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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Beaufort County

Honorable Eugene Warr, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JAMES ETHRIDGE JONES,

APPELLANT

APPELLATE CASE NO. 2025-001761

RECORD ON APPEAL

DAVID ALEXANDER
Deputy Chief Attorney for Capital Appeals

ALAN WILSON
Attorney General

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

MARK FARTHING
Senior Assistant Deputy Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201
(803) 734-4117

ATTORNEY FOR APPELLANT

ISAAC MCDUFFIE STONE, III
Solicitor, Fourteenth Judicial Circuit
Fourteenth Circuit Solicitor's Office
PO Box 1880
Bluffton, SC 29910
(843) 790-6194

ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT
2019GS0701515

State of South Carolina,)
))
Plaintiff,)
))
vs.)
))
James Etheridge Jones, Jr.,)
))
Defendant.)
-----)

TRANSCRIPT OF DAY 1
PAGES 1 - 145

August 25, 2025
Beaufort, South Carolina

B E F O R E:

The Honorable Eugene Warr, Judge Presiding

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

For the State -
Monica Main, Esquire
Hunter Swanson, Esquire
14th Circuit Solicitor's Office
PO Box 1880
Bluffton, South Carolina 22910

For the Defendant -
Jacob McFadden, Esquire
Gabriel Ingram, Esquire
14th Circuit Public Defender's Office
PO Box 525
Beaufort, South Carolina 29901

Cathy L. Young, CVR-M
Official Circuit Court Reporter
Post Office Box 4604
Beaufort, South Carolina 29903

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No exhibits were introduced.

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

2 * * * * *

3 THE COURT: I just want to welcome
4 everybody. I'm Gene Warr, your circuit judge this
5 week. I'm from Darlington County. Hope y'all will
6 be able to understand my speech. I hope that you
7 all have a good week. I know how it feels to be
8 sitting there. I've been there myself. I can
9 imagine what you're thinking, but this is a good
10 week. It's a week to learn. A lot of times at the
11 end of the week people say they're glad that they
12 got the opportunity to serve as a juror. So
13 hopefully you'll have a good week and I look forward
14 to seeing all of you a little later.

15 (JURY ROLL CALL)

16 THE COURT: All right, ladies and
17 gentlemen, I now have some questions to ask you to
18 determine your qualifications as jurors. Some of
19 these questions are very personal and you may not
20 want to stand and disclose the information open in
21 the presence of your fellow jurors. If that's the
22 case, you'll have an opportunity to come forth later
23 and tell me in a setting just up here what your
24 situation might be. We don't want anybody to suffer
25 any kind of embarrassment or anything like that so

1 we'll try not to have you in a situation where you
2 would have to stand up and say something that would
3 be too personal and embarrassing to you.

4 So remember now, you need to come forward
5 if you have one of these points that you need to
6 talk about, remember to come forward, because we
7 have to have accurate information.

8 All right. Going through the questions.

9 Is any member of the jury panel not a
10 citizen of the United States? If so, please stand.

11 (No one is standing.)

12 Is any member of jury panel not a resident
13 and citizen of Beaufort County, South Carolina? If
14 not, please stand.

15 (No one is standing.)

16 Is any member of the jury panel unable to
17 read, write, speak or understand the English
18 language? If so, please stand.

19 (No one is standing.)

20 I've never understood how somebody who
21 couldn't understand would understand that question.
22 But I have to ask it. (Jurors chuckle).

23 Is any member of the jury panel have less
24 than a sixth grade education or its equivalent? If
25 so, please stand.

1 (No one is standing.)

2 Is any member of the jury panel unable
3 because of a mental or physical infirmity to render
4 efficient jury service? For example, does any
5 member of the jury panel have any medical condition
6 that would prevent you from serving on a jury this
7 week? Anyone?

8 THE COURT: Yes, ma'am. Number? Juror
9 number?

10 PROSPECTIVE JUROR: 313.

11 THE COURT: Yes, ma'am.

12 PROSPECTIVE JUROR: I have emergency dental
13 work in New York City. I have a flight on
14 Wednesday.

15 THE COURT: Okay. What we'll do is we will
16 -- you're 313?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: We will transfer you, ma'am, we
19 will transfer you to another term of court. How far
20 out do you need to be?

21 PROSPECTIVE JUROR: Well, it just depends
22 on what the endodontist says.

23 CLERK: She can come up here and I'll get
24 it taken care of.

25 THE COURT: Okay. Yes, ma'am. Number?

1 PROSPECTIVE JUROR: 254.

2 THE COURT: 254?

3 JUROR 254: Yes, and I have surgery on
4 Thursday. I can explain in detail ---

5 THE COURT: No, no. You don't need to.
6 We'll transfer you also. Okay. Yes, sir.

7 PROSPECTIVE JUROR: 109.

8 THE COURT: 109.

9 JUROR 109: I have shoulder surgery on
10 Thursday.

11 THE COURT: Okay. Same thing. Come on up,
12 we'll transfer you. Understand.

13 PROSPECTIVE JUROR: 145.

14 THE COURT: 145.

15 JUROR 145: I do not wish to state, but I
16 have a medical issue that's quite a hindrance.

17 THE COURT: Okay, hold on. We'll take that
18 up when you come up later, okay. Yes, ma'am?

19 PROSPECTIVE JUROR: 305. I have a doctor's
20 appointment in Charleston tomorrow, and then I have
21 one on Wednesday here in Beaufort for my knee.

22 THE COURT: All right. Come on, we're
23 going to transfer you.

24 PROSPECTIVE JUROR: All right.

25 THE COURT: Yes, sir. Back corner.

1 Number?

2 PROSPECTIVE JUROR: 287.

3 THE COURT: Yes, sir, 287.

4 PROSPECTIVE JUROR: I have a medical issue.

5 THE COURT: You come up later and tell me
6 about it, okay?

7 PROSPECTIVE JUROR: Thank you.

8 THE COURT: All right, yes, sir.

9 PROSPECTIVE JUROR: 395. It's not related
10 to me, it's my spouse.

11 THE COURT: Okay.

12 PROSPECTIVE JUROR: It's a medical
13 treatment in Florida on Thursday, and I have to take
14 her down there.

15 THE COURT: We'll transfer you. Yes, sir?

16 PROSPECTIVE JUROR: I have therapy for my
17 hand tomorrow.

18 THE COURT: We'll talk about -- you come up
19 in a little bit, and we'll talk about it, okay?
20 Yes, ma'am?

21 PROSPECTIVE JUROR: 61. I have CAT scan
22 tomorrow.

23 You have a CAT scan tomorrow, ma'am? It's
24 been scheduled for a while?

25 PROSPECTIVE JUROR: Yes.

1 THE COURT: Come on up here, we'll schedule
2 a transfer. Yes, sir?

3 PROPSECTIVE JUROR: 256, I have a
4 dermatology appointment on Wednesday.

5 THE COURT: Okay. We'll -- I'll let you
6 come up and talk to me about it a little bit more in
7 a minute, okay? Yes, ma'am.

8 PROPSECTIVE JUROR: 386. I have an open
9 case.

10 THE COURT: 386?

11 PROSPECTIVE JUROR: Yes, sir.

12 THE COURT: You have a what?

13 PROSPECTIVE JUROR: An open case.

14 THE COURT: You come up and tell me about
15 that a little bit later, okay? All right. Of all
16 of you who I didn't say come up here and transfer,
17 we'll go ahead and talk a little more privately in a
18 little bit.

19 Is any member of the jury panel been
20 convicted by guilty plea or trial in a state or
21 federal court of a crime punishable by imprisonment
22 more than one year, and your civil rights have not
23 been restored by pardon or amnesty? Punishable by
24 more than one year means that you could have
25 received a year sentence or more regardless of what

1 sentence you may have actually received. If so,
2 please stand. Anyone?

3 (No one is standing.)

4 Is any member of the jury panel a clerk or
5 deputy clerk of court, constable, sheriff or other
6 commissioned law enforcement officer, probate judge,
7 county commissioner, magistrate or other county
8 officer or employed within the walls of any
9 courthouse? Please stand. Anyone?

10 (No one is standing.)

11 Is there any member of the jury panel who
12 has previously served on jury duty in circuit court,
13 not city court, not Magistrate's court, not federal
14 court, but circuit court like this during this
15 calendar year? If so, please stand.

16 PROSPECTIVE JUROR: I don't know about this
17 calendar year, but I've served twice in the last
18 three years.

19 THE COURT: Okay. We'll -- I'm going to
20 come back to you on that. I just have a question
21 about that.

22 PROSPECTIVE JUROR: Like not served -- yes,
23 sir.

24 Has any member of the jury panel served as
25 a member of the Beaufort County grand jury during

1 the past several years? If so, please stand.

2 (No one is standing.)

3 Now we're going to move over to a different
4 category. This is the jury exemptions. State law
5 provides there are several exemptions to jury
6 service. An exemption means that you are -- it
7 doesn't mean you're not qualified. You're still
8 qualified. As an exemption, you may have the right
9 to choose to say I want that exemption, I don't want
10 to serve.

11 First one, those of you who are 65 years of
12 age or older may be exempted from jury service. If
13 -- you don't have to be exempted, we'd like to have
14 people who are older than 65, got a lot of
15 experience in life, but you have the right if you're
16 over 65 and you wish to be exempted. Is there
17 anyone here in that category, 65 or over and wish to
18 be exempted?

19 THE COURT: Yes, sir?

20 PROSPECTIVE JUROR: I'd like to defer it
21 and serve another time, please.

22 THE COURT: Okay. Well, you understand you
23 can be exempted out completely but you want to be
24 deferred to serve another time?

25 PROSPECTIVE JUROR: Yes.

1 THE COURT: Okay. Your number please, sir?

2 PROSPECTIVE JUROR: 104.

3 THE COURT: Juror 104. Come on -- would
4 you come on up here, sir. We appreciate you willing
5 to serve and being willing to serve another time.
6 Yes, sir.

7 PROSPECTIVE JUROR: 320. I'm 66, but I'm
8 still working so I prefer to be deferred.

9 THE COURT: Yes, sir. 320?

10 PROSPECTIVE JUROR: Yes, sir.

11 I'm going to excuse you, sir, but make sure
12 you're -- hold on just a minute. I don't want to
13 excuse you, and then later on as this process --
14 320 why he's here, I want to make sure you get
15 checked off correctly, okay? Just hold on.

16 Anyone else 65 or older?

17 (No one else is standing.)

18 All right. Persons who have served as
19 grand jurors the last five years -- if you've served
20 on a grand jury in the last 5 years, you may also
21 exempt from service. Anyone member of the jury
22 panel that's served as a grand jury in Beaufort
23 County in the last 5 years, the grand jury?

24 PROSPECTIVE JUROR: I don't know what I ---

25 THE COURT: You served on the jury ---

1 PROSPECTIVE JUROR: I served on a jury
2 three times.

3 THE COURT: Okay.

4 PROSPECTIVE JUROR: I served twice, okay.

5 THE COURT: When's the last time you
6 served?

7 PROSPECTIVE JUROR: In '22 or '23.

8 THE COURT: 2023, okay. We'll check on it.
9 Just give us a minute, okay. What's your number?

10 PROSPECTIVE JUROR: 147.

11 THE COURT: 147? Okay.

12 CLERK: Your Honor, he served in 2019.

13 THE COURT: He last served in 2019? You
14 last served in 2019, sir. I know it seems like it's
15 more recent than that.

16 PROSPECTIVE JUROR: The last time I came
17 here I got excused again.

18 THE COURT: Okay.

19 PROSPECTIVE JUROR: And it was later than
20 2019.

21 THE COURT: We'll talk -- we can talk about
22 it some more later. We'll talk about it some more.
23 Sir, I want you to come up when it's time to talk.
24 Come up here, okay? Sir, can you hear me? When
25 it's time at the end to take folks individual

1 matters, I want you to come up and talk to me, okay?

2 On this next exemption, I need you to
3 listen very closely, because it has several parts
4 that you qualify this -- for this exemption. So
5 please listen closely to me.

6 You may be exempt from jury service if you
7 have a small child or small children under the age
8 of seven years of age. You have legal custody of
9 your child or children, you have principal care
10 custody and control of your child or children, and
11 you are unable to make arrangements for the adequate
12 care of your child or children while performing jury
13 duty. If all of these requirements apply to you,
14 you may be exempted on this basis. If this
15 exemption applies to you and you wish to be
16 exempted, please stand at this time anyone who falls
17 in that category.

18 THE COURT: Yes, ma'am. Number?

19 PROSPECTIVE JUROR: 158.

20 THE COURT: I'm sorry.

21 PROSPECTIVE JUROR: 1-5-8.

22 THE COURT: 158? Yes, ma'am.

23 PROSPECTIVE JUROR: I have a child.

24 THE COURT: Okay.

25 PROSPECTIVE JUROR: A six-year-old.

1 THE COURT: How old is your child?

2 PROSPECTIVE JUROR: Six.

3 THE COURT: You got one? And you're
4 responsible for the care?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: Is there anybody else who can
7 help you this week with that?

8 PROSPECTIVE JUROR: It's more convenient
9 for me to do it.

10 THE COURT: Okay. Well, let me ask you
11 this, ma'am, and I understand -- I don't mean to
12 give you a difficult time about this, but we need
13 you to serve and you say it's inconvenient ---

14 PROSPECTIVE JUROR: I also have class on
15 Wednesday.

16 THE COURT: Okay, let's not talk about that
17 right now. You can tell me more about that if you
18 want to come up individually, but as to your child
19 that's six ---

20 PROSPECTIVE JUROR: Uh-huh.

21 THE COURT: --- you can't make arrangements
22 with someone else to take care of your child this
23 week if we need you for jury service?

24 PROSPECTIVE JUROR: I mean my husband would
25 have to do it, but he'd have to take off. I'm a

1 stay-at-home mom, that's kind of my job.

2 THE COURT: Okay. I'm going to -- just
3 hold on a minute. I'm going to come back to you.
4 Yes, ma'am.

5 PROSPECTIVE JUROR: 72.

6 THE COURT: 72?

7 PROSPECTIVE JUROR: Yes. I have a three-
8 year-old.

9 THE COURT: Okay, and you're not able to
10 make arrangements for anyone to take care of your
11 child this week?

12 PROSPECTIVE JUROR: No. I drop him off and
13 pick him up.

14 THE COURT: Ma'am?

15 PROSPECTIVE JUROR: I drop him off and pick
16 him up.

17 THE COURT: Do you mean he's at daycare?

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: Okay.

20 PROSPECTIVE JUROR: But they told me at 5,
21 it could go longer than 5.

22 THE COURT: You have to be there by 5?

23 PROSPECTIVE JUROR: 5:30 is usually the cut
24 off.

25 THE COURT: Okay. How far is it from here?

1 PROSPECTIVE JUROR: Probably 15 to 30
2 minutes with traffic.

3 THE COURT: Okay. You have no one -- you
4 don't have anyone else in your family who could help
5 pick your child up?

6 PROSPECTIVE JUROR: My husband works out of
7 state, and my mom is working.

8 THE COURT: Got it. All right. Just hold
9 on, I'm going to come back to you. All right.
10 Anyone else with a child situation?

11 (No one else is standing.)

12 THE COURT: All right. I want both of you
13 folks up here, and I'll let you both go, okay? Both
14 of you can be excused. Come up and make sure you
15 give them the numbers. I just want you to come up
16 and make sure you get properly checked off. Again,
17 I don't want you to be showing as not reporting for
18 duty.

19 All right. The next exemption calls those
20 of you who may be in school at this time or work in
21 some capacity with the school. This exemption
22 applies to you if you wish to be exempted, we will
23 transfer your service to another term of court, a
24 time which will not conflict with your school. Is
25 there any member of the jury panel who's a full-time

1 student, a school teacher, school crossing guard,
2 school bus driver or who serves in any other school
3 related function who is unable to serve on jury duty
4 this week as a result of that school involvement?

5 If so, please stand. Yes, sir.

6 PROSPECTIVE JUROR: 1-4-5. I'm a full-
7 time college student. I have a number of classes
8 pertaining to my computer science degree.

9 THE COURT: We'll transfer you, okay? If
10 you would, come on up and let them talk to you about
11 when you can transfer. Anyone else?

12 (No one else is standing.)

13 Is there any member of the jury panel
14 that's employed with the Department of Corrections
15 at a penitentiary? If so, please -- and you'd like
16 to be exempted, please stand.

17 Is there any juror who performs services
18 for a business, commercial or agricultural
19 enterprise who are so essential to the operation of
20 the enterprise that if you were required to perform
21 jury duty ,the enterprise would have to close or
22 stop functioning? If so, and you wish to be
23 exempted, please stand. Yes, sir.

24 PROSPECTIVE JUROR: 287.

25 THE COURT: Landscapes. Is that right?

1 PROSPECTIVE JUROR: Yes. Yes, sir. I'm
2 the only -- the nursery -- the walk-in nursery and
3 there's no one ---

4 THE COURT: You're the only person there
5 running the show.

6 PROSPECTIVE JUROR: The only person who can
7 attend to customers.

8 THE COURT: Okay. I'm going to excuse you,
9 sir. Anyone else? Come up, report your number so
10 we know we got you. Yes, sir.

11 PROSPECTIVE JUROR: 336. Our -- my
12 business would be severely hindered if I'm not
13 present.

14 THE COURT: You don't have anyone else that
15 could run the show while you're gone?

16 PROSPECTIVE JUROR: It's a family business,
17 and we're understaffed.

18 THE COURT: All right. I will excuse you
19 today. Come on.

20 Any juror who is the primary caretaker for
21 a severely disabled person who is unable to care for
22 himself or cannot be left unattended?

23 PROSPECTIVE JUROR: Yes, I take -- well, my
24 niece is pregnant, and she's about to have a baby
25 and she look over my 75-year-old mother, and my

1 mother don't drive and the baby due, so I got to be
2 home because my mother don't drive. So once she
3 have the baby somebody'll be there to take her to
4 the hospital to have the baby and take my mother to
5 the hospital to see her have the baby.

6 THE COURT: Okay.

7 PROSPECTIVE JUROR: --- because she's 75
8 years old.

9 THE COURT: Okay.

10 PROSPECTIVE JUROR: She cannot drive.

11 THE COURT: And you're responsible for
12 taking care of her?

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: Okay. All right, sir. I will
15 excuse you. Come on up and let -- make sure they
16 have your information, okay?

17 MS. MAIN: What's his number?

18 THE COURT: What's your number, sir?

19 PROSPECTIVE JUROR: 137.

20 THE COURT: 137?

21 PROSPECTIVE JUROR: Yes, sir.

22 THE COURT: 137. Thank you.

23 (No one else is standing.)

24 Next question. Is there any juror who is
25 the primary caretaker of a person aged 65 or over

1 and wish to be exempted? Please stand. It's your
2 job to take care of somebody that's elderly.

3 All right. That concludes the statutory
4 list of qualifications and exemptions for jury
5 service.

6 PROSPECTIVE JUROR: Your Honor?

7 THE COURT: I'm sorry. Yes, ma'am.

8 PROSPECTIVE JUROR: Yes, I take care of
9 someone who's 95.

10 THE COURT: Okay, and that's your job or
11 something you do on the side?

12 PROSPECTIVE JUROR: Yes, my job.

13 THE COURT: It's your job?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: Okay.

16 PROSPECTIVE JUROR: And I do it on the side
17 also.

18 THE COURT: Okay. That's the emphasis. If
19 it's what you do as a job, ma'am, that's different.
20 If somebody in your family depends on you, then
21 that's what I was getting at there. If it's your
22 job, that does not exempt you, okay? If you've got
23 some particular situation you want to take up with
24 me, again we'll have that private opportunity
25 shortly, okay?

1 All right. That concludes all statutory
2 qualifications and exemptions. It may be that
3 you're qualified and no exemption applies to you,
4 but jury service this week for some other reason
5 we've not covered would constitute an extreme
6 hardship on you. I cannot permanently excuse you if
7 you qualify for jury service, but under extreme and
8 compelling circumstances I may excuse a juror from
9 this term of court and transfer you to another term
10 of court. Please understand that general
11 inconvenience is not a sufficient reason to transfer
12 you to another term. A justified transfer to
13 another term of court service this week must
14 constitute an extreme hardship. Is there anyone
15 that this would place an extreme hardship on this
16 week, and you'd rather serve another week? Yes,
17 sir.

18 PROSPECTIVE JUROR: 50.

19 THE COURT: 50?

20 PROSPECTIVE JUROR: Yeah, I got a two-year-
21 old and a six-month-old at home, and my wife just
22 had ankle surgery and she's in a boot for the next
23 six weeks, so ---

24 THE COURT: You convinced me. Come up and
25 I'll transfer you.

1 BAILIFF: One's standing, Your Honor.

2 THE COURT: Oh, I'm sorry, ma'am.

3 PROSPECTIVE JUROR: That's okay. I have a
4 business trip on Thursday and Friday of this week.
5 I have a flight to do a -- shoot a commercial
6 for ---

7 THE COURT: You've already got your tickets
8 and all that type of stuff? We'll transfer you.
9 Come on up.

10 (No one else is standing.)

11 All right. Now this is your opportunity
12 for anyone who wants to talk up here privately. We
13 will discuss those things that you might not want to
14 talk about with the whole crowd listening. So,
15 now's your chance to come up here. I'm going to
16 walk down here and we'll talk about your particular
17 situation, why you believe you might be disqualified
18 or exempt.

19 BAILIFF: Please form a line right here.
20 Order in the court. Let's maintain quiet please.

21 THE COURT: All right.

22 BAILIFF: Juror 174, Your Honor.

23 THE COURT: 174.

24 PROSPECTIVE JUROR: How long could this
25 process go, 'cause I have travel next week.

1 THE COURT: Next week? Well, this -- what
2 we're doing -- about to do will be completed this
3 week. We won't need you next week.

4 PROSPECTIVE JUROR: All right, very good.
5 That's my question.

6 THE COURT: Thank you.

7 BAILIFF: Juror 348, Your Honor.

8 THE COURT: 348. Yes, ma'am. You've just
9 told me about -- yeah. Tell me a little more.

10 PROSPECTIVE JUROR: So I do care.com also
11 and I have a client that I do on the side.

12 THE COURT: Yes.

13 PROSPECTIVE JUROR: But I do have another
14 job, but I'm the only caretaker for this guy. His
15 family lives out of town.

16 THE COURT: Okay. Well, it's inconvenient
17 for your business could you -- can we transfer you
18 to another term? Will that help you make any more
19 time you can plan around it, because we need you to
20 serve?

21 PROSPECTIVE JUROR: Yes, sir.

22 THE COURT: All right.

23 PROSPECTIVE JUROR: Your Honor, I know, I'm
24 in a hardship, my roommate is leaving, so.

25 THE COURT: Okay. All right. I will

1 excuse you, and your number's 348?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: 348. 3-4-8 okay, 348 you're
4 excused, okay?

5 PROSPECTIVE JUROR: Thank you.

6 THE COURT: Thank you, ma'am.

7 BAILIFF: Juror 249, Your Honor.

8 THE COURT: Yes, sir. How are you doing
9 today? What's your situation?

10 PROSPECTIVE JUROR: I have to have surgery,
11 I had surgery.

12 THE COURT: Yes, sir.

13 PROSPECTIVE JUROR: --- for my hand. I've
14 got to go to therapy tomorrow.

15 THE COURT: Okay.

16 PROSPECTIVE JUROR: I got to go tomorrow
17 and Thursday.

18 THE COURT: Hold on just a minute. Did you
19 have a past conviction on your record too? A past
20 conviction on your record?

21 PROSPECTIVE JUROR: I don't understand.

22 THE COURT: Have you been -- have you pled
23 to a criminal charge before where you were found
24 guilty or pled? Do you have a criminal record?

25 PROSPECTIVE JUROR: Yeah.

1 THE COURT: Okay. Okay, and what was that
2 to? A drug charge?

3 PROSPECTIVE JUROR: Yeah.

4 THE COURT: Okay. I will excuse you, okay.
5 You can be excused.

6 THE COURT: Thank you, now. Number 249.

7 BAILIFF: Released or staying with us?

8 THE COURT: He's released. He can go.
9 He's excused.

10 BAILIFF: Juror 258, Your Honor.

11 THE COURT: 258.

12 PROSPECTIVE JUROR: I'm currently a chef at
13 a resort. We are very understaffed, and I'm the one
14 that can run the business.

15 THE COURT: Okay. Unfortunately, just
16 having a tough time, it affects all of us.

17 PROSPECTIVE JUROR: Yeah.

18 THE COURT: I've served on jury -- I've
19 closed my office -- pretty much closed. I
20 understand it's not easy, but if they can make -- if
21 they can run without you -- it's not a matter of
22 whether it'd be inconvenience ---

23 PROSPECTIVE JUROR: No, it won't be able
24 to. We have three people on vacation and we have
25 two people that just left us.

1 THE COURT: Okay.

2 PROSPECTIVE JUROR: I'm the only one that
3 can ---

4 THE COURT: Your 258? I'll let you
5 transfer to another term. Go down here and see
6 where they might transfer you to, okay?

7 THE COURT: Yes, sir.

8 BAILIFF: Juror 147, Your Honor.

9 THE COURT: 147, you, served on ---

10 PROSPECTIVE JUROR: Twice I've been here
11 probably three or four times. I got excused my last
12 time. I don't have the money to sit here all week
13 and listen to somebody else's problems. I don't.
14 You guys don't pay me money to sit here like that.
15 I'm busy. I need to be at work. I prefer not to be
16 here. I've already done it twice. I've been here
17 four times. This would either my fourth or my fifth
18 today coming to this courthouse. I've seen you,
19 I've seen you.

20 THE COURT: When's the last time? The last
21 time you showed up in court in their records is 2019
22 which is six years ago, and by the exempt -- let me
23 tell you this, why I ask that? Why I ask that,
24 because exemptions don't allow me if you've not been
25 in the last three years to let you off for that. I

1 understand the frustration you have.

2 PROSPECTIVE JUROR: It may have been 2019,
3 but it does not feel like that long ago.

4 THE COURT: Oh, I understand that.

5 PROSPECTIVE JUROR: And I'm just gonna let
6 you know, if I get picked, I'm gonna not be here.
7 So, if you guys wanna pick me and do that, and do
8 it, but I'm letting you know that I cannot make it
9 this week. I cannot.

10 THE COURT: Okay.

11 PROSPECTIVE JUROR: I will not be here.
12 I'm telling you right now.

13 THE COURT: Okay. And let me tell you
14 this, and I appreciate you being up front with me
15 about your intentions.

16 PROSPECTIVE JUROR: I'm honest, because
17 that's all I can be. I'm gonna be here today so I
18 don't get arrested.

19 THE COURT: Okay, let me tell you this.
20 Let me tell you this. If you get picked and you're
21 not exempt and you're supposed to be on a jury and
22 you don't come, here's how I have to deal with that.

23 PROSPECTIVE JUROR: I don't have a car.

24 THE COURT: Okay.

25 PROSPECTIVE JUROR: I don't have -- you

1 guys don't pay me the money that I -- to get back
2 and forth to pay my bills. Y'all only -- I've done
3 this twice.

4 THE COURT: Are you working?

5 PROSPECTIVE JUROR: I am working, but not
6 the money y'all make.

7 THE COURT: Okay. What do you do? You run
8 your own business or what do you do?

9 PROSPECTIVE JUROR: No. I'm a laborer.
10 I'm a construction worker. That's what I do.

11 THE COURT: Okay. Would it put a financial
12 hardship on you if you miss a week of work?

13 PROSPECTIVE JUROR: Oh my god, I would be
14 -- I'd be in the gutter.

15 THE COURT: Okay. That's the reason I can
16 excuse you, okay.

17 PROSPECTIVE JUROR: I can really use that.
18 I appreciate it.

19 THE COURT: All right, you're 147. I will
20 excuse you based upon that what you just told me,
21 okay?

22 PROSPECTIVE JUROR: I don't have it.

23 THE COURT: Okay. All right. You can be
24 excused. 147.

25 BAILIFF: Free to go.

1 THE COURT: Yes, sir.

2 BAILIFF: Juror 227, Your Honor.

3 THE COURT: Yes, sir.

4 PROSPECTIVE JUROR: My problem is that I
5 can speak English, I can read, but I'm not really
6 good in writing.

7 THE COURT: That's okay. You'll be all
8 right. You can understand basically what we're
9 saying, you don't have to be really good in writing.
10 It's fine. In fact, I don't let jurors take notes
11 and all anyway. What we're hearing about, you'll be
12 able to understand it. You'll be a good juror.
13 Okay?

14 PROSPECTIVE JUROR: All right.

15 THE COURT: Thank you for coming up.

16 BAILIFF: Juror 144, Your Honor.

17 THE COURT: Yes, he's staying with us.
18 Yes, sir. How are you doing?

19 PROSPECTIVE JUROR: I'm 20 years old, and I
20 live with my parents as they kind of depend on me a
21 lot with the bills and stuff, and I really can't
22 afford to take off -- or be any part of this.

23 THE COURT: So you work full-time?

24 PROSPECTIVE JUROR: Yes, I work full-time,
25 and I help my parents with a lot of bills in the

1 house and I really can't afford it. I don't make a
2 lot of money.

3 THE COURT: It be a financial hardship for
4 you if you miss a week -- on you and your family is
5 what you're telling me?

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: Okay. You're number 144?

8 PROSPECTIVE JUROR: Yes, sir.

9 THE COURT: Okay. I'm going to excuse you.

10 PROSPECTIVE JUROR: Thank you.

11 THE COUR: 144 is excused.

12 PROSPECTIVE JUROR: Thank you.

13 BAILIFF: Juror 330, Your Honor.

14 THE COURT: 330. Yes, ma'am.

15 THE COURT: Good morning.

16 PROSPECTIVE JUROR: My father-in-law that
17 was a prosecutor, he passed away this summer, so I
18 was transferred to this case.

19 THE COURT: Okay.

20 PROSPECTIVE JUROR: A month from tomorrow,
21 I lead a large golf tournament for Children's
22 Miracle Network where we raise hundreds of thousands
23 of dollars, and I'm the main leader of it. So, it's
24 just weighing on me to be at crunch time and be away
25 from the job responsibility.

1 THE COURT: You want to be transferred to
2 another time?

3 PROSPECTIVE JUROR: If it could be after
4 September 26th.

5 THE COURT: Sure, sure.

6 PROSPECTIVE JUROR: That'd be great,
7 because that's the tournament date.

8 THE COURT: I'll transfer you to another
9 time.

10 PROSPECTIVE JUROR: Thank you, sir, very
11 much.

12 THE COURT: Thank you for doing what you're
13 doing.

14 PROSPECTIVE JUROR: Thank you very much.

15 THE COURT: We're going to transfer -- your
16 number is ---

17 PROSPECTIVE JUROR: 330.

18 THE COURT: 330 being transferred.

19 PROSPECTIVE JUROR: Thank you, Your Honor.

20 BAILIFF: Juror 114, Your Honor.

21 THE COURT: Yes, ma'am. How are you doing?

22 PROSPECTIVE JUROR: Sir, there's gonna be a
23 conflict of interest, 'cause in 2021 my oldest son
24 was shot and killed, and I'm still dealing with
25 courts and -- at victim's advocate in Savannah, and

1 I also know the Defendant. He was really good
2 friends with my son. So I know I couldn't -- I'm
3 not able to show up for that, I know I'm not gonna
4 be able to show up for you guys here the way you
5 need me to.

6 THE COURT: And what -- you're number 114?

7 PROSPECTIVE JUROR: Yes, sir.

8 THE COURT: We'll excuse you, ma'am.

9 PROSPECTIVE JUROR: Thank you.

10 THE COURT: Thank you.

11 BAILIFF: Juror 386, Your Honor.

12 THE COURT: Hey, 386? How are you doing?

13 PROSPECTIVE JUROR: I raised my hand about
14 having a case. I actually have an open aiding and
15 abetting a fugitive case.

16 THE COURT: Okay.

17 MR. MCFADDEN: Your Honor, I believe I
18 represent her on this pending charge.

19 THE COURT: Okay.

20 PROSPECTIVE JUROR: And you do.

21 THE COURT: What's your number again, 386?

22 PROSPECTIVE JUROR: Yes, sir.

23 THE COURT: All right. 386, you're
24 excused, ma'am. Thank you.

25 PROSPECTIVE JUROR: All righty.

1 THE COURT: Thank you, ma'am.

2 BAILIFF: Juror 62, Your Honor.

3 THE COURT: How are you doing?

4 PROSPECTIVE JUROR: I know how this is
5 going to sound.

6 THE COURT: Okay.

7 PROSPECTIVE JUROR: I have an inability to
8 -- when I think, I telepath what I say, so I'm
9 worried that if -- during testimony or whatever -- I
10 know one of the responsibilities of the juror is to
11 keep the privacy of all the parties.

12 THE COURT: Yes, sir.

13 PROSPECTIVE JUROR: So, I'm worried that if
14 I were to think something or whatever that people
15 could tell, then that would affect how people act in
16 the trial or how people perform or and I would break
17 privilege of the parties there. So, I know it's how
18 it sounds ---

19 THE COURT: Okay.

20 PROSPECTIVE JUROR: --- but ---

21 BAILIFF: Let's have order, please.

22 PROSPECTIVE JUROR: --- And if it's not an
23 excuse, I'm perfectly fine for serving.

24 THE COURT: Okay. I think that you seem
25 like you'd be able to control yourself and continue

1 to do your job. I think you could do your job. I
2 understand what you're concerned about I think, but
3 I think you -- I don't think that keeps you from
4 serving as a juror. I think you'll be okay.

5 PROSPECTIVE JUROR: Okay.

6 THE COURT: Okay. All right. Thank you,
7 sir.

8 BAILIFF: Juror 256, Your Honor.

9 THE COURT: Hey. How are you doing?

10 PROSPECTIVE JUROR: Good, thank you. I
11 have a dermatologist appointment on Wednesday. It's
12 a follow-up for a different -- they're gonna remove
13 a little mole ---

14 THE COURT: Okay.

15 PROSPECTIVE JUROR: --- on the eye.

16 THE COURT: I don't want you missing that.
17 That's important, okay.

18 PROSPECTIVE JUROR: Plus this rash is like
19 itchy all over my body.

20 THE COURT: Okay, I'm going to let you
21 transfer to another time, okay? Just transfer,
22 because you got to go to the doctor for that, okay?
23 Number 256 will transfer, okay.

24 BAILIFF: Juror 327, Your Honor.

25 PROSPECTIVE JUROR: Good morning, Judge.

1 THE COURT: Good morning. How are you
2 doing?

3 PROSPECTIVE JUROR: I am a registered
4 nurse, and I work at a nursing home and we are
5 severely understaffed so I really need to be at
6 work.

7 THE COURT: Okay. Is that usually a
8 problem though? I mean aren't most places
9 understaffed? Yeah, I mean -- and let me say this.
10 I don't like that juror service puts a hardship on
11 us, but it does, and I've served a couple of times
12 myself and it put a hardship on me. I understand,
13 but it's not a reason I could get out. So, I'm
14 going to have to ask you to stay. I'm sorry, okay?
15 Thank you, ma'am.

16 THE COURT: Yes, ma'am.

17 BAILIFF: Juror 324, Your Honor.

18 THE COURT: Good morning.

19 PROSPECTIVE JUROR: I have a seizure
20 disorder that I take meds for, and they make me
21 extremely tired.

22 THE COURT: Okay.

23 PROSPECTIVE JUROR: So my only concern is
24 staying awake.

25 THE COURT: I understand it's for seizure,

1 you have to take it.

2 PROSPECTIVE JUROR: Oh, yeah.

3 THE COURT: Okay. You're number 324?

4 PROSPECTIVE JUROR: Yes, sir.

5 THE COURT: I'm going to excuse you.

6 PROSPECTIVE JUROR: Thank you so much.

7 THE COURT: Thank you, ma'am, appreciate
8 it.

9 BAILIFF: Juror 85, Your Honor.

10 THE COURT: Hey, how are you doing?

11 PROSPECTIVE JUROR: My situation is I don't
12 have a driver's license.

13 THE COURT: Okay.

14 PROSPECTIVE JUROR: I drove here with my
15 father who has a bad back, and it'd be inconvenient
16 for him to drive me for the full week.

17 THE COURT: How far away do you live?

18 PROSPECTIVE JUROR: I live in Bluffton.
19 Sorry, I didn't say when you asked if I lived in
20 Beaufort.

21 THE COURT: Okay. So you don't have anyone
22 else who can get you here?

23 PROSPECTIVE JUROR: No. My mother works a
24 full-time job Monday through Friday as well.

25 THE COURT: You say your father brought you

1 today?

2 PROSPECTIVE JUROR: Uh-huh.

3 THE COURT: He can't bring you the other
4 days?

5 PROSPECTIVE JUROR: It'd be inconvenient
6 for him because of his bad back.

7 THE COURT: Well, we've got a number of
8 jurors. You know the chance of you being picked are
9 less than 50 percent, sir, and I'm going to let you
10 stay around. We'll -- I need you this week, okay?

11 PROSPECTIVE JUROR: I was also diagnosed
12 with a learning disability.

13 THE COURT: Yes, sir.

14 PROSPECTIVE JUROR: I was diagnosed with a
15 learning disability. They gave me extra time on
16 test, 'cause I have trouble with multiple
17 directions.

18 THE COURT: Okay. You can listen and
19 understand what's going on in the courtroom about a
20 situation I think, can't you?

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: Okay. I think I'm going to opt
23 to ask you to stay. Thank you, sir. Number 85.

24 BAILIFF: Return to your seat, please.

25 THE COURT: Yes, sir.

1 BAILIFF: Juror 60, Your Honor.

2 THE COURT: Yes, sir.

3 PROSPECTIVE JUROR: Yeah, so I have to get
4 my little sister and my niece, I mean my goddaughter
5 from school and my dogs.

6 THE COURT: Okay. What time do you get
7 them from school?

8 PROSPECTIVE JUROR: I have to get them at
9 3:30, and my dogs before 5.

10 THE COURT: This is your child you're
11 talking about?

12 PROSPECTIVE JUROR: My goddaughter and then
13 my sister.

14 THE COURT: How old is your sister?

15 PROSPECTIVE JUROR: She's five.

16 THE COURT: Five?

17 PROSPECTIVE JUROR: My mom can't drive --
18 doesn't have a driver's license and nobody else can
19 pick them up.

20 THE COURT: So you're responsible for the
21 care of the five-year-old?

22 PROSPECTIVE JUROR: Yes, because she's --
23 my dad's divorced. He's in Mexico.

24 THE COURT: Okay.

25 PROSPECTIVE JUROR: And the other person up

1 here's my mom, and she has no driver's license.

2 THE COURT: 68?

3 PROSPECTIVE JUROR: 60.

4 THE COURT: 60, I'm sorry. I don't have my
5 glasses on. It looked like an eight. You're number
6 60, not 68. Number 60, we're going to excuse you,
7 okay?

8 PROSPECTIVE JUROR: Thank you, sir.

9 THE COURT: Okay. All right.

10 PROSPECTIVE JUROR: I really appreciate it,
11 Your Honor.

12 THE COURT: Thank you. Yes.

13 BAILIFF: Juror 29, Your Honor.

14 PROSPECTIVE JUROR: Good morning.

15 THE COURT: Yes, sir.

16 PROSPECTIVE JUROR: Sorry. I just wanted
17 to double check my where she has my house, but I
18 live in Jasper County now.

19 THE COURT: Oh, you live in Jasper County.

20 PROSPECTIVE JUROR: Yes. So, I want to
21 make sure -- I mean, I know you spoke about it if I
22 -- I mean I didn't listen to the question, but I
23 just want to make sure this is only interference
24 because I live in Hardeeville now.

25 THE COURT: Okay. If you're in Jasper

1 County, we have to let you go, okay?

2 PROSPECTIVE JUROR: Okay.

3 THE COURT: They'll probably get you in
4 Jasper County, but ---

5 PROSPECTIVE JUROR: Yeah, I mean that's the
6 thing too. I don't wanna to serve now, and then I
7 get a couple weeks later and go again, but do I have
8 to do anything with you guys for it?

9 THE COURT: 290, yeah 290, we're letting
10 him go. He's not -- he no longer lives in Beaufort
11 County.

12 PROSPECTIVE JUROR: Do I have to speak with
13 anybody?

14 THE COURT: Yeah, y'all got him? Y'all got
15 him? 290? Okay, all right. Yes, sir.

16 BAILIFF: Juror 298, Your Honor.

17 The Court: 298, yes, sir.

18 PROSPECTIVE JUROR: I'm the sole provider
19 in this practice.

20 THE COURT: Yeah.

21 PROSPECTIVE JUROR: and it's only one OB
22 able to work.

23 THE COURT: And again, your number is 298?

24 PROSPECTIVE JUROR: Yes, sir.

25 THE COURT: 298, we'll let you go.

1 PROSPECTIVE JUROR: Yes, sir.

2 THE COURT: Okay. Good luck to you.

3 BAILIFF: Juror 213, Your Honor.

4 THE COURT: Yes, sir.

5 PROSPECTIVE JUROR: I -- my issue is that I
6 cannot hear well.

7 THE COURT: Okay.

8 PROSPECTIVE JUROR: --- and I am 75.

9 THE COURT: Okay.

10 PROSPECTIVE JUROR: And I just am afraid
11 that if I'm sitting all the way over here, there's
12 no way ---

13 THE COURT: Yeah, it's ---

14 PROSPECTIVE JUROR: --- that I can ---

15 THE COURT: Yeah, it's a fair distance.
16 Yeah.

17 PROSPECTIVE JUROR: Yeah.

18 THE COURT: Yeah. I understand that.
19 We'll let you go.

20 PROSPECTIVE JUROR: All right.

21 THE COURT: Okay, thank you.

22 PROSPECTIVE JUROR: Sorry.

23 THE COURT: No, that's okay, appreciate
24 you. Thank you, sir, have a good day. Your number
25 again, sir?

1 PROSPECTIVE JUROR: 213.

2 THE COURT: 213, okay?

3 BAILIFF: Juror 392, Your Honor.

4 THE COURT: Yes, sir. How are you doing?

5 PROSPECTIVE JUROR: I have a medical device
6 in my back. I can't sit and stand for a long period
7 of time.

8 THE COURT: Okay. Got it. If we let you
9 stand up now and then, would that help, sir.

10 PROSPECTIVE JUROR: Yeah, that'd do fine, I
11 think.

12 THE COURT: Okay. If you get picked, we'll
13 let you stand. You can stand behind your chair or
14 whatever. We'll put you kind of somewhere you'll be
15 comfortable. So if you get picked, we'll
16 accommodate you on that.

17 PROSPECTIVE JUROR: Okay.

18 THE COURT: Okay?

19 PROSPECTIVE JUROR: All right.

20 THE COURT: Thank you, sir.

21 BAILIFF: Return to your seat, please.
22 Juror 174, Your Honor.

23 THE COURT: Yes.

24 PROSPECTIVE JUROR: I have four children
25 under eight years old, and my wife is at physical

1 therapy this week for a knee injury.

2 THE COURT: Okay.

3 PROSPECTIVE JUROR: My oldest is
4 homeschooled, so it creates a difficult ---

5 THE COURT: Four?

6 PROSPECTIVE JUROR: Four.

7 THE COURT: Yeah.

8 PROSPECTIVE JUROR: I have three, two and
9 one and eight.

10 THE COURT: I'm think with all those
11 circumstances put together I think we need to let
12 you go.

13 PROSPECTIVE JUROR: Okay.

14 THE COURT: 174, I'm going to let you know,
15 okay? 174 is excused.

16 BAILIFF: Juror 76, Your Honor.

17 PROSPECTIVE JUROR: I almost didn't want to
18 get in line, just got in the last minute.

19 THE COURT: Yes, sir. It's okay.

20 PROSPECTIVE JUROR: I am concerned that I
21 might cause in my line of work my clients to lose
22 money. So, I'm in investment capital and I'm a
23 branch manager, and I directly work with the clients
24 and agents with all the earnest money. Even since
25 I've been here this morning, I'm starting to sweat.

1 Like I might cause irreparable damages to my clients
2 in my line of work, so. I don't -- I'm not trying
3 to make excuses.

4 THE COURT: I understand.

5 PROSPECTIVE JUROR: Yeah.

6 THE COURT: A lot of times, people I've met
7 in similar situations and really need to be
8 somewhere else are called to serve jury duty. We
9 need you to serve.

10 PROSPECTIVE JUROR: Yeah.

11 THE COURT: You know the odds are you're
12 not going to be picked, but if you are we're going
13 to need you to serve. This first case is probably
14 not going to last that long.

15 PROSPECTIVE JUROR: Yeah.

16 THE COURT: The chance of you being all
17 week are slim.

18 PROSPECTIVE JUROR: Okay.

19 THE COURT: Okay?

20 PROSPECTIVE JUROR: Yeah.

21 THE COURT: Okay. All right. Number 76,
22 we'll keep you around, okay?

23 PROSPECTIVE JUROR: Thank you.

24 THE COURT: All right.

25 BAILIFF: Juror 140, Your Honor.

1 THE COURT: Yes, sir.

2 PROSPECTIVE JUROR: So I wanted your
3 guidance on this one, that's why I waited to the
4 last minute.

5 THE COURT: Sure.

6 PROSPECTIVE JUROR: I run my own office, a
7 financial planner there. I have 2 employees, both
8 -- one's under two months, one's under two weeks.
9 So they're gonna do nothing while I'm out, so
10 everything shuts down.

11 THE COURT: Is this your own business?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: Okay. What number are you?

14 PROSPECTIVE JUROR: 140.

15 THE COURT: 140, okay.

16 PROSPECTIVE JUROR: I want to serve, but I
17 feel like ---

18 THE COURT: Okay.

19 PROSPECTIVE JUROR: --- I'm doing a service
20 to other people.

21 THE COURT: It's your business, your
22 business.

23 PROSPECTIVE JUROR: It's my business, yeah.

24 THE COURT: Okay. I'm going to let you
25 know. 140, 140's excused.

1 All right, is that everyone? Okay. All
2 right folks, I think that everyone's left is
3 qualified to serve.

4 We're going to take a little break right
5 now. I think it's not quite 11 o'clock. Let's try
6 to be back in here please at 11:15, 11:15 we'll
7 start back up then, okay? Thank y'all.

8 Well, hold on. Wait a minute. Wait a
9 minute. I didn't think -- you know, I didn't think
10 about that thoroughly enough. Let's come back in at
11 -- let's take 30 minutes. Let's come back at 11:25,
12 okay? 11:25.

13 (COURT STANDS IN SHORT RECESS)

14 THE COURT: All right, folks. Sorry.
15 We're ready to go?

16 MS. MAIN: Yes, Your Honor. The State is
17 moving to amend the indictment of 2019GS0701515.
18 It's the State's motion to amend, in the body of the
19 indictment did assault Complainant to did engage in -- did
20 engage in a sexual battery, Your Honor. And for
21 clarification purposes to also remove the additional
22 code section of 16-3-656. The State is requesting
23 to make this amendment after the defense brought it
24 to their attention. However, the State would like
25 to point out that on the front of the indictment,

1 the appropriate code section is listed of 16-3-
2 655(A)(1). In addition, there is only one CDR Code
3 listed of 0385 which for criminal sexual conduct
4 with a minor in the 1st degree. Additionally, in
5 the body of the indictment it specifically says with
6 intent to engage in a sexual battery with [REDACTED] who was
7 less than 11 years old at the time of the sexual
8 battery to wit: digital penetration or any intrusion
9 however slight of any part of her body or of any
10 object into the genital or anal opening of her body
11 during the alleged timeframe at the residence of
12 Chipwood Lane in the Bluffton area of Beaufort
13 County, South Carolina, which clearly lays out the
14 allegations of criminal sexual conduct in the 1st
15 degree as does the title specifically says that.
16 When Your Honor is looking at amending indictments,
17 the amendments are permissible so long as it doesn't
18 change the nature of the offense. Specifically,
19 they're usually permitted for purposes of correcting
20 an error of form like a scrivener's error or
21 clerical error and they should be granted when the
22 proposed indictment does not change the nature of
23 the offense. That's from State v. Means. This is
24 also assessed in terms of sufficiency which is the
25 objective viewpoint of a reasonable person, not the

1 subjective viewpoint of the defendant.

2 THE COURT: Ms. Main, let me ask you this.
3 The way I'm looking at this, it says in this
4 indictment that you just read from it says in part
5 the defendant James Etheridge Jones, Jr., did
6 assault with intent to engage, so it says both; does
7 it not?

8 MS. MAIN: Right. Yes, Your Honor. So
9 it's our contention that this should say did engage
10 in a sexual battery with [REDACTED] and her date of birth.

11 THE COURT: Okay.

12 MS. MAIN: As opposed to the additional did
13 assault. That was ---

14 THE COURT: The way I read it is did
15 assault with intent to engage. In other words, it
16 was done, there's an intentional act that was done
17 -- all right. Mr. McFadden, let me hear from you.

18 MR. MCFADDEN: Thank you, Your Honor. May
19 it please the court for the record?

20 THE COURT: Yes, sir.

21 MR. MCFADDEN: Jacob McFadden for James
22 Etheridge Jones.

23 THE COURT: Yes, sir.

24 MR. MCFADDEN: Judge, this would not be a
25 proper amendment to the indictment at all. Ms. Main

1 as State's standard amendments can be done when they
2 don't change the nature of the offense. You know,
3 otherwise it may lead to get a new indictment and
4 you know, specifically appropriate in areas in
5 instances of correcting an error form or scrivener's
6 error. Well, I mean, this -- they change -- they
7 charged a different offense here. So it absolutely
8 changes the nature of the indictment.

9 THE COURT: Tell me, when you say it's a
10 different offense, because the code -- the CDR code
11 is the same, right?

12 MR. MCFADDEN: Certainly. Well, and to
13 that end, I mean CDR codes for, you know, for
14 punishment ---

15 THE COURT: Right.

16 MR. MCFADDEN: --- will I think that the
17 punishment I believe is the same for both, but that
18 doesn't -- but the charges do not have the same
19 elements.

20 THE COURT: All right. Let me ask you
21 this. The most plain language that I see on here is
22 criminal sexual conduct with a minor, 1st degree.

23 MR. MCFADDEN: Yes.

24 THE COURT: Are you saying that the
25 indictment was not fact?

1 MR. MCFADDEN: So, I'm saying the only
2 thing on this indictment that charge -- that
3 attempts to charge the completed offense is the
4 title, but that's not the controlling part of the
5 indictment.

6 THE COURT: Okay.

7 MR. MCFADDEN: The controlling part of the
8 indictment of what actually serves to put the client
9 on notice and what the grand jury found ostensibly
10 found probable cause for is the body, you know, the
11 actual language of the indictment itself.

12 THE COURT: All right. I ---

13 MR. MCFADDEN: Which sets out not the
14 completed offense, not did engage in sexual battery
15 with the, you know, alleged victim but did assault
16 the -- with intent to commit sexual battery. And
17 Judge, that is a separate offense. The elements of
18 that are, you know, an assault, number one, which is
19 defined separately with the intent to commit a
20 sexual battery against the minor.

21 THE COURT: But you're saying the
22 allegation is in the indictment the assault with
23 intent to engage. In other words, the assault was
24 -- allegedly occurred with intent to engage, but the
25 engagement didn't happen.

1 MR. MCFADDEN: Yes.

2 THE COURT: That's what you're saying he's
3 charged with.

4 MR. MCFADDEN: That's what he's charged
5 with yes, Judge, and ---

6 THE COURT: Which would leave it as again
7 the offense if that's the case would be -- I think
8 you've got it right there ready to state.

9 MR. MCFADDEN: Sorry, Judge. Excuse me? I
10 -- what's your question?

11 THE COURT: The charge you believe should
12 be is what?

13 MR. MCFADDEN: Assault with intent to
14 commit criminal sexual conduct in the minor, 1st
15 degree. Yeah, and to that and the State also cites
16 16-3-656 on the back of the indictment which is for
17 criminal sexual conduct, assault with intent to
18 commit. And it said to that and to the point about
19 the CDR code, that code section actually says
20 assault with intent to commit criminal sexual
21 conduct is -- shall be punishable as if it was
22 committed. So it's not a difference of punishment,
23 sort of variance here of changing the nature of it,
24 but it's just -- they're wanting to amend the
25 indictment from the -- an assault with intent or an

1 incomplete offense to the completed offense. All
2 right, that absolutely is a -- changes the nature of
3 it. And what is put on notice -- the jury, didn't
4 find -- the grand jury didn't find probable cause
5 for the completed offense, they found probable
6 cause, again ostensibly if it's true billed for the
7 assault and the intent to commit. It's a totally
8 separate ---

9 THE COURT: I understand.

10 MR. MCFADDEN: Thank you, Judge.

11 THE COURT: I understand what you're
12 saying.

13 MR. MCFADDEN: That's my position.

14 THE COURT: Before we go any further, let
15 me ask y'all this. This is a practical matter.
16 It's 11:32. We're at the select a jury which I had
17 hoped to do before our lunch break. We've got a lot
18 to do still, and we -- this is going to be a little
19 bit more of an effort than I thought, but we got to
20 get it right. We're going to take our time to get
21 it right. I think at this point it might be a good
22 idea just tell the jury pool to come back at -- I'm
23 torn between 1:30 and 2 -- let's do 1:30. Is 1:30
24 all right?

25 MR. MCFADDEN: Yes, sir.

1 MS. MAIN: Yes, Your Honor.

2 THE COURT: Let's let the jury pool come
3 back at 1:30. They can go ahead and go. We'll
4 bring them back at 1:30 and we'll deal with that --
5 we'll be in a better position at that time --
6 there's no reason to keep them waiting any longer,
7 and then I'll take -- that'll give us more time to
8 deal with this and get ourselves ready for when they
9 come back. And we might even have time to hear a
10 motion or two beyond this, but probably not. That
11 would still give us enough time this afternoon would
12 it not to select this jury and cover these motions
13 we need to cover? Will we be okay?

14 MR. MCFADDEN: Judge, I would endeavor to
15 get through all of mine, absolutely by the close of
16 business.

17 MS. MAIN: Yes, sir, Your Honor.

18 THE COURT: I think we would. I think we
19 still may get started tomorrow morning at 9:30 the
20 way we wanted to with the jury seated and ready to
21 go. They would be okay. So let's just go ahead and
22 tell the jury pool that they're free til 1:30, okay?
23 Can somebody go make that announce -- or how do we
24 need to do that.

25 MS. SWANSON: I believe the bailiffs will

1 take care of that, Your Honor.

2 THE COURT: Gentlemen, could y'all take
3 care of that? I don't know if there's a -- where
4 they are right now, but could we go -- give them an
5 announcement?

6 CLERK: Yes, we can.

7 THE COURT: Okay. Thank you. Thank you.
8 That's fine. I assumed by his body movement he was
9 going to do it. All right, Ms. Main.

10 MS. MAIN: Yes, Your Honor.

11 THE COURT: I'm coming back to you to hear
12 some more from you about -- Mr. McFadden says that
13 -- you've heard what he said and ---

14 MS. MAIN: Yes, Your Honor.

15 THE COURT: --- he's making a pretty clear
16 argument. Tell me about it.

17 MS. MAIN: This is the notice document.
18 It's also assessed under -- I'm trying to find it --
19 the page here, Your Honor, sorry -- When the state
20 moves before trial to amend an indictment, the court
21 has to determine is the existing indictment
22 sufficient to place the defendant on notice of the
23 particular offense, and does it identify the nature
24 of the offense? It is very clear in the body of the
25 indictment that it describes digital penetration or

1 any intrusion ever so slight and goes on to describe
2 that. It references the appropriate code section of
3 criminal sexual conduct with a minor in the 1st
4 degree.

5 THE COURT: 16-3-655(A)(1).

6 MS. MAIN: (A)(1) yes, Your Honor.

7 THE COURT: Okay.

8 MS. MAIN: It is listed in the title of the
9 indictment and the code section on the front of the
10 indictment is also criminal sexual conduct with a
11 minor in the 1st degree. There is no additional
12 code section. There is no confusion about that, but
13 the body in and of itself does explain and Your
14 Honor is allowed to consider if the defendant was on
15 notice with this, but it's also in combination with
16 some of the other information that they're provided.
17 Does he know what he is being accused of? And he
18 absolutely does know that's the State's contention
19 that he is being accused of digital penetration of
20 the victim.

21 THE COURT: Okay. Mr. McFadden, she's
22 saying when you read this -- all this language that
23 goes into detail of what allegedly occurred, the
24 timeframe in Beaufort County, that it's clear what's
25 being accused here -- what your client's being

1 accused with. That the overall reading of it
2 combined with the code section being correct shows
3 the clarity as to what's really going on. What do
4 you say to that?

5 MR. MCFADDEN: I say, Judge, it's improper
6 for them to change -- to amend without presentation
7 of a new indictment to try to amend the -- a charge
8 into something totally different which is just the
9 plain and simply what they're trying to do here.
10 And specifically, they're trying to amend what's
11 been indicted as a -- and I wouldn't even say it's
12 an attempt because the assault with intent is
13 specific, and assault I think is defined as
14 something that's not in force, realizing then
15 it canceled. So they're even -- they're not only
16 trying to amend the indictment from an assault with
17 intent to commit to a completed offense, but even to
18 change it further into which I don't even think it
19 can be characterized as just as the attempt to form
20 the offense but is in itself a separate criminal
21 offense.

22 THE COURT: Okay.

23 MR. MCFADDEN: Which, you know, they have
24 very clearly set out in the first indictment. And
25 Judge, I'm happy to try to find case law more

1 directly off on point here. I don't have any -- in
2 addressing this scenario or the scenario where the
3 State's trying to amend from an attempted offense to
4 the completed offense, even though I'm not sure
5 we're in that scenario.

6 THE COURT: Well, I think there's some
7 confusion here, and yeah, it's understandable how it
8 happened.

9 MR. MCFADDEN: Well, they're -- sorry,
10 Judge.

11 THE COURT: Go ahead, Mr. McFadden. I'm
12 sorry.

13 MR. MCFADDEN: I didn't have anything
14 further at this moment.

15 THE COURT: Okay. What I'd like to do is
16 let me see those -- any cases you want to hand me,
17 Ms. Main. Let me take a look at them a little
18 closer.

19 MR. MCFADDEN: Let's take a few minutes.
20 I'm going to step off the bench. If you've got
21 something you want me -- to bring to me or the case
22 cite or whatever, Rivers and I, we'll try to find it
23 real quickly and see if we can't -- I want to dig
24 into this just a little bit further.

25 MS. MAIN: Your Honor, I'm going to email a

1 case to yourself and your law clerk.

2 THE COURT: That's great.

3 MS. MAIN: But I think the difference is we
4 don't think we're changing the charge.

5 THE COURT: Okay.

6 MS. MAIN: We think the charge is clearly
7 stated, and we're changing a single word for
8 clarification.

9 THE COURT: I understand. I want to make
10 sure I'm completely fair to everybody.

11 MS. MAIN: Yes, Your Honor.

12 THE COURT: And make sure I thoroughly
13 understand it before we go forward on this. Now, I
14 think I do, but I want to make sure. Now, let's
15 just take a few minutes. Give me at least 10 or 15
16 minutes, and we'll come back and we're going to make
17 a little progress before I let everybody go to eat
18 lunch, okay?

19 MS. MAIN: Yes, Your Honor.

20 MR. MCFADDEN: Thanks, Your Honor.

21 THE COURT: Thank y'all. Just be at ease
22 for a little bit.

23 (COURT STANDS IN BRIEF RECESS.)

24 THE COURT: Ms. Main, I want to ask you
25 this.

1 MS. MAIN: Yes, Your Honor.

2 THE COURT: On the -- is there information
3 that's been furnished to the defendant that would --
4 police report, whatever that would show me that the
5 -- as a practical matter, this is a practical matter
6 here, that would show and put him on notice that
7 this is not just intent but the act itself?

8 MS. MAIN: Yes, Your Honor. It would be
9 the State's contention that the police reports, the
10 forensic interview of the victim, the interview with
11 the officers of the victim put him on notice.
12 Additionally, even the indictment, or excuse me, the
13 warrant itself puts him on notice. He's never been
14 charged with assault with attempt to commit CSC.

15 THE COURT: Okay.

16 MS. MAIN: And so all of that information
17 adequately puts him on notice that he would have
18 understood the charges. And the indictment as
19 phrased does substantially include the language of
20 the statute which creates and defines the offense
21 and that's ordinarily sufficient under the case law
22 in State v. Gonzalez.

23 THE COURT: Okay, but there's -- but as a
24 practical matter, and I think I understood you.
25 Let's make sure.

1 MS. MAIN: Yes.

2 THE COURT: As a practical matter, the
3 defendant's received information which shows that
4 he's been accused of the act itself, not just the
5 intent -- or excuse me -- not just the assault --
6 the intent to do it. In other words, what they're
7 saying is he's just charged with the intent to do
8 it, it never made it that far. You're saying that
9 it's -- there's practical -- there's practically
10 speaking there's information which makes it clear
11 that the State is saying, oh no, you did these
12 things. You didn't just try or assault, you did
13 these things under section 16-3-655(A)(1).

14 MS. MAIN: Yes, Your Honor.

15 THE COURT: Okay. Mr. McFadden?

16 MR. MCFADDEN: Thank you, Judge. And it's
17 not an issue of whether or not practically speaking
18 there was notice of one thing or the other, he has
19 the right to have a properly constituted grand jury
20 that indicted him for the offense that the State is
21 trying to go after here and the State cannot amend
22 an indictment where it changes the elements, it
23 changes the nature of the offense which I submit to
24 the Court what would include changing the elements
25 of the offense. A grand jury never found that he

1 actually engaged in CSC 1st with a minor. That is
2 not what they charged in the indictment here, and to
3 change it, it -- well, very simply, it allows them
4 to move forward on something that -- that's never
5 been to a grand jury. And they would have had to --
6 and the charges are totally separate here. They --
7 as I set forth the before the elements of assault
8 with intent to commit, which requires specific
9 intent, is an assault which can be defined as an
10 attempted battery or unlawful attempt or offering a
11 violent injury upon another person coupled with
12 present ability to complete that with specific
13 intent to commit CSC 1st with a minor. That was not
14 -- that element is not present in the completed
15 offense. Also and then looking more broadly here,
16 they're asking the Court to change the indictment
17 from an incomplete crime to the completed offense.
18 I don't know how much more fundamental of a
19 difference there can be between the two charges
20 here. So our position is that this is absolutely an
21 improper amendment, Your Honor, and just looking
22 through State versus Means and at some of the
23 authority cited in there where it included the
24 scenario where on a 1st degree burglary warrant -
25 sorry, indictment, the State was allowed to change

1 the aggravating circumstance there, like what
2 element made it burglary 1st degree from entering
3 during darkness hours to causing physical injury,
4 they held that that changed the nature of the
5 offense. It didn't change the punishment, you know.
6 It didn't change the nature, the general offense,
7 the statute that he was charged under but it charged
8 a different element, you know. So that was -- that
9 changed the nature of the offense. Another one
10 here, State v. Myers, 313 S.C. 391 is the State
11 amending an indictment from one element to another.
12 Any time the state's playing games with the elements
13 trying to amend it, the court says you can't do that
14 that has to go to the grand jury. That's how if
15 they want to charge a different offense, that's how
16 the state charges a different offense here. So
17 because -- we're not dealing with a scrivener's
18 error, we're not dealing with an error of form,
19 because we're dealing with two totally separate
20 criminal offenses, there's only one proper way the
21 state can go about charging someone with that and
22 that's a grand jury. They can't shortcut this and
23 try to do it -- circumvent this through a pre-trial
24 amendment. Judge, thank you.

25 THE COURT: All right. Ms. Main?

1 MS. MAIN: It's the State's contention
2 we're not changing the charge at all. We're -- it
3 is in fact a scrivener's error. It very clearly
4 says what the State has been moving forth with the
5 entire time. It matches the warrant that was
6 provided in 2019. The appropriate code section is
7 here, the only CDR code is on here that goes to that
8 offense. There's not a lack of notice. The title
9 is clear notice. We are not changing the charge.
10 We are just removing the word did assault to did
11 engage and the to wit that explains the crime
12 further in nature which isn't even required further
13 explains that this is a completed offense. There is
14 no confusion. It describes what the title says. It
15 describes what the statute says, and if it
16 sufficiently covers what the language is in the
17 statute, then the courts have deemed that
18 sufficient.

19 THE COURT: Mr. McFadden, I want to ask you
20 something I asked Ms. Main.

21 MR. MCFADDEN: Yes.

22 THE COURT: I asked Ms. Main as a practical
23 matter was information furnished to your client --
24 police report -- any information -- basic
25 information about what happened here that states

1 that the act occurred, not just the intent but the
2 act?

3 MR. MCFADDEN: Yes. So the ---

4 THE COURT: You understand my question?

5 MR. MCFADDEN: Sorry?

6 THE COURT: You understand that question?

7 Am I making -- okay, okay.

8 MR. MCFADDEN: Oh yes, sir. Absolutely.

9 THE COURT: All right.

10 MR. MCFADDEN: They shared in discovery
11 with me, talking law enforcement. I mean the
12 alleged evidence in this case is the alleged
13 victim's statement and her statement or account of
14 the events, and yes, in her account the completed
15 acts did occur, you know, like penetration, sexual
16 battery did occur, among lots of other varying
17 degree of -- there's lots of different episodes that
18 are relayed by her but -- so yes, there would be
19 evidence in there where I could see -- well, I --
20 that I could see where they would've sought that
21 indictment for the completed offense, but well, they
22 chose not to. But even as a practical sense, yes,
23 certainly that is -- she does allege facts that
24 could be argued to show ---

25 THE COURT: Okay. And the reason that's --

1 I think that's important is as a practical matter,
2 did your client know what the real accusations
3 against him were? And I think he did.

4 MR. MCFADDEN: Judge, regardless of what
5 the discovery is showing here, I just -- I would
6 just re-emphasize the importance of the grand jury,
7 and that being one of his constitutional rights in
8 that they're trying to essentially replace their
9 role here, stand in the position.

10 THE COURT: Okay.

11 MR. MCFADDEN: They're asking the court to
12 stand in the position of the grand jury to take away
13 his right to have the case properly indicted for a
14 different offense and just have the court change it.
15 And our position is they can't do that.

16 THE COURT: All right. Here's what we're
17 going to do. We're going -- we'll come back at 1:15
18 and I'll answer this one way or another, and then
19 we'll be prepared for the jury coming in at 1:30 and
20 we'll march on, okay?

21 MR. MCFADDEN: Thank you, sir.

22 THE COURT: All right. Thank y'all.

23 (COURT STANDS IN RECESS)

24 THE COURT: All right. Thank you, sir.

25 Picking back up where we left off earlier today, and

1 of course where we left off was the matter of the
2 indictment and whether or not it could be amended as
3 the State has proposed. I have had more time to
4 consider this question, and I think you attorneys
5 have argued it so very well, but what I believe it
6 comes down to is has the defendant been put on
7 notice of what the State is really prosecuting him
8 for. Has he been given information? Has he had an
9 opportunity to prepare a defense? Is it clear from
10 the overall reading what's really going on? And I
11 think the answer to that is yes. And based upon
12 that, I am going to allow the State to amend the
13 indictment. And of course at the appropriate time,
14 Ms. Main, you will read that indictment, not word
15 for word.

16 All right, with that, I think we're ready
17 to -- well, let me ask you this. Mr. McFadden, did
18 you wish to address anything further at this point?

19 MR. MCFADDEN: Address anything further?

20 THE COURT: Yes. You made your points
21 clear on it, but I didn't want to shut you down if
22 you wanted to make one more statement. Of course
23 you disagree. I think it's very clear that you do.

24 MR. MCFADDEN: Succinctly, Judge, yes, so
25 thank you. We would object to that and we are going

1 to change the nature of the defense and allowing the
2 State to amend it this way and make the proffer to
3 the grand jury. So thank you.

4 THE COURT: Very well stated and very
5 clear.

6 All right, let's bring the jurors in.

7 BAILIFF: Your Honor, I don't think they
8 are all back.

9 THE COURT: That's all right. Wait a
10 minute. I said 1:30 p.m.

11 (COURT STANDS IN RECESS)

12 BAILIFF: All jurors are present except
13 one, Your Honor.

14 THE COURT: All right, thank you, sir.

15 All right, ladies and gentlemen, we're
16 about to begin the matter of the trial of the State
17 of South Carolina versus James Etheridge Jones. Is
18 the State ready to read the indictment, Ms. Main?

19 MS. MAIN: Yes, Your Honor. This is the
20 case of the State of South Carolina versus James
21 Etheridge Jones. He is charged with criminal sexual
22 conduct with a minor in the 3rd degree. The
23 indictment alleges that in Beaufort County, South
24 Carolina, on or about January 1st, 2013, through
25 December 31, 2017, the defendant James Etheridge

1 Jones did while over 14 years of age at the time of
2 the offense willfully and lewdly commit or attempt
3 to commit a lewd or lascivious act upon or with the
4 body or its part on [REDACTED] date of birth [REDACTED] who
5 was under 16 years of age at the time of the offense
6 with the intent of arousing, appealing to or
7 gratifying the lust, passion or sexual desires of
8 James Etheridge Jones for [REDACTED] date of birth [REDACTED]
9 all in violation of Section 16-3-655(C) of the South
10 Carolina Code of Laws, and that's indictment number
11 2019-GS-07-00919. The defendant is also charged
12 under indictment 2019-GS-07-01515 with criminal
13 sexual conduct with a minor in the 1st degree. The
14 indictment alleges that in Beaufort County, South
15 Carolina, on or about August 1st, 2008, to August
16 25, 2013, the Defendant James Etheridge Jones did
17 engage in the sexual battery with [REDACTED] date of birth
18 [REDACTED] who was less than 11 years of age at the
19 time of the sexual battery to wit: digital
20 penetration or any intrusion however slight of any
21 part of her body or any object into the genital or
22 anal openings of her body during the alleged
23 timeframe at the residence on Chipwood Lane in the
24 Bluffton area of Beaufort County, South Carolina,
25 all in violation of 16-3-655(A)(1) of the Code of

1 Laws of South Carolina.

2 THE COURT: Thank you, Ms. Main.

3 Ladies and gentlemen, I need to tell you
4 this is something that's very important. The
5 defendant is presumed innocent. He's presumed
6 innocent. The indictment is merely the formal
7 charge that brings this matter into the court. He
8 has the presumption of innocence. Now we're about
9 to go into the process known as voir dire. Each of
10 you at this point have been deemed qualified, and
11 this process that we're about to go through now is
12 to determine if for reason you cannot be fair to
13 both the state and the defendant in this particular
14 case. Not that there's anything wrong with you or
15 anything of that sort, just that maybe there might
16 be a reason that it would be best for you not to
17 serve on this case, this particular case. Madam
18 Clerk, would you swear the jury at this point again,
19 please ma'am?

20 (CLERK SWEARS IN THE JURORS.)

21 THE COURT: If I ask a question that you
22 need to respond to, please stand and we will cover
23 it from there. Has anyone ever been related by
24 blood or marriage to the defendant, James Etheridge
25 Jones? Anyone?

1 (No one is standing.)

2 Is anyone ever had a close personal or
3 social relationship with the defendant?

4 (No one is standing.)

5 The following is a list of possible
6 witnesses in this case. I'm going to read these
7 witnesses. There are 10 witnesses -- potential
8 witnesses I'm going to read out: William P. Murphy
9 with the Beaufort County Sheriff's Office, Allison
10 Morara (Ph) with the Beaufort County Sheriff's
11 Office; Kerry Johnson formerly with the Beaufort
12 County Sheriff's Office; Ryan Fazekas with the
13 Bluffton Police Department; Laura Rutland formerly
14 with the Bluffton Police Department; Lesli Clark
15 Herbkersman of Beaufort County, South Carolina;
16 William Burrows of Charlotte, North Carolina; Karen
17 Burrows of Beaufort County, South Carolina; Complainant
18 [REDACTED] of Beaufort County, South Carolina; and Taylor
19 Newman of Beaufort County, South Carolina. Has
20 anyone ever been related by blood or marriage to the
21 people I've just listed, or is anyone ever had a
22 close personal or social relationship with any of
23 these people? If so, please stand.

24 All right, no response.

25 (No one is standing.)

1 In this case, we have the attorneys
2 represent the State from the solicitor's office and
3 also attorneys representing Mr. Jones who are his
4 defense attorneys. I'd ask these lawyers to all, at
5 this point, stand and say their name and also what
6 firm they practice with. Ms. Main?

7 MS. MAIN: Good afternoon, my name is
8 Monica Main and Hunter Swanson sitting with me. We
9 both work for the solicitor's office in the 14th
10 circuit and we cover Beaufort County.

11 MR. MCFADDEN: Good afternoon, ladies and
12 gentlemen. My name is Jacob McFadden. I'm an
13 attorney with the Beaufort County Public Defender's
14 office. I'll be assisted in this matter by my
15 colleague Gabriel Ingram. Together we represent Mr.
16 James Etheridge Jones. Thank you.

17 THE COURT: All right. Thank you,
18 attorneys. Is any member of the jury panel ever
19 been represented by any of these attorneys involved
20 in this case or the solicitor's office or the public
21 defender's office or members of the law firm
22 mentioned? Anyone?

23 All right, there's no response. I'm sorry?
24 I didn't see. Oh, I'm sorry, yes, ma'am.

25 PROSPECTIVE JUROR: I've had a family

1 member represented by the Mr. McFadden, not myself.

2 THE COURT: A family member represented by
3 Mr. McFadden?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: And your number?

6 PROSPECTIVE JUROR: Four.

7 THE COURT: Four? Four, all right. Thank
8 you.

9 PROSPECTIVE JUROR: And William Denning
10 (Ph) as well. I don't know if William Denning is on
11 this case or not, but I saw him here earlier.

12 THE COURT: Okay. Thank you, ma'am.

13 Ma'am let me ask you. If you would can you
14 hear me, okay?

15 PROSPECTIVE JUROR: Okay.

16 THE COURT: If you would stand so I can
17 hear you a little better. I'm sorry. Now the fact
18 that you have been represented by him before, would
19 that give you a problem with being fair in this
20 case?

21 PROSPECTIVE JUROR: No.

22 THE COURT: Now you can be fair to all
23 parties?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: Okay. Thank you, ma'am.

1 Has anyone ever been related by blood or
2 marriage or have ever had any close personal or
3 social relationship with any of the attorneys
4 involved in this case? I'm sorry, I've already
5 asked you that question. Excuse me. Is any member
6 of the jury panel formed or expressed an opinion
7 about any issue or matter involved in this case.
8 Anyone?

9 All right, no response.

10 (No one is standing.)

11 Is any member of the jury panel aware of
12 any bias or prejudice toward either the State or the
13 defendant in this case?

14 There's no response.

15 (No one is standing.)

16 Is there any member of the jury panel that
17 was a member of the grand jury which issued the
18 indictment in this case?

19 No response.

20 (No one is standing.)

21 Is any member of the jury panel a former
22 law enforcement officer or have a family member who
23 is a law enforcement officer or former law
24 enforcement officer?

25 All right. If you would, just -- ma'am

1 just right here stand up and tell me about it. Your
2 number?

3 PROSPECTIVE JUROR: My -- 236. My husband
4 is a deputy sheriff.

5 THE COURT: Okay. Here in Beaufort County?

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: Okay. Thank you, ma'am. Next.
8 Yes, sir.

9 PROSPECTIVE JUROR: Number 79, Your Honor.
10 I'm retired law enforcement.

11 THE COURT: You're retired law enforcement,
12 number 79. Thank you, sir. Appreciate that. Yes,
13 ma'am.

14 PROSPECTIVE JUROR: My grandfather is a
15 retired detective from Newark, New Jersey.

16 THE COURT: Retired detective from New
17 Jersey, and your number is?

18 PROSPECTIVE JUROR: 228.

19 THE COURT: 228. Thank you, ma'am. Yes,
20 ma'am.

21 PROSPECTIVE JUROR: I'm 241, my brother is
22 a retired US Marshall in Florida.

23 THE COURT: 241, your brother's a retired
24 US Marshall in Florida?

25 PROSPECTIVE JUROR: Yes.

1 THE COURT: Thank you, ma'am. Yes, ma'am.

2 PROSPECTIVE JUROR: I'm 23, and my father
3 is a retired New York City trooper.

4 THE COURT: 23, your father's retired New
5 York City trooper. All right. I see someone else,
6 yes, yes, sir.

7 PROSPECTIVE JUROR: Number 80. My uncle
8 was a sheriff in West Virginia.

9 THE COURT: All right, number 80.

10 PROSPECTIVE JUROR: Retired.

11 THE COURT: Uncle was a sheriff in West
12 Virginia. Yes, sir?

13 PROSPECTIVE JUROR: 74, and my father's a
14 police officer in Columbus, Ohio.

15 THE COURT: In Columbus, Ohio, presently
16 serving as a police officer?

17 PROSPECTIVE JUROR: Yes, sir.

18 THE COURT: Number 74, thank you, sir.

19 Anyone else? Yes, sir.

20 PROSPECTIVE JUROR: 161. My sister is a
21 corrections officer in New Jersey.

22 THE COURT: Okay. Corrections officer in
23 New Jersey, number 161. Yes, ma'am.

24 PROSPECTIVE JUROR: 83, my uncle's a
25 retired police officer back in Kentucky.

1 THE COURT: All right. Number 83, her
2 uncle's a retired police officer back in Kentucky.

3 Was there someone else? Yes, ma'am.

4 PROSPECTIVE JUROR: 373. My stepfather is
5 a retired police officer from Wilkes-Barre,
6 Pennsylvania.

7 THE COURT: Okay. He's -- your
8 stepfather's a retired police officer?

9 PROSPECTIVE JUROR: Yes.

10 THE COURT: And your number again?

11 PROSPECTIVE JUROR: 373.

12 THE COURT: Thank you, I just didn't catch
13 it. Thank you, ma'am. Anyone else? Okay.

14 Has anyone heard, seen or read anything
15 about this case in the news, on the Internet, any
16 source, newspaper, whatever? Anyone?

17 No response.

18 Is there any member of the jury panel who's
19 a member of or contributor to any group which has as
20 its primary concern the promotion of law enforcement
21 or victim's rights? These groups would include but
22 would not be limited to MADD or SADD or CAVE which
23 is citizens against violent crime, any of those
24 groups, any possible connection to such groups as
25 that? Anyone?

1 No response.

2 Is any member of the jury panel know of any
3 reason whatsoever why he or she could not serve as a
4 juror in this case, with particular emphasis being
5 placed on your ability to be fair and impartial to
6 both the State and the defendant? Anyone?

7 (No one is standing.)

8 Has any member of the jury panel ever been
9 employed by any civilian or military law enforcement
10 agency?

11 No response to that. I'm sorry. Yes, sir.

12 PROSPECTIVE JUROR: Your Honor, I was
13 employed by the air station as a cop.

14 THE COURT: And your number again?

15 PROSPECTIVE JUROR: 79.

16 THE COURT: Thank you. I think I covered
17 this, but just to be cautious I'm going ask this
18 question again.

19 Is any member of the jury panel employed
20 by, related by blood or marriage to or close friend
21 or acquaintance of any one of the prosecution or
22 defense witnesses -- any of the witnesses I called,
23 are you close to them, have any connection to them
24 like that? I think we're clear on that. Did you
25 know someone, ma'am?

1 PROSPECTIVE JUROR: I'm juror 81.

2 THE COURT: 81?

3 PROSPECTIVE JUROR: I was formerly with the
4 public defender's office and I'm familiar with a
5 her.

6 THE COURT: You used to work at the public
7 defender's office?

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: Okay.

10 MS. SWANSON: Ms. Crux and I are familiar
11 with each other through our jobs.

12 THE COURT: Okay. And what do you do now,
13 ma'am?

14 PROSPECTIVE JUROR: I'm retired now.

15 THE COURT: All right. How long's it been
16 since you were in that office?

17 PROSPECTIVE JUROR: Three years.

18 THE COURT: Three years? Do you think
19 you'd give all parties ---

20 PROSPECTIVE JUROR: I can be unbiased,
21 absolutely.

22 THE COURT: You could be? Thank you,
23 ma'am.

24 PROSPECTIVE JUROR: Yeah, just wanted to
25 make that clear.

1 THE COURT: You covered it before I asked
2 it. Thank you very much.

3 Has any member of the jury panel ever been
4 a witness in a trial, and if so, would any aspect of
5 previously serving as a witness in a trial cause you
6 concern that you may not be able to be fair and
7 impartial in service as a juror in this case if
8 selected? Anyone?

9 All right. No response to that.

10 Has any member of the jury panel previously
11 served on a jury and would any aspect of your juror
12 service cause you to be able to not be unfair,
13 excuse me, not be fair -- cause you to be unable to
14 be fair to both parties, the State and the
15 defendant? Anyone?

16 Does any member of the jury panel follow
17 the 14th Circuit Solicitor's Office or the Beaufort
18 County Sheriff's Office or Bluffton Police
19 Department or Beaufort City Police Department on one
20 or more social media platforms? Anyone?

21 Yes, ma'am.

22 PROSPECTIVE JUROR: Juror number 81, both.

23 THE COURT: Okay. Same. You still at the
24 same posture you were earlier, that you're able to
25 give everybody a fair trial?

1 PROSPECTIVE JUROR: Absolutely.

2 THE COURT: Thank you, ma'am.

3 PROSPECTIVE JUROR: Juror 236.

4 THE COURT: Yes, ma'am.

5 PROSPECTIVE JUROR: I follow ---

6 THE COURT: Okay.

7 PROSPECTIVE JUROR: --- the Beaufort County
8 Sheriff's Department.

9 THE COURT: You follow Beaufort County
10 Sheriff's Department?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: Thank you, ma'am.

13 PROSPECTIVE JUROR: 193.

14 THE COURT: 193? Yes, ma'am. Who do you
15 follow?

16 PROSPECTIVE JUROR: Both.

17 THE COURT: Those law enforcement agencies?
18 Okay. Thank you, ma'am.

19 PROSPECTIVE JUROR: 76.

20 THE COURT: Yes, sir.

21 PROSPECTIVE JUROR: I follow both on social
22 media as well.

23 THE COURT: All right. Yes, sir.

24 PROSPECTIVE JUROR: 31, both.

25 THE COURT: Follow on social media? Okay,

1 thank y'all.

2 PROSPECTIVE JUROR: 182, Beaufort County
3 social media.

4 THE COURT: Beaufort County Sheriff's
5 Department? Okay. Yes, sir.

6 PROSPECTIVE JUROR: 135, and I follow
7 Beaufort County Sheriff's Department on social
8 media.

9 THE COURT: Okay. Yes, ma'am?

10 PROSPECTIVE JUROR: 373, and I follow both.

11 THE COURT: Thank you. Yes, sir, in the
12 back.

13 PROSPECTIVE JUROR: 115, and I follow both.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR: 83, and I follow both.

16 THE COURT: All right. Yes, ma'am.

17 PROSPECTIVE JUROR: 121, I follow both.

18 THE COURT: All right, yes, ma'am.

19 PROSPECTIVE JUROR: 21, I follow both.

20 THE COURT: All right, yes, ma'am.

21 PROSPECTIVE JUROR: 212, Beaufort County.

22 THE COURT: Thank y'all.

23 PROSPECTIVE JUROR: 95, Beaufort County.

24 THE COURT: 95, Beaufort County. All
25 right. Yes, sir in the back.

1 PROSPECTIVE JUROR: 280, and I follow
2 Beaufort County Sheriff's Department.

3 THE COURT: You're 280?

4 PROSPECTIVE JUROR: Yep.

5 THE COURT: Thank you. Yes, ma'am?

6 PROSPECTIVE JUROR: 92 and Beaufort County.

7 THE COURT: 92 follows Beaufort County.

8 All right. Thank y'all.

9 Has any member of the jury panel
10 participated in or had a member of their immediate
11 family participate in a citizen's police academy or
12 other such program where the public is allowed to
13 work with and train with and ride along with law
14 enforcement officers as part of a citizen trained
15 program about law enforcement policies and
16 procedures with any of the local law enforcement
17 agencies cited above? Has anyone done that? Had
18 anyone in their immediate family do that?

19 All right. Yes, ma'am.

20 PROSPECTIVE JUROR: It's been quite a
21 while, but I think the Town of Hilton Head -- I
22 don't know who that -- I guess it was Beaufort
23 County, a long time ago. Citizens ---

24 THE COURT: Did you -- yes, ma'am. Did you
25 do that yourself or someone in your family?

1 PROSPECTIVE JUROR: Just me.

2 THE COURT: All right, and your number?

3 PROSPECTIVE JUROR: 198.

4 THE COURT: 198?

5 PROSPECTIVE JUROR: Yes, but it's been
6 quite awhile ago, and I mean quite awhile ago.

7 THE COURT: Okay. Well, let me ask you
8 this. It's been a long time. Do you think you can
9 be fair to both sides here?

10 PROSPECTIVE JUROR: Oh, yeah.

11 THE COURT: Okay.

12 PROSPECTIVE JUROR: Definitely.

13 THE COURT: Thank you, ma'am.

14 PROSPECTIVE JUROR: Juror number 373. My
15 son just had an internship at the Berkeley County
16 Police Station, just this past summer.

17 THE COURT: Okay, thank you, ma'am. Thank
18 you for that. Anyone else on that question? Yes,
19 ma'am.

20 PROSPECTIVE JUROR: Do you count the junior
21 deputy program that they do for the youth?

22 THE COURT: It's good that you're telling
23 us that, and your number?

24 PROSPECTIVE JUROR: 83.

25 THE COURT: And this is a child?

1 PROSPECTIVE JUROR: Yes.

2 THE COURT: Thank you, ma'am.

3 BAILIFF: One standing, Your Honor.

4 THE COURT: I'm sorry. Thank you.

5 PROSPECTIVE JUROR: 121. My daughter did
6 the junior academy as well.

7 THE COURT: 121?

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: Thank you, ma'am.

10 Is any member of the jury panel have
11 strong ---

12 THE COURT: I'm sorry, y'all. My glasses
13 are not -- they're just not good enough. Yes,
14 ma'am.

15 PROSPECTIVE JUROR: The last question,
16 social media, I did check, I do follow the Beaufort
17 County Sheriff's Department, and I'm 321.

18 THE COURT: Thank you, ma'am.

19 All right. Does any member of the jury
20 panel have strong feelings for or against law
21 enforcement agencies or officers that he or she
22 feels could affect his or her ability to impartially
23 assess the credibility of a law enforcement witness,
24 treating him or her exactly the same way as any
25 other witness called to the stand? Anyone strong

1 feelings for or against a law enforcement agency or
2 officer? Anyone?

3 Okay. There's no response to that.

4 Has any member of the jury panel or your
5 spouse or close relative or close, personal friend
6 been suspected of or the victim of a crime whether
7 it was prosecuted or not, and I should say not just
8 a crime but a violent crime or a crime involving
9 sexual assault. Anyone? Yes, ma'am.

10 PROSPECTIVE JUROR: 228.

11 THE COURT: 228?

12 PROSPECTIVE JUROR: My oldest boy is
13 currently in prison for it.

14 THE COURT: Okay. Will that prevent you
15 from being fair to these parties?

16 PROSPECTIVE JUROR: Yes, it will.

17 THE COURT: Ma'am?

18 PROSPECTIVE JUROR: Yes, it will.

19 THE COURT: It will prevent you? Okay.

20 PROSPECTIVE JUROR: Yes.

21 THE COURT: Okay. All right. Would you
22 think you would have a hard time hearing this case
23 as a juror is what you're saying?

24 PROSPECTIVE JUROR: I do.

25 THE COURT: Okay, and your number?

1 PROSPECTIVE JUROR: 228.

2 THE COURT: 228? And I'm going to excuse
3 you for purposes of this trial, ma'am. Yes, sir.

4 PROSPECTIVE JUROR: 76.

5 THE COURT: Yes, sir.

6 PROSPECTIVE JUROR: Close family members,
7 victims, and I would presume I would be strong
8 feeling about that. I mean who wouldn't.

9 THE COURT: Okay. You think it'd be hard
10 for you to be a fair and impartial juror in this
11 case?

12 PROSPECTIVE JUROR: You'd presume so.

13 THE COURT: Okay.

14 PROSPECTIVE JUROR: Because I still have
15 underlying emotions about it.

16 THE COURT: I'm -- well, I'm going to
17 excuse you from service of this trial, not for the
18 week but for this trial. There's someone else, yes,
19 ma'am.

20 PROSPECTIVE JUROR: 212. My husband's
21 niece is a victim. I don't know honestly if it
22 would affect me. I don't know.

23 THE COURT: Well, ma'am -- okay, well I
24 appreciate you being forthcoming about that. Do you
25 believe that you could go forward and be a fair and

1 impartial juror? Do you think you could do it?

2 PROSPECTIVE JUROR: I will give it
3 everything I know to be, yes.

4 THE COURT: You would try hard to be ---

5 PROSPECTIVE JUROR: I didn't want you not
6 to know. So I just wanted to let you know.

7 THE COURT: Yes, ma'am. Do you believe
8 that you could be fair -- that you'd give it every
9 effort to be fair and impartial?

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: Okay. Thank you, ma'am. And
12 your number again?

13 PROSPECTIVE JUROR: 212.

14 THE COURT: 212. Yes, ma'am.

15 PROSPECTIVE JUROR: 283.

16 THE COURT: 283?

17 PROSPECTIVE JUROR: 283, yes. I was a
18 victim of sexual assault as a child. That was
19 never prosecuted. I don't think I can be fair.

20 THE COURT: I understand, ma'am. 283,
21 we're going to excuse you for this trial -- from
22 this trial. Yes, ma'am.

23 PROSPECTIVE JUROR: 373. Immediate family
24 member was a victim, and the perpetrator's still
25 serving time.

1 THE COURT: Okay, and how do you feel about
2 being able to be fair and impartial to everyone in
3 this trial? Could you do it?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: You say that like you have some
6 confidence. Is that you believe you're in control
7 of your emotions and feelings such that you believe
8 you could do that?

9 PROSPECTIVE JUROR: Yes, I'm objective.

10 THE COURT: Okay. All right. Thank you,
11 ma'am.

12 BAILIFF: One standing, Your Honor.

13 THE COURT: Yes, sir.

14 PROSPECTIVE JUROR: 135.

15 THE COURT: Yes, sir.

16 PROSPECTIVE JUROR: When I was about 5 or 6
17 years old when I was a little one, I had an
18 experience myself where I was abused, and wasn't
19 taken to court, I was too young to even know what
20 was going on but I don't feel like I want to be here
21 in this court on a case.

22 THE COURT: Yeah, I think I will excuse you
23 from this case, sir. You're 135?

24 PROSPECTIVE JUROR: 135.

25 THE COURT: You'll be excused for this

1 trial, okay.

2 The judge in the trial provides the jury
3 the law which the jury must apply to the facts as
4 they find them in the case. Would any member of the
5 jury panel have difficulty for any reason accepting
6 the instructions of this court as to the law that he
7 or she must apply to this case in rendering a
8 verdict? Anyone?

9 There's no response to that.

10 Does any member of the jury panel have
11 moral, religious, philosophical or other beliefs
12 that he or she believes would prevent him or her
13 from fulfilling his or her duties and
14 responsibilities as a juror in this case? Anyone?

15 No response to that.

16 Is there any aspect of this case, the
17 parties, the courtroom, the jury selection process,
18 the charge against the defendant, anything that
19 would cause any member of the jury panel to believe
20 he or she could not be fair and impartial in this
21 case?

22 Yes, ma'am? Your number?

23 PROSPECTIVE JUROR: 394.

24 THE COURT: 394, and ma'am, I have not
25 previously excused you in this case?

1 PROSPECTIVE JUROR: No.

2 THE COURT: Okay. I'm going to excuse you
3 for this trial, okay.

4 All right, that concludes the questions
5 that I need to ask you for voir dire. I think we're
6 ready to go about the process of selecting the jury.
7 Before we go any further, I want to ask Ms. Main any
8 questions that the State posed further that I need
9 to ask?

10 MS. MAIN: No, Your Honor.

11 THE COURT: From the defense? Anything
12 further, Mr. McFadden?

13 MR. MCFADDEN: Judge, I don't believe --
14 the only other question I would request is number
15 six in my voir dire.

16 THE COURT: Number six? I thought I
17 covered that one, maybe I did not. Oh, yes, I'm
18 sorry. I did not cover it. Thank you. There's one
19 more question that I missed. Thank you, Mr.
20 McFadden.

21 Is any member of the jury panel employed
22 by, related by blood or marriage to, or close friend
23 or acquaintance of any other prospective juror here
24 today? Is there a close connection between any two
25 -- in other words, are any two of you here today

1 that have some close connection by friendship or
2 kinship, anything of that sort or by employment?
3 Okay. I see no response to that.

4 All right, I think we're ready to proceed
5 with the strikes at this time. Ms. Main, Mr.
6 McFadden, are we in agreement that the state has
7 five strikes and the defense has ten?

8 MS. MAIN: Yes, Your Honor.

9 MR. MCFADDEN: Yes, sir.

10 THE COURT: All right. And yes -- Ms.
11 Main, Mr. McFadden, are we in agreement as to two
12 alternates?

13 MR. MCFADDEN: Yes, sir.

14 MS. MAIN: Yes, Your Honor.

15 THE COURT: Think that'd be sufficient?
16 You both agree?

17 MR. MCFADDEN: Yes, sir.

18 MS. MAIN: Yes, Your Honor.

19 THE COURT: Okay. Very good. Two
20 alternates. And as to the alternates, Ms. Main, you
21 agree you would have one strike and Mr. McFadden
22 would have two?

23 MS. MAIN: Yes, Your Honor.

24 THE COURT: Mr. McFadden, you agree with
25 that?

1 MR. MCFADDEN: Yes, sir.

2 THE COURT: Very well.

3 BAILIFF: If you are picked for the jury,
4 please bring everything with you, a book or anything
5 like that, pocketbooks -- bring it with you when you
6 come up.

7 CLERK: Are we just going to let them stand
8 where they are?

9 THE COURT: Yes, we're just going to let
10 them stand where they are.

11 CLERK: Norman, they're going to stand
12 where they are.

13 THE COURT: Yeah.

14 CLERK: When I call your number, if you'll
15 just stand.

16 Juror 161, what say the State?

17 MS. MAIN: Please present this juror.

18 CLERK: What say the defense?

19 MR. MCFADDEN: Please seat the juror.

20 BAILIFF: Please come forward, sir.

21 CLERK: Juror 376. 376.

22 PROSPECTIVE JUROR: Oh, I'm sorry.

23 CLERK: What say the State?

24 MS. MAIN: Please present this juror.

25 CLERK: What say the defense?

1 MR. MCFADDEN: Court's indulgence for just
2 a moment?

3 THE COURT: Sure.

4 MR. MCFADDEN: Please excuse this juror.

5 BAILIFF: You can sit down, ma'am. Thank
6 you.

7 CLERK: Juror number 323. What say the
8 State?

9 MS. MAIN: Please present this juror.

10 CLERK: What say the defense?

11 MR. MCFADDEN: Please seat the juror.

12 BAILIFF: Come forward please, ma'am.

13 CLERK: Juror number 229. What say the
14 State?

15 MS. MAIN: Please present this juror.

16 CLERK: What say the defense?

17 MR. MCFADDEN: Please seat the juror.

18 BAILIFF: Come forward please, sir.

19 CLERK: Juror number 321. What say the
20 State?

21 MS. MAIN: Please present this juror.

22 CLERK: What say the defense?

23 MR. MCFADDEN: The court's indulgence?

24 THE COURT: Yes.

25 MR. MCFADDEN: Please seat the juror.

1 BAILIFF: Come forward please, ma'am.

2 CLERK: Juror number 92. What say the

3 State?

4 MS. MAIN: Please present this juror.

5 CLERK: What say the defense?

6 MR. MCFADDEN: Please excuse this juror.

7 BAILIFF: Please sit down, ma'am. Thank
8 you.

9 CLERK: Juror number 122. What say the
10 State?

11 MS. MAIN: Please present this juror.

12 CLERK: What say the defense?

13 MR. MCFADDEN: Please seat the juror.

14 BAILIFF: Come forward please, ma'am.

15 CLERK: Juror number 97. What say the

16 State?

17 MS. MAIN: Please present this juror.

18 CLERK: What say the defense?

19 MR. MCFADDEN: Please seat the juror.

20 BAILIFF: Come forward please, sir.

21 CLERK: Juror number 79. What say the

22 State?

23 MS. MAIN: Please present this juror.

24 CLERK: What say the defense?

25 MR. MCFADDEN: Please excuse the juror.

1 BAILIFF: Please sit down, sir. Thank you.

2 CLERK: Juror number 380. What say the

3 State?

4 MS. MAIN: Please present this juror.

5 CLERK: What say the defense?

6 MR. MCFADDEN: Please seat the juror.

7 BAILIFF: Come forward please, ma'am.

8 CLERK: Juror number 83. What say the

9 State?

10 MS. MAIN: Please present this juror.

11 CLERK: What say the defense?

12 MR. MCFADDEN: Please excuse the juror.

13 BAILIFF: You can sit down, ma'am. Thank
14 you.

15 CLERK: Juror number 117. What say the

16 State?

17 MS. MAIN: Please present this juror.

18 CLERK: What say the defense?

19 MR. MCFADDEN: Please seat the juror.

20 BAILIFF: Come forward please, sir.

21 CLERK: Juror number 62. What say the

22 State?

23 MS. MAIN: Please excuse this juror.

24 BAILIFF: Sit down, sir.

25 CLERK: Juror number 360. What say the

1 State?

2 MS. MAIN: Please present this juror.

3 CLERK: What say the defense?

4 MR. MCFADDEN: Please seat the juror.

5 BAILIFF: Come forward please, sir.

6 CLERK: Juror number 94. What say the

7 State?

8 MS. MAIN: Please present this juror.

9 CLERK: What say the defense?

10 MR. MCFADDEN: Please seat the juror.

11 BAILIFF: Come forward please, sir.

12 CLERK: Juror number 25. What say the

13 State?

14 MS. MAIN: Please present this juror.

15 CLERK: What say the defense?

16 MR. MCFADDEN: Please excuse this juror.

17 BAILIFF: You can sit down, sir. Thank
18 you.

19 CLERK: Juror number 307. What say the

20 State?

21 MS. MAIN: Please present this juror.

22 CLERK: What say the defense?

23 MR. MCFADDEN: Please seat the juror.

24 BAILIFF: Come forward please, sir.

25 CLERK: Juror number 29. What say the

1 State?

2 MS. MAIN: Please present this juror.

3 CLERK: What say the defense?

4 MR. MCFADDEN: Please seat the juror.

5 BAILIFF: Come forward please, ma'am.

6 THE COURT: All right. I believe that that
7 is the 12th -- is that right Ms. Main, Mr. McFadden?
8 Is that what you have?

9 MS. MAIN: Yes, Your Honor.

10 MR. MCFADDEN: Yes, sir.

11 THE COURT: The 12? So, we'll now do two
12 alternates.

13 CLERK: Selecting alternate number one.
14 Juror number 30. What say the State?

15 MS. MAIN: Please present this juror.

16 CLERK: What say the defense?

17 MR. MCFADDEN: Please excuse this juror.

18 BAILIFF: You can sit down, sir. Thank
19 you.

20 CLERK: Juror 292. What say the State?

21 MS. MAIN: Please present this juror.

22 CLERK: What say the defense?

23 MR. MCFADDEN: Please seat the juror.

24 BAILIFF: Come forward please, sir.

25 CLERK: Alternate number two, 243. What

1 say the State?

2 MS. MAIN: Please present this juror.

3 CLERK: What say the defense?

4 MR. MCFADDEN: Please seat the juror.

5 BAILIFF: Come forward please, sir.

6 THE COURT: We're going to review the

7 numbers. You want me to call what I've got or you

8 -- however, you want to do it. How do y'all usually

9 do it?

10 CLERK: Call the numbers on ---

11 THE COURT: You want to call them?

12 CLERK: Sure.

13 THE COURT: I think you have a more

14 efficient diary than I do.

15 CLERK: We have juror 161, juror 323, juror

16 229, juror 321, juror 122, juror 97, juror 380,

17 juror 117, juror 360, juror 94, juror 307, juror 29

18 and alternates are number 292 and 243.

19 THE COURT: Ms. Main, is that what you

20 have?

21 MS. MAIN: Yes, Your Honor.

22 THE COURT: Mr. McFadden, is that what you

23 have?

24 MR. MCFADDEN: Yes, sir.

25 THE COURT: Very well. At this time, and I

1 ask madam clerk if you would help me with this
2 however y'all would do this in Beaufort County since
3 I'm a stranger. I think we can let everyone else go
4 for the day, and is there a number they can call in
5 and -- could they call in later today for an update
6 or how do you prefer to do that?

7 CLERK: Your Honor, do all jurors have the
8 number and what to call in -- I mean, the card with
9 the call in number? Please call that after six this
10 evening. It's going to say call back tomorrow after
11 six or it's going to ask you to report back with a
12 time, okay? And then whatever the instructions are
13 please follow that. Thank you.

14 THE COURT: As I said, all of you before
15 you go -- we're mindful of not wasting your time.
16 No one wants to do that to you, but we still might
17 need you on another case this week. Thanks for
18 being here. Hope you have a good rest of the day.

19 BAILIFF: Leave your badges as you pass out
20 of the courtroom.

21 (ALL REMAINING JURORS NOT SELECTED ARE
22 RELEASED AND EXIT THE COURTROOM.)

23 BAILIFF: Jurors are cleared, and the door
24 is closed, Your Honor.

25 THE COURT: Ms. Main, Mr. McFadden, any

1 motion dealing with selection of the jury?

2 MS. MAIN: Nothing from the State, Your
3 Honor.

4 MR. MCFADDEN: Nothing from the defendant.

5 THE COURT: Thank y'all.

6 All right. Madam clerk would you please
7 swear this jury.

8 (JURY IS SWORN.)

9 THE COURT: All right, folks. At this
10 point, I'm going to appoint a foreperson to head
11 your jury. Juror number 321, ma'am, I would ask you
12 to take this seat when y'all come back -- you don't
13 have to do it today, but when y'all come back
14 tomorrow morning, we're going to start in the
15 morning at 9:30. When y'all come back tomorrow
16 morning, if you would take the seat here on the
17 bottom row closest to the door, okay? You're going
18 to be the foreperson of this jury. Of course, y'all
19 probably know that means you don't get two votes or
20 anything like that. You still have one vote, but it
21 will be your responsibility to make sure that the
22 flow of the deliberations in the jury room are well
23 done, everyone gets -- everybody's heard. It's your
24 responsibility to control that process and someone's
25 got to do it. And I hope I haven't ruined your day

1 by appointing you as the foreperson, but that's what
2 you're going to be doing. And you two gentlemen who
3 are the alternates, it might work out we still need
4 you. So even though you're an alternate, we'll need
5 you to listen closely, because it's not unusual for
6 an alternate to come into actual service. And I
7 would ask you two gentlemen, if you don't mind, to
8 sit in those same two seats you're in so we can keep
9 not apart but we'll know which two you are if you
10 sit back there. The rest of you, it will not matter
11 where you sit. Sit where you're comfortable. And
12 we want to start tomorrow morning at 9:30. I ask
13 you to be here at 9:15, because we want to make sure
14 we get started right on 9:30. There will be times
15 -- I want to go ahead and tell you this -- there
16 will be times in the trial of this case where we ask
17 you to go out and it will seem like it's going to be
18 for a few minutes and you'll wait, you wait and you
19 might come back from lunch and think, wow, I thought
20 we were starting back at a certain time, and it
21 doesn't happen. Often there are many things that
22 we're dealing with that have to be put on the
23 record, but you're not -- we can't have you in here
24 for it. No one wants to waste your time. You heard
25 what I told to the whole jury panel here. We're not

1 going to make you work until real late or anything
2 like that. We'll try to be respectful of your time,
3 and I'll talk to you some more about this tomorrow,
4 but I want you to be comfortable. I don't want
5 anyone to be uncomfortable. If you need to take a
6 break or whatever, if you'll raise your hand or tap
7 the foreperson on the shoulder and let her know or
8 let the bailiff know, we will make sure that you
9 don't have a miserable time this week, it is
10 something that you can go out of here and say, well,
11 I learned something about the whole process of how
12 it works in the State of South Carolina. All right.
13 Ms. Main, Mr. McFadden, any reason we cannot let
14 these folks go for the day at this point that y'all
15 know of?

16 MS. MAIN: Nothing from the State, Your
17 Honor, other than just reminding them to not discuss
18 the case or do any research.

19 THE COURT: Thank you. I needed to -- yes,
20 Mr. McFadden.

21 MR. MCFADDEN: Same. Thank you.

22 THE COURT: Ms. Main makes a point and Mr.
23 McFadden seconds it that I should tell you this.
24 This is important, what I'm about to tell you and I
25 should have thought of it sooner. It's real

1 important y'all that you give everyone involved here
2 a fair trial. And I think you all know that.
3 You've been picked by these people. There's 12, 14
4 people who can be fair in this courtroom here in
5 Beaufort County. And it's real important what
6 you're about to do. There might be people who want
7 to talk to you about are you serving on a jury?
8 What's it about, what's going on? Don't do it.
9 Tomorrow you think that could be the same thing that
10 people want to talk to you about. What's that case
11 about? Tell me about it. What do you think? Don't
12 do it. Don't start talking to anyone, don't get on
13 the Internet and look at anything about this case.
14 I don't know if anybody still gets an actual
15 newspaper anymore, but if you get a newspaper, don't
16 look at it as far as this case. Don't look at it.
17 Keep it away, because your mind needs to stay clean.
18 And no matter how well intentioned you are, if you
19 hear something or told something about the case that
20 you really shouldn't have heard, it makes it harder
21 for you to keep your mind clear and clean. And I
22 think you all know what I mean. So please stay away
23 from any conversation like that. If you see one of
24 the attorneys or any of these folks out here in the
25 hallway or see them anywhere over the next couple of

1 days and they just kind of look away from you, don't
2 think they're being rude to you, they just know
3 they're not supposed to talk to you or come in
4 contact with you. And they're trying to make sure
5 that they're careful about that. So don't hold that
6 against them if you see them look the other way in
7 the hallway. I think y'all understand what I mean,
8 and I hope you have a good evening. Again if you
9 would, please be back here at 9:15 tomorrow morning
10 and we'll try to get started at 9:30. But now if we
11 don't get started right at 9:30, please don't be
12 upset with me. It will be because we're in here
13 doing something that came up that we had to handle,
14 all right? Thank y'all.

15 Y'all mind if we take about a five-minute
16 break before we jump on these motions? Do y'all
17 mind if we take about a five-minute break before we
18 jump on these motions? If you need ten that's fine.
19 Just take a little break before we jump on these
20 motions we need to do.

21 MR. MCFADDEN: Thank you. We're doing okay
22 on time. It's not 2:30. We should be okay to get
23 this done.

24 (Court stands in brief recess.)

25 BAILIFF: All rise. The Court is back in

1 session.

2 THE COURT: Ms. Main and Mr. McFadden, when
3 y'all get -- just when y'all get to where -- I'm in
4 no hurry but if you could come up here a minute and
5 let me compare notes with you before we get going.

6 MS. MAIN: Yes, sir.

7 THE COURT: Give you what I've got and make
8 sure you have the right list.

9 Ms. Main, are you going to go first for the
10 State?

11 MS. MAIN: That suits me, Your Honor.

12 THE COURT: All right. All right with you,
13 Mr. McFadden, ---

14 MR. MCFADDEN: That's fine with me, yes,
15 sir.

16 THE COURT: -- if the State goes first?
17 Okay.

18 MS. MAIN: So first, Your Honor, we have
19 the state's motion for joinder. This is for the --
20 both of the indictments to be joined together to be
21 tried together. They are with the same victim, same
22 defendant, same set circumstances, happened in the
23 same county and would require all of the same
24 witnesses and evidence. It's our understanding
25 there is no objection to this and that is how we are

1 moving forward but we would like to put it on the
2 record.

3 THE COURT: Okay. Mr. McFadden?

4 MR. MCFADDEN: That's correct, Judge. I
5 think she meets the standard here.

6 THE COURT: Okay. Thank you. Next. The
7 motion for joinder is granted. Let me say that,
8 sorry.

9 MS. MAIN: Thank you, Your Honor. I was
10 trying to do some of the easier ones first. So the
11 one in relation to compliance with rape shield laws,
12 obviously Mr. McFadden is aware of the rules
13 regarding that but the State wanted to put on the
14 record about what could and could not be brought up.
15 That's all. I imagine that won't be an issue.

16 THE COURT: Y'all think it's an issue
17 coming up? Don't think so.

18 MS. MAIN: I imagine it -- they'll be in
19 compliance with the rules, but I just had to put it
20 on the record.

21 THE COURT: Sure. Mr. McFadden, any
22 concerns?

23 MR. MCFADDEN: Just so we get it out in the
24 open, I don't think this implicates the rape shield
25 statute but just so we can discuss it here, it's an

1 area that I would like to have the opportunity to
2 get into on cross-examination if I do is ---

3 THE COURT: If it becomes an issue is
4 that ---

5 MR. MCFADDEN: Well, then I would like to
6 have the opportunity to explore on cross-examination
7 because I think it would be relevant and it would be
8 that right around the time -- based on my review of
9 the discovery -- right around the time that these
10 allegations are made here, it appears that the
11 complainant potentially came out recently or is in
12 the process of coming out as identifying as a male,
13 as transgender, that's how I interpret her
14 statements to the forensic interviewer. On that
15 issue, and specifically that she mentions that on --
16 she goes by the name Timothy at the time of this --
17 this is back in 2019 ---

18 THE COURT: Okay.

19 MR. MCFADDEN: --- that she identifies as a
20 male now. Our position is that that would be a
21 potential source of violence and a potential motive
22 to make these allegations, that we should be
23 entitled to explore on cross examination. And I
24 don't think that falls under rape shield as specific
25 instances of sexual conduct of the alleged victim,

1 and I do think that would potentially be a reason
2 why a person might feel the need to make allegations
3 to sort of -- to justify such a fundamental major,
4 personal situation, a major event in personal
5 development like that that could be a difficult
6 thing to gain acceptance of socially or familially.
7 I said that right. Thank you.

8 THE COURT: Better than I could say it.
9 Ms. Main what do you say about that?

10 MS. MAIN: I don't think that falls under
11 rape shield, and I think it's something that he
12 could likely get into on cross.

13 MR. MCFADDEN: Other than that, I don't
14 intend to get into any sort of specifics.

15 THE COURT: All right. I understand.
16 Okay, I think we're good on that, and if we come
17 across it in a way that is potentially a problem,
18 then we'll deal with it then, but I think y'all are
19 -- y'all seem to be pretty clear on where you're
20 headed with that, what might happen with that, okay?

21 MS. MAIN: And then the other motion from
22 the State is regarding the res gestae evidence or
23 possibly prior bad act evidence, and this covers Mr.
24 McFadden's motion as well. It is the State's
25 contention that the victim was groomed, and so some

1 of the comments and interactions with the defendant
2 as part of that grooming, in addition to testimony,
3 will likely be elicited relating to some physical
4 abuse and threats. All of that we feel is
5 appropriate under res gestae to complete the full
6 picture for the jury, but additionally it is
7 necessary under Lyle. It shows a common scheme or
8 plan. It shows intent as well.

9 THE COURT: Well, he's not -- there's no
10 allegation about him with another person, is there?

11 MS. MAIN: I'm sorry? Say that again.

12 THE COURT: There's no allegation about the
13 defendant with some other person, is there?

14 MS. MAIN: No, Your Honor. So specifically
15 it's twofold. So under the common scheme and plan,
16 there's some case law relating to grooming. So this
17 is an uncharged act. So for example, conversations
18 he had with her, helping her get dressed in the
19 morning, stuff like that, that is going to be
20 grooming behavior, and it shows an escalation in his
21 conduct towards her and that goes to a common scheme
22 or plan, and explains the grooming process
23 essentially. Additionally under CSC 3rd with a
24 minor, intent and sexual arousal are things that
25 have to be proven by the State, and sexual arousal

1 can be proven with different conduct or words. And
2 so there's a case that's actually very on point.
3 It's State v. Deakins, and I'm going to pass a copy
4 to Your Honor and I'm also going to copy your law
5 clerk as well.

6 THE COURT: Thank you.

7 MS. MAIN: And it goes over directed
8 verdict actually, but it also makes references
9 talking about how the State argued that evidence of
10 certain instances were admissible to show common
11 scheme or plan under 404(b) because the incidents
12 involved the child and they occurred within a two-
13 year-time period, and they were sought to introduce
14 to prove there was nothing innocent happening.
15 These comments were a build-up of various specific
16 and intentional conduct and is showing -- I think
17 the case -- I know Your Honor will read it at some
18 point, but it does go to a very specific element of
19 criminal sexual conduct in the third degree. But I
20 also have another case for Your Honor to consider
21 relating to uncharged conduct and the pattern that
22 gets elicited. I have State v. Curtin (Ph).

23 THE COURT: Okay.

24 MS. MAIN: And I have State v. Clasby for
25 Your Honor to consider. And I have copies for Your

1 Honor and your law clerk. But to put it succinctly,
2 it goes to common scheme and plan and it goes to
3 intent and sexual arousal, specifically through
4 words and actions are things we have to prove, and
5 the common scheme and plan tie into res gestae and
6 provide necessary context as to how this ended up
7 occurring to the victim.

8 THE COURT: All right. Mr. McFadden?

9 MR. MCFADDEN: Thank you, Judge. So what
10 my impression of the testimony here based on prior
11 statements that were turned over to -- by I think
12 law enforcement is that this complainant is going to
13 describe a course of conduct that occurred over the
14 years, a span of years, which the State has charged
15 in these two indictments. The one earlier span of
16 years being that -- well, I guess now it's CSC with
17 a minor 1st degree 11 or under and then under 11.
18 And then the lewd act or the CSC 3rd with a minor
19 during later years. There's two time -- multi-year
20 timeframes set out in the indictment. And so in
21 order to respond to this motion or this argument
22 here, it's my understanding that the charging period
23 by the State is that -- because they've only charged
24 one count of the offense. One count for the years
25 2008-2013 and one count from 2014-2017. So you have

1 one completed offense for each time period. What I
2 suspect that they want to present evidence of are
3 the numerous acts, some of which, I think, could be
4 argued probably or maybe will be argued by the State
5 would constitute separate instances of each of these
6 things during these timeframes. So I'm a bit
7 confused what the State is relying on evidence wise
8 as direct evidence of the events or what they are
9 seeking to introduce as bad act evidence which would
10 not be -- I mean they're arguing that that's not, I
11 guess, direct evidence of the events, that's just
12 other acts, nonessential to proving the elements of
13 the crime, but admissible to show -- and she said
14 both things, res gestae or common scheme or plan, to
15 show one of those things. So I would ask perhaps
16 maybe help me understand which of those theories ---

17 THE COURT: Rule 404(b) -- I just want to
18 read -- it's a brief section. I just want to read
19 404(b), help me set the stage, and y'all could help
20 me. Evidence of other crimes, wrongs or acts is not
21 admissible to prove the character of a person nor to
22 show conformity, excuse me, show action and
23 conformity therewith. So it deals with character.
24 It may however be admissible to show motive,
25 identity, the existence of a common scheme or plan,

1 the absence of mistake or acts or intent. I think,
2 Ms. Main, you were talking about 404(b), 404(b)
3 seems to me to getting at the character to pass that
4 -- this is -- your saying you need to explain the
5 whole story. The way I hear you presenting it is if
6 you don't go back before the actual item mentioned
7 in the indictment, of course I understand what
8 you're saying about it being a series of events,
9 then you've not been able to go back far enough to
10 tell the story. It seems to me it becomes a
11 question of when are you allowed to start the story.
12 Am I wrong?

13 MS. MAIN: I think I understand what Your
14 Honor's saying. The defendant moved in with the
15 victim when she was 6 years old. Around that time
16 is when the scene was set or what the State would
17 say is proving behavior that went to digital
18 penetration. That is the charge, that criminal
19 sexual conduct in the first degree. So we think
20 that that evidence of grooming is necessary to --
21 for the jury to understand what's in the -- what's
22 going on in the home and why she didn't tell
23 somebody, why she acted the way she did. It's so
24 she can provide the full context because it was not
25 like he immediately digitally penetrated this

1 victim. That was not the first thing that he did
2 immediately upon entering the home. And so we think
3 that that provides the context and in this case
4 State v. Dinkins, it says that the prior acts were
5 probative as to a pattern of grooming, and where
6 evidence of motive and intent, it means prior acts
7 counter any argument of the defendant that their
8 actions were innocent or proper, familial actions.
9 So we think that grooming is essential for the CSC
10 1st charge and the CSC 3rd charge. We think it
11 provides necessary context. Additionally, the
12 sexual comments that would be elicited like comments
13 about her body or her appearance or things like that
14 we think are necessary to provide context as well
15 show under 404(b) a common scheme and plan
16 escalating course of conduct, but it also goes to
17 intent and sexual arousal which is a necessary
18 element under CSC 3rd degree. And then relating to
19 the threats and the physical abuse, we think that
20 that is also necessary context to show intent, a
21 common scheme and plan. This was a thoughtful --
22 this was thoughtful. He set a scene for this victim
23 to not disclose. It's going to provide necessary
24 context this is why she'd done that. I'm not sure
25 how well she's supposed to explain that. And I

1 think it under res gestae and then it also goes to
2 intent on these kinds of comments, show his scheme,
3 the common scheme and plan escalating conduct the
4 intent to create this situation. I hope I've
5 answered Your Honor's question.

6 THE COURT: I think so.

7 Mr. McFadden, I'm going to give you another
8 minute. I'm taking a quick look at the relevant
9 part of Deakins, The State versus Dinkins, a 2021
10 case that Ms. Main just handed up, just a moment.

11 MR. MCFADDEN: Okay.

12 THE COURT: All right. The Dinkins' case
13 does seem to be a close call to what we're dealing
14 with. Mr. McFadden, you want to address it, because
15 the Dinkins' case -- have you had a chance to look
16 at it? Maybe you were already familiar with it
17 before today. It basically deals with, I think, a
18 very similar situation and the Court in Dinkins
19 distinguished it from the State versus Perry case
20 which had somewhat reset the standard and it -- for
21 404(b) and it does seem to indicate that in a case
22 like this, that's not far off removed in time, but
23 where a sort of a continuing flow of events, that it
24 be allowed, but I'm glad to hear. I might be
25 misreading it because I often do.

1 MR. MCFADDEN: Thank you, Judge. Well, I
2 certainly -- same thing, Judge. I've never thought
3 to be perfect in that regard either. Well, at one
4 point as to this -- she's mentioned a couple of
5 times now she needs it to prove the specific
6 additional element of gratifying sexual desires,
7 etcetera, as part of the CSC 3rd charge. Well,
8 that's not the CSC 1st, and this behavior that she's
9 talking about I think is alleged to span the whole
10 timeframe. So is she arguing though that she can
11 get into that earlier with regard to the earlier
12 indictment as well, 2008 to July 2013 being the CSC
13 with a minor 1st degree? That charge has separate
14 elements there.

15 THE COURT: I don't know how we could
16 separate them when they're going to be tried
17 together though. I mean the facts that come out are
18 going to be the facts that come out, and I don't
19 know how you separate those.

20 MR. MCFADDEN: Well, so ---

21 THE COURT: I think I understand what
22 you're saying, but this Dinkins' case a very similar
23 situation talks a good bit about allowing this type
24 of evidence to come in, this type of testimony. So
25 -- and it does go into a good bit of explaining the

1 difference between this and the case where that
2 would not be something you could do.

3 MR. MCFADDEN: So I guess part of my
4 response turns -- I guess my response turns in part
5 on what I mentioned earlier about they charged this
6 case. In that -- my understanding is they're
7 relying on all of this testimony to convince this
8 jury that he committed this offense one time during
9 the earlier timeframe and the second timeframe, and
10 that if this jury agrees that the elements are met
11 at one point during any, I guess, during any one of
12 these episodes that this alleged victim would
13 testify to, each of which, well, a lot of which
14 would constitute completed offenses per her
15 statement, then they could return a verdict of
16 guilty. So it's -- if that's how they're proceeding
17 with their case, then I mean I don't think res
18 gestae is -- would fit here. Res gestae meaning
19 that like they would have to prove it -- these
20 additional acts or bad acts to just make it make
21 sense. If they didn't prove it, if evidence wasn't
22 shown of that, that the whole story wouldn't even
23 make sense. I don't think that's the case here at
24 all, it would just be -- it would still be her
25 saying he did x, y, z to me on whatever date, and

1 that's the whole -- that's the completed offense.

2 The res gestae is a scenario where it is - I've got
3 the case law here ---

4 THE COURT: Okay. Take your time. Take
5 your time, I'm listening.

6 MR. MCFADDEN -- where just the rule on it
7 where the uncharged offense or the bad act is linked
8 together at a point in time and circumstance with
9 the crime charged so that one can't be fully shown
10 without proving the other and is thus part of the
11 res gestae of the offense. That -- it furnishes
12 part of it. It is necessary to a full presentation
13 of the case where it's so intimately connected with
14 and explanatory of the crime and is so much part of
15 the setting of the case and it's environment that
16 proof is appropriate in order to complete the story.
17 I don't think that that's -- it rises to that level
18 here as he just did additional less bad things
19 when ---

20 THE COURT: It was ---

21 MR. MCFADDEN: --- after the act itself
22 would constitute the offense, especially on the CSC
23 1st, because there's no -- they don't have to prove
24 any intent. Well, here it's not the lewd and
25 lasciviousness of the 3rd degree one, and the

1 remainder has just -- common scheme or plan here.
2 Again, I'm confused because they're arguing they
3 want to get in bad act evidence to fit one of these
4 exceptions, but what they're relying on as the bad
5 acts I assume -- I mean she said a lot of stuff and
6 they're not -- she hasn't made specific examples of
7 the pieces of the testimony she can get in, that
8 specific bad acts, but if they're trying to
9 introduce that it's bad act evidence, that means
10 they're not trying to just present it as just direct
11 evidence of the crime here. So then if they are
12 arguing that him repeatedly -- because part of this
13 would be him committing digital penetration on her
14 more than once during these timeframes, well, if
15 they're arguing that some of those or not all of
16 them are direct offense conduct then, I don't think
17 that those are -- I think those do not pass 403, and
18 I think that those are nothing more than propensity
19 evidence. So on that -- in that vein or in that
20 regard I would object to them, and I don't think
21 they pass muster here.

22 THE COURT: Ms. Main?

23 MS. MAIN: Your Honor, I would just like to
24 clarify that the State has tried to make it as clear
25 as possible to the defense what acts were

1 specifically charged. We sent over a lengthy,
2 detailed email regarding the statement -- the most
3 recent statements of the victim, and we made it
4 clear that we'd be eliciting testimony of one
5 digital penetration during that timeframe from six
6 to eleven years old and we've provided context
7 relating to that. So this isn't going to be her
8 talking about several of those. That's not our
9 intention. It's going to be grooming behavior
10 because digital penetration is not something that
11 just suddenly begins. There is a build-up, and I
12 would say the case law supports that whether it's a
13 CSC 1st degree or a 3rd degree. Third degree
14 obviously the idea is further supported by the
15 elements, but even for 1st degree it does go under
16 res gestae and it does go under common scheme or
17 plan. The reason I brought it to the Court's
18 attention is I didn't want to be in a situation
19 where she's testifying and we were unable to give
20 her some sort of direction if her testimony was
21 limited for some reason, and then obviously despite
22 any direction Your Honor gives us, she is going to
23 testify however she testifies and we may have to
24 determine in the moment but ---

25 THE COURT: Yes.

1 MS. MAIN: -- but I think it's also
2 important to separate the three things I want to get
3 into which is grooming behavior, and then the sexual
4 comments and then the threats of physical abuse or
5 the actual physical abuse. Those are the three
6 things that I would like to get into.

7 THE COURT: Well, to me, in my opinion, to
8 tell the whole story, go back to what Mr. McFadden's
9 talking about to tell the whole story, I think you
10 do need to get into it. And not only that, the
11 Dinkins' case, it has some real strong similarities,
12 and the Court of Appeals here talks a good bit about
13 the State Supreme Court's decision in the State
14 versus Perry and then it talks about a similar
15 situation to what we have here stating in part the
16 Circuit Court carefully considered the seven acts
17 offered by the State, being evidence of only two of
18 the seven, we find the prior acts probative as to a
19 pattern of grooming, their evidence of Dinkins'
20 motive and intent and these prior acts countered the
21 argument that Dinkins' actions toward the child were
22 innocent. It may, however, be admissible to show
23 motive, identity, the existence of a common scheme
24 or plan, the absence of mistake or incident, or
25 excuse me, or accident or intent. It then goes on

1 to quote from Chief Justice Kittredge's dissent in
2 Perry, of course it was a 3-2 decision in Perry, and
3 he says there the hallmark of a common scheme or
4 plan such as a charge an uncharged crimes are
5 connected in the mind of the actor by some common
6 purpose or motive. Thus is where the modus operandi
7 exception where identity is interwoven with common
8 scheme or plan, motive can also be inextricably
9 intertwined with common scheme or plan. The charge
10 and uncharged acts here are largely connected with a
11 pattern of grooming which included an escalation of
12 the conduct towards this child. Evidence that
13 defendant began -- there's another case, excuse me,
14 Clasby, C-L-A-S-B-Y, goes on to state again that
15 Court of Appeals quotes your evidence that defendant
16 began touching and committing other sexual
17 misconduct with victim when she six or seven years
18 old was admissible to show common scheme or plan
19 during the trial for the indicted offense of CSC
20 with a minor 2nd degree on the ground that the six-
21 or seven-year-old pattern of escalating abuse of
22 victim by defendant was the essence of grooming and
23 continuous illicit activity. It's very close to
24 what we have here, very close. And I think what the
25 State's saying is we've got to go back for -- you go

1 back to tell the whole story, put it together. And
2 I think that -- and Mr. McFadden, I want to assure
3 you I'm very focused on making sure the defendant
4 has a fair trial. I want him to have a fair trial,
5 but the State, I believe, has the right to tell the
6 whole of the story. It still comes down to what is
7 a jury going to believe about what actually
8 occurred. If I tell you a short story or a long
9 story, you might or might not believe it whether
10 it's short or long. It still comes down to what
11 they believe. I just think that it makes much more
12 sense to be able to tell the whole of the story
13 which I think is so connected going back that it
14 must be told, but I'm glad to hear it from Mr.
15 McFadden, if you have something further you would
16 like to argue, I'll listen to you.

17 MR. MCFADDEN: So she mentioned the areas
18 of the -- of this act -- bad act evidence she wanted
19 to get into, but she mentions that she does not
20 intend though to get into then evidence of multiple
21 instances of CSC 1st of digital penetration. Did I
22 say that right or no? Did I say that right?

23 MS. MAIN: Yes, that's correct. She --
24 I've been very transparent, I believe, with the
25 testimony we plan to elicit from her and what she

1 remembers.

2 MR. MCFADDEN: Okay. Well, if that's the
3 case, then we're left then with "grooming" behavior,
4 I was just looking over Dinkins. I don't know how
5 that was presented actually at that trial, but, you
6 know, she's going to argue and use that phrase
7 grooming, I am concerned that we're entering
8 something that's not within the jury's knowledge.
9 And so I think it's sort of the foundation ---

10 THE COURT: Well, I'll tell you what I'm
11 going to do so we can move along. I'm going to tell
12 you that I'm inclined to allow the State to do what
13 they want to do here.

14 MR. MCFADDEN: Okay.

15 THE COURT: But I -- in fairness to you and
16 your client, most fairest to your client, to Mr.
17 Jones, I'm going to give you an opportunity in the
18 morning before we get started to make an argument,
19 giving you an opportunity to prepare a little more,
20 Ms. Main of course will have an opportunity too.
21 I'm not going to make a final decision on this, but
22 just to be clear with you you understand where I'm
23 leaning toward. I've just stated what I think is
24 the right decision on this issue, but I'm going to
25 give you an opportunity to change my mind one more

1 time tomorrow morning before we start with the jury,
2 okay?

3 MR. MCFADDEN: Understood. Yes, sir.

4 THE COURT: Ms. Main? You'll have an
5 opportunity to see if I'll -- if you can keep me
6 where I am. Okay?

7 MS. MAIN: Yes, Your Honor.

8 THE COURT: I think we'll do that, because
9 -- and I appreciate these cases, but Mr. McFadden
10 needs an opportunity to really look at them and that
11 will give me an opportunity to look at them further,
12 too, because sometimes I need to read something a
13 few times before I understand it.

14 MR. MCFADDEN: So Judge but if I could --
15 this dovetails right into my 404(b) motion, ---

16 THE COURT: Yeah, let's -- yeah.

17 MR. MCFADDEN: -- which it sounds like we'll
18 talk about different things.

19 THE COURT: Okay. Let's go on to your
20 motions and let me find that list. I've got so many
21 things up here, I keep burying stuff. Here we go.

22 MR. MCFADDEN: I have a copy.

23 THE COURT: I've got your list.

24 MR. MCFADDEN: All right. I have a copy of
25 my motion if you'd like it.

1 THE COURT: I think the first thing on your
2 list if you want to go down in order is the motion
3 to quash the indictment.

4 MR. MCFADDEN: Well, I withdrew that.

5 THE COURT: Okay. That's withdrawn, okay.

6 MR. MCFADDEN: Yes, sir. Search for truth
7 instructions is number two on there.

8 THE COURT: And my understanding is I'm not
9 supposed to do that, and so I'm not going to do
10 that.

11 MR. MCFADDEN: Thank you, Judge. My next
12 motion here, number four -- oh, sorry number three,
13 motion to exclude use of the term victim, that's the
14 one I did write a brief, written motion which ---

15 THE COURT: Okay.

16 MR. MCFADDEN: --- I set out an argument
17 which is pretty straightforward.

18 THE COURT: It is. It is, and Ms. Main
19 your position on that?

20 MS. MAIN: I could understand the Court's
21 saying alleged victim perhaps, but I think the State
22 should be allowed to refer to her as the victim
23 during this case. I'm not sure what else we would
24 frankly call her. I think that is supported under
25 some of the rules. Specifically, South Carolina

1 Code of Laws 16-3-651 which has the definitions
2 relating to criminal sexual conduct. Justifying
3 victims as the person alleging to have been
4 subjected to criminal sexual conduct, and then under
5 the court rules 41.2 it talks about the privacy
6 protection and filings relating to minors who are
7 victims of sexual assault, and it asks that they be
8 written down as victims or alternatively child
9 should be used instead of their actual name. But
10 additionally Mr. McFadden's brief lays out that
11 reason the State shouldn't be allowed to call her
12 victim is because it puts the weight of the State
13 behind her, and it's the State's position that
14 that's not the case. We're simply explaining the
15 allegations. We're not vouching for her in any way.
16 And if Your Honor looks to some of the cases
17 relating to the State vouching for credibility,
18 there's instances of solicitor saying I wouldn't
19 have put her up if I didn't believe that she -- if I
20 didn't believe her. If she wasn't telling the
21 truth, she would have cracked under the pressure.
22 We're not getting into that kind of backing, we're
23 simply calling her what we allege her to be which is
24 the victim. Otherwise, I'm not really sure what I
25 would refer to her as.

1 THE COURT: Well, Mr. McFadden, what else
2 could she refer to her as?

3 MR. MCFADDEN: The plaintiff.

4 THE COURT: Alleged victim.

5 MR. MCFADDEN: Alleged victim.

6 MS. MAIN: Our entire case is an allegation
7 that he committed something against her.

8 THE COURT: Yeah. Yeah. I just find
9 myself agreeing with Mr. McFadden on this. I just
10 think it puts the victim, whether or not she is a
11 victim is not established yet, and unless there's a
12 finding of guilt, there's been no finding she's a
13 victim in my opinion. I think it's more fair to use
14 some other term. I don't think it's burdensome on
15 the State to use some other term. I think that it
16 gives you a bit of a weapon in my opinion, it may be
17 a mild weapon but it's a bit of one, that takes away
18 from a balance of fairness, so I'm not going to
19 allow you to use the word victim.

20 MS. MAIN: Understood, Your Honor. I will
21 say I will make every effort not to. If I
22 accidentally slip up I would hope that wouldn't
23 cause too much of an issue, but I do hear your
24 ruling and understand it.

25 THE COURT: No, if you slip up, I know it

1 will be an accident. I trust that, and we'll deal
2 with it, but I think you cannot do it, but if you do
3 it again, I don't think, Ms. Main, that you'd be
4 doing it as an officer of the court intentionally.
5 I don't believe that.

6 MS. MAIN: Yes, Your Honor.

7 THE COURT: I don't want you feeling it,
8 you know, an extra pressure, beyond what being at a
9 trial of this sort brings already to the attorneys
10 because of that. Just do your best. Okay?

11 MS. MAIN: Yes, sir, and I will tell my
12 witnesses as well to refrain from using the word
13 victim.

14 THE COURT: Thank you. Mr. McFadden, next
15 one.

16 MR. MCFADDEN: Thank you, Judge. The next
17 motion is -- I don't know if Ms. Main intends to
18 introduce any of this but Miss Ross's counseling
19 records were turned over to me, and I see that on
20 her witness list she has Ms. Taylor Newman. I
21 believe that's a social worker with the Children's
22 Advocacy Center, Hopeful Horizons, where **Complainant**
23 was referred to after this case, and it was indeed
24 her treating counselor. I'm not sure you'd call the
25 person assigned to her who helped her with services

1 through that organization. So I'm concerned that
2 because she's on that list that they're going to
3 elicit testimony that she received counseling, was
4 -- I don't know.

5 THE COURT: Okay.

6 MR. MCFADDEN: I wanted to head that off at
7 the pass, and I think any testimony that she -- from
8 her counselor saying that she received counseling is
9 vouching for -- and it does not go to prove their
10 case. Again, I just -- I wanted to get out ahead of
11 this because I saw her name on that witness list and
12 I don't know what their plans for her are.

13 THE COURT: Okay.

14 MR. MCFADDEN: If it's an outside witness,
15 I -- I don't know.

16 THE COURT: All right. Let's see. Ms.
17 Main?

18 MS. MAIN: Yes, Your Honor. I did put her
19 on there and I don't plan to call her in my case in
20 chief. I like to put everyone on there just in
21 case. I don't know if -- I don't plan to
22 specifically elicit lengthy testimony from the
23 victim related to her counseling, but it is
24 something that she did receive, so ---

25 THE COURT: The alleged victim.

1 MS. MAIN: Alleged -- well, Complainant I'm
2 going to ask Complainant a lot of questions, so it is
3 something that she was subjected to and was part of
4 the process that led her ---

5 THE COURT: So you're saying it's going to
6 come up. You believe it'll come up in the alleged
7 victim's testimony?

8 MS. MAIN: She may mention it.

9 THE COURT: All right. Mr. McFadden, is
10 that what you're -- you're worried about the
11 counselor coming in or you're worried about what if
12 the complainant says something about it?

13 MR. MCFADDEN: Initially Judge, I was
14 worried about the counselor. I understand they're
15 not calling her, but I -- and also I'm glad she
16 mentioned it, I don't want any evidence of it
17 period. Because in my opinion it goes like this,
18 the jury hears that, oh, I received counseling for
19 this. That means she had a counselor. And that
20 means if she had a counselor, well, a counselor
21 wouldn't take in cases they didn't think had
22 happened. And there's just no -- the only effect of
23 that evidence will be to vouch and bolster. And
24 it's not necessary to prove these ---

25 THE COURT: Yeah. I agree with you. We're

1 not going to get into that. All right, what's your
2 next motion?

3 MR. MCFADDEN: Next motion is 404(b). And
4 again, I made that motion not knowing what they were
5 talking about, what they referred to as res gestae.
6 So here, we've already talked about the one case and
7 thank Your Honor for the ability to look at that
8 over for last night.

9 THE COURT: Yeah. We think we know where
10 we are but again we've got a little reservation
11 there to give everybody an opportunity to dive into
12 it further, including me, okay?

13 MR. MCFADDEN: There is a little bit more
14 though. In terms of bad -- what could be potential
15 bad act evidence as what we've seen in the discovery
16 here **Complainant** mentions some stuff about some
17 corporal punishment. This is during the forensic
18 interview. Corporal punishment, getting hit with a
19 belt and spoon and leaving marks from her mom and
20 from Mr. Jones, some stuff about the lights not
21 being on in the house sometimes and not being enough
22 food, and essentially other bad act evidence here
23 that was outside of what they're talking about it in
24 terms of specifically sexually motivated -- that
25 type of behavior. I don't think that comes in under

1 404(b). I don't know if they intend to elicit any
2 of that.

3 THE COURT: Okay. Ms. Main, do you wish to
4 address this now or ---

5 MS. MAIN: Well, in the previous motion
6 relating 404(b), I did say I plan to talk about
7 threats and physical abuse relating to the lights
8 being on or the food in the house or anything like
9 that, that's not something the State plans to
10 elicit.

11 THE COURT: Okay, that's good. Well,
12 you're still concerned about corporal punishment and
13 things of that sort?

14 MR. MCFADDEN: That's how it -- again
15 they've talked with her obviously more than I have,
16 but -- so my impression of what I see in her
17 statements in discovery is that it came up during a
18 discussion of what are the rules at your house and
19 how are the rules enforced? Well, mom will yell and
20 scream at us and will hit us in the mouth or with a
21 belt or a book, or etc. And then also she says and
22 he did that too. Those kinds of things. So it was
23 more -- it was unconnected with the ---

24 THE COURT: I don't think it's connected
25 with either. I'm not going to allow that. I don't

1 think it connected enough to what we're here about
2 really. According to what we're here about is a
3 different type of thing than that.

4 MS. MAIN: Your Honor?

5 THE COURT: Yes.

6 MS. MAIN: Am I able to elicit anything
7 relating to threats regarding violence? Because
8 that goes deeply into the reason why she didn't feel
9 comfortable just disclosing this information to
10 anyone. It goes directly to the delay disclosure
11 which is going to be, I imagine, an essential issue
12 in this case that's going to be brought up. So I
13 understand not wanting to go into it extensively,
14 but I would anticipate her saying -- at least the
15 threats of it.

16 THE COURT: I will let you elicit from her
17 just that there would be threats if she had some
18 concern about, but we're not going into the
19 punishment or no food -- we're not going into any --
20 we're not getting away from what's on the path.
21 We're going to stay on the path. I think that's
22 close enough to being on the path we have to stay
23 on. It's fair but you only can touch upon it just
24 enough to show that she might have had some
25 reasonable fear, okay? And not beyond that.

1 MS. MAIN: Yes, sir.

2 THE COURT: Okay.

3 MR. MCFADDEN: Thank you, Judge. My next
4 motion - again, I don't know that they would intend
5 to offer any - okay, no evidence of flight, so that
6 motion is taken care. Ms. Main's shaking her that
7 she's not.

8 THE COURT: Okay. That's good.

9 MS. MAIN: Yes, Your Honor.

10 THE COURT: I like the easy ones.

11 MR. MCFADDEN: Now Judge, we'll move into
12 like my couple of new ones ---

13 THE COURT: Yes.

14 MR. MCFADDEN: -- that were not on my list.

15 THE COURT: What about the witnesses. We
16 have an agreement that we don't want the witnesses
17 in here, don't we?

18 MS. MAIN: I have no issue as to
19 sequestering them. Obviously, **Complainant** as the -- what
20 we're alleging is the victim of this case, is able
21 to stay in here for the entirety of the case.

22 THE COURT: I think that's the case. Do
23 you have any problem with that?

24 MR. MCFADDEN: I agree. I think that's the
25 case law.

1 THE COURT: I think she has that right,
2 yeah. All right, and then the motion to set records
3 of witnesses. Is that something we need to deal
4 with?

5 MS. MAIN: I told Mr. McFadden that one of
6 my witnesses does have a previous - well, it's not
7 even listed as a conviction. I haven't verified
8 that but it would be outside of the timeframe for
9 him to bring up under the rules. And then ---

10 THE COURT: It's over ten years?

11 MS. MAIN: Yes, Your Honor. And then I did
12 not see anything relating to any convictions that
13 were -- we planned to elicit relating to the
14 defendant but I suppose we could also take that up
15 if and when she gets to testify.

16 THE COURT: Okay. Okay. All right. Mr.
17 McFadden, back to you.

18 MR. MCFADDEN: Thank you, Judge. And
19 excuse me, I skipped over those.

20 THE COURT: That's okay.

21 MR. MCFADDEN: So the last one on my list
22 is voir dire and I assume you covered that. So
23 moving into the new ones here, these being based on
24 just -- at least one of them on recent information
25 that is being shared with me. She sent me an email

1 where I'd had a trial packed with a series of
2 photos, I think she'd gotten printed over there,
3 which are photos of **Complainant** and would appear to be
4 several different points in her life. She's a child
5 -- visibly a child in them. She's smiling, and I
6 don't know what the purpose -- what these would be
7 offered to prove. A necessary fact that that would
8 establish an element of his defense, but I move to
9 suppress all of those under rule 403 as being
10 solely, if not solely, calculated to then the only
11 effect they will have with the jury will be to just
12 trigger their emotions and cause prejudice, outrage
13 against the defendant. They don't -- their
14 probative value is so vastly outweighed by any sort
15 of risk of unfair prejudice that they must be kept
16 out under 403. I have a few cases on this one here.

17 THE COURT: That's all right. Stop right
18 there.

19 MR. MCFADDEN: Oops, sorry.

20 THE COURT: You don't need to go any
21 further on that one. Hold on a minute. Ms. Main,
22 let me hear from you. He's saying that the
23 prejudicial possibility of it way outweighs the --
24 any value it has, probative value it has. What do
25 you say to that?

1 MS. MAIN: It has to substantially outweigh
2 the probative value.

3 THE COURT: Yes, that's right.

4 MS. MAIN: And I'm happy to show you the
5 photos. There were five I sent over. I didn't plan
6 to use this last one, but it -- relevancy is based
7 on a tendency to make anything more or less true and
8 it's a low bar. It only has to tip the needle ever
9 so slightly and this provides relevancy in the sense
10 that this is the age that she was when these
11 allegations were claimed to have happened.

12 Additionally, the State plans to elicit testimony
13 about changes in her demeanor and appearance over
14 time, and these are going to provide the necessary
15 context for the jury to understand what she looked
16 like at that time and the way that she did change.
17 And I'll provide these up to Your Honor, but these
18 were my copies that I wanted to put into evidence.

19 THE COURT: No. You've shown them.

20 MS. MAIN: Okay.

21 THE COURT: I can see them from there, and
22 I appreciate you showing them where I could see
23 them. So, you've explained it. All right, Mr.
24 McFadden, back to you.

25 MR. MCFADDEN: Judge, mistake of age is not

1 a defense to this case. They don't need it to help
2 establish that. They'll have her there. Change --
3 this is the first I'm hearing about changes in
4 appearance. I don't -- again, the changes in
5 appearance is not a defense, so I don't even
6 understand what that would go towards. The only
7 reason they're showing me those is to outrage the
8 jury and to parade them in front of them at the end
9 of the case during closing. In similar cases here,
10 in similar scenarios, State versus Haas, 423 S.C.
11 118, the State in that case offered a photo of the
12 alleged victim smiling at a birthday party right
13 along side of photos of autopsy that ostensibly that
14 showed his appearance beforehand, or the offenses
15 that Court count here or there. Another one, State
16 versus Livingston, 327 S.C. 17, that was showing
17 photos of the alleged victim alive after the -- I'm
18 sorry, before the alleged incident. The State --
19 the Court finds that the only effect of those photos
20 was the enflamed passion of the jury.

21 THE COURT: Let me stop you there for a
22 minute. I'm going to go ahead and tell you what I
23 think on the motion. When weighing the probative
24 value versus prejudicial value which we must do, I
25 believe that it -- sometimes there's a good bit of

1 probative value in something that would take a lot
2 of prejudice to say we're not using that? Other
3 times probative value's pretty low and so like, you
4 know, a weak opponent in the ball game, they're
5 easier to beat. So -- and my opinion on this one is
6 the prejudicial, potential prejudicial impact
7 substantially outweighs the probative value, and I'm
8 not going to allow you to use those pictures.
9 That's just -- that's my conclusion on it.

10 MS. MAIN: Yes, Your Honor. She's
11 obviously going to talk about changes in her
12 appearance and ---

13 THE COURT: And that's -- she can do that.

14 MS. MAIN: As noted, she has a gender
15 identity situation.

16 THE COURT: Okay.

17 MS. MAIN: That's going to be elicited so,
18 but we do understand your ruling relating to these
19 and we will not place them in evidence.

20 THE COURT: Okay, thank you.

21 MS. MAIN: Uh-huh.

22 MR. MCFADDEN: The last motion I think
23 we've dealt with -- at least at the bench -- a
24 motion that I saw on the State's witness list they
25 --- she placed on the County's 911 record custodian

1 on there but it's my -- so I made a motion to
2 suppress that call if there was indeed one. It's my
3 understanding they do not intend to offer that into
4 evidence.

5 MS. MAIN: That is correct. We do not plan
6 to put it in our case in chief, Your Honor.

7 THE COURT: Very good. Thank you.

8 MS. MAIN: The only other thing that I
9 would request be put on the record is your ruling
10 relating to the State's blind expert.

11 THE COURT: Yes. And so the State had
12 planned to call a blind expert, and we discussed
13 this last week and I appreciate you attorneys
14 handling that with me the way that you did. And I
15 hope I was helpful to y'all so that you would go
16 ahead and know before today where you stood and
17 maybe help make it a little easier to prepare. I
18 know it's always difficult enough to prepare for a
19 case like this, whether you're prosecuting it or
20 defending it, but the -- my feeling was and my
21 ruling was consistent with that was that it just --
22 it came at a time in a case of six years of age to
23 put up an expert, a blind expert, which I don't
24 think -- I mean I think the blind expert probably
25 could testify, but I think the timing of it was such

1 that then Mr. McFadden said, well, I'd like to have
2 time to get an expert too. And that's just not
3 something that I think's appropriate. And I think
4 that the fairest thing to do was to move forward
5 without that expert. I know that there's at least
6 one case that says, well, there's a similar case but
7 a judge allowed this type of expert, and it went up
8 on appeal and the Appeals Court said the judge
9 didn't abuse his discretion or her discretion, can't
10 remember which it was, in allowing that witness to
11 testify. So in other words, there's a good solid
12 case there to support if I did let that expert
13 testify that it would not be an abuse of discretion,
14 but in my opinion, in this particular case, in these
15 circumstances, it would not be the fairest thing. I
16 believe that balancing everything out is more fair
17 to not allow that witness at this time and that's
18 what I ruled. And so now that we've put it on the
19 record, I did not allow the State to present the
20 blind expert, because I just didn't think it came at
21 a time that was fair to the defendant to have a fair
22 trial.

23 All right. Anything further?

24 MS. MAIN: Nothing more from the State,
25 Your Honor.

1 MR. MCFADDEN: Nothing from the defense,
2 Judge, thank you.

3 THE COURT: Would y'all mind being here at
4 9:15 in the morning so we can just hit that big
5 issue one more time?

6 MR. MCFADDEN: Absolutely.

7 THE COURT: Mr. McFadden, that give you an
8 opportunity to review -- have a chance to read these
9 cases and me a chance to review. I know Ms. Main's
10 got them all ready to go. She knows, but I've got
11 some homework to do and maybe you do too.

12 MR. MCFADDEN: Judge, and I do Judge
13 absolutely, and I very much appreciate it, Your
14 Honor, letting us take a look at it tonight.

15 THE COURT: Madam court reporter, do you
16 mind being here at 9:15?

17 COURT REPORTER: Not at all, Your Honor.

18 THE COURT: Okay. We'll start at 9:15 and
19 then that will give us time hopefully to not keep
20 the jury waiting around and we'll go straight into
21 the trial. And folks, just for purposes of
22 planning, I mean, hopefully around 12 or so we take
23 a lunch break, because we got to be considerate of
24 the jury and give them a little time for that and we
25 come back and see how far we can go tomorrow. Ms.

1 Main, and nothing I'm going to hold you to but do
2 you believe that you'll be able to get all your
3 witnesses in tomorrow?

4 MS. MAIN: Absolutely, Your Honor. I think
5 I'll be done by lunchtime, and I actually even have
6 a case for your law clerk relating to jury
7 instructions if we wanted to do those at lunch time.

8 THE COURT: Good. Okay, good that'd be
9 helpful. And of course, I've got to talk to these
10 other lawyers about other cases pending -- just
11 trying to get a feel for where we might be so we can
12 keep some other things moving and on track to move I
13 should say this week. Okay, but right now this case
14 is the one that matters, okay? Thank y'all.

15 (Trial ends for the day and will reconvene on
16 8/26/25.)

17 - - -END OF TRANSCRIPT- - -

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CERTIFICATE OF REPORTER

I, Cathy L. Young, CVR-M, 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
introduced in the hearing of the captioned case,
relative to appear, in the Circuit Court for
Beaufort County, South Carolina, on the 14th day of
April, 2025.

I do further certify that I am neither of
kin, counsel nor interest to any party herein.

Cathy L. Young, CVR-M
Court Reporter and Notary
Public in and for South Carolina
My Commission expires: 3-28-2029

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT
2019GS0701515

State of South Carolina,)
)
Plaintiff,)
)
vs.)
)
James Etheridge Jones, Jr.,)
)
Defendant.)
-----)

TRANSCRIPT OF DAY 2 TRIAL
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August 26, 2025
Beaufort, South Carolina

B E F O R E:

The Honorable Eugene Warr, Judge Presiding

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

For the State -
Monica Main, Esquire
Hunter Swanson, Esquire
14th Circuit Solicitor's Office
PO Box 1880
Bluffton, South Carolina 22910

For the Defendant -
Jacob McFadden, Esquire
Gabriel Ingram, Esquire
14th Circuit Public Defender's Office
PO Box 525
Beaufort, South Carolina 29901

Cathy L. Young, CVR-M
Official Circuit Court Reporter
Post Office Box 4604
Beaufort, South Carolina 29903

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

2 * * * * *

3 THE COURT: All right, folks. Back on the
4 record here in the matter of State versus James
5 Etheridge Jones. When we left off yesterday, I had
6 told Mr. McFadden on behalf of his client, Mr.
7 Jones, that I would give him an opportunity to
8 review this issue a little further about how far
9 could we go with what had occurred in terms of the
10 background. How far back could we go? Where is the
11 dividing line? I am going to let you address that
12 again now, Mr. McFadden. Of course, and I had told
13 y'all where I was leaning and what my thoughts were,
14 but I wanted to give you an opportunity with the --
15 having a chance to review this a little further to
16 come back and make a further statement on it, Mr.
17 McFadden.

18 MR. MCFADDEN: Thank you, Your Honor. If
19 it pleases the Court?

20 THE COURT: Yes, sir.

21 MR. MCFADDEN: So, the State is seeking to
22 introduce certain evidence pursuant to 404(b) which
23 provides for admission of other crimes, wrongs or
24 acts. 404(b) provides that evidence of both crimes,

1 wrongs or acts is not admissible through the
2 character of a person in order to show action in
3 conformity therewith. It may, however be admissible
4 to show motive, identity, the existence of a common
5 scheme or plan, the absence of mistake or accident,
6 or intent. So, the similar case on this is Lyle
7 here and additional rules growing out of that case
8 law that prove that bad act must be clear and
9 convincing and the Court must make an individual
10 finding that the probative value of the proffered
11 evidence is not substantially outweighed by the
12 danger of unfair prejudice rising from the use of
13 the evidence that is Rule 403. So, Judge, from an
14 initial standpoint by -- the uh -- my concern is
15 that it's not clear what evidence the State is
16 seeking to use as bad act evidence or direct
17 evidence of the offense here. You know, in order
18 for the Court to evaluate whether the State has met
19 the exception that is argued here. The exception it
20 is arguing is a common scheme or plan. The State
21 passed up three cases yesterday, State v. Dinkins,
22 State v. Curtain and State v. Clasby. Dinkins is
23 the most recent case and that's good law. Curtain
24 and Clasby, you know, the Court in Dinkins cites
25 them for I think just the facts, but the bottom line

1 is Curtain and Clasby the Court was applying a
2 version or a test for a common scheme or plan,
3 evidence that, you know, that the Court has since
4 over-ruled or done away with. Now, it used to be
5 where if there were a lot of bad acts, there seemed
6 to be a close similarity between the two or three or
7 whatever and, you know, again, it would fit the
8 common scheme or plan. The Court more recently, in
9 the case of State v. Perry 430 S.E. 24 did away with
10 that and held that while, you know, the standing
11 case law for 80 years in this state regarding 404(b)
12 evidence was the correct text that needed to be, to
13 that end, a logical connection between the other
14 crime or act and the crime charged, such that the
15 evidence of the other crimes reasonably tends to
16 prove the material fact at issue and you know,
17 whether the State has met its burden to be subjected
18 to -- by the Courts to rigid scrutiny concerning the
19 individual facts of and circumstances of each case.
20 Here -- and you know -- to turn back to Dinkins for
21 a second, I like Dinkins, you know, I do think it's
22 a correct statement of the law and what's more, you
23 know, in Dinkins, the State filed a Motion, pre-
24 trial, identifying seven specific pieces of evidence
25 or pieces of testimony that they, you know, these

1 bad acts, that they were seeking to elicit. The
2 Court went through each one of those, you know, and
3 made ruling, I think on three.

4 THE COURT: Two, I think.

5 MR. MCFADDEN: Yeah, sorry. I wasn't
6 certain.

7 THE COURT: That's okay.

8 MR. MCFADDEN: Over, and this was over a
9 three-year period. Here, you know, the State is
10 asking, I forgot exactly what Ms. Main said. She,
11 but, they are asking to introduce, I think she
12 enumerated three categories of testimony, I believe,
13 from the complainant here. But, we are dealing with
14 the --- a person who was given four interviews, two
15 of which was the State's and the two with the State,
16 there were contradictions between the two. So, I
17 don't think that the State has been specific enough
18 in identifying the specific bad act evidence it's
19 seeking to introduce for Your Honor to be able to
20 make that determination that's required under the
21 case law for admission of these. And, you know, to
22 that end, this entire timeframe is 2008 to 2017, so,
23 she has argued that, you know, that some of these
24 things were relevant to show that she has to prove
25 intent for a specific form of intent for the CSC

1 third with a minor for that charge that is
2 addressing the later portion of those years. But I
3 don't think that there is clarity about what she is
4 introducing such that, is she arguing that a piece
5 of, you know, grooming or I guess -- and her
6 categories, I guess, include any sort of perceived
7 inappropriate act or word or, you know, advance or
8 something by the defendant. She argued that some
9 act from 2008 would prove the intent for the, you
10 know, something that could have occurred by their
11 indictment in 2017, you know, over eight years
12 later. So, my position is that the State has not
13 specifically identified what it is seeking to
14 introduce sufficiently to allow the Court to even
15 make the determination. Therefore, I would ask the
16 Court to limit the State's presentation of this
17 evidence to only the -- whatever they are alleging
18 is the direct evidence of the crime -- of each
19 crime, you know, one for each indictment.

20 THE COURT: Okay.

21 MR. MCFADDEN: Thank you.

22 THE COURT: Ms. Main. Thank you.

23 MS. MAIN: Your Honor, the evidence that we
24 are seeking to elicit relating to grooming, the
25 sexual comments, and then we wanted to elicit the

1 threats of violence and then the physical abuse,
2 that could come in under 404(b) or res gestae. And
3 I'd like to address res gestae first, because it
4 furnishes part of the context and its necessary for
5 the full presentation of the case and is so
6 intimately connected with the explanation of the
7 crime charged, and it is so much part of this
8 setting of the case that proof is appropriate for
9 the complete story of the crime. In addition to res
10 gestae, there's 404(b), it is part of the common
11 scheme or plan and it does go to show motive and
12 intent and the case law supports being able to put
13 that information in under those exceptions.
14 However, addressing what Mr. McFadden said, and
15 perhaps it is important for the State to provide
16 this to the Court. The State provided a very
17 detailed explanation of a recent statement from the
18 victim to the defense and in there the State
19 explains a particular instance, for example, when
20 the victim was getting ready for school one morning
21 and how the defendant would assist and during that
22 time there would be groping, essentially. And then
23 we provided an explanation that these instances
24 happened over a couple of months before he
25 progressed to actually touching her under her

1 underwear or inserting his fingers into her. I
2 think that is a reasonable explanation of what we
3 plan to elicit, and if we're concerned that we don't
4 know exactly what she is going to say, then the
5 answer is not to exclude the testimony, it is to
6 allow her to testify and object when necessary or
7 appropriate because I can't sit here and tell you
8 every exact word she's going to say. It's her
9 testimony. It is necessary context and I would
10 argue it's not confusing. It is inappropriate
11 touching. It's sexual comments which we provided
12 information about as well, I believe, in this email
13 as to what those would be. And then in the reports
14 and in these interviews, she does talk about those
15 things and she does talk about the abuse. So, the
16 State would argue that there is not confusion as to
17 what's being elicited, but it would be confusing and
18 frankly incomplete for her to just get up there and
19 say I was digitally penetrated. That's not context
20 to anything. I think the jury needs to understand
21 that. Especially in a situation where there is a
22 delayed disclosure. She is going to need to explain
23 some of the context of that and why she didn't
24 immediately disclose. And I think that's something
25 the defense is going to talk about and the State

1 should be able to elicit testimony in response to
2 that or get in front of it.

3 THE COURT: Thank you, Ms. Main. And I
4 appreciate the work that y'll have put into making
5 the arguments on this issue. It's an important
6 issue. But I believe that once the evidence is
7 determined to be relevant under 401, then you've got
8 to look at these other Rules. And to be able to
9 tell the whole story, the problem becomes where do
10 you start and where do you stop. But I believe it
11 is all part of the same story. You looked at the
12 case of Dinkins which is similar. Mr. McFadden is
13 right. The information was identified by the State.
14 I think you have done, Ms. Main, I think you have
15 done that. I think the defendant knows what has
16 been -- what he has been accused of.

17 MR. MCFADDEN: Judge, I would like to be
18 heard on that.

19 THE COURT: Okay.

20 MR. MCFADDEN: One part of that.

21 THE COURT: Go ahead. Go ahead and do it
22 right now. That's fine.

23 MR. MCFADDEN: Okay. Just on the issue of,
24 you know, what has been identified. So, she sent an
25 email which was just a series of bullet points which

1 were just certain items or certain things mentioned
2 by the complainant in their interview differ. This
3 was not a recording of this ---

4 THE COURT: Let me ask you this. What
5 would you want them to do? Do you want to wait and
6 handle this closer in time to when we get there? Is
7 that what you are saying? Or what are you ---

8 MR. MCFADDEN: I just wanted to be heard.
9 I -- certainly I understand Your Honor's ruling, but
10 I just wanted to, for clarification of the record,
11 that what she is referring to is just an email
12 summarizing both of their ---

13 THE COURT: Right.

14 MR. MCFADDEN: -- their meetings, with both
15 of us. That's all.

16 THE COURT: Yes, sir. Thank you. It goes
17 back to what I quoted from State v. Dinkins
18 yesterday, in particular what Chief Justice
19 Kittridge had said in Perry. This is a situation
20 where -- it's not being used to go back and say, oh,
21 he has committed these other crimes, he did this
22 over there with that person back 2009, he did this
23 with that person, he's done these things before.
24 He's a bad person, convicting of this case because
25 he's done this stuff before so he must be guilty

1 now. That's what you are trying to avoid. This is
2 somewhat different. This is much like the Dinkins'
3 situation which was allowed and that is it's part of
4 telling the same story. It's part of the background
5 of it. Chief Justice Kittridge stated the hallmark
6 of the common scheme or plan exception is that
7 charged and uncharged crimes are connected in the
8 mind of the actor by some common purpose or motive,
9 and that's what he gets back to over and over again,
10 I think. Now, Ms. Main, what Mr. McFadden is saying
11 is he is not sure that they have enough of what you
12 intend to do, but I think you've identified that
13 generally it is the background of the grooming
14 leading up to what happened. Is that correct?

15 MS. MAIN: Yes, Your Honor.

16 THE COURT: Okay. Is it, is it -- what
17 else do you plan on trying to get to that would go
18 to this issue other than that?

19 MS. MAIN: It's really just the grooming
20 and then comments about her body or how pretty she
21 is which goes to the lewd and lascivious act in
22 addition to grooming evidence, and then Your Honor
23 said we couldn't discuss any, like, physical
24 violence towards her from her parents whatsoever ---

25 THE COURT: That's right.

1 MS. MAIN: -- and so I've given that
2 directive but you said that we could discuss some
3 threats of involvement.

4 THE COURT: Right. That's right.

5 MS. MAIN: And they're not going to be
6 extensive. It's not the primary presentation, it's
7 just for her life in a context.

8 THE COURT: I think that's allowable. All
9 right. You had another issue, Ms. Main?

10 MS. MAIN: I just wanted to clarify
11 relating to the counselling. We are certainly not
12 going to discuss anything related to what was
13 discussed in counselling, but if she were to
14 mentioned that she did in fact go to counselling
15 just at all, I just wanted to clarify, I didn't want
16 to give her any incorrect directive. The reason I
17 asked that is she was in counselling and you are
18 going to hear, Your Honor, that at some point she
19 had a gender identity issue where she was going by a
20 different name of Timothy, and she did have
21 counselling relating to this and to some of the
22 gender identity issue. I know Mr. McFadden said
23 that he was going to get into that to show bias.
24 So, I was just curious if she was allowed to
25 mention, just in passing, that she did go to

1 counselling at some point, as long as she does not
2 go into extensive detail of what her counselor said.
3 But I think it could be part of the reason as to why
4 she felt comfortable coming forward. I just wanted
5 to make sure I didn't tell her the wrong thing.

6 THE COURT: Do you choose to be heard on
7 that?

8 MR. MCFADDEN: Judge, I think your ruling
9 yesterday was clear. That there was no -- that they
10 wouldn't be allowed to comment on that.

11 THE COURT: I think that it's a close call
12 on that. I think it's -- what we are trying to do
13 is make sure everybody has a fair trial and just in
14 keeping with balance and how that might affect
15 things, how it might weigh against the defendant, I
16 think it's better we stay away from that.

17 MS. MAIN: Understood. I'll make sure
18 that's clear.

19 THE COURT: I think it's more fair to stay
20 away from it.

21 MS. MAIN: Understood.

22 THE COURT: Okay. So, are you with the
23 news, folks?

24 MALE VOICE: No. I'm with the Solicitor's
25 Office.

1 THE COURT: Solicitor. Okay. Do y'all
2 know who is operating the camera here? Whose camera
3 this is?

4 MS. MAIN: Oh. That's his camera. He is
5 with the Solicitor's office, but he -- it's my
6 understanding he reached out.

7 THE COURT: Okay. I wanted to make sure.
8 You're good. Anything else before we bring the jury
9 in?

10 MS. MAIN: Nothing -- nothing from the
11 State Your Honor, but can I just have two minutes to
12 just make sure I clarify this information.

13 THE COURT: Yeah, go ahead. That's fine.
14 Go ahead.

15 (Brief Recess)

16 THE COURT: All right. I appreciate y'all
17 being here on time. I think we are ready to begin.
18 All right, ladies and gentlemen of the jury, we are
19 about to begin the case of the State versus James
20 Ethridge Jones. Thank you for accepting
21 responsibility of being jurors. It is an important
22 responsibility. It is critical to our justice
23 system. Our whole system would not work without
24 folks like you coming in and serving as jurors.
25 These instructions I am about to give you are an

1 introduction to this trial. These remarks are not a
2 charge on the law of the case. That will come at
3 the end of the testimony. I will instruct you on
4 the law at that time before you consider your
5 verdict. This is merely an explanation of procedure
6 that we will follow during the trial that will help
7 you better understand what is happening. You are
8 not to take notes during the trial. I find that
9 often that becomes confusing later on and becomes a
10 point of contention. It is best to just listen as
11 best you can and not make any notes. The defendant
12 is charged by warrants and a subsequent indictment
13 filed in this Court with crimes of criminal sexual
14 conduct with a minor in the first degree and
15 criminal sexual conduct with a minor in the third
16 degree. The elements of these crimes will be
17 explained to you later. The warrant and indictment
18 are simply matters by which the charge is brought
19 into the Court. It is not in any way evidence of
20 any allegations contained. The defendant has pled
21 not guilty to these indictments and therefore the
22 State has the burden of proving each of the elements
23 of these crimes beyond a reasonable doubt. It is
24 your duty to decide whether the State has met that
25 burden. Your purpose as jurors is to find and

1 determine the facts and you are the sole judge of
2 the facts. If at any time I make any comment
3 regarding the facts, you must disregard it. You are
4 to determine the facts from the testimony you hear
5 and other evidence introduced in Court. It is up to
6 you to determine the inferences which you feel may
7 properly be drawn from the evidence. It is
8 especially important that you perform your duty of
9 determining the facts diligently and conscientiously
10 because ordinarily there is no way to correct an
11 erroneous determination of the facts by a jury. On
12 the other hand, and with equal emphasis, the same
13 rules that make you the judges of the facts make me
14 the Judge of the law. The law was given by the
15 Court as the only law you may consider. You must
16 accept and follow it even though you may disagree
17 with it. I cannot tell you what the facts are and
18 you cannot disagree with the Court about what the
19 law is or should be. Your job is to take the law as
20 I give it to you and apply it to the facts as you
21 find them from the testimony of the witnesses and
22 any other evidence that is introduced. After doing
23 that you will render your verdict under the oath
24 that you just took late yesterday as jurors. Until
25 I advise you to begin your deliberations you must

1 not discuss this case with anyone, including your
2 fellow jurors, family members, friends or anyone
3 involved in the case. You must decide this case
4 based solely on the evidence presented here in this
5 courtroom. This means that during the trial you
6 must not conduct any independent research about the
7 case by searching the media, Internet, websites or
8 blogs or anything of that sort or use any other
9 electronic tools to get information. For example, I
10 will tell you this, if some of you decide to go to
11 lunch together today, if you go to lunch together, I
12 know it will be tempting to talk about what you have
13 heard. Don't do it. Talk about something else.
14 I'm sure you will find some other subjects to talk
15 about. Don't talk about what's happening here.
16 That would not be appropriate till you start your
17 deliberations officially. After the case is
18 submitted to you, you must discuss it only in the
19 jury room with your fellow jurors. It is important
20 that you keep an open mind and not decide any issue
21 of this case until all of the evidence has been
22 presented, the parties have made their closing
23 arguments, I have instructed you on the law. If you
24 become aware of another juror's violation of these
25 instructions, you must inform me immediately. In

1 just a moment the Solicitor will make what is called
2 an opening statement in which she will explain the
3 issues in this case or at least what the Solicitor
4 thinks the issues are in this case. The attorney
5 for the defendant may also make an opening
6 statement, although he is not required to do that.
7 What the attorneys tell you during their opening
8 statements is not evidence in the case, it is only
9 their contention as to what the issues are or what
10 the evidence may show. After opening statements,
11 testimony will begin. It is your responsibility to
12 determine the guilt or innocence of the defendant
13 and your verdict must be based solely on the
14 evidence as presented to you in the courtroom during
15 this trial. Know the law as I instruct you at the
16 close of the trial. The evidence in this case will
17 be presented to you by the testimony of sworn
18 witnesses from the witness stand and by exhibits
19 that may be introduced into evidence. In determining
20 what the facts are in this case, you must decide
21 whether or not the testimony of a witness is
22 believable. It will be my responsibility to rule as
23 a matter of law as to whether certain testimony is
24 admissible. But once the testimony is admitted, it
25 is solely for you to determine the believability of

1 the witness testimony. In deciding whether to
2 believe a witness, you have the right to consider
3 the interest of any witness, the bias of any
4 witness, the prejudice of any witness. The
5 opportunity for the witness to have seen the
6 matters, and things about which the witness may
7 testify and the way the witness acts on the witness
8 stand. You have a right to consider anything that
9 is in the record that will help you evaluate the
10 testimony of the witnesses. That means that you
11 must pay close attention to the witnesses, observe
12 the witnesses, listen to them and pay close
13 attention to the attorneys and to the Court. Do not
14 let your thoughts wander but give strict attention
15 to the testimony of this case so that at the end of
16 all the testimony, after the arguments of counsel,
17 and charge on the law, you will then be in position
18 to determine what the applicable facts are and to
19 apply the law to those facts and render a verdict.
20 From time to time during the trial you may hear one
21 of the lawyers say something like, "Your Honor, I
22 believe we have a question of law or a matter of law
23 to discuss with you." or "Your Honor, may we
24 approach the bench?" or sometimes I myself may find
25 it necessary to excuse you from the courtroom for a

1 short while while the attorneys and I discuss a
2 matter of law. The reason for this is you are the
3 judges of the facts in the case and sometimes I am
4 discussing matters of law with the attorneys. It
5 may be necessary for me to make some comment that
6 would not be appropriate in front of you as the jury
7 in connection with the ruling. I am not supposed
8 to tell you what I think the facts are. So I will
9 excuse you from the courtroom if that occurs and we
10 will work as quickly as we can through that to get
11 you back in. Of course yesterday, ma'am, you were
12 appointed the foreperson of this jury and your duty
13 will to be the spokesperson and you will also have
14 the responsibility at the conclusion of the trial of
15 completing the verdict form. I will give you
16 instructions about that later. We are about to
17 start the trial. Any exceptions to what I have said
18 from the State or from the defense?

19 MS. MAIN: Nothing from the State, Your
20 Honor.

21 MR. MCFADDEN: Nothing. Thank you.

22 THE COURT: Thank y'all. All right. We
23 will now begin the trial. Ms. Main, are you ready?

24 MS. MAIN: Yes, sir.

25 THE COURT: All right.

1 the secret that the defendant hoped would never come
2 out. And I just ask that you listen to her
3 testimony. Use your common sense. And at the end
4 of this case I'm going to come before you, and I am
5 going to ask you to find the defendant guilty.
6 Thank you.

7 THE COURT: Thank you, ma'am. Mr.
8 McFadden.

9 MR. MCFADDEN: May it please the Court?

10 THE COURT: Yes, sir.

11 **OPENING BY MR. MCFADDEN**

12 MR. MCFADDEN: Ms. Main, ladies and
13 gentlemen, accusations are easy to make, but they
14 are hard to get away from. Accusations are easy to
15 make but hard to get away from especially when those
16 accusations are made by law enforcement. And
17 especially when they are of a certain type. Think
18 back to when y'all were sitting out here and the
19 State read aloud the indictments. What the caption
20 of the indictment, you know, the title of the
21 charge. Criminal sexual conduct with a minor, first
22 degree. Right then and there that stirs emotions.
23 Just hearing those words aloud. You know, just
24 hearing those accusations. That indictment could be
25 shredded. It is not evidence. This Court is not

1 evidence, the defendant is not evidence. He is an
2 innocent man sitting here. But just as soon as you
3 hear those words, criminal sexual conduct with a
4 minor, that -- that -- those trigger a response.
5 Disgust, outrage, appropriate, you know. You know,
6 those are the kind of accusations you make when you
7 want to ruin someone's reputation. Those are the
8 kind of accusations you make when you want to get
9 back at somebody. Hurt them bad. Those are the
10 kind of accusations maybe you make when you never
11 want to see someone again, or you want to, or maybe,
12 you want to get out of a situation that you are in.
13 Maybe an accusation you make when you want
14 attention, not on you, but on somebody else. Those
15 are the kind of accusations that are easy make but
16 hard to get away from. Folks, serving as jurors
17 today I want to thank each and every one of you for
18 your willingness to serve. You receive some a
19 summons, but thank you for being willing to obey
20 that summons. It's kind of a mandatory obligation,
21 but thank you for being here, earnestly and on
22 behalf of my client. Now in terms of service I
23 think a lot of people have an opinion about that
24 it's, well, you know, that it is inconvenient, it's
25 grossly inconvenient. It takes you away from your,

1 you know, your duties, from your daily tasks,
2 attending to other things which you would very much
3 like to be doing instead of being here. I think
4 that is a perfectly reasonable way to feel about it.
5 Unless you have served before, you are on, you know
6 you work as part of the system or you see whatever
7 --- and folks, I am here to tell you that during
8 this process you will see one what it means. You
9 heard some already about what it means. You know,
10 you heard that jury service is the backbone of the
11 judicial system. That the fate of the defendant
12 rests in your hands. And that through your service
13 you, each and every one of you, will personally
14 protect the privileges and benefits of being a
15 United States citizen. All of that is true. None
16 of it is understated. Thomas Jefferson said about
17 the jury trial that it is the only anchor imagined
18 by man capable of holding a government to the
19 privileges outlined in its Constitution. Folks,
20 what you do today protects not only the rights of
21 this person through the power of the government is
22 now focused against, but the rights of each and
23 every one of us that we take for granted every
24 single day. The importance of that is only
25 necessary to consider what the alternative would be.

1 You know, realize the importance of that. Imagine
2 living in a place where there was no right to a jury
3 trial and that if someone was charged with an
4 offense, there was no group of peers to hear the
5 case. That there was just a presentation of
6 evidence in front of some factfinder who may or may
7 not be even affiliated with the executive branch
8 that charged with the government or where due
9 process is champ essentially. It's not where we
10 live. It's your job today to protect those rights.
11 So the Judge would say what is your job today. And
12 your job is only one level. Noone in this room
13 would disagree. Your job is to hold the State to
14 its burden of proof. What is the burden of proof?
15 The Judge will explain to you more about that. But
16 when the stakes are high, the burden is high. And
17 the burden today is that the State convince you
18 proof beyond a reasonable doubt of each and every
19 element of the offense that is charged against the
20 defendant. He is charged with a crime, therefore,
21 the stakes are high, the burden is high. It's the
22 highest in our system. Folks, I submit you that the
23 only thing that the State will present to try to
24 meet that burden and convince all of you by
25 unanimous verdict that this man is guilty, be

1 nothing more than accusations. That lies at the
2 heart of this case and that is all that will be
3 presented in this case. For that reason, I will
4 return for you at the end of this case and ask you
5 pursuant to your oath to return a verdict of not
6 guilty. Thank you.

7 THE COURT: Thank you, sir. Ms. Main, are
8 you ready to call your first witness?

9 MS. MAIN: Yes, Your Honor, the State calls
10 William Burrows.

11 (Witness sworn)

12 * * * * *

13 William Burrows,
14 having been duly sworn,
15 testifies as follows:

16 * * * * *

17 DIRECT EXAMINATION

18 BY MS. MAIN:

19 Q. Do you go by William?

20 A. I go by Bill or Billy growing up.

21 Q. Where do you live right now?

22 A. I currently live in Charlotte, North
23 Carolina.

24 Q. How do you know Complainant

25 A. I am her uncle.

1 Q. What is your relationship like with
2 Complainant

3 A. It's good. It's good. I have been
4 around her a good amount over the years growing up.

5 Q. I am going to take you back to 2019,
6 around January 2019. Did Complainant come visit you
7 around that time?

8 A. Yes.

9 Q. Where were you living at that time?

10 A. At that time I was living in
11 Charleston, South Carolina.

12 Q. Was she about sixteen or seventeen
13 years old in 2019 around that time?

14 A. Yes.

15 Q. Did you have to drive her back after
16 she visited you?

17 A. I did.

18 Q. During that drive, did she disclose a
19 sexual assault to you?

20 A. She did.

21 Q. Without telling me anything else
22 besides when and where, when did she say that
23 happened to her.

24 A. Over a time period, I believe it was
25 from when she was high single digits like eight or

1 nine until she was low teens, I think, like twelve
2 or thirteen.

3 Q. And without any other details, did she
4 say where that happened?

5 A. Yes. At her primary residence.

6 Q. Where did she live at the time?

7 A. She lived in Bluffton, South Carolina.

8 Q. Is that in Beaufort County?

9 A. Yes.

10 Q. Has she always lived in Beaufort
11 County?

12 A. I believe so, yes.

13 Q. When she tells you this information,
14 what is her demeanor like?

15 A. Very uncomfortable. You know, first
16 time disclosure. So very emotional.

17 Q. What sparked this conversation? Was it
18 anything in particular?

19 A. Yeah, conversation around ---

20 MR. MCFADDEN: Objection. Hearsay.

21 THE COURT: Well, yes, sir, you can't get
22 into anything that someone told you. You can't get
23 into that.

24 MR. BURROWS: I wasn't going to.

25 THE COURT: Okay. Go ahead.

1 BY MS. MAIN:

2 Q. Can you tell us what sparked this
3 conversation.

4 A. A change in her behavior over the years
5 and relationship, kind of, with me.

6 Q. Can you explain the change in her
7 behavior and then change in her relationship that
8 you noticed?

9 A. Yes. It was very loving, I guess,
10 specifically like every time I see her hugging,
11 great to see you, all that stuff and then gradually
12 over time it became where very standoffish, you
13 know, wouldn't even want to hug saying goodbye.
14 Standoffish is the best way to put it.

15 Q. Did you notice any other changes in her
16 behavior or appearance that led you to inquire with
17 her about what was going on?

18 A. Yeah, those year, she was always very,
19 I want to use the term girly girl, loved dresses,
20 loved dressing up, you know, make-up, the shoes, all
21 that stuff and then gradually changing the clothes
22 she would wear which was kind of more neutral,
23 gender neutral, boyish, different haircuts. So, a
24 very steady gradual change from, I guess, like
25 running around like a princess to more of presenting

1 herself as a gender neutral or a boy.

2 Q. Was there anything else that made you
3 inquire about this with her or was that it?

4 A. No. The change in relationship and I
5 say relationship, just more hands-off between her
6 and I. It doesn't mean we didn't have a good
7 relationship, just curious because we used to always
8 hug hello and goodbye and kind of what's changed.

9 Q. What did you do after she told you this
10 information?

11 A. When I came back I talked to my parents
12 about it. I drove her there to talk to them. Then
13 I had a friend acquaintance who worked in that space
14 and sought guidance on what next steps would be and
15 talked to my family. As I said, I lived in
16 Charleston, South Carolina, at that time so I had to
17 go back and go back to work the next day. But, kind
18 of put it in my parents' hands and let them work
19 with the acquaintance that I had for guidance on the
20 next steps.

21 Q. Is that acquaintance, did they assist
22 with the reporting of it as well?

23 A. They did.

24 Q. I beg the Court's indulgence.

25 THE COURT: Yes, ma'am.

1 MS. MAIN: No further questions. Please
2 answer any questions the defense may have.

3 THE COURT: Mr. McFadden.

4 **CROSS-EXAMINATION**

5 MR. MCFADDEN: Thank you, Judge.

6 BY MR. MCFADDEN:

7 Q. Mr. Burrows. Good morning, sir. So,
8 two things. You didn't live with Complainant at any
9 point, right?

10 A. Not formally, no.

11 Q. Okay. And you said this was -- what
12 you described on direct examination, that was in
13 2019?

14 A. Yes, I believe so.

15 Q. So she was fifteen or sixteen?

16 A. I believe sixteen or seventeen. I
17 can't remember what month of the year it was but,
18 yes.

19 Q. Okay. You would see her intermittently
20 you said?

21 A. At the time I lived in Charleston only
22 for a couple of year period. Prior to that I would
23 see her quite often. Then naturally when I lived in
24 Charleston, I saw her intermittently.

25 Q. Right. Okay.

1 A. And I only lived there for two years,
2 so, prior to that I lived in Beaufort County
3 consecutively.

4 Q. Nothing further.

5 THE COURT: Thank you.

6 MR. MCFADDEN: No objection to him being
7 released.

8 MS. MAIN: We just ask that he be released?

9 THE COURT: Yes, sir. You may be released.
10 Thank you. Thank you for being here.

11 MS. MAIN: The State calls Karen Burrows.
12 (Witness sworn.)

13 * * * * *

14 **Karen Burrows,**
15 **having been duly sworn,**
16 **testifies as follows:**

17 * * * * *

18 **DIRECT EXAMINATION**

19 THE COURT: Are you comfortable, ma'am.
20 Are you okay right there?

21 MS. BURROWS: Yes, sir.

22 THE COURT: Okay.

23 BY MS. MAIN:

24 Q. Ms. Burrows, can you tell us how you
25 know **Complainant**

1 A. She is my granddaughter.

2 Q. What is your relationship like with

3 Complainant

4 A. Very good.

5 Q. How -- tell me a little bit about it.

6 How often would you see her growing up?

7 A. At least every weekend if not more, and
8 she lives with us now.

9 Q. Do you remember about when she began
10 living with you?

11 A. Probably before her freshman year of
12 high school.

13 Q. Around that time. I mean, do you
14 remember what her date of birth is?

15 A. [REDACTED].

16 Q. Can you tell me who James Etheridge
17 Jones is?

18 A. He was her mother's boyfriend at the
19 time.

20 Q. Do you see him in the courtroom here
21 today?

22 A. Yes, ma'am.

23 Q. Can you tell us something that he is
24 wearing?

25 A. Pardon me?

1 Q. Can you tell us something that he is
2 wearing?

3 A. A dark colored shirt.

4 Q. A dark colored shirt. What color is
5 it?

6 A. Looks like black.

7 Q. Blackish. Is there anything else he is
8 wearing?

9 A. I can't really see.

10 Q. Can you point to wherever you see him?

11 A. (Witness complies.)

12 MS. MAIN: Let the record reflect that the
13 witness has identified the defendant.

14 BY MS. MAIN:

15 Q. Now, can you tell us where Complainant lived
16 when she was about six years old?

17 A. At [REDACTED] Chipwood Lane.

18 Q. And is that in Beaufort County?

19 A. Yes, ma'am.

20 Q. Is that a family home?

21 A. It's a home I owed with my father.

22 Q. About how long would you say she lived
23 there before she moved?

24 A. I can't really recall. A few years at
25 least.

1 Q. At some point did she move to Louisiana
2 two times?

3 A. Yes, ma'am.

4 Q. Okay. And then she returned to
5 Bluffton?

6 A. Yes, ma'am.

7 Q. And when she returned to Bluffton, did
8 she go back to that Chipwood Lane house or other
9 residences?

10 A. No. I don't believe so. I can't
11 remember.

12 Q. Do you recall if she lived somewhere
13 else in Beaufort County that wasn't at the Chipwood
14 Lane house?

15 A. Yes, ma'am. She lived in Windtree,
16 Buck Island.

17 Q. Is that in Beaufort County?

18 A. Yes, ma'am.

19 Q. Is that the only other place that you
20 recall her living?

21 A. Yes, ma'am, as far as I know.

22 Q. Okay. You said you were close with

23 **Complainant** Did you notice any changes in her behavior
24 over the years growing up from six until she moved
25 in with you ---

1 A. Yes.

2 Q. - around fourteen or fifteen?

3 A. She went from being a very loving and
4 health child who loved hugs and kisses to not
5 wanting to be touched at all. Kept flipping out if
6 somebody touched her from behind.

7 Q. Did you notice any other changes in her
8 behavior or her appearance?

9 A. She cut her hair.

10 Q. Anything else?

11 A. At one point she preferred to be known
12 as Tim.

13 Q. Do you remember about how long she did
14 that for?

15 A. A couple of years.

16 Q. Does she go by Complainant now?

17 A. Yes.

18 Q. I beg the Court's indulgence.

19 THE COURT: Yes, ma'am.

20 MS. MAIN: No further questions. Please
21 answer any questions the defense may have.

22 **CROSS-EXAMINATION**

23 BY MR. MCFADDEN:

24 Q. Thank you. Good morning, Ms. Burrows.

25 A. Good morning.

1 Q. Ms. Burrows, I want to talk a little
2 bit about the family dynamics, so to speak, here
3 between you, Nicole, Complainant and Mr. Jones. So,
4 for a time, let's go by the street names here. You
5 said Complainant lived at Chipwood Lane. That was with
6 her mom who is Nicole, right?

7 A. Yes.

8 Q. Nicole is your daughter?

9 A. Yes.

10 Q. Okay. And then also Mr. Jones lived
11 there? Right?

12 A. Yes.

13 Q. Okay. Now you had occasion to visit
14 them at that home, I assume, right?

15 A. I dropped Complainant off ---

16 Q. Okay.

17 A. -- and Mr. Jones' son.

18 Q. Okay. Did you have occasion to go in
19 the house?

20 A. No.

21 Q. Okay. And your relationship -- well,
22 let's wait on that. And then at Windtree and Buck
23 Island here, are you familiar with those homes as
24 well?

25 A. I would drop Complainant off. Yes.

1 Q. Didn't you own the house on Chipwood
2 Lane?

3 A. Yes, sir. I do.

4 Q. Okay. All right. Now, so, you
5 mentioned that at a certain point that Complainant came
6 to live with you. Is that right?

7 A. Yes.

8 Q. That she would spend a fair amount of
9 time with you over the years?

10 A. Yes.

11 Q. All right. So, I want to talk about
12 your knowledge of the living situation at Nicole's
13 house. Times were pretty tight for them? Would you
14 agree with me. Their resources were.

15 A. They both worked.

16 Q. They both worked. Yeah, but they lived
17 a very modest lifestyle, no?

18 A. As far as I know. I mean they paid
19 rent most of the time.

20 Q. Okay. They were working to pay bills,
21 including you it sounds like? Right?

22 A. Yes, sir.

23 Q. So, over the years there was some
24 strain between you and Nicole, specifically
25 regarding her parenting of Complainant Is that right?

1 A. I guess so.

2 Q. In your view, that Complainant -- well, she
3 just wasn't performing her role as mom as you
4 thought that she should have been?

5 A. Correct.

6 Q. Okay. And there were some arguments
7 about that over the years. Right?

8 A. Yeah. Yes and no.

9 Q. All right. Now and so then,
10 ultimately, you know, times were tight,
11 relationships were strained, and Complainant came to live
12 with y'all full time?

13 A. Yes, sir.

14 Q. Okay. Now I want to go -- zoom in to
15 2019. At that time, Complainant is living with y'all
16 full time?

17 A. Yes, sir.

18 Q. Okay, and Nicole and James, they are no
19 longer together?

20 A. In 2019?

21 Q. Yes.

22 A. I don't recall.

23 Q. Okay. Well, Nicole was no longer
24 living at any of these places. Right?

25 A. No.

1 Q. For a time she was just living in hotel
2 rooms and bouncing from friend to friend?

3 A. She lived in hotel rooms and also lived
4 in a place - another house on Buck Island Road.

5 Q. There was a very distinct lack of
6 stability in that household that only got worse?

7 A. Yes, sir.

8 Q. Okay. You provided -- you could
9 provide a stable house for her?

10 A. Yes, sir.

11 Q. You and Mr. Jones here, y'all never
12 really saw eye to eye either?

13 A. No, sir.

14 Q. You had personality differences type of
15 situation, yeah? Personality differences; would
16 that be fair to say?

17 A. Yes.

18 Q. You just didn't really care for each
19 other too much.

20 A. He was my daughter's boyfriend.

21 Q. Understood. He was not **Complainant** dad.

22 A. No, he is not.

23 Q. Court's indulgence, just a moment.

24 THE COURT: Yes, sir.

25 MR. MCFADDEN: Thank you. Nothing further.

1 THE COURT: Ms. Main?

2 MS. MAIN: No further questions. We ask
3 that she be able to step down and be released.

4 THE COURT: Yes. Thank you, ma'am.

5 MS. MAIN: The State calls Laura Rutland,
6 Your Honor.

7 (Witness sworn)

8 * * * * *

9 Laura Rutland,
10 having been duly sworn,
11 testifies as follows:

12 * * * * *

13 DIRECT EXAMINATION

14 BY MS. MAIN:

15 Q. Can you tell us your current rank,
16 please?

17 A. Sure. I am on paper a Lieutenant with
18 the Colleton County Sheriff's Office.

19 Q. Prior to working for the Colleton
20 County Sheriff's Office, did you work with Bluffton
21 Police Department?

22 A. I did.

23 Q. About how long were you with the
24 Bluffton Police Department?

25 A. Nine and a half years.

1 Q. Around what time did you move to the
2 Colleton County Sheriff's Office?

3 A. September of 2020.

4 Q. So how long have you been in law
5 enforcement total?

6 A. Fifteen and a half years.

7 Q. What was your position with the
8 Bluffton Police Department in January of 2019?

9 A. I was the Seargent over criminal
10 investigations. I was the supervisor.

11 Q. In that position, did you participate
12 in the investigation of a case involving Complainant
13 [REDACTED] ?

14 A. I did.

15 Q. What capacity?

16 A. I interviewed her.

17 Q. Can you tell me the basic nature of the
18 investigation without any details?

19 A. Sure. I was notified of a female
20 wanting to speak to a female officer in regards to a
21 sexual assault investigation.

22 Q. Is that how you came to interview her?

23 A. It is.

24 Q. Did another investigator also assisting
25 with the case?

1 A. Yes. Detective Ryan Fazekas.

2 Q. When you did go to interview Complainant
3 [REDACTED], did she disclose the sexual assault to you?

4 A. She did.

5 Q. Without giving me any further details,
6 can you please tell me when she said this occurred
7 and where?

8 A. Yes. So she at the time I met with
9 her, she was sixteen years old, and she informed me
10 that she had been abused from the ages of six to
11 roughly fourteen while living at an address in
12 Bluffton as well as an address that was with the
13 Beaufort County Sheriff's Office jurisdiction.

14 Q. Were those addresses, were they all in
15 Beaufort County generally?

16 A. Yes.

17 Q. Do you know the date of birth of the
18 victim? Do you know that?

19 MR. MCFADDEN: Objection. Use of word
20 victim.

21 THE COURT: I'm sorry. I didn't
22 understand.

23 MR. MCFADDEN: I object to the use of the
24 word victim based on pre-trial.

25 THE COURT: Yes, yes. Thank you.

1 MS. MAIN: I apologize.

2 Q. Do you have the date of birth of Complainant

3 [REDACTED] ?

4 A. The year was 2002 and I believe today
5 is her birthday actually.

6 Q. Were you able to determine the
7 defendant's age? Can you tell me his date of birth?

8 A. I recall he was born in '79, so at the
9 time in 2019 he would have been in his forties.

10 Q. I beg the Court's indulgence.

11 THE COURT: Yes, ma'am.

12 BY MS. MAIN:

13 Q. You mentioned that there was a home in
14 the Bluffton jurisdiction and a home in the Beaufort
15 County Sheriff's Office jurisdiction? Did you refer
16 any of this information to the Beaufort County
17 Sheriff's Office?

18 A. I don't recall if I specifically did
19 that or it would have been Detective Fazekas.

20 Q. No further questions. Please answer
21 any questions the defense may have.

22 MR. MCFADDEN: Thank you.

23 **CROSS-EXAMINATION**

24 BY MR. MCFADDEN:

25 Q. Lieutenant Rutland, good morning.

1 A. Good morning.

2 Q. Just some basic questions about, you
3 know, kind of structure of the Law Enforcement
4 Department here. Okay. The different rules. In
5 just talking about Bluffton. You were the Seargeant
6 over investigations?

7 A. Yes, right.

8 Q. Investigations is the sub-department -
9 the division of the department that is responsible
10 specifically for -- how would you describe that?

11 A. Investigating criminal cases that might
12 be more in depth like beyond your typical like a
13 shoplifting. We take the more serious offenses.

14 Q. When a case needs more looking into?

15 A. Yes.

16 Q. Okay. Yes, so that would be separate
17 from let's say, patrol or, you know, describe like
18 what is separate.

19 A. Do you want me to go into the ---

20 Q. What I would say ---

21 A. -- the organization of the unit?

22 Q. I'm sorry. Let me take that back here.
23 What is the difference between an investigator or
24 detective I think they are called here and just a
25 officer that would write a ticket on a traffic stop.

1 A. Sure. It's more of like a case by
2 case. Some detectives have more advanced training.
3 Some have more years in, more experience working
4 more serious cases. It just depends on that
5 specific officer, but there is no mandated
6 requirement -- there is a selection process to
7 become a detective, but there was no ---

8 Q. Like who are becoming detectives are
9 normally the more experienced officers?

10 A. Yes.

11 Q. Okay. They apply for or they try to
12 become -- it's aspirational to become that, right?

13 A. Yes.

14 Q. Okay. Your job was to supervise
15 specifically those group of officers? These
16 detectives?

17 A. Yeah, as well as there was a Lieutenant
18 that I reported to.

19 Q. Okay. Okay. But you were like
20 directly over the ---

21 A. I was over assigning cases ---

22 Q. Okay.

23 A. -- and just making sure they needed to
24 go in another direction with a case or they needed
25 advice. I was kind of the advisor.

1 Q. Okay. This case was assigned to an
2 investigator, right?

3 A. Yes.

4 Q. Detective Fazekas?

5 A. Yes.

6 Q. You were his superior at the time?

7 A. Yes.

8 Q. Thank you. I don't have anything
9 further.

10 MS. MAIN: Nothing further. We ask that
11 she be allowed to step down and be released from her
12 subpoena.

13 THE COURT: All right. Thank you, ma'am.
14 Appreciate it.

15 MS. MAIN: The State calls William Murphy.
16 (Witness sworn)

17 * * * * *

18 William Murphy,
19 having been duly sworn,
20 testifies as follows:

21 * * * * *

22 DIRECT EXAMINATION

23 BY MS. MAIN:

24 Q. Can you please tell us what your
25 current rank is?

1 A. Sergeant.

2 Q. Where do you work?

3 A. Beaufort County Sheriff's Office.

4 Q. About how long have you been in law
5 enforcement?

6 A. Twenty years.

7 Q. What do you currently do with the
8 Beaufort County Sheriff's Office?

9 A. I am currently assigned to our
10 intelligence section.

11 Q. In 2019 were you part of the
12 investigations section of the Beaufort County
13 Sheriff's Office?

14 A. Yes, ma'am. I was assigned to Southern
15 Investigations at the time.

16 Q. During that time were you asked to
17 investigate a case involving **Complainant**

18 A. Yes, I was.

19 Q. Were you the lead investigator of that?

20 A. Yes.

21 Q. Can you just, without giving me any
22 details, tell me the basic nature of the
23 investigation?

24 A. On June 5, 2019, **Complainant** grandmother,
25 Karen Burrows, filed a report with Beaufort County

1 Sheriff's Office. Deputy Karen Johnson responded to
2 her address and took the initial report. The case
3 was then forwarded to me in investigations either
4 the following day or two days after that.

5 Q. Was any information obtained in your
6 investigation from a different police jurisdiction?

7 A. Yes. I had discovered that the
8 incident had been reported to Bluffton Police
9 Department approximately four months prior.

10 Q. Did you use any of that information in
11 your own investigation?

12 A. I did. Yes.

13 Q. When you were investigating this, did
14 you ever meet with **Complainant** yourself?

15 A. I did not.

16 Q. Why is that?

17 A. **Complainant** had already been interviewed by
18 Hopeful Horizons, Detective Rutland, and also
19 briefly by Deputy Johnson within -- approximately
20 three interviews within four months had already been
21 conducted.

22 Q. So based on the information in front of
23 you were you able to make a decision on whether or
24 not to proceed with this case?

25 A. Yes.

1 Q. Were you able -- did you have the
2 victim's date of birth? Were you able to determine
3 her date of birth?

4 A. I believe it is [REDACTED].

5 Q. Were you able to determine James
6 Etheridge Jones date of birth?

7 A. [REDACTED].

8 MS. MAIN: Beg the Court's indulgence.

9 BY MS. MAIN:

10 Q. Just to clarify, you did mention
11 Hopeful Horizons, can you explain what that even is?

12 A. That's -- usually with our juvenile
13 victims we contact Hopeful Horizons, and what they
14 do is conduct forensic interviews for juveniles. My
15 department uses them heavily with juveniles. I
16 mean, that's pretty much anybody, any type of victim
17 that we have, we contact Hopeful Horizons and
18 schedule a date and then we are there and we sit in
19 on the interviews being conducted by a forensic
20 interviewer.

21 Q. No further questions. Please answer
22 any questions the defense may have.

23 **CROSS-EXAMINATION**

24 BY MR. MCFADDEN:

25 Q. Sergeant Murphy, Good morning, sir.

1 A. Morning, sir.

2 Q. You said you are now in Intelligence and
3 previously at the time of this you were in
4 investigations?

5 A. Yes, sir.

6 Q. Please describe for me what the duties
7 of your job are as an investigator and what your
8 training is as an investigator. What training is
9 required for you to become an investigator.

10 A. A lot of it is hands-on training. We
11 go through a FTO process. We do attend a, about a
12 one-week course in criminal justice for basic
13 investigator.

14 Q. Okay. An investigator is a step above,
15 let's say, road deputy and how should one think
16 about the different levels?

17 A. Yeah, for -- so, yeah, your road guys
18 basically take the initial report. They don't have
19 the time to conduct numerous interviews or track
20 down video footage or anything, so those cases get
21 forwarded to investigators where they track down and
22 do all that stuff.

23 Q. And you were assigned as the person to
24 do that in this case. Right?

25 A. Yes, sir.

1 Q. You said Deputy Johnson went out and
2 took the report, but that was just literally just
3 taking the report. Right?

4 A. Correct, yes.

5 Q. Okay. All right, let's talk then about
6 some tools kind of in an investigator tool belt, so
7 to speak.

8 A. So to speak. Yes.

9 Q. So, one you conduct interviews. Right?

10 A. Yes.

11 Q. Obviously. Then the investigators go
12 out to a scene. Right?

13 A. Yes.

14 Q. Yes. Take photographs?

15 A. Yes.

16 Q. I'm not trying to ---

17 A. Yes. It's just this happened several
18 years prior, so.

19 Q. Sure. Right. Just in general. This
20 is just in general.

21 A. Okay.

22 Q. They can visit a scene or visit a
23 location, take photographs and collect any sort of
24 physical evidence if the case -- if that's
25 appropriate in the case.

1 A. Yes.

2 Q. Okay. You know, there are sometimes
3 that investigators want to look at or look into,
4 collect evidence from a place where, you know,
5 maybe, you couldn't just stroll up to it and do
6 that. So you need a search warrant.

7 A. Correct.

8 Q. I mean you can apply for one I am sure,
9 have applied for many search warrants.

10 A. Yes, sir.

11 Q. I mean, how many search warrants would
12 you think that over the course of twenty years that
13 you have obtained?

14 A. Hundreds. Okay.

15 Q. And a search warrant is an
16 authorization from a judge allowing you to go to a
17 specific place and search that place. Right?

18 A. Some search warrants, yes.

19 Q. Some search warrants?

20 A. Yeah.

21 Q. So a search warrant is legal
22 authorization for you to access something that you
23 want to either search or collect evidence from,
24 something like that, right?

25 A. Yes.

1 Q. Okay. A search warrant could be for a
2 physical location like a house or car or something
3 like that, right?

4 A. Correct.

5 Q. Okay. A search warrant could include
6 in there that the authorization for you to collect
7 certain property, like tangible property?

8 A. Yes.

9 Q. Okay. You could also get a search
10 warrant for records, let's say, from the company,
11 for example, business records or something like
12 that, right?

13 A. Yes.

14 Q. Even a search warrant could be obtained
15 to get a sample from a live human being? Let's say
16 for example DNA.

17 A. Correct.

18 Q. Now, then in terms of the kind of
19 evidence here that you could get a search warrant
20 for, some types of evidence that maybe you've had
21 experience with some of these, some of those could
22 be say cell phone records from a cell provider.
23 Would that be accurate?

24 A. Yes.

25 Q. Okay, and those could include call logs

1 of every, you know, phone number that is called.
2 Right?

3 A. Yes.

4 Q. Or that could include text message
5 logs, like contents of text messages between the
6 owners.

7 A. Some of those, yes.

8 Q. Some of -- okay, yeah, because we are
9 talking about from the provider here.

10 A. Yes.

11 Q. Or it could include self site location
12 data, like where a cellphone was at a certain time.

13 A. Yes, sir.

14 Q. But then you could also get a search
15 warrant to collect a physical devise like a
16 cellphone or a computer, an electronic device.

17 A. Correct, yes.

18 Q. And pursuant to that search warrant,
19 you could gain authorization to extract every bit of
20 data off of that device?

21 A. Yes.

22 Q. Okay, and that would be any single
23 thing that that phone stored on it that that person
24 either put on it or that came on it?

25 A. Correct.

1 Q. That could absolutely include any sort
2 of voice or text messaging that would be stored on
3 the phone?

4 A. Yes.

5 Q. Okay. You know, potentially any sort
6 of data from messaging applications like Facebook
7 Messenger or potentially SnapChat. Anything that
8 would be stored on the phone. Is that fair to say?

9 A. I'd have to ask Ryan in 2009, but yes.

10 Q. Okay. 2019. Okay, I see what you are
11 saying. Big timeframe.

12 A. Mines from 2009 timeframe. My case is
13 when the incidents occurred.

14 Q. I mean you got involved in 2019, right?

15 A. I did, yes. But I'm just saying though
16 when the incidents occurred, you're talking about
17 records and stuff from 2009.

18 Q. Okay. All right, but I mean you were
19 assigned to investigate the case in 2019.

20 A. Correct.

21 Q. Okay. And then, you know, so -- what
22 -- and you got the interviews from Bluffton here
23 from **Complainant**, right?

24 A. And Hopeful Horizons. Yes.

25 Q. Okay, and you reviewed those

1 interviews?

2 A. I did, yes.

3 Q. What was alleged was a course of
4 conduct or things that happened over a much larger
5 timeframe. Right?

6 A. Yes.

7 Q. Ending right kind of before or very
8 soon to when you became involved in the case?

9 A. When the incident last occurred?
10 Because the last was like the summer of 2017 ---

11 Q. Okay, so not 2008, right?

12 A. I'm not sure what you are asking. Are
13 you talking about Bluffton PD or are you talking
14 about when the incidents occurred in my
15 jurisdiction?

16 Q. Just in general. You're understanding
17 from the allegations is that they continued until
18 2017, right?

19 A. Yes.

20 Q. Okay. Thank you. That's all. So then
21 from devices, it is even possible, in some cases,
22 now, to recover data that has been deleted or
23 attempted to be deleted off a cellphone or computer?
24 Is that correct?

25 A. In some circumstances. Yes, sir.

1 Q. Further, let's talk about computers or
2 laptops here. You know, it's possible to obtain --
3 or if not from the device, then from the service
4 providers, it could be possible to obtain search
5 histories from a certain IP address or Internet
6 address, right?

7 A. Yes, sir.

8 Q. Or browser histories or web sites
9 somebody was going to. From the Internet address
10 from their home, right?

11 A. Yes, sir.

12 Q. So then, turning from that then, kind
13 of more turning away from the technological side of
14 things, it is -- we'd indicated earlier it was law
15 enforcement to outfit someone, not law enforcement
16 with audio and visual recording equipment. That's
17 hidden or concealed. Is that correct?

18 A. Some, yes. I mean, during the time
19 when I was in investigations, I did not have a body
20 camera.

21 Q. No, no, no. I'm talking about
22 outfitting a person that is non law enforcement.

23 A. Oh.

24 Q. For surreptitious recordings.

25 A. Yes, CIs or something.

1 Q. Yes.

2 A. Okay.

3 Q. And by that, I mean a confidential
4 informant.

5 A. Yes, sir.

6 Q. Thank you. I don't have anything else
7 for you, sir. Thank you.

8 THE COURT: Ms. Main?

9 MS. MAIN: Yes, Your Honor.

10 **REEXAMINATION BY MS. MAIN**

11 BY MS. MAIN: The defense mentioned search
12 warrants and cell records and IP addresses. Can you
13 explain why you didn't do any of that in this case?

14 A. The incidents that occurred in my
15 jurisdiction would have been in 2008 when the victim
16 was six. Also, later on, up until 2009 when the
17 victim, I believe, left the residence around the age
18 of eleven. Due to the timeframe, I did not obtain
19 -- I mean not many six-year-olds have ---

20 MR. MCFADDEN: Objection. Devouging (Ph),
21 objection.

22 THE COURT: Yes, sir. I agree. I mean
23 let's stay away from that. Thank you.

24 Q. Limited to just the reason why you
25 didn't get one.

1 A. Just the timeframe.

2 Q. No further questions, Your Honor. We
3 ask that he step down and be released from the
4 subpoena.

5 THE COURT: Yes, sir. You are released.
6 Thank you.

7 MS. MAIN: Your Honor, the State calls
8 **Complainant** Your Honor, I do anticipate this would
9 be a while if -- I didn't know if this is an
10 appropriate time to take a quick break.

11 THE COURT: Yeah. We have been going for
12 over an hour. Let's take a break now. It's a good
13 time.

14 MS. MAIN: Yes, sir.

15 THE COURT: Hold on just a minute. We are
16 going to take a break now -- I'm sorry -- before we
17 get started because this might take a little while
18 Ms. Main says. So, ladies and gentlemen of the
19 jury, again, just remind you, don't start talking
20 about the case yet. I know you know that. But just
21 I need to remind you. We are taking a short break
22 because our next witness could be lengthy. So go
23 ahead and let everybody get a reset and I will see
24 you back in ten minutes, okay.

25 (Return from break)

1 BAILIFF: All jurors are seated.

2 THE COURT: Thank you. Ms. Main.

3 MS. MAIN: Yes, Your Honor, the State calls

4 **Complainant**

5 (Witness sworn.)

6 * * * * *

7 **Complainant**

8 having been duly sworn,

9 testifies as follows:

10 * * * * *

11 DIRECT EXAMINATION

12 BY MS. MAIN:

13 Q. **Complainant** is there any way you could just
14 slide forward a little more or pull the mic to you,
15 please. I am having trouble hearing you. Can you
16 tap it to make sure it is on. It doesn't seem like
17 it's on.

18 THE COURT: It doesn't seem to be.

19 MS. MAIN: Can you spell your name again
20 just to make sure we can hear you?

21 A. **Complainant**.

22 Q. Thank you. When is your birthday,

23 **Complainant**

24 A. My birthday is actually today, **[REDACTED]**

25 **[REDACTED]**.

1 Q. What year were you born?

2 A. [REDACTED].

3 Q. Can you speak up just a little bit
4 more. I know. I'm sorry. It's just the acoustics.
5 Who do you live with right now?

6 A. I live with my grandparents.

7 Q. Is that in Bluffton?

8 A. Yes, ma'am. [REDACTED] Red Cedar Street.

9 Q. Do you know James Ethridge Jones?

10 A. I do.

11 Q. Did you call him by any other name?

12 A. I was forced to call him dad when I was
13 younger.

14 Q. Did you ever call him JJ as well? Or
15 does he go by that as well?

16 A. For a while, that's his nickname.

17 Q. Explain your relationship. How did he
18 come into your life?

19 A. He was my mother's boyfriend after she
20 left my first father when I was about six years old.

21 Q. So when you were six years old, is that
22 when you first met James Etheridge Jones?

23 A. Yes, ma'am.

24 Q. Do you remember when you first met him?

25 A. I do. He brought his son over for a

1 playdate and my mom made me and his son JC play in
2 the neighborhood park for a while while they talked
3 and after they left next thing I know, she told me
4 that was her boyfriend and shortly he would be
5 moving in with us.

6 Q. So, how old were you when he moved in
7 with you?

8 A. About six, seven.

9 Q. Six, seven. What house did you live in
10 that he moved in with you when you were six, seven?

11 A. The [REDACTED] Chipwood Lane house.

12 Q. [REDACTED] Chipwood Lane. Is that in Beaufort
13 County.

14 A. Yes, ma'am. I believe so.

15 Q. Let's talk about where you lived
16 growing up and then we will get back to talking
17 about what happened. So, you lived in this Chipwood
18 Lane house around six or seven years old and then at
19 some point did you move to another state?

20 A. We did. We moved to Louisiana.

21 Q. For about how long did you stay?

22 A. Six months.

23 Q. When you came -- did you come back
24 after you left Louisiana?

25 A. We did.

1 Q. Where did you live then?

2 A. We moved back into the Chipwood house.

3 Q. Okay. Did you move to Louisiana again
4 after that?

5 A. We did.

6 Q. Okay. How long were you there at that
7 time?

8 A. Six months.

9 Q. Six months. So, tell me when you came
10 back to the Chipwood Lane house after you moved to
11 Louisiana for the first time for a couple of months,
12 do remember about how old you were when you came
13 back the first time?

14 A. When I came back I was -- I want to say
15 I may have been about eight or nine. I was still in
16 elementary school.

17 Q. Then you moved to Louisiana again. Do
18 you remember how old you were when you moved to
19 Louisiana that second time?

20 A. I was about preteens so twelve or
21 thirteen because I was in sixth grade ---

22 Q. You were in sixth grade?

23 A. -- and I was home schooled the second
24 time.

25 Q. Okay, and eventually you come back from

1 that second time in Louisiana and where did you go
2 at that point?

3 A. For a while we stayed with my
4 grandmother and then me and my mother lived in the
5 Red Cedar Street house, and then after that we moved
6 to Windtree house after my mother found they a
7 renter that would rent our ---

8 Q. So, was it a short stint with your
9 grandma and then to the Windtree house?

10 A. Yes ma'am.

11 Q. Okay. About how long did you remember
12 staying in the Windtree house for?

13 A. It wasn't long. Maybe about two years
14 or so.

15 Q. Then at some point you moved to a house
16 on Buck Island Road?

17 A. Yes, ma'am.

18 Q. Okay, and do you remember about how old
19 you were at that time?

20 A. I was in 8th grade, my Freshman year of
21 high school.

22 Q. This house -- this Windtree House, was
23 that in Beaufort County?

24 A. Yes, ma'am.

25 Q. And this house on Buck Island, was that

1 in Beaufort County?

2 A. I believe so as well. Yes, ma'am.

3 Q. Then, at some point, you moved in with
4 your grandma. Do you remember, maybe what years
5 school you were or how old you were?

6 A. I was a freshman in high school.

7 Q. A freshman in high school. How do you
8 know that?

9 A. I started my freshman year of high
10 school that year because -- it was actually a short
11 while after, I only went for a little bit before I
12 had a fall and I hurt myself and then I was
13 permanently kind of homeschooled through the
14 Bluffton High School and I lived with my
15 grandmother.

16 Q. So, in January 2019 do you remember
17 visiting with your Uncle Bill?

18 A. I do.

19 Q. Do you remember telling him about what
20 happened to you growing up?

21 A. I do.

22 Q. Do you remember about how old you were
23 when that happened?

24 A. Sixteen or so.

25 Q. Sixteen. Okay. We will come back to

1 that. Let's talk about this Chipwood Lane house.
2 So, is it correct that in 2008 you were six years
3 old?

4 A. Yes, ma'am.

5 Q. And yet this is when you lived in the
6 Chipwood Lane house and that is in Beaufort County?

7 A. Yes, ma'am.

8 Q. So when you were six years old, where
9 did your mom work?

10 A. She works at a Dollar Tree, she was an
11 assistant manager at the time.

12 Q. What kind of hours was she working?

13 A. She had -- there were several days that
14 she worked strictly night shift and there was some
15 days she worked strictly day shift or she would work
16 nights and days and nights and days. So it was a
17 mixture of everything.

18 Q. Can you explain how this Chipwood house
19 is set up? The sleeping arrangements in particular.

20 A. We slept in the living room.

21 Q. Explain that to me.

22 A. When you walked into the house the
23 first thing you would see after you come through the
24 front door was the couch on the side, and then the
25 sliding windows and then there was a futon on the

1 floor and that's where I would sleep or me and
2 James' son JC would sleep and then where the dining
3 room should have been was a curtain and a mattress,
4 and where my mom and him would sleep and then there
5 was the kitchen next and the dining room and another
6 curtain that closed off the hallway.

7 Q. Okay. You said there was all those
8 curtains separating these spaces?

9 A. Yes, ma'am. They acted as doors.

10 Q. Okay. You said James Etheridge Jones'
11 son JC, was he there often?

12 A. He was there on weekends and him and
13 his birth mother April separated and JC would come
14 and visit his father on weekends or during holidays
15 like summers and spring breaks and things of that
16 sort.

17 Q. So, when you are living in this house,
18 can you tell me what you remember about interacting
19 with the defendant, and what I mean by that is did
20 he ever make you feel uncomfortable? Yes or no, or
21 can you explain that to me, the interactions you had
22 with him at that time?

23 MR. MCFADDEN: Judge, at this time, I would
24 renew my 404(b) objection.

25 THE COURT: Yes, sir. Noted for the

1 record.

2 A. Yes. He did make me uncomfortable.

3 Q. Are there any specific incidences that
4 you recall when you were around six or seven years
5 old?

6 A. There would be nights sometimes that I
7 would find James in bed with me, next to me and
8 essentially pushing me against the couch so I
9 couldn't move. And he would have his arms wrapped
10 around me as if he wanted to keep me in place and
11 his hands would be places that should not be for a
12 child.

13 Q. I know this is hard. So we can pause
14 if you need to. Where is where it should not be?

15 A. His hands were on where my chest was,
16 where my breasts were and sometimes they would
17 either be on my buttocks or it would be where my
18 intimate parts would be, my vaginal area would be.
19 His hands would be either cupping it or in between
20 my thighs.

21 Q. How old were you when this happened?

22 A. Six or seven.

23 Q. Did he -- did the defendant ever help
24 you get ready for school?

25 A. Yes, ma'am.

1 Q. Can you tell me a little bit about
2 that?

3 A. My mother had to open the store so she
4 had to be there for the trucks . She would set
5 everything up. She would ask him to get me ready
6 for school and to drop me off. She laid out my
7 clothes which was a red collared shirt and a pair of
8 khaki skort and socks and my tennis shoes. He woke
9 me up and told me that it was time for me to get
10 ready for school and to brush my teeth, use the
11 bathroom, brush my hair, and when it came time to
12 undress and change he assisted me in undressing and
13 when he did he left me in my underwear and that was
14 it. And afterwards for about ten minutes or so, for
15 a little while, he decided to tickle me and be
16 playful, and the next thing I know I am on my back
17 on the futon and he is on top of me and he is
18 kissing my neck down to my collar bone into my
19 chest. Once again, an area that no adult should be
20 touching a minor. And he tells me that I am a
21 pretty, little girl and that it was time to get
22 ready for school but he wanted to make sure I knew
23 how pretty I was, and then I got dressed and didn't
24 think anything of it.

25 Q. About how old were you when that

1 happened?

2 A. Six or seven.

3 Q. Six or seven?

4 A. Yes, ma'am.

5 Q. During that time when you were living
6 in the Chipwood Lane house, did the defendant ever
7 do anything to you that was beyond touching? Was he
8 just touching you? Did he ever penetrate you?

9 A. Yes, ma'am.

10 Q. Will you please tell me about that?

11 A. My mother was cooking and it was the
12 same routine as any other night. It was time for me
13 to take a bath, to eat my dinner and then get ready
14 for school the next day. Except my mother cannot be
15 in two places at once so obviously it was either
16 cooking dinner or bathing her daughter. So my
17 mother asked her boyfriend to bathe me and watch me
18 while I was in the bathtub and he did. I undressed
19 in front of him. I got into the bathtub. I did
20 everything a normal kid would do. I played for a
21 little bit with toys and when it was time to get out
22 and everything was done, he was helping my dry off.
23 And when it came to drying me off in my vaginal
24 area, I felt his hand on the inside of my area and
25 next thing I know I felt pressure go in and then out

1 and he continued to dry me and wrapped me in a towel
2 and told me to go out in the living room and go get
3 changed.

4 Q. I'm sorry I have to ask you this. But
5 what do you mean you felt a pressure in your area.
6 Will you explain that for us?

7 A. It felt like, in the sense of when the
8 doctor checks the back of your throat with a stick,
9 it felt like a foreign object in my vaginal canal
10 for a split second and since he was drying me down
11 there with a towel, it was his finger.

12 Q. Did this happen at the Chipwood Lane
13 house?

14 A. Yes, ma'am.

15 Q. Do you remember about how old you were?

16 A. Seven or eight.

17 Q. Was that the first time he had helped
18 you in the bath?

19 A. It was about the second or third. He
20 had helped me and his son multiple times with
21 bathing.

22 Q. How does that make you feel?

23 A. I was shocked. I didn't know what that
24 was or I didn't understand. And then just I thought
25 it was strange but I didn't know what to ask or I

1 didn't know what dads did with their daughters
2 because I didn't have my birth one, so I thought it
3 was normal.

4 Q. You talked a little bit about how he
5 wrapped you up in the living room where you slept.
6 Was there ever any time in the living room where it
7 was beyond touching that you can remember?

8 A. Yes, ma'am.

9 Q. Can you please tell me about it?

10 A. We came back from a family friend's
11 house and it was the summertime. We watched a scary
12 movie as all kids will do during the summer when
13 they have nothing better to do. But I was extremely
14 frightened because of what I witnessed. My mother
15 tried to shield me and hide me from the world of
16 anything violent so I went to their room and I
17 knocked on the wall because there wasn't a door. It
18 was just a sheet, and I told my mother I was scared
19 and I didn't want to go to bed by myself. The next
20 thing I know James offered to lay down with me and
21 my mom agreed. He layed down with me on the futon
22 for a long while. He held me and told me it was
23 okay to be scared, like any supportive person would.
24 And then the next thing I know he is putting his
25 hands under my pants and my underwear and he's

1 touching me inside of my vaginal area, rubbing it,
2 and asking me if I liked it, and I didn't know what
3 else to do and I just laid there and I don't know
4 what was going on. I didn't understand. Then the
5 next thing I know he licked his fingers and told me
6 it tasted good, and I just pretended to be asleep so
7 he would just leave me alone.

8 Q. Was this in the Chipwood Lane house,

9 **Complainant**

10 A. Yes, ma'am.

11 Q. Do you remember about how old you were
12 when this happened?

13 A. Eight or nine.

14 Q. Eight or nine. Are there any other
15 times you remember specifically?

16 A. No.

17 Q. And then as you are living with the
18 defendant, just -- did he any other -- did he ever
19 make any comments about your appearance to you?

20 A. He told me all the time that I was very
21 pretty and that I looked better than my mother and
22 my mother was overweight, and then he told me all
23 the time in front of my mother that I had the
24 perfect body and I was just the perfect petite
25 little girl and I was going to be beautiful one day.

1 Q. Did you ever try to tell anybody about
2 what was going on? Without giving any exact
3 specifics when you lived in the Chipwood house?

4 A. I tried my grandparents and my mom and
5 anybody who would listen I would say he lays down
6 with me at night and he makes me extremely
7 uncomfortable.

8 Q. Did anything happen as a result of
9 that? Without giving the exact date -- without
10 telling us what someone said to you, did anything
11 happen as a result of you saying that?

12 A. Not really. Just a lot more of anger,
13 trying to do what he was doing.

14 Q. What do you mean more anger, coming
15 from who?

16 A. From James.

17 Q. Anger in his words or in something
18 else? Can you explain what you mean?

19 A. His actions and ---

20 MR. MCFADDEN: Objection. I think we are
21 closing in on what we address pre-trial. I'd be
22 happy to approach.

23 MS. MAIN: If I may be heard on that?

24 THE COURT: Well, yes, ma'am. I think that
25 you know what he means by that. Go ahead.

1 MS. MAIN: I do. I just don't -- can we be
2 heard outside of the presence that the jury?

3 THE COURT: I think we need to do that.
4 Yes, yes. Ladies and gentlemen of the jury, an
5 issue has come up that we need to talk about.
6 Hopefully it will not take too long. If you would,
7 please exit the jury room and as usual don't discuss
8 the case yet. Hopefully we will bring you back
9 right quickly. I can't promise you that. We will
10 do our best.

11 (Jury exits the Courtroom.)

12 BAILIFF: Your Honor, the jury has exited
13 and the door is closed.

14 THE COURT: Thank you.

15 MS. MAIN: Yes, Your Honor, so your pre-
16 trial ruling is that she is not allowed to talk
17 about physical abuse but she is allowed to talk
18 about threats. She is also allowed to talk about
19 the demeanor of the defendant as she is around him
20 growing up. So, I am not asking questions to elicit
21 anything that goes against Your Honor's ruling and I
22 think it is appropriate for me to be able to ask
23 those questions freely. I've directed her not to
24 talk about that. If for some reason she steps over
25 the line, I think an objection is appropriate but

1 before she is even allowed to answer -- I mean I'm
2 asking open-ended questions to elicit what is within
3 the ruling.

4 THE COURT: Okay.

5 MS. MAIN: That's what I want to be heard
6 on.

7 THE COURT: We will try to get it straight
8 right now.

9 MR. MCFADDEN: Judge, that makes no sense
10 because the jury is going to hear it. You know, by
11 the time I can object. I think the more appropriate
12 course would be a proffer, whatever, at least this
13 -- I don't know how many questions it is, but
14 proffer right now.

15 THE COURT: We'll do that. We can do that.

16 MS. MAIN: Your Honor, I guess the State's
17 position is to have her tell it multiple times would
18 be very traumatic. Additionally, she has been
19 clearly instructed not to discuss physical abuse,
20 but she is allowed to discuss threats and she can
21 talk about his demeanor. So, I think it is very
22 clear what your ruling is so to proffer what she is
23 going to say, I can't guarantee it is going to be
24 exactly the same when the jury comes out, but
25 additionally it is very clear what your ruling was

1 and there is no intention by anyone to go against
2 it.

3 THE COURT: I think that what I meant was,
4 I thought I was clear on it, but it still, there is
5 no way I could issue a ruling that exactly gave
6 y'all totally clear definition where a line would
7 be. That wouldn't be fair to either of you
8 attorneys. And so, what I think the better thing to
9 do would be to go ahead and proffer the testimony.
10 I realize that this is difficult on **Complainant**. I
11 know that. This entire thing is, it is not
12 something that I want her to have to do twice but I
13 believe that it would be the better course to let's
14 go ahead and see and that way we know what is coming
15 and Mr. McFadden has an appropriate chance to
16 address it. I think that would be the more fair
17 thing to do, so let's go ahead and do that.

18 MS. MAIN: Yes, Your Honor.

19 BY MS. MAIN: The question I was asking is
20 what do you mean in relation to he was more angry,
21 what does that mean?

22 A. His demeanor wasn't nice. It was just
23 mean.

24 Q. And what did that look like?

25 A. A lot more yelling. A lot more not

1 caring. A lot more arguments between my parents
2 which I never wanted. I just ---

3 Q. How did that make you feel about
4 talking to people about what happened?

5 A. That I shouldn't because it -- I just
6 wouldn't tell anyone.

7 Q. That's all - well, the only other
8 question I planned to elicit relating to this is did
9 you ever feel uncomfortable telling anyone because
10 you felt threatened in any way?

11 A. Yes.

12 Q. Can you explain to me what you mean?

13 A. There was a rule in our house and the
14 rule was is that whatever happens in this house
15 stays in this house. It is nobody's business to
16 know what goes on behind closed doors. And that if
17 we told other people our business, we would get
18 punished. We would get beaten to the point where we
19 couldn't stand. We would regret even opening our
20 mouths and saying anything.

21 THE COURT: Mr. McFadden?

22 MR. MCFADDEN: Judge, as to the rule
23 testimony, you know, I am not sure the foundation's
24 been laid that that -- was it a rule by him, was it
25 his conduct that she is testifying to? I think the

1 physical component part, I think it comports with
2 Your Honor's ruling.

3 THE COURT: Okay. The last part you are
4 concerned about -- the last question about ---

5 MR. MCFADDEN: The foundation for this
6 rule, you know, I think it needs to be focused
7 on ---

8 THE COURT: I think that Ms. Main could ask
9 more about that as long as she stays -- you
10 understand what he is saying where it come from. It
11 is not clear whose rule that was. You could ask her
12 about that.

13 MS. MAIN: I think the rule in the house
14 generally, whether it was his specific rule and he
15 said it to her or not, it is an impression that she
16 had. Like it's her present impression of the
17 atmosphere around her, and it goes directly to the
18 reasoning why she didn't feel comfortable saying
19 anything. So, regardless if he said it to her, it
20 created atmosphere for her that made her not
21 comfortable, and I think that is something that she
22 can speak to without me going into any further
23 details relating to exactly who said it, because I
24 feel that the longer I keep going down this road, we
25 are going to have more objections. I feel like I

1 have adequately covered the threats that I wanted to
2 cover.

3 THE COURT: Well, my concern is that if it
4 could be taken by the jury that those rules all came
5 from the defendant. And it is possible that all of
6 those rules didn't come from the defendant and if
7 the jury takes that against the defendant, as though
8 he were the one setting this whole stage when
9 perhaps he wasn't the only one setting the stage, I
10 don't think that is fair to him.

11 MS. MAIN: Yes, Your Honor, I will ask more
12 questions if you deem it necessary, but it would be
13 the State's position that that go more to weight
14 towards admissibility and it's right for cross by
15 Mr. McFadden.

16 THE COURT: Mr. McFadden, what do you say
17 about that? What do you say about how we go about
18 this. Because what this, Ms. Main, on the one hand
19 she is trying to keep it, on the other, what I am
20 instructing her to do is you have to explain more
21 and I think that is what you were asking for. Is
22 that what you want? Or would you rather cover it on
23 cross-examination?

24 MR. MCFADDEN: So, they are countenancing
25 this as a threat. They don't say anything about the

1 alleged, sexual abuse. Okay, whereas, though, it's
2 not clear if that was just a rule, don't share
3 business of the house, here, but it just also
4 pertain to that. They wanted to admit evidence of
5 his conduct, threats, here, and I don't think that
6 there has been a foundation that is laid to show
7 that that that was his conduct. **Complainant**, where in
8 all, we are in the sea of 404(b) evidence right now.
9 So, for that, they need to lay all of that
10 foundation and I don't think they have done that on
11 that specific point just because it has been raised
12 now.

13 THE COURT: I think that to go into the
14 rule of the house without us knowing where that rule
15 came from is really not fair to the defendant.

16 MS. MAIN: I will ask her now, Your Honor.

17 THE COURT: Okay.

18 BY MS. MAIN:

19 Q. **Complainant** can you tell us where that rule
20 came from?

21 A. It came from the adults of the
22 household.

23 THE COURT: Okay, so it was not from the
24 defendant alone.

25 MS. MAIN: She said it was from the adults,

1 so her mother and the defendant.

2 THE COURT: Right, right.

3 MS. MAIN: So he was an active participant,
4 but regardless ---

5 THE COURT: I just think it needs to be
6 clear to the jury that that is the rule of the home
7 and that's her testimony. It's not just his rule.
8 It wasn't just the defendant's rule. It was a rule
9 that was agreed to. That's what she is stating by
10 both the adults. Because otherwise, my concern is
11 that it appears to the jury that he alone set the
12 stage for that. I don't think that is fair to him.

13 MS. MAIN: Yes, Your Honor. I mean, but
14 that is what I plan to get into. I didn't write
15 those questions down verbatim, obviously.

16 THE COURT: I understand.

17 MS. MAIN: But that's the part that I think
18 her testimony is appropriate to be proffered.

19 THE COURT: Excuse me?

20 MS. MAIN: I think the remainder of her
21 testimony is appropriate to be proffered because
22 that was the only part relating to the threats. The
23 rest of it is just ---

24 THE COURT: Okay.

25 MS. MAIN: -- going to be relating to the

1 additional assaults that the other two ---

2 THE COURT: All right.

3 MS. MAIN: But I am happy to proffer it if
4 Your Honor would like, but I was limiting it for ---

5 THE COURT: I think just limit it to that.
6 That will be fine.

7 MS. MAIN: Okay.

8 THE COURT: Anything further, Mr. McFadden?

9 MR. MCFADDEN: Nothing, thank you.

10 THE COURT: Okay. Let's bring the jury
11 back in. This time I won't expect you to read my
12 mind. I will ask you. Thank you, ma'am.

13 THE COURT: Are you okay, **Complainant**? Yeah.

14 (Jury enters Courtroom)

15 BAILIFF: The jurors are entering, Your
16 Honor.

17 The jurors are seated, Your Honor.

18 THE COURT: Thank you, ma'am. Ms. Main.

19 Q. Yes, sir. So, before we were talking
20 you said you tried to tell some people and it
21 resulted in some anger. Can you explain who was
22 angry and what that meant?

23 A. James was angry and my mother was also
24 angry because people began asking questions and
25 people began trying to figure out what I meant by

1 that, why was an eight-year-old in elementary school
2 saying that her mother's boyfriend ---

3 MR. MCFADDEN: Objection to testimony about
4 what other people are doing as far as it contains -
5 well, lack of first knowledge or hearsay.

6 THE COURT: Yes, sir. I agree. Ms. Main.

7 BY MS. MAIN:

8 Q. Yes, sir. So without telling me what
9 somebody else said, explain to me what that anger
10 looked like from your perspective. What was
11 happening around you that you saw, or if something
12 was said to you from the defendant but nobody else.

13 A. Arguments.

14 Q. Arguments. What do you mean by
15 arguments? Between who?

16 A. Between me and the defendant.

17 Q. Was there anything else the resulted
18 from that anger that you remember?

19 A. Threats, parental threats.

20 Q. Where those from the defendant?

21 A. Yes, ma'am.

22 Q. What kind of threats?

23 A. That I was going to get scolded or
24 beaten.

25 Q. How did that make you feel?

1 A. Terrified.

2 Q. How did that make you feel in relating
3 to wanting to tell people what was going on?

4 A. I didn't want to because I didn't want
5 to get in trouble.

6 Q. I beg the Court's indulgence.

7 THE COURT: Yes, ma'am.

8 BY MS. MAIN:

9 Q. Do you remember any specific rules from
10 either adult in the house or more specifically from
11 the defendant or if it was a group decision?

12 A. The rule was whatever happens in this
13 house stays in this house.

14 Q. Whose rule was that?

15 A. It was the adult rule. More or less to
16 say it came from the defendant but also it came from
17 my mother as well.

18 Q. Okay. So let's talk about the Windtree
19 house. Can you tell me a little bit about what you
20 remember about the Windtree house? Do you remember
21 what it looked like or anything about it?

22 A. It was a big house. It was actually
23 the biggest house that I have ever stayed in. It
24 had an upstairs. It had a big garage. My room was
25 the ceiling which I thought was really cool. I had

1 my own bathroom. I was basically living the teenage
2 or pre-teen life that every girl wants.

3 Q. Where did you say your room was in this
4 house?

5 A. It was upstairs. It was like the roof
6 because when you walked further into the house the
7 -- with the ceiling, the roof slowly began smaller
8 and smaller.

9 Q. This Windtree house, is it in the
10 Windtree neighborhood? Is that why you are calling
11 it that?

12 A. Yes, ma'am.

13 Q. Is that -- is this house in Beaufort
14 County?

15 A. Yes, ma'am. I believe so.

16 Q. Do you, correct me if I am wrong, you
17 were around six grade, seventh grade, timeframe when
18 you lived in this house?

19 A. Yes, ma'am.

20 Q. So, that would have made you around
21 twelve or ---

22 A. Twelve or thirteen.

23 Q. Twelve or thirteen. Okay. Who lived
24 with you at that house?

25 A. My mother and the defendant.

1 Q. Was his son JC, did he still visit
2 sometimes?

3 A. Yes, ma'am.

4 Q. Do you remember anything specific that
5 happened between you and the defendant when you
6 lived in that house?

7 A. One night my mother was working and I
8 came home from after school activities, I dance for
9 a long time, and I came home after my grandmother
10 had dropped me off, and I started getting ready for
11 bed because back then middle school started at six
12 or seven in the morning, so I had to leave
13 relatively early, and on this particular night I was
14 laying in my bed and I was texting my friends and he
15 entered my room without knocking and I was in my
16 sleepwear, which at the time was just my
17 undergarments. And he looked at me and I looked at
18 him and he asked me a few questions like why was I
19 still awake, who was I talking to, and the next
20 thing I know he is laying on this twin sized
21 mattress that is on the floor with me and he is
22 holding me. Again, I'm pinned against something
23 which was the wall now and he was groping me in my
24 feminine areas I had started to develop because I
25 hit puberty. And he's rubbing my stomach, he's

1 groping my chest and he's telling me that I am very
2 pretty, and that again, I was just a pretty little
3 girl and he was lucky to have a pretty daughter.

4 Q. You said he touched your chest. Is
5 this in the area where your breasts are?

6 A. Yes, ma'am.

7 Q. Did he touch your genital area?

8 A. Yes, ma'am.

9 Q. Was it above or underneath the
10 underwear?

11 A. Above my underwear.

12 Q. Above the underwear. Is there anything
13 you remember about what he was wearing or his
14 demeanor when this happened?

15 A. He was wearing just basketball shorts.
16 He normally just wore basketball shorts around the
17 house.

18 Q. Did you notice anything unusual about
19 what he was wearing or anything else about him
20 demeanor wise?

21 A. Not really. Just, I guess, the fact
22 that he was happy that it was just me and him in the
23 house alone.

24 Q. What made this stop?

25 A. The garage door opened and my mom was

1 home.

2 Q. Do you remember anything else about
3 that incident?

4 A. That I cried.

5 Q. Do you remember anything else that
6 happened when you were living in the Windtree house?

7 A. The occasional groping here and there.
8 A lot of it was when I walked by him in the kitchen
9 he would turn around and grab my butt firmly and
10 squeeze it and tell my mom that, you know, like this
11 right here, this is like the perfect butt, perfect
12 body. He would pull me down from the couch if I was
13 laying on the couch and he was on the floor, and he
14 would wrap his arms around me tightly so I wouldn't
15 move away from him or struggle.

16 Q. How would this make you feel?

17 A. I hated it.

18 Q. Is there anything else you remember
19 about the Windtree house?

20 A. No, ma'am.

21 Q. You lived in a house on Buck Island
22 Road, right?

23 A. Yes, ma'am.

24 Q. And tell me if I'm right, this was
25 around seventh, eighth grade timeframe right? So

1 that would have made you around thirteen, fourteen
2 maybe? Is this house, Buck Island Road, is that in
3 Beaufort County.

4 A. Yes, ma'am. I believe so.

5 Q. Do you remember what school you went to
6 when you were in seventh or eighth grade?

7 A. I went to Bluffton Middle School.

8 Q. Can you tell us about this house on
9 Buck Island? Do you remember anything about it?

10 A. It was in the woods.

11 Q. In the woods. Can you explain that?

12 A. It was strange. It was like a house I
13 had never really been there before because there was
14 -- you could miss it just driving by. There was a
15 mailbox that peeked out of the woods on the side of
16 the road that's right next to this church that's
17 across from the middle school and down this dirt
18 path and there is a gate. There is the house that
19 we stayed in and it was deep in the woods like to
20 the point where my grandmother when she dropped me
21 off I would have to walk the trail to get the house.

22 Q. Who was living with you in this house?

23 A. My mother and the defendant and then my
24 baby brother that was born around that time.

25 Q. Can you explain that to me? Your baby

1 brother. When was he born?

2 A. He was born when I was in about eighth
3 grade, I think.

4 Q. Around eighth grade. And was that the
5 -- was that your mom and James Etheridge Jones, his
6 child?

7 A. Yes, ma'am.

8 Q. When you were living in this house, is
9 there any time you remember anything happening
10 between you and the defendant here in the Buck
11 Island house?

12 A. There was some more groping going on.
13 Again, the same thing, walking by, turning around
14 and he inappropriately grabbed, you know, my waist
15 or my buttocks. He would also do the same thing
16 pulling me down from the couch and groping me,
17 trying to get me to stay still, but after a certain
18 point in time I started fighting back. I didn't
19 want it. I didn't like it.

20 Q. Is there any specific instance that you
21 can recall or if not, that is okay.

22 A. I came home from after school
23 activities, again, I did dance, so I relatively
24 stayed out late and then came to that house. It was
25 just him because my mom was at work. And I had to

1 take a shower and my room is right across from the
2 shower and he was in the living room. I announced
3 that I was going to take a shower because there was
4 only one bathroom in the living area where we stayed
5 at. I was showering, minding my own business, and
6 the next thing I know I hear the door handle rattle
7 and shake as if somebody was trying to get in. I
8 paused and it was still going, still shaking, and
9 I'm like I'm showering, and I hear him say, oh, and
10 he stops. Then when I was done showering, I came
11 out. After I changed, I went out there and he acted
12 like he didn't do anything or he wasn't jiggling the
13 handle or trying to break it off. And he goes, I'm
14 sorry, I didn't hear you showering. I didn't say
15 anything and I didn't think about anything, I just
16 ran in my room and locked the door.

17 Q. Why is that memorable to you?

18 A. Because around that timeframe he was
19 telling me a lot of things. Number one, I started
20 my period and I was now technically an adult woman,
21 and again he was telling me a lot of things about my
22 body and how tiny it was, how pretty it was and
23 perfect it was, and he also had a habit of telling
24 me every night you need to take your bra off, and
25 when I would ask him why, he would tell me all sorts

1 of things but the main thing it causes breast cancer
2 at night and I wouldn't want my little girl to get
3 sick.

4 Q. When you were living in this house, you
5 mentioned groping, can you tell me where he was
6 touching you when that's happening?

7 A. My breast and like my thighs, close to
8 my vaginal area, my buttocks, a lot and he was just
9 very adamant on touching me and making sure that not
10 only I but my mother knew that I was perfect,
11 according to him.

12 Q. Is there any other specific instances
13 that you remember at the Buck Island house?

14 A. No, ma'am.

15 Q. Complainant how old are you when this
16 groping is happening at the Buck Island house?

17 A. Fourteen.

18 Q. Fourteen? Do you see the man who did
19 these things to you, who touched your vaginal area,
20 in the courtroom today?

21 A. I do.

22 Q. Can you tell me something he is
23 wearing, please?

24 A. He is wearing a yellow and black tie.

25 Q. Can you point to him for me?

1 A. He's over there.

2 Q. Please let the record reflect that she
3 has identified the defendant.

4 THE COURT: Yes, ma'am.

5 BY MS. MAIN:

6 Q. I want to talk a little bit about why
7 you waited to report this. Can you tell us why you
8 waited to tell your Uncle?

9 A. I was afraid.

10 Q. What were you afraid of? What do you
11 mean?

12 A. That nobody would believe me.

13 Q. Do you have any lasting effects or
14 lingering issues from these events?

15 A. I do.

16 MR. MCFADDEN: Objection. Judge, may we
17 approach?

18 THE COURT: Yes.

19 (Bench Conference)

20 THE COURT: Okay, ladies and gentlemen of
21 the jury, I am sorry. We are going to need to ask
22 you to step out again while we take up something
23 here. Hopefully we won't keep you out long. I know
24 it's getting close to lunch time. Ms. Main, Mr.
25 McFadden, let me ask y'all this. It's ten to

1 twelve. I don't want to keep the jury out and bring
2 them back in and then send them to lunch. What
3 y'all, do you have any thoughts on how much longer
4 this witness might be?

5 MS. MAIN: I don't anticipate taking much
6 longer, Your Honor.

7 THE COURT: Okay. Let's do this, let's try
8 to finish her then, as far as direct. Yeah, go out
9 for a little while folks and hopefully we can bring
10 you right back in quickly and keep moving along. I
11 am keeping in mind that it is about time to eat
12 lunch. I'm not going to torture you like that,
13 okay.

14 (Jury exits courtroom)

15 BAILIFF: Your Honor, the jury has left and
16 the door is closed.

17 THE COURT: Thank you, ma'am. All right,
18 Mr. McFadden.

19 MR. MCFADDEN: Thank you, Judge. My
20 objection was to the testimony about effects on the
21 alleged victim from the alleged abuse. My concern
22 was that y'all were getting into -- well, number one
23 the State does not have to prove injury for either
24 of these things so it's not relevant to substantiate
25 any fact that is material to the disposition of this

1 case, and it is fast and more prejudicially
2 probative. It also risks getting into testimony
3 where that would entail some sort of expert
4 determination that she has been diagnosed with
5 something.

6 THE COURT: Ms. Main.

7 MS. MAIN: Yes, Your Honor. It is the
8 State's position that she should be allowed to
9 discuss the way that this has affected her. It is
10 her understanding, it is her impression. I think
11 she should be allowed to say that she has PTSD from
12 it and go into no further information relating to
13 it. But other things, how it has affected her over
14 time. It goes directly to her delayed disclosure,
15 which I feel confident the defense is going to try
16 to attack on cross-examination. Additionally the
17 defense has said that they are going to -- they
18 alluded to the fact -- they are going to claim that
19 there is some sort of bias, and they said in opening
20 that she is making accusations due to attention or
21 to hurt someone. This goes directly to counteract
22 that. Why would someone make those accusations if
23 these are the lingering effects that they have been
24 dealing with. So, I think she should be allowed to
25 speak to that.

1 THE COURT: I find myself in agreement with
2 Mr. McFadden. I think it is more prejudicial than
3 probative. You say that, Ms. Main, you argue that
4 it helps explain the delay in disclosure. I don't
5 think so. I think whatever effect it might have had
6 on her afterwards does not explain -- does not go to
7 explain the delay in disclosure. She has explained
8 it already. Of course you may have some to have her
9 explain it, but I don't agree with you on that. I
10 just don't. I think it is more prejudicial. I am
11 not going to allow you to go into this. Mr.
12 McFadden also makes the argument that perhaps an
13 expert is needed to establish some of that and that
14 is possibly true too. So, we are not going down
15 that road.

16 MS. MAIN: Understood, Your Honor.

17 MR. MCFADDEN: Judge, for scheduling
18 purposes, is the Court inclined to finish direct
19 examination then break and then resume with cross?

20 THE COURT: I was going to ask you that.
21 Do you -- this is a tough question I am about to
22 ask, Mr. McFadden. It may be impossible to answer.
23 But do you have any ballpark idea how long you think
24 it will take you on cross?

25 MR. MCFADDEN: Not tremendously long.

1 THE COURT: So I would like to finish her
2 as a witness before we take a lunch break. Again, I
3 don't want folks on the jury to get super hungry but
4 I think we would be okay to go a little further and
5 finishing with Complainant.

6 MR. MCFADDEN: Yes, sir.

7 THE COURT: It would be just better for so
8 many reasons if we could.

9 MS. MAIN: We agree to that, Your Honor.

10 THE COURT: All right. Let's bring the
11 jury back in.

12 (Jury enters the courtroom)

13 BAILIFF: The jury is seated, Your Honor.

14 THE COURT: Thank you. Ms. Main.

15 MS. MAIN: Yes, sir. Complainant I just want
16 to ask you one more question about the Buck Island
17 House. Do you remember anything happening with the
18 defendant on your birthday?

19 A. He woke me up by kissing me all over
20 the place, meaning my face, my neck, down to my
21 collar bone and something that seemed a little to
22 intimate for an adult to do to a child.

23 Q. Did he touch your genital area during
24 that incident.

25 A. Not that I can recall. Just like

1 groping and I woke up and my mom was in the kitchen
2 cooking breakfast for me.

3 Q. What does it really mean, like groping.
4 What does that mean?

5 A. My chest, my breast and me and holding
6 me and hugging me and telling me happy birthday.

7 Q. Do you remember what birthday that was.

8 A. I am not really sure. I was either in
9 eighth grade or a freshman year.

10 Q. Okay. So, do you remember when you
11 told your Uncle that? Any idea?

12 A. I do.

13 Q. What were you doing when you had this
14 conversation? What was going on?

15 A. We were coming from Charleston and we
16 were talking, and he asked -- and then the
17 conversation turned to my behavior and if something
18 wrong, if I had some personal thing against him.
19 And I told him no. He was like then why don't you
20 ever let me hug you or like, you know, your
21 grandfather hugs you or your grandmother hugs you,
22 and I said because I just don't like being touched.
23 And he asked me, well, why? Then there were just a
24 bunch of why questions and I couldn't hold it back
25 anymore and I told him.

1 Q. When you told him at this time in 2019,
2 where are you living?

3 A. I was living with my grandmother.

4 Q. You mentioned the changes in behavior.
5 Did your behavior change over time?

6 A. It did.

7 Q. It did. Tell me how.

8 A. I hated everything. I was angry at the
9 world.

10 Q. What do you mean you hated everything?
11 What does that mean?

12 A. I hated every moment waking up.

13 Q. And you didn't feel like that before?

14 A. No.

15 Q. Where there changes in your appearance
16 throughout your teenage years?

17 A. Yes, ma'am.

18 Q. Can you tell me about that. Can you
19 explain that to us?

20 A. I had ---

21 MR. MCFADDEN: Judge, I'm going to renew my
22 objection now. I think we are getting back again
23 into the effects here.

24 THE COURT: I think that -- I believe that
25 what we are not about to get into is not necessarily

1 that. I'm going to let her go a little further. If
2 we are getting into what you are talking about, Mr.
3 McFadden, then I am going to deal with that. Go
4 ahead, Ms. Main.

5 BY MS. MAIN:

6 Q. Can you talk about the changes in your
7 appearance?

8 A. I had short hair. Boy short. I wore
9 old clothes. Boy's t-shirts, boy jeans, even boy
10 underwear.

11 Q. When did you start doing that?

12 A. Right after I got into high school.

13 Q. High school. Is that different than
14 what you dressed like before?

15 A. Yes, ma'am.

16 Q. Is it around high school time, is that
17 when you cut your hair too, or just the clothes
18 changing?

19 A. The clothes changing. I had my hair
20 short when I went into the eighth grade.

21 Q. Why did you cut your hair?

22 A. I didn't like my hair long. People
23 grabbing it.

24 Q. Was that something that specifically
25 happened in a pretty good location? Was that a

1 school thing or a home thing?

2 A. A home thing.

3 Q. Who grabbed your hair?

4 A. My mom and the defendant.

5 Q. In what scenario was your hair grabbed
6 by the defendant?

7 A. In my ---

8 MR. MCFADDEN: I'm renewing my 404
9 objection.

10 THE COURT: Yes, sir. Noted. I overrule.
11 Go ahead, Ms. Main.

12 BY MS. MAIN:

13 A. I was talking back to him and I went to
14 walk off to go do whatever I was going to do, I
15 can't particularly remember, at the time I had my
16 hair long in a ponytail braid and he grabbed it and
17 pulled me back so that I could look at him. Again,
18 he told me I was going to learn to respect him
19 because he was the man of the house.

20 Q. Did you go by a different name at some
21 point growing up?

22 A. I did.

23 Q. What name?

24 A. Timothy.

25 Q. Can you explain that to me?

1 A. It was the name my mother was going to
2 give me if I was a boy.

3 Q. Why would you start going by a
4 different name?

5 A. I didn't like Complainant

6 Q. Why is that?

7 A. I thought she was ugly.

8 Q. How long did you go by Timothy.

9 A. All throughout high school.

10 Q. All throughout high school. You don't
11 go by that name anymore?

12 A. No, ma'am.

13 Q. Did your family know that? That you
14 were going by that name.

15 A. Yes, ma'am.

16 Q. Thank you, Complainant I have no further
17 questions but answer any questions the defense has,
18 okay.

19 THE COURT: Mr. McFadden.

20 **CROSS-EXAMINATION**

21 BY MR. MCFADDEN:

22 Q. Good morning, Complainant.

23 A. Hello.

24 Q. Complainant, I want to talk about some of
25 the specific allegations here and kind of go by the

1 houses where y'all lived. You met -- before this
2 trial -- you met with the prosecutor in this case,
3 Ms. Main, right?

4 A. Yes.

5 Q. You met twice, right?

6 A. Yes.

7 Q. You met once and then you came back to
8 clear some stuff up.

9 A. Yes.

10 Q. Okay. Correct me if -- in any of this
11 correct me if I am wrong. Okay? All right, so
12 initially, talking about Chipwood, the Chipwood
13 house, initially you mentioned, you said that at
14 least maybe three or four times Mr. Jones, with his
15 fingers, put them in your private parts, during one
16 of your meetings with the State. You understand
17 that?

18 A. Yes.

19 Q. Then you came back another time, you
20 said it only happened one time.

21 A. Yes.

22 Q. Okay. And now, just now, you said it
23 happened two times when Ms. Main was asking you
24 questions. That happened twice at the Chipwood
25 house.

1 A. The penetration?

2 Q. Yes. Putting his fingers in your
3 private place, yes.

4 A. Yes, sir.

5 Q. We move forward to the Windtree house.

6 The first time you met with the State you said that
7 approximately three times where he tried to or did,
8 again, put his fingers in your private parts, right?

9 A. Yes, sir.

10 Q. But then when you met again, you said
11 you couldn't think of any or be sure of any
12 instances where he tried that or did that?

13 A. Yes, sir.

14 Q. Moving on the Buck Island Road here.

15 You said that again he put his fingers in your
16 private parts again when living at Buck Island and
17 that that happened approximately three times.

18 A. Yes, sir.

19 Q. And even before that, you mentioned to,
20 you said that to Laura Rutland, the Bluffton Police
21 Officer, that testified earlier? You remember that?
22 I mean it's 2019 now, so it's some time.

23 A. Yes, sir.

24 Q. But then when you met again with the
25 State, you said you could not think of any instances

1 where he did that. Is that correct?

2 A. Yes, sir.

3 Q. Okay. Now you testified again, I think
4 we are at Buck Island here, about you taking a
5 shower him trying to jerk the doorknob off rattling
6 it so hard. Right?

7 A. Yes, sir.

8 Q. In so many words. But you agree that
9 when you met with the State again, you said he never
10 barged into the bathroom. He knocked. You said you
11 were in there and he walked away. Is that right?

12 A. No, sir.

13 Q. No, it's not? Okay. You agree with me
14 that at least for -- that you did tell them that he
15 never -- that was an instance where he just knocked
16 on the door and you say you were in there and he
17 walked away though? Is that right?

18 A. He sat there and he tried to get into
19 the bathroom, but he didn't.

20 Q. Okay.

21 A. He might have knocked another time but
22 the one time that I was showering, I remember he was
23 shaking the doorknob.

24 Q. Okay. Let's talk more broadly now.

25 Obviously Mr. Jones is not your dad. Not your

1 biological dad.

2 A. Yes, sir.

3 Q. Your biological dad was who your mom,
4 Nicole, was with before she started dating James?
5 Is that right?

6 A. Yes, sir.

7 Q. Okay, and obviously they split up
8 though and your biological dad did not treat your
9 mom right, the right way. Is that right?

10 A. Yes, sir.

11 Q. Not at all?

12 A. Not at all.

13 Q. So on the heels of that, now your mom
14 brings another man into your life and that's James.

15 A. Yes.

16 Q. Right from the beginning, you know, you
17 mentioned before, you didn't care for him. You
18 thought something was off.

19 A. Yes.

20 Q. You remember that? All right. You
21 talked a little bit about this when Ms. Main was
22 asking you questions. Y'all moved around a fair
23 bit, would you agree with that? Growing up.

24 A. Yes, sir.

25 Q. Also, I mean you said your mom worked

1 at Dollar General.

2 A. Dollar Tree.

3 Q Sorry, yes, Dollar Tree and your -- and
4 then James, you know, he also -- he worked in like
5 construction and then grocery store, like these
6 types of jobs too, right?

7 A. He was Kroger Management ---

8 Q. Kroger Management.

9 A. -- then he went to Ashley Furniture.

10 Q. That's right. Okay. Well, so, you
11 know, despite this, they are working, you agree with
12 me that times were pretty tight, though, around the
13 house? You didn't live in luxury. Would you agree
14 with that?

15 A. Yes, sir.

16 Q. I mean, the Chipwood house, you state
17 that y'all stayed in the same room of the house,
18 right?

19 A. Yes.

20 Q. Because the A/C was busted.

21 A. Yes.

22 Q. You know, but there is a couple of
23 window units, right.

24 A. Yes.

25 Q. To keep it cool where y'all stayed,

1 but, the separation of rooms was a curtain?

2 A. Yes, sir.

3 Q. Okay. All right. So y'all didn't --
4 going forward then, you know, you didn't live large
5 at home. Would you agree with that?

6 A. Yes, sir.

7 Q. There wasn't any kind of fancy
8 vacations or for trips. No eating out. No new
9 flashy clothes or stuff. Would that be fair to say?

10 A. Yes, sir.

11 Q. And strict rules around the house?

12 A. Yes, sir.

13 Q. Your mom was strict on you, too?

14 A. Yes.

15 Q. Okay. I want to talk a bit about the
16 relationships within the family. So you and your
17 mom, you didn't always see eye to eye on stuff. Is
18 that fair to say?

19 A. Every daughter doesn't see eye to eye
20 with their mother.

21 Q. Sure, sure. So there was, I mean,
22 specific - well, you mentioned that she was tough on
23 you with the rules of the home?

24 A. Yes, sir.

25 Q. Also, you said you lived with your

1 grandma, which is your mom's mom?

2 A. Yes.

3 Q. Your mom and your grandma did not
4 really see eye to eye a lot.

5 A. It was questionable.

6 Q. Okay. Okay. There was definitely some
7 arguments though, yes?

8 A. Yes.

9 Q. Okay.

10 A. Again, every daughter fights with their
11 mother.

12 Q. Well, you know, possibly so. Then
13 also, and this is just as to your personal knowledge
14 now, what you were aware of. Your grandma and
15 James, they didn't necessarily get along either. Is
16 that correct?

17 A. Yes.

18 Q. Based on your observations. Okay. All
19 right, so I want to zoom in now and talk about life
20 right when this all came about. That was right,
21 kind of freshman year going into freshman year of
22 high school. Do I have that right?

23 A. Yes.

24 Q. Okay. All right. At that point there
25 really was not much left of a household, you know,

1 in so far as your mom and James was concerned.

2 Would you agree with that?

3 A. Yes, sir.

4 Q. They were not living at the house
5 together?

6 A. Correct.

7 Q. James and your mom had parted ways?

8 A. Correct.

9 Q. And your mom was kind of just living
10 place to place, specifically like hotels and stuff.
11 Is that right?

12 A. Yes, sir.

13 Q. Okay. All right. At that point you
14 were just living full time with your grandma?

15 A. Yes, sir.

16 Q. Then, during this time period, again,
17 right at this time period here and surrounding
18 period, this is when you came out as Trans?

19 A. Yes, sir.

20 Q. Okay. Am I saying -- would that be a
21 fair characterization of that? About how to
22 describe that? That period of your life?

23 A. Yes, sir.

24 Q. Okay. All right. You said -- so it
25 started around there and that lasted through high

1 school where you identified as a male and you went
2 by Timothy?

3 A. Yes, sir.

4 Q. You had your hair cut shorter. You
5 wore boy -- more masculine clothes.

6 A. Yes, sir.

7 Q. Because you identified as a man? You
8 acted like a man?

9 A. Yes, sir.

10 MR. MCFADDEN: Court's indulgence. Just a
11 moment.

12 THE COURT: Yes, sir.

13 MR. MCFADDEN: I don't think I have much
14 more.

15 THE COURT: That's fine.

16 MR. MCFADDEN: Judge, that's all. Thank
17 you.

18 THE COURT: Thank you, Mr. McFadden. Ms.
19 Main.

20 MS. MAIN: Brief redirect, Your Honor.

21 THE COURT: Yes, ma'am.

22 **REDIRECT EXAMINATION**

23 BY MS. MAIN:

24 Q. Mr. McFadden talked about how you came
25 and met with me on two occasions and came and talked

1 to them and there was a second meeting after that.
2 Who asked for that second meeting?

3 A. I did.

4 Q. Why was that?

5 A. I wanted to sit here and clarify a few
6 things. I wanted to make sure that I had my story
7 straight and I just wanted for the truth to come
8 out.

9 MS. MAIN: I beg the Court's indulgence.

10 THE COURT: Yes, ma'am.

11 BY MS. MAIN:

12 Q. Then, is everything that you testified
13 to here today the truth?

14 A. Yes, ma'am.

15 MS. MAIN: No further questions, Your
16 Honor.

17 THE COURT: Thank you. Mr. McFadden,
18 anything?

19 MR. MCFADDEN: The Court's indulgence just
20 a moment.

21 THE COURT: Yes, sir.

22 **RECROSS EXAMINATION**

23 BY MR. MCFADDEN:

24 Q. Okay. **Complainant**, this is about -- you
25 had mentioned getting your story straight. There is

1 one more thing there is if we are talking about Buck
2 Island Road ---

3 MS. MAIN: Objection, Your Honor. This is
4 beyond the scope of redirect.

5 MR. MCFADDEN: Judge, a wide open cross. I
6 don't think I am bound by a scope.

7 THE COURT: I agree. I think you can cross
8 about it.

9 MR. MCFADDEN: In talking to the State the
10 first time about Buck Island Road, you mentioned
11 there was a time, it was before a field trip for
12 Spanish, and you woke up and once again he had his
13 fingers in your privates. Do you remember talking
14 about that?

15 A. Yes.

16 Q. And then when you came back the second
17 time you said that that did not happen, it might
18 have been a dream. That you weren't sure at all
19 that that had happened. Do you agree?

20 A. I had PTSD. I had times of where I
21 would freak out just by simple touches.

22 Q. You agree that -- the way you describe
23 it -- that you specifically detailed that account
24 but then followed and said, wait, I don't think that
25 happened.

1 A. Yes, sir.

2 MR. MCFADDEN: Thank you. Judge nothing
3 further.

4 THE COURT: Thank you.

5 MS. MAIN: We have no more questions, Your
6 Honor. We ask that she be allowed to step down.

7 THE COURT: Complainant, you may step down.
8 Thank you. Ms. Main.

9 MS. MAIN: Yes, Your Honor. At this time
10 the State rests.

11 THE COURT: Very well. We will take a
12 lunch break at this time. Now folks, there will be
13 some things we need to work on while y'all are at
14 lunch. If you could, please be back at 1:30. Madam
15 Foreman, will that allow you enough time, you think,
16 for y'all to go to lunch.

17 MADAM FOREMAN: If the restaurants can turn
18 us around.

19 THE COURT: Well, do this. Try to be back
20 at 1:30. I don't want anybody to get a speeding
21 ticket or get run over crossing the street to get
22 back at 1:30, okay. So if you are running a little
23 bit late, that's okay. Just do your best. All
24 right. Thank y'all. Remember, no discussion.
25 Thank you.

1 BAILIFF: Your Honor, the door is closed
2 and the jury is clear.

3 THE COURT: Thank you, ma'am. Mr.
4 McFadden.

5 MR. MCFADDEN: Thank you, Judge. At this
6 time the State has rested, therefore, I will be
7 making a Motion for a Directed Verdict ---

8 THE COURT: Yes, sir.

9 MR. MCFADDEN: -- under Rule 19 which
10 provides under (a) that on Motion of the defendant
11 or its own Motion, the Court shall direct a verdict
12 in the defendant's favor on the bench charge and the
13 indictments at the -- if there is a failure of
14 competent evidence pending proof of charges of the
15 indictment. Judge, a trial court should grant a
16 directed verdict motion when the evidence merely
17 raises suspicion that the accused is guilty as
18 suspicion or possibly as to guilt based upon facts
19 or circumstances which do not amount to proof.
20 Judge, I submit to the Court that all that has been
21 provided are bare accusations by one witness and
22 that as such, a directed verdict is appropriate in
23 this matter as there has been a failure of competent
24 evidence tending to prove the guilt of the defendant
25 of those indictments. Thank you.

1 THE COURT: Yes, sir. Ms. Main.

2 MS. MAIN: Yes, Your Honor. When ruling on
3 a Motion for a directed verdict, the trial court is
4 concerned with the existence or non-existence of
5 evidence. Not it's weight. A defendant is only
6 entitled to a directed verdict when the State fails
7 to produce evidence of the offenses charged and the
8 evidence presented is weighed in the light most
9 favorable to the non-moving party. Here, in the
10 case of both charges, the State has produced enough
11 evidence to move forward. When you look at the
12 elements of criminal sexual conduct in the first
13 degree and criminal sexual conduct in the third
14 degree, both with a minor, her testimony is adequate
15 to move forward and we have also heard testimony
16 from her uncle, from her grandmother, and law
17 enforcement where she has given this story numerous
18 times. The ages are consistent, the locations, her
19 demeanor has changed over time. This is all
20 consistent with what has happened. So, unless Your
21 Honor would like something more specific where I go
22 through each element, based on the standard that
23 Your Honor is subjected to, we would ask that you
24 respectfully deny the Motion.

25 THE COURT: I do respectfully deny the

1 Motion, Mr. McFadden. Anything further?

2 MR. MCFADDEN: Nothing from the defense.

3 THE COURT: Okay. Let me ask y'all this.
4 We need to go over the charges. First, we will
5 discuss, Mr. McFadden, whether or not defendant is
6 testifying. I told them to be back at 1:30 or
7 thereabouts. When would y'all want to come back in
8 here and let's talk about what all else we need to
9 deal with. Probably not going to be any charges
10 that would go forward.

11 MS. MAIN: Your Honor, I would be happy to
12 come back in twenty minutes if I am given a copy of
13 the charges to read through them and then discuss
14 them with the Court.

15 THE COURT: Mr. McFadden.

16 MR. MCFADDEN: Can we come back at one?

17 MS. MAIN: That sounds perfectly fine.

18 THE COURT: One or thereabouts. If you are
19 running a few minutes late, like I told the jury,
20 you won't get in trouble. That's fine. One o'clock
21 or thereabouts we will get back together. Y'all
22 just want to come back here in case we -- when it
23 works for everybody we will get back out here.
24 Okay. Roughly one o'clock.

25 (LUNCH RECESS)

1 (Jury enters courtroom)

2 THE COURT: All right, Mr. McFadden.

3 MR. MCFADDEN: At this time, Your Honor,
4 the Defense rests.

5 THE COURT: Defense rests. All right.
6 Very well.

7 Ladies and gentlemen of the jury, the
8 attorneys are now about to make their closing
9 arguments to you. I ask that you again continue to
10 pay close attention to them. What they tell you in
11 these closing arguments is not evidence, but it is
12 important to the case. I ask that you listen
13 carefully. Ms. Main.

14 MS. MAIN: Thank you, Your Honor.

15 **CLOSING BY MS. MAIN**

16 MS. MAIN: I came before you at the
17 beginning of this case and I said we are going to
18 talk about secrets. Secrets that **Complainant** has
19 had to keep for a long time and secrets that James
20 Etheridge Jones didn't want anyone to hear. That's
21 what he was counting on. You see, when **Complainant**
22 turned six, that's when he came into her life. You
23 heard her talk about that. And from that point
24 forward, he abused his position with her. You see,
25 we heard from Billy, Bill, **Complainant** uncle. He

1 talked to us about how Complainant told him what happened
2 to her in 2019 when she was sixteen or seventeen
3 years old. She didn't live with her mom or the
4 defendant anymore. She finally felt safe to tell
5 somebody what was going on. She wasn't going to be
6 blamed for breaking up a family that was already
7 broken up. She didn't have to worry about all that
8 stress. She's being asked about what's going on
9 with her changes in behavior and what's going on
10 with her gender identity and she finally told
11 someone. She finally could. We heard that she told
12 him the timeframe that it happened, the ages.
13 That's what she told us on the stand. We heard
14 about how her demeanor changed. How she cut her
15 hair, she was less girly, she was wearing boy's
16 clothes. We also heard how she didn't want to be
17 touched anymore. She's standoffish. We didn't just
18 hear that from Billy. We heard that from her
19 grandma who was picking her up and taking her to
20 dance. Who she eventually goes and lives with.
21 They both noticed those changes in her. You assess
22 credibility. That's your job. You're the fact
23 finder. So you are allowed to ask yourself
24 questions and you are allowed to use logic and
25 reason. Ask yourself, did she talk about from six

1 years old, these changes in her demeanor so that
2 people would notice and eventually it would come
3 out? Did she plan that? Ask yourself. Use your
4 logic. Then we heard from law enforcement. We
5 heard they interviewed the victim, Complainant They
6 talked to her about what happened. She went to
7 Hopeful Horizons to get interviewed there again. We
8 heard about that. I came before you and I said I
9 was not going to show you DNA. I didn't have a
10 video of it happening. These are cases that
11 happened ---

12 MR. MCFADDEN: Objection. She is vouching
13 for the strength of this case. She is saying that
14 these are types of cases where there's inherently is
15 no evidence. That's false. That investigator
16 admitted to -- she is vouching for the strength of
17 this case claiming that there just isn't evidence
18 that could possibly be discovered.

19 THE COURT: Ms. Main. What I am going to
20 do is instruct you to be cautious about that. Stay
21 away from anything that would stray into anything
22 that Mr. McFadden is objecting toward. What you
23 just stated, I think, it's always a close line on
24 those kinds of things. Just make sure you stay back
25 on the safe side of the line.

1 MS. MAIN: I honestly don't understand how
2 what I'm saying is vouching so I'm not sure how to
3 take Your Honor's ruling and move forward.

4 THE COURT: I think what Mr. McFadden said
5 was as to the ---

6 MR. MCFADDEN: This type of case there
7 isn't any evidence. That is per se vouching.
8 That's where she was going.

9 MS. MAIN: I said it in my -- should we --
10 would you like to be -- can we be heard at the bench
11 so as to not prejudice the jury?

12 THE COURT: Sure, yeah. Come up here.

13 (Bench conference)

14 **CLOSING CONTINUES BY MS. MAIN**

15 BY MS. MAIN: This case happened behind
16 closed doors. James Etheridge Jones did not do it
17 in front of her grandma, in front of her uncle, in
18 front of her friends, in front of her school. He
19 did it when people weren't looking because that is
20 what he wanted. He wanted to make sure nobody knew.
21 Because he is not supposed to do it. That's the
22 point. He wanted it to be a secret. How do we know
23 that? You heard the rules of the house. Things
24 that happen here, stay here. You heard the types of
25 things that Complainant told us that she had to deal with

1 growing up. How she was terrified about the anger
2 that was caused when she tried to tell somebody what
3 was happening. We heard her talk about that.
4 That's not something that she wanted to be
5 responsible for. Now, law enforcement, they
6 interviewed her, but I don't have DNA to present to
7 you because this was something that she disclosed
8 years later. There was mention of search warrants
9 for phones. Well, in 2008 phones weren't very
10 advanced, but we heard it and it is not unreasonable
11 for law enforcement to not go get a search warrant
12 for something on a phone. Because this didn't
13 happen on the phone. This is something that
14 happened when her mom was sleeping or cooking dinner
15 or not paying attention, when other people weren't
16 home. We also heard mention of how witnesses could
17 be -- could have a wire put on them. Law
18 enforcement is not going to send a juvenile in to
19 talk to the person that she is accusing of sexual
20 assault in hopes that he confesses it to her then
21 get it on recording. We've heard from her. She
22 said what happened. That's evidence. Let's talk
23 about what she said. We heard about how she lived
24 in a couple of places. We heard about how she lived
25 in the Chipwood house in Beaufort County. She lived

1 there when she was six years old, she moved to
2 Louisiana, back and forth, and she lived there until
3 about eleven years old. She is born in 2002. She
4 -- about 2008 when she was six years old. And
5 that's when the defendant comes into her life. We
6 heard her talk about the way that he began to test
7 the waters with her at that age. He gets in the bed
8 with her and pulls himself real close to her. He's
9 touching her chest, her butt, her vaginal area. He
10 is seeing how far he can go. He is helping her get
11 ready for school when nobody is there. No one is
12 there to witness it. He is leaving her there in her
13 underwear and is tickling her and he is kissing the
14 back of her neck and he is talking about her body,
15 about how petite she is. He is laying the
16 groundwork. He's grooming her for when finally
17 knows that he can help her take a bath. That's a
18 perfect opportunity. You heard her talk about how
19 when she was in the bath, he undressed her and
20 digitally penetrated her when she was six or seven
21 years old. She told us about it. Then you heard
22 her tell us that there was another time in that same
23 house when she was seven or eight when they come
24 back from a friend's house, they were watching a
25 scary movie and she just can't fall asleep as a

1 seven or eight-year-old would, and the defendant
2 offers to get in bed with her. We hear her tell us
3 that he put his hands under her underwear and he
4 digitally penetrated her again and licked his finger
5 and said it tasted good. You heard that. She
6 testified to it. I asked her did you try to tell
7 someone. You heard, nothing happened. She is just
8 seven. Then you hear that she lives in the Windtree
9 house and the Buck Island house and this is after
10 she is eleven years old until about fourteen when
11 she moves in with her grandma. She told us how her
12 mom is working crazy schedules and the defendant
13 comes into her room and he is touching her on her
14 chest and he is touching her inappropriately and
15 grabbing her and making comments about her body.
16 She sat there. What was she going to do? We heard
17 about all of these. You are the judges of
18 credibility. You are going to hear the Judge
19 explain what that means. But some things that you
20 can consider are demeanor, bias, is there something
21 to gain? If there is, you know, parts of the story
22 that makes sense to you, you can use your logic and
23 reasoning. You are allowed to do that. Ask
24 yourself, what does she have to gain. This was a
25 long time ago. She has come up here and she has

1 explained what happened to her. It's not easy.
2 There was some talk about some changes to her story.
3 Again, this is a long time ago. If it wasn't
4 exactly word for word, you could ask yourself
5 whether or not that meant that it was more or less
6 consistent, more real for her. You can ask yourself
7 about the believability of that. You can ask
8 yourself that. If you believe her, you believe it
9 happened. That's enough to find him guilty. So
10 let's talk about some of the elements of this crime.
11 The Judge, he is going to explain this to you, but I
12 just want to touch on them briefly which is criminal
13 sexual conduct in the first degree and criminal
14 sexual conduct in the third degree. Both with a
15 minor. So criminal sexual conduct in the first
16 degree is when the actor engages in a sexual battery
17 with a person who is under eleven years old at the
18 time, and that sexual battery can be what the
19 State's alleging it was, digital penetration into
20 her genital area. That's what has to be proven.
21 Criminal sexual conduct in the third degree requires
22 an actor who is over fourteen years old. You heard
23 that the defendant was born in 1979. And that actor
24 must willfully and rudely commit or attempt to
25 commit a lewd or insidious act upon the body parts

1 of a person who is under sixteen years old. You
2 heard she was born in 2002 and when these things
3 happened at the Windtree house and the Buck Island
4 house, she was under sixteen years old. They have
5 to use do so with the intent to (loud cough) either
6 lust or passions or sexual desires of themselves as
7 the actor or of the child. We heard all the
8 comments that he made to her. The way he would grab
9 her. The things that he would say to her. The
10 State has to prove to you these things beyond a
11 reasonable doubt. It is important for you to
12 understand that is not beyond any doubt. Reasonable
13 doubt is going to be explained to you by the Judge.
14 So listen to him. But reasonable doubt is not
15 beyond any doubt. That's not the standard. It's
16 kind of like when you have a puzzle and you have all
17 of these puzzle pieces and you are putting it
18 together. When you get towards the end of the
19 puzzle and maybe one of your kids took a couple of
20 pieces or a piece gets dropped under the couch. But
21 you can see the picture. You know what the picture
22 is when you put the rest of the puzzle pieces
23 together. You are firmly convinced. That's beyond
24 a reasonable doubt. And you know, the defense came
25 up here at the beginning of the case and they said

1 accusations are easy to make. Ask yourself if it
2 was. Ask yourself if it was. Ask yourself if it
3 was easy for Complainant to get up here and make these
4 accusations and continue to make them or not. Ask
5 yourself about the credibility of everyone that came
6 up here. Mom. I mean we talked about moms fighting
7 with daughters. That's common. We talked about
8 grandma may not have really liked the defendant.
9 Moms don't always like their daughter's boyfriends.
10 Ask yourself if that is reasonable. She told you
11 what she remembered. She lived in three houses in
12 Beaufort, two states, it was a long time ago, but
13 one thing's consistent, what James Etheridge Jones
14 did to her and hoped nobody would find out. If you
15 believe her, you believe it happened and you should
16 find him guilty. Thank you.

17 THE COURT: Mr. McFadden.

18 MR. MCFADDEN: Thank you, Judge. May it
19 please the Court?

20 THE COURT: Yes, sir.

21 **CLOSING BY MR. MCFADDEN**

22 MR. MCFADDEN: When I was up here earlier I
23 mentioned that, you know, I mentioned accusations
24 and talked about them. Well, here we are at the end
25 of this very short trial and it seems all you have

1 heard are accusations. The entire case is founded
2 on the State and a single person here. So, it is
3 said it is easy to make but not easy in this case,
4 well, you know, don't forget the accusations here,
5 the allegations were not made to law enforcement.
6 It's told that it's a family member. One thing
7 leads to another and now law enforcement is
8 involved. One thing leads to another and now we are
9 sitting in this courtroom and a prosecutor, a
10 defense lawyer, a judge and the jury hearing this
11 case. Things escalated very quickly here. Now, in
12 talking about it she mentioned the burden, the
13 burden of proof and specifically she said if you
14 believe her, you believe it happened. Okay, well, I
15 think, in fact, I think what is also clear, what is
16 clearly the State's position is kind of the --
17 almost the reverse of that. By presenting you with
18 absolutely no other evidence, you know, two law
19 enforcement agencies, three detectives, zero
20 investigation. Not even an attempt to get any. You
21 didn't hear from one of the investigators. They
22 didn't even call him to the stand. What do you
23 think that means? By the State, through law
24 enforcement too, they are part of it, not even
25 attempting to do anything else and then passing it

1 along and the State getting it and then passing it
2 to you. They are almost saying that, you know, well
3 are you going to call her a liar, you know. This is
4 all there should be. You know, this is all there
5 should be in a case like this. You shouldn't need
6 anymore. Well, that's wrong. We are in criminal
7 court. He is charged with criminal sexual conduct
8 with a minor and they want to hang by conviction --
9 brand him with a label of molester, predator, you
10 know, the list goes on. When the State of South
11 Carolina is directing its power against an
12 individual to convict them of a crime, it demands
13 more. You know, the highest burden of proof should
14 demand a higher production of ethics and, in this
15 case, there wasn't even an attempt. So, law
16 enforcement from the Sheriff's Office says that he
17 didn't want to investigate because it was her -- his
18 part of it happened long ago. But he agreed that
19 per the allegations, even though he never met with
20 the alleged victim, that the alleged course of
21 conduct happened all the way up until 2017. That's
22 not long ago. And you don't want to look for any,
23 anything else. So, you are left with the situation
24 where law enforcement was comfortable with there
25 just being accusations alone. Now the State is of

1 a, you know, is -- took the case from them and now
2 they are giving it to you. Folks, you are not
3 required to make a determination in this case of
4 whether or not she was telling the truth on the
5 stand. Your only job, your only burden is to
6 determine if the State of South Carolina has met its
7 burden to convict this person of the crime here. You
8 know, so, who do they call? They call Mr. Burrows,
9 William Burrows, and he testified that she over
10 time, you know, they had seen she had become more
11 withdrawn or standoffish, that she's, you know,
12 getting older, I submit there are lots of reasons
13 why a young person growing up might be that way.
14 They called Ms. Karen Burrows to the stand. Complainant
15 mentioned that she told Karen about it. The State
16 didn't ask Karen a single question about it. You
17 never heard any of that testimony before here.
18 Karen, so she said nothing at all about disclosure.
19 But before you even get to grandma, where is mom?
20 That's another person you did not hear from, the
21 State did not call. Why? You are asked the
22 question of why would she invent this, why would she
23 make this up. How much of anything did you learn
24 about the Burrows family today, the Ross family.
25 Nothing. You were presented with a single snapshot

1 of time by a couple of people saying something had
2 happened. Everybody is familiar with the family
3 dysfunction and there is no -- there is nothing even
4 to work with to guess about what it was like. What
5 could of resulted in this and what did not start
6 with a report to law enforcement, but some inner-
7 family communications. You know, she said, you
8 know, you don't need any -- that there is not -- you
9 don't need anything more to believe her. But how
10 much has the State given you to help you believe
11 her? How much evidence has law enforcement provided
12 to corroborate? Did they even try to take -- to
13 look inside any of the houses? Or I mean --
14 Investigator Murphy, I didn't have a chance to ask
15 Detective Fazekas about this, told you about the
16 tools in his tool belt that law enforcement can use,
17 that law enforcement can use to try to dig up, dig
18 up, your dirty secrets and pin you to the wall.
19 Everything that you have searched on a web browser,
20 your text message logs, your Facebook messaging,
21 your social media, your cell records. Even deleted
22 data that you think you kind of get off your device,
23 the State and law enforcement has the means to do
24 that. Murphy said he didn't do it based on the age.
25 Where is Fazekas? He didn't -- there was not even

1 an attempt. So now, it's thrown in your lap here.
2 Are you calling her a liar? You do not have to
3 answer that question. In fact, the answer is clear
4 that it doesn't matter because the State has not met
5 its burden of proof. We have talked about law
6 enforcement, just going through their witness list.
7 You heard from Laura Rutland, the Investigatory
8 Supervisor, you know, the third investigator. She
9 was over Detective Fazekas. You heard from her.
10 You heard from Karen and William. Never heard from
11 mom. No idea where she is. And finally you heard
12 from **Complainant** Specifically from **Complainant** here, I
13 asked her on cross-examination, I confirmed with her
14 that she had met with the prosecution two times.
15 Once and then a follow-up based on her request. You
16 heard me ask about several, you know, specific
17 instances. Well, cause those -- that's the instance
18 that he is charged with. It's criminal sexual
19 conduct with a minor, first degree. She told you
20 what the elements are, requiring digital penetration
21 or sexual battery, any intrusions, however slight.
22 What I was asking about are those -- the major most
23 important instances. What they are charged -- what
24 they are charged with proving to you beyond a
25 reasonable doubt. Let's focus in on those. At

1 every single instance here, she admitted that the
2 story wasn't straight, here, at the Chipwood house
3 that initially she's told the prosecutor, meeting
4 with them, there is three or four times here that
5 included fingers in the private parts. But then we
6 met again and said basically it was just one of
7 those, it was just one of those times. The Windtree
8 house, again three, three times -- approximately
9 three times were attempted. They met again and said
10 no she couldn't think of any instances. Then
11 finally, Buck Island Road, three attempted and then
12 finally -- three attempted or completed and then
13 there was no instances during that second -- during
14 the second meeting. So, I guess we just pick then,
15 which is the most -- which is the one that we do
16 think would've happened here. I mean, those are
17 serious inconsistencies striking to the very heart
18 of what the State of South Carolina has to prove
19 here. The State didn't -- did elicit that the she
20 had given very inconsistent account, they just
21 focused on what ultimately was decided -- that was
22 decided on, actually did happen here. That's from
23 their only witness providing any direct evidence --
24 alleged direct evidence. You heard through my
25 cross-examination a little about bit about life at

1 this house. It was not -- it was not all, you know,
2 all fun and games and, you know, a fairy tale.
3 Times were tight where the A/C was busted and they
4 all lived in the same room. You know, no clothes,
5 no nice stuff, nothing like that, strict rules. I
6 mean, you heard Complainant, you know, talk about
7 rules. You heard that more and more that Complainant
8 spent time at Karen's house. Well, Karen mentioned
9 to you that the relationship between her and Nicole
10 was very strained. Her and James did not see eye to
11 eye here and fine -- at the very end here, I think
12 around the time that these were happening, she --
13 she -- sorry that the -- that Nicole and James
14 separated and that Nicole is totally unstable
15 necessitating her to stay with Karen. So, is there
16 dysfunction? Absolute -- yes. Absolutely there is.
17 So the only context that we have learned about what
18 was going on in that household was from my cross-
19 examination. Folks, at the end of the day here the
20 State has presented a single evidence. The
21 testimony from a single person asking you to find
22 that that is sufficient evidence to convict someone
23 of committing a crime. It's not just any crime
24 either. To convict someone of committing criminal
25 sexual conduct with a minor, two different counts.

1 I submit to you that that is absolutely not enough
2 and it is demonstrated that there could have been
3 more but for whatever reason the State chose not to
4 pursue that. For that reason, ladies and gentlemen,
5 pursuant to your oath, that the correct outcome here
6 is not guilty. He is not guilty of this offense.
7 Thank you.

8 **JURY CHARGE**

9 THE COURT: Thank you, sir, Mr. McFadden.
10 All right, ladies and gentlemen of the jury, it is
11 now my responsibility to tell you about the law.
12 Sometimes it is referred to as charging the jury of
13 the law. What it means, I am about to tell you
14 about the law. This first set of directions is as
15 to the duties of the jury and the trial judge, you
16 have heard some of this already. But it is my duty
17 to instruct you in this at this time. You and I
18 have specific duties to perform. As the trial
19 judge, it is my responsibility to preside over the
20 trial. It is your responsibility to consider the
21 testimony which has been presented from this witness
22 stand, the exhibits and any stipulations of counsel.
23 I also have the duty to charge the law. As the
24 presiding Judge, I am the sole judge of the law and
25 it is your duty as jurors to accept and apply the

1 law as I now state it to you. If you already have
2 any ideas to what the law is or what the law ought
3 to be, and it does not agree with what I now tell
4 you the law is, you must abandon your idea because
5 you are sworn to accept the law and apply the law
6 exactly as I state it to you. Your duty is to
7 determine the facts. In every case, the jury is the
8 sole and exclusive judge of the facts. A trial
9 judge cannot suggest, state, comment on or make any
10 statement to a trial jury about the facts. Since
11 you, the jury, are the sole judge of the facts, you
12 are not to infer what I have said during the
13 progress of the this trial and ruling upon the
14 admissibility of evidence or otherwise, or anything
15 that I say now during the course of the instructions
16 I give to you, that I have any opinion about the
17 facts. The law does not allow me to have an opinion
18 about the facts in this case. This is a matter
19 solely for you to determine. As jurors it is your
20 duty to determine the effect, value and weight of
21 the evidence presented during this trial. As to the
22 charge, arrest and indictment, the indictment
23 charges the defendant with one count of criminal
24 sexual conduct with a minor in the first degree and
25 one count of criminal sexual conduct with a minor in

1 the third degree. The fact that the defendant was
2 arrested, charged and indicted is not evidence. It
3 cannot be considered by you as evidence of guilt.
4 Nor does it create any presumption or inference of
5 guilt. This indictment is simply a formal written
6 instruction, written instrument, excuse me, which
7 contains the charge made against the defendant. It
8 is the formal document to which this case is brought
9 to trial. He has two charges. The indictment of
10 this case alleges two different offenses against the
11 defendant. The charges again are one count of
12 criminal sexual conduct with a minor of the first
13 degree and one count of criminal sexual conduct with
14 a minor in the third degree. Indictment charges are
15 separate and distinct in this case. You must decide
16 each indictment separately on the evidence and the
17 law, applicable to it, uninfluenced by your decision
18 as to any other indictment. The defendant may be
19 convicted or acquitted on any or all of the offenses
20 charged. You will be asked to write a separate
21 verdict of guilty or not guilty for each indictment.
22 The defendant has presumption of innocence. The
23 defendant has pled not guilty to these indictments
24 and that plea puts the burden on the State to prove
25 the defendant guilty beyond a reasonable doubt. The

1 person charged with committing a criminal offense in
2 South Carolina is never required to prove himself
3 innocent. I charge you that it is a guiding rule of
4 the law that the defendant in a criminal trial, no
5 matter how serious the charge, is always presumed
6 innocent of the crime for which the indictment was
7 issued. Unless guilt is proven by evidence.
8 satisfying you of that guilt beyond a reasonable
9 doubt, this presumption of innocence does not end
10 when you begin your deliberations. It accompanies
11 the defendant throughout the trial until you reach a
12 verdict of guilt, based on evidence, satisfying you
13 of that guilt beyond a reasonable doubt. The
14 presumption of innocence is like a robe of
15 righteousness placed upon the shoulders of the
16 defendant, which remains with the defendant until it
17 has been stripped from the defendant by evidence
18 satisfying you of the defendant's guilt beyond a
19 reasonable doubt. The presumption of innocence is
20 not legal theory -- is not their legal theory. It
21 is just -- is a just, excuse me, is not just a legal
22 phrase, it is a real substantial right which every
23 defendant is entitled, unless you the jury are
24 satisfied from the evidence of the defendant's guilt
25 beyond a reasonable doubt. Reasonable doubt. What

1 is a reasonable doubt in the law. You have all
2 heard this term many times before probably. A
3 reasonable doubt is the kind of doubt that would
4 cause a reasonable person to hesitate to act. The
5 State has the burden of establishing every fact
6 necessary to prove the defendant guilty beyond a
7 reasonable doubt. The law presumes every person
8 charged with a crime to be innocent and the burden
9 of establishing guilt is placed solely on the State.
10 Some of you may have served as jurors in civil cases
11 where you were told it was only necessary to prove
12 the fact is more likely true than not true. Such is
13 by the greater weight of preponderance of the
14 evidence. Other civil cases use the clear and
15 convincing evidence standard. Those cases it's
16 necessary to prove that a fact is highly probable.
17 But this is a criminal case. The State's proof must
18 be more powerful than those burdens of proof in
19 civil cases. In criminal cases the State's proof
20 must be beyond a reasonable doubt. Proof beyond a
21 reasonable doubt is proof that leaves you firmly
22 convinced of the defendant's guilt. There are very
23 few things in this world that we know with absolute
24 certainty. In criminal cases, the law does not
25 require proof that over comes every possible doubt.

1 If based on your consideration of the evidence you
2 are firmly convinced that the defendant is guilty of
3 the crime charged, you must find the defendant
4 guilty. The defendant is not required to prove his
5 innocence. If on the other hand you think there is
6 a real possibility that the defendant is not guilty,
7 you must give the defendant the benefit of every
8 reasonable doubt to find him not guilty. As to the
9 credibility of witnesses, necessarily, you must
10 determine the credibility of witnesses who have
11 testified. Credibility simply means believability.
12 It is your duty as jurors to analyze and evaluate
13 the evidence and determine which evidence convinces
14 you of its truth. In determining the believability
15 of a witness who both testified, you may believe one
16 witness over several or several witnesses over one.
17 You may believe part of the testimony of a witness
18 and reject the remaining part of the testimony of
19 that same witness. You may believe the testimony of
20 a witness in its entirety or reject the testimony of
21 a witness in its entirety. You may consider whether
22 any witness has exhibited to you any interest, bias,
23 prejudice or other motive in this case. You may
24 also consider the appearance and manner of a witness
25 while on the witness stand. I am going to talk to

1 you now about direct and circumstantial evidence.
2 There are two types of evidence which are generally
3 presented during a trial. Direct evidence and
4 circumstantial evidence. Direct evidence directly
5 proves the existence of a fact and does not require
6 any deduction. Circumstantial evidence is proof of
7 a chain of facts or circumstances indicating the
8 existence of a fact. Crimes may be proven by
9 circumstantial evidence. The law makes no
10 distinction between the weight or value to be given
11 to either direct or circumstantial evidence.
12 However, to the extent the State relies on
13 circumstantial evidence, the circumstances must be
14 consistent with each other, and when taken together,
15 point conclusively to the guilt of the accused
16 beyond a reasonable doubt. If these circumstances
17 merely portray the defendant's behavior as
18 suspicious, the proof has failed. The State has the
19 burden of proving the defendant guilty beyond a
20 reasonable doubt. This burden rests with the State
21 regardless of whether the State relies on direct
22 evidence, circumstantial evidence or some
23 combination of the two. As to the defendant not
24 testifying, I instruct you and emphasize that the
25 fact that the defendant did not testify is not a

1 fact to be considered by you in any way in your
2 deliberation or in your consideration of the
3 question of the guilt or innocence of the defendant.
4 It must not be considered by you in any manner
5 whatsoever. A defendant has a constitutional right
6 to remain silent. The ascertain of this right must
7 not be considered by you in your deliberations. I
8 repeat. Under your oath, you are to draw no
9 conclusion whatsoever from the fact the defendant
10 did not testify in this case. The fact that this
11 defendant did not testify should not even be
12 discussed in the jury room. Madam Forelady, the
13 burden of proof as I have stated to you is on the
14 State. The defendant is not required to prove his
15 innocence. The burden of proof remains on the State
16 to prove guilt beyond a reasonable doubt. The
17 defendant is charged with first degree criminal
18 sexual conduct with a minor. Defendant, excuse me,
19 first the State must prove beyond a reasonable doubt
20 that the defendant engaged in sexual battery with
21 the victim. Sexual battery is any intrusion,
22 however slight, of any part of a person's body, or
23 of any object into the genital or anal openings of
24 another person's body, except when the intrusion is
25 accomplished for a medically recognized procedure.

1 The State must prove beyond a reasonable doubt that
2 the victim was less than eleven years old at the
3 time of the sexual battery. Consent, willingness,
4 indifference or ignorance on the part of the minor,
5 if any, as to what was taking place, does not in any
6 way affect the charge of criminal sexual conduct,
7 excuse me, of criminal sexual conduct with a minor,
8 who is an unmarried woman, under the age of fourteen
9 cannot legally consent. The defendant is also
10 charged with third degree criminal sexual conduct
11 with a minor. A person is guilty of criminal sexual
12 conduct with a minor in the third degree if the
13 actor is over fourteen years of age and the actor
14 willfully and lewdly commits or attempts to commit a
15 lewd or lascivious act upon or with the body or its
16 parts of a child under sixteen years of age with the
17 intent of arousing, appealing to a gratifying the
18 lust passions or sexual desires of the actor or the
19 child. In order to convict the defendant of third
20 degree criminal sexual conduct with a minor, that
21 statutory elements must be proven beyond a
22 reasonable doubt. The State must prove beyond a
23 reasonable doubt that one, the defendant is over
24 fourteen years old. Two, the defendant willfully
25 and lewdly committed or attempted a lewd, lascivious

1 insidious act. Three, upon or with the body or its
2 parts of a child under sixteen years old. Four,
3 with intent of arousing, appealing to or gratifying
4 the lust or passions or sexual desires of the
5 defendant or the child. The State must prove all
6 four elements beyond a reasonable doubt before he
7 can convict the defendant of this charge. An act is
8 willfully done if done voluntarily or intentionally
9 and with the specific intent to do something the law
10 forbids. Lewd means obscene, lustful, indecent,
11 tending to moral impurity. Lascivious means tending
12 to excite lust, indecent, obscene. Tending to
13 deprave the morals and respect of sexual relations.
14 I have now given you the law through these
15 instructions to help you reach a verdict in this
16 case. Whether some of these instructions apply
17 depends upon what you find to be the facts. The
18 fact that I have instructed you on various subjects
19 in this case should not be taken as indicating an
20 opinion of this court as to what you should find the
21 facts to be or what your verdict should be. Your
22 verdict must represent the considered judgment of
23 each juror. In order to return a verdict, it is
24 necessary that each juror agree. Your verdict must
25 be unanimous. All twelve of you must agree on the

1 verdict. Your verdict cannot be based on sympathy,
2 passion, prejudice, emotion or any other
3 consideration not in evidence in this case.
4 Remember -- please remember at all times you are not
5 partisan, favoring one party over another. You are
6 the judges of the facts. Your sole interest is to
7 determine whether the state has proven the
8 defendant's guilt to the charges beyond a reasonable
9 doubt from the evidence presented to you in this
10 case. I want to show you the verdict form in this
11 case and it shows two separate areas. On each
12 charge you the jury will be required to determine
13 whether the defendant is not guilty or guilty on
14 each charge. Put a check clearly which it is that
15 you decide right here on the second page. You as
16 the foreperson needs to sign it right there and date
17 it. Now, again, keep in mind this is not a seven to
18 five decision or eleven to one decision. It has to
19 be twelve to zero. In a minute we are going to let
20 you go back to the jury room. Don't start your
21 deliberations yet. We've got to ensure there is
22 nothing else I need to cover here. You may need to
23 be given some corrective charge on or some other
24 purpose. So don't start yet. All right. One of
25 our bailiffs will knock on the door and let you know

1 it's time to start. So, still, hold back. Don't
2 talk about this case yet but very shortly you will
3 be doing that. Thank you.

4 (Jury exits the court room)

5 BAILIFF: The jury is clear. The door is
6 closed, Your Honor.

7 THE COURT: Thank you, ma'am. Ms. Main and
8 Mr. McFadden, any reason you know of that we need to
9 keep our alternate jurors any longer?

10 MS. MAIN: No -- none from the State, Your
11 Honor.

12 MR. MCFADDEN: Nothing from the defense.

13 THE COURT: Gentlemen, we appreciate what
14 you have done being here. Although you're
15 alternates, a lot of time an alternate or two ends
16 of serving on the jury and I know that y'all paid
17 good attention. I looked up at you and every time I
18 glanced your way it appeared y'all both were
19 listening closely. I appreciate what you have done.
20 We can't do this, our whole system in the State
21 across this country doesn't work without people
22 willing to serve on jury duty. I know sometimes
23 it's not easy. It puts you in a tough spot but we
24 do appreciate it. Y'all are excused today. Please
25 do call back after six o'clock this evening to get

1 further instructions for the rest of the week.

2 Okay. Thank you, sir. Both of you.

3 All right. Anything from the State before
4 we tell the jury they can begin their deliberations?

5 MS. MAIN: Nothing from the State, Your
6 Honor.

7 THE COURT: Anything from the defense?

8 MR. MCFADDEN: Thank you, nothing.

9 THE COURT: Okay. Now, are we clear to
10 tell the jury to begin their deliberations?

11 MS. MAIN: Yes, there is no evidence to go
12 back.

13 MR. MCFADDEN: Nothing.

14 THE COURT: Okay. Very good. Okay, they
15 don't have any evidence to send back, they can start
16 their deliberations.

17 BAILIFF: Yes, sir.

18 THE COURT: Thank, you ma'am. Two forty-
19 five. Mr. McFadden, can I talk to y'all, all of you
20 attorneys, back here for a minute.

21 MS. MAIN: Yes, sir.

22 THE COURT: No hurry. If you are doing
23 something, finish it. No urgency. All right.

24 (Recess while Jury deliberates.)

25 THE COURT: All right, one question -- this

1 question is from the foreperson of the jury. The
2 question is "What are the four elements in each of
3 the charges that must be satisfied" and then they
4 have answered. Number one they have one through
5 four. One, they have listed one intent. Two, age
6 under eleven. Three, touch and penetration, the
7 act. And then a 4 ?. And then two, meaning the
8 charge -- I think what they mean is the third
9 degree. Number one, is age under sixteen. Two
10 intent and verification, and three and four they
11 left blank. Would you attorneys like to look at
12 that? I'd like for you to look at it. Let's talk
13 about what we might do to answer that question.

14 (Court's Exhibit Number 1, Question 1 from
15 Jury, is marked for the record.)

16 MS. MAIN: The State would say really the
17 only appropriate way to answer that question is to
18 bring them back out and read them the instruction
19 from the jury book in completion or completely of
20 the CSC first and CSC third. I don't think it is
21 appropriate for us to fill this in for them.

22 THE COURT: Right. I agree. I don't think
23 we can do that -- I don't think we should do that.
24 Mr. McFadden, what do you ---

25 MR. MCFADDEN: I definitely agree with

1 that. My question is whether or not though that the
2 Judge -- whether or not you should just recharge
3 them in total.

4 THE COURT: You mean everything or just --

5 MR. MCFADDEN: I mean, the presumption of
6 innocence, the burden for failure of defendant to
7 testify.

8 MS. MAIN: I would say that is very unusual
9 and that's not what they are confused about.

10 THE COURT: I don't think we need to do
11 that. I think we do need to do the whole -- what I
12 am thinking is we -- it seems to me -- we do the
13 entire charge again on the third degree and the
14 entire charge again on the first degree.

15 MS. MAIN: I agree.

16 MR. MCFADDEN: Understood.

17 THE COURT: Are y'all okay with that?

18 MS. MAIN: Yes.

19 MR. MCFADDEN: Yes.

20 THE COURT: And I understand what you are
21 saying, Mr. McFadden, but I don't think we need to
22 do that. I don't think they are confused about
23 that. They are wanting to know more particularly
24 about these two offenses. And that makes sense. I
25 mean, I can understand those are very legitimate

1 questions of a jury that's paying attention.

2 MS. MAIN: Yes, sir.

3 THE COURT: I think it's fine. All right,
4 we will bring the jury back in.

5 (Jury enters courtroom)

6 THE COURT: Thank you, ma'am.

7 BAILIFF: The jurors are seated, Your
8 Honor.

9 THE COURT: Thank you, ma'am. All right,
10 ladies and gentlemen of the jury, we have reviewed
11 your question. The attorneys have looked at the
12 question. And what I am going to do now, is give
13 you again the law as to first degree criminal sexual
14 conduct with a minor and the law as to third degree
15 criminal sexual conduct with a minor. I will read
16 those back to you and hopefully I will read them
17 loud and clear. First of all, I am going to do the
18 first degree criminal sexual conduct which the
19 defendant -- with a minor -- which the defendant is
20 charged with. First the State must prove beyond a
21 reasonable doubt that the defendant engaged in a
22 sexual battery with the victim. A sexual battery is
23 any intrusion, however slight, of any part of a
24 person's body, or of any object into the genital or
25 anal openings of another person's body, except when

1 the intrusion is accomplished for a medically
2 recognized procedure. Then the State must prove
3 beyond a reasonable doubt that the victim was less
4 than eleven years old at the time of the sexual
5 battery. Consent, willingness, indifference or
6 ignorance on the part of the minor, if any, as to
7 what was taking place, does not in any way affect
8 the charge of criminal sexual conduct with a minor,
9 because an unmarried woman, under the age of
10 fourteen cannot legally consent. As to the third
11 degree criminal sexual conduct with a minor charge,
12 a person is guilty of criminal sexual conduct with a
13 minor in the third degree if the actor is over
14 fourteen years of age and the actor willfully and
15 lewdly commits or attempts to commit a lewd or
16 lascivious act upon or with the body or its parts of
17 a child under sixteen years of age with the intent
18 of arousing, appealing to or gratifying the lust,
19 passions or sexual desires of the actor or the
20 child. In order to convict the defendant of third
21 degree criminal sexual conduct with a minor, the
22 statutory elements must be proven beyond a
23 reasonable doubt. The State must prove beyond a
24 reasonable doubt. One, the defendant is over
25 fourteen. Two, the defendant willfully and lewdly

1 committed or attempted a lewd or lascivious act.
2 Three, upon or with the body or its parts of a child
3 under sixteen years of age. Four, with intent of
4 arousing, appealing to or gratifying the lust or
5 passions or sexual desires of the defendant or of
6 the child. The State must prove all four elements
7 beyond a reasonable doubt before he can convict the
8 defendant of this charge. An act is willfully done
9 if done voluntarily and intentionally and with the
10 specific intent to do something the law forbids.
11 Lewd means obscene, lustful, indecent, tending to
12 moral impurity. Lascivious means tending to excite
13 lust, indecent, obscene. Tending to deprave the
14 morals and respect of sexual relations. Madam
15 Forelady, does that help?

16 MADAM FORELADY: That helps. Does anyone
17 need to hear it again?

18 THE COURT: I will be glad to read any part
19 of this or all of this again if you would like.

20 MADAM FORELADY: Can you read the second
21 one again?

22 THE COURT: The second one again? As to
23 the third degree?

24 MADAM FORELADY: The third degree.

25 THE COURT: I'll read that one again. A

1 person is guilty of criminal sexual conduct with a
2 minor in the third degree if the actor is over
3 fourteen years of age and the actor willfully and
4 lewdly commits or attempts to commit a lewd or
5 lascivious act upon or the body or its parts of a
6 child under sixteen years of age with the intent of
7 arousing, appealing to or gratifying the lust,
8 passions or sexual desires of the actor or the
9 child. In order to convict the defendant of third
10 degree criminal sexual conduct with a minor, the
11 statutory elements must be proven beyond a
12 reasonable doubt. The State must prove beyond a
13 reasonable doubt that, one, the defendant is over
14 fourteen years old. Two, the defendant willfully
15 and lewdly committed or attempted a lewd or
16 lascivious act. Three, upon or with the body or its
17 parts of a child under sixteen years old. Four,
18 with intent of arousing, appealing to or gratifying
19 the lust or passions or sexual desires of the
20 defendant or of the child. The State must prove all
21 four elements beyond a reasonable doubt before you
22 can convict the defendant of this charge. An act is
23 willfully done if done voluntarily and intentionally
24 and with the specific intent to do something the law
25 forbids. Lewd means obscene, lustful, indecent,

1 tending to moral impurity. Lascivious means tending
2 to excite lust, indecent, obscene. Tending to
3 deprave the morals and respect of sexual relations.
4 Okay? If something comes up and you have a question
5 then indicate that to us and we will come back. I
6 want you to have a chance to be clear. If you have
7 a question, it is okay. Just let us know. Okay.
8 Thank y'all.

9 (Jury leaving the courtroom)

10 THE COURT: Ms. Main, Mr. McFadden, are
11 y'all okay with what was told to the jury there?

12 MS. MAIN: Yes, Your Honor.

13 MR. MCFADDEN: Yes.

14 THE COURT: No objections?

15 MS. MAIN: No, sir.

16 MR. MCFADDEN: None.

17 THE COURT: Okay. Thank y'all. Sorry.
18 You can be at ease again.

19 MS. MAIN: Thank you.

20 THE COURT: We will find you if something
21 comes up, I'm sure.

22 (Recess while Jury continues deliberating)

23 BAILIFF: Okay. Jury is entering, Your
24 Honor.

25 THE COURT: Thank you.

1 (Jury enters courtroom)

2 BAILIFF: Jurors are seated, Your Honor.

3 **THE VERDICT**

4 THE COURT: Thank you, ma'am. Appreciate
5 that. Madam Forelady, have you reached a verdict?

6 MADAM FORELADY: Yes, sir.

7 THE COURT: Is it a unanimous verdict?

8 MADAM FORELADY: Yes, sir.

9 THE COURT: Thank you, ma'am. Would you
10 please hand it to the Bailiff?

11 CLERK: Mr. Jones, will you stand? The
12 State of South Carolina versus James Etheridge
13 Jones, Jr., Case Number: 2019-GS-07-00919, criminal
14 sexual conduct with a minor first degree, as to the
15 offense of criminal sexual conduct with a minor
16 first degree, occurring on or about August 1, 2008,
17 to August 25, 2013, we the jury by unanimous consent
18 find the defendant guilty. Criminal sexual conduct
19 with a minor, third degree, case number 2019-GS-07-
20 01515, criminal sexual conduct with a minor third
21 degree, occurring on or about January 1, 2024,
22 through December 13, 2017, we the jury by unanimous
23 consent find the defendant guilty.

24 MR. MCFADDEN: Can I request a polling of
25 the jury?

1 THE COURT: You're requesting to poll the
2 jury.

3 MR. MCFADDEN: Yes, sir.

4 THE COURT: We will.

5 CLERK: Okay, we are going to poll the
6 jury. We are going to call you by number and ask
7 you a question and it is either a yes or no answer.
8 Okay, juror number 161, is this your verdict?

9 JUROR 161: Yes.

10 CLERK OF COURT: Is this still your
11 verdict?

12 JUROR 161: Yes.

13 CLERK OF COURT: Juror number 323, is this
14 your verdict?

15 JUROR 323: Yes.

16 CLERK OF COURT: Is this still your
17 verdict?

18 JUROR 323: Yes.

19 CLERK OF COURT: Juror number 229, is this
20 your verdict?

21 JUROR 229: Yes.

22 CLERK OF COURT: Is this still your
23 verdict?

24 JUROR 229: Yes.

25 CLERK OF COURT: Juror number 321, is this

1 your verdict?

2 JUROR 321: Yes.

3 CLERK OF COURT: Is this still your
4 verdict?

5 JUROR 321: Yes.

6 CLERK OF COURT: Juror number 122, is this
7 your verdict?

8 JUROR 122: Yes.

9 CLERK OF COURT: Is this still your
10 verdict?

11 JUROR 122: Yes.

12 CLERK OF COURT: Juror number 97, is this
13 your verdict?

14 JUROR 97: Yes.

15 CLERK OF COURT: Is this still your
16 verdict?

17 JUROR 97: Yes.

18 CLERK OF COURT: Thank you.

19 CLERK OF COURT: Juror number 380, is this
20 your verdict?

21 JUROR 380: Yes.

22 CLERK OF COURT: Is this still your
23 verdict?

24 JUROR 380: Yes.

25 CLERK OF COURT: Juror number 117, is this

1 your verdict?

2 JUROR 117: Yes.

3 CLERK OF COURT: Is this still your
4 verdict?

5 JUROR 117: Yes.

6 CLERK OF COURT: Thank you.

7 CLERK OF COURT: Juror number 360, is this
8 your verdict?

9 JUROR 360: Yes.

10 CLERK OF COURT: Is this still your
11 verdict?

12 JUROR 360: Yes.

13 CLERK OF COURT: Juror number 94, is this
14 your verdict?

15 JUROR 94: Yes.

16 CLERK OF COURT: Is this still your
17 verdict?

18 JUROR 94: Yes.

19 CLERK OF COURT: Juror number 307, is this
20 your verdict?

21 JUROR 307: Yes.

22 CLERK OF COURT: Is this still your
23 verdict?

24 JUROR 307: Yes.

25 CLERK OF COURT: Juror number 29, is this

1 your verdict?

2 JUROR 29: Yes.

3 CLERK OF COURT: Is this still your
4 verdict?

5 JUROR 29: Yes.

6 CLERK OF COURT: Have I missed anybody?
7 Thank you.

8 THE COURT: Thank you, ma'am. All right,
9 ladies and gentlemen of the jury, this concludes
10 your service. Thank you for your service. I often
11 look over at the jury in the course of the trial, of
12 course I cannot read your thoughts, but sometimes
13 it's clearer that there are juries that are paying
14 more attention maybe than others and you have been a
15 very attentive jury. Every time I looked over all
16 of you were -- you seemed to be focused. I know you
17 took your jury duty here in Beaufort County
18 seriously and we appreciate it. As you have heard
19 -- as you know without me telling you, our whole
20 system of justice does not work without willing
21 jurors. I know it's tough, and I know you would
22 rather be somewhere else yesterday and today. But
23 we do appreciate it. Now what you have done is
24 played a very important part in the American Justice
25 system, which is a great system. So, thank you all.

1 You are free to talk about this case if you want to.
2 You don't have to. If somebody approaches you or
3 contacts you to talk about, you don't have to talk
4 about it. If you want to, you can. If you get into
5 a conversation about it and you want to end it, you
6 can end it. You don't have to answer questions
7 about it if you don't want to. You have done your
8 duty. Thank you so much. We do need, I am sorry to
9 tell you, we still need you to check in after six
10 o'clock today for what further instruction there
11 might be. But we'll see, thank y'all.

12 THE COURT: Is there anything further from
13 either attorney before I let the jury go?

14 MS. MAIN: Nothing from the State.

15 MR. MCFADDEN: No.

16 THE COURT: Thank y'all. You are excused.
17 Have a good rest of the day folks.

18 Do y'all need just a moment before we do
19 motions? Are you ready?

20 **SENTENCING**

21 MS. MAIN: We're prepared to proceed, Your
22 Honor. Those are the sentencing sheets, and then
23 this is a permanent restraining order that the
24 State's passing up as well.

25 THE COURT: Thank you. Ms. Main?

1 MS. MAIN: Yes, Your Honor. I wasn't going
2 to provide y'all with too much more information.
3 Obviously you've sat through the entire trial. The
4 State believes it's appropriate for the defendant to
5 be sentenced to 30 years on the charge of criminal
6 sexual conduct with a minor in the first degree and
7 15 years on criminal sexual conduct with a minor in
8 the third degree running concurrently. And that's
9 what we would ask for, Your Honor. He does not have
10 any convictions on his record to read to you, but
11 obviously you heard the testimony of the victim.
12 She doesn't wish to speak at this time. And I won't
13 belabor the point any further, Your Honor, but we do
14 think that's appropriate based on the allegations.

15 THE COURT: Thank you, ma'am. Mr.
16 McFadden?

17 MR. MCFADDEN: Thank you, Judge. May it
18 please the Court? Obviously, you know, we dispute
19 the finding here. But for sentencing purposes, he
20 has no record. I need some time to figure out his
21 exact credit for time served. He's obviously been
22 incarcerated now but that's following a bench
23 warrant that was issued. Judge, he told me he did
24 two years in pre-trial detention before getting out
25 on a bond, and now he's been recommitted. So I just

1 -- it's just going to take me a few minutes to get
2 that time together.

3 THE COURT: No, that's fine. Can we
4 determine how much time that he was in there?

5 MS. MAIN: I can assist Mr. McFadden, but
6 it's my understanding that if you check that he gets
7 credit for time served, that SCDC will make an
8 accurate finding of the amount of time he should
9 have. But we can make an effort to put that on
10 there. But if it's lower, they give him more, if
11 that makes any sense, is my understanding.

12 MR. MCFADDEN: Okay. He says 249 as of
13 today right now, and I can find it out, when he
14 posted the bond, it will show on the Public Index.
15 So regarding sentence, he has no record. It's a
16 neutral offense, no series offense. I mean he'll do
17 85 percent of it. No record, sex offender, made
18 authority GPS I think for the third at least. So
19 Judge, we would submit the minimum for him is
20 enormous and more than adequate to address the
21 sentencing concerns here. I will be filing an
22 appeal on his behalf. But for the purposes of
23 today, that is what we would request.

24 THE COURT: Yes. And do we agree that the
25 minimum sentence in the first degree is 25 years?

1 MR. MCFADDEN: Yes.

2 THE COURT: I'll take a brief recess to
3 consider. I need time to consider what an
4 appropriate sentence is. I need time to think
5 myself.

6 MS. MAIN: Yes, sir.

7 THE COURT: Sometimes I don't think fast,
8 so I want to be careful about my decision in this.
9 Give me just a few minutes and I'll be back. Okay?

10 MS. MAIN: Thank you, sir.

11 (Recess)

12 MR. MCFADDEN: Judge, I do have the number.

13 THE COURT: Okay. How much is it?

14 MR. MCFADDEN: 978.

15 THE COURT: 978 days.

16 MR. MCFADDEN: Yes, sir. That's
17 individually marked for credit on each sentencing
18 sheet.

19 THE COURT: I want to go over this with
20 y'all before you leave and make sure we've got the
21 particulars of it right. That y'all don't see any
22 errors. Okay, 978 days.

23 MR. MCFADDEN: Yes, sir.

24 THE COURT: Okay. All right. Mr. Jones,
25 in the matter of - please stand. In the matter of

1 the State vs. James Ethridge Jones, Jr., indictment
2 case number 2019-GS-07-01515, it's the sentence of
3 the Court that Mr. Jones be sentenced to the South
4 Carolina Department of Corrections for a period of
5 25 years. He will be given credit for the 978 days
6 that he has already served.

7 As to the charge in the case of the State
8 vs. James Ethridge Jones, Jr., indictment case
9 number 2019-GS-07-00919, which is the third degree
10 offense, it's the sentence of this Court that the
11 defendant Mr. Jones be committed to the South
12 Carolina Department of Corrections for a period of 5
13 years which will run concurrent with the sentence on
14 the first degree charge. He will also be given
15 credit for the 978 days.

16 Any questions about the sentence, Mr.
17 McFadden?

18 MR. MCFADDEN: No, sir, just a couple of
19 post-trial motions.

20 THE COURT: Yes, sir. Ms. Main?

21 MS. MAIN: No, Your Honor.

22 THE COURT: All right. That is the
23 sentence, and we will now go into the post-trial
24 motions. You may be seated, Mr. Jones. Thank you.

25 MR. MCFADDEN: Judge, two motions. The

1 first is a motion for a new trial on the CSC first
2 with a minor indictment on the grounds that it was -
3 our position is that it was improperly amended by
4 the State pre-trial. And it changed the nature of
5 the offense. That would require presentment to the
6 Grand Jury anew. That's our motion on the first. I
7 just could continue with my next one as well.

8 THE COURT: Yes, I'm going to respectfully
9 deny that. You did a good job arguing that motion
10 initially and now the same, but I do respectfully
11 deny that motion.

12 MR. MCFADDEN: I understand. Thank you.
13 My next motion is for a new trial on both of the
14 indictments on the grounds that the bad act evidence
15 that was elicited by the State outside of the
16 offense conduct, the direct evidence of the offense
17 conduct they elicited for testimony was improperly
18 admitted. The State did not meet its burden under
19 Lyle 404 as well as 403 in so far as incorporated
20 into the framework that that evidence be subjected
21 to, so we submit that we obtained it by error
22 admitting that and respectfully request a new trial
23 on that ground.

24 THE COURT: Yes, sir. And I think you very
25 well argued those points during the course of the

1 trial as well, and before -- and of course I had
2 opportunity to consider that and Ms. Main's
3 addressed it as well. I think I know what her
4 position is, and she has well-stated her position.
5 I respectfully also deny the motion for a new trial
6 on both of the indictments.

7 MR. MCFADDEN: Understood.

8 THE COURT: Anything further?

9 MR. MCFADDEN: Nothing from me.

10 THE COURT: Anything further, Ms. Main,
11 from the State?

12 MS. MAIN: No, Your Honor.

13 THE COURT: Very well. We will be
14 adjourned. Mr. Jones, sir, you understand your
15 situation, you understand the sentence of the Court,
16 the verdict of the Court. It does not the fact,
17 sir, that I do personally wish you well, sir. Good
18 luck to you.

19 THE DEFENDANT: Okay.

20 THE COURT: All right. We're adjourned.

21 (The hearing was concluded.)

22 - - -END OF TRANSCRIPT- - -

23

24

25

CERTIFICATE OF REPORTER

I, Cathy L. Young, CVR-M, 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
introduced in the hearing of the captioned case,
relative to appear, in the Circuit Court for
Beaufort County, South Carolina, on the 26th day of
August, 2025.

I do further certify that I am neither of
kin, counsel nor interest to any party herein.

Cathy L. Young, CVR-M
Court Reporter and Notary
Public in and for South Carolina
My Commission expires: 3-28-2029

WITNESSES

Beaufort County Sheriff's Office

Adam Draisen

ARREST WARRANT NUMBER

2019A0710300381

ACTION OF GRAND JURY

True Bill*Melissa Ramos Plata*

Foreperson of Grand Jury

Date: AUG 15 2021

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2019GS0701515

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

August Term 2024

THE STATE

vs.

JAMES ETHRIDGE JONES, Jr

Indictment For

Criminal Sexual Conduct With Minor
- 1st Degree

SC Code: 16-3-655(A)(1), 16-3-656

CDR Code: 0385

After being fully advised as to my
legal rights, I hereby waive
presentment to the Grand Jury.

Defendant

I _____
hereby appear in my own proper
person and plead guilty to the within
indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF BEAUFORT)

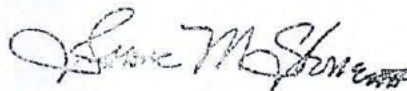
2019GS0701515

At a Court of General Sessions, convened on August 15, 2024, the Grand Jurors of Beaufort County present upon their oath:

Criminal Sexual Conduct With Minor – 1st Degree

That in Beaufort County, South Carolina, on or about on or about August 1, 2008, to August 25, 2013, the Defendant, JAMES ETHRIDGE JONES, Jr, did assault ^{Complainant} (DOB: [REDACTED]) with intent to engage in sexual battery with ^{Complainant} (DOB: [REDACTED]) who was less than eleven years of age at the time of the sexual battery, all in violation of Section 16-3-655(A)(1), 16-3-656, et al. of the Codes of Law of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor

WITNESSES

Beaufort County Sheriff

*Debra Brainer***ARREST WARRANT NUMBER**

2019A0710300381

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date:

*7-24-25***VERDICT**

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2019GS0701515

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

July Term 2025

THE STATE

vs.

JAMES ETHRIDGE JONES, Jr**AMENDED Indictment For****Criminal Sexual Conduct With Minor**SC Code: 16-3-655(A)(1), ~~16-3-650~~

CDR Code: 0385

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA

INDICTMENT

COUNTY OF BEAUFORT

2019GS0701515

At a Court of General Sessions, convened on July 24, 2025, the Grand Jurors of Beaufort County present upon their oath:

Criminal Sexual Conduct With Minor – 1st Degree

That in Beaufort County, South Carolina, on or about August 1, 2008 to August 25, 2013, the Defendant, JAMES ETHRIDGE JONES, Jr, did assault ^{Complainant} [REDACTED] DOB: [REDACTED] with intent to engage in sexual battery with ^{Complainant} [REDACTED] who was less than eleven years of age at the time of the sexual battery, to wit: digital penetration or any intrusion, however slight, of any part of her body or of any object into the genital or anal openings of her body during the alleged time frame at the residence on Chipwood Lane in the Bluffton area of Beaufort County, South Carolina. All in violation of Section 16-3-655(A)(1), ~~16-3-656~~, et al. of the Codes of Law of South Carolina.

404 8/25/25

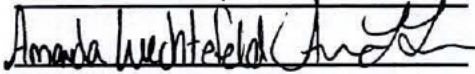
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor

WITNESSES

Bluffton Police Department



ARREST WARRANT NUMBER

2019A0720200032

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date: AUG 15 2024

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2019GS0700919

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

August Term 2024

THE STATE

vs.

JAMES ETHRIDGE JONES

Indictment For

Criminal Sexual Conduct With Minor
- 2nd Degree

SC Code: 16-3-655(B)(1)

CDR Code: 0396

After being fully advised as to my
legal rights, I hereby waive
presentment to the Grand Jury.

Defendant

I _____
hereby appear in my own proper
person and plead guilty to the within
indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF BEAUFORT)

2019GS0700919

At a Court of General Sessions, convened on August 15, 2024, the Grand Jurors of Beaufort County present upon their oath:

Criminal Sexual Conduct With Minor 2nd Degree

That in Beaufort County, South Carolina, on or about August 26, 2013, through August 26, 2016, the Defendant, JAMES ETHRIDGE JONES, did engage in sexual battery with ^{complainant} [REDACTED] DOB: [REDACTED] who was fourteen years of age or less but who was at least eleven years of age at the time of the sexual battery, all in violation of Section 16-3-655(B)(1), et al. of the Codes of Law of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor

WITNESSES

Bluffton Police Department



ARREST WARRANT NUMBER

2019A0720200032

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date:

7-24-25

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2019GS0700919

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

July Term 2025

THE STATE

vs.

JAMES ETHRIDGE JONES

AMENDED Indictment For

Criminal Sexual Conduct With Minor

SC Code: 16-3-655(C)

CDR Code: 3661

After being fully advised as to my
legal rights, I hereby waive
presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper
person and plead guilty to the within
indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF BEAUFORT)

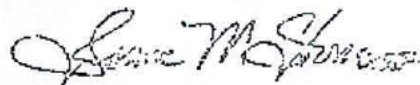
2019GS0700919

At a Court of General Sessions, convened on July 24, 2025, the Grand Jurors of Beaufort County present upon their oath:

Criminal Sexual Conduct With Minor – 3rd Degree

That in Beaufort County, South Carolina, on or about January 1, 2014 through December 31, 2017, the Defendant, JAMES ETHRIDGE JONES, did, while over fourteen years of age at the time of the offense, wilfully and lewdly commit or attempt to commit a lewd or lascivious act upon or with the body, or its parts, of ^{Complainant} [REDACTED] DOB: [REDACTED] who was under sixteen years of age at the time of the offense, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of JAMES ETHRIDGE JONES or ^{Complainant} [REDACTED] DOB: [REDACTED], all in violation of Section 16-3-655(C), et al. of the Codes of Law of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor

STATE OF SOUTH CAROLINA

SENTENCE ORDER

IN THE COURT OF GENERAL SESSIONS

County of Beaufort

State

VS.

JAMES ETHRIDGE JONES, Jr

AKA: SS#: [REDACTED]

RACE: White SEX: Male

DOB: [REDACTED]

) INDICTMENT/CASE#: 2019GS0701515) AW#: 2019A0710300381) Date of Offense: 08/01/2008) S.C. Code §: 16-3-655(A)(1)) CDR Code #: 0385) Range of Offense: 25 yrs - LifeIn disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Criminal Sexual Conduct with a minor 1st degree Range of Offense Pled: 25 yrs - LifeIn violation of § 16-3-655(A)(1) of the S.C. Code of Laws, bearing CDR Code # 0385
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☒ § 17-25-45
 (CSC w/minor 1st or CSC w/minor 3rd)
The charge is: ☐ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.The plea is: ☐ w/o Rec/Negotiations ☐ Negotiated ☐ Recommendation

Solicitor Monica Main

SC Bar #

Attorney for Defendant Jacob
McFadden-PD

SC Bar #

The Defendant is committed to the ☒ SCDC ☐ County Detention Center ☐ Home Incarceration Programfor a determinate term of 25 days/months/years/Time Served ☐ YOA NTE ____ years and/or shall pay a fine

of \$ ____; provided that upon the service of ____ days/months/years/Time Served and or payment

of \$ ____; plus costs and assessments as applicable*; the balance is suspended with probation for ____ months/years and subject to SCDPPPS standard conditions of probation, which are incorporated by reference.

☒ The sentence shall run CONCURRENT or ☐ CONSECUTIVE to sentence on: Indictment/CASE # 2019-65-07-00919☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDC.978 days/month☐ To include time spent on monitored house arrest prior to trial and sentencing.

SPECIAL CONDITIONS:

☐ PTUP

- ☐ No Contact with Victim ☐ Domestic Violence Intervention Program ☐ Hold for Inpatient Treatment
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ SAC/MHC if necessary
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135
- ☐ Other: _____

☐ RESTITUTION See Separate Order (20% per S.C. Code § 24-21-490 (B))

Restitution \$

FINE: \$

\$14-1-206 (Assessments 107.5%)

\$14-1-211 (A)(1)(Conv. Surcharge)

\$14-1-211 (A)(2)(DUI Surcharge)

\$56-5-2995 (DUI Assessment)

\$56-1-286 (DUI Breath Test)

\$14-1-212 (Law Enforce. Funding)

\$14-1-213 (Drug Court Surcharge)

\$34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)

\$50-21-114 (BUI Breath Test Fee)

\$56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund

Fine/Costs and Assessments are to be paid to the

Clerk of Court within ____ days/months

\$100

\$100

\$12

\$25

\$25

\$150

\$41

\$50

\$40/ea

TBD

\$500

TBD

TOTAL

\$

\$106.00

\$

\$

\$

\$

\$

\$

\$

\$

\$

\$

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\$

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\$

Clerk of Court/Deputy Clerk

Court Reporter

2793

August 26, 2025

Presiding Judge

SCCA217B
01/27/2025

STATE OF SOUTH CAROLINA

SENTENCE ORDER

IN THE COURT OF GENERAL SESSIONS

County of Beaufort

State

VS.

JAMES ETHRIDGE JONES

AKA: SS#:

RACE: White SEX: Male

DOB:

) INDICTMENT/CASE#: 2019GS0700919

) AW#: 2019A0720200032

) Date of Offense: 01/01/2014

) S.C. Code §: 16-3-655(C)

) CDR Code #: 3661

) Range of Offense: 0-15yrs

In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: CSC 3rd w/Minor

Range of Offense Pled: 0-15yrs

In violation of § 16-3-655(c) of the S.C. Code of Laws, bearing CDR Code # 3661

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☒ § 17-25-45
 (CSC w/minor 1st or CSC w/minor 3rd)
The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.The plea is: ☐ w/o Rec/Negotiations ☐ Negotiated ☐ Recommendation
 Solicitor Monica Main
 SC Bar # 104691

 Attorney for Defendant Jacob
 McFadden-PD
 SC Bar # 181905
The Defendant is committed to the ☒ SCDC ☐ County Detention Center ☐ Home Incarceration Programfor a determinate term of 5 days/months/years/Time Served ☐ YOA NTE ___ years and/or shall pay a fine

of \$ _____; provided that upon the service of ___ days/months/years/Time Served and or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for ___ months/years and subject to SCDPPPS standard conditions of probation, which are incorporated by reference.

☒ The sentence shall run CONCURRENT or ☐ CONSECUTIVE to sentence on: Duties/Case # 2019-GS-07-01515☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDC.

978 days/month

☐ To include time spent on monitored house arrest prior to trial and sentencing.

SPECIAL CONDITIONS:

☐ PTUP

- ☐ No Contact with Victim ☐ Domestic Violence Intervention Program ☐ Hold for Inpatient Treatment
☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ SAC/MHC if necessary
☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135
☐ Other: _____

☐ RESTITUTION See Separate Order (20% per S.C. Code § 24-21-490 (B))
 Restitution \$ _____
 FINE: \$ _____

§14-1-206 (Assessments 107.5%)

§14-1-211 (A)(1)(Conv. Surcharge)

§14-1-211 (A)(2)(DUI Surcharge)

§56-5-2995 (DUI Assessment)

§56-1-286 (DUI Breath Test)

§14-1-212 (Law Enforce. Funding)

§14-1-213 (Drug Court Surcharge)

§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)

§50-21-114 (BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees☐ §17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund

Fine/Costs and Assessments are to be paid to the

Clerk of Court within ___ days/months

\$	
\$100	\$ 100.00
\$100	\$
\$12	\$
\$25	\$
\$25	\$ 25.00
\$150	\$
\$41	\$
\$50	\$
\$40/ea	\$
TBD	\$ 3.75
\$500	\$
TBD	\$ 40.00
TOTAL	\$ 118.75

Clerk of Court/Deputy Clerk

 Court Reporter
 Kathy Young

Judge Code

Sentence Date

Presiding Judge

 SCCA217B
 01/27/2025

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



David Alexander
Deputy Chief Attorney for Capital Appeals

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 28th day of July, 2026.

RECEIVED

Jul 28 2026

SC Court of Appeals