY

[Signature]

Foreperson of Grand Jury

Date: 6-22-23

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2023GS1500267

The State of South Carolina

County of Colleton

COURT OF GENERAL SESSIONS

June Term 2023

THE STATE

vs.

James Austin Edward Townsend

Indictment For

Criminal Sexual Conduct With Minor,
1st Degree

SC Code: 16-3-655(A)(1); (D)(1)

CDR Code: 0385

After being fully advised as to my
legal rights, I hereby waive
presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper
person and plead guilty to the within
indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

JUN 27 2023 PM 2:51
COLLETON CO GS, REBECCA H. HILL

STATE OF SOUTH CAROLINA)
)
COUNTY OF COLLETON)

INDICTMENT
2023GS1500267

At a Court of General Sessions, convened on June 22, 2023, the Grand Jurors of Colleton County present upon their oath:

Criminal Sexual Conduct With Minor, 1st Degree

That in Colleton County, South Carolina, on or about March 1, 2023 through March 20, 2023, the Defendant, James Austin Edward Townsend, did engage in sexual battery with **MINOR** who was less than eleven years of age at the time of the sexual battery, all in violation of Section 16-3-655 et al. of the Codes of Law of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor

COUNTY OF COLLETON

STATE VS.

James Austin Edward Townsend

AKA: _____ SSN: _____

RACE: White SEX: Male DOB: 2002

INDICTMENT/CASE#: 2023 -GS- 15 - 00267

AW#: 2023A1510100126

Date of Offense: 03/20/2023

S.C. Code §: 16-3-655(A)(1)

CDR Code #: 0385

Range of Offense: 25 years - Life

In disposition of the above indictment comes now the Defendant who was CONVICTED OF ☒ or ☐ PLEADS

TO: Criminal Sexual Conduct with a Minor 1st Degree Range of Offense Pled 25 years - Life

In violation of § 16-3-655(A)(1) of the S.C. Code of Laws, bearing CDR Code # 0385

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☒ MANDATORY GPS ☐ § 17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As indicted ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.The plea is: ☐ w/o Rec/Negotiations ☐ Negotiated ☐ Recommendation

Julie Kate Keeney

Dave Mathews

Solicitor

SC Bar #

Attorney for Defendant

SC Bar #

The Defendant is committed to the ☒ SCDC ☐ County Detention Center ☐ Home Incarceration Program
for a determinate term of 30 days/months/years/Time Served ☐ YOA NTE years and/or shall pay a fine
of \$; provided that upon the service of days/months/years/Time Served and or payment

of \$ plus costs and assessments as applicable* ; balance is suspended with probation for months/years

and subject to SCDPPPS standard conditions of probation, which are incorporated by reference.

The sentence shall run ☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDC.673 days/months ☐ To include time spent on monitored house arrest prior to trial and sentencing.

SPECIAL CONDITIONS:

- ☐ PTUP
- ☒ No Contact with Victim ☐ Domestic Violence Intervention Program ☐ Hold for Inpatient Treatment
- ☒ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ SAC/MHC if necessary
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- ☒ Other: no contact with family

☐ RESTITUTION See Separate Order (20% per S.C. Code §24-21-490(B))

§14-1-206 (Assessments 107.5%)

§14-1-211 (A)(1) Conv. Surcharge)

§14-1-211 (A)(2)(DUI Surcharge)

§56-5-1995 (DUI Assessment

§56-1-286 (DUI Breath Test)

§14-1-212 (Law Enforcement Funding)

§14-1-213 (Drug Court Surcharge)

§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)

§50-21-114 (BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

☐ Appointed PD or appointed other counsel. Provisio requires \$500 to be paid to Clerk during probation and shall be collected before any other fees.☐ § 17-3-45(B) Unpaid Application Fee to be paid to the Public Defender Fund

Restitution \$

FINE: \$

\$

\$100 \$ 100.00

\$100 \$

\$12 \$

\$25 \$

\$25 \$ 25.00

\$150 \$

\$41 \$

\$50 \$

\$40/ea \$

TBD \$ 3.75

\$500 \$

\$40 \$

TOTAL

128.75

Clerk of Court/Deputy Clerk

Court Reporter

Judge Code

Sentence Date

Presiding Judge

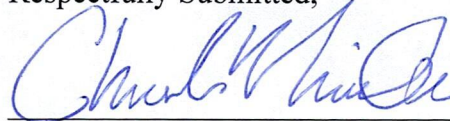
SCCA217B
01/27/2025

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

RECEIVED**May 12 2026****SC Court of Appeals**

Respectfully Submitted,



W. Chandler Norville
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 12th day of May, 2026.