

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Greenville County

Honorable Jessica A. Salvini, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

PHILIP SCOTT STEELE,

APPELLANT

APPELLATE CASE NO. 2025-001064

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THE STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
)
COUNTY OF GREENVILLE) THIRTEENTH JUDICIAL CIRCUIT

THE STATE OF SOUTH CAROLINA) NO. 2024-GS-23-07200; -07206;
) -07207; -07208; and -07209
VS.)
)
PHILIP SCOTT STEELE) TRANSCRIPT OF RECORD
)
) Jury Trial
) Vol. I of III, Pages 1-170

B E F O R E:

THE HONORABLE JESSICA A. SALVINI, JUDGE; AND A JURY

DATE: May 13, 2025
Greenville, South Carolina

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

MEGHAN A. GASSER, ESQUIRE

Attorney for the State

KIM R. VARNER, ESQUIRE

Attorney for the Defendant

Reported by: Cathy J. Provost, RMR, Official Court Reporter

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-- P R O C E E D I N G S --

(WHEREUPON, court is called to order, without the jury.)

MATTER(S) OF LAW

THE COURT: And we're going to go on the record. All right. So first when we broke yesterday I had three, I had taken a couple of things under advisement. So the first issue that I had taken under advisement would be whether or not Mr. Varner could introduce any evidence that -- and correct me if I'm wrong, but that -- the minor's mother had, either was married to or lived with someone who had been convicted of a crime for which he was placed on the sex offender registry, and/or it was the grandmother. I don't recall.

ASS'T. SOLICITOR GASSER: The grandmother, Your Honor.

THE COURT: The grandmother. Thank you. So what I did, when we broke, I did do some research on third-party guilt. And so at this point, based on *State v. Singleton*, which is 438 S.C. 629, I'm going to grant the request to exclude it, with Mr. Varner having the right to renew it during the course of the trial, and the reason is is because the case law and the line of cases on third-party guilt is very clear and specific.

So evidence offered by a defendant as to the commission of a crime by another must be limited to facts inconsistent with his own guilt which raise a reasonable inference as to his innocence. Evidence that merely casts a bare suspicion on another is not enough; there must be a train of facts and circumstances that

1 clearly point out another as the guilty party.

2 And I looked at cases dealing with criminal sexual conduct
3 and whether or not, especially Singleton, was an issue where this
4 was evidence of a third party even impregnating the victim.

5 So at this point this evidence is excluded but, Mr. Varner,
6 you can renew your request during the course of the trial if you
7 believe that you have laid a proper foundation that meets the
8 standards that I have to follow in terms of admitting it. All
9 right. There's just not enough at this point to say that they
10 lived with a sex offender so, therefore, that cast guilt as to
11 that person and not on Mr. Steele. That's my preliminary ruling
12 on that.

13 I did watch the forensic interviews of both of the minors.
14 I took under advisement whether or not any portion would be
15 redacted. For the record, Mr. Varner had some concerns about
16 leading questions and wanted some of those redacted, was going to
17 provide it to Ms. Gasser. Were you all able to come to an
18 agreement as to any portions that should or should not be
19 redacted?

20 ATTORNEY VARNER: Your Honor, I reviewed them very carefully
21 last night. I don't think anything needs to be redacted. I'm
22 fine with it.

23 THE COURT: All right. Good, Mr. Varner. Because I watched
24 the video, and I was a little concerned about maybe a couple of
25 the questions, but then the case law says in general if there

1 appears to be some trustworthiness and it's not too leading, that
2 they were still admissible. And so thank you. All right. Then
3 that's resolved.

4 Then the only other issue that I had taken under advisement
5 was whether or not the State could introduce the letters that
6 allegedly came from Mr. Steele that were purportedly sent from
7 the jail. Mr. Varner's objection was that they can't lay a
8 proper, meaning the State can't lay a proper, foundation for
9 their admission.

10 But when I went back and looked at the case law, quite
11 frankly, at this point, Mr. Varner's motion to exclude those is
12 granted on the basis of relevance. They are not relevant. But
13 you can renew your request during the course of the trial. They
14 don't make it more likely than not that Mr. Steele committed any
15 type of criminal act; rather, they would show if they were from
16 him that Mr. Steele may not be a very nice person and uses
17 profanity. And so that would be inappropriate to inflame the
18 jury to think that he's just a bad guy because he uses bad words
19 and he may be sending harassing letters. So you've got to lay a
20 foundation, renew your request. Otherwise, they're excluded and
21 can't be brought up. But I base it on relevance in 403.

22 ASS'T. SOLICITOR GASSER: And, Your Honor, does that mean
23 that she can testify that she received letters, just nothing as
24 to the content, or is that as to the letters at all?

25 THE COURT: Well, Mr. Varner's objection was the content,

1 that he had no problem with her saying that she had received some
2 letters from Mr. Steele while he had been, uhm ...

3 ATTORNEY VARNER: Incarcerated.

4 THE COURT: You can't say incarcerated, right? I wasn't
5 going to say that he was incarcerated. She's just going to say
6 she received some letters from him? Give me a proffer so that
7 Mr. Varner knows what he's agreeing to first, because he said he
8 didn't have a problem with them referencing letters, that she
9 received letters from Mr. Steele. Maybe after he was charged,
10 you could say.

11 ASS'T. SOLICITOR GASSER: And I believe that was going to be
12 the question, was Have you had any contact with Mr. Steele since
13 he was charged? We would obviously -- I instructed them not to
14 mention anything regarding jail, both previously and obviously
15 since. But it would just be -- I would then ask her, you know,
16 How did the letters make you feel, and she did say that they made
17 her feel uneasy and uncomfortable.

18 THE COURT: Why is that relevant, Ms. Gasser?

19 ASS'T. SOLICITOR GASSER: And, Your Honor, I think that --

20 THE COURT: What's the relevance of it?

21 ASS'T. SOLICITOR GASSER: And I was going to say, as to --
22 this was mostly in relation to things that were stated in his
23 statement. However, at this time the State is unsure whether or
24 not I'm going to actually offer his statement. So what I'll do
25 is just instruct the witness not to bring up the letters at this

1 time.

2 THE COURT: At this time. And then if you decide during the
3 course of the trial things have changed and you want to bring
4 them up, then let's take a break and talk about it.

5 ASS'T. SOLICITOR GASSER: Yes, Your Honor.

6 THE COURT: Okay.

7 ATTORNEY VARNER: Your Honor, I do have an additional motion
8 to sequester the witnesses.

9 THE COURT: That's granted.

10 ASS'T. SOLICITOR GASSER: And, of course, Your Honor, this
11 being a child sexual-assault case, the minors are, the two
12 victims are, entitled to be in courtroom the entire time. And I
13 do ask that their guardian, that their mother, be permitted to be
14 in the courtroom the entire time as a representative in a child
15 sexual assault case. I do believe that their grandmother is also
16 a guardian of at least one of the children.

17 THE COURT: Mr. Varner, what about that? Do you have any
18 objection to the alleged victims being in the courtroom? Let's
19 start there.

20 ATTORNEY VARNER: Yes, Your Honor because, number one, they
21 are children; number two, they're going to be able to hear and
22 possibly modify or amend their testimony according to what has
23 been said. If she's going to call them first, obviously they can
24 be here after they testify, but the fact that person is a victim
25 of a crime does not necessarily give them a right, they're not

1 the prosecuting agency, to be in here for other testimony. They
2 can be here for the trial. But the option is call them first,
3 and that takes care of that.

4 ASS'T. SOLICITOR GASSER: And again, I do believe there is
5 actually -- and I can bring up precedence, but do I believe that
6 victims of crime absolutely have the right under the Victims
7 Rights Act to be present during the trial in which they are the
8 victim.

9 THE COURT: And he agrees that they have a right to be
10 present during the trial. The question is do they have the right
11 to be present before they testify.

12 ASS'T. SOLICITOR GASSER: Yes, Your Honor.

13 THE COURT: Will you pull up something for me?

14 ASS'T. SOLICITOR GASSER: Yes, Your Honor.

15 THE COURT: We have time. So you don't have to do it right
16 this second Ms. Gasser but then I'll take that understand
17 advisement, Mr. Varner. And then we're going to have to talk
18 about if the victims, the alleged victims, have the right to be
19 here, then do their guardians have the right to be here. And
20 that, I've got to look at, because I don't remember.

21 ATTORNEY VARNER: Your Honor, I'm not arguing, but I don't
22 think that overrides his right to a fundamental fair trial and
23 his right to have the witnesses sequestered. The remedy is call
24 them first.

25 THE COURT: I understand, but if there's a case directly on

1 point, Mr. Varner, then --

2 ASS'T. SOLICITOR GASSER: And, Your Honor, and the reason
3 being is that I prosecuted domestic violence for so long, the
4 Victims Rights Act, I know, is well documented, and it
5 specifically states that they have a right to be present at
6 criminal proceedings where the accused has the right to be
7 present.

8 Since the accused has the right to be present at all times
9 during this trial, the victim, therefore, has the right to be
10 present at all times during this trial.

11 THE COURT: All right. Well, let me think about that and
12 I'll take a look and see if I can find something that says
13 otherwise. Otherwise I generally sequester witnesses. Quite
14 frankly, Ms. Gasser, if I allow them to stay, I'm not going to
15 allow Mom and Grandmother to stay if you're calling them as
16 witnesses.

17 ASS'T. SOLICITOR GASSER: Yes, Your Honor.

18 THE COURT: But I'll look at that. Any other issues,
19 Mr. Varner, that we need to take up?

20 ATTORNEY VARNER: Not at this moment, Your Honor, that I'm
21 aware of.

22 THE COURT: Ms. Gasser, anything else that I've neglected to
23 rule on or that we need to take up?

24 ASS'T. SOLICITOR GASSER: Your Honor, I don't know if this
25 is something that will need to be brought up right before the

1 witness. However, I do believe that the defense indicated that
2 they -- or I believe you said you would take under advisement the
3 issue of any prior juvenile history regarding one of the victims.

4 THE COURT: I did, but that would have to be raised during
5 the course of the trial.

6 ASS'T. SOLICITOR GASSER: And then additionally, Your Honor,
7 the defense did indicate yesterday that they would be potentially
8 disagreeing with the experts. I'm not sure if that's something
9 you want to take up now or, again, if it needs to be raised at
10 the call of the witness.

11 THE COURT: That's all right. My recollection -- and I
12 didn't look at my notes -- is that she was going to provide her
13 resume to you and let you take a look at her qualifications, and
14 then you would decide if you were going to challenge; that you
15 did that have to make that decision now, you could do it during
16 the course of the trial, of course.

17 But if you want to raise that as an issue now, I'm happy to
18 take it up since we have some time.

19 ATTORNEY VARNER: I'll reserve it until the time she gets
20 up.

21 THE COURT: Okay. So any other issues?

22 ASS'T. SOLICITOR GASSER: Nothing from the State at this
23 time.

24 THE COURT: Mr. Varner, anything else that we need to
25 address?

1 ATTORNEY VARNER: Nothing at this time, Your Honor.

2 THE COURT: All right. So my general, I do some preliminary
3 instructions. Quite frankly, I don't mind saying this, I
4 plagiarized them from Judge Gravely. They're basically general
5 instructions to the jury that this is a very important trial;
6 don't let your thoughts wander; you need to pay close attention;
7 I don't allow note-taking; it's your job to judge credibility of
8 the witnesses; I'm the referee; you all are the fact-finder; the
9 indictment is simply a charging document; you can't infer any
10 guilt; and then let's get started. But I don't do anything other
11 than that to begin with. Satisfactory to the State?

12 ASS'T. SOLICITOR GASSER: Yes, Your Honor.

13 THE COURT: Mr. Varner?

14 ATTORNEY VARNER: Satisfactory, Your Honor.

15 THE COURT: Okay. All right. So it's 9:20. You all are
16 making my job easy this morning. I appreciate that. And we're
17 on time, because I love to be on time. All right.

18 So let's be at ease. I know that, Mr. Varner, you may want
19 Mr. Steele to charge. If clothes get here, we have plenty of
20 time to do that, and so we're right on track.

21 (WHEREUPON, an off-the-record discussion is held at
22 sidebar.)

23 (WHEREUPON, court recesses at 9:20 a.m. and reconvenes at
24 9:43 a.m., without the jury.)

25 THE COURT: Let's go ahead and go back on the record. Yes,

1 Ms. Gasser.

2 ASS'T. SOLICITOR GASSER: May it please the Court. Your
3 Honor, I just want to put on the record my objection to the
4 defense counsel's argument as to sequestering the minor victims
5 and their mother in this case. Under 16-5-15-50(B), it does
6 state that: A person must not be sequestered from a proceeding
7 adjudicating an offense of which they are a victim.

8 Additionally, further up in that subsection under the victim
9 witness services, Article 15 of the South Carolina Code,
10 Annotated, 16 through 1510, definitions of the victim: Any
11 individual, spouse, parent, child, or lawful representative of a
12 victim who is a minor. I do believe that it is codified.

13 Additionally, there is case law under *State v. Adams*,
14 430 S.C. 420, 2020-845 S.E.2d 217. Again, the State -- or the
15 Supreme Court -- or I'm sorry, this was the Court of Appeals,
16 Your Honor -- did say that as the victim's mother she had a
17 constitutional right to be present at Adams' trial.

18 I do believe, again, that under the Victims Rights Act, the
19 South Carolina Code, and the code annotated and black and white
20 law, it indicates that both the victims and their mother are
21 permitted to be in the courtroom during the entirety of this
22 trial.

23 THE COURT: Thank you, Ms. Gasser. My law clerk also pulled
24 it. Request to sequester the minors and their parent or guardian
25 is denied. They have a right under the Victims Rights Act to be

1 present during trial, and so does their guardian.

2 ASS'T. SOLICITOR GASSER: Thank you, Your Honor.

3 THE COURT: All right. Our jury's going to be coming in in
4 about 15. Are you okay with Mr. Steele wearing what he's got on?
5 You want me to wait? Your office is very close.

6 ATTORNEY VARNER: Let me contact my office and see how --

7 THE COURT: How far away?

8 ATTORNEY VARNER: Yes. Because she was listening to a
9 video, and bringing the clothes, and bringing some other
10 documents. When we took our last break, she said she had 14
11 minutes to go, so she should be here.

12 THE COURT: Okay.

13 ASS'T. SOLICITOR GASSER: And there was one other matter,
14 Your Honor. I was just looking over for my first two witnesses,
15 and I wanted to try to keep the jury from going out. I do
16 believe that there's going to be an issue, and I just want to
17 make the Court aware, if the defense counsel is intending on
18 asking the grandmother as to dissolution/reason for the marriage
19 of the Defendant and the grandmother I do believe that there
20 would be testimony that has previously been ruled not to be
21 brought up but it is the only honest answer that she would have
22 as to his jail status. So I just wanted to make the Court aware
23 of that. I've obviously --

24 THE COURT: What is she going to say if he asks her?

25 ASS'T. SOLICITOR GASSER: If he asks why they were separated

1 or why they split and got a divorce, it's because he went to
2 jail.

3 THE COURT: Because he went to jail or because he was
4 charged?

5 ASS'T. SOLICITOR GASSER: He went to jail previously in a
6 contempt of court hearing. And again, I've instructed them not
7 to bring that up, but I just wanted, in all candor to the Court,
8 to let you know that that was potentially a row and I didn't want
9 that to raise a bunch of red flags during the testimony.

10 THE COURT: All right. She can't say he went to jail. Why
11 did he go to jail?

12 ATTORNEY VARNER: Child support.

13 ASS'T. SOLICITOR GASSER: Child support.

14 THE COURT: Oh.

15 ATTORNEY VARNER: Your Honor, I'll be honest with you. I'll
16 make it real easy. This may sound odd to everybody. I have a
17 reason. She can say it. It's brought up in his interview. I
18 don't have a problem with him going to jail for child support,
19 that he was in jail. If she wants to say that's why she left,
20 great.

21 ASS'T. SOLICITOR GASSER: And again, I wasn't going to
22 elicit that on direct examination.

23 ATTORNEY VARNER: I'll ask her. I want it brought out.

24 THE COURT: Okay. If he opens the door then, and he says he
25 doesn't mind.

1 ASS'T. SOLICITOR GASSER: Thank you, Your Honor.

2 (WHEREUPON, an off-the-record discussion is held at
3 sidebar.)

4 (WHEREUPON, court recesses at 9:54 a.m. and reconvenes at
5 10:05 a.m.)

6 (WHEREUPON, jury enters at 10:05 a.m.)

7 THE COURT: All right, ladies and gentlemen. Welcome back.
8 I told you we'd start right on time, and we are right on time, so
9 I'm very happy about that. We also have the air working up here
10 so hopefully you all won't be as hot as you were down in the
11 basement. So I apologize for that.

12 Again, I'm Judge Jessica Salvini. I'll be presiding over
13 this trial. To my right is my law clerk, Lauren. And to my left
14 is Faith. She's in high school, and she's learning all about the
15 job system and so she's job shadowing with me. We lost Lisa, but
16 we have Cathy with us. She is my court reporter. You know madam
17 clerk is Teresa. And Emily is my administrative assistant. And
18 Ron is your go-to guy. If you need anything, all you've got to
19 do is let him know. All right.

20 I'm going to ask madam clerk to swear in my jury, and then
21 we'll get started.

22 (WHEREUPON, the Clerk of Court administers oath to jurors.)

23 OPENING INSTRUCTIONS TO THE JURY

24 THE COURT: All right, ladies and gentlemen. What I will
25 now say is intended to serve as just an introduction to the trial

1 in this case. These remarks are not a charge on the law in this
2 case. I will instruct you on the law applicable to the case at
3 the end of this trial before you retire to consider your verdict.

4 This is merely an explanation of the procedure that we will
5 follow in the trial in this case so that you may better
6 understand what is happening, what your role is, and what my role
7 is, and what the role of the attorneys are. All right.

8 First, note-taking is prohibited. You just need to pay
9 attention to the testimony. Pay close attention to those
10 witnesses that testify here on the witness stand, and any
11 exhibits that are introduced during the course of this trial.

12 As I indicated during jury selection, Mr. Steele is charged
13 by way of indictment that madam clerk just announced for you
14 again. The elements of each of the charges contained in those
15 indictments, I will explain to you at the conclusion of this
16 case, but again, the indictments are simply the charge by which
17 the case is brought into court and it is not, in any sense,
18 evidence of any of the allegation it contains.

19 Mr. Steele has pled not guilty to these indictments. The
20 State, therefore, has the burden of proving each of the elements
21 of the indictments beyond a reasonable doubt, and it will be your
22 duty to decide whether the State has met that burden at the
23 conclusion of this trial.

24 Your purpose as jurors is to find and determine the facts.
25 You are the sole judge of the facts. If, at any time, I make any

1 comment regarding the facts or you think I have an opinion about
2 the facts, you must disregard it because I have no opinion and
3 the law does not permit me to do so. You are to determine the
4 facts from the testimony you hear and the other evidence
5 introduced in court. It is up to you to determine the inferences
6 which you feel may properly be drawn from the evidence. It is
7 especially important that you perform your duty in determining
8 the facts diligently and conscientiously because ordinarily there
9 is no way to correct an erroneous determination of the facts by a
10 jury.

11 On the other hand, and with equal emphasis, the same law
12 that makes you the judge of the facts makes me the judge of the
13 law. The law as given by the Court is the only law you may
14 consider. You must accept and follow it even though you may
15 disagree with it. I cannot tell you what the facts are, and you
16 cannot disagree with me about what the law is or should be. Your
17 job is to take the law as I give it to you and apply it to the
18 facts as you find them from the testimony of the witnesses and
19 any other evidence that is introduced during the course of this
20 trial.

21 After doing that, you will render your verdict a true and
22 just verdict under the solemn oath that you just took as jurors.

23 Until I advise you to begin your deliberations you must not
24 discuss this case with anyone, and that means even with your
25 fellow jurors when we are on a break. You are not to discuss

1 this case, if we do not finish today, with any friends, family
2 members; you're not to do any independent research while we're at
3 a lunch break; no going online, no looking at social media,
4 researching anything that you hear in this courtroom whatsoever.

5 During the trial do not read, listen to, watch anything
6 online. I know it's very tempting to go on Google if we're at a
7 lunch break or to research something that you may hear, but I
8 cannot stress to you enough that you must not consider anything
9 except what is, in this courtroom, presented to you during the
10 course of this trial.

11 After the case is submitted to you, you must discuss it only
12 in the jury room with your fellow jurors.

13 Again, I'm going to remind you that the attorneys and
14 parties in this case have been advised not to speak with you, not
15 to talk with you, so if we take a lunch break and you happen to
16 be walking downtown and you pass somebody and they don't make eye
17 contact with you, or they don't talk to you, or they walk the
18 other way, it is because they have been instructed they cannot
19 communicate with you whatsoever.

20 It is also important that you keep an open mind and not
21 decide any issue in the case all of the evidence has been have
22 been presented, the parties have made their closing arguments,
23 and I have instructed you on the law in the case.

24 It is your solemn responsibility to determine the guilt or
25 innocence of the Defendant, and your verdict must be based solely

1 on the evidence as it is presented to you during the course of
2 this trial and the law as I instruct you at the conclusion of the
3 trial.

4 Now in just a moment the solicitor will make what's called
5 an opening statement in which she will explain to you the issues
6 in this case, or at least what she believes the issues are in
7 this case. Then the attorney for Mr. Steele may also make an
8 opening statement, although he is not required to do so.

9 What the attorneys tell you during their opening statements
10 is not evidence in this case, it's only their contention as to
11 what the issues are and what they believe the evidence will show
12 you.

13 The evidence in this case will be presented to you by the
14 testimony of the sworn witnesses from the witness stand and/or by
15 the exhibits that may be introduced during the course of this
16 trial and into evidence.

17 From time to time during the trial you may hear one of the
18 attorneys say something like, Objection, Your Honor, I think I
19 have an issue of law to take up. I may find it necessary to ask
20 you all to step out but, as I told you when we were doing
21 qualification, I will do my very best not to have you step out
22 and sit in the jury room and wait for us; I will, more likely
23 than not, try to take up those issues during, let's say, a lunch
24 break or, if we break early for you all to go home tonight if we
25 don't finish today. Likewise, if I tell you to disregard

1 something, then you must follow that instruction if I rule that
2 it is not admissible during the course of this trial.

3 In determining what the true facts are in this case, you
4 must decide whether or not the testimony of the witnesses are
5 believable. It will be my responsibility to rule as a matter of
6 law as to whether certain testimony is admissible at all or in
7 part, but once the testimony is admitted, whether or not you
8 believe it is solely for you to determine. In deciding whether
9 to believe a witness, you have the right to consider the interest
10 of any witness, the bias of any witness, the prejudice of any
11 witness, the opportunity for the witness to have seen the matters
12 and things about which the witness may testify, and the way the
13 witness acts on the witness stand.

14 You have a right to consider anything that is in the record
15 that will help you evaluate the testimony of witnesses. That
16 means that it is your duty to pay close attention to these
17 witnesses, to observe the witnesses, to listen to them, and pay
18 close attention to the attorneys and to the Court.

19 Don't let your thoughts wonder but give strict attention to
20 the testimony in this case so that at the end of all the
21 testimony, after the arguments of counsel, and the charge on the
22 law by the Court, you will then be in a position to determine
23 what the true facts are and to apply the law to those facts and
24 thus render a true and just verdict.

25 All right. If you all need a break during the course of

1 this trial and I have not taken one -- I usually try to take
2 breaks -- if I see somebody's hand go up I know we need a
3 restroom break or to get a drink of water, but I will try to take
4 regular breaks during the course of the trial.

5 And then we'll give you some further instructions as we
6 proceed forward.

7 Those are my opening remarks to the jury. Any objections or
8 exceptions on behalf of the State?

9 ASS'T. SOLICITOR GASSER: None from the State, Your Honor.

10 THE COURT: On behalf of the defense?

11 ATTORNEY VARNER: Your Honor, one. You said the jury is to
12 determine the guilt or innocence.

13 THE COURT: Yes, sir, I did.

14 ATTORNEY VARNER: Innocence is presumed, and they are to
15 determine whether it's proven or not proven. Innocence is not a
16 choice.

17 THE COURT: Mr. Varner is correct. If I made a statement
18 that made any presumption to the contrary, that was incorrect.
19 Mr. Steele is presumed not guilty, and I will remind you again,
20 as I stated during my opening remarks, the State has the burden
21 of proving his guilt beyond a reasonable doubt, and he is
22 presumed not guilty during the course of this trial and during
23 these proceedings.

24 Does that satisfy you, Mr. Varner?

25 ATTORNEY VARNER: Thank you, Your Honor.

1 THE COURT: I want to make sure it's very clear so that they
2 know exactly what their job is. All right.

3 Are we ready to proceed?

4 ASS'T. SOLICITOR GASSER: Yes, your Honor.

5 THE BAILIFF: Your Honor, they don't have a foreperson yet.

6 THE COURT: I'll have them choose it at the break.

7 THE BAILIFF: Okay.

8 ASS'T. SOLICITOR GASSER: May it please the Court.

9 THE COURT: Yes, ma'am.

10 OPENING STATEMENT ON BEHALF OF THE STATE

11 ASS'T. SOLICITOR GASSER: In the summer of 2021, MINOR 1
12 [REDACTED] couldn't keep her secret any longer. She told, she
13 finally told. And when she did, her sister, MINOR 2 [REDACTED] she
14 told, too.

15 Back when they were small children their lives were changed
16 forever. The Defendant, Philip Scott Steele, their
17 step-grandfather, a man they trusted, sexually assaulted them.
18 The girls will tell you how it happened, they will tell you where
19 it happened, and how they felt, they will tell you how this
20 impacted their lives.

21 My name is Meghan Gasser, and I'm an assistant solicitor
22 with the Greenville County Solicitor's office, and my job is to
23 bring you evidence, evidence that will prove beyond a reasonable
24 doubt, that the Defendant, Philip Scott Steele, committed
25 criminal sexual conduct with a minor in the first degree and the

1 third degree. Now, he's charged with two counts of first degree,
2 one for each girl; and he's charged with three counts of third
3 degree. We'll get into that a little more later.

4 But first, what is beyond a reasonable doubt? You heard the
5 Judge mention it in her introductory instructions. You're going
6 to hear the Judge also talk about it at the end of this trial.
7 And what the Judge says, that is the law, and I want to be very
8 clear that what the Judge says is the law, so if I differ from
9 that in any way please listen to the Judge.

10 But beyond a reasonable doubt, that is the State's burden,
11 and it is a burden that we welcome. In courtrooms across the
12 United States every day solicitors, prosecutors, district
13 attorneys, whatever they call us in other states, we meet that
14 burden, beyond a reasonable doubt. It's not an impossible
15 burden. It's not some far-fetched idea like aliens came down and
16 did it. No, it's what is reasonable, it's what leaves you firmly
17 convinced. And I want you to remember that phrase, "firmly
18 convinced."

19 Now, the Defendant is charged with criminal sexual conduct
20 in the first degree. And I like to always introduce the law just
21 so you can think of the elements that we have to meet. When
22 you're listening to testimony and you're being presented the
23 evidence you can think back, all right, what do they have to
24 prove, have they met that? Kind of like a check box, right.

25 So criminal sexual conduct in the first degree is when the

1 actor -- so this would be the Defendant in this case -- engages
2 in sexual battery with a victim who is less than 11 years of age.
3 So less than 11.

4 Sexual battery, what is that? Well, the statute defines
5 that as well. It is sexual intercourse, cunnilingus, fellatio,
6 anal intercourse, or any intrusion, however slight -- and that's
7 really important, any intrusion, however slight -- of any part of
8 a person's body or with any object into the genital or anal
9 openings of another person's body.

10 Now, the Defendant is also charged with criminal sexual
11 conduct in the third degree with a minor. A person is guilty of
12 criminal sexual conduct, third degree, with a minor, if the
13 actor -- so the Defendant -- is over 14 years of age, and he
14 willfully and lewdly commits or attempts to commit a lewd or
15 lascivious act upon or with the body or its parts of a child
16 under 16. So the child needs to be under 16, the actor is to be
17 over 14, and it has to be either tries or does commit a lewd and
18 lascivious act with the body of a child, and, of course, with the
19 intent to arouse, appeal to, gratify the lust, passion, or sexual
20 desires of either himself or the child.

21 Now, with all that being said, this is an ugly crime. You
22 will hear words and terms that are unpleasant and uncomfortable.
23 And I apologize, I'm sure this is the last thing that you want to
24 be doing this week, it is the last thing that anyone wants to do,
25 is to discuss and listen to child sexual-assault cases. You will

1 be confronted with things that you have never thought you would
2 and things that you would probably rather not think about.

3 But this case is important. It's important to everyone in
4 this courtroom. It's important to the State, it's important to
5 the defense and to the Defendant, and it is important to the
6 victims, MINOR 1 and MINOR 2 So we all thank you for your
7 service at the beginning of this case.

8 Now, you are going to hear evidence, and the Judge touched
9 on that again and she's going to talk to you more about the types
10 of evidence at the end of the trial in her instruction, but
11 you're going to hear evidence in several forms. There's
12 circumstantial evidence. So this is evidence that allows you to
13 draw an inference, right. The best example that I ever heard is
14 we're in this courtroom, there's no exterior windows. You came
15 in today, and this is probably a bad example because it did rain,
16 but say it was a sunny beautiful day, completely dry. We're in a
17 drought. The pavement's completely dry, the plants need
18 watering, the cars completely dry. You park. You spend the day
19 in here, and when you go out there's rain our windshield, the
20 pavement is wet, the plants have dew, but it's sunny. That's
21 circumstantial evidence that it rained while we were in here. We
22 may not have seen it, we may not have heard it, but you have the
23 evidence that allows to you draw the conclusions, to draw the
24 inference, that it did, in fact, rain while you were in here.
25 That's the best example of circumstantial evidence I've ever

1 heard. And you will hear some circumstantial evidence in this
2 case.

3 But most of the evidence that you're going to hear is direct
4 evidence. That is evidence that is going to come from this
5 witness stand, it's going to come from witnesses giving their
6 testimony, telling you what they heard, what they saw, what they
7 experienced, how it made them feel.

8 And you, as a jury, your job, like the Judge instructed you,
9 your job is going to be to determine credibility and what
10 happened in this case. And in determining witnesses'
11 credibility, I encourage you to listen to those things that we
12 are blessed with; that's your gut, that's your common sense, the
13 things that you have evolved throughout your life experiences
14 that help you come to the conclusion on when you believe certain
15 parts, whole parts, just like the Judge instructed you on. And I
16 want you to think about that as each witness takes the stand,
17 because that's your job, is to determine their credibility.

18 Now, I'm going to get back up here in the end and talk about
19 that credibility, but I think that's really important, because
20 armed with your life experiences, your common sense, clear heart,
21 focus, and your gut, those are the things that allow you to
22 determine the outcome in this case.

23 Now, this will be a relatively short trial. These types of
24 crimes, they happen in secret, they happen behind closed doors,
25 they don't happen in crowded streets. It's not the nature of

1 these crimes. And for those reasons these cases often don't have
2 CSI Miami-level evidence. We're not talking about Law & Order:
3 SVU here. I can go ahead and tell you there's not going to be
4 forensic evidence on a delayed disclosure case.

5 Now, the girls, they're going to explain to you why they
6 waited so long to tell, but I want you to keep that in mind when
7 listening to them when they're asked, you know, there's no DNA,
8 there's no fingerprints, there's no video of this case, there's
9 no photographs of this. That's very normal in these types of
10 cases. It's unfortunate, but this isn't Law and Order: SVU, and
11 it's not CSI Miami. And that's the reality.

12 Remember, through the course of this trial, to keep your
13 eyes and your ears open. Defense may try to confuse or distract
14 with rabbit holes, but your job, and the most important job, is
15 to see all the evidence and to, again with your commonsense and
16 your life experiences and with your gut, to come to a correct
17 verdict.

18 I do want to thank you for your time, and I really want to
19 thank you for your patience. I know this is not what you either
20 expected to do this week or wanted to do this week, but I mostly
21 want to thank you for your attention because, again, this case is
22 important to everyone here.

23 You are the sole finders of fact. Your job is the most
24 important. At the end of this trial the State is going to ask
25 that you come and return the verdict that justice demands and

1 find the Defendant guilty of criminal sexual conduct with a minor
2 in the first and third degree. Thank you.

3 THE COURT: Mr. Varner.

4 ATTORNEY VARNER: May it please the Court.

5 THE COURT: Yes, sir.

6 OPENING STATEMENT ON BEHALF OF THE DEFENDANT

7 ATTORNEY VARNER: Ladies and gentlemen of the jury, my name
8 is Kim Varner, I'm an attorney here in town. I practice law with
9 my son, Grant Varner, and Mr. Jimmy Segura.

10 I'm representing Mr. Philip Scott Steele. You may have
11 heard him referred to as Philip or Scott. This is he that is
12 seated right there. I also want to thank you. It's been said
13 many times that, absent service and active military duty, the
14 jury service is the most important function a citizen can do,
15 because it is important.

16 And the solicitor, she and I agree on a few things. She
17 said this is not CSI. I agree with her, it's a lot more
18 important than that. It's not a TV show. This is real, and
19 people's lives are on the line. Mr. Steele's life is on the line
20 and it's in your hands. It's a hard job, it's hard to sit in
21 judgment of your fellow man, because we can't afford to make a
22 mistake.

23 And our system is set up -- and this goes back to kind of
24 what the Judge was saying in the beginning -- when our system was
25 set up, there were three verdicts in England and in Europe; there

1 was guilty, not guilty, and innocent was, in fact, a verdict.

2 Our founding fathers, when they were setting up our system
3 through our Constitution, they considered that, that's what they
4 were used to, and they changed it. There's two verdicts; guilty
5 or not guilty, in other words, proven or not proven beyond a
6 reasonable doubt. They took away that innocence because they
7 recognize that it's impossible to prove a negative, to prove you
8 didn't do something. And they gave all of us, Mr. Steele, me,
9 you, all people in the United States have three coats, or cloaks,
10 that protect them when they're charged with a crime. And part of
11 that is based on the State has all the resources in the world,
12 they have all the money, all the investigators, and the Defendant
13 doesn't have that advantage, and he can't prove a negative.

14 So the first coat, or cloak, that protects us all is the
15 presumption of innocence. And those aren't just legal words.
16 The Judge will tell you that is a substantive, important right
17 for everybody. So oddly enough, you start this case with a
18 prejudice, and that is you're to presume that Mr. Steele is
19 innocent. That's the way our system works. That's the only way
20 it can work. The first question you have is has the State
21 stripped away, or removed, that cloak, or protective shield,
22 that's on all of us. So your first question is have they removed
23 the presumption of innocence.

24 The second coat, or cloak, that protects is all, is what's
25 called the burden of proof. The State must prove each and every

1 element beyond a reasonable doubt. The Defendant doesn't have to
2 prove anything, but the State has -- that's the second cloak --
3 the burden of proof. They must prove each and every element of
4 any offense they have charged him with. If you have a question
5 as to any part of that crime the Judge will tell you you are to
6 return a verdict of not guilty.

7 So listen to the law, listen to what each of the elements
8 are, and ask yourself first has the State stripped away the
9 presumption of innocence, and; number two, have they proven each
10 and every element?

11 The third coat, or cloak, is not just the burden of proof
12 but the degree of proof. Many of you watch TV. Maybe some of
13 you sat on jury duty or been involved in the court process, but
14 there are really three verdicts in a civil case -- and that's not
15 what this is, this is a criminal case -- it is more likely than
16 not. If it's something like a fraud case -- again, that can be
17 civil, it is by clear and convincing evidence. In a criminal
18 case, it is beyond a reasonable doubt.

19 Everybody has seen Lady Justice, you know, with the scales.
20 It's not which one weighs the most or which one is more
21 convincing, but the State must prove each and every element all
22 the way. It doesn't quiver, it doesn't hesitate, not a piece of
23 paper will slide under it. In other words, it's not what you
24 think, it's not what you believe, it's are you firmly convinced
25 beyond any reasonable doubt.

1 What is a reasonable doubt? If I state it different than
2 the Judge, you take it the way the Judge gives it to you, but
3 reasonable doubt is that kind of doubt that would cause a
4 reasonable person to hesitate to act in the most important of
5 their affairs. And certainly this is the most important of
6 Mr. Steele's affairs. Would you hesitate? In other words, at
7 the end of the case if you're given a sheet of paper and a
8 pencil, write guilty, would you hesitate? Would you question?
9 That's what reasonable doubt is.

10 We're in a courtroom, not out on the sidewalks, not what do
11 you think or what you believe, and if I ask you what are two and
12 two, most people would say four. But if you say that in a
13 courtroom, you have used conjecture, innuendo, or speculation
14 which the Judge will tell you you cannot use that, because what
15 are two and two? If you assumed or used conjecture that I was
16 adding, two and two could be four. What if it's subtraction?
17 Two and two could be zero. Or if I'm putting them next to each
18 other, it could be 22. But in a courtroom, what are two and two?
19 They're numbers. Nothing more, and nothing less. It's a
20 different way of thinking. And that's the way jurors have to
21 think. That's what our system is about, get you to analyze,
22 listen to, and put it together without using assumptions, or
23 conjecture, innuendos, or speculation.

24 The solicitor told you Use your common sense. What does
25 common sense mean? Doesn't mean to connect things that are not

1 logically connected. Common sense is to ask the tough question.
2 I'll use an analogy, and I'm showing my age, many years ago the
3 little woman in the Libby's commercials, she always came up and
4 said "Where's the beef?" And I know a lot of you have no idea
5 what I'm talking about, but there was a point to that. That's
6 the jury's job. Not to say where's the beef, but where's the
7 proof, where's the proof beyond any reasonable doubt?

8 You know, the solicitor talked to you about circumstantial
9 evidence. The Judge will instruct you on circumstantial
10 evidence, but basically you can see it, hear it, feel, touch it,
11 taste it, smell it. There's no video of seeing something happen.

12 Circumstantial evidence has to be so connected, it's like a
13 chain, you can't tell a link is missing. It is to the exclusion
14 of any other reasonable hypothesis or possibility. The solicitor
15 gave you an example. She said we're inside, no windows. We go
16 outside, plants are wet, the windshield is wet, the grass may be
17 wet. There's only one logical conclusion: It rained.

18 I submit to you that is not circumstantial evidence. It
19 isn't even close. Why? What if the humidity was high early in
20 the morning and there's dew everywhere? What if you had
21 automatic sprinklers that ran? It's not rain; that's your
22 sprinklers. You know, they don't go exactly on the grass,
23 they'll get your car.

24 What if you used something that's has just recently
25 happened. What if you live up in the mountains and those

1 helicopters are coming over with 5,000 gallons of water and
2 they're trying to put the fire out, and it goes everywhere, the
3 mist goes everywhere? That's not circumstantial evidence. And
4 if that's what she's proceeding on, be wary because there are
5 other ways of looking at that. And that's what a jury does.

6 She asked you to return a verdict. Verdict is a Latin word.
7 It means to speak the truth. Speak the truth of what? Before
8 this case starts she told you your verdict should be guilty.
9 Ladies and gentlemen of the jury, first off, nobody, nobody tells
10 you what your verdict is. That's up to you 12 people after you
11 begin deliberation.

12 I think after you hear this case your verdict will speak the
13 truth, but you are the folks that decide that, not her, not me.
14 That's how important you are. That's how important it is that
15 you ask the tough question Where's the proof?

16 Then she said something that caught my ear. She said this
17 was done behind closed doors. I submit to you you're going to
18 hear testimony that where this allegedly happened, and if it
19 allegedly happened, there aren't even many doors except to a
20 bathroom and a front door.

21 I'll tell you what was missing. No investigation
22 whatsoever, none. You're going to hear testimony that a
23 step-grandfather was married to a grandmother. She had two
24 grandchildren. They were about 15 months apart. And allegedly
25 you're going to hear -- here's the evidence you're going to

1 hear -- you're going to see an interview, a recorded interview,
2 with both little girls.

3 You've got an interview where Officer, or former officer,
4 Epting called Scott, told him to come in. He came in. He gave a
5 51-minute voluntary, without-a-lawyer interview. It's recorded.
6 And you'll get to see and hear that. Officer Epting will tell
7 you about it. He'll tell you he recorded it. There's a reason
8 for that. Preserving it for you so that you hear what was
9 actually said, not somebody's opinion or somebody's
10 interpretation but you get to see it, you get to hear it, you get
11 to sense it.

12 There's also another recording, and I believe it was in June
13 of 2021, with the grandmother. Her name is Sherry. She came in
14 and made the report. That's all videotaped. I don't recall the
15 time, but it's probably 20 minutes, give or take. She tells you
16 what she this is happened. Watch those videos. Use your common
17 sense. How does she act? Is she laughing or smiling about it?

18 Now, what does she talk about? Because what you're going to
19 hear -- from these girls also -- this happened allegedly when one
20 child was four or five, the other child being 15 months earlier,
21 or younger, another child was three, possibly four. You're going
22 to hear their recollection of what they believed happened.

23 Then they talk about -- and I agree with the solicitor on
24 this, this is not pleasant stuff, it's disgusting to hear this
25 stuff -- but there was porn on a TV; that they all slept in the

1 same bed; that there was a recliner where this happened.

2 Yes. Yes. If there was even -- even a bed, or if so, a
3 single bed, a queen-size bed, a double bed. Was there a TV? Did
4 it work? Was there even a VCR in the house? Was there any porn
5 in the house? Were there VHS tapes? Were there DVDs? You'll
6 never know. You know why? Nobody bothered to check. No
7 investigation. They didn't go out to a house and take pictures.
8 They didn't search the house to see to substantiate what the
9 little girls alleged.

10 Did he have porn? Yes. Did he even have the DVD player?
11 Yes. Did he even have a TV? Yes. If he did have a TV, how old
12 was it? Did it have the plug-ups to connect it to a VCR or VHS?

13 All the money in the world, all the police officers in
14 Greenville County, and we don't have a camera. Everybody just
15 about does, has one of these. All you have to do is go in and
16 take a picture. It's worth a thousand words. Not one. Don't
17 even know if anybody even bothered to walk in the house to see
18 the layout of the house. Were there doors in the house? You're
19 going to have to guess that.

20 But you will hear he lived in a duplex, and his mother lived
21 next-door. Are you going to molest children in a duplex when
22 your mother's right next-door?

23 I asked something to be done at the beginning of this case.
24 A little unusual. I asked the Judge to read you the indictments.
25 And if you hear them differently than the way I did, you take

1 them the way you heard them, but what it said was these alleged
2 incidents happened between 2014 and 2017.

3 You're going hear Officer Epting testify he drew up
4 warrants. All this happened in 2012 and 2013. Why did we add
5 five years to it? That's your question Where's the beef? They
6 did it for a reason. Because a three- and a four-year old, they
7 believe in Santa Clause, the Easter Bunny, and they're very
8 easily influenced. And you're going to hear the testimony, I
9 think you'll hear it moved up when they were eight and ten years
10 old which is more believable. Who's the person who decided to
11 change that, and why? You can guess some more. You can't guess
12 a person guilty.

13 Not only that, you're going to hear testimony that these
14 little girls told their mom and grandma. And their words are --
15 and this is from 2017, eight years ago, we're back to where
16 Officer Epting talked to them to begin with. Reported in 2021.

17 Not only that, he did see those children in 2012 and '13.
18 You continued let a child molester see your children? Not only
19 that, he continued to work with his former wife, or his wife, at
20 that time for another 10 years. They cleaned houses on the
21 weekends together. You go to work and be pleasant with somebody
22 who molested your grandchildren, and you've known it for years.
23 Use your common sense on that one.

24 So what is going on? You're going to hear it. His mother
25 died in 2019. She had a valuable piece of real estate. And

1 Grandma, his former wife, said I'm going --

2 ASS'T. SOLICITOR GASSER: Objection, Your Honor.

3 THE COURT: What's the objection?

4 ASS'T. SOLICITOR GASSER: At this point I believe that we're
5 getting into hearsay and in facts not in evidence.

6 ATTORNEY VARNER: Your Honor, they're on the videos.

7 ASS'T. SOLICITOR GASSER: And, Your Honor, based on the
8 hearsay rules many of those videos can't come in.

9 THE COURT: Sustain as a hearsay, Mr. Varner.

10 But he can, ladies and gentlemen of the jury, tell you what
11 he believes the evidence will show you. But remember in my
12 preliminary comments to you and instructions to you, this is
13 simply the opening statements of the attorneys, not evidence; it
14 is simply what they believe you will see and hear during the
15 course of this trial.

16 ATTORNEY VARNER: I submit the videos will show you,
17 assuming the State, who has the burden of proof, chooses to show
18 you those videos, he was told, or the video will tell you, pay
19 off my house, and he said, no, I've had enough.

20 Guess what happened shortly thereafter? Grandma didn't get
21 her money, and went to the police and made a complaint, laughing
22 and joking. And what I submit to you that video is also going to
23 show you is she's going to tell you, well, I filed a divorce
24 action but my lawyer said we need to wait until this is taken
25 care of so she can get it all and get an advantage. It smells.

1 It's not going to be fun. It's not going to be pretty.
2 When lawyers say quick, we live in a different time zone than you
3 do. Quick is not necessarily going to be quick to you. It will
4 be thorough. It should be comprehensive. All the evidence
5 should be given to you. You should be trusted to receive all of
6 it. And interpret it as you will, ask those tough questions, and
7 I submit to you at the conclusion of this case you will speak a
8 verdict that does, in fact, speak the truth.

9 Thank you very much.

10 THE COURT: Yes, ma'am. Ready call your first witness?

11 ASS'T. SOLICITOR GASSER: Yes, Your Honor. The State calls
12 Alicia Aiken.

13 SHERRY ALICIA AIKEN,
14 having first been duly sworn, is examined and testifies as
15 follows:

16 CLERK OF COURT: And state your name for the record.

17 THE WITNESS: Sherry Alicia Aiken.

18 **DIRECT EXAMINATION**

19 BY ASS'T. SOLICITOR GASSER:

20 Q Alicia, good morning. Can you please tell the jury how old
21 you are?

22 A I'm 36.

23 Q And where are you from originally?

24 A Easley.

25 Q Have you lived here your entire life?

- 1 A Yes, ma'am.
- 2 Q How are you feeling today?
- 3 A Sad that it's still going on and my children still suffer
- 4 each day.
- 5 Q You talked about your children. Let's back up a little bit.
- 6 Are you married?
- 7 A I am not.
- 8 Q And how many children do you have?
- 9 A I have three.
- 10 Q What are their names?
- 11 A MINOR 1, MINOR 2 SISTER (ph).
- 12 Q And how old is MINOR 1?
- 13 A Fifteen.
- 14 Q What's her birthday?
- 15 A /09.
- 16 Q And how old is MINOR 2?
- 17 A Fourteen.
- 18 Q And what's her birthday?
- 19 A /11.
- 20 Q And how old is SISTER?
- 21 A She's nine.
- 22 Q And what's her birthday?
- 23 A /15.
- 24 Q So Alicia, what's your mother's name?
- 25 A Sherry Zeabold.

1 Q And do you know the Defendant, Philip Scott Steele?

2 A I do.

3 Q How do you know him?

4 A He married my mother when I was about six or seven.

5 Q So is he your biological father?

6 A No, ma'am.

7 Q And so he married your mother when you were six or seven
8 years old?

9 A Yes, ma'am.

10 Q Is the person that married your mother when you were six or
11 seven years old in the courtroom today?

12 A Yes, ma'am.

13 Q Can you please point him out for the jury?

14 A (Responds.)

15 Q Can you describe what he's wearing?

16 A A blue-collared shirt.

17 ASS'T. SOLICITOR GASSER: Let the record reflect the witness
18 has identified the Defendant, Philip Scott Steele, as the man who
19 married her mother when she was six or seven years old.

20 THE COURT: The record will so reflect.

21 Q And just generally how was your relationship with the
22 Defendant when you were growing up?

23 A Uhm, he wasn't much of a father to me. He only worried
24 about what my mother was doing.

25 Q And how long was your mother with the Defendant?

1 A Uhm, I think ultimately they were married altogether for 20
2 years, together for 12.

3 Q So they were married for 20 years but they were -- when you
4 say together, does that mean living together for 12 years?

5 A Yes, ma'am.

6 Q And so for the remainder of that time, so about eight years,
7 they didn't live together?

8 A Yes, ma'am.

9 Q Now, did they live together back in 2014 through the years
10 of 2017?

11 A No, ma'am.

12 Q Was that part of that time period in which they were living
13 separated?

14 A Yes, ma'am.

15 Q Do you remember where your mother was living --

16 A Yes, ma'am.

17 Q -- like, her address?

18 A Yes.

19 Q Where was she living?

20 A [REDACTED] Rotterdam Road in Easley.

21 Q And where was he living?

22 A Off of Grove Road in Greenville.

23 Q Was that address in Greenville County?

24 A Yes, ma'am.

25 Q And the [REDACTED] Rotterdam Road address, was that in Greenville

1 County?

2 A No.

3 Q Which county is that in?

4 A Pickens County.

5 Q The Defendant's address off Grove Road, that was in
6 Greenville County. Is that what you just testified to?

7 A Yes, ma'am.

8 Q Now let's talk about your relationship with the Defendant
9 back in 2014-2017. When he was separated from your mother back
10 then did you still speak with him?

11 A At first we did. And he was watching my kids before 2014.
12 My youngest daughter was born in 2015, and he never seen her, so
13 it was about a year time before my youngest daughter was born
14 that he did not see the girls at all.

15 Q So 2014, though --

16 A Yes.

17 Q -- when the girls were -- what age would they have been? If
18 **MINOR 1** was born in 2009 how old would she have been in 2014?

19 A Six. No. She was six in 2015, so she would have been five.

20 Q So five. And in 2015 she was six. All right. So 2016 she
21 would have been seven?

22 ATTORNEY VARNER: Objection as to relevance, Your Honor.
23 She said he hadn't seen the children since a year before the
24 birth of her child in 2015.

25 THE COURT: Overruled at this point, but you can renew that

1 objection. I think she's just laying a foundation.

2 Q All right. So going to MINOR 2 if MINOR 2 was born

3 2011, how old would she have been in 2014?

4 A Four.

5 Q And in 2015?

6 A Five.

7 Q Okay. So let's talk a little bit about, you said that he
8 would watch your kids. Why would he watch your kids?

9 A I was working probably 70, 75 hours a week at Taco Bell, and
10 I worked the late shift and my mom would be too busy to keep
11 them, and he would offer to watch them for her.

12 Q So when you worked the late shift what time would you get
13 off?

14 A Uhm, sometimes 4:00 a.m. at the latest, depending on how
15 much we had to clean.

16 Q Did the girls ever spend the night over at his house?

17 A Yes, they did.

18 Q And which girls would he watch?

19 A MINOR 2 and MINOR 1.

20 Q And why would you -- you said that your mother was too busy.
21 What was she doing?

22 A I'm not sure. Sometimes she would keep them, and sometimes
23 he would keep them.

24 Q And when he would keep them, would he keep them at her house
25 or his house?

1 A Both. Mostly at his house.

2 Q At his house. And where was that house again?

3 A Off of Grove Road in Greenville.

4 Q Would you drop them off there or would he pick them up?

5 A I dropped them off.

6 Q When you dropped them off did you see any other adults at
7 his house with him?

8 A His mother lived next-door in the duplex.

9 Q To your knowledge, or would you stay -- when he would watch
10 your kids, would you stay and hang out?

11 A I was there for a few minutes sometimes.

12 Q To your knowledge, did he watch the kids alone at times?

13 A Yes.

14 Q Now, would you have described this relationship as cordial,
15 even though he was separated from your mother between, the two of
16 you?

17 A Yes.

18 Q Was there a time when you ever stopped contact with him?

19 A Yes.

20 Q Now I want to be very clear. Without saying anything anyone
21 said, were you made aware of something that made you want to cut
22 off contact with the Defendant?

23 A Yes.

24 Q And when you cut off contact with the Defendant, did you
25 ever have contact with him again?

1 A No, ma'am.

2 Q When you cut off contact with the Defendant, did you ever
3 allow your children to see him again?

4 A No.

5 Q And you testified that he never met your youngest.

6 A No.

7 Q And that she was born in 2015. So it's safe to say that
8 contact stoped somewhere in the 2014-2015 years, before your
9 youngest was born?

10 A Yes, ma'am.

11 ATTORNEY VARNER: Objection. She's leading.

12 ASS'T. SOLICITOR GASSER: And, Your Honor, this is to avoid
13 hearsay.

14 ATTORNEY VARNER: Your Honor, she's impeaching her own
15 witness. She already testified she had a child born in 2015 and
16 they stopped contact about a year prior to that. So she's
17 impeaching her own witness and testifying.

18 THE COURT: Sustained as to leading.

19 ASS'T. SOLICITOR GASSER: Yes, Your Honor.

20 THE COURT: I know that you're trying to avoid hearsay but
21 nevertheless you've got to ask the question --

22 ASS'T. SOLICITOR GASSER: Yes, Your Honor.

23 Q So at that time, again without saying anything anyone said,
24 what was the reason why you chose to cut off contact with the
25 Defendant?

1 A My mother's intuition. I felt like my children were harmed.

2 Q And again, without saying anything that they specifically
3 said, did you question your children as to whether or not they
4 had been harmed?

5 A I did. I questioned them separately and together.

6 Q And again without saying anything they specifically said,
7 did they give you any details at that time back when you decided
8 to cut off contact? So you've testified 2014-2015. Did they
9 give you any specific details that caused you to have this
10 mother's intuition?

11 A No.

12 Q So you're testifying that it was just your mother's
13 intuition?

14 A Yes, ma'am.

15 Q Did you tell your mother that you were cutting off contact
16 with him?

17 A Yes, I did.

18 Q And again without saying anything anyone said, were you ever
19 told by MINOR 1 that she was sexually assaulted?

20 A Not at that time.

21 Q At any future time were you ever -- and again without saying
22 anything she said, so yes or no. Were you ever told that she was
23 sexually assaulted in the future?

24 A Yes.

25 Q And when she told you that she was sexually assaulted did

1 you contact law enforcement?

2 A Immediately my mother and I did.

3 Q Now, there was some allegation about mortgages. Did the
4 Defendant pay your mortgage?

5 A Mine, no.

6 Q The Defendant, to the best of your knowledge, did know
7 whether or not the Defendant paid your mother's mortgage?

8 A I was certain that he was still paying it while they were
9 still married.

10 Q And was this during the time in which you were having no
11 contact with him?

12 A Yes.

13 Q And did you ever ask or threaten or coerce the Defendant
14 into giving you money?

15 A No.

16 Q Did you ever tell your children to say anything against the
17 Defendant?

18 A No.

19 Q Did you ever coach your children into saying anything as it
20 relates to this case?

21 A No.

22 ASS'T. SOLICITOR GASSER: Your Honor, at this time I have no
23 further questions. Or actually I do have one further question.
24 Sorry.

25 (WHEREUPON, State's Exhibit 1 is marked for identification.)

1 ATTORNEY VARNER: Your Honor, I object as to relevancy.

2 ASS'T. SOLICITOR GASSER: And I'll just lay the foundation,
3 Your Honor.

4 THE COURT: All right. Well, hold on a moment. Why don't
5 you --

6 ATTORNEY VARNER: If we're going to talk about it, I'd
7 rather we have the jury excused.

8 THE COURT: No. You all come up to the bench. We're not
9 going to step them out just over one thing just yet. I need to
10 find out what it's all about.

11 (WHEREUPON, an off-the-record discussion is held at
12 sidebar.)

13 (WHEREUPON, an on-the-record discussion is held at sidebar
14 as follows:)

15 THE COURT: So State's exhibit -- what number is this going
16 to be?

17 ASS'T. SOLICITOR GASSER: No. 1.

18 THE COURT: -- No. 1 show the two girls at a young age.
19 Defense, of course, is objecting to relevance because they cannot
20 discern the actual age.

21 ATTORNEY VARNER: Your Honor, it has no bearing on whether
22 or not he committed this act. It's just a picture.

23 THE COURT: But the relevance is she's offering it that he
24 was around the girls when they were at a young age.

25 ATTORNEY VARNER: That's already in.

1 ASS'T. SOLICITOR GASSER: Under 11. But I bear the
2 burden --

3 ATTORNEY VARNER: I object.

4 ASS'T. SOLICITOR GASSER: Again, the State would -- without
5 a stipulation we need to prove each element of the offense, and
6 I'm allowed to present evidence to prove each and every element.

7 ATTORNEY VARNER: Well, there's also a foundation issue. We
8 don't know who took the picture.

9 THE COURT: She's getting ready to lay that foundation, so
10 you may renew your objection as to foundation, but the objection
11 is overruled.

12 (WHEREUPON, sidebar discussion ended.)

13 Q So Alicia, are you familiar with what your daughters looked
14 like back when they were younger, say, again, those same date
15 ranges that we're talking about?

16 A Yes.

17 Q And were you in possession of a photograph depicting your
18 daughters **MINOR 2** and **MINOR 1** with the Defendant, Philip Scott
19 Steele?

20 A Yes.

21 Q And would you recognize that photograph again if you were to
22 see it?

23 A Yes.

24 Q I'm handing you what has been marked for identification
25 purposes as State's Exhibit No. 1. Do you recognize this

1 document?

2 A Yes.

3 Q What is it?

4 A It is a photo of both of my daughters, MINOR 1 and MINOR 2
5 with the Defendant, and they're in my mother's garage.

6 Q And the Defendant being the man that you had known since you
7 were six or seven years old?

8 A Yes, ma'am.

9 Q The man that was married to your mother?

10 A Yes, ma'am.

11 Q And those being your biological children, MINOR 1 and MINOR 2
12 [REDACTED]?

13 A Yes.

14 ATTORNEY VARNER: Objection. She's leading and testifying
15 at this point in time.

16 THE COURT: Sustained as to leading.

17 ASS'T. SOLICITOR GASSER: Yes, Your Honor.

18 Q So who, again, are the children in the photograph?

19 A MINOR 1 and MINOR 2.

20 Q Are those your biological children?

21 A Yes.

22 Q Are you familiar with what they looked like from birth until
23 today?

24 A Yes.

25 Q Are you familiar with what they looked like when they were

1 younger, say four, five, six years old?

2 A Yes.

3 ASS'T. SOLICITOR GASSER: Your Honor, at this time the State
4 moves to enter State's Exhibit No. 1 into evidence.

5 ATTORNEY VARNER: With my objection noted, Your Honor.

6 THE COURT: As to relevance or foundation?

7 ATTORNEY VARNER: Both.

8 THE COURT: Overruled as to relevance. Ask some additional
9 questions to lay the foundation. Where did this picture come
10 from.

11 Q Alicia, where did this picture come from?

12 A It was taken off of my mother's Facebook and downloaded onto
13 a file that she then sent to me, and I emailed it to you.

14 Q And again, are you familiar with everyone in the photograph?

15 A Yes. You can barely see her, but my mother's over there to
16 the left. You can see, like, her arm and the side of her face.

17 Q And are you familiar with the other persons that are in the
18 photograph?

19 A Yes.

20 Q And have you been familiar with them for a long time?

21 A Yes. I gave birth to two of them.

22 ASS'T. SOLICITOR GASSER: Your Honor, at this time I do
23 believe that she has laid a sufficient foundation for recognizing
24 who is in that photograph. Foundation does not necessarily
25 required the person who took it.

1 little problem hearing you. And do you live with anyone now?

2 A No.

3 Q Okay. And when the girls were younger --

4 A Uh-huh.

5 Q Do they have both the same father?

6 A They do.

7 Q Okay. And was their father involved in their lives?

8 A Partly.

9 Q What does that mean?

10 A We were not married.

11 Q And did the father visit with the children and go see them
12 or support them, or what?

13 A When they were younger, yes.

14 Q Well, they're still young children, correct?

15 A They're teenagers.

16 Q All right. And do they have a relationship with their
17 father now?

18 ASS'T. SOLICITOR GASSER: Objection, Your Honor. Relevance.

19 THE COURT: What's the relevance, Mr. Varner?

20 ATTORNEY VARNER: Your Honor, to show the background. One
21 of the things she said was she had nobody else to baby-sit and
22 she had a good relationship and the father was involved. I think
23 I'm entitled to cross-examine her as to why she didn't pick other
24 people.

25 THE COURT: All right. Overruled.

1 Q So are they still involved in the children's lives, the
2 father?

3 A No.

4 Q And you don't dispute that your mother and Mr. Steele
5 separated in about 2011, correct?

6 A I do not dispute that. No.

7 Q And he saw them for a year or two after that?

8 A Yes. They were still seeing one another.

9 Q Okay. And I believe you testified that you had a child in
10 2015. He didn't see them about a year prior to that, so 2014
11 would have been about the last time he saw them?

12 A Yes, sir.

13 Q All right. And in 2014 your youngest child would have been
14 three years old?

15 A Yes.

16 Q And your oldest child would have been five years old,
17 correct?

18 A Depending on what part of the year.

19 Q Well, after September she would have been five years old.
20 Prior to September she would have been four years old. Correct?

21 A Yes, sir.

22 Q Okay. So four to five years old for your older child,
23 correct?

24 A Yes.

25 Q And you said at about that time you received some kind of

1 disclosure, correct?

2 A Yes.

3 Q Well, I'm going to open the door to it.

4 THE COURT: That's your right.

5 Q What you heard was he had hit one of the children on the
6 rear end. That came up in a bathtub incident, correct?

7 A Yes.

8 Q And you did not want somebody doing corporal punishment on
9 your children?

10 A I didn't feel it was corporal punishment.

11 Q Okay. And you also accused Philip of molesting you, didn't
12 you?

13 A He never molested me but he did stick his hand down the back
14 of my pants when I was a child.

15 Q Okay. So knowing or believing he is act inappropriately,
16 you continued, for two years, to send your children over there to
17 spend the night?

18 A It wasn't for two years straight. If they spent the night,
19 it was only a handful of times.

20 Q Okay, a handful of times?

21 A Uh-huh.

22 Q But you knew it was happening?

23 A I did not know anything was happening then.

24 Q Well, you knew he had been inappropriate with you, according
25 to your belief system, correct? Is that correct, ma'am? Yes or

1 no.

2 A It's not correct.

3 Q So this man that you said had put his hand down your pants,
4 you took your sweet, little, innocent children over there, off
5 and on, to spend the night?

6 A He was babysitting them while I was working.

7 Q So the answer to my question is yes, correct?

8 A He did. They did spend the night, yes, sir.

9 Q And your mother, who was separated from him, she and Philip
10 continued to clean houses on the weekends up until almost the
11 time he was arrested, 2021, correct?

12 A I think that she did do that. Yes, sir.

13 Q So your mother continued to work with, on the weekends, with
14 a man who had molested her grandchildren, and she had known about
15 it since Two-Thousand --

16 ASS'T. SOLICITOR GASSER: Objection, Your Honor.
17 Speculation.

18 THE COURT: Let me hear the question.

19 Q And your mother had known about these allegations as of
20 2014?

21 ASS'T. SOLICITOR GASSER: Objection again, Your Honor.
22 Speculation as to what another witness --

23 THE COURT: Overruled. She can say she doesn't know.
24 Overruled.

25 But answer question, ma'am, if you know.

1 A I don't know.

2 Q Well, did you tell your mother?

3 A When my daughter was 11.

4 Q Okay.

5 A That's when it was told.

6 Q Okay. Well, you said previously you told your mother he
7 wasn't going to see them anymore?

8 A Yes, I did.

9 Q And that was in 2014?

10 A Yes.

11 Q And that's because you thought what he was doing was
12 inappropriate?

13 A Yes.

14 Q And you told your mother that?

15 A Yes, I did.

16 Q And your mother continued to work with him almost every
17 weekend for another seven years?

18 A That still has no relevance of what he done to my children.

19 Q Ma'am, ma'am, answer my question, please. Your mother
20 continued to work with him on the weekends for seven additional
21 years?

22 A I guess that she did, but my children were not around the
23 man.

24 Q But she associated with him, and they had a friendly
25 relationship, didn't they?

1 A They were still married, sir.

2 Q But they had not been living together since 2011, correct?

3 A Correct.

4 Q And according to you, because they were still married he
5 continued to make the house payment, correct?

6 A Correct.

7 Q So as long as he made the house payment we're all buddies?

8 A I had nothing to do with their affairs.

9 Q Well, you know his mother died at about October of 2019,
10 correct?

11 A Uh-huh.

12 Q And your mother used to be a real estate broker?

13 A She was.

14 Q And this piece of property is on Grove Road and Augusta
15 Road?

16 A It is.

17 Q That's a very valuable piece of property, isn't it?

18 A I would guess so. I don't know.

19 Q And do you know whether or not your mother wanted him to pay
20 off that house she was living in then?

21 A She's never told me that.

22 Q But shortly after that these allegations were made, correct?

23 A It wasn't shortly after that. No.

24 Q Well, she died in 2019. Do you know how long probate takes,
25 how long before he got his money?

1 A I'm not sure. I don't associate with him or his family.

2 Q Well, the bottom line is this: Your mother went to the law
3 enforcement center, didn't she?

4 A Yes, she did.

5 Q You never went, did you?

6 A I contacted Julie Valentine Center.

7 Q That's not what I asked you, ma'am.

8 A I did not go down to the law enforcement center. No.

9 Q So you never made a report?

10 A She made the report.

11 Q So you never made a report?

12 A I did not make the report.

13 Q But you did follow up with what the police told you, take
14 them to the Julie Valentine Center?

15 A Yes, I did.

16 Q All right. And I'll put you on this -- you said you had no
17 further contact with him after about 2014?

18 A Yes, sir.

19 Q Do you recall your children having head lice in 2020?

20 A Yes.

21 Q Do you recall sending Philip Steele a text wanting a little
22 over \$400 for the treatment?

23 A I never did.

24 Q You never did what?

25 A I never text him.

1 Q Okay. Did you ask him for it?

2 A No, I did not.

3 Q Did he give you any money for it?

4 A No, he did not.

5 Q And with your mother, there was sometimes you did not take
6 the children to your mother because you and your mother were
7 feuding with one another, correct?

8 A Uhm, I don't know what you're talking about.

9 Q You two weren't getting along. She did not approve of your
10 living situation or who you were living with. That was a problem
11 between and you your mother, wasn't it?

12 A At times.

13 Q And since the children were born who all have you lived
14 with?

15 A Uhm, I've had an ex-boyfriend for five years. Then we split
16 in November of last year.

17 Q What's his name?

18 ASS'T. SOLICITOR GASSER: Objection, Your Honor.

19 THE COURT: What's the relevance of this, Mr. Varner?

20 ATTORNEY VARNER: Your Honor, I think that I want notice so
21 I can check who this person is or what the story was. I don't
22 know his name, I can't do any research during the break. Who the
23 children were exposed to is relevant.

24 THE COURT: All right. Let's take a brief recess. I want
25 to do a comfort break, let you all get a drink of water, use the

1 restroom. Do not talk about the case. I do want to address this
2 issue with the attorneys.

3 I also, while we're on this break, wanted to let you all
4 know that you need to select a jury foreperson. Now, the jury
5 foreperson is not somebody that has any greater vote than anybody
6 else, but it is the person who will communicate with the Court if
7 there is an issue by putting any communication in writing,
8 signing it, and giving it to Ron for me. And they will also be
9 the person that will sign the verdict form indicating that you
10 all have reached a unanimous verdict at the conclusion of this
11 trial.

12 So while we're on our break, which will be brief, you all
13 get a drink of water, use the restroom, don't talk about the
14 case, but pick your jury foreperson and then let Ron know who you
15 selected.

16 All right. Let's have them retire to the jury room.

17 (WHEREUPON, jury exits at 11:17 a.m.)

18 MATTER(S) OF LAW

19 ATTORNEY VARNER: May I be heard, Your Honor?

20 THE COURT: Yes. Where are we going with this, Mr. Varner?

21 ATTORNEY VARNER: All right. They have an expert, a blind
22 expert, who's going to come testify, and going to testify, I
23 would assume, how the grandmother -- the children acted
24 differently, possibly, you know, upset or not their normal self.
25 I mean, going back to mother's intuition. That can be from a

1 variety of factors such as home environment, what was going on,
2 how many people, drugs, domestic violence. One of these
3 gentlemen was charged with a crime against children.

4 THE COURT: I understand, but my previous ruling was I'm not
5 going to allow you to introduce third-party guilt unless you
6 can --

7 ATTORNEY VARNER: It doesn't go to guilt; it goes to the
8 testimony about mother's intuition and children acting
9 differently. That can be from a variety of reasons.

10 I agree, it could be from sexual molestation, but it could
11 be from drug usage, domestic violence, any other kind of alleged
12 trauma, getting in trouble at school, whatever it may be.

13 There's many force that can cause a child to behave differently.

14 I don't think the State has a right to focus in on it can
15 only be this one without eliminating the other.

16 THE COURT: What about that, Ms. Gasser?

17 ASS'T. SOLICITOR GASSER: May it please the Court, Your
18 Honor. She specifically just testified to that she had an
19 ex-boyfriend of five years that broke up with last year, being in
20 November of 2024, which would make the relationship starting in
21 2019, which again, if he's talking about mother's intuition, she
22 talked about it back in 2014-2015 time period, so it has
23 absolutely no relevance other than to, again, try to distract and
24 confuse the jury by throwing in this improper third-party guilt,
25 because that's ultimately what that argument is going to be, is

1 while there are all these other men in your lives, they could
2 possibly be the one that did it which, under the case law which
3 you previously placed on the record, that's an improper
4 third-party guilt argument. So not only is it improper under
5 third-party guilt, but is also irrelevant for the purposes
6 (indiscernible).

7 THE COURT: I'm sustaining it in part and denying it in
8 part. Mr. Varner, you can go into the relevant timeframe, but
9 we're not going through her whole history, so of the disclosure
10 or mother's intuition. But I'm not going to let you bring in
11 third-party guilt. This is only going specifically to rebut her
12 mother's intuition, something was wrong.

13 ATTORNEY VARNER: Your Honor, these children -- and the
14 interview was done in 2021 -- their emotional state, or physical
15 state, or whatever the expert may or may not testify to, is
16 certainly province in which I'm allowed to explore what other
17 factors or stressors were they related to without pointing guilt
18 to anybody.

19 But they were interviewed. And the jury's going to watch
20 how they act and how they behaved. You can infer from that it's
21 because they were molested. But if you have the other factors,
22 it could be many, many other factors why a child gets quiet or
23 hangs their head down.

24 THE COURT: I'm only letting you go -- this was going to
25 specifically to you saying mother's intuition, that she felt that

1 they were acting unusual or acting weird, and that it can't just
2 be molestation, or the jury should not infer that it should just
3 be molestation, that there could be something else that was going
4 on at the time.

5 ATTORNEY VARNER: Okay.

6 THE COURT: I'll give you some leeway on that, but otherwise
7 I'm just going to sustain that part.

8 ATTORNEY VARNER: I got it. With noting my objection.

9 THE COURT: Noting your objection for the record.

10 ATTORNEY VARNER: May I take a restroom break, too?

11 THE COURT: Yes. I need to use the restroom, too. So if,
12 Ms. Aikin, you need to use the restroom I'll give you just a
13 quick comfort break, and then that way we can get started.

14 ASS'T. SOLICITOR GASSER: I'll just instruct the Court that
15 I will not speak with Ms. Aiken. I want that to be very clear as
16 we're taking a restroom break.

17 THE COURT: Ms. Aiken, you can't talk to anybody, nobody,
18 not anybody out there. You just use the restroom, and come on
19 back. If you need a drink of the water, then let me know, and
20 they'll give you a bottle of water.

21 (WHEREUPON, court recesses at 11:21 a.m. and reconvenes at
22 11:26 a.m., without the jury.)

23 ASS'T. SOLICITOR GASSER: Your Honor, just while the jury's
24 out --

25 THE COURT: Yes, ma'am.

1 ASS'T. SOLICITOR GASSER: -- there are going to be some
2 matters of law before the next witness. I just wanted to see if
3 that was something you wanted to handle now while they're taking
4 a break or if it's something we need to approach. It's just as
5 to *Crawford v. Washington and the assertions made*.

6 THE COURT: Let's go ahead and finish with this witness and
7 see where we are.

8 ASS'T. SOLICITOR GASSER: Yes, Your Honor.

9 THE COURT: And then we'll see how long it will take.

10 (WHEREUPON, jury enters at 11:29 a.m.)

11 All right. Our jury foreperson, is it, Carin Perretta?

12 THE FOREPERSON: Correct.

13 THE COURT: Thank you, ma'am, for serving. That's Juror No.
14 254. We're going to mark this as Court's Exhibit 1 (sic).

15 (WHEREUPON, Court's Exhibit 3 is marked for identification.)

16 ATTORNEY VARNER: May it please the Court.

17 THE COURT: Yes, sir.

18 Q All right, Alicia. Is it Alicia or Alicia?

19 A It is Alicia.

20 Q Alicia. I'm sorry. All right. You had previously
21 testified that you and your mother sometimes feud or have
22 disagreements over your boyfriend or the people you had around
23 the children, correct?

24 A We had disagreements over the father of my kids. Yes.

25 Q And prior to, you said your mother's intuition kicked in,

1 correct?

2 A Yes.

3 Q And mother's intuition. That's guessing or speculation,
4 right?

5 A No.

6 Q Okay. All right. And prior to that who had you been
7 involved with, who had the children been around?

8 A Their siblings.

9 Q Men?

10 A And their father.

11 Q And that's the only person you can recall then up until that
12 time?

13 A Yes.

14 Q And you didn't live with him during any of that time?

15 A We lived together off and on.

16 Q What created the "off" and what created the "on"?

17 A He was physically abusive to me.

18 Q Did the children see that?

19 A They have seen it. Yes.

20 Q Were there any problems with drinking or drugs?

21 ASS'T. SOLICITOR GASSER: Objection, Your Honor. This was
22 handled in pretrial matters.

23 THE COURT: Where are you going with this, Mr. Varner?

24 ATTORNEY VARNER: Where are we going? What the children had
25 been exposed to for them to act differently for what's called

1 alleged mother's intuition.

2 THE COURT: Keeping in mind my previous ruling --

3 ATTORNEY VARNER: I you understand.

4 THE COURT: -- I'm going to give a little leeway. But, you
5 may object, Ms. Gasser, if it goes too far.

6 ASS'T. SOLICITOR GASSER: Yes, Your Honor.

7 Q Were drinking and drugs involved in that on either of your
8 part?

9 A Yes.

10 Q The children were exposed to that?

11 A They were not exposed to it. No.

12 Q But they were aware of it?

13 A Behind closed doors.

14 Q And going to Mr. Steele, during the entire time you were
15 living with him and your mother lived with him, he had one job?
16 He worked at the same company as a welder, correct?

17 A Yes.

18 Q And that ended when he had a heart problem and became
19 disabled; is that correct?

20 A I believe so.

21 Q Okay. And do you know what the complications of his heart
22 problem were, what it would cause with him?

23 A I think he had to have a pacemaker.

24 Q Do you know how it affected him otherwise? If you don't
25 know you can say you don't know.

1 A I don't know.

2 Q All right. And he was never a coach, a youth leader, or a
3 teacher? He was never involved with children as a welder, was
4 he?

5 A No.

6 Q And you have your children in counseling; is that correct?

7 A I do.

8 Q Who are they going to counseling with?

9 ASS'T. SOLICITOR GASSER: Objection, Your Honor.

10 THE COURT: What's the relevance, Mr. Varner?

11 ATTORNEY VARNER: Your Honor, if the children are in
12 counseling, I think I have a right to know is the counselor going
13 to be here or not be here, what have they or have not disclosed.

14 ASS'T. SOLICITOR GASSER: Your Honor --

15 THE COURT: Sustained. We'll take it up on a break.

16 Sustained. I'm not letting you go there.

17 ATTORNEY VARNER: All right.

18 Q But you do acknowledge they are in counseling, correct?

19 A They are.

20 Q And it's not in counseling with any of the people listed as
21 witnesses, is it?

22 A No.

23 Q How long have they been in counseling?

24 A Probably five years now.

25 Q Bear with me just one moment, please, ma'am. You have been

1 inside the house where Mr. Philips (sic) lived, correct?

2 A Yes.

3 Q And he moved in that house in approximately 2011 and lived
4 in it up until he was arrested, correct?

5 A Yes.

6 Q Is it correct the only doors in that house are the front
7 door and a bathroom door, that's it?

8 A That is true. There are closet doors.

9 Q Okay, a closet. Excuse me. All right. And his mother does
10 live literally just 10 feet away, the other door?

11 A Yes.

12 Q And she has a good relationship with your children? She
13 treated them as her great-grandchildren, correct?

14 A Uhm, from time to time.

15 Q Well, most of the times you were gone, you were at work,
16 correct? You never had problems with her, did you?

17 A No.

18 Q Roughly how old was she back in 10 years ago, in 2014, your
19 best guess?

20 A How old was who?

21 Q His mother.

22 A I have no clue.

23 Q But she was ambulatory? She could walk over? He walked
24 over to her place, she walked over and talked to the kids and
25 things like that, correct?

1 A Yes.

2 Q And that little house itself, it was a kitchen, like a den,
3 and a bedroom, correct?

4 A Yeah. There was a bed off to the right side behind the
5 wall, so if you were looking from the front door or the back door
6 you wouldn't see it.

7 Q That was kind of in the den, correct?

8 A No. I don't know if that was a den or a bedroom. It was in
9 the middle of the home.

10 ATTORNEY VARNER: That's all. Well, hold for just a moment.
11 That's all the questions I have, Your Honor.

12 THE COURT: Redirect?

13 ASS'T. SOLICITOR GASSER: Yes, Your Honor.

14 **REDIRECT EXAMINATION**

15 BY ASS'T. SOLICITOR GASSER:

16 Q Alicia, I just want to clarify some things. Defense counsel
17 asked you about the ages of MINOR 2 I think you referred to her
18 as the youngest child, but on your direct examination did you
19 testify that in 2014 she was around four or five, in 2015 being
20 five?

21 ATTORNEY VARNER: Objection. She's leading, Your Honor.

22 ASS'T. SOLICITOR GASSER: And I'm asking her what she
23 testified to previously on her direct.

24 THE COURT: Overruled. I'm going to let her answer the
25 question.

1 A Uhm, in 2015 she would have been four, so 2014 she would
2 have been three.

3 Q And I just want, to, again -- what was MINOR 2 's birthday?

4 A [REDACTED]/11.

5 Q And you did testify to, on both cross and direct, that --
6 ATTORNEY VARNER: Objection. She's leading and testifying,
7 Your Honor.

8 THE COURT: All right. That's sustained, Ms. Gasser. I
9 know you're trying to get her to the point, but you've just got
10 to ask an open-ended question.

11 Q Defense counsel asked about the disclosure back in the
12 2014-2015 time period; is that correct?

13 A Yes, ma'am.

14 Q And what did you say that disclosure was?

15 A My daughter MINOR 2 had stated that Papa touched her bottom.

16 Q And what did you mean by mother's intuition again?

17 A Well, she didn't say that to me, she said it to another
18 sibling because we were at their house, but that's why I asked my
19 kids immediately, and neither one of them said anything. And
20 then we asked again once I got home -- well, I asked again once I
21 got home.

22 Q So did you ask them specifically if anything had happened?

23 A Yes, I did.

24 Q And did they disclose at that time that anything had
25 happened to them?

1 A No, they did not.

2 Q Then why would you have kept your kids from the Defendant
3 following that, let's call it, you know, gossip? Why would you
4 keep them from him?

5 A Just to make sure they were safe.

6 Q And why did you feel the need to keep them safe from him?

7 A Uhm, just looking back at the relationship. And he was too
8 happy to be around them. I'm not saying that he wasn't good to
9 them in front of me, but it just seemed a little weird because my
10 daughter --

11 ATTORNEY VARNER: I'm going to object.

12 A -- would laugh a lot --

13 THE COURT: Hold on a second.

14 ATTORNEY VARNER: She's trying to testify as an expert what
15 those things would indicate. That's not proper.

16 THE COURT: No. Overruled. This is just her -- everybody's
17 going with this mother's intuition, and she's just trying to
18 explain what her intuition is. I'll let you ask her additional
19 questions if you want to after.

20 Q And on cross-examination defense counsel asked you about an
21 incident that you had with the Defendant when you were a child.
22 Can you tell the jury about that.

23 A Yes. I was playing video games in my brother's room with
24 him, and the Defendant was in there with us. And as I was
25 sitting there, I felt his hand on my back. I guess that my belt

1 was kind of going down some, and I got and up I moved away, and
2 then I did tell my mother about it. And they got into a big
3 argument, and she put him out, and he was gone for three days,
4 and then he came back. And nothing ever happened after that.

5 I was sexually abused prior to that as a very young child,
6 and so I knew that it wasn't right.

7 Q So you did tell your mother?

8 A I did tell her.

9 Q And he was gone for approximately three days?

10 A Yeah. I think it was three days, yes.

11 Q But she allowed him to come back?

12 A Yes.

13 Q So I have to ask you, why then would you let him watch your
14 children in 2014-2015?

15 A Uhm, I had no one else. I had no money to pay for
16 childcare, but I know that I needed to pay the bills. The father
17 of my kids was not doing what he needed to do.

18 And I was also being physically abused by him at the time,
19 so in my mind I didn't think that far, that that's not something
20 I should be doing, letting them go over there. I wish now that I
21 would not have.

22 Q Would you have done anything differently looking back on it?

23 A Yes. I would have never let them go there.

24 ATTORNEY VARNER: Your Honor, that's speculation. You can't
25 undue time. It's not a proper question.

1 THE COURT: That is true. It's sustained.

2 Q Defense counsel asked you if you personally went to the law
3 enforcement center. What did you tell him?

4 A I did not.

5 Q Why didn't you personally go to the law enforcement center?

6 A My mother said that she would go down there and for me just
7 to take care of the children.

8 Q If your mother had not been there to go to the law
9 enforcement center would, you have personally gone and made that
10 report?

11 ATTORNEY VARNER: Objection. That's pure speculation.

12 THE COURT: Sustained. It's speculation. That's not what
13 happened. She can't say what she would have done.

14 Q If no one else had --

15 THE COURT: No ma'am. I'm not going to allow it. Move it.
16 It's not relevant anyway.

17 Q Did you cooperate with the investigation?

18 A Yes.

19 Q Did you call the Julie Valentine Center?

20 A Yes, I did.

21 Q Did you cooperate with the police during this investigation?

22 A Yes.

23 Q Defense counsel asked you about contacting the Defendant for
24 money. Did you ever contact the Defendant for money?

25 A No.

1 Q Did you ever ask him for money?

2 A No.

3 Q Did you ever threaten him with anything in order to obtain
4 money from him?

5 A No.

6 Q Did you ever coach your daughters on anything to say?

7 ATTORNEY VARNER: Objection. Asked and answered previously.
8 And I didn't bring up any of this. It's not responsive.

9 THE COURT: That's sustained. It's asked and answered. You
10 asked her before.

11 Q Did you receive any money from the Defendant's mother's
12 probate case that defense counsel asked you about?

13 A No.

14 ATTORNEY VARNER: Objection, Your Honor. There's got to be
15 a foundation. She said she didn't know what the probate was or
16 anything.

17 ASS'T. SOLICITOR GASSER: And again, he asked her about
18 probate court, so I'm just asking if she received any money from
19 it.

20 THE COURT: Overruled.

21 ATTORNEY VARNER: I'll waive it.

22 THE COURT: I think she's answered the question, no, she
23 didn't get any money.

24 A No, I did not.

25 Q When you were a child did you tell anyone other than your

1 mother about the incident where his hand slipped on your back?

2 A No.

3 ASS'T. SOLICITOR GASSER: I have no further questions, Your
4 Honor.

5 THE COURT: Mr. Varner, any additional questions?

6 ATTORNEY VARNER: Yes, ma'am.

7 **RECROSS-EXAMINATION**

8 BY ATTORNEY VARNER:

9 Q You didn't get any money from probate. Then the report's
10 made. That's the timing, isn't it?

11 A I'm not sure when the probate or anything was going on with
12 him.

13 Q And you said you cooperated with law enforcement. That
14 means you took the children to Julie Valentine for their
15 interview?

16 A Yes, I did.

17 Q What other cooperation did you do?

18 A That was all I was asked to do.

19 Q All right. So you never met with Investigator Epting who
20 was heading it up, never gave a statement, never did any of that
21 stuff, did you?

22 A I met with the law enforcement at the Julie Valentine
23 Center, but I never wrote anything.

24 Q So, in other words, you took the children to Julie
25 Valentine, but there were an officer there, he took them into the

1 counselor. That was the contact, right?

2 A Yes. A note was written by my daughter that was given to
3 law enforcement.

4 Q And for that first appointment, you forgot about it and
5 didn't show up for the first appointment. That was your
6 cooperation, wasn't it?

7 A We were just -- we had to reschedule.

8 Q You were what?

9 A We had to reschedule.

10 Q Why did you have to reschedule? Didn't you say when you
11 went in we forgot?

12 A I don't remember, sir.

13 Q Do you really believe that that was so important you didn't
14 make it to the appointment, it had to be rescheduled?

15 A I'm not sure if it was work or what it was, or maybe the
16 girls had school but, yes, it was rescheduled.

17 Q And your statement to the solicitor was Because I couldn't
18 afford a babysitter, I put my children with somebody who I knew
19 was a child molester. You sold your children for a few pieces of
20 gold?

21 A That's not true.

22 Q When is the birthday of your youngest child?

23 A [REDACTED]/15.

24 Q So [REDACTED] of '15. And your testimony previously was
25 he did not see them about a year before that, so September of

1 2014 would have been the last time he saw those children,
2 correct?

3 A I don't know the exact month.

4 Q Well, give or take, that's what you said, isn't it?

5 A Yes.

6 Q And if your daughter was born in 2011 she would be three
7 years, possibly, if it was after September -- or excuse me, after
8 February. No, that would be three years. This was before she
9 was even four years old for your youngest child, correct?

10 A Yes.

11 Q And for your oldest child, five years old, assuming it was
12 after September?

13 A Yes.

14 Q [REDACTED] so four or five?

15 A She would have been four or five. Yes.

16 Q And you brought up you were sexually abused also. You're
17 not talking about Philip. You were sexually abused by another
18 person?

19 A Yes.

20 Q And I don't want a name or anything, but was that somebody
21 your mother was previously married to?

22 A No.

23 Q Did it happen while you were in your mother's care?

24 A I was not with her then.

25 Q What?

1 A I was not with her then.

2 Q Were you still a child?

3 A Yes.

4 Q Who were you living with?

5 A I lived with my mother, I did, but it did not happen at my
6 mother's home.

7 Q Did you tell your mother about it?

8 A I did not.

9 Q You know what the Department of Social Services is, don't
10 you?

11 A Yes, I do.

12 Q And if your child alleges they had been molested, isn't it
13 incumbent upon a mother to report that to DSS and let them
14 properly investigate it?

15 ASS'T. SOLICITOR GASSER: Objection, Your Honor. I'm going
16 to ask that -- this is not the proper witness to answer that
17 question.

18 THE COURT: Mr. Varner, why is this relevant to what we're
19 doing here today, and doesn't it call for a legal conclusion?

20 ATTORNEY VARNER: All right. I'll rephrase it, Your Honor.

21 THE COURT: Rephrase it. Otherwise, I'm going to sustain
22 it.

23 Q You never made any report ever to any state agency
24 whatsoever?

25 A I worked with several state agencies to get my daughters

1 help.

2 Q My question was you never reported this abuse to anybody,
3 with any state agency or the police?

4 A It was reported. Yes.

5 Q I didn't ask you if it was reported; I asked did you report
6 it.

7 A My mother took to it law enforcement. I did not.

8 Q So for seven years you didn't check to see if your children
9 could be evaluated or investigated, for seven years? That's
10 correct, isn't it?

11 A No, it is not.

12 Q Well, from 2014 to June of 2021 is how many years?

13 A Like you said, seven.

14 ATTORNEY VARNER: That's all the questions I have.

15 THE COURT: Any additional questions, or may this witness
16 step down?

17 ASS'T. SOLICITOR GASSER: Your Honor, just very briefly
18 since he -- I do ask for leeway regarding the last question.

19 THE COURT: Limited to what he questioned.

20 ASS'T. SOLICITOR GASSER: Yes.

21 **REDIRECT EXAMINATION**

22 BY ASS'T. SOLICITOR GASSER:

23 Q Defense counsel just asked you, said that you never reported
24 to any state agency. Did you ever report or work with state
25 agencies regarding these allegations?

1 A Yes, I did.

2 Q Did you have any substantive evidence or your children
3 telling that you something happened back in 2014?

4 A I did not then, no.

5 Q So did you go to law enforcement in 2014 with any
6 substantive evidence?

7 A I did not.

8 Q Did you go to law enforcement in 2014 with any specific
9 allegations?

10 A I did not.

11 Q Did you know any specific allegations were substantive
12 evidence in order to go forward in 2014?

13 A I did not.

14 ASS'T. SOLICITOR GASSER: No further questions.

15 ATTORNEY VARNER: Limited to that.

16 **RECROSS-EXAMINATION**

17 BY ATTORNEY VARNER:

18 Q Did anybody do a forensic interview, like at the Julie
19 Valentine Center, to discover the truth in 2014 for any alleged
20 suspicions?

21 A No.

22 ATTORNEY VARNER: That's all the questions I have.

23 THE COURT: All right, ma'am. You may step down. Let me
24 see counsel briefly at the bench, please.

25 (WHEREUPON, an off-the-record discussion is held at

1 sidebar.)

2 THE COURT: All right, you all. We're going to break for
3 lunch so that I can take up an issue. It's 12:00. You're
4 probably hungry anyway. I know I am, but nevertheless it sounds
5 like we're going to be having a working lunch. Still, it is
6 about 12:00, almost 12:00. I'm leaning towards coming back at
7 1:30. Is that going to give you all enough time to eat once we
8 take up this legal issue? That gives you all enough time to be
9 able to get somewhere, take a good break, at least have an hour
10 lunch, and then come back. So let's break until 1:30. And Ron
11 will give some instruction. All right.

12 (WHEREUPON, jury exits at 11:53 a.m.)

13 MATTER(S) OF LAW

14 THE COURT: All right, Ms. Gasser. I'm happy to hear from
15 you.

16 ASS'T. SOLICITOR GASSER: Yes, Your Honor. I do believe
17 that, again, for appeal purposes that we do have to have this
18 record be clean, and that defense counsel make a knowing and
19 voluntary waiver on the record after advising his client of the
20 issues with *Crawford v. Washington*. Of course there were
21 statements made in the opening statement promising jurors that
22 they would hear certain information, specifically that the
23 bodyworn camera footage of the grandmother, Sherry Zeabold, whose
24 statement was given to police. Again, typically that is
25 considered hearsay evidence under the rules of South Carolina.

1 The State was not planning on introducing that evidence because
2 we have to present our witnesses to testify in person, as is
3 appropriate under the rules of court.

4 However, defense counsel, like I said, has also stated -- I
5 tried to withhold objections out of, again, fairness and judicial
6 economy with the opening. And it did get a bit extreme.

7 Multiple pieces of evidence were promised that are in direct
8 violation of *Crawford v. Washington*, and so the State is asking
9 that, for appeals purposes, that the record be incredibly clear
10 that this is a defense theory and tactic that they are waiving
11 *Crawford v. Washington*, which is all the potential hearsay
12 statements, both of law enforcement and of the witnesses, as to
13 any videos that he mentioned in his opening statement.

14 THE COURT: All right. Mr. Varner.

15 ATTORNEY VARNER: For the record, I will waive those. I
16 talked with my client. We want that in. It's the State's choice
17 whether they put it in or not, and it will be our choice whether
18 we put it in or not. It's a fair statement for the jury, the
19 evidence or lack of evidence. And we'll waive it very clearly on
20 the record. That's our decision, with my client's consent.

21 THE COURT: All right. The concern would be is that -- and
22 I just want to make sure that Mr. Steele understands -- that
23 under the rules of evidence there are certain statements that
24 cannot come into this courtroom if your attorney does not have
25 the ability to cross-examine that witness as to that hearsay

1 statement.

2 And Mr. Varner is indicating on the record that you all are
3 waiving any objections under that standard, and allowing these
4 statements to come in even though ordinarily the State would be
5 prohibited from introducing those statements into evidence.
6 That's correct, Mr. Varner?

7 ATTORNEY VARNER: That is correct. So that you understand,
8 your wife, Sherry, came in. We watched the video. We have the
9 right to object. That can't be used, or certain portions of it.
10 We're giving up that right. Do you want the jury to hear what
11 your wife said?

12 THE DEFENDANT: Yes. Yes, Your Honor.

13 THE COURT: Mr. Steele acknowledged on the record, he spoke
14 Mr. Varner about this, he is waiving any objection under *Crawford*
15 as to those statements. All right.

16 But whether you put them in or not, Ms. Gasser, is
17 completely up to you.

18 ASS'T. SOLICITOR GASSER: Yes, Your Honor.

19 THE COURT: And, Mr. Varner, if she chooses not to I'm not
20 going to let you, in closing, say that they withheld evidence.

21 ASS'T. SOLICITOR GASSER: And that was my next step, Your
22 Honor. I would ask that in the event --

23 THE COURT: That's her concern.

24 ASS'T. SOLICITOR GASSER: Essentially it's a Catch-22, and
25 unfortunately I was aware that this would probably happen. But

1 in all fairness to the Court, I would just like to ask that when
2 it comes to closing statements, if there are statements that I
3 choose not to place in evidence, that either the State be
4 permitted to explain that the rules of evidence prohibit me from
5 doing certain things and that was unfair of the defense to make
6 that argument or, again, that be prohibiting from making a claim
7 that the State is hiding something. Because, again, the rules
8 prohibit me from introducing that.

9 ATTORNEY VARNER: I waive it.

10 THE COURT: But his argument is the rules do not prohibit
11 you if he waives any objection. He wants it in.

12 ASS'T. SOLICITOR GASSER: Under *Crawford*, yes, as to
13 grandmother's statement. But as to the Defendant's statement, I
14 am asking because I am, at this time, again, not intending to put
15 it in as of this time. That may always change but --

16 ATTORNEY VARNER: Are you talking about his statement?

17 ASS'T. SOLICITOR GASSER: Yes.

18 THE COURT: Mr. Varner may put it in. He can put it in.

19 ASS'T. SOLICITOR GASSER: And that's fine. I just am
20 anticipating the writing on the wall that he is going to try and
21 say that the State is hiding evidence. And, of course, when it
22 comes to Defendant's statement, the State cannot say, you know,
23 you didn't -- I'm not allowed to comment on the Defendant's
24 silence so I do ask that, in return, he not be allowed to comment
25 on the State's theory of not putting the Defendant's statement

1 in.

2 THE COURT: We'll get to that when we get there.

3 ASS'T. SOLICITOR GASSER: Okay.

4 THE COURT: We'll see what happens.

5 ATTORNEY VARNER: So that we are clear, they're in a
6 Catch-22. I mean, welcome come to the rodeo, Calamity Jane.
7 They've got the burden of proof. And, you know, did I set it up
8 to a certain extent going This is all the evidence? Yes, I fully
9 intend to comment on things they willfully withheld, but why
10 didn't you see it? It's there. Why didn't you see it?

11 THE COURT: Guys, we're not going to get into what closing
12 arguments are going to be at this point in time, but we will
13 address any objections before we get started.

14 But nevertheless, where we are at this point is he's waiving
15 any objection under *Crawford*. That statement, that reporting,
16 can come in. He's saying I want it in; I'm not objecting at all
17 to any hearsay statements; I would like the jury to be able to
18 hear it.

19 ASS'T. SOLICITOR GASSER: And, Your Honor, I would just like
20 Your Honor to be aware in case -- I'm not sure if he has any
21 objection, but because, again, the State wasn't planning on
22 introducing that piece of evidence, I do have to have my witness
23 authenticate it, so she is going to be watching it and signing
24 her name to it because, again, I did not foresee him doing this
25 so I have to prepare that USB and she does have to watch that

1 interview and sign that. So I just wanted the Court to be aware
2 that I will be doing that with her over the lunch break.

3 ATTORNEY VARNER: Your Honor, I have no objection to ...

4 THE COURT: I guess what you're saying, you have no
5 objection to lack of foundation, not authentic. You've seen this
6 video. You want it to come in.

7 ATTORNEY VARNER: There again -- and I think it's a
8 20-minute video -- if she wants to let her -- what she did with
9 her witness is up to her, but I'm not going to object to anything
10 about the video --

11 THE COURT: Okay.

12 ATTORNEY VARNER: -- foundation or otherwise.

13 THE COURT: Well, she's indicated that because, under the
14 rules of evidence, and under *Crawford* ordinarily it would not be
15 admissible, and now that she is going to play it she wants her
16 witness to be able to see it because she hasn't had an
17 opportunity probably in quite some time.

18 All right. Let's break for lunch. We are going to start
19 promptly at 1:30.

20 ASS'T. SOLICITOR GASSER: Thank you, Your Honor.

21 THE COURT: All right.

22 (WHEREUPON, court recesses at 12:00 p.m. and reconvenes at
23 1:29 p.m., without the jury.)

24 THE COURT: Anything that we need to take up before I bring
25 my jury in?

1 ASS'T. SOLICITOR GASSER: No, Your Honor. I just was going
2 to go ahead and get these labeled for the next witness.

3 THE COURT: That would probably make Cathy very happy.

4 (WHEREUPON, State's Exhibits 2 and 3 are marked for
5 identification.)

6 ASS'T. SOLICITOR GASSER: And, Your Honor, just before the
7 jury does come out, I would just like to notate for the record
8 that I did create redactions as to the bodyworn camera footage of
9 the next witness we will be introducing into evidence only as to
10 Your Honor's pretrial motion ruling.

11 So there were -- there was one mention of jail, I took that
12 out. And then there was mention of the Chris person, and the sex
13 offender registry people, I took those out. And I do have those
14 timestamped if counsel needs that on the record.

15 THE COURT: Do you need those on the record, Mr. Varner? I
16 know that you wanted the latter one in but I denied your request.

17 ATTORNEY VARNER: I would like to make a proffer on it as to
18 both of them.

19 THE COURT: All right. She stated yesterday, but I can have
20 her state it again, it's a short snippet in both of those. But
21 if you would like her to put the timestamp, and we can even put
22 the full video in not for the jury, but for appeal purposes --

23 ASS'T. SOLICITOR GASSER: Sure.

24 THE COURT: -- if you would like.

25 ASS'T. SOLICITOR GASSER: I do have a copy that we can place

1 into evidence that is a full, unredacted copy.

2 THE COURT: So then let's make that a Court's Exhibit No. 4
3 that would go for appeal purposes only.

4 (WHEREUPON, Court's Exhibit 4 is marked for identification.)

5 ATTORNEY VARNER: I would like to renew my previous motion.
6 Again, it was arguing, but I'm making a record. But the
7 grandmother herself in the interview refers to "I was living with
8 a convicted sex offender," they're going to think that has
9 something to do with this. She brought that out, and I think
10 that's ripe for cross-examination, Your Honor.

11 ASS'T. SOLICITOR GASSER: And again, I have not brought that
12 out from any witness.

13 ATTORNEY VARNER: I'm talking about it's not on the redacted
14 video. It's on the unredacted video.

15 ASS'T. SOLICITOR GASSER: And I'm not placing the unredacted
16 video in evidence, nor would I seek that based on the previous
17 rulings.

18 THE COURT: Mr. Varner is stating, though, that based on our
19 conversation before the break, the lunch break, that he waived
20 any objection to the grandmother's, I'm just going to call it,
21 the video. I guess it's a bodycam video of her make the
22 statement. And during that statement, Mr. Varner is indicating
23 that she states I was or am living with a convicted sex offender.

24 ASS'T. SOLICITOR GASSER: And again, per the State's
25 arguments in pretrial motions, it doesn't change the fact that

1 that was held to be kept out just because they want the statement
2 put in, because essentially it's the same thing as her taking the
3 stand, which was the whole issue with *Crawford v. Washington*, is
4 that typically we're not permitted to play a witness's statement,
5 we have to have them take the stand and be subject to
6 cross-examination, which is fine, but that's I made the motion in
7 limine, in order to curtail that under relevancy and under all
8 the other holdings and rulings that were had in pretrial.

9 So this introduction of this video does not change that;
10 it's just being redacted in accordance with the rulings of the
11 Court.

12 THE COURT: That's my question. Was it redacted?

13 ASS'T. SOLICITOR GASSER: Yes.

14 THE COURT: Mr. Varner, I haven't changed my ruling. I'm
15 not going to let you go into that. That's third-party guilt, and
16 you haven't laid a proper foundation under the case law.

17 ATTORNEY VARNER: I understand.

18 ASS'T. SOLICITOR GASSER: This is just the one unredacted
19 for appeals purposes, but I have an unredacted one that I will
20 lay the foundation for.

21 THE COURT: Anything else we need to take up before the jury
22 comes in?

23 ASS'T. SOLICITOR GASSER: Nothing from the State, Your
24 Honor.

25 THE COURT: Mr. Varner, anything from defense?

1 ATTORNEY VARNER: I'm sorry, Your Honor?

2 THE COURT: Apart from bringing our jury in, anything you
3 want to put on the record in addition?

4 ATTORNEY VARNER: Nothing further, Your Honor. No.

5 THE COURT: All right, Ron, I'm ready for them.

6 (WHEREUPON, an off-the-record discussion is held at
7 sidebar.)

8 (WHEREUPON, jury enters at 1:37 p.m.)

9 THE COURT: All right, ladies and gentlemen. We will come
10 back. I hope you all had a very nice lunch. And we are ready
11 for the State to call their next witness.

12 ASS'T. SOLICITOR GASSER: May it please the Court, Your
13 Honor.

14 THE COURT: Yes, ma'am.

15 ASS'T. SOLICITOR GASSER: The State calls Sherry Zeabold.

16 SHERRY GILBERT ZEABOLD,
17 having first been duly sworn, is examined and testifies as
18 follows:

19 CLERK OF COURT: And state your name for the record.

20 THE WITNESS: Sherry Zeabold.

21 **DIRECT EXAMINATION**

22 BY ASS'T. SOLICITOR GASSER:

23 Q Good afternoon, Ms. Zeabold. Can you please tell the jury
24 how old you are.

25 A Fifty-six.

- 1 Q And where are you from originally?
- 2 A Greenville.
- 3 Q And have you lived here your whole life?
- 4 A Yes.
- 5 Q I want to talk a little bit about your family. Have you
- 6 been married?
- 7 A Yes.
- 8 Q And how many times have you been married?
- 9 A Uh, four.
- 10 Q And do you have any children?
- 11 A Yes.
- 12 Q How many children do you have?
- 13 A Two.
- 14 Q And what are their names?
- 15 A Michael and Alicia.
- 16 Q And how old is Alicia?
- 17 A Thirty-six.
- 18 Q And does Alicia have any children?
- 19 A Yes, she does.
- 20 Q Do you have any grandchildren?
- 21 A Yes, I do.
- 22 Q How many grandchildren do you have?
- 23 A I have three.
- 24 Q And what are their names?
- 25 A MINOR 1, MINOR 2 and SISTER

1 Q And how old is MINOR 1 now?

2 A She's 15.

3 Q And how old is MINOR 2?

4 A Fourteen.

5 Q And how old's SISTER?

6 A Nine.

7 Q And, Ms. Zeabold, how are you feeling today?

8 A I've been better.

9 Q I want to tell the jury just a little bit about yourself.
10 Can you tell them, what kind of work have you done in the past?

11 A I was a Realtor.

12 Q And have you had multiple jobs?

13 A Yes.

14 Q And do you work right now?

15 A No.

16 Q Are you married right now?

17 A Yes.

18 Q And what's your husband's first name?

19 A Steve.

20 Q And when did you marry Steve?

21 A December the 31st of 2023.

22 Q And what do you do now that you're not working?

23 A I help take care of the girls.

24 Q And when you say the girls, who are you talking about?

25 A My grandbaby -- my granddaughters, MINOR 1, MINOR 2, and

1 SISTER .

2 Q Now I want to get into -- you said that you've been married
3 four times. So who were you married to before Steve?

4 A Scott Steele.

5 Q And do you know Scott Steele's first name?

6 A Philip.

7 Q And how long were you married to Philip Scott Steele?

8 A Legally, 20 years.

9 Q Did you all live together the entire 20 years?

10 A No.

11 Q And do you see the person that you were married to named
12 Philip Scott Steele in the courtroom today?

13 A Yes, ma'am.

14 Q Can you please point him out for the jury?

15 A (Responds.)

16 Q And what is he wearing?

17 A Blue.

18 ASS'T. SOLICITOR GASSER: Let the record reflect that the
19 witness has identified the Defendant, Philip Scott Steele, as the
20 man she was married to for 20 years.

21 THE COURT: The record will so reflect.

22 Q So Sherry, I want to take you back. You stated that you
23 were married for 20 years but you didn't live together that
24 entire time. How many years were you all actually living
25 together?

1 A Uhm, 11, 12, something like that.

2 Q And since you're remarried, were you ever granted a divorce?

3 A Yes.

4 Q What year did you get your divorce granted?

5 A I believe it was '22.

6 Q And is Alicia, your daughter, is she the biological child
7 with Philip Scott Steele?

8 A No.

9 Q Was Alicia your child before your relationship with
10 Mr. Steele?

11 A Yes.

12 Q And how old was she when you started your relationship with
13 Mr. Steele?

14 A I think she was six.

15 Q And when did you marry Mr. Steele?

16 A 1999.

17 Q All right. Now, back in 2014, 2015, 2016 were you all
18 living together during those years?

19 A No, ma'am.

20 Q Where were you living those years?

21 A My home.

22 Q And what is your address of your home at that time?

23 A Rotterdam Road in Easley.

24 Q And did you know where he was living at that time?

25 A Yes.

1 Q Did you know the address?

2 A Yes.

3 Q What was the address?

4 A [REDACTED] Grove Road.

5 Q And is that in Greenville County?

6 A Yes.

7 Q Now, during this period, would you call this that you all
8 were separated?

9 A Yes, ma'am.

10 Q And just generally, how was you all's relationship when you
11 all were separated?

12 A Cordial.

13 Q Did you all work together?

14 A Some.

15 Q And during that time were you ever aware of whether or not
16 he would babysit MINOR 1 and MINOR 2?

17 A He did.

18 Q And why wouldn't you babysit them during those times?

19 A I worked.

20 Q And what were you doing at the time?

21 A I was selling real estate.

22 Q Now, at night, if you were selling real estate but they were
23 being watched at night, why couldn't you watch them at those
24 times?

25 A They were already with him. Uhm, I don't know.

1 Q Now, would he watch them at your house or would he watch
2 them at his house?

3 A His house.

4 Q Is that the [REDACTED] Grove Road you previously testified to?

5 A Yes.

6 Q Did you know whether or not anyone lived with him at [REDACTED]
7 Grove Road?

8 A His mother and stepfather lived on the A side of [REDACTED] Grove
9 Road.

10 Q So let's talk about that. What do you mean by A side?

11 A It's a duplex, and he lived on B side, and his mom lived on
12 the A side. They owned the whole house.

13 Q Did you ever live at that residence with him?

14 A No.

15 Q Did Alicia and [REDACTED] MINOR 1 and [REDACTED] MINOR 2 live with him at that
16 residence --

17 A No.

18 Q -- to your knowledge? Was there a time period where he
19 stopped babysitting the girls?

20 A Yes.

21 Q And what was your understanding of why he stopped
22 babysitting the girls at that time?

23 A Because my daughter had told me that he -- I wasn't sure
24 whether he had kissed, or slapped them on their rear end, is what
25 I was led to believe. And I wasn't -- I don't know, that's all I

1 heard.

2 Q So after your daughter came to you with a concern of hers
3 did you continue to have contact with him?

4 A A little. Yes.

5 Q And why would you continue to have contact with him?

6 A Well, I don't really know. I didn't know the depth of what
7 went on.

8 Q Were you given any specific allegations of sexual abuse at
9 that time?

10 A No.

11 Q And how far back would you say -- we're in 2025. Do you
12 remember the year approximately of when the contact between the
13 girls and the Defendant stopped?

14 A Probably 2013, '12, '13, '14, '15. It was around 2015.

15 Q Okay. So back around 2015 he stopped having contact with
16 them.

17 ATTORNEY VARNER: Objection. She's leading.

18 ASS'T. SOLICITOR GASSER: And again, Your Honor, I'm setting
19 it up. She just testified to it. I'm just about to ask the
20 question.

21 THE COURT: Sustained. It is leading.

22 Q Were you given any evidence of sexual abuse as to your
23 granddaughters, specific evidence, back in 2015?

24 A No.

25 Q Did your granddaughters specifically tell you that they were

1 sexually abused in any way --

2 A No.

3 Q -- back in 2015?

4 A They never said a word to me.

5 Q Did you go to the police with this smacking on the rear-end,
6 or kissing of the rear-end --

7 A No.

8 Q -- information that you had?

9 A (Nods head.)

10 Q Why not?

11 A I don't know. There's a lot of people who get in trouble
12 over things that -- I don't know, it's just -- I didn't realize
13 the depth of what happened. So if I had known the depth, then
14 absolutely that meant I would have went where I went finally.

15 Q And when you say you didn't know is it because you weren't
16 given any information?

17 A Yeah. I didn't know exactly.

18 Q Now I want to bring you to 2021. Did you go to law
19 enforcement in June of 2021 with information regarding this case?

20 A Yes, ma'am.

21 Q And did you speak with an officer at the law enforcement
22 center?

23 A Yes.

24 Q And prior to your testimony today were you able to review
25 the video of your interaction with that officer?

1 A Yes, ma'am.

2 Q I'm handing you what has been marked for identification
3 purposes as State's Exhibit No. 3. Do you recognize that?

4 A Yes, ma'am.

5 Q What is it?

6 A It's a USB with a video of me speaking with law enforcement
7 on that date.

8 Q And is it a fair and accurate depiction of your conversation
9 with the officer back in June of 2021?

10 A Yes, ma'am.

11 Q And other than in compliance with the rules of evidence, has
12 it been changed or altered in any way?

13 A No.

14 ASS'T. SOLICITOR GASSER: Your Honor, at this time the State
15 moves to enter State's Exhibit No. 3 into evidence.

16 ATTORNEY VARNER: No objection, Your Honor.

17 THE COURT: Without objection, it's so admitted.

18 (WHEREUPON, State's Exhibit 3 is admitted into the record.)

19 ASS'T. SOLICITOR GASSER: And permission to publish, Your
20 Honor.

21 THE COURT: Yes, ma'am. You tell me when you're ready since
22 I know you're accessing your laptop.

23 ASS'T. SOLICITOR GASSER: Yes, Your Honor.

24 (WHEREUPON, State's Exhibit No. 3 is published to the jury.)

25 Q So Sherry, I want to ask you a couple of questions about the

1 video that you just watched. At the beginning did you state that
2 it was seven years ago, the smacking of the butt, or the kissing
3 of the batt incident in the bathtub?

4 A I don't think so. I'm not good with the time. It was a
5 rough time in my life.

6 Q Would hearing it again help refresh your recollection?

7 ATTORNEY VARNER: Objection. She's leading. And the video
8 speaks for itself. If she doesn't know what it said, she can't
9 pressure her into it.

10 THE COURT: So I'll sustain as leading, but she's allowed to
11 refresh her recollection. She said she can't remember what the
12 video said.

13 ATTORNEY VARNER: I looked at my notes. We'll stipulate she
14 said that at the beginning.

15 THE COURT: Okay. All right.

16 ASS'T. SOLICITOR GASSER: So the stipulation being that she
17 said it was seven years ago?

18 THE COURT: Yes, ma'am.

19 Q And later in the video were you asked the date of what seven
20 years before that happened?

21 A I'm sorry. I don't understand.

22 Q Did the officer ask you for a date of what seven years
23 before that happened, what date that would be around?

24 A No.

25 Q Do you recall the officer asking you and you responding

1 about March 2012 or 2013?

2 A Oh, when we split up?

3 Q Okay.

4 A Yes. Yes.

5 Q So is that what you were referring to when you said
6 March 2012 or 2013?

7 ATTORNEY VARNER: Objection. It's leading, Your Honor.
8 Question's been asked and answered also.

9 THE COURT: Overruled. It looks like the witness is having
10 a little difficulty understanding what she's asking.

11 A I'm not. Yes. I'm sorry.

12 THE COURT: She still doesn't understand the question. Can
13 you rephrase?

14 ASS'T. SOLICITOR GASSER: Yes.

15 Q And I'm going to ask you to do a little math here. What is
16 seven years before 2021 when you gave this interview, what year?

17 A 2014.

18 Q What year?

19 A It would be 2014.

20 Q And so when you said March 2012 to 2013 what were you
21 referring to?

22 A That is when we split up.

23 Q Okay. So you weren't referring to when the butt incident
24 happened?

25 ATTORNEY VARNER: Objection. Leading.

1 THE COURT: That's leading.

2 ASS'T. SOLICITOR GASSER: And I'll rephrase.

3 THE COURT: I'm going to sustain it.

4 A Yeah, that's when it was. It was years before we actually
5 knew what was going on.

6 THE COURT: Ma'am, hold on a moment.

7 Ask the question so she can follow along as to what you're
8 trying to elicit.

9 ASS'T. SOLICITOR GASSER: Yes, Your Honor.

10 Q So seven years before 2021, what year is that?

11 A 2014.

12 Q Okay. I also want to ask you, in that video what did you
13 mean when you said that you confronted him a few weeks ago?

14 A About the first incident, because I didn't know -- no. It's
15 when MINOR 1 told her friend what went on. Then Alicia told me,
16 and I confronted him, and he denied, but I didn't know the depth
17 of what had happened at this point. We were still with the first
18 incident.

19 Q So I want to be very clear just timeline-wise. When we're
20 talking about 2014-2015, is that what you're referring to as the
21 first incident?

22 A Uh-huh.

23 Q And what incident is that again?

24 A Where the youngest one -- had slapped or kissed. I'm not
25 sure what happened because I was not there. That's secondhand

1 information through her sister.

2 Q And did you go to the police back in 2014-2015 when that
3 information got to you?

4 A No, I didn't.

5 Q And why did you not?

6 A It didn't seem -- they didn't say anymore. The girls were
7 questioned. They didn't say anymore about it. They just kind of
8 hushed up and didn't say anything.

9 Q So fast-forward to 2021 when you give this interview and you
10 state that you confronted him a few weeks ago, what are you
11 referring to? Confronted him about what?

12 A That MINOR 1 had said more stuff, that more stuff had
13 happened. And I didn't know what it was, but that was it. I
14 wasn't gonna put up with nothing else.

15 Q At that point a few weeks before were you given any specific
16 details?

17 A No.

18 Q Did MINOR 1 tell you anything specific as to anything?

19 A Not until June -- May 31st, May 30th of the year, of that
20 year that I did that video.

21 Q So when you went in on this date in June of 2021 --

22 A In June.

23 Q -- at that point had you been given specific information?
24 And without saying anyone said, had you been given specific
25 information to report?

1 A Oh, yes. Yes. I had the note.

2 Q And when you say the note, what note?

3 A The note that my grandbaby MINOR 1 wrote me because she
4 couldn't tell me.

5 Q Did you ask her questions?

6 A I asked her some. Not really. Just got the note, and she
7 didn't want to talk. I don't blame her.

8 Q Did you give that note to law enforcement?

9 A Yes, ma'am.

10 Q Would you recognize that note again if you were to see it?

11 A Oh, yes.

12 Q I'm handing you what's been premarked for identification
13 purposes as State's Exhibit No. 2. Do you recognize this
14 document?

15 A Yes, ma'am.

16 Q What is it?

17 A It's the note that MINOR 1 wrote me to tell me what had
18 happened to her.

19 Q Did you give this particular note to law enforcement?

20 A Yes, ma'am.

21 Q Is it a fair and accurate depiction of the note that your
22 granddaughter wrote you and that you turned over to law
23 enforcement?

24 A Yes, ma'am.

25 Q And other than being a photograph of it, has it been changed

1 or altered in any way?

2 A It hasn't been changed.

3 ASS'T. SOLICITOR GASSER: Your Honor, at this time the State
4 would move to enter State's Exhibit No. 2 into evidence.

5 ATTORNEY VARNER: Your Honor, objection. No foundation
6 laid. No. 2, whoever wrote that note -- I'm assuming the child
7 is going to testify -- she can ask her if she wrote the note.
8 But for her to authenticate or to put that in, I don't think it's
9 appropriate through this witness.

10 A I watched her write it.

11 THE COURT: That's all right. That's all right. I'm going
12 to sustain it because you're going to bring it in through the
13 person who wrote it.

14 ASS'T. SOLICITOR GASSER: Understood, Your Honor.

15 THE COURT: Thank you.

16 Q Now, Sherry, I'm handing you what had been premarked as
17 State's Exhibit No. 1. Do you recognize this?

18 A Yes.

19 Q And what is it?

20 A Probably one of the last times he was ever near the
21 children.

22 Q And when you say he, who are you referring to?

23 A Philip Steele.

24 Q And who is -- what is this?

25 A A picture of him and both girls.

1 Q And when you say both girls, who are they?

2 A MINOR 2 and MINOR 1

3 Q And have you been part of MINOR 2 and MINOR 1's life their
4 entire lives?

5 A Yes.

6 Q Did you see them grow up?

7 A Yes.

8 Q Did you see them at each age?

9 A Yes.

10 Q Were you familiar with what they looked like when they were
11 younger?

12 A Yes.

13 Q Further, were you familiar with what Philip Scott Steele
14 looked like when he was younger?

15 A Yeah.

16 Q Is that a fair and accurate depiction of one of the last
17 times that you previously testified to that the Defendant was
18 with MINOR 1 and MINOR 2?

19 A Yes, ma'am.

20 ASS'T. SOLICITOR GASSER: Your Honor, at this time the State
21 moves to enter State's Exhibit No. 1 into evidence.

22 ATTORNEY VARNER: No objection.

23 THE COURT: It will be so admitted.

24 (WHEREUPON, State's Exhibit 1 is admitted into the record.)

25 Q Sherry, continuing on this timeline, did you immediately go

1 to law enforcement when MINOR 1 wrote you this note?

2 A Yes.

3 Q So stated in your interview -- do you remember stating that

4 --

5 A Well, I had an appointment with my divorce attorney, and I
6 wanted to speak with him before to see what needed to be done
7 because I had this messy situation, and he directed me to go
8 directly over here to turn him in.

9 Q Okay. Why did you go see a divorce attorney before going to
10 law enforcement?

11 A The law's strange. I don't know much about it, so I wanted
12 to check to make sure to see what it was I needed do. I didn't
13 even know.

14 Q And is it your testimony -- or, did you state in that video
15 who you told about this allegation before you told law
16 enforcement?

17 A Yes.

18 Q And who did you tell?

19 A My divorce attorney. And my daughter knew I was going to
20 the law enforcement center.

21 Q In that video did you say that your divorce would have to be
22 on hold in order to take care of this?

23 A That's what he said. I went to pay him. I had already been
24 in, and I went to pay my money, and he would not take my money
25 until I went to deal with this first.

1 Q Okay. Who was your divorce attorney that you went to deal
2 with?

3 A At that time?

4 Q Yes.

5 A Are you sure you want me to say that?

6 Q Yes. Who was your divorce attorney?

7 A Kim Varner.

8 ATTORNEY VARNER: Objection. Your Honor, I represented him,
9 not her.

10 THE COURT: Nevertheless, that's her testimony, so at this
11 point it's overruled, and we'll take it up on a break.

12 Q Sherry, you also stated in that video that the Defendant
13 sent you threatening messages.

14 A Yes.

15 Q How did those make you feel?

16 A Sad. Matter of fact, hurt. The last letter that he sent me
17 was just a few weeks ago and --

18 Q Sherry, I don't want to talk about what anyone said, just
19 how it made you feel.

20 A Awful.

21 Q Additionally, Sherry, in that video you seem to be chuckling
22 or you seem kind of light-hearted. Can you explain to the jury
23 why you seem light-hearted in that video?

24 A I'm a naturally happy person, and it just comes out. I
25 don't mean anything by it. Nervous laughter.

1 Q Do you take this situation lightly?

2 A No, ma'am.

3 Q And after going to law enforcement did you comply and
4 cooperate with this investigation?

5 A Yes, ma'am.

6 ASS'T. SOLICITOR GASSER: At this time, no further
7 questions, Your Honor.

8 ATTORNEY VARNER: Your Honor, may we take a break?

9 THE COURT: We can take a break. All right. Ladies and
10 gentlemen, it looks like I'm going to have to ask you all just to
11 step out, get a drink of water, and use the restroom. This
12 should just take a couple minutes at this point to sort of
13 address this issue with the attorneys. All right. So we'll just
14 take a quick break. I just remind you not to begin your
15 deliberations or talk about the case. All right. Thank you.
16 I'll have you all step out for just a few minutes.

17 (WHEREUPON, Jury exits at 2:20 p.m.)

18 THE COURT: We will be at ease for a moment.

19 (WHEREUPON, court recesses at 2:20 p.m. and reconvenes at
20 2:24, without the jury.)

21 (WHEREUPON, an off-the-record discussion is held at
22 sidebar.)

23 MATTER(S) OF LAW

24 THE COURT: So Mr. Steele, while you were in the restroom we
25 were not on the record at that point. We just pulled up the

1 public index to show which attorney represented you and which
2 attorney represented her at the time that this was all happening,
3 and it does show there is an attorney of record that's not
4 Mr. Varner.

5 But nevertheless, what we're discussing is is that her
6 position is that at the time that the video was made and this
7 report was made to law enforcement she had been consulting with
8 Mr. Varner, and that that is the attorney she's referencing in
9 the video. And so that's what you missed while you were in the
10 restroom, because I want you to know so you all can talk about
11 what now occurs.

12 I know your parallel went to go get your file so that you
13 could take a look at it.

14 ATTORNEY VARNER: Sure. What's the date of the filing?

15 THE COURT: Emily, can you pull that back up for me. March
16 1st, 2022. That's what shows on SCCMS.

17 ATTORNEY VARNER: So Mr. James filed that in 2022?

18 THE COURT: I only have access to what's on SCCMS, and I
19 don't know how far back that goes.

20 ATTORNEY VARNER: I understand. I understand.

21 THE COURT: All right. Assuming that your file shows
22 nothing and it shows that you just represented Mr. Steele,
23 meaning if it was like my law office, I kept a conflict check
24 that I would run if someone came in to consult with me, right.
25 And so I never put my conflict check inside the file --

1 ATTORNEY VARNER: No.

2 THE COURT: -- but let's just assume, for argument's sake,
3 that you did represent Mr. Steele but at some point you consulted
4 with her. That's what she's going to say.

5 So let's talk about Ms. Gasser saying she'll clear it up,
6 she'll ask, she'll ask the witness Did you actually hire
7 Mr. Varner? Did he actually represent you in your divorce?
8 Which I'm now assuming she's going to say no, I consulted with
9 him, but that is the lawyer I was talking to when I made this
10 report to law enforcement.

11 Are you okay with that?

12 ATTORNEY VARNER: No.

13 THE COURT: Okay. What do you propose?

14 ATTORNEY VARNER: Okay. First, if the pleadings were done
15 in 2022, I mean, I'm not saying she didn't come by my office, but
16 we would not have talked to her. And I will tell you this. I
17 have a standard fee. I charge 250 bucks to sit down and talk to
18 anybody. She said she didn't pay me. I mean, she might have
19 shown up at the door to pay, said something to me but, no, I
20 never met with her, I never charged her.

21 And in 2022, if the pleadings had been filed, if I had known
22 that, I couldn't have even talked to her other than telling her I
23 can't help you, ma'am.

24 ASS'T. SOLICITOR GASSER: And this interview was in June of
25 2021.

1 ATTORNEY VARNER: What now?

2 THE COURT: It was a year ago, a year prior to that filing.

3 ASS'T. SOLICITOR GASSER: The interview was in June of 2021.

4 THE COURT: So it was filed in '22.

5 ATTORNEY VARNER: That's true. That's true.

6 THE COURT: So let's just talk about how we go -- I mean,
7 Ms. Gasser can clear up and say it was a consult, and then you
8 can cross-examine her.

9 ATTORNEY VARNER: Oh, I don't want to do that in front of
10 the jury. Why don't we go ahead and do it now, because she may
11 get it cleared up, I don't know. I mean, I don't know what
12 happened there.

13 THE COURT: Are you wanting to do a proffer outside the
14 presence of the jury while we're taking a quick break --

15 ATTORNEY VARNER: Sure.

16 THE COURT: -- and question her about it?

17 ATTORNEY VARNER: Sure.

18 THE COURT: Ms. Gasser, do you have any problem with him
19 just questioning her about it?

20 ASS'T. SOLICITOR GASSER: No, Your Honor.

21 THE COURT: Yes, ma'am. You remain under oath. Okay.

22 **PROFFER EXAMINATION**

23 (without the jury)

24 BY ATTORNEY VARNER:

25 Q All right, ma'am. You said you consulted with me?

1 A Sure did.

2 Q And when was that?

3 A Probably a couple weeks before June the 2nd. And that was
4 the first time I spoke with you. And then on June the 2nd I went
5 back in to pay you, and I told you about him, and you told me to
6 come over here and turn him in immediately, that I couldn't do
7 the divorce. And you didn't take my money.

8 But then as things went on I noticed that he got you as an
9 attorney, but you were at first my present husband's attorney.
10 That's how I know you. Plus you were my mama's attorney a couple
11 of times.

12 Q Okay. I don't dispute I represented the guy you're now
13 married to in his divorce. I don't know about your -- what was
14 your mother's name?

15 A Cheryl Carver. We talked about it in the interview. When I
16 met with you, we talked about it, and you don't remember her, but
17 yeah.

18 Q Okay. Are you saying you actually came into my office, or
19 you were at the front door, or what?

20 A Twice. I did come to your office.

21 Q Okay. And do you know the approximate dates?

22 A I know I came in on June the 2nd because I was trying to
23 write a check, and I remember -- and I had it at my house, and
24 I've seen it since then. It said June the 2nd. And I had a
25 card, but I don't know what I've done with it, that your lady had

1 wrote me. But anyway.

2 Q And you're saying I turned down money?

3 A Unbelievable but, yes, sir, you did, because --

4 Q That is unbelievable.

5 A Yeah. Because I figured you figured you'd get his criminal
6 case, so, because he's been in the courtroom with you before.

7 Q He has?

8 A Yes. At my first -- at my husband's, that I had my present
9 husband at his divorce, yeah, Scott was there. He and I both
10 went.

11 Q For -- what was it? Who was he, who was this person?

12 A My husband now.

13 Q Oh, Steve Zeabold? Oh, he came to that hearing.

14 A Yeah, he came as a witness.

15 Q Okay. Yes, I do remember that. And would you describe my
16 office for me?

17 A It's large. It's hard to get into.

18 Q What's hard to get into?

19 A Well, when you go in, there's something on this side, and
20 then you go to this side and then there's a stair up this way,
21 and they had led me in this way and over and into your office.

22 Q Okay. Did you go up the stairs to get to my office? Main
23 floor?

24 A Done what now?

25 Q What?

1 A I didn't understand what you said.

2 Q Were you on the main floor?

3 A Yes.

4 Q In regard to my office, am I the front of the building, the
5 back of the building, left or right?

6 A Kind of in the back over this way. When I came in, I went
7 this way.

8 Q Okay.

9 ATTORNEY VARNER: All right. Can I call my secretary and
10 tell her to bring the calendar?

11 THE COURT: Sure.

12 ATTORNEY VARNER: Because I want to get it resolved, too.

13 A If she wrote me down, I'm there. I got no reason to lie.

14 Q How long would you say you talked to here?

15 A Fifteen, 20 minutes. I'll take a lie detector test on this,
16 because I sat there and talked to you.

17 Q For 15 and 20 minutes what were you talking to me about?

18 A My divorce and explaining to you what had happened with him.
19 And when I told you that -- and I didn't even know the in-depth
20 of what it is -- you said You need to go right across the street
21 right now and turn him in. Your exact words.

22 Q Well, I agree that part sounds believable, because if
23 somebody came in and said a child had been molested I would have
24 told them that. What I have a problem with is I talked about a
25 divorce in 15 minutes.

1 THE COURT: No. But I think that the reason it's being
2 offered is because of what you stated in your opening statement.

3 (WHEREUPON, Attorney Varner takes a telephone call.)

4 THE COURT: You want to go step out and talk with her and
5 check it so I can bring my jury back in? Because you'll believe
6 her if it's on there.

7 ATTORNEY VARNER: Well, I will at that stage.

8 THE COURT: I mean, I'm saying you could ask her just to
9 look and see if her name is on there as a consult.

10 THE WITNESS: I'd have been Sherry Steele at that time.

11 ATTORNEY VARNER: Sherry Steele, okay.

12 THE COURT: See if it's on there as opposed to us waiting
13 for her to come down.

14 All right, Cathy. Let's go off the record while he calls
15 her.

16 (WHEREUPON, an off-the-record discussion is held at
17 sidebar.)

18 THE COURT: So the question just becomes, where we were at
19 is, Ms. Gasser could clear this up and say, clarify, that it was
20 a consultation but not a hiring.

21 And then do you want to just cross-examine her? Do you want
22 me to -- how do you want to handle it? Because you could show
23 her -- you could -- first just let me ask how you want to handle
24 it.

25 ATTORNEY VARNER: I guess let me cross-examine her.

1 THE COURT: Okay.

2 ATTORNEY VARNER: Because any lawyer would have told her if
3 there's an accusation, go to the police.

4 THE COURT: All right. Can I bring my jury back in even
5 though -- she can clear this up --

6 ATTORNEY VARNER: Sure.

7 THE COURT: -- you can start your cross, and then if you
8 needed your calendar we could take another break? Okay. Let's
9 bring our jury back in.

10 (WHEREUPON, jury enters at 2:39 p.m.)

11 THE COURT: All right. I have our jury back. Thank you all
12 for taking a quick little break for us. Yes, ma'am.

13 ASS'T. SOLICITOR GASSER: Very briefly, Your Honor.

14 **DIRECT EXAMINATION (cont.)**

15 BY ASS'T. SOLICITOR GASSER:

16 Q Ms. Zeabold, just to clarify for the jury, were you able to
17 pay Mr. Varner, the attorney that you spoke with, back on the
18 same day as your interview?

19 A No. He didn't want to take it.

20 Q So your understanding was it was a consult but not
21 necessarily hiring him?

22 A Yes. Yes.

23 ASS'T. SOLICITOR GASSER: No further questions, Your Honor.

24 THE COURT: All right. Mr. Varner.

25

CROSS-EXAMINATION

BY ATTORNEY VARNER:

Q All right, Sherry. Just to get that cleared up, I previously -- well, I previously represented the man you're now married to, or just got married to, Mr. Zeabold, back in his divorce several years ago, correct?

A Uh-huh.

THE COURT: Was that a yes, ma'am?

A Yes. Yes.

THE COURT: It's just, the court reporter, she's taking down what you're saying.

A Yes.

Q And if you did come in -- and I'm not saying you did or didn't because I don't remember, it four years ago -- if you did come in and you said someone had molested the children, every lawyer would have told you go to the police, correct?

A Sure. Yes.

Q And you did not retain me or pay me?

A You wouldn't let me. I had my checkbook out.

Q Okay.

A You wanted me to tend to this first.

Q Find it a little odd a lawyer would turn down money?

A You, yes.

Q All right. And you wound up having, I believe, Mr. Brian James represent you in your divorce, correct?

1 A I did.

2 Q And I represented Mr. Steele, correct?

3 A You did.

4 Q And in that divorce you did take the position you were
5 entitled to the whole house, correct?

6 A I didn't take any -- well, of course you want your whole
7 house.

8 Q Well, did we do two mediations? You can't talk about
9 mediations, but we had to go to mediation twice, didn't we?

10 A I don't really recall.

11 Q And you admit or deny that you took the position initially
12 you weren't giving him anything for the house, that was your
13 house?

14 A I didn't feel that I owed it to him because he left.

15 Q Okay.

16 A But now I'm paying him for it so, yeah, you're a good
17 attorney.

18 Q Now, you say you've been married four times, correct?

19 A Right.

20 Q And you and Mr. Steele -- you don't dispute you and
21 Mr. Steele broke up, or split up, in 2011, correct?

22 A Correct.

23 Q And when you were talking to the officer on your video you
24 even made reference to the fact We've been separated for 10
25 years, which would have been correct? 2021 to 2011 would be 10

1 years, correct?

2 A Correct.

3 Q And during that period of time what were you doing for a
4 living?

5 A I was a Realtor.

6 Q Okay. And Realtors, it's a fair statement you may work in
7 the evenings, but you don't work third shift as a Realtor, do
8 you?

9 A No. I have, did bills at 11:15 at night, wrote offers for
10 homes.

11 Q And you don't dispute you and your daughter sometimes were
12 on the outs, you were feuding?

13 A If you've got a kid that you're not feuding with, then --
14 everybody's that way.

15 Q Okay. And there were times she wouldn't bring the children
16 to you, she would take them to Philip, because she was ticked at
17 you?

18 A Never.

19 Q Never?

20 A Never.

21 Q And you don't dispute, as a matter of fact you said in the
22 interview, that he stopped seeing the kids after '12 and '13?
23 That was it, correct?

24 A I'm not sure exactly.

25 Q Ma'am?

1 A Seems like it was 2015. I don't really know. I don't know.
2 It was a really tough time in my life, and I really don't know
3 what the answer to that is exactly, but sometime in that frame.

4 Q Well, you don't dispute you had a grandbaby born in 2015?

5 A Yes.

6 Q And do you disagree that he had been out of the picture for
7 about a year before that grandbaby was born?

8 A There you go. Yep, that's it.

9 Q So 2014 at the latest, correct?

10 A Somewhere, yes.

11 Q And when did you two separate in 2011?

12 A March the 23rd.

13 Q So we have a window of about two years and three or four --
14 well, two years and about six months before it was stopped?

15 A What was stopped?

16 Q Any visitation, him seeing the kids anymore.

17 A Yeah. Just a couple of years there. Yeah.

18 Q And how many times would you say he saw those kids or spent
19 the night with those kids during that period of time?

20 A They may have stayed three, four times.

21 Q Okay. All right. And you don't dispute you and Philip
22 continued to work together cleaning houses on weekends up 'till
23 2021, correct?

24 A Yes.

25 Q You have to answer.

1 A Yes.

2 Q And after you two split up he did make the house payments so
3 that you wouldn't be homeless, correct?

4 A No. We had a deal.

5 Q What was that?

6 A Since he has a pacemaker and couldn't get a job, he was
7 trying to get disability, his mother was letting him stay in the
8 duplex. She was paying the power and the water, and he and I
9 made an agreement that I would help him buy his cigarettes and
10 beer, and he would make the house payment for me after he got his
11 disability so I didn't have to work two or three jobs.

12 Q Okay. So how long did you buy him cigarettes and a beer?

13 A Probably, I don't know, maybe about a year while he was
14 waiting on his disability.

15 Q And in exchange for that he continued to make the house
16 payments?

17 A He didn't make a house payment. We were under a thing where
18 the FC works, they paid our house payment for a couple of years.
19 It was something that Obama put in way back. And so we didn't
20 have a house payment technically at that time, but it was going
21 to come up within the two-year period.

22 Q So about 2015 there was a house payment. How much was it?

23 A Six Hundred and -- gosh. About 640.

24 Q Okay. So for five years, or close to six years, he made the
25 house payment every month?

1 A No, not that long. No, uh-uh. He only made it for just a
2 couple of years.

3 Q And his mother passed away, you don't dispute, in October of
4 2019, correct?

5 A She passed away. I'm not sure when, but I believe that
6 sounds right.

7 Q And you know from doing real estate closings and stuff when
8 someone passes away basically you've got a year or a little
9 longer before the property can be sold before it goes through
10 probate, correct?

11 A If they don't have a will, I guess. I don't know.

12 Q You deny that you told him you wanted him to pay off the
13 house?

14 A I never told him anything.

15 Q You never asked him to pay off the house?

16 A Never did.

17 Q Well, did he quit making payments on the house?

18 A Well, we weren't conversating (sic) after all this happened
19 so I had to make the payment.

20 Q When did he make the last house payment?

21 A I have no idea.

22 Q Isn't it a fact he quit making the house payment a couple
23 months before you went down and made a report on him?

24 A I don't know. I don't think so. No.

25 Q You also discussed you were abused also; is that correct?

1 A Does it have anything to do with this?

2 Q Did you discuss that with the officer?

3 A I just told him something happened to me when I was a kid.
4 That's all I said.

5 Q Well, you didn't tell him something -- you didn't tell him
6 you were sexually abused as a child?

7 A I just said I was abused.

8 Q Okay. Have you watched the video of the girls?

9 A I have not.

10 Q You have not, okay. And you did tell the officer that
11 Makayla (ph) had told you, and your understanding was, nothing
12 had happened to Makayla, correct?

13 A I don't know who Makayla is.

14 Q What?

15 A Who is Makayla?

16 Q MINOR 2 Excuse me. My apologies.

17 A It does say -- she does say that on there.

18 Q Did you tell the officer that you talked to MINOR 2 and
19 MINOR 2 said nothing happened to her?

20 A I said that, but I didn't talk to her. It was hearsay from
21 someone else.

22 Q Is it true the problems you had with your daughter was what
23 was going on at her house with the people she was spending time
24 with?

25 A I don't know what trouble or problems you're talking about,

1 but ...

2 Q When you and your daughter were feuding.

3 A I don't remember feuding.

4 Q Well, didn't you tell me every parent feuds with their
5 child?

6 A Yeah. You always have disagreements, but that doesn't mean
7 anything. We never stopped seeing one another; we never stopped
8 conversating (sic).

9 Q That's not what I'm asking you. The problem is you didn't
10 like who your daughter was picking to be mate, so to speak?

11 A Most people don't.

12 Q So the answer to my question is yes, that is a part of the
13 problem?

14 A It's not -- no, it's not.

15 Q Well, you said most people don't approve. You're not part
16 of most people?

17 A I don't know.

18 Q And you told the police officer the children were in
19 counseling; is that correct?

20 A They are in counseling.

21 Q Both of them or just one?

22 A They both -- they both are now.

23 Q And you told the officer in the video that you had filed for
24 a divorce one month ago. In other words, in May of 2021 is when
25 you had filed for a divorce?

1 A No. I went to see an attorney.

2 Q Ma'am?

3 A I went to see an attorney to file for divorce.

4 Q And you said in there you had a key to the house?

5 A I did.

6 Q Even as of 2021 you could go in and out of that house
7 anytime you wanted?

8 A I never did, but I had a key. He had a key to my truck.

9 Q Okay.

10 A We were married.

11 Q So during this period of time his mother was next door,
12 correct?

13 A Yes.

14 Q And part of the time his father was next door also?

15 A Stepfather.

16 Q Stepfather. And, also, you had a key to the house. You
17 could come in at any point in time, correct?

18 A I could.

19 Q In the house --

20 A There's a particular lock, it would unlock. There were
21 other locks that you couldn't get in if he was in there.

22 Q But you went over there one time when he had had a note on
23 the door, he was gone?

24 A Uh-huh.

25 Q You got in, correct?

1 A Yes.

2 Q When you go in that house do you agree, except for the
3 bathrooms and the closets, there's no doors anywhere?

4 A There's a back door.

5 Q Well, a front door and a back door, but I'm talking about
6 bedroom doors, kitchen doors, den doors, or anything of that
7 nature.

8 A Bathroom door.

9 Q Other than the bathroom door and closet doors, there are no
10 other doors in the house, correct?

11 A In that one, no.

12 Q And did you ever see the TV in his bedroom?

13 A I don't know that there was a TV. It was in the living room
14 from what I understood.

15 Q Okay.

16 A I think he may have had an older TV in there, but I'm not
17 sure. I never saw it.

18 Q Do you recall seeing a little TV about 30 years old, an old
19 junker?

20 A Yeah, there was an old TV in there.

21 Q Okay. And the newer TV was in the den?

22 A Living room.

23 Q Living room, okay. And you did say on that recording that
24 around March of 2012 or 2013 all contact was stopped?

25 A Yes.

1 Q In other words, when you were talking to the officer four
2 years ago when it was more fresh, your recollection then was it
3 stopped around March of 2013, all contact between him and the
4 children?

5 A March the 23rd of 2011, '12, '13, '14. Yeah, it was about
6 that, about 2014.

7 Q So that means you have a child born -- excuse me, a
8 grandchild born -- was it [REDACTED] of 20 -- excuse me.
9 [REDACTED] of '09; is that correct?

10 A That's [REDACTED] MINOR 1

11 Q And so she would have been four years old?

12 A Five.

13 Q Okay. Well, 2000, 2010, 2011, 2012, 2013, that's four
14 years, isn't it?

15 A I said '14.

16 Q Well, I just asked you, did you tell the officer it was
17 March of 2012 or 2013 when all contact stopped? That's what you
18 told the officer back then, wasn't it?

19 A No. I told him I left, that he and I split up.

20 Q Well, you told us a little while ago you slit up in 2011.
21 You also told him you and your husband had been split up about 10
22 years, which would be 2011 again, wouldn't it?

23 A Okay.

24 Q So in March of 2013 the oldest child would be four years
25 old, correct?

1 A I would say.

2 Q If it was in March, he wasn't quite four?

3 A Okay.

4 Q And the other child was born in [REDACTED] of 2011, correct?

5 A Yes.

6 Q So that child would have been one to two years old when this
7 allegedly, when the contact, stopped?

8 ASS'T. SOLICITOR GASSER: May it please the Court.

9 Objection, Your Honor. I do believe that there's a misquoting of
10 the witness's testimony that is starting to verge on confusion.
11 Her response to his question was 2014.

12 THE COURT: That's overruled. You can clear it up on
13 redirect. This is her testimony. This is cross-examination.
14 She has to correct it.

15 ASS'T. SOLICITOR GASSER: Yes, Your Honor.

16 THE COURT: And if you find that there's a misstatement, you
17 can ask her on redirect.

18 Q When was the last time you've seen or spoken to Philip?

19 A I don't know.

20 Q Give me your best estimate.

21 A It's probably 2021, the first part of the year.

22 Q Do you recall talking to him on April the 10th of 2020 when
23 your grandchildren had head lice?

24 A No.

25 Q You admit or deny that Philip gave you, or gave your

1 daughter, money to help with the children on April the 10th of
2 2020?

3 A He volunteered to help, yes, he did, because he knows he's
4 guilty.

5 Q Helping out your grandchildren --

6 A Oh, yes.

7 Q -- with head lice?

8 A Uh-huh.

9 Q So what you're basically alluding to, there's some kind of
10 blackmail going on if he didn't give you money? You were going
11 to turn him in, and that's why he did it? Is that what you're
12 saying?

13 A No. He could have paid me a million dollars. I'd have
14 still turned him in.

15 Q All right. So you disagree, your daughter said he didn't
16 pay for the head lice, she hadn't talked to him, but you're
17 saying, well, yeah, he did, he did give us money forehead lice
18 in April --

19 A She might not have known --

20 Q -- of 2020?

21 A -- I gave the money. She might not have known that's where
22 it come from.

23 Q So as I understand you, he better have or --

24 A What?

25 Q He better pay. He didn't have a choice, did he?

1 A He ain't better do anything. I don't need anything he has.
2 I never have.

3 ATTORNEY VARNER: Nothing further, Your Honor.

4 THE COURT: All right. Redirect?

5 ASS'T. SOLICITOR GASSER: Very briefly, Your Honor.

6 **REDIRECT EXAMINATION**

7 BY ASS'T. SOLICITOR GASSER:

8 Q Sherry, can you please clear up for the jury this timeframe.
9 We talked about the timeline. Did you say in the video about
10 seven years, six to seven years, before your interview that
11 that's when the communication stopped between the girls and the
12 Defendant?

13 A Yes.

14 Q And was that video in June of 2021 when you went and met
15 with law enforcement?

16 A Oh, yes. Yes.

17 Q So what is seven years? Let's just say seven.

18 A 2014. Yes.

19 Q Okay. So if you said 2012 or 2013, what did that mean?

20 A I was just confused. It's been a long time. That's all.

21 ASS'T. SOLICITOR GASSER: No further questions.

22 THE COURT: Yes, sir, Mr. Varner.

23 ATTORNEY VARNER: Just briefly.
24
25

RECROSS-EXAMINATION

BY ATTORNEY VARNER:

Q So you don't know when the contact was stopped, either in March of 2012 or 2013, or 2014, you're not sure?

A No, I'm -- it's about that time, 2014. Yes, that's about right.

Q About that time?

A Yeah.

Q Even though you said something different in the video four years ago? You had said two different contradictory things.

A Sue me. I'm human.

ATTORNEY VARNER: That's all the questions I have.

THE COURT: All right. Thank you, ma'am. You can step down.

THE WITNESS: Thank you.

ASS'T. SOLICITOR GASSER: And, Your Honor, at this time the State would ask that this witness be released from her subpoena.

THE COURT: Any objection, Mr. Varner?

ATTORNEY VARNER: No objection, Your Honor.

THE COURT: She'll be released. Ma'am, you are welcome to stay or go. I'm going to release you from your subpoena.

All right. State ready to call your next witness?

ASS'T. SOLICITOR GASSER: Your Honor, it's a little longer witness. It may be a good time for an afternoon, just bathroom break, if that's okay. If not, then yes.

1 THE COURT: If you all need a comfort break, I'll give
2 anybody a comfort break. Do you need a break?

3 ASS'T. SOLICITOR GASSER: I'm ready to proceed. I just
4 wanted to let the Court know.

5 THE COURT: Does the jury need a break? They all look
6 pretty good. Let's get started, and we can always take a break
7 before we do cross-examination.

8 ASS'T. SOLICITOR GASSER: Okay. Thank you, Your Honor.

9 THE COURT: Wait. Hold on. I'm sorry. Cathy, Teresa, you
10 all okay? Ron, are you okay? Okay. My deputies are okay. I'm
11 sorry. I try to be very courteous to everybody, and I asked
12 everybody but the people that are helping me.

13 Okay. All right. Yes, ma'am.

14 ASS'T. SOLICITOR GASSER: May it please the Court, Your
15 Honor, the State calls MINOR 1 And, Your Honor, we do --
16 can we have a comfort break? I do apologize.

17 THE COURT: That's okay. All right, you all, sounds like
18 somebody needs to use the restroom. Let's do just a quick
19 five-minute we're going to use the bathroom. All right.

20 (WHEREUPON, Jury exits at 3:01 p.m.)

21 (WHEREUPON, Court recesses at 3:01 p.m. and reconvenes at
22 3:12 p.m.)

23 (WHEREUPON, Jury enters at 3:12 p.m.)

24 THE COURT: Now I'm ready for you to call your next witness.

25 ASS'T. SOLICITOR GASSER: May it please the Court, the State

1 calls MINOR 1

2 THE COURT: Yes, ma'am. If you'll come forward for me.

3 MINOR 1

4 having first been duly sworn, is examined and testifies as
5 follows:

6 CLERK OF COURT: And state your name for the record.

7 THE WITNESS: My full name? MINOR 1

8 .

9 **DIRECT EXAMINATION**

10 BY ASS'T. SOLICITOR GASSER:

11 Q And, MINOR 1, you seem a little soft-spoken so if I ever ask
12 you to repeat or speak up, just lean into the mic, okay.

13 THE COURT: You're welcome to pull the microphone towards
14 you if you need to.

15 Q All right, MINOR 1. So can you tell the jury, how old are
16 you currently?

17 A Fifteen.

18 Q And what grade are you in?

19 A Ninth.

20 Q All right. What's your favorite subject at school?

21 A English.

22 Q What did you all do in English class this past week?

23 A Romeo and Juliette.

24 Q And you're in 9th grade. Have you started thinking about
25 what you want to do after high school?

1 A Yes, ma'am.

2 Q What do you want to do?

3 A I want to be a lawyer.

4 Q What kind of lawyer do you want to be?

5 A Criminal defense for juveniles.

6 Q And what else do you like to do other than English in
7 school?

8 A I like to do my hair, makeup, and read.

9 Q What kind of books do you like to read?

10 A Mystery books.

11 Q Have you read a good mystery book recently?

12 A Not recently. No.

13 Q Now, MINOR 1, I want to talk a little bit about your family.
14 Do you know your mom's name, her full name?

15 A Yes, ma'am.

16 Q What is it?

17 A Sherry Alicia Aikin.

18 Q And do you live with your dad currently?

19 A No.

20 Q Do you have any siblings?

21 A Yes.

22 Q All right. What are your siblings' names?

23 A MINOR 2 and SISTER

24 Q And how old is MINOR 2?

25 A Fourteen.

1 Q And how old is [REDACTED] SISTER?

2 A Nine.

3 Q Do you have any other siblings?

4 A Yes, ma'am.

5 Q Are they full siblings?

6 A No, ma'am.

7 Q What side of the family are they on?

8 A My dad's.

9 Q Now, do you know your grandmother's full name?

10 A Yes, ma'am.

11 Q What's her name?

12 A Sherry Zeabold.

13 Q Now, [REDACTED] MINOR 1 I want to take you back to July of 2021,
14 July 26th of 2021. Did you go to the Julie Valentine Center?

15 A Yes, ma'am.

16 Q Did you understand why you were going to the Julie Valentine
17 Center?

18 A Uh, yes, ma'am.

19 Q What was your understanding of why you were going there?

20 A Because I had told my mom that I was sexually abused when I
21 was younger.

22 Q And I want to back up. When did you tell your mom that you
23 were sexually abused?

24 A I told her after my best friend, I told her, and she told
25 her mother who told my mom, and she asked me about it so I just

1 wound up opening up and talked about it.

2 Q And how old were you when you finally opened up about it?

3 A About 11.

4 Q Eleven. And were you 11 years old on July 26, 2021?

5 A Yes, ma'am.

6 Q And you just testified that you told your best friend.

7 What's her name?

8 A Serenity Allen (ph).

9 Q And did you just testify that she told her mother?

10 A Yes, ma'am.

11 Q Okay. And is that how your mom found out?

12 A Yes, ma'am.

13 Q Did your mom come to you and ask you any questions or did
14 you just open up to her?

15 A I was actually in the car when she got the call.

16 Q And were you honest with your mother at that point?

17 A Yes, ma'am.

18 Q Did you tell her every single detail?

19 A Not everything, but most of what needed to be said. Yes,
20 ma'am.

21 Q And why did you tell your friend Serenity?

22 A We had just been talking and she was talking about how some
23 of her uncles were weird, and I'm like, yeah, my grandma's
24 husband used to touch me.

25 Q And, MINOR 1, had you ever you told anyone before this?

1 A No.

2 Q Why not?

3 A I mean, I was scared. I didn't know what to do. I didn't
4 really realize what was going on until I got older and I seen
5 things about kids being molested and things of that such, and I
6 just realized that wasn't normal, because when I was younger I
7 thought it was normal.

8 Q And so you've disclosed that you were sexually assaulted.
9 Do you know who sexually assaulted you?

10 A Yes, ma'am.

11 Q What was his -- or what was that person's name?

12 A Scott Steele.

13 Q And who was he to you?

14 A He was my papa.

15 Q And was he married to anyone?

16 A Yes, ma'am.

17 Q To whom?

18 A My mama.

19 Q And is your mama your grandmother?

20 A Yes, ma'am.

21 Q Now, do you see the person that sexually assaulted you in
22 this courtroom?

23 A Yes, ma'am.

24 Q You can please point out, for the jury, where he is?

25 A (Responds.)

1 Q Can you describe what he is wearing?

2 A He has a blue-collared shirt.

3 ASS'T. SOLICITOR GASSER: Let the record reflect that MINOR1
4 has identified the Defendant, Philip Scott Steele, as the
5 person who sexually assaulted her.

6 THE COURT: The record will so reflect.

7 Q So MINOR1, I want to talk about your disclosure. When you
8 went to the Julie Valentine Center did you meet with anyone and
9 talk with anyone?

10 A Uh, yes, ma'am.

11 Q And did they ask you questions about what happened?

12 A Yes, ma'am.

13 Q And did you tell them what happened to you?

14 A Yes, ma'am.

15 Q So can you tell the jury a little bit about what happened to
16 you. How old were you?

17 A Uhm, I believe I was between the ages three to five.

18 Q And why do you think that you were between those ages of
19 three to five years old?

20 A Because I know I didn't see him after my sister was born and
21 my sister was born in 2015.

22 Q And what is your birthday?

23 A /09.

24 Q So let's talk about it. When did this -- or, where did this
25 happen?

1 A It would take place at his home.

2 Q And do you remember where his home was?

3 A Uhm, I know you have to, if I'm not mistaken -- someone else
4 would take us to his house, but I know you go -- it's in the
5 general area, I know you go up, I think it's, Peach Street. I
6 know about the general area. It's in Greenville.

7 Q And what was around there? Do you remember anything around
8 there?

9 A There's a 7-Eleven at the corner, and there's a Clock.

10 Q And did your grandmother and papa, did they live together?

11 A No.

12 Q And so why would you be at Papa's house?

13 A Because my mom had to work and someone had to watch me and
14 my sisters.

15 Q Did you live there with him full time?

16 A No.

17 Q Did your sister live there with him full time?

18 A No.

19 Q Did your mom live there with him full time?

20 A No.

21 Q And you just testified that you would only go there when he
22 was watching you while your mom was working --

23 A Yes, ma'am.

24 Q -- is that right? And where was your grandmother? Was she
25 there?

1 A No.

2 Q When he watched you -- where, again, did you say your mom
3 was?

4 A She would be at work.

5 Q And when he would watch you would he watch you with any
6 other adults present?

7 A No, ma'am.

8 Q Who would be with you when he would watch you?

9 A It would be me and my sister.

10 Q Okay. And your sister being which sister?

11 A MINOR 2

12 Q Now, do you remember anything about the house?

13 A Yes, ma'am.

14 Q Can you describe that for the jury a bit.

15 A Uhm, it was a white duplex. It had two doors. His mother
16 lived beside him. You would walk in, and as you walk in the
17 recliner is all the way in the corner leaning up to the next
18 wall. The recliner was over here. He had a TV right here. His
19 couch was over here. I don't quite remember what was over on
20 this side. And then he had like a little open area over there.

21 And then you'd go down the hallway, to your right there's a
22 bathroom. And then you go into his room. He had a dresser. He
23 had a TV on it. His bed was to the right of the room. As soon
24 as you walked in, it was there. He had like a little baby gate
25 to -- and then he had some things over here. And then his

1 kitchen would lead to the back door. His kitchen was on this
2 side of this room right across from his bed.

3 Q And you've testified to previously that your sister was
4 there, so --

5 A Yes, ma'am.

6 Q -- can you tell us what happened specifically as to --
7 you've disclosed sexual abuse. So what was the sexual abuse?

8 A Uhm, he would put his hand on top of my private part. He
9 would make me perform oral sex on him. Uhm, there was porn on
10 the TV. He had a toy. And he told me it would all be all right,
11 he told me it was okay, and I thought it was normal because he
12 kept saying it was okay so I thought it was normal. And he would
13 just do that. And he done it multiple times. I mean ...

14 Q So I want to -- I want to take a pause. And you just said
15 that he had done it multiple times, so I want to talk about the
16 first time. What do you remember happening the first time?
17 Where were you?

18 A I don't quite remember the very first time it happened.

19 Q Well, what's the first time you remember?

20 A The first time I remember was we were laying in the bed and
21 he had this, I don't know what he had, and he took my pants off
22 and put it around me. It was kind like of a skirt. I don't know
23 what it was.

24 THE COURT REPORTER: I'm sorry, ma'am?

25 THE COURT: She needs you to repeat it.

1 THE COURT REPORTER: Took my pants off and?

2 A Oh, I'm sorry. He took my pants off and put something
3 around me. It was, uhm, red and yellow. I don't know what it
4 was. And he had put it on me. And then I went to sleep that
5 night. And then when I woke up with him touching me and rubbing
6 me on my back.

7 Q Now, that first night -- you just stated that he had touched
8 your private parts. Did he touch your private parts that night?

9 A The night that we went to sleep, no. Like, I don't remember
10 him -- I just remember him -- that's the first time I remember
11 him touching me.

12 Q And when you say touching you, where did he touch you?

13 A He would touch me on my body, on my private parts.

14 Q But that first incident that you remember, you're saying
15 that he didn't touch your vagina that night?

16 A No, ma'am.

17 Q So let's go to the next incident. When do you remember --
18 what do you remember next? What next incident do you remember?

19 A I remember when we were in his room and he made me perform
20 oral sex on him.

21 Q And I have to ask you this, but what does that mean to you,
22 what does oral sex mean?

23 A The penis going into someone's mouth.

24 Q And whose penis?

25 A Scott Steele.

1 Q And whose mouth?

2 A My mouth.

3 Q Now, do you remember -- you said you were in his room, is
4 what you just said?

5 A Yes, ma'am. I was on the floor on my knees.

6 Q And where was he?

7 A He was standing up above me.

8 Q And do you remember anything about his body?

9 A He was a little bit skinnier.

10 THE COURT REPORTER: He was?

11 A A little bit skinnier.

12 Q And do you remember anything -- how did you feel when this
13 happened?

14 A I didn't want to. I said I didn't want to, but he made me.

15 Q And how did he make you?

16 A He said, you know, it's all right, it's all right, and he
17 pushed it in my mouth. I'm like, it's nasty, I don't want to.

18 Q And what was nasty about it?

19 A I'm four or five years old. Why do I want that in my mouth?

20 Q During that time did he touch you anywhere else?

21 A Yeah, my vagina.

22 Q Okay. And how did that happen?

23 A With his hand.

24 Q And were your pants on or off?

25 A They would be off. Most of the time I'd be laying on the

1 bed. We were laying beside each other.

2 Q So did this happen at the same incident as when he put his
3 penis in your mouth?

4 A Yes, ma'am. He touched me then, too.

5 Q How many times did he put his penis in your mouth?

6 A It was about two or three times.

7 Q And how many times did he touch your vagina, without clothes
8 on, with his hand?

9 A I don't know the exact amount but it was multiple times.

10 Q And how did you feel when he touched your vagina with his
11 hand?

12 A Uncomfortable.

13 Q And what was uncomfortable about it?

14 A I mean, it was an older man touching me.

15 Q You testified to earlier that he had a toy?

16 A Yes, ma'am.

17 Q And what did that look like?

18 A It was white and it had a cord.

19 Q And what would he do with that toy?

20 A He would put it on my vagina.

21 Q And did he do that every time? How many times did he do
22 that?

23 A Uhm, he would bring it out -- I mean, I only remember him
24 bringing it out a couple times.

25 Q Now, would this all happen only in his bedroom?

1 A Uhm, no. He has touched me in the living room in his chair.
2 I'd be sitting on his lap and he'd put his hand on my vagina.
3 He's touched me, but it never -- I don't recall it happening ever
4 out of the house.

5 Q So it always happened in the house?

6 A Yes, ma'am.

7 Q And was that his house?

8 A Yes, ma'am.

9 Q And is that the house that you described to earlier, I
10 think, did you say, it was off Peach Street?

11 A Yeah. You can go -- I'm pretty sure you can go down that
12 street.

13 Q And you testified to earlier MINOR 2 was there. Where was
14 she?

15 A She would be in the living room asleep on the couch.

16 Q Was she asleep every time this happened, to the best of your
17 knowledge?

18 A Yes, ma'am.

19 Q And where was the couch in relation to the recliner?

20 A So if I'm looking -- say I'm in the bedroom and I'm looking
21 this way, the chair was over here, the couch was straight back
22 towards the window and the front door.

23 Q Did MINOR 2 ever wake up and talk to you, or did you ever
24 see MINOR 2 awake?

25 A Yes, ma'am. She run into the room one time.

1 Q Did anyone else ever come into the room?

2 A His mother came in one time.

3 Q Okay. And where were you?

4 A Well, what happened was his mother knocked on the door, and
5 we were in the room. He was touching me. His mother knocked on
6 the door. He told me to get under the bed. I got under the bed.

7 She was wearing like a black church outfit, a black hat,
8 black glasses. She had glasses on. She was standing in the
9 room. I'm looking up at her from under the bed. I looked at her
10 eyes. I'm looking at her. She sees me. I know she seen me.
11 Walked in, turned around, she didn't say nothing. They just
12 talked, and she left. And he brought me back out and continued
13 to do what he did.

14 Q Did she say anything to you at that time?

15 A No. She didn't say a word to me.

16 Q Now, you stated that there were televisions in the home?

17 A Yes, ma'am.

18 Q Did you ever watch television there?

19 A Yes, ma'am.

20 Q What would you watch on TV?

21 A We would watch a lot of scary movies.

22 Q Did you all only watch horror movies?

23 A From what I remember, yes, ma'am. A lot of scary movies.

24 Q Was there ever pornography on the television?

25 A Yes, ma'am, in his room.

1 Q And tell me about that.

2 A Uhm, there was always porn in there. It was -- I remember
3 the porn, it was always like -- I just know it was a blonde lady
4 in the porn. I remember porn. I'm pretty sure it was lesbian
5 porn.

6 Q At that time did you know that it was pornography?

7 A I didn't know it was porn. I mean, back then I didn't know,
8 but I know what that is now.

9 Q Would the TV be playing when he was touching you?

10 A Yes, ma'am.

11 Q Approximately how many times did this happen to you?

12 A Uhm, I really don't know the exact number, how many times.
13 I really don't know.

14 Q But it happened more than once?

15 A Yes, ma'am.

16 Q Now, did you ever say anything to your mom or your
17 grandmother or anyone else back when this was happening to you?

18 A No, ma'am.

19 Q Why not?

20 A He said he would hurt me. Something bad would happen.

21 Q And how did that make you feel?

22 A I was scared, and I didn't want anything bad to happen to
23 me.

24 Q Did you tell anyone over the years up until 2021? Did you
25 ever tell anyone?

1 A No, ma'am.

2 Q Why not?

3 A Uhm, I was really ashamed of what happened.

4 Q You stated, you testified to earlier, that you didn't see
5 him after your youngest sister was born.

6 A Yes, ma'am.

7 Q And that was in [REDACTED] of 2015?

8 A Yes, ma'am.

9 Q If you didn't see him ever again why didn't you tell anyone?

10 A I mean, as I was stating, I thought he was dead, and I
11 just -- I just knew it would be a lot. I just knew I would have
12 to go through a lot. I knew I'd have to go through things like
13 this to get the justice I deserved.

14 Q And so why did you feel comfortable telling your best
15 friend, Serenity?

16 A I just wanted to get it off my chest.

17 Q Do you know why you stopped seeing him before your sister --
18 or when your sister was born, around that time?

19 A I know that my mom had heard a little something and that's
20 why I didn't see him anymore.

21 Q Now, when you say your mom heard a little something, do you
22 know what that was that you heard? Were you old enough?

23 A Uhm, only I knew she had known -- she had heard that he
24 touched me.

25 Q And did your mom, back then did she, ask you questions? Do

1 you remember her asking you questions about it?

2 A Yes, ma'am.

3 Q And did you tell her what happened to you at that time?

4 A No, ma'am.

5 Q And why didn't you tell her?

6 A Because he said he'd hurt me. I didn't want him to be mad
7 at me.

8 Q Now, MINOR1, do you remember anything about the Defendant's
9 penis that you remember?

10 A Small and white.

11 Q Okay. And anything else?

12 A No, ma'am.

13 Q And when he put his penis inside of your mouth did anything
14 else happen?

15 A Yes, ma'am.

16 Q What happened?

17 A He ejaculated in my mouth.

18 Q And at that time did you know what that was?

19 A No, ma'am.

20 Q And how did that -- how did that feel?

21 A It was disgusting.

22 Q And why was it disgusting?

23 A It wasn't something I needed to be doing at my age.

24 Q So after you told your friend Serenity and your mom started
25 asking you questions -- did you testify to earlier that you did

1 share with her some of what happened?

2 A Yes, ma'am.

3 Q But you didn't tell her all of the details. I think you
4 said -- did you testify you were in the car?

5 A Yes, ma'am. When she had got the call, we were headed home,
6 and that's when we sat at the table and talked about it.

7 Q And did you tell her all of the details at the table that
8 day?

9 A Not every detail. No, ma'am.

10 Q And did you ever talk with your grandmother about it?

11 A I couldn't really tell her so I wrote a letter.

12 Q And would you recognize that letter if you were to see it
13 again?

14 A Yes, ma'am.

15 Q I'm handing you what's been premarked for identification
16 purposes as State's Exhibit No. 2. Do you recognize this?

17 A Yes, ma'am.

18 Q What is it?

19 A It's the letter I wrote to my grandma about what had
20 happened to me.

21 Q And how do you know that that's the letter that you wrote?

22 A It's my handwriting.

23 Q Is it a fair and accurate depiction of the letter that you
24 wrote?

25 A Yes, ma'am.

1 Q And other than being a photograph of the letter, has it been
2 changed or altered in any way?

3 A No, ma'am.

4 ASS'T. SOLICITOR GASSER: At this time, Your Honor, the
5 State offers to move into evidence State's Exhibit No. 2.

6 ATTORNEY VARNER: No objection.

7 THE COURT: It will be so admitted.

8 (WHEREUPON, State's Exhibit 2 is admitted into the record.)

9 ASS'T. SOLICITOR GASSER: Permission to publish, Your Honor.

10 THE COURT: Yes, ma'am.

11 (WHEREUPON, State's Exhibit 2 is published to the jury.)

12 Q All right, MINOR1. So I want to bring your attention to
13 State's Exhibit No. 2. Can you explain -- or can you read this
14 to the jury?

15 A So MINOR 2 would be asleep on the couch or watching TV. He
16 would take me into (indiscernible) --

17 THE COURT REPORTER: Ma'am, I need you to slow down a little
18 bit, please, and I need more volume.

19 THE WITNESS: Yes, ma'am.

20 THE COURT REPORTER: Thank you.

21 THE COURT: I know it's hard, but she's got to take down
22 everything you're saying. Okay.

23 A So MINOR 2 would be asleep on the couch or watching TV. He
24 would take me to his room and make sure MINOR 2 was not looking.
25 He would tell me it was going to be okay. He would pull his

1 pants down and touch my private parts -- he would pull my pants
2 down and touch my private parts. Sometimes he would put me on my
3 knees, pull down his pants, and put his private part in my mouth.
4 Once he cooked me dinner and made me smoke weed. Once he was
5 doing something to me and his mom came in so he would hide me
6 under the bed -- I'm sorry. Once he was doing stuff to me and
7 his mom came, so he hid me under his bed. I would sleep in his
8 room and I would wake up with him touching my butt. This would
9 happen to me every time I would go over there.

10 Q All right, MINOR1 So we've talked about some of the things
11 you said in this letter, but I want to ask you about some of the
12 other things.

13 You stated that he cooked you dinner one time and made you
14 smoke weed. Can you explain that to the jury?

15 A Yes, ma'am. It was just one really weird night he was
16 cooking dinner, having a joint. Made me smoke it. We were
17 watching a movie. Pretty sure my sister was asleep on the couch.

18 Q And did you know what a joint was back then?

19 A No, ma'am.

20 Q And do you remember what he cooked for dinner?

21 A Steak.

22 Q Did he do this often?

23 A No.

24 Q Did he do that one time or multiple times?

25 A It was just that one time.

1 Q When you went to the Julie Valentine Center did you tell --
2 did you tell what you've told us here today?

3 A Yes, ma'am.

4 Q And at that time, were you 11 years old when you gave your
5 forensic interview?

6 A Yes, ma'am.

7 Q And I just want to be clear. Do you remember how old you
8 were when this happened, approximately?

9 A Three to five years old.

10 Q MINOR1 [REDACTED] how has this made you feel?

11 A I feel terrible. It's not what I wanted. I wish it would
12 have never happened.

13 Q At this time I have no further questions. Please answer any
14 that defense counsel may have.

15 THE COURT: Mr. Varner.

16 CROSS-EXAMINATION

17 BY ATTORNEY VARNER:

18 Q MINOR1 [REDACTED], you're in 9th grade, you said?

19 A Yes, sir.

20 Q Okay. What kind of grades do you make?

21 A As and Bs.

22 Q And where do you go to school?

23 A [REDACTED] High School.

24 Q And you're in counseling, is that correct?

25 A Yes, sir.

1 Q How long have you been in counseling?

2 A Since I was 10 years old.

3 Q Since when?

4 A Ten years old.

5 Q Okay. You had all this counseling and everything, you never
6 revealed this to the counselor prior to this?

7 A Uhm, no, sir.

8 Q Did your grandfather, did he have a computer?

9 A Did he have a computer?

10 Q Yes.

11 A The Defendant?

12 Q Yes.

13 A I don't know.

14 Q Okay. Did he have a phone?

15 A Actually, yes, he did. He did have a computer.

16 Q Okay. Did he also have a cellphone?

17 A Yes, sir.

18 Q Ma'am?

19 A Yes, sir.

20 Q Okay. Do you know of anybody ever telling you they bothered
21 to check his computer or cellphone? Anybody ever tell you that?

22 A No, sir.

23 Q All right. And how often do you see your father?

24 A Huh?

25 Q How often do you see your father?

1 A I mean, not a lot.

2 Q Okay. And do you know who Mr. Christopher Thurston is?

3 ASS'T. SOLICITOR GASSER: Objection, Your Honor.

4 THE COURT: Mr. Varner. Where are we -- what's the
5 objection first?

6 ASS'T. SOLICITOR GASSER: Based on your preliminary hearing
7 rulings. And this may be a matter we need to take up outside the
8 presence of the jury.

9 ATTORNEY VARNER: I wasn't going there.

10 THE COURT: He knows what my ruling is. I'm going to let
11 him ask the question. But before you go into anything that we
12 previously addressed we need to have a sidebar. But I'm going to
13 allow it.

14 ATTORNEY VARNER: Okay.

15 Q Go do you know a Christopher Thurston?

16 A I happen to, yes, sir.

17 Q Okay. And he lived with your grandmother for six or seven
18 years, correct?

19 A Yes, ma'am -- yes, sir.

20 Q And you're telling this jury at age three or four you
21 remember when your mother was going to work?

22 A Yes.

23 Q And you remember the layout of a room in his house at that
24 age?

25 A Yes, sir.

1 Q And you said there was porn on the TV in his bedroom; is
2 that correct?

3 A Yes, sir.

4 Q And do you disagree, this was like a 30-something-year-old
5 TV, a little, colored TV?

6 A No, I don't disagree.

7 Q Okay. Well, how do you play porn on a TV that is that old?

8 A I'm pretty sure it was a VHS, sir.

9 Q Well, do they have -- do you know whether or not a TV that
10 old or older has plug-ins to even hook up a VCR?

11 A No, I don't, sir, but the one he had, yes, you could.

12 Q Okay. So you're telling us this came off a VCR?

13 A Yes, sir.

14 Q And was that a disk, or what?

15 A I'm pretty sure it was a disk.

16 Q Okay. Do you know whether or not they even made disks back
17 then, or did they have videotapes back then?

18 A Sir, it was CDs.

19 Q It was what?

20 A It was CDs. Disk.

21 Q You're sure of that?

22 A Positive.

23 Q And has anybody ever told you they checked the TV to see if
24 it was hooked, ever hooked up, could be hooked up?

25 A No, sir.

1 Q Did anybody ever tell you they found the DVD player?

2 A No.

3 Q And when you did your interview, what's called your forensic
4 interview with Julie Valentine, that was a pretty long interview,
5 correct?

6 A Yes, sir.

7 Q You never mentioned a toy in that interview at all, did you?

8 A No I didn't, sir.

9 Q Why?

10 A I mean, I'm 11 years old, and I'm telling a woman how a man
11 was touching me inappropriately. I mean, it's just, I just -- I
12 told her what I could, and the rest, it's just --

13 Q Well, are you saying --

14 A -- upsetting because I couldn't say anything. I couldn't.

15 Q Are you saying you didn't remember it then, or you forgot
16 about it, or you --

17 A No, I knew. I knew. I just didn't say anything.

18 Q So you deliberately --

19 A (indiscernible). I'm 11 years old.

20 Q So you deliberately did not tell them something?

21 A I just didn't.

22 Q And you said one time his mother came over and saw you under
23 the bed.

24 A Yes, sir.

25 Q And your sister was there in the other room; is that

1 correct?

2 A Not when she walked in. No.

3 Q Okay. Where was your sister?

4 A She wasn't there. It was just me.

5 Q Why was it just you? Where was your sister at that time?

6 A Again, I'm four years old. I don't know.

7 Q So this grown woman, his mother, came walking over --

8 A Yes, sir.

9 Q -- and she saw you under the bed?

10 A Yes, sir.

11 Q She never said hi to you?

12 A No.

13 Q She never -- excuse me. Let me finish.

14 A I was still under the bed.

15 Q Let me finish. She never said hi to you, she never
16 acknowledged you, she never talked, she just kind of ghosted in
17 and ghosted out?

18 A Yes, sir.

19 Q Did she talk to Philip, her son, at all?

20 A Yes. They were in the room. I was underneath the bed.

21 Q Okay. And do you know how long she was in that room?

22 A Uhm, it wasn't long. Maybe about five, six minutes. It was
23 not long at all.

24 Q And you're telling this jury you had a concept of time at
25 that age, of what five or six minutes was?

1 A Yes, sir. I'm a very smart individual.

2 Q And do you disagree that your grandmother said they had told
3 you that Scott was dead? You guys thought he was dead?

4 A Yes. I thought he was dead.

5 Q Okay. So you had no reason to be afraid of him whatsoever
6 if you thought he was dead then, did you?

7 A When I had asked them when he got brought up, when I was
8 maybe like eight or nine, they told me he was dead.

9 Q All right. And in the forensic interview you said this
10 always happened in his bedroom; is that correct?

11 A Yes, sir.

12 Q Do you know what a daybed is?

13 A Yes, sir.

14 Q Is that what he had?

15 A Yes, sir.

16 Q Okay. And do you recall a statement made that all three of
17 you slept in a daybed?

18 A I mean, we would. Me and him would sleep together. And if
19 my sister was there -- I think my sister slept with us maybe a
20 couple of times, but it would be me and him sleeping together,
21 and my sister would be in the living room when my sister was
22 there. Yes, sir.

23 Q Excuse me. And by daybed, you mean a single bed, right?

24 A Yes, sir.

25 Q And in the forensic interview you said you don't know what

1 he was doing with his hands, you had no memory; is that correct?

2 A Uhm, can you go further into that, please.

3 Q We'll just look at the interview. And in the forensic
4 interview, do you remember saying that you didn't remember if he
5 had his clothes on or off?

6 A Because, I mean, he would have his clothes either on or off.
7 He wouldn't have them just off the entire time. He would, you
8 know -- he would mostly have his pants off when he was doing
9 oral, if he was performing oral sex on me.

10 Q And do you recall telling the interviewer back in 2011 that
11 you had told your mother years ago and your mother didn't believe
12 you?

13 A Yes.

14 Q So you are now saying that you told your mother everything
15 that happened years ago?

16 A No. No. That's not what I'm saying at all.

17 Q Okay. Well, what are you saying?

18 A I'm saying that I never told my mom -- okay, MINOR1
19 (indiscernible).

20 Q I'm sorry. What were you saying?

21 A Uhm, I didn't -- my mother knew wind of it. That's what I
22 was trying to say. When I was in my interview I said that I
23 said, what I was trying to get to was, she had came, she had
24 heard wind of it, just wind of it. That's what I said. I never
25 stated that I told her everything.

1 Q Well, you made the statement you told your mother years ago.
2 What was it you told her years ago then?

3 A Sir, I don't know what you're asking.

4 Q In the interview did you say "I told my mother years ago;
5 she didn't believe me." What did you tell her years ago that you
6 were referring to? These were your words.

7 A Sir, I don't know.

8 Q And do you remember saying at the interview you don't know
9 what his penis looked like?

10 A No, I do not, sir.

11 Q Okay. And you were asked about ejaculation. You said back
12 then you didn't remember?

13 A I don't know, sir.

14 Q How many people have you talked about -- since the Julie
15 Valentine interview how many people have you told about this?

16 A Only my family, sir.

17 Q Okay. You haven't talked to the police?

18 A Uhm, I've talked to my lawyer.

19 Q Okay. You have a lawyer?

20 A I guess that's who that is. I don't know who's representing
21 me at the moment. Or the State.

22 Q Are you talking about --

23 A I'm talking about Meghan Gasser.

24 Q Okay, Meghan?

25 A Yes, sir.

1 Q So you talked to her?

2 A Yes.

3 Q You haven't talked to anybody else?

4 A No.

5 Q You haven't talked to your counselor about it?

6 A I mean, I talked to my counselor about it. Yes, sir.

7 Q Okay.

8 A Hannah Boyd.

9 Q And is it a fair statement four years ago when you gave this
10 interview it was fresher, or closer, in your memory than it is
11 today?

12 A I mean, I would say yes, sir, but I just said about it and
13 thought about it a long time and just thought about the things
14 that happened. I mean, yes, I was closer in age and, yes, I
15 should have said something. I chose not to.

16 Q And at 16 you're saying you remember --

17 A I'm 15, sir. I'm 15.

18 Q Fifteen. Excuse me. At 15 you remember everything,
19 including the layout of furniture in his house?

20 A Yes, sir. If you go in his house, it's the same exact
21 thing.

22 ATTORNEY VARNER: Okay. That's all the questions I have,
23 Your Honor.

24 THE COURT: Any redirect?

25 ASS'T. SOLICITOR GASSER: Just briefly, Your Honor.

REDIRECT EXAMINATION

BY ASS'T. SOLICITOR GASSER:

Q [REDACTED] did you ever disclose any cellphone being used during your sexual assault?

A I have no clue what he has. I don't know nothing about no cellphone or if the Defendant had a cellphone.

Q Did you ever see him using his cellphone while he was sexually assaulting you?

A While he was sexually assaulting me, no.

Q Did you ever see him using his computer while sexually assaulting you?

A No.

Q So did you ever tell law enforcement or your forensic interviewer anything about a cellphone or a computer?

A I mean, I don't -- I mean, what does it have to do with me being sexually assaulted?

Q To your knowledge, did he ever take any photographs of you while he was sexually assaulting you?

A I have no clue.

Q And you were asked some questions on cross-examination about things you didn't share during your forensic interview that you're sharing with us today.

Can you just explain to the jury why you left out certain details in your forensic interview.

A I mean, I'm a kid. I mean, it's hard for me to talk about

1 this even at my age now. Even knowing all the terms and
2 everything, it's hard for me to talk about because I never want
3 to tell anybody the disgusting things that he did to me.

4 Q At 11 years old did you want to talk about sex toys?

5 A No. I'm 11 years old. I only want to talk about the toys I
6 was playing with at home.

7 Q And at 11 years old did you want to talk about ejaculation
8 in your mouth?

9 A No, I didn't.

10 ASS'T. SOLICITOR GASSER: I have no further questions, Your
11 Honor.

12 THE COURT: All right.

13 ATTORNEY VARNER: Nothing further.

14 THE COURT: You may step down. Thank you.

15 Yes, ma'am. Are you ready to call your next witness?

16 ASS'T. SOLICITOR GASSER: And, Your Honor, may we approach
17 just to talk about logistics?

18 THE COURT: Sure.

19 (WHEREUPON, an off-the-record discussion is held at
20 sidebar.)

21 THE COURT: All right. Ladies and gentlemen, we're just
22 talking here at the bench about scheduling because they know that
23 I'm a stickler for time and that I told you all that you would be
24 able to be home and out of here by 5:00.

25 This next witness, there is the potential that the witness

1 would creep into after 5:00 because I don't like to stop a
2 witness during the course of their testimony. I need them to
3 testify on direct with Ms. Gasser, and have cross with
4 Mr. Varner -- some judges will break it up. I never do, because
5 once they start they cannot speak to anybody about anything, and
6 I hate to have someone go home and have an implication that they,
7 you know, there's questions about what they do.

8 So as opposed to running the risk of running after 5:00 and
9 into 5:30, 6:00, we're going to stop for today. We are ahead of
10 schedule, so hopefully that makes you feel a little bit better.
11 And we'll just start back tomorrow morning. I am leaning towards
12 like a 9:30 start time.

13 ASS'T. SOLICITOR GASSER: That works for me, Your Honor.

14 THE COURT: Is your witnesses available then?

15 ASS'T. SOLICITOR GASSER: Yes, Your Honor.

16 THE COURT: Mr. Varner, that work for you?

17 ATTORNEY VARNER: No problem, Your Honor.

18 THE COURT: Most importantly, does that satisfy you all?
19 9:30 sound too early, not too late? Everybody's kind of giving
20 me a nod. All right, 9:30 start time. Ron will give you some
21 more instructions. I do want to remind you since we're on break
22 and you're headed home we were not going to finish regardless,
23 but do not talk with anybody in your household, don't do any
24 independent research, do not discuss the case at all.

25 And we'll see you all back tomorrow morning, and we'll keep

1 moving through the trial pretty quickly, I think.

2 All right, Ron. I'm going to have you retire back to the
3 jury room, and then he'll set you free. I hope you all have a
4 good night.

5 (WHEREUPON, Jury is excused for the day at 4:00 p.m.)

6 (End of Transcript of Record.)

7
8 CERTIFICATE OF REPORTER

9 I, Cathy J. Provost, Official Court Reporter for the
10 Fourteenth Judicial Circuit of the State of South Carolina, do
11 hereby certify that the foregoing is a true, accurate and
12 complete Transcript of Record of the proceedings had and evidence
13 introduced in the trial/proceedings of the captioned case in the
14 Court of General Sessions for Greenville County, South Carolina,
15 on the 13th day of May, 2025.

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

18
19 Date: October 1, 2025

20
21 \s\ Cathy J. Provost
22 Cathy J. Provost, RMR
23 Official Circuit Reporter
24
25

THE STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
)
COUNTY OF GREENVILLE) THIRTEENTH JUDICIAL CIRCUIT

THE STATE OF SOUTH CAROLINA) NO. 2024-GS-23-07200; -07206;
) -07207; -07208; and -07209
VS.)
)
PHILIP SCOTT STEELE) TRANSCRIPT OF RECORD
)
) Jury Trial
) Vol. II of III, Pages 171-333

B E F O R E:

THE HONORABLE JESSICA A. SALVINI, JUDGE; AND A JURY

DATE: May 14, 2025
Greenville, South Carolina

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

MEGHAN A. GASSER, ESQUIRE

Attorney for the State

KIM R. VARNER, ESQUIRE

Attorney for the Defendant

Reported by: Cathy J. Provost, RMR, Official Court Reporter

-- P R O C E E D I N G S --

(Indexes contained in Vol. I, dated May 13, 2025.)

(WHEREUPON, court is called to order, without the jury.)

MATTER(S) OF LAW

THE COURT: Yes, sir.

ATTORNEY VARNER: Your Honor, I understand your ruling as to not bringing up the sexual offender registry of the other gentleman, but under 404(b) and 608(c), it is not remote. Number one, this happened during the period of time they were living with this gentleman; and I think it goes to the motive, and it's influenced testimony attempting to show prejudice or bias, in other words, to protect him.

And that we would offer, as a proffer, the sexual registry on Christopher Thurston who is the gentleman, that was testified that lived with him for approximately seven years during the time of this purported incident.

THE COURT: All right. Thank you for stating that for the record so that that way it is clear. But nevertheless, I do find that this evidence of third-party guilt is not appropriate to be admitted based on where we are at thus far in the trial.

And my understanding, again, under *State versus Singleton* and *State versus Gregory* -- and I'm just going to state this for the record -- "Evidence offered by a defendant as to the commission of a crime by another" -- and that's what this implication would be -- "must be limited to facts inconsistent

1 with his own guilt which raise a reasonable inference as to his
2 evidence. Evidence that merely casts a 'bare suspicion on
3 another is not enough; there must be a train of facts and
4 circumstances that clearly point out another as the guilty
5 party."

6 And I don't have that yet. But you've made your proffer and
7 the record's protected.

8 ATTORNEY VARNER: Your Honor, we would proffer --

9 THE COURT: I'll mark that as a court's exhibit, and that
10 would be my next exhibit, which would be?

11 THE COURT REPORTER: Five.

12 THE COURT: Five.

13 (WHEREUPON, Court's Exhibit 5 is marked for identification.)

14 ASS'T. SOLICITOR GASSER: Your Honor, just for appeal
15 purposes, the State would just like on the record I don't believe
16 there's been any testimony that the victim in this case ever
17 lived with this person, either. But I just, again, just for the
18 record --

19 THE COURT: Sorry, Ms. Gasser. All right. Don't just sneak
20 away yet. So we can go off the record, Cathy.

21 (WHEREUPON, an off-the-record discussion is held.)

22 (WHEREUPON, Court's Exhibit 6 is marked for identification.)

23 THE COURT: The jury foreperson has given me a note. And
24 I'm going to mark it as a Court's exhibit, which would be Court's
25 Exhibit 6, I believe. I'm going to read it, and then I'm going

1 to tell you all what Ron informed me. There are three questions
2 on the note on Court's Exhibit 6. The first question is: "What
3 address is being referenced when rent and buying a house is
4 talked about?"

5 ATTORNEY VARNER: What was that, what address --

6 THE COURT: "What address is being referenced when rent and
7 buying" -- in quotes -- "the house are talked about?"

8 Question no. 2: "The evidence of the picture was not shared
9 with the jury. Will it?"

10 Question no. 3: "The conversation between the police
11 officer and the grandmother, there were muted or mic'd-off parts.
12 Was that intentional 'redacted'?"

13 Jury foreperson reassured Ron that they have not discussed
14 the questions; they have not discussed the case. When they came
15 into the room -- I'm assuming it's a different juror but I can
16 find out -- came up and said I have a question, will you write it
17 down for the Judge. And so three questions then popped up.

18 THE BAILIFF: That's basically what she told me.

19 THE COURT: Okay. Now, this is the second time that this
20 has happened when I have been presiding over a jury trial. And I
21 have a couple options, I guess, and then I want to hear what you
22 all would like to do.

23 I can bring the jury foreperson into the courtroom and make
24 some additional inquiries on the record about whether or not they
25 have discussed the case, and flush out specifically, exactly,

1 what happened this morning when they came into the jury room as
2 to how these three questions arose. If it truly is, for example,
3 they all walk into the room; they're waiting to be called in;
4 juror no. so-and-so walks up and says I have a question, will you
5 write it down; they write it down; next juror walks up and says,
6 Oh, I have a question; they write it down. Or was there some
7 discussion? All right.

8 Option no. 2 is I don't do anything like that. I bring the
9 jurors in and I say I cannot answer these questions. You're not
10 to begin your deliberations until the conclusion of all of the
11 evidence in the trial. I'm not going to answer these questions,
12 essentially. Do not discuss this case. And we keep going
13 forward, with some additional comment.

14 Ms. Gasser, Mr. Varner, I know I'm springing this on you,
15 but it was sprung on me, so.

16 ATTORNEY VARNER: I don't think anybody wants to try this
17 case again.

18 THE COURT: No, sir.

19 ATTORNEY VARNER: First, I think they're rather innocuous
20 questions. I don't think they're going to taint the jury. But I
21 think we have to address the questions, and it might as well be
22 now.

23 My suggestion is that, in regard to the redacted portions,
24 to explain to them, yes, we had pretrial motions, and I ruled
25 that you are not to hear that, it was deliberately muted, and

1 you're not to consider that because that is a ruling of the
2 Court. Clear that up legally.

3 No. 2, with the address issue, I would have no objection to
4 you saying what the testimony was that came out, because the
5 address we're talking about with the mortgage is the address that
6 the grandmother lives at. And that's been testified to three or
7 four times. And just clear it up with the evidence that we
8 presented in front of them, and be done with it so that the
9 questions are answered.

10 And I've forgotten what the third one was. The address; the
11 muted.

12 THE COURT: Actually, Mr. Varner's position might not be a
13 bad one. Is these are three questions. We could still flush out
14 whether or not they've deliberated, but it could be as simple, if
15 you both agree, because if you both agree then there's no
16 issue -- is, yes, we had pretrial motions; I made certain rulings
17 and, therefore, the video of the grandmother, or the recording of
18 the grandmother, was intentionally redacted pursuant to my
19 instructions. You're not to consider it.

20 No. 2: All evidence that have been admitted will be
21 presented to you and you will be entitled to look at it when you
22 begin your deliberations. Because that was the second question,
23 to take a look at it.

24 And then the only other question was they were confused
25 about the address. And Mr. Varner's position is, Ms. Gasser, is

1 that I say simply that the evidence before you is that the
2 address reference with the grandmother's house. The end. And
3 it's done.

4 ATTORNEY VARNER: I think that's perfect --

5 ASS'T. SOLICITOR GASSER: Yes, Your Honor.

6 ATTORNEY VARNER: -- because I don't want the jury listening
7 to testimony thinking about that stuff. Just get it answered so
8 they have a clear mind to listen to the witnesses today.

9 THE COURT: And then tell them do not deliberate, and save
10 your questions for the end.

11 ASS'T. SOLICITOR GASSER: Yes.

12 ATTORNEY VARNER: Sure.

13 THE COURT: What do you think about that?

14 ASS'T. SOLICITOR GASSER: I am in agreement. I think that
15 works.

16 THE COURT: All right. Good. Do you want me to ask the
17 jury foreperson outside the presence of the other jurors, or in
18 front of the other jurors, whether or not they've begun their
19 deliberations? They've told Ron they have not. The foreperson
20 told Ron they have not.

21 THE BAILIFF: I specifically asked have you discussed it,
22 and she said no.

23 THE COURT: But do you want me to do that on the record?

24 ASS'T. SOLICITOR GASSER: I think for appeal's purposes it's
25 safest if we ask the jury foreperson outside the presence, and

1 then, based upon her answers, bring the whole jury in, answer the
2 questions with the instructions.

3 ATTORNEY VARNER: I don't object to that.

4 ASS'T. SOLICITOR GASSER: I think that's cleanest for
5 appeals.

6 THE COURT: I think so, too. So, Ron, let's grab our jury
7 foreperson. It's Ms. Perretta?

8 THE BAILIFF: Yes.

9 THE COURT: I know it's Caren.

10 THE BAILIFF: Yeah, Ms. Perretta.

11 THE COURT: I hate to call people by their first name
12 without asking. But Ms. Perretta, No. 254, let's bring her in,
13 and then I'll ask her. And then once we've cleared this up, I'll
14 let her take her seat and you can bring everybody else in.

15 (WHEREUPON, the jury foreperson enters at 9:48 a.m.)

16 THE COURT: Yes, ma'am. Thank you for coming in. I
17 received your note.

18 THE FOREPERSON: Yes.

19 THE COURT: Thank you. But before I address that with your
20 fellow jurors I just want to confirm with you that you all have
21 not begun your deliberations.

22 THE FOREPERSON: We have not.

23 THE COURT: Have you discussed the case at all together?

24 THE FOREPERSON: We have not.

25 THE COURT: Ron told me that the way these questions came up

1 is, when you all came into the jury room, one or more of you had
2 some questions, then told you to write them down to give to me.
3 Is that correct?

4 THE FOREPERSON: Correct. We were instructed if we had any
5 questions throughout the trial to write them down, hand them to
6 the bailiff.

7 THE COURT: Okay. Satisfied, Ms. Gasser?

8 ASS'T. SOLICITOR GASSER: Yes, Your Honor.

9 THE COURT: Mr. Varner?

10 ATTORNEY VARNER: Yes, Your Honor.

11 THE COURT: Okay. So jury madam foreperson, if you will go
12 ahead and take your seat.

13 And, Ron, if you'll bring the rest of the jurors in.

14 THE FOREPERSON: For clarification, is this how we are
15 supposed to ask questions?

16 THE COURT: Yes, but I'm going to instruct you all that you
17 will ask your questions at the conclusion of the trial after all
18 the evidence is received --

19 THE FOREPERSON: All right.

20 THE COURT: -- just to ensure that nobody is deliberating;
21 that you all are not discussing the case until you receive
22 everything.

23 THE FOREPERSON: Absolutely.

24 THE COURT: Okay. Perfect.

25 (WHEREUPON, the remaining jurors enter at 9:50 a.m.)

1 THE COURT: All right. All of our jurors are now back in
2 the courtroom. I have received a note from our jury foreperson.
3 It has three questions.

4 I'm going to remind you all not to deliberate until you
5 receive all the evidence, the attorneys have made their closing
6 arguments, and I've instructed you on the law. So do not discuss
7 the case at all.

8 Any additional questions you have, you will ask at the
9 conclusion of the trial, because you may not have any questions
10 once you receive all of the evidence.

11 But nevertheless, the three questions that you asked, I am
12 going to answer. Question no. 1: "What address is being
13 referenced when rent and buying" -- in quotes -- "the house are
14 talked about?" The evidence that you have received thus far
15 during the course of this trial is that the address being
16 referenced is the grandmother's residence.

17 Question no. 2: "The evidence of the picture was not shared
18 with the jury. Will it?" Yes. Every exhibit that is admitted
19 into evidence will be given to you when you begin your
20 deliberations, and it will be provided to you in the jury room,
21 including any videos, because we do have equipment that you can
22 use to watch anything that's admitted into evidence.

23 No. 3: "The conversation between the police officer and the
24 grandmother, there were muted or mic'd-off parts. Was that
25 intentional 'redacted'?" -- in quotes. Yes. Pursuant to my

1 pretrial rulings and instructions, I required the attorneys to
2 redact certain portions so that they would conform with the rules
3 of evidence and the rules that are required for this courtroom.

4 All right. Ms. Gasser, any objections or exceptions to my
5 response?

6 ASS'T. SOLICITOR GASSER: None from the State, Your Honor.

7 THE COURT: Mr. Varner.

8 ATTORNEY VARNER: None, Your Honor.

9 THE COURT: All right. So now let's call our next witness.

10 ASS'T. SOLICITOR GASSER: May it please the Court. Your
11 Honor, the State calls MINOR 2 [REDACTED]

12 THE COURT: All right.

13 MINOR 2 [REDACTED],

14 having first been duly sworn, is examined and testifies as
15 follows:

16 CLERK OF COURT: And state your name for the record.

17 THE WITNESS: MINOR 2 [REDACTED].

18 **DIRECT EXAMINATION**

19 BY ASS'T. SOLICITOR GASSER:

20 Q And, MINOR 2 [REDACTED], again, if I ask you to speak up a little,
21 because you're soft-spoken, will you just make sure you speak
22 into that mic, okay --

23 A Yes.

24 Q -- so everyone can hear you. MINOR 2 [REDACTED] can you please
25 introduce yourself to the jury. How old you are?

- 1 A I'm MINOR 2 and I'm 14 years old.
- 2 Q And what grade are you in?
- 3 A I'm in 8th grade.
- 4 Q And what school do you go to?
- 5 A MINOR 2 Middle School.
- 6 Q And what's your favorite class in school?
- 7 A Uhm, Social Studies.
- 8 Q What did you learn in Social Studies last week?
- 9 A I didn't have it this semester, but I had it last semester.
- 10 Q Yeah. What was your favorite thing?
- 11 A We learned about World War II.
- 12 Q And is there anything else you like to do at school or at
- 13 home?
- 14 A Uhm, I like being with my friends in school, and I like
- 15 playing video games with my uncle.
- 16 Q And what do you do with your friends?
- 17 A Uhm, a lot.
- 18 Q A lot. What kind of things do you do with your friends?
- 19 A We like to talk and laugh and just be with each other.
- 20 Q And how are you feeling this morning, MINOR 2?
- 21 A Uhm ... fine.
- 22 Q So MINOR 2 I want to take you to your family. So first,
- 23 what's your mom's name?
- 24 A Sherry Alicia Aiken.
- 25 Q And do you have any siblings?

- 1 A Yes.
- 2 Q And what are their names?
- 3 A MINOR1 and SISTER .
- 4 Q And how old is MINOR1 ?
- 5 A Fifteen.
- 6 Q And how old is SISTER ?
- 7 A Nine.
- 8 Q And what's your birthday, MINOR 2 ?
- 9 A /11.
- 10 Q And what's your grandmother's name?
- 11 A Sherry Zeabold.
- 12 Q And let's talk about who you live with right now. Who are
- 13 you living with right now?
- 14 A My aunt and uncle.
- 15 Q And do you have any cousins?
- 16 A Yes.
- 17 Q How many cousins do you have?
- 18 A Two.
- 19 Q And do you get along with your cousins?
- 20 A Yeah.
- 21 Q So MINOR 2 , I want to take you back to 2021. Did you go to
- 22 the Julie Valentine Center?
- 23 A I did.
- 24 Q And do you remember why you went to the Julie Valentine
- 25 Center?

1 A I wasn't sure at the time but I found out, like, when I went
2 in there. Me and my sister talked about it.

3 Q And when you say you and your sister talked about it, did
4 you all talk about it before your interview?

5 A Uhm, uhm, yeah.

6 Q And what was your understanding of why you were going to
7 give an interview?

8 A Something bad happened to both of us.

9 Q And had ever you told anyone before your interview?

10 A No.

11 Q Did you tell your sister what happened to you before your
12 interview?

13 A No.

14 Q Did you tell your mom?

15 A No.

16 Q And when you were in your interview, what did you say
17 happened to you?

18 A Uhm, the first thing that I remember was I was sleeping on
19 the couch, and I woke up and I saw Scott and MINOR1 sitting on
20 his recliner. MINOR1 was on his lap. I don't remember where
21 their hands were or anything, but I -- well, he called me over
22 there, and me and MINOR1 kind of switched places.

23 Q So you just testified that you were asleep on the couch and
24 you woke up. All right. Do you remember, were you under a
25 blanket or did you -- what were you wearing?

1 A I don't remember what I was wearing.

2 Q And when you said that you woke up you saw MINOR1 where?

3 A On Scott's lap.

4 Q Now, who is Scott?

5 A (Responds.)

6 Q And you're pointing. And just let the record reflect that
7 you're pointing. Who was Scott to you back then? Did you call
8 him something other than Scott?

9 A My papa.

10 Q And how was he related to you, MINOR 2?

11 A He was my grandmother's husband.

12 Q And you just pointed in the courtroom over my left shoulder.
13 Is that your papa, the person that was married to your
14 grandmother?

15 A Yes, it was.

16 Q Okay. And can you describe what he's wearing today?

17 A Blue-collared shirt again, and glasses.

18 ASS'T. SOLICITOR GASSER: Let the record reflect that the
19 witness has identified the Defendant, Philip Scott Steele, as the
20 person married to her grandmother that she called papa.

21 THE COURT: The record will so reflect.

22 Q Now, MINOR 2 I want to take you back to when you woke up.
23 Where did you say MINOR1 was again?

24 A On Scott's lap.

25 Q And when she was on Scott's lap could you see what she was

1 wearing?

2 A No. I do not remember.

3 Q And you said that you went over there; is that right?

4 A Right.

5 Q And what did MINOR1 do?

6 A I'm not really sure what she did. I don't know if she went
7 back to the couch where I was, but she wasn't -- I didn't see her
8 anymore after I went over there.

9 Q And after you went over there, what happened next?

10 A I got onto Scott's lap. And I don't remember what happened
11 after I got onto his lap, but then I remember kind of standing
12 up, and his penis was out, and he put it on my lip, kind of in my
13 mouth, and I tasted a pee taste.

14 Q All right. So MINOR 2, how old were you?

15 A I'm not exactly sure.

16 Q And do you remember how old MINOR1 was?

17 A No.

18 Q Was your little sister, SISTER, born yet?

19 A No.

20 Q Why were you over at Papa's?

21 A Because my mom was at work.

22 Q Do you remember where Papa lived?

23 A No.

24 Q Where was your grandmother?

25 A I don't know.

1 Q Did they live together at that time?

2 A No.

3 Q Did he have his own house?

4 A Yes.

5 Q Did your grandmother have a separate house?

6 A Yes.

7 Q That night when you got on his lap was your grandmother
8 there?

9 A No.

10 Q Was there any other adult there?

11 A No.

12 Q Who else was in the house other than you and Papa?

13 A MINOR1

14 Q Now, you just told the jury that he stood up and his penis
15 was out. Did he have pants on?

16 ATTORNEY VARNER: Objection. Leading.

17 THE COURT: Sustained. Ask open-ended questions. But go
18 ahead and answer.

19 A I stood up. I was standing up.

20 Q You stood up.

21 A He was in his recliner.

22 Q Okay. So where was he?

23 A He was in his recliner.

24 Q And when you stood up were you next to his recliner or in
25 front of his recliner?

- 1 A I was in front of him between his legs.
- 2 Q Did he have pants on?
- 3 A I can't remember.
- 4 Q And what happened next?
- 5 A He put his penis on and in my mouth.
- 6 Q Why were you over there with MINOR1?
- 7 A Because my mom was at work and needed someone to watch us.
- 8 Q And what happened after he put his penis in your mouth?
- 9 A I tasted something. It tasted like pee, and it was watery.
- 10 Q How did you feel when this happened?
- 11 A I don't know.
- 12 Q Do you remember what Papa's house looked like?
- 13 A Kind of.
- 14 Q Can you describe, when you're walking through the front
- 15 door, what do you see?
- 16 A His recliner was like straight back to the house and to the
- 17 left, and the couch was to the right of the front door. And then
- 18 I remember you could see the recliner from the couch.
- 19 Q Now, MINOR 2, did this happen just that one time?
- 20 A I don't know. That's the only time I remember.
- 21 Q Now, MINOR 2, did you ever watch TV when you were at Papa's
- 22 house?
- 23 A I watched porn.
- 24 Q Okay. Can you tell the jury a little bit about that?
- 25 A It was always on the TV, always. It was always kind of like

1 the same set-up.

2 Q Do you remember what you saw on the TV?

3 A The one image I have in my mind of it is it was kind of like
4 a school setting. A girl that's in a yellow, plaid skirt, she
5 was topless, and the guy was just completely naked.

6 Q Had you ever seen anything like that before?

7 A No.

8 Q Did you know what that was at the time?

9 A No.

10 Q Do you know what that is now?

11 A Yes.

12 Q Now, where would you -- did you always sleep on the couch?

13 A I don't know, but that's where I remember being most.

14 Q And how did you -- what -- do you know, when did it stop
15 when he put his penis in your mouth?

16 A What do you mean?

17 Q Do you remember how long it went on for?

18 A I don't.

19 Q Do you remember why he stopped?

20 A I don't.

21 Q Did he say anything to you when it was happening?

22 A I don't remember.

23 Q Did he say anything after?

24 A I don't remember, but I do remember him telling me and

25 MINOR1 that he would hurt us or something bad would happen to our

1 family if we told.

2 Q Did you ever tell anyone when you were that age?

3 A No.

4 Q Did you ever say anything to any of your other siblings?

5 A No, not specific details of what happened, but I told them
6 it happened to me.

7 Q So can you tell the jury a little bit about that? What do
8 you mean by not specific details?

9 A Well, with my mom, I didn't go into what's going on. That's
10 the only time I had ever said something like that happened, so
11 that's what I'm talking about.

12 Q So did your mom ask you questions?

13 A Yeah, she asked me and MINOR1.

14 Q And did you give her any details?

15 A No.

16 Q Why didn't you tell your mom when she was asking you
17 questions?

18 A Because I was scared and I was -- I knew it wasn't right.

19 Q Now, MINOR 2, do you remember giving a forensic -- do you
20 remember going to the Julie Valentine Center and giving a
21 forensic interview?

22 A Yes.

23 Q And did you share all the details with the forensic
24 interviewer?

25 A All I could remember. Yes.

1 Q And do you remember whether or not -- did you ever touch the
2 Defendant?

3 A I don't know.

4 Q Did you give all the details you could, back in your
5 forensic interview, that you could remember?

6 A Yes.

7 Q Do you remember any details about the Defendant's penis when
8 you saw it?

9 A I don't. I just remember the feel it.

10 Q And how did it feel?

11 A Just rough and something that felt like something that
12 shouldn't be on my face.

13 Q So you didn't tell anyone back then. Did you ever tell
14 anyone for seven years?

15 A What do you mean?

16 Q So did you wait to tell --

17 ATTORNEY VARNER: Objection. Leading.

18 THE COURT: Sustained.

19 ASS'T. SOLICITOR GASSER: I'll rephrase, Your Honor.

20 THE COURT: You've got to rephrase.

21 Q Was the first time you told in 2021 to the forensic
22 interviewer?

23 A Yes.

24 Q Did anyone tell you what to say?

25 A No.

1 Q Did anyone coach you?

2 A No.

3 Q Did you and your sister discuss these details before you
4 went in for your interview?

5 A No. It was kind of just saying what happened at Papa's
6 house, because I feel like we both knew what happened to each
7 other but we never talked about it.

8 Q So did you all ever discuss details before your interview?

9 A Before my interview, no.

10 Q Did your mother or grandmother ever tell you what to say?

11 A No. They told me to be truthful.

12 Q MINOR 2, when you went over to the recliner, when you first
13 were at the recliner, what did you do?

14 A I just stood there and looked at him.

15 Q And what happened after you stood there and looked at him?

16 A He pulled me into his lap.

17 Q When he pulled you into his lap, what happened next?

18 A I don't know what happened. I don't remember what happened
19 when I went on his lap. The next thing I remember, I was
20 standing up in between his legs.

21 Q And was there a television near the recliner?

22 A Uhm, I can't remember. The closest one I remember was the
23 one in the living room.

24 Q The one in the living room. Was his recliner in the living
25 room?

A I, I don't know. I just knew that you could see it from the couch.

Q You testified that pornography had been on the TVs. Do you remember, was there pornography on during this incident?

ATTORNEY VARNER: Your Honor, that question has been asked and answered. We've beaten pornography to death.

ASS'T. SOLICITOR GASSER: And, Your Honor, this is specifically as to during the incident.

THE COURT: All right. Overruled. But this is the last time we're asking it. Okay.

A Say that again.

Q Was there pornography on the television during this incident where he placed his penis in your mouth?

A I can't remember.

Q MINOR 2 I know you testified that you don't remember your exact ages, but were you under 11 years old?

A Definitely.

ASS'T. SOLICITOR GASSER: Your Honor, at this time I have no further questions.

Q Please answer any that defense counsel may have.

ATTORNEY VARNER: May it please the Court.

THE COURT: Yes, sir.

CROSS-EXAMINATION

BY ATTORNEY VARNER:

Q MINOR 2 you testified about this porn. You said it was a

1 woman with her top off and a man, correct?

2 A Yes.

3 Q And you saw, saw that, but your sister allegedly saw two
4 women together?

5 ASS'T. SOLICITOR GASSER: Objection, Your Honor. Pitting
6 witnesses.

7 THE COURT: Overruled. I'm going to let him ask it.

8 Q Do you disagree there was not two women together?

9 A I believe the porn was on TV multiple times.

10 Q All right. And you said the porn was on. In what room?

11 A The room I remember was the living room.

12 Q Living room, okay. And you're 14 now, correct?

13 A Correct.

14 Q And do you agree that when this allegedly happened, your
15 sister was somewhere between three and five?

16 A I think so.

17 Q And you're 17 months younger than her, correct?

18 A Uh-huh.

19 Q So you were somewhere between a year and a half and possibly
20 a little over three years old when you're saying you remember all
21 this?

22 A Yes, I do.

23 Q And you remember even the color of a skirt somebody wore
24 when you were somewhere between a year and a half --

25 A Yes, I do --

1 Q -- and three and a half years old?

2 A -- because it was graphic. Yes, I do.

3 Q And you said that you and your sister discussed this before
4 you went to Julie Valentine, correct?

5 A I said after.

6 Q You said after, okay. Well, when you went in the first
7 question that was asked of you was did you know why you were
8 there, and you said to help out my sister. How did you know you
9 were there to help out your sister if you didn't know what your
10 sister had said or not said?

11 A Because I had seen what happened to my sister.

12 Q Okay.

13 A I seen.

14 Q And back when you did this interview that was, coming up on,
15 four years ago?

16 A Correct.

17 Q And you were 10 years old at that time?

18 A Correct.

19 Q And the reason for your interview was to help out your
20 sister?

21 A I was also 10 years old.

22 Q Ma'am, I'm sorry. I didn't hear you.

23 A I said I was 10 years old. Yes, it's what I said.

24 Q Now, are you in counseling also?

25 A I am.

1 Q How long have you been in counseling?

2 A Since 6th or 7th grade.

3 Q And how many men have been living at the home when you were
4 with your mother?

5 A Excuse me?

6 Q How many men had been living at the home when you were with
7 your mother?

8 A One.

9 Q Okay. You witnessed violence there?

10 A No.

11 Q And during this period of time did you spend a lot of nights
12 and days and stuff with your grandmother?

13 A Excuse me. When you said who my mom was living with, are
14 you talking about during the time when he did this to us, or?

15 Q Up to today.

16 A Up to today.

17 ASS'T. SOLICITOR GASSER: And, objection, Your Honor, I do
18 believe, under relevance.

19 THE COURT: I agree. Why is this relevant? We're focused
20 on a specific timeframe.

21 ATTORNEY VARNER: All right.

22 THE COURT: All right. So that's sustained.

23 Q Up until that point in time how many men had lived in your
24 mother's house with you guys?

25 A My father.

1 Q And did you spend a lot of time with your grandmother?

2 A Yes, that I can remember. Yes.

3 Q Okay. And do you remember her living with a Christopher
4 Thurston?

5 A Yes, I do.

6 Q Did you have a good relationship with him?

7 A A great relationship.

8 Q Did you like him?

9 A I did.

10 Q Did he ever say anything to you about this case?

11 A No.

12 Q You said you now live with your aunt and uncle; is that
13 correct?

14 A Correct.

15 Q Why?

16 A Why?

17 ASS'T. SOLICITOR GASSER: And, objection, Your Honor. This
18 is going to be something we need to take up outside the presence
19 of the jury based upon your preliminary rulings.

20 ATTORNEY VARNER: She's the one that brought it up. I'm
21 entitled to question about it. I didn't know that until she
22 asked her where she was living and she said --

23 ASS'T. SOLICITOR GASSER: Again, Your Honor --

24 ATTORNEY VARNER: Excuse me.

25 ASS'T. SOLICITOR GASSER: -- I believe --

1 ATTORNEY VARNER: Excuse me.

2 ASS'T. SOLICITOR GASSER: -- that this argument should be
3 outside the presence of the jury.

4 THE COURT: Hold on. Without saying anything, you all
5 approach the bench.

6 (WHEREUPON, an off-the-record discussion is held at
7 sidebar.)

8 THE COURT: All right, ladies and gentlemen. I need about a
9 five-minute chat with these attorneys. All right. So I'm going
10 to let you all go back, get something to drink, use the restroom.
11 We've been going on only about an hour, but give me a moment to
12 talk with them and then I'll bring you back in. I won't make you
13 wait long, though. All right.

14 (WHEREUPON, the jury exits at 10:19 a.m.)

15 MATTER(S) OF LAW

16 THE COURT: All right. Based on our conference at the
17 bench, my preliminary ruling is to sustain her objection based on
18 relevance, not based on my previous rulings because I don't know
19 what the answer is.

20 But for the purposes of appeal and because I may reconsider
21 that, I'm going to allow Mr. Varner to ask the question, and I'd
22 like for you to go ahead and answer it.

23 So go ahead and re-ask the question for the record.
24
25

PROFFER EXAMINATION

(without the jury)

BY ATTORNEY VARNER:

Q MINOR 2 why are you living with your aunt and uncle?

A Because I wasn't able to live with my grandma anymore.

Q What?

THE COURT: Because she wasn't able to live with her grandmother anymore.

Q Why weren't you able to live with Grandma anymore?

A Because she needed a break, and she's older, she has (indiscernible) --

THE COURT REPORTER: I'm sorry?

THE COURT: "She needed a break, and she's older." You just have to speak up just a little bit.

THE WITNESS: Yeah. I'm sorry.

THE COURT: It's okay.

Q And I'm not trying to put words in your mouth, but you moved out because you didn't want to live with Mom anymore, you wanted to live with Grandma. Excuse me. I'm sorry.

THE COURT: This is a proffer.

ATTORNEY VARNER: I misphrased that.

Q You moved out. Well, let me back up.

THE COURT: It's cross-examination. Just go ahead and ask it, Mr. Varner. There's no jury present.

ATTORNEY VARNER: All right.

1 Q Were you living with your grandma when you moved out?

2 A Moved out of where?

3 Q Did you move out of your grandma's house to your aunt and
4 uncle's house?

5 A Yes.

6 Q Okay. You left Grandma's house because you didn't want to
7 live there anymore?

8 A No. It was a choice made for me and my little sister that
9 the adults in my life thought was best.

10 Q Why? Why were you --

11 A Why is it relevant?

12 THE COURT: You still have to answer the question. Please
13 answer it.

14 A Why?

15 Q Why?

16 A Like I said ... Ask the question again.

17 Q Why were you given a choice of moving out?

18 A I wasn't given a choice.

19 Q Or why did you choice to move out?

20 THE COURT: I think you need to rephrase the question. Why
21 were you told.

22 A I keep saying --

23 THE COURT: She wasn't given the choice. She's saying the
24 adults in her life made this decision before her; that she was
25 not going to live with her grandmother, she was going to live

1 with her aunt and uncle.

2 ATTORNEY VARNER: Okay.

3 A Because my grandmother had a temper, and it wasn't a good
4 environment for me and my little sister to be, period.

5 Q And why did you move from your mother's house to your
6 grandmother's house prior to that?

7 A Because my mom was unable to take care of us anymore.

8 Q What do you mean by not taking care of you?

9 A Us not be in her custody or us live with her.

10 Q Was she staying with you or leaving you guys alone, or what
11 was going on that she wasn't taking care of you?

12 A Uhm, it had something to do with the court system. I don't
13 exactly know.

14 THE COURT: This is not relevant. Mr. Varner, you have not
15 established relevance. We're talking about right now why she's
16 living with aunt and uncle, not back when she was young.

17 ASS'T. SOLICITOR GASSER: And, Your Honor, at this point I
18 do believe -- I believe the questions are being asked to probably
19 elicit extreme emotional -- I don't even know what the objection
20 would be at this point, but it's essentially trying to turn this
21 into a contentious family court hearing, and I don't know if
22 that's relevant or appropriate.

23 THE COURT: Well, I disagree with that but, Mr. Varner, I
24 don't see why you should go any further. But I'll let you put on
25 the record as to why. My ruling still remains the same. Her

1 objection is sustained. This is not relevant to what we're doing
2 here today.

3 ATTORNEY VARNER: I understand. Your Honor, this child's
4 emotional state, testifying about something when she was very,
5 very young, is very-much factored into, and I think the jury
6 should be aware, of what emotional situations this child has been
7 through to get her here today. First, her mother wasn't taking
8 care of her. According to her heard testimony, she lived with
9 her grandmother. That was not an appropriate environment because
10 Grandmother was violent and reacted --

11 THE WITNESS: I didn't say that.

12 THE COURT: Hold on. Hold on. It's okay. He's just making
13 his argument.

14 ATTORNEY VARNER: And she's now with an aunt and uncle.
15 Those are factors for a jury to determine a person's bias,
16 credibility, judgment, believability. Factors you've been
17 through in life that affect your living situation very-much
18 affect the way you talk today, and it is relevant as to what
19 she's saying today.

20 THE COURT: All right. Nevertheless, I disagree. The
21 objection is sustained. I do not believe it is relevant. It
22 does not make it more likely than not that Mr. Steele molested
23 her when she was between the age of, what I've heard from the
24 evidence, a year and a half to age three.

25 THE WITNESS: Thank you.

1 THE COURT: But you've made your record for purposes of
2 appeal, though. Anything else you want to put on the record
3 before I bring my jury back in?

4 ATTORNEY VARNER: Just briefly. It goes to not more likely
5 as to his guilt but as to bias, prejudice, influence in regard to
6 the testimony. That's my aim and focus, Your Honor.

7 THE COURT: All right. I understand, but nevertheless --
8 and I just want to state this for the record because this may go
9 up on appeal -- it would be her bias potentially against her
10 mother and her grandmother, not against Mr. Steele. That's what
11 I would say if you were going with some type of credibility
12 issue. It would be a motive to somehow hurt them, not
13 necessarily hurt him, a person he hasn't seen -- she hasn't seen
14 or spoken to. But nevertheless you've made your record.

15 My ruling is that it's not relevant, and under 403 it is
16 very confusing for the jury to understand what is going on here.
17 But relevance is my primary focus.

18 ATTORNEY VARNER: And just for purposes of the record, I
19 would renew my request because she has now testified she really
20 liked Christopher Thurston, as to any bias or prejudice in regard
21 to excluding him. And that is the gentleman who was on the
22 sexual registry.

23 THE COURT: All right. And that's -- for the same reasons
24 stated before, the request is denied but your record is
25 preserved.

1 ATTORNEY VARNER: Thank you very much, Your Honor.

2 THE COURT: All right. I'm ready to bring my jury back in.

3 (WHEREUPON, the jury enters at 10:27 a.m.)

4 THE COURT: Welcome back, ladies and gentlemen. Yes, sir,
5 Mr. Varner.

6 ATTORNEY VARNER: May it please the Court.

7 **CROSS-EXAMINATION** (cont.)

8 BY ATTORNEY VARNER:

9 Q I just want to make sure I understand. You're 14, correct?

10 A Yes.

11 Q And you don't live with your mother or your grandmother; you
12 live with an aunt and uncle, correct?

13 A Correct.

14 Q Did you tell the interviewer in your forensic interview
15 whether you had ever told your mom or your grandmother about
16 this, or something about it?

17 A I don't remember. Like you said, my interview was four
18 years ago. I don't remember everything I said.

19 Q So you don't remember four years ago what you said or didn't
20 say at the interview?

21 A Not every little thing.

22 Q But you remember 12-and-a-half years ago?

23 A Because of what happened to me, yes, I do. I don't remember
24 anything else from that time but that.

25 Q Do you agree you were told that Philip Steele was dead, you

1 thought he was dead?

2 A I did not know that. I wasn't sure.

3 Q Well, were you ever told he was dead?

4 A Uhm, not that I can remember. No.

5 Q And I apologize for this question. His penis, was it hard
6 or soft?

7 A I don't know.

8 Q Do you know who lived right next door to your grandfather?

9 A Who's my grandfather?

10 Q Mr. Steele.

11 A He's not my grandfather but, yes, I do.

12 Q Okay. Who lived next door?

13 A His parents. His mom.

14 Q So his mom and his stepfather, correct?

15 A (Nods head.)

16 Q And you visited with them and talked to them and everything,
17 too?

18 A I actually -- I only remember seeing them. I don't remember
19 any of the conversations or anything with them.

20 Q Do you even remember her even coming over there? When I say
21 her, his mother, Mr. Steele's mother.

22 A I don't know.

23 Q And your testimony is -- well, let me just ask you, did you
24 stay there all night?

25 A I don't remember. I know I went to bed there.

1 Q Where would you go to bed?

2 A On the couch in the living room.

3 Q And your sister slept with you?

4 A I don't remember. I don't really -- I don't remember seeing
5 her most of the time.

6 ATTORNEY VARNER: Your Honor, bear with me just one moment.
7 That's all the questions I have, Your Honor.

8 THE COURT: Redirect?

9 ASS'T. SOLICITOR GASSER: Very briefly, Your Honor.

10 **REDIRECT EXAMINATION**

11 BY ASS'T. SOLICITOR GASSER:

12 Q And, MINOR 2, defense counsel just asked you about your
13 ages, and you said that your sister was somewhere between three
14 and five. And you agree with him; is that correct?

15 A I don't know what our ages were.

16 Q And then defense counsel asked you if you were one to three;
17 is that correct?

18 ATTORNEY VARNER: Objection, Your Honor. She's prepping,
19 and that's leading.

20 ASS'T. SOLICITOR GASSER: And again, Your Honor, it was just
21 asked on cross-examination. I'm just asking if he asked that
22 question of her and what her response was.

23 THE COURT: Why don't you ask it a different way or rephrase
24 it. It is leading, so it's sustained.

25 Q When your sister was five, based on your ages, at times were

1 you also four years old because you're so close in age?

2 ATTORNEY VARNER: Objection. That's a leading question
3 also, Your Honor.

4 THE COURT: It is a leading question. Just ask her if she
5 knows how old she is. Sustained. The jury can do math, though.
6 They've established when they were born, what years we're talking
7 about.

8 ASS'T. SOLICITOR GASSER: Yes, Your Honor.

9 Q And, MINOR 2, when you were asked about trying to remember
10 things, can you explain to the jury, why do you remember this
11 incident happening to you?

12 A Because I knew it was -- it was the only thing that happened
13 that I can remember at that time that I knew wasn't right, and I
14 knew I felt disgusted, especially when I got the gist of what sex
15 was, that's ... yeah.

16 Q How does that make you feel today?

17 ATTORNEY VARNER: That question's been asked and answered.

18 A Today --

19 THE COURT: I'm going to overrule it. I'm still going to
20 let her answer.

21 A Today I ... I'm angry that it's tooken (sic) this long,
22 but I, uhm ... I don't know how I feel.

23 ASS'T. SOLICITOR GASSER: No further questions, Your Honor.
24
25

RECROSS-EXAMINATION

BY ATTORNEY VARNER:

Q How you feel has a lot to do with where you've been living and how you've been raised and what's happened to you in your life, all of it together?

A Yeah. And that's -- what happened, what he did to me, also had a huge impact on my life. My sister's as well.

Q And your emotions and how you feel today have something to do about your relationship with your mother and your grandmother or lack of relationship?

ASS'T. SOLICITOR GASSER: Objection, Your Honor.

THE COURT: Hold on a moment. Overruled. You opened the door. I'm am going to let him ask it. Go ahead and answer.

Q Correct?

A Say that again.

Q And your emotions today have something to do with you don't live with your mother because she wasn't taking care of you, and you don't live with your grandmother because she had anger issues?

ASS'T. SOLICITOR GASSER: Objection, Your Honor.

THE COURT: All right. Sustained.

(Simultaneous speaking.)

THE COURT: Mr. Varner -- hold on. Hold on. Rephrase. Don't badger the witness.

ASS'T. SOLICITOR GASSER: And, Your Honor, I would move to

1 strike his entire last statement.

2 THE COURT: That's granted. I'm going to strike it.

3 Rephrase it if you want to ask it.

4 Q Part of your feelings of anger is that you don't live with
5 your mother?

6 A You're correct. I'm also in a loving home, and I'm still in
7 contact with my mother when I choose to be.

8 Q And was your mother taking care of you?

9 A Yes, she was.

10 THE COURT: Stop. Mr. Varner, based on my ruling, I'm going
11 to strike that. Not going any further with that line of
12 questioning.

13 Q And are you angry with your grandmother?

14 A Uhm, not about what happened with -- I mean, to move from
15 there, no, but some things that came out in this courtroom, yes.

16 Q Were you angry with your grandmother before court started,
17 and is that why you left there?

18 A I told you the decision was made for me to leave there.

19 Q Well, how did you feel about it? Were you angry with your
20 grandmother?

21 A I was a- --

22 Q You were what?

23 A Give me a second, please.

24 Q Go ahead.

25 A I wasn't angry. I was upset.

1 ATTORNEY VARNER: That's all the questions I have.

2 THE COURT: Ms. Gasser.

3 ASS'T. SOLICITOR GASSER: One question, Your Honor.

4 **REDIRECT EXAMINATION**

5 BY ASS'T. SOLICITOR GASSER:

6 Q Do any of your feelings as to your other family members
7 impact what you testified today about what the Defendant did to
8 you?

9 A No.

10 ASS'T. SOLICITOR GASSER: No other questions.

11 **RECROSS EXAMINATION**

12 BY ATTORNEY VARNER:

13 Q Talking about other feelings, did you say your mother wasn't
14 taking care of you?

15 THE COURT: Mr. Varner --

16 A I said she --

17 THE COURT: Hold on. We're not going there.

18 ATTORNEY VARNER: She opened the door.

19 THE COURT: Stop for a moment. I disagree. I'm not letting
20 either one of you go any further. If you've got something
21 relevant to the incidents that we're talking about, the alleged
22 incidents, then we're going they're, but we're not going any
23 further with her current situation.

24 THE WITNESS: Thank you.

25 ASS'T. SOLICITOR GASSER: Yes, Your Honor.

Q Isn't it a fair statement that the way you feel today is a combination of everything that has happened to you in your life? Everything.

THE COURT: I'm going to allow it. Go ahead and answer.

A Right now this is the only stressor I have so, no, I wouldn't say it's a combination of everything. I would say it's this and the fact that it's taken (sic) so long for my sister and me to get justice.

ATTORNEY VARNER: That's all the questions I have.

ASS'T. SOLICITOR GASSER: Nothing further, Your Honor.

THE COURT: All right. You may step down.

THE WITNESS: Thank you.

ASS'T. SOLICITOR GASSER: Your Honor, may we have a brief bathroom break before my next witness?

THE COURT: Certainly.

ASS'T. SOLICITOR GASSER: Very brief.

THE COURT: That's all right, you all. If someone needs to use the restroom, then we'll take a quick five minutes just to use the restroom and let them bring in their next witness.

All right. I'll have you all go back to the jury room. I remind you not to talk about the case. All right.

(WHEREUPON, the jury exits at 10:39 a.m.)

THE COURT: Let's take a five-minute bathroom break, get a drink of water, and we'll get back and start.

(WHEREUPON, court recesses at 10:39 a.m. and reconvenes at

1 10:48 a.m., without the jury)

2 MATTER(S) OF LAW

3 THE COURT: All right. Let's go on the record. Yes, sir,
4 Mr. Varner.

5 ATTORNEY VARNER: May it please the Court. Excuse me, Your
6 Honor. Prior to trial beginning I made a motion to sequester the
7 witnesses. It is my understanding the Court was informed that
8 the mother and the grandmother were the guardians of the children
9 and they were allowed to stay in here. It has now come out that
10 they didn't live with them and that the older child, I believe
11 the testimony was, she lives with her father. So how are these
12 people allowed to be in here and not sequestered based on what
13 was represented to the Court?

14 THE COURT: Well, under the Victims Rights Act, it
15 specifically says parent so mom can be in here. And the
16 grandmother did not stay. She was sequestered.

17 ATTORNEY VARNER: Okay.

18 THE COURT: I specifically watched to see which person
19 stayed because I had some concerns about grandmother, not being a
20 concern about your relationship with her but the fact that she is
21 not a guardian.

22 But the Victim's Rights Act, I really went through and had
23 Lauren, my law clerk, pull up the statute and the act so I could
24 see it, and it specifically says parent.

25 ATTORNEY VARNER: Your Honor, I think further inquiry,

1 because as I understand what MINOR 2 said, there was some kind of
2 court hearing where I don't know if termination of parental
3 rights were done or custody was transferred. I think I need
4 clarification for that --

5 ASS'T. SOLICITOR GASSER: Your Honor, under the Victims
6 Rights Act, she is still the biological mother, the biological
7 parent. She is here on behalf of the victims. It's very clear.
8 The law is black and white on this matter.

9 And because there was some murkiness, that's why I did have
10 the grandmother stay sequestered during the beginning of the
11 trial.

12 THE COURT: Does she still have her parental rights intact
13 or have they been terminated?

14 ASS'T. SOLICITOR GASSER: I believe that she does.

15 MS. AIKEN: Yes, ma'am. I have full custody.

16 THE COURT: So she still has parental rights. Okay. So the
17 record's clear on that.

18 ATTORNEY VARNER: Thank you.

19 THE COURT: All right. Are you ready to call your next
20 witness?

21 ASS'T. SOLICITOR GASSER: Yes, Your Honor.

22 THE COURT: Are you going to need the equipment for this
23 witness?

24 ASS'T. SOLICITOR GASSER: No, Your Honor.

25 THE COURT: I just want to make sure, because I was messing

1 with the system.

2 ASS'T. SOLICITOR GASSER: Yes, Your Honor.

3 THE COURT: And I know that there's still forensic
4 interviews that the jury has to see, so I just wanted to make
5 sure. I was adjusting things, and I want to make sure I didn't
6 screw it up.

7 ASS'T. SOLICITOR GASSER: Yes, Your Honor.

8 THE COURT: All right. Then I'm ready for my jury to come
9 back in.

10 (WHEREUPON, the jury enters at 10:52 a.m.)

11 THE COURT: All right. All of our jurors are back, and I'm
12 ready for you to call your next witness.

13 ASS'T. SOLICITOR GASSER: Your Honor, may it please the
14 Court, the State calls Stephen Epting.

15 STEPHEN EPTING,

16 having first been duly sworn, is examined and testifies as
17 follows:

18 CLERK OF COURT: And state your name for the record.

19 THE WITNESS: My name is Stephen Epting.

20 **DIRECT EXAMINATION**

21 BY ASS'T. SOLICITOR GASSER:

22 Q So Mr. Epting, first of all, can you tell the jury where
23 you're from originally.

24 A I grew up in Anderson. I lived in Charleston area for about
25 10 years, then I moved back to Anderson because I got tired of

1 traffic.

2 Q And did you ever work for the Greenville City Police
3 Department?

4 A That's correct.

5 Q And how long did you work for GPD?

6 A Uh, June 2017 to November 2023.

7 Q Did you ever work for law enforcement before that?

8 A That's correct. I worked for the Charleston County
9 Sheriff's Office from 2012 to 2017.

10 Q And when you left GPD in 2023 did you leave on good terms?

11 A I did, with a four-week notice.

12 Q And was that to -- did you take another job?

13 A Uh, that's correct.

14 Q Is that job in law enforcement?

15 A Uh, no.

16 Q And did you leave for any reason other than you just wanted
17 to?

18 A Uh, no. I work in digital forensics now, and it was a
19 \$30,000 pay increase, so it was kind of a no-brainer for me.

20 Q So what I'm getting at is did you leave law enforcement
21 because you had to or because --

22 A No.

23 Q -- you were in trouble for any reason?

24 A No. No, never been in trouble.

25 Q Now, when you were at GPD, what positions or titles did you

1 hold?

2 A So I was a Police Officer 3 from 2017 to 2020 due to my
3 experience with the sheriff's office in Charleston. And 2020 I
4 was promoted to detective, initially beginning in property crimes
5 and follow-up cases, and then in May of 2020 I transferred to the
6 family crime unit which typically handles crimes against kids,
7 juvenile crimes, uh, elder abuse, cases like that, basically DSS
8 cases with unlawful conduct, and also as a part of the internet
9 crimes with the Children Task Force.

10 Q Did you ever investigate criminal sexual conduct with a
11 minor cases?

12 A More than I'd like to admit.

13 Q And when you were a detective on the family crime unit did
14 you -- were you assigned this case?

15 A That's correct.

16 Q And can you explain to the jury just a little bit about how
17 a case is assigned to a detective?

18 A So typically what happens in the detective division is the
19 patrol officer will take the preliminary report, gather
20 preliminary information, the who, what, why, when, where. The
21 primary concern to the patrol officer is just to make sure the
22 child is safe; they're not in a situation where they're still
23 being in the presence of the perpetrator.

24 Once that's established that the child's in no immediate
25 danger, it's assigned for a follow-up for a detective, and there

1 was three of us in that unit.

2 Q So in this case were you the, I guess what did you call it,
3 first responding officer that received the complaint?

4 A No. That would be Officer Whitten.

5 Q And was that the officer in the bodyworn camera that was
6 played in court yesterday?

7 A Correct.

8 Q And so after Officer Whitten took that report, what happened
9 next?

10 A So does he a report, and a supervisor assigns it to a
11 detective just based off what comes in that day, and it was
12 assigned to me.

13 Q So what was your -- what did you do first in this case?

14 A First I analyzed to make sure the children were not in the
15 presence of perpetrator. And then seeing they had disclosed a
16 note to the parent, I immediately scheduled MINOR1 for a forensic
17 interview to find out exactly what happened and the full extent
18 of the disclosure.

19 Q And so what is, just based on your knowledge, what is a
20 forensic interview?

21 A A forensic interview is typically done at Julie Valentine
22 Center, which is a children's advocacy center. They do forensic
23 interviews for children, adults, find out basically what
24 happened, and details, detect for coaching, stuff like that.

25 Q And did you schedule for a forensic interview for MINOR1

1 [REDACTED]?

2 A I did. It was originally scheduled, I believe, in June, and
3 there was some kind of discrepancy in the scheduling and she
4 ended up going in late July. Just due to the fact they have so
5 many children they see, you know, it's hard to see the children,
6 like, the next day or within a week.

7 Q And did you attend the forensic interview?

8 A I did. So at JVC we don't interact with the children; we
9 watch in another room that has a live feed where we can take
10 notes and observe it live, almost like a big brother.

11 Q So were you in the room with the forensic interviewer during
12 the interview?

13 A No. No. I was in a different room watching a live feed of
14 it.

15 Q And is this the common practice?

16 A Correct. We don't interact with the question, we don't
17 question them, just due to the age.

18 Q And after the interview, what was your next step?

19 A Well, it was disclosed that MINOR 2 was typically a witness,
20 so I scheduled her for a forensic interview originally as a
21 witness just to get more detail and elaborate on what MINOR1
22 disclosed.

23 Q And did MINOR 2 have a forensic interview scheduled
24 that she attended?

25 A She did. It was in August, I believe.

1 Q And did you taken that forensic interview as well?

2 A I did.

3 Q Did you sit in the room with her during this one?

4 A I did not. I watched in the same room I watched Akasha's,
5 remotely.

6 Q Now, after you watched the live feed of the forensic
7 interviews, what did you do next?

8 A Typically I'll go into the room after the interview, and
9 we'll kind of speak with the parents or whoever brings in -- I
10 don't tell them about what was disclosed. I say no, she didn't
11 disclose, or she did disclose.

12 Then typically I'll leave and Julie Valentine will talk with
13 them about counseling and whatever they talk with them about.

14 Q So in this case did you follow that typical common
15 procedure?

16 A Correct.

17 Q And so after speaking with the parents, what did you do next
18 in your investigation?

19 A I had **MINOR 2** scheduled, and I attended hers. Are you
20 talking about after?

21 Q Yes.

22 A I spoke with them and told them I would be contacting
23 Mr. Steele for an interview.

24 Q And without saying anything that he said, did you interview
25 the Defendant?

1 A Correct.

2 Q And again without saying anything that he said, after your
3 interview with the Defendant, what did you do next?

4 A After the interview I consulted with the judge, and based
5 off the disclosures that were consistent with one another and the
6 notes that they had written, I obtained the warrants.

7 Q Now, in the course of your investigation were you ever made
8 aware of the address of where this, the location of where this,
9 these disclosures, took place?

10 A Correct.

11 Q And what was that address?

12 A [REDACTED] Grove Road.

13 Q And is that within Greenville County?

14 A It is within Greenville City.

15 Q Does that give GPD jurisdiction?

16 A Yes, ma'am.

17 Q And in the course of your investigation what did you
18 determine was the approximate time when these assaults took
19 place?

20 A Uh, around 2012 - 2014.

21 Q Now, in your warrant you stated several years. What were
22 you basing those years off of?

23 A The forensic interviews and the statements.

24 Q And were you going based off of the ages that you were told
25 by the victims themselves?

1 A I didn't speak with the victims.

2 Q Or, sorry. But through the forensic interviews?

3 A Yes. Yes.

4 Q And through the course of your investigation, were you ever
5 given any information regarding a cellphone?

6 A No. They disclosed that no pictures were taken and no
7 videos.

8 Q And were you ever told of any kind of laptop or computer?
9 Was that ever part of your investigation?

10 A None was disclosed.

11 Q And if there is not evidence or disclosure about a certain
12 item, are you permitted to go and take someone's personal items
13 such as that?

14 A Not without probable cause.

15 Q And in this case was there probable cause to obtain any
16 warrant as to the Defendant's cellphone?

17 ATTORNEY VARNER: Objection. Calls for a legal conclusion.

18 THE COURT: Sustained. It calls for a legal conclusion. He
19 already said that he didn't do it. He didn't believe that it was
20 appropriate.

21 Q Did you go to [REDACTED] Grove Road?

22 A I did not.

23 Q And why did you not go to [REDACTED] Grove Road?

24 A Due to the time gap of the exposure I found it very probable
25 that there wouldn't be any physical or DNA evidence there. There

1 might be DNA evidence, but the kids were permitted to stay there,
2 you know, under the parents' direction for him to babysit.

3 Q And what was that time gap?

4 A About seven years.

5 Q And that was seven years from when you got this case?

6 A Correct.

7 Q Which was in 2021?

8 A Yes, ma'am.

9 Q Would that include the year 2014?

10 A Correct.

11 ASS'T. SOLICITOR GASSER: Your Honor, at this time I have no
12 further questions.

13 Q Please answer any that defense counsel may have.

14 THE COURT: Mr. Varner.

15 **CROSS-EXAMINATION**

16 BY ATTORNEY VARNER:

17 Q All right. So when you were with Greenville Police
18 Department what was your title or position?

19 A My title was technically Police Officer 3, which is
20 equivalent to a corporal position, but my actual title was
21 detective.

22 Q And you were the lead investigator on this case --

23 A Yes, sir.

24 Q -- you were in charge of it, correct?

25 A Yes, sir.

1 Q And you received a report from Officer Whitten, correct?

2 A Yes, sir.

3 Q And I assume you then watched the video of Sherry, the
4 grandmother, correct?

5 A Typically that's common practice, is to review the report
6 and watch the body-camera video.

7 Q And you determined that the alleged perpetrator lived on
8 Grove Road, correct?

9 A Yes, sir.

10 Q And the grandmother, where did she live?

11 A Per the report, it was Rottingham (sic) Road. I can't
12 recall exact numerics.

13 Q And the forensic interviews were conducted; is that correct?

14 A Yes, sir.

15 Q And you watched those?

16 A I did.

17 Q And at the end of that you contacted Mr. Steele and asked
18 him to come in?

19 A After **MINOR 2**'s interview, yes, sir.

20 Q So at the time you had the interview you had already watched
21 all the videos, including the forensic interviews?

22 A I did. I was there live and reviewed them there.

23 Q And after the interview you went to a judge and got
24 warrants, correct?

25 A Yes, sir.

1 Q Okay. Did you do any further investigation after that?

2 A No. There was no more investigative leads for me to pursue.

3 Q Okay. And when you called Mr. Steele, you asked him to come
4 in, correct?

5 A Yes, sir.

6 Q And he had every right in the world to say no?

7 A Yeah, absolutely. You know, if he hung up on me I would
8 have moved on with my life.

9 Q But he didn't do that, did he?

10 A No, sir.

11 Q He voluntarily came in on his own, didn't he?

12 A Uh-huh.

13 Q Find that to be a little unusual?

14 A No. It's pretty common in my experience for suspects of
15 this type of crime to come and give their side of the story.

16 Q And he came without a lawyer?

17 A That's correct.

18 Q A matter of fact, you got him to sign a form saying he was
19 advised --

20 A Yeah. I read it to him and I told him the door was there,
21 he could leave. We would leave and terminate it whenever.
22 Completely voluntary.

23 Q Tell me what you read to him? In the essence, what does it
24 say?

25 A It was the waiver of rights. I can't recall every word off

1 it.

2 Q Did you tell him he has a right to remain silent?

3 A I did.

4 Q Has a right to have an attorney present?

5 A Yep.

6 Q He has a right to stop questioning at any point in time?

7 A Yes, sir.

8 Q He can seek the guidance of counsel, refuse to answer any
9 questions? He doesn't have to do anything?

10 A Yeah. It's completely voluntary, and that was read to him,
11 and he acknowledged it by signing it.

12 Q And he didn't do that; he came in and sat down with you and
13 talked, correct?

14 A Yeah. Yes, sir.

15 Q And I believe you had an interview with him 51-minutes plus?

16 A Uh, sounds about correct.

17 Q And you recorded that, didn't you?

18 A Yes, sir.

19 Q Why do you record it?

20 A Evidentiary purposes.

21 Q Okay. That, in other words, to make sure it's accurate?

22 A Yes.

23 Q That it is evidence in a case?

24 A Yeah, it's evidence.

25 Q And juries can look at it, prosecutors can look at it?

1 A Yeah. I submitted it to evidence.com so it would be
2 available for review.

3 Q And you do agree a picture's worth a thousand words? This
4 one, you not only get the picture, you actually hear it, correct?

5 A Yeah. You can watch the videos. Audio and video recorded.

6 Q Okay. Do you know why the video hadn't been put up for --
7 ASS'T. SOLICITOR GASSER: Objection, Your Honor. Calls for
8 a legal conclusion about hearsay.

9 THE COURT: Sustained. Calls for a legal conclusion.

10 ASS'T. SOLICITOR GASSER: And moving to strike --

11 THE COURT: Granted.

12 ASS'T. SOLICITOR GASSER: -- that question.

13 THE COURT: That's is stricken. Rephrase it.

14 Q Do you personally have any problems with the jury watching
15 that 51-minute video?

16 A I'll go with whatever the solicitor says. I have no opinion
17 on it.

18 Q Okay. Now, you have access to all the resources of
19 Greenville Police Department, correct?

20 A I did.

21 Q You had even a forensics department?

22 A We had a computer guy. The forensics department is
23 typically with Greenville County ...

24 Q Okay. But you can take a -- they'll go out and take
25 pictures?

1 A Yeah. We can request them.

2 Q They'll take DNA, they'll take pictures, they will search
3 for evidence and everything, correct?

4 A Typically, yes.

5 Q And you were aware that these young ladies alleged that
6 pornography was being shown, correct?

7 A Correct.

8 Q And you do know pornography doesn't just come out of the
9 air; it comes through a device of some sort, correct?

10 A A TV. Yes.

11 Q And it can be through a computer, that's one of the ways?

12 A Well, they disclosed it was on the TV.

13 Q Well, you can hook a computer up to a TV, can't you?

14 A Didn't you say it was an older TV?

15 Q What?

16 A You said that was an older TV, correct?

17 Q Well, yes. I'm not the one who said that; the grandmother
18 said that.

19 A Yeah. I'm not --

20 Q So you couldn't hook it up on the TV?

21 A I mean, it just depends on -- there's a billion different
22 types of TVs.

23 Q Have you ever seen a 30- or 40-year-old TV that doesn't have
24 the plugs in the back of it?

25 A I've seen 30-, 40-year-old TVs that have AV cables.

1 Q AV cables?

2 A The, you know, the red, yellow.

3 Q But you didn't even get in your car and ride out there and
4 look to see if the TV could be connected or not? You didn't
5 bother to do that?

6 A Well, given the timeframe, I mean, how many people get rid
7 of their TVs within a seven-year period? I didn't think it was
8 an investigative lead to look because he could have gotten rid of
9 it, it could have broken. It was an older TV, so.

10 Q But we'll never know, will we?

11 A No.

12 Q And this man was living on disability, correct?

13 A Yeah. I believe he mentioned that.

14 Q So you believe it's just common, people who are living on
15 disability, to just go and buy TVs every, I don't know, year or
16 two to get the new, updated version and sacrifice their Social
17 Security payments?

18 A I mean, we can speculate all day about it. I mean, his son
19 could have got it. They could have gave it away on Craig's List.

20 Q Well, we wouldn't be speculating if you had driven out there
21 and looked, would we?

22 A No, but, I mean, whether a TV was there or not, I mean, if
23 he got rid of it, I mean ...

24 Q We're going to speculate about that, are we? We don't know,
25 do we? Do we?

1 A I do know he did have a TV.

2 Q You do know that?

3 A Yeah. He admitted that he watched horror videos with the
4 children.

5 Q All right. So we know he had a TV. We just have no idea
6 whether you can connect a computer or a DVD player to it?

7 A Well, I mean, he did say he watched horror videos.

8 Q Well, those come on TV?

9 A So does pornography.

10 Q Pornography comes on regular TV back --

11 A Comes on --

12 Q Excuse me.

13 A -- Pay-per-view. You can watch it all kinds of ways.

14 Q You're saying 10, 12, 15 years ago?

15 A Yes. Porn existed 10, 12, 15 years ago.

16 Q Porn?

17 A Pornography existed a long time.

18 Q Well, did you check to see if he had HBO, Cinemax, Showtime,
19 that you say has porn on it?

20 A I did not.

21 Q Well, did you go out there to see if he had a DVD player?

22 A I did not. Just due to the time gap, it wasn't probable.
23 Even if he did, he could have got rid of it, or.

24 Q Probable means you're guessing. Probably but I don't know.
25 Would you probably convict somebody?

1 A No.

2 Q All right. And isn't it standard when somebody is accused
3 of molesting children, you go to a judge, you get a search
4 warrant, you check his phone to see if he's got kiddie porn on it
5 or videos of the act?

6 A It depends on the case. There has to be probable cause to
7 go through his phone. I can't just grab his phone without a
8 reasonable excuse to do it. I just can't take people's phone for
9 no reason. The children disclosed that no videos were taken.

10 Q Okay. You don't do that, but that's what a judge decides.
11 If a person has allegedly molested children and shown porno
12 movies, you go to a judge and let the judge make the decision,
13 don't you?

14 A I didn't go to the judge because they didn't disclose it,
15 and I didn't think it was appropriate to go to a judge and say,
16 hey, I have no evidence of them disclosing anything; however, I
17 want to look through his phone.

18 Q So you have no idea what a judge would have done because you
19 didn't bother to even ask a judge to do it?

20 A No. We typically don't go to judges for search warrants if
21 no probable cause to search the device exists.

22 Q Well, the man voluntarily came in, voluntarily told you his
23 side of the story. Did you ask him, Can I go look at your house
24 to see the layout of it to see if there is a TV, or a recliner,
25 or what's in the house?

1 A I did not.

2 Q Okay. Now, you're the gentleman who went to the judge to
3 get these warrants, correct?

4 A Yes, sir.

5 Q And you gave the judge basically an affidavit of what you
6 know about this case. He issues the warrant, correct?

7 A Yes.

8 Q I want you to read that warrant, sir.

9 A Do you want me to read all of them, or just the one?

10 Q The top part, paragraph. The top paragraph.

11 ASS'T. SOLICITOR GASSER: Objection, Your Honor. I would
12 object to reading the warrant into the record as hearsay.
13 However, if he wants to ask him some questions, that's different.

14 ATTORNEY VARNER: It's not hearsay. He wrote it.

15 ASS'T. SOLICITOR GASSER: And again, it's --

16 THE COURT: What's it being offered for?

17 ATTORNEY VARNER: His timeframe --

18 THE COURT: Overruled.

19 ATTORNEY VARNER: -- based on his investigation.

20 Q Read it to the jury, sir.

21 THE COURT: Okay. It's overruled. Go ahead and read it.

22 A The affiant had audio video-recorded forensic interview with
23 the victim M 2 who stated the accused, Philip Scott Steele,
24 sexually assaulted her around 2012 - 2013. The victim was
25 between ages of four and five at the time of the incident that

1 the accused put his penis in her mouth. The incident occurred at
2 [REDACTED] Grove Road, which is within the city limits of Greenville,
3 South Carolina.

4 Q So after all the investigation, as the lead investigator
5 did, you determined it happened between 2012 and 2013, correct?

6 A Uh, correct. It was broad timeframes.

7 Q Do you know who expanded it to up to 2017? Have you heard
8 or seen any evidence of that?

9 A Expanded it to when?

10 Q Up to 2017?

11 A I'm not sure.

12 Q Well, were you here and heard the indictments?

13 A I did.

14 Q Did they go, some of from '14 to '16, some of them from '14
15 to '17?

16 A Well, the kids had no contact with him after 2015.

17 Q Where'd you get that from?

18 A Today. I mean -- or yesterday. Typically --

19 Q Didn't both the grandmother and the daughter say a child was
20 born in 2015 and he had not seen them for approximately a year
21 before that?

22 A I don't recall.

23 Q Have you heard anybody anywhere say 2015, 2016, 2017, other
24 than somebody who got indictments in the grand jury?

25 A I don't recall.

1 Q And you said further in these warrants -- and there were
2 several of them. They all say basically the same thing, 2012,
3 2013, every one of them, don't they? I'll let you look at them
4 if you have a question.

5 A That's not necessary.

6 Q What?

7 A You said they're all saying the same thing.

8 Q Well, they all say 2012 and 2013, every one of the warrants.

9 A That's correct. They do say that.

10 Q And you got very specific at the bottom of each one. You
11 actually said this happened on March the 1st, 2013, on every one
12 of them, didn't you?

13 A That was the date that Officer Whitten put into the initial
14 report.

15 Q So we just picked a date out of the sky? We're playing fast
16 and loose with somebody's life?

17 A Our reporting system demands a specific date.

18 Q You and I have met before on another case, correct?

19 A I don't recall.

20 Q Okay.

21 A I met with plenty attorneys.

22 Q Well, if there's a question, I've got a transcript.

23 ASS'T. SOLICITOR GASSER: And, Your Honor, I'm going to
24 object. This has not been turned over to the State. He has not
25 answered anything that would be impeachable.

1 THE COURT: It doesn't have to be turned over to the state,
2 so overruled. Let's see where there goes. It's impeachment. He
3 can impeach with anything without turning it over to the State.

4 But, Mr. Varner, he hasn't made a statement that's
5 impeachable yet that I know of, and I've been listening very
6 carefully. So let's see where you go. But let's be careful.

7 Q Have you ever said that you have to have more than a
8 disclosure, you have to have other evidence?

9 A I don't recall.

10 Q I'm going to let you look at this.

11 ASS'T. SOLICITOR GASSER: And, Your Honor, I would ask that
12 the State be permitted to see it before being handed it up to the
13 witness.

14 ATTORNEY VARNER: Sure. Absolutely.

15 ASS'T. SOLICITOR GASSER: Your Honor, this is not a
16 transcript; this is someone's handwritten -- these are someone's
17 notes.

18 THE COURT: He can refresh someone's recollection with
19 anything. This witness has the right to say that he doesn't
20 recall it; he doesn't know what that is; he doesn't remember what
21 Mr. Varner is saying. This is he's just refreshing his
22 recollection. He's going to show it to him.

23 But you can renew your objection when we get to that point.
24 This is just showing him something to say do you remember this.

25 Q Do you recall a case *State v. Jeffrey Keller* (ph)?

1 A Not off the top of my head. No, sir.

2 Q Do you recall being at a preliminary hearing with me down
3 here in city court?

4 A I don't.

5 Q And do you recall me asking you what is the basis of the
6 warrant, and did you say I need more than just disclosure, I need
7 other evidence?

8 A I don't recall that.

9 Q So you're not denying it; you just don't remember it?

10 A No, sir.

11 Q Okay. And do you agree with that principle now, you need
12 more than just statements of children?

13 A I mean, typically it would be great if we had more evidence,
14 but in my experience the sexual assaults, sir, they very rarely
15 have witnesses and very commonly they're delayed disclosures.

16 Q My question was, do you still agree you need more than just
17 statements, you need other evidence?

18 A If they're corroborating statements, yes, that is
19 sufficient.

20 Q In the forensic interview did you hear the 11-year-old say
21 I'm here about molestation?

22 A I don't recall off the top of my head.

23 Q Do you think molestation is a pretty big word for an
24 11-year-old?

25 A No. I mean, in the line of work I've done, they used that

1 word before.

2 Q Did you ever talk to the mother at all?

3 A Alicia? Yes, I talked to her, because JVC requires the
4 guardian to sign some paperwork. That would be a better question
5 for JVC.

6 Q Melissa Collins, she's the one who did the interview,
7 correct?

8 A Yes, sir. I believe so.

9 Q I'm sorry. Those are her notes. And in your report did you
10 indicate the mother stated that she has anger issues? The mother
11 herself told you that in the interview?

12 A Uh, I can't recall specifically, but I could look at the
13 report again and I could verify it.

14 Q Do you have it with you?

15 A No, I do not.

16 Q Look at that to refresh your recollection.

17 A Yes, she did. She's talking you about **MINOR 2** suffering
18 from anger issues and extreme anxiety.

19 Q Okay. So -- okay. So she says the child has anger issues?

20 A Correct, which, in my experience, that's pretty common
21 behaviors in sex-abuse victims.

22 Q And you also talked to the grandmother, correct?

23 A Yes, sir.

24 Q And your notes reflect that she told you she's never known
25 him to ever smoke marijuana?

1 ASS'T. SOLICITOR GASSER: And, Your Honor, objection at this
2 point. We're getting into impermissible hearsay. These
3 witnesses were presented for cross-examination.

4 THE COURT: Mr. Varner, what's that offered for?

5 ATTORNEY VARNER: There is testimony that he got the child
6 to smoke marijuana. His investigation is, and he put it in his
7 notes, that Sherry said he's never smoked marijuana.

8 THE COURT: Her objection is that you're offering the
9 statement for the truth of the matter asserted and that you
10 didn't ask the grandmother specifically.

11 ATTORNEY VARNER: I'll withdraw it.

12 ASS'T. SOLICITOR GASSER: I move to strike that, Your Honor.

13 THE COURT: That's granted.

14 Q Did she say that she had never seen him watch pornography?

15 ASS'T. SOLICITOR GASSER: Objection, Your Honor, for the
16 same reasons.

17 ATTORNEY VARNER: That's not being offered for the truth of
18 the matter asserted. If it is, that's just she never saw it. It
19 doesn't go to whether he has or has not.

20 THE COURT: Well, what are you offering it for? Why is it
21 relevant if you're not offering it for the truth? What are you
22 offering it for?

23 ATTORNEY VARNER: I'm offering as to what they said, was he
24 never watched pornography. This is somebody he was married to
25 for many years who never saw that.

1 ASS'T. SOLICITOR GASSER: And again, the proper witness that
2 that should have been a question to was the witness who was
3 presented for cross-examination. This is impermissible hearsay.

4 THE COURT: That's sustained.

5 ASS'T. SOLICITOR GASSER: And move to strike.

6 THE COURT: It's granted.

7 Q When you did this 51-plus-minute interview, when he first
8 came in did you tell him, You showed up early, that rarely
9 happens?

10 A I did.

11 Q Okay. So he not only came, he showed up early, on time?

12 A He did.

13 Q He didn't miss the interview because he had a confusion or
14 anything; freely and voluntarily, and when he showed up, he
15 showed up early, correct?

16 A Yes, he showed up early.

17 Q And did he tell you --

18 ASS'T. SOLICITOR GASSER: Objection, Your Honor.
19 Self-serving hearsay.

20 THE COURT: Let me hear the question first. I know it's
21 cross and it may be that it's out there, but I've got to hear the
22 question, unless you all want to approach?

23 ASS'T. SOLICITOR GASSER: Again, Your Honor, I would ask
24 either that we approach or it be proffered outside the presence
25 of the jury, as he just said, He said.

1 THE COURT: Come up to the bench, because I'm not sending
2 anybody out. Come up here. It's going to take two seconds. Let
3 me just hear where we're going.

4 (WHEREUPON, an off-the-record discussion is held at
5 sidebar.)

6 THE COURT: She can object as needed, but you rephrase it
7 because that's a permissible question.

8 Q In the course of your investigation did you discover that
9 there were statements that allegations had come and gone over the
10 years?

11 A Uhm, yes. Mr. Steele believed that --

12 ASS'T. SOLICITOR GASSER: Objection. The witness cannot say
13 anything that the Defendant believed or said. That's hearsay.

14 THE COURT: That's sustained. But tell the jury and
15 Mr. Varner what you learned during your investigation without
16 specifically saying what somebody said. Okay.

17 A Can you repeat the question?

18 Q I'm going to ask the question very specifically. And don't
19 tell us who said it or didn't say it, just in your investigation.

20 Did you discover evidence that indicated these allegations
21 had come and gone over a period of several years?

22 A Uh, I don't recall off the top of my head, but I know he did
23 mention --

24 ASS'T. SOLICITOR GASSER: Objection.

25 A -- or someone did mention that, uh -- it was mentioned that

1 that's what the belief was.

2 Q Before I ask you anything further would you like to take a
3 break and watch that video before I ask any more questions?

4 You're welcome to.

5 A I don't think that's necessary.

6 Q Okay. And did you discover in the course of your
7 investigations that specific allegations had just arisen in the
8 last three or four months prior to this July of '21 interview?

9 A Uh, correct.

10 Q And in the course of your investigation did you have any
11 problems, ascertained from anybody, that he had babysat the kids
12 for about two years after the parties separated in 2011?

13 A Uh, correct, he did babysit.

14 Q And in the course of your investigation did you discover
15 that he was no longer able to see the children after about 2014,
16 give or take a little bit?

17 A Uh, correct.

18 Q And in the course of your investigation were there
19 allegations that this involved blackmail?

20 A Uh, correct.

21 Q And in the course of this investigation were there
22 allegations that this was about getting money from Mr. Steele?

23 A Uh, correct.

24 Q And in the course of the investigation did you ascertain
25 whether or not Mr. Steele still loved Sherry?

1 A Uh, I don't recall.

2 Q In the course of your investigation would he say anything
3 bad about Sherry?

4 ASS'T. SOLICITOR GASSER: And objection, Your Honor.

5 ATTORNEY VARNER: Excuse me. I'll rephrase that.

6 THE COURT: Overruled. It calls for a yes or no. We're not
7 asking what he said, just whether or not there were any bad
8 statements.

9 A Uh, I don't recall any.

10 Q You did ascertain in your investigation that Mr. Steele
11 lived in his mother's house, correct?

12 A Uh, in the duplex next door.

13 Q And you did discover he didn't owe any money, that duplex
14 had been paid for, correct?

15 A Correct.

16 Q And in the course of your investigation did you discover --
17 don't tell us who -- that the grandmother owned the home with
18 Mr. Steele and there was still money owed on it?

19 A I don't recall.

20 Q And in the course of your investigation -- no matter who did
21 it, don't tell me who did it -- was there an allegation that
22 these allegations arose after he refused to pay off a mortgage?

23 A I don't recall.

24 Q Well, we'll go back to it. Do you want to watch the
25 interview again so that you can recall to refresh your

1 recollection?

2 A Uh, no, that's not necessary. I believe he might have.

3 Someone might have alluded to --

4 Q Don't tell us who.

5 THE COURT: All right. So Mr. Varner and Ms. Gasser,
6 come up here.

7 (WHEREUPON, an off-the-record discussion is held at
8 sidebar.)

9 Q In the course of your investigation did you determine that
10 Mr. Steele's mother had passed away a year or two before the
11 interview?

12 A Yes, sir.

13 Q Okay. And he was now going to get that property?

14 A Uh, I believe so.

15 Q And in the course of the investigation did you discover his
16 wife had been living with someone else for several years, six or
17 seven years?

18 A Uh, correct.

19 Q Did you check that person out?

20 A I did not because there was no disclosure of abuse against
21 them, and my investigation was spearheaded towards the
22 disclosures and what they were made towards.

23 Q In the course of your investigation were allegations made
24 by -- don't say who -- allegations made that he might have done
25 that, meaning the person she was living with?

1 ASS'T. SOLICITOR GASSER: Again, objection, Your Honor. We
2 believe that this has been handled in pretrial motions.

3 THE COURT: Overruled. He can answer that question as to
4 whether or not he investigated anybody else. The question is
5 were there any allegations made against anybody other than
6 Mr. Steele.

7 A Not by the children.

8 Q That's not what she asked you. In the course of your
9 investigation were any allegations made that this guy living with
10 her might have been involved?

11 ASS'T. SOLICITOR GASSER: And again, that's hearsay, Your
12 Honor.

13 THE COURT: That is hearsay, Mr. Varner.

14 Q In the course of your investigation did you determine that
15 another person had been around the children for a substantial
16 period of time and that he might be a participant?

17 A Uh, I don't recall if they said he was a participant but, I
18 mean, I was made aware that he was around someone else.

19 Q Well, did you check that person out whatsoever?

20 A I did not because there was no disclosures of abuse against
21 that individual.

22 THE COURT: By the children, Mr. Varner, which is what's
23 relevant. Okay.

24 Q Would it be important to you, if children made allegations
25 of molestation, to find out who the children had been around?

1 A Well, they specifically disclosed Papa in the forensic
2 interviews, which they identified as Mr. Steele.

3 Q My question was if the children had been around other people
4 would it be important to you to ascertain who these people are
5 and either talk to them or investigate them to see who and what
6 they are?

7 A No, because they didn't disclose against those individuals,
8 and they were not witnesses to this investigation, so I didn't
9 pursue that.

10 Q In the course of your investigation did you discover he had
11 heart problems and had a pacemaker?

12 A Uh, yes. In the initial bodyworn camera Officer Whitten, I
13 believe, mentioned he had a pacemaker. And I believe Ms. -- the
14 grandmother told me that as well, as well as Mr. --

15 Q I'm sorry. Go ahead.

16 A -- as well as Mr. Steele.

17 ASS'T. SOLICITOR GASSER: Objection Your Honor. It's
18 hearsay.

19 THE COURT: I'm going to overrule that. They watched the
20 bodyworn camera. They heard the grandmother say he's got a
21 pacemaker. And it's not in dispute that he has a pacemaker, as
22 far as I know.

23 ASS'T. SOLICITOR GASSER: Yes, Your Honor.

24 THE COURT: It may be hearsay, Ms. Gasser, but.

25

1 Q Did you check with his cardiologist to see what effect that
2 may have on him?

3 A No, I didn't.

4 Q In the course of your investigation were there ever any
5 allegations that if Mr. Steele didn't pay off that mortgage that
6 he would be charged?

7 A I believe it was stated.

8 Q In the course of your investigation did you discover that
9 after his mother died he was one of the owners of the house and
10 had inherited a very large money-wise coin collection?

11 A I don't recall the coin collection, but I'm aware that he
12 inherited the house.

13 Q Did you ask him if he had pornographic materials in his
14 house?

15 A Uh, I believe so.

16 Q If it didn't matter and he probably didn't have it why would
17 you ask him in 2021 if he still had porno in his house?

18 A Uh, just the likeliness of it being there, and so many
19 people own porn.

20 Q So it would likely be there?

21 A It's possible.

22 Q Didn't you, a while ago, say it wouldn't be likely so I
23 didn't get a warrant or even try to get one?

24 A I mean, it's --

25 Q Which is it?

1 A I mean, it's likely it could have been there, couldn't have
2 been there.

3 Q Well, that's why I'm asking you, which is it? A little
4 while ago you said it wasn't likely, so I didn't bother to get a
5 warrant; now you're saying it's likely. So why didn't you try to
6 get a warrant?

7 A I would say it's plausible.

8 Q If it doesn't matter -- why would you care if he had porn in
9 his house in 2021 if it doesn't have anything to do with this
10 case?

11 A Based off what the victim said, I was just corroborating
12 their disclosures in the forensic interview.

13 Q And so would a cursory walk through the house by forensics
14 have corroborated that one way or the other, wouldn't it?

15 A It could have, it may not have.

16 Q We'll have to guess, won't we? Won't we? Answer my
17 question, sir. We'll have to guess, won't we?

18 A I mean, with the time gap, you know, it could have been
19 there, couldn't have been there.

20 Q So the answer to my question is yes, we're going to have to
21 guess then?

22 A If that's how you see it.

23 Q Well, you can't tell us the answer, can you? So if somebody
24 can't tell you the answer, what other choice do you have other
25 than guess? What other choice do you have you don't know the

1 answer of than guessing?

2 A Well, just given the time gap, it could have been there,
3 couldn't have been there.

4 Q What other choice do you have if you don't know the
5 information other than guessing?

6 ASS'T. SOLICITOR GASSER: Your Honor, at this point the
7 witness has answered the question.

8 ATTORNEY VARNER: No, he hasn't.

9 ASS'T. SOLICITOR GASSER: Asked and answered.

10 THE COURT: Overruled. But it's a yes or no, and then you
11 can explain.

12 A Well, can you repeat the question.

13 Q If you don't know something, then you have to guess?

14 A Yes, but however, given the time gap, you know, porn could
15 have been there. He could have obtained the porn after, well
16 into 2020. I mean, he may have got rid of it whenever he took
17 the trash out.

18 Q Well, that's what we have to guess about, whether it was
19 still there or not?

20 THE COURT: That's asked and answered, so I'm going to
21 sustain it as to that question.

22 ASS'T. SOLICITOR GASSER: And move to strike his last
23 question, Your Honor.

24 THE COURT: That's granted.

25

1 Q All right, sir. I'm going to hand you this -- the solicitor
2 has seen it -- original transcript, *The State of South Carolina*
3 *v. Jeffrey Keller*. And on Line 21, the question being asked of
4 you, and if you would read that to the jury what your answer was.

5 A I did. I mean, I would like to have more evidence.

6 Q Would you read Lines 13 through 18.

7 A The question and answer, or just answer?

8 Q The question of you, sir, and your answer.

9 A The question is --

10 ASS'T. SOLICITOR GASSER: Objection, Your Honor.

11 THE COURT: What's the objection?

12 ASS'T. SOLICITOR GASSER: As to hearsay. The question,
13 it's, like, someone else's question. And the answer, the only
14 thing he can testify, as his words.

15 ATTORNEY VARNER: It's a transcript. It's my question of
16 him.

17 THE COURT: It's overruled. This is impeachment.

18 ASS'T. SOLICITOR GASSER: And --

19 THE COURT: Yes, ma'am.

20 ASS'T. SOLICITOR GASSER: If it's being offered for
21 impeachment then, Your Honor, I would ask then what question he
22 has answered to which needs to be impeached. At this point he's
23 just reading in a record. There's been no question that he has
24 answered in the affirmative or the negative that needs to be
25 impeached.

1 THE COURT: I'm going to have him re-ask it, but
2 nevertheless I believe that the question and the answer that he
3 referenced when he was referring to a transcript was what this
4 witness said, during a court proceeding under oath, that he
5 needed more than just a disclosure.

6 ASS'T. SOLICITOR GASSER: And, yes, Your Honor, but he
7 hasn't asked that question yet. I'm just trying to, again, keep
8 the record clean.

9 THE COURT: That's okay. Ask your question, Mr. Varner. I
10 know you asked it before but you couldn't put your hand on the
11 transcript. So go ahead.

12 Q Read Lines 13 through the rest of your answer.

13 THE COURT: No. I'm saying ask your question.

14 ATTORNEY VARNER: Okay.

15 Q Do you need more than just the statements of the children?

16 A No.

17 Q Read what your answer was.

18 THE COURT: The question and the answer, because he's
19 impeaching you with your prior testimony. And it may not be
20 impeachment. The jury can make that determination.

21 A Okay. Okay. In that recorded interview I'm referring to
22 supplemental report February 5th. Did you make a statement to
23 the mother you cannot promise Mr. Keller would go to jail because
24 of evidence, more corroborating evidence? Did he make that
25 statement? Answer is, I did, but for these cases I always like

1 to have more evidence.

2 Which is true. I'd love to have more evidence in every case
3 I work.

4 THE COURT: Okay.

5 Q I understand you'd like to have all of it but you said you
6 couldn't promise that you would even charge somebody without more
7 evidence?

8 ASS'T. SOLICITOR GASSER: And, Your Honor, objection.

9 ATTORNEY VARNER: I'll withdraw it.

10 THE COURT: I'm going to sustain it. It speaks for itself.
11 They heard what he said.

12 ATTORNEY VARNER: I have nothing further.

13 THE COURT: All right. Redirect?

14 ASS'T. SOLICITOR GASSER: Yes, Your Honor.

15 **REDIRECT EXAMINATION**

16 BY ASS'T. SOLICITOR GASSER:

17 Q Mr. Epting, can the police take someone's cellphone without
18 a search warrant?

19 A No, not unless it's voluntarily given.

20 Q Can the police take someone's computer without a search
21 warrant?

22 A No.

23 Q In order obtain a search warrant, can you explain to the
24 jury what you have to do as a police officer?

25 A So I have to have probable cause to make, to explain why,

1 what evidence I'm getting from this device. Typically if the
2 kids will say, yeah, you know, someone, XYZ --

3 ATTORNEY VARNER: Your Honor, that's not responsive. The
4 question was, What do you have to do to get a search warrant?
5 There's a procedure for that. It has nothing do with anything
6 else or what people did or didn't say or failed to say.

7 THE COURT: Overruled. He's explaining and giving an
8 example.

9 A Someone would have to say, Someone took a picture of me with
10 their cellphone or their device. At that point, we can
11 articulate that there's a likeliness of photographs on this
12 phone. So we would get a search warrant. We would have a judge
13 review it, sign it. Then we would execute the search warrant.
14 We would seize the device and have it connected to forensically,
15 I can't really say the software, but we would have it connected
16 to software which do an image of the phone, and we would review
17 it to verify or not verify that evidence was present.

18 Q So if someone was charged with criminal sexual conduct in
19 the first degree, or second degree, or third degree, or whatever
20 the charge may be, are you allowed, just by the very nature of
21 the offense, to have someone's cellphone?

22 A No.

23 Q Are you allowed to get into their cellphone?

24 A No, we can't.

25 Q Would a defense attorney typically ask you and grill you on

1 that at trial?

2 ATTORNEY VARNER: That's speculating --

3 THE COURT: No. That is sustained, Mr. Gasser, and I'm
4 going to strike it.

5 ASS'T. SOLICITOR GASSER: Yes, Your Honor.

6 Q In order to look at someone's TV do you have to be in their
7 house?

8 A I'm sorry. Can you we repeat that?

9 Q In order to look the a someone's TV do you have to go inside
10 of their house?

11 A Correct.

12 Q In order to look at someone's pornography stash do you have
13 to go inside of their house typically?

14 A Yes.

15 Q Can you enter anyone's house willy-nilly as a police
16 officer?

17 A No, not without a search warrant or voluntariness of the ...

18 Q And in this case how many years was between the disclosure
19 and the time of the incidents?

20 A About seven years.

21 Q On your warrants that Mr. Varner had you read, what were the
22 ages, again, that you listed?

23 A I think they were three to five.

24 Q Do you need to see them again if that would help refresh
25 your recollection?

1 A Please. The ages of five and six is what's stated here.

2 Q Can you read the next warrant. What ages did you place on
3 that?

4 A Five and six.

5 Q Next one after that?

6 A Five and six.

7 Q Keep going.

8 A Four and five, and four and five.

9 Q You've testified to on cross-examination about in the course
10 of your investigation. In the entirety of the course of your
11 investigation did you have any evidence that could lead you to
12 making a charge of bribery or blackmail against anyone in this
13 case?

14 A No.

15 Q Through the course of your investigation did you have any
16 evidence that there was any kind of threat regarding paying off a
17 mortgage --

18 A No.

19 Q -- in order to go forward on that allegation?

20 A None was produced.

21 ATTORNEY VARNER: Your Honor, I object. He said -- she's
22 impeaching her own witness at this stage.

23 THE COURT: Overruled. Overruled. You asked. You asked
24 during his investigation, and she's saying did you find anything
25 that would lead you to charge somebody. And he's saying no.

1 Q Through the course of your investigation did that include
2 interviewing the Defendant?

3 A Correct.

4 Q And without saying anything that he said under the rules of
5 hearsay, after interviewing the Defendant did you make charges
6 against any other individual?

7 A I did not.

8 Q After interviewing the Defendant, without saying anything he
9 said, did you bring charges against any other individual as to
10 sexual assault as to these particular victims?

11 A No.

12 Q And after interviewing the Defendant and through the entire
13 course of your investigation, who did you obtain warrants on?

14 A Philip Scott Steele.

15 ASS'T. SOLICITOR GASSER: I have no further questions, Your
16 Honor.

17 THE COURT: Mr. Varner.

18 **RECROSS-EXAMINATION**

19 BY ATTORNEY VARNER:

20 Q Talking about investigation, after you heard the matters
21 that arose in the investigation you didn't do any further
22 investigation, did you?

23 A Uh, there was no more evidence to --

24 Q Well, it wasn't just evidence. You didn't talk to anybody
25 else about it?

1 A No. My primary focus was to investigate the disclosures.

2 Q So if you don't investigate something, that's why you can't
3 bring charges, you didn't investigate it, correct?

4 A I did investigate it.

5 Q Well, did you bother to talk to the man she was living with?

6 A No, because there were no disclosures against him.

7 Q Okay. So what investigation did you do?

8 A For the disclosures.

9 Q That's it?

10 A That's what the report was for, and that's what the case
11 was.

12 Q So you based your whole investigation on disclosures, which
13 you've already testified to is you want more and you need more,
14 right?

15 A I said I would like more, which is true for any case. You
16 know, I would love DNA evidence, but with these types of cases
17 it's not always possible.

18 Q I understand. And if there's allegations of bribery, that's
19 not your department, you don't do that, do you?

20 A No. He never made a report for bribery.

21 Q He told you -- excuse me. Somebody told you.

22 ASS'T. SOLICITOR GASSER: Objection, Your Honor.

23 THE COURT: That's --

24 ATTORNEY VARNER: I'll withdraw it.

25 THE COURT: Thank you.

1 ASS'T. SOLICITOR GASSER: And I would move to strike.

2 THE COURT: He hasn't asked it yet so there's nothing to
3 strike. But it's sustained.

4 Q If, during the course of your investigation, you discovered
5 there might be bribery do you send it to another department to
6 investigate?

7 A No. He would have to make a report as complainant for
8 bribery. I mean, he never came forward to report it to police.

9 Q He's not a lawyer or a police officer, is he?

10 A No.

11 Q And he was talking to a police officer whenever any
12 statements were made?

13 A He was.

14 Q And let's go back to a search warrant. You don't determine
15 what probable cause is; a judge does, correct?

16 A Correct.

17 Q And if you don't ask a judge you don't know if there's
18 probable cause or not?

19 A Typically judges don't like to be bothered unless you have a
20 problem.

21 Q I didn't ask you that. I asked you, a judge determines it,
22 correct?

23 A A judge determines it, yes. They sign off on it.

24 Q And let's say there's a four-month-old dead baby in the
25 house, no evidence of any crime. Are you saying you can't go get

1 a search warrant saying there might be evidence here of a crime,
2 judge?

3 A Yeah, you can say there might be evidence. There is a dead
4 baby and unusual circumstances.

5 Q So if there was an allegation that porn was shown to
6 children, of furniture in the house, how things happened, you
7 could have gone to a judge and say, Judge, I want a search
8 warrant because there might be evidence or probably is evidence
9 there in that house, and gotten one signed if you'd bothered to
10 ask?

11 A Well, with a dead baby, there's physical evidence. And with
12 the search warrant, further, there's a time gap with the ...

13 Q You don't have to say Judge, I know there's evidence there;
14 you can say Judge, I want to search to see if there is evidence
15 there, correct?

16 A Correct.

17 Q And you also had, according to your statement, allegations
18 that a crime was committed at a specific location?

19 A Seven years prior.

20 Q I didn't ask you how far -- you had evidence the crime was
21 committed at a specific location, correct?

22 A Correct.

23 Q And a judge will give you a search warrant to look for
24 evidence of a crime that was committed at a specific location,
25 won't they?

1 ASS'T. SOLICITOR GASSER: And, objection, Your Honor.
2 Speculative.

3 THE COURT: That is sustained. It is speculation. He
4 doesn't know. It's up to the judge.

5 ASS'T. SOLICITOR GASSER: Move to strike.

6 ATTORNEY VARNER: We're back where we started.

7 THE COURT: Granted.

8 Q Call it speculation, call it guessing --

9 ASS'T. SOLICITOR GASSER: Objection, Your Honor. Defense
10 counsel is testifying.

11 THE COURT: Let him ask the question, Ms. Gasser.

12 Q Call it speculation, or call it guessing, we'll never know
13 because you didn't do it, did you, you didn't go to a judge?

14 A I did not based off the time gap.

15 ATTORNEY VARNER: Thank you.

16 THE COURT: May this witness step down?

17 ASS'T. SOLICITOR GASSER: Yes, Your Honor.

18 THE COURT: Thank you, sir. All right. We are right at
19 about 12:00. Let me -- Ms. Gasser, next witness is ready and
20 willing to go, and is short, or long? Give us a timeframe.

21 ASS'T. SOLICITOR GASSER: The next witness, Your Honor, is
22 the forensic interviewer. The State would be entering the two
23 forensic interviews. However, we could hold off on playing those
24 until after. We could elicit testimony. We can elicit the
25 testimony and enter them, and then I can publish them to the jury

1 after lunch.

2 ATTORNEY VARNER: Your Honor, I don't want to start that
3 witness, interrupt it, and then come back and try to piecemeal
4 it.

5 THE COURT: All right. Let's do this. Let's break for
6 lunch. It's 12:00. This witness is going to take -- the
7 witness's testimony is short, but the forensic interviews are
8 longer, about an hour?

9 ASS'T. SOLICITOR GASSER: Total. They're each about 35
10 minutes.

11 THE COURT: Okay. So let's break now, it's 12:00, and let's
12 come back at 1:30. That gives you all about that 30 minutes to
13 get where you want to go, 15, 15 back, and about an hour to eat.
14 All right. So let's break, and we'll say we'll come back at
15 1:30.

16 Guys, I'm going to remind you all not to discuss the case at
17 this point in time.

18 (WHEREUPON, the jury exits at 11:57 a.m.)

19 (WHEREUPON, an off-the-record discussion is held at
20 sidebar.)

21 (Court Recesses at 12:00 p.m. and reconvenes at 1:31 p.m.)

22 THE COURT: Are we ready, you all?

23 ASS'T. SOLICITOR GASSER: State is ready, Your Honor. On
24 this next witness we do foresee utilizing the technology.

25 THE COURT: All right. Then Lauren will get that started.

1 Mr. Varner, are you ready? Kim, are you ready?

2 ATTORNEY VARNER: Yes, Your Honor. My apologies.

3 THE COURT: No. No. No. It's okay. I just want to tell
4 Ron to bring the jury in.

5 (WHEREUPON, the jury enters at 1:33 p.m.)

6 THE COURT: All right. I have all of our jurors back.
7 Welcome back. Hope you all had a nice lunch.

8 And so, yes, ma'am. Ready to call your next witness?

9 ASS'T. SOLICITOR GASSER: Yes, Your Honor. May it please
10 the Court, the State calls Melissa Collins.

11 MELISSA COLLINS,

12 having first been duly sworn, is examined and testifies as
13 follows:

14 CLERK OF COURT: And state your name for the record.

15 THE WITNESS: Melissa Collins.

16 **DIRECT EXAMINATION**

17 BY ASS'T. SOLICITOR GASSER:

18 Q Good afternoon, Ms. Collins. Can you please tell the jury a
19 bit about your educational background and training.

20 A Yes. I have a B.A. in Psychology from Clemson University,
21 and then I have a Master of Social Work from the University of
22 North Carolina out of Wilmington. I graduated in 2014. In 2014
23 I was a therapist at the Phoenix Center. And then I came to my
24 current position in 2017. I'm a forensic interviewer at the
25 Julie Valentine Center.

1 Q All right. And you just said the Julie Valentine Center.
2 What is that?

3 A It is a child advocacy center that serves Greenville and
4 Pickens Counties.

5 Q And what kind of services do you provide at the child
6 advocacy center?

7 A Uhm, A child advocacy center is a place where a
8 multidisciplinary team of professionals can provide services when
9 there have been allegations of abuse.

10 Q And is there any amount of experience that conducting
11 forensic interviews with children requires?

12 A At the Julie Valentine Center it is required that forensic
13 interviewers be licensed and have a master's degree.

14 Q And how long have you been conducting forensic interviews?

15 A Uhm, since 2017.

16 Q And do you have an estimated number of interviews that
17 you've conducted?

18 A Approximately, by my best count, 1,306.

19 Q And just for the jury, what is a forensic interview?

20 A A forensic interview is a neutral, fact-finding interview
21 with a child conducted by a trained professional as part of an
22 investigation.

23 Q And are the child's parents or guardians present during the
24 interview?

25 A Not during the interview, no.

1 Q And why not?

2 A Just to keep it neutral.

3 Q Where are these interviews conducted?

4 A They are conducted at the Julie Valentine Center, which is
5 in Greenville County off White Horse Road.

6 Q And who is allowed to observe the interview?

7 A Anyone involved in investigating the situation. So
8 typically that would be someone like DSS or law enforcement.

9 Q And in what manner do they observe the interview?

10 A They are in a different room onsite observing on a
11 television.

12 Q Is anyone else in the room with you and the child during the
13 interview?

14 A No, ma'am.

15 Q And what type of questioning format is used in forensic
16 interviews?

17 A So it's a, it's a, like I said, neutral, nonleading
18 interview. So the questions, it's kind of a continuum of
19 open-ended questions, so they would be as open as possible and
20 then gradually get more focused and narrow.

21 Q And on what date did you conduct a forensic interview with

22 MINOR1?

23 A That was on 7/26 of 2021, July 26th.

24 Q And on what date did you conduct a forensic interview of

25 MINOR 2?

1 A Looks like 8/23/21, so August 23rd.

2 Q And what person or agency referred the child for a forensic
3 interview?

4 A They were both referred by Detective Stephen Epting with the
5 Greenville Police Department.

6 Q Now, under the rules of evidence, what, if anything, did
7 MINOR1 relate to you concerning the time or timeframe of
8 the sexual assaults?

9 A Uh, MINOR1 said that it happened when she was, uh, four to
10 five years old.

11 Q And again, under the rules of evidence, what, if anything,
12 did MINOR 2 relate to you concerning the time or timeframe
13 of the sexual assaults?

14 A She also said it was around ages four to five years old.

15 Q How old was MINOR1 at the time of the interview?

16 A MINOR1 was 11.

17 Q And how old was MINOR 2 at the time of the interview?

18 A MINOR 2 was 10.

19 Q Did you make an audio or video recording of this interview?

20 A Yes, ma'am.

21 Q Okay.

22 ATTORNEY VARNER: No objection.

23 (WHEREUPON, State's Exhibits 4 and 5 are marked for
24 identification.)

25 Q And I'm showing you what has been marked for identification

1 purposes as State's Exhibit Nos. 4 and 5. Do you recognize
2 these?

3 A Yes, I do.

4 Q How so?

5 A I have initialed and dated them.

6 Q And what are they?

7 A These are the forensic interviews that I conducted with
8 MINOR1 and MINOR 2.

9 Q And what does your initial and dating of those interviews
10 tell you?

11 A That I reviewed them and initialed and dated that I had done
12 that.

13 Q And are they a fair and accurate depiction of the interviews
14 of MINOR1 and MINOR 2?

15 A Yes, ma'am, they are.

16 ASS'T. SOLICITOR GASSER: Your Honor, at this time the State
17 moves to admit State's Exhibit Nos., I believe it was, 5 and 6.

18 THE COURT: Without objection, they will be so admitted.

19 ASS'T. SOLICITOR GASSER: I apologize, Your Honor. Four and
20 5, State's Exhibit Nos. 4 and 5.

21 THE COURT: With that correction, those will be admitted.

22 (WHEREUPON, State's Exhibits 4 and 5 are admitted into the
23 record.)

24 ASS'T. SOLICITOR GASSER: Thank you, Your Honor. Your
25 Honor, permission to publish State's Exhibit No. 4 first,

1 followed by State's Exhibit No. 5.

2 THE COURT: Granted. It should be set up. Just let me know
3 when you're ready for Lauren to activate it. I don't know what
4 other word to use. Is your screen working, ma'am?

5 THE WITNESS: Yes, it is.

6 (WHEREUPON, State's Exhibit 4 is published to the jury.)

7 ASS'T. SOLICITOR GASSER: Publish State's Exhibit No. 5,
8 Your Honor.

9 THE COURT: That's granted. Before you publish it, let's
10 take just a five-minute comfort break, just as a restroom break,
11 get a drink of water, stand up, stretch, and then we'll come on
12 back, because this next one is going to be about 30 minutes, as
13 well, 35 minutes. So let's just take a little break. You can go
14 back to the jury room, get a drink of water, and use the
15 restroom, and we'll take a comfort break as well.

16 (WHEREUPON, the jury exits at 2:16 p.m.)

17 THE COURT: All right. Let's take a five-minute break.

18 (WHEREUPON, court recesses at 2:16 p.m. and reconvenes at
19 2:26 p.m.)

20 (WHEREUPON, the jury enters at 2:26 p.m.)

21 THE COURT: All right. We have all of our jurors back, and
22 so you can go ahead and publish the next exhibit.

23 (WHEREUPON, State's Exhibit 5 is published to the jury.)

24 ASS'T. SOLICITOR GASSER: No further questions at this time.

25 THE COURT: All right. Mr. Varner.

1 ATTORNEY VARNER: May it please the Court.

2 THE COURT: Yes, sir.

3 CROSS-EXAMINATION

4 BY ATTORNEY VARNER:

5 Q Ms. Collins, when you are asked questions, we're going to
6 talk about MINOR1, the older child, first, all right?

7 A Sure.

8 Q She told you she was about four years old when this
9 happened, correct?

10 A Yes, sir.

11 Q And you know the birthdates of each of the children, right?

12 A Yes, sir.

13 Q And there's about 17 months' difference between the
14 children? In other words, MINOR 2 is about 17 months younger?

15 A Seems about right. Yes. Yes, sir.

16 Q So if it was four years old, if that is correct, then
17 MINOR 2 would have been about two and a half, give or take a day
18 or two?

19 A Yes, sir.

20 Q Okay. And if she was then correct that she was three years
21 old, being MINOR1 a, that means MINOR 2 would be about a year and a
22 half?

23 A Yes, sir.

24 Q And we'll go forward. Let's say she's five, MINOR1. That
25 means MINOR 2 would be three and a half, at best, correct?

1 A Yes, sir.

2 Q All right. When you were interviewing the younger child,
3 MINOR 2 did you ask her whether or not she was wearing diapers
4 when she was at Papa's house?

5 A No, sir.

6 Q Would it be unusual, if a child was wearing diapers, that a
7 person changing their diapers would touch their vaginal area, put
8 ointment, or cream on it? Would that be at all unusual?

9 A No, sir. No.

10 Q Do you have children?

11 A Yes.

12 Q Okay. And have you put diaper ointment or, I don't know,
13 Desitin, whatever it is, on a child's, both, rear-end and
14 front-end at times?

15 A Yes. As the primary caregiver of a child, yes, I have.

16 Q Well, apparently they were spending night at Papa's house,
17 so he would have been their primary caregiver during those
18 periods of time, wouldn't he?

19 A I'm not sure who was the primary caretaker of the children
20 at those periods of time.

21 Q You don't know who was taking care of them when they were at
22 Mr. Steele's house?

23 A My understanding is that he's the ex-husband of their
24 grandmother. I'm not sure who all was at the home.

25 Q Are you talking about Mr. Steele's home?

1 A Correct.

2 Q You didn't ask the children, was there anybody else there,
3 or who else was there, and they told you Mr. Steele and my
4 sister?

5 A For portions of time my understanding is that he was the
6 only one there.

7 Q So then if he was the one there during that period of time
8 he's the one caring for them, he would be the one changing
9 diapers?

10 A Sure. Yes, sir, for that period of time. Yes.

11 Q All right. And you asked additional questions such as who
12 they lived with, asking the children who they live with?

13 A Yes.

14 Q And that's important, isn't it, or you wouldn't be asking
15 it, would you?

16 A That's correct. That's how I like to start the interviews.
17 Yes, sir.

18 Q And you also asked then who lived with Scott, and who lived
19 close by, right?

20 A Yes, sir.

21 Q And they told you his mother and dad lived right there at
22 the same area --

23 A Yes.

24 Q -- okay, in a duplex? They even told you about one time
25 when Scott's mother walked in the middle of a molesting episode,

1 correct?

2 A Yes, MINOR1 did. Yes, sir.

3 Q And she was told, climb under the bed?

4 A Yes, sir. That's what she said in the interview.

5 Q So based on that, apparently, according to that version he
6 was molesting a child and left the door unlocked for somebody
7 else to walk in?

8 ASS'T. SOLICITOR GASSER: Objection, Your Honor. It calls
9 for speculation.

10 THE COURT: Overruled. I'll let her answer. She can say
11 she doesn't know.

12 A I don't know anything about how the doors were.

13 Q Well, his mother came in, correct?

14 A Yes, sir.

15 Q You didn't hear anything about, Grandma knocked on the door
16 or anything? She came walking in is what you were told, right?

17 A That's what's in the video. Yes, sir.

18 Q And she said her sister was there, too?

19 A I can't remember on that specific occurrence.

20 Q All right. And this gentleman's mother walked in. There's
21 a child under the bed, possibly another child there, and she
22 doesn't really say anything, she just leaves?

23 A I don't know what she did while she was there other than
24 what's in the video.

25 Q Well, you asked the little girl, what does his mother say.

1 And what did she say?

2 A I don't recall specifically what she said from the video.
3 It is in the video, though.

4 Q Did she indicate to you, I don't know, I wasn't listening?

5 A She did say she wasn't listening while she was under the
6 bed. Yes, sir.

7 Q Does that sound a little odd to you?

8 A No, sir.

9 Q Do you have parents?

10 A Yes.

11 Q They ever just come in your house and not talk to their
12 grandkids? Has that ever happened at your house?

13 ASS'T. SOLICITOR GASSER: Your Honor, at this point I'm
14 going to object as to relevancy.

15 THE COURT: I'm going to overrule it and give him some
16 leeway.

17 Q Have your parents ever walked in and not talked to the
18 grandkids?

19 A My parents live hours away.

20 Q Your husband's parents, do they live around here?

21 A No.

22 Q Okay. So don't you know the answer to that. Is that what
23 you're telling me?

24 A I can't speak to the dynamic of this family. The kids are
25 the only people I've spoken to.

1 Q Well, I didn't ask you to speak about their dynamics. I
2 asked did you think that was unusual. And don't know if that
3 would be unusual?

4 A It's not unusual for that to be an 11-year-old's
5 recollection of an occurrence that happened when she was four to
6 five years old.

7 Q And you asked her questions about how the videos were done,
8 how these alleged porn movies were done, correct?

9 A Yes, sir.

10 Q And she told you she thought they were on a video?

11 A Yes, sir.

12 Q Okay. And you even asked her where they were located?

13 A Yes, sir.

14 Q That's an important factor, isn't it?

15 A It could be a relevant factor. Yes, sir.

16 Q Because if the child says this happened, there are ways to
17 find out if that's correct or true, quite possibly?

18 A There could be. And that's why I asked the questions. Yes,
19 sir.

20 Q But that's not your job; that would be the police's job?

21 A Yes, sir.

22 Q You also asked MINOR1 if any pictures had been taken, and
23 she told you she didn't know?

24 A Yes.

25 Q And you do work with police, correct?

1 A Yes.

2 Q I'm not saying a member of the police, but you communicate
3 with them and work with them, you know what they do?

4 A Yes.

5 Q And with a cellphone, they can go back into a cellphone and
6 basically retrieve everything that's ever been on that phone?

7 ASS'T. SOLICITOR GASSER: And I'm going to object, Your
8 Honor. This is outside of this witness's purview. She's not law
9 enforcement. She doesn't know what law enforcement can retrieve
10 off of a cellphone.

11 ATTORNEY VARNER: Your Honor, if she doesn't know, she --

12 THE COURT: Wait. Hold on. Overruled. It's
13 cross-examination. She can say that she does or doesn't know.

14 A I don't know what law enforcement --

15 Q You don't know that, either. You have a master's degree,
16 and you work with police all the time?

17 A I do work with police frequently, and I do have a master's
18 degree. Yes.

19 Q And you don't know if computer experts at the police
20 department have ability to look into a phone and look at even
21 what's been erased, you don't know that?

22 A They have the capability. I'm not -- in some cases I know
23 they can, and in some cases they're not able to.

24 Q Well, if a child said they don't know if they were
25 photographed, you would want to know the answer to that, you

1 would want that check that, right?

2 A That's not my role.

3 Q Okay. You would want that checked?

4 A Again, that's not -- the law enforcement had access to the
5 video as well. That's outside of my role.

6 Q Exactly. They knew that for sure, didn't they, and that's
7 their job, isn't it?

8 A It's not my job.

9 Q I didn't say it was your job; I said that's their job, isn't
10 it?

11 A It could fall within their job.

12 Q Do you know who brought the children to each of the
13 interviews? Did you meet with them?

14 A I did speak with their mother prior to the interviews. Yes.

15 Q I'm sorry, I didn't hear you. You said their mother brought
16 them for both?

17 A Alicia Aiken brought each of the children to each of their
18 interviews.

19 Q Do you know why they missed the first interview? Were you
20 ever told that by them or anybody? Do you know what happened?

21 A I don't have that record in front of me.

22 Q But the children did indicate they had told their mother
23 about this. Maybe not all the details, but they told mom,
24 correct?

25 A Yes.

1 Q And MINOR1 even said that MINOR 2 had told them also,
2 correct?

3 A MINOR1 said that MINOR 2 told her mother. Yes.

4 Q And she said she had told her mother, too, correct, but not
5 all the details?

6 A She said that her mother asked her, and she kept saying no.

7 Q And that's where your job kicks in, that's why you do a
8 forensic interview and you talk to the police if there had been
9 any kind of allegations, correct?

10 A Yes. In a child's telling of a parent, I don't know what
11 exactly she told her parents.

12 Q I understand that, but if there is any question, you take
13 your child to the police officer and they wind up at Julie
14 Valentine's? Let an expert make the decision, correct?

15 A Yes.

16 Q I mean, it's kind of just simple. If you cut your arm off
17 you don't get on the internet and figure out how to sew it back
18 on, you go to the hospital, right?

19 A As someone who's trained in this field, yes.

20 Q You don't have to be trained to know if you're hurt to go to
21 the hospital, do you?

22 A Yes, sir. I'm sorry. I was ...

23 Q And if a crime had been committed against a child you don't
24 have to be trained to know that's what the police is for, for
25 crimes?

1 A Sure. Yes, sir. Again, I don't know that the child's
2 disclosure to her mother included that a crime had been
3 committed. I don't know what words the child used to disclose.

4 Q Well, that's not your job, that's not my job, that not the
5 parents' job; that is the police job after consulting with
6 experts like you and investigating, correct?

7 A Yes, sir.

8 Q None of the children told you anything about bribes, or
9 gifts, or anything?

10 A No, sir, not in those interviews.

11 Q And do we have any way of knowing whether his penis was soft
12 or hard based on your interview or anything the children told
13 you?

14 A I don't from those interviews. No, sir.

15 Q And they indicated, both of them, that they didn't see
16 anything around his penis, correct?

17 A Yes, sir.

18 Q Okay. This man was arrested, taken down to the LEC, his
19 clothes taken away from him, and put in a prison uniform,
20 observed. Nobody checked to see if he was shaved or unshaved?

21 ASS'T. SOLICITOR GASSER: Objection, Your Honor. It's
22 calling for speculation.

23 THE COURT: That's sustained.

24 ASS'T. SOLICITOR GASSER: And I would move to strike.

25 Q Do you know whether or not anybody checked to see if he was

1 shaved or unshaved at the jail?

2 A No, sir, I do not at all.

3 Q Oh. When MINOR1 came in, you asked her what was she there
4 for, and she said molestation, correct?

5 A Yes, sir.

6 Q You've done over, I don't know, over a thousand interviews.
7 Do you think that's a pretty good word for an 11-year-old?

8 A Honestly, no. They do presentations in schools. There's
9 lots of ways a child can learn that word.

10 Q And if somebody's molested, that means you bothered her, or
11 harassed her, whatever, correct? That's one of the definitions?

12 A It could be. She defined it for herself in that interview.

13 Q When you asked her what it was, the definition she gave you
14 was almost precisely a legal definition, wasn't it?

15 ASS'T. SOLICITOR GASSER: I would object, Your Honor. It's
16 calling for a legal conclusion.

17 THE COURT: Uhm, overruled. She's got a master's degree.
18 She can say whether it is or not, or disagree with him. Do you
19 think that was a legal definition?

20 THE WITNESS: That was not the legal definition of
21 molestation, by my understanding.

22 Q Well, what she said was words to the effect -- and I'm not
23 trying to be verbatim but -- that's wherever a person touches a
24 boy or a girl in an inappropriate manner?

25 A She included -- yeah. She included something about an

1 underage boy or girl.

2 Q You're correct, an underage boy or girl. Does it surprise
3 you that an 11-year-old would come out with a definition of
4 molestation a person touching an underaged boy or a girl in an
5 inappropriate manner? That's awfully precise, isn't it?

6 A That doesn't surprise me. That sounds like a pretty basic
7 understanding of child sexual abuse that would be taught in a
8 prevention curriculum.

9 Q And child sexual abuse is not taught to three-year-olds and
10 four-year-olds who are not in school yet, are they? Are they?

11 A It's not taught by school to three- and four-year-olds.

12 Q Well, then that doesn't apply then, does it? What they're
13 taught in school doesn't apply in this case, does it?

14 A Well, she was 11 at the time of the interview.

15 Q Okay, at the time of the interview. Okay. And when **MINOR 2**
16 got in there she said she was there to help her sister, correct?

17 A Yes, sir.

18 Q How would she know she was there to help her sister if they
19 didn't know what they were coming for?

20 ASS'T. SOLICITOR GASSER: And again, Your Honor, I'm going
21 to object to this as speculation.

22 THE COURT: That's sustained. She doesn't know that,
23 Mr. Varner. It calls for speculation.

24 Q Did you ask her why she said she was there to help her
25 sister?

1 A No, sir.

2 Q And she told you initially he put his hands on her vaginal
3 area, correct?

4 A Yes, sir.

5 Q And you asked her what did his hand do, and she said I don't
6 remember, nothing, right?

7 A Yes, sir.

8 Q And she alleged that he put his penis in her mouth, and you
9 asked them, did anything come out. And what did they say?

10 A They both stated they didn't remember. Or that they didn't
11 know. I don't remember their exact words.

12 Q Either they didn't know or didn't remember?

13 A Yes, sir.

14 Q And a lot of the answers to the questions were either I
15 don't remember, or maybe. They didn't know specifically,
16 correct?

17 A They did answer I don't know or I don't remember to several
18 of the questions.

19 Q Well, one of them, you asked about age, she goes I don't
20 know, maybe five. They didn't know?

21 A Yes, sir. They were 10 and 11 at the time of their
22 interviews.

23 Q Okay. I'm not talking about the interview. When this
24 alleged, allegedly happened, correct?

25 A Correct. That's what they both stated. Yes.

1 Q And you did ask them to tell you, you emphasized the words,
2 everything, correct? You have to answer, ma'am.

3 A Yes. I do ask kids in the interview to tell me that
4 everything they can remember about the topic.

5 Q All right, ma'am.

6 ATTORNEY VARNER: That's all the questions I have.

7 THE COURT: Any redirect?

8 ASS'T. SOLICITOR GASSER: No redirect, Your Honor.

9 THE COURT: All right. Thank you, ma'am. You can step
10 down.

11 THE WITNESS: Thank you.

12 ASS'T. SOLICITOR GASSER: And, Your Honor, the State is
13 going to be calling Shauna Galloway-Williams. I just need to
14 step out and see if she's outside.

15 THE COURT: Let's just do a five-minute recess. And I also
16 want to ask the attorneys one question before she testifies.

17 All right. Let's just take a five-minute recess. Use the
18 bathroom, get a drink of water. I just need to clarify one thing
19 before -- I believe this may be the State's last witness.

20 ASS'T. SOLICITOR GASSER: As of this moment, Your Honor.

21 THE COURT: As of this moment, okay. You all step back.
22 Don't begin your deliberations or talk about the case.

23 (WHEREUPON, the jury exits at 3:19 p.m.)

24 THE COURT: I just figured for ease, Mr. Varner, are you
25 going to be challenging her next witness's qualifications? Have

1 you made a decision about that? I don't want to call her to the
2 witness stand and then have the jury step out. And I also have
3 an officer here who needs to have me sign something.

4 ATTORNEY VARNER: Can we do the preliminary so that I know
5 whether I'm going to challenge or not without the jury present?
6 After I hear her I may stipulate.

7 THE COURT: All right. That sounds appropriate. You all
8 need a bathroom break or need to get a drink of water or
9 anything?

10 ATTORNEY VARNER: A bathroom break would be nice.

11 THE COURT: Let's take five.

12 (WHEREUPON, court recesses at 5:20 p.m. and reconvenes at
13 5:25 p.m.)

14 MATTER(S) OF LAW

15 THE COURT: Let's go back on the record. And I know this
16 may be a little duplicative, I guess is the word I'm looking for,
17 but I'd rather go ahead and have you call your expert, put her
18 qualifications on the record, allow Mr. Varner to cross-examine
19 her if he so chooses, or he may stipulate to her qualifications.

20 And then I do understand you would have to go through that
21 again in front of the jury, but if he's going to challenge her
22 qualifications I'd rather go ahead and put her up, do it now
23 while the jury is taking a quick, little break.

24 ASS'T. SOLICITOR GASSER: Yes, Your Honor.

25 THE COURT: So, yes, ma'am.

1 ASS'T. SOLICITOR GASSER: So the State calls Shauna
2 Galloway-Williams.

3 SHAUNA GALLOWAY-WILLIAMS,
4 having first been duly sworn, is examined and testifies as
5 follows:

6 CLERK OF COURT: And state your name for the record.

7 THE WITNESS: Shauna Galloway-Williams.

8 **PROFFER EXAMINATION**

9 (without the jury)

10 BY ASS'T. SOLICITOR GASSER:

11 Q Good afternoon. Can you please tell us where you're
12 currently employed?

13 A I'm the CEO of Julie Valentine Center.

14 Q And what is the Julie Valentine Center?

15 A We are the child abuse and sexual assault recovery center
16 that serves Greenville and Pickens County. We provide crisis
17 intervention services through our rape crisis program; we provide
18 child advocacy services through our child advocacy center
19 program; and we also provide prevention and education in the
20 community.

21 Q And how long have you been at the Julie Valentine Center?

22 A I've been an employee of Julie Valentine Center since 2007.
23 I've been in my role as CEO since 2009.

24 Q And what other positions did you hold before becoming the
25 CEO?

1 A So in 2007 I was the clinical director there. Prior to
2 that, I was employed at the Department of Mental Health and
3 worked as a contractor providing forensic interview services at
4 the Julie Valentine Center, as well as working in the child and
5 adolescent unit at Greenville Mental Health.

6 Q And can you tell us a little bit about your education?

7 A Sure. I have a bachelor's degree in psychology from
8 Winthrop University, and a master's degree in counseling from
9 Clemson University. I'm also licensed as a professional
10 counselor in the state of South Carolina.

11 Q And can you tell us a little bit about ongoing training that
12 you have?

13 A Sure. I have over 150 skill-based training hours
14 specifically related to assessing allegations of child
15 maltreatment. I also am an educator and trainer in that field as
16 well. I am adjunct faculty member of USC Upstate in the Child
17 Advocacy Studies Program. I'm also a faculty member of South
18 Carolina Child First which is the child forensic interview
19 training program in South Carolina. I also provide local,
20 statewide, and national training on a regular basis.

21 Q And have you done, or have you, yourself, conducted any of
22 these trainings or personally taught at any of those seminars or
23 courses?

24 A Yes. I'm sorry. I went into that, the trainings that I've
25 taught, and didn't finish talking about the trainings that I

1 attended. As part of my licensure I also have to receive
2 continuing education training every year. And I've been licensed
3 since 2004. Began that licensure process in 2000 whenever I
4 joined it with my master's, so been licensed for 21 years. Most
5 of my postgraduate continuing education has been in the area of
6 child abuse and sexual assault.

7 Q And how many years of experience do you have counseling
8 child victims of sexual assault or abuse specifically?

9 A Twenty- -- over 24 years.

10 Q And approximately how many children who allege sexual abuse
11 do you see per year over these years?

12 A I don't know how many per year but, over that period of
13 time, well over 1,500 or more.

14 Q And how many children does the Julie Valentine Center see
15 each year?

16 A On average, we see somewhere between 800 to 950 children.
17 We serve somewhere around 21-, 2,200 individual total each year.

18 Q And are you trained in conducting forensic interviews of
19 children who have been sexually abused?

20 A I am.

21 Q When were you trained?

22 A My first training was in 2004 through the National
23 Children's Advocacy Center. I was later trained in Finding
24 Words, which is now Child First. And, as I said, I'm a faculty
25 member for South Carolina Child First.

1 Q And have you personally conducted forensic interviews with
2 children who have been sexually abused?

3 A Yes.

4 Q Approximately how many interviews have you conducted?

5 A Again, over a thousand.

6 Q And as part of your duties as the CEO of the Julie Valentine
7 Center do you stay current on issues that affect children who
8 have been sexually abused?

9 A Yes.

10 Q And does the Julie Valentine Center do community education
11 regarding the sexual abuse of children?

12 A Yes.

13 Q And who do you provide those services for?

14 A Uhm, on a regular basis I provide those, I specifically
15 provide those, services to the Greenville School District
16 annually. I provide education on recognizing and responding to
17 specifically child sexual abuse, child maltreatment in
18 educational settings, and have been doing that for years.

19 I also provide training, or we provide training, to the
20 faith community. We have a chaplain on staff and, as part of our
21 outreach to the faith community, we provide education as well.
22 We have an annual conference, as well as doing any individual
23 training or education programs that are requested.

24 We also provide training to, or education to, students in
25 the Greenville County Schools, and really any community

1 organization that might request our educational programming.

2 Q And are you personally involved in any statewide initiatives
3 to better the State's response to children who have been sexually
4 abused?

5 A I've previously served on the board of the South Carolina
6 Network of Children's Advocacy Centers, as well as the South
7 Carolina Coalition Against Domestic Violence and Sexual Assault.
8 I'm no longer on either those boards, but I do still actively
9 participate as a member of both of those coalitions.

10 Q And have you --

11 A I'm also a founding member of the Silence Years Task Force.

12 Q And have you presented or spoken at any conferences in
13 regard to these memberships?

14 A Yes.

15 Q And are you familiar with the current research in the field
16 of child sexual abuse and dynamics?

17 A Yes.

18 Q And do you require your employees to be up to date on the
19 current researches, the best practices, and the evidence-based
20 approaches or methods when dealing with children who have been
21 sexually abused?

22 A Yes.

23 Q Have you been qualified as an expert in the areas of child
24 sexual abuse dynamics?

25 A Yes.

1 Q And approximately how many times and in what courts?

2 A Over 60 times in the circuit courts in South Carolina, as
3 well as family courts.

4 Q And can you tell the jury what you understand your purpose
5 in testifying in this case is?

6 A To provide education around the dynamics of child abuse,
7 specifically child sexual abuse.

8 Q And have you testified about these areas in the past
9 regarding child sexual abuse dynamics?

10 A Yes.

11 Q Have you been published in any professional journals, trade
12 publications, or anything like that?

13 A I've been published in one article as a coauthor in the
14 Liberty law review specifically related to our chaplaincy
15 program, but I am not a researcher and haven't published any
16 other articles.

17 Q And are you up to date on the current articles and research
18 having to deal with child sexual abuse dynamics where you are not
19 necessarily the author?

20 A Yes.

21 Q And are those articles subject to peer review?

22 A Yes.

23 Q Are those principles uniformly accepted and recognized
24 within the field of child sexual abuse professionals?

25 A Yes.

1 Q Are they reasonably relied upon by professionals such as
2 yourself in the field of child sexual abuse assessment and
3 treatment?

4 A Yes.

5 Q And have counselors and child abuse professionals relied
6 upon these principles when treating children who have been
7 sexually abused?

8 A Yes.

9 Q Does the Julie Valentine Center apply these same principles
10 regarding children would have been sexually abused?

11 A Yes.

12 ASS'T. SOLICITOR GASSER: Your Honor, at this time the State
13 would move to have her qualified as an expert.

14 THE COURT: Mr. Varner, are you satisfied?

15 ATTORNEY VARNER: I would like to ask just a couple
16 questions quickly.

17 **PROFFER EXAMINATION**

18 (without the jury)

19 BY ATTORNEY VARNER:

20 Q You have been qualified to testify on how sexual abuse
21 affects children, correct?

22 A I have been asked that before, yes. I haven't been -- the
23 qualification as an expert has been in the area of child abuse
24 dynamics or child sexual abuse dynamics.

25 Q And do you have knowledge of characteristics of pedophiles

1 and things of that nature?

2 A I do, but I'm not actually here to testify about the
3 dynamics of pedophiles. I'm here to talk about the dynamics of
4 child sexual abuse.

5 Q Well, I may ask you about that, so we really don't know.
6 Have you ever been qualified as an expert on the characteristics
7 of pedophiles?

8 A I'm not an expert in the characteristics of pedophiles. I'm
9 aware of characteristics, but I'm not an expert.

10 Q Okay, through your training, experience, and education?

11 A As part, I mean, it would be included in knowledge around
12 child abuse dynamics, but I am not an expert in pedophiles.

13 Q I understand.

14 ATTORNEY VARNER: No objection.

15 THE COURT: Wonderful. Ma'am, you can stay there. Ron,
16 let's get our jury.

17 Now, Ms. Gasser, I'm not trying to hamper your direct exam.
18 I'm going to tell the jury she's been previously sworn and then
19 allow you to proceed the way that you would like.

20 ASS'T. SOLICITOR GASSER: Yes, Your Honor.

21 (WHEREUPON, the jury enters at 3:36 p.m.)

22 THE COURT: All right, ladies and gentlemen. Welcome come
23 back from the break. And while you were on your break I did have
24 our next witness approach the witness stand, and she has been
25 sworn, and she is now under oath.

1 Yes, ma'am.

2 ASS'T. SOLICITOR GASSER: May it please the Court, Your
3 Honor.

4 THE COURT: Yes, ma'am.

5 ASS'T. SOLICITOR GASSER: The State's calling Shauna
6 Galloway-Williams.

7 SHAUNA GALLOWAY-WILLIAMS,
8 having previously been duly sworn, is examined and
9 testifies as follows:

10 **DIRECT EXAMINATION**

11 BY ASS'T. SOLICITOR GASSER:

12 Q Can you please tell the jury where you're currently
13 employed.

14 A I'm the CEO of Julie Valentine Center.

15 Q And you can you tell them what the Julie Valentine Center
16 is?

17 A Julie Valentine Center is the child abuse and sexual assault
18 recovery center that serves Greenville and Pickens Counties.

19 Q And how long have you been with Julie Valentine Center?

20 A I've been an employee of Julie Valentine Center since 2007.
21 I've been in the role of director, or CEO, since 2009.

22 Q And what other positions have you held before becoming a
23 CEO?

24 A Prior to my role as CEO, I served as the clinical director.
25 Prior to that, I was employed by the Department of Mental Health

1 and operated as a contract forensic interviewer for the center.

2 Q And what specific types of services are provided by the
3 Julie Valentine Center?

4 A The center provides crisis intervention services through our
5 rape crisis program 24 hours a day, 7 days a week. We operate a
6 hotline, as well as providing legal advocacy, and victim
7 advocacy, and counseling to adults.

8 We have a children's advocacy center which provides forensic
9 interviews, forensic medical exams, counseling, and family
10 advocacy for children and families.

11 And we also provide education in the community to schools,
12 the faith community, as well as any other community organizations
13 that might request our services.

14 Q Can you tell the jury a little bit about your educational
15 background?

16 A I have a bachelor's degree in psychology from Winthrop
17 University, and a master's degree in counseling from Clemson
18 University, and I've been licensed as a professional counselor in
19 the State of South Carolina since 2004, so 21 years.

20 Q Can you tell the jury a little bit about your training in
21 this specific field?

22 A I have over 150 skill-based training hours specifically in
23 the area of assessing allegations of child maltreatment. In
24 addition to that, as part of my licensure, we're required to
25 receive continuing education on a regular basis, and most of my

1 postgraduate continuing education has been in the area child
2 abuse and sexual assault.

3 Q And are you the member of any professional organizations or
4 affiliations?

5 A I previously served on the board of the South Carolina
6 Network of Children's Advocacy Centers, and served on the board
7 of the South Carolina Network, the South Carolina Coalition
8 Against Domestic Violence and Sexual Assault. I no longer serve
9 on those boards but I'm a member of both of those state
10 coalitions.

11 Q And you've testified to, just a moment ago, about continuing
12 education courses. Can you explain those more specifically to
13 the jury as it regards to child sexual assault?

14 A Sure. When I -- the skill-based training courses that I'm
15 talking about are courses that are not just going to a workshop
16 and attending a seminar; those would be courses where you're
17 actually practicing skills that will prepare you for doing the
18 work that you're there to be trained for. So that might be
19 related to forensic interviewing; that may be related to, you
20 know, being a part of an investigative team. Those would be more
21 in-depth trainings than, say, attending a seminar or a workshop
22 that might be more educational in its content.

23 And on a regular basis we're required to receive, I think it
24 is, 25 hours per year in continuing education.

25 Q And have you personally done any of those trainings in terms

1 of teaching them?

2 A Yes. I am an adjunct faculty member at USC Upstate in the
3 child advocacy studies program. Every semester I teach a
4 three-hour undergraduate course in the child advocacy studies
5 program. Most recently I taught a course on child abuse system
6 response, and that's the course I'll be teaching in the fall as
7 well. I'm also on the faculty of South Carolina Child First,
8 which is the South Carolina forensic interview training program.

9 Additionally, I provide education locally, statewide, and at
10 national conferences. I'm scheduled to provide training at a
11 statewide conference, actually, in two weeks.

12 Q And how many years of experience do you personally have
13 counseling child victims of sexual assault?

14 A Over 20 years.

15 Q And how many children, approximately, who allege sexual
16 abuse have you seen over these years?

17 A Over 1,500.

18 Q And how many children does the Julie Valentine Center help
19 each year?

20 A Annually we provide services to somewhere around 850 to 950
21 children each year. That's part of the total number of
22 individuals we serve, which is usually around 2,000 to 2,200 each
23 year.

24 Q And are you strained personally in conducting forensic
25 interviews of children who have been sexually abused?

1 A I am.

2 Q And when did you first have that training?

3 A My first forensic interview training was in 2004, 21 years
4 ago.

5 Q And do you stay up to date on that training?

6 A I do. And, as I said, I'm a faculty member for South
7 Carolina Child First, which currently trains new forensic
8 interviewers.

9 Q And have you personally conducted forensic interviews with
10 children who have been sexually abused?

11 A I have.

12 Q Approximately how many interviewed have you conducted?

13 A Over 1,500 as well.

14 Q And as part of your duties as the CEO of the Julie Valentine
15 Center do you stay up to date on the current issues that affect
16 children who have been sexually abused?

17 A Yes.

18 Q And does the Julie Valentine Center do community education
19 regarding the sexual abuse of children?

20 A Yes.

21 Q Earlier did you testify that that was as to -- can you just
22 explain that a little further to the jury.

23 A Sure. Part of my role with the education program is
24 providing annual mandated reporting training, or recognizing and
25 responding to child abuse in educational settings to the

1 Greenville County School District.

2 I also, we also, provide educational training and
3 programming to students within the Greenville County School
4 District. We provide education and training within the faith
5 community. We host an annual conference specifically related to
6 the faith community, as well as providing any additional
7 community outreach or requests for educational programming that
8 someone might ask of us.

9 Q Are you familiar with the current research in the field of
10 child sexual abuse dynamics?

11 A Yes.

12 Q And do you require your employees to be up to date on the
13 current research, the best practices, and the evidence-based
14 approaches or methods when dealing with children who have been
15 sexually abused?

16 A Yes.

17 Q Have you been qualified as an expert previously in the area
18 of child sexual abuse dynamics?

19 A I have.

20 Q Approximately how many times and in which courts?

21 A Over 60 times in the circuit courts of South Carolina, as
22 well as family courts.

23 Q And can you tell the jury what you understand your purpose
24 in testifying here today is?

25 A To provide educational information around the dynamics of

1 child sexual abuse.

2 Q And in the past have you testified regarding child sexual
3 abuse dynamics?

4 A I have.

5 Q And when you talked about staying up to date and current on
6 the literat- -- or on the articles, have those been subject to
7 peer review?

8 A Yes.

9 Q Are those principles uniformly accepted and recognized
10 within the field of child sexual abuse dynamics?

11 A Yes.

12 Q And by child sexual abuse professionals?

13 A Yes, sir.

14 Q Are they reasonably relied upon by professionals in your
15 field?

16 A Yes.

17 Q Have counselors, child abuse professionals, relied upon
18 these principles when treating children who have been sexually
19 abused?

20 A Yes.

21 Q And does the Julie Valentine Center apply those same
22 principles regarding children who have been sexually abused?

23 A Yes.

24 ASS'T. SOLICITOR GASSER: Your Honor, at this times the
25 State moves to have qualified as an expert Shauna

1 Galloway-Williams in the area of child sexual abuse dynamics.

2 ATTORNEY VARNER: No objection.

3 THE COURT: She will be so qualified.

4 Q So first, do you know the victims in this particular case?

5 A I do not.

6 Q And have you ever seen them or their parents in any
7 capacity?

8 A No.

9 Q So do you have any personal knowledge of the parents or the
10 victims in this case?

11 A I do not.

12 Q Among child abuse professionals what is meant by the terms
13 delayed disclosure or delayed reporting?

14 A So disclosure, first of all, is what we refer to when a
15 child makes a statement, or an outcry, about a potential abuse
16 scenario. That can be something that they intentionally
17 disclose; that can be a purposeful disclosure, that can be an
18 accidental disclosure.

19 When we're referring to delayed disclosure, that is when a
20 child doesn't tell about the abuse right away. That delay may be
21 days, weeks, years. We know that many adults may never tell
22 about abuse that's happened to them as a child.

23 Q And in your experience is it common or uncommon for kids to
24 delay reporting of sexual abuse?

25 A Delayed disclosure is very common.

1 Q And what factors may play a role in a child not disclosing
2 sexual abuse?

3 A One of the most common factors is fear. Children are afraid
4 of what may happen to them if they tell. They may be afraid of
5 what happened to the person that may have done this to them if
6 they tell.

7 Most of the time, 90 percent of the time, children are
8 abused by someone they know, they love, and they trust. That
9 person may be someone that they are closest to, or someone that
10 other members of their family are close to, or even someone that
11 the community is close to, and that relationship in and of itself
12 may make it difficult for a child to tell. They may want the
13 abuse to stop but may also still have a loving relationship with
14 this person.

15 Children may have been threatened. They may have been told
16 that if they tell something's going to happen to them,
17 something's going to happen to their family. Some children are
18 threatened with their pets. Those threats are very real to
19 children. Those threats can be sometimes made by someone who may
20 also be violent or aggressive in other ways in the household, and
21 children may internalize that that may be something that happens
22 to them if they tell.

23 Some very young children may not have the words to describe
24 what's happened to them which may lead to a delay. A young child
25 may not have the words to describe what's happened to them and

1 they may tell later once they do have vocabulary, or
2 understanding, of what may have occurred.

3 Q Can the disclosure of sexual abuse be as traumatic as the
4 actual abuse itself?

5 A So sometimes the consequences, or the outcome, after a child
6 discloses can be very traumatic. So, for example, if a child
7 discloses abuse and the person that abused them is someone they
8 know, they love, and they trust, that may impact their entire
9 family. That may mean that the child has to move, or someone
10 else in the family has to move. The child may have to change
11 schools. I think sometimes we forget how important that may be
12 to a child. They may have to leave their friends, their family.
13 Again, we talked about pets. Sometimes that's difficult for
14 children.

15 So sometimes children aren't believed right away, and that
16 can be traumatic for them, that initial response. So having
17 disclosed, or told, someone about that and then not being
18 believed can be very difficult as well.

19 Q In your experience, is it common or uncommon for children to
20 be abused by family members or people of positions of authority
21 or they trust in their lives?

22 A As I said previously, 90 percent of the time children are
23 abused by someone they know, they love, and they trust. And that
24 when an adult is the person, that is, adults always have more
25 power in relationships than children, so that is someone who is

1 in a position of power.

2 Q And why is it that it's 90 percent of someone that they
3 know, love, and trust?

4 A Well, individuals that have access to these children, and
5 they engage in relationship building, or what we would consider
6 grooming, to develop those relationships with children. And part
7 of that may involve even developing a relationship in such a way
8 that the child wouldn't tell or wouldn't know that they could
9 tell.

10 Q And you just used the word grooming. Is it common or
11 uncommon for a child to experience grooming before or as they are
12 being sexually abused?

13 A Yes. So it can be a part of the entire continuation of
14 what's happening from the beginning and throughout the abuse that
15 the child may be experiencing.

16 Grooming is when a person is working to develop a close and
17 trusting relationship with the child in an effort to keep that
18 child from telling later on. Grooming can look like giving a
19 child special attention. That can look like giving a child
20 treats. It may be purchasing items for a child and giving them
21 that in exchange for what's happening, or in exchange for their
22 silence.

23 But it may also look like normalizing sexual behavior.
24 Grooming can look like introducing a child to sexual behavior in
25 a way that ultimately has the child feel more comfortable about

1 it. Particularly if it's an adult that they trust, they may not
2 question that behavior as much. That may be a joke, it may be a
3 video, it may be a movie, it may even be touching them in playful
4 ways that may be confused for sexual touch throughout that
5 relationship.

6 Q And how may a child's disclosure be affected if the
7 perpetrator is a family member?

8 A As I said, that can be very difficult for a child because a
9 child may have a loving relationship with the person that is
10 abusing them. That abuse is only one piece of the whole
11 relationship that they have with this person. In the same way
12 that many of us have relationships with individuals, whether
13 those are family members or friends, we have relationships with
14 people that may have hurt us and we may still want to maintain
15 those relationships.

16 Not to minimize the experience of abuse, but that's really
17 what we're talking about, is someone having a relationship with
18 someone. And there's one aspect of this that is something that a
19 child doesn't want to happen, and it can make it very difficult
20 for them to tell. They can also feel very powerless in that
21 situation depending on who the individual is.

22 The individual may also, if the child has a close
23 relationship with them, they may also have a close relationship
24 with other members of the child's family and, like I said, they
25 may very well be someone who is well-recognized and has a strong

1 reputation in the community as well.

2 And as I said earlier, children have fears about telling.
3 They fear that -- not only do they fear what would happen to
4 them, sometimes they fear not being believed, particularly if the
5 person that is abusing them is someone who is in a position of
6 power and authority.

7 Q And are you more or less likely to see delayed reporting
8 when a perpetrator is a family member or a close, family friend?

9 A Yeah, it's very common to see delayed disclosure.

10 Q And based on your professional experience, can you give us some
11 examples of the different timestamps that you have seen that
12 involve the issue of delayed disclosure?

13 A Sure. I mean, sometimes that's days, weeks, months. What I
14 see often is years, that there are years that pass between the
15 time that the abuse has occurred.

16 And, when working with adults, there are many adults who
17 never told anyone as a child, about the abuse they experienced as
18 a child. And we see that every day at the Julie Valentine
19 Center.

20 Q And based on your training and experience, what factors may
21 ultimately encourage a child to reveal sexual abuse by a family
22 member?

23 A There are lots of things that may encourage that.
24 Sometimes -- well, disclosure is a process in and of itself.
25 There are different types of disclosures. There are purposeful

1 disclosures when a child makes an intentional effort to tell
2 someone what happens to them. There are accidental disclosures
3 when maybe someone discovers a text message, or a note, or a
4 journal, or discovers a behavior, and if the adult or someone
5 else asks questions about that and the child shares pieces of
6 information, the disclosure may come out that way.

7 You know, when a child does intentionally decide to
8 disclose, sometimes it's because they feel safe. It may be that
9 they feel safe to tell someone because they're no longer having
10 contact with the person that may have abused them.

11 Sometimes it may be the opposite of that. They may have
12 fear about having to be around this person more, and may disclose
13 because of that.

14 Sometimes children disclose because they fear other
15 children, whether those are in their family or their community,
16 may be at risk of abuse.

17 Sometimes children disclose because they come to understand
18 what's happening to them. Part of the community education work
19 that we do involves talking to children about personal safety and
20 personal touch, and sometimes what we find is when children hear
21 about inappropriate touches they may come to learn that touches
22 or experiences they've had at home or in other settings were not
23 okay, and they learn how they might tell someone about that.

24 Q And what type of support system should be in place to allow
25 a child to disclose sexual abuse?

1 A I mean, optimally a child would have trusting adults that
2 they can go to. That may not always be their primary caregivers.
3 In fact, many times it's not. It may not be mom or dad that's
4 the first person that a child tells. Sometimes the adult that
5 they tell is a teacher, or a counselor, an extended family
6 member. It may even be a counselor that they're talking to about
7 a totally different reason.

8 Q And is it common or uncommon for children who have been
9 sexually abused to reveal portions of their abuse and not the
10 entire details of their abuse initially?

11 A So that is very common. Again, that's what why we refer to
12 disclosure as a process. We don't expect that a child is going
13 to, the very first time that they tell someone about the abuse we
14 don't expect that they're going to, share every single detail.
15 If it was a one-time event we don't expect them to share every
16 detail about that event.

17 If the child has been abused multiple times we don't expect
18 that they're going to share every single detail of every single
19 one of those times the first time they talk about it.

20 Disclosure's a process that depends on, you know, where the
21 child is developmentally in terms of being able to tell.
22 Sometimes what they share or what they tell is based on who's
23 asking the questions. The information that a child shares with a
24 parent who may be asking them questions may be different than the
25 information that they share with an investigator or during a

1 forensic interview.

2 Sometimes children only share information that they're asked
3 about. They don't know what information an adult or someone
4 might need to know about, so they may not share all of that.

5 We're also talking about traumatic experiences when we're
6 talking about child sexual abuse. And when we have experienced a
7 trauma, or traumatic event, we don't always remember every single
8 detail about those events, and even when we do remember details,
9 it may not be in the exact order that they occurred.

10 Q And in your experience is it common or uncommon for children
11 who have suffered chronic sexual abuse over many years to have
12 more specific memories of one incident over another?

13 A So that's what I was just speaking about in terms of memory
14 and how memory is impacted by trauma. So if the child has
15 repeated incidents of abuse, that's trauma over a period of time,
16 and there might be some details that are more, things that are,
17 more memorable, things that they can remember more easily.

18 When we talk about traumatic events, we think about things
19 sometimes being remembered in flash-fold moments. We may
20 remember specific details of the events but may not remember
21 other pieces of it.

22 If you think about trauma, there are other traumas other
23 than child sexual abuse, right. Car accidents are traumatic
24 incidents, natural disasters, for instance. And so, for
25 instance, if you're involved in a car accident you may not

1 remember every single detail about what happened, where the
2 incident occurred, what both cars looked like. Personally I've
3 been in an accident and I can remember exactly where I was,
4 exactly what I was wearing, but I have no recollection of what
5 the person looked like that hit me, the type of car that hit me,
6 or even the time of day. I can only remember the time of day
7 because I knew it happened after I dropped my children off at
8 school, but I don't know the exact time of day. And that's a car
9 accident, a minor car accident.

10 What we're talking about when children are describing sexual
11 abuse is a traumatic abuse scenario that's happening with someone
12 who they likely know, love, and trust, but they don't want it to
13 happen. And sometimes children don't even have the words to
14 describe what's happening to them so their memory of that may not
15 be complete in terms of being able to remember and report out
16 every single detail from beginning to end.

17 Q And what is the reason why a child may not have the words or
18 vocabulary?

19 A That may depend on their age and developmental level.
20 Sometimes children don't --

21 ATTORNEY VARNER: Your Honor, I would object. That's not in
22 her field of expertise, child developmental language. No
23 qualifications on that whatsoever.

24 THE COURT: What about that, Ms. Gasser?

25 ASS'T. SOLICITOR GASSER: And, Your Honor, she's qualified

1 in the area child sexual abuse dynamics. She's testified that
2 children don't have the words, and I'm asking her why.

3 THE COURT: Uhm, overruled, but I'm going keep you on a
4 really, really tight, tight, narrow questioning when it comes to
5 that because that is not her field of expertise.

6 ASS'T. SOLICITOR GASSER: Absolutely, Your Honor.

7 Q So in your experience, you've testified that children may
8 not have the words. What do you mean by that?

9 ATTORNEY VARNER: Objection. She's leading.

10 THE COURT: Overruled. She's just re-asking it.

11 Q What do you mean by that?

12 A So in my education and training child development is part of
13 what I train and teach on, as well as part of the education and
14 child abuse dynamics, and part of that is language acquisition,
15 child development, when children understand sexuality.

16 So some children -- actually, one of the first forensic
17 interview trainings I ever attended was called Finding Words, and
18 the reason they named that training program Finding Words was
19 because it is difficult for children to disclose about child
20 sexual abuse for multiple reasons. One of those reasons might be
21 language. They just don't have the words to describe what's
22 happening to them. Particularly if children don't have sexual
23 knowledge or an understanding of their body and what's happening
24 to them, they may not know how to describe what's happened.

25 Q And is it common or uncommon for children who are sexually

1 abused to try to block out details of the abuse after disclosing
2 the abuse?

3 A Again, you know, trauma impacts memory and the way that we
4 are able to report out information, even events that have
5 happened to us, even important events, and so there may be some
6 memories that are very painful that a child or an adult may not
7 want to remember.

8 Q In child sexual abuse dynamics what role does the
9 nonoffending caregiver play in the child's disclosure?

10 A So a nonoffending caregiver is a caregiver who is not
11 committing an abuse against the child. In the best-case scenario
12 a nonoffending caregiver would be supported and protective,
13 meaning that if the child disclosed to them or disclosed to
14 someone else, that that caregiver would believe and support them
15 and get them the appropriate services that the family needs.
16 That's not also the case.

17 Sometimes nonoffending caregivers are in impossible
18 situations. Nonoffending caregivers are also, generally know,
19 love, and trust the person who may be abusing their child, and
20 sometimes nonoffending caregivers not only know, love, and trust
21 this person, but they may also be dependent with them.

22 Sometimes I have worked with nonoffending caregivers who
23 their basic living was taken care of by the person who may have
24 been doing this to their child, so in order to keep a roof over
25 their heads and a car and food on their table they may not have

1 responded appropriately. So that may happen as well.

2 But one of the groups we provide at the Julie Valentine
3 Center is a group that supports the idea that if caregivers have
4 resources and education, that they can be protective caregivers
5 even if they have been nonsupportive at times.

6 The number-one thing that is helpful for a child who has
7 experienced abuse is having a loving, supportive, and believing
8 individual in their life. That may or may not be their primary
9 caregiver, not supported -- or nonoffending caregiver.

10 Q And what are some of the reasons that children don't tell
11 others about their abuse?

12 A What I did speak about earlier is that sometimes children
13 don't tell because they are embarrassed and ashamed. They, you
14 know, it's not their shame to bear, but children may be
15 embarrassed or ashamed to tell other people about what happened
16 to them. Most children don't -- most adults, for that matter,
17 don't -- share about consensual sexual experiences with other
18 people just freely, and so for a child to share information about
19 nonconsensual sexual traumatic experiences would be difficult and
20 shameful.

21 Children may also feel guilty about what's happened and feel
22 responsible for it in some way. If a child -- let's just say,
23 just talk about grooming again, if a child did receive gifts, or
24 affection, or attention for the abuse that occurred, they may
25 feel in some way like they were responsible, they played a role

1 in that, as well, and so they may not share with others.

2 Q In your experience, is there only one way for a victim of
3 sexual abuse to cope or deal with the trauma of that?

4 A Oh, no. No. There's no one way that a victim responds.
5 You might have -- you might have a child who, on the outside,
6 displays no symptoms. They may be what you may see as an
7 overachiever. Sometimes you'll see a child who is making
8 excellent grades in school, they're participating in every
9 extracurricular activity, they are social and appear to be happy
10 and high functioning. On the inside, they may not be, that may
11 be a coping mechanism for them.

12 On the flip-side of that, you have a child who was
13 previously very active and social and making great grades, and
14 all of a sudden their grades drop and they become isolated.

15 You might have a child who, on the extreme end, self harms
16 and may even be suicidal at times.

17 But there's no -- you know, there are symptoms that a child
18 may demonstrate in their response to the trauma they've
19 experienced, but those symptoms are not diagnostic of abuse.
20 What I mean by that is there's not a checklist that says if the
21 child's displaying this symptom and this symptom and this
22 symptom, then they must have been sexually abused. That's not
23 how that works. And each person's response may be different.

24 Q And are there positive ways to deal with the trauma and heal
25 from it?

1 A Absolutely. Yes. That is our mission at the Julie
2 Valentine Center, is to provide hope and healing to those who
3 have been impacted by child abuse or sexual assault. There are
4 positive ways to cope. That can include counseling, supportive
5 caregivers. They are lots of ways to cope with the trauma.

6 Q And in your years of experience in child sexual abuse
7 dynamics and treatment, have you seen the effects on victims of
8 having to prepare for court and testify?

9 A Yes.

10 Q Can you explain that for the jury?

11 A Uhm well, I've seen -- I've seen victims become very anxious
12 about the process. You know, even those of us who testify in
13 court all the time may experience some anxiety when we walk into
14 the courtroom and we sit on the witness stand. I've been here a
15 lot of times. But if that (indiscernible) find it hard. So
16 there's some anxiety and nervousness, particularly for a child,
17 for a victim, that had never been in the courtroom. They are
18 going to be facing their accuser.

19 There's often a time delay between the time that the child
20 may have disclosed, or the investigation may have started and the
21 time that we come to trial so there's, you know, some time
22 difference. Sometimes that's helpful. Sometimes that means that
23 the victim or survivors have had an opportunity to get help and
24 support. Sometimes that's not been the case.

25 For some, for some victims, it's very empowering to prepare

1 for trial, to know that their voice may be heard. And I have
2 seen, for some of them, it has been very empowering for them to
3 face their accuser and to tell their story about what's happened
4 to them regardless of what the outcome after the trial was.

5 Q All right. I have no further questions. Please answer any
6 that defense counsel may have.

7 THE COURT: Mr. Varner.

8 ATTORNEY VARNER: May it please the Court.

9 THE COURT: Yes, sir.

CROSS-EXAMINATION

11 BY ATTORNEY VARNER:

12 Q Ms. Williams, did I understand you correctly you have two
13 B.A. degrees or two B.S. degrees and not a master's degree; is
14 that correct?

15 A No. That's incorrect. I have a bachelor's degree in
16 psychology from Winthrop, and a master's degree in counseling
17 from Clemson.

18 Q All right. I misheard you. What you just testified to is
19 basic textbook class stuff. All these things could happen, but
20 it doesn't have anything to do with this case, does it?

21 A So the information I'm providing is general child abuse
22 dynamics. I don't have any specific information about this case.
23 I have not reviewed any reports. I never met with the victims or
24 their family.

25 Q You're what's called a broad lecturer. You're just kind of

1 giving a broad spectrum course. Doesn't mean it's more likely it
2 happened or less likely it happened, or anything like that. You
3 don't know, do you?

4 A No, I don't know. I'm here to provide education to the
5 Court on the dynamics of child sexual abuse.

6 Q And just because, like, I'm a grandfather or I'm a baseball
7 coach, I'm involved with children, that doesn't mean I'm more
8 likely to be a child abuser than anybody else, correct?

9 A Can you repeat the question again.

10 Q If I'm a grandfather and a baseball coach that doesn't mean
11 I'm more likely to be a child abuser than anybody else?

12 A I hope not.

13 Q That's not a straight answer. Please give me the answer to
14 the question. Don't tell me what you hope or wish.

15 A Well, there is a high risk, or a high incident rate, of
16 child abuse, specifically child sexual abuse, in areas where
17 children are present.

18 Q Okay.

19 A So that is one of the reasons why we provide annual
20 education to the school district of Greenville County, to not
21 only prepare educators to recognize and respond to scenarios with
22 children but also to recognize risks within their own educational
23 system. Because we know that individuals who do want to abuse
24 children will put themselves in places where they have access to
25 children. So that could be a school setting, it could be youth

1 sports, it could be a church as a youth leader.

2 Q Cub Scouts?

3 A Yes.

4 Q Little League coaches?

5 A Yes. Boy Scouts for sure.

6 Q Boy Scouts for sure, huh? All right. And so you would want
7 to know kind of this, if this person had been involved in youth
8 activities, to be around children, would that be a factor?

9 A A factor in?

10 Q In your educational system of this is something to watch
11 for.

12 A Are you asking me as someone who would be-- in what role
13 would I have that information or need that information?

14 Q Well, let's talk about your role for a minute. You've
15 testified 60 times, correct, or plus?

16 A Yes.

17 Q You ever testify on behalf of an accused person?

18 A I have not. I've never been asked to. But I will tell you
19 that my testimony would be the same regardless. This would be
20 the same testimony that I would provide whether I was testifying
21 for the defense or for the State.

22 Q And even though Ms. Collins works with you, you never talked
23 to her about this case, never looked at the videos, don't know
24 anything about what anybody testified to or anything?

25 A I have not. We did not talk about that when I sat down

1 beside her.

2 Q And I'm not being rude, please don't take it that way, but
3 this is would, or could, or may be a possibility, textbook stuff,
4 correct?

5 A What I'm testifying to?

6 Q Yes.

7 A These are commonly held principles regarding child abuse
8 dynamics. There's a field of study and research and profession
9 that's been around for well over 40 years specific to the area of
10 child maltreatment.

11 Q You're certainly not even insinuating that if any of these
12 things are present more likely than not a crime occurred? You're
13 not attempting to do that, are you?

14 A Actually that is not what I'm doing at all. I said there's
15 not a checklist that we go through.

16 Q I just wanted to --

17 A And I'm not here to say that today at all. I'm here to
18 provide information.

19 Q I want to make sure.

20 A Yes. Thank you for clarifying.

21 Q And kind of like a doctor, you can't diagnose a patient or
22 treat a patient unless you've seen and examined the patient,
23 right?

24 A Yes. I would not diagnose someone unless I were in the role
25 of treating them. Absolutely.

1 Q You do know from your training and experiences what a
2 differential diagnosis is?

3 A Yes.

4 Q So if somebody said they had a headache, could be from being
5 around paint, it could be something they ate, could be a brain
6 tumor, it could be a block clot, there's a million things it
7 could be, right?

8 A Yes.

9 Q And in regard to children making disclosures, you're not
10 taking the position that every disclosure is correct and accurate
11 and truthful? You're not saying that, are you?

12 A No, I have not said that.

13 Q Okay. And you have to rule out that there are children who
14 are schizophrenic, psychotic, are they, have they misidentified
15 or become confused, particularly with younger children, those are
16 things you have to consider, right?

17 A Yes, we do consider additional factors, background factors,
18 about a child if we are conducting an interview or assessment
19 with them.

20 Q And children, you said, can be groomed, particularly young
21 children, right?

22 A Not just -- I mean, young children, teenagers, adults can be
23 groomed.

24 Q And grooming basically means you get them to go along with
25 what you're doing?

1 A Well, it's really more than that. It's really developing a
2 relationship that might ensure that the child might not tell.
3 It's really developing this relationship where, like I said,
4 sometimes that can lead to someone feeling responsible or guilty
5 because they've accepted, whether that's the law of attention,
6 affection, the goods that were received. That's part of the
7 grooming process as we will.

8 Q Children can be groomed to do evil things, too, to kill
9 someone, help extort somebody, to lie, to be violent. You can
10 groom a child to be any you want to a search extent, correct?

11 A That's not how I'm describing grooming.

12 Q Okay, but that can be done. What word would you put on that
13 if you don't call that grooming?

14 A I wouldn't consider that part of what I'm here to testify
15 about.

16 Q Not what I asked you. If you wouldn't call it grooming,
17 what would you call it?

18 A I don't -- I don't know what I would call that. I mean,
19 you're referring to grooming a child to murder someone?

20 Q Sure.

21 A That's not within my area of expertise to talk about today.

22 Q Okay. So you don't think grooming can be to convince a
23 child that something's bad or evil and needs to be eliminated,
24 that's not grooming?

25 A That's not how I'm referring to the term grooming.

1 Certainly someone might influence a child to do that, might coach
2 a child to do that.

3 Q And people, even children, can be schizophrenic, they can be
4 habitual liars, they can be psychotic? There are many things
5 that would cause people to do certain things, correct?

6 A Yes. Children can be diagnosed with a variety of mental
7 health conditions.

8 Q And you can't say that is or is not here because you've
9 never talked to these children? You haven't done -- nobody's
10 done any differential diagnosis, have they?

11 A I don't know --

12 ASS'T. SOLICITOR GASSER: And, objection, Your Honor.

13 THE COURT: Wait. That's sustained. That's outside her
14 field of expertise and the basis of her testimony.

15 Q In your field of study about children were you taught it was
16 important to know as much information as you could?

17 A In what capacity?

18 Q About the child's health, the child's mental health status,
19 and other things of that nature. You want to get as much
20 information as you can, don't you?

21 A I guess I need to understand in what role you're asking me.
22 As a forensic interviewer? As a counselor? As a -- I'm trying
23 to understand on what basis you --

24 Q I'll withdraw the question.

25 A Thank you.

1 THE COURT: Redirect?

2 ASS'T. SOLICITOR GASSER: I have no redirect, Your Honor.

3 THE COURT: Thank you, ma'am, for being here.

4 THE WITNESS: Thank you.

5 ASS'T. SOLICITOR GASSER: And, Your Honor, may this witness
6 be released from her subpoena?

7 THE COURT: Any objection?

8 ATTORNEY VARNER: No objection, Your Honor.

9 THE COURT: She'll be so released.

10 ASS'T. SOLICITOR GASSER: Thank you.

11 THE COURT: Are you ready to call your next witness?

12 ASS'T. SOLICITOR GASSER: Your Honor, at this time the State
13 rests.

14 THE COURT: All right. Ladies and gentlemen, that concludes
15 the State's case in chief, so we are going to stop for this
16 evening so that I can take up some legal matters with the
17 attorneys. And we will start fresh tomorrow morning, I'm going
18 to say, let's start right at 9:30. Does that work for everyone?
19 9:30 sounds like a good time to start. All right. So we'll see
20 you see back tomorrow morning at 9:30.

21 I remind you not to discuss the case, don't do any
22 independent research, and we'll see you back tomorrow morning.
23 But I'll go ahead and let you retire to the jury room so I can
24 talk with the lawyers. Hope you all have a good night.

25 (WHEREUPON, the jury is excused for the day at 4:19 p.m.)

MATTER(S) OF LAW

THE COURT: All right. Mr. Varner, any motions?

ATTORNEY VARNER: Yes, Your Honor. Motion for charges be dismissed; directed verdict. The State has failed to prove their case, not even in the light viewed most favorable to them.

But in particular, to all the charges that go to 2014 to 2017, there's been nothing to support any timeframe outside of, at the best 2012 -- the police officer testified 2013, but even the mother and the grandmother said 2014 he was cut off.

So anything charging him with any crime beyond those dates, there's no testimony and no evidence whatsoever to back up those charges, and I ask that those charges, in particular, be dismissed.

THE COURT: Yes, ma'am.

ASS'T. SOLICITOR GASSER: Your Honor, there was numerous testimony, both from the victims and from the forensic interviews, stating the ages of the girls. Based upon that mathematics and their date of births which are in the record, that there is support as to 2014 and 2015, and those dates are charged in each of the indictments.

THE COURT: Mr. Varner, viewing it in the light most favorable to the State, I do find there's sufficient evidence for this to go to the jury, and I'm going to send it to the jury. Your motion's denied. All right.

Do you want to have a moment to speak with Mr. Steele about

1 whether he's going to testify? Do you want to wait and do that
2 in the morning?

3 ATTORNEY VARNER: I would rather him sleep on it because
4 it's a very, very important decision. As you heard the
5 testimony, I think it's very, very important to him. I think I
6 needs to sleep on it, and I'll ask him in the morning.

7 THE COURT: All right.

8 ATTORNEY VARNER: And give him my final advice, so to speak.

9 THE COURT: All right. Any witnesses, other than
10 Mr. Steele, that you intend to call?

11 ATTORNEY VARNER: No.

12 THE COURT: Well, let's take a look at my revised verdict
13 form. Teresa, I have a copy for you as well.

14 CLERK OF COURT: Thank you.

15 THE COURT: And now, I will say, Mr. Varner, I did do some
16 research, and the case law that I looked at regarding what we
17 were discussing about the verdict form in terms of the State
18 requesting that I remove the additional language from each one of
19 the charges, so in the case law that I looked at, in criminal
20 cases here in South Carolina, the verdict form does not
21 necessarily have to contain all the allegations contained in the
22 indictment.

23 The case law indicates that a primary purpose of the
24 indictment is to put the defendant on notice of the charges
25 against them and to enable the court to pronounce judgment if

1 they are convicted. The indictment has to charge the crime
2 substantially in the language of the statute plainly so that that
3 way the defendant knows exactly what he is charged with.

4 But the verdict form itself does not require anything other
5 than what the statute -- the tracking on the statute. So it
6 doesn't -- it's not required.

7 Ms. Gasser is correct, as long as my jury charge to the jury
8 contain the elements of the offense, the verdict form that
9 renders the decision will be based on what they find based on the
10 testimony and evidence, and it simply needs to be clear and
11 concise so that they are not confused and they know exactly what
12 they're indicating an individual of either guilty or not guilty
13 of.

14 Now, based on that case law, I revised the verdict form that
15 I just handed to you all. You both had agreed on the previous
16 verdict form. So I did revise this, and I also looked at one
17 that Judge Morgan had that had multiple counts. This is very
18 similar to his.

19 But I'm happy for you to still take a look at it and tell me
20 if you agree or disagree. And, Ms. Gasser, I'm happy for you to
21 look at it and tell me if you disagree or disagree, because I'd
22 rather flush it out not.

23 ATTORNEY VARNER: Totally agree with your new form. Agree
24 with your previous form. Because, number one, this is pursuant
25 to the indictment, it's what he's charged with, and to say that,

1 as to the charge of criminal sexual conduct with a minor in the
2 first degree involving the defendant putting his penis in the
3 victim's mouth, if you leave that blank, when did it happen,
4 they're over the age of 11 now. There is a timeframe for a
5 reason in that indictment.

6 THE COURT: That's granted. I'll include the timeframe. I
7 originally said that I would, and the State had agreed.

8 ASS'T. SOLICITOR GASSER: And, Your Honor, I would object to
9 that only because I do not believe that it is required on the
10 verdict form. At this point in time I think that defense counsel
11 is trying to confuse the issues. I think that is sufficient
12 based on the charge, based on the case law, that this new verdict
13 form is sufficient, and this is what the State prefer at this
14 point in time. And it does not allow for a confusion of the
15 issue, whereas the charge would list everything that the State
16 must prove beyond a reasonable doubt.

17 ATTORNEY VARNER: Your Honor, for it to be a first-degree
18 criminal sexual conduct, it has to be in the timeframe when
19 they're below the age of 11, or it doesn't apply. That's an
20 essential element of the crime. And the way you charged it, the
21 same way they did in the indictment, is proper.

22 THE COURT: Isn't that correct, Ms. Gasser? It has to be
23 under that threshold age as to certain ...

24 ASS'T. SOLICITOR GASSER: Absolutely, Your Honor, which is
25 listed numerous times in your charge. And the entirety of the

1 statute is read within your charge, and I do believe that that is
2 sufficient and is in accordance with the case law. I believe
3 that anything else additional is just confusing to the jury.

4 And, in all candor to the Court, I have asked other
5 prosecutors about this, as well, and that was something I was
6 going to bring up during this charge conference.

7 THE COURT: Well, let me ask you this. So as to -- I mean,
8 Mr. Varner, you also understand that if I grant your request --

9 ATTORNEY VARNER: I thought you already had.

10 THE COURT: Just hold on a moment. No. She's objecting and
11 asking me to reconsider. If I grant your request and the jury --
12 and I limit it, and I make it specific -- and I'm looking at, for
13 example, at the indictment that's ending in 7206 which is
14 criminal sexual conduct with a minor in the third degree, which
15 provides that Mr. Steele, on or about the 15th day of February,
16 2014, through the 15th day of February 2017, being over the age
17 of 14, did commit a lewd or lascivious act upon the body or body
18 parts of M 2, and the jury finds him not guilty, based on what
19 you're telling me, the State could re-charge him, or charge him
20 with an act outside of that timeframe for the earlier date,
21 because double jeopardy would not attach if I make this specific
22 to this date because that would be what they would be instructed
23 and that would be what they would find, that maybe it did not
24 happen during that timeframe. But nothing would prohibit the
25 State from saying, okay, it didn't happen during that timeframe

1 because that's the way it was charged in the indictment; I'm
2 going to charge him with the earlier conduct.

3 ATTORNEY VARNER: I disagree. And the *Blockburger* test,
4 which is, I mean, that's the criteria -- there are plenty of
5 Supreme Court cases that go if it's the same set of facts or
6 circumstances already been brought up in the other case, that is
7 what's determined, and double jeopardy doesn't attach, even
8 though it may not follow every element of the *Blockburger* test.
9 And I can give you those cases in probably about five minutes.

10 THE COURT: Okay. The reason I asked you that is because
11 you were going to agree with me. And that means that this
12 verdict form that I got from Judge Morgan then is, in fact,
13 sufficient based on the case law that I just cited.

14 ATTORNEY VARNER: No. I disagreed with you. I said that
15 double jeopardy does attach. You said it does not attach.

16 THE COURT: Right. If it does not attach, then I do not
17 need to include the dates in this.

18 ATTORNEY VARNER: That's not what he's charged with, though.
19 I'm losing you somewhat.

20 THE COURT: No. I'm saying if the allegation is is that
21 based on the testimony, the jury makes a finding about when this
22 occurred, if I put on this that there is a charge of criminal
23 sexual conduct with a minor, first degree, with a child with the
24 initials M1 involving the Defendant putting his penis in the
25 victim's mouth, and the jury finds that it did not happen,

1 regardless if it was in 2014, 2015, 2016, 2012 -- all these
2 indictments allege a range somewhere between either 2014 to 2017,
3 2014 to 2016, 2014 to 2017, 2014 to 2016, 2014 to 2016, you're
4 asking me to narrow it to that timeframe. The State is saying
5 all the jury has to do is find that it actually happened based on
6 the evidence presented during the course of the trial. How would
7 it not -- simply because somebody is on trial for one criminal
8 act does not mean that that absolves them of all criminal acts.

9 ATTORNEY VARNER: No, it doesn't.

10 THE COURT: If I, in February of 2014, go out and rob a bank
11 and I'm on trial for it and I'm acquitted but I robbed the bank
12 of, let's say, another bank prior to that in 20- -- let's look at
13 one of these other dates -- in 2013 or 2012, the State can still
14 charge me with that. I'm not absolved simply because the jury
15 found I didn't rob a bank in 2016.

16 ATTORNEY VARNER: I agree with you absolutely, because --

17 THE COURT: And that would apply, same.

18 ATTORNEY VARNER: Excuse me.

19 THE COURT: To incidents of molestation.

20 ATTORNEY VARNER: Your Honor, if I may finish.

21 THE COURT: Go ahead.

22 ATTORNEY VARNER: Those are different facts. That's a
23 different location. These facts are the ones we've tried today.
24 That's double jeopardy because there's not going to be any new or
25 additional facts. Robbing a bank, a different bank, has got

1 nothing to do with the bank robbery you're charged with. Double
2 jeopardy would never attach that.

3 What the courts look at is is it the same set of facts.

4 ASS'T. SOLICITOR GASSER: And, Your Honor, if I may, the
5 line of cases in South Carolina under *the Blockburger* is that it
6 is the element of the offense.

7 ATTORNEY VARNER: That's not correct.

8 ASS'T. SOLICITOR GASSER: That is.

9 THE COURT: All right.

10 ASS'T. SOLICITOR GASSER: Your Honor, U.S.C.A.
11 Constitutional Amendment 5, Constitutional Article 1, Section 12,
12 the Court may conclude there is no double jeopardy violation even
13 if *Blockburger's* "same elements" test is met where the
14 legislature clearly intends multiple punishments through a single
15 act.

16 When it comes to criminal sexual conduct with a minor, each
17 and every sexual battery can be charged. They're individually
18 sexual acts. Therefore, if the jury finds that he did not do it
19 within this date range as you are presenting, then the State
20 could go after based on the 2012 - 2013, because those are
21 individual sexual acts which can be charged separately.

22 ATTORNEY VARNER: If they hadn't been litigated, she's
23 right. But if they have been litigated and brought up, it's
24 over. *Blockburger*, what she's saying is it doesn't follow --
25 *Blockburger* says that if the same elements or a separate crime,

1 then it is double jeopardy.

2 Now, they initially started with *Blockburger* saying that's
3 the criteria because, if it was a different crime, or whatever,
4 it didn't apply. What the courts have interpreted *Blockburger*,
5 meaning they have carved out the exceptions, is if it's the same
6 facts or circumstances you can't charge him. Double jeopardy
7 does attach. But that's all academic.

8 THE COURT: But if it is the same facts and circumstances,
9 which I agree with you, then it's unnecessary for me to include
10 the dates. That's my point, because it's the same facts and
11 circumstances.

12 ATTORNEY VARNER: Well, if you don't include dates, then if
13 they find he did it two weeks ago, whatever, that's not first
14 degree. They're over the age of 11. You have to have it within
15 a time slot because the statutes itself requires a time slot.

16 ASS'T. SOLICITOR GASSER: That's, of course, within your
17 charge. And if they found -- and that will be very clear, both
18 in your charge and in my argument, that we're not alleging that
19 it happened two weeks ago when they were 15 and 14 years old.
20 The State has to prove the element of them being under the age of
21 11, in which we do intend that we have entered evidence.

22 THE COURT: Just so we're very clear about this, we're just
23 talking about verdict form. And the case law that I looked at at
24 lunch specifically just provides that the verdict form has to be
25 clear and concise, include guilty and not guilty, has to have

1 both options so that the jury knows exactly what they are either
2 acquitting someone of or convicting them of. It doesn't -- this
3 verdict form doesn't need to include all of the elements of the
4 charge. That is for my jury charge.

5 ATTORNEY VARNER: If it's on the jury charge, then what's
6 the objection for it to be typed out and given to them on a
7 verdict form? If it's okay to say it but it's not okay to read
8 it.

9 ASS'T. SOLICITOR GASSER: The case law, of course, is clear,
10 Your Honor. Clear and concise. And I believe that this is clear
11 and conciser -- if that's a word.

12 THE COURT: I'm going to take it under advisement. But you
13 want me to include the dates, and you're satisfied with the
14 verdict form the way it is?

15 ASS'T. SOLICITOR GASSER: Yes, Your Honor.

16 ATTORNEY VARNER: I am, too, on the verdict.

17 THE COURT: Okay. I understand. Let's look at jury
18 instructions. Because I haven't looked at the charge, but I need
19 to look at it tonight if you all have issues with it. So,
20 Mr. Varner, this morning you were kind of going through --

21 ATTORNEY VARNER: Okay. I'll go first, Your Honor.

22 THE COURT: No. It's okay. I didn't know if Ms. Gasser had
23 something, but you were standing up, and this morning I cut you
24 off, and I didn't mean to. I just wanted the jury not to be
25 waiting on us.

1 ATTORNEY VARNER: Your Honor, I didn't take that it way.

2 THE COURT: Okay. Good. Good.

3 ATTORNEY VARNER: Your Honor, on page 17 and page 16, the
4 bottom of page 16, determining the guilt or innocence, the word
5 I'm going to key on is innocence in a moment.

6 THE COURT: Okay. That's okay.

7 ATTORNEY VARNER: And then at the top of page 17, as to the
8 guilt or innocence of a defendant, I totally and completely
9 object to the word innocent.

10 THE COURT: That's okay. What do you propose that I use?
11 This came out of the charging book, the old charging book. So
12 tell me what you -- I take no offense. I told you all, I
13 plagiarized jury instructions. I didn't come up with these. I
14 used them from the book, the bench book that was previously used,
15 and that bench book was then, court administration just indicated
16 it was a guide. And so these charges have come from other
17 judges, and also just from me looking at some of the case law. I
18 take no offense.

19 If you have a problem with that word, tell me what you want
20 me to use instead.

21 ATTORNEY VARNER: I okay. I'll try to read my notes from
22 this morning in the car.

23 THE COURT: That's okay.

24 ATTORNEY VARNER: Let's see. As to the guilt -- how about
25 this or words to this effect: At arriving at an impartial

1 verdict as to whether the State has proven guilt beyond a
2 reasonable doubt or failed to prove guilt beyond a reasonable
3 doubt. I'm just using a generic term for it.

4 ASS'T. SOLICITOR GASSER: And I believe that's stated
5 earlier in your charge, Your Honor.

6 THE COURT: It is. I just don't want to state anything
7 that's going to cause anybody to have a problem with my charge.
8 And generally I like to have them completely agreed upon. So
9 we're looking at?

10 ATTORNEY VARNER: Page 16 and 17, the words innocent,
11 because innocence is presumed, and that is an implied
12 burden-shifting to the Defendant.

13 THE COURT: How about if I just say this: It's under the
14 heading of punishment, correct?

15 ATTORNEY VARNER: Let me get back to Page 16, Your Honor.
16 Just a moment. Yes.

17 THE COURT: How about if I just say: In rendering your
18 verdict, you cannot consider any possible penalty for any
19 particular crime.

20 ATTORNEY VARNER: I can live with that.

21 ASS'T. SOLICITOR GASSER: That works for the State, Your
22 Honor.

23 THE COURT: Because there's no reason for me to say it then.
24 Let me look at the second place that it was included in this
25 charge.

1 ATTORNEY VARNER: It's the same paragraph, at the end, Your
2 Honor.

3 THE COURT: I'm just going to stop it at verdict, period.

4 ATTORNEY VARNER: I can live with that.

5 THE COURT: Can you live with that, Ms. Gasser?

6 ASS'T. SOLICITOR GASSER: Yes, Your Honor.

7 THE COURT: All right. That resolves that.

8 ATTORNEY VARNER: One additional charge, and I think it's a
9 pretty standard charge, that the State must prove each and every
10 element of an offense charged, and if they fail to prove that
11 beyond any reasonable doubt then you must return a verdict of not
12 guilty, or words to that effect. Because they have to prove each
13 and every element.

14 THE COURT: I thought I said that, but let me look.

15 ATTORNEY VARNER: If you did it was 7:30 in the morning,
16 Your Honor. I was in my car.

17 THE COURT: That's okay. Let me just look through the
18 charge real quick and see. Obviously if Mr. Steele testifies,
19 I'll take out the portion about when an individual chooses not to
20 testify.

21 All right. Lauren doesn't see it. I don't see it. Let me
22 go to the section under reasonable doubt.

23 So what he's asking me for, Ms. Gasser, is -- I'm looking at
24 what would be my Page 7, but I'm at reasonable doubt. And what
25 I'm inclined to add is -- so the first sentence of that paragraph

1 says: The State has the burden of proving the Defendant guilty
2 beyond a reasonable doubt. And what I'm inclined to do is
3 include a sentence there that Mr. Varner is asking for me to
4 charge them on, which is the law, The State has the burden of
5 proving each and every element of the crimes charged beyond a
6 reasonable doubt. That's what you asked me.

7 ATTORNEY VARNER: That would make me happy. That's exactly
8 what I want.

9 ASS'T. SOLICITOR GASSER: Yes, Your Honor.

10 THE COURT: So I'll give that sentence because that will
11 resolve that, and that is the law. Okay. With those charges --
12 and I've got to think about the verdict form -- is the State
13 satisfied with the charge?

14 ASS'T. SOLICITOR GASSER: Yes, Your Honor. And --

15 THE COURT: And if all look at it tonight and you've got an
16 objection, that's fine, but at least I've got a good, working
17 draft.

18 ASS'T. SOLICITOR GASSER: Yes, Your Honor.

19 THE COURT: Okay. If you have something in addition in the
20 morning, then you'll let me know.

21 ASS'T. SOLICITOR GASSER: I mostly just have -- there will
22 be some matters of law, I believe, if the defense intends to
23 rest, as to closing arguments regarding things that were said in
24 opening arguments. But we can take that up in the morning.

25 THE COURT: Okay.

1 ATTORNEY VARNER: You want to cover that now?

2 THE COURT: We can. Ms. Gasser, are you prepared to do that
3 now, or do you want to wait until the morning?

4 ASS'T. SOLICITOR GASSER: Uhm, Your Honor, if we could wait
5 until the morning, that would be beneficial. I have my notes from
6 his opening statement on remarks that were made and things that I
7 would be objecting to specifically in closings but, again, it may
8 be a moot issue if the defense puts up a case.

9 THE COURT: Okay. Then what we'll do is we'll come back in
10 the morning. If you all have some additional charges, you'll let
11 me know, we'll get started, and we'll see where we end up.

12 ATTORNEY VARNER: Thank you much, Your Honor.

13 ASS'T. SOLICITOR GASSER: Thank you, Your Honor.

14 THE COURT: Thank you all.

15 (End of Transcript of Record.)
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CERTIFICATE OF REPORTER

I, Cathy J. Provost, Official Court Reporter for the Fourteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial/proceedings of the captioned case in the Court of General Sessions for Greenville County, South Carolina, on the 14th day of May, 2025.

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

Date: October 1, 2025

\s\ Cathy J. Provost
Cathy J. Provost, RMR
Official Circuit Reporter

THE STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
)
COUNTY OF GREENVILLE) THIRTEENTH JUDICIAL CIRCUIT

THE STATE OF SOUTH CAROLINA) NO. 2024-GS-23-07200; -07206;
) -07207; -07208; and -07209
)
VS.)
)
PHILIP SCOTT STEELE) TRANSCRIPT OF RECORD
)
)
) Jury Trial
) Vol. III of III, Pages 334-453

B E F O R E:

THE HONORABLE JESSICA A. SALVINI, JUDGE; AND A JURY

DATE: May 15, 2025
Greenville, South Carolina

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

MEGHAN A. GASSER, ESQUIRE
Attorney for the State

KIM R. VARNER, ESQUIRE

Attorney for the Defendant

Reported by: Cathy J. Provost, RMR, Official Court Reporter

1 -- P R O C E E D I N G S --

2 (Indexes contained in Vol. I, dated May 13, 2025.)

3 (WHEREUPON, court is called to order, without the jury.)

4 THE COURT: Let's go ahead and go on the record and sort of
5 address any pretrial matters. And I look to Mr. Varner as to
6 where we're at.

7 MATTER(S) OF LAW

8 ATTORNEY VARNER: Your Honor, the defense will rest. And I
9 would ask that you question about his right to testify, and that
10 it is his sole and individual decision.

11 And for scheduling, I have a question because I don't
12 recall, really, what the jury did hear or didn't hear about me
13 being the lawyer, what you said to the jury or not, and how we
14 can touch on that or not touch on that, and how we --

15 THE COURT: Okay.

16 ATTORNEY VARNER: I mean, what I would like is for you to
17 take judicial notice of that order and tell the jury there was
18 some confusion, Brian James represented her, because this is the
19 kind of jury, they have questions about everything, Your Honor.

20 THE COURT: They do.

21 ATTORNEY VARNER: And what are our parameters in closing on
22 that topic.

23 THE COURT: All right. So I'd like to address that, and
24 then I also wanted to address the verdict form because you all
25 made me work last night and I had to read a lot of cases.

1 So first, to answer your question, Mr. Varner, my
2 recollection I left it alone. I didn't say anything. The only
3 thing that happened to clear that up is we agreed that the State
4 would ask -- I can't think of her last name, it's giving me a
5 hard time, Ms. Gasser.

6 ASS'T. SOLICITOR GASSER: Zeabold.

7 ATTORNEY VARNER: Zeabold.

8 THE COURT: I should remember that. It's so unusual. But
9 that Ms. Gasser would ask her, Did you retain Mr. Varner or just
10 consult with him? And that's what she said that she attempted to
11 pay you but that it was just a consultation and that ultimately
12 she didn't hire you. And I left it alone. I didn't tell the
13 jury anything.

14 So option 1 would be I still leave it alone. Option 2 would
15 be I include an instruction. I don't -- unless, Meghan, you
16 disagree, I don't think there's anything inappropriate with Kim
17 arguing in close, Hey, I just want to make sure you all
18 understand, Ms. Sherry Zeabold, she testified that she consulted
19 with me. She never hired me. I'm also happy to take judicial
20 notice of the family court divorce decree that showed a different
21 attorney.

22 ASS'T. SOLICITOR GASSER: Your Honor, I would object to
23 anything being said to the jury as from the bench because I think
24 that that would be a commentary on the facts that have been put
25 into evidence. He had opportunity for cross-examination. Now,

1 obviously, in his closing argument, as long as he stays within
2 the parameters of the cross-examination and direct examination
3 answers, that's fine, but that's a separate matter that I think
4 is something that we'll take up next.

5 But my understanding was is yes, I asked those two
6 questions, Did you actually hire him, or was it a consultation?
7 And she said, I tried to pay him and he didn't take the money. I
8 said, He did not take money from you? And she said yes.

9 His cross-examination was, Well, I represented your current
10 husband in his divorce. He said every lawyer would have told you
11 to go to the police if you had brought that information to them.
12 So Ryan James represented you and I represented the defendant in
13 your divorce.

14 Let's see here. He asked about two mediations. And she
15 responded about not owing him money -- or, no. That he didn't
16 owe her, and she was now paying him for it, and that he did a
17 good job in getting his client what he wanted.

18 THE COURT: I do remember her saying that.

19 ASS'T. SOLICITOR GASSER: So that was basically the end of
20 the discussion of him as a lawyer, and I think those are the
21 parameters. Of course if we get askew in closing, I'm going to
22 have to object.

23 THE COURT: Okay. So, Kim, I mean, that was what was
24 testified to. You can argue in close. She's objecting to me
25 commenting, and that's probably appropriate. I probably

1 shouldn't comment on the evidence.

2 ATTORNEY VARNER: I understand your ruling, Your Honor.

3 THE COURT: All right. With respect to the verdict form, I
4 read every possible case that I could regarding what should be
5 included on a verdict form and what should not be included on a
6 verdict form. Based on the case law and just secondary sources
7 that I looked at, as well, Mr. Varner, your request is granted.
8 The date will be included on the verdict form.

9 As to exceptional circumstances, if the defense requests
10 something such as this to be included on the verdict form that is
11 in accordance with the indictment and does not place an
12 additional burden on the State that would be contrary to the
13 statute, the case law seems to indicate that the Court should
14 grant the request. So I'm going to include the date because it's
15 included in the indictment, and it doesn't create any additional
16 burden on the State.

17 ASS'T. SOLICITOR GASSER: Okay, Your Honor. Thank you.

18 THE DEFENDANT, PHILIP SCOTT STEELE, SWORN IN

19 THE COURT: Let's have a discussion, okay, before we go any
20 further. The State has rested. That mean they are done
21 presenting any and all evidence that they have in this case.

22 And now it comes to this side of the room, which is the
23 defense's case in chief. And you heard me say, you heard your
24 attorney say, you are presumed innocent from start to finish,
25 okay.

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: You always have that. And the burden never
3 shifts to you to present anything to this jury, right. So you
4 have the absolute constitutional right not to testify in your own
5 defense. You're not required to.

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: And if you choose, what you're telling me, what
8 your attorney is telling me that you're choosing not to, if you
9 make that decision I will tell the jury they cannot consider it
10 whatsoever, it shouldn't even come into their mind, because you
11 have no burden of proof in this case, you're not required do
12 anything.

13 Nevertheless, you are entitled to make that decision
14 independent of what your attorney says, what the State says, what
15 I say. You have to make that choice. You've got to make it
16 freely and voluntarily, understanding exactly what you're doing
17 here today, okay.

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: All right. So do you understand that you have
20 the right to testify and the right not to testify?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: And you also understand that the jury cannot
23 consider it for any, any purpose if you choose not to testify?
24 Do you understand that?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: And you talked with your attorney about that?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: He answered all of your questions?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: Have you made the decision not to testify?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: Is that your decision of your own free will?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: Do you feel forced, threatened, or coerced not
10 to testify?

11 THE DEFENDANT: No, ma'am.

12 THE COURT: Do you have any questions for the Court about
13 this?

14 THE DEFENDANT: No, ma'am.

15 THE COURT: Mr. Varner, additional questions you want to ask
16 him?

17 ATTORNEY VARNER: Other than the questions for the Court, do
18 you have any additional questions for me, or would you like to
19 discuss it or contemplate it, or you made up your mind?

20 THE DEFENDANT: Yes.

21 THE COURT: Okay. I feel satisfied, Mr. Steele, that you're
22 making this decision, and that you understand exactly what you're
23 doing.

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Okay. Thank you. You can have a seat for me.

1 So the defense has rested. I know my jury's back there. That
2 would mean that our next step would be to bring them in and we
3 would start closing arguments if you all are ready.

4 ASS'T. SOLICITOR GASSER: Yes, Your Honor. However, there
5 is a matter that I would like to place on the record because
6 unfortunately I think that we're there.

7 THE COURT: Okay. That's why we're going to address it now.

8 ASS'T. SOLICITOR GASSER: So with the Defendant's decision
9 to not testify, the State foresees that defense counsel is going
10 to potentially make statements that the Defendant said or the
11 Defendant alleges. Obviously he has not testified, he has no
12 statements placed into the record that was intentional by the
13 State, so I would ask the Court to instruct defense counsel to
14 not make any statements as to the Defendant saying, alleging, or
15 any version of that.

16 ATTORNEY VARNER: Your Honor, I don't intend to do that. I
17 will say I'm going to address the topic, but I will address it in
18 terms of in the course of the investigation these matters came
19 up, they were not investigated.

20 I will also testify -- state, because you can have a
21 (indiscernible), they didn't let you see a 51-minute video.

22 ASS'T. SOLICITOR GASSER: And that was my next step, Your
23 Honor. He cannot make promises in opening statements that have
24 not been presented in evidence. That is an entirely different
25 issue. He knows that rule, and he knew that risk, and so I'm

1 asking that the Court instruct defense counsel that he is not to
2 make any insinuation of the State hiding or not showing evidence.

3 THE COURT: I don't think, Mr. Varner, it would be
4 appropriate for you to say the State intentionally did not let
5 them see the video of the Defendant.

6 ATTORNEY VARNER: I wouldn't say that, but I'm going to pose
7 the question.

8 ASS'T. SOLICITOR GASSER: And again, asking the question --

9 THE COURT: Hold on.

10 ATTORNEY VARNER: I'll pose the question, You didn't get it.
11 Why?

12 ASS'T. SOLICITOR GASSER: And again, it's the same thing
13 with a different word. It is the insinuation that they are not
14 receiving evidence that they should have. And again, that's
15 completely improper. That was his risk and his decision and his
16 trial strategy to not have his client testify -- or for the
17 client to make the decision not to testify. Excuse me.

18 ATTORNEY VARNER: Your Honor, you can't shift the burden to
19 my client.

20 ASS'T. SOLICITOR GASSER: But you can't improperly hold the
21 State to --

22 ATTORNEY VARNER: Excuse me.

23 THE COURT: Hold on. Let me hear his argument. I've got to
24 make a decision.

25 ATTORNEY VARNER: But for me not to comment on the lack of

1 evidence or evidence --

2 THE COURT: You can comment on the lack of evidence, but in
3 this instance her argument is is that it would be improper. They
4 chose not to present it and you could not present it unless you
5 called him to the witness stand, and even then I don't know that
6 it would come in because it would be a self-serving statement,
7 and so her position is is that under the rules of evidence,
8 right, it could not come in.

9 ASS'T. SOLICITOR GASSER: Yes.

10 THE COURT: Hold on, Ms. Gasser.

11 ASS'T. SOLICITOR GASSER: All right.

12 THE COURT: And so, Mr. Varner, it would be an improper
13 argument to say to this jury the State is hiding the ball by not
14 letting me see it.

15 ATTORNEY VARNER: I wouldn't say it that way, but I think I
16 have the --

17 ASS'T. SOLICITOR GASSER: And I --

18 ATTORNEY VARNER: Excuse me. I have the right to comment on
19 what evidence was not there. This officer testified there was a
20 51-minute recording video.

21 THE COURT: I'm going to let you bring up the fact that
22 there was a video; that he showed up voluntarily; that he
23 answered every question that this officer posed; and denied all
24 of the allegations. But I'm not going to let you argue that
25 somehow the State did something improper by not showing it to

1 them.

2 ATTORNEY VARNER: No, I would not argue that.

3 ASS'T. SOLICITOR GASSER: And, Your Honor, again, I would
4 ask another specific phrase, Why do you think you're not seeing
5 it or any variation of that? If I need to list it out for the
6 record, I can. Why are you not seeing it? Ask yourselves why
7 didn't they show it to you? The State is hiding evidence. The
8 State didn't show this to you.

9 Because, again, he brought this up in his opening, and if he
10 had not done that then again we would have a proper record, but
11 he improperly brought it up in his opening, trying to force the
12 State's hand, which is completely improper under the rules of
13 evidence. You can't then get a benefit from it in his closing
14 argument in front of the jury.

15 THE COURT: Nevertheless, I told this jury that you all were
16 going to make opening statements on what you thought the case was
17 to show, what you all thought the issues were, and that it's not
18 evidence. So I've told them that in my preliminary remarks for
19 that reason.

20 But, Mr. Varner, I'm not going to let you say, Ask yourself,
21 why didn't you get to see Mr. Steele's video, or interview? I'm
22 not going to let you comment that way. But you can -- I'm not
23 going to hamstring you from of saying, You heard this officer, he
24 called Mr. Steele, Mr. Steele answered for an hour, 51 minutes he
25 sat there, and answered every question the detective had. The

1 detective said he was very cooperative, forthcoming. I'll let
2 you do all that. But I won't let you say that the State did
3 something improper or --

4 ATTORNEY VARNER: No, I won't.

5 THE COURT: -- ask yourselves why you didn't get to see
6 this. I won't let you do that.

7 ASS'T. SOLICITOR GASSER: And, Your Honor -- and I just want
8 to be very clear. He can say that he answered the questions and
9 that he denied the allegations, but anything further than that
10 is, again, the Defendant's statements that are not in evidence,
11 there's no evidence as to bribery, extortion, requesting money,
12 threats. None of that came out, so he cannot say that the
13 Defendant asserted, the Defendant alleges, the Defendant said.

14 THE COURT: He agreed he's not going to say the Defendant
15 asserts, the Defendant alleges. But he can argue that he asked
16 Ms. Zeabold about the fact that she was going through a
17 divorce --

18 ASS'T. SOLICITOR GASSER: Yes.

19 THE COURT: -- and the fact that she wanted her house paid
20 off; in fact, she made the request during the divorce that she
21 get the entire house --

22 THE DEFENDANT: Yes.

23 THE COURT: -- and the fact that she did not get the entire
24 house.

25 ASS'T. SOLICITOR GASSER: Yes.

1 THE COURT: And that this officer learned, during the course
2 of his investigation, that there were allegations of bribery, but
3 there were -- I mean, there was nothing that came in. I'll give
4 you a short leash on that, Mr. Varner.

5 ATTORNEY VARNER: I understand.

6 ASS'T. SOLICITOR GASSER: And he testified that there was no
7 evidence as to that.

8 THE COURT: That's right.

9 ASS'T. SOLICITOR GASSER: That's what I would be saying.

10 THE COURT: That's right.

11 ASS'T. SOLICITOR GASSER: So I want to the Court aware,
12 because the opening statement was --

13 THE COURT: You're going to get to hear --

14 ASS'T. SOLICITOR GASSER: -- frankly, a -- whatever, the
15 crossing of the room pond (ph), and I have experienced that. And
16 so I have a feeling that I am going to have to object to several
17 facts not in evidence during closing. And I just wanted to let
18 the Court aware, let defense counsel aware, that I am very much
19 going to object if there's facts not evidence testified to, or
20 said in closing.

21 THE COURT: I understand that during closing arguments it
22 always seems to be, or at least it was when I was practicing law,
23 it was a faux pas pa --

24 THE DEFENDANT: Correct.

25 THE COURT: -- to object during your opposing party's

1 closing, but I'm going tell you all today that it's not a faux
2 pas. Object if you are think that something's going awry. Both
3 of you.

4 ASS'T. SOLICITOR GASSER: Thank you, Your Honor.

5 ATTORNEY VARNER: Your Honor, to head, I guess, that one off
6 of peg, so to speak, we'll cover it now, but no, I do intend to
7 say words to the effect of, Had he been argumentative, evasive,
8 not forthcoming, you would have heard from the witness stand.
9 That's not a reference to the video.

10 THE COURT: That's not a reference to the video. This
11 officer/this detective was very forthcoming when we said,
12 Listen, Mr. Steele was very honest, very cooperative, sat there,
13 did not request an attorney, didn't have to stop the interview.
14 He can say all that. That is fair.

15 ASS'T. SOLICITOR GASSER: Yes, Your Honor, absolutely.
16 Again, I just, like you said, I have never objected during a
17 closing, but I believe that it's going to be an issue today.

18 THE COURT: That's okay. We are going to find out. Okay.
19 So with that said, are you all ready to start closing arguments?

20 ASS'T. SOLICITOR GASSER: The State's ready, Your Honor.

21 ATTORNEY VARNER: Ready, Your Honor.

22 ASS'T. SOLICITOR GASSER: I'll be using the technology, both
23 the overhead, as well as the computer.

24 THE COURT: Meghan, you are reading my thoughts. I was just
25 going to ask because I wanted to make sure we had all the TV's

1 queued up.

2 All right. So what I'd be inclined to do is have you all do
3 closing, then take a break, and then I'll charge. I'll give them
4 a little break before I charge. That way I can just look through
5 the charge one more time.

6 ASS'T. SOLICITOR GASSER: Yes, Your Honor.

7 (WHEREUPON, an off-the-record discussion is held.)

8 (WHEREUPON, the jury enters at 9:52 a.m.)

9 THE COURT: All right, ladies and gentlemen, welcome back.
10 I know you all were back there for just a, well, I know almost 25
11 minutes, but this will make you very, very happy, all right. The
12 receipt of any evidence during the course of this case is now
13 closed.

14 We are now at the point where you're going to hear closing
15 arguments from the attorneys, and then I'm going to charge you on
16 the law. All right. The defense has rested. The State has
17 rested. Now will be closing arguments.

18 And I know you all got to choose your lunch. And I'm
19 anticipating that it will probably take us up to lunch to get
20 there by the time you hear from attorneys, and hear from me. And
21 then you'll be able to begin your deliberation. All right.

22 CLOSING STATEMENT ON BEHALF OF THE STATE

23 ASS'T. SOLICITOR GASSER: May it please the Court.

24 THE COURT: Yes, ma'am.

25 ASS'T. SOLICITOR GASSER: These types of crimes happen in

1 secret; they happened behind closed doors. No, I'm not talking
2 about a literal door. I'm talking about the seclusion and the
3 efforts to get someone alone, to get a child alone. They are
4 crimes committed in cowardice.

5 And MINOR1 and MINOR 2 showed you all that this case
6 is not just about the pain and fear and trauma that has been
7 forced upon them; it is also about their courage, their courage
8 to finally tell their secret, to disclose, their courage to stand
9 their ground, their courage to sit in that chair and tell
10 complete strangers how they were intimately violated, sexually
11 assaulted by their papa, their step-grandfather, this Defendant,
12 Philip Scott Steele.

13 Now, in this case I'm sure there are a few things that are
14 confusing. You are getting all the puzzle pieces. It is my job
15 to give you all of those puzzle pieces, and to come back here at
16 the end and show you how they all fit together and form a
17 picture, proof beyond a reasonable doubt that the Defendant
18 committed these crimes.

19 So what I'm going to do in this closing argument is walk
20 through and hopefully answer those questions, those burning
21 questions, that confusion, of what this means, and why this means
22 that, and what dates, and what ages, because it got confusing.
23 And I'm a lawyer, so math is hard for all of us.

24 But I told you in my opening statement that this would
25 happen. I told you that the defense would try to confuse, they'd

1 try to distract you, because they want to send you down rabbit
2 holes to avoid looking at what's right in front of you, what this
3 case is all about, and that is what MINOR 1 and MINOR 2
4 said on this stand.

5 The answers to the questions, the detail, the corroboration,
6 the pain, the fear, the trauma, and, of course, the courage to
7 finally tell, that is what they wanted to distract and confuse
8 you from. So did you catch it? Started with asking the
9 witnesses about Alicia and Sherry's dating histories, from all of
10 the witnesses, especially MINOR1 and MINOR 2 .

11 They were very clear that the only person that sexually
12 assaulted them and that they were bringing allegations against
13 was this Defendant.

14 Why are you bringing up other boyfriends? Why are you
15 bringing up other men? It's to distract you, confuse you, to
16 take your eye off the ball, because this is the only man that
17 they have said that he sexually assaulted them.

18 Asking the witnesses about their family dynamics. Alicia
19 was open. She laid it all out there, the good, the bad, and the
20 ugly. She told you there was drugs, drinking, domestic violence
21 in the home. She admitted that. That's not why we're here
22 today. Alicia's not on trial. Some other person that's involved
23 in that is not on trial.

24 The man on trial is Philip Scott Steele. So why bring that
25 up? To confuse, distract, because MINOR 2 and MINOR1 are telling

1 you what happened.

2 The girls -- MINOR 2 said it best. She reminded us this is
3 what is causing my pain. She remained strong through that.

4 Asking the mother, Alicia, why she didn't go to law
5 enforcement personally, hammering that point. Alicia told you
6 the grandmother went, she reported it. She stayed with the
7 girls. Sherry confirmed it in that recorded audio. I'm here;
8 she's with the girls. Law enforcement was told. They did what
9 they needed to do. She took them to the Julie Valentine Center,
10 she cooperated, and she has remained supportive of her girls.

11 The lice treatment. Alicia told you she never personally
12 asked the Defendant for money for this lice treatment. Sherry
13 admitted it. Yeah, I asked him, and he gave it to me, and I gave
14 it to Alicia. She doesn't know where that came from.

15 Again, if there's some big conspiracy, why admit that?
16 Because it's the truth. At that point in time when the lice
17 treatment request was made, there were no allegations against
18 this man. Why would they have any reason to, you know, not ask
19 him? It's his step-grandchildren. Sherry asked him. They were
20 still in contact, they were still working together. She told you
21 all that. They were cordial. They were separated but still
22 married, living separate, and she asked him for help with the
23 step-grandchildren. At that point in time there were no
24 allegations, no substantive evidence.

25 So that brings me to why not go to the police sooner? That

1 was a big thing, right. Thank goodness they didn't because they
2 didn't have any evidence, they had no evidence. So what, we're
3 going to have then a trail of these, quote-unquote, false
4 allegations from a mother going in and saying, you know, I just
5 have it in my gut that he did something to them. I asked the
6 girls and they said no.

7 That is not how the criminal justice system works. That's
8 not how evidence works. Absolutely not. Then we'd be up here
9 standing and trying to defend, Why did you make this false
10 allegation, then, and this is false too. No. She did the right
11 thing. She waited until she was confirmed, her mother's
12 intuition was confirmed, when her girls finally disclosed. And
13 Shauna Galloway, she explained that to you all, why they wait,
14 why do children wait.

15 So that mother, Alicia, she did the right thing. She didn't
16 go with just some mother's intuition. You know, I can't really,
17 I have no evidence of it; I can't tell you really why; I don't
18 know what happened; I can't even tell you the physical acts that
19 happened. But they expect her together and turn him in, and that
20 her not doing that somehow proves that that's false? No. That's
21 completely batterer's logic. It's confusing, on purpose, again,
22 to distract you from what MINOR 2 and MINOR 1 said.

23 As for Alicia's disclosure about what happened to her with
24 the Defendant when she was six or seven, she was very clear. She
25 said he did not molest me. She said his hand drifted on her

1 back. She had been abused before. Alarm bells, so she told her
2 mother. She said her mother kicked him out for three days, but
3 then he came back.

4 Again, the question is why didn't she go to the police?
5 What are the police going to do with that? That is not a
6 chargeable offense. There was no evidence of any kind of sexual
7 battery. I think Sherry said it. I was being stupid. You know.

8 So they didn't have the legal proof, but Alicia still did
9 what was best for her daughters back in 2015 when she separated
10 and kept them from him. She said, my mother's intuition. I
11 just -- I asked them; they denied it; I asked them together; I
12 asked them separate; they denied it; they said nothing happened.
13 But again, alarm bells went off in her head when she saw
14 something weird, when she heard something weird. But she still
15 did what was best for her daughters and kept them away from him.
16 Sherry corroborated that, and so did MINOR 2 and MINOR 1

17 Another confusion or distraction technique was bringing up
18 her (indiscernible), and the houses, and money, and bribery, and
19 all of these mention of things. There is absolutely no evidence
20 of that. This detective told you there's no evidence. He wasn't
21 on board with any of that.

22 Sherry told that she's actually gotten her divorce. She's
23 already remarried. So some insinuation that this is a concoction
24 of this grandmother and this mother making these girls say all
25 this to, what, get money? That's ridiculous, absolutely

1 ridiculous. Sherry, even told you, hey, Mr. Varner did a great
2 job for his client in the divorce, she is actually paying him for
3 the house now. So that is, again, just a confusion, a
4 distraction technique.

5 What teenage girls would ever get on the stand in front of
6 12 strangers, describe a penis in their mouth, describe
7 ejaculation, describe their pain, their shame for any other
8 reason than it happened?

9 Finally, there was a technique of trying to cast doubt on
10 this investigation; to say that Detective Epting didn't do his
11 job; that there was no open investigation, that there was no
12 evidence.

13 Okay. Let's talk about these types of cases. And I
14 mentioned in my opening as well. This is not CSI, this is not
15 Law & Order SVU, this is not even one of those even documentaries
16 of big cases on the news where you've have 45 minutes and you get
17 shown the good parts how it all worked out.

18 This is real life. And in real cases with a delayed
19 disclosure of seven years, there is not going to be any DNA
20 evidence. We're not going to find his DNA in those girls' mouth
21 after seven years. There's not going to be fingerprints.
22 There's not going to be any of this forensic evidence that is
23 being, again, thrown at you to say obviously this is a terrible
24 investigation because that doesn't exist. Guess what? It would
25 never have existed. Regardless if Detective Epting had hoped,

1 wished, prayed for it, it didn't exist because there was a
2 seven-year disclosure. Immediate disclosures, sure, yes,
3 forensics, SANE kit. Let's go quickly. This is seven years.

4 Talking about the cellphone, the computer, the television.
5 The way the criminal justice system works -- and it's for
6 everyone's benefit, it's for my benefit, it's for all of our
7 benefit -- is that the police cannot take our cellphones, my
8 cellphone, and go through it willy-nilly just because there's an
9 accusation against me. They have to have, just like the
10 Defendant said, probable cause. They have to go to a judge and
11 ask for a search warrant.

12 And he testified and told you the girls denied any photos.
13 You saw it in their forensic interviews. What probable cause did
14 he have to get a cellphone, a computer, or even go into the man's
15 house? No judge would sign that because, like he said, it's
16 seven years. Seven years.

17 There was a big to-do about, you know, what the detective
18 says about evidence and needing more and all that. And he
19 remained very firm, and he even read part of his testimony, of
20 course he always wants more evidence in these cases. But that
21 doesn't mean that there's not evidence in this case. That
22 doesn't mean that we didn't reach this burden of beyond a
23 reasonable doubt. Just because, yes, I would love more, just
24 because he would love more evidence, doesn't mean that there
25 isn't evidence, doesn't mean that we didn't reach that burden.

1 I'm here to remind you to keep your eye on the ball, MINOR 1
2 and MINOR 2's testimony, their records, their description, their
3 details, their corroboration, all of which is in evidence that
4 this Defendant sexually abused them.

5 State's Exhibit 1 is up above. This has already been
6 entered into evidence. Witnesses have testified that that's
7 MINOR 1 MINOR 2, with the Defendant right around the time before,
8 obviously, the separation where they didn't see him again.

9 There's been a lot of discussion and questions and answers
10 about their ages. There's talk about diapers. There was an
11 insinuation of that these were just too little to have memories.
12 Those children are walking, playing, they have shoes on their
13 feet. These are not babies crawling.

14 When these arguments were being made I thought to myself,
15 you know, what do I remember from when I was four, three-years
16 old? And the first memory that popped into my head, I was
17 walking along the pool at my friend Bubba's house, with Nanny
18 Rose taking care of me and him while our parents worked, and I
19 fell and I scratched my knee up real bad and it hurt real bad.
20 And I remember that vividly. I can remember the weather, the
21 birds chirping. I know where I was. And I was four. Why do I
22 remember that? Maybe because it was traumatic, because I hurt my
23 knee real bad.

24 To insinuate that children can't have memories, especially
25 of trauma, it's just wrong. And again, I would remind you, think

1 back on everything that Shauna Galloway-Williams said. She's a
2 wealth of knowledge.

3 So throughout this case you were presented the evidence,
4 evidence that you get to consider, review, discuss amongst
5 yourselves when you go back into that jury deliberation room.
6 And through all of that evidence I proved beyond a reasonable
7 doubt that this Defendant is guilty.

8 And I told in opening a little bit about what reasonable
9 doubt is. And the Judge is going to instruct on you the law.
10 And what she says is the law, so if I deviate, or differ, in any
11 way, please listen to her. However, reasonable doubt is not an
12 impossible burden. Like I said in opening, in courts across the
13 United States every day people are found guilty beyond a
14 reasonable doubt. It is a hill that has been traversed and
15 crossed many times. It is not beyond all crazy doubt, like I
16 said, like an alien came down and did it. No. No. Reasonable
17 doubt is what leaves you firmly convinced. Firmly convinced.
18 And the State, we proved beyond a reasonable doubt that the
19 Defendant did that.

20 So again, in a few minutes the Judge is going to instruct
21 you on the law. But I want to walk through it, I want to talk
22 through it, and I want to explain how we met each and every
23 element of each and every offense beyond a reasonable doubt.

24 So the Defendant is charged with three counts of criminal
25 sexual conduct in the third degree and two counts of criminal

1 sexual conduct in the first degree. Definitions that are
2 important before we go even into the statute: The actor, that's
3 referencing the person who's accused of the crime. In this case,
4 it is the Defendant, Philip Scott Steele. Sexual battery, that
5 include fellatio and any intrusion, however slight. Victim is
6 the person alleging to have been the subject of the sexual
7 assault. And private parts is the genital area of the male or
8 female, and the breasts of a female.

9 So criminal sexual conduct with a minor in the third degree,
10 he's charged with three counts, this is the statute: A person is
11 guilty if the actor is over 14 years of age; the actor willfully
12 and lewdly commits or attempts to commit a lewd or lascivious act
13 upon or with the body or its parts of a child who is under 16
14 years of age, and with the intent of arousing, appealing to, or
15 gratifying the lust, passion, or sexual desires of the actor or
16 the child. Lewd and lascivious: From Merriam-Webster'
17 Dictionary, lewd, obscene, vulgar. Lascivious: Filled with or
18 showing sexual desire.

19 So first count, CSC with a minor in the third degree as to
20 MINOR 1 between the dates of April 11th, 2014, to
21 April 11th, 2016. This Defendant was over 14 years of age back
22 during those dates. This Defendant willfully and lewdly
23 committed a lewd or lascivious act when he pulled down MINOR 1's
24 pants and touched her vagina with his hand. The touching of a
25 vagina with his hand after pulling her pants is, in itself, an

1 obscene, vulgar, filled with sexual desire, aka lewd and
2 lascivious act. It was upon her body, her vagina, and she was
3 under 16 years of age at the time. She's 15 now so she was
4 definitely under 16. We don't even have to go into the birthday
5 yet. And it was done so with the intent to arouse, appeal to, or
6 gratify the lust, passion, or sexual desire of this Defendant,
7 because what other reason is there to sexually touch a child?

8 Second count: CSC with a minor in the third degree, as to
9 MINOR 1 again. Same date range. Again, the Defendant was over 14
10 years of age. The Defendant willfully and lewdly committed a
11 lewd act when he touched MINOR 1's buttocks. Again, it was upon
12 her body, her buttocks. She was under 16, we know that. And
13 again, it was done so with the intent to arouses, appeal to, or
14 gratify the lust, passions, or sexual desires of the Defendant,
15 because why touch the buttocks of a little girl?

16 As to the third count, this is as to MINOR 2 A slightly
17 different date range, it's February 15th, 2014, through
18 February 15th, 2017. I'm going to explain the date ranges. I
19 know there's a lot of confusion with that. But the Defendant was
20 over 14 years of age. He willfully and lewdly committed a lewd
21 act when he touched MINOR 2's vagina with his hand. It was upon
22 her body, her vagina. She was under 16. She's 14 now, she can't
23 be 16 then. And it was done so with the intent to arouse, appeal
24 the sexual desires of this Defendant, for all the same reasons as
25 with MINOR 1.

1 So criminal sexual conduct with a minor in the first degree,
2 he's charged with two counts, one for each girl. A person is
3 guilty of CSC with a minor in the first degree if the actor
4 engages in sexual battery with a child under 11. Sexually
5 battery, again I put that definition up there because it's so
6 important, it includes fellatio and any intrusion, however
7 slight.

8 So first count, as to MINOR 1 same date ranges as the
9 third degree. The Defendant engaged in sexual battery when he
10 placed his penis inside MINOR 1's mouth. Fellatio is sexual
11 battery. MINOR 1 was under 11 years of age. MINOR 1's birthday,
12 [REDACTED], 2009, so during this date range of April 11th,
13 2014, to April 11th, 2016, she was four to six years old. She
14 was under 11.

15 As to the second count, this is as to MINOR 2 this is her
16 birthday, [REDACTED] 2014, through February 15th, 2017. Now,
17 the Defendant engaged in sexual battery, again, fellatio, when he
18 placed his penis inside of MINOR 2's mouth, and that she was
19 under 11 years of age. Her birthday is [REDACTED], 2011, so
20 on February 15th, 2014, she were three, up to February 15th,
21 2017, that's when she was six. So three to six.

22 So let's talk about some things that have been particularly
23 confusing in this case, and that would be the dates, the ages.
24 So I wanted to create a timeline to help explain this very
25 clearly. We had testimony that before Sherry and the Defendant

1 got married, Sherry being the grandmother, Sherry Zeabold -- she
2 testified -- that before they got married Alicia explained that
3 she was six or seven-years old. And, again, his hand went down
4 her back, but she was very clear that she wasn't molested by him.
5 That it set off alarms. She told her mother. Her mother kicked
6 him out three days, but he came back. No substantial evidence.
7 No evidence of a crime there. It made Alicia feel weird because
8 she had already previously been abused. And that's what she
9 testified to.

10 Let's fast-forward to 1999. The Defendant and Sherry got
11 married, and they lived together until -- and there was varying
12 testimony between -- 2011, 2012, somewhere in there. That still
13 doesn't change the facts of this case. [REDACTED] 2009,
14 [REDACTED] MINOR 1 is born. Then on [REDACTED], 2011, MINOR 2
15 [REDACTED] is born. And at some point after their births, in 2011,
16 2012, that's when her grandparents separate. It's when the
17 Defendant moves out. The mom moves -- let me give you the exact
18 address -- [REDACTED] Rotterdam Road in Pickens. And the Defendant
19 began living at [REDACTED] Grove Road in Greenville. All right.

20 So separation had begun as to their marriage, but the
21 Defendant is still -- they're still married, they're still
22 working together, Sherry testified to that. They're cordial,
23 right, she told you all that, but they are living separately up
24 until they get divorced.

25 Sometime between that separation and 2015, the birth of

1 SISTER is when we're looking at. That's when the sexual
2 assaults occurred. So the Defendant was babysitting MINOR 1 and
3 MINOR 2 while her mother, Alicia Aiken, was at work.
4 Everybody testified to that. The Defendant babysits them at his
5 residence, [REDACTED] Grove Road in Greenville. Everybody testified to
6 that. They didn't know the exact address. They knew the
7 description of it. Detective Epting gave you the exact address
8 as well. So let's look at that specific period of time more
9 closely.

10 First let's address the big confusion in the room. There
11 was discussion about warrants and indictments. The Judge is
12 going to instruct you that the indictments are not evidence.
13 They're not going back in the room with you. She's going to read
14 the indictments to you but, again, they are the formal charging
15 document; they are to put the Defendant on notice of what he's
16 being charged with.

17 That's the indictment. It's our responsibility to write
18 this. I wrote the indictment. So why did the date change from
19 2012 to 2013? It's not some big conspiracy. When I got the
20 warrants I read them, and went that doesn't make any sense to say
21 that it happened around 2012 - 2013 when the victim's disclosure
22 was four to five for MINOR 2; five to six for MINOR 1. I figured
23 his math was wrong because when I plugged it in, in 2012 MINOR 1
24 would have been three, and in 2013 she would have been four; in
25 2012 MINOR 2 would have been one, and in 2013 she would have been

1 two. So again, the warrants, I took those and went, Well, to
2 present it to the grand jury I have to fix the dates, so I looked
3 at the evidence and created the date ranges to ensure that we
4 covered what the evidence showed.

5 And, of course, as Shauna testified to, children, they don't
6 think on that timeframe like that, they come back in flash-fold
7 moments, so we have to take all their disclosures, we have to
8 take all the evidence, and we have to look at what time period
9 could it be. So I did a safe-date range to make sure we covered
10 those ages. That's why it goes up to 2017.

11 There has been no testimony that anything happened in 2017,
12 that anything happened in 2016. I agree. Because I know that's
13 what defense is going to say, (nondescriptive sound), no. But
14 what happened in 2014? And while we can't say an exact day,
15 that's not what the statute requires. That's why there's a date
16 range, to make sure that we covered their ages.

17 So 2014, MINOR 1 's indictments start at April 11th, 2014,
18 through April 11th, 2016. She was four years old, and then she
19 was up to six years old. Again, covering those dates. MINOR 2 's
20 indictments cover February 15th, 2014, through February 15th,
21 2017. She was three years old up to when she was six years old.
22 She would be six.

23 So in 2014 MINOR 1 told the forensic interviewer during her
24 interview that she was four years old when she was first sexually
25 assaulted, so that would be in 2014. She said she was five years

1 old when she last saw him, so that would be up until 2015, give
2 or take some months.

3 [REDACTED] MINOR 2 was unsure of her age during her forensic interview
4 but she knew that she was with her sister at the Defendant's
5 house, and that he was babysitting her. So we can deduce her
6 ages based off of her sister. That's why her ages are a greater
7 number.

8 At some point before [REDACTED] SISTER was born, on
9 [REDACTED] 2015, the mother, Alicia Aiken, had her mother's
10 intuition and she decided to separate the girls from this
11 Defendant. She described, you know, seeing -- or there was like
12 a bathtub incident. It was a little unclear but it was that
13 someone either hit or kissed a bottom, and that it was said that
14 Papa did it. And when she asked -- she thought that was weird.
15 So when she asked her daughter, she said both together and
16 separately, that they denied anything going on, her mother's
17 intuition told her no, we're going to separate them. And they
18 never saw him again. And it's true. [REDACTED] MINOR 1 even told you, I
19 thought he was dead. She thought he was dead.

20 So there was testimony about -- so [REDACTED] SISTER's birth is on
21 [REDACTED], 2015. Now, the defense is going to get up here
22 and say they say it was whole year, they didn't see them for a
23 whole year. Okay. I believe that the testimony was actually
24 very unsure, that it could have been a year, could have been
25 sometime before that, give or take -- he even said it himself,

1 give or take a couple months. But let's say, just to be safe, it
2 was the full year, that exactly on 9/25/2015 -- or excuse me,
3 2014, that they never saw him again. The date ranges on the
4 indictments still cover those months in 2014, months in which he
5 was babysitting these girls.

6 MINOR 1 testified that, in her forensic interview, it
7 happened every time she went over there. It's covered. The
8 indictment's covered. The range covers it. There's no
9 confusion. It's tactics to distract you, again, from what MINOR 1
10 and MINOR 2 say, from their details, from their description, from
11 their corroboration. I'm going to leave that up there because
12 there's a lot of writing on there.

13 As for that evidence, you heard from the girls. MINOR 1 got
14 up here and she told you she goes to [REDACTED] High School. She gets
15 mostly As and Bs. She told you, yes, she's in counseling. She
16 told you, how back when this Defendant was babysitting her, how
17 he sexually assaulted her. She said all this in her forensic
18 interview as well.

19 She talked about how the first time they're in the bed and
20 he put some weird skirt thing on her, she didn't have her pants
21 on, she thought that was weird. She talked about the first time
22 that he put his penis into her mouth, how it was disgusting. He
23 said it was okay. Told her not to tell. Threatened to hurt her
24 if she told. How she was scared.

25 Through her forensic she talked about him touching her on

1 her vagina, on her buttocks. She talked about why she didn't
2 tell.

3 I'd also like to point out that she thought the man was dead
4 once they never saw him again, so maybe she also didn't want to
5 bring it up.

6 She told you all how she was talking with her friend and how
7 it came out her friend was telling her about some weird uncle,
8 and she mentioned that something had happened with the Defendant,
9 her step-grandfather, her papa. Her friend told her mother. She
10 was a very good friend. And her mother called her mother.

11 And without that, we wouldn't be here today, because Alicia
12 then did what a mother should do. She asked her daughter, Tell
13 me what happened. And that is when she went to the police. That
14 is when Grandma said tell me what happened. **MINOR 1** said I
15 couldn't say it.

16 So what does she do? She wrote a note. Send it back with
17 you all. I encourage you to read it. She was 11 years old when
18 she wrote this. She explained that it's too -- she couldn't talk
19 to her grandmother about it but she could write it down. And
20 again, that's when they went to the police. They had the
21 evidence now. The child had disclosed, she's told them what
22 happened, she's written it down.

23 They went to the police. Detective Epting scheduled her for
24 a forensic interview. She went and had the forensic interview.
25 Again, she missed the first one. It doesn't indicate -- it would

1 be a different story if they had to drag her in there kicking or
2 screaming, her or the mother. But, no, they rescheduled. Once
3 again, confusion, distraction. She did it. You heard it.
4 You're going to be able to take it back there with you. Watch
5 it. Look at it with this note. Think about what she said on
6 that stand.

7 I asked her, there was two details that came out that she
8 didn't say in her forensic, and why she didn't share them. They
9 were that he used a sex toy on her which she described white,
10 with a cord, and that ejaculated into her mouth.

11 I encourage you to go back and watch the forensic where the
12 forensic interviewer specifically asked if anything came out.
13 And there's a bit of a long pause before she says I don't know.
14 You're 11 years old. She testified -- and in that forensic she
15 said she never seen another penis before. You are being asked by
16 a complete stranger about ejaculation. I don't know.

17 And she explained why she didn't tell those things. She
18 didn't want to. Shauna Galloway-Williams got up here and told
19 you why children do that piecemeal disclosure. There are some
20 details that they don't want to share. And I would say that
21 those are some pretty uncomfortable details.

22 But they are details, and they are evidence, they are strong
23 evidence, because what four-, or five-, or six-year-old child
24 knows what a penis looks like, knows what ejaculation is, and
25 then at 11 when she disclosed it again? That's still very young,

1 and again talks about it. And even here today, she's 15, she's
2 very clear he ejaculated, it was watery, it was disgusting.

3 I encourage you to think about those details because those
4 are the details, those are the evidence, that is what the Judge
5 is going to tell you about. Credibility of witnesses. Think
6 about the details that a child at 10 and 11 years old should not
7 know.

8 She was very clear about the pornography. So was MINOR 2
9 Again, that's corroboration. She was very clear that MINOR 2 was
10 oftentimes asleep on the couch. They both described the home in
11 detail. They sat up there, they used their hands from memory,
12 talking from memory. When you close your eyes because you're
13 envisioning it, yeah, that was there, this was there, that was
14 there. Those are the details. You can't make that up.

15 MINOR 2 's was a shock because, as there was testimony,
16 MINOR 2 hadn't told anyone before she went into her forensic
17 interview. That was her disclosure. She was going there as a
18 witness. Like she said, I'm here to help my sister out. And she
19 explained that. She got crossed on it. You're helping your
20 sister out? As if she was going in to lie on her behalf. No,
21 she said, I'm going to tell what I saw. She explained that. I
22 was going to help her because she thought no one would believe
23 her, and I saw it. It was honesty. It was her telling what she
24 saw and what she experienced.

25 So MINOR 2 's disclosure, again, you're going to take that

1 forensic interview back. I encourage you to take this back and
2 to listen as she talks about that night when she woke up on the
3 couch, when she saw MINOR 1 with the Defendant, how he called her
4 over there and he heard her saying, Don't wake her up, don't wake
5 her up. Again, consistent with what MINOR 1 said. She was always
6 asleep. Don't wake her up, don't wake her up.

7 MINOR 2 talked about how, when she got over there -- and I
8 asked her several different times, it was on purpose, because
9 there's obviously things that people don't remember. But in her
10 forensic I want you to look at, she talks about how she went over
11 there, how he put his penis in her mouth, how his hands went and
12 up down. How should a 10-year-old know that hand motion that
13 they haven't seen before? She described how, in her forensic,
14 she described how she got on his lap, how she didn't have her
15 parents on, and how he touched her vagina.

16 And another very key detail in that forensic, I thought it
17 was a very important word because it goes to the anatomy of the
18 female, she said in between. How does a child know about that
19 detail? It's something that you specifically feel, and she knew
20 to describe it as that.

21 Now, on the stand she didn't talk about the touching. She
22 said she couldn't remember. She was very clear about the penis
23 in her mouth, and she was very clear, even on cross, that while
24 she does not remember some details because she was very young,
25 but she remembers that because that shouldn't have happened to

1 her. Hurting my knee real bad. Why do I remember that, of all
2 the memories, when I'm four? Because it was traumatic.

3 They both corroborated. Again, just going over the factual
4 background, they talked about their time period, they talked
5 about their ages, we already figured that out with the timeline.
6 They corroborated that it happened at his house. That he was the
7 only one there watching while their mother was at work. They
8 corroborated the layout of the home. They talked about the
9 television. They talked about the pornography. They
10 corroborated the specific acts of a penis in their mouth,
11 touching their vagina. MINOR 1 disclosed further that he had
12 touched her buttocks; that he had made her dinner at one point;
13 and made her smoke weed. I asked her, What was that, did you
14 know what that was? She said no. She said, I didn't know what
15 that was then. I know what it is now. She wrote about it in her
16 letter. She talked about it in her forensic interview.

17 They corroborated the important facts. They had slight
18 deviations from each other's experiences because they're not the
19 exact same person, and those deviations show that this was not a
20 coaching, this was not a you're-going-to-say-this-verbatim. It
21 shows that they were living and experiencing that, and then they
22 were sharing and disclosing it.

23 In MINOR 2's forensic interview an additional detail that I
24 thought was quite important is when she described his penis, I
25 believe she said it was (indiscernible). How would a 10-year-old

1 know that?

2 When we talk about child sexual assault, Shauna Galloway
3 came and testified because there's a lot at play. Her testimony
4 was pretty extensive, but it's important. She talked about why
5 there's delayed disclosures. Why doesn't a child tell? Fear,
6 she said the most common in is fear. That 90 percent of these
7 crimes take place with someone that they know, love, or trust,
8 close to the family, maybe their friend. The girls both
9 corroborated that he would hurt us. They thought something bad
10 would happen. They were scared.

11 She talked about maybe they're very young and they don't
12 have the vocabulary yet. The Finding Words, she talked about
13 that organization, I think it's an organization -- it sounded
14 like an educational thing -- but she talked about that. At four,
15 five, six years old -- or let's go back -- three, four, five, six
16 years old, do you know what a penis is? Do you know what a
17 vagina is? Do you know what sex is? Do you even know what
18 they're called, let alone have one put into your mouth or having
19 someone touch you. They don't have the words. They don't have
20 the understanding, the comprehension to say this is wrong.
21 That's why Shauna even testified about the importance of
22 education in our school system.

23 Melissa Collins was asked on cross-examination, Don't you
24 think it's weird that she said molestation? She said, No, that's
25 quite normal. We teach these kids there now because we're trying

1 to give them the tools, we're trying to give them the words, the
2 understanding, the comprehension to be able to say, Oh my, gosh,
3 that happened to me.

4 They don't know. It leads to these delayed disclosures,
5 which is exactly what happened here. Papa, someone they know,
6 loved, and trust, someone that watches them, someone that plays
7 with them. Smiling, happy children. Someone that they know,
8 love, and trust has done this to them. They think it's wrong,
9 they think it's disgusting, but Papa says it's okay, don't tell,
10 I'll hurt you.

11 Talked about, Shauna talked about, a lot, and I really
12 encourage you to think back on everything she said. And I'm not
13 going to make you sit here, because that was a long direct
14 examination. But, again, she talkies about why would a child
15 disclose. Maybe they feel supported. Maybe they feel safe.
16 Maybe they have someone they can turn to. This all got rolling
17 because and MINOR 1 told her best friend, someone she felt safe
18 with, close to. She revealed it. At the time she thought he was
19 dead.

20 She's older. She knows what it is. She even said that she
21 likes watching Law & Order SVU. She knows what this is now. She
22 shares. She tells her secret.

23 They realize that MINOR 2 was in the house. Maybe she saw
24 something. They interview her, and she discloses sexual abuse by
25 the same man. That's what would be called an accidental

1 disclosure. They didn't know that was going to happen. MINOR 2
2 said, I never told anyone else.

3 They did say, I don't know, a lot, they did say, I don't
4 remember. Shauna talked about that, too, how memory is impacted
5 by trauma; that repeated incidents of abuse meant that more
6 memorable things come back, like MINOR 2, more memorable, penis
7 in your mouth, they come back in flash-fold moments. Trauma
8 impacts memory and the way that we record it back because it's
9 painful.

10 She testified that kids are often embarrassed and ashamed to
11 tell most people. Grown adults don't even share about their
12 consensual sex willy-nilly. They oftentimes feel guilty or
13 responsible. MINOR 1 tells you she felt ashamed.

14 She also talked about the preparation for court. She talked
15 about the anxiety of victims, particularly for a child. She
16 talked about how it can be empowering. I asked them both how
17 they were feeling. There were those long pauses again.

18 Shauna testified as to the impact of sexual abuse on
19 children. Both girls were asked if they were in counseling, and
20 they both responded in the affirmative, that they are. She
21 explained that there's no one way of dealing with child sexual
22 assault. Some children do great, they get great grades. MINOR 1
23 told you she gets As and Bs. Some kids isolate, self-harm,
24 suicidal. Sometimes you see differences in their behavior.
25 Again, corroboration. Alicia saw something. She asked them.

1 They didn't say back then but she just, mother's intuition,
2 something is off, their behavior was off, even back then.

3 In this case, as I've already beaten a dead horse, at the
4 beginning of his closing there was a lot of things that were put
5 out there to distract you, to confuse you, to try to cast doubt
6 on these girls.

7 But what we know, beyond a reasonable doubt, that the
8 Defendant, as to the first count, that he was over 14 years of
9 age. That is not in question.

10 As to the lewd and lascivious act, MINOR 1 disclosed in that
11 forensic, He pulled down my pants and he touched my vagina with
12 his hand. She said it happened almost every time that she went
13 over to his house. She described how even when his mom came in
14 she had to hide under the bed. She didn't really know what they
15 were talking about. She described it on that forensic, and she
16 described it on that stand. Details, flash-fold moments,
17 corroboration showing that she was living it, experiencing it,
18 and then bringing it back; that it was upon her body, again, her
19 vagina, and that she was under 16 years of age. Based upon her
20 birthday, that's met. And again, pornography's playing on the
21 television throughout this house, they said, all the time, all
22 the time. He's touching a child's vagina. What other intent
23 would it be other than to arouses his sexual desires? The same
24 for MINOR 2 And as to MINOR 1, also as to her buttocks. They're
25 the same elements. As for MINOR 2 again, same elements with her

1 vagina.

2 As to the first degree, sexual battery includes fellatio or
3 however slight. So if there's any argument, because there were
4 questions about a flaccid or an erect penis -- and I don't know
5 what's going to be said, but even if that flaccid penis didn't go
6 all the way fully into her mouth, any intrusion, however slight,
7 is a sexual battery.

8 And the girls both described that penis. They gave you the
9 detail. Dainty, white, short. They described -- MINOR 1
10 described ejaculation. Tasted bad, and watery. That is sexual
11 battery, regardless of whether it is flaccid or erect. And she
12 was under 11. We established the age.

13 As to MINOR 2 again, corroboration, the details, those are
14 the things that prove it beyond a reasonable doubt. That is
15 evidence. Their words is evidence.

16 And many times in these cases they like to stand up here and
17 say you've got two pieces of paper and a couple of flash drives,
18 and that's it? There's no forensics, there's no pictures, there
19 is no blah, blah, blah, blah, blah put in. This is evidence.
20 This is direct evidence. What they said here is evidence. Their
21 details, their emotion, the way they present, their recollection,
22 their movements, their hand motions in the forensic interviews,
23 their detail motions in the forensic interviews, that is all
24 evidence, and all that corroborates what MINOR 1 said, what
25 MINOR 2 said, what Sherry and Alicia said.

1 I want to thank you truly for your patience this week
2 because this is an uncomfortable, unpleasant topic. It is
3 uncomfortable for everyone here. But I want to thank you,
4 because you have the most important job. And I ask that you use
5 your common sense, that you listen to the Judge in her charge.
6 When she talks about credibility, you think about what bias,
7 prejudice, or motive do these two teenage girls have to stand up
8 there and talk about this to strangers? They have no bias. They
9 have no prejudice. They're not getting anything out of this.

10 They told you, No one told me to say this. No one coached me.

11 There's no financial benefit. Sherry has been divorced him
12 and remarried. She's paying him now. That makes no sense.
13 That's the only thing that can be said to try to distract you
14 away from the fact that this man sexually assaulted two little
15 girls that loved and trusted him.

16 This case was all about fear and trauma, but MINOR 1 and
17 MINOR 2 showed us that this case is actually about their
18 courage, their courage to come in here and testify, their courage
19 to say these things in front of strangers, these intimate details
20 about their lives, to recall the scariest moments, to relive
21 their trauma, their courage to undergo cross-examination, to have
22 their integrity, their credibility, and their lives questioned.
23 It takes an unbelievable amount of courage to do that and to do
24 what they have done to do the right thing, to have the courage to
25 finally tell.

1 I hope that you come to the verdict that justice demands and
2 find the Defendant guilty of all counts.

3 THE COURT: All right, you all, let's take just a
4 five-minute comfort break. And, quite frankly, that's for me.
5 You all, I had, like, 20 cups of coffee, I feel like. So let's
6 do five minutes. I'm sorry. Then we'll move on and we'll hear
7 from Mr. Varner. So five minutes. Do not discuss the case or
8 begin your deliberations. Let's use the restroom, get a drink of
9 water, and then we'll start Mr. Varner's argument.

10 ATTORNEY VARNER: Your Honor, I request that that be taken
11 down before we get started.

12 THE COURT: We will.

13 (WHEREUPON, the jury exits at 10:51 a.m.)

14 (WHEREUPON, the court recesses at 10:51 a.m. and reconvenes
15 at 11:01 a.m., without the jury.)

16 THE COURT: Let's go on the record. So as the jurors were
17 walking into their jury room and started using the restroom, one
18 juror asked Ron, Is the Defendant going to talk? That was how he
19 phrased it. And Ron's response, which I believe was appropriate,
20 was, I can't answer any questions or comments.

21 I don't see an issue with that, but I'm a judge that tells
22 you all everything if something happens. I think my instruction
23 will deal with that. I told them that the defense had rested and
24 there was no more evidence.

25 Do you agree, Ms. Gasser?

1 ASS'T. SOLICITOR GASSER: Yes, Your Honor.

2 THE COURT: Do you agree, Mr. Varner?

3 ATTORNEY VARNER: Your Honor, I see a huge problem with that
4 but I think your charge will take care of that, and my closing
5 with address it.

6 THE COURT: I had a feeling of that exactly. Okay. I just
7 wanted to make sure. I'm anticipating, Mr. Varner, you will go
8 about an hour, maybe an hour and a half, two hours?

9 ATTORNEY VARNER: No, I'm not going to go two but, yeah, it
10 will probably be a little over an hour.

11 THE COURT: Okay. I just wanted to check. In that case, I
12 reprinted the verdict form. I just want to have you all look at
13 it before I give it to them. And we'll take a break then after
14 your close, let you look at it, and then I'll let them take a
15 break, and then I'll charge and send them back to begin their
16 deliberation, eat, and we'll go from there. Okay. Then, Ron,
17 I'm ready.

18 (WHEREUPON, the jury enters at 1:03 a.m.)

19 THE COURT: All right. We have our jurors back.
20 Mr. Varner.

21 CLOSING STATEMENT ON BEHALF OF THE DEFENDANT

22 ATTORNEY VARNER: May it please the Court.

23 THE COURT: Yes, sir.

24 ATTORNEY VARNER: Ladies and gentlemen of the jury, I'm Kim
25 Varner. I represented, and I represent, Mr. Philip Scott Steele.

1 If you heard during the course Philip or Scott, that's one and
2 the same person.

3 First, both of us want to thank you very, very much. You
4 took time from your lives. You make the system work. And you
5 folks are the sole triers of the fact.

6 I want to address first, rather briefly or I hope briefly --
7 you don't have light bulbs over your heads so I know when to quit
8 talking. It is what it is. But I want to just do a quick
9 response to what the solicitor brought out, and then I'm going to
10 go into my closing.

11 But if you started listening to it, you know, I got hammered
12 pretty hard. It was like I was on trial. But I understand if
13 you're a hammer, all you see are nails. I get it, okay. And you
14 can view the world that way. But if that's the case, then why
15 all the emotion, the drama? It's to excite your passions, to get
16 you to think with your emotions rather than with your brains.

17 I'm not going to get up here and do drama. I want you to
18 think. I want you to use your intellect. I want you to ask
19 those tough questions of what you heard and what you didn't hear.

20 Because if you accept what the solicitor said, we have the
21 two girls -- and she focused on the two girls why? Because
22 that's all they've got.

23 She talks about corroboration. Well, I'm going to ask you,
24 What is that corroboration? What does she have but accusations?
25 And, you know, I'm a baseball coach, an old one, and I'm a

1 grandfather, so if somebody says I did this, I lose my life.
2 It's over. That's all you need?

3 ASS'T. SOLICITOR GASSER: Objection, Your Honor.

4 THE COURT: Overruled at this point. Overruled at this
5 point.

6 ATTORNEY VARNER: That's all you need, are the accusations?
7 Nothing else is important. You know what? Smoking mirrors. I'm
8 just trying to deceive you because you're too stupid to get it.
9 I don't believe that. There's twelve of you. There's two of us.

10 But if you want to know who didn't keep their eye on the
11 ball, then why bring that up? Why approach it? Why get your
12 passions all aroused? Because there's two poor, little girls,
13 and there's no question this was a sad, sad situation. That's
14 all you've got to have. You don't need corroboration. You've
15 just got to remember. There's 12 of you.

16 I hope some of you watched what went back -- what was going
17 on, with the family dynamics back there yesterday. The words,
18 the mouthing stuff. You know, this is a very, very important --

19 ASS'T. SOLICITOR GASSER: Objection, Your Honor. Facts not
20 in evidence. It was not testimony from the stand.

21 ATTORNEY VARNER: Your Honor, I'm asking if they saw it.
22 I'll move on.

23 THE COURT: Move on. Move on.

24 ATTORNEY VARNER: You can look at them right now. Loving,
25 caring, concerned Grandma, not even here.

1 ASS'T. SOLICITOR GASSER: And again, objection, Your Honor.
2 Facts not in evidence.

3 THE COURT: Sustained. Let's leave the gallery out of the
4 closing. Let's focus in on the evidence that was received during
5 the course of the trial from the witness stand and through the
6 exhibits.

7 ATTORNEY VARNER: May I approach?

8 THE COURT: Yes.

9 (WHEREUPON, an on-the-record discussion is held at sidebar
10 as follows:)

11 ASS'T. SOLICITOR GASSER: Mr. Varner is wanting to comment
12 on the fact that Grandmother is not here today, and I'm not going
13 to allow it. I'm not going to allow it. I don't know why she's
14 not here or if she had a breakdown. She may have, but I don't
15 want the jury to hear. They should only consider the evidence
16 during the course of the trial, and that evidence doesn't include
17 the grandmother being here.

18 ATTORNEY VARNER: Note my exception. The jury can use
19 their -- excuse me. I'm talking.

20 ASS'T. SOLICITOR GASSER: Sorry.

21 ATTORNEY VARNER: They can take into account what they say,
22 hear, taste, touch, their senses, they're entitled to that.

23 THE COURT: I understand, but that's my ruling. I note your
24 exception.

25 ATTORNEY VARNER: I mean, I'm not --

1 THE COURT: I'm saying I'll note your exception for the
2 record.

3 ASS'T. SOLICITOR GASSER: And the State would just like it
4 on the record that the State is never allowed to comment on the
5 Defendant's presence or not presence, even in trials in absentia.
6 The defense obviously would object to any conversation about
7 that.

8 THE COURT: Well, it's a totally different standard when it
9 comes to a victim, but nevertheless both of your positions are
10 noted on the record.

11 (End of sidebar discussion.)

12 ATTORNEY VARNER: I'm sorry for the interruption. Oh, the
13 game playing is what we were talking about. She started doing
14 half of her closing with that picture up. Why? That's what she
15 wants you to focus on, not the facts, not the evidence, and not
16 the lack of evidence. She wanted to pull on those heartstrings,
17 showing you this picture.

18 And if I say something that you heard differently, you take
19 what you've heard. There's 12 of you. The same for the
20 solicitor. There's only two of us, and we're caught up in all of
21 this. Maybe we misheard it. You take it the way you heard it.

22 And you are perfectly free, you can go back and watch
23 Grandmother's video, you can watch anything you want. If you
24 have questions and you think it's important, you're welcome to do
25 that.

1 But this picture was introduced. I submit to you, this
2 picture was taken, they didn't say, under what circumstances.
3 This could have been, I don't know, the kids came by to say hi at
4 a birthday party. Didn't say whether or not he was keeping the
5 children or not keeping the children at the time this picture was
6 taken. So what's the purpose of that? To get your passions
7 going.

8 If all that matters is the children made the accusations,
9 then why did we bring all these other people? Not us. Why did
10 the State bring all these other people in here, like this expert
11 to tell you all about the possibilities or what the studies say.
12 She never met and saw the children. She had nothing to do with
13 this case.

14 And the Judge will tell you, you don't convict somebody some
15 statistics or probabilities; you either acquit or you convict
16 somebody based on evidence that you heard.

17 And then she made mention of, you know, what's the thing
18 about the money? They admitted it. Why did Alicia deny it? She
19 denied it. And the mother said, No, it didn't happen. I never
20 asked him for money. Her mother didn't hear what she said. She
21 was outside. She came in when went, Yeah, he did that, he gave
22 her \$400 for lice in April of 2020. You heard her tell the
23 truth, the whole truth, and nothing but the truth. Why the lie?

24 She brought up this letter. No question somebody wrote the
25 letter. I'm not going to argue that the little girl didn't write

1 the letter, but why was that letter written? Who told her to
2 write a letter? Who helped her write it? Whatever. And what
3 was the purpose of that? Who took the interviews?

4 She talks about intuition like that's a piece of evidence.
5 Intuition is a four-dollar word for I think, I believe, or I
6 guess, but it's not evidence.

7 And then she talks about how I picked on the fact there was
8 no evidence of any of this stuff; the phone, the computer, and
9 anything else. Ladies and gentlemen of the jury, if it's brought
10 up or said in an investigation, it doesn't matter about who, that
11 is evidence. That's why you investigate, because if what someone
12 says is not evidence, why did she spend all this time talking
13 about what the girls said, how they corroborated stuff? Those
14 are allegations. Frankly, they aren't evidence. You give them
15 whatever weight you deem appropriate. But by the same token, if
16 someone says something, you find corroborating evidence,
17 objective things, to back it up with other evidence.

18 I'm going to ask all of you, just for a moment, this thing
19 is chaos, the whole family dynamics thing. And I'm guilty of
20 using my own life experiences but, you know, my three-year-old
21 daughter -- unfortunately my mother died when she was three.
22 Loved her to death. It was traumatic without any question, and
23 for six months to a year, my daughter missed her. And when she
24 turned about five, we were locking the place at my lake house,
25 and behind the door she turned, she looked over and she said,

1 There's my friend. And I said, Do you know who that is? And
2 she's like, My friend. I had to explain to her that was Grandma,
3 because she was three years old. Would she remember a month or
4 two later? Of course. A couple of years later? Unfortunately,
5 no. Just a fact.

6 But what I was going to tell you is this: Many years ago
7 what appeared to be a really dumb television show called
8 Gilligan's Island, I watched it as a kid. It was chaotic. It
9 was funny. But years later Sidney Sheldon, the man who wrote the
10 show, said the whole purpose of that show was they took each of
11 the seven deadly sins and put them together on an island to see
12 how they interacted. You had greed; sloth; pride, the professor;
13 envy, Ginger; lust -- excuse me, envy was Mary Ann; lust, who was
14 Ginger; of course sloth was the rich man's wife; and greed was
15 Thurston Howell III; you had gluttony; and you had apsaras or
16 anger.

17 Go put this one together. It's there in every way, shape,
18 and form. I mean, it is chaos, and that's no way to raise
19 children. God bless them. They have gone through more than any
20 human being should ever go through.

21 It's a tough case. It's a tough, tough case. But I ask
22 you, go back to the three cloaks, or coats, that protect us all,
23 the presumption of innocence which is still with all of us, it's
24 still with Mr. Steele. The burden of proof, which is on the
25 State. And the degree of proof, which is beyond any reasonable

1 doubt, that kind of doubt that would cause a reasonable person to
2 hesitate in the most important of their affairs in a criminal
3 trial.

4 The two little girls testifying, it is within your province,
5 you can believe everything they say. That's your right. You can
6 question whether they were groomed for a motive or a purpose,
7 possibly by adults. You can also say they're lying. They told a
8 story for whatever reason, and they got locked into it. They
9 were possibly convinced by others that it happened. It's
10 possible it didn't happen but they believe it happened. You have
11 many, many options there.

12 You know, we talk about things that happened. I have a
13 four-year-old grandson. Love him to death. At Christmastime he
14 could not wait to tell everybody he actually saw Santa. He's
15 four. He wasn't lying, but we got him convinced that Santa was
16 believable and he saw it. And he wasn't lying, but that doesn't
17 mean it was accurate. That doesn't mean it happened.

18 I submit to you you have more questions than you've got
19 answers in this case, and the burden never shifts to a defendant
20 to bring you evidence, because his presumption of innocence is
21 enough.

22 And you may have a question, why didn't Mr. Steele testify?
23 The Judge will tell you that everybody has a constitutional right
24 not to testify whatsoever. That is always his right. And not
25 testifying is a legal decision. And if you want to be mad or

1 upset because he didn't testify, get mad at me. It changes the
2 way a trial progress (ph), and it's a strategy move. Whether a
3 person wants to or not, so to speak, they get their lawyer's
4 advice. That's me. Get mad at me. It is a test of the State's
5 case.

6 Reasonable doubt. And the Judge will tell you reasonable
7 doubt is on each and every element of any crime that's alleged.
8 If you have any doubt about any element with any charge, it's not
9 guilty. Not guilty doesn't mean innocent; it doesn't mean I
10 don't believe the girls; it just means it wasn't proven beyond a
11 reasonable doubt. In other words, guilty or not guilty is the
12 same thing as proven or not proven beyond any reasonable doubt.
13 It doesn't mean you do or you do not believe it. The question is
14 the proof.

15 I do ask that you do use common sense in this case. Ask the
16 tough questions like where's-the-beef thing I talked about
17 before. Common sense is not for you to use innuendo, conjecture,
18 or speculation, or fill in the blanks, but to require that each
19 and every element has to be there.

20 We talked about circumstantial evidence. It is like a
21 chain. Every link has to be strong and there's only plausible
22 conclusion, there's no other possibility of what happened.

23 And the common-sense thing -- you heard the testimony, you
24 take it the way you heard it, but Grandmother got up there and
25 said, both on, I think, the video but definitely on the witness

1 stand, I submit to you, that Philip Steele saw the kids, or kept
2 the kids -- that might be the better word -- between 2012 and
3 2013 two or three times. That's what she said, I said submit to
4 you. But did this happen all these times? That's between 2012
5 and 2013.

6 But when the indictments come out, it's coming all the way
7 to 2017. Fourteen, '15, '16, '17. Why did that happen? How did
8 we expand it? Makes it more believable if the children are
9 older, because people are going to ask the tough question, how
10 can they believe a one-and-a-half-year-old or a two-year-old,
11 whatever age it was, how can they remember as opposed to five,
12 six, eight years old, much more believable.

13 Why the manipulation? Why the game playing? And I've been
14 the one accused of playing games. Well, take a close look at the
15 games that went on.

16 There's been testimony '15, '16, or '17, both Alicia and the
17 grandmother said there was no contact about a year before a baby
18 born in '15. Grandma said in the interview it stopped in 2012 or
19 '13. That means MINOR 2 the younger, the younger girl, would
20 have been one-and-a-half-years old. You've got the birthday.
21 You can do the math. Did it happen later? Obviously -- add a
22 year to it. You folks can do math.

23 Look, they're going to have you believe -- well, let me
24 strike that. Let me go through just briefly my recollection of
25 what each of the witnesses said and why I submit to you that it's

1 important. Alicia, who is the mother, testified that she was the
2 mother. She brought out the fact there was duplex on Grove Road
3 with both Mr. Steele and his mother and his stepfather in the
4 duplex. She brought out her mother was a Realtor, meaning Sherry
5 was a Realtor. And I'm going to tell you why that is important
6 in just a moment.

7 She also said something interesting. The children don't
8 live with her now. This is going back to the Gilligan's Island
9 thing. These children lived with the mom; they lived with
10 Grandma; now one of them's with their father and the other one is
11 with an aunt and uncle.

12 ASS'T. SOLICITOR GASSER: Objection, Your Honor. Facts not
13 in evidence.

14 ATTORNEY VARNER: Yes, it was.

15 ASS'T. SOLICITOR GASSER: As to the father, no.

16 THE COURT: Give me a moment. Overruled. The jury will
17 rely on their own recollection of what the testimony was from the
18 witness stand as to where the girls were living or are living
19 now.

20 ATTORNEY VARNER: And we don't know where the youngest one's
21 living. And then there's testimony mom didn't take care of them.
22 That is a crying shame. And not with Grandma anymore, because
23 she's angry. They're living with other family members. That's a
24 mess.

25 She also brought up that she knew that Mr. Steele had heart

1 disease. He had to have a pacemaker about 11 years ago. And
2 Sherry said he changed, but the State has the burden of proof.
3 Has he changed physically and/or mentally, or sexually with heart
4 and circulation problems? That's why we ask the questions
5 whether his penis was hard or flaccid.

6 She further testified a man by the name of Christopher
7 Thurston lived with her mother, of which the kids were around him
8 for seven years. And even though she said she had been molested
9 by someone and that Philip molested her, is she still going to
10 let him keep the children? And Sherry continued to work with him
11 on the weekends cleaning houses until 2021. Does that make
12 sense?

13 If I believe someone molested my children, first of all, I
14 would have been to the law enforcement center because it's their
15 job to investigate and to check it out, not my position, but do
16 you think I'm going to hang out with you every weekend? I'd
17 probably want to shoot you, that's what I would want to do. But
18 they just continued on like nothing ever happened.

19 She brought out she knew that property out on Grove Road and
20 Augusta Road was real valuable property. Her mother was a
21 Realtor. She brought out that she knew that Philip's mother died
22 in approximately 2019. And that she, with her intuition, stopped
23 visitation in about 2015, but she didn't report it to anybody.
24 The children made some kind of disclosure so she stopped visits.
25 You don't have to be a genius. The police are there. If

1 somebody commits a crime (indiscernible), make a report. Or was
2 it part of the game to keep those house payments was going, and
3 to take advantage of that dumb patsy back there who was still in
4 love with her mother until he finally stood up to her.

5 Her statement was, Well, I let him keep the kids because I
6 didn't have money for a baby-sitter. Well, she had her mother.
7 But there was something going on between mom and daughter. Mom
8 said I feuded with her.

9 I'm not going to cover the territory again. She said he
10 never gave her any money, her mother. That's why they were
11 sequestered, meaning witnesses were outside the courtroom, didn't
12 know what she had said. She said he did. She gave us the birth
13 dates of the children.

14 And we talked about, the solicitor talked about, going to
15 the police. She admitted she never, never went to DSS or the law
16 enforcement center. Even missed the very first forensic
17 appointment. Why? She didn't believe, or it wasn't important,
18 the child wasn't saying the right thing? We don't know.

19 But she did bring out the children had seen physical abuse
20 at her home between her and her (indiscernible), whatever. The
21 children had been around drugs. She also brought out the
22 children were in counseling. You take it the way you heard it. I
23 believe it started in 2019, but it was certainly was before the
24 disclosure. Why? The solicitor's got the burden of proof.

25 I asked about the counseling -- and I don't want to argue

1 about it, the Judge has said no, you can't go into it, and the
2 Judge was probably right and I'm not arguing about that. But
3 what were the kids in counseling for? Why weren't the counselors
4 here to testify to tell you what was going on? You know, they
5 brought an expert in here that never seen the kids or talked to
6 the kids, who opined, maybe, textbook stuff. There's two
7 counselors who have been with these kids for six years who could
8 have told you, and could have been asked was consistent with the
9 girls being abused. Yes. You never heard a peep.

10 What were they afraid of? Do these children have a mental
11 illness? We don't know. Guess. Are they schizophrenic? Guess.
12 Are they psychopaths? Guess. Do they have hallucinations?
13 Psychopaths do. You can call it everything you want. Guess. Do
14 they have problems with not telling the truth or making up
15 stories or, in addition, having hallucinations? Guess. The only
16 thing you don't have to guess about, the State didn't want you to
17 hear what they had to say. Why?

18 I talked about playing games. You don't play fast and
19 furious when you're messing with a person's life.

20 It's the State's job to produce the evidence for you, to
21 trust you, because there's 12 of you, to sort that evidence out
22 and find the truth, not to select and choose when you get to hear
23 stuff and when you don't get to hear stuff that might not help
24 their case. It's an insult to a jury. You're entitled to know
25 the whole pattern, all the facts.

1 ASS'T. SOLICITOR GASSER: Objection, Your Honor, per your
2 ruling prior to closing arguments.

3 THE COURT: Approach, because I -- I'm sorry. I'm not
4 certain he said something that was inappropriate, but you all --

5 ASS'T. SOLICITOR GASSER: If we can approach.

6 (WHEREUPON, an off-the-record discussion is held at
7 sidebar.)

8 THE COURT: That objection is overruled.

9 ATTORNEY VARNER: Back to what I was saying, was you're
10 entitled to all the evidence so that you know everything that's
11 going on so that you can make an accurate decision about
12 someone's life.

13 And I'm sorry. I was told to speak up, so I'm going to
14 speak up just a little bit. I didn't want to yell at you. Okay.

15 THE COURT: Sorry, you all. I told him he has to speak up
16 because Cathy cannot hear him, and he's just a little
17 soft-spoken.

18 ATTORNEY VARNER: And it came out that Sherry was sexually
19 abused, Alicia was sexually abused. We're back to the hammer.
20 Everybody was sexually abused in this case. Not your typical
21 American family. The girls have heard this all their life.
22 Everything is sexual abuse. The touching of a young child's rear
23 end, that's sexual abuse, and you're going to get charged. I've
24 patted boys on the rear end before and said, Go get 'em, guys.
25 It's not sexual abuse. I wrestle with my four-year-old. He

1 loves it. You know, I push his rear end or whatever. That's not
2 sexual abuse. I certainly have put ointment and powder on a
3 baby's rear end. That's not sexual abuse. You can view it as
4 such if you have that kind of mind, but you can also be a normal
5 person doing normal things.

6 What she also brought up -- and I'm going to tie it in here
7 in just a moment -- Scott Philip, or Philip, had been at the same
8 job for 23 years as a welder. And she'll tell you he was stable,
9 responsible, hard-working person. And you don't do a job as a
10 welder so you can be around children -- and I'm going to come
11 back to that with Ms. Williams. There's no testimony that he was
12 a church leader. God help him if he was a Boy Scout with these
13 people, or a youth leader, or a priest, or a coach.

14 He's guilty of one thing. Being a grandfather. Probably
15 the only stable influence in these children's lives, and he was
16 cut out with extreme prejudice. And he got to keep them two or
17 three times. She didn't disagree with that.

18 Then we have Sherry Zeabold, who is the grandmother. She
19 admitted the children no longer live with her. They did, but
20 they don't anymore.

21 She lived with Christopher Thurston -- and I'm going tie
22 this in, I hope. Christopher Thurston lived with her for seven
23 years, and he's been around the children for seven years. Where
24 is he? This is somebody who's been around the children for seven
25 years. Didn't they have a knack for what was going on, how they

1 behaved, how Scott behaved, the children's reactions to him?

2 They never called him. Why?

3 If you want to say children were abused, bring their
4 counselors, bring their teachers, bring people that have been
5 around them for seven years, and let those people tell you that
6 something happened to these kids, they're not acting -- they're
7 acting differently, they're upset.

8 You know, they were talking, one of the things the solicitor
9 said was how would an 11-year-old know this? Well, I'm not about
10 to tell you, with the internet, what an 11-year-olds know. It
11 might be more than I know now. The internet's out there.

12 They testified also they had seen movies with naked people
13 in them. Mommy told them to cover their eyes. They're watching
14 that at home, not at Scott's house, at home. That's how they
15 know.

16 She testified she's been married four times, and she was
17 sexually abused. She and Scott separated in 2011. And she said
18 nothing happened to MINOR 2 You can watch her video, too, if
19 you question any of this.

20 The video, I might ask you, you know, judging credibility,
21 the Judge is going to tell you about credibility. You can look
22 at someone's demeanor, their consistency, the look on their face,
23 the way they tell the story, whether they're argumentative.
24 Shakespeare said "the lady doth protest too much," in other
25 words, was it repeated denial, or was it normal? Was it

1 cooperative? Was it appropriate?

2 She's there telling the police officer her grandchildren
3 were molested. It's a pretty significant event in your life, but
4 she's laughing and smiling and talking about her lawyer, that she
5 was filing for divorce.

6 And then we have the Perry Mason, or the drama, moment. Who
7 was your lawyer? Kim Varner. That's me. Well, everything in
8 the courtroom stopped, came to a grinding halt, until I got it
9 cleared up. I asked her, Wait a minute. You're saying I
10 represented you? She said, Well, no, never paid you. You're not
11 my lawyer. I said, I represented your husband. I represented
12 Philip Steele. And she went, Yes. And then she said something
13 kind of funny. She said, I didn't think I was going to pay him
14 on the house, but you did a good job. Now I'm paying him.

15 Said a lot more than she intended today. She had in her
16 mind if she could report him for this because he wouldn't give
17 her the inheritance money, then she'd get the whole house, she
18 wouldn't have to pay, which is not what happened here. You need
19 to get a lawyer.

20 I don't care if you're in Australia standing on your head,
21 you still get your share of a home in a divorce whether you're
22 accused of something. Is it a power play to get you to do
23 something? Or whether you're even guilty of it, you still get
24 your portion of the house. And that happened.

25 Then I go back to laughing and smiling and talking about her

1 lawyer and her divorce, that is not the time or place for that.
2 The children are molested. Help.

3 She did talk about the pacemaker and how it affected him.
4 Talked about her daughter's problems. She brought up counseling,
5 too. But, you know, she said there were no doors on the house.
6 And that is important, not just a literal door but the proverbial
7 door. And that's the term the solicitor used, I have no problems
8 with that, but you're going to tell me you molest children in the
9 middle of the day, no doors on the house? Your mother and your
10 stepfather are right next door, and Grandmother has a key to the
11 place, which she admitted she had a key. A matter of fact, she
12 said his mother came over one time. We didn't ask how old she
13 was. Don't know what time it was, but older people go to bed
14 pretty early, sometimes when the sun goes down. So during the
15 daytime? Possibly.

16 But the most incredible part was the great-grandmother came
17 in, saw her under the bed, talked for a few minutes to Philip,
18 and then left. And her sister was there, too. The
19 great-grandmother comes in, sees the kid under the bed, and has
20 another great-grandbaby over there, and doesn't give them a hug
21 or kiss or say hi? Common sense ought to be calling that wrong.
22 We're going to get to the game playing with the interviewer here
23 in just a minute.

24 What's missing from Sherry Zeabold's testimony, because the
25 State has the burden of proof. There's tons of evidence there,

1 tons of evidence, but they didn't ask it. Why?

2 Then there was description of his penis. Sherry was married
3 to him for 12 years. If you want to corroborate that little
4 girl's story, or these little girls' story, Ms. Zeabold, has he
5 got a large or a small penis? That's corroboration. Never
6 asked. I know this is graphic -- and this is not fun -- does it
7 curve to the left or the right, anything distinguishable about
8 it? Never asked. Why? Did you have a normal sex life with him?
9 Pedophiles are turned on by children, not by adults. So how did
10 he interact with you, Ms. Zeabold? It's a little embarrassing,
11 but did you guys have a normal sex life? Guess.

12 Did they ask does he smoke pot? Because the allegation was
13 made. She was with him for 12 years. If he had smoked pot, I
14 submit to you you would have sure heard it. But again you're
15 left with guess.

16 Does he even have a DV (sic) player? Because here's the
17 other thing. He's working, you know, or gone, she could have
18 went in. She had a key to the place. Did he even have a DV
19 player? Never asked. Does he have a videos, porn videos? Never
20 asked. Does he like pornography? Did he ever watch pornography
21 with you? Never asked, because the answer wasn't going to help
22 them, I submit to you. That's why it wasn't asked.

23 There's your chance to prove your case. That's your chance
24 to corroborate. It didn't happen. Never asked him or asked his
25 wife how many times has he been married. Does he have children?

1 And his other wives, were they a lot younger than him? Did they
2 look like little girls? Guess.

3 And Sherry, did she look like she was 20 years old, she look
4 a little younger that he'd be attracted to? She told you, I
5 think, she was 56. Whatever she said, you take it, maybe 59.
6 She is a full-figure lady; she's not like a little girl. Never
7 asked about the ages of his wives. Never asked.

8 There was an allegation that all three of them slept in the
9 bed together. Well, what kind of bed does he have? Does he have
10 a little daybed, or does he have a king-sized bed? There was
11 testimony about a recliner. Did they ever ask Sherry? That's
12 somebody who was with him for 12 years and has been in his house.
13 There's a recliner in his house. Where is it? Did they ask
14 her -- and this is so graphic, I hate to bring this up -- whether
15 he was shaving or not?

16 You didn't get anything to help prove this case, to
17 substantiate this case. What you've got was a whole ton of
18 questions, not answers.

19 She did bring out his mother did pass away around October of
20 '19; that they were divorced subsequently. And she admitted she
21 had a mortgage her house, and it wasn't just her house, it was
22 the former marital home.

23 Here was the fun part. I asked her about the TV in the
24 bedroom. What she said was words to the effect of it was older
25 than dirt but, most importantly, it did not work. She knew that.

1 The TV in his bedroom did not work. So how do we resolve videos
2 are watched, and all this happened in the bedroom when the TV in
3 the bedroom doesn't even work? Or is it capable of being hooked
4 up to a video? Maybe, maybe not.

5 But there were two witnesses, one of two, at least,
6 substantiated \$400 for the lice. She said that it ended, or she
7 cut him off seven years ago in 2014, though she had previously
8 said that he quit seeing the children in 2012, 2013 two or three
9 times. Her video was June of '21. She said in the video, and
10 you can watch it, she filed for a divorce a month earlier.

11 Well, she also said I refused money. There's an old joke,
12 Do you know how you can tell when it's cold outside? The
13 lawyer's got his hands in his own pocket. You know what makes
14 that joke funny? A lawyer turns down money. And there may be
15 reasons for that, but had there been a question, they could have
16 introduced the pleadings that I represented her. The State could
17 have done that. But it did it come out in testimony no, I
18 didn't, I didn't represent her.

19 And she denied that she wanted the mortgage paid off. She
20 denied that she was trying to take all of the house. Where was
21 her lawyer to say, no, that's not the position we took? You
22 know, inconsistently is a part of credibility. So is demeanor.

23 And they talked about fear. She's the one who said both of
24 the children thought he was dead, they told him he was dead, back
25 in 2014. So the fear factor, you can't hang your hat on that

1 when the children thought he was dead. Even the girls said they
2 thought he was dead.

3 Then we go to MINOR 1 And I may have heard this wrong, but
4 either MINOR 1 or MINOR 2 made the statement about the video, and
5 snapped at me and said, That was four years ago. I can't
6 remember. I waited a few seconds and I said, You can't remember
7 four years ago but you can remember 12 years ago?

8 I mean, are you going to take a man's life based on
9 statements of a four-, maybe a, five-year-old, and a two-year-old
10 or three-year old, and you don't bother to get any other
11 evidence, and you don't have any reasonable doubt? Does that
12 strike your common sense? That's not the way this works.

13 But I want you to think back and compare the video and the
14 live testimony, and I submit to you, it just keeps getting
15 better, the testimony, as it goes along. Why and how? In the
16 video she was kind of nonchalant. You know, there were no tears,
17 no breakdown. What's that from? Good argument, she was
18 shellshocked and traumatized because she was sexually abused.
19 That's a possibility. It could be she got locked into a story.
20 Could be she was groomed. It could be she knew she had to make
21 Grandma happy. We don't know.

22 One thing that I submit to you you'll see in that video, no
23 eye contact. I don't know how many of you have children, but
24 unfortunately children don't always tell the truth. Maybe not
25 all of them. I didn't always tell the truth about everything.

1 But I always got that statement, that look in the eye. If you're
2 telling me something, look me in the eye. She wouldn't look
3 anybody in the eye when she was telling it. You can interpret
4 that the way you want. Was it lying? Was she coerced? Was she
5 pressured?

6 But, yes, I submit to you I drew a big distinction over an
7 11-year-old saying molestation. I submit to you that's a pretty
8 big word for an 11-year-old. But what's more outstanding is
9 this: When the interviewer asked her, Well, what is molestation?
10 You take it the way you heard it. Inappropriate -- I'm not sure
11 an 11-year-old knows what is appropriate or not, not sure a lot
12 of adults know that -- of a touching by a boy or a girl to a
13 child who's underage. Whoa. Whoa. Sounds like a lawyer
14 talking. I mean, that's just about a verbatim quote of what the
15 definition is. An 11-year-old just got that on her own?

16 She said she last saw Philip when she was about five. She
17 said in the video that she was about four when this started. And
18 she said it always always in the bedroom. But the TV doesn't
19 work, and it's super old. And she knew the whole layout of the
20 house, where the couches were and everything. She gave a little
21 too much info for a child that young.

22 And she said that he put his hand on her private parts, but
23 on the video she said, Don't know what he did. Didn't say he
24 threatened her. And on the video she didn't remember if he had
25 his pants, or his clothes, on or off, didn't know what his penis

1 looked like, didn't remember if there was ejaculation, and she
2 woke up and he was touching me. Well, was she was dreaming, or
3 was he patting her on the back checking to see if she was
4 breathing? We don't know. All she said was she woke up and he
5 was touching her and there was porn on TV. Did not say what kind
6 on the video. And when his mother came over she hid under the
7 bed. Then she said that her mother didn't believe her. She told
8 her mother. And that when his mom came over, meaning Scott's
9 mom, she never asked to see her or her sister. She said she
10 smoked weed, but Sherry never gave testimony that he ever did
11 that, nor any mention of porn there. And she also said, My
12 sister told mom.

13 She brought out he had a phone, he had a computer, and mom
14 was at work. And she gave a whole layout of the room at that
15 age. Oh, she did describe what she said was, in adult terms, a
16 lesbian movie. She said there was weed. She testified -- this
17 was the difference in the testimony -- in the testimony, it
18 became a lesbian movie. She even remembered that it was a yellow
19 and a black-checked dress. Twelve years ago.

20 The story does get better. And now when she says the
21 grandmother came in, she said the grandmother, she saw me under
22 the bed, she knew I was under the bed, and she never said
23 anything.

24 Now she is saying he did ejaculate in her mouth. And
25 forgive me because I know this is disgusting. And she had a

1 better memory four years later than she did closer to when it
2 allegedly happened. Well, how did that happen? They got her
3 ready for trial. They beefed that story up. She also brought up
4 she was in counseling, been in counseling previously. And the
5 movies, definitely -- she used the word "definitely" -- CDs.

6 Let's go to MINOR 2 Back in the video she was 10 years of
7 age, and she said I'm here for my sister because nobody believes
8 her. Wait a minute. If she had disclosed, what's there to
9 believe? And, number two, how would she know somebody didn't
10 believe MINOR 2 -- I mean MINOR 1? I mean, they had to talk about
11 this to get ready for the interview or to set this whole thing
12 up.

13 She said she would go to sleep and that she would -- and
14 that he would -- she would see him touching her sister. Well,
15 she was asleep. Which is it? And she said she was pretty sure
16 she woke up. And she said it was regular porn, not lesbian. She
17 did bring out the recliner, but her sister said it was always in
18 the bedroom. Maybe there's a recliner in this little, small
19 duplex of a bedroom. We will never know. Nobody bothered to
20 look.

21 She confirmed that he had a short penis. She confirmed, she
22 told her mother, and she said, I think he touched my private
23 parts. Think. She said, I think my pants were off. She thought
24 it was a VHS tape. She said no ejaculation. Again, another
25 question, circumcision, hard, soft. And why wasn't Sherry asked.

1 She didn't bring out the violence in the home. The counseling.
2 Thought he was dead. Lived with aunt and uncle. And her mother
3 didn't take care of her.

4 But watch her in that interview as you're looking at the
5 video. She was a little kid, especially back when that happened.
6 When the lady leaves she's drawing, that's what she's concerned
7 with. She's not traumatized, focused, or anything. She's
8 keeping herself entertained, having a good time there, helping
9 her sister.

10 But she brought up something that I submit to you was
11 important. She said there was an occasion, I don't know when,
12 that her mother came over and Scott apparently came out of the
13 shower with a towel on and it creeped her mother out. This is a
14 man who allegedly molested her and she's still leaving her
15 children there. Does that make sense? Does that fit with your
16 common sense?

17 And she was asked, What did he do with himself while this
18 was going on? And she said, Nothing. Well, he's not
19 masturbating, he's not doing anything. Why would that be -- why
20 would that occur if there wasn't something happening?

21 And here's the thing. Here's the point of the question
22 about being flaccid or erect, or even the possibility of that.
23 If he's doing that stuff -- because that's what pedophiles do --
24 and your penis is flaccid does it make sense it would be erect?
25 That's what arouses a pedophile.

1 And I know I'm moving slow. My apologies. Okay. All
2 right. We have Ms. Melissa Collins. She was the interviewer at
3 the Julie Valentine Center. Boy, we played some fun games there.
4 I asked her, due to the age of the child, she talked about she
5 touched -- well, Did you ask, was the child in diapers back
6 then, or did you ask mother or anybody? No. Well, would that be
7 unusual -- and I asked her this question, Would it be unusual,
8 for a child with diapers, for a parent to wipe the child's rear
9 end? I don't know how long it took her. She didn't want to
10 answer that question. Talk about games being played. I mean,
11 just tell the truth. Get up there and say what it is. And I
12 really hate to say -- it's a stupid question. Everybody in the
13 world knows that's what you do when you're taking care of
14 children. She didn't want to admit that. Why? What is she
15 afraid of?

16 Then I asked her, I said, Did you not find it odd
17 grandparents or great-grandparents would come over and not even
18 say hi to the children? Do you remember what her answer was?
19 She didn't want to say that to you. You're not entitled to know
20 that because I don't want you to know the truth; I want you to
21 know only what I want you to hear. I'm in control here. Her
22 answer was, Well, my parents live a long ways off. Good Lord,
23 that took a Ph.D. level to say that? You mean to tell me you
24 think it's weird, or normal, the grandparents would come over and
25 not only not talk to them, hug them and make them feel good, and

1 enjoy themselves. After pushing her with it, she said, well,
2 yeah, that would be normal. Talk about the game playing with
3 somebody's life.

4 Then we had the most fun of all. The lead investigator on
5 this case. I mean, I like him. He's a nice guy. Detective
6 Epting, he's the lead investigator. He's in charge of this case.
7 What did you hear from him? A whole pile of excuses as to why he
8 didn't do his job, for whatever reason. You know, it's his job
9 is to secure all, all, possible evidence for the jury to view,
10 and to remove all doubt. That's what he does, to preserve and
11 secure that evidence if it's there.

12 While I was talking, I must have used the term "guess" a
13 dozen times. Got him to read the previous case where he was
14 under oath. He admitted under oath that a disclosure, in other
15 words, a statement of a child, was not enough, but at trial he
16 tried to imply -- that's all he --

17 ASS'T. SOLICITOR GASSER: Objection, Your Honor. Facts not
18 in evidence.

19 THE COURT: Overruled. Overruled. But the jury will -- it
20 is your recollection of the testimony that I'm going to be
21 instructing you about. If you remember something different than
22 what Mr. Varner said, you are to rely on your own recollection of
23 what the witness said.

24 ATTORNEY VARNER: And in trial he tried to explain that
25 away. He was, Well, I always want more. We always want more.

1 But the only way you're going to get more is if you go get it.
2 What was missing? No search warrant. None. Not even no search
3 warrant, he didn't even ask for a search warrant.

4 The solicitor's going to tell you they've got to establish
5 probable cause. Well, the police doesn't do that, and neither do
6 the lawyers. The judge does. You don't know if the judge is
7 going to say yes or no if you don't ask.

8 And she's going to lead you to believe, or somebody's going
9 to lead you to believe, that if a crime is committed at a
10 location, if it was sexual molestation, if that occurred -- that's
11 a definite crime -- that they can't go get a search warrant to
12 look for possible evidence? Happens all the time. That is
13 probable cause, to look for evidence at a crime scene. As normal
14 as normal gets. But he didn't ask for one. How is that? He
15 didn't even ask, Can I come look at your house?

16 And we're going to go back to Scott in just a minute. No
17 phone data. But, you know, we don't know if they can get stuff
18 off the phone. Oh, yeah. The FBI, or the police, or the
19 forensic, the electronic guys, if it is on your phone that's what
20 they're there for.

21 When I get rid computers in my office I don't take them to
22 the dumpster. I don't care if they're erased or not. I take the
23 brain out and destroy it. It's there (indiscernible) the
24 forensic expert. What do pedophiles do? I mean, the whole point
25 of it, you enjoy taking pictures. They have kiddie porn on their

1 phones or whatever. He didn't do it. What about on his
2 computer? It's there. Well, maybe not. You won't know if you
3 don't look, but all that stuff is there. They just dig it up.
4 They have no idea if there's a recliner, a daybed.

5 They could have done some investigation. Talked you about
6 the ages of Scott's wives, or the number of wives, the number of
7 his children. No view of the TV, the CD, no tapes, no VCR, no
8 evidence of porn, no interview or check on the guy, this
9 Mr. Christopher Thurston, who has been with the kids for seven
10 years, no talking to the counselor, not even a picture of the
11 inside of the house to see if it even made any sense.

12 We have evidence of -- we don't know exactly where from, but
13 evidence and an allegation that there was extortion on
14 Mr. Steele. No investigation. None. Now they're going to tell
15 you there was no evidence of extortion. Well, of course there's
16 not if you don't look. No talking to his heart doctor. No
17 information from the strip search they do when they put you in
18 jail.

19 But, you know, compare that with there's a 51-minute video,
20 51 minutes. Scott came in and sat down with that investigator.
21 He came without a lawyer. He waived his rights. He didn't have
22 to say anything. And he sat there for 51 minutes, answered every
23 question the investigator asked him. Fully cooperated.

24 And if he had been belligerent, inconsistent, evasive, or
25 told, you know, things that just couldn't be, they'd have told

1 you. You didn't hear any of that because it didn't happen.

2 He came in, he was consistent, cooperative, polite,
3 appropriate. He didn't hide anything. Freely and voluntarily.
4 Not only that, he came in early, on time. But you'll never know,
5 what was his demeanor? Was he laughing? Was he appropriate?
6 Did he come across as truthful? Did he come across as being
7 forthright.

8 ASS'T. SOLICITOR GASSER: I'm just going to object, Your
9 Honor --

10 THE COURT: Sustained.

11 ASS'T. SOLICITOR GASSER: -- based on your prior --

12 THE COURT: Sustained, Mr. Varner.

13 ASS'T. SOLICITOR GASSER: And I would ask that all of the
14 statements that were just said that were in violation of your
15 order be stricken from the record.

16 ATTORNEY VARNER: My apologies.

17 THE COURT: That's granted, but let's stay away from that.

18 ATTORNEY VARNER: All right. So that, ignore what I said.
19 You won't know. You won't know. All right.

20 He did bring out during the course of his investigation he
21 discovered that my client has heart disease. That these
22 allegations had been on and off for eight years, why? Why did
23 they keep going on and off? I submit to you because of the money
24 flow. You heard his wife testify after he left he started making
25 the house payments. It was his wife. He didn't want her to be

1 homeless. His mother died. A chunk of money comes. Are you
2 going to tell me that it's just a pure coincidence that the
3 divorce, the inheritance, and the accusations just miraculously
4 occurred at the same time? Yeah. These allegations came up
5 because he said, No, you're not getting my mother's money and --

6 ASS'T. SOLICITOR GASSER: And, objection, Your Honor. Facts
7 not in evidence.

8 ATTORNEY VARNER: Your Honor, he did testify that during the
9 course of his investigation he had refused to give her money.
10 That's what Epting said. I'll move on.

11 THE COURT: I'll say move on. I'm going to sustain it.

12 ASS'T. SOLICITOR GASSER: I would ask that that be stricken.

13 THE COURT: Does she need to use the restroom? Mr. Varner,
14 we've got to take just a restroom break. We're a little over an
15 hour, we're about an hour and 15, 20. So let's take a
16 five-minute bathroom break. Let's just take a quick, little
17 bathroom break.

18 Thank you, ma'am, for raising your hand, because I won't
19 know if you all don't tell me.

20 (WHEREUPON, the jury exits at 12:11 p.m.)

21 MATTER(S) OF LAW

22 THE COURT: Sorry, Kim. I hate to interrupt your closing,
23 but she literally started to bounce and then she raised her hand
24 because she has to use the bathroom.

25 ATTORNEY VARNER: Just so we don't get another objection --

1 THE COURT: Okay.

2 ATTORNEY VARNER: -- Epting, he said that during the course
3 of his investigation he did understand there was a mortgage
4 payoff and accusations regarding it. That's what --

5 THE COURT: Okay, but it sounded like you said "he".

6 ATTORNEY VARNER: I did.

7 ASS'T. SOLICITOR GASSER: He did.

8 ATTORNEY VARNER: I did. And that was my mistake.

9 THE COURT: That was your mistake. If you had said Epting
10 said that he knew I would not have sustained it.

11 (WHEREUPON, court recesses at 12:12 p.m. and reconvenes at
12 12:18 p.m.)

13 THE COURT: You all, if they need a few more minutes, why
14 don't you take a look at the verdict form just to make sure we
15 don't have any additional --

16 ATTORNEY VARNER: Is that the same as you had the other day?

17 THE COURT: Very close, but I want you to doublecheck. Just
18 doublecheck it for me.

19 ATTORNEY VARNER: Will you help me by telling me what the
20 changes are from the first one?

21 THE COURT: Yes. So the changes from the first, I added the
22 date, obviously, for each charge --

23 ATTORNEY VARNER: Sure.

24 THE COURT: -- per your request. On No. 5, I changed it to
25 match the same language as the other counts, so I use the word

1 involving the Defendant committing a lewd and lascivious act upon
2 the body, and just took out any additional words.

3 ATTORNEY VARNER: No objections from defense.

4 THE COURT: And just for the record, ordinarily I don't like
5 to put a brief description, you know, kind of a generalized
6 description, but I have to because the dates are the same for
7 some of the charges, and so I can't -- I've got to have a verdict
8 form that differentiates between each charge so they know what
9 they're indicating is guilty or not guilty. But Mr. Varner is
10 satisfied.

11 But, Ms. Gasser, take your time. There's two juries going
12 on right now, so our courtroom and the courtroom adjacent to us,
13 and that means both jury rooms are being used, and that means
14 both bathrooms are being used.

15 (WHEREUPON, an off-the-record discussion is held.)

16 ASS'T. SOLICITOR GASSER: No objection, Your Honor.

17 THE COURT: Thank you all.

18 (WHEREUPON, an off-the-record discussion is held.)

19 (WHEREUPON, the jury enters at 12:23 p.m.)

20 THE COURT: All right. Welcome back. Mr. Varner.

21 ATTORNEY VARNER: May it please the Court. I'll try to not
22 keep you too much longer.

23 THE COURT: Actually, Mr Varner, I'm sorry. Can I see you
24 all at the bench? Can I see you at the bench before you get
25 started?

1 (WHEREUPON, an off-the-record discussion is held at
2 sidebar.)

3 THE COURT: Sorry, ladies and gentlemen. It is standard
4 procedure that during closing arguments that courtroom door is
5 locked and nobody can come back in. So anybody's who's been here
6 observing or wants to come in, if they stepped out to use the
7 restroom I neglected to ask if they wanted to come back in,
8 because once we get started that door gets locked during closing
9 and charge.

10 ASS'T. SOLICITOR GASSER: The State's ready to proceed, Your
11 Honor.

12 THE COURT: Okay. All right. Yes, sir, Mr. Varner, now if
13 you want to proceed.

14 ATTORNEY VARNER: May it please the Court.

15 THE COURT: Yes, sir.

16 ATTORNEY VARNER: Ladies and gentlemen of the jury, going
17 back to Investigator Epting. He received evidence of pot
18 smoking. No investigation. He received evidence of a mortgage
19 payoff and accusations of extortion. He did nothing, no
20 investigation. He received evidence -- and, as a matter of fact,
21 he drew a warrant saying that this happened in 2012 or 2013. He
22 also received evidence in his investigation that my client had
23 recently inherited money.

24 Then we go to Ms. Williams. She was with the Julie
25 Valentine Center. That was the expert who got up, she gave

1 textbooks of possibilities and maybes. But she's never talked to
2 these kids. She knows nothing about the evidence in this case.
3 And the Judge is going to tell you you don't convict somebody
4 based on possibilities, probabilities, or statistics, period.
5 She has never seen the children.

6 Then she brought out some characteristics of pedophiles.
7 They're school teachers, scout leaders she kind of lit up on,
8 youth leaders, coach, these people that would be around children.
9 No testimony anywhere that Philip Scott Steele has done anything
10 other than be a welder. There's no testimony he's ever been with
11 children ever.

12 She also brought up, and I submit to you, she's testified
13 over 60 times, never for a defendant. That's what lawyers call
14 hired johns. They come in, and they're only on one side.

15 Well, what came out of her is the only thing Scott had been
16 guilty of was being a grandpa and a welder. He didn't fit any of
17 these other profiles.

18 And I asked her about differential diagnosis, and that is
19 you have to rule out certain things before you can come to a
20 conclusion. I don't remember what analogy I used, but if I have
21 a headache, well, it could be I just have a headache; could be I
22 was around paint; could be I smoked cigarettes; could be I drank
23 too much; could be I've got the stress of a trial; but it could
24 be a brain tumor; it could be a blood clot; it could be somebody
25 hitting me on the head. You have to eliminate all these other

1 things before you can come to a diagnosis. That's what's
2 important there. All these other things were never eliminated in
3 this case. You can't say it was that if you haven't eliminated
4 the other things.

5 She did say that the children can be schizophrenic,
6 psychotic, whatever. If they have mental illness, they can
7 misidentify, they can be groomed, including groomed to get money.
8 And she brought out, she said, you know, not all disclosures are
9 truthful; that you need, in other words, you need other
10 corroborating evidence. It's not here.

11 The last page. Nobody gets to applaud. Guilty or not
12 guilty is proven or not proven beyond any reasonable doubt. And
13 it doesn't mean we don't believe the girls; it just means you
14 have a doubt or it's not proven beyond a reasonable doubt by the
15 evidence.

16 The verdict does speak the truth. And what is that truth?
17 Not whether somebody was lying or telling the truth. That's
18 simplistic. But the truth is whether or not the State has proven
19 its case beyond a reasonable doubt. Is that true or not true.
20 That's what you decide. Innocence is not even a consideration,
21 it is a presumption.

22 We're kind of back where we began. The case is done. We
23 give you a pencil and a piece of paper, write guilty, would you
24 do it or would you hesitate to act? Because the Judge is going
25 to tell you about hesitating to act. It's kind of like an old

1 Chinese proverb. There was a wise man in the community man who
2 dispensed/gave advice. Two young, I guess, whippersnappers came
3 up to him, and they had him sat, and they came, and they had a
4 bird in their hand. And they said, Oh, wise man, oh, wise man,
5 we have a bird in our hand. Is it alive or is it dead? If he
6 said it was alive, they would have crushed the bird and said he's
7 dead. If he said it was dead, they would have released it.

8 We're at that stage. The bird is in your hands. I trust
9 that you will return a verdict that speaks the truth as to
10 whether or not the State has proven each and every element, and
11 proven it beyond any reasonable doubt. Thank you very, very
12 much.

13 JURY CHARGE

14 THE COURT: All right, ladies and gentlemen. It is now my
15 duty as the trial judge to instruct you on the law applicable to
16 this case, and in that regard it is your duty as jurors to accept
17 and apply the law as I now state it to you.

18 Furthermore, it is your exclusive duty to decide all the
19 issues of fact in this case and determine the effect, value, and
20 weight of the evidence. All the parties have the right to expect
21 that you will carefully consider and evaluate the evidence and
22 apply the law of this case to it so that in the end all parties
23 receive a fair and impartial trial.

24 And I'll apologize in advance for reading it to you. It's
25 simply because I do not want to forget to tell you something that

1 I know is important and that you need to know before you begin
2 your deliberations.

3 All right. So as I instructed you in my preliminary
4 comments at the beginning of this trial, the indictments charge
5 the Defendant with the following: Three counts of criminal
6 sexual conduct with a minor, third degree; and two counts of
7 criminal sexual conduct with a minor in the first degree,
8 occurring on or about April 11th, 2014, through April 11th, 2016,
9 and on or about February 15th, 2014, through February 15th, 2017.

10 I remind you that the facts that the Defendant was arrested,
11 charged, and indicted in this case is not evidence in this case
12 and cannot be considered by you as evidence of his guilt, nor
13 does it create any presumption or inference of guilt. These
14 documents are simply the formal, written instruments which
15 contain the charges made against the Defendant and how this case
16 makes its way into this courtroom.

17 I remind that you that during this trial, again, you and I
18 have certain duties to perform. As the trial judge, it is my
19 responsibility to preside over the trial of this case, and I also
20 have the duty to rule on the admissibility of the evidence
21 offered during this trial. You are to consider only the
22 competent evidence before you. If there was any testimony
23 stricken from the record during this trial you must disregard
24 that testimony. You are to consider only the testimony which has
25 been presented from the witness stand, any exhibits which have

1 been made part of the record in this case, and any agreements or
2 stipulations of counsel.

3 I have the additional duty to charge you the law applicable
4 to this case. It is your duty as jurors to accept and apply the
5 law as I now state it to you. If you already have an idea as to
6 what the law is or what the law ought to be and it does not agree
7 with what I now tell you the law is, you must abandon this idea
8 because you are sworn to accept the law and apply the law exactly
9 as I state it to you.

10 In every case tried in this court before a jury the jury
11 becomes the sole and exclusive judge of the facts in a case. A
12 trial judge cannot intimate, state, comment on, or make any
13 statement to a trial jury about the facts in a case.

14 Since you, the jury, are the sole judge of the facts in the
15 case, you are not to infer from what I have said or done during
16 the progress of this trial, or in ruling upon the admissibility
17 of evidence or otherwise, or anything that I now say during this
18 instruction to you, that I have any opinion about the facts in
19 this case. I have no opinion about the facts in this case. The
20 law does not allow me to have an opinion about the facts in this
21 case. This is a matter solely for you, the jury, to determine.
22 As jurors, it is your duty to determine the effect, value,
23 weight, and truth of the evidence presented during this trial.

24 Now, the indictments in this case allege several different
25 offenses against the Defendant, and the charges are as follows:

1 Indictment No. 1 is criminal sexual conduct with a minor, first
2 degree, as to the child whose initials are M 2 ., occurring on or
3 about February 15th, 2014, through February 15th, 2017, involving
4 the Defendant putting his penis in the victim's mouth;

5 Indictment No. 2 is criminal sexual conduct with a minor,
6 first degree, as to the child with the initials M 1 , occurring
7 on or about April 11th, 2014, through April 11th, 2016, involving
8 the Defendant putting his penis in the victim's mouth;

9 Indictment No. 3 charges criminal sexual conduct with a
10 minor, third degree, as to the child whose initials are M 1
11 occurring on or about April 11th, 2014, through April 11th, 2016,
12 involving the Defendant touching the victim's buttocks underneath
13 her clothing;

14 Indictment No. 4 charges criminal sexual conduct with a
15 minor, third degree, as to the child whose initials are M 1 ,
16 occurring on or about April 11th, 2014, through April 11th, 2016,
17 involving the Defendant pulling the victim's pants down and
18 touching her vagina;

19 Indictment No. 5 charges criminal sexual conduct with a
20 minor, third degree, as to the child whose initials are M 2 ,
21 occurring on or about February 15, 2014, through February 15,
22 2017, involving the Defendant lewdly committing or attempting to
23 commit a lewd and lascivious act upon or with the body or its
24 parts.

25 Each of these charges are separate and distinct offenses.

1 You must decide each charge separately on the evidence and law
2 applicable to it, uninfluenced by your decision as to any other
3 charges.

4 The Defendant may be convicted or acquitted on any or all of
5 the offenses charged. You will be asked to write a separate
6 verdict of guilty or not guilty for each of the indictments.

7 Now, the Defendant has pled not guilty to these indictments,
8 and that plea puts the burden on the State to prove the Defendant
9 guilty. A person charged with committing a criminal offense in
10 South Carolina is never required to prove himself or herself
11 innocent, so I specifically charge you that it is an important
12 rule of the law that a defendant in a criminal trial, no matter
13 what the seriousness of the charge may be, will always be
14 presumed to be innocent of the crimes for which the indictments
15 were issued unless guilt has been proven by evidence satisfying
16 you of that guilt beyond a reasonable doubt.

17 This presumption of innocence does not end when you begin
18 your deliberation but it accompanies the Defendant throughout the
19 trial until you reach a verdict of guilt based on evidence
20 satisfying you of that guilt beyond a reasonable doubt.

21 The presumption of innocence is not a mere legal theory. It
22 is not just a legal phrase. It is a substantial right to which
23 every Defendant is entitled unless you, the jury, are satisfied
24 from the evidence of the Defendant's guilt beyond a reasonable
25 doubt.

1 Now, as I stated, the State has the burden of proving the
2 Defendant guilty beyond a reasonable doubt. The State has the
3 burden of proving each element of the crimes charged beyond a
4 reasonable doubt.

5 Some of you may have served as jurors in a civil case you
6 were told that it was only necessary to prove that a fact is more
7 likely true than not true, such as by the greater weight or
8 preponderance of the evidence. In criminal cases, the State's
9 proof must be more powerful than that. It must be beyond a
10 reasonable doubt.

11 Reasonable doubt is the kind of doubt that would make a
12 reasonable person hesitate to act. Proof beyond a reasonable
13 doubt is proof that leaves you firmly convinced of the
14 Defendant's guilt. There are very few things in this world that
15 we know with absolute certainty, and in criminal cases the law
16 does not require proof that overcomes every possible doubt.

17 If, based on your consideration of the evidence, you are
18 firmly convinced that the Defendant is guilty of the crimes
19 charged, you must find the Defendant guilty. If, on the other
20 hand, you think there is a real possibility that the Defendant is
21 not guilty, you must give the Defendant the benefit of the doubt
22 and find him not guilty.

23 Facts and circumstances that merely place upon the Defendant
24 a grave suspicion of the crimes charged or that merely raise a
25 speculation or conjecture of the Defendant's guilt are not

1 sufficient to authorize a conviction of an accused.

2 Now, there are two types of evidence which are generally
3 presented during a trial; direct evidence and circumstantial
4 evidence. Direct evidence directly proves the existence of a
5 fact and does not require deduction. Circumstantial evidence is
6 proof of a chain of facts and circumstances indicating the
7 existence of a fact.

8 Crimes may be proven by direct and/or circumstantial
9 evidence. The law makes no distinction between the weight or
10 value to be given to either direct or circumstantial evidence.
11 However, to the extent the State relies on circumstantial
12 evidence, all of the circumstances must be consistent with each
13 other and, when taken together, point conclusively to the guilt
14 of the accused beyond a reasonable doubt. If these circumstances
15 merely portray the Defendant's behavior as suspicious the proof
16 has failed.

17 The State has the burden of proving the Defendant guilty
18 beyond a reasonable doubt. The burden rests with the State
19 regardless of whether the State relies on direct evidence,
20 circumstantial evidence, or some combination of the two.

21 Now, the following things are not evidence, and you must not
22 consider them as evidence in deciding the facts of this case:

23 (1) Statements and arguments of the attorneys; (2) questions and
24 objections of the attorneys, and; (3) testimony that was stricken
25 by the Court.

1 While argument of counsel is a beneficial part of every
2 trial, you should remember that the statements made by counsel
3 are not evidence. In presenting arguments counsel often refer to
4 evidence; however, you should base your verdict on the evidence
5 as you remember it. Therefore, if there are any conflicts
6 between the recollection of counsel about the evidence and your
7 own recollection, you should rely upon your own understanding of
8 the evidence.

9 Now, necessarily you must determine the credibility of
10 witnesses who have testified in this case. Credibility simply
11 means believability. It becomes your duty, as jurors, to analyze
12 and to evaluate the evidence and determine which evidence
13 convinces you of its truth.

14 In determining the believability of witnesses who have
15 testified in this case you may believe one witness over several
16 witnesses, or several witnesses over one witness; you may believe
17 a part of the testimony of a witness, and reject the remaining
18 part of the testimony of that same witness; you may believe the
19 testimony of a witness in its entirety, or reject the testimony
20 of the witness in its entirety; you may consider whether any
21 witness has exhibited to you any interest, bias, prejudice, or
22 other motive in this case; you may also consider the appearance
23 and manner of a witness while testifying on the witness stand.

24 Now, the rules of evidence ordinarily do not permit
25 witnesses to testify to opinions or conclusions. An exception to

1 this rule exists for witnesses we call expert witnesses. A
2 witness who, by education and experience, has become expert in
3 some art, science, profession, or calling may state an opinion as
4 to relevant and material matter in which the witness claims to be
5 an expert, and may also state the reasons for the opinions. In
6 this trial Shauna Galloway-Williams was qualified as an expert in
7 child sexual abuse dynamics.

8 You should consider any expert opinion received in evidence
9 in this case and, like any other evidence, give it the weight you
10 think it deserves. If you decide that the opinion of an expert
11 witness is not based on sufficient education and experience, or
12 if you conclude that the reasons given in support of the opinion
13 are not sound, or that the opinion is outweighed by other
14 evidence, you may disregard the opinion entirely.

15 An expert witness's testimony is to be given no greater
16 weight than that of other witnesses simply because the witness is
17 an expert. Further, you are not required to accept an expert's
18 opinion even though it is not contradicted.

19 Now, the Defendant in this case has not testified. This is
20 his constitutional right, and it is not a circumstance that you
21 can take into consideration or even allow to enter into your
22 discussion in your jury room. Under the Constitution of South
23 Carolina and under the United States Constitution it is his
24 constitutional right not to testify.

25 The burden of proof is upon the State of South Carolina to

1 establish his guilt by competent testimony and evidence beyond a
2 reasonable doubt. The fact that the Defendant did not take the
3 witness stand and testify on his own behalf does not create any
4 inference against him. A jury must not permit that fact to
5 weigh, in the slightest agree, against the Defendant, nor should
6 this fact enter into the discussions or deliberations of the jury
7 in any manner whatsoever.

8 Now, in order to establish criminal liability, criminal
9 intent is required. For example, the mental state required to be
10 proven by the State for a particular crime might be purpose,
11 intent, knowledge, recklessness, or criminal negligence.
12 Criminal intent must be proven by the State beyond a reasonable
13 doubt. Criminal intent is always a matter that must be
14 determined by the jury from the circumstances surrounding the
15 situation.

16 There is no way to prove intent to a mathematical certainty.
17 There is no way medical science can dissect a person's brain to
18 determine what the person had in mind, so the law said that
19 criminal intent may be inferred from the circumstances shown to
20 have existed. This is how you make a determination of whether or
21 not the element requiring intent was present. It is not
22 necessary to establish intent by direct and positive evidence,
23 but intent may be established by inference in the same way as any
24 other fact, by taking into consideration the acts of the parties
25 and all the facts and circumstances of the case.

1 Criminal intent is a mental state, a conscious wrongdoing.
2 It is up to you, the jury, to determine what the Defendant
3 intended to do based on the circumstances shown to have existed.

4 Criminal intent can arise from action or a failure to act,
5 it may arise from negligence, recklessness, or an indifference to
6 duty or the consequences that is considered, by the law, to be
7 the equivalent of criminal intent.

8 The Defendant in this case was charged with first-degree
9 criminal sexual conduct with a minor. The charges pending
10 against the Defendant are a statutory crime and is contained in
11 the Code of Laws in this state as passed by the General Assembly
12 of South Carolina. Section 16-3-655(a) of the South Carolina
13 Code of Laws sets forth the statutory provisions for first-degree
14 criminal sexual conduct with a minor as follows: A person is
15 guilty of criminal sexual conduct with a minor in the first
16 degree if the actor engages in sexual battery with a victim who
17 is less than 11 years of age.

18 Section 16-3-651(a) defines actor as a person accused of
19 criminal sexual conduct.

20 Section 16-3-651(i) provides victim, meaning the person
21 alleging to have been subjected to criminal sexual conduct.

22 The first element the State must prove beyond a reasonable
23 doubt is that the Defendant engaged in sexual battery with the
24 victim. What is sexual battery? Section 16-3-651(h) of the
25 South Carolina Code of Laws define sexual battery as sexual

1 intercourse, cunnilingus, fellatio, anal intercourse, or any
2 intrusion, however slight, of any part of a person's body or of
3 any object into the genital or anal openings of another person's
4 body, except when such intrusion is accomplished for medically
5 recognized treatment or diagnostic purposes.

6 If you find the State has not proven beyond a reasonable
7 doubt that sexual battery occurred, you must find the Defendant
8 not guilty of this charge.

9 The second element the State must prove beyond a reasonable
10 doubt is the victim was less than 11 years of age at the time of
11 the battery.

12 Now, the Defendant in this case is also charged with
13 third-degree criminal sexual conduct with a minor. This charge
14 is also a statutory charge. It is contained in the Code of Laws
15 of the state as passed by the General Assembly of South Carolina.

16 Section 16-3-655(c) of the South Carolina Code of Laws set
17 forth the statutory provision for third-degree criminal sexual
18 conduct with a minor as follows: A person is guilty of criminal
19 sexual conduct with a minor in the third degree if the actor is
20 over 14 years of age and the actor willfully and lewdly commits
21 or attempts to commit a lewd or lascivious act upon or with the
22 body or its parts of a child under 16 years of age with the
23 intent of arousing, appealing to, or gratifying the lust,
24 passions, or sexual desires of the actor or the child. Actor and
25 victim have the same definitions here as I previously told you in

1 the first degree.

2 In rendering your verdict, you cannot consider any possible
3 penalty for any particular crime. The punishment for the crime
4 is a matter for the Court to determine and should never be
5 considered by you, the jury, in any way whatsoever in arriving at
6 an impartial verdict.

7 I hope that each you are mindful of the importance of your
8 responsibility. You are not often called upon to serve as
9 jurors, and the proper performance of the duty requires each of
10 you to reach the height of freeing your mind of all improper
11 influences.

12 As the presiding officer of this court, I am vitally
13 concerned that whatever verdict you find will be the result of
14 you going into the jury room and confining your consideration to
15 the evidence and the law that you've heard in this courtroom,
16 weighing it fairly and impartially, as I have every confidence
17 that you will do.

18 Your verdict in this case cannot be based on sympathy,
19 compassion, prejudice, or emotion, or some other consideration
20 not found in the evidence.

21 Remember, your verdict must be unanimous.

22 And I am now going to explain the verdict form to you. I am
23 going to be sending back a verdict form with Ron, with you, in
24 the jury room for our jury foreperson to indicate when you all
25 have reached a unanimous verdict. This verdict form has each one

1 of the charges that I previously told you about. Underneath each
2 one of the charges are two, only two, possibilities. There are
3 only two verdicts that can be reached as to each charge, guilty
4 or not guilty. And the fact that I have referenced one first
5 over the other in this form, or even now, should have no bearing
6 our decision. All right.

7 Once you all have reached a unanimous verdict as to each
8 charge, our jury foreperson will mark that on the verdict form.
9 When you've gone through all the charges, reached a unanimous
10 verdict as to each charge, then, jury forelady, you will sign the
11 verdict form indicating that everybody is in agreement
12 unanimously, and then you'll let Ron know.

13 I know you all have lunch waiting for you. So I'm going to
14 ask you to retire to the jury room, go ahead and start eating
15 your lunch. Do not begin your deliberations until Ron brings
16 back the verdict form and all the evidence for you. And he'll
17 tell you when to get started. But you can certainly get started
18 with lunch.

19 Before you all leave the courtroom, on behalf of the State,
20 any objections or exceptions to the charge?

21 ASS'T. SOLICITOR GASSER: None from the State, Your Honor.

22 THE COURT: On behalf of the defense?

23 ATTORNEY VARNER: None from the defense, Your Honor.

24 THE COURT: All right. Then I'll ask you to go back. You
25 can begin your lunch and your deliberation.

1 (WHEREUPON, the jury exits at 12:49 p.m.)

2 THE COURT: Any objections from the State or defense for me
3 to release the alternate now?

4 ATTORNEY VARNER: Oh, absolutely release them.

5 ASS'T. SOLICITOR GASSER: No objection.

6 THE COURT: Thank you. I don't release them until they
7 actually walk back right as they get started, just in case
8 someone's not feeling well. Okay. Then I am going to release
9 them. And we will be at ease.

10 (WHEREUPON, counsel confirms the evidence to go back to the
11 jury.)

12 (WHEREUPON, court recesses at 12:50 p.m. and reconvenes at
13 2:28 p.m., without the jury.)

14 THE COURT: So we have a question from our jury. And I
15 think I know what the answer should be but nevertheless I'm going
16 to tell you what the question is and then make sure you all agree
17 on what the answer is, and then I'm going to bring the jury in.

18 So the question is: Can we see the timeline shown during
19 closing? So Ms. Gasser did you an excellent job with her
20 demonstrative exhibit. But nevertheless, the answer is no, it is
21 not evidence, it was a demonstrative document. Do you agree,
22 Ms. Gasser?

23 ASS'T. SOLICITOR GASSER: Yes, Your Honor.

24 THE COURT: But you did a great job because they really want
25 it. Mr. Varner, do you agree?

1 ATTORNEY VARNER: I agree.

2 THE COURT: All right. Then we're going to mark this as
3 Court's Exhibit No. 7. And we'll bring our jury in.

4 (WHEREUPON, Court's Exhibit 7 is marked for identification.)

5 (WHEREUPON, the jury enters at 2:30 p.m.)

6 THE COURT: All right, ladies and gentlemen, welcome back
7 into the courtroom. I did receive your question from our jury
8 foreperson: Can we see the timeline shown during closing? The
9 answer is no. That was a demonstrative document and not
10 evidence. So with that response, I'm going to send you back to
11 your jury room and ask you to continue your deliberations. All
12 right. Thank you all.

13 (WHEREUPON, the jury exits at 2:30 p.m.)

14 THE COURT: We'll continue to be at ease. And if I hear
15 anything, I'll come get you all.

16 (WHEREUPON, court recesses at 2:31 p.m. and reconvenes at
17 3:45 p.m., without the jury.)

18 MATTER(S) OF LAW

19 (WHEREUPON, Court's Exhibit 8 is marked for identification.)

20 THE COURT: So we have our next communication with the jury.
21 I've marked it as Court's Exhibit No. 8. And their question is
22 as follows: If there is not an unanimous vote, what is the plan?
23 NG-4 G-8.

24 ATTORNEY VARNER: What's NG-4 G-8?

25 THE COURT: Well, I would assume that it's not guilty 4,

1 guilty 8, but that's an assumption on the part of the Court. And
2 you're welcome to look at it as to why I believe that's what it
3 is.

4 So the other question, which is not in writing is, I think a
5 couple of our jurors are smokers and they are dying for a smoke
6 break. So that seems to be an easier thing to address. My usual
7 position would be is, yes, they can smoke. There can be no
8 deliberations while the smokers are smoking. There has to be a
9 bailiff with them while they're smoking so they cannot talk about
10 the case, and there has to be a bailiff in the jury room with the
11 nonsmokers, and everybody just kind of takes a break from
12 deliberation so that the smokers can smoke downstairs where the
13 law enforcement side is with the bailiff to make sure nobody
14 talks to them and that they don't talk about the case, and that
15 the bailiff is in the room. I've never had that be an issue, but
16 if you all have an objection I won't let the smokers smoke. But
17 my theory is you've got to let the smokers smoke.

18 ASS'T. SOLICITOR GASSER: No objection as to that, Honor.

19 THE COURT: Mr. Varner, you're a smoker so I assume you have
20 no objection. So that's easy. So before we bring them in I can
21 let them smoke, or I can answer this question and then let them
22 smoke.

23 So my inclination at this point would be to say it has to be
24 a unanimous verdict. I'm directing you to go back to the jury
25 room and try to do your very best to reach a unanimous verdict.

1 And that's it. Ms. Gasser.

2 ASS'T. SOLICITOR GASSER: Yes, Your Honor. And I believe
3 that follows along with, it's an Allen charge. No?

4 THE COURT: No, ma'am, this is not an Allen charge. This
5 just a go back and deliberate, try your best. This would not be
6 an Allen charge.

7 Here's the other problem that I need to research. Judge
8 Sprouse takes the position that if a jury provides the breakdown,
9 that an Allen charge is wholly inappropriate and a mistrial
10 should be declared. I don't know that I take that position, but
11 I don't know and I've have never looked at it, because in my
12 previous case I did what I just told you, I felt like the jury
13 had been deliberating for a few hours and they needed to just
14 continue to try to work on it.

15 What's your -- and you all think about it. I'm not trying
16 to rush you. I'm just saying my position in the past has been I
17 don't get to do an Allen charge until much later. But I also
18 know that Judge Sprouse's position is if they give you the
19 breakdown, there is no Allen charge, that's wholly inappropriate.
20 I have to do some research on that. I've never researched it. I
21 just know that's what he does and he takes that position. I
22 don't know if there is case law on that or that's just his
23 personal preference. I don't know.

24 Mr. Varner.

25 ATTORNEY VARNER: I concur. I think it's early for the

1 Allen charge.

2 THE COURT: Totally early for the Allen charge.

3 ATTORNEY VARNER: But I think you need to do something a
4 little modified, which is, go back and -- seriously do this, but
5 I think they need to be advised, it's kind of a modified Allen.
6 If you have a heartfelt conviction nobody is going to force you
7 to change your position, and you don't have to give up what you
8 believe.

9 ASS'T. SOLICITOR GASSER: And I believe that that is
10 entirely inappropriate.

11 THE COURT: I can't do that. I can't do that. I think
12 that's inappropriate. I can't tell them that. I can tell them
13 that I know you all have been deliberating -- but they've only
14 been deliberating since 1:00 p.m.

15 ATTORNEY VARNER: It's early.

16 THE COURT: It's early to call it. So what do you think
17 about my, I'm going to give you all a break for those of you that
18 want to smoke and take a breather, but then I'm going to instruct
19 you to go back to the jury room and continue your deliberations
20 because it needs to be a unanimous verdict.

21 But, I mean, I'll word it however you all want, but in the
22 past that's been my position. This is too early. It's only --
23 they went out at 1:00.

24 ASS'T. SOLICITOR GASSER: I think that should be fine, Your
25 Honor, just to encourage them to continue deliberating. I think

1 that's fine.

2 ATTORNEY VARNER: Just for the record, I think you should
3 tell them they don't have to give up what they believe. It's not
4 an Allen charge, but it's kind of modified. But that's my
5 position, Your Honor.

6 THE COURT: I think although you stated that for the record,
7 I think the more appropriate thing would be is, you know, the
8 verdict has to be unanimous. I'm going to ask you all to do your
9 very best to try reach a unanimous verdict, but I'll give you all
10 a break to be able to take a breather, smoke, and then I'm going
11 ask you to continue to deliberate.

12 ASS'T. SOLICITOR GASSER: Thank you, Your Honor.

13 THE COURT: And not tell them what the plan is because there
14 is no plan. It just depends on how it goes. But it's too early
15 to call it. Do you agree with that, Ms. Gasser?

16 ASS'T. SOLICITOR GASSER: Yes, Your Honor.

17 THE COURT: Do you agree with that, Mr. Varner?

18 ATTORNEY VARNER: Absolutely. Way too early.

19 THE COURT: It's way too early. Okay. You want to grab
20 them, Ron.

21 THE BAILIFF: Yes, ma'am.

22 ATTORNEY VARNER: I might have a different position at 11:30
23 tonight.

24 THE COURT: Me, too.

25 ATTORNEY VARNER: Do you keep them past 5:00 or do you let

1 them come back the next day?

2 THE COURT: They're not going anywhere. It's either going
3 to be a verdict or a mistrial.

4 ATTORNEY VARNER: Got it. Because I would object to letting
5 them go home.

6 THE COURT: I'm not letting them go. I am going to research
7 whether or not Judge Sprouse is correct. If they give you the
8 breakdown, does that mean you're then precluded from giving the
9 Allen charge? I may even call him and find out the authority on
10 that. I've never had that happen.

11 ATTORNEY VARNER: I've never heard of that happening before.

12 (WHEREUPON, the jury enters at 3:52 p.m.)

13 THE COURT: All right, ladies and gentlemen. I did receive
14 your next communication that I'm just going to read into the
15 record: There is not an unanimous vote. What is the plan? And
16 then it says NG-4 G-8.

17 So as I told you before, verdicts in South Carolina have to
18 be unanimous, and so at this point in time I'm going to ask you
19 all to continue your deliberations to see if you can reach a
20 unanimous verdict. However, I also understand from our bailiff
21 that some of you smoke. And I am happy to give you all a smoke
22 break, but while that break is happening you cannot continue your
23 deliberations, you have to wait. And so I'm going to say let's
24 take maybe five or ten minutes, let you all go back to your jury
25 room, take a little breather, those of you that would like to

1 step outside and smoke, or if you even want to just walk down
2 with the smokers and stand outside, you've got to stay with the
3 bailiff. But there will also be a bailiff with you all in there.
4 You cannot talk about the case while you're separated, but at
5 least you all get a little bit of a breather to have a smoke
6 break. And then I'm going to ask you to continue your
7 deliberations. All right. That's what I'm going to do so far.

8 All right. Ron, can you make sure you've got a bailiff with
9 you and take whoever wants to go downstairs where that sally port
10 is, get some fresh air, get a cigarette, those of you smoke, and
11 then those of you that want to stay upstairs, that's fine, too.
12 Okay. Let Ron help you all out.

13 (WHEREUPON, the Jury exits at 3:54 p.m.)

14 MATTER(S) OF LAW

15 THE COURT: All right. I'm going to do a little research to
16 see why Judge Sprouse takes that position. This could be an
17 opportunity for you all to talk about resolving this case so that
18 this does not result in a mistrial. How long has Mr. Steele been
19 in custody?

20 ATTORNEY VARNER: Three-and-a-half years.

21 THE COURT: Three-and-a-half years incarcerated. I don't
22 know if that's a possibility, Ms. Gasser, but I'll let you all
23 think about it. All right. We'll be at ease. We'll see what
24 happens. Okay.

25 (WHEREUPON, court recesses at 3:55 p.m. and reconvenes at

1 4:27 p.m., without the jury.)

2 MATTER(S) OF LAW

3 THE COURT: I just want to go on the record so that I can
4 put on the record what I indicated while we were waiting for our
5 jury. They took a break, they were able to smoke, and they were
6 able to contact their significant others to tell them they were
7 not headed home yet.

8 In reviewing *State v. Taylor*, it is very clear that the
9 Court needs to instruct them before they begin their
10 deliberations again that they are not to give the court the
11 numerical breakdown of where they stand as far as their position,
12 and ask them to go continue their deliberations now that they've
13 had a little break to smoke, get a drink of water, tell their
14 significant others that they're still here.

15 You all agree? Ms. Gasser?

16 ASS'T. SOLICITOR GASSER: Yes, Your Honor.

17 THE COURT: Mr. Varner?

18 ATTORNEY VARNER: Yes, Your Honor.

19 THE COURT: Okay. I'm ready.

20 (WHEREUPON, the Jury enters at 4:28 p.m.)

21 THE COURT: All right, you all, welcome back into the
22 courtroom. I'm glad you were able to step outside with a
23 bailiff, smoke if you like to smoke. I understand at least four
24 of you definitely needed to have a little bit of a break outside,
25 so I'm glad you were able to do that and contact your significant

1 others to let them know you are still here.

2 Before I have you go back and continue further
3 deliberations, I do want to instruct you all that any further
4 communications with the court do not include the breakdown in
5 terms of how you all stand with respect to your positions in this
6 case. Okay.

7 All right. Now I'll ask you to retire to the jury room now
8 that you've had a good break. Okay.

9 Yes, sir, Ron.

10 (WHEREUPON, the jury exits at 4:29 p.m.)

11 MATTER(S) OF LAW

12 THE COURT: I don't give an Allen charge this early. I
13 mean, it's only been three-and-a-half hours.

14 ASS'T. SOLICITOR GASSER: That's fine, Your Honor, by the
15 State.

16 THE COURT: I would rather try to -- I think this is what is
17 happening, if I had to guess. I think the realization that they
18 are going to have to stay past 5:00 is hitting them at this
19 point. I'm guessing this. It is 4:30. We have -- you know, we
20 stopped -- I told them before if we stop by 5:00 they can beat
21 traffic. We certainly stopped early every single day and dealt
22 with legal issues at the end and they got to go.

23 I think it's finally set setting in that they are not going
24 home, and it's 4:30. So I say we give them a good couple of
25 hours, depending on what comes back from them, before we do an

1 Allen charge. That said, just looking at their faces, I think
2 we're headed towards an Allen charge, and I want the two of you
3 start to think about what that should say in line with that case,
4 because that's sort of the main case about the language that the
5 court should use, because I really want them to continue to try.

6 Do you agree with that, Ms. Gasser? And maybe just look at
7 it.

8 ASS'T. SOLICITOR GASSER: Yes, Your Honor.

9 THE COURT: Mr. Varner, I know you're reading it, so you
10 take a look at it. And then we'll be at ease, and we'll see what
11 they do. I think they're doing better now that they know they're
12 not going home, they've told their husbands and wives they're not
13 going home, and they've had a chance to smoke. So now they've
14 got a good breather. Because they had lunch, and now they've
15 smoked, and now they're settling in.

16 ATTORNEY VARNER: Maybe they won't have the Allen.

17 THE COURT: I was going to say, I think we're at the point
18 where we've just got to push them a little bit along. And I
19 don't consider what I said to be an Allen charge; it's just that
20 you all needed a break, and now keep going. Okay. Let's just be
21 at ease.

22 (WHEREUPON, court recesses at 4:31 p.m. and reconvenes at
23 7:33 p.m.)

24 (WHEREUPON, the jury enters at 7:33 p.m.)

25 THE COURT: All right. All of our jurors are back, and we

1 are on the record. And I understand, madam foreperson, we have a
2 verdict.

3 THE FOREPERSON: Yes, Your Honor.

4 THE COURT: All right. You signed the verdict form?

5 THE FOREPERSON: Yes.

6 THE COURT: If you'll hand it to Ron.

7 (WHEREUPON, the Court inspects the verdict form.)

8 THE COURT: All right. Madam clerk, I'll ask you to publish
9 the jury's verdict.

10 CLERK OF COURT: Your Honor, in the cases of
11 2024-GS-23-7207 -7200, -7209, -7208, and -7206, The State versus
12 Philip Scott Steele; as to the charge of criminal sexual conduct
13 with a minor, first degree, as to child M 2, occurring on or
14 about February 15, 2014, through February 15, 2017, involving the
15 Defendant putting his penis in the victim's mouth, we, the jury,
16 unanimously find the Defendant not guilty.

17 As to the charge of criminal sexual conduct with a minor,
18 first degree, as to the child M 1, occurring on or about
19 April 11th, 2014, through April 11th, 2016, involving the
20 Defendant putting his penis in the victim's mouth, we, the jury,
21 unanimously find the Defendant guilty.

22 As to the charge of criminal sexual conduct with a minor,
23 third degree, as to the child M 1 occurring on or about
24 April 11th, 2014, through April 11th, 2016, involving the
25 Defendant touching the victim's buttocks underneath her clothing,

1 we, the jury, unanimously find the Defendant guilty.

2 As to the charge of criminal sexual conduct with a minor,
3 third degree, as to the child M 1, occurring on or about
4 April 11th, 2014, through April 11th, 2016, involving the
5 Defendant pulling the victim's pants down and touching her
6 vagina, we, the jury, unanimously find the Defendant guilty.

7 As to the charge of criminal sexual conduct with a minor,
8 third degree, as to the child M 1 occurring on or about
9 February 15, 2014, through February 15, 2017, involving the
10 Defendant committing a lewd or lascivious act upon her body, we,
11 the jury, unanimously find the Defendant not guilty.

12 Ladies and gentlemen, if these are the verdicts you reached
13 in your deliberation room, please raise your right hand.

14 (WHEREUPON, jurors respond by raising their right hands.)

15 CLERK OF COURT: Thank you.

16 THE COURT: All right. Thank you, ladies and gentlemen.
17 Anything further on behalf of the State?

18 ASS'T. SOLICITOR GASSER: Nothing from the State, Your
19 Honor.

20 THE COURT: Anything further on behalf of the defense?

21 ATTORNEY VARNER: Nothing, Your Honor.

22 THE COURT: All right. I want to thank you sincerely for
23 spending this entire week with us and working so hard to reach a
24 unanimous verdict. I'll go ahead and have Ron have you go back
25 to the deliberation room so that I can excuse you. All right.

1 And I'll step back there in just a moment.

2 (WHEREUPON, the Jury is discharged at 7:36 p.m.)

3 MATTER(S) OF LAW

4 THE COURT: Yes, sir.

5 ATTORNEY VARNER: Your Honor, on behalf of Defendant we
6 would make a motion to set aside the verdict and either dismiss
7 the charges or order a new trial based upon the fact that I don't
8 believe there was sufficient evidence to support these findings.
9 I know the jury was out six-and-a-half hours, but I think it was
10 compromise and I don't think it was supported by the evidence.

11 THE COURT: All right. And I respectfully disagree. The
12 jury has rendered their verdict and, based on the record before
13 the Court, there was sufficient evidence for them to make a
14 finding as to the charges in which they found Mr. Steele guilty.
15 All right.

16 ATTORNEY VARNER: Thank you, Your Honor.

17 THE COURT: But your record is preserved. Are we ready to
18 proceed forward with sentencing tonight?

19 ASS'T. SOLICITOR GASSER: One moment, Your Honor.

20 THE COURT: And certainly we can do this tomorrow morning if
21 you're okay with that, Mr. Varner, and you're available.

22 ATTORNEY VARNER: I would prefer to do it now because I've
23 got a work situation and certain things I have to take care of.

24 ASS'T. SOLICITOR GASSER: Your Honor, we can proceed
25 tonight.

1 THE COURT: All right. Then let's be at ease. You want to
2 prepare the sentencing sheets for me?

3 ASS'T. SOLICITOR GASSER: Yes, Your Honor.

4 THE COURT: All right. And I'm going to step back and thank
5 our jury.

6 (WHEREUPON, court recesses at 7:38 p.m. and reconvenes at
7 8:10 p.m.)

8 (WHEREUPON, an off-the-record discussion is held.)

9 SENTENCING

10 THE COURT: All right.

11 ATTORNEY VARNER: Your Honor, you want us to approach?

12 THE COURT: Wherever you feel comfortable, Mr. Varner.
13 Normally I'd have you all approach the podium, but if he'd rather
14 stay at counsel table that's okay, too.

15 All right. I have three sentencing sheets in front of me,
16 the first being under Indictment -07207, which is the conviction
17 of criminal sexual conduct with a minor in the first degree; and
18 then the two remaining sentencing sheets I have in front of me
19 are under Indictments -07208 and -07209 for two counts of
20 criminal sexual conduct with a minor in the third degree.

21 Yes, ma'am. I'm happy to hear from you first.

22 ASS'T. SOLICITOR GASSER: May it please the Court, Your
23 Honor. You heard the entirety of the trial and so I'm not going
24 to go into the factual allegations, Your Honor. I will say that
25 the State's position is that at the end of trial I always ask for

1 the maximum punishment, in this case that being life under the
2 indictment for criminal sexual conduct in the first degree.

3 The reason that I do that is because not only was the life
4 of MINOR 1 forever impacted, but she will have to live with
5 that every day of her life, and I ask that he has to live every
6 day of his remaining life in prison.

7 Your Honor, he has shown no remorse through this entire
8 process. The numerous letters, some of which you heard during
9 pretrial motions, are threatening. They threaten lawsuits, they
10 call names, it discusses hate, it wishes ill will, it prays for
11 the family's life to be ruined forever. And these were numerous
12 and abundant throughout the entirety of this case pending. And
13 they didn't stop.

14 This was a hardship not only for the receiver of those
15 letters, Sherry Zeabold, but also for her granddaughters, the
16 victims in these cases, who were made aware of these letters.
17 They knew it was happening. They knew he was reaching out.

18 And I think that that has a big impact, and it could have
19 had a negative impact on whether or not this case and their
20 testimony would have moved forward, and luckily it didn't.
21 Luckily they were incredibly strong and they came here and they
22 testified. But this is the exact kind of behavior that shows
23 that he lacks any remorse for what he did.

24 Your Honor, if you're not inclined to give him life in
25 prison, I would ask for somewhere around the 50 years. Again, I

1 believe that that is appropriate. I believe that it is showing
2 the steep penalties that these types of cases, criminal sexual
3 conduct with a minor in the first degree, a child under 11,
4 having a penis put into her mouth, and I think that is the only
5 verdict -- or that is the only sentence that justice so demands,
6 and that is why the State is asking, again, first for life but if
7 you're not so inclined then for somewhere in the range around 50
8 years.

9 THE COURT: Remind me of his criminal record.

10 ASS'T. SOLICITOR GASSER: Your Honor, he does not have any,
11 I believe, other than what was mentioned earlier, was --

12 THE COURT: Just a contempt of court?

13 ASS'T. SOLICITOR GASSER: Yes.

14 THE COURT: All right. Mr. Varner.

15 ATTORNEY VARNER: Your Honor, he is 62-and-a-half-years old.
16 Never been in trouble with the law before. He has no criminal
17 convictions. He did get behind in child support one time, but
18 that's it. He does have a son who's seated back there.

19 I mean, 50 years, I think is piling on you. You might as
20 well say 500. At 62-and-a-half with a pacemaker, 25 years is,
21 for all intents and purposes, a life sentence. I mean, he would
22 be 87 years old. I mean, I know he would get 15 percent, I mean,
23 that's what he's going to do.

24 I would ask that you sentence him to the minimum, and that
25 it be concurrent, Your Honor, so that at least he has a chance

1 some time as an older gentleman, if he's lucky enough not to
2 leave there a gurney. Never been in trouble before in his life.

3 And, you know, with all due respect, we have to accept the
4 jury's verdict. My personal opinion, don't hold it against him,
5 but whether he did it or he didn't do it, I just didn't think it
6 was proven.

7 And these children have, without any question, they've been
8 victims of a lot of stuff, you know, and not just him, but he has
9 to accept the fact that's what the jury said. But there's
10 numerous other factors. And, you know, the one thing I attempted
11 to bring out them, living with a convicted sex --

12 ASS'T. SOLICITOR GASSER: An objection, Your Honor.

13 THE COURT: No. This is sentencing. That's overruled. He
14 can make his argument, Ms. Gasser. We're at the sentencing
15 stage. I was here for the trial. I know what the evidence is.
16 I know you want to object.

17 And I'll turn to you in just a moment to see if the mom
18 wants to speak, and then we'll see if the son wants to speak, and
19 then if Mr. Steele wants to speak. But at this point, I was here
20 for the trial.

21 ASS'T. SOLICITOR GASSER: Yes, Your Honor.

22 ATTORNEY VARNER: And I accept the Court's ruling, but I
23 think that the children living with a convicted sex offender for
24 seven years, it just created all kinds of problems with me. And
25 I understand your ruling that was not going to be admissible.

1 But I'd ask the Court to make it consecutive, and bear in
2 mind he's got a heart condition with a pacemaker, and he's
3 already 62 and a half, and he has done almost three years and
4 nine months or three years and ten months.

5 THE COURT: I was just going to ask you all, how many days
6 does he have credit for?

7 ASS'T. SOLICITOR GASSER: I'll pull it up, Your Honor.

8 ATTORNEY VARNER: What date were you arrested?

9 THE DEFENDANT: September 11th, '21.

10 ATTORNEY VARNER: I don't know how many days that is.

11 THE COURT: I'll let her do the math for me.

12 ATTORNEY VARNER: I was going to say, I think people always
13 know what date they got arrested. I would put faith in that
14 part.

15 THE COURT: So Ms. Gasser, it looks like he has credit for
16 1,342 days, but I'm going to have you confirm that. Do you agree
17 with that math?

18 ASS'T. SOLICITOR GASSER: I'm sorry, Your Honor.

19 THE COURT: It's okay.

20 ASS'T. SOLICITOR GASSER: One moment. I apologize, Your
21 Honor. The jail screen is not showing -- 1,342 days.

22 THE COURT: All right. He'll be given credit for those
23 days. I know that the two victims are not present.

24 ASS'T. SOLICITOR GASSER: Yes, Your Honor.

25 THE COURT: Does the mother wish to be heard, or does she

1 wish to speak?

2 ASS'T. SOLICITOR GASSER: Do you wish to speak? No, Your
3 Honor. I spoke with her prior to my presentation of the facts
4 and I explained to her what I would be asking for. I believe she
5 was in agreement with that.

6 THE COURT: Okay. Mr. Varner, does Mr. Steele or his son
7 want to be heard? Mr. Steele, do you want to be heard? Now
8 would be the time for you to say anything if you want to say
9 anything, but you don't have to tell me anything if you don't
10 want to.

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: Okay.

13 THE DEFENDANT: I've never threatened anybody, much less
14 children, to do or not do anything, and I did not do any of what
15 they said I did.

16 ATTORNEY VARNER: Your Honor, if I may comment on the
17 letters. I've read them. I'm not going to say every one of them
18 were nice. He was angry. He was hurt. But a pile of them are
19 my due process, my constitutional rights, I'm going to sue, and
20 these kind of things, I have been defamed. Most of it was what I
21 call jailhouse-lawyer stuff.

22 Certainly I didn't think it was a wise idea and told him as
23 such but he felt compelled to speak out.

24 THE DEFENDANT: And he even warned me, but --

25 ATTORNEY VARNER: Do you want to tell the court anything?

1 DEFENDANT'S SON: No, sir.

2 THE COURT: That's okay. I appreciate you being here
3 nevertheless. That's okay. You don't have to say anything.

4 ATTORNEY VARNER: Do you have anything else you want to say?

5 THE DEFENDANT: I mean, he told me not to but, because all
6 of what she's done, I just felt compelled because I was hurt and
7 devastated over a long period of time.

8 THE COURT: Anything else, Mr. Varner?

9 ATTORNEY VARNER: Nothing further, Your Honor.

10 THE COURT: Okay. You all give me a moment. Okay.

11 ATTORNEY VARNER: Your Honor, one additional thing while
12 you're contemplating.

13 THE COURT: It's okay.

14 ATTORNEY VARNER: I don't mean to interrupt you.

15 THE COURT: That's all right.

16 ATTORNEY VARNER: I would like the Court to at least factor
17 in the jury was out -- it's 12 people --six-and-a-half,
18 seven-and-a-half hours, and even after three hours one-third of
19 the jury was not convinced. I mean, there were legitimate
20 questions, so to speak it. And it was certainly a triable case,
21 and I don't think he should be punished for exercising his rights
22 on that, Your Honor. It was a close situation.

23 THE COURT: I understand. I never punish anybody for going
24 to trial.

25 ASS'T. SOLICITOR GASSER: And, Your Honor, if the State may

1 respond.

2 THE COURT: Sure.

3 ASS'T. SOLICITOR GASSER: Obviously the State is not asking
4 for punishment as to going to trial but, again, as to lack of
5 remorse, which I believe has been shown not only leading up but
6 also clearly here today.

7 THE COURT: I understand. And I'm just trying to come up
8 with a very fair and just sentence. All right. We're going to
9 deal with the easier ones first, all right, at least from the
10 Court's perspective.

11 With respect to the indictments ending in -07208 and -07209,
12 it is the sentence of the Court as follows: That, Philip Scott
13 Steele, you'll be sentenced to a term of time served as to both.
14 Sending one sheet to the Department of Corrections. The
15 conviction is there. This counts as a strike, Mr. Steele. Under
16 our three strikes law, that is there. All three of these require
17 mandatory GPS and sex offender registry, so I'm sending one sheet
18 down to the Department of Corrections. That's no comment on the
19 seriousness of the charge or the conviction. He has credit for
20 1,342 days.

21 All right. Taking into consideration the facts and
22 circumstances as I understand them that were presented during the
23 course at this trial, weighing those along with Mr. Steele's lack
24 of criminal record and his age, it is the sentence of the Court
25 that Mr. Steele be sent to the Department of Corrections for a

1 period of 25 years; credit for 1,342 days; sex offender registry;
2 and mandatory GPS monitoring.

3 I understand that the State is asking for life, and a
4 25-year sentence is more likely than not life, but nevertheless
5 at his age the amount of time that he will have to serve
6 considering that this is a most serious and violent offense, a
7 sentence of 25 years more likely than not, Mr. Steele, you will
8 spend the rest of your life in jail. But nevertheless, that's
9 going to be my sentence.

10 ASS'T. SOLICITOR GASSER: Your Honor --

11 THE COURT: Yes, ma'am.

12 ASS'T. SOLICITOR GASSER: -- the State would just ask then,
13 since there is a possibility of him potentially getting out,
14 would you please add a permanent restraining order? I can get
15 that over to you as soon as possible even if it needs to be
16 tomorrow morning, but a permanent restraining order for the
17 victim so that there can never be contact.

18 THE COURT: That is granted as to both of the children.

19 ASS'T. SOLICITOR GASSER: Yes, Your Honor.

20 THE COURT: Unless you have an objection, Mr. Varner.

21 ATTORNEY VARNER: No objection to that.

22 THE COURT: I didn't think that you would.

23 ASS'T. SOLICITOR GASSER: Your Honor, is it okay if I
24 prepare those orders and have them sent over to your office
25 tomorrow morning?

1 THE COURT: That's satisfactory to the Court.

2 ASS'T. SOLICITOR GASSER: Thank you, Your Honor.

3 THE COURT: All right. Mr. Steele, you have 10 days within
4 which to file a notice of appeal. That notice of appeal must be
5 in writing. You can speak to Mr. Varner about that. All right.

6 (End of Transcript of Record.)
7

8 CERTIFICATE OF REPORTER

9 I, Cathy J. Provost, Official Court Reporter for the
10 Fourteenth Judicial Circuit of the State of South Carolina, do
11 hereby certify that the foregoing is a true, accurate and
12 complete Transcript of Record of the proceedings had and evidence
13 introduced in the trial/proceedings of the captioned case in the
14 Court of General Sessions for Greenville County, South Carolina,
15 on the 15th day of May, 2025.

16 I do further certify that I am neither of kin, counsel, nor
17 interest to any party hereto.
18

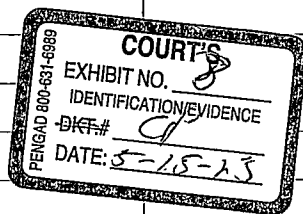
19 Date: October 1, 2025
20

21 \s\ Cathy J. Provost
22 Cathy J. Provost, RMR
23 Official Circuit Reporter
24
25

IF there is not an
unanimous vote, what
is the plan?

$\frac{N-G}{4}$

$\frac{G}{8}$



457

WITNESSES

Andrew Elder

Greenville Police Department

9/11/2021

ARREST WARRANT NUMBER

2021A2320603124

ACTION OF GRAND JURY

TRUE BILL

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2024-GS-23-

MAG

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

December TERM 2024

THE STATE

vs.

PHILIP SCOTT STEELE

Indictment for

0385

CRIMINAL SEXUAL CONDUCT WITH A MINOR
FIRST DEGREE

VIOLATION § 16-03-0655

ENTERED ACCT *en*

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

INDICTMENT FOR
CRIMINAL SEXUAL CONDUCT WITH A MINOR FIRST DEGREE

At a Court of General Sessions, convened on

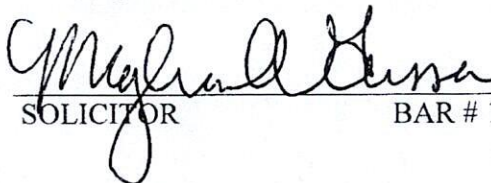
DEC 03 2024

the Grand Jurors of Greenville

County present upon their oath:

That PHILIP SCOTT STEELE did in Greenville County, on or about the 11th day of April 2014 through the 11th day of April 2016, commit a sexual battery on A.F., who was less than eleven years of age, to wit: the defendant put his penis in the victim's mouth while having pornographic material play on the television. This is in violation of §16-03-0655(A)(1)[formerly 16-3-655(1)] of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

BAR # 104134

WITNESSES

Andrew Elder

Greenville Police Department

9/11/2021

ARREST WARRANT NUMBER

2021A2320603126

ACTION OF GRAND JURY**TRUE BILL**

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2024-GS-23-
MAG

The State of South Carolina

007200

County of Greenville

COURT OF GENERAL SESSIONS

December TERM 2024

THE STATE

vs.

PHILIP SCOTT STEELE

Indictment for

3661

CRIMINAL SEXUAL CONDUCT WITH A MINOR
3RD DEGREE

VIOLATION § 16-03-0655

ENTERED ACCT *En*

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

INDICTMENT FOR
CRIMINAL SEXUAL CONDUCT WITH A MINOR 3RD DEGREE

At a Court of General Sessions, convened on

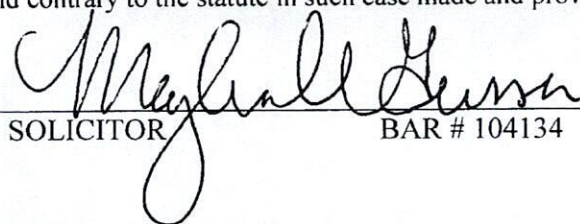
DEC 03 2024

the Grand Jurors of Greenville

County present upon their oath:

That PHILIP SCOTT STEELE did in Greenville County, on or about the 11th day of April 2014 through the 11th day of April 2016, being over the age of fourteen years, willfully and lewdly commit or attempt a lewd and lascivious act upon or with the body, or its parts, of A.F., a child under the age of sixteen years, to wit: the defendant did pull her pants down and touch her vagina while instructing her not to tell anyone and pornographic material would play on the television, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of himself or such child. This is in violation of §16-03-0655(C) of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

BAR # 104134

461

WITNESSES

Andrew Elder

Greenville Police Department

9/11/2021

ARREST WARRANT NUMBER

2021A2320603125

ACTION OF GRAND JURY

TRUE BILL

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2024-GS-23-

MAG

The State of South Carolina

007209

County of Greenville

COURT OF GENERAL SESSIONS

December

TERM 2024

THE STATE

vs.

PHILIP SCOTT STEELE

Indictment for

3661

**CRIMINAL SEXUAL CONDUCT WITH A MINOR
3RD DEGREE**

VIOLATION § 16-03-0655

ENTERED ACCT *em*

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

INDICTMENT FOR
CRIMINAL SEXUAL CONDUCT WITH A MINOR 3RD DEGREE

At a Court of General Sessions, convened on

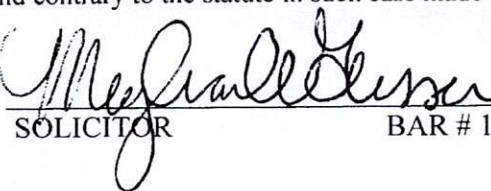
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Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

BAR # 104134

WITNESSES*Andrew Elder*

Greenville Police Department

9/11/2021

ARREST WARRANT NUMBER

2021A2320603127

ACTION OF GRAND JURY**TRUE BILL**

FOREMAN GRAND JURY

*Foreperson of Grand Jury***VERDICT***Foreperson of Petit Jury*

Date:

DOCKET NO. 2024-GS-23-
MAG

007200

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

December

TERM 2024

THE STATE

vs.

PHILIP SCOTT STEELE

Indictment for

0385

**CRIMINAL SEXUAL CONDUCT WITH A MINOR
FIRST DEGREE**

VIOLATION § 16-03-0655

STATE OF SOUTH CAROLINA)

)

INDICTMENT FOR

)

CRIMINAL SEXUAL CONDUCT WITH A MINOR FIRST DEGREE

COUNTY OF GREENVILLE)

DEC 03 2024

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Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



SOLICITOR

BAR # 104134

WITNESSES

465 Andrew Elder

Greenville Police Department

9/11/2021

ARREST WARRANT NUMBER

2021A2320603128

**ACTION OF GRAND JURY
TRUE BILL**

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2024-GS-23-

MAG

The State of South Carolina

County of Greenville

007206

COURT OF GENERAL SESSIONS

December

TERM 2024

THE STATE

vs.

PHILIP SCOTT STEELE

Indictment for

3661

**CRIMINAL SEXUAL CONDUCT WITH A MINOR
3RD DEGREE**

VIOLATION § 16-03-0655(C)

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
CRIMINAL SEXUAL CONDUCT WITH A MINOR 3RD DEGREE

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DEC 03 2024

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Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

BAR # 104134

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



W. Chandler Norville
Appellate Defender

RECEIVED

May 20 2026

SC Court of Appeals

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 20th day of May, 2026.