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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Colleton County

Honorable Marvin H Dukes, III, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DARRYL JEROME WASHINGTON,

APPELLANT

APPELLATE CASE NO. 2025-000433

RECORD ON APPEAL

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[THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

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	)	In the Circuit Court
County Of Colleton	)	
	)	
	)	
State of South Carolina,	)	
	)	
vs.	)	2017-GS-15-00087
	)	
Darryl Jerome Washington,	)	
	)	
Defendant.	)	
_____	)	

Colleton County Courthouse
February 26-27, 2025

TRANSCRIPT OF HEARING

B E F O R E

The Honorable Marvin Dukes

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MS. MUSSER: Yes, thank you. And it's my understanding from Mr. Kanaly's witness list that he has a few fact witnesses, and we would just ask that they be sequestered.

THE COURT: All right to recap sequestration, except for the victim, victim's mother, lead investigator?

MS. MUSSER: Yes, sir.

THE COURT: Okay. Yes, sir?

MR. KANALY: Judge, I'm fine with mutual sequestration. Judge, I would review my motion for Rule five, specifically for the rap sheet, for any fact witnesses or civilian witnesses that they may present.

MS. MUSSER: We can get that. Your Honor, obviously, the victim is a minor, and so he wouldn't have anything on his rap sheet at this point, but I can certainly inquire about whether his mother has anything on a rap sheet, and we'll get them a rap sheet.

THE COURT: Okay, when is that something available today?

MS. MUSSER: We're going to get it right now.

THE COURT: Right now. Okay, great.

MS. MUSSER: And in turn, with that, I did express to Mr. Kanaly that for any witnesses he intends to call, with sufficient time, we would need a date of birth and social security number so that we would be able to run

their rap sheets as well.

THE COURT: Can you get that sir?

MR. KANALY: Your Honor, any witness we intend to call is already in discovery. I believe they have the resources to run the rap sheet on our witnesses.

THE COURT: Is that the same list I just read?

MR. KANALY: Yes, Your Honor.

MS. MUSSER: Yes, we need their date of birth at least because there's a few that I don't --- I don't believe that we would have. I don't recall seeing Akiba Bowers, but we would just need a date of birth for all his witnesses.

THE COURT: Do you have a list of the ones you don't have? You said there were a couple of them.

MS. MUSSER: Well, I would have to take his word for it that they are in the incident report. But if he could just provide me a date of birth it would help speed things along.

THE COURT: Can you grab those dates of birth?

MR. KANALY: I can, Your Honor.

THE COURT: I mean, because we won't be getting to defense witnesses today. We won’t start with that. So this evening when we wrap up, maybe, if you could get them. Could you call somebody and let them?

MR. KANALY: Yes, Your Honor. I can do that.

THE COURT: All right, so we'll be at ease until 2:15 ish, right.

MS. MUSSER: Thank you, Your Honor.

(End of AM)

(PM/Back on the record 2:18 PM)

THE COURT: Welcome back. Let's see. We're now going to go ahead and ask the clerk to swear you.

CLERK OF COURT: Thank you, everyone. Please stand and raise your right hand. You solemnly swear or affirm that you shall well and truly try and true deliverance made between the State of South Carolina and the accused at the bar and a true verdict give according to the evidence and the law so help you God?

JURY: Yes.

THE COURT: Did everyone refrain from discussing the case during the lunch break? I'll ask you all that periodically when we come back, so please be able to answer no. Of course, we follow the instructions. So now I'm going to read you some things that are out of the official book here. So please pay attention, and I'll get through it as quickly as I can. So ladies and gentlemen of the jury, the case we're about to try is the case of State versus Darryl Jerome Washington. Before we begin this trial, I want to tell you that this trial probably will be different from what you might expect. Many people do not have the chance

to attend actual court sessions, as you're doing now. And may think from watching television or movies or reading books that trials are always full of high drama, intense action and riveting circumstances, while all of these things may be true at times, this trial is not for entertainment. It is a fundamental part of our democracy, an effort to make sure that justice is done between the parties before the court.

Making sure that justice is done is often slow, deliberate and repetitive, the opposite of what you may have seen on television or movies or read in books. The courtroom is a place of honor dedicated to the protection and preservation of citizens rights through what many have called the greatest justice system ever created. The attorneys appearing before you are advocates for the parties they represent, but first and foremost, they are officers of the court sworn to uphold the integrity and fairness of our judicial system and to help you in the search for the truth. You should expect them to be professional, competent and ethical in the representation of their client's interests. You're also expected to be professional, reasonable and ethical. Thank you for accepting the important responsibility of jury duty and for the contribute your contribution today to our justice system.

What I will now say is intended to serve as an introduction to this trial. These remarks are not a charge on the law. I will instruct you on the applicable law at the end of the trial, before you retire to consider your verdict. This is merely an explanation of the procedure that we will follow during the trial, so that you may better understand what may be happening. Sometimes I'll allow juries to take notes if it's a long trial, but this trial will not be weeks or anything like that. So I'm going to ask you not to take notes and just please pay attention and remember what you hear.

The defendant is charged by an indictment filed in this court with the crime of criminal sexual conduct with a minor first degree, the elements of which will be explained to you later. The indictment is simply the charge by which the case is brought into court. It is not, in any sense, evidence of any of the allegations it contains. The defendant has pled not guilty to this indict. The state therefore has the burden of proving each of the elements of the indictment beyond a reasonable doubt. Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt. It will be your duty, ladies and gentlemen, to decide whether the state has met that burden. Your purpose as jurors is to find and determine the facts. You are the sole Judge of the facts. If at any time I make

any comment regarding the facts, you must disregard it. You are to determine the facts from the testimony you hear and the other evidence introduced in court. It is up to you to determine the inferences which you may feel may be properly drawn from the evidence. It is especially important that you perform your duty of determining the facts diligently and conscientiously, because ordinarily, there is no way to correct an erroneous determination of the facts by a jury. On the other hand, and with equal emphasis, the same law that makes you judges of the facts, makes me judge of the law. The law, as given by the court, is the only law you may consider. You must accept and follow it, even though you may disagree with it. I cannot tell you what the facts are, and you cannot disagree with me about what the law is or should be.

Your job is to take the law as I give it to you and apply the facts as you find them from the testimony of the witnesses and any other evidence that is introduced. After doing that, you will render your verdict, a verdict under the solemn oath that you just took as jurors, until I tell you that you may begin to deliberate you must not discuss this case with anyone, including your fellow jurors, friends, family members and anyone involved in the case. The attorneys and parties in this case have all been advised they are not to talk to you at all. So if you see

anyone involved in the case and they do not even say hello they are not being unfriendly they are just following my instructions. You must make your decision based solely on the evidence presented here in this courtroom. This means that during the trial, you must not conduct any independent research about the facts of the case, the evidence presented, or the people or organizations involved in any way of this trial. Please do not try to find out information from any source outside the courtroom.

In other words, you must not look at dictionaries or other reference materials, search the internet, websites, blogs, or use key electronic tools to get information about this case or to help you decide the case. You may not use computers, telephones, cell phones, smartphones, tablets, the internet or other tools of technology or communication capabilities at any time, while you were in the courtroom or during your deliberations. During your breaks for meals you may use these devices, however, you must not use these devices to communicate with anyone about the case until the case is over. This means you must not use phone calls, emails, text messages, instant messages, Twitter, any blog, chat room or website, including Facebook, Google, MySpace, LinkedIn, YouTube, or any social media website to send or receive information about the case. This includes information about a party, a

witness, an attorney, a court officer, news accounts about the case, research on any topics raised, any topics you think might be helpful in deciding the case, or any testimony presented by any witness during the trial, do not read, listen to or watch any news reports about the case. This includes anything that may be in the newspapers, on the internet, radio or television. You must not consider anything you may have read or heard about the case outside the courtroom, whether before or during the trial. Information on television, radio, the internet or from other sources might be wrong or incomplete in our judicial system, it is important that you are not influenced by anything or anyone outside of the courtroom. If you become aware of another jurors violation of these instructions, please inform me immediately. It is important that you keep an open mind and not decide on any issue in the case until all of the evidence has been presented, the parties have made their closing arguments, and I have instructed you on the law. It is your solemn responsibility to determine the guilt or innocence of the defendant, and your verdict must be based solely on the evidence as it is presented to you in this trial, and on the law as I instruct you during and at the close of the trial. In just a moment, the solicitor will make what is called an opening statement in which the solicitor will explain to you the issues, or at least what

the solicitor thinks the issues are. The attorney for the defendant may also make an opening statement, although he is not required to do so, what the attorneys tell you during their opening statements is not evidence. It is only their contention as to what the issues are. The evidence will be presented to you by the testimony of sworn witnesses from this witness stand and or by exhibits that may be introduced into evidence. From time to time during the trial, you may hear one of the lawyers say something like, Your Honor, I believe we have a question of law or a matter of law to discuss with you. Or your honor, may we approach the bench and or sometimes I, myself find it necessary to excuse you from the courtroom for a short while so that the attorneys and I can discuss a matter of law. The reason for this is because you are the judges of facts, and sometimes when I'm discussing a matter of law with the attorneys, it may be necessary for me to make some comment as to the facts in connection with ruling whether or not a particular law applies. I'm not supposed to tell you what I think the facts are. So I will excuse you from the courtroom while these discussions take place so they're no way will you be influenced by anything that I might say or do in connection with the facts. In determining what the true facts are, you must decide whether or not the testimony of a witness is believable. It will be my

responsibility to rule as a matter of law as to whether certain testimony is admissible at all or not, but once the testimony is admitted, whether or not you believe it is solely for you to determine. In deciding whether to believe a witness, you have the right to consider the interests of any witness, the bias of any witness, the prejudice of any witness, the opportunity for the witness to have seen the matters and things about which the witness may testify, and the way the witness acts on the witness stand, you have a right to consider anything that is in the record that will help you evaluate the testimony of the witnesses. That means it is your duty to pay close attention to these witnesses, to observe the witnesses, to listen to the witnesses, and to pay close attention to the attorneys and the court. Don't let your thoughts wander, but give strict attention to the testimony, so that at the end of all the testimony, after the arguments of counsel and the charge on the law by the court, you will be in a position to determine what the true facts are and apply the law to those facts, and thus render a verdict. It's your added duty, Ms. Foreperson, to preside in the jury room and be the jury spokesperson here in court. It will also be your duty to write the verdict, but I'll give you further instructions about that at the conclusion of the trial.

In order to preserve everyone's rights, I'll give

the parties an opportunity to object anything I've said, any exceptions to any of the opening?

MS. MUSSER: None from the state.

MR. KANALY: None from the defense.

THE COURT: Any proposed additions?

MS. MUSSER: No sir.

MR. KANALY: No sir.

THE COURT: Okay. Thank you. We will now begin the trial.

MS. MUSSER: Thank you, Your Honor. Good afternoon, ladies and gentlemen. Back in the summer of 2016 Complainant, bright was eight years old. His mother's maid is Akiba Bowers. While she was at work, she would drop Complainant off at what the family referred to as aunt Bert and Uncle Henry's house. And of course, her family members, the defendant, Darryl Washington is their adult son who was living with them at the time. The evidence in this case will prove beyond a reasonable doubt that one day that summer, the defendant, pulled down Complainant's pants, handled his penis, shook his penis, squeezed his penis, and then ultimately put his penis, Complainant's penis, in his mouth.

Investigator Padgett from the Colleton County Sheriff's Office, was brought in, and she spoke with Akiba, again, that's mom and Complainant in December of 2016. After speaking with them, she arranged for, what we call a

forensic interview, which is where a specially trained counselor will question a child or a victim when there's an allegation of sexual assault or child neglect. After that forensic interview and after concluding her investigation, the defendant was arrested. He is charged with criminal sexual conduct of a minor who was less than 11 years old.

The state must prove two elements, or the elements of that charge beyond a reasonable doubt. Again, Judge Dukes will give you the law at the end of the trial. But basically we have to prove that the defendant engaged in a sexual battery on the victim, Complainant, who was less than 11 at the time. Now, sexual battery has many definitions, but among them sexual intercourse, oral intercourse, including fellatio, digital penetration and so forth. But in this case, the evidence will show that it was oral sex.

Ladies and gentlemen, I ask that you listen carefully to the evidence using the common sense logic and life experience that you brought with you today. And after all the evidence is heard I will be back before you asking you to render a verdict of guilty. Thank you.

THE COURT: Yes, sir.

MR. KANALY: Thank you, Judge. May it please the Court. Kids don't like getting in trouble. In fact, if there's a way for a kid to avoid getting in trouble by

blaming someone else, it's a good chance they probably will. Throughout the course of this trial you will hear from various witnesses about the allegations made against my client, Darryl Washington, by the government. I want you to ask questions. I want you to ask questions about the timeline in which Complainant claims this happened. I want you to ask why it took the government over seven years to even bring this case to trial. I want you to ask how else Complainant could have learned this behavior. I want you to ask questions about how Complainant was raised by his mother, Akiba Bowers, and grandmother, Helen Bowers. I want you to ask questions about how Complainant could have had a problem with Darryl while there were no issues between them for most of their time knowing each other.

In this trial, I'm going to ask you to return a verdict of not guilty for my client Darryl Washington. And if you have any reasonable doubt as the government's accusation against my client Darryl Washington, then it's your duty as jurors to acquit. Like I said, kids don't like getting in trouble. Thank you for your time.

THE COURT: Thank you. You may call your first witness.

MS. MUSSER: Thank you, Your Honor. The state calls Kelly Padgett.

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

MS. PADGETT: Yes sir.

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

MS. PADGETT: Good afternoon. My name is Kelly Padgett, P, A, D, G, E, T, T.

Ms. Kelly Padgett - Direct Examination by Ms. Lynorr Musser

Q. Ms. Padgett, where are you employed?

A. With the Colleton County Sheriff's Office.

Q. How long have you worked there?

A. About 17 years now.

Q. And what do you do for them?

A. Currently in the records department. Handle filling records requests.

Q. Okay, was there a time when you had investigative duties and you were an investigator?

A. Yes, ma'am, was an investigator for about six years at the sheriff's office.

Q. Okay. And during that time, did you have an opportunity to investigate all different types of crimes, including criminal sexual conduct with a minor charges?

A. Yes, ma'am.
Q. Okay, in your 17 years with the sheriff's office, is there a backlog with the court system?
A. Absolutely.
Q. Okay. During the time of COVID, was the court up and running?
A. No ma’am.
Q. And is it true that we have limited court terms here in Colleton County like, generally, once a month, one week a month?
A. Yes.
Q. Now I'm going to direct your attention back to 2016. Did you receive a call with reference to a potential sexual assault of a minor?
A. Yes, I did.
Q. As a result of that. Did you have an opportunity to speak with M. Akiba Bowers?
A. Yes, I did.
Q. Does she have any children?
A. Yes, she does.
Q. Is Complainant , one of her children?
A. Yes, he is.
Q. At that time, how old was Complainant?
A. He was eight years old.
Q. Okay, and after speaking with them, specifically, Ms.

Bowers and Complainant, did you begin an investigation into the defendant Darryl Washington?

A. Yes ma'am.

Q. As part of that, did you set up a forensic interview?

A. Yes, I did.

Q. What is a forensic interview?

A. So basically, a forensic interview is when you set up a schedule time for a interviewer who is certified as a forensic interviewer, which means that they get on the child's level to talk to them about sexual assault or abuse, that sort of thing, to be able to gather information from them.

Q. Now, as part of your investigation, do you ask very specific questions of a child victim?

A. No ma'am.

Q. And why is that?

A. Don't want to tant the investigation as far as allowing the interviewer to gather as much information as possible.

Q. As part of your investigation, did you determine where the defendant Darryl Washington was living?

A. Yes, I did.

Q. What was the address provided?

A. [redacted] Brown Circle, Yemassee in Colleton County.

Q. Did you have an opportunity to observe the forensic

interview?

A. Yes, ma'am.

Q. And at the conclusion of your investigation, did you arrest anyone?

A. Yes, I did.

Q. Who did you arrest?

A. Darryl Washington.

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

A. Yes, ma'am.

Q. Would you please tell the ladies and gentlemen of the jury what colored shirt he's wearing?

A. Yes, he's wearing a blue shirt.

Q. Your Honor, may the record reflect the in court identification of the defendant. Ma'am, during the course of your investigation, did you determine his date of birth?

A. Yes, ma'am.

Q. What is his date of birth?

A. [redacted] or [redacted]. At that time he would have been 38 years old.

MS. MUSSER: Your Honor, the Court’s indulgence.

Q. Based on your experience, is it something that frequently happens where a defendant will change lawyers?

A. Yes.

Q. Particularly among the public defender's office with the changeover?

A. Yes.

Kelly Padgett - Cross Examination by Mr. Kanaly

MS. MUSSER: I have nothing further, Your Honor.

THE COURT: Any questions of this witness?

MR. KANALY: Thank you, Judge.

Ms. Kelly Padgett - Cross Examination by Mr. Nicholas Kanaly

Q. Good afternoon. Investigator Padgett?

A. No longer.

Q. Not anymore, okay. Ms. Padgett, there was an event that spurred that call, right?

A. Yes, sir.

Q. Okay. Now Complainant, he was caught in bed with his cousin naked, correct?

A. That's my understanding.

Q. And Complainant had his mouth on his cousins ...

MS. MUSSER: Objection, Your Honor, hearsay. It's not relevant.

THE COURT: What's the exception?

MR. KANALY: Judge, it's part of my defense. The theory of the case.

THE COURT: I mean, you have --- these witnesses can testify?

MR. KANALY: All right Your Honor. I'll move it aside.

Q. So Darryl did come in for an interview, correct?
A. Yes, sir.
Q. And he was cooperative?
A. He was.
Q. He was polite?
A. Yes.
Q. His parents, Henry and Alberta, they also came in for an interview?
A. Yes sir.
Q. They were cooperative?
A. Yes sir.
Q. They were polite?
A. Yes sir.
MR. KANALY: Moment of the court's indulgence.
Q. I asked you if my client, Darryl Washington --- he was interviewed, right?
A. Yes.
Q. Was that recorded?
A. Yes sir.
Q. And the same with his parents Henry and Alberta, was that recorded as well?
A. That was audio recorded.
Q. Well, Mr. Padgett, thank you for your time. That's all I've got.
THE COURT: Redirect?

MS. MUSSER: Thank you.

Ms. Kelly Padgett - Redirect Examination by Ms. Lynorr Musser

Q. Despite the fact that the defendant and his parents were cooperative, did you arrest the defendant based on the evidence that you obtained during your investigation?

A. Yes, I did.

MS. MUSSER: Nothing further, Your Honor.

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

MS. MUSSER: The state calls Akiba Bowers.

CLERK OF COURT: Raise your right hand. You swear or affirm to tell the truth and nothing but the truth so help you God?

MS. BOWERS: I do.

CLERK OF COURT: You can have a seat. State your first last name and spell your last name for the record.

MS. BOWERS: Akiba Bowers. B-O-W-E-R-S.

MS. MUSSER: Thank you

Ms. Akiba Bowers - Direct Examination by Ms. Lynorr Musser

Q. Thank you. Good afternoon, Ms. Bowers. Ma'am do you have any children?

A. I do.

Q. How many children do you have?

A. Three.

Q. And what are their names?

A. Complainant , (trouble understanding two names).

Q. Okay. And how old is Complainant?

A. 16.

Q. What is his date of birth?

A. [redacted].

Q. So back in 2016 he would have been eight years old?

A. Yes.

Q. Ma'am. I'm going to direct your attention back to 2016, were you working at that time?

A. Yes.

Q. Where were you working?

A. At the BP gas station in Walterboro, South Carolina.

Q. And what did you do for the BP gas station?

A. Cash register.

Q. Did you have a set schedule or certain days of the week, or would it vary from week to week?

A. It varied.

Q. Was there ever a time that you needed for someone to watch Complainant?

A. Yes.

Q. Backing up a little bit, who did you live with at that time, besides --- did all your children live with you?

A. Two of them, Complainant and Sister .

Q. Okay. And who else did you live with?

A. My mom, Helen Bowers and my sister Shantelle Bowers and my niece K.H. and my nephew Nephew 1 and my other nephew, Nephew 2.

Q. Are you familiar with Darryl Washington?

A. Yes.

Q. Do you know him?

A. Yes.

Q. And is he related to your family?

A. Yes.

Q. Please explain to the ladies and gentlemen of the jury the relationship, you know, how you're related.

A. Darryl is my cousin. We consider his mom and dad aunt and uncle.

Q. And what's his mom's name?

A. His mom's name is Albertha Washington. His dad's name is Henry Washington.

Q. And to your knowledge, back in 2016, where was the defendant living?

A. He was living with his mom Albertha Washington and Henry Washington and his brother.

Q. And did they live at the [redacted] Ground Circle Road in Yemassee?

A. Yes.

Q. You said before that there would come a time that you

would need someone to watch Complainant. Would you ever take Complainant, during the summer of 2016, to the Washington household?

A. Yes.

Q. And was that for the purpose of them watching him while you worked?

A. Yes.

Q. Okay, about how many hours a day would that be? If you recall.

A. About eight and a half hours.

Q. Okay, and so back in 2016 did Complainant disclose anything to you with respect to a sexual nature?

A. Yes.

Q. And did he indicate when that event happened?

A. Yes.

Q. When did he say that it happened?

A. He stated that it happened when he was at Darryl house.

Q. Okay. Was there a particular time of year that it happened?

A. It was in the summertime.

Q. Okay. And how do you know it was the summertime? In other words, let me, let me rephrase that. That was a badly worded question. In the summer, did Complainant go to camp, or did you have other means to have someone watch him?

A. I had other means for someone to watch him.
Q. Okay. Did he attend a camp at all?
A. No.
Q. At some point in December of 2016 was law enforcement called?
A. Yes.
Q. As a result of that call, did you have an opportunity to speak to Investigator Padgett?
A. Yes.
Q. After you spoke with Investigator Padgett, did you have an opportunity to take Complainant for a forensic interview?
A. Yes.
Q. Did you ever take him back to the Washington household to be watched ...
A. No.
Q. ... for babysitting? So you said that you're related to Mr. Washington. Do you see him in the courtroom today?
A. Yes, I do.
Q. What color shirt is he wearing?
A. Blue.

MS. MUSSER: Your Honor, may the record reflect the in court identification of the defendant.

THE COURT: Yes.

MS. MUSSER: Your Honor, no further questions.

MR. KANALY: Your Honor, may it please the Court.

Ms. Akiba Bowers - Cross Examination by Mr. Nicholas Kanaly

Q. So Complainant would stay with Henry and Alberta, as you testified to earlier, correct?

A. Yes.

Q. On at least one occasion he stayed over there because he was suspended from school, right?

A. Correct.

Q. Complainant got suspended from school often, didn't he?

A. He did not.

Q. So Complainant had no behavioral issues at school?

A. He did.

Q. Okay. In fact, you had him go to therapy for those issues, didn’t you?

MS. MUSSER: Objection, Your Honor, relevance.

THE COURT: What's the relevance of this?

MS. MUSSER: Your Honor, may we approach?

THE COURT: Yes. Please.

(Counsel approaches bench without court reporter)

THE COURT: I think I promised you that there would be times when I would say, please go take a break in the jury room. So this is one of those times. So if y'all will please return to the jury room for, it won't be that many minutes, and we'll get you right back in here. Obviously don't discuss the case, etc.

(Jury exits courtroom for a break 2:50 PM)

THE COURT: Thank you. All right. The jury is now out. We had an objection with regard --- Well, I'll tell you what you go ahead and tell me what you want to tell me.

MR. KANALY: Your Honor, I believe the statements regarding Ms. Bowers is making to the mental health facility about her son having behavioral problems with and issues at school concerning, claiming he had guns in his backpack, claiming he was going to shoot everyone. I believe it goes to the character and truthfulness of the of the alleged victim here, and that's a direct part of the case.

THE COURT: Happy to hear ...

MR. KANALY: It also goes to the credibility of the witness currently, who just stated that he didn’t get in trouble at school or didn't get suspended.

THE COURT: I'm happy to hear from the state.

MS. MUSSER: Your Honor, I think respectfully, sir, that the court should grant or sustain the objection, because the court would have to find that it is relevant and that it has a more probative value than a prejudicial effect. And I think that there is a distinction between asking him, asking Ms. Bower generally, you know, was he having, you know, behavioral issues that caused you to take

him to --- that's one issue. But then there is another to try and bring in specific acts under prior bad acts. And the prior bad acts rule, I believe, is 404 and it talks about the proper way for a person's character to be, to be admissible, and character of the victim. I don't think that this is the proper mechanism. If I could have just one moment to review.

MR. KANALY: Your Honor, I'm not trying to introduce this as a prior bad act. Like I said earlier this goes to both her credibility and the alleged victim's credibility.

THE COURT: Just so we're clear for this record, if someone reads it in the future, what you want to bring up is an incident where he stated to a therapist that at some point he had a gun in a backpack?

MR. KANALY: The mother stated, Ms. Akiba Bowers, stated that to the therapist. Yes.

THE COURT: Okay.

MR. KANALY: Thank you, Your Honor.

MS. MUSSER: And Judge, I'm referring to Rule 405(b) specific instances of conduct. In cases in which character or trait of character of a person is an essential element of a charge, proof may also be made of specific instances of that person's conduct. But generally speaking, character evidence is only admissible by offering

their reputation or opinion of people in the community. And I just --- and I think that using guns in a backpack has such a negative connotation involving school shootings that it's overly prejudicial and really has nothing to do with whether or not Mr. Washington sexually assaulted the victim, and she already admitted that he had problems in school. So I guess I would ask that it just be sustained in total. But it's more objectionable in my mind that he's trying to bring in guns in the backpack and there's no indication of whether, mom can't say if that was true or not, and I just don't think that's relevant. But we already got into fact that he was suspended from school and behavioral problem.

THE COURT: He's --- Go ahead.

MR. KANALY: Your Honor. She can, she can attest to that's what she said to the therapist, which is in the record. Furthermore, Judge would point to Rule 405(b) specific instance of conduct in cases in which character or trait of character of a person is an essential element of a charge, claim or defense, proof may also be made of specific instances of that person's conduct. I'm not trying to bring in guns in a backpack, just for the shock value of guns in a backpack. I'm trying to say, he said I had guns in backpack. It could have been donuts, it could have been books, it could have been anything I'm trying to bring in.

He said that, the witness said that he said that to a therapist, and it wasn't true.

THE COURT: All right.

MS. MUSSER: Your Honor. May I just make one other really short point?

THE COURT: Okay.

MS. MUSSER: So with what Mr. Kanaly just offered to the court, mom's statement to the counselor would be hearsay, and I don't think he has any way around that under the hearsay exceptions. Additionally, this Rule (b) is when honesty is a specific issue were part of the defense.

THE COURT: Well, the question would be to this witness, did this witness ever say something, right?

MS. MUSSER: Right. And I'm asserting that that is hearsay, because it's a statement made out of court.

MR. KANALY: That's not proven. In this case, that's not made to prove the truth of the matter asserted.

THE COURT: Yeah, nobody's saying the gun --- it does get tricky though with the 401-403 thing, we start talking about the extreme prejudice associated with guns and backpacks and schools and that sort of thing. I mean your point is, your question, basically is, has he ever lied to you? Right?

MR. KANALY: Essentially, Your Honor. Yes, sir.

THE COURT: The problem is going to be, if the

answer is yes, and you follow up with guns and backpacks, then we're doing this all over again, but I do think we start talking about guns and backpacks, the prejudice substantially outweighs the probative value. So I don't know how to handle that, other than I think you're welcome to ask has he ever not told you the truth? I don't know. What are the state's thoughts on that?

MR. MUSSER: Mr. Kanaly just said, obviously he's not offering it for the truth of the matter asserted then no he's --- the only reason he is trying to offer it is for the prejudicial value to make the victim look like you know ...

THE COURT: Well, we're not going to let guns. We're not talking about guns anymore.

MS. MUSSER: Okay.

THE COURT: We're talking about truthfulness, which is really the original point, anyway, as I understand it?

MS. MUSSER: Yes, Your Honor. I understand.

THE COURT: And so the question is, questions about this is your son, has he always told you the truth? Do you have any --- I can't think of any issues with regard to that?

MS. MUSSER: No. I think he's kind of stuck with the answer. I don't think, in other words, he would say,

well, what did you --- what would it the next follow up question be? What did he lie about? And then we're on this ...

THE COURT: No well, we're going to stay away from the guns. I think we're set on that. And you've got a full record in case I'm wrong and the guns were perfectly admissible, but my ruling again prejudicial issue is that we're going to stay away from the guns in backpack. Anything else, before we bring the jury back in?

MR. KANALY: Your Honor, I would like that to be put on the record that the guns cannot come in.

THE COURT: I think I got that.

MR. KANALY: Your Honor, I believe the mention of the guns in the backpack should become in because it goes directly to the victim's character for truthfulness. It's a documented incident. It's a document incident of the victim having no regard for anyone at the school and the consequences of this action, Your Honor.

THE COURT: And here's my question, y'all talk about this a little bit a minute ago. Did he have a gun in the backpack or did he say he had a gun?

MR. KANALY: He said --- he claimed he had guns in the backpack, because he lied. It shows his propensity for lying.

THE COURT: But again, I think it's highly

prejudicial. I think it substantially outweighs the prejudice, substantially outweighs the probative value. You know, if he weren't supposed to bring kittens to school and he had some kittens in the backpack, we might be talking about something different but start talking guns and backpacks again I think it's highly prejudicial. So your record and objection is well preserved. All right, let's bring the jurors back in please.

(Jury enters courtroom 3:00 PM)

THE COURT: Please proceed.

MR. KANALY: Thank you.

Q. Now, Helen Bowers is the grandmother, correct?

A. Yes.

Q. And Complainant lived with you and your mother at the time, correct?

A. Yes.

Q. Okay. And you guys have rules for Complainant, right?

A. Yes.

Q. And if he broke those rules, he'd be punished, right?

A. Yes.

Q. And one of those punishments would include beating with a belt correct?

A. Yes.

Q. Okay. And loss of computer privileges?

A. Yes.

Q. Okay. Now Darryl would come over to you and Helen's house occasionally, right?
A. Yes.
Q. There was a time that Daryl came over and caught Complainant used the computer for something that he wasn't supposed to, wasn't there?
A. I don't remember that.
Q. But there was a computer in you and Helen's house, correct?
A. Yes.
Q. And Complainant will use it for school, work, play, games, etc?
A. Yes.
MR. KANALY: Beg the Court's indulgence.
Q. Now, earlier you mentioned that Complainant had gotten in trouble at school a few times?
A. Yes.
Q. And some of those times involved lying?
A. Could you explain that question?
Q. Sure. Has Complainant ever lied to you?
A. Yes.
Q. Often?
A. He lied a few times.
Q. And Complainant had lied at school?
A. He has.

Q. Did Complainant ever have disrespect towards adults at school?
A. No.
Q. Has he ever been disrespectful towards you?
A. Yeah.
Q. Has he gone to therapy for these problems?
A. Yes.
Q. Okay. About disrespect towards adults in general?
A. No, not just disrespectful in general.
Q. Disrespectful in general?
A. Just on other things.
Q. Such as hitting other kids at school?
A. Yes.
Q. Such as hitting his little sister?
A. No.
Q. Such as cussing and raising his voice at you and other family members?
A. No.

MR. KANALY: I beg the Court's indulgence. That's all I have for this witness, Your Honor.

THE COURT: Thank you. Any redirect?

MS. MUSSER: Nothing further.

THE COURT: Thank you. You may step down.

MS. MUSSER: Your Honor, the state calls Complainant [redacted].

Complainant - Examination by Ms. Musser

CLERK OF COURT: Please raise your right hand. You swear to tell the truth so help you God?

Complainant: I do.

CLERK OF COURT: You may have a seat, state your first and last name and spell your last name for the record please.

Complainant: Complainant

MS. MUSSER: I'm going to ask you to speak up so everybody, I'm going to stand out here and make sure that your voice is nice and loud. Okay. May I proceed?

THE COURT: Yes.

Complainant - Examination by Ms. Lynorr Musser

Q. Okay. Thank you. Complainant how old are you today?

A. 16.

Q. And what is your birthday?

A. .

Q. Okay. And who do you live with?

A. My mother.

Q. Does anybody else live with you?

A. My sister and my brother.

Q. And what's your sister's name?

A. Sister .

Q. Okay, how old your sister?

A. She is 10.

Q. How old is your brother?
A. I want to say about five.
Q. Okay. Do you go to school?
A. Yes, ma'am.
Q. Where do you go to school?
A. [redacted].
Q. [redacted] --- What was it? Was the rest of it?
A. [redacted].
Q. Okay. And what grade are you in?
A. 10th.
Q. Okay. Do you participate in any school activities?
A. Yes, football and marching band.
Q. Okay. And what do you like to do when you're not in school?
A. I play video games, or practice my drum, or I go outside.
Q. Okay. Now, did you say you were in band?
A. Yes ma'am.
Q. What instruments do you play?
A. I play the barrontone saxophone and I play marching drums.
Q. All right, I'm going to direct your attention back to 2016. Let me first say ask you this. Do you know Darryl Washington?

A. Yes ma'am.
Q. How do you know him?
A. He's a family member.
Q. Okay. And do you see him in the courtroom today?
A. Yes ma'am.
Q. Can you tell us what color shirt he's wearing?
A. Blue.
Q. Blue.
MS. MUSSER: Your Honor, may the record reflect the identification of the defendant.
THE COURT: Yes.
Q. All right, so in the summer of 2016, did you ever go to Darryl's house?
A. Yes ma'am.
Q. And who else lived there with the defendant?
A. His mother, his father and Reggie.
Q. What is his mother's name? What would you call her?
A. Auntie.
Q. Okay. And do you know her first name? Like you would call her auntie, do you know her first name?
A. I just called her auntie.
Q. Okay. And what about the defendant's father? What did you call him?
A. Uncle.
Q. Okay. And you said that Reggie also lives. There is

that the defendant's brother?
A. Yes ma'am.
Q. And do you know why you're here today?
A. Yes ma'am.
Q. Would you please tell us what happened back in 2016 that brings you here today?
A. He touched me in the private.
Q. Okay, let's back up. Back in the summer of 2016 when your mom would go to work, would you ever go to the defendant's house?
A. Yes ma'am.
Q. And how do you remember that it was the summer of 2016 like, how do you remember it was summertime?
A. Because I was out of school and my mom was at work and was always at work and nobody else was in the home.
Q. Okay. And so that's why you would go to Darryl's house?
A. Yes ma'am.
Q. Now, when you would go to Darryl's house, what would the two of you do?
A. Usually play a WWE video game, or would just be in there watching a movie.
Q. Okay. So you would watch movies and you would play video games. Where was the game console? What was the gaming system? Where would you play the video games?

A. In his room.
Q. Who's room?
A. In Darryl's room.
Q. Darryl's room. Okay, now, when you were playing video games, you with Darryl was there anybody else in the room with you?
A. Sometimes Reggie.
Q. Okay, sometimes, but not all the time. And Darryl is an adult, right?
A. Yes ma'am.
Q. He's quite a few years older than you were. And so did there ever come a time that Darryl touched you inappropriately?
A. Yes ma'am.
Q. Where on your body did he touch you?
A. My penis.
Q. And as a child, did you have another name for that that you would call it?
A. My private area.
Q. Now you say that Darryl touched you and he touched your penis. How did he touch it?
A. He used to grab it. Used to play with it. He used to put his mouth on it.
Q. Okay, so you say he grabbed it. That was with his hand?

A. Yes ma'am.
Q. Okay. And you said he also put his mouth on your penis?
A. Yes ma'am.
Q. Do you recall what room in the house that happened in?
A. That was his room.
Q. Okay, was there ever a time something happened in the bathroom?
A. Yes ma'am.
Q. What happened in the bathroom?
A. While I was washing my hands, he pulled my pants down and he grabbed my penis and he started putting his mouth on it.
Q. Okay. And were his clothes on or off at the time?
A. His clothes was on.
Q. Okay. And did you other than your pants that he had pulled down, did you have clothes on?
A. Yes ma'am.
Q. At any point, did someone see you or ask you about what was going on in the bathroom?
A. His mother.
Q. Okay. And so that was Auntie?
A. Yes, ma'am.
Q. What did Auntie say to you?

A. She asked if we was allowed to be in the bathroom together.
Q. Okay. And what did you say?
A. I said no.
Q. And then did you tell her what happened?
A. No.
Q. Okay, and so, after the defendant handled your private part and put it in his mouth, did he say anything to you about telling, that you remember?
A. No ma'am.
Q. Okay. And just to clarify, I know that as you sit here today, you're 16, would that make you about eight at the time this happened in December of 2016 because your birthday is in September, right?
A. Yes ma'am.
Q. Okay. Why did you wait to tell anyone?
A. I was scared.
Q. Okay, and why were you scared?
A. Because --- I don't remember why I was scared, but I was scared to tell anybody.
Q. So you don't remember specifically why you were scared but you just know as you sit here today that a long time you were scared?
A. Yes ma'am.
MS. MUSSER: I don't have anything further, Your

Honor.

THE COURT: Thank you.

Complainant [redacted] - Cross Examination by Mr. Nicholas Kanaly

Q. Hey Complainant [redacted]. You didn't like going to school, did you?

A. Well at that time, not really.

Q. Back when you were eight?

A. Yes sir.

Q. And you've gotten suspended from time to time from school when you were eight?

A. Yes, sir.

Q. And sometimes when you got suspended to school, from school you would go over to Darryl's house.

A. Yes sir.

Q. Okay. Now you just testified that when you're alleging that this happened that you never told Auntie, correct?

A. Correct.

Q. Okay, and you also said that Darryl never said anything when this happened, correct?

A. I said I did not remember.

Q. Now you used to live with, or you may still live with Ms. Akiba and Ms. Helen is your grandmother, correct?

A. Yes sir.

Q. Okay, and your grandmother, Helen, had a computer at her house when you're about eight years old, correct?
A. Yes sir.
Q. And you'd use it for school work?
A. Yes sir.
Q. Okay. Was there a time Darryl came over there and caught you using it for something else?
A. No sir.
Q. Now, you had rules when you're a kid, right?
A. Yes sir.
Q. That your auntie --- I'm sorry, your mom and grandma laid out for you, correct?
A. Yes sir.
Q. And if you broke those rules, you'd get in trouble, right?
A. Yes sir.
Q. And sometimes you would get beat with a belt?
A. Yes sir.
Q. And lose your computer privileges?
A. Yes sir.
Q. Sometimes beat with a shoe?
A. No sir.
Q. Okay. Sometimes you would get beat with a belt so bad that you would start crying?
A. Yes sir.

MR. KANALY: Beg the Court's indulgence.

Q. During your interview with Ms. Knapp, do you remember your forensic interview vaguely?

A. Not really.

Q. During the interview, you stated that you didn't touch anyone else inappropriately, right? You didn't touch anyone else's private parts?

A. I don’t remember.

Q. Okay. But in fact, there was an instance where you did ...

MS. MUSSER: Objection Your Honor. The witness just said he didn't remember.

THE COURT: Sustained.

MR. KANALY: Beg the Court’s indulgence. Nothing further for this witness, Judge.

THE COURT: Any redirect?

MS. MUSSER: No, Your Honor. Thank you.

THE COURT: We did swear this witness originally, right?

DEPUTY BAILIFF: Yes, he was sworn.

THE COURT: Okay, all right, right, you may step down sir. Thank you.

MS. MUSSER: Your Honor, can we approach about scheduling?

(Counsel approaches bench without court reporter)

THE COURT: Yes. All right. Ladies and gentlemen of the jury, the scheduling is such that we don't have a witness until 9:30 tomorrow morning, which was anticipated, and so we're going to let you go. Again, don't discuss the case with anyone this evening. Don't do any internet research. Don't talk to anyone about it. It's okay to say I got chosen for a jury and tomorrow morning at 9:30, which is when we're going to begin, I've got to be back at the courthouse, but please don't discuss anything about what the case is about. Again, don't look it up. Don't talk to other people. If someone tries to talk to you about it, please make them understand or let them know that you can't talk about it, and if they continue to do so please get their name and let me know tomorrow and we'll deal with it. But does anyone have any questions about what is expected of you this evening? And 9:30 tomorrow is when we're going to begin so try to be here promptly because, of course, we can't start until everyone is here. Anything from anyone questions? Yes, ma'am.

JUROR: I'm supposed to be in magistrate's court tomorrow.

THE COURT: We can fix that. Let the bailiff know what the case is, and we'll have that continued for you. Just tell the bailiff all the information about it. We'll take care of it. All right. Thanks.

(Jury excused for the evening 3:20 PM)

THE COURT: All right, anything else for today's record?

MS. MUSSER: Just to try to watch the forensic interview.

THE COURT: Yeah, I'm gonna turn it on right now. I figured we could do all that off the record and try to sort it out, but nothing else for today's record?

MR. KANALY: No, Your Honor.

MS. MUSSER: No, Your Honor.

THE COURT: Okay, thanks.

MS. MUSSER: Judge when you have a moment, we do have an issue that was just brought to my attention, that I need to I need to disclose. We're in the process of verifying. But juror number 201, her name is Ashley Shearin. She was the third juror that was selected today. It was just brought to my attention that she was a victim in a few of the cases that we have had, I believe it as Jack Morgan, who was Mr. Walker's client. She did not --- she was not cooperative with our office. We did. I did speak to her about, you know, when the cases were pending, but she did not disclose it during the initial --- in the voir dire and so I just wanted to make everyone aware of that, that I had had conversations with her, and ultimately, the cases against Mr. Bowman, Mr. Walker

represents, represented him, and ....

MR. KANALY: At one point Your Honor, I also represent Mr. Bowman in Beaufort County.

THE COURT: Okay, so are these cases ongoing?

MS. MUSSER: They are closed. They were dismissed due to her not being cooperative.

THE COURT: Okay, are you asking me to do anything, or are you just making me aware?

MS. MUSSER: We're just disclosing it Your Honor, because she didn't clearly, you know, the question that says, have you had contact with or been represented by the state or the you know, would apply to me. So we're just disclosing it.

THE COURT: Okay, you're not asking me to remove her?

MS. MUSSER: No.

THE COURT: Or examine her specifically with regard to that issue.

MS. MUSSER: No, we're just putting it on the record that this came to my attention and I had that contact with her. I'm sure if I looked at my notes, I would remember but I did not, you know, remember the name or I don't remember specifics about what we talked about, but I do remember Mr. Bowman.

THE COURT: So you actually represented the

adverse party in that case?

MR. KANALY: Yes, Your Honor, I represent Mr. Bowman, to the best of my knowledge, for a very brief period of time. I don't know if he represented him in the case that she's involved with.

MR. WALKER: I had him on Colleton cases. He had him in Beaufort cases, but we both had represented Mr. Bowman, who is the lady she's talking but.

THE COURT: But everybody's good with leaving her on?

MR. KANALY: I am.

THE COURT: All right, thank you for the disclosure. Anything else for today's record?

MS. MUSSER: No, Your Honor.

THE COURT: That'll conclude the record.

(End of Today)

THE COURT: The disc that includes the recording of the forensic interview. That edit takes away several minutes on the front side of it, and from there on leaves the balance of it. I understand defense counsel has not seen the final edit yet, so we won't do anything until everybody's had a chance to look at it, but we will go ahead and begin with any examination.

MS. MUSSER: Yes, sir, and I believe that you had an opportunity to view the whole forensic interview, and I

have a copy of that that I'll put in as court's exhibit one.

THE COURT: All right.

MS. MUSSER: At this time the state would call Sandra Knapp.

THE COURT: All right. Come on up, please.

DEPUTY CLERK: Do you swear or affirm that the testimony you're about to give this court to be the truth to help you God ?

MS. KNAPP: Yes.

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

MS. KNAPP: Sandra Knapp, K-N-A- P-P.

MS. MUSSER: Thank you, Ms. Knapp.

Ms. Knapp - Examination by Ms. Musser:

Q. Ma'am, what do you do for a living?

A. I am a licensed professional counselor and a licensed professional counselor supervisor in the state of South Carolina. I have a private therapy practice, my mentors, therapy services, and I also have a full time instructor at the University of South Carolina.

Q. Okay. How long have you had that type of job?

A. I've been in the profession since 2014. First, I

began my career --- I graduated 2014 with my masters in clinical Counseling Psychology, and then soon after, obtained my first position at Hope Haven of the low country, Hopeful Horizons now, and that's where I became a therapist. After a couple years of conducting therapy, I became a forensic interviewer in 2016 and then for about a year and a half of maintaining that position, then I transitioned to a clinical director position at a drug and alcohol rehab, and then I transitioned into my private practice full time in 2017 as well as teaching at USC.

Q. Okay, and back when you were with Hopeful Horizons, you mentioned that you were, is it certified to conduct a forensic interview? What is a forensic interview?

A. Yes, a forensic interview is a structured fact finding conversation with a child typically ordered in response to child abuse allegations, child maltreatment and yes, so we had to get training with the child first protocol. The child first protocol involved 40 hours hands on training and then continued peer supervision and review afterwards.

Q. Okay, so in addition to your master's degree in counseling, you also received specialized training protocol.

A. Yes.

Q. I'm going to direct your attention back to 2016, you

indicated that time you were working at Hope Haven and Hopeful horizons.

A. Correct.

Q. During that time, while you were there, did you have an opportunity to conduct a forensic interview with Complainant [redacted] in December of 2016?

A. Yes.

Q. And how old was Complainant at that time?

A. I believe he was eight.

Q. And was that audio and visual? Excuse me, audio and video recorded?

A. Yes, it was.

Q. And is that consistent with the protocol training?

A Correct.

Q. And during that time, did you have occasion to employ the techniques to elicit information from the child rather than providing information to the child or maintaining it.

A. Yes, I follow the child first protocol.

MS. MUSSER: Your Honor, May I approach?

Q. Ma'am, I'm handing you what has been marked as courts exhibit one. Are you familiar with that item?

A. Yes.

Q. How are you familiar with it?

A. This is the DVD containing the forensic interview I conducted.

Q. And does it contain your initials and the date for today?

A. Yes.

Q. Is it a fair and accurate depiction of the forensic interview when it occurred?

A. Yes.

Q. Thank you.

MS. MUSSER: At this time I would move in court's exhibit one which is a full forensic interview.

THE COURT: Any objection?

MR. KANALY: Very briefly, Your Honor, just to be sure that that is the redacted version.

MS. MUSSER: This one is for the pre trial. So this is the full version so that the judge, you know, has that. But then we'll also put in a copy of the redacted version that will be published. So court's exhibit one will be different than state's exhibit one.

MR. KANALY: All right. That's all, Your Honor.

(Court's Exhibit One was marked)

THE COURT: Did you have any questions regarding qualification?

MR. KANALY: Just briefly.

Cross Examination by Mr. Kanaly:

Q. How many times have you been certified as an expert

before?

A. Never.

MR. KANALY: Nothing further, Judge.

THE COURT: I understand that she's not being offered as an expert.

MS. MUSSER: Correct.

THE COURT: Anything else?

MS. MUSSER: No, thank you.

THE COURT: You may step down.

MS. MUSSER: Your Honor, I believe we need a few more minutes to wrap up the technology.

THE COURT: That’s fine. I might need some help with my computer again.

(There was a break)

THE COURT: The interview as redacted by agreement, and you've had an opportunity, I guess, to see it. And the redaction on this matches what y'all had agreed to yesterday, is that right?

MR. KANALY: That’s right.

THE COURT: I find it to be admissible under the factors. So now I guess we'll take a break and wait. Anything we can accomplish before we get a jury back.

MS. MUSSER: Not that I’m aware of.

THE COURT: Okay. Take a break for a few minutes.

(There was a break)

THE COURT: The jury is here. Anything before we bring them back in?

MS. MUSSER: No, Your Honor.

THE COURT: Bring them back in, please.

(Jury enters courtroom 10:00 AM)

THE COURT: Good morning. Did everyone have a good evening? And I need to ask you the question that of course I said I would ask every morning. Have each of you followed by instructions with regard to contact or information or research or anything associated with this case, each of you has not discussed anything with anyone done no research. Is that correct? Okay, fantastic. All right.

MS. MUSSER: The state will call Sandra Knapp.

DEPUTY CLERK: Do you solemnly swear affirmative testimony you're about to give to this court in this trial to do the truth so help you God?

MS. KNAPP: Yes, I do.

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

MS. KNAPP: Sandra Knapp, K-N-A-P-P.

DEPUTY CLERK: Thank you.

Ms. Knapp - Examination by Ms. Musser:

Q. Good morning, Ms. Knapp. What do you do for a

living?

A. I'm a licensed professional counselor and a licensed professional counselor supervisor in the state of South Carolina. I'm currently an owner of a private practice where I provide therapy, and also I'm a full time instructor of Psychology at the University of South Carolina.

Q. Back in 2016, where did you work?

A. I worked at Hopeful Horizons, formerly known as Hope Haven.

Q. And what did you do for Hopeful Horizons?

A. I began as a therapist in 2014 and then in 2016 I was trained as a forensic interviewer.

Q. How would you describe or what is a forensic interview?

A. A forensic interview is a fact finding structured conversation with the child in response to allegations of maltreatment.

Q. Okay, and back on December 22, of 2016 did you have occasion to conduct an interview with Complainant ?

A. I did.

Q. How old was Complainant at the time of your interview?

A. I believe he was eight years old.

MS. MUSSER: Your Honor, may I approach?

THE COURT: Your may.

Q. Ma'am, I've handed you what's been marked as state's exhibit one. Are you familiar with that item?

A. Yes, I am.

Q. What is it?

A. It is the DVD containing the forensic interview.

Q. Does it fairly and accurately depict the forensic interview that you conducted with Complainant?

A. Yes.

MS. MUSSER: Your Honor. At this time, I would moved for the admission to state's exhibit one.

MR. KANALY: Without objection.

THE COURT: All right, thank you, State's exhibit one without objection.

MS. MUSSER: And Your Honor, at this time I would ask to publish to the jury.

THE COURT: You may. Do we want to move around there.

MS. MUSSER: Yes, sir.

(State's Exhibit Number One is played for the jury)

MS. MUSSER: Thank you, Your Honor. No further questions.

THE COURT: Any from the defense?

MR. KANALY: No cross, Your Honor.

THE COURT: Thank you so much.

MS. MUSSER: Your Honor may Ms. Knapp be excused?

THE COURT: Any objection?

MR. KANALY: None.

THE COURT: Yes. Thank you.

MS. MUSSER: And, Your Honor, with that the state will rest.

THE COURT: Ladies and gentlemen, I'm going to get you to return to the jury room for a minute while we take up some issues. Don't discuss the case.

(Jury exits courtroom 10:34 AM)

THE COURT: Anything from the defense?

MR. KANALY: Your Honor, I would review all of my previous motions and objections. Furthermore, I'll make a motion for a director verdict. The evidence viewed in the light most favorable to the state doesn't create a case against my client. There's no basis for which the jury could find him guilty.

THE COURT: I'm glad to hear from you.

MS. MUSSER: Thank you. Your Honor. Pursuant to State versus Williams, and I'm sure the court knows this, the court must submit the case to the jury if there is any substantial evidence which reasonably tends to prove the guilt of the accused, or from which his guilt may be fairly and logically deduced. I would say this is the existence of evidence and not its weight. The state has proven the date, summer of 2016, the defendant has been identified, the

venue has been testified to, and we have met the elements of criminal sexual battery of a child less than eleven (11) years old. And we would respectfully request the court to deny that motion.

THE COURT: Thank you so much. I will deny the motion. I think there is the existence of evidence. All right, let's get the defendant sworn and I will ask him the right to testify questions.

DEPUTY CLERK: Do you swear or affirm to answer all the questions of the court truthfully?

MR. (DARRYL) WASHINGTON: I do.

DEPUTY CLERK: Thank you.

THE COURT: Mr. Washington, at this time I'm going to explain to you certain of your rights. If you do not understand anything I say, please let me know. If you want me to explain anything in more detail, please let me know. Do you understand?

MR. WASHINGTON: Yes.

THE COURT: All right, we've reached the point of the trial where you may present your defense. You have the right to claim the protections given to you by the Fifth Amendment, the Constitution of the United States. The Amendment states, in part, no person shall be compelled in any criminal case to be a witness against himself. That means that you cannot be required to testify in this case.

You have the right to testify on your own behalf. However, no one can make you testify. This is a personal right, and no one can waive this right except you. If you decide to testify, you will be subject to the same rules that govern other witnesses, and you may be examined and cross examined on any relevant issue in the case. In addition, if you have any convictions involving dishonesty or false statements or for crimes punishable by imprisonment for more than one year, and this court determines that the probative value of admitting this evidence outweighs its prejudicial effect to you, the solicitor will be able to introduce your record to attack your credibility.

If you decide to testify this decision on your part must be freely, voluntarily and intelligently made with the knowledge of the protections given to you by the Fifth Amendment and the consequences of your decision to testify. If you decide not to testify, I will instruct the jurors that they cannot give the fact that you did not testify any consideration whatsoever, and there is to be absolutely no prejudice to you because you did not testify, it is left entirely up to you whether or not you testify. You may talk with your attorney, your family, friends, anyone else, but the final decision will be left entirely up to you. Do you understand what I've explained to you?

MR. WASHINGTON: Yes.

THE COURT: Have any questions about what I've explained to you?

MR. WASHINGTON: No.

THE COURT: Have you discussed with your lawyer whether or not you should testify?

MR. WASHINGTON: Yes.

THE COURT: Do you wish to talk with your lawyer anymore at this time?

MR. WASHINGTON: No.

THE COURT: Do you wish to testify?

MR. WASHINGTON: Yes.

THE COURT: Thank you so much. You may be seated, sir. Anything we need to do before we bring in the jury?

MS. MUSSER: Judge, if you can just give us a few minutes.

THE COURT: Okay. Anything else before we bring in the jury?

MS. MUSSER: No, Your Honor.

THE COURT: All right. Please bring in the jury.

(Jury enters courtroom 10:41 AM)

THE COURT: Okay, as you heard, the plaintiff has rested. We will now here from the defense.

MR. KANALY: The defense calls Complainant .

DEPUTY CLERK: Place your left hand on the Bible and raise your right hand. Do you solemnly swear or affirm

the testimony you're about to give this court in this trial to be the truth. So help you, God.

Complainant: I do.

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

Complainant: Complainant.

MR. KANALY: May it please the court?

THE COURT: Yes, sir.

Complainant **- Examination by Mr. Kanaly:**

Q. Complainant, I just had a few questions about this case. Now, who did you first tell about this alleged incident, too?

A. My aunt Shantelle.

Q. Your aunt Shantelle. When you told her you were accused of doing the same thing, weren't you?

A. No.

Q. Were you being threatened with punishment if you didn't tell how you learned that behavior you were doing?

A. I went to tell my mother.

Q. Were you threatened by your grandmother, Helen?

A. No, I was not.

MR. KANALY: A moment of the court's indulgence. Nothing further, Judge.

THE COURT: Anything from the state?

MS. MUSSER: Your Honor, no additional questions.

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

MR. KANALY: Your Honor, next we will call Mr. Henry Washington.

DEPUTY CLERK: Put your left hand on the Bible and raise your right hand. Do you solemnly swear or affirm that the testimony you're about to give this court in this trial to be the truth so help you God?

MR. WASHINGTON: Yes.

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

MR. WASHINGTON: First name, Henry Washington, W-A-S-H-I-N-G-T-O-N.

Mr. Henry Washington - Examination by Mr. Kanaly:

Q. Good morning Mr. Washington, how are you doing?

A. Good morning.

Q. Mr. Washington, where do you live?

A. In Yemassee, South Carolina.

Q. Okay, have you always lived in South Carolina?

A. No, sir.

Q. Where did you live before that?

A. New Jersey.
Q. Okay, and so did Darryl?
A. Yes that's where he was born.
Q. Okay. What do you do for work?
A. Me?
Q. Yes, sir.
A. Oh, steel worker.
Q. So you're a steel worker?
A. Yes.
Q. Okay. And what's your relationship to Darryl?
A. I'm his father.
Q. Okay? And does Darryl live with you?
A. Yes.
Q. Does Darryl work?
A. No.
Q. Okay. What does Darryl do for fun?
A. Really, not too much. You know, he helped me around the house and stuff, you know, in my little garden.
Q. To the best your knowledge, is Darryl ever had like a girlfriend?
A. Yes.
Q. Okay. Now, what's your relationship to Complainant ?
A. Well, Complainant's grandmother is my wife first cousin, so, third cousin, whatever.
Q. Okay, that sounds right. Now, did Complainant spend any

time at your house?
A. Yes he has.
Q. Now when he was over there, were you and your wife, Alberta, were y'all always watching him?
A. Yes.
Q. Okay, what part of the house would you all usually stay in when he was over?
A. In the den.
Q. Okay, and that's separate from the living room?
A. Yes. You come in the house, the living room, and then you make the left and go to the kitchen, the dining room, first kitchen and the den will be to the right.
Q. Okay. Now, if I could direct your attention to the summer of 2016. During the summertime, would you ever have people over for cookouts?
A. Oh, yeah.
Q. And during those cookouts would you say everybody was mostly outside or inside?
A. Yes.
Q. So they'd be outside?
A. Right.
Q. Okay. Now, to the best of your memory, do you remember Complainant coming over at any time during that summer of 2016?
A. I don't remember, you know, it been a while back.

But, you know, I really don't remember.

Q. Okay, but if he did come over, would he most likely have came over for a cookout with his mom, Akiba?

A. Probably, if they came here, I'm not sure.

Q. Okay.

MR. KANALY: Nothing further.

Mr. Henry Washington - Cross by Ms. Musser:

Q. Good morning, Mr. Washington.

A. Good morning.

Q You said that you were a steel worker. When did you -- Where did you work, and when did you stop? Are you retired now?

A. Oh yeah.

Q. When did you retire?

A. 2000, beginning of 2014.

Q. Okay. And so back in the summer of 2016 you were retired, correct?

A. Oh, yes.

Q. And so it was you and your wife, and that's Abertha?

A. Right.

Q. Living at the home?

A. Right.

Q. With your adult son, Darryl. Do you have other children?

A. Yes.
Q. Would that be Reggie?
A. Reggie and Damon.
Q. Okay, but Reggie lives with you, right?
A. Right.
Q. Okay, and he's also an adult, correct?
A.. Yes.
Q. Now you said that --- do you have a specific recollection of 2016 or are you testifying about what was, you know, just normal back in that time frame, because that was a long time ago. It was eight or nine years. So do you have a specific recollection of a cookout where Complainant came or not so much?
A. That's what I say. I don't remember him coming over there, but I always having cook outs and inviting my, you know, family, you know.
Q. And Bert, your wife, do they call her Bert for short?
A. Right.
Q. Now, she's kin to Complainant's grandma, right?
A. Right.
Q. And so you all are family, right?
A. Yeah.
MS. MUSSER: We'll wait till the fire siren goes by.
Q. And it was normal for them to come over,

right?
A. Not normal, because, I mean --- well, me, that side, I don't deal with that much, okay? I mean, long time ago, since I moved back before I moved here.
Q. Okay, so, but there was no there was no bad blood between the families.
A. No, not that I know of.
Q. Everybody got along, right?
A. I think they did yeah.
Q. No family drama.
A. No.
Q. And even you said that the relationship was good enough that if you had had a cookout and they wanted to come, they could have come, right?
A. If my wife invited them, but I wasn’t going to invite nobody.
Q. Right. But, you know, you and your wife, you know, live there together. But if she invited, you wouldn't have a problem with that, right?
A. It’s her house also, so I can, you know.
Q. Okay, but there was no disputes or anything like that?
A. No, no.
Q. Now, you said that Darryl doesn't work right?
A. Right.

Q. But he graduated high school, correct?
A. Yes, ma'am.
Q. And he can read and write right and and he likes video games, right?
A. Right.
Q. What types of video games does he like? Do you know? Have you ever watched him play?
A. I don't watch him play, but I don't know he did be playing the like Nintendo game or something like that because my wife, you know, buys it for them, you know, to play with, you know, just to have something to do.
Q. Sure, sure. Now he's 38 now, right?
A. Yeah.
Q. Okay, and so back then you would have been about 30, 30, 30 years old?
A. Yeah, I guess.
Q. And you said that Complainant spent time there at your house, right?
A. Whenever he --— well, when I heard he got kicked out of school.
Q. Okay. So ...
A. I guess they asked my wife to, you know, but I didn't, you know invite them to ...
Q. To watch him, you mean.
A. Yeah.

Henrey Washington - Redirect Examination by Mr. Kanaly

Q. Okay. So there was a time when he came over to your house, right?

A. Yes.

Q. And you said that, I wrote that you were always watching. What does that mean?

A. Always?

Q. You said that when Complainant was over, you and your wife were always watching. Did I hear that, right?

A. Well, I mean, watching, I mean everybody be there so I mean I can't close my eyes or anything, I mean.

Q. Okay. Were there times that Complainant would play video games with Darryl?

A. I'm not sure.

Q. You're not sure.

MS. MUSSER: Court's indulgence. I have nothing further, Your Honor.

THE COURT: Anything else?

MR. KANALY: Just briefly, Your Honor.

Mr. H. Washington - Redirect Examination by Mr. Kanaly:

Q. Now, Mr. Washington where is your wife today?

A. Oh, she's in the hospital right now.

Q. Why she there?

A. She having a hip surgery, hip replacement.

Q. Okay. right now as we speak?

A Right now as speak.
Q. Yes, sir. Can Darryl hold down a job?
A. Yes. He had a job up in Jersey, you know, at a shop, right?
Q. Why does Darryl still live with you?
A. He is, I wouldn't say, artistic, but he, you know, kind of slowly, you know, mentally.
MS. MUSSER: Objection, Your Honor, I think given some leeway, but it really is outside the scope of my cross examination.
THE COURT: Well, I think you explored the job thing, so.
MS. MUSSER: I explored Mr. Washington's job, not Darryl's job.
THE COURT: Okay. Yes. Sustained.
MR. KANALY: A moment of court's indulgence. Nothing further.
THE COURT: Thank you so much. Sir you may step down.
MR. KANALY: Your Honor, next the defense would call Mr. Darryl Washington to the stand.
THE COURT: Come on up.
DEPUTY CLERK: Do you solemnly swear or affirm that the testimony you're about to give to this court in this trial to be the truth so help you God?

MR. DARRYL WASHINGTON: Yeah, I do.

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

MR. WASHINGTON: Darryl Washington, W-A-S-H-I-N-G-T-O-N.

Mr. Darryl Washington - Examination by Mr. Kanaly:

Q. Hi, Darryl. How you doing this morning?

A. Fine.

Q. Now, Darryl, tell me about yourself. How old are you?

A. I'm 46.

Q. Okay. Where are you from?

A. I'm from North New Jersey.

Q. Okay, is that the town you're living in now?

A. No, that’s Yemassee, South Carolina that I’m living in now.

Q. Okay, so you're living in Yemassee right now?

A. Yes.

Q. Okay. Now, do you live with anyone currently?

A. Yes. My mom and my dad.

Q. Okay and their names are Henry and Alberta?

A. Yes.

Q. Okay. Do you work?

A. No.

Q. Do you want to work?
A. Yes.
Q. How come?
A. So, I can help my mom and dad with the mortgage.
Q. Okay. Darryl, how far did you go in school?
A. I graduated high school.
Q. Okay, where did you go to school?
A. I went to Montgomery High School in New Jersey.
Q. Okay. Now, what do you do for just fun, recreation, those type of things.
A. Watch TV and play video games.
Q. Okay. Other than your parents and brothers, do you have any other family?
A. Yes. I've got a sister.
Q. Okay. Now outside of your immediate family, are you related to a Helen Bowers?
A. Yes.
Q. Okay. And how are you all related?
A. My aunt. I think of her as my aunt.
Q. Okay, so you think of her as your aunt. Okay. Are you related to Akiba Bowers?
A. Yes.
Q. How are you related to her?
A. That's my cousin.
Q. That's your cousin?

A. Yes.
Q. Okay. And does she have any kids?
A. Yes.
Q. Does she have a kid named Complainant?
A. Yes.
Q. Okay. And how are you related to Complainant?
A. He's my cousin.
Q. He's your cousin. Okay. Did you and your parents ever babysit Complainant?
A. Yes.
Q. How often?
A. Only when he got suspended from school.
Q. Okay. So you've been around Complainant a decent amount?
A. Yes.
Q. Okay, what was his just general attitude towards you?
A. Me and him were cool.
Q. Okay. Now where did Complainant live?
A. I don’t remember.
Q. Did he live ...
A. I mean, I don’t remember the address but he was staying with his grandmother?
Q. Right. We don't need the addresses where. Okay. He was staying with his grandmother, Aunt Helen.
A. Yes.
Q. Okay. Did you ever go to Aunt Helen's house?

A. Yes.
Q. Okay. Now, did she have a computer in her house around that time?
A. Yes.
Q. Now, did Complainant ever use that computer?
A. Yes.
Q. What did he use it for, school work?
A. To do school work on it?
Q. Okay.

MS. MUSSER: Objection on relevance, because I think he's referring to what somebody had on Complainant's house and not directly related to this incident.

MR. KANALY: Your Honor, if we may approach.

THE COURT: Ladies and gentlemen it's time for another quick break. So standard instructions to not discuss with anyone. We will get back with you soon.

(Jury excused from the courtroom 11:01 AM)

THE COURT: Please state your objection and then we'll launch into it.

MS. MUSSER: Your Honor, my objection was based on relevance, because at this point it doesn't seem that it's relevant, because Mr. Kanaly's questions to the defendant was asking about a computer that was at Complainant's house, and there was no allegation or connection to Complainant's house. Everything happened at the defendant's

house. So at this point, I don't think it's relevant. I would ask that it be proffered.

THE COURT: Mr. Kanaly

MR. KANALY: I would argue this is relevant because it goes to show the bias towards my client, and furthermore, the source of knowledge where he learned this behavior that he's accusing my client of perpetrating on him.

MR. MUSSER: Judge, without knowing the specifics, because Mr. Kanaly obviously knows this information, but ...

THE COURT: Go ahead.

MR. KANALY: Just start the last question, Your Honor?

THE COURT: Yes.

MR. KANALY: Okay.

(Proffer of Mr. Washington by Mr. Kanaly)

Q. So did Aunt Helen have a computer in her house?

A. Yes.

Q. Okay. Did Complainant's ever use that computer?

A. Yes to do school work?

Q. Okay, was there a time when you caught him for using it for something other than homework.

A. Yes.

Q. Can you tell me about what happened?
A. I went through it now to do to get something, some food from my grandmother and I walked in, he looking at a porn movie on the computer.
Q. Okay. And what was happening specifically in that movie.
A. The lady was sucking on a man penis.
Q. Okay. And what happened after that?
A. I told his mother. She didn't do nothing. So, I went and told his grandmother.
Q. Okay. And how did his grandmother react? And that's grandma Helen?
A. Yes.
Q. Okay. How did she react?
A. She picked him up and beat him with a belt.
Q. You said she beat him. Can you describe that.
A. She beat him so bad that he started crying.
Q. Did she use anything to beat him?
A. A belt.
Q. Okay. So he hurt so bad he started crying?
A. Yes.
Q. How did Complainant act towards you after that incident?
A. He was mad.
Q. Was he was mad at you?
A. Yeah.

Proffer Darryl Washington - Cross Examination by Ms. Musser

Q. Did you see Complainant any that following summer?

A. Yes, the last time I seen him they came over for a cookout.

Q. Okay. Were those cookouts mostly outside?

A. Yes.

Q. Everyone was outside?

A. Everyone was outside except for me. I don't like going outside.

Q. Okay, were there a lot of people there?

A. Yes.

Q. Okay. And during that time when you saw him at the cookout, what was his attitude towards you?

A. He didn't say nothing to me.

Q. Okay. Thank you.

MR. KANALY: That's all I've got, Your Honor.

THE COURT: Any cross on this particular issue?

MS. MUSSER: I do, Your Honor, thank you.

Mr. D. Washington - Cross Examination by Ms. Musser:

Q: Darryl, when did this incident at the computer happened?

A. It was back before, before the summer of 2016.

Q. It was back before the summer of 2016?

A. Yes.

Q. Like a year before?

A. Like the thing, yeah, like the year before that.
Q. A year before that. Could have been two years before that?
A. No, it was one year before that.
Q. Okay, what month was it in?
A. I don't remember what month it was.
Q. Do you remember what the season was?
A. It was kind of cold.
Q. I'm sorry say that last part.
A. It was kind of cold. It was before summer. It was before June.
Q. So it was before June ...
A. Yeah.
Q. ... but the year before?
A. Yeah.

MS. MUSSER: Your Honor. At this point, I am still asserting that it's not relevant.

MR. KANALY: Your Honor, we assert that it goes to bias against my client, and source of knowledge as to how this --- how the alleged victim knew about this sort of behavior that he's accusing my client of.

THE COURT: All right. I'll allow it. Just keep it tight based on ...

MR. KANALY: Yes, Your Honor.

THE COURT: So let's bring the jury back in.

Continue Darryl Washington - Examination by Mr. Kanaly

(Jury enters courtroom 10:41 AM)

THE COURT: Yes, sir.

MR. KANALY: Your Honor, may it please the court?

THE COURT: Yes, sir.

Mr. D. Washington - Continue Examination by Mr. Kanaly:

Q. Well, Darryl, we were talking about you going over to Aunt Helen's house?

A. Yes.

Q. And she had a computer in her house?

A. Yes.

Q. And you said Complainant would use that computer?

A. Yes, and what did he use it for?

Q. Homework.

A. Okay, was there a time when you caught him using it for something other than homework?

A. Yes.

Q. Can you tell me about what happened then?

A. I walked in and he was watching a porno movie.

Q. And what was happening, specifically in that porno movie?

A. A lady was sucking on a man’s penis.

Q. Okay. And what happened after that?

A. I told his mother and she didn’t do nothing so I told his grandmother.

Q. His grandmother, you mean Aunt Helen?
A. Yes.
Q. Okay. And how did she react?
A. She took up and beat him.
Q. Okay, how did she --- did she use something to beat him?
A. Yeah, she used a belt.
Q. How bad did she beat him?
A. Bad enough that he started crying.
Q. So he was beaten so bad that he started crying?
A. Yes.
Q. How did Complainant act towards you after this incident?
A. He was mad at me.
Q. So he was mad at you?
A. Yeah.
Q. Did you see Complainant any that following summer?
A. Yeah, when we had a cookout.
Q. Okay. And those cookouts, were they mostly outside?
A. Yes.
Q. Were there a lot of people there?
A. Yes.
Q. During that time, what was his attitude towards you?
A. He didn't said nothing to me.
Q. So he didn't like you?
A. No.

Darryl Washington - Cross Examination by Ms. Musser

Q. Darryl, one final question. Did you do anything that the government's accusing you of doing today?

A. No.

Q. Thank you.

MR. KANALY: That's all I have.

THE COURT: Thank you. Please answer any questions the state may have.

MS. MUSSER: Thank you.

Mr. D. Washington - Cross Examination by Ms. Musser:

Q. Hi, Darryl.

A. Hi.

Q. My name is Ms. Musser and I just want to ask you some questions to follow up on what you told Mr. Kanaly. So you live at home with your mom and dad, right?

A. Yes.

Q. Okay. And Reggie's your brother?

A. Yes.

Q. He lives with you also right?

A. Yes.

Q. And your mom and dad, they have rules for your house too, right?

A. Yes.

Q. And one of those rules is about kids, right?

A. Yes.

MR. KANALY: Object. May be approach?

(Counsel approaches bench without court reporter)

Q. Darryl, you have had some rules in your house, right?

A. Yes.

Q. And you have to mind what your mom and dad tell you right?

A. Yes.

Q. Now do you remember speaking to Ms. Padgett back there, the investigator?

A. Yes.

Q. Okay. And do you remember when you told her that you had porn at your house?

A. I had but my mama broke them up and threw them out. No, there was no porn at the house when he was there.

Q. Okay. But you yourself like to watch some porn.

A. Yeah.

Q. Okay and you would watch that in your bedroom.

A. Yeah.

Q. Okay. You mostly did that by yourself, right?

A. Yeah.

Q. Okay, so that's something you wouldn’t do in front of mom and dad?

A. No.

Q. Now you said that you like to play video games. What kind of video games do you like?

A. I like wrestling and football.

Q. Wrestling and football. And, so you and Complainant have that in common, right?

A. Yes.

Q. Okay. So there were times when he would come over and you guys will play video games?

A. No, no. They did the rule about when kids come over, I'm not allowed to be in my room. I would have to be up front with them, with my mom and dad. No, he was, he was never in my room.

Q. And why is that?

A. Because I know if I do stuff I'm going to get in trouble.

Q. You would get in trouble?

A. Yeah.

Q. If Complainant came to your room?

A. Yeah.

Q. Okay. But before, you said when you hang out with Complainant ...

A. We would be in the front.

Q. You, you would be in the front. But you never had any problems with Complainant, right?

A. No.

Q. I think you described it as you guys were cool.

A. Yeah.

Q. You had a good relationship. You're a little older, but you guys would hang out?
A. Yeah.
Q. You would talk. You never argued?
A. No.
Q. And you never fought or anything like that.
A. No.
Q. Okay. And you said that after this incident on the computer, what did he say to you? Did he tell you he was mad at you?
A. No. Before we was cool but I could look in his eyes and tell that he was upset with me.
Q. Okay. By the look in his eyes?
A. Yes.
Q. Let me ask you this. So the computer was at your aunt Helen's house, right?
A. Yes.
Q. So that would be down to grandmother, where he lives, so his house?
A. Yes.
Q. What room was it in?
A. In the front room when you walk into the house.
Q. Okay, and so it wasn't like his bedroom or anything like that.
A. No.

Q. And so when you were over there, you said that you went to, I think, get clothes.
A. No get food. Food for my grandmother.
Q. For your grandmother, but from Aunt Helen?
A. Yes.
Q. Okay. And so the computer was like right there by the door?
A. Yeah.
Q. Right. And so aunt Helen was home, right?
A. Yeah.
Q. Who else was home?
A. His mama and the two aunts.
Q. Okay. And the kitchen is right by the front room right?
A. Yeah.
Q. Okay, so they're in and out of the front room?
A. Yes.
Q. Are they talking?
A. No, they're not talking.
Q. So, but at that point you're just hanging out with Complainant?
A. Yeah.
Q. When did this happen? Do you remember what year?
A. No, I don't?
Q. It was the year before on 2015, like 2015 when that

happened?
A. So Complainant was even younger. He would have been like six or seven.
A. About that.
Q. Okay.
MS. MUSSER: Your Honor, one moment, please.
Q. Now, you had time to meet with your attorneys, right?
A. Yeah.
Q. Because this case has been going on for like eight or nine years, so long time, right?
A. Yeah.
Q. And would you say that Mr. Kanaly is like your fourth lawyer?
A. Yes.
Q Okay, and you've talked to multiple attorneys about this, right?
A. Yes.
Q. And they reviewed what your testimony would be, right?
A. Yes.
Q. And this case has been listed before, right?
A. Yes.
Q. But you switched attorneys, right?
A. Yeah. It wasn't me. The attorney I had before that left and went some place else.

Darryl Washington - Redirect Examination by Mr. Kanaly

Q. Okay, so that one left. Okay. But you have had a few attorneys, right?

A. Yeah.

MR. KANALY: Objection, relevance.

THE COURT: Sustained.

MS. MUSSER: Your Honor, may be approach?

(Counsel approaches bench without court reporter)

MS. MUSSER: I have no further questions. Thank you.

THE COURT: Redirect?

MR. KANALY: Very briefly, Your Honor.

Mr. D. Washington - Redirect-Examination by Mr. Kanaly:

Q. Darryl, only one person's allowed to be pretty much in your room at any time, right?

A. Yes.

Q. And that's to keep you from horsing around and throwing stuff and otherwise ...

MS. MUSSER: Objection leading.

THE COURT: It's leading.

Q. Is that to keep you from horsing around?

A. Yes.

Q. And possibly damaging the house?

A. Yes.

MR. KANALY: A moment of the court's indulgence.

No further questions.

THE COURT: You may step down, sir. Anything else?

MR. KANALY: Nothing further, Your Honor.

THE COURT: Does the defense rest?

MR. KANALY: The defense rest.

THE COURT: Ladies and gentlemen, I'm going to get you once again to go back to the jury room. We need to take up a few things outside of your presence, and we'll be back with you.

(Jury break 11:19 AM)

THE COURT: I think there's a good bit of what we used yesterday that we can slice and dice for a potential charge, of course, you haven't seen it. We don't have an attempt issue in this one. I don't remember what the spoilation issue would come out. You still have it on your computer.

MS. MUSSER: I do and I think the spoliation about the defendant's failure to testify would come out. I can forward it everyone.

THE COURT: You have it? Okay. Here it is.

MS. MUSSER: Judge, I know that at the appropriate time there is a special language that has to be included -- - pursuant to the statute. I was in and out but it says in the case of a person convicted of trial for a violation of

(a)(1) which we are, it says the judge or jury, whichever is applicable, must designate as part of the verdict whether the conduct that constituted the sexual batteries involve sexual or anal intercourse by a person or by an object. So ...

THE COURT: Which is strange because fellatio and cunnilingus are parts of the statute, and you would, in theory, not designate that. So that's a confusing part of the statute.

A. It is. When I read that, it was my understanding that there needed to be something on the verdict form about that. Because it specifically references ahead of that if a person is convicted, so that would be a plea. But then it says in the case of a person convicted at trial for violation of subsection A(1), the judge or jury, whichever is applicable, so the jury would be applicable must designate as part of the verdict whether ...

THE COURT: I have read it, I'm just (Deputy Clerk's printer running interference) --- the allegations within the statute because again penetration and all that stuff is in the statute.

MS. MUSSER: Right.

THE COURT: So is fellatio and cunnilingus. I think that is what the allegations are.

MS. MUSSER: Okay.

THE COURT: So, I'm happy to see whatever proposed language you would like.

MS. MUSSER: I just wanted to make sure it was on the record and that I ...

THE COURT: I'm happy to hear from the defense on that.

MR. KANALY: Judge, the allegations are of cunnilingus and fellatio charge. If you put in anything else regarding a sexual assault could confuse the jury quite frankly. I mean, I'm trying to think of how --- it's impossible to charge what is on the code and put that language, I mean, it just doesn't make any sense. I actually had a discussion with another judge about that very same language as an issue. Everybody apparently acknowledges there's an issue there and just moves on, but I'm happy to look at whatever language you would want to propose.

MS. MUSSER: Judge, I don't think it's necessary because (Deputy Clerk's printer interfering) this isn't a case where there were allegations of multiple sexual battery it is strictly limited to (Deputy clerk's printer interfering) ..

THE COURT: Well let me look real quick ... Let's see. I think prior inconsistent statements we can take out. So get rid of that. I'm working from a form from

yesterday. Prior record of witness. We have none of that. I mean, I'm happy to look at some language if you have any. I'm just trying to figure out how it goes with this case.

MS. MUSSER: We are 100 percent fine, Judge. Thank you. I appreciate that.

THE COURT: So have you got the verdict form? Let's bring the jury in.

(Jury enters courtroom 11:30 AM)

THE COURT: You think I could have just walked back there and told you this but I can't. I have to have the court reporter. Obviously the state has rested. The defense has rested so we are preparing now for the final part of the trial which are the closing arguments and then the charge that you're given with regard to the law. All of that is a lot of paperwork and takes a good bit of time so what we are going to do is go ahead and release you to lunch til 12:30. Again, standard instructions. Don't discuss any part of this case with anyone. Don't do any research or look anything up. I would appreciate it if you all would get back at 12:30 and hopefully we will have everything done that we need to do by then so that we can start. Any questions? All right. Thank you so much. We will see you at 12:30.

(Jury excused for lunch 11:34 AM)

MR. KANALY: Your Honor, I renew all my previous

motions and objections and I also renew my directed verdict motion.

THE COURT: All right. Thank you. Anything from the state?

MS. MUSSER: For the same reasons I stated before I ask that you deny them.

THE COURT: Again, they are denied.

(DAY 2PM)

THE COURT: Go ahead.

MR. KANALY: Your Honor, I believe it would be proper for the state to go first, then I have a closing argument, and then the state have a, I suppose rebuttal. If that's --- if everyone's on the same page.

MS. MUSSER: That's my understanding.

THE COURT: Okay, sounds good.

MR. KANALY: Yes sir.

THE COURT: All right, and everyone has the proposed verdict form, everything good with that?

MS. MUSSER: Yes, sir.

MR. KANALY: Yes, sir.

THE COURT: Any objection to that? Everyone has the charge, specifically with regard to first degree criminal sexual conduct with a minor.

MS. MUSSER: Yes.

MR. KANALY: Yes, sir.

THE COURT: Is everyone happy with that? No objections. And the closing charge, which consists of nine pages. Everyone happy with that?

MR. KANALY: Yes, Your Honor.

MS. MUSSER: Yes, sir.

THE COURT: Okay, of course, these will go back with the jury at some point. Assuming we get the jury.

(Jury enters courtroom 12:34 PM)

THE COURT: All right, did everyone get something to eat? Good, good. This is the time of day after lunch it's kind of hard to stay awake, but this is very important that you all pay attention to what's going to go on next, as you have been paying attention thus far. So the parties have presented the evidence in the case. It's now time for the attorneys to make their closing arguments. The arguments of the attorneys are not evidence in the case. Their statements and arguments are meant to help you understand the evidence and apply the law to the evidence. You should disregard any remark, statement or argument which is not supported by the evidence presented during the trial or the law that I will explain to you after the arguments.

The state will go first, then the defendant, then the state again. Happy to hear from you.

MS. MUSSER: Thank you, Your Honor. May it please

the Court. Good afternoon, Mr. Kanaly. Good afternoon ladies and gentlemen. To find the defendant guilty of a criminal sexual conduct with a minor first degree you have to find that the defendant engaged in a sexual battery of a child of less of than 11 years old. And when you get back into the deliberation room after the judge gives you the law you're going to have to kind of reconcile or apply the facts, as you find them to be, to that law, but by way of kind of segue into that and consolidating it, the evidence is undisputable that in the summer of 2016 the victim, Complainant, was eight years old, so we definitely have the under 11 portion. The sexual battery, that definition includes oral sex. So when he testified that he put his penis in his mouth, would definitely qualifies for oral sex. And so we have that definition that we can check off of the things that the state has to prove.

Beyond a reasonable doubt is not a phrase that I think we use in our day to day life, and the Judge is going to give you an extended definition of it. But in short, it does not have to be 100% certainty. It's not to a mathematical formula. It's not above every possibility of things that happen. The standard is, are you firmly convinced that the defendant did what the state has accused him of. And so when you're firmly convinced, by way of example, I think we all make decisions like this in life,

whether it's whether you want to buy a house, whether you're going to buy a car, and things of significance, because obviously this case is important to the state. It's important to Complainant and it's important to the defendant. So let's say you have been working at your job for many years, and someone comes along and they offer you more money to go to a different company. You might consider, well, what's the pay? Let's say it's more money. Well, it's more money. Where is it located? What don't I know about this company that I want to think about? What do I know about my existing company? And after you mull those things over you think about them and you give them consideration, you said, Yeah, I'm going to take that job. That would be an example of something that you were firmly convinced that it was right for you to take that job. So it's the same thing when you get back in the deliberation room after you consider all of the evidence in this case if your thought is, yeah, he did it. And you think it over, and you talk about it with the other jurors, you analyze the evidence that would be enough to move forward and find him guilty. Again, it's not --- I don't have to --- the state doesn't have to refute every other possibility, but just that you're firmly convinced and you feel comfortable moving on to that decision.

So the main issue in this case, it boils down to,

did the defendant do it? And so that boils down to credibility. Now the credibility in this case, you're going to have to weigh the credibility of 16 year old Complainant, eight year old Complainant, as you saw him being interviewed, versus the defendant. And that is kind of the nature of these criminal sexual conduct cases with a minor. Because think about it, that kind of act is not done in public. There's not going to be multiple witnesses to it. The fact is, it's a child with an adult somewhere that's private, because, again, it's not going to be something done in public, it's done in secret. So oftentimes you're left with you have to weigh, and it's difficult. You have to weigh the credibility of the child versus the credibility of the defendant.

I would also ask you to keep in mind, and it's pretty clear in this case, that for children we teach them mind adults, respect adults, do what adults tell you to do. He is an adult. He was a child. So along that line, think of the ability of an adult to tell a child what to do, and think of what the child has to do if they are going to disclose it, or if they're you know, this is how it winds up in this situation sometimes because the kids are in a position to tell the defendant go away because they're taught to mind adults. So that brings us back to credibility. So when you're judging again eight year old

Complainant, 16 year old Complainant versus defendant, think about what the defendant has to lose. He has a lot to lose in this case. He is biased in his testimony. He has a vital interest in the outcome of this case, and it's clear the defendant knew right from wrong.

So let's talk about Complainant's credibility. So back at the time that he gave that interview, and with respect to that interview, if you need it played again, that is certainly something that if you get back into the jury room and discuss it you can ask us to reply if there's a part that you want to hear again, something that you need to clarify, because again, that interview took place eight or nine years ago. Complainant has been consistent in what he said then and what he said now. And there was an issue made in Mr. Kanaly an opening statement about the delay of the case, and somehow, I guess, importing blame on Complainant because the case is old. Well, it's pretty clear from the testimony that, you know, that wasn't an issue. It certainly wasn't his fault. It's not the state's fault, it's the system. And you've heard some explanations for that delay. But during that time, there was lots of time for Complainant to not be consistent, to not say the same things, to change his story. And here, we are eight, nine years later his story is the same. He said in that video -- - I want to make sure. He told you in that video, and when

you're judging his credibility it's just like if you were, we make credibility decisions in our lives every day we meet somebody new, we kind of, even if it's not a consciously, we form opinions about them. Is that person telling the truth, or is that person a little shady? So when you think about that video, think about how Complainant answered the questions. Was he candid? Was he forthcoming? Did he waffle? Did he waiver? No, he didn't. When she asked him, who did it, he even drew a picture when she was out of the room. He drew a picture and said, oh this is Darryl. He said Darryl did it at Darryl's house. So he's provided the who and the where. He provided the when, when he said the summer of 2016. And he also provided you testimony about the what. And a eight year old Complainant is consisted with 16 year old Complainant when he said, he pulled his pants down, he tried to pull them back up, Complainant tried to pull them back up, defendant pulled them back down. He squeezed his private part, he licked his private part, and she specifically said, where was your private part? It was inside of his mouth. Then he took it a step further when she said, what do you mean by he was like playing with it and he's like he shook it. And she said, well, what does that mean and he demonstrated it. Sixteen year old Complainant took the stand and again, consistency. The defendant was his friend. You heard testimony from both

the defendant and Complainant. They were cool. They were hanging out. So there's no indication that there was any bad blood or reason for Complainant to lie about that, particularly the little boy in that video. In the video and on the stand, I think it's quite telling, and it's a sign that he hasn't been coached in that I said, well, what did the defendant say would happen to you if you told. And on the stand, he's like I don't remember. I remember being scared. But then I don't know if you heard it but in the video he says, well, he threatened if he told he would beat him with the big bat. And then he goes on to describe that. Is that logical and common sense that that would leave an impression on that little boy so that as he sits here at 16, he's like, I don't remember. I just remember being scared. Well, yes, and that's when I gave my opening statement to you, I said, you know, I asked you to listen to the evidence with logic and common sense that you brought with you, because just because you're putting on the juror badge doesn't mean that common sense, logic and life experience fly out the window. That's what we're asking you to make decisions on. And that's why, as jurors, it's important you know that everybody has a different background, and it's why jurors are so important.

So Mr. Kanaly, through his questions, kind of seemed to challenge Complainant's credibility. There was an

inference that there was behavior issues, well kids that have been sexually assaulted act out. There was references to him lying, but again, I'll direct you back, consistency. That eight year old in the video, there was no hesitation, he gave his answers freely.

It's also telling that Complainant's mother never allowed him to go back to his house. He was not allowed and in a jury room it may come up. Well, what is that consistent with? It's consistent with credibility, believability. With respect to the delay and the allegation that he was lying with some sort of you know, he was mad and something had come up. Some of you may know that during that time, he could have asked the state to drop the charges. He could have refused to cooperate. He could have not come to court. So it's just again, it's him being here and taking the stand is consistent with the version of events as he described them during that interview. He was consistent. He was credible.

When I was a young prosecutor, many, many, many, many years ago, I had gone to what we call continuing education seminar, and so there was a bunch of prosecutors in the room and there may have been some defense attorneys, but I think it was mostly prosecutors. And I will never forget this as long as I live. The person that was teaching the class said, well, everybody get comfortable. In a few

minutes, we're going to randomly pick two or three people you know among you to stand up and describe for us in detail, with specifics, your most recent sexual encounter. So when I tell you that there was a hush over that room, everybody's kind of looking around covering their face. People are getting fidgety. They were thinking I don't want to do that. That's personal, that's intimate, that's between my husband and I. I don't want to tell strangers about that. And the instructor, after a few minutes of letting us sit in that, said, relax, guys. We're not going to --- you're not going to have to do that but keep in mind that is exactly what we are asking our victims to do when they take the stand. What 16 year old boy is going to want to come into this large room with men and women and a judge in a black robe, facing his accuser and telling you about how he sucked his penis and how he fondled his penis, the answer is, he's not, and that adds to his credibility.

Ladies and gentlemen, as a society, we protect our children. We recognize their vulnerability that they encounter if they're with an adult that is going to take advantage of them or sexually assault them. The law protects them. The parents protect them. And as part of that, from an early age, we teach children the meaning of a private part, good touches, bad touches, and we teach them to tell. Ladies and gentlemen, eight year old Complainant,

right, he told. 16 year old Complainant told. So I urge you to find that he is credible, that he's been consistent, and find the defendant guilty.

THE COURT: Thank you. Yes, sir.

MR. KANALY: Beg the Court's indulgence. Judge, may it please the Court.

THE COURT: Yes sir.

MR. KANALY: You took an oath as jurors. You were asked to be impartial. The fact of the matter is, you aren't impartial. You're supposed to have a bias in favor of my client. That is, you have to give him the benefit of any and every reasonable doubt you have. Now the state just compared reasonable doubt to taking a new job. The difference is, taking a new job and not liking it you can quit. This decision affects my client, Darryl Washington for life.

At the beginning of this trial, I asked you to ask questions. You heard from Officer Padgett that both Darryl and his family voluntarily gave interviews. They're polite, they're cordial, and those interviews were recorded. Why is it that you haven't seen them? What's the government hiding. You heard from Akiba Bowers, who admitted that Complainant has no respect for adults and has a tendency to lie to both herself and teachers at school. Further, she would admit that he'd be beaten with a belt if

he got in trouble. You heard this incident allegedly happened during the summertime. However, Henry Washington took the stand and stated he didn't even remember Complainant coming over during the summer. In fact, the only time they would have people over during the summer was for cookouts, and these were all outdoors. Complainant claimed he wasn't in trouble when he made these revelations to his aunt Shantelle. Why is that?

Finally, you heard about Darryl --- you heard from Darryl about him getting Complainant in trouble for watching a porno movie on the computer which depicted the exact same thing that Complainant is accusing Darryl of. Darryl caused Complainant to be brutally beaten with a belt until he started crying. That explains the animosity Complainant had and still has towards Darryl. Furthermore, in the movie, what was depicted shows where he learned this behavior. Complainant was lying back then, and he's lying now. Complainant had it out for Darryl and still has it out for Darryl and wouldn't stop until he in turn got Daryl in trouble. He has no regard for how his actions affect others.

At the beginning of this trial, I told you I would ask you to return a verdict of not guilty, and I'm not here to do that. This all started out as a kid lying to keep himself out of trouble, and has now snowballed into the charge that brings us all here today. You all are the

law of 12 that can prevent this snowball from crashing into my client. I will ask you once again to return a verdict of not guilty. Thank you for your time.

THE COURT: Yes ma'am.

MS. MUSSER: Ladies and gentlemen, not much has changed from about two minutes to when I just spoke to you. But I'll agree with Mr. Kanaly that this case is about credibility. But under his theory, the defendant said that the incident with a computer took place the year before. So to buy what he is selling, you would have to believe that six year old Complainant, held all of that information, waited for an opportunity to get even I don't understand. I'm not I'm not understanding what he's trying to say. But the bottom line is, Darryl said that the incident, the alleged incident that happened with the computer was the year before, and alleging that that took place in the front room, again, not in private, not in like Complainant's bedroom behind closed doors but no in the front room near the kitchen where the grandma was or yea mom. It's just not common sense. It's not logical, and the claim that Complainant is lying should fail for that reason.

Darryl's dad also has a vital interest in the outcome of this case, because naturally, he loves his son. His son still lives with him. His son needs him. So is it all that illogical that he doesn't remember specifics, and

I would suggest to you, so again, as you go back into the deliberation room, I would ask you to consider the video, consider the consistency. Consider how Complainant answered the questions in front of you, and how he is never waffled. He has never wavered. And as that little boy was pointing out the pictures on the diagram and naming the parts. He said, he touched my private part. You're not supposed to touch private parts. He put my private heart in his mouth. He licked it, he squeezed it, he shook it, and the verdict should be guilty. Thank you.

THE COURT: Ladies and gentlemen of the jury, I remind you that, during this trial, you and I have certain duties to perform. As the trial judge, it is my responsibility to preside over the trial of the case, and I also have the duty to rule on the admissibility of the evidence offered during the trial. You are to consider only the competent evidence before you. If there was any testimony ordered stricken from the record in this case during the trial, you must disregard that testimony. You are to consider only the testimony which has been presented from the witness stand, any exhibits which have been made part of the record in this case, and any stipulations of counsel.

I have the additional duty to charge you the law applicable to this case. As the presiding judge, I am the

sole Judge of the law of the case, and it is your duty as jurors to accept and apply the law as I now stat it to you. If you already have any ideas as to what the law is or what the law ought to be and it does not agree with what I now tell you the law is, you must abandon this idea because you are sworn to accept the law and apply the law exactly as I state it to you.

In every case tried in this court before a jury, the jury becomes the sole and exclusive Judge of the facts in a case. A trial judge cannot intimate, state, comment on, or make any statement to a trial jury about the facts in a case. Since you, the jury, are the sole judge of the facts in the case, you are not to infer from what I have said during the progress of this trial in ruling upon the admissibility of evidence, or otherwise, or anything that I say now during the course of this instruction to you, that I have any opinion about the facts in this case. The law does not allow me to have an opinion about the facts in this case. This is a matter solely for you, the jury, to determine. As jurors, it is your duty to determine the effect, value, weight and truth of the evidence presented during this trial.

The indictment charges the defendant with criminal sexual conduct with a minor-first degree. I remind you that the fact the defendant was arrested, charged and

indicted in this case, is not evidence in the case and cannot be considered by you as evidence of guilt in the case, nor does it create any presumption or inference of guilt. This document is simply the formal written instrument which contains the charge made against the defendant. It is the formal document by which this case is brought into this court.

The defendant has pled not guilty to this indictment, and that plea puts the burden on the state to prove the defendant guilty. A person charged with committing a criminal offense in South Carolina is never required to prove himself innocent.

I charge you it is an important rule of the law that the defendant in a criminal trial, no matter what the seriousness of the charge may be, will always be presumed to be innocent of the crime for which the indictment was issued unless guilt has been proven by evidence satisfying you of that guilt beyond a reasonable doubt. This presumption of innocence does not end when you begin your deliberations, but accompanies the defendant throughout the trial until you reach a verdict of guilt based on evidence satisfying you of that guilt beyond a reasonable doubt.

The presumption of innocence is like a robe of righteousness placed about the shoulders of the defendant which remains with the defendant until it has been stripped

from the defendant by evidence satisfying you of the defendant's guilt beyond a reasonable doubt.

The presumption of innocence is not mere legal theory. It is not just a legal phrase. It is a substantial right to which every defendant is entitled unless you, the jury, are satisfied from evidence of the defendant's guilt beyond a reasonable doubt.

What is reasonable doubt in the law? A reasonable doubt is the kind of doubt that would cause a reasonable person to hesitate to act.

The state has the burden of proving the defendant guilty beyond a reasonable doubt. Some of you may have served as jurors in civil cases, where you were told that it is only necessary to prove that a fact is more likely true than not true, such as by the greater weight or preponderance of the evidence. In criminal cases, the state's proof must be more powerful than that. It must be beyond a reasonable doubt.

Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt. There are very few things in this world that we know with absolute certainty, and in criminal cases the law does not require proof that overcomes every possible doubt. If, based on your consideration of the evidence, you are firmly convinced that the defendant is guilty of the crime

charged, you must find the defendant guilty. If on the other hand, you think there is a real possibility that the defendant is not guilty, you must give the defendant the benefit of the doubt and find him not guilty.

There are two types of evidence which are generally presented during a trial - direct evidence and circumstantial evidence.

Direct evidence is the testimony of a person who claims to have actual knowledge of a fact, such as an eyewitness. It is evidence which immediately establishes the main fact to be proved.

Circumstantial evidence is proof of a chain of facts and circumstances indicating the existence of a fact. It is evidence which immediately establishes collateral facts from which the main fact may be inferred. Circumstantial evidence is based on inference and not on personal knowledge or observation.

The law makes absolutely no distinction between the weight or value to be given to either direct or circumstantial evidence. Nor is a greater degree of certainty required of circumstantial evidence than of direct evidence. You should weigh all of the evidence in the case. After weighing all of the evidence, if you are not convinced of the guilt of the defendant beyond a reasonable doubt, you must find the defendant not guilty.

Necessarily, you must determine the credibility of witnesses who have testified in this case. Credibility simply means believability. It becomes your duty as jurors to analyze and evaluate the evidence and determine which evidence convinces you of its truth.

In determining the believability of witnesses who have testified in the case, you may believe one witness over several witnesses or several witnesses over one witness. You may believe a part of the testimony of a witness and reject the remaining part of the testimony of the same witness. You may believe the testimony of a witness in its entirety or reject the testimony of a witness in its entirety. You may consider whether any witness has exhibited to you any interest, bias, prejudice, or other motive in this case. You may also consider the appearance and manner of a witness while on the witness stand.

I will give you a copy of these instructions in written form. During your deliberations, you may refer to the instructions for your decision-making. You must consider the instructions as a whole and not follow some and ignore others. Please return the instructions to the court at the time your verdict is rendered.

In order to establish criminal liability, criminal intent is required. For example, the mental state

required to be proven by the state for a particular crime might be purpose, intent, knowledge, recklessness, or criminal negligence. Criminal Intent must be proven by the state beyond a reasonable doubt. Criminal Intent is always a matter that must be determined by the jury from the circumstances surrounding the situation. There is no way to prove intent to a mathematical certainty. There is no way medical science can dissect a person's brain and determine what the person had in mind, so the law says that criminal intent may be inferred from the circumstances shown to have existed. This is how you make a determination of whether or not the element requiring intent is present. It is not necessary to establish intent by direct and positive evidence, but intent may be established by inference in the same way as any other fact by taking into consideration the acts of the parties and all the facts and circumstances of the case.

Criminal Intent is a mental state, a conscious wrongdoing. It is up to you to determine what the defendant intended to do based on the circumstances shown to have existed.

Criminal Intent can arise from action or a failure to act. It may arise from negligence, recklessness, or an indifference to duty or to consequences that is consider by the law to be the equivalent of criminal

intent.

The defendant is charged with first degree criminal sexual conduct with a minor. South Carolina code of laws, section 16-3-655, requires that the state must prove beyond a reasonable doubt that the defendant engaged in the sexual battery with the victim. A sexual battery is sexual intercourse, cunnilingus, fellatio, anal intercourse or any intrusion, however slight, of any part of a person's body or any object into the genital or anal openings in another person's body, except when the intrusion is accomplished for medically recognized treatment or diagnostic purposes. The state must then prove beyond a reasonable doubt that the victim was less than 11 years old at the time of the sexual battery. Consent, willingness, indifference or ignorance on the part of the minor, if any as to what was taking place does not in any way affect the charge of criminal sexual conduct with a minor, because an unmarried woman under the age of 14 cannot legally consent to sexual intercourse.

Ladies and gentlemen of the jury, when you go back to deliberate, you will have the charges that I've just read. Additionally, you will have the verdict form. The verdict form has the caption of the case and says as to indictment number 2017-GS-15-0087 for the charge of first degree criminal sexual conduct with a minor under 11 years

of age, occurring on or about June 1, 2016 through August 1 2016, we the jury unanimously find the defendant, Darryl Jerome Washington, and then you must select either not guilty or guilty. In this particular form, guilty comes before not guilty. That is simply random. Please take nothing from the fact that on this particular form, the first choice is guilty and the second one is not guilty. They could have easily been the other way. The verdict must be unanimous, meaning each of you must agree to the verdict.

Once a unanimous verdict is reached, madam foreperson, you would select whatever the decision is, confirm that in fact it's a unanimous verdict, and then sign above where it says, foreperson and date that. At that point, you would then contact the bailiff and let them know you have a verdict. In a moment, we'll send you back, but do not begin to deliberate. The signal for you to deliberate will be you will receive the evidence. The bailiff will bring you the evidence. Once that has occurred, then you can begin to deliberate. Now, as you know, we had a video, a DVD. There is not a DVD player that you may have noticed back in the jury room. So if you would like to review that, let us know we can set the TV up and you can see that again. If there are any questions, please, I cannot assure you I will be able to answer them. There

are certain questions that can be answered, some can't be answered. But if there is a question, please let the foreperson know of that question, you would put it in writing, again knock on the door and let the bailiff know and they would bring us the question. We would discuss it and see whether or not it could be answered.

All right, I would ask you all then to return to the jury room at this time while I take up the matters with the attorneys. Thanks.

(Jury returns to jury room 2:09PM)

THE COURT: Any objections, comments, additions to any of the charge.

MS. MUSSER: Judge, I just have one concern, and I apologize for not catching it before we did it, but just under the CSC charge where it says at the very bottom it's talking about the consent. It says consent, willingness, indifference or ignorance on the part of the minor, if any, as to what takes place does not in any way affect the charge of criminal sexual conduct with a minor, because an unmarried woman ...

THE COURT: Right. I noticed that right when I was reading it, obviously it has no bearing here. I can call them back in and tell them that was included in error. I can cross this one out and be done with it.

MS. MUSSER: I would just ask to substitute it to

say a minor less than 11 cannot consent.

THE COURT: Let's see, starting where?

MS. MUSSER: Where it says unmarried woman.

THE COURT: Okay.

MS. MUSSER: Versus because of unmarried woman. I would just say because and because a minor less than 11 years of age cannot consent or legally consent.

THE COURT: Any objection to that modification?

MR. KANALY: Judge I'm fine with that.

THE COURT: Lauri can I get you to run a new one for me?

LAURIE: I've already got you.

THE COURT: A minor under the age of, changing 14 to 11, cannot legally consent to sexual intercourse.

MS. MUSSER: Yes.

THE COURT: Okay. So if you can run me a new one, I will just read it to them in total again to them. So we'll get rid of that one.

MS. MUSSER: Or you can say a minor can't consent to sexual intercourse.

THE COURT: I'll just end it at consent. Does that work?

MS. MUSSER: Yes.

THE COURT: Perfect, because rest of it's pretty self explanatory. So I'm gonna go ahead and read the whole

thing again.

Ms. Musser: And I apologize.

THE COURT: No, we all looked at it. We all looked at it.

MS. LAURIE: I'm printing it out now. I made four copies so that everyone can have one.

THE COURT: All right. All right, everybody, take a look at that one. If it's what we think it is I will get the jury back in. I will announce my mistake and read this one to them.

MS. MUSSER: Thank you.

THE COURT: So bring them back in, please. Anything else before we bring them in?

MS. MUSSER: No, Your Honor.

MR. KANALY: Nothing, Your Honor.

THE COURT: Other than that everybody happy with verdict and balance of the charge?

MS. MUSSER: Yes sir.

MR. KANALY: Yes, sir.

THE COURT: All right, perfect. Please bring them back in.

(Jury enters courtroom 2:14 PM)

THE COURT: All right. Members of the jury, if you were paying attention you probably wondered when I started talking about an unmarried woman because that's

different than --- So I'm going to read you the final part of the charge again. This one has been modified for the particular circumstances that we're dealing with today.

First degree criminal sexual conduct with a minor. The defendant is charged with first degree criminal sexual conduct with a minor. South Carolina code of law, section 16-3-655, requires that the state must prove beyond a reasonable doubt that the defendant engaged in a sexual battery with the victim. A sexual battery is sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body, except when the intrusion is accomplished for medically recognized treatment or diagnostic purposes. The state must then prove beyond a reasonable doubt the victim was less than 11 years old at the time of the sexual battery. Consent, willingness, indifference or ignorance on the part of the minor, if any, as to what was taking place does not in any way affect the charge of criminal sexual conduct with a minor, because a minor under the age of 11 cannot legally consent, period.

So please strike from your minds the other version that I gave you, the balance, of course, is fine, but this will replace this. This document will be back with you in the jury room along with the verdict form at the

appropriate time. So thank you, and please return to the jury room. Again, do not begin to deliberate.

(Jury exits courtroom 2:17 PM)

THE COURT: All right, anything from anyone?

MS. MUSSER: No, Your Honor.

MR. KANALY: No, Your Honor.

THE COURT: I guess what we need to do is have you both verify the exhibits before we send them back.

MS. MUSSER: There isn't anything to give back. We only have one piece of evidence and that was the DVD.

THE COURT: Okay, well, then let's send them back the verdict form, the charge and part two of the charge.

(Deliberations begin 2:19 PM)

THE COURT: Thank you. Bring the alternates back. Is there going to be any objection to releasing the alternates at this time?

MS. MUSSER: None from the state.

MR. KANALY: None from the defense.

(Alternates enter courtroom)

THE COURT: Gentlemen, thank you for being with us. It seems like you've done all this work. You've paid attention, and I appreciate it. You were both paying attention the whole time and now you don't get to participate. But the fact is, your being here made this move forward. As you might have noticed, we were very short

of jurors when we started picking for this jury. In fact, the minimum number that you can have to actually pick a jury in a case like this where there are a certain number of strikes is 35 jurors. We had exactly 35 jurors. So your being here helped this go forward. The entire second half of the week would have been unavailable without you two being here and, of course, having you here on this jury today and yesterday. Had you not been here, I guarantee you three or four people would have gotten the flu or something and not come in. But since you were here it's like taking an umbrella and preventing it from raining. So I appreciate you for being here. You really helped. I hope you learned something. Y'all are free to go at this point, you're also welcome to stick around, but I'm going to ask you not to discuss anything about the case, even though you're not on the jury until a verdict comes back in. Do you understand that? At that point you're welcome and free to talk with anybody, whatever you want to do. Any questions?

ALTERNATES: No sir.

THE COURT: All right. Thank you so much, sir, both of you. Okay, anything for the record before we launch into I guess some pleas. Is that the plan?

MS. MUSSER: Nothing for the record.

MR. KANALY: Nothing for the record.

(Question received from the jury)

THE COURT: Question number one is, what would be the possible sentence for the crime? Don't think I can answer that one.

MR. MUSSER: I think the response is that, basically that's not within --- they're just confined, right?

THE COURT: Yes. I can say --— well, any thoughts from you?

MR. KANALY: Your Honor, that sounds about right. I don't think you can obviously go into any sort of what the sentence would be.

THE COURT: How about, you are the finders of guilt or not guilt, and are not to consider the penalty.

MS. MUSSER: That’s sounds good.

THE COURT: They won't be able to read my writing, but I'll reduce this to something they can read. That's question number one. Question number two says we would like to see the transcript of the child's testimony. You don't have a way to play it back or?

MADAM COURT REPORTER: I mean I could play it.

THE COURT: But there's no transcript.

MADAM COURT REPORTER: Unless they’re talking about the video.

THE COURT: Guessing they're talking about, well,

it says the transcript of the child's testimony. So I think they're talking about his testimony. We can play the audio.

MS. MUSSER: That's what I would say, that there is no transcript available. However, we simply play the testimonies.

THE COURT: And exactly are they going to be able to hear that? What speaker have you got for it?

MADAM COURT REPORTER: Well, I can put it to the microphone

MS. MUSSER: Why don't we try like the little microphone ...

MADAM COURT REPORTER: Yes.

THE COURT: All right. I'm going to write both of those in my neatest handwriting on the question form, resubmit them, and we'll go ahead.

MR. KANALY: Your Honor, if I may.

THE COURT: Yes?

MR. KANALY: For the first question I would ask that you answer it. It is their job to determine whether the state has proven beyond a reasonable doubt my client's guilt.

THE COURT: I think I can --- Let's see. I've already written you are the founders of guilt or not guilt, and are not to consider the penalty. I can put guilt must be determined. I can just add that sentence to the end. I

left myself one line between these two.

MR. KANALY: That sounds good.

THE COURT: So guilt must be determined beyond a reasonable doubt.

MR. KANALY: Yes, sir, yes, sir.

THE COURT: Did y'all figure out a way to do the audio?

MADAM COURT REPORTER: Well, I'm waiting for you to finish so I can switch over Judge. I've got to find the testimony on here.

THE COURT: Okay. Bring the jury in.

(Jury enters courtroom 3:16 PM)

THE COURT: Okay. Please push play.

(Video played for the jury 3:17 to 3:45 PM)

THE COURT: Okay. Thank you. Please return back to the jury room.

(Jury exits courtroom to continue deliberations)

THE COURT: All right, anything for the record before we go back off the record again?

MS. MUSSER: No, Your Honor.

MR. KANALY: No sir.

THE COURT: Thank you. We'll be off the record.

(Off the record)

(Back on the record) (Verdict reached 3:53 PM)

THE COURT: I'm told the jury has reached a

verdict. Bring the jury in please.

(Jury enters courtroom 3:56 PM)

THE COURT: Madam foreperson, I'm told you have a verdict.

MADAM FOREPERSON: Yes sir.

THE COURT: Could you please hand the verdict to the bailiff. Madam Clerk, could you publish the verdict?

MADAM CLERK: Yes, sir. In the matter of the State of South Carolina versus Darryl Jerome Washington. Indictment number 2017-GS-15-00087. The jury finds the defendant guilty of first degree criminal sexual conduct with a minor under 11 years of age.

THE COURT: Thank you very much. Could you poll the jury please?

MADAM CLERK: Yes. Madam foreperson, was this your verdict?

MADAM FOREPERSON: Yes.

MADAM CLERK: Is this still your verdict?

MADAM FOREPERSON: Yes.

MADAM CLERK: Juror number three, was this your verdict?

JUROR 3: Yes.

MADAM CLERK: Is this still your verdict?

JUROR 3: Yes.

MADAM CLERK: Juror number 180, is this your

verdict?

JUROR 180: Yes ma'am.

MADAM CLERK: Is this still your verdict?

JUROR 180: Yes ma'am.

MADAM CLERK: Juror number 201 was this your verdict?

JUROR 201: Yes ma'am.

MADAM CLERK: Is this still your verdict?

JUROR 201: Yes.

MADAM CLERK: Juror number 16 was this your verdict?

JUROR 16: Yes.

MADAM CLERK: Is this still your verdict?

MADAM CLERK: Juror number 138 was this your verdict?

JUROR 138: Yes ma'am.

MADAM CLERK: Is this still your verdict?

JUROR 138: Yes ma'am.

MADAM CLERK: Juror 130 was this your verdict?

JUROR 130: Yes.

MADAM CLERK: Is this still your verdict?

JUROR 130: Yes.

MADAM CLERK: Juror 179 was this your verdict?

JUROR 179: Yes.

MADAM CLERK: Is this still your verdict?

JUROR 179: Yes.

MADAM CLERK: Juror number 17, was this your verdict?

JUROR 17: Yes.

MADAM CLERK: Is this still your verdict?

JUROR 17: Yes.

MADAM CLERK: Juror number 33 was this your verdict?

JUROR 33: Yes.

MADAM CLERK: Is this still your verdict?

JUROR 33: Yes.

MADAM CLERK: Juror number 62 was this your verdict?

JUROR 62: Yes.

MADAM CLERK: Is this still your verdict?

JUROR 62: Yes.

MADAM CLERK: Juror number 29 was this your verdict?

JUROR 29: Yes.

MADAM CLERK: Is this still your verdict?

JUROR 29: Yes.

MADAM CLERK: Juror number 124 was this your verdict?

JUROR 124: Yes ma'am.

MADAM CLERK: Is this still your verdict?

JUROR 124: Yes ma'am.

MADAM CLERK: That's your 12.

THE COURT; Thank you very much. Members of the jury, madam foreperson, I appreciate your hard work. I know this like all similar cases are very difficult for everyone involved, I really appreciate your attention. And at this time you are excused. Of course, you don't have to serve on a jury in state court for three years, but I appreciate all of you. If anyone has any questions and you want to stick around later, I'm happy to answer. At this time you're released. You're welcome to come back around and sit and watch the rest of the day if you like but there's no obligation. Thank you very much.

(Jury excused for the week 3:58 PM)

THE COURT: All right, anything from counsel?

MS. MUSSER: We're working on a sentencing sheet.

THE COURT: Anything?

MR. KANALY: No, Your Honor.

MS. MUSSER: The victim and his mother do not wish to address the court. This is another case like you had earlier in the week where there's a 25 year minimum, Your Honor.

THE COURT: As soon as you all get the sentence sheets done I'll hear from everybody.

MS. MUSSER: Judge while we wait, I just wanted to

put it on the record because I don't think we did it at the beginning of the trial, so the record is clear the state had made an offer to the defendant where he would plead to criminal sexual conduct, third degree for a sentence of 12 years, and that was rejected on September 19th of 2023.

THE COURT: Thank you. Okay, happy to hear from the State.

MS. MUSSER: Your Honor, as I previously indicated, I did speak to Ms. Bowers and Complainant to see if they wanted to address the court. They do not wish to address the court at this time. I know you just heard the facts of this case. Again, this is a case that has a mandatory minimum of 25 years to a maximum of 30. Again, it's just the 20 I'm sorry, it's 25 to life, but understanding the circumstances, you know, we recognize that the mandatory minimum is 25 years.

THE COURT: Thank you. Yes, sir.

MR. KANALY: Thank you. Mr. Washington is 46 years old. Judge he's been a joy of a client to work with both him and his family. He lives in the Yemassee. He's originally from Newark, New Jersey. Judge, we understand the jury's spoken but he maintains his innocence, but we understand the jury doesn't see eye to eye with that. Judge, he is intellectually disabled. As the state mentioned, the original offer was to plead to criminal

sexual conduct with a minor third, which is a zero to 15 year offense with, I believe, a 12 year recommendation. Judge, I would just ask for the 25 year mandatory minimum. It is harsh, but that's the nature of the beast.

THE COURT: Was he during this process evaluated?

MR. KANALY: He was Your Honor, and found competent.

THE COURT: Okay. Is there a recommendation from the state or just ...

MS. MUSSER: No, Your Honor.

MR. KANALY: Judge, I want to add he has no criminal record.

THE COURT: Mr. Washington, you've been convicted by a jury of your peers of one of the most serious crimes in the South Carolina code. It carries 25 years minimum, up to life. It also includes being placed on the sex offender registry. It's a most serious crime and a violent crime. Sounds like you were offered something significantly less for whatever reason chose not to take it. Your lawyer says it’s because you continue, even to this day, to maintain your innocence. It's your right to have a trial, and you had a trial, but that trial, of course, was on first degree, which is again, 25 years to life. I'm trying to take into account all the --- everything that I know about this case, including your

lawyer just telling me that perhaps you had some mental challenges. I understand that you haven't held a job in some time. The upper end of this life, I think would be inappropriate. On the other hand, the trial, of course, led to a 16 year old taking the stand, having to relive this with his mother, and I think it's appropriate to sentence you, and I'd sentence you to the South Carolina Department of Corrections for a period of 30 years. Good luck to you, sir. Anything else from Counsel?

MS. MUSSER: No, Your Honor. Thank you.

MR. KANALY: No, Your Honor.

(END OF TODAY)

5/8
11:11:11 a.m. 03-06-2025
Public Defender
8435429543

ARREST WARRANT

2017A1510100015

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Colleton

THE STATE 16-5881

against

Darryl Jerome Washington

Address: [redacted]

Phone: SSN:

Sex: M Race: B Height: Weight:

DL State: DL #:

DOB: [redacted] Agency ORI #: SC0150000

Prosecuting Agency: Colleton County Sheriff

Prosecuting Officer: Kelly Padgett - S526

Offense: Sex / Criminal sexual conduct with minor or Attempt - victim under 11 yrs of age - First degree

Offense Code: 0385

Code/Ordinance Sec: 16-03-0655(A)(1)

This warrant is CERTIFIED FOR SERVICE in the

[ ] County/ [ ] Municipality of

. The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Daryl Jerome Washington on 1-11-17

Sgt. Edward [illegible] K-618

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
P O Box 620
101 Hampton Street
Walterboro, SC 29488

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

AFFIDAVIT

ORIGINAL

Form Approved by S.C. Attorney General April 21, 2003 SCCA 518

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
Colleton)

Personally appeared before me the affiant Kelly Padgett who being duly sworn deposes and says that defendant Darryl Jerome Washington did within this county and state on or about 6/ 1/2016 violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Colleton) in the following particulars:

DESCRIPTION OF OFFENSE: Sex / Criminal sexual conduct with minor or Attempt - victim under 11 yrs of age - First degree

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on or about the months of June - August 2016 while at [redacted] located in Colleton County, the defendant, 38 year old male, did commit the offense of criminal sexual conduct 1st degree. The eight (8) year old male victim w[illegible] violated by the defendant who placed his mouth on the victim's penis and fondled the victim's penis with his hand. Probable cause is based on statements made by the victim during a forensic interview. OCA#16-5881

Certified True Copies of Records
Gary Hale
Clerk of Court, General Sessions Court
Colleton County, South Carolina
Date: 03-06-2025

GARY HALE CLERK OF COURT COLLETON COUNTY

Signature of Affiant Kelly Padgett DS

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
Colleton)

Affiant's Address 112 S. Miller Street
Walterboro, SC 29488-
Affiant's Telephone (843)549-2211

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe th[illegible] on or about 6/ 1/2016 defendant Darryl Jerome Washington did violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Colleton) as set forth below:

DESCRIPTION OF OFFENSE: Sex / Criminal sexual conduct with minor or Attempt - victim under 11 yrs of age - First degree

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me on 1/ 9/2017

(L.S.)

Signature of Issuing Judge

Kenneth Arthur Campbell Jr.

Judge Code: 5675-1108

Judge's Address 40 Klein Street
Walterboro, SC 29488-1732
Judge's Telephone (843)549-1122

Issuing Court: [X] Magistrate [ ] Municipal [ ] Circuit

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

132

WITNESSES

Padgett, Kelly - CCSO

ARREST WARRANT NUMBER

2017A1510100015

True Bill

Rookie Drawdy

Foreperson of Grand Jury

Date: 5/11/17

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2017GS1500087

The State of South Carolina

County of Colleton

COURT OF GENERAL SESSIONS

May Term 2017

THE STATE

vs.

Darryl Jerome Washington

Indictment For

Criminal Sexual Conduct With Minor or Attempt – 1st Degree

SC Code: 16-3-655(A)(1)

CDR Code: 0385

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I

hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

COLLETON COUNTY
GENERAL SESSIONS COURT
2017 MAY 12 AM 8:43

STATE OF SOUTH CAROLINA)
)
COUNTY OF COLLETON)

INDICTMENT

2017GS1500087

At a Court of General Sessions, convened on May 11, 2017, the Grand Jurors of Colleton County present upon their oath:

Criminal Sexual Conduct With Minor with Minor or Attempt – 1st Degree

That in Colleton County, South Carolina, on or between the dates of June 1, 2016 through August 31, 2016, the Defendant, Darryl Jerome Washington, did engage in sexual battery with [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), 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** 135

COUNTY OF Colleton

STATE VS. Darryl Jerome Washington

AKA: _____ SSN [redacted]

RACE: Black SEX: Male DOB: [redacted]

INDICTMENT/CASE#: 2017 -GS- 15 - 00087

AW#: 2017A1510100015

Date of Offense: 06/01/2016

S.C. Code §: 16-3-655(a)(1)

CDR Code #: 0385

Range of Offense: 25-life

In disposition of the above indictment comes now the Defendant who was CONVICTED OF ☑ or ☐ PLEADS

TO: Criminal Sexual Conduct Minor 1st Degree Range of Offense Pled 25-life

In violation of § 16-3-655(a)(1) of the S.C. Code of Laws, bearing CDR Code # 0385

☐ NON-VIOLENT ☑ VIOLENT ☐ SERIOUS ☑ MOST SERIOUS ☑ MANDATORY GPS (CSC w/minor 1st or CSC w/minor 3rd) ☐ § 17-25-45

The charge is: ☐ As indicted ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.

The plea is: ☐ w/o Rec/Negotiations ☐ Negotiated _____ ☑ Recommendation 25-life

Lynorr Musser 77699 Nick Kanaly 104807

Solicitor SC Bar # Attorney for Defendant SC Bar #

The Defendant is committed to the ☐ **SCDC** ☐ **County Detention Center** ☐ **Home Incarceration Program**
for a determinate term of 30 days/months/years/Time Served ☐ YOA NTE _____ years and/or shall pay a fine
of $ _____ ;provided that upon the service of _____ days/months/years/Time Served and or payment
of $ _____ plus costs and assessments as applicable* ; balance is suspended with **probation** for _____ months/years
and subject to SCDPPPS standard conditions of probation, which are incorporated by reference.

The sentence shall run ☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDC.
_____ days/months ☐ To include time spent on monitored house arrest prior to trial and sentencing.

SPECIAL CONDITIONS:

☐ **PTUP** _____

☐ No Contact with Victim ☐ Domestic Violence Intervention Program ☐ Hold for Inpatient Treatment

☑ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ SAC/MHC if necessary

☑ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

☐ Other: _____

Restitution $ _____

☐ **RESTITUTION See Separate Order (20% per S.C. Code §24-21-490(B))**

Fine/Costs and Assessments are to be paid to the Clerk of Court within _____ days/months

§14-1-206 (Assessments 107.5%)	FINE:	$
§14-1-211 (A)(1) Conv. Surcharge)		$
§14-1-211 (A)(2)(DUI Surcharge)	$100	$ 100.00
§56-5-1995 (DUI Assessment	$100	$
§56-1-286 (DUI Breath Test)	$12	$
§14-1-212 (Law Enforcement Funding)	$25	$
§14-1-213 (Drug Court Surcharge)	$25	$ 25.00
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	$150	$
§50-21-114 (BUI Breath Test Fee)	$41	$
§56-5-2942(J) (Vehicle Assessment)	$50	$
3% to County (if paid in installments)	$40/ea	$
☐ Appointed PD or appointed other counsel. Provisio requires $500 to be paid to Clerk during probation and shall be collected before any other fees.	TBD	$ 3.75
	$500	$
☐ §17-3-45(B) Unpaid Application Fee to be paid to the Public Defender Fund	$40	$
	TOTAL	128.75

Gary Hale
Clerk of Court/Deputy Clerk

Melissa Singletary 2785 2/27/25
Court Reporter Judge Code Sentence Date Presiding Judge

SCCA217B
01/27/2025

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

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SC Court of Appeals

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ATTORNEY FOR APPELLANT

This 9th day of September, 2026.