

Volume I of II**STATE OF SOUTH CAROLINA****IN THE COURT OF APPEALS**

Appeal from Abbeville County**Eugene C. Griffith, Jr., Circuit Court Judge**

MARK R BOLTE,**PETITIONER,****V.****STATE OF SOUTH CAROLINA,****RESPONDENT****APPELLATE CASE NO. 2011-186252**

APPENDIX

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STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS
2003-GS-01-296

COUNTY OF ABBEVILLE

STATE OF SOUTH CAROLINA,

-vs-

MARK BOLTE,

Defendant.

B E F O R E:

HONORABLE WYATT T. SAUNDERS

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

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E. CHARLES GROSE, Esquire
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Henry P. Young
Court Reporter

VOLUME I of IV
September 7, 2004

I-N-D-E-X

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

2 (Convened at 10:15 a.m.).

3 (Jury roll call and qualification).

4 THE COURT: The Court now finds and declares
5 that the jury venire is qualified.

6 Some general guidelines very briefly, ladies
7 and gentlemen. Do not bring any cell phones or
8 beepers or any devices that make any disturbance
9 into the courtroom. The best policy is to leave
10 such devices in your automobile but if you
11 absolutely must bring them into the courtroom be
12 certain that they will not make any noise.

13 Now, sometimes it happens during the course of
14 our proceedings that somebody has a cell phone or
15 beeper that makes an alarm. The Court understands
16 that and it's happened before but it has never
17 happened at an intense time during the course of
18 the trial, such as when a witness is being examined
19 or when an attorney is addressing the jury or the
20 Court is addressing the jury. That would be a
21 disaster. You can imagine the intense
22 concentration of each juror and the witness and the
23 attorney examining the witness and what would
24 happen if a cell phone would ring at a period when
25 all persons are devoted to the question and answer.

1 It may cause a questioner to lose track of the line
2 of questioning or the person answering the
3 questions to forget what they were going to say,
4 because some of the exchanges are fairly quick, and
5 it's a disaster so please keep in mind don't bring
6 any cell phones or audible devices into the
7 courtroom. Your Supreme Court Chief Justice has
8 indicated by order that she does not expect you to
9 bring them in here and if you do she expects you to
10 be sanctioned. This judge has never sanctioned
11 anybody because it's never happened at a critical
12 time but please be on your alert not to bring them
13 with you.

14 Do not have any interaction, ladies and
15 gentlemen, at all with anyone whom you don't know.
16 That person may be a litigant, it may be they may
17 be charged in the Court. They may be an individual
18 who's going to testify for one side or the other,
19 they may be a family member of someone who is
20 involved on one side or the other, and for you to
21 have some interaction with them, even if it seems
22 very harmless, it may be observed from some
23 distance and the person who observes that
24 conversation, even if you say where the post office
25 is, that's a simple, very harmless exchange but the

1 person observing that, if the individual to whom
2 you are speaking has an interest in the case at bar
3 or any case that may be tried during this week a
4 person on the other side observing that
5 confrontation from some distance will presume that
6 you have been compromised in your absolute ability
7 to be fair and impartial to both sides. So, the
8 best policy is to get from your vehicle and come
9 into the jury room which is right there behind
10 where Mr. Simpson is, right through that door, and
11 go in there and relax where your clerk will have
12 refreshments for you that you can enjoy and relax
13 for a few moments.

14 But keep on guard not to have any interaction
15 with strangers. It's not a good policy. You're
16 special people because you have the potential to be
17 a trial juror, so come directly into the room and
18 go into the jury room or if we gather here as a
19 venire come on up here and be seated and if you
20 know someone is a member of the venire or the trial
21 jury talk about the family or the weather or
22 whatever but don't talk about any business before
23 the Court, what you think there may be or what
24 there actually is. Never discuss a case before you
25 are ordered to do so by the Court.

1 Please be here on time. However, if you have
2 an unforeseeable event that causes you to be tardy
3 don't worry about that but let us know as soon as
4 you can that you're going to be delayed. We'll
5 understand, it happens to everybody from time to
6 time but without any knowledge of it we're confused
7 and confounded and we don't know what to do, so if
8 you will let us know if you are delayed we'll
9 understand. Don't worry about it, just be in
10 contact with the Clerk of Court's office.

11 If you are chosen as a trial juror, ladies
12 and gentlemen, there may be times during the course
13 of the trial when one side or the other may ask
14 that the jurors be excused in order to take up a
15 matter outside the presence of the jury. That is a
16 common, ordinary and fundamental motion, because
17 it's the only place where we have the ability to
18 make the record and that Mr. Young can take down
19 everything and record everything, so we might ask
20 the jurors to step out. There is no effort to hide
21 or keep or secret anything from the jury. On the
22 contrary, every effort is made to reveal all facts
23 to the jury but if you are asked to be excused
24 don't hold it against the attorney nor his or her
25 client who makes such a motion. It's an ordinary

1 common motion and it's the only place that we can
2 hear and decide matters of procedure or matters of
3 evidence where the jury can't hear it until a
4 decision has been made and we know which route
5 we're going to follow. So, don't be upset about
6 that.

7 We will commence court at about 9:30,
8 sometimes 10:00 in the morning if we have something
9 that happens before the jurors are needed, and if
10 you are, if you come before we're ready you will be
11 stopped at the door if we're doing anything about
12 the case which you're hearing. If we're doing
13 something about another case, then you'll be
14 permitted to come on in and you'll come around to
15 the door, come to your right, come down this
16 hallway, this aisleway, excuse me, to your right
17 and go directly into the jury room. Anything that
18 you hear, if you were to observe and hear anything
19 going on in the courtroom, will not concern the
20 case that you are seated and listening to as a
21 juror. We might have other business that we're
22 doing, so if you're asked to come in and there is
23 anything going on before the Court ignore it
24 completely because it doesn't involve the case with
25 which you are concerned.

1 We'll start about 9:30 or 10:00 and we'll
2 take a luncheon break about 1:00 o'clock or
3 sometimes earlier, sometimes later, depending upon
4 the witness, and if we can finish a witness we
5 might run over, we may go over to 1:10 or 1:15 if
6 we feel we can conclude that witness and that
7 witness can go on, leave the building and the jury
8 can hear that witness all at one time.

9 By the same token, we may go over in the
10 evening. We'll try to stop at about 5:00 or 5:30
11 but we may go over from time to time in order to
12 conclude a witness who may have to be at another
13 place the next day or catch an airplane or be
14 somewhere, so we may go over.

15 Conversely, we may go to lunch early or may
16 end the day early, particularly if either side
17 that's presenting the case do not have or does not
18 have a short witness, we'll conclude and come back
19 where the jury can hear the witness all at one time
20 without being broken at all.

21 We have a juror call-in system. Your clerk
22 has initiated it. Madam Clerk, do they have the
23 number?

24 THE CLERK: They can get it when they leave
25 the courtroom.

1 THE COURT: You will be given a piece of
2 paper when you leave to advise you of the number to
3 call if you are not selected and we ask you to call
4 back at another time.

5 Now, that system has been instituted by Miss
6 King for your convenience. Before that, everybody
7 had to come up here at a time estimated that you
8 would be needed, often to be told we don't need
9 you, go back home, go back to work, go back with
10 your families. So, the call-in system is to enable
11 you to stay where you are and to be advised of the
12 proceedings and when you may be needed. The
13 message will be clear, concise and succinct and
14 terse. You will understand it, call in again
15 tomorrow, be back tomorrow afternoon in the
16 courtroom at 2:30 or whatever the message is, it
17 will be clear to you.

18 Now, having said those things, we'll take a
19 short recess. The restrooms, I believe -- are
20 there some restrooms up here, Madam Clerk?

21 THE CLERK: Yes, sir, there are two.

22 THE COURT: There are restrooms in the jury
23 room, there are restrooms downstairs, so be at
24 ease, don't talk about anything that you may think
25 might come before the Court, don't discuss any

1 business that the Court may have, and be at ease
2 for a little while, please. We are in recess.

3 (Brief recess).

4 THE COURT: Ladies and gentlemen of the
5 venire, the Court extends its gratitude for your
6 patience during this time. There have been some
7 discussions between some parties concerning
8 business to be before the Court. The Court is not
9 oblivious to the conditions of the weather outside
10 but we're going to release you now and ask you to
11 return at a time to be designated in just a moment.

12 (Unrecorded bench conference).

13 Ladies and gentlemen, we have been busy, we
14 have not been just using your time unnecessarily,
15 and a lot of things have been discussed and decided
16 upon. We are ready to go forward in selecting a
17 jury. However, that process would take up to maybe
18 an hour and 15 minutes or more and it is now twenty
19 minutes of 1:00, so in order for you have some
20 opportunity to get some lunch we're going to recess
21 now and come back at a quarter of 3:00. That will
22 give you a little over two hours. Now, that's an
23 uncommonly long time for lunch. The reason for
24 that is, though, the inclement weather and your
25 clerk has some business to do that is usually done

1 outside but the persons involved in that business,
2 it is a public sale, if any of you are interested
3 in a public sale you can be here at 2:00 o'clock
4 and you can bid on whatever you wish, but we're
5 going to allow the room to be used for that purpose
6 at 2:00 o'clock.

7 So, in taking up issues with the attorneys
8 and preparing to select a jury more time has gone
9 by than we would like, so we're going to recess
10 until 2:45, until 2:45. That is about two hours
11 and four minutes from now, and that will offer many
12 of you an opportunity to go home and get lunch and
13 some of you an opportunity to have a leisurely
14 lunch.

15 Do not discuss anything that you think might
16 be before the Court, that you have heard, think you
17 you have heard, that you have read or seen. Under
18 any circumstances don't discuss it with anybody.
19 Keep in mind you are special, don't let any
20 strangers approach you and discuss anything with
21 you. Try and avoid that. If it happens, be brief
22 and as conscious of your responsibility as a
23 potential trial juror as you can, and please be
24 back here and assembled as a venire at 2:45.

25 Everybody remain seated except the jury, all

1 of whom are excused until 2:45.

2 Thank you.

3 (Jury panel excused from the courtroom).

4 THE COURT: Anyone wish to speak to the
5 record before we recess and come back and select a
6 jury? Miss Mayes?

7 MS. MAYES: Nothing from the State, Your
8 Honor.

9 THE COURT: Mr. Grose?

10 MR. GROSE: Yes. We just want to make sure
11 that they let the jurors get out before they take
12 Mark out in chains, because we're concerned some of
13 them may be parked around back.

14 THE COURT: We'll delay a few minutes, Chief.
15 Be sure the area is clear.

16 DEPUTY SHERIFF: We'll go out the back.

17 MR. GROSE: We're concerned some of them may
18 be parked out at the back, it's public parking.

19 THE COURT: Give them about ten minutes,
20 Chief.

21 DEPUTY SHERIFF: Okay.

22 THE COURT: We're in recess until 2:45.

23 (Recessed at 12:43 p.m.).

24 (Reconvened at 3:05 p.m.).

25 THE COURT: The indictment, please.

1 MR. GROSE: Your Honor, may I approach also?
2 (Unrecorded bench conference).

3 THE COURT: Ladies and gentlemen, we are
4 preparing to try the case of State of South
5 Carolina versus Mark Richard Bolte, spell his last
6 name B-o-l-t-e. Jurors in this case and every
7 case, of course, must be fair and impartial both to
8 the State of South Carolina and the defendant Mark
9 Richard Bolte.

10 To that end it's necessary to determine if
11 any member of the jury panel has heard anything or
12 knows anything about this case and whether if you
13 have any such knowledge it would in any way affect
14 your ability to be absolutely fair and impartial
15 both to the State of South Carolina and to the
16 defendant Mark Richard Bolte.

17 This is an indictment, ladies and gentlemen,
18 it has just been handed to the Court. The Court
19 does not know what it says.

20 This indictment says that Mark Richard Bolte
21 did in Abbeville County, state aforesaid, South
22 Carolina, between the first day of January, 1998,
23 and the first day of June, 2002, willfully and
24 unlawfully have carnal intercourse with each other
25 within the following degrees relationship. A man

1 with his mother, grandmother, daughter,
2 granddaughter, stepmother, sister, grandfather's
3 wife, son's wife, grandson's wife, wife's mother,
4 wife's grandmother, wife's daughter, wife's
5 granddaughter, brother's daughter, sister's
6 daughter, father's sister or mother's sister, to
7 wit, the defendant, being a man, did have carnal
8 intercourse with [REDACTED] [REDACTED] his daughter,
9 in violation of the laws of this state.

10 Count three. That Mark Richard Bolte did in
11 Abbeville County, State of South Carolina, between
12 the 30th day of January, 1998 and the 20th day of
13 January, 2000, being older than the victim, did
14 willfully and unlawfully commit sexual, criminal
15 sexual conduct with a minor in the second degree,
16 to wit, that the defendant did engage in sexual
17 battery upon a person who is at least the age of
18 fourteen but less than the age of sixteen, to wit,
19 one [REDACTED] [REDACTED] in violation of the laws of
20 this state.

21 Count four. That Mark Richard Bolte in
22 Abbeville County, South Carolina between the 1st
23 day of January, 1998, and the 29th day of January,
24 2000, being over the age of fourteen years, the
25 said defendant did unlawfully, willfully and lewdly

1 commit or attempt to commit a lewd or lascivious act
2 upon or with the body or its parts of a child under
3 the age of sixteen, to wit, [REDACTED]
4 with the intent of arousing, appealing to or
5 gratifying the lust or passions or sexual desires
6 of the said defendant or of the said child [REDACTED]
7 [REDACTED], in violation of the laws of this
8 state.

9 Ladies and gentlemen, this is an indictment.
10 What you have just heard are the allegations or the
11 statements of accusations against the defendant
12 here on trial. These statements of accusation are
13 not evidence and should not in any way be
14 considered to be evidence.

15 Mr. Juror, state your name and number,
16 please.

17 JUROR: John Looney and I believe it's 30.

18 THE COURT: Mr. Looney, we're going to
19 transfer you, and the Court notices that it's
20 inclement weather and I appreciate your coming,
21 probably you had some difficulty finding a place to
22 park. The Court has begun the preliminary voir
23 dire or examination of the jury about this case and
24 hopefully with your understanding we will transfer
25 you to another term of court.

1 JUROR: That sounds good to me.

2 THE COURT: Thank you, sir.

3 JUROR: Thank you.

4 THE COURT: Again, ladies and gentlemen, the
5 things just said to you are drawn from the
6 indictment and do not constitute evidence of any
7 kind whatsoever. You should never ever construe
8 the things said in the indictment to be evidence or
9 any proof whatsoever of what the defendant did or
10 did not do in violation of the law. This is simply
11 a charging paper and it is the document that brings
12 the matter before the Court and vests this Court
13 with jurisdiction to hear the case and to allow you
14 as jurors to determine whether or not the defendant
15 did or did not violate the law.

16 The State is represented by Suzanne Mayes.
17 Miss Mayes stands and faces you.

18 Miss Mayes is a prosecutor with the South
19 Carolina Prosecution Coordination Commission,
20 ladies and gentlemen, and she is the attorney
21 trying the case for the State of South Carolina.

22 The Court would inquire if any one of you
23 knows Miss Mayes or if you have any family member
24 or close friend of whom you are aware that knows
25 Miss Mayes or is in any way associated with the

1 South Carolina Prosecution Coordination Commission?
2 If you know Miss Mayes in any way, business or
3 social, have had any contact with her or know any
4 person on her staff in any way whatsoever or think
5 you may know Miss Mayes or anyone with whom she is
6 now or formerly associated you will please stand.

7 There are no responses.

8 The defendant is represented by Charles Grose
9 of the Greenwood Bar, who stands and introduces
10 himself.

11 MR. GROSE: I'm Charles Grose, I'm from
12 Greenwood, I represent Mark Bolte, who has pled not
13 guilty to these charges.

14 THE COURT: Mr. Grose, would you tell them
15 what lawyers are associated with you, please?

16 MR. GROSE: Yes, sir, I'm sorry, Your Honor.
17 Alexander Buergey works with me, he's seated here,
18 and Tammy Besherse is the other lawyer in my
19 office.

20 THE COURT: Ladies and gentlemen, are there
21 any among you who know Mr. Grose, Mr. Buergey or
22 Miss Besherse, have been represented by any of
23 those attorneys, have any association whatsoever,
24 whether social or business, with Mr. Grose, Mr.
25 Buergey or Miss Besherse or anyone with whom they

1 are now associated either as a staff member or in
2 any capacity whatsoever? If you or any one of your
3 family members or close friends of whom you are
4 aware have any such contact whatsoever or you think
5 you or someone else with whom you are aware knows
6 Mr. Grose, Mr. Buergey or Miss Beshorse or have had
7 any association with them whatsoever please stand.

8 There are no responses.

9 Has any member of the venire ever been
10 represented by either of these attorneys or anyone
11 with whom they are now or formerly associated? If
12 so, please stand.

13 There are no responses.

14 Have any of you ever been involved in any
15 matter where the other side was represented by Miss
16 Mayes or the South Carolina Prosecution
17 Coordination Commission, or Mr. Grose, Mr. Buergey
18 or Miss Beshorse? If so, please stand.

19 There are no responses.

20 Is there any member of the jury venire who
21 knows Solicitor Jones, who is the Solicitor of the
22 Eighth Judicial Circuit, or who knows anyone with
23 whom he is associated by way of clerk, staff
24 member, associate attorney, deputy attorney, deputy
25 Solicitor or in any way whatsoever associated with

1 or know Townes Jones or anybody he's working with?
2 If you do, please stand and let it be known. If
3 you know the Solicitor or anybody he works with let
4 it be known by standing.

5 There are no responses.

6 Ladies and gentlemen, the potential witnesses
7 in this matter will now be listed. Now, potential
8 witnesses are persons who may or may not testify
9 during the course of the trial. The question that
10 will be posed to you after a reading of the list of
11 potential witnesses will be is there any member of
12 the venire who is related by blood or marriage to
13 or in any way acquainted with any of the potential
14 witnesses in the case. Therefore the Court
15 requests that you pay special attention to the
16 names and identifications that are about to be made
17 known to you so that if any of these people are
18 known to you or if you think you know them you will
19 be able to respond accordingly.

20 You recall that you're on your oath to
21 respond and truthfully answer to any question that
22 may be posed to you. So, anybody that you may
23 know, and for your edification, the attorneys are
24 required to put all possible witnesses on their
25 witness list. Now, that means that anybody who

1 possibly may testify has to be named and you have
2 to be told about them or they will not be permitted
3 to call any such witness unless it's a grave
4 emergency and everybody is caught off guard, then
5 the Court gives permission to do that. But they
6 have to name all witnesses, so don't be alarmed by
7 the list being as lengthy as it is because the
8 attorneys are required to let you know everybody
9 who may even possibly as a thin possibility be
10 called to testify. Pay attention to these names,
11 please.

12 [REDACTED] [REDACTED] If any witness is present, he
13 or she will stand.

14 Esterlina --

15 THE COURT: Will you stand and face the jury,
16 please? This is [REDACTED]

17 Thank you. Esterlina Lopez, she's also known
18 as Ester Lopez or Ester Bolte. Not present.

19 Deborah Graham, Abbeville County Sheriff's
20 Department. The potential witness is Deborah
21 Graham who is associated in some capacity with the
22 Sheriff's Department.

23 Cherry Ferguson MacTaggart, licensed
24 independent social worker who works in Greenwood.

25 [REDACTED] [REDACTED] The juror stood, yes, ma'am.

1 Would you say your name and juror number?

2 JUROR: I'm number 30, Allie Morrison, and I
3 travel with Cherry MacTaggart.

4 THE COURT: You know Miss MacTaggart.

5 JUROR: Yes, sir.

6 THE COURT: You have been advised of the
7 allegations of the three counts of which the
8 defendant is accused of having, in which the
9 defendant is accused of having violated the law.
10 Would your knowledge of that potential witness in
11 any way cause you to be unable to be fair and
12 impartial both to the State of South Carolina and
13 to the defendant Mark Richard Bolte?

14 JUROR: No, sir.

15 THE COURT: Thank you, madam, be seated.

16 MR. GROSE: Your Honor, what was her number,
17 I couldn't hear?

18 THE COURT: Number 30.

19 Yes, sir, your name and number, please?

20 JUROR: My name is Dereck Peterson, I don't
21 know my number.

22 THE COURT: Let's get the number. Wait just
23 a second. This juror's number?

24 THE CLERK: Number 118.

25 THE COURT: Number 118, yes, Mr. Peterson?

1 JUROR: I know Deborah Graham.

2 THE COURT: You know Deborah Graham?

3 JUROR: Yes, sir.

4 THE COURT: Would your knowledge of Deborah
5 Graham in whatever capacity it is in any way affect
6 your ability to be fair and impartial both to the
7 State of South Carolina and to the defendant Mark
8 Richard Bolte were you to be seated as a trial
9 juror in this case?

10 JUROR: No, sir.

11 THE COURT: Thank you, sir, be seated
12 Yes, madam?

13 JUROR: I'm juror number 133, Mary J. Smith?

14 THE COURT: Yes, ma'am.

15 JUROR: And I work at the school and have
16 been in contact with [REDACTED] and her mother Ester
17 and work with Deborah Graham.

18 THE COURT: So, you know Miss Ester Lopez,
19 also known as Ester Bolte, you know [REDACTED] or have
20 come in contact with her, and Deborah Graham of the
21 Sheriff's Department?

22 JUROR: Yes, sir.

23 THE COURT: Would your knowledge of those
24 people in whichever or whatever capacity that it
25 is, you say to some extent it arises out of your

1 working at the school?

2 JUROR: Right.

3 THE COURT: Would your knowledge of those
4 people in the capacity that it is in any way affect
5 or impair your ability to be fair and impartial
6 both to the defendant Mark Richard Bolte and to the
7 State of South Carolina if you're seated as a trial
8 juror in this case?

9 JUROR: No, sir.

10 THE COURT: Thank you. Be seated, please.

11 Before the juror stood the Court named the
12 next witness on the list, potential witness, who
13 was [REDACTED] [REDACTED] Does anyone know [REDACTED] [REDACTED] or
14 think you know him?

15 Yes, sir, your name again, sir, and number?

16 JUROR: Dereck Peterson, 118.

17 THE COURT: Yes, sir.

18 JUROR: I know him.

19 THE COURT: You know that man?

20 JUROR: Yes.

21 THE COURT: Would you in any way be affected
22 in your ability to be fair and impartial both to
23 the State and to the defendant Mr. Bolte if you're
24 seated as a trial juror?

25 JUROR: No, sir.

1 THE COURT: Thank you sir. Be seated.

2 In the rear, sir?

3 JUROR: 136, Cody Stone. I also know Mr.
4 Bolte.

5 THE COURT: Would your knowledge of that
6 potential witness in any way, in the capacity in
7 which it may exist, whatever it is, would that
8 knowledge of that witness in any way affect or
9 impair your ability to be fair and impartial both
10 to the State of South Carolina and to the defendant
11 Mark Richard Bolte?

12 JUROR: No, sir.

13 THE COURT: Thank you sir. Be seated,
14 please.

15 Ruth Burton.

16 Julie Fuller.

17 Yes, sir?

18 JUROR: I have known Miss Burton in the past.

19 THE COURT: Sir?

20 JUROR: I have known Ruth Burton in the past.

21 THE COURT: Your name and number, please?

22 JUROR: Robert Clinkscates, 32.

23 THE COURT: Would your knowledge of that
24 witness, however it may exist, in any way affect or
25 impair your ability to be absolutely fair and

1 impartial both to the defendant Mark Richard Bolte
2 and to the State of South Carolina if you're seated
3 as a trial juror?

4 JUROR: No, sir.

5 THE COURT: Thank you, sir. Be seated.

6 Yes, sir? Stand up, please. Anyone who
7 feels you should respond, please stand and let your
8 response be known.

9 Yes, sir, your name and juror number, please?

10 JUROR: Juror number 138, I believe, Anthony
11 M. Storey.

12 THE COURT: Yes, sir, Mr. Story?

13 JUROR: May I approach the bench?

14 THE COURT: Yes, sir. While you're doing
15 that, the next lady, if you will give your name and
16 juror number, we'll hear you.

17 JUROR: I don't know my number. Susan
18 Shirley.

19 THE COURT: 131. Yes, ma'am, how do you
20 respond?

21 JUROR: I know Ruth Burton.

22 THE COURT: You know Miss Burton?

23 JUROR: Yes, I do.

24 THE COURT: Would your knowledge of Miss
25 Burton in any way affect or impair your ability to

1 be fair and impartial both to the State of South
2 Carolina and to the defendant Mark Richard Bolte
3 were you to be seated as a trial juror?

4 JUROR: Probably, yes.

5 THE COURT: You think it would?

6 JUROR: Yes.

7 THE COURT: You're excused.

8 JUROR: Thank you.

9 THE COURT: Number 131 is excused.

10 (Bench Conference out of the hearing
11 of the jury panel).

12 THE COURT: This is Mr. Storey, and your
13 number was what, sir?

14 JUROR: I believe 138, sir.

15 THE COURT: Yes, sir. How do you respond?

16 JUROR: Ruth Burton, there is a lady I know
17 by the name, if it's the right lady or not.

18 THE COURT: Yes, sir.

19 JUROR: And [REDACTED] [REDACTED] we were in college
20 together, we weren't friends, but I just knew her
21 as being someone who attended my college.

22 THE COURT: You know, you think you know or
23 may know [REDACTED] [REDACTED] by being in the same college?

24 JUROR: Yes, sir.

25 THE COURT: And Miss Ruth Burton, you feel

1 that you may know her?

2 JUROR: Yes, sir.

3 THE COURT: Now, if this first person, [REDACTED]
4 [REDACTED], is the person involved or the potential
5 witness and Miss Burton is the same person involved
6 as a potential witness, would that in any way
7 affect your ability to be fair and impartial both
8 to the State and to the defendant if you are seated
9 as a trial juror?

10 JUROR: No, sir.

11 THE COURT: Thank you sir. Be seated.

12 JUROR: I'm sorry.

13 THE COURT: That's all right.

14 (Bench conference concluded).

15 THE COURT: Thank you all.

16 The next potential witness is Julie Fuller,
17 of Abbeville. She stands here.

18 Thank you.

19 Elaine Davis of Carolina Springs Academy of
20 Abbeville.

21 Judy Davis of the Abbeville County Sheriff's
22 Department. She stands here.

23 Marion Johnson, Chief Deputy of the Abbeville
24 County Sheriff's Department, stands here. Anybody
25 know Chief Johnson?

1 Your name and juror number, please?

2 JUROR: Rodney Martin, the number is 89.

3 THE COURT: Mr. Juror, would your knowledge
4 of Marion Johnson in whatever way it may exist,
5 would that knowledge of that potential witness in
6 any way affect your ability to be fair and
7 impartial both to the defendant Mark Richard Bolte
8 and to the State of South Carolina if you are
9 seated as a trial juror?

10 JUROR: No, sir.

11 THE COURT: Thank you, sir. Be seated.

12 Your name and juror number please?

13 JUROR: Chris Boyer, 17. I worked with Miss
14 Davis at Carolina Springs.

15 THE COURT Say that again, please.

16 JUROR: Elaine Davis, I'm one of her
17 employees up there at Carolina Springs.

18 THE COURT: Would your knowledge and/or
19 association with that potential witness in any way
20 affect your ability to be fair and impartial both
21 to the defendant Mark Richard Bolte and to the
22 State of South Carolina were you to be seated as a
23 trial juror in this case?

24 JUROR: No, sir.

25 THE COURT: Thank you sir. Be seated.

1 Yes, madam?

2 JUROR: Juror number 29, Carolyn Cheshire. I
3 work for Carolina Springs, too, and Elaine Davis --

4 THE COURT: Would your knowledge of that
5 potential witness and perhaps your working at the
6 same place that she does in whatever capacity she
7 may work, I believe you said you helped in the
8 kitchen there to get the children's food, if it is
9 a children's academy, would that knowledge of that
10 potential witness in whatever way it exists in any
11 way affect or impair your ability to be fair and
12 impartial both to the State of South Carolina and
13 the defendant Mark Richard Bolte?

14 JUROR: No.

15 THE COURT: Thank you. Be seated, please
16 madam.

17 Yes, sir?

18 JUROR: Ronald Creswell, number 38. I know
19 Judy Davis.

20 THE COURT: You know Miss Davis. In whatever
21 capacity you know her, would that in any way affect
22 or impair your ability -- which Miss Davis are you
23 talking about, Miss Judy Davis?

24 JUROR: Yes, sir.

25 THE COURT: Would that knowledge of that

1 potential witness in any way affect or impair your
2 ability to be fair and impartial both to the
3 defendant Mark Richard Bolte and to the State of
4 South Carolina if you are seated as a trial juror?

5 JUROR: No, sir.

6 THE COURT: Thank you sir. Be seated.

7 The next potential witness is Randy Estep,
8 spell his last name E-s-t-e-p, Estep, who is
9 associated with the Erskine College Department of
10 Public Safety.

11 Yes, sir, your name and number again, please?

12 JUROR: Juror number 138, Anthony M. Storey,
13 Jr.

14 THE COURT: And how do you respond?

15 JUROR: I can be impartial.

16 THE COURT: Do you know that potential
17 witness in some capacity?

18 JUROR: Yes, sir.

19 THE COURT: Would your knowledge of that
20 potential witness such as it may be in any way
21 affect or impair your ability to be fair and
22 impartial both to the defendant Mark Richard Bolte
23 and to the State of South Carolina?

24 JUROR: No, sir.

25 THE COURT: Thank you, sir.

1 The next witness is Leslie Hiresberger,
2 Leslie Hiresberger.

3 Yes, sir?

4 JUROR: Number 96, Galen Miller.

5 THE COURT: Yes, sir, Mr. Miller?

6 JUROR: I have known Leslie for a few years,
7 he goes to a church of mine every once in awhile.

8 THE COURT: Thank you for that information.
9 You will be seated, please. Thank you.

10 Yes, sir, your name and number?

11 JUROR: Jeremy Jones, 70. I know Miss
12 Hiresberger, and I would be able to be impartial.

13 THE COURT: In whatever capacity that you do
14 know that potential witness, Leslie Hiresberger,
15 would it in any way affect or impair your ability
16 to be fair and impartial both to the State of South
17 Carolina and to the defendant Mark Richard Bolte?

18 JUROR: No, sir.

19 THE COURT: Thank you, sir. Be seated,
20 please.

21 The next potential witness is Mitchell
22 Christopher Boyer with the Due West Police
23 Department.

24 Kathy Busby of Due West, South Carolina.

25 Your name and number again, please?

1 JUROR: Chris Boyer, juror 13, friend of Miss
2 Busby.

3 THE COURT: And how do you respond, madam,
4 say your name and juror number?

5 JUROR: 133, Mary J. Smith, she's a neighbor
6 of mine.

7 THE COURT: Miss Busby?

8 JUROR: Yes.

9 THE COURT: As to both of you, would your
10 knowledge of that witness in whatever way it exists
11 in any way affect or impair the ability of either
12 of you or both of you, as the case may be, to hear
13 and decide this case impartially and fairly both to
14 the State of South Carolina and to the defendant?

15 JUROR: No, sir.

16 JUROR: No, sir.

17 THE COURT: Thank you both. Be seated,
18 please.

19 The next potential witness is Ryan Pogue of
20 the Due West Police Department.

21 James Smith, Due West Police Department.

22 Daniel Banks of Abbeville.

23 Say your name and number again, please, sir.

24 JUROR: Dereck Peterson, 118.

25 THE COURT: Yes, sir.

1 JUROR: I know him, I went to school with
2 him.

3 THE COURT: You know Mr. Banks?

4 JUROR: Yes, sir.

5 THE COURT: Would your knowledge of that
6 witness, potential witness, in any way affect or
7 impair your ability to be fair and impartial both
8 to the defendant Mark Richard Bolte and to the
9 State of South Carolina if you were seated as a
10 trial juror?

11 JUROR: No, sir.

12 THE COURT: Thank you, sir. Be seated,
13 please.

14 It's thought that the name of Daniel Banks
15 was just called.

16 Shirley Adams of Due West, South Carolina.

17 Joyce Bush of Abbeville.

18 Your name and number again, please sir?

19 JUROR: Dereck Smith, number 118. She was my
20 teacher.

21 THE COURT: Yes, ma'am? Remain standing.
22 Sir.

23 JUROR: Susan Cheek, number 27, I'm friends
24 with Miss Bush.

25 THE COURT: Thank you. Remain standing.

1 Your number and name?

2 JUROR: Robert Clinkscales, number 32. We go
3 to the same church.

4 THE COURT: As to the three of you, would
5 your knowledge of Joyce Bush, however it may exist
6 and to whatever extent it is, in any way affect or
7 impair the ability of either of you or any of you
8 to be fair and impartial, absolutely fair and
9 impartial both to the State of South Carolina and
10 to the defendant Mark Richard Bolte were you to be
11 seated as a trial juror?

12 JUROR: No.

13 JUROR: It probably would.

14 THE COURT: You think it would?

15 JUROR: It probably would.

16 THE COURT: This juror is excused. Thank
17 you.

18 JUROR: No.

19 THE COURT: Thank you, madam. Be seated.

20

21

22 Yes, madam, your name and number again,
23 please?

24 JUROR: 133, Mary J. Smith. They go to the
25 school I teach at.

1 THE COURT: Would your knowing those
2 potential witnesses in whatever capacity it may be
3 in any way affect or impair your ability to be fair
4 and impartial both to the State of South Carolina
5 and to the defendant Mark Richard Bolte were you to
6 be seated as a trial juror?

7 JUROR: No, sir.

8 THE COURT: Thank you, madam. Be seated,
9 please.

10 Yes, ma'am?

11 JUROR: I think they go to the school I work
12 for.

13 THE COURT: Would your knowledge of that, one
14 or both of those potential witnesses, I believe you
15 referred to just one of them?

16 JUROR: I'm not sure. I remember writing the
17 name down for a short record.

18 THE COURT: Would your knowledge of that
19 potential witness in any way affect or impair your
20 ability to be fair and impartial both to the State
21 of South Carolina and the defendant Mark Richard
22 Bolte?

23 JUROR: No, sir.

24 THE COURT: Thank you, madam. Be seated,
25 please.

1 The next witness is Shirley Ehney, she spells
2 her last name E-h-n-e-y, Shirley Ehney.

3 Steve Manner?

4 Ronald Wagner?

5 Yes, sir?

6 JUROR: My number is 96, Galen Martin, I go
7 to the same church, Ronald used to go to the same
8 church.

9 THE COURT: Thank you, sir. Be seated.

10 Carson Henderson, who is an attorney who
11 practices in Greenwood and I believe that he would
12 or used to practice in Abbeville, Carson Henderson.

13 Marvin Watson is an attorney who has his
14 office in Greenwood.

15 Yes, ma'am, your name and number?

16 JUROR: Susan New, number 106. Marvin Watson
17 represented me in a divorce case.

18 THE COURT: Would your knowledge of that
19 potential witness and to the extent it may exist in
20 any way affect or impair your ability to be fair
21 and impartial both to the defendant Mark Richard
22 Bolte and to the State of South Carolina if you are
23 seated as a trial juror?

24 JUROR: No.

25 THE COURT: Thank you, madam. Be seated.

1 The lady on the extreme left?

2 JUROR: My number is 12, I think, Julia
3 Bowie.

4 THE COURT: Yes, Miss Bowie?

5 JUROR: Mr. Watson is an old friend.

6 THE COURT: Would your knowing Mr. Watson in
7 the fashion you do affect our or impair your
8 ability to be fair to the State of South Carolina
9 and the defendant Mark Richard Bolte?

10 JUROR: No.

11 THE COURT: Thank you, madam.

12 Yes, ma'am?

13 JUROR: I know Mr. Watson.

14 THE COURT: Would your knowledge of that
15 potential witness in any way affect or impair your
16 ability to be fair and impartial both to the
17 defendant Mark Richard Bolte and to the State of
18 South Carolina if you are seated as a trial juror?

19 JUROR: No, sir.

20 THE COURT: Thank you, madam. Be seated,
21 please.

22 The next potential witness is Miss Taylor,
23 first name unknown, Miss Taylor, who was principal
24 at Abbeville High School. Anybody know Miss
25 Taylor?

1 Your name and number, please?

2 JUROR: 133, Mary J. Smith, I work with her
3 in the district, the Abbeville School District.

4 THE COURT: Would your knowledge of that
5 potential witness in that capacity to which you
6 refer in any way affect or impair your ability to
7 be fair and impartial both to the State of South
8 Carolina and the defendant Mark Richard Bolte?

9 JUROR: No.

10 THE COURT: Thank you.

11 Brian Bolte?

12 To be absolutely thorough and complete, is
13 there any member of the jury venire who is related
14 by blood or marriage to or in any way acquainted
15 with any of the potential witnesses whose names
16 have just been read to you? If you know them or
17 think you know them please let it be known. If you
18 haven't already stood, stand now.

19 JUROR: I'm not sure but when you went back,
20 I think it was a Ronald Wagner, I have heard my
21 daughter mention a name like that but I don't know,
22 I just heard the name.

23 THE COURT: Ronald Wagner?

24 JUROR: Yes, I have heard the name. She goes
25 to Erskine.

1 THE COURT: You are?

2 JUROR: Number 74.

3 THE COURT: If that is the same person would
4 your knowledge of the person in the capacity you
5 described in any way affect or impair your ability
6 to be fair and impartial both to the State of South
7 Carolina and the defendant Mark Richard Bolte?

8 JUROR: No, sir.

9 THE COURT Thank you, madam.

10 Yes, sir?

11 JUROR: Chris Bolton, number 13. I believe
12 Ester and Mark worked at the school when I worked
13 there before, I'm not sure. That was a few years
14 ago.

15 THE COURT: That's a proper response.

16 JUROR: Yes, sir.

17 THE COURT: If the relationships or
18 associations, if you will, are as you think they
19 could be, would that knowledge of those potential
20 witnesses in any way affect your ability to be
21 absolutely fair and impartial both to the State of
22 South Carolina and to the defendant Mark Richard
23 Bolte?

24 JUROR: No, sir.

25 THE COURT: Thank you sir. Be seated. The

1 gentleman in the back who first stood?

2 JUROR: 106.

3 THE COURT: Speak up.

4 JUROR: I'm kin to the Busbys.

5 THE COURT: You are kin to Kathy Busby?

6 JUROR: Yes, sir.

7 THE COURT: Would your kinship with that
8 potential witness, and by the way, how are you kin
9 to that witness?

10 JUROR: By marriage.

11 THE COURT: By marriage? Would your being
12 kin to that witness in any way affect or impair
13 your ability to be fair and impartial both to the
14 defendant Mark Richard Bolte and to the State of
15 South Carolina were you to be seated as a trial
16 juror?

17 JUROR: No, sir.

18 THE COURT: Yes?

19 THE CLERK: 136.

20 JUROR: 139, Martin Woolston, number 139, I
21 know Miss Judy Davis.

22 THE COURT: A proper response, thank you for
23 it. Would your knowledge of that potential witness
24 in any way affect or impair your ability to be fair
25 and impartial both to the State of South Carolina

1 and to the defendant Mark Richard Bolte?

2 JUROR: No, Your Honor.

3 THE COURT: Thank you, sir. The gentleman in
4 the back?

5 JUROR: Ronald Tiller, I don't know my
6 number.

7 THE COURT: Number 146. Yes, sir?

8 JUROR: I know Miss Davis, Mr. Watson, and I
9 think Marion Johnson, I think you said Marion
10 Johnson?

11 THE COURT: Yes, sir.

12 JUROR: I know them all.

13 THE COURT: Thank you. Would your knowledge
14 of those potential witnesses in the way and to the
15 extent that it may exist in any way affect or
16 impair your ability to be fair and impartial both
17 to the defendant Mark Richard Bolte and to the
18 State of South Carolina if you're seated as a trial
19 juror?

20 JUROR: No, sir.

21 THE COURT: Thank you sir. Be seated.

22 Yes, madam, again your name and number?

23 JUROR: Julia Bowie, number 12. I know
24 Debbie Graham, she lives not far from me.

25 THE COURT: Would your knowledge of that

1 potential witness in any way affect or impair your
2 ability to be fair and impartial both to the State
3 of South Carolina and to the defendant Mark Richard
4 Bolte if you're seated as a trial juror?

5 JUROR: No, sir.

6 THE COURT Thank you, madam. Be seated,
7 please.

8 Are there any additional responses with
9 regard to your knowledge, personal acquaintance
10 with or relationship by blood or marriage to any of
11 the potential witnesses in this case? If so,
12 please stand.

13 There are no additional responses at this
14 time.

15 Is any member of the jury venire, other than
16 the lady who has responded to the question by
17 answering other questions, have any of you, are you
18 now or formerly employed at Carolina Springs
19 Academy? If so, if you have formerly been
20 employed, everybody stand, even if you responded
21 before, currently or formerly employed at Carolina
22 Springs academy, if so, please stand. Let it be
23 known again. Anybody, even though you responded
24 before?

25 JUROR: I work at Abbeville.

1 THE COURT: Very well, thank you.

2 Yes, sir.

3 JUROR: Juror 13, I'm employed there now.

4 THE COURT: Very well, sir,

5 Yes, ma'am? Remain standing, please, sir.

6 Yes, ma'am?

7 JUROR: I work in the kitchen, I don't have
8 any contact with any of the kids or anything.

9 THE COURT: And your number and name?

10 JUROR: Number 29, Carolyn Cheshire.

11 THE COURT: Yes, sir?

12 JUROR: Donald Vermillion, I did read the
13 name Carolina Springs, I know the owners.

14 THE COURT: Mr. Vermillion's number is 150.

15 As to all three of you, would your
16 association and/or employment by or working for
17 Carolina Springs Academy in any way affect or
18 impair your ability to be fair and impartial both
19 to the State of South Carolina and to the defendant
20 Mark Richard Bolte if you're seated as a trial
21 juror?

22 JUROR: No, sir.

23 THE COURT: Madam?

24 JUROR: No.

25 THE COURT: Thank you. Be seated.

1 JUROR: It's according to what it is.

2 THE COURT: Based upon what has been read to
3 you as the charges set out in the indictment?

4 JUROR: I don't know the defendant, so it
5 wouldn't bother me none.

6 THE COURT: Would your knowledge of this
7 case, based upon anything that has been said to you
8 before now, in any way affect or impair your
9 ability to be fair and impartial both to the State
10 of South Carolina and to the defendant Mark Richard
11 Bolte?

12 JUROR: No, sir.

13 THE COURT: Thank you. Be seated, sir.

14 Is there any member of the venire who knows
15 Velvet Moore of the South Carolina Center for Equal
16 Justice which was formerly known as the Legal
17 Services Agency of Western Carolina? If you do,
18 please stand.

19 Do you know Velvet Moore or anybody that
20 works for the organization known as South Carolina
21 Center for Equal Justice, which was formerly known
22 as Legal Services Agency of Western Carolina, or
23 anybody that did, that does now or has formerly
24 worked at that place? If so, please stand.

25 There are no responses.

1 Does any member of the venire have a family
2 member or a close friend or are you formerly or now
3 a civilian or military police officer? If so,
4 please stand.

5 JUROR: I was an M.P. reserve in an M.P. unit
6 for six years.

7 THE COURT: That's a proper response. And
8 you are Mr. Clinkscales? Your number is?

9 JUROR: 32.

10 THE COURT: Would that any in any way affect
11 or impair your ability to be fair and impartial
12 both to the State of South Carolina and to the
13 defendant Mark Richard Bolte?

14 JUROR: No, sir.

15 THE COURT: Thank you, sir. Be seated.
16 To the rear?

17 JUROR: Number 55, Thomas Giles, I was a
18 police officer for Abbeville.

19 THE COURT: Say your answer again.

20 JUROR: Thomas Giles.

21 THE COURT: What was your response to the
22 question?

23 JUROR: I served as a police officer with the
24 City of Abbeville.

25 THE COURT: Would that association with a

1 current police officer in any way affect or impair
2 your ability to be fair and impartial both to the
3 defendant Mark Richard Bolte and to the State of
4 South Carolina were you to be selected as a trial
5 juror?

6 JUROR: No.

7 THE COURT: Thank you, sir.

8 Is there any member of the jury venire who is
9 a member or a supporter either by your presence or
10 your contribution to any organization that has as
11 its primary function the support or encouragement
12 of law enforcement? These organizations are known
13 as MADD, SADD, CADE, DARE and other similar
14 organizations. If you are now or formerly a member
15 by your presence or support and/or contributions to
16 any such organization which has as its primary
17 purpose the support of law enforcement, please
18 stand.

19 There are no responses.

20 This matter may involve the testimony from
21 one or more police officers, ladies and gentlemen.
22 Is there any member of the jury venire who would
23 give more weight to the testimony of a police
24 officer than any other witness simply because the
25 witness may be a police officer? If so, please

1 stand.

2 There were no responses.

3 Is there any member of the jury venire who
4 has now or has had within the last decade any kind
5 of contact with Erskine College? This would
6 include attending that college, having a child or
7 close family member who attends or did attend that
8 college within that span of time, or who's donated
9 to that college or participated in any activity at
10 that college of whatever type, kind or nature? If
11 this applies to you, please stand.

12 Your name and juror number?

13 JUROR: Anthony M. Storey, Jr, number 138. I
14 graduated from Erskine in 2003.

15 THE COURT: Would your having graduated from
16 that college, to the extent that it may be involved
17 in this matter, in any way affect or impair your
18 ability to be fair and impartial both to the State
19 of South Carolina and to the defendant Mark Richard
20 Bolte if you are seated as a trial juror?

21 JUROR: No, sir.

22 THE COURT: Thank you, sir. Be seated.

23 Yes, sir?

24 JUROR: Robert Stout. I had a daughter that
25 went to Erskine, my number is 137.

1 THE COURT: That's a proper response. Any
2 other associations with the school?

3 JUROR: No, sir.

4 THE COURT: Would that association as you
5 described it in any way affect or impair your
6 ability to be fair and impartial both to the
7 defendant Mark Richard Bolte and to the State of
8 South Carolina if you're seated as a trial juror?

9 JUROR: No, sir, huh-uh (negative).

10 THE COURT: Thank you, sir. Be seated.

11 Yes madam?

12 JUROR: Number 87, Ehney. I associated with
13 Erskine College, attend activities there and I have
14 several friends and family members who attend and
15 work there.

16 THE COURT: Thank you, and remain standing.

17 Yes, ma'am?

18 JUROR: Number 74. My daughter is going
19 there.

20 THE COURT: Thank you, remain standing,
21 please, ma'am.

22 JUROR: Mary Jane Smith, 133, I associate
23 with Erskine through our school, we work together
24 placing students to work in our school.

25 THE COURT: The teachers, education students

1 may come to your school?

2 JUROR: Right.

3 THE COURT: Yes, ma'am, thank you. Remain
4 standing.

5 Yes, ma'am, your name and number?

6 JUROR: Nellie Morton. My son graduated from
7 Erskine eight years ago.

8 THE COURT: All of you have properly
9 responded. Would your association as it is on
10 various levels with Erskine College in any way
11 affect or impair your ability to be fair and
12 impartial both to the defendant Mark Richard Bolte
13 and to the State of South Carolina if you are
14 seated as a trial juror? The lady in front?

15 JUROR: No, sir.

16 THE COURT: Thank you.

17 JUROR: No, sir.

18 THE COURT: Thank you.

19 JUROR: No, sir.

20 THE COURT: Thank you all. Has any member of
21 the venire or any of your relatives or close
22 personal friends attended or graduated from
23 Abbeville High School during the last six years?
24 If so, please stand. During the last six years?

25 Your name and number?

1 JUROR: Number one, my son graduated from
2 Abbeville this year?

3 THE COURT: Thank you.

4 Yes, sir, your name and number again?
5 Everybody remain standing, we'll go as quickly as
6 we can.

7 JUROR: Robert Clinkscales, juror 32, I had a
8 daughter graduate four years ago.

9 THE COURT: A proper response. Yes, sir,
10 remain standing.

11 Yes, ma'am?

12 JUROR: Nancy Loyd, 87. I have had children
13 that graduated from Abbeville.

14 THE COURT: In the last six years?

15 JUROR: Yes, sir.

16 THE COURT: Thank you.

17 JUROR: My name is Chris Rayford, my number
18 is 126, I graduated '99.

19 THE COURT: Thank you. Remain standing,
20 please.

21 Yes, farther in the back?

22 JUROR: Ruby White, my number is 156. My son
23 graduated about three years ago.

24 THE COURT: Thank you. Remain standing,
25 please, ma'am.

1 The gentleman in the back?

2 JUROR: 136. I had friends graduated.

3 THE COURT: Thank you, sir. Remain standing.
4 The gentleman behind him?

5 JUROR: Thomas Giles, number 55. My daughter
6 is graduating now.

7 THE COURT: Thank you, sir.

8 Yes, ma'am? Number 113. I I graduated in
9 '99.

10 THE COURT: Number 113, thank you. Remain
11 standing.

12 Yes, sir?

13 JUROR: Ronald Tiller, 146, I had a daughter
14 graduate two years ago.

15 THE COURT: Thank you. As to all of you who
16 are standing and who have responded to the
17 question, would your association with anyone who
18 has graduated from, who was graduated from
19 Abbeville High School during the last six years in
20 any way affect or impair the ability of you or any
21 of you to be absolutely fair and impartial both to
22 the State of South Carolina and to the defendant
23 Mark Richard Bolte?

24 JUROR: No, sir.

25 JUROR: No, sir.

1 JUROR: No, sir.

2 THE COURT: In the back?

3 JUROR: No.

4 THE COURT: Yes, sir, remain standing, in the
5 yellow tee-shirt, how do you respond?

6 JUROR: No, sir.

7 THE COURT: Thank you.

8 JUROR: No, sir.

9 JUROR: No, sir.

10 THE COURT: Thank you all and each.

11 Has any member of the venire or any member of
12 your family or any close friend ever been the
13 victim, as far as you know, of criminal sexual
14 conduct, criminal sexual conduct with a minor,
15 committing or attempting a lewd act upon a minor
16 child, incest, criminal domestic violence, child
17 abuse, criminal assault, murder, assault and
18 battery with intent to kill, assault and battery of
19 a high and aggravated nature, robbery, burglary,
20 kidnapping or any such crime? If so, please stand.
21 This is if this question applies, regardless of
22 whether any charges were brought or not.

23 Your name and number, sir, on the front?

24 JUROR: Bobby Gaillard, I don't know the
25 number.

1 THE COURT: What's your last name?

2 JUROR: Gaillard.

3 THE COURT: Number 52. Yes, sir?

4 JUROR: Circuit Court, CDV.

5 THE COURT: Who was charged?

6 JUROR: I was charged.

7 THE COURT: Okay. One time?

8 JUROR: Yes, sir.

9 THE COURT: All right, just remain standing.

10 The lady behind you, your name and juror

11 number?

12 JUROR: Lucia Belcher, number 6. My daughter
13 was a defendant.

14 THE COURT: Your daughter was a defendant?

15 JUROR: Yes. She was the one that the crime
16 was committed against.

17 THE COURT: Your name and number?

18 JUROR: Number 49. My daughter has been
19 convicted of murder.

20 THE COURT: Thank you. Remain standing,
21 please. The lady in the white blouse, would you
22 say your name and number?

23 JUROR: Susan New, 106.

24 THE COURT: Thank you.

25 THE COURT: Yes, sir, Mr. Vermillion, say

1 your name and number.

2 JUROR: Dalton Vermillion, 150. My daughter
3 was a defendant.

4 THE COURT: She was a defendant?

5 JUROR: Yes, sir.

6 THE COURT: All right, sir. Remain standing,
7 please.

8 The lady behind you?

9 JUROR: Ruby White, 156, my brother was
10 accused of murder.

11 THE COURT: Remain standing, please.

12 Yes madam? The lady in blue?

13 JUROR: 33, I had --

14 THE COURT: You had a family member what,
15 now.

16 JUROR: Charged with murder.

17 THE COURT: Yes, ma'am, I'm sorry, I
18 apologize to you, madam.

19 Okay.

20 JUROR: Frances Carter, number 25. I have a
21 daughter who was a victim of domestic violence.

22 THE COURT: Thank you, madam. Remain
23 standing, please.

24 Yes, sir?

25 JUROR: Ronald Tiller, 146. My mother was a

1 victim of domestic violence.

2 THE COURT: Thank you. Remain standing.

3 Yes, ma'am.

4 JUROR: Martha Tucker, I had a brother was
5 charged with murder.

6 THE COURT: Anyone else?

7 As to each of you who are standing, who have
8 responded to the question that either you, a close
9 friend of yours or a member of your family has been
10 the victim of a crime and/or charged with a crime,
11 as the case may be, would that in any way at all
12 affect your ability to be absolutely fair and
13 impartial both to the State of South Carolina and
14 to the defendant Mark Richard Bolte?

15 Sir?

16 JUROR: No, sir.

17 THE COURT: Thank you. Be seated.

18 Yes, ma'am?

19 JUROR: No, sir.

20 THE COURT: Thank you. Be seated.

21 JUROR: No, sir.

22 THE COURT: Thank you, be seated.

23 JUROR: No, sir.

24 JUROR: Yes, sir.

25 THE COURT: You think it would?

1 JUROR: Yes, sir.

2 THE COURT: This juror will be removed from
3 the box, you're excused, sir. That is Mr.
4 Vermillion.

5 JUROR: No, sir.

6 THE COURT: Thank you, madam.

7 JUROR: No, sir.

8 THE COURT: Thank you, madam.

9 JUROR: Yes.

10 THE COURT: You think it would?

11 JUROR: Yes.

12 THE COURT: This juror will be removed from
13 the box, please, thank you. You're excused. That
14 was number 73 was excused.

15 Yes, madam?

16 JUROR: No, sir.

17 THE COURT: Thank you very much.

18 Yes, sir?

19 JUROR: No, sir.

20 THE COURT: Thank you, sir. With the
21 exception of juror number 96, is there any member
22 of the jury venire who has any religious or moral
23 beliefs which would prevent you or any of you from
24 passing judgement on the facts of the case as may
25 be presented by the State? If so, please stand.

1 There are no responses.

2 Is there any member of the venire who has
3 formed or expressed an opinion as to the guilt or
4 innocence of the defendant Mark Richard Bolte based
5 upon anything whatsoever, either that which was
6 made known and said or seen before today, or that
7 which was said during these proceedings? If so,
8 please stand.

9 There are no responses.

10 Has anyone read anything about this case in
11 the newspaper, seen anything about it on TV or
12 heard anything about it on the radio or from anyone
13 else at all before today? If so, please stand.

14 There are no responses.

15 Is there any member of the jury venire who is
16 aware or conscious of any interest, any bias or any
17 prejudice for or against the defendant Mark Richard
18 Bolte or for or against the State of South
19 Carolina? If so, please stand.

20 There are no responses.

21 Is there any member of the venire who feels
22 that he or she would be unable to give the State of
23 South Carolina and the defendant Mark Richard Bolte
24 a fair and impartial trial, based upon anything
25 whatsoever? If so, please stand.

1 There are no responses.

2 Is there any additional or further inquiry
3 requested by the State?

4 MS. MAYES: None from the State, Your Honor.

5 THE COURT: Thank you. Is there any
6 additional or other inquiry requested by the
7 defense?

8 MR. GROSE: No, sir, but can we approach on
9 something else?

10 THE COURT: You may, yes, sir.

11 (Unrecorded bench conference).

12 THE COURT: Mr. Grose, will you place your
13 motion on the record? Just say what you just said.

14 MR. GROSE: Just to have an opportunity to
15 review this information before we do the strikes.
16 I think the State joins in the motion.

17 THE COURT: Does the State concur?

18 MS. MAYES: Yes, sir, Your Honor.

19 THE COURT: Very well. Ladies and gentlemen,
20 we will take a recess at this time. Certainly it
21 is most welcomed by all. The Court would precede
22 our recess in saying to you that it is hoped that
23 you will accept the Court's apologies for our
24 recessing when we did. The kind of weather that
25 was going on at that time was not known and it was

1 very bad and it is certain that many of you were
2 discommoded in different ways and the Court
3 apologizes to you for that but there was no
4 possible way, as you now see the length of time
5 that has been used here in going the distance that
6 we have gone, you would have been past 2:00 o'clock
7 and Madam Clerk would not have had the courtroom to
8 do that, but the Court extends its sincere
9 apologies and hopes you will accept it.

10 Now, having said that, we are going to take a
11 recess. There are restrooms here in the jury room,
12 there are restrooms downstairs. You may walk
13 around and about the courthouse, you may go outside
14 if you wish but please stay within call of the
15 bailiff's voice. We're going to take a short
16 recess where everybody can stretch their legs and
17 walk around but you are instructed, you are
18 ordered, you are on your oath not to discuss this
19 case at all on any terms with anyone at anytime.
20 Don't mention this matter that we have now gone
21 this far on. Certainly don't pollute your
22 impartiality and your fairness by talking to
23 anyone, including each other, about this case
24 that's now about to be tried.

25 All of you are on your oath to follow the

1 Court's orders.

2 Thank you. We'll be in recess, listen for
3 the bailiff's call.

4 (Recessed at 3:49 p.m.).

5 (Reconvened at 4:15 p.m.).

6 THE COURT: Ladies and gentlemen, we are
7 prepared to select a jury and all your names are on
8 little small pieces of paper that are in this cigar
9 box that Miss McMahan has. Now, the names are not
10 in capsules --

11 THE CLERK: They are.

12 THE COURT: And the assistant clerk intends
13 to draw the names. Is there any objection to their
14 not being in capsules or Miss McMahan drawing the
15 names, from the State?

16 MS. MAYES: No objection, Your Honor.

17 THE COURT: From the defense?

18 MR. GROSE: No objection, but I do need to
19 approach on another matter when it's appropriate.

20 THE COURT: Do you want to do that now?

21 MR. GROSE: If it suits the Court.

22 (Unrecorded bench conference).

23 THE COURT: Ladies and gentlemen, returning,
24 your names are in little capsules. Miss McMahan,
25 would you show them the little capsules, please?

1 Now, whose name is in that little capsule is
2 on a little piece of paper sticking out the end of
3 it about that far. Miss McMahan doesn't know, so
4 recall these things. You are here by chance and
5 random because you're a registered voter, you have
6 a driver's license or you have an identification
7 card issued by the Department of Transportation,
8 all of which lists have been combined into one big
9 computerized group and you who have been sent
10 subpoenas in this case to appear here as part of a
11 venire, of the venire, are here by chance.

12 Now, all of your names are in this box. Now,
13 it's very common that we have a random roller box
14 similar to a bingo box we put all these in and you
15 can hear them shake around. But, Miss McMahan, let
16 them hear you shake that box. All your names are
17 in that box, everyone who is still present here and
18 qualified. So, Miss McMahan, let's have the jury,
19 please.

20 Madam Clerk.

21 THE CLERK: As I call your name I'm going to
22 ask you to bring your personal things with you and
23 come and stand and face the State and face the
24 defense.

25 Number 113, Emily C. Page.

1 THE COURT: Mr. Manning will accept you down
2 here, all of you whose names are called, you will
3 come down where Mr. Manning indicates. He will
4 give you a nice smile and make you comfortable.
5 Turn around and face the exit sign in the back of
6 the courtroom back there.

7 THE CLERK: What say you for the State?

8 MS. MAYES: Please present the juror.

9 MR. GROSE: Please seat the juror.

10 THE CLERK: Okay, you may take your seat in
11 the jury box.

12 Number 32, Robert P. Clinkscates.

13 What say you for the State?

14 MS. MAYES: Please present the juror.

15 THE CLERK: What say you for the defense?

16 MR. GROSE: Please excuse this juror from
17 this case.

18 THE CLERK: You're excused from the trial of
19 this case, Mr. Clinkscates.

20 Number 12, Julia C. Bowie.

21 THE COURT: Strikes have been noted and the
22 record will show. Do you concur for the State
23 strikes have been noted?

24 MS. MAYES: Yes, sir, Your Honor.

25 THE COURT: Do you concur for the defense?

1 MR. GROSE: Yes, sir.
2 THE COURT: Thank you. Proceed.
3 THE CLERK: What say you for the State?
4 MS. MAYES: Please present the juror.
5 THE CLERK: What say you for the defense?
6 MR. GROSE: Please seat the juror.
7 THE CLERK: You may take your seat in the
8 jury box.
9 Number 22, Ernestine Burton.
10 What say you for the State?
11 MS. MAYES: Please present the juror.
12 THE CLERK: What say you for the defense?
13 MR. GROSE: Please seat the juror.
14 THE CLERK: You may take your seat in the
15 jury box.
16 Number 158, Anthony Storey, Jr.
17 What say you for the State?
18 MS. MAYES: Please present the juror.
19 THE CLERK: What say you for the defense?
20 MR. GROSE: Please excuse this juror from
21 this case.
22 THE CLERK: 106, Susan New.
23 What say you for the State?
24 MS. MAYES: Please present the juror.
25 THE COURT Juror number?

1 THE CLERK: 106. What say you for the
2 defense?

3 MR. GROSE: Please seat the juror.

4 THE CLERK: Number 43, William Elmore.
5 What say you for the State?

6 MS. MAYES: Please excuse the juror from the
7 call of this case.

8 THE CLERK: Mr. Elmore, you're excused from
9 this trial.

10 Number 29, Carolyn Cheshire.

11 What say you for the State?

12 MS. MAYES: Please present the juror.

13 THE CLERK: What say you for the defense?

14 MR. GROSE: Please excuse this juror from
15 this case.

16 THE CLERK: Number 49, Ann Foust.

17 What say you for the State?

18 MS. MAYES: Please present the juror.

19 THE CLERK: What say you for the defense?

20 MR. GROSE: Please seat the juror.

21 THE CLERK: 133, Mary Smith.

22 MS. MAYES: Is that 143, Madam Clerk?

23 THE CLERK: 133, Mary J. Smith.

24 What say you for the State?

25 MS. MAYES: Please present the juror.

1 THE CLERK: What say you for the defense?
2 MR. GROSE: Please excuse this juror.
3 THE CLERK: 149, Terry Turner.
4 What say you for the State.
5 MS. MAYES: Please present the juror.
6 THE CLERK: What say you for the defense?
7 MR. GROSE: Please seat the juror.
8 THE CLERK: Number 13, John Boyer.
9 MR. GROSE: Your Honor, may we approach?
10 (Unrecorded bench conference).
11 MR. GROSE: Your Honor, I believe you already
12 ruled he had been excused for cause.
13 THE COURT: Do you concur?
14 MS. MAYES: Yes, sir, Your Honor.
15 THE COURT: Thank you, sir. Be seated.
16 THE CLERK: 132, Ernestine Smith.
17 What say you for the State?
18 MS. MAYES: Please excuse the juror from the
19 trial of this case.
20 THE CLERK: 152, James Vinson.
21 What say you for the State?
22 MS. MAYES: Please present the juror.
23 THE CLERK: What say you for the defense?
24 MR. GROSE: Please seat the juror.
25 THE CLERK: Number 64, Shannon Holloway.

1 What say you for the State?

2 MS. MAYES: Please present the juror.

3 THE CLERK: What say you for the defense?

4 MR. GROSE: Please seat the juror.

5 THE CLERK: 159, Marshall Wilson.

6 What say you for the State?

7 MS. MAYES: Please present the juror.

8 THE CLERK: What say you for the defense?

9 MR. GROSE: Please excuse this juror from

10 this case.

11 THE CLERK: 155, Michelle Wells.

12 What say you for the State?

13 MS. MAYES: Please present the juror.

14 MR. GROSE: Please seat the juror.

15 THE CLERK: 141, Jessica Tatum.

16 What say you for the State?

17 MS. MAYES: Please present the juror.

18 THE CLERK: What say you for the defense?

19 MR. GROSE: Please seat the juror.

20 THE CLERK: Number 62, Robert Hamby.

21 MR. GROSE: Is that number 62, Miss King?

22 THE CLERK: Yes, sir, number 62, Robert

23 Hamby.

24 What say you for the State?

25 MS. MAYES: Please present the juror.

1 THE CLERK: What say you for the defense?

2 MR. GROSE: Please seat the juror.

3 THE CLERK: 105, Billy New.

4 What say you for the State?

5 MS. MAYES: Please present the juror.

6 THE CLERK: What say you for the defense?

7 MR. GROSE: Please seat the juror.

8 THE COURT: That is the jury in chief. How
9 says the State, one or two alternates?

10 MS. MAYES: Two alternates, Your Honor.

11 THE COURT: Two alternates, Mr. Grose?

12 MR. GROSE: I believe it's the Court's
13 discretion.

14 THE COURT: It will be two. Strikes will be
15 one for the State, two for the defense on each.

16 THE CLERK: Number 22, Jackie Caldwell.

17 What say you for the State?

18 MS. MAYES: Please present the juror.

19 THE CLERK: What say you for the defense.

20 MR. GROSE: Please seat the juror.

21 THE COURT: Miss Caldwell, you may take your
22 seat to the left of the jury panel.

23 Number four, Marcel Baumann.

24 What say you for the State?

25 MS. MAYES: Please present the juror.

1 THE CLERK: What say you for the defense?

2 MR. GROSE: Please seat the juror.

3 THE COURT: Okay.

4 THE CLERK: Okay, you may take your seat to
5 the left of the jury.

6 THE COURT: Ladies and gentlemen of the trial
7 jury, if you will please listen carefully to these
8 instructions, they will be brief, we are going to
9 excuse you to the jury room momentarily so that
10 additional business can be taken up with your
11 colleagues of the venire and then you will be asked
12 out of the jury room and be given some additional
13 instructions before we hear opening argument in the
14 case. Do not discuss the case, as you and I don't
15 know anything about the case other than the bare
16 allegations contained in the indictment, which is
17 not evidence and never should be considered
18 evidence under any circumstances. It is not
19 evidence, it is simply the charging paper, as you
20 know, that brings the case to the Court, so you in
21 no way now or ever before you receive instructions
22 and permission from the Court are to discuss this
23 case at all with anyone, not even a close relative,
24 friend, not anybody at all because some little
25 thing someone may say to you may upset your

1 absolute fair and impartial attitude toward this
2 case, which is expected both by the State of South
3 Carolina and by the defendant Mark Richard Bolte.
4 So, don't allow anyone to talk with you and you
5 will be given further instructions about that, and
6 don't talk with each other at all about it.

7 Now, feel free to discuss anything you wish,
8 and you will be at some time required to appoint or
9 select a foreperson. The foreperson will sit in
10 the left front seat of your jury box throughout the
11 balance of the trial, and you do not have to be
12 concerned about that immediately. The two
13 alternates are not qualified to be a foreperson but
14 anyone else among you can be a foreperson, so be
15 thinking about that while you visit and get to know
16 each other. We'll ask you back out momentarily.
17 Do not discuss the case. You are excused to the
18 jury room immediately behind you.

19 (Jury excused from the courtroom at 4:37
20 p.m.).

21 THE COURT: They will be given badges by the
22 bailiff.

23 Any objection from the State?

24 MS. MAYES: No, sir.

25 THE COURT: From the defense?

1 MR. GROSE: No, sir.

2 THE COURT: Thank you. Ladies and gentlemen
3 of the venire remaining, the Court extends its
4 sincere thanks to each of you for your patience
5 during the proceedings thus far. We will not need
6 you back tomorrow -- let me confer here just for a
7 moment to see when we need for you to call. Just
8 be at ease for a second, please.

9 Ladies and gentlemen, again thank you each
10 and all for your patience and consideration for
11 these proceedings. You will be excused to call in
12 the number that will be given to you by either Mr.
13 Copeland or Mr. Manning at the back. Mr. Copeland
14 is standing right at the door and he will give you
15 a piece of paper with a call-in number, and call
16 that number after 6:00 o'clock tomorrow evening,
17 tomorrow is Wednesday, so today is Tuesday,
18 tomorrow is Wednesday, yesterday was a holiday, so
19 it seems like Monday to everybody, but tomorrow is
20 Wednesday, and call in tomorrow evening after 6:00
21 on the number that you're given and there will be a
22 notice there or tape recording, if you don't get
23 through the first time call again, your clerk has
24 set up a very efficient way of doing it, and you
25 will be given instructions.

1 Does anyone have any questions?

2 Thank you very much. Everyone remain seated
3 except the venire, which is excused. Thank you
4 all.

5 (Jury panel excused from the courtroom at
6 4:42 p.m.).

7 THE COURT: We'll stand in recess for just a
8 few minutes. Are you ready to go to the jury?

9 MS. MAYES: Yes, Your Honor.

10 MR. GROSE: Your Honor, I would prefer to do
11 openings in the morning, given the hour that it is
12 now. It's almost 5:00 o'clock. After we take a
13 break perhaps you could give them your opening
14 instructions tonight, if we could do the openings
15 in the morning.

16 THE COURT: The preliminary instructions will
17 take about ten minutes, they are very brief. Are
18 you ready to go so we can open the testimony in the
19 morning?

20 MR. GROSE: I could go but I would prefer to
21 do it in the morning, given the late hour of the
22 day.

23 THE COURT: The Court is led to believe it's
24 possible that this case could go into Saturday.

25 MR. GROSE: I haven't led you to believe

1 that. I don't know where you got that impression
2 from. I don't think it will.

3 THE COURT: The number of witnesses expected
4 by the State are how many? How long do you
5 estimate your case will take if we start tomorrow
6 with opening statements?

7 MS. MAYES: We may not be able to rest
8 tomorrow under that scenario. It's possible that
9 we may but I cannot guarantee the Court that we
10 will.

11 THE COURT: Thank you, Miss Mayes. Mr.
12 Grose, what is your estimated time for the defense?

13 MR. GROSE: Probably, minimal, a half a day,
14 at the most probably three-quarters of a day, if
15 Miss Mayes finishes, today is Tuesday, if she
16 finishes by lunch on Thursday we would do most of
17 our case Thursday afternoon, and if there is
18 anything minimal, you know, we wouldn't take much
19 time Friday morning. I think we can finish this
20 case by Friday.

21 THE COURT: All right, sir. We certainly
22 hope you're correct about that.

23 MR. GROSE: Well, I hope so. I don't intend
24 to call all those witnesses but some things are
25 going to depend upon what the government does. If

1 they do certain things, then I'm going to do
2 certain things. If they don't do certain things,
3 I'm not going to do it.

4 THE COURT: We're going to open today. Let's
5 give them the opening day.

6 MR. GROSE: Okay.

7 THE COURT: And the Court will instruct them
8 without swearing them so that we will be at least
9 efficient in order that you not go into Friday
10 evening or Saturday with this jury. Once they get
11 the case they could deliberate on it Friday night,
12 that's okay, that's up to them, but at the same
13 time it's possible that they may want to take a
14 break Friday night and go into Saturday, and we
15 want them to have all the time they need, so gather
16 your thoughts, we'll get the jury out, take your
17 time and we'll certainly, if your opening is not
18 extended we should be through by 5:30. It's a
19 quarter of 5:00 now. Let's take about five
20 minutes. Thank you.

21 (Recessed at 4:44 p.m.).

22 (Reconvened at 4:55 p.m.).

23 THE COURT: Is the State ready?

24 MS. MAYES: Yes, sir, Your Honor.

25 THE COURT: Is the defense ready?

1 MR. GROSE: Subject to our previous
2 discussion, Your Honor.

3 THE COURT: Do you need more time?

4 MR. GROSE: I would prefer to do it in the
5 morning but I can do it now if that's your decision
6 but I would still prefer to do it in the morning.

7 THE COURT: Thank you, Mr. Grose. We're
8 coming into session on 2003-GS-01-296, the State
9 versus Mark Richard Bolte. Is there anything for
10 the record, from the State?

11 MS. MAYES: Nothing from the State, Your
12 Honor.

13 THE COURT: Do you want to put anything
14 additionally on the record, Mr. Grose?

15 MR. GROSE: Not at this time, Your Honor.

16 THE COURT: Thank you, sir. Show the jury
17 in, please, Mr. Simpson.

18 (The jury returned to the courtroom
19 at 4:56 p.m.).

20 THE COURT: Ladies and gentlemen, we are
21 beginning the trial of the case of the State of
22 South Carolina versus Mark Richard Bolte. The
23 Court will give you some brief preliminary
24 instructions, first thanking you, each of you for
25 your service as jurors this week and for your

1 service in this particular case.

2 The Court understands that each of you are
3 here under varying degrees of hardship, as was
4 already said to you, you are out of work, you are
5 away from your families, you're away from things
6 you would rather be doing, but in our system of
7 justice a jury trial, a jury trial of one's peers
8 in a case like this is a valued, protected and
9 fundamental right in our system of justice and our
10 way of life. You should not hold it against the
11 State of South Carolina nor against the defendant
12 that this is a jury trial and you are being called
13 upon to serve as a trial juror in this case. Our
14 constitution guarantees a right to a trial in a
15 case like this and it never ever should be held
16 against either the government or the defendant that
17 you are being chosen and you have been chosen as a
18 fair and impartial jury, each of you is thought by
19 both sides to be fair and impartial, and to listen
20 to the evidence and to make a decision according to
21 the facts, based upon the evidence, as you find
22 them to be.

23 We will now have an oath administered. Madam
24 Clerk.

25 THE CLERK: Ladies and gentlemen of the jury,

1 if you will please stand and raise your right hand.

2 You will well and truly try and true
3 deliverance make between the State of South
4 Carolina and the defendant and a true verdict
5 render according to the evidence, so help you God.

6 If you accept this oath please indicate by
7 saying I will.

8 JURORS: I will.

9 THE CLERK: Thank you, and you may be seated.

10 THE COURT: Thank you, Madam Clerk. Ladies
11 and gentlemen, you have just taken an oath to well
12 and truly try this case. At the conclusion of the
13 trial the Court will charge you, that simply means
14 tell you or instruct you, as to what the law is as
15 it may apply to the facts of this case. What you
16 find to be the facts is important because you are
17 the judges of the facts and the sole and only
18 judges of the facts.

19 Now, the judge here, the Court here will be
20 the judge of the law and will make rulings upon any
21 objections or positions taken by the parties as we
22 proceed. However, you are the most important
23 judges because you and you alone are the judges of
24 the facts in this case.

25 As judges of the facts you will determine the

1 credibility, that means the believability, of the
2 witnesses who testify right here in front of you
3 under oath. In accordance with your oath you must
4 decide the case only upon the evidence that you
5 hear within the four walls of this courtroom and
6 upon nothing else whatsoever. Anything that you
7 may have thought, believed or whatever idea that
8 you may have had about anything other than what
9 goes on in this courtroom during the course of this
10 trial should be put completely out of your mind
11 because all the things that you will use to decide
12 this case and the facts of this case will develop
13 right in this courtroom in front of you and will
14 not have anything to do with anything that has
15 happened before now in your lives.

16 As judge of the law the Court may be called
17 upon to determine the admissibility of any evidence
18 that's offered. That is, whether under our rules
19 certain evidence is proper or not proper.

20 Now, evidence comes from three sources,
21 ladies and gentlemen, but the one with which you
22 are most familiar is testimony from the lips of
23 witnesses sworn to tell the truth. You can believe
24 a witness or disbelieve a witness. You can believe
25 some of a witness' testimony and disbelieve others.

1 You can believe some of one and some of another.
2 It's entirely and completely up to the jury to give
3 such weight to a witness' testimony as you deem it
4 deserves. Testimony is the one that you're most
5 familiar with.

6 Matters of exhibits, those are things that
7 you can see, feel and look at, such as documents,
8 photographs, articles, anything of that nature that
9 may be admitted will be considered by you. You can
10 take it into the jury room, you can give it such
11 credibility or believability or weight as you deem
12 it deserves.

13 So, we have testimony and we have exhibits
14 and we could have stipulations. Now, that's just a
15 big word that means an agreement to a fact. If the
16 parties stipulate to a fact such as the sun rose
17 this morning at 7:06 a.m., then you can take that
18 as a fact. If they agree to it, whatever that may
19 be, if it's a stipulation, it is an agreement to a
20 fact and there is no question about it on either
21 side.

22 Testimony, exhibits and stipulations, if any.
23 Nothing else is evidence, not anything the Court
24 tells you is evidence, nothing the lawyers say is
25 evidence, in questioning the witnesses and in

1 statements to you, they are not evidence because
2 they're not sworn testimony. Neither is statements
3 to you by the Court.

4 While the Court will rule upon any questions
5 regarding the admissibility of evidence, you and
6 you alone will determine what weight or what
7 importance to give to any evidence. It's important
8 that you understand now as we commence the trial of
9 this case the legal yardstick that you will use in
10 measuring the evidence that may come before you.

11 Ladies and gentlemen, this is a criminal case
12 and the allegations of the indictment are not
13 evidence. You should not take them to be evidence.
14 They are not evidence. Evidence is testimony,
15 exhibits and stipulations, if any. Nothing else is
16 evidence. The indictment is not to be considered
17 any more at all. It is not evidence.

18 In this criminal case the defendant is
19 presumed to be innocent. He must be proven to be
20 guilty by the weight of the evidence beyond a
21 reasonable doubt, to your satisfaction. That is
22 the legal yardstick in this criminal case. The
23 State bears the burden of proof to show to your
24 satisfaction that the defendant is guilty beyond a
25 reasonable doubt. The defendant bears no burden,

1 the defendant has no obligation to put up anything.
2 He may not put up any evidence. He may put up
3 evidence. That remains to be seen. He has no
4 burden and no obligation. The obligation is and
5 remains upon the State throughout the trial to
6 prove the guilt of the defendant here on trial
7 beyond a reasonable doubt.

8 The first part of any trial is opening
9 statements. The attorneys are skilled advocates,
10 they are advocates for their clients and they will
11 come before you momentarily and we will together
12 learn what this case is about. They will try and
13 educate us as to what the facts are to support the
14 allegations of the indictment, which is not
15 evidence, and they will also give you some road map
16 as to what to expect both in proof and in failing
17 to prove whatever they allege.

18 The burden, it's not a burden, the attorneys
19 don't have a burden, but they have a job to do and
20 they're going to try and tell you what you may
21 expect to come out of the evidence, which is
22 testimony, exhibits and stipulations. That's what
23 they're going to do. We're going to learn what
24 this is about. We don't know yet. So, give the
25 attorneys close attention as they come before you

1 as advocates and tell you what to expect that may
2 develop or may not develop, as the case may be.

3 You and I, on the other hand, are not
4 advocates. As the trial judge it's my duty to
5 preside over the case and to rule upon the
6 admissibility of evidence and tell you what the law
7 is that may apply to the evidence as you find it to
8 be in the case. It's your duty as a juror and as a
9 jury collectively to determine the facts of the
10 case. You are not advocates. You have no friends
11 to reward, you have no enemies to punish. It's
12 your duty to find the facts and to find the truth
13 in this case, which will be reflected in your
14 verdict. The word verdict comes from the Latin
15 term *verdicto*, which means to speak the truth, and
16 you will consider the evidence and consider it in
17 all respects and to allow your verdict to speak the
18 truth.

19 You are not to discuss this case until you
20 are permitted to do so. Now, this judge likes to
21 refer to the time that you are permitted to discuss
22 this case as the signal. The signal will be when
23 you are in the jury room and you will be sent a
24 verdict form and all of the evidence in the case.
25 When you get the verdict form and all of the

1 evidence in the case and you are in that jury room
2 and you receive those things that's the signal for
3 you to commence discussion of this case and to say
4 what you think about it and to give your ideas and
5 opinions to your fellow jurors, but until then and
6 not before then under any circumstances shall you
7 discuss this case by, between or among yourselves
8 nor with any other living human being or you will
9 not see, read or hear anything that has to do with
10 this case, and if you were to by accident or
11 coincidence you will disabuse your mind of it
12 completely and absolutely.

13 Why is that? Because you're on your oath to
14 well and truly try this case on the facts and
15 evidence that are developed in this courtroom and
16 upon nothing else whatsoever. That's your solemn
17 duty and your solemn obligation. It's a high order
18 and difficult thing because you're going to go home
19 and you're going to come in contact with people who
20 love you and whom you love and they are going to be
21 interested, they are going to ask you what are you
22 doing down at the courthouse, what's that all
23 about, what kind of case is that? Ladies and
24 gentlemen, you're going to have to say, "I can't
25 tell you, I can't tell you." That's a tough thing

1 to do.

2 You are at your liberty after a verdict has
3 been rendered to discuss this case as long as you
4 wish with anyone you wish, and you are further at
5 your liberty to refuse to discuss this case at all
6 ever and if anyone bothers you all you have to do
7 is call the sheriff's office and it will be seen to
8 that you are not bothered. That's your choice but
9 it is not your choice until a verdict is rendered.
10 You will not discuss this case until you receive
11 the signal, and then you may do so.

12 If anyone attempts to talk with you about
13 this case you must tell them that you are a juror
14 and you are not permitted to discuss this case. If
15 they persist in trying to talk with you get their
16 names and identity and report it to one of the
17 bailiffs and that will be investigated and dealt
18 with immediately.

19 If any attorney were to move to excuse your
20 presence from the courtroom and go into the jury
21 room, as you have been told, that is a common and
22 ordinary motion, we're not trying to hide anything
23 from you, you should hold it against neither
24 attorney nor his or her client. That is an
25 opportunity for you to take a break. This is

1 mental work and it's hard mental work. You have to
2 pay close attention. Everything will come before
3 you and you have to collectively and individually
4 remember all or as much of it as you possibly can.
5 That's what a jury trial is all about, to find the
6 truth, and it is thought that collectively you can
7 find the truth in this matter but you must pay
8 attention.

9 Now, the court will make you aware that the
10 Supreme Court has passed down a case that if you
11 become weary or if you appear not to be awake, then
12 we'll take a break. Now, that happens,
13 particularly after lunch. In the afternoons
14 everybody kind of gets relaxed and sometimes it's
15 difficult to pay attention. It happens to the best
16 of us. One judge said that he never remembers
17 going to sleep but he remembered waking up. It
18 happens. So, if we see it happening don't be
19 embarrassed, the Court is not going to point out
20 any of you but we'll do what they call in baseball,
21 we'll take a seventh inning stretch, we'll just all
22 get up and kind of stretch around a bit and get
23 relaxed, then we'll continue with the trial of the
24 case.

25 Thank you very much for your attention to

1 these opening remarks, ladies and gentlemen. This
2 trial is important, this trial is important to the
3 State of South Carolina and it's important to the
4 defendant Mark Richard Bolte. Your attention is
5 invited, requested and demanded. Each party is
6 entitled to an absolute and fair and impartial
7 trial at your hand.

8 We'll have opening statements. Miss Mayes.

9 MS. MAYES: May it please the Court.

10 THE COURT: Miss Mayes.

11 MS. MAYES: Ladies and gentlemen, my name is
12 Suzanne Mayes and I'm the prosecuting attorney in
13 this case. I work with the State Commission on
14 Prosecution Coordination and I'm here today in
15 conjunction with the Eighth Circuit Solicitor's
16 office, which is your local prosecutor's office.
17 Our job is to prosecute criminal cases on behalf of
18 the State of South Carolina, and in addition, on
19 behalf of victims of crimes and law enforcement.
20 In this case that is the Abbeville County Sheriff's
21 Department.

22 I submit that this is a sad and serious case
23 which is before you this week, and I say that
24 because it involves the sexual abuse of a young
25 person. But what this case is really about, I

1 submit, is broken trust, because in this case a
2 child's trust was betrayed by the one person that
3 she should be able to rely upon the most to care
4 for her and protect her, her own father, Mark
5 Bolte, the defendant in this case.

6 You will hear tomorrow from the victim who is
7 [REDACTED] [REDACTED] You will hear that she is twenty
8 years old and she is now a student at Erskine
9 College. You will hear testimony that she lived
10 here in Abbeville County with the defendant in the
11 family home and attended high school here in
12 Abbeville County during the time frame of the
13 indictments which are before you.

14 You will hear testimony from [REDACTED] and I
15 submit that testimony will indicate that on the
16 outside she appeared to be the ideal teenager,
17 valedictorian of her senior class, of her
18 graduating class at Abbeville High School,
19 president of the student body at Abbeville High
20 School. But on the inside I submit she was living
21 with a terrible secret, a secret that she kept
22 hidden for a long time before she found the courage
23 to come forward about what was happening in her own
24 home at the hands of her own father, and that is
25 sexual abuse. This defendant Mark Bolte has been

1 arrested, indicted and charged with the crimes of
2 incest, criminal sexual conduct with a minor in the
3 second degree, and also attempting or committing a
4 lewd act upon a minor.

5 Now, when I'm done talking to you today and
6 when we are concluded with the trial of this case,
7 at the very end the Court, His Honor, will charge
8 you on exactly what those crimes mean, but the most
9 simplified version that I can give you today is
10 that incest includes sexual intercourse between
11 people of close relations. That includes a father
12 and a daughter, regardless of the person's age.
13 That includes acts which occur even older than age
14 sixteen.

15 The second charge is criminal sexual conduct
16 with a minor in the second degree. That includes
17 an act of sexual battery. Sexual battery is just a
18 legal term for an act of penetration. That can be
19 oral sex, that can be the insertion of a finger
20 into the vagina, anything of that nature that
21 occurs to a child who is aged fourteen, less than
22 age sixteen, and we allege that occurred in the
23 Bolte home itself.

24 The final charge before you is attempting or
25 committing a lewd act upon a child. That includes

1 any type of fondling or improper touching, whether
2 that means a perpetrator makes a child touch him or
3 the perpetrator touches the child in an improper
4 way, and I ask you to keep in mind that you may be
5 hearing some testimony that is difficult to listen
6 to but it is not the intent of the State or the
7 defense or anyone involved in this to make anyone
8 feel uncomfortable but it is necessary for the
9 trial of this case and the proof of the elements of
10 each criminal charge.

11 I submit finally that sexual abuse is and
12 will remain the central focus of this trial and I
13 submit that sexual abuse is a crime of silence and
14 a crime of shame but [REDACTED] now at age twenty has
15 broken that silence to come before you twelve,
16 thirteen, fourteen strangers and talk about the
17 most personal and shameful of experiences, and I
18 submit that after all is said and done the State of
19 South Carolina will prove abundantly that Mark
20 Bolte is guilty as charged.

21 Thank you.

22 THE COURT: Mr. Grose.

23 MR. GROSE: May it please the Court.

24 THE COURT: Yes, sir, Mr. Grose.

25 MR. GROSE: It's March 23rd, 2002. It's Mark

1 and Ester Bolte's 20th wedding anniversary. Ester
2 Bolte wants to go on a trip to Gatlinburg,
3 Tennessee. Because of the family situation,
4 including the finances, the trip is just not
5 possible. Ester goes for a walk. While she's on
6 that walk she decides, "I am not his wife anymore.
7 I am not his wife anymore." Marriage, family and
8 divorce. This case is about marriage, family and
9 divorce. It's about Mark and Ester Bolte meeting,
10 falling in love and getting married. It's about
11 family, it's about Mark and Ester having children,
12 they have four children, [REDACTED] being the oldest
13 child. It's about the decisions that they make for
14 their family, the values that they try to teach
15 their family and the care and the love they give to
16 the family. Sadly and tragically this case is also
17 about divorce. It's about a wife who grows away
18 from her husband, it's about problems developing in
19 a marriage and it's about a wife who lashes out
20 against her husband in a divorce action.

21 Mark and Ester Bolte met in Illinois when
22 they were both in the Navy. At that time Ester is
23 a nurse, Mark is finishing his training. Shortly
24 thereafter Mark is transferred to Tennessee. They
25 continue to date, and get married and eventually

1 they are both transferred to Tennessee. Shortly
2 thereafter they are transferred to North Carolina
3 where their oldest child is born, I believe their
4 oldest son is born at that point. During this time
5 Ester is working on a career in the Navy, she
6 advances to be an E6 and she takes every extra duty
7 that she can get and spend time with her career.
8 Mark during this period of time is out of the Navy
9 and he's doing a lot of responsibilities to raise
10 the children and also working odd jobs to try to
11 earn extra money for the house.

12 They move back to Illinois for a period of
13 time and then they move to California. About
14 sometime around the late eighties, early 1980's
15 Ester leaves the Navy and they move back to
16 southern Illinois. Throughout this period Mark's
17 continuing to do a lot of child raising as far as
18 taking care of the children, doing the cooking,
19 helping them in the beginning with their school
20 work. Ester's continuing to work. She continues
21 to work as a nurse in southern Illinois.

22 After they move back to Illinois their two
23 younger children are born, and around the end of
24 the last decade, the late 1990's, they move to
25 South Carolina. At the time they move to South

1 Carolina [REDACTED] has graduated number one in her
2 junior high school class in Illinois. She comes
3 down here, briefly attends Dixie High School and
4 then is transferred into Abbeville High School
5 where she is an outstanding student. She is the
6 valedictorian of Abbeville High School, she is the
7 class president, she plays sports, she participates
8 in extracurricular activities, FCA, she works on
9 the prom committee. By all appearances she is not
10 only an ideal child, she is a well adjusted
11 successful child.

12 But during her junior and senior year, as
13 often happens with young people, she starts to
14 rebel against some of the rules of the family and
15 tensions start to develop in the household, not
16 only the tension between Mark and Ester, but the
17 tension between Mark and [REDACTED] It develops. By
18 the time that [REDACTED] is eighteen and in early 2002,
19 January 2002, by the time she's eighteen she's
20 ready to test her wings and be independent. And
21 there is problems, there is friction in the family.

22 Then we get back to March 23rd, 2002. "He is
23 not my husband anymore, I'm not his wife anymore."
24 She makes that decision. Of course she doesn't
25 tell Mark that she's made that decision but she's

1 made that decision then, and over the period of the
2 next few months she begins making preparations to
3 leave Mark, and [REDACTED] sides with her mother.

4 On the same day, November 26th, 2002, two
5 things happen. Ester Bolte goes to the Family
6 Court, files papers and asks for the house, the car
7 and the possessions. The same day that she asks
8 basically for the separation, she's left the house
9 the day before, she asks for the separation, at the
10 same time is when [REDACTED] goes public and makes
11 these so-called allegations of rape.

12 Now, I told you this trial is about marriage,
13 family and divorce. It is, it's about a lot of
14 things, but something else it's about. You are
15 going to hear allegations that this sexual abuse
16 happened from the time [REDACTED] was five years old,
17 not living in South Carolina, until the time that
18 she was eighteen years old and left the household
19 at the end of her senior year in high school. It
20 was going on, according to the allegations, at the
21 time she was graduating number one in her class in
22 Illinois. It was going on, they claim, at the same
23 time she was excelling in academics at Abbeville
24 High School, excelling in all these sports, winning
25 awards, getting to go to Columbia and Washington,

1 every possible award that she could have won, she
2 won.

3 At the end of this trial we're going to ask
4 that you find mark not guilty.

5 THE COURT: Ladies and gentlemen, we'll
6 recess for the evening at this time. You are not
7 to discuss this case by, between or among
8 yourselves nor with any other person. The Court
9 has already imparted to you the Court's knowledge
10 that it is a difficult thing for you to go on and
11 about your business outside the courtroom and be
12 free of inquiries as to what you are doing down at
13 the courthouse. You're going to be asked. You may
14 be asked more than several times because people are
15 curious, that's the nature of us, we're all
16 curious. But you must keep to yourselves that
17 which you know this case is about or anything that
18 you think it may be about or anything that may be
19 involved in your wildest imagination, because you
20 must base your decision and your verdict on the
21 evidence that's presented in this courtroom, and
22 something that someone says to you may influence
23 you in some small and unexpected way that carries
24 all the way through into and up to the jury room
25 and up to the verdict.

1 So, don't allow anyone to speak to you and
2 don't talk with anybody, anyone about the case.
3 It's important that you keep that inviolate and
4 that you keep silent about what this is about and
5 persist in keeping everyone silent about their
6 opinions, if they have any, about this case. Don't
7 let them talk to you. That's an order, a request
8 and something that you are on your oath to abide
9 by, to well and truly try this case on the evidence
10 that's presented to you and upon nothing else
11 whatsoever. That's your oath, that's your sworn
12 oath.

13 If there were to be any media coverage such
14 as newspaper, radio or television, which is not
15 expected but there could be, this is a public
16 courtroom and the Court frankly doesn't pay any
17 attention as to who is coming in and out unless
18 they have a photographer, unless they have a camera
19 of some sort, in which case the rules require that
20 they obtain permission to take any photographs in
21 the courtroom and the Court thereby is enabled to
22 protect you from being in any photographs or things
23 of that nature. So, you don't need to worry about
24 that. But someone may come in and take notes and
25 we will not know who they are or that they are

1 taking notes and it may be on the radio or on
2 television or even in the newspaper, and if you
3 were to inadvertently hear, see or read anything
4 about this case it's your oath to disregard it
5 completely and to ignore it because it's not
6 evidence. It's somebody else's take on what you
7 have heard and you're on your oath to take your own
8 opinion and take your own recollection of what you
9 have heard or seen or think. Don't let your mind
10 be influenced by anything else. Don't talk about
11 the case. Have a pleasant evening and we have some
12 motions to take up in the morning, we generally
13 start at about 9:30, but we'll take those motions
14 up and not involve you until 10:00.

15 Do you think we'll be ready by 10:00, Miss
16 Mayes, in your best estimate? If we need longer
17 let's let these ladies and gentlemen come in later.
18 You can collaborate if you want to.

19 MR. GROSE: I think we will be, Your Honor.

20 THE COURT: Do you think that will be enough
21 time?

22 MS. MAYES: Yes, sir, Your Honor.

23 THE COURT: All right, thank you both.

24 Ladies and gentlemen, we'll need you about 10:00,
25 we'll need you at 10:00 o'clock in the morning, so

1 be ready to go to work at 10:00, and thank you all
2 very much. Remember, don't talk about the case or
3 allow anyone to speak to you about it. Have a
4 pleasant evening, see you at 10:00.

5 (Jury excused from the courtroom
6 at 5:26 p.m.).

7 THE COURT: The record is open. Is there
8 anything for the record, from the State, before we
9 recess for the evening?

10 MS. MAYES: No, sir, Your Honor.

11 THE COURT: Thank you. From the defense?

12 MR. GROSE: No, sir.

13 THE COURT: Thank you. We are in recess and
14 we'll come back into session at 9:30.

15 MR. GROSE: Yes, sir.

16 THE COURT: Okay. Agreed, Miss Mayes?

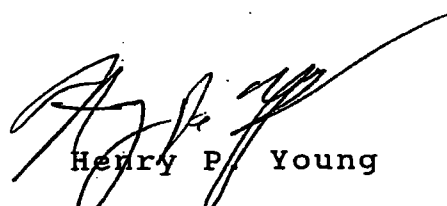
17 MS. MAYES: Yes, sir.

18 (Recessed at 5:27 p.m.).
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3
4 I, the undersigned Henry P. Young, Official
5 Court Reporter for the Eighth Judicial Circuit of
6 the State of South Carolina, do hereby certify that
7 the foregoing is a true, accurate, and complete
8 transcript of record of all the proceedings had and
9 evidence introduced in the trial of the captioned
10 case in the Circuit Court for Abbeville County,
11 South Carolina, on the 7th day of September, 2004.

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

14 May 28, 2005
15
16

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18 
19 Henry P. Young
Court Reporter
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STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS
2003-GS-01-296

COUNTY OF ABBEVILLE

THE STATE OF SOUTH CAROLINA,)
)
)
 -vs-)
)
)
 MARK BOLTE,)
)
 Defendant.)

B E F O R E:

HONORABLE WYATT T. SAUNDERS

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

LAURA SUZANNE MAYES, Esquire
Attorney for the State

E. CHARLES GROSE, Esquire
Attorney for the Defendant

Henry P. Young
Court Reporter

VOLUME II OF IV

September 9, 2004

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

2 THE COURT: We're coming into session, State
3 of South Carolina versus Mark Bolte, case number
4 2003-GS-01-296.

5 The Court was handed on yesterday sometime
6 during the morning the motions and memorandum in
7 support of certain motions made by the State.
8 It's suggested that we take up the matter requiring
9 or moving for additional counseling records. Now,
10 the Court has not had as much time as it would wish
11 to review these motions but this one appears to be
12 one that we can address outright. How says the
13 State with regard to that motion?

14 MS. MAYES: Your Honor, Judge Johnson on a
15 previous order had already made the counseling
16 records available to the State and the defense,
17 although they are confidential by nature, and in
18 continuation of that existing order I did request
19 for Cherry MacTaggart, the counselor in this case,
20 to bring with her today any additional records that
21 she had, I guess since that order was enacted, and
22 my understanding is that she intends to do so. We
23 left that message with her and she is expected to
24 testify today as well.

25 Hopefully when she gets here we'll just have

1 an opportunity to make copies of those records.

2 THE COURT: Or have the Court review them.
3 We'll take a recess wherever she comes and at some
4 opportune time where defense counsel can review
5 those additional records.

6 Is that acceptable, Mr. Grose?

7 MR. GROSE: I would like to follow Miss
8 Mayes' procedure and actually get copies of them.

9 THE COURT: Well, that's fine but you are
10 going to need time to review them before she starts
11 testifying. That's what we're trying to do.

12 MR. GROSE: Yes, sir, and I think this is
13 resolved but I would just maintain our position
14 that we took previously, that I don't think these
15 counseling records, particular counseling records
16 are confidential, because they were requested, you
17 know, the counselor was requested by the government
18 in connection with the case, I don't think that is
19 an issue for the Court to have to decide.

20 THE COURT: Has that already been decided?

21 MR. GROSE: I don't know the judge addressed
22 it, there is multiple grounds for whether or not we
23 were entitled to the records and Judge Johnson
24 ordered disclosure of the records, I don't think he
25 stated which ground or I don't even know we raised

1 all those grounds at the time he actually issued
2 the order, so I think it has already been decided
3 that we're entitled to them in this case regardless
4 of whatever mechanism it is, and so I just don't
5 know that they were ever confidential but that's an
6 issue that does not need to be decided in order for
7 this case to go on.

8 THE COURT: Well, to the extent that this
9 might be necessary, then, whether the issue has or
10 has not been decided, the Court would order anyone
11 who becomes privy to the records to keep them
12 confidential and not disseminate them in any way
13 and to use them only where it's necessary in the
14 prosecution or defense of these charges contained
15 in this indictment.

16 MR. GROSE: And that's understood. We'll do
17 that.

18 THE COURT: Very well. Now, the next thing,
19 the State moves that, excuse me, the defense moves
20 that there are certain, and this is unclear exactly
21 what, Mr. Grose, your client is saying here.
22 Apparently he has said in your motion that he has
23 now disclosed, this is on page eight of your motion
24 with regard to, in response to the State's motion
25 to comply with the rape shield statute and

1 disclosure of possible evidence, on page eight, in
2 the second full paragraph it's recited there that
3 Mr. Bolte has now disclosed the information that he
4 may seek to introduce and the State should consider
5 this memorandum to be its written notice. "While
6 the potential evidence is not the type of evidence
7 covered by the rape shield statute, Bolte does not
8 object to if the State wants to conduct an
9 in-camera hearing."

10 Now, pursuant to Section Two of the statute
11 you would be required to have an in-camera hearing
12 on anything you wished to introduce in
13 contravention of the statute. What are we talking
14 about there?

15 MR. GROSE: Your Honor, this is the State's
16 motion and I don't know if you have ever seen the
17 State's motion. We had some discussions in
18 chambers yesterday. I thought the State's motion
19 was tailored to prohibit evidence that would not be
20 admissible under the rape shield statute, or would
21 be admissible under the rape shield statute, and
22 the State's motion failed to take into account
23 numerous interpretations by our appellate courts in
24 this state of the rape shield statute.

25 Miss Mayes, I think, either directly or

1 indirectly indicated that she files this in all
2 cases and I took it, it was a pretty standard
3 motion, whether it applied to a five year old or
4 whether we, whether, as we have in this case,
5 somebody who's twenty years old. We have had some
6 discussions and I don't think that any of the
7 matters that have been, that have been brought up
8 in our motion are matters that the State considers,
9 or rather, in our memorandum responses to the
10 State's motions, I don't think the State contends
11 any of those matters are protected by the rape
12 shield statute.

13 Additionally, in chambers I believe the State
14 indicated that because of the nature of this case
15 they were not going to attempt to try to gain an
16 unfair advantage and say the only way this alleged
17 victim learned about sexual activities was through
18 misconduct by her father. Were the State to try to
19 suggest that that was the only way, certainly she's
20 twenty years old, she's presumably been through sex
21 education courses, she's presumably been exposed to
22 the media, she's presumably been exposed to
23 literature, she indicates in documents that the
24 State has produced that she's well read, you know.
25 Certainly she has come into some knowledge of

1 sexual activities outside of the alleged
2 misconduct, and I think what the courts have been
3 clear to state in applying the rape shield statute,
4 there is a policy for applying the rape shield
5 statute, a policy for having the rape shield
6 statute, but the rape shield statute cannot be used
7 to deny the defendant confrontation rights or other
8 fundamental trial rights and it cannot be used to
9 exclude evidence to get an unfair advantage, like
10 was done in one of the cases that we cite in the
11 memorandum. And the government assures us they are
12 not going to try to do that, so we'll accept that
13 and move on.

14 I think we're in agreement on that, at least
15 as to matters that are known up to this point, and
16 obviously if something changes during the trial,
17 and I don't expect it will, but trials are full of
18 surprises sometimes, if something changes we would
19 bring that to the Court's attention in an in-camera
20 type fashion so we can make the appropriate
21 determination.

22 THE COURT: Thank you.

23 MR. GROSE: We don't intend to violate the
24 rape shield statute but I was concerned we may have
25 some disagreement as to what the rape shield

1 statute actually involves, and apparently we don't.

2 THE COURT: Thank you, Mr. Grose.

3 Responding to Mr. Grose's comments and
4 request that you speak to both the motion of the
5 State and the response of the defendant, it is not
6 possible to try a case before it's tried and the
7 confrontation of accuser and accused is going to
8 occur during the course of a trial. Now, what
9 we're trying to do, and we had an in-chambers
10 conference on yesterday to begin a dialogue between
11 the two parties to the trial and the Court to at
12 least try and bring the attention of all involved
13 to the potential difficulties arising out of the
14 rape shield statute, and now Mr. Grose says
15 apparently there has been some dialogue between the
16 parties and no problems are foreseen.

17 Miss Mayes, would you speak to that, please?

18 MS. MAYES: Yes, sir, Your Honor. He has
19 indicated that they will not proceed into any
20 specific instance of sexual contact with other
21 people. I think, I think the two instances which
22 were mentioned in his motion were the fact that the
23 defendant had come to the scene of the victim's
24 senior prom, observed her on the dance floor slow
25 dancing with her prom date and there was a

1 confrontation that resulted from that. Our victim
2 does intend to testify about that event and we
3 concede that that is not a rape shield issue, that
4 she was slow dancing with a gentleman on the dance
5 floor.

6 In addition there was an event where the
7 defendant came upon the campus of Erskine College
8 and confronted the victim. She was in a dorm room
9 with a male student and he ended up having a
10 confrontation with that male student and Erskine
11 College ended up placing a trespass notice against
12 Mr. Bolte prohibiting him from coming back on
13 campus. Again we concede the fact she was in a
14 dorm room with a male student would not in and of
15 itself be a violation of the rape shield. So, even
16 with testimony about those events, I think we both
17 agree those are not going to be rape shield issues.

18 THE COURT: You are telling the defendant now
19 that you are going to limit the prosecution to
20 those two events, so far as you know, outside other
21 time and place testimony that might come about?

22 MS. MAYES: Those are the only two events
23 that involve her contact with another male subject
24 that I'm aware of at this time.

25 THE COURT: All right. Mr. Grose, you and

1 your client are aware of those two instances?

2 MR. GROSE: Yes, sir.

3 THE COURT: All right.

4 MR. GROSE: And based on what she said, I
5 don't think that we're going to have any, you know,
6 any disagreement about that. I don't think that
7 those are rape shield materials, either.

8 THE COURT: It doesn't appear that way.
9 We'll see what comes out but it doesn't, at this
10 point doesn't appear to be. The Court will just
11 wait and hear any objections as the testimony
12 unfolds and rule upon them at that time.

13 MR. GROSE: Yes, sir.

14 THE COURT: And if necessary, outside the
15 presence of the jury after we have determined which
16 way we're going with the testimony.

17 Now, we have a motion here by the defendant
18 to exclude evidence pursuant to 404, and the Court
19 appreciates the motion but frankly is not
20 absolutely certain as to what is addressed because
21 of course the Court is not as familiar with the
22 case as you are, as having prepared for trial. The
23 Court does not know what you're talking about here,
24 Mr. Grose, unless you disclose it now.

25 MR. GROSE: Well, actually I think, and I do

1 say motion to exclude evidence pursuant to 404, I
2 should probably recharacterize that, taken from the
3 way Miss Mayes phrased her motion, and say motion
4 for the State to comply with Rule 404, because Rule
5 404 is the rule of exclusion. This evidence is
6 already excluded unless the government can show a
7 reason why they intend to introduce it, and there
8 were some hints of some other bad acts in some of
9 the discovery documents that they sent me that
10 would be under 404(B). I think if the government
11 intends to introduce something that would be
12 covered by 404(B) it's on them to disclose it to
13 the Court and for the Court to be able to conduct
14 an in-camera hearing to determine whether or not it
15 complies with the narrow exceptions of 404(B), and
16 I note in my memorandum, and we already had some
17 discussions in chambers, that things dealing with
18 this particular alleged victim that are, you know,
19 that involve prior allegations of misconduct are
20 probably admissible and I'm not contesting that, it
21 would just be if they get into bad acts involving
22 somebody other than that.

23 They have also presented a document from
24 somebody who worked at Carolina Springs, a
25 statement, the statement was generated just a few

1 weeks ago, who works at Carolina Springs, is also
2 an employee of the Abbeville County Sheriff's
3 office, works in the detention center, that makes
4 all kind of opinionated statements about Mark's
5 character. That would be covered by Rule 404(A)
6 and if they intend to introduce that, then we need
7 to have, you know, a hearing about that. That's in
8 regards to Ruth Burton. I don't know if they
9 intend to introduce that but it was just a loaded
10 document that caused great concern that, you know,
11 if testimony were to come out like that in trial it
12 would be too late to make an objection, the
13 prejudice would already have occurred.

14 THE COURT: This is related to the prior
15 discussion about the evidence or possible evidence
16 that the defendant observed the prosecuting witness
17 at a dance or went to the place where she was at a
18 college campus with another, a male individual.
19 This is closely associated with her testimony. The
20 Court can anticipate that the testimony of the
21 State brought out by the prosecuting witness would
22 indicate not only an ongoing relationship which you
23 have acknowledged that would probably be stated and
24 there is no problem with that, but it would appear
25 at this time that the two instances would also be

1 admissible under B but we want to limit it to those
2 unless something comes about that we don't know
3 about.

4 MR. GROSE: And exclude any character
5 evidence unless the Court rules that that's
6 admissible under Rule 404(A).

7 THE COURT: Yes, sir. We're trying to
8 establish now a foundation that there will not be
9 any problematical results from the testimony that
10 may be elicited to show contact at the campus, at
11 the school campus. Those two instances are the
12 only two instances that the Court has heard the
13 State may bring out that would be affected by the
14 rule, and if we can agree now that there won't be a
15 problem with those two instances, then so be it,
16 we'll deal with any unforeseen things as they
17 arise.

18 Miss Mayes?

19 MS. MAYES: Your Honor, as to the other
20 character evidence concerning other people, the
21 only thing that I'm aware of is a statement in the
22 work records by a co-worker of Mr. Bolte's that
23 indicated that he had made some sexual advances
24 toward her. That is not something that the State
25 is offering.

1 As to direct contact with Miss Bolte, I don't
2 consider this character evidence so much as
3 probative evidence to the ongoing relationship
4 between the defendant and his daughter, but in
5 addition to that one instance where he did come on
6 campus, there were multiple occasions when he would
7 phone the campus after she was living there,
8 repeatedly telephoned her residence, and we already
9 advised the Court about the answering machine tape
10 in that regard, and eventually in December, 2002,
11 the victim sought an order of protection against
12 the defendant, which was granted. Again, we don't
13 consider that character evidence as much as direct
14 evidence of the ongoing relationship between the
15 defendant and the victim from the time she left the
16 home, to the time that she disclosed these events
17 to her mother and then ultimately to the police.

18 MR. GROSE: Your Honor, if I can respond to
19 that. If Miss Mayes limits the government's
20 presentation of evidence to Miss Burton saying that
21 she had observed specific things, I'm not certain,
22 from reading her statement, whether or not she has
23 actual knowledge of some of those things or those
24 are things that came to her from hearsay, but
25 subject to the State having to lay the proper

1 foundation for it, if they limit it to facts that
2 are within her personal knowledge, that is probably
3 admissible. What Miss Mayes does not say is that
4 that statement is loaded with things, statements
5 that she made about suspicions that she had, that's
6 speculation, that wouldn't be admissible, about
7 opinions that she had, that wouldn't be admissible,
8 about opinions of Mark's character, that wouldn't
9 be admissible.

10 She states in the statement that she
11 considers Mark to be one of the most dangerous
12 people that she's ever encountered in her lifetime.
13 That's character evidence, that wouldn't be
14 admissible.

15 If the government limits themselves to her
16 coming in here and testifying about facts, that's
17 one thing. And that's exactly what I'm trying to
18 guard against, is her getting up here and answering
19 a question, "Did you have occasion to observe the
20 relationship of Mark and [REDACTED] [REDACTED] "Yes.
21 Mark is one of the most dangerous people I have
22 ever encountered." If that happens we're asking
23 for a mistrial, and I think it would have to be
24 granted because you can't unring that bell and I'm
25 trying to guard against that at this stage instead

1 of allowing it to happen and having to ask for a
2 mistrial.

3 So, like I say, if they limit themselves to
4 just reporting facts, that's one thing, but if it
5 comes in here and ends up being loaded testimony
6 with opinions, accusations, suspicions, innuendos
7 and name calling, that's entirely different and
8 that's what the statement is full of and it was all
9 intertwined, you know, fact and opinion, and they
10 have to separate that under the rules of evidence.

11 THE COURT: Thank you, Mr. Grose. It's
12 anticipated, Miss Mayes, that you either have or
13 will instruct the witness and she will respond to
14 the questions directly.

15 MS. MAYES: Yes, sir, and we don't expect it
16 to go into that territory.

17 THE COURT: Thank you. It appears that we
18 have covered all of the information and motions
19 that have been laid before the Court but are there
20 other things that we need to do before the jurors
21 who are in another part of the courthouse are shown
22 to the jury room?

23 MR. GROSE: I just need to get some
24 demonstrative aids my investigator is bringing in
25 and I would tell the Court when we take up the

1 issue of the counseling records, when the counselor
2 is here and we get to that perhaps later today,
3 that we may need to have some discussions about
4 what are the appropriate parameters of her
5 testimony, and I have some cases that I pulled over
6 the weekend and yesterday morning and, you know, I
7 will need just a few minutes to look those over
8 again. I don't have any written documents about
9 that but I think it's clear under the rules and
10 under the cases that, you know, she can only
11 testify to limited things, even under Shumpert, and
12 perhaps we will have a motion regarding whether or
13 not her testimony is even admissible, not so much
14 under the relevancy aspect of Schumpert, but the
15 Rule 403 balancing that the Court has to do, and
16 part of that is going to depend upon what the State
17 intends to offer her testimony for, but I think
18 it's better we see the additional counseling
19 records and take that up at that time, Your Honor.

20 THE COURT: That seems fair enough, Miss
21 Mayes.

22 MS. MAYES: Yes, sir, Your Honor.

23 MR. GROSE: Can I have just a moment to get
24 these?

25 THE COURT: Yes, sir, we'll just recess for

1 just a few minutes. When you're ready we'll show
2 the jurors into the room so that they can put their
3 wraps and other things in the jury room and then
4 we'll begin the testimony. So, we're going to be
5 in recess, please. Thank you.

6 MR. GROSE: Thank you, Your Honor.

7 (Brief recess).

8 THE COURT: Thank you, ladies and gentlemen,
9 thank you, Mr. Manning.

10 We will open the record, State versus Mark
11 Richard Bolte, 2003-296. Is there anything from
12 the State before the jurors are shown in, please?

13 MS. MAYES: No, sir, Your Honor.

14 THE COURT: Anything from the defense?

15 MR. GROSE: No, sir.

16 THE COURT: Thank you. Show the jury in, Mr.
17 Simpson, please. Show them in, please.

18 BAILIFF: Yes, they are coming.

19 THE COURT: I thought they were already in
20 there.

21 BAILIFF: No.

22 THE COURT: Okay. Just show them in the, if
23 they have wraps and things, they probably have some
24 things they might want to put up.

25 BAILIFF: Do you want them to go in here or

1 back there?

2 THE COURT: If anybody wants to put anything
3 up, if you will just maybe take it for them, it
4 look like somebody has, let them just go on in
5 there and put up their things.

6 MR. GROSE: Judge, while they're doing that,
7 I want to just move this. I don't know if
8 anybody --

9 THE COURT: I would appreciate you moving it.

10 MR. GROSE: It's cutting you right down the
11 middle.

12 THE COURT: It certainly is. Thank you for
13 doing that.

14 We're ready to get them out as soon as they
15 have their things in place.

16 (The jury returned at 10:32 a.m.).

17 THE COURT: Good morning and thank you. We
18 have been busy while you have been patiently
19 waiting.

20 BAILIFF: Sir, we're short one.

21 THE CLERK: We're missing one juror.

22 BAILIFF: She's in the bathroom.

23 THE COURT: All right, we will rest at ease
24 here just a minute. Apparently they might be in
25 the restroom.

1 BAILIFF: There is one went to the restroom
2 but that's been ten minutes or more.

3 JUROR: Back there.

4 BAILIFF: Oh, back here.

5 THE COURT: Just rest at ease, Mr. Simpson.

6 (All jurors now present).

7 THE COURT: All right, thank you, ladies and
8 gentlemen, and good morning. We will turn to the
9 State. Miss Mayes, call your first witness.

10 MS. MAYES: If it please the Court, the State
11 calls [REDACTED] [REDACTED]

12 THE CLERK: If you will stand here, raise
13 your right hand, raise your right hand, put your
14 left hand on the Bible. The evidence you shall
15 give the Court and jury in the trial of this case
16 shall be the truth, the whole truth and nothing but
17 the truth, so help you God?

18 THE WITNESS: Yes.

19 THE CLERK: Be seated.

20 THE COURT: All right, this witness is with
21 you, Miss Mayes.

22 MS. MAYES: Yes, sir, Your Honor.

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[REDACTED] - DIRECT

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[REDACTED]
after being first duly sworn testified as follows:

DIRECT EXAMINATION

QUESTIONS BY MS. MAYES:

Q I want to make sure that microphone is
working correctly. Would you state your full name?

A [REDACTED] [REDACTED] [REDACTED] currently.

Q And, [REDACTED] how old are you?

A I'm twenty years old.

Q All right. What is your date of birth?

A [REDACTED] [REDACTED] [REDACTED].

Q All right. Can you tell us a little bit
about yourself? Are you currently working
anywhere?

A Yes, ma'am. I'm holding four jobs. I sub at
Diamond Hill, I'm a waitress at Outback, I teach
aerobics at Erskine College and I'm also a
supplemental instructor for public assistance.

Q All right.

THE COURT: All right, continue.

Q Okay. You said you were a supplemental
instructor. Where is that?

A That's at Erskine College as well.

Q What subjects do you tutor there?

A Math 107 and math 205, which is elementary

██████████ - DIRECT

1 statistics, and statistics and probability.

2 Q Continue now. In addition to your work
3 schedule, do you also attend college anywhere?

4 A Yes. I am a full-time student at Erskine
5 College with a double major in industrial
6 psychology and business administration.

7 Q Okay. And what year are you in at Erskine?

8 A I am a junior.

9 Q Okay. If you're a junior right now, in the
10 fall of 2004 -- when did you first begin Erskine
11 College?

12 A The fall of 2002.

13 Q All right. Now I want to take you back a
14 little bit before you attended college. Let me ask
15 you this. Are you currently living on campus?

16 A Yes, I live in the dorm, this is the third
17 year.

18 Q I need you to speak a little bit more slowly
19 because that microphone tends to echo a little bit.

20 A Okay.

21 Q Have you been living on campus at Erskine
22 since you began attending Erskine in 2002?

23 A Yes, ma'am.

24 Q Before that time where did you reside?

25 A In Due West at a white house on ██████████

[REDACTED] - DIRECT

1 Street.

2 Q Okay. Is that here in Abbeville County?

3 A Yes, ma'am.

4 Q Did you attend school here in Abbeville
5 County?

6 A Yes, ma'am, at Abbeville High School as well
7 as Dixie.

8 Q Okay. Now, when you said that you lived here
9 in Abbeville County, on [REDACTED] [REDACTED] who all lived
10 in that home with you? Tell us a little bit about
11 your family.

12 A I lived there myself, my biological father
13 Mark Richard Bolte, my mother Esterlina Lopez, my
14 brother [REDACTED] and my other brother [REDACTED] and my
15 little sister [REDACTED]

16 Q How old is your sister [REDACTED] now?

17 A She is seven?

18 Q So, she would have been approximately how old
19 when you last lived in that home with your family?

20 A Four, five.

21 Q What about your little brother [REDACTED]

22 A He's turning ten in a couple weeks.

23 Q Okay. So, when you last lived with your
24 family before attending college, approximately how
25 old would he have been?

██████ ██████ - DIRECT

- 1 A Six, seven.
- 2 Q And how old is your brother ██████
- 3 A My brother ██████ is eighteen and a freshman
- 4 in college.
- 5 Q So, where are you at in terms of the family
- 6 and the ages of the siblings?
- 7 A I'm the oldest of four children. There is
- 8 thirteen years between me and and my little baby
- 9 sister.
- 10 Q Okay. Now, you mentioned your parents.
- 11 Where did your family live before moving to
- 12 Abbeville County?
- 13 A We moved from Illinois to Abbeville County.
- 14 Q And approximately what grade were you in when
- 15 you first moved to Abbeville County?
- 16 A I was in the ninth grade.
- 17 Q All right. What school year would that have
- 18 been when you were in the ninth grade?
- 19 A 1998, 1999.
- 20 Q Fall of '98 through spring of '99?
- 21 A Yes, ma'am.
- 22 Q For what reason, if you know, did your family
- 23 move to South Carolina from Illinois?
- 24 A My parents wanted a new beginning, a new
- 25 start.

██████████ - DIRECT

1 Q Upon arriving here in Abbeville County where
2 did your mom work?

3 A When we first came to South Carolina my
4 mother worked at Carolina Springs Academy in Due
5 West.

6 Q Okay. And do you know what her job
7 description was there at Carolina Springs Academy?

8 A Nighttime supervisor. She came in at work at
9 9:00 p.m. and left at 9:00 in the morning.

10 Q Okay. So, what shift would that have been?

11 A That would have been third shift.

12 Q And that's 9:00 at night, generally 9:00 at
13 night until 9:00 in the morning?

14 A This was a twelve hour shift at night.

15 Q All right. Approximately how many years or
16 during what portion of your high school years did
17 your mom work that third shift at Carolina Springs
18 Academy?

19 A My entire high school years, so about three
20 to four years.

21 Q Did your father obtain work in South
22 Carolina?

23 A Shortly after my mother started working at
24 Carolina Springs there was an opening for my
25 father, he worked as daytime supervisor, which was

██████ - DIRECT

1 from 9:00 in the morning until 9:00 at night.

2 Q So, he was working a day shift?

3 A Yes, ma'am.

4 Q And how frequently would he work that shift,
5 based on your memory of your high school years?

6 A I would say at least half. He had lots of
7 different on and off jobs.

8 Q Now, if your mom was working the third shift,
9 who would generally be in the home after 9:00 p.m.
10 at night, on until 9:00 a.m. in the morning?

11 A Me and my brothers and sister and my father.

12 Q What role, if any, did you play in child care
13 for your siblings?

14 A The family would joke around I was the
15 mother. I played a second mother role, I took care
16 of them since the day they left the hospital, they
17 stayed in the bed with me every night pretty much,
18 I fed them, I cleaned them, I helped them with
19 their homework, I took them to soccer games, gave
20 them their baths, tucked them in, kissed them good
21 night. You name it, I did it.

22 Q Okay. What about your father's activities
23 with the children as well? Did he also take part
24 in those activities when the mom was at work?

25 A He was mostly at work during that time and

██████ - DIRECT

1 when he was home he was exhausted or, I mean,
2 occasionally, I don't want to say the word never,
3 but pretty much it was my dominant position in the
4 family to take care of the other siblings.

5 Q And where did you attend high school in the
6 tenth, eleventh and twelfth grades?

7 A Abbeville High School.

8 Q And while at Abbeville High School did you
9 participate in any sports?

10 A Yes, ma'am. I was on the dance team and also
11 I ran cross country and I was on the soccer club.

12 Q How were you academically?

13 A I graduated valedictorian.

14 Q Were you active in any student events or
15 clubs or anything of that nature?

16 A Anything that I could get my hands on,
17 leadership teams, student council, homecoming, Beta
18 Club, Honor Society, I wouldn't know where to
19 begin.

20 Q Can you say now, ██████ why it was important
21 for you to be involved in so many extracurricular
22 activities?

23 A It was the only aspect of my social life,
24 plus school is very important to me and I knew I
25 had to get there myself, so I stayed busy and

██████ - DIRECT

1 stayed focused on my future.

2 Q What, if any, rules existed in your family
3 about your participation in extracurricular
4 activities?

5 A My father would always have to mentor some
6 simple things. If there was a dance at night he
7 had to be a chaperone. Cross country meets, you
8 are always supposed to get pepped up with the team
9 and stretch, and I would always have to stretch by
10 myself because my father said the stretch moves
11 were inappropriate, so I would have to go inside
12 and do my stretch work routine with him.

13 I mean, as many things as possible. If I had
14 to go to a football game because I was active in
15 the service club, tried to raise money for
16 somebody's house that just burned down, he had to
17 be there. I wasn't allowed to do walking around, I
18 had to be with him.

19 Q Was it common or uncommon for you to have
20 friends come over to spend the night at your family
21 home?

22 A It was extremely uncommon. I can maybe
23 remember one time in second grade I had a girl come
24 over, which I got in trouble for. There was no
25 talking on the phone, no going to girls' houses, no

[REDACTED] - DIRECT

1 girls coming over here to my house. There was no
2 close relation allowed to be developed at all.
3 Even if I was on the phone they were all listened
4 to by a device like a scanner device, he would
5 listen to my entire conversations, so I tried to
6 not talk on the phone anyways.

7 Q Now, you mentioned that someone had come over
8 to spend the night with you in second grade?

9 A Yes, ma'am.

10 Q That was before you moved to South Carolina?

11 A Yes, ma'am.

12 Q How did your father react to someone coming
13 over to spend the night with you?

14 A He was very upset with me.

15 Q While you were living here in Abbeville
16 County can you recall any occasion in which you had
17 friends or classmates come over and spend the night
18 with you, activities such as that?

19 A There was one time a cross country team, we
20 wanted to have a Christmas dinner and my father
21 said let's have it at our house, so that's where I
22 could go.

23 Q What about overnight sleep-overs with other
24 girls and things like that?

25 A No, ma'am, never.

██████ - DIRECT

1 Q Now, you mentioned that you participated in
2 track and your father had some concerns about the
3 stretching?

4 A Yes, ma'am.

5 Q Can you describe -- first of all, did you
6 have a track coach?

7 A Yes, ma'am.

8 Q Would the coach be there to supervise things
9 such as stretching?

10 A Yes, she would be there with the team
11 stretching, Miss Causey.

12 Q What was the standard way in which you, track
13 members were instructed to stretch before a meet or
14 before practice?

15 A We would get together as a team with all the
16 track team, like the circle, it would be girl on
17 girl, boy on boy, and you would do numerous
18 stretches to make sure you didn't pull any muscles,
19 but my father just said it was inappropriate, so he
20 would pull me off to the side to do the stretches
21 with him.

22 Q How did that make you feel?

23 A It made me feel very isolated.

24 Q What, if any, rules existed about the type of
25 clothing that you could wear?

[REDACTED] - DIRECT

1 A My father was very strict. No matter how
2 much I tried to conceal it was never enough, I was
3 always inappropriate. I liked to dress up for
4 school, every day I was on camera, I was president
5 of the student body, if I wore too much makeup he
6 would call me bad names, if I didn't wear shorts
7 under my skirts, no matter what the length, it was
8 completely inappropriate and not what a lady was
9 supposed to do. When I went to the beach I had to
10 be fully covered, shorts, shirt. I was just always
11 isolated, just always never allowed to be a part of
12 the crowd, couldn't go to swimming pool parties
13 because it was just a place of lust, he would say.

14 Q Okay. Let me take you back a little bit.
15 You mentioned that you would wear makeup and he
16 didn't approve, would call you names. What are
17 some of the names you remember him using toward
18 you?

19 A Slut, whore, Jessebelle.

20 Q [REDACTED] how significant was religion to your
21 family?

22 A Very significant, an everyday part of life.

23 Q Okay. And how significant has religion been
24 in your life?

25 A Very significant up until recently. I'm

[REDACTED] - DIRECT

1 becoming independent, I'm making my own decisions.

2 Q Okay. Who was mainly responsible in your
3 family for your religious teaching?

4 A My biological father.

5 Q Okay. You mentioned that you would be
6 required to wear shorts under your skirt. Do you
7 recall any specific event in which that caused a
8 confrontation or tension?

9 A Yes, ma'am. It was my senior year and I got
10 elected as young woman of the year and we're
11 supposed to wear dresses, so I went, I was getting
12 ready and I just refused, I said, "I'm not going to
13 wear shorts under my dress." Then he called me the
14 names and he locked me in the bathroom and he
15 wouldn't let me go get my scholarship until I took
16 a pair of shorts and put them on, and I basically
17 ended up missing it.

18 Q Okay. And what year in high school was that?

19 A My senior year.

20 Q You mentioned that your phone calls would be
21 monitored. Who is the person who would monitor
22 your phone calls?

23 A Mark Bolte.

24 Q I want to have you describe some of the
25 residences that you lived in. You mentioned the

[REDACTED] - DIRECT

1 home on [REDACTED] [REDACTED] Do you remember the color of
2 that home, [REDACTED]

3 A The home on [REDACTED] [REDACTED] was a white home.

4 Q And what year were you in school when you all
5 moved into that home?

6 A I was a senior.

7 Q So, that was the last time you lived together
8 as a family?

9 A Yes, ma'am.

10 Q I'm going to show you this photograph and ask
11 you whether or not you recognize it?

12 A Yes, ma'am, that's my house.

13 Q Okay. And what street is that home located
14 on?

15 A [REDACTED] [REDACTED]

16 Q Okay. And this is the home you previously
17 mentioned you lived at with your family last?

18 A Yes.

19 Q Okay.

20 MS. MAYES: State's exhibit for evidence,
21 Your Honor.

22 MR. GROSE: If I could just look at it, Your
23 Honor.

24 No objection.

25 THE COURT: Without objection it will be

██████████ - DIRECT

1 marked as an exhibit in the case.

2 (State's Exhibit Number 1 was marked
3 and received in evidence).

4 BY MS. MAYES:

5 Q Now, before you lived in this home on ██████████
6 ██████████ where did you and your family reside?

7 A On ██████████ ██████████ in a gray trailer.

8 Q I'm going to show you this photograph and ask
9 you whether or not you recognize it?

10 A Yes, ma'am, that's the house.

11 Q Okay. And approximately what grade were you
12 in when you all moved into the trailer?

13 A Ninth grade.

14 Q Okay. And you lived in this trailer through
15 what high school years?

16 A Through my twelfth grade year.

17 Q Okay. So, during that twelfth grade year you
18 moved from this trailer into the white house?

19 A Yes, ma'am.

20 Q Who all lived in the trailer with you on

21 ██████████ ██████████

22 A My mother, Mark, ██████████ ██████████ ██████████ and
23 myself.

24 Q And upon first arriving in South Carolina
25 from Illinois where did your family temporarily

[REDACTED] - DIRECT

1 reside?

2 A We lived with the Rice family, I'm not
3 exactly sure of our relation to them, I believe it
4 was Mark Bolte's great uncle and his adopted
5 family, in Donalds, South Carolina, in a big blue
6 house.

7 Q I'm going to show you this photograph and ask
8 you whether or not you recognize it?

9 A Yes, that's the house.

10 Q This is the house in Donalds, South Carolina?

11 A Yes, ma'am.

12 Q Okay. And when you stayed in Donalds, South
13 Carolina how many months approximately did you and
14 your family stay with that other family?

15 A Three months.

16 Q Okay. And, so, what high school grade would
17 you have been in when you all temporarily resided
18 in this house?

19 A Ninth grade.

20 Q Are these photographs fair and accurate
21 representations of how you recall those homes
22 appearing?

23 A Yes, ma'am.

24 MS. MAYES: This will be State's Exhibits 2
25 and 3 for evidence, Your Honor.

██████████ - DIRECT

1 MR. GROSE: No objection?

2 THE COURT: The other two will be marked and
3 become evidence in the case.

4 (State's Exhibits 2 and 3 were
5 marked and received in evidence).

6 MS. MAYES: Beg the Court's indulgence.

7 THE COURT: Take your time, counsel.

8 BY MS. MAYES:

9 Q ██████████ I want to take you back to the blue
10 house that you were living in with your family in
11 Donalds, when you testified you were in the ninth
12 grade. Where did you normally sleep in that home?

13 A I had a bed upstairs with a girl named
14 Rebecca, she was the girl closest to my age.

15 Q You told us some things about your family
16 life. Once you moved to Abbeville County and you
17 were residing in the homes you have already
18 mentioned, can you tell us whether or not there was
19 ever an occasion when something happened that made
20 you feel uncomfortable?

21 A Yes, ma'am. There was many occasions where I
22 could not feel very comfortable in that house. I
23 would be upstairs sleeping where I was supposed to
24 be and say about 10:00, 11:00, everybody is asleep,
25 mom is at work, Mark Bolte would come up in the

██████████ - DIRECT

1 room and get me, whether I would be still half
2 asleep or awake, usually he would bring me
3 downstairs, sometimes the babies would be left
4 upstairs in the bed, sometimes they would fall
5 asleep with Mark, it was just different every
6 night. But the majority of the time the babies,
7 they slept with me upstairs, ██████████ and ██████████ he
8 would come and get me and I would go downstairs.
9 This is in the room downstairs which was my mother
10 and my father's room, where my father would bring
11 me late at night when everybody was asleep, and he
12 would touch me inappropriately or have me stand
13 there inappropriately and watch things that a
14 daughter should not watch.

15 Q Okay. Let me ask you about that. To your
16 knowledge was anyone else in the home awake, awake
17 to see this?

18 A No, ma'am. Everybody was always asleep.

19 Q To your knowledge were you aware, do you know
20 whether or not anyone else in the home was even
21 aware of what was happening?

22 A No, ma'am.

23 Q And just briefly let me ask you, was the
24 first time something happened like this with your
25 father, was the first time in Abbeville County?

[REDACTED] - DIRECT

1 A No, ma'am. As long as I can remember there
2 has always been an inappropriate relationship
3 between me and my father.

4 Q So, this is something that actually happened
5 before you moved to South Carolina?

6 A This is something that was progressive and
7 just happened one night.

8 Q And just briefly, approximately what age or
9 ages can you remember this starting or at least
10 already occurring?

11 A Four or five, I'm not sure, basically my
12 first memories.

13 Q To your knowledge, back in this point in time
14 you would have been in the ninth grade, was your
15 mother aware of what was happening between your
16 father and yourself?

17 A No, ma'am. My mother was always the bread
18 maker, she always worked, so she was no way aware.

19 Q All right. You mentioned that in that home
20 in Donalds you recall an occasion in which your
21 father wanted you to watch something. Did that
22 happen one time or more than one time?

23 A More than once.

24 Q Okay. Can you tell us specifically what
25 you're referring to?

██████████ - DIRECT

1 A (No response).

2 Q Let me ask you this way. How do you recall
3 being dressed when it happened?

4 A There are certain times, certain things,
5 certain days I couldn't be touched, so I would have
6 to touch him. I never did it the way he wanted me
7 to, he would stand and have his clothes off and I
8 watched, he would touch himself.

9 Q When you say he would have you touch him, can
10 you tell us the parts of his body you're referring
11 to?

12 A He would have me touch his private parts.

13 Q You said there were occasions you didn't do
14 it in a way that he wanted. Can you describe what
15 you're talking about?

16 A There were occasions that I wouldn't do it
17 the way he wanted it, so he would just do it
18 himself, have me stand as a statue or display and
19 watch.

20 Q Okay. And how close would you be in
21 proximity to him when this occurred?

22 A One or two meters.

23 Q And did he ever instruct you as to what to
24 wear when those occasions occurred?

25 A He would have me take it off.

[REDACTED] - DIRECT

1 Q On those occasions you would be undressed at
2 his direction?

3 A Yes, either without a top on or just
4 completely not dressed at all.

5 Q You also mentioned the blue home which was
6 the trailer on [REDACTED] [REDACTED] Approximately when
7 did you as a family leave the home in Donalds and
8 move into the trailer?

9 A March of 1999.

10 Q All right. I believe you testified already
11 that you were in this home for most of your high
12 school years?

13 A Uh-huh (Affirmative).

14 Q And that would include during age fifteen as
15 well?

16 A Yes, ma'am.

17 Q While you were living in that trailer with
18 your family and before you were age sixteen, while
19 you were still age sixteen were there ever
20 occasions in which inappropriate behavior occurred?

21 A Yes, ma'am. It seemed like the more I
22 developed to become a woman, the worse it got, the
23 demand became greater.

24 Q All right.

25 A And --

██████████ - DIRECT

1 Q Go ahead.

2 A It was just touching, but then the touching
3 moved on and it wasn't enough.

4 Q Okay. Did contacts in addition to just
5 touching also occur in the home in Donalds?

6 A Yes, ma'am.

7 Q And also in that trailer?

8 A (No response).

9 Q I just need you to give an answer --

10 A Yes, ma'am.

11 Q -- for the court reporter. You described
12 some additional contact. Can you tell us what part
13 or parts of your body were touched and in what way?

14 A He would touch my private parts. There would
15 be insertion with his finger or he would make me
16 touch his private parts with my mouth.

17 Q ██████████ did that happen while you were under
18 age sixteen living in these two residences that you
19 described?

20 A Yes, ma'am.

21 Q Just for clarification, as for as the legal
22 requirements are concerned, when you said there was
23 insertion of the finger, into what parts of the
24 body are you talking about?

25 A My private parts.

[REDACTED] - DIRECT

1 Q And who was the person who did that?

2 A Mark Bolte.

3 Q And can you say with certainty that you were
4 under age sixteen when that occurred?

5 A Yes, ma'am.

6 Q You said there were occasions when he would
7 have you place your mouth somewhere on his body?

8 A Yes, ma'am, I would have to place my mouth on
9 his private parts.

10 Q And can you tell us whether or not you were
11 under age sixteen when that first occurred?

12 A Yes, ma'am.

13 Q And did that occur in the trailer as well?

14 A Yes, ma'am.

15 Q While you all were living in the trailer
16 where do you remember this usually happening?

17 A Wherever it was convenient. Sometimes, I
18 guess you could say he would be brave in his
19 actions and I would be sleeping in my room and I
20 would wake up and he was already going about his
21 business, and that would be in my bedroom.
22 Sometimes he would escort me to his room and lock
23 the door, sometimes in the living room, just
24 wherever the babies weren't or whatever and nobody
25 could find me.

[REDACTED] - DIRECT

1 Q Okay. When you say babies, you're referring
2 to your younger brother and sister?

3 A Yes, ma'am.

4 Q To your knowledge did they ever witness any
5 of this occurring?

6 A No, ma'am, they would be asleep.

7 Q And during the night I believe you said he
8 would sometimes take you to his room?

9 A Yes, ma'am.

10 Q Would your mother also be present in that
11 room or in the home on these occasions?

12 A She would be working third shift at Carolina
13 Springs Academy.

14 Q [REDACTED] do you ever recall how your father or
15 whether there was any discussion with your father
16 about whether or not it was okay for you to tell
17 someone about what was happening?

18 A Everything in my house was built around
19 religion, words like forgiveness and judgment were
20 used quite often. It was my job to forgive as a
21 Christian. Also it was, he said if I didn't do my
22 duties as a daughter that he would have to go
23 elsewhere, and it's not a man's job to judge, he
24 would tell me it's God's job to judge. So, my job
25 was to forgive and not to judge, to do my duties as

██████ - DIRECT

1 his daughter.

2 Q When did you first begin to realize or accept
3 that you didn't agree with that teaching?

4 A Just as I matured and I realized how much
5 this was hurting me and how I did not have to put
6 up with it and I started finding my own rights in
7 the home, around round my eighteenth birthday, and
8 during that time of my senior year I started
9 becoming very independent with my own thoughts and
10 I started not only disagreeing with this forgiving
11 and judgment, and some things became, things became
12 very violent.

13 Q You said things became violent. How was
14 that?

15 A I don't know how to put this but I guess you
16 could say at night there was fights, I was older
17 now, I was stronger, I was mature, intelligent, and
18 I was ready to move on, I wasn't going to accept
19 the fact this was what I had to do, so when he
20 would come at night and he would try to get those
21 things I would fight, whatever I had to do, push
22 him off, go through a window, run, run and run,
23 whatever I had to do, I would take off. If he
24 wasn't satisfied at night, then it would go on
25 during the daytime and this was when a lot of the

[REDACTED] - DIRECT

1 locking in the closet, the locking in the bathroom,
2 the taking away my belongings, this is what the
3 family got to see a lot of, the daytime, name
4 calling and straddling and choking, pushing.

5 Q Did you ever leave the house in the middle of
6 the night?

7 A Maybe occasions. I used to sleep in the
8 press box at Dixie.

9 Q Why did you leave your house in the night?

10 A Because I had to sleep at school, I was
11 scared, I didn't want to do that anymore, I would
12 jump out of my window, I would keep a backpack on
13 the front porch, I would grab it and run up that
14 hill as fast as I could, I would spend all night
15 just darting any light that came down the road, I
16 would just hide in the ditch and I would spend the
17 night just jumping back and forth in the bushes
18 until finally I realized they left the press box
19 unlocked at Dixie, so I would sleep there.

20 Q Was your father -- how did your father feel
21 about you fleeing the home during the night?

22 A He would chase me, sometimes he caught me,
23 one time he caught me, I would be barefoot and in
24 my nighties and my hair in a ponytail, he caught me
25 at the bottom of the hill and he took me by my

██████ ██████ - DIRECT

1 ponytail and he took me back up to my room.

2 Q And, ██████ did you confide in your mother
3 during this time about what was happening when she
4 was outside the home?

5 A No, ma'am. There was never a relationship
6 between me and my mother. I played the mother role
7 at my house, she always worked, it was what she was
8 supposed to do, she brought in the money. There
9 was not a relationship allowed, not only with
10 myself with friends, but between me and my mother.
11 My father never allowed us to have alone time. The
12 only time I was with my mother it was in the
13 presence of my father.

14 Q Did you ever feel resentment toward your
15 mother?

16 A Yes.

17 Q I want to take you back to some of the things
18 you described that occurred in the home. Did your
19 father ever, do you recall any particular event of
20 how your father reacted after he had done something
21 like this with you?

22 A My father played a very religious role in the
23 family and tried to, and tried to in society. When
24 he would finish doing what he was doing and
25 released himself it was like, snap, he just

[REDACTED] - DIRECT

1 changed, just start crying and he would speak in
2 what he called the holy language and he would say
3 God is judging me right now, I don't have to, he
4 would start screaming and chanting and yelling and
5 he would be like, "I'm so sorry, I'm never going to
6 touch you again, I'm never going to do it, I'm
7 going to change, I'm going to change, I'm not going
8 to touch you any more." When we changed houses he
9 would say, he would say, "I'm not going to touch
10 you, I promise, I'm not going to touch you, this
11 house is going to be pure, I'm not going to touch
12 you."

13 Q Can you recall whether or not he made any
14 such statements prior to you moving into the home
15 on [REDACTED] [REDACTED]

16 A Yes, ma'am.

17 Q And that's the white home you previously
18 identified?

19 A Yes, ma'am.

20 Q Can you tell us specifically whether or not
21 your father had a conversation with you prior to
22 moving into this home, about his behavior and
23 whether or not there would be any changes?

24 A He promised this was going to be the new
25 house, new beginning, he wasn't going to touch me

[REDACTED] - DIRECT

1 any more, he was going to let me be an adult and be
2 proud of me and everything I accomplished and it
3 was going to be a pure house, it was sanctified.

4 Q Were there ever occasions in which something
5 inappropriate happened in that residence?

6 A Yes, ma'am.

7 Q Approximately how long, how much time frame
8 from the time you moved into the house and when the
9 touching started?

10 A Maybe about two weeks.

11 Q And how old were you when you were living in
12 this white home on [REDACTED] [REDACTED]

13 A Seventeen, eighteen.

14 Q And your birthday is in January?

15 A Yes, ma'am.

16 Q So, you turned eighteen around January, 2002?

17 A Yes, ma'am.

18 Q Did there ever come a time where you reacted
19 differently when your father made an attempt toward
20 you?

21 A By the time we moved into the white house,
22 like I said, I was older and stronger, and what he
23 called rebellion was just my resistance to what he
24 wanted. I jumped out of my bedroom window one
25 night just to leave, I would do anything, I would

[REDACTED] - DIRECT

1 lock my door, I had probably put, I had to put
2 probably ten new locks on my door, back and forth
3 with the door, I remember every night, no, no, no.
4 The thing was about this house is it's two
5 apartments and there is a latch between the two
6 sides, the house is a four bedroom house with two
7 apartments, one on each side. Conveniently my
8 brothers and sisters would all be on one side of
9 the latches of that apartment closed off from me
10 and him on the other side.

11 Q Was your mother still working the third shift
12 at Carolina Springs at this time?

13 A Yes. My mother worked two on and two off, so
14 you have to think if there is thirty days in the
15 month, fifteen days out of the month she was gone.

16 Q Before you had started specifically resisting
17 him in this white house, how would you normally
18 cope and respond to this behavior?

19 A It was awful. Sometimes I would just lay
20 there because I wanted to go to sleep. He would
21 keep my backpack, he knew how important school work
22 was, he would keep my backpack, wouldn't let me
23 have my books unless he got his way. I would just
24 lay there.

25 Q All right. And was there ever an occasion in

[REDACTED] - DIRECT

1 which your father's actions toward you progressed
2 further than what you have already told us about?

3 A Like I said, I was brought up in a Christian
4 home, so being pure was very important to me and
5 keeping my virginity for someone was very
6 important. I guess I was becoming independent, and
7 he took that from me.

8 Q Where did that happen, [REDACTED]

9 A In that white house.

10 Q Just to clarify, the act that you're
11 referring to, are you referring to sexual
12 intercourse?

13 A Yes, ma'am, Mark Bolte performed sexual
14 intercourse on me.

15 Q After that did it end? Were there ever
16 occasions in which he would attempt that?

17 A He would pretty much attempt every single
18 time my mother was not around. He wasn't near as
19 successful some times but he probably got me about
20 five more times. I would do anything, I would do
21 anything, I would sleep outside, I would run, I
22 would go anywhere but there, and I would fight, I
23 would lock the door, jump in the bed with my
24 brothers and sisters, not fall asleep.

25 Q Did your bedroom door have a lock?

[REDACTED] - DIRECT

1 A Yes. It had, it was a really old house so it
2 had those old fashioned locks on the bottom and
3 then it also had a latch at the top, just one that
4 we just bought for it.

5 Q Can you tell us what, if anything, happened
6 with those locks?

7 A The locks were broken probably at least
8 twenty times.

9 Q And by whom?

10 A By Mark Bolte.

11 MS. MAYES: Beg the Court's indulgence.

12 Q I'm going to show you some photographs and
13 ask you whether or not you can identify what is
14 shown in these photographs. Do you recognize this
15 place?

16 A That's my bedroom door.

17 Q From what home?

18 A In the white house.

19 Q On [REDACTED] [REDACTED]

20 A Yes, ma'am.

21 Q Okay. What do you see in the photograph?

22 A This is where it was completely ripped off
23 from one of the confrontations.

24 Q And you are referring to what?

25 A My father tried to get into my bedroom and --

[REDACTED] - DIRECT

1 Q And can you tell us what is shown in this
2 photograph?

3 A This is where you can see the door is scraped
4 raw from the lock up at the top just because of
5 constant in and out, in and out, in and out.

6 Q Okay. Let me ask you, as far as all these
7 photographs are concerned, do you recognize them?

8 A Yes, ma'am.

9 Q Do they appear to be fair and accurate
10 representations of the home on [REDACTED] [REDACTED]

11 A Yes.

12 Q All right. And this is a photograph of what?

13 A My bedroom window.

14 Q All right. Why is that significant?

15 A Because the window is not there, I jumped out
16 of it.

17 Q What is shown there?

18 A Where the cotton wrap was over the top where
19 all the broken glass was and we put put a thing, a
20 screen, like the landlord did just to keep the bugs
21 out.

22 Q Okay. What happened to the actual window
23 pane?

24 A It's just broken all down outside, what not.

25 Q Do you remember what caused the window to

[REDACTED] - DIRECT

1 break?

2 A It was just one night where I just couldn't
3 take it anymore, so I just jumped out the window,
4 it was my only escape. If I went out the door he
5 would have caught me.

6 Q Okay. Do you recognize what's in this
7 photograph?

8 A That's the trim around my bedroom door, all
9 broken up.

10 Q And do you recognize what is in this
11 photograph?

12 A That's a picture of the latch, the very
13 strong latch that somebody could get to keep the
14 two sides separated. There is a latch up top and
15 in the corner, so it has three locks.

16 Q You are talking about the door that separates
17 the two sides of the home?

18 A The two apartments.

19 Q Okay. And then finally what is shown in this
20 photograph?

21 A Just where it was also broke on the other
22 side, the old lock.

23 Q And this room with the blue walls is what
24 room?

25 A It's my bedroom.

██████████ - DIRECT

1 MS. MAYES: Your Honor, this would be State's
2 Exhibits 4, 5, 6, 7, 8 and 9 for evidence.

3 THE COURT: How says the defense?

4 MR. GROSE: No objection.

5 THE COURT: Without objection they will be
6 marked and become part of the evidence in the case.

7 (State's Exhibits 4, 5, 6, 7, 8 and 9
8 were marked and received in evidence).

9 BY MS. MAYES:

10 Q Now, as you got older, ██████████ specifically
11 around the time of your senior year in high school
12 and while you were living in this white house, can
13 you tell us how if at all your interaction with
14 your father changed, and not so much the nighttime
15 interaction, but your day to day interaction with
16 your father?

17 A Well, during high school I tried to stay away
18 as much as possible, away from him. Most of the
19 time I didn't have to worry about it because he
20 worked during the day so I would have that time,
21 but there was always the days when he had off and
22 nobody really knew what was going on at night but I
23 guess you could say he wasn't being satisfied, I
24 wasn't working along with him and he had these
25 requests. So, the violence would taper in the

[REDACTED] - DIRECT

1 daytime in front of the family. We would be
2 sitting there at the kitchen table just saying a
3 prayer and all of a sudden he would go, "You slut,
4 you whore, you Jessebelle," just in the middle of a
5 prayer, in front of the little kids. I would try
6 to get away, do my own thing, he would want me sit
7 there in the chair with him and watch TV, I
8 wouldn't watch it, I would want to do my home work.
9 He would straddle me in the chair. I would say,
10 "Let me get out of here," "No, you're not, you're
11 not going anywhere." he would choke me, lots of
12 name calling, restraints, "I'm going to get out,"
13 "No, you're not." Throw me in the closet, throw me
14 in the bathroom. There was even this one time I
15 was taking a shower and he just came on in in front
16 of just the family, just came on in when I was in
17 the shower, "Get out, I'm in here, get out."

18 Q How important was it for you during this time
19 frame to become involved in extracurricular
20 activities outside that home?

21 A It was extremely important just to have some
22 kind of a social life. Also the scholarships, it
23 was my only way out, my only way out, I had to
24 support myself, I have always had to.

25 Q Did your father know that you had dreams of

██████████ - DIRECT

1 attending college?

2 A Yes. He found it extremely threatening.

3 Anything in his power, he used to try to find any
4 way where I wouldn't get enough money so I would
5 have to stay at home and I couldn't be in the dorm.

6 Q How did he feel about you leaving home to go
7 away and attend college as a regular college
8 student?

9 A He was very intimidated and frightened by the
10 fact. He didn't like it at all.

11 Q Did you have his permission to go away to
12 attend college on your own?

13 A No, I did it all on my own.

14 Q How were you able to attend Erskine College?

15 A I have a full academic ride.

16 Q A scholarship?

17 A Yes, ma'am.

18 Q Would your father or mother have had the
19 money to send you to Erskine College without a
20 scholarship?

21 A No, ma'am.

22 Q Was there ever an occasion in which you were
23 allowed to attend your prom?

24 A He used to say I would have to work for
25 things. The prom was one of the things I had to

[REDACTED] - DIRECT

1 work for, not only that, but Christmas as well.

2 The kids got Christmas. I would have to work for

3 it to make sure they got Christmas. The kids

4 wouldn't get beat or whipped, I would have to make

5 sure I worked for it. For prom, he would force me

6 to do things with him, otherwise I couldn't go.

7 Q When you say you would have to work for it,
8 you're referring to what type of behavior?

9 A Sexual behavior.

10 Q And did that also include proms?

11 A Yes, ma'am, that included both my junior and
12 senior prom.

13 Q Were you allowed to attend your school prom?

14 A I did go to my junior prom and my senior prom
15 despite everything of being locked up in the
16 bathroom and stealing my dress away from me, which
17 he didn't buy, and the police coming, I was
18 eventually able to go to the prom later and I saw
19 him at the prom.

20 Q Can you take us back to sort of how it was
21 that you saw your father at the scene of your prom?

22 A Well, I was dancing at my prom and I looked
23 over my shoulders and there he was giving me the
24 looks like you disgusting little slut, just telling
25 me, just mocking me, "You're in trouble, I'm going

[REDACTED] - DIRECT

1 to get you," because I was dancing, I was trying to
2 have a good time, it was my one thing, my one time,
3 I didn't even have a date, I just wanted to go to
4 the prom.

5 Q And were you dancing with someone?

6 A I tried to dance with as many people as I
7 could, it was my senior prom, I wanted to have fun.

8 Q And do you remember when your father appeared
9 there at the prom, was it a slow dance or fast
10 dance, based on what you knew?

11 A I was the president of the student body, so
12 they had me dance, kind of a joke, with one of the
13 boys that was a really good dancer on the dance
14 team and we had the whole stage to ourself and we
15 were slow dancing and cha-cha and having a good
16 time, and he was there.

17 Q Had your father been invited to the prom?

18 A No.

19 Q Did he have any reason to appear at the prom?

20 A No, ma'am.

21 Q Where was this prom held?

22 A At the National Guard Armory.

23 Q And where specifically was it at the armory
24 that you saw your father and saw him present?

25 A Standing there at the refreshments.

[REDACTED] - DIRECT

1 Q And what do you recall happening after that?

2 A I went to a get-together at the lake and when
3 I came home I knew I was in trouble and he was
4 there waiting for me in the driveway and basically
5 I just got yelled at, I was five minutes late, and
6 basically that was all the consequences to be made
7 for that.

8 Q Now, after you graduated how was the decision
9 made you would leave your family home and actually
10 live on campus at Erskine?

11 A Well, my scholarships covered even room and
12 board, so I moved on campus.

13 Q And how far away is like your campus dorm
14 from your family home on [REDACTED] [REDACTED]

15 A About three blocks.

16 Q So, it's actually in walking distance of your
17 home?

18 A Yes, ma'am.

19 Q How did you feel about ongoing contact with
20 your father once you had left the family home?

21 A I didn't want any contacts. The only time I
22 would ever go to the house is when I knew he was at
23 work, just to see the babies for a quick second,
24 and my mother. I tried everything to avoid him but
25 he was like, he would always call and call, twenty

[REDACTED] - DIRECT

1 times a day, he got so bad my roommate left. She
2 went to the Dean and said, "I can't handle this,
3 this is a crazy man." It would be like, "I'm
4 sitting here, I'm watching you." He would watch me
5 from my window, he would stalk me, "I know what
6 you're doing, I know you what you're doing." He
7 was just always, I always felt like he was right
8 there behind me breathing on me.

9 Q How did you feel about the fact that your
10 father continued to try and resume his relationship
11 after you left the home?

12 A I was so scared I couldn't think, I was a
13 nervous wreck.

14 Q When you say that you were scared, at this
15 point in time when you first arrived at Erskine
16 that fall had you yet confided in anyone about this
17 sexual abuse?

18 A No. Sooner or later I started confiding in
19 my mother.

20 Q In your mother?

21 A Yes, ma'am.

22 Q I want to take you back, when you said that
23 you were scared, what, if any, reasons had you had
24 throughout your high school years and that summer
25 before college and your early college experience in

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1 not being able to tell any other person at school
2 or outside the home what your father had done?

3 A I had nobody to tell. He didn't allow me to
4 have a confidant or friends. There was never an
5 opportunity that I was close to a girl, another
6 girlfriend, and never allowed to be with my mother,
7 there was no relationship with my mother. She left
8 me with him but there was no way to tell her. I
9 didn't know if she would believe me. She was
10 married to the man, she didn't know when she left
11 me with him what was going on, there was nobody to
12 tell. I was scared, what is a girl supposed to do,
13 he was my roof over my head, my food, my water, my
14 electricity. Was I supposed to leave, with what
15 was going to happen to my little brothers and
16 sister, was the police going to take them to foster
17 care? I didn't know.

18 MR. GROSE: Objection, Your Honor.

19 THE COURT: Just a minute.

20 MR. GROSE: Objection, Rule 402, Rule 403,
21 speculation.

22 THE COURT: Overruled. Continue.

23 BY MS. MAYES:

24 Q Let me ask you, ██████████ what did you believe
25 would happen concerning your father if you did tell

[REDACTED] - DIRECT

1 about what happened?

2 A He made it clear with threats what would
3 happen, it would be the end of the family, the end
4 of me.

5 THE COURT: We'll take a short recess now.
6 Save your thought.

7 MS. MAYES: Yes, sir.

8 THE COURT: All right. Madam witness, you
9 may not discuss your testimony or this case with
10 anyone under any circumstances but you are expected
11 to take a break just as everyone else. You can
12 walk around, be at ease, but don't talk with your
13 attorney, don't talk with anyone about this case or
14 anything that you have said, any questions you have
15 been asked or any answers you have given or any
16 questions you might be asked or any answers you
17 might give to them. You will otherwise relax. Do
18 you understand?

19 THE WITNESS: Yes, sir.

20 THE COURT: Very well. Come down, please.
21 Watch your step.

22 Ladies and gentlemen, we will take a short
23 recess at this time. Please do not discuss the
24 case by, between and among yourselves at all and
25 retire to the jury room for a short recess. Thank

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1 you. Everyone remain seated except the jury.
2 Retire to the jury room.

3 (The jury was excused from the
4 courtroom at 11:32 a.m.).

5 THE COURT: We'll stand in recess, please.

6 BAILIFF: A couple of them want to go out and
7 smoke.

8 THE COURT: All right. They will be escorted
9 and you will tell them that they may not discuss
10 the case at all while they're going outside to
11 smoke. Somebody will supervise them at all times.

12 MR. GROSE: Your Honor, I would prefer that
13 they all be told not to discuss the case, period.

14 THE COURT: Well, they were just told that,
15 but sometimes people who leave the jury room don't
16 realize that also applies to them outside the jury
17 room.

18 MR. GROSE: I just --

19 THE COURT: I want them supervised. I don't
20 have any objection to you telling them but, I mean,
21 they have been told not to discuss the case with
22 anyone, period, and I just don't want it presented
23 to them in such a way that they think it's okay to
24 somehow discuss it. I would also object to you
25 referring to Miss Mayes as the lawyer for the

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1 victim, I think that's prejudicial, she's the
2 lawyer for the government. You told the alleged
3 victim not to talk to her lawyer during the recess,
4 it should be the lawyer for the government. I
5 think it gives the jury the wrong impression about
6 the representation in the case.

7 THE COURT: Well, it was inadvertent but
8 perhaps that was said, don't talk to your lawyer,
9 but at the same time any witness who gets up here
10 and testifies in response to Miss Mayes' questions,
11 they are going to be cautioned in the same way,
12 don't talk to your lawyer, meaning the lawyer
13 asking the questions of them on direct.

14 MR. GROSE: Well, I object to Miss Mayes
15 being referred to as the lawyer for anybody in this
16 courtroom other than the government of South
17 Carolina.

18 THE COURT: It's noted. We're in recess.

19 (Recessed at 11:34 a.m.).

20 (Reconvened at 11:58 a.m.).

21 THE COURT: We'll come to order, State of
22 South Carolina versus Mark Richard Bolte. During
23 the break apparently Miss Mayes handed to my clerk
24 Miss Whitesides some notes made by the counselor.
25 They are dated July 27th and the 31st of August of

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1 this year. I asked Miss Whitesides, my clerk, to
2 make copies and they are available.

3 Now, the original is here, Miss Mayes, you
4 can return that to the witness. It's the intention
5 of the Court to go ahead and disseminate copies to
6 you and Mr. Grose and then we'll take it up at the
7 earliest possible time if that's agreeable.

8 MS. MAYES: That is.

9 THE COURT: Is that agreeable?

10 MR. GROSE: Yes, sir, Your Honor.

11 THE COURT: Very well. The original goes
12 back to your witness, potential witness.

13 MS. MAYES: Yes, sir, Your Honor.

14 THE COURT: Then Mr. Grose has a copy. Now,
15 as to the records of the counselor, this is
16 confidential information and will be, to the extent
17 it's used, it will be destroyed after the trial.
18 Now, whatever goes on the record, the record goes
19 with the trial, but this is for discovery purposes
20 only. That's clear, now, Miss Mayes?

21 MS. MAYES: Yes, sir.

22 THE COURT: Mr. Grose?

23 MR. GROSE: Yes, sir.

24 THE COURT: Thank you. And the Court will
25 destroy its copy as well so that there won't be

[REDACTED] - DIRECT

1 anything remaining after we get through hearing
2 your position.

3 Anything from the State before the jurors
4 come back in?

5 MS. MAYES: No, sir, Your Honor.

6 THE COURT: From the defense?

7 MR. GROSE: No, sir.

8 THE COURT: Show the jury in, please.

9 (The jury returned to the courtroom
10 at 12:00 o'clock).

11 THE COURT: Thank you, Mr. Manning. Thank
12 you, ladies and gentlemen.

13 Madam witness, have you discussed your
14 testimony that you have given with anyone at all
15 since the time we took a break, until now?

16 THE WITNESS: No, sir.

17 THE COURT: Have you talked about this case
18 with anyone at all from that time until now?

19 THE WITNESS: No, sir.

20 THE COURT: You understand that you have been
21 sworn and you remain under oath to tell the truth?

22 THE WITNESS: Yes, sir.

23 THE COURT: Thank you. This witness is with
24 you on continued direct examination, Miss Mayes.

25 MS. MAYES: Yes, Your Honor.

[REDACTED] - DIRECT

1 BY MS. MAYES:

2 Q [REDACTED] I need to clairfy a little bit more
3 about some of the time frames we're talking about,
4 and specifically the home that you have mentioned
5 in Donalds. Would you have been over sixteen, or
6 under sixteen while you lived at this residence
7 temporarily with your family?

8 A I would have been under sixteen.

9 Q All right. And I believe you previously
10 described some touching that occurred in this
11 residence?

12 A Yes, ma'am.

13 Q All right. Who was the person that you
14 touched or you were required to touch?

15 A Mark Bolte.

16 Q Can you tell us whether or not your body was
17 ever touched by Mark Bolte in this room?

18 A My body was touched as well by Mark Bolte.

19 Q And also can you tell us whether or not that
20 touching included any penetration of your vagina
21 with his finger?

22 A Yes, ma'am, it did.

23 Q All right. You also described some occasions
24 in which you were asked to place your mouth on his
25 private parts. Do you recall whether or not that

[REDACTED] - DIRECT

1 ever occurred in this residence?

2 A Yes, ma'am, it did.

3 Q When you lived in the blue trailer, or the
4 green trailer on [REDACTED] [REDACTED] was there ever a
5 time that you were under sixteen in this residence?

6 A Yes, ma'am.

7 Q While you were still under age sixteen in
8 this residence, can you tell us whether or not that
9 same type of touching you have already described
10 occurred, including oral contact?

11 A Yes, ma'am.

12 Q And can you tell us whether or not that also
13 included any penetration of the vagina?

14 A Yes, ma'am, it did.

15 Q Did those things occur even at the time in
16 which you were under age sixteen?

17 A Yes, ma'am.

18 Q You have described an act, I believe my words
19 were sexual intercourse, you had indicated that
20 that occurred in the white house, [REDACTED]

21 A Yes, ma'am.

22 Q You have described his reaction or behavior
23 after some of these events and you talked about the
24 holy language. Can you tell us what you mean by
25 that?

[REDACTED] - DIRECT

1 A He would just start chanting and moaning and
2 rolling his tongue and just screaming and crying
3 and shaking just all over and just saying God was
4 judging him right now, "Please forgive me, please
5 forgive me."

6 Q Were you able to forgive him on those
7 occasions?

8 A I was supposed to but inside I never really
9 did forgive him. You keep on having hope that your
10 daddy is going to be a daddy and treat you like a
11 little girl, you keep hoping for it but he just
12 kept breaking my trust and breaking my trust and by
13 the time it came to the white house there was no
14 more trying to rekindle anything, there was no
15 forgiveness.

16 Q And I believe you have already described that
17 while you were in the white house that is where
18 some of the conflicts with your father began?

19 A Yes, ma'am.

20 Q Once you left the home and you were attending
21 Erskine College in the fall of 2002 what type of
22 contact or interaction did you have with your
23 father at that point?

24 A I tried to have as little contact with him,
25 tried to have zero contact with him but I couldn't

[REDACTED] - DIRECT

1 help the constant phone calls. I never picked them
2 up. I would not pick them up. He would beg and
3 there would just be phone calls after phone calls
4 about him watching me or knowing what I did or who
5 was in my room or what I did last night or what I
6 was going to do. He told me he knew everything, "I
7 know all, I'm going to get you."

8 Q How did you feel about hearing him make
9 comments like that in his phone calls, toward you?

10 A I was frightened, I was always scared and
11 shaken up, always watching my back.

12 Q What were you most afraid of?

13 A I was afraid of Mark Bolte and what he was
14 going to do to me.

15 Q And at this point had you confided in anyone
16 about what had happened in the home, with the
17 sexual abuse?

18 A At the point of what?

19 Q At the point you first attended Erskine
20 College?

21 A No, ma'am.

22 Q Now, did there ever come a time when you did
23 confide in someone, at least partially, about what
24 had happened during your childhood?

25 A Yes, ma'am. Me and my mother went shopping

[REDACTED] - DIRECT

1 when I was living off campus and we had an
2 opportunity, I think we were buying presents for my
3 little brother's birthday around September or so,
4 and she asked me and I admitted to some improper
5 behavior that Mark had towards me, that my
6 so-called daddy did to me.

7 Q And at that point you said you admitted to
8 some improper behavior?

9 A Yes. I didn't tell her everything.

10 Q And why did you not tell your mother
11 everything that had happened initially?

12 A Our relationship was just starting, it was
13 just, we just started spending time together and
14 taking walks and she would come to my dorm and
15 bring me snacks. I didn't, I didn't know how she
16 would react, so I just told her just a little bit.

17 Q Okay. How did your father react or behave
18 about you and your mother's spending time together?

19 A He became a nervous wreck, he didn't know
20 what to do with himself when me and mama started
21 spending time together. He started threatening me
22 and giving me warnings.

23 Q And did your father ever discuss with you
24 about whether or not it was okay to tell someone or
25 confide in your mother about what had happened in

[REDACTED] - DIRECT

1 your family?

2 A There was no confiding in anyone, he said,
3 "This is our secret, you do not tell a soul,
4 otherwise there will be consequences to be paid."

5 Q What were the circumstances that finally
6 caused you to tell someone?

7 A To be honest, the number one thing was, yes,
8 I was out of the house and I was okay, he couldn't
9 give me back my childhood but I loved, I loved my
10 little sister, and I just, I couldn't live with
11 that, I couldn't live with not saying anything and
12 going home and seeing her there with him, I just
13 wanted to be preventive.

14 Q How old was your little sister Shalaya in
15 that fall of 2002 when you finally started to tell
16 your mother a little bit?

17 A She was five.

18 Q Okay. Did your father become aware that you
19 had confided at least partially in your mother?

20 A Yes.

21 Q How did he make you aware of that?

22 A By phone calls.

23 Q What do you recall him saying in the phone
24 calls, about what you had told your mother?

25 A He would always blame it on me, "Look what

[REDACTED] - DIRECT

1 you did, look what you did. You better fix it."

2 Q What did you interpret that to mean when he
3 told you to fix it, concerning the fact you
4 confided in your mother?

5 A That I better make up some lie, I better just
6 brush it all over and make him look to be the good
7 guy.

8 Q Did you follow your father's directions when
9 he asked you to fix it?

10 A No, ma'am.

11 Q What, if any, threat or comment has your
12 father made concerning your scholarship?

13 A That was always the edge I had over him, it
14 was part of my independence, it was my freedom, it
15 was my way out of the house. He would do anything
16 to get rid of it. He would tell me all the time,
17 "I'm going to tell them who you really are, I'm
18 going to take your scholarships away," just so I
19 would be home. He lost control of me, he lost that
20 control and it drove him crazy, I drove him crazy,
21 he would threaten to take it all the time.

22 Q What specifically was the reason or excuse
23 that he made to you that he could take your
24 scholarship away?

25 A He said, "I know what you're doing, I'm going

[REDACTED] - DIRECT

1 to tell."

2 Q Okay. What about concerning any papers or
3 anything of that nature?

4 A He said I used to forge my mother's
5 signature, "I'm going to tell everybody about it,
6 so I'm going to take your scholarships away."

7 Q Had there ever come a time when your mother
8 was not home to sign a required paper?

9 A Yes. The schools always accepted it, they
10 knew most of the time I was the one that came and
11 picked them up and took them to their doctors'
12 appointments, I would always say to whom it was
13 concerned, this date, this time, signed Ester
14 Lopez.

15 Q So, there were times that you would provide
16 your mother's signature on academic papers or a
17 school paper or something of that nature?

18 A Yes, ma'am.

19 Q And how did that relate to some of your
20 father's what you described as threats?

21 A Well, he would say, "They know that you
22 forged your mother's signature and I'm going to
23 take that scholarship away from you," so he would
24 use that as a threaten device.

25 Q I'm going to take you to November of 2002,

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1 the fall when you would have been a freshman in
2 Erskine College and living on campus. Can you tell
3 us whether or not your father continued contact
4 with you at that point?

5 A Yes. I was getting anywhere from ten to
6 twenty phone calls a day, there were so many I
7 couldn't count. I would just delete them, wouldn't
8 listen to them, try to delete them. He was just,
9 he was stalking me. He would be outside waiting at
10 the circle, there was a circle driveway in front of
11 the girls dorm, he would send my little brother in
12 to get me to come outside. He would always use my
13 little brother and sister as bait because he knew
14 that was my soft point. He was just constantly
15 just stalking and calls. I tried to stay away.

16 Q What type of contact did he want with you or
17 from you?

18 A I don't understand.

19 Q Can you tell us whether or not your father
20 wanted to maintain contact with you at this point?

21 A Yes, he did, he wanted to maintain contact
22 and develop a relationship. He was scared because
23 he knew that I was confiding in other people now,
24 he lost that control and it drove him crazy.

25 Q All right. In November of 2002 did you have

[REDACTED] - DIRECT

1 an answering machine in your dorm room?

2 A Yes, ma'am, I did.

3 Q All right. Did you ever receive any messages
4 from your father on that answering machine?

5 A Yes, ma'am.

6 Q Did you receive more than one answering
7 machine message from your father?

8 A Yes, ma'am.

9 Q Did you have the opportunity to release that
10 answering machine tape to the Abbeville County
11 Sheriff's Department?

12 A Yes, ma'am, I did.

13 Q And who actually came to your apartment to
14 take possession of that tape?

15 A I went to a safe home, Judy Davis took me
16 back to school to get some of my work, so Judy
17 Davis took me, she took the messages on the
18 answering machine.

19 Q When you say Judy Davis, can you tell us
20 whether you know who she is employed with?

21 A Judy Davis, employed with Abbeville County.

22 Q The Sheriff's Department?

23 A Yes, ma'am.

24 Q Is she present in this courtroom?

25 A Yes, ma'am.

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1 Q She actually was inside your dorm room?

2 A Yes, ma'am.

3 Q You released the tape to her?

4 A Yes, ma'am.

5 Q Have you since, ██████████ within the last two
6 weeks, on the premises of the Abbeville County
7 Sheriff's Department had the opportunity to listen
8 to that audio tape of your answering machine?

9 A Yes, ma'am.

10 Q And can you tell us whether or not you can
11 identify the voice of the person who is leaving you
12 the message?

13 A Yes, I can.

14 Q Who is that person?

15 A Mark Richard Bolte.

16 Q All right. Upon hearing the answering
17 machine messages from beginnings to end, can you
18 tell us whether or not it's a fair and accurate
19 representation of the messages you recall receiving
20 in November, 2002?

21 A Yes, it's very accurate.

22 Q Has it been altered or tampered with in any
23 way?

24 A No, ma'am.

25 MS. MAYES: This will be State's exhibit for

[REDACTED] - DIRECT

1 evidence, Your Honor, I believe. I believe it's
2 Number 10.

3 THE COURT: Mr. Grose, are you familiar with
4 this proffered evidence?

5 MR. GROSE: Yes, sir. And, Your Honor, I
6 object to it. I don't think they laid the proper
7 foundation. There has been no testimony that this
8 tape was in the same condition as when the messages
9 were left, so we would object to its admissibility,
10 lack of foundation.

11 THE COURT: Do you want to ask her any other
12 questions?

13 MS. MAYES: Yes, sir, Your Honor.

14 BY MS. MAYES:

15 Q You have testified that it's a fair and
16 accurate representation of how you recall the
17 messages being. Has the condition changed in any
18 way?

19 A No, ma'am.

20 Q Okay. Is it still in the same condition that
21 you recall it being in when you initially heard the
22 messages?

23 A Yes, ma'am.

24 MS. MAYES: State's Exhibit 10 for evidence,
25 Your Honor.

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1 THE COURT: Mr. Grose?

2 MR. GROSE: Same objection, Your Honor.

3 THE COURT: Overruled.

4 (State's Exhibit 10 was marked
5 and received in evidence).

6 BY MS. MAYES:

7 Q Now, ██████████ I may need to stop this, as we
8 go, to have you clarify or explain certain things.

9 THE COURT: Miss Mayes, apparently she has a
10 question.

11 A I just want to state I did not have it set
12 for the date and time on there, it was just, I
13 didn't ever set the clock on my answering machine.

14 Q All right, I'll clarify that. Did it have a
15 way to digitally set the date and time?

16 A Yes, but I did not do that.

17 Q To your knowledge, was this tape made and
18 then turned over to the Sheriff's Department
19 representative in November, 2002?

20 A Yes, ma'am.

21 (Portions of State's Exhibit 10 were
22 played to the jury).

23 Q All right. There are several beeps in
24 between. What does that indicate on your answering
25 machine?

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1 A That is the new message.

2 Q So, after each beep that would indicate a
3 separate message?

4 A A separate phone call.

5 Q What did you interpret the statement, just
6 wait, you could loose your scholarship, to mean?

7 A He was just trying to give me warnings or
8 threats so I would come home, develop the
9 relationship, leave the dorm.

10 (Portions of State's Exhibit 10 were
11 played to the jury).

12 Q All right. The statement you still have your
13 friend in the room with you, what did you interpret
14 that to mean about your father's knowledge of what
15 was happening on campus?

16 A My father would sit across the street or in
17 the circle and watch through my bedroom window to
18 see who I had in my room.

19 (Portions of State's Exhibit 10 were
20 played to the jury).

21 Q What, if you know, was he referring to when
22 he said that the Dean of Admissions will call you
23 and be prepared, it will catch up with you?

24 A He was just trying to get rid of my
25 scholarship so I would come back home. I never

[REDACTED] - DIRECT

1 went to the Dean and I still have all my
2 scholarships.

3 (Portions of State's Exhibit 10 were
4 played to the jury).

5 Q What was he talking about in reference to a
6 big poster board will be hanging outside your
7 window?

8 A He wanted to humiliate me.

9 Q Did he hang a poster board outside your
10 window?

11 A No.

12 Q How did that make you feel to receive that
13 threat?

14 A Very frightened.

15 THE COURT: Speak up, Madam Witness, because
16 we don't have the microphone now. Speak up a
17 little louder.

18 A Yes, sir.

19 (Portions of State's Exhibit 10 were
20 played to the jury).

21 Q What, if anything, was he referring to about
22 forging your mother's signature and taking your
23 scholarships away?

24 A Well, we were just discussing about when I
25 would write excuses or use her signature and I

██████████ - DIRECT

1 would sign it, which she was completely aware of
2 the fact, because she was not around to do that.

3 (Portions of State's Exhibit 10 were
4 played to the jury).

5 Q What, if anything, was he referring to when
6 he said, made a comment about your friend and said
7 such a tough guy?

8 A Well, there would be different times I would
9 have people in my room and he called so frequently
10 they would hear these messages while they were in
11 my room and they would be like, "What's going on,
12 do I need to do something," you know --

13 MR. GROSE: Objection, Your Honor.

14 MS. MAYES: I can rephrase that.

15 THE COURT: The objection is sustained.

16 Please rephrase the question.

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

18 BY MS. MAYES:

19 Q Please don't repeat what anyone else said but
20 how was your father aware if someone was in your
21 room?

22 A He was watching through my window.

23 Q And when he made the comment about you not
24 picking up the phone because a friend was there,
25 such a tough guy, was he referring to a male person

[REDACTED] - DIRECT

1 or a female person?

2 A A male person.

3 Q How did he feel about you having
4 relationships with other males outside himself?

5 A He did not allow it at all.

6 (Portions of State's Exhibit 10 were
7 played to the jury).

8 Q What was that in reference to?

9 A He was saying, "Your sins will always catch
10 up with you."

11 (Portions of State's Exhibit 10 were
12 played to the jury).

13 Q What was the reference to devil's child?

14 A I finally told my mother a little bit of
15 something and he was blaming mother's reaction on
16 me.

17 (Portions of State's Exhibit 10 were
18 played to the jury).

19 Q What did you interpret that to mean, shame on
20 you, fear God, not yourself?

21 A He said serve God, not yourself, which means
22 I wasn't doing my job of not judging, not supposed
23 to forgive and since I was going out and telling my
24 mother the truth that means I was being selfish.

25 (Portions of State's Exhibit 10 were

[REDACTED] - DIRECT

1 played to the jury).

2 Q What was depicted in that message?

3 A He was breathing hard into the phone just to
4 try to scare me.

5 (Portions of State's Exhibit 10 were
6 played to the jury).

7 Q There were noises in the background, what
8 were those noises?

9 A My little brother and sister.

10 Q All right. When he said honor thy father and
11 mother, you have had plenty of warnings, you better
12 be careful, that he wasn't playing, what did you
13 interpret that to mean?

14 A That was a direct threat, I didn't honor what
15 he wanted to keep secret because I told my mother.

16 Q When he said that you and your mother were
17 practicing witchcraft behind his back what did you
18 interpret that to mean?

19 A Me and my mother finally started taking walks
20 together, it was our time, I started opening up to
21 her, everything about the sexual abuse, how are you
22 doing, I'm fine, daddy keeps calling, he's scaring
23 me, stuff like that, and mom would always come
24 back, of course, upset with the man that she was
25 living with, so he would say that I was practicing

██████████ - DIRECT

1 witchcraft and making her hate him.

2 (Portions of State's Exhibit 10 were
3 played to the jury).

4 Q In reference to his statement that, "I know
5 you're there, your curtains are wide open," where
6 would someone need to be in order to see your
7 curtains were open to your room?

8 A At least across the street. There is the
9 Presbyterian Church parking lot, I remember seeing
10 his car a lot, and from the right angle you could
11 see, because he wasn't ever supposed to be on
12 Erskine College campus, so that's the closest he
13 could get without trespassing.

14 (Portions of State's Exhibit 10 were played
15 to the jury).

16 Q He stated you need to make right what you've
17 done and in the previous message how could you say
18 that, what was he referring to?

19 A When I told mother about him touching me, I
20 was supposed to fix it.

21 Q Did you ever, did you ever take back what you
22 had told your mother?

23 A No.

24 (Portions of State's Exhibit 10 were
25 played to the jury).

[REDACTED] - DIRECT

1 Q Now, [REDACTED] were the messages on this tape
2 the only messages you had ever received from your
3 father at Erskine?

4 A No, ma'am. That was only a couple days
5 worth.

6 Q Okay. After you confided on some of what had
7 happened during your childhood to your mother
8 around or approximately November of 2002 did she
9 stay in the marriage with your father?

10 A Only long enough to where we could go to the
11 safe house.

12 Q All right. And do you know approximately
13 when that happened, when your mother and your
14 siblings went somewhere outside the home?

15 A Probably only a couple days after I told my
16 mother, Judy Davis, Officer Smith, Julie Fuller,
17 they all picked us up when my father was at work
18 and transported us to the safe house.

19 Q All right. And during this time in December
20 of 2002, approximately a month after that
21 information was turned over to the Sheriff's
22 Department, did you seek what is known as an order
23 of protection against your father?

24 A Yes, ma'am.

25 Q And was that December, 2002, if you know?

[REDACTED] - DIRECT

1 A Yes.

2 Q And with that order of protection was your
3 father allowed to call you or come near you after
4 that date and time?

5 A No, ma'am.

6 Q How did you feel once you had confided in
7 your mother and even other people such as the
8 Sheriff's Department employees?

9 A I felt like a burden was relieved, I felt
10 like I was able to be a little bit more myself and
11 actually try to start something that I have never
12 had the opportunity to be, but I was still scared.
13 I felt like I was jumping off a cliff, I didn't
14 know what I was getting into, I kept telling
15 myself, "You are doing this for all the right
16 reasons, you've got to keep doing it, you've got to
17 keep doing it."

18 Q Even after you had initially confided in Judy
19 Davis with the Sheriff's Department and sought the
20 order of protection against your father, did you at
21 that point in time meet specifically with any
22 investigator with the Sheriff's Department for
23 purposes of having criminal charges brought against
24 your father?

25 A Everybody kind of knew in the background

██████████ - DIRECT

1 something wasn't right --

2 MR. GROSE: Objection, Your Honor. That's
3 outside her personal knowledge, move to strike.

4 MS. MAYES: I can rephrase that question as
5 well, Your Honor.

6 MR. GROSE: I would request that that be
7 stricken from the record.

8 THE COURT: The objection is sustained,
9 ladies and gentlemen. The testimony that was just
10 stated will not be repeated but you are to
11 disregard it completely and it's stricken from the
12 record. It has no weight as evidence in this case.

13 Continue direct examination.

14 MS. MAYES: Yes, sir, Your Honor.

15 BY MS. MAYES:

16 Q In August of 2002, after some period of time
17 had transpired since you sought the order of
18 protection in August, 2003, do you recall whether
19 or not you met with any representative of the
20 Sheriff's Department?

21 A Yes. I met with Officer Graham.

22 Q And that would be Investigator Deborah
23 Graham?

24 A Yes, ma'am.

25 Q And can you tell us whether or not you

██████████ - DIRECT

1 provided specific information to her about some of
2 the things that you testified about today?

3 A Yes, ma'am, everything that I have said
4 today, I told her.

5 Q And at that point in time had you made the
6 decision about whether or not you would cooperate
7 with criminal charges?

8 A Yes, I did.

9 Q What, if any, decision making occurred
10 between when you had initially met with Sheriff's
11 Department representatives back in 2002 and when
12 you decided to meet with Deborah Graham with the
13 Sheriff's Department in the fall of 2003?

14 A Could you please restate?

15 Q Yes. What, if any, decision making occurred
16 on your part about pursuing criminal charges?

17 A Well, the divorce was over and I had my order
18 of protection but it just still wasn't enough and I
19 finally felt secure with everything that was going
20 on and they talked to me and told me what would
21 happen, this is officers and victims advocates, and
22 I finally decided I was safe enough where I could
23 make this and go about this without having
24 immediate consequences.

25 Q And what immediate consequences were you

[REDACTED] - DIRECT

1 concerned with before?

2 A What Mark Bolte would do to me.

3 Q What, if any, concerns did you have about
4 other people in the community and with your school
5 having knowledge of this?

6 A Well, it was a fact of embarrassment. I was
7 sitting in front of strangers having to say what
8 happened to me, and everybody here knows me as
9 being okay, valedictorian, Student Body President,
10 Maid of Honor, and now to have to stand in front of
11 you as a victim, as a girl, and I knew everything
12 that happened to me and I was scared of that
13 embarrassment and I was afraid I was going to have
14 to go through all that and have nothing to happen.

15 But my number one reason, saying it over and
16 over again, was my little baby sister, I grew up,
17 there was still this little baby girl that was
18 thirteen years younger than me. I just wanted to
19 make sure I was safe and my family was safe.

20 Q Once you had spoken with law enforcement
21 about this as well as your mother and once your
22 mother and your siblings were outside the home did
23 you ever tell your younger siblings the details of
24 what you told us today, what happened to you in the
25 home?

[REDACTED] - DIRECT

1 A No, ma'am. They're children, I don't tell
2 them those things.

3 Q Had anyone with law enforcement or anyone
4 else ever questioned you about the possibility of
5 abuse in your home even before you confided in
6 someone?

7 A Yes, ma'am. We had the police over more than
8 once at my house for disruptions and such.

9 Q All right. Were you ever questioned about
10 the possibility of abuse?

11 A Yes, I was. I used to go late at night
12 around 12:00 or so when the third shift at Erskine
13 would start, would start to go speak with some of
14 the officers, and I wouldn't tell them anything, I
15 would just ask questions, "Well, what would happen
16 or who would I talk to," and that is when they gave
17 me Judy Davis and Judy Fuller's numbers.

18 Q When you were initially questioned about it
19 did you tell them the full details or even confide
20 that sexual abuse had been ongoing?

21 A No, ma'am.

22 Q Why not?

23 A I was scared. He was only three blocks away
24 from me, Mark Bolte.

25 Q Now, you are still living on campus, I

[REDACTED] - DIRECT

1 believe you testified?

2 A Yes, ma'am.

3 Q And your siblings live where?

4 A They moved back to the gray trailer on [REDACTED]

5 [REDACTED].

6 Q All right. And who do they live there with?

7 A They live with my mother Esterlina, and they
8 stay in the trailer there, but my brother [REDACTED] is
9 eighteen and in college and living in the dorm now.

10 Q What role, if any, do you play in financial
11 support of your family?

12 A I am the money supply, I work four jobs and
13 go to school full time, keep the lights on and roof
14 over their head, so I'm the breadmaker now.

15 Q Okay. Does that include providing rent
16 money?

17 A Yes, ma'am.

18 Q Does that include providing money for food
19 and clothing?

20 A Yes, ma'am.

21 Q What about things like utilities, lights?

22 A Everything.

23 MS. MAYES: Beg the Court's indulgence.

24 THE COURT: Take your time, counsel.

25 MS. MAYES: Nothing further at this time,

[REDACTED] - DIRECT

1 Your Honor.

2 THE COURT: Thank you. Ladies and gentlemen,
3 with the consent of Mr. Grose, we'll break now.

4 MR. GROSE: I think that would be a good
5 idea, Your Honor. I don't think I can do my
6 cross-examination before the lunch hour.

7 THE COURT: Ladies and gentlemen, we will
8 take a recess at this time. It's important that
9 you recall -- and the Court will, Madam Witness,
10 you may come down with these instructions. It is
11 as if we're not taking a break, we are going to
12 take a break but you will not be able to discuss
13 with anyone, including Miss Mayes or anybody else,
14 anything that you have testified to, anything that
15 you have said or any answers that you expect to
16 give to anything you may be asked, but otherwise
17 you may relax and go about your own business or do
18 what you please. I know that's a tough thing but
19 you can't talk with anybody. It's like we're not
20 taking a break. Do you understand?

21 THE WITNESS: Yes, sir.

22 THE COURT: Thank you, ma'am. Come down,
23 please.

24 And returning, ladies and gentlemen, we will
25 take a luncheon now because the cross-examination

██████████ - DIRECT

1 will probably be on well into the luncheon hour, so
2 we will break now.

3 Do not talk about the case at all between and
4 among yourselves, don't permit anyone to talk about
5 the case with you. If anyone does mention the case
6 to you be certain to quickly tell them that you're
7 a juror and you're not permitted to discuss the
8 case with them.

9 If anyone persists in trying to discuss the
10 case with you after you alert them and make them
11 aware that you are a juror, that would be very
12 improper, highly illegal and wrong. You should try
13 to get their names or identity by some measure,
14 whatever you can do, find out who that person or
15 persons are or is and report that to one of the
16 bailiffs and we'll investigate it and deal with it.
17 You won't need to worry about it any further once
18 you say what has happened. Nobody is supposed to
19 talk to you about this case, especially after you
20 tell them you're a juror. That should raise red
21 flags to you.

22 If there were to be any media coverage such
23 as newspaper, radio or television and you were to
24 hear, see or read any such, then you should
25 disregard it as soon as you realize what you're

1 hearing, reading or looking at has to do with this
2 case because, as you know, you are to decide the
3 case only and exclusively upon the evidence that's
4 presented here in front of you and upon nothing
5 else whatsoever.

6 We'll take a recess at this time. Keep in
7 mind that you will appoint or elect among
8 yourselves a foreperson. We'll take a moment here.
9 A foreperson has no more say-so nor authority than
10 any other juror but the foreperson will preside
11 over your deliberations and will communicate with
12 the Court in writing were it to become necessary.
13 All communications will be here on the record or in
14 writing so that anyone who wants to know what has
15 been said between the Court and the jury can know
16 what has been said. If the Court can't respond to
17 you by written note which you can give back to the
18 bailiff and it can be marked as a court's exhibit,
19 then you will all come out and the Court will
20 respond to you in writing. But you need to have a
21 bailiff, excuse me, you need to have a foreperson
22 to do that for you. So, be thinking, as you get to
23 know each other better and go to lunch, whom you
24 wish to elect or nominate as your foreperson.
25 Write that person's name on a piece of paper, I

1 believe Mr. Simpson will check to be sure that
2 there is paper and pencil in the jury room, write
3 that person's name on a piece of paper, I believe
4 Mr. Simpson will check to be sure that there is
5 paper and pencil in the jury room, write the
6 person's name on a piece of paper and put their
7 juror number and the word foreperson underneath
8 there, and then on yesterday it was indicated that
9 the foreperson would sit in the right front seat
10 and I believe they sit in the, in your right front
11 seat rather than over there, they sit in the front
12 seat on your right, and the Court apologizes for
13 making that mistake. It doesn't matter who among
14 you is your foreperson except it cannot be either
15 of your alternate jurors.

16 With that, please don't talk about the case,
17 and have a pleasant luncheon and be back at 2:30.

18 Thank you. Everybody else remain seated.

19 (The jury was excused from the courtroom
20 at 12:53 p.m.).

21 THE COURT: Anything for the record from the
22 State?

23 MS. MAYES: Nothing from the State, Your
24 Honor.

25 THE COURT: Thank you. From the defense?

1 MR. GROSE: I know you probably said but what
2 time do you want us to reassemble?

3 THE COURT: 2:30.

4 MR. GROSE: Thank you, Judge.

5 THE COURT: One thing the Court will bring to
6 your attention. The witness who made the notes,
7 counselor, Mr. Grose, will you be reviewing those
8 notes? Now, the Court was not party to or is not
9 privy to any of the rulings that were made with
10 regard to that witness or any notes, so anything
11 that we need to take up that has not already been
12 considered ruled upon we'll do that at some
13 convenient time after the lunch hour and probably
14 after this witness and maybe another witness has
15 been concluded, so be thinking about that so we can
16 get that out of the way.

17 MR. GROSE: Yes, sir.

18 THE COURT: Anything further?

19 MR. GROSE: No, sir.

20 THE COURT: Thank you. We're in recess until
21 2:30.

22 (Recessed at 12:56 p.m.).

23 (reconvened at 2:36 p.m.).

24 THE COURT: We're opening the record, please.
25 This is State of South Carolina versus Mark Richard

1 Bolte, indictment 2003-296. Is there anything from
2 the State or the defendant before the jurors come
3 in, please?

4 MS. MAYES: Nothing from the State at this
5 time, Your Honor.

6 THE COURT: The defense, Mr. Grose?

7 MR. GROSE: If I can just move this into
8 position over there, I didn't want to block the
9 door as you were coming in.

10 THE COURT: Yes, sir, thank you for your
11 thoughtfulness. We will move that one back, Mr.
12 Manning.

13 MR. GROSE: Thank you, Your Honor.

14 THE COURT: Yes, sir. The witness will come
15 up, just take your time and come on up and have a
16 seat.

17 Show the jury in, Mr. Simpson, please.

18 (The jury returned at 2:40 p.m.).

19 THE COURT: Madam Witness, you have been
20 sworn and you remain under oath to tell the truth.
21 Do you understand?

22 THE WITNESS: Yes, sir.

23 THE COURT: Have you talked to anyone at all
24 under any circumstances about your testimony that
25 has been given or questions that you have been

1 asked or any questions you expect you could be
2 asked or answers you could give to them?

3 THE WITNESS: No, sir.

4 THE COURT: Have you discussed this case with
5 anyone at all since we recessed and you were given
6 your instructions before lunch?

7 THE WITNESS: No, sir.

8 THE COURT: Thank you very much. The witness
9 is with you, Mr. Grose, cross-examination.

10 MR. GROSE: Thank you, Your Honor. May it
11 please the Court.

12 THE COURT: Mr. Grose.
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[REDACTED] - CROSS EXAMINATION

CROSS EXAMINATION

QUESTIONS BY MR. GROSE:

Q Miss Lopez, if at anytime I ask you a question that you don't understand, will you let me know before you answer it?

A Yes, sir.

Q Now, I believe earlier when you were testifying you had indicated that your birth date was [REDACTED] [REDACTED] [REDACTED]?

A Yes, sir.

Q So, if that's your birth date, then you would have been fourteen in 1988?

A Yes, sir.

Q And you would have been sixteen --

A I'm sorry, in 1988?

Q I'm sorry, 1998. And you would have been sixteen in the year 2000?

A Yes, sir.

Q And eighteen in 2002?

A Yes, sir.

Q Okay. Now, your twelfth grade year I believe was 2000 and 2001, is that right?

A My twelfth grade year was 2001 to 2002.

Q Okay. So, your eleventh grade year would have been 2000 and 2001?

[REDACTED] - CROSS EXAMINATION

- 1 A Yes, sir.
- 2 Q And just working backward, that would make
- 3 your tenth grade year 1999 to 2000?
- 4 A Correct.
- 5 Q And your ninth grade year would have been, I
- 6 believe you said earlier, '98 to '99?
- 7 A Yes, sir.
- 8 Q Okay. For the tenth, eleventh and twelfth,
- 9 all those were at Abbeville High School?
- 10 A Yes, sir.
- 11 Q Now, your ninth grade year, you actually went
- 12 to three schools that year, didn't you?
- 13 A Only two.
- 14 Q Are you sure?
- 15 A Yes.
- 16 Q Okay. You went to Abbeville High School?
- 17 A No, I didn't go to Abbeville High School. I
- 18 transferred in my tenth grade year.
- 19 Q You didn't go to Abbeville at all that year?
- 20 A No.
- 21 Q Okay. So, you went to Dixie?
- 22 A Uh-huh (Affirmative).
- 23 Q And Johnson City High School in Illinois?
- 24 A Yes.
- 25 Q Now, it was around the end of the year, the

██████████ - CROSS EXAMINATION

1 calendar year, that you all moved to South
2 Carolina, the end of '98, beginning of 1999?

3 A Yes.

4 Q Okay. So, when the State alleges that you
5 were in South Carolina beginning in January of
6 1998, that's not correct?

7 A No, that was a misprint.

8 Q Now, I believe that you testified that you
9 were the valedictorian of your class at Abbeville
10 High School?

11 A Yes, sir.

12 Q And in fact you were pretty much a straight A
13 student during that period of time, weren't you?

14 A Yes, sir.

15 MR. GROSE: I would like to mark this as
16 Defense Exhibit Number 1.

17 THE COURT: Show it to counsel, please.

18 MR. GROSE: I have a copy for them, Your
19 Honor.

20 THE COURT: How says the State?

21 MS. MAYES: No objection.

22 THE COURT: Without objection it will be
23 marked as Defense Exhibit Number 1 and become part
24 of the evidence in the case.

25 (Defendant's Exhibit Number 1 was

██████████ - CROSS EXAMINATION

1 marked and received in evidence).

2 BY MR. GROSE:

3 Q And this Defense Exhibit Number 1 is at least
4 part of your transcript from when you were in high
5 school. Is that correct?

6 A Yes, sir.

7 Q And that is indicative of what we just talked
8 about, that you made very good grades?

9 A Yes, sir.

10 MR. GROSE: I would like to get these marked
11 as the next exhibits in order, separate exhibits,
12 and I have a copy for the State.

13 THE COURT: How says the State?

14 MS. MAYES: Beg the Court's indulgence.

15 THE COURT: Take your time.

16 MR. GROSE: Perhaps we could mark them at
17 least for identification while they are looking at
18 them.

19 THE COURT: Yes, sir.

20 MS. MAYES: No objection, Your Honor.

21 THE COURT: There is no objection.

22 (Defendant's Exhibits 2, 3, 4, 5, 6, 7, 8
23 and 9 were marked and received in evidence).

24 BY MR. GROSE:

25 Q I'm going to hand you what has been marked as

[REDACTED] - CROSS EXAMINATION

1 Defendant's Exhibit Number 2. You have seen that
2 before, haven't you?

3 A Yes, sir.

4 Q What is that?

5 A It's an academic achievement award for Dixie
6 High School.

7 Q And what did you do to earn that academic
8 achievement award?

9 A High GPA.

10 Q Okay. And that would have been, I guess, the
11 second half of your ninth grade year, 1998 to 1999,
12 that we're talking about?

13 A Yes.

14 Q Okay. I will take that back from you and
15 hand you what's been marked as Defendant's Exhibit
16 Number 3. What is that?

17 A It's the All American Scholar.

18 Q What is the All American Scholar?

19 A It's where a teacher, a faculty member
20 considers you one of the top students in the
21 school, so you are exclusively, I mean recommended,
22 I guess I could read it, it just says for academic
23 achievement. So, it's for academics.

24 Q What year did you achieve that in?

25 A This says 2000.

██████████ - CROSS EXAMINATION

1 Q Okay. And which teacher was it that
2 nominated you?

3 A Teacher, Gosnell, we call him Coach Gosnell.

4 Q Okay. Let me hand you what has been marked
5 as Defendant's Exhibit Number 4. What is that?

6 A This is the FCA Star Student Award, it's
7 signed by Miss Tyner, which she was head of the
8 Fellowship of Christian Athletes.

9 Q Okay. What is the Fellowship of Christian
10 Athletes?

11 A It's basically a Christian organization, it's
12 not designated toward athletics alone, just
13 students in general.

14 Q Where was that organization operated from
15 when you were a member of it?

16 A Abbeville High School.

17 Q And is it a club type organization?

18 A Yes, it's a club.

19 Q And what type of activities did you
20 participate in during this FCA?

21 A Every Thursday morning they have something
22 called seven at eleven, where we go in th gym and
23 we have breakfast and guest speakers come and we
24 have worship, sometimes we will play a game like
25 whoever knows the most Bible verses, then there

[REDACTED] - CROSS EXAMINATION

1 will just be a guest speaker, then Thursday nights
2 we go to Friendship Baptist Church where we would
3 actually have a church sermon with fully just
4 teenagers, worship and everything led by teenagers.

5 Q So, there were meetings at the school?

6 A Yes.

7 Q And those were things you would get there
8 early for?

9 A Yes.

10 Q And then there were meetings outside the
11 school?

12 A Yes.

13 Q About how many people were in that
14 organization?

15 A Well, it was at your own will, it wasn't like
16 something that you like were a member of. It was
17 just you came to the service, sometimes we would
18 have five, sometimes we would have five-hundred.

19 Q So, it varied?

20 A Yes.

21 Q Let me switch with you again. This is
22 Defendant's Exhibit Number 5. You have seen that
23 before as well?

24 A Yes, sir.

25 Q And what is that?

[REDACTED] - CROSS EXAMINATION

1 A It's a National Beta Club certificate for
2 outstanding character and achievement.

3 Q Okay. When did you receive that?

4 A 2000, October.

5 Q October of 2000, so that would have been in
6 your eleventh grade year?

7 A Yes, sir.

8 Q And the National Beta Club, what is that?

9 A This is just something that you automatically
10 get put in, you really don't have to do too much
11 for it except get good grades.

12 Q So, you got that for good grades? Let me
13 hand you what has been marked as Defendant's
14 Exhibit Number 6. That's a letter, isn't it?

15 A Yes.

16 Q And you have seen that before as well,
17 haven't you?

18 A Yes, sir.

19 Q What is that?

20 A This is the Congressional Youth Leadership
21 Council where I went to Washington D.C. to represent
22 the State.

23 Q You said Congressional Youth Leadership
24 Council?

25 A Yes, sir.

██████████ - CROSS EXAMINATION

1 Q What is that?

2 A It's where representatives from each state go
3 to Washington, D.C. to learn how to be a leader and
4 have a vigorous outlook and you are chosen for many
5 different things, charisma, diversity.

6 Q Charisma?

7 A Vigorous outlook, such things like that.

8 Q Academics?

9 A Sports, being put on community service. We
10 go there and we just meet some of the top dogs of
11 the government and just learn how to hold meetings
12 and what not.

13 Q All right. And who selects people to
14 represent the State for that?

15 A Actually I don't know who selected me to do
16 this one.

17 Q But that was a pretty big honor to get that?

18 A Yes, one of the best things that I have ever
19 done.

20 Q And how many people represented South
21 Carolina?

22 A Two of us.

23 Q Okay. I'm going to hand you Defendant's
24 Exhibit -- before we go on to that, going back to
25 the Congressional Leadership Council, there were

[REDACTED] - CROSS EXAMINATION

1 two of you that went from South Carolina?

2 A Uh-huh (Affirmative).

3 Q Your father didn't go on that, did he?

4 A No, he did not.

5 Q Okay. I'm going to hand you what has been
6 marked as Defendant's Exhibit Number 7. You have
7 seen that before, too, haven't you?

8 A Yes, sir.

9 Q And what is that?

10 A Gold Dome Scholar.

11 Q And what did you receive that for?

12 A Academics as well.

13 Q And when did you receive that?

14 A March, 2001.

15 Q Okay. So, that would have been also in your
16 junior year, is that right?

17 A This was probably, this was probably, yes,
18 junior, senior year, yes, correct.

19 Q I'm going to hand you what's been marked
20 Defendant's Exhibit Number 8. What is that?

21 A This is the South Carolina Excellence in
22 Education Council certificate for completion of the
23 requirements of South Carolina Business Week.

24 Q What is South Carolina Business Week?

25 A This is where people who are potentially

[REDACTED] - CROSS EXAMINATION

1 interested in going into the business field, which
2 I currently am in, so I went in this during high
3 school and it was at Erskine College for about a
4 week, where I participated in many different
5 activities in micro-economics.

6 Q When was that awarded?

7 A July 13th, 2001.

8 Q So, that would have been between your junior
9 and senior year, that summer?

10 A Yes, sir.

11 Q Okay. And you said that was at Erskine
12 College?

13 A Yes, sir.

14 Q Okay. Let's talk about that for a second
15 because through most of the times we have been
16 talking about you were living in Due West, South
17 Carolina?

18 A Yes, sir.

19 Q And I believe you said the address was [REDACTED]

20 [REDACTED]

21 A And [REDACTED]

22 Q The last house was [REDACTED] [REDACTED] [REDACTED] which is
23 where you had been living at that time, right?

24 A Yes.

25 Q Or close to that time?

[REDACTED] [REDACTED] - CROSS EXAMINATION

1 A Close to that time.

2 Q The Erskine campus takes up not all but a
3 significant part of Due West?

4 A Yes.

5 Q And in fact during your high school years you
6 were often on the Erskine campus, weren't you?

7 A Not too much, just for special events.

8 Q You would sometimes study in the library
9 there, wouldn't you?

10 A I would mostly do the studying at the library
11 after school, because Mark Bolte worked at Adams
12 Building Supply, so it was easy for me to stay
13 there until he got off work.

14 Q You had visited Erskine many times preparing
15 to go to college, hadn't you?

16 A Yes, I guess you could say that.

17 Q I'm going to hand you what has been marked as
18 Defendant's Exhibit Number 9. You have seen that
19 before as well, haven't you?

20 A Yes, sir.

21 Q What is that?

22 A This is something I got because of South
23 Carolina Business Week. I was the CPO, which is
24 called the J. D. Rickman Certificate of Commerce.

25 Q Okay. And what did you do to earn that?

[REDACTED] - CROSS EXAMINATION

1 A I stood out as a leader out of a whole bunch
2 of kids during South Carolina business week as a
3 CPO.

4 Q And how do you get selected as standing out
5 as a leader in a group like that? I mean, was it
6 something that the organizers selected or something
7 that the other students selected?

8 A Well, there was many different groups with
9 group leaders, then they would nominate somebody
10 from each group and the student body would vote on
11 that person to represent, and I was the one picked
12 to represent.

13 Q Okay. And you were picked by the other
14 student body people, the other students that were
15 there?

16 A Yes, sir.

17 Q So, in order to do that you had to work well
18 with these other students?

19 A Yes, sir.

20 Q You had to be able to get along with them and
21 exercise some leadership?

22 A Yes, sir.

23 Q And I guess get along with them and at the
24 same time stand out as somebody exceptional?

25 A Yes.

[REDACTED] - CROSS EXAMINATION

1 Q Now, I believe you indicated earlier you were
2 student body president?

3 A Yes, sir.

4 Q Was that your senior year?

5 A Yes, sir. You have to be a senior to hold
6 that position.

7 Q Okay. And that's an elected position?

8 A Yes, it's something you actually run for.

9 Q Okay. And when you say run for, run for
10 election and voted on by the students at Abbeville
11 High School?

12 A Yes, sir.

13 Q That would be the whole group, the whole
14 student body at that time?

15 A Yes, sir.

16 Q Now, that was not the only elected position
17 you had in student government, was it?

18 A That year it was.

19 Q Okay. Let me rephrase it, I'm not talking
20 about just that year, I'm talking about the entire
21 time you were at Abbeville High School?

22 A Are you concentrated on student government or
23 just in general?

24 Q Let's talk first about student government.

25 A Okay.

[REDACTED] - CROSS EXAMINATION

1 Q Did you hold an elected position in student
2 government your junior year?

3 A I think I might have. It's probably in my
4 transcript. I get so confused. It might have been
5 VP or president, I'm not sure.

6 Q In this form you listed student council and
7 at least one year you were vice-president?

8 A So, yes, my junior year I was vice-president
9 then.

10 Q Okay. And you were right to ask me to divide
11 it up. Were there any other leadership positions
12 that you held when you were in high school?

13 A Let's see. I was on the FCA leadership team,
14 what they called it, because there was a group,
15 FCA, you come and go, but there is the leaders of
16 it. I was also one of the advisors for, I believe
17 they called it the Beta Club, that's where we went
18 to, like took SAT's one time. I was MVP and
19 captain of the cross country team.

20 Q Okay. What's the FCA leadership team?

21 A That's a group of individuals that the kids
22 that go on that particular Thursday morning get to
23 vote on who they want to represent them for the
24 rest of the year.

25 Q Okay. And, so, you were elected, then, by

[REDACTED] - CROSS EXAMINATION

1 those other students?

2 A Yes, sir.

3 Q And you said it could be anywhere from five
4 to five-hundred that attended?

5 A Yes. It doesn't matter.

6 Q This would have been an election by people
7 who regularly attended the events, I guess?

8 A Yes.

9 Q Also I think you said the academic team?

10 A Yes. I'm sorry, it's the academic team that
11 I was -- what is it called? I don't remember.

12 Q Well, I'm just looking at this. This is, you
13 list the academic team and that you were treasurer?

14 A Yes, I was treasurer.

15 Q What exactly is the academic team?

16 A The academic team is also just a team that
17 goes and competes everywhere. They go on TV for
18 some show, I don't remember what it was but it was
19 on like, not ESPN, but that local show in
20 Greenwood, but we just take a whole bunch of tests
21 all the time, it's nothing really exciting.

22 Q But you go and compete different places?

23 A Yes.

24 Q How often would you go and compete different
25 places?

[REDACTED] - CROSS EXAMINATION

1 A I wasn't able to compete much just because I
2 was busy with other things plus it wasn't on top of
3 my list. Also I was treasurer, I did the
4 fundraising with March of Dimes and dealt with all
5 the money and not so much from competing. As you
6 can see from my SAT score, I wasn't too good at
7 taking tests.

8 Q But you were involved in it?

9 A Yes, I was involved.

10 Q And you attended the meetings?

11 A Yes, I did.

12 Q And how many people were involved in that?

13 A There was usually about, I think, ten from
14 each class, excluding the freshmen, so there was
15 probably about thirty in there.

16 Q Okay. And out of that thirty that group
17 elected you to be the treasurer?

18 A Yes, sir.

19 Q Did you ever go on any of these trips where
20 they went to compete various places?

21 A I never went on the ones that were off
22 campus. I stayed on the ones in campus that would
23 be held through the internet in the library and I
24 would do those.

25 Q Okay. And I believe you said you also had a

██████████ - CROSS EXAMINATION

1 leadership role in the Beta Club?

2 A Yes. That was just called the National Honor
3 Society, which is one of the certificates that you
4 handed me.

5 Q Okay. And again the leadership position, was
6 that something that was elected?

7 A No, not elected. That was something that
8 just was, something you didn't try for, just you
9 received because of good grades.

10 Q That probably came because of the fact you
11 were at the top of your class?

12 A Yes.

13 Q You also said that you were the MVP on the
14 cross country team?

15 A Yes, sir.

16 Q And how does one go about becoming the MVP on
17 a cross country team?

18 A To be the most valuable player you have to
19 bring in the most points and basically you're the
20 fastest runner.

21 Q And in fact you were a pretty good athlete in
22 high school, weren't you?

23 A Yes, sir.

24 Q And by being the MVP, probably the best on
25 the team?

██████ ██████ - CROSS EXAMINATION

1 A Yes, sir.

2 Q And you competed in the state championships,
3 I believe?

4 A Yes, sir.

5 Q Now, I think you were also a member of the
6 Interact Club?

7 A Yes, sir.

8 Q What is that?

9 A That's a service club where you give back to
10 the community. Basically our number one campaign
11 was we put on Saturday Night Live skits and raised
12 money for the kids locally around here during
13 Christmas time.

14 Q Where would you put on the Saturday Night
15 Live skits?

16 A They were at Abbeville High School, in the
17 cafeteria during school hours.

18 Q Okay. And did it involve spending some time
19 at the nursing home and stuff like that?

20 A Yes. I was going to the nursing home to play
21 bingo there with the ladies.

22 Q And which nursing home was that?

23 A Abbeville.

24 Q Okay. Now, I believe you said in your direct
25 testimony that you did a lot of the caretaking for

[REDACTED] - CROSS EXAMINATION

1 your younger siblings?

2 A Yes, sir.

3 Q When did that start?

4 A From the point that I was able. I remember
5 very young, a very young age babysitting my brother
6 who is only two years younger than me.

7 Q And when do you think that you took over some
8 of the responsibilities with regard to your two
9 youngest siblings?

10 A Pretty much immediately.

11 Q When they were born?

12 A Yes, sir.

13 Q And where would you all have been living when
14 that happened?

15 A We would have been living in southern
16 Illinois.

17 Q I believe you testified that your mother was
18 out of the house a lot?

19 A Yes, sir.

20 Q And that she was the one who when you were
21 growing up earned the most money between your
22 mother and your father?

23 A The majority of the time I would say yes.

24 Q Okay. And do you remember that, I guess,
25 going back to when you all were living in

[REDACTED] - CROSS EXAMINATION

- 1 California?
- 2 A Yes, sir. My mother was always on call, she
3 always had the beeper, worked nights, additionally
4 she would be on call working nights, worked long
5 shifts, but she also went to school for some time.
6 In addition to that she would have to take leaves
7 where she would be gone for two weeks or a weekend
8 when she was working, so she was gone quite a bit.
- 9 Q She was in the military?
- 10 A Yes, in the Navy.
- 11 Q In the Navy?
- 12 A Yes.
- 13 Q And you would have been what age during this
14 time that you lived in California?
- 15 A Oh, I was just a child. We probably left in
16 1989 or 1990, I think we were in a big quake there,
17 so less than five, I'm not exactly sure, we moved
18 so much it's very confusing.
- 19 Q Okay. The big quake would have been the one
20 about the time of the World Series that year?
- 21 A Yes, that's right.
- 22 Q So, that was about 1989. Does that sound
23 about right?
- 24 A Yes, that sounds about right.
- 25 Q That also coincided about the same time as

[REDACTED] - CROSS EXAMINATION

1 your mother left the Navy, didn't it?

2 A Yes.

3 Q That also coincided at about the same time
4 that the first conflict with Iraq came about?

5 A Maybe. I was young.

6 Q You were very young, okay. During that
7 period of time you would have been young and your
8 oldest brother would have been about two years
9 younger than you, your father did a lot of the
10 child raising at that point?

11 A Yes, he pretty much raised us two younger, us
12 two older ones.

13 Q Okay. And he would work some jobs sometimes,
14 wouldn't he?

15 A Yes.

16 Q At that point he was basically supplementing
17 the family income because your mother was the
18 primary money earner?

19 A Yes.

20 Q And sometimes during the summers there would
21 be, I guess, some child care for you to go to and
22 he would work some construction jobs, maybe longer
23 hours then?

24 A Probably. I was a child.

25 Q But he was the one, when you all were that

██████████ - CROSS EXAMINATION

1 age, that he did a lot of the cooking for the
2 family?

3 A Yes.

4 Q In fact he taught you how to cook, didn't he?

5 A Yes, he did.

6 Q He would be the one that -- I guess you
7 probably had started school in California?

8 A Yes, I did.

9 Q And he would have been the one that helped
10 you with your homework a good bit of the time?

11 A Yes, as a young child.

12 Q And not to -- let me rephrase that. Do you
13 remember what type of subjects he would help you
14 with?

15 A Mostly math.

16 Q Okay. And with your mother working those
17 hours and being away, if you all needed to be taken
18 places he is the one who would do that?

19 A I guess so. Again this is a young age where
20 you don't remember your everyday daily activities
21 but I figure so, since he was the one at home.

22 Q But you remember your mother being away a
23 lot?

24 A Yes.

25 Q And you remember the time at home, the father

[REDACTED] - CROSS EXAMINATION

1 in general being the one who took care of the
2 children?

3 A Yes.

4 Q All right. So, sometime around the end of
5 1989, 1990 your mother left the Navy and you all
6 moved to southern Illinois?

7 A Correct. She left active duty and became a
8 reserve.

9 Q But there was a change in her status?

10 A Yes.

11 Q And a change in her job, so instead of
12 getting up every day and going to be a nurse in the
13 Navy, and that was her job, she was a nurse, right?

14 A Yes.

15 Q Instead of doing that, she had a job as a
16 nurse in southern Illinois?

17 A Yes, at Memorial Hospital.

18 Q So, she would go to that and then the
19 Reserves would just be part-time?

20 A Yes, usually on the weekend.

21 Q Okay. And it was when you all were in
22 southern Illinois that your youngest brother and
23 your sister were born?

24 A Yes.

25 Q Again, while you all were living in that part

[REDACTED] - CROSS EXAMINATION

1 of the country your mother was the one who was
2 earning the most income between her and your
3 father?

4 A Yes.

5 Q And your father would work some jobs to
6 supplement that?

7 A Yes, odd jobs, yes.

8 Q But he was also the one who did a lot of
9 taking care of the children?

10 A In southern Illinois that was the majority of
11 my responsibility.

12 Q Okay. When do you think you took over and
13 that was the majority of your responsibility?

14 A Probably when the third child was born, when
15 I was about the age of ten, and this would be in
16 1995, I pretty much took complete responsibility of
17 the children and house cleaning.

18 Q So, you did all the house cleaning?

19 A Pretty much.

20 Q And when you say you took up the
21 responsibility of all the children, what did you
22 take up and do?

23 A Diaper changing, baths, rocking for hours
24 before bedtime while mother took a shower. You
25 name it, I did it.

[REDACTED] - CROSS EXAMINATION

1 Q Okay. Who did the cooking?

2 A It was about half and half with me and Mark
3 Bolte but the cleaning afterwards was me.

4 Q Okay. So, you all took turns cooking but you
5 did all the cleaning?

6 A Pretty much.

7 Q Okay. Did anybody help you with your
8 homework at that point?

9 A No. I was very independent.

10 Q Okay. Did you help your brothers and your,
11 your brother and your sister, two brothers and
12 sister with their homework?

13 A Yes. That was a very big responsibility.

14 Q You were a good student in Illinois as well,
15 weren't you?

16 A Yes. I also graduated valedictorian in
17 Illinois.

18 Q And when you all moved to South Carolina, I
19 believe we determined that was around the end of
20 1998, 1999?

21 A Uh-huh (Affirmative).

22 Q You would have turned fifteen in January of
23 1999?

24 A Yes, sir.

25 Q Did you continue with these responsibilities

[REDACTED] - CROSS EXAMINATION

1 as far as raising the children at that particular
2 point in time?

3 A Yes, I did.

4 Q The first house that you all lived, tell us
5 which house that was, again?

6 A It was the big blue house in Donalds with the
7 Rice family.

8 Q Okay. And the Rices are related somehow to
9 your father?

10 A Yes.

11 Q Okay. Now, at that point there would have
12 been you and your mother, your father, two brothers
13 and sister. So there would have been six of you
14 all --

15 A Yes, sir.

16 Q -- living in that house. How many members of
17 the Rice family were there?

18 A There was the two uncles, one of the uncle's
19 wives and three kids, so I believe they had six as
20 well.

21 Q Okay. So, that was a lot of people living in
22 that house at that time?

23 A Yes, that would make us, make twelve.

24 Q You only lived there for a short period of
25 time?

[REDACTED] - CROSS EXAMINATION

1 A Yes, like two and a half, three months.

2 Q All right. And the next house was, was it

3 [REDACTED] [REDACTED]

4 A Yes, sir.

5 Q And that was in Due West?

6 A Yes.

7 Q When you were in Abbeville High School, that
8 was your tenth, eleventh and twelfth grade years?

9 A Yes, sir.

10 Q I understand that it is your testimony that
11 you continued to be the one primarily responsible
12 for the other children?

13 A Yes, sir.

14 Q In your tenth grade year you would have been
15 fifteen and turned sixteen, is that right, 1999 to
16 2000?

17 A Yes.

18 Q Sixteen, and turned seventeen in the eleventh
19 grade, sixteen when you started and turned
20 seventeen?

21 A Yes.

22 Q And seventeen and then turned eighteen in the
23 twelfth grade?

24 A Yes, sir.

25 Q The responsibility you took with the other

██████████ - CROSS EXAMINATION

1 children, was that all three of them or just the
2 two youngest?

3 A Mostly just the two youngest. The oldest one
4 took care of himself but when it came to like
5 academics or transportation, then that's when I
6 filled the position to the best of my ability.

7 Q I'm sorry, I didn't hear that last?

8 A Filled the position to the best of my
9 ability.

10 Q For everybody?

11 A Yes.

12 Q Including your oldest brother?

13 A Yes.

14 Q Focusing on the tenth grade year, 1999 to
15 2000, you would have been fifteen when you started,
16 what was the typical school day, the school hours,
17 not taking into account any of these other
18 activities, the hours that everybody was required
19 to be there?

20 A Outside of school?

21 Q No, no. The hours that the school required
22 all the students to be there, not any of the extra
23 activities, just what you were required to be there
24 for, what time did you have to be there to make
25 your first class?

[REDACTED] - CROSS EXAMINATION

1 A Probably about 7:30 and I would be gone, I
2 guess school let out at 2:30, 3:00, I don't
3 remember. So, probably about 8:00 to 3:00.

4 Q Okay. So, sometime before 8:00 you would be
5 there, maybe as early as 7:30, until 3:00 in the
6 afternoon?

7 A Yes, sir.

8 Q What type of activities were you doing for
9 your brothers and sisters at this particular point
10 in time?

11 A I was getting them ready for school in the
12 morning, getting them dressed, their teeth brushed
13 and on the school bus.

14 Q All right. So, all that would have been
15 before 7:30?

16 A Yes.

17 Q All right. What activities would you do for
18 the children in the afternoon?

19 A My brother and sister in the afternoon, I
20 would simply, depending on what time I got home, I
21 would help them with their homework, ask how their
22 day was, sign their agenda, look at their notes.
23 When they are younger you have to do all that
24 behavior stuff. Try to cook the meal, if not cook
25 it, then I would clean up afterwards. I would make

██████ ██████ - CROSS EXAMINATION

1 sure they got their teeth brushed and bathed and
2 help them with their homework and do their tuck-in.

3 Q How long would you spend helping them with
4 their homework?

5 A It averaged, I mean, their homework wasn't
6 too difficult so we would probably get it done in
7 about thirty minutes.

8 Q For all, for both of them, the two younger
9 ones in thirty minutes?

10 A Approximately, probably an hour for
11 everybody.

12 Q You said if you didn't cook the meals you
13 would clean up. Mark, your father, did some of the
14 cooking, too, didn't he?

15 A Yes, he did.

16 Q The shopping, who did the shopping, buy
17 groceries?

18 A That was something that my father and I did
19 together.

20 Q Okay. And you would take your other brothers
21 and sisters, your brother and sister with you, too?

22 A Sometimes, sometimes not. We usually tried
23 to go grocery shopping the days that mother was off
24 and then me and my father would do what we call
25 coupon shopping.

[REDACTED] - CROSS EXAMINATION

1 Q You did the grocery shopping on the days that
2 your mother was off?

3 A We usually would try to do that.

4 Q Coupon shopping, what was that?

5 A That was just grocery shopping with coupons.

6 Q When would you try to do that?

7 A I guess sometimes in the afternoons or
8 evenings, probably on Saturdays after yard sales.

9 Q Okay. Shopping for clothing for all of you,
10 who did that?

11 A Mostly me and my father.

12 Q Okay. But sometimes your brothers and sister
13 would go along, too?

14 A Sometimes, yes.

15 Q How much time per week do you think you spent
16 with these activities with the other children?

17 A I really have no idea, I never really sat
18 there and clocked it. I didn't treat it like a
19 job, it wasn't a responsibility either, it was
20 something I enjoyed doing. It was part of my daily
21 activities. It wasn't a set schedule, "Okay,
22 children, this is one hour we have to get our
23 homework done and our baths." Most parents know
24 with younger children it is no set schedule. I
25 really can't tell you at all.

[REDACTED] - CROSS EXAMINATION

1 Q You don't have any idea?

2 A Well, I could sit here and take my time.
3 Maybe five hours a day, so let's say five times
4 seven is 35 hours I would spend with them.

5 Q Okay. And I'm sure it varied some from week
6 to week but that's your best estimate?

7 A Yes.

8 Q And right now we have kind of been talking
9 about the tenth grade but was it that same amount
10 of time for really all three of those years, tenth,
11 eleventh and twelfth grade?

12 A Probably so.

13 Q Okay. How much time do you think you spent
14 in your extracurricular activities?

15 A In the tenth grade it really wasn't too much
16 because I was a new student and just starting to
17 work my way into the school. But by my eleventh
18 grade year I was very, very involved and I say at
19 least an average I would spend two hours after
20 school.

21 Q Okay. And that's with just the school
22 activities?

23 A Yes, probably, between cross country and
24 meetings and stuff late at night.

25 Q Well, how much time did you spend with cross

[REDACTED] - CROSS EXAMINATION

1 country?

2 A Since I was kind of fast, three miles took me
3 about twenty minutes, so it really wasn't much time
4 at all.

5 Q You didn't spend much time per week with
6 cross country?

7 A No. I would go after school and I would do
8 my three miles and then I would be done. Now,
9 there was the meets that took up quite a bit of
10 time but, again, they just said ready, get set and
11 go, and you race and go.

12 Q With the practice and the meets, how long do
13 you think you spent with that per week?

14 A Two hours, three hours.

15 Q I'm going to show you this form. That's a
16 form that you filled out for one of your
17 scholarships or several of your scholarships?

18 A Uh-huh (Affirmative).

19 Q And you list cross country. Is that right?

20 A Yes, and I said with the school, as Mark
21 Bolte knows, I ran a lot late at night and after
22 hours where I would just run and run like on the
23 weekend on my own and I would do sometimes six,
24 seven, eight miles. This is what I'm putting as
25 far as a team.

[REDACTED] - CROSS EXAMINATION

1 Q Okay. You list cross country in your
2 eleventh and twelfth grade here. Is that right?

3 A If you want you can go by this, just because
4 this is when I wrote it when I was in school and
5 right now this is about four or five years later
6 where I don't remember exactly as much time as I
7 put into it.

8 Q At the time you did this, that was in October
9 of 2001?

10 A That would probably be one of my better
11 estimates.

12 Q To the best of your knowledge, the
13 information provided in this application is
14 complete and accurate?

15 A Yes, sir.

16 Q How much time did you list?

17 A I put fifteen hours on there.

18 Q All right. And with student government, how
19 much time did you spend with that?

20 A What does it say? Student government,
21 student council would have been five.

22 Q Okay. And with FCA?

23 A Two.

24 Q And Interact?

25 A Two.

[REDACTED] - CROSS EXAMINATION

1 Q Academic Team?

2 A One.

3 Q National Beta Club?

4 A One.

5 Q National Honor Society?

6 A One.

7 Q And it looks like your eleventh grade year
8 you were a teacher cadet?

9 A Yes, eight hours. I had to actually speak
10 Spanish at Westwood Elementary.

11 Q Okay.

12 Q Now, you indicated that, on your direct
13 examination, I believe, that you were never allowed
14 to wear swimsuits at the beach?

15 A Yes.

16 Q Okay. How would you be required to dress at
17 the beach?

18 A My father would want shorts on the bottom if
19 it was a full piece. Two piece, then shorts and a
20 shirt.

21 MR. GROSE: Let me mark this for
22 identification only.

23 (Defendant's Exhibit Number 10 was marked).

24 Q Can you identify that picture?

25 A Yes, this is my mother and brother and

██████████ - CROSS EXAMINATION

- 1 myself.
- 2 Q Okay. And where is that at?
- 3 A This is at St. Augustine Beach in Florida.
- 4 Q When was that picture taken?
- 5 A Spring break.
- 6 Q For what year?
- 7 A I don't remember. Either my junior or senior
- 8 year.
- 9 Q Okay.
- 10 A My senior year.
- 11 Q And that is on the beach?
- 12 A Yes.
- 13 Q And you are wearing a swimsuit?
- 14 A Yes.
- 15 Q With no shorts?
- 16 A Yes.
- 17 Q And do you remember who took that picture?
- 18 A Mark Richard Bolte did.
- 19 Q Your father?
- 20 A Yes.
- 21 MR. GROSE: Your Honor, we would move
- 22 Defendant's Exhibit Number 10 into evidence.
- 23 THE COURT: How says the State?
- 24 MS. MAYES: No objection.
- 25 THE COURT: Without objection it will be

██████████ - CROSS EXAMINATION

1 marked.

2 (Defendant's Exhibit Number 10
3 was received in evidence).

4 BY MR. GROSE:

5 Q And I believe you testified you were never
6 allowed to wear any type of skirt without any
7 shorts on?

8 A Yes.

9 MR. GROSE: Mark this a defendant's exhibit
10 for identification only.

11 (Defendant's Exhibit Number 11 was marked).

12 BY MR. GROSE:

13 Q I'm going to show you what we have marked as
14 Defendant's Exhibit Number 11. Can you identify
15 that picture?

16 A Yes. That's me.

17 Q Okay. When was that taken?

18 A Probably my senior year when I was doing
19 skits.

20 Q Okay. Do you know who took that picture?

21 A Mark Richard Bolte did.

22 Q Okay. And you were dressed up, you weren't
23 actually a cheerleader but you were dressed up like
24 a cheerleader for the skits?

25 A Yes. I was going to do the Spartan

██████████ - CROSS EXAMINATION

1 cheerleaders.

2 MR. GROSE: We would move Defendant's Exhibit
3 Number 11 into evidence.

4 THE COURT: How says the State?

5 MS. MAYES: No objection.

6 THE COURT: Without objection it will be
7 marked and become part of the evidence in the case.

8 (Defendant's Exhibit Number 11
9 was received in evidence).

10 MR. GROSE: Beg the Court's indulgence for a
11 moment, please.

12 BY MR. GROSE:

13 Q I believe we determined that 2002 would have
14 been in your senior year in high school?

15 A Yes.

16 Q And you would have turned eighteen on ██████████
17 ████████?

18 A Yes.

19 Q Your prom that year, do you remember what
20 date that was on?

21 A It was April the 20th, I'm pretty sure,
22 because it was the third Saturday in April.

23 Q All right. And do you remember what day that
24 you graduated? You can get down and step closer if
25 it helps.

[REDACTED] - CROSS EXAMINATION

1 A Maybe the 25th of May.

2 Q Okay.

3 A Because I think that's on a Saturday as well.

4 Q All right. So, just approximately, that was
5 your graduation?

6 A Yes, sir.

7 Q All right. I believe that you had said that
8 the police came to your house on the date of your
9 prom?

10 A Yes, sir.

11 Q And, so, that would have been, the best of
12 your recollection, April 20?

13 A Yes, sir.

14 Q And I think you also said that the police
15 came to your house another time?

16 A Yes, they did.

17 Q Do you remember that date being about April
18 the 8th?

19 A Not really. I guess, if that's what the
20 records show. I don't want to say yes if I don't
21 remember.

22 Q But it was the same month, before April 20th?

23 A Yes.

24 Q And it was in the same month?

25 A Probably so.

[REDACTED] - CROSS EXAMINATION

1 Q Or if not, very close to it?

2 A Yes.

3 Q Okay. Now, you had indicated earlier that
4 you had actually forged your mother's name on some
5 documents that were sent to school?

6 A Yes, sir.

7 MR. GROSE: Mark this as the next defense
8 exhibit.

9 (Defendant's Exhibit Number 12 was marked).

10 BY MR. GROSE:

11 Q I'm going to hand you what has been marked
12 Defendant's Exhibit Number 12. There are multiple
13 documents there. Take a second and look through
14 those.

15 A Yes, I recognize all of these.

16 Q Those are some of the documents that you
17 forged your mother's signature on?

18 A Yes, sir.

19 MR. GROSE: Your Honor, I don't remember the
20 number, I believe it's Number 12. We would move
21 that into evidence.

22 THE COURT: How says the State?

23 MS. MAYES: Your Honor, I would object as to
24 the content of some of these materials because it
25 deals with potential hearsay. However, she has

[REDACTED] - CROSS EXAMINATION

1 acknowledged that she signed each of these
2 documents and signed her mother's name instead of
3 her mother signing her own name, so I don't object
4 to this line of testimony but I do object to the
5 content of the documents themselves.

6 MR. GROSE: Your Honor, they are not being
7 offered -- well, they are being offered at this
8 point for the fact that they were forgeries, and
9 being forgeries, they are actually, even though
10 she's forged her name on it, those are actually
11 prior statements of hers and some of the content of
12 them is actually inconsistent with her prior
13 testimony.

14 MS. MAYES: Your Honor, the only way to
15 establish that would be hearsay based on what is in
16 these documents. I also have an objection to Rule
17 5, which was filed by the State, we were not
18 provided these documents by Mr. Grose nor the
19 photograph previously offered.

20 MR. GROSE: Your Honor, the State only served
21 the reciprocal Rule 5 about two weeks ago, the
22 thirty days hasn't transpired, these records are
23 from Abbeville High School, she said she had the
24 records from Abbeville High School, and Rule 5 only
25 applies to the case in chief. This is not our case

[REDACTED] - CROSS EXAMINATION

1 in chief.

2 MS. MAYES: If these are documents offered by
3 the defense, which they are, Rule 5 covers
4 photographs, any tangible documents that we may
5 intend to offer. We would just ask at this time
6 for full compliance with Rule 5 so we could take up
7 these matters.

8 THE COURT: The Court will allow Exhibit
9 Number 12 to be an identification exhibit only at
10 this time and we will take it and redact it later.

11 DEFENSE ATTORNEY: Thank you, Your Honor.

12 THE COURT: Continue cross-examination. Take
13 these documents from the witness, please.

14 The Court will correct itself. Possible
15 redaction of any part of Defense Exhibit 12 will be
16 considered later.

17 MR. GROSE: Okay.

18 BY MR. GROSE:

19 Q Some of the reasons that you turned those
20 notes in were for your own illnesses?

21 A Probably, yes, sir.

22 Q Okay. Now, during your junior year didn't
23 you in fact cut class some?

24 A That was in my senior year when I did cut
25 class but a majority of the time there was no need

[REDACTED] - CROSS EXAMINATION

1 to cut class because I would write the note, and I
2 had a study hall and the only way you could be
3 excused from study hall was with a note, so I would
4 excuse myself so I could go pay bills, buy
5 groceries, pay car insurance, phone bill, you name
6 it, I stayed busy during this time, this is
7 something my mother and my father completely are
8 aware of because I was highly responsible.

9 Q Okay. So, you deny that you would have had
10 an in-school suspension for cutting class your
11 junior year?

12 A I might have but I'm pretty sure that was in
13 my senior year.

14 Q Are you sure you weren't suspended both your
15 junior and your senior year?

16 A I was suspended both my junior and my senior
17 year.

18 Q Okay. For cutting class?

19 A Not both for cutting class.

20 Q You said that you didn't have any friends,
21 weren't allowed to go out with friends?

22 A Yes, sir.

23 Q There was somebody named T. J. Keith that you
24 did things with, wasn't there?

25 A Yes, sir, there was.

██████████ - CROSS EXAMINATION

1 Q You would go to movies?

2 A No.

3 Q Did you go to concerts, Christian concerts?

4 A This was all after the fact of the college,
5 we had developed our relationship. T. J. Keith
6 would take me back and forth to school my sophomore
7 year because I did not have a vehicle and I was
8 going to a school in a different city and we went
9 to church together.

10 Q Your sophomore year, tenth grade year at
11 Abbeville High School?

12 A We would also do things together as a family,
13 we would have family barbecues.

14 Q Okay. And there was a girl named Sally?

15 A Sally Trotter, she was on the cross country
16 team with me, and FCA's, Student Council.

17 Q And you would go spend the night at her house
18 sometimes?

19 A Never once have I ever seen her house. I
20 would like to think I had many, many friends due to
21 the fact of everything I was involved in but
22 actually develop close relationships outside of
23 school and school activities, I did not have that
24 many.

25 Q Now, on your direct examination you were

[REDACTED] - CROSS EXAMINATION

1 asked about going to Family Court for a protective
2 order?

3 A Yes.

4 Q Do you remember the day that you filled out
5 the application for the protective order?

6 A No, I don't. It was probably December,
7 sometime in December. I really have no idea.

8 Q Okay.

9 A There was many hearings during this time.

10 Q Is this -- well, that's your petition for the
11 order, for protective order?

12 A Uh-huh (Affirmative).

13 Q And that's dated November 26th, 2002?

14 A Okay.

15 Q Now, you said that, you mentioned December a
16 minute ago. The court date was actually December
17 9th, wasn't it?

18 A That sounds about right.

19 Q Okay. You have seen that, that's the result
20 of the hearing?

21 A Yes, sir.

22 Q And that's the hearing held on December 9th?

23 A Uh-huh (Affirmative). Can I add anything on
24 the clarity of the signatures, just to clarify
25 something?

[REDACTED] - CROSS EXAMINATION

1 Q On the forgeries?

2 A Yes, sir.

3 Q What?

4 A Well, the fact is those are not school
5 records, my father personally asked for those
6 because he tried to get me in trouble and even at
7 that time he was threatening me. That was not part
8 of the school records, otherwise I would have just
9 give that to the State, that was something my
10 father got on his own.

11 Q From where?

12 A From the school. Mrs. Davis, she told me and
13 then my father wrote a letter to the school
14 apologizing for trying to get me in trouble, which
15 you might want to add that in there as well.

16 Q Are you denying that you gave the school
17 signatures that were forged?

18 A No, sir, I'm not denying that, I did do that.

19 Q Okay.

20 A I just heard you say earlier that you
21 obtained those from the school, which the State
22 would have received that, those are something
23 personally that my father went out of his way to
24 get while I was going to school, being he found out
25 I was skipping school and he did not like that,

[REDACTED] - CROSS EXAMINATION

1 that he did not have that control where I was going
2 and what I was doing.

3 Q All right. Are you saying that your father
4 made up this document?

5 A No, sir.

6 Q Are you saying that the school doesn't have
7 these documents?

8 A They do have them but they had to be
9 requested. Those are usually something they just
10 throw away, they read them that day and they throw
11 them away. I'm sure at this point many days later
12 it is not something that would be in my school
13 record and my folder, because I have seen it and I
14 just recently got it.

15 Q Okay. Now, on December 26th, I'm sorry,
16 November 26th, when you signed your petition for
17 the protective order, are you aware whether or not
18 your mother filed a petition or signed a petition
19 that same day?

20 A As for as a protection order, yes, this was
21 something we were doing as a family just to keep
22 our distance from him.

23 Q Okay. And the hearings on both cases were
24 actually on December 9th?

25 A Yes.

██████████ - CROSS EXAMINATION

1 Q Okay.

2 A It was something we did together as a family.

3 Q You and your mother?

4 A Yes.

5 THE COURT: We'll break, Mr. Grose, either
6 now or in a few minutes.

7 MR. GROSE: Now would be a good time, Your
8 Honor.

9 THE COURT: Madam Witness, you may not
10 discuss your testimony given or any questions asked
11 or any questions you expect may be asked you or any
12 answers you could give to those possibly
13 anticipated questions but you are expected to relax
14 as well. Do you understand the instructions?

15 THE WITNESS: Yes, sir.

16 THE COURT: Thank you. Come down please, and
17 watch your step.

18 Ladies and gentlemen, we will take a short
19 recess at this time for the convenience of all
20 concerned. Do not discuss the case by, between and
21 among yourselves, and retire to the jury room.
22 Keep in mind the selection of a foreperson if you
23 feel comfortable in doing it.

24 Thank you.

25 (The jury was excused from the courtroom

██████████ - CROSS EXAMINATION

1 at 3:48 p.m.).

2 THE COURT: The jurors have asked for
3 something to write with. Okay, we have that. Any
4 objection to Mr. Simpson just handing that in, from
5 the State?

6 MS. MAYES: No, sir.

7 THE COURT: From the defense?

8 MR. GROSE: No, sir, and just for the record,
9 this is not for taking notes, this is just for them
10 to communicate with the Court?

11 THE COURT: Yes. One of them asked for
12 something to write on, possibly to select a
13 foreman. We'll be in recess, please. Thank you.

14 (Recessed at 3:49 p.m.).

15 (Reconvened at 4:22 p.m.).

16 THE COURT: We will open the record, please.
17 This is State of South Carolina versus Mark Richard
18 Bolte, indictment 2003-296.

19 Is there anything from the State before the
20 jurors come in?

21 MS. MAYES: Yes, sir, Your Honor. I believe,
22 I realize this may sound trivial, but when there
23 was a lunch break the victim, along with several
24 other witnesses, of course, did attend a local
25 restaurant at the lunch hour. Obviously there were

██████████ - CROSS EXAMINATION

1 jurors who saw them coming and going from the
2 restaurant and when she resumed the stand I think
3 she was questioned about whether or not she had
4 discussed the case with anyone, and of course her
5 answer was no. I would like for the jurors to have
6 an understanding she's not prohibited from having
7 contact with the State or any of our
8 representatives or potential witnesses, it's just
9 limited to not discussing the testimony. I
10 wouldn't want anyone to get the idea she violated
11 the Court's order by going to lunch with any of the
12 staff or potential witnesses.

13 THE COURT: What would you suggest? Would
14 you suggest just a very brief instruction when they
15 come out?

16 MS. MAYES: Yes, sir.

17 THE COURT: Something along that line?

18 MS. MAYES: At the Court's discretion, yes,
19 sir.

20 THE COURT: Thank you. Mr. Grose, what's
21 your view?

22 MR. GROSE: Could I have just a moment, Your
23 Honor?

24 THE COURT: Sure.

25 MR. GROSE: Your Honor, I'm not certain what

[REDACTED] - CROSS EXAMINATION

1 instruction the government is requesting exactly.
2 Could we have some clarification about that?

3 MS. MAYES: Just, Your Honor, during a break
4 contact with other people is not prohibited, just
5 discussion of any specific, or discussion of the
6 testimony, but not having contact or interaction.

7 THE COURT: Whether there was any discussion
8 of the case?

9 MS. MAYES: Yes.

10 MR. GROSE: What I want to guard against is
11 coming across to the jury with any insruction, that
12 you made some kind of ruling or finding of facts.
13 The instructions are clear, the jury has heard you
14 give the insructions, the instructions are just
15 don't discuss it with anybody else. The jury has
16 heard the questions that you have asked, that she
17 didn't discuss it with anybody else, and given
18 those answers. Your instructons thus far
19 throughout this trial and at the end of this trial,
20 they are to decide this case based on only the
21 evidence presented in this courtroom, and I feel as
22 though if you make some sort of instruction to the
23 jury, and I'm not saying you can't make any
24 instructions, I'm just saying if you make some sort
25 of instruction to the jury, that it could come

██████████ - CROSS EXAMINATION

1 across that you are making some sort of finding
2 that she didn't do anything wrong, and I'm not
3 saying that she did, I mean, she's testified that
4 she didn't, but it could be considered and viewed
5 by them, the jurors, who are not as familiar with
6 our criminal justice system as you, as you passing
7 on her credibility. Not only would that in and of
8 itself have the effect of perhaps bolstering her
9 improperly, although unintentionally, it would also
10 amount to a comment on the facts of the case, which
11 is barred by the State Constitution.

12 THE COURT: Well, will you waive an objection
13 on redirect and permit counsel for the State to ask
14 where she went for lunch and what she talked about?

15 MR. GROSE: If they want to do that, that's
16 fine, Your Honor, as long as it's not coming from
17 the Court. That's fine.

18 MS. MAYES: Yes, sir, Your Honor, at this
19 point I don't even want to plant a seed in the
20 jurors' minds about that anything improper occurred
21 because, of course, it has not. So, I'll just,
22 we'll just resolve that. I guess we were thinking
23 that not specific to this witness or maybe not even
24 immediately following her testimony, but just that
25 at some point acknowledge that although witnesses,

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1 when a witness leaves the courtroom they may be
2 allowed to have contact with each other and
3 socialize, just not discuss the case, that it
4 doesn't have to be specific to this witness or even
5 to the State's witnesses, just as to any potential
6 witness.

7 THE COURT: Well, the Court will consider
8 giving some short instruction during the final
9 charge that's non specific to anyone. That would
10 alay any difficulties you may have, would it not,
11 Mr. Grose? We may have this same kind of situation
12 occur with other witnesses.

13 MR. GROSE: I doubt it, Your Honor, because
14 it goes to a difference between the way some of my
15 clients, likely the main witness will be my client,
16 I doubt the jurors are going to see it as to any
17 other witnesses we might call. In the past, and
18 the jury doesn't know this except that, one, they
19 saw him but weren't selected, that Mark is in
20 custody. In the past when I have had recesses in
21 this courtroom in criminal jury trials, when my
22 client was testifying, we take a break in the
23 middle, my client is locked back there and doesn't
24 have contact with anybody, as opposed to a lunch
25 break, so I don't think it's going to come up as an

[REDACTED] - CROSS EXAMINATION

1 issue in our case. I'm not going to object to a
2 proper neutral instruction but I just want to know
3 what it is ahead of time so I can be able to
4 comment on it and make any objections if I think
5 it's not proper.

6 THE COURT: Miss Mayes, at your convenience
7 will you write a proposal, very brief succinct
8 statement along the lines that you request?

9 MS. MAYES: Yes, sir, Your Honor.

10 THE COURT: And we'll take care of that, and
11 also you may pose a question to her about it to
12 clear up any matter on redirect concerning that.

13 Anything further from any quarter?

14 MS. MAYES: No, sir, Your Honor.

15 THE COURT: Show the jury in, Mr. Simpson.

16 (The jury returned to the courtroom
17 at 4:28 p.m.).

18 THE COURT: All jurors are present, with the
19 foreman, Julia Bowie, juror number 12, having been
20 selected and is in her proper seat.

21 Madam Forelady, you will occupy that seat
22 during the balance of the trial. Other jurors may
23 sit where you're comfortable and the alternates
24 will always remain in those seats.

25 Madam Clerk, this will be a court's exhibit

[REDACTED] - CROSS EXAMINATION

1 at the convenience of the court reporter.

2 (Court Exhibit Number 1 was marked).

3 THE COURT: Madam Witness, have you talked
4 with anybody at all during the recess concerning
5 this case or anything that you have testified to or
6 any questions that you have been asked or answers
7 you have given to them?

8 THE WITNESS: No, sir.

9 THE COURT: Have you discussed this case at
10 all?

11 THE WITNESS: No, sir.

12 THE COURT: Thank you.

13 Continue cross-examination, Mr. Grose.

14 MR. GROSE: Thank you, Your Honor.

15 BY MR. GROSE:

16 Q Just to go back to some things we talked
17 about before the break, I think we determined that
18 the protective order hearing was on about December
19 9th of 2002?

20 A Yes, sir.

21 Q Okay. And you testified at that hearing,
22 didn't you?

23 A Yes, sir.

24 Q Okay. And at that hearing you testified and
25 made some of these claims of the sexual abuse,

[REDACTED] - CROSS EXAMINATION

1 didn't you?

2 A Yes, sir.

3 Q And in fact you made those claims in your
4 petition that was filed in November, I believe the
5 26th?

6 A Yes, sir.

7 Q At the time that you testified in that
8 hearing you didn't say anything about the sexual
9 intercourse, did you?

10 A During that hearing?

11 Q On December 9th.

12 A No, I probably did not give any specifics. I
13 was very vague there because I was not at the time
14 pressing charges.

15 Q Okay. You did testify, though, that it ended
16 with a couple of attempted rapes?

17 A Those are my words exactly. Attempted rapes
18 is what I said, because from what I know of rape,
19 that's when you say no, and that's when you use
20 force, and as I said earlier, I didn't want to be
21 hurt, so most of the time it was easier just to lay
22 there, so I used the word attempted.

23 Q But you didn't testify about any completed
24 sexual intercourse at that Family Court hearing,
25 did you?

[REDACTED] - CROSS EXAMINATION

1 A I did not find it necessary, so therefore I
2 did not.

3 Q You were under oath at that hearing, weren't
4 you?

5 A Yes, sir, I was.

6 Q Just like you are today?

7 A Yes, sir.

8 Q To tell the truth, the whole truth and
9 nothing but the truth?

10 A Yes, sir.

11 Q Now, sometime after this hearing is when your
12 mother filed for the divorce, isn't it?

13 A I believe so.

14 Q Okay. I believe on direct examination you
15 testified that it was August when you made the
16 report for criminal charges to the Abbeville
17 Sheriff's office?

18 A Yes, sir.

19 Q That's when you gave an interview to Miss
20 Graham?

21 A Yes, sir.

22 Q Do you remember what date that was --

23 A No.

24 Q -- in August? But it was in August of 2003?

25 A Yes, sir.

[REDACTED] - CROSS EXAMINATION

1 Q I'm just going to circle August and put your
2 initials. Okay. Do you remember what month it was
3 that your mother and father had their divorce
4 hearing?

5 A In August.

6 Q In August? Do you remember what day in
7 August?

8 A No.

9 Q Okay. But you remember it was in August?

10 A Yes.

11 MR. GROSE: Beg the Court's indulgence just a
12 moment.

13 THE COURT: Take your time.

14 Q We had talked earlier about a trip to the
15 beach with your family. You went on some trips to
16 the beach that didn't include your family, didn't
17 you?

18 A Yes.

19 Q In fact, you went on a couple FCA trips to
20 the beach?

21 A I went on the one trip with FCA to the beach.

22 Q Okay. And neither one of your parents went
23 on that as a chaperone, did they?

24 A No, sir.

25 Q Okay. And there was a trip to the beach

██████████ - CROSS EXAMINATION

1 where you and your mother went?

2 A Yes, this is after I left the house.

3 Q Okay. When you say left the house, after you
4 graduated?

5 A High school.

6 Q High school. So, it would have been sometime
7 that summer of 2002?

8 A Yes.

9 Q And there was a trip to the beach with one of
10 your cross country coaches, wasn't there?

11 A No.

12 Q There wasn't?

13 A We stayed at my cross country coach's house
14 on the trip that I went with my mother.

15 Q Okay. And that was to Myrtle Beach?

16 A Yes, to North Myrtle Beach.

17 Q Earlier we were talking about the first house
18 that you lived in in Donalds, and this is State's
19 Exhibit Number 3, the big blue house?

20 A Uh-huh (Affirmative).

21 Q And is that a yes? You have to say yes or no
22 for the court reporter.

23 A Yes.

24 Q That was the one where as many as twelve
25 people were there?

██████████ - CROSS EXAMINATION

1 A Yes.

2 Q The second place that you all lived was on
3 ██████████ ██████████ and we're showing a picture,
4 State's Exhibit Number 2. Is that right?

5 A Yes, sir.

6 Q How many rooms did that have?

7 A Two rooms.

8 Q And can you describe those rooms?

9 A There was the master bedroom towards the end
10 of the house, where my mother and my father
11 resided, with the full bathroom.

12 Q When you are pointing to the end, just for
13 the court reporter's benefit, we're looking
14 straight at the photo, the left side?

15 A Yes.

16 Q And the other room?

17 A Then there was a little bitty room which
18 myself, my younger brother and my younger sister
19 ██████████ and ██████████ stayed in, which was probably
20 about half the size of the master bedroom, where
21 this little bitty window is.

22 Q I'll point.

23 A Okay.

24 Q And it was just two rooms in the whole
25 trailer, or two bedrooms?

[REDACTED] - CROSS EXAMINATION

1 A Two bedrooms.

2 Q Okay. How many other rooms were there?

3 A The trailer is kind of all open, I don't know
4 if you want to call them separate rooms, but there
5 is the kitchen which was open to the living room
6 and then a hallway with two separate rooms.

7 Q All right. I don't want to put words in your
8 mouth but would it be fair to say of the three
9 places you lived in the time frame we're talking
10 about, from when you moved here until when you
11 graduated high school, was this the place that you
12 lived in the most, or was it the big white house?

13 A It was the trailer.

14 Q It was the trailer, and when do you think,
15 they have March of '99 up there for when you moved
16 into the trailer, how long do you think it was
17 before you moved out?

18 A It was sometime in the winter, between 2001
19 and 2002. I don't know, probably around Christmas
20 time and New Year's.

21 Q Okay. And you have described this house on
22 direct examination. This is what you have been
23 calling the big white house?

24 A Yes, sir.

25 Q And I believe you said that was actually a

[REDACTED] - CROSS EXAMINATION

- 1 house that was divided into two parts for duplex
2 type living but you all rented the entire house?
3 A Yes.
4 Q And how many bedrooms did that house have?
5 A Four bedrooms.
6 Q And how many other rooms did that house have?
7 A Each side had its own kitchen and living
8 room.
9 Q Okay. So, it was a good bit bigger?
10 A It was a big house.
11 Q All right. Now, you had indicated that at
12 times in high school you were concerned about your
13 image?
14 A I never said image.
15 Q Okay. Well, let me rephrase it, then. You
16 said that at least when you were class president
17 that you were on TV every day?
18 A Yes.
19 Q And you wanted the other students to see you
20 dressing in a certain way?
21 A I wanted to be presentable in front of the
22 school, yes, sir.
23 Q Consistent with being the student body
24 president?
25 A Yes.

[REDACTED] - CROSS EXAMINATION

1 Q And that was probably the same when you were
2 vice-president as well?

3 A Yes.

4 Q And there were times when you were concerned
5 about having people over to your house because
6 people might get the impression that you all were
7 poor?

8 A No, I was never ashamed of my house in that
9 way at all.

10 Q Okay.

11 A I have always been rather poor.

12 Q And it's probably fair to say that like a lot
13 of other people in America, you all, your family
14 spent most everything they made living?

15 A Yes.

16 Q And your mother was the primary bread winner
17 most of the time during their marriage?

18 A Yes.

19 Q Your parents' marriage, and you had testified
20 some on direct examination about the role that
21 you're taking now even though you're in college?

22 A Yes, sir.

23 Q And I believe you said that you were working
24 four jobs?

25 A Yes, sir.

[REDACTED] - CROSS EXAMINATION

1 Q One of them was as a waitress?

2 A Yes.

3 Q The other ones, they sounded school
4 generated?

5 A Yes.

6 Q And at some point it's fair to say that your
7 mother and your father's separation did work a
8 financial hardship on the family?

9 A Yes.

10 Q And at some point your mother, I think, did
11 end up getting laid off at Carolina Springs
12 Academy?

13 A Yes, due to all the Court and what not.

14 Q Okay. And you kind of stepped into a role
15 or, as you said, continued a role doing a lot of
16 the cooking and care for the children?

17 A In the beginning but now my mother is the
18 house mother and she's taken over that role.

19 Q In the beginning, being which period of time,
20 certainly after the separation, late 2003, going
21 into early --

22 A I have stepped in, yes.

23 Q Okay, and you are living on campus all those
24 years?

25 A Yes, sir.

[REDACTED] - CROSS EXAMINATION

1 Q The whole time you have been there, so even
2 though Due West is a small place, it would take
3 time for you to go to the house and take up some of
4 these responsibilities?

5 A Yes.

6 Q And it's probably fair to say that at this
7 point, being a student, working these jobs and
8 taking care of the children, that you were burning
9 the candle at both ends?

10 A Yes.

11 Q It had to be fairly exhausting, I would
12 think?

13 A Yes.

14 Q Was there a period of time where your mother
15 really wasn't very capable of taking care of the
16 younger children?

17 A Capable as far as not being there because she
18 was working, yes.

19 Q I'm sorry, but the time after the separation,
20 where she wasn't capable?

21 A Could you please explain incapable?

22 Q Okay. Was there a time that you had to step
23 in because she really -- well, let me just back up.
24 Growing up she never really was involved in some of
25 those activities as far as taking care of the

[REDACTED] - CROSS EXAMINATION

1 children?

2 A Yes.

3 Q It was your father in the beginning when you
4 were very young?

5 A Yes.

6 Q And then later you?

7 A Yes, sir.

8 Q And not really your mother?

9 A Correct.

10 Q During those years -- so, after the
11 separation your mother really didn't have the
12 experience in doing that and I guess you did, so
13 you stepped in and did that?

14 A Yes. Not so much on the experience, but just
15 the relationship, I'm still a major part, so it's a
16 very interesting upbringing these two have with
17 kind of two mothers.

18 Q At sometime before the separation there was a
19 young man named Michael Burgess that came around
20 the house some, wasn't there?

21 A Yes.

22 Q And he was, I guess, somebody that was more
23 or less your age?

24 A Yes. I met him during Christian Ministry.

25 Q And he spent time not only with you, but with

[REDACTED] - CROSS EXAMINATION

1 you and your mother?

2 A Yes.

3 Q And with him and your, he spent time with
4 your mother without you being there?

5 A Yes.

6 Q And spent time at the house with your mother
7 when you weren't there?

8 A Yes.

9 Q Since the separation has your mother moved on
10 and been romantically involved with other people?
11 Has she had a boyfriend?

12 A My mother has male people to come over and
13 help with the lawn and such but as far as her
14 romantic, I don't know what you want to call it,
15 relationships, that's none of my business.

16 Q You never told anybody that she had a
17 boyfriend?

18 A No. My mother does not have a boyfriend.

19 Q Okay.

20 MR. GROSE: Beg the Court's indulgence for a
21 moment.

22 THE COURT: Take your time, counsel.

23 Q You were the one who signed the warrants in
24 this case, weren't you?

25 A Yes.

[REDACTED] - CROSS EXAMINATION

1 Q And do you remember when you did that?

2 A I don't remember the exact date. I think I
3 went up to the Abbeville Sheriff's Department and
4 signed those.

5 Q Is that your signature?

6 A Yes.

7 Q And does that remind you of the date?

8 A Yes, that looks correct.

9 Q And what was that date?

10 A September 22nd, 2003.

11 MR. GROSE: That's all I have at this time,
12 Your Honor.

13 THE COURT: Redirect?

14 MS. MAYES: Yes, sir, Your Honor.

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[REDACTED] - REDIRECT

REDIRECT EXAMINATION

QUESTIONS BY MS. MAYES:

Q The person that he was asking you about, Mike Burgess, how did your mother meet him?

A Through me. We didn't go to school together but South Carolina Business Week we were both presently Spanish majors, that is how it started, and I was involved with FCA, so we would do Christian Community to the hispanic community of Honea Path and Belton. We continued to do this, he became friends, I was running cross-country, I needed somebody to run with, he was a male, he could run faster, it was motivation, we developed a relationship, he became closer to my family. Mark Bolte and my mother just met him through me and through the family. He was part of the Christmas presents. He is just a good male mentor in the children's lives.

Q In addition to him, has your mother had the opportunity to have other male friends during her life?

A Yes, of course. There is many things I can't do like hammer nails, mow the lawn, fix the vents, and we have people from the church and the community and the town that come and help us out

██████████ - REDIRECT

1 because they know our situation.

2 Q And do you personally involve yourself at
3 this day and time in your mother's romantic life or
4 any dates or boyfriends she may have?

5 A No, ma'am.

6 Q Have you gotten counseling as a result of
7 what you have experienced?

8 MR. GROSE: Beyond the scope of
9 cross-examination, Your Honor.

10 THE COURT: Sustained.

11 Q Do you recall whether or not you have had the
12 occasion to discuss your mom and specifically what
13 Mr. Grose was asking you about, your mother's
14 romantic relationships or any relationships with
15 other males, is that something you have had the
16 opportunity to discuss with other people?

17 A Yes, ma'am.

18 Q Okay. With who?

19 A Mrs. MacTaggart.

20 Q And who is Mrs. MacTaggart?

21 A Mrs. MacTaggart is my counselor, she works at
22 Greenwood Uptown Counseling.

23 Q And do you know whether or not she makes
24 notes when you have your counseling sessions?

25 A Yes, ma'am, she's always got a pad and she's

[REDACTED] - REDIRECT

1 going ninety miles an hour writing down stuff.

2 Q When you first began getting counseling what
3 was the purpose of that counseling?

4 MR. GROSE: Your Honor, this is beyond the
5 scope. I understand the specific question tailored
6 to my question, but the general term about the
7 counseling is beyond the scope of
8 cross-examination.

9 MS. MAYES: I can rephrase that, Your Honor.

10 THE COURT: All right, we'll allow her to
11 rephrase it. Thank you.

12 BY MS. MAYES:

13 Q When you met with Mrs. MacTaggart and have
14 continued to meet with Mrs. MacTaggart, and you
15 said she was making notes, at any point during that
16 time did you have the ability to foresee that any
17 of those notes would become available to anyone
18 else in this courtroom?

19 A I had no idea.

20 Q And as a result of the court process and
21 these criminal proceedings are you aware as to
22 whether or not your counseling records with Mrs.
23 MacTaggart have been made available to both the
24 State and to the defense, including your father?

25 A Yes, I have.

[REDACTED] - REDIRECT

1 Q Were any of the things in the counseling
2 notes -- have you had a chance to review them?

3 A Just briefly and quickly. I really haven't
4 read them in depth. I have just been swamped.

5 Q Were any of those notes written by you
6 yourself?

7 A No.

8 Q And who prepared those notes?

9 A Mrs. MacTaggart.

10 Q Okay. And can you tell us whether or not it
11 deals with one certain piece of subject matter or a
12 wide range of subject matters?

13 A It's a very wide variety. I came to her with
14 everything.

15 Q Now, Mr. Grose was asking you a lot of
16 specifics about your academic achievements in high
17 school. How has your, how have your academics been
18 able to be maintained, or have they?

19 A They haven't been as good as I have wanted
20 them, due to all the trials and the courts and
21 having to go to a safe home, but I have kept, like
22 I think it's a 3.8, I have made a couple B's but
23 I'm still on the Dean's list.

24 Q Okay. Now, while at Erskine -- approximately
25 when was it that you got the order of protection

[REDACTED] - REDIRECT

1 that Mr. Grose was asking you about?

2 A I'm still confused by all the dates. I
3 really am.

4 Q Okay. Let me beg the Court's indulgence.
5 I'm going to show you exactly what he was referring
6 to.

7 A Was this the one in December?

8 Q I believe Mr. Grose first showed you this
9 document. I'm going to ask you whether or not you
10 recognize what it is?

11 A Yes, I do recognize it.

12 Q Okay. What is that?

13 A This is my petition to have an order of
14 protection against Mr. Mark Bolte.

15 Q Okay. And what is the date that that order
16 of protection was notarized as being the date that
17 it would have been filed or written?

18 A The 26th of November, 2002.

19 Q All right. So, that's November 26th, 2002?

20 A Yes.

21 Q All right. And then he was asking you
22 specifically about your testimony at the order of
23 protection?

24 A Yes, ma'am.

25 Q Do you recall whether or not you testified at

[REDACTED] - REDIRECT

1 that hearing?

2 A I remember testifying.

3 Q Okay. And he asked you whether or not you
4 were under oath at that time?

5 A Yes.

6 Q Okay. I'm going to show you this document
7 and ask you whether or not you recognize that?

8 A Yes, ma'am, I do.

9 Q Okay. Have you had the chance to previously
10 review it?

11 A Yes, I have.

12 Q What does that contain?

13 A It contains what I said that day with Mr.
14 Mark Botle's attorney and what went on during the
15 courtroom session.

16 Q And what was the date of that hearing in
17 order for a judge to actually enact the order of
18 protection that you were seeking?

19 A December 9th, 2002.

20 Q Okay. You may hold on to that for purposes
21 of refreshing your memory. Now, just to clarify on
22 some of these dates that Mr. Grose was asking you
23 about. In 2002 you sought the order of protection,
24 in late November, which would have been November
25 26th. That was when you actually filed the

[REDACTED] - REDIRECT

1 application for that. And then the hearing date?

2 A Was the 9th.

3 Q Was December 9th. So, roughly about two
4 weeks had transpired there. How did these dates
5 coincide with the tape recordings, tape recording
6 of the answering machine messages that we
7 previously heard?

8 A It was around the exact same time that he
9 knew that I was relaying information, and you can
10 tell in there he was very nervous, then he started
11 threatening due to his suspicion, due to his
12 suspicion, I'm sorry, that I was actually starting
13 to tell the truth.

14 Q Specifically with regard to that order of
15 protection, in addition to any messages that were
16 left with you that we heard on the answering
17 machine, can you tell us whether or not he ever
18 actually physically appeared at Erskine College, on
19 campus?

20 A Yes, he did. He would appear on Erskine
21 campus. There was even one time when the police
22 was involved at my dorm.

23 Q All right. You say the police were involved
24 at your dorm?

25 A Yes, ma'am.

[REDACTED] - REDIRECT

1 Q Why is that?

2 A Because he was breaking the trespassing order
3 and he came in my dorm room, in my dorm, to my
4 door, in a females only dorm.

5 Q You lived in a females only dorm?

6 A Yes, ma'am.

7 Q You had testified previously that there was a
8 trespass notice against him to not come on campus?

9 A Yes, ma'am.

10 Q Approximately when was it or how did that
11 relate during the time frame of you seeking the
12 order of protection, that he actually appeared at
13 your dorm?

14 A It was probably right before, I'm not exactly
15 sure, but probably during the month of November,
16 beforehand.

17 Q And how did you react, what was your response
18 to him actually appearing at your dorm?

19 A I was terrified. I really couldn't believe
20 that not only -- I mean, I knew that he was after
21 me, with the threats of the phone calls, but that's
22 when I knew I wasn't safe anymore, not only in a
23 dorm which is protected by security, he still found
24 a way to come in there and be at my door, and that
25 frightened me.

[REDACTED] - REDIRECT

1 Q Can you tell us what you recall about his
2 attitude or behavior when he appeared at your dorm?

3 A I was so embarrassed I was trying to hide
4 because all my peers were surrounding me. I just
5 remember him being very angry and yelling and loud
6 enough for Miss Ruth Burton, who was my house
7 mother, or they call resident director, had to
8 come, and also a police officer.

9 Q All right. And you mentioned Ruth Burton as
10 your house mother?

11 A Yes, ma'am.

12 Q Can you tell us whether or not that type of
13 contact by your father continued up and through or
14 near the time of your exams?

15 A Yes, it did. It came into my exams where I
16 couldn't take my exams that week, only one, which
17 Miss Burton helped me out a lot, and the Dean,
18 because I was being talked to, and I was also
19 trying to study but luckily I would go to the safe
20 house sometimes where my family was because I no
21 longer felt protected in the dorm, that I would go
22 to Laurens sometimes to study. But it did affect
23 my grades because I had to take incompletes that
24 semester which has resulted in me not doing as well
25 as I wanted.

██████████ - REDIRECT

1 Q Okay. So, in response to the phone calls and
2 his appearing at your dorm and you seeking the
3 order of protection, can you tell us whether or not
4 you actually testified in that hearing about why
5 you thought you needed an order of protection?

6 A Yes, I did testify in here. Actually the
7 tape recorder was used there as evidence to show
8 them why I was so frightened and I even elaborated
9 a little bit more than I ever had before at this
10 hearing about the sexual contact. I did not go
11 into detail, I was still at that time nervous, not
12 wanting to press charges due to the embarrassment,
13 not knowing what the consequences were going to be.
14 All I knew, that the law lasted forever and it was
15 long, from one step to the next, at that point I
16 was not safe, if I came out and he had said
17 something so direct during that time and I didn't
18 even have my order of protection yet, I was afraid
19 of my consequences but I did elaborate, therefore I
20 could at least get one step somewhere forward.

21 Q Okay. And you may refer at anytime to that
22 transcript if you feel you need to refresh your
23 memory, but let me ask you, did you acknowledge at
24 any point during that hearing that sexual abuse had
25 occurred against you?

[REDACTED] - REDIRECT

1 A Yes, ma'am, I did.

2 Q And at any point during that hearing were you
3 questioned about the specifics of that sexual
4 abuse?

5 A I would have to look in here.

6 Q And let me clarify that a little bit further.
7 Did anyone ever ask you specifically whether the
8 sexual abuse included sexual intercourse?

9 A No, ma'am, nobody ever asked that.

10 Q And is that something that you volunteered at
11 that point?

12 A The information about the sexual abuse, yes,
13 it is something I volunteered.

14 Q Now, he was questioning you specifically
15 about, when you say towards the end, on whether
16 that attempted rape had occurred. Can you tell us
17 whether or not after what you have already
18 described happened in the white house, whether
19 there were times, or had there ever been occasions
20 in which your father attempted to attack you, that
21 it was not completed?

22 A Yes, toward the end there were many occasions
23 where it wasn't completed because I was so, I guess
24 you could say I fought back so much, I just
25 refused, what he calls rebellion I call resistance.

[REDACTED] - REDIRECT

1 Q And ultimately what was the objective or the
2 purpose of that order of protection as far as what
3 was going on?

4 A The purpose of this was to keep him away from
5 me and my brothers and sister and my mother because
6 we were no longer in the safe house and we really
7 needed to go on with our lives.

8 Q Now, you mentioned previously about some of
9 the clothing requirements that existed as far as
10 your father's rules?

11 A Yes, ma'am.

12 Q How did he indicate to you or make clear to
13 you what he wanted in terms of your dress?

14 A Well, as far as when it came to bathing
15 suits, I was never allowed to go to social
16 functions, which is very popular at a young age to
17 have swimming pool parties, since all my friends
18 had their own swimming pool parties, and I was
19 never allowed to go unless I came the way he wanted
20 me dressed.

21 And on that certain occasion there at the
22 beach was a family occasion and there was actually
23 an episode there because I was not fully dressed
24 and my father and my mother had a fall-out that day
25 at the beach because I was not dressed the way he

[REDACTED] - REDIRECT

1 was, and again this is at the time where I started
2 saying no, I will do what I feel is right, I didn't
3 want to go by his absurd rules anymore, and this
4 was spring break of my senior year, half the time I
5 wasn't even at the house spending the night, I was
6 running, and during the daytime as well I started
7 doing what I thought was right and at that time I
8 said I'm not going to wear shorts, and this was at
9 the time of the progression where I started
10 resisting his rules.

11 Q Were there ever occasions in which your
12 father required or would not allow you to attend a
13 certain event if it did not involve his dress code?

14 A Yes. For example, the Young Woman of the
15 Year, when I went for that award at Erskine
16 College, at the Belks Arts Center, it was a very
17 formal occasion so you had to wear a skirt or a
18 dress, and he ended up locking me in the bathroom
19 for that episode and I believe the police were
20 involved with that one as well.

21 Q When you say the police were involved, who
22 would have been the person to notify the police?

23 A My mother was at that time because I was
24 locked in the bathroom and I couldn't get out, and
25 my mother was very frightened because he would lock

[REDACTED] - REDIRECT

1 himself in there with me so she couldn't get to me
2 at all, so she would call the police.

3 Q And was there ever any occasion in which you
4 called the police?

5 A There might have been. Again, I'm so
6 confused with, it was my everyday activities, the
7 days that the police did or did not come, it's so
8 confusing to me.

9 Q You know, you turned out to be on the witness
10 stand for really most of the day, and have you had
11 any occasion to have afternoon breaks and stuff of
12 that nature?

13 A Yes, ma'am.

14 Q What about a lunch break?

15 A Yes, ma'am.

16 Q All right. And have you had the opportunity
17 to have contact during those breaks with myself or
18 with law enforcement or with any other potential
19 witnesses in this case?

20 A Yes, ma'am.

21 Q Has your testimony in this case been
22 influenced at all by any third party during any of
23 that type of contacts?

24 A No, ma'am.

25 MS. MAYES: That's all from the State at this

[REDACTED] - REDIRECT

1 time, Your Honor.

2 THE COURT: Recross?

3 MR. GROSE: I beg the Court's indulgence. I
4 may have a few questions, it will be brief, if I
5 can have just a moment.

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██████████ - RECROSS

RECROSS EXAMINATION

QUESTIONS BY MR. GROSE:

Q The situation where the police came when your father came to the dorm, that was actually before your mother had moved into the safe house, wasn't it?

A Yes.

Q And in fact your younger brother ██████████ had come up there to let you know that Mark's grandfather had died?

A No. I didn't even know that my grandfather died.

Q You don't recall that? Do you recall it also being a time there was supposed to be some sort of birthday party for ██████████

A No. Issiah's birthday is in September.

Q And do you recall anytime where you testified in front of Judge Ferguson and the trespass notice was thrown out?

A No, sir.

Q Miss Mayes asked you about the grades at Erskine College. Is it fair to say that -- well, Erskine has more than two semesters, doesn't it?

A It has three semesters.

Q Okay. A fall, a winter and a spring?

[REDACTED] - RECROSS

1 A Yes.

2 Q And, so, when all of this was going on in
3 November and December of 2002 that would have been
4 the fall of 2002?

5 A Yes.

6 Q And while all that was going on you actually
7 had a 4.0 during that term, didn't you?

8 A Yes, I did.

9 Q And the next term would have been the winter
10 term of 2003?

11 A Yes.

12 Q You actually had a 4.0 during that term?

13 A Yes.

14 Q And really there was only one term where your
15 grades dipped down a little bit?

16 A That is my final transcript, which is
17 correct, but it does not show my incompletes
18 because I had three weeks to make those up, I had
19 to take, if you saw that time at the end of the
20 first semester, I had all I's except for my math
21 class, which I went ahead and took because math is
22 not too difficult and then it was a go back and
23 study during my break and get my A's that I needed.

24 Q Okay. But it's not uncommon to get
25 incompletes in college, though?

[REDACTED] - RECROSS

1 A It is for a student like myself.

2 Q It is for you but it's not uncommon for other
3 students?

4 A Yes, sir.

5 Q And be that as it may, during the November
6 and December when all this moving out was going on
7 you maintained your A average?

8 A Yes, sir.

9 Q And have pretty much maintained that your
10 entire college career?

11 A Yes.

12 Q And Miss Mayes asked you about the counseling
13 with Miss McTaggart. You were referred to that by
14 Judy Davis?

15 A I believe so, I believe that Judy Davis, they
16 knew each other and she thought that she would be a
17 good counselor for myself.

18 Q Okay. And she was referring you, Judy Davis
19 was the one referring you, told you where to go?

20 A Well, actually, no. I get letters from the
21 State telling me where to go, and the payments. It
22 all comes directly from the Governor's office in
23 Columbia.

24 Q But Judy Davis is the one who set all that
25 up?

[REDACTED] - RECROSS

1 A I'm pretty sure, yes.

2 Q And she works for the Abbeville County
3 Sheriff's Department?

4 A Yes, sir.

5 MR. GROSE: Beg the Court's indulgence.

6 That's all I have, Your Honor.

7 THE COURT: Any redirect?

8 MS. MAYES: No, sir, Your Honor.

9 THE COURT: Thank you. Come down, please.
10 (Witness excused).

11 THE COURT: Miss Mayes, do you have a short
12 witness?

13 MS. MAYES: May we approach, Your Honor?

14 THE COURT: Yes, ma'am.

15 (Unrecorded bench conference).

16 THE COURT: Madam Forelady and ladies and
17 gentlemen, we will allow you to go now, we're going
18 to continue doing other things and allow you to go
19 because we have some other things to do which don't
20 involve you. So, please do not, you are ordered
21 not to discuss the case by, between and among
22 yourselves nor with any other person under any
23 circumstances. As you were told on yesterday
24 before you took your leave, it is a tall order to
25 ask people not to discuss something that you spent

1 so much time doing, and the Court understands the
2 difficulty that some people find it necessary to
3 put you in by asking you about the business that
4 you're doing at the courthouse and specifically
5 about what kind of case it is or what you are
6 doing, and it seems sometimes people are just not
7 satisfied with your saying, "I can't tell you."
8 But in this circumstance they are going to have to
9 be satisfied with your not telling them. As you
10 know, after the trial is over you are at your
11 leisure and your pleasure to do whichever you
12 please, to talk about the trial, to talk about what
13 you think about it and don't think about it, or not
14 talk about it as you may choose.

15 But during the trial it is absolutely
16 prohibited for you to discuss this case with anyone
17 under any circumstances regardless of how close a
18 friend or how confidential you feel the information
19 may be that you share with them. Don't do it.
20 Don't talk about this case, don't permit anyone to
21 discuss the case with you. If anyone were to
22 innocently talk with you about the case it's your
23 responsibility and duty to immediately say, "I'm a
24 juror and I cannot talk about the case." That
25 ought to be enough. If anybody continues to, and

1 persists in trying to talk about the case,
2 certainly that would be a warning that someone is
3 prying beyond their personal interest and beyond
4 what's allowed and you should use your measures and
5 means to obtain their identity and report it as
6 soon as you return to the courtroom so we can look
7 into that, because that would be highly improper,
8 wrong and illegal, as you have already been told.
9 So, don't discuss the case.

10 Do not look at, read or hear anything outside
11 this courtroom when you realize it involves the
12 trial, because you are on your oath to well and
13 truly try this case upon the evidence that's
14 presented in front of you in this courtroom. So,
15 if there were to be any media coverage please
16 disregard it, disabuse your mind of what you may
17 hear, see or read, because it's not evidence.
18 Evidence is what's presented to you during the
19 course of this trial right here in this courtroom.

20 Thank you, Madam Forelady and ladies and
21 gentlemen, very much for your attention. The Court
22 has noted you all have paid close attention today,
23 and we'll come back into session -- let me inquire.
24 Is 9:30, after we do what we're going to do this
25 afternoon, is there any reason we cannot start, do

1 you anticipate any additional matters to take up in
2 the morning?

3 MS. MAYES: No, sir, Your Honor.

4 THE COURT: Thank you. Mr. Grose, if we need
5 time, anyone say it.

6 MR. GROSE: 9:30 is good with me, Your Honor.

7 THE COURT: Very well. Thank you. Madam
8 Forelady and ladies and gentlemen, we will begin at
9 9:30. Be back in the jury room at 9:30 in the
10 morning. Thank you very much. Everyone remain
11 seated except the jury.

12 (The jury was excused from the courtroom
13 at 5:15 p.m.).

14 THE COURT: All right, we had two things to
15 take up. One was mentioned in a very brief
16 off-the-record conference concerning whether we
17 could get another witness in this afternoon. It is
18 now 5:16 on Wednesday afternoon, September the 8th,
19 2004, but we did discuss in that that we couldn't
20 have another witness, the Court couldn't hear
21 exactly what was said, but maybe the testimony of
22 that witness may hinge upon a defense motion and we
23 have to take up the issues arising out of Defense
24 Number 12, that is the, I think about an eight page
25 exhibit, being a single spaced exhibit consisting

1 of eight pages that was signed by the witness who
2 just completed testifying and who admitted that she
3 signed someone else's name for the reasons that she
4 testified to.

5 The objection by the State was to the
6 language that appears above the signature, and we
7 will take that up, the Court has not had an
8 opportunity to read it, we'll take that up but
9 we'll, if it's acceptable to you, Mr. Grose, we'll
10 hear your motion when you're ready to make it.

11 MR. GROSE: I don't have a motion, Your
12 Honor, it is their motion to keep it out, or their
13 objection.

14 THE COURT: The Court misunderstood, thank
15 you.

16 MR. GROSE: It is my motion to move it into
17 evidence and it's their motion to keep it out, and
18 I think they need to cite the rules, articulate
19 which rule that they are objecting to it under.

20 THE COURT: Well, we were talking off the
21 record in very hushed tones and the Court perhaps
22 didn't understand. Are there, is there something
23 pending other than the issues arising out of
24 Defense Number 12 for identification at this point?
25 Is there something else?

1 MS. MAYES: No, sir, Your Honor. Our
2 objection, or the State's objection was it's
3 hearsay at that time and I just need one moment to
4 clarify with the witness whether or not that is
5 correct, to know whether or not to continue on that
6 objection.

7 THE COURT: Well, let's recess, then, for
8 just a moment and for the benefit of everybody, you
9 can review Number 12 and the Court will retire to
10 chambers and do the same and then as soon as you
11 all are ready, if you will send the bailiff back,
12 Mr. Manning will come back and let me know you're
13 ready and during that time I'll be reviewing that
14 information, too, so I will be up to speed as to
15 what you're talking about.

16 All right, we'll be in recess.

17 (Recessed at 5:19 p.m.).

18 (Reconvened at 5:24 p.m.).

19 THE COURT: We'll open the record, State of
20 South Carolina versus Mark Richard Bolte, 2003-296.
21 The defendant has offered Number 12, which is nine
22 different pages, and there was an objection to that
23 by the State.

24 Miss Mayes?

25 MS. MAYES: Yes, sir, Your Honor. At the

1 point I made the objection the witness had not
2 clarified, had only clarified that she signed the
3 documents, not whether or not she had prepared any
4 of the existing text to that document. I know
5 there were mentions of a brother and maybe another
6 sibling and I wasn't clear and didn't feel like it
7 had been made clear for the record as to whether or
8 not those documents had been prepared possibly by
9 the brother, wherein they would contain hearsay. I
10 no longer have an objection to that document on
11 those grounds.

12 MR. GROSE: So, it's admitted?

13 THE COURT: Yes, sir.

14 MR. GROSE: All right. I would just like for
15 that to be told to the jury, since we moved to
16 admit it in front of the jury, obviously not
17 tonight, we can do it in the morning.

18 THE COURT: Just to make clear Number 12 is
19 an exhibit in the case?

20 MS. MAYES: Yes, sir, Your Honor.

21 THE COURT: And thank you for working on that
22 while we were in recess. Anything further?

23 MR. GROSE: Your Honor, we were going to take
24 up that issue regarding the counselor's testimony,
25 I believe.

1 THE COURT: The only thing I have now, I'm
2 aware there has been some previous talk in this
3 case with another judge, maybe a ruling made, was
4 done or said or ruled upon, this judge doesn't
5 know, but what do we need to address, Mr. Grose?

6 MR. GROSE: Your Honor, if it pleases the
7 Court, I will just hand up the two prior orders of
8 Judge Johnson. One copy is not filed but it's my
9 understanding it was filed. The first order was a
10 consent order where counsel for both sides agreed
11 that the records would be sent to Judge Johnson as
12 administrative judge for his review. They were
13 sent directly to him, and the second order was his
14 order releasing them. I will be honest, I did not
15 read that before I handed it up, but my
16 recollection is that he specifically stated that he
17 was not commenting on admissibility or any type of
18 evidentiary ruling, he was just at that point
19 allowing the attorneys to have access.

20 THE COURT: That is, the first order is to
21 Miss McTaggart requiring that she release the
22 records to the Court for an in-camera review, and
23 that's the order dated the 10th of June, 2004,
24 filed with the Clerk on the next day, and the order
25 dated the 14th of July, 2004, and the clock doesn't

1 appear on the copy that you had. As you said, Mr.
2 Grose, it indicates that Judge Johnson reviewed the
3 record, records that were submitted to him without
4 ruling upon or commenting upon the admissibility of
5 said records, the Court hereby authorizes the
6 records to be released to both parties.

7 With your having full knowledge of what's in
8 the records and the Court's having no knowledge of
9 what's in the record, we began discussion of
10 whether they are admissible or not.

11 MR. GROSE: Right, Your Honor. I will just
12 state I think the record will reveal that second
13 order of Judge Johnson was probably filed in
14 August. I think what happened was he actually
15 brought those documents here with him during a term
16 of court because he actually gave me my copy and
17 mailed Miss Mayes a copy when we were having court
18 here during that month.

19 As far as I'm concerned, you're welcome to
20 review, I believe you have the two pages that were
21 produced today pursuant to your instructions
22 earlier, you're welcome to review the rest of them
23 if you want to, if it would assist you. I only
24 have one copy and I don't have any notes on them,
25 if you want me to hand those up.

1 THE COURT: No, sir, it's not necessary now
2 but it may become. What is your position with
3 regard to them? That is, with regard to their use
4 either by the State in chief or by you in chief?

5 MR. GROSE: Your Honor, it's not so much the
6 use of the records, although they are certainly
7 involved, it deals with the testimony that the
8 State is going to offer with regard to the rape
9 trauma counselor. The case in South Carolina, the
10 first case is, that I'm going to deal with is State
11 versus Schumpert 312 South Carolina 502, 435
12 Southeast 2d 589, it was decided in 1993.

13 And in that case they overruled some prior
14 authority in South Carolina and they say, and they
15 clarified that both experts and behavioral evidence
16 are admissible as rape trauma evidence to prove a
17 sexual assault occurred, where the probative value
18 of such evidence outweighs its prejudicial effect.

19 They went on to state, "We find," this was
20 specific to that case, "We find the probative value
21 of the rape trauma evidence in this case outweighs
22 its prejudicial effect and therefore hold it was
23 properly admitted."

24 The next case that I would call to the
25 Court's attention is State versus Morgan.

1 Schumpert, I believe I stated, if I didn't, I will
2 clarify, was a Supreme Court case. State versus
3 Morgan, 326 South Carolina 503, 485 Southeast 2d
4 112, is a 1997 case decided by the Court of
5 Appeals, and in that they again kind of considered
6 sort of the history of this issue, and of course
7 noted they were bound by Schumpert.

8 In section Roman Numeral III of their
9 opinion they talk about, they refer back to
10 Schumpert and they stated, "In Schumpert our
11 Supreme Court impliedly relaxed some of the
12 threshold reliability concerns. However, Schumpert
13 expressly leaves open expert behavioral science
14 testimony to challenge that its probative value is
15 outweighed by its prejudicial effect," and they go
16 on to cite some cases from other jurisdictions and
17 point out in a case from Oregon where that court
18 said, "We have said before and we will say it again
19 this time with emphasis no psychotherapist may
20 render an opinion on whether a witness is credible
21 in any trial in this state. The assessment of
22 credibility is for the trier of fact and not for
23 the psychotherapist." That decision from Oregon
24 with the Court of Appeals cite, I believe is also
25 consistent with opinions in South Carolina about

1 offering opinions. I believe I cited those in one
2 of the memorandums we filed for the Court earlier.

3 They go on and deal with the question from, I
4 believe it's Louisiana, but it's in the Southern
5 Reporter, 2nd Edition, "Prejudice can result from
6 an expert's testimony about the victim's
7 credibility by giving fact finders little more than
8 a false sense of security based on the incorrect
9 assumption that a reasonably accurate scientific
10 explanation for behavior has been provided."

11 And what we have been provided as far as the
12 counseling records are concerned, and before I move
13 on to that, I would just state that the Schumpert
14 case weighed prejudicial effect versus probative
15 value, it's consistent with our South Carolina
16 Rules of Evidence, Rule 403 basically takes the
17 same language out of that, so we would add 403 as
18 part of our objection.

19 What we were provided was documents that
20 indicate that as best I can discern these, that a
21 referral was made by Judy Davis on September 24th,
22 2003, that being Judy Davis of the Abbeville
23 Sheriff's Department. It appears that the first
24 counseling appointment was on October 23rd, 2003,
25 and we have had a lot of discussion about the

1 chronology in here, and it was in 2002 when we had
2 the protective order application made, in November,
3 November 26th, and then on December 9th when the
4 hearing was had. It has not come out so far in
5 testimony, it may or may not come out, but it is
6 for the jurors' benefit, but for the Court's
7 benefit, it's my understanding from reviewing the
8 transcript and some of the questions that Judy
9 Davis was present at that hearing on December 9th
10 of 2002.

11 This September referral would be the, after
12 the warrants were taken out, and that would be
13 approximately ten months after the petition for the
14 order of protection was filed, and it would be, you
15 know, obviously you can put in chronology the
16 number of months after the hearing and that sort of
17 thing.

18 All these records that have been produced,
19 with the exception of a form that was filled out
20 for the State Office of Victims Assistance, all the
21 records that have been produced pursuant to the
22 Court orders are actually the notes of the
23 counselor and no other information as far as
24 documenting a social history or anything of that
25 nature.

1 In the Morgan case they were also concerned
2 with introducing testimony of a medical examiner.
3 We're not going to have that in this case, there
4 was no medical exam of a medical doctor that was
5 ever done. But they were also concerned about
6 that, and in Morgan, you know, they raised some
7 questions to a certain extent about the reliability
8 of information that is given that is based solely
9 on the subjective information provided by a patient
10 and then testimony being made by that, and I would
11 point out that one of our rules, and we had
12 testimony that Miss Mayes elicited on redirect
13 examination that the alleged victim would go in and
14 talk and the counselor would be writing real fast,
15 rapidly, 100 miles an hour, I don't remember her
16 exact words. And certainly based on what's been
17 produced, all the symptoms that were reported were
18 symptoms that were current symptoms in October of
19 2003 and the subsequent visits.

20 One of our hearsay exceptions, I need to flip
21 back over to Rule, I'm looking at Rule 803, number
22 four, statements for purposes of medical diagnosis
23 or treatment, and of course there is limitations
24 under the case law of South Carolina. I believe I
25 cited that in one of the memorandums that were

1 produced yesterday, the identity of the perpetrator
2 is not something that's necessary under that rule,
3 but that rule also goes on to state in the last
4 paragraph, "Provided, however, that the
5 admisibility of statements made after commencement
6 of the litigation is left to the Court's
7 discretion."

8 So, what we have is a situation where these
9 notes were generated by the counselor based on the
10 statements. The statements were made by the
11 alleged victim. The only evidence that is in these
12 documents has come after the commencement of the
13 litigation because the warrants had already been
14 signed, and I'm not sure the date of the
15 indictment, but the indictment was pretty quick,
16 certainly warrants were signed, Mark was in jail,
17 but the litigation had been commenced and basically
18 what we have is we have a situation where the State
19 is going to call a witness to come in and basically
20 repeat statements of the alleged victim and
21 certainly under some of the rules in any situation
22 those would have to be limited, but in this
23 situation what they are going to be doing is they
24 are going to be repeating statements of the alleged
25 victim with regard to the symptoms that she was

1 having and things of that nature that were specific
2 to that time based solely on the history that she
3 provided, no other forensic type investigation in
4 order to form an opinion, and they are going to be,
5 you know, if they are allowed to repeat any of
6 these statements, basically what they are going to
7 be doing is repeating the statements, having
8 testimony in conjunction with that, that this is
9 consistent with how, you know, these are types of
10 symptoms that somebody has when they have been the
11 victim of sexual abuse and what they are basically
12 going to be doing is, quote, putting the stamp of
13 approval on a victim's statement and basically
14 making a believability or credibility argument
15 about the victim.

16 And, so, we think that the prejudicial effect
17 of those outweighs any probative value and the
18 testimony should be excluded altogether, Your
19 Honor.

20 THE COURT: Thank you, Mr. Grose. Miss
21 Mayes?

22 MS. MAYES: Yes, sir, Your Honor. Just to
23 give the Court a brief overview, the witness is
24 Sherry McTaggart, and I'm going to hand the Court a
25 copy of her resume' as well as the counseling

1 records which were submitted to both the State and
2 defense pursuant to Judge Johnson's order.

3 THE COURT: Has Mr. Grose seen the resume'?

4 MS. MAYES: Yes, sir, Your Honor

5 MR. GROSE: I have.

6 THE COURT: Thank you. You may continue.

7 MS. MAYES: Yes, sir, Your Honor. Mrs.
8 McTaggart has testified previously in court. She
9 is an expert in working with sexual abuse victims.
10 She certainly has clinical experience in this area.
11 It is common and routine in this circuit for her to
12 be one of the therapists that sexual assault
13 victims are referred to for counseling by law
14 enforcement and victim services. When I became
15 aware that she may be a potential witness in this
16 case I did advise Mr. Grose of that, and the reason
17 that we ended up getting her records released and
18 that the State agreed to a consent order for the
19 release of those records was because it was
20 expected that she would be a witness in this case.

21 On July 14th of this year I advised Mr. Grose
22 in writing that, "The State anticipates that Sherry
23 McTaggart of Uptown Counseling Professionals will
24 be offered by the State as an expert witness
25 concerning the issue of delayed reporting and/or

1 common behavioral responses in relation to child
2 sexual abuse. Because I have not viewed the
3 counseling records, the extent of her testimony may
4 include additional matters, depending on whether or
5 not her file materials are released." And of
6 course ultimately they were released to both sides.

7 Upon getting the records and having the
8 opportunity to review them, it appears that she had
9 made the diagnosis of post traumatic stress
10 disorder and had noted a multitude of symptoms
11 which were part of the history taking in this case,
12 which included things such as nightmares,
13 hypervigilant, sleep disturbance, depression and
14 anxiety. Your Honor, the State's position is that
15 those, that that information falls under the
16 exception to hearsay pursuant to Rule 803-4.
17 Certainly that information is provided to the
18 counselor for purposes of diagnosis and treatment.

19 But in addition to that, as Mr. Grose has
20 already stated to the Court, South Carolina case
21 law is clear that testimony in this regard is
22 relevant and admissible when probative, and in a
23 case like this I can't imagine that it wouldn't be
24 more probative than prejudicial.

25 Defense counsel has stated outright before

1 the jury in opening argument and also in motions
2 before the Court that somehow the victim's
3 allegations in this case are the result of a
4 divorce action in 2002 which certainly implies or
5 possibly expressly states that her allegations are
6 the result of fabrication and possibly influenced
7 by her mother.

8 So, it's certainly probative for the State to
9 offer an explanation, an expert explanation as to
10 why a victim of child sexual abuse may delay
11 reporting and may not disclose until they leave
12 that home or leave that environment as well as how
13 common or uncommon that type of delayed reporting
14 is in cases of child sexual abuse.

15 I'm going to pass up to the Court the two
16 cases that Mr. Grose mentioned as well, they are
17 State v. Schumpert and State v. Morgan, which have
18 affirmed the use of expert testimony in relation to
19 both behavioral reaction following child sexual
20 assault and trauma symptoms following child sexual
21 assault.

22 In addition to that, Your Honor, the case of
23 State versus Henry, also a Supreme Court case of
24 1997, affirms a therapist's testimony concerning
25 delayed disclosure or delayed reporting as well as

1 post traumatic stress disorder in a child sexual
2 abuse victim. This is certainly permissible
3 testimony within the realm of South Carolina case
4 law.

5 As far as her repeating what the victim said
6 to her, Your Honor, I certainly expect that the
7 witness will comply with the ordinary rules in that
8 regard concerning time and place. However, she
9 certainly may, or we expect that she may certainly
10 talk about some of the issues that her counseling
11 has involved, such as helping the victim cope with
12 anxiety, with stress, with sleep disturbances or
13 nightmares and how, if at all, that might relate to
14 a history of sexual abuse.

15 In addition, we expect that she would testify
16 about how common or uncommon delayed reporting is
17 in her own clinical experience with child sexual
18 abuse victims and what, if any, factors may play a
19 role in why a child may delay, and certainly that
20 has become an issue in this case with the defense.
21 I believe she was asked directly on the stand and
22 during cross-examination about what she did
23 disclose, how much she disclosed and when she did
24 disclose it.

25 Finally, Your Honor, during cross-examination

1 Mr. Grose questioned the victim specifically about
2 a statement that she had made to her counselor
3 concerning a male friend of her mother's, and so it
4 can't go both ways. They can't pick and choose
5 certain aspect of the counseling records to
6 question witnesses about and then somehow the State
7 would be precluded from using any reference to the
8 counseling records or even the counselor. As I
9 stated before, the whole reason these records were
10 disclosed to the State and defense was with the
11 expectation that the State would offer Mrs.
12 McTaggart as a witness.

13 THE COURT: Thank you, Miss Mayes. Any
14 response?

15 MR. GROSE: Well, I would disagree with the
16 expectation. It was disclosed at a result of Miss
17 Mayes disclosing she may do that. It wasn't with
18 any expectation that she would necessarily be a
19 witness. One possibility I think we were entitled
20 to was state of mind was an issue in the case. I
21 need to respond to several things.

22 First, I'm not saying that a rape counselor
23 can never testify in a criminal sexual conduct
24 trial In South Carolina. What I'm saying is, the
25 courts' have said that testimony is subject to the

1 Court doing the balancing analysis under Rule 403,
2 and that in this particular case, under the facts
3 of this case that's not appropriate.

4 One of the things that Miss Mayes says is
5 that she wants to present some of this testimony in
6 order to refute the allegations of motive and that
7 sort of thing, and we have a rule on that in South
8 Carolina, and that is rule 801(D)(1)(B), which says
9 that a statement is not hearsay if consistent with
10 the declarant's testimony and is offered to rebutt
11 an expressed or implied charge against the
12 declarant of recent fabrication or improper
13 influence or motive, provided, however, the
14 statements must have been made before the alleged
15 fabrication or before the alleged improper
16 influence or motive arises.

17 And what I told the jury in our opening
18 statement and where we're going with all this
19 divorce actions, they have produced a statement
20 under Brady that on the 23rd of March, 2002, Ester
21 Bolte, the alleged victim's mother, went for a walk
22 and decided that she was no longer married that
23 day, and that's when the calls to the police
24 started and that is when all this started. So, the
25 date of the motive for the Court to look at is

1 March 23rd, 2002, and these statements are clearly
2 after that and clearly after the litigation had
3 commenced.

4 She also talked about wanting to call this
5 witness with regard to some of the symptoms, and
6 quite frankly at this point this record is really
7 devoid of any symptoms of rape trauma occurring
8 during the period of time it was going on and
9 devoid or minimally containing evidence of symptoms
10 that they want to bring in, the nightmares. We
11 have had no testimony about nightmares. We have
12 had no testimony that while this abuse was going on
13 that there was any sleep deprivation. In fact, the
14 only testimony we have had is that she was burning
15 the candle at both ends, working four jobs, doing
16 school and doing some child care work, and quite
17 frankly, you know, I get a little sensitive because
18 I feel like I have been mugged on this street
19 corner before, to be a little humorous about it.

20 There is a case out there which is not in the
21 rape trauma area but State versus Eirich, and I
22 could probably give you the cite for that, I think
23 it's in this notebook but I don't have it handy,
24 State versus Eirich, which is a case I actually
25 tried, it was a murder case, it was an insanity

1 defense and we were wanting to present evidence
2 that the victim, that the victim who was on crack
3 cocaine and may have had alcohol in his system,
4 this was a 1988 trial, I don't remember all the
5 facts, but certainly he had the cocaine in the
6 system, could have been acting in a way that my
7 client who had a long mental health history,
8 including schizophrenia, post traumatic stress
9 disorder, in a way that he could have
10 misinterpreted and that could have gone into the
11 insanity defense. We had a proffer in that case.
12 The evidence was excluded and we had a proffer in
13 that case and what the Supreme Court ended up
14 telling us in that case was that in order for the
15 expert testimony to be relevant it has to somehow
16 be linked to something that is in the record, and
17 at this point we don't have anything in the record
18 to link Mrs. MacTaggart's testimony to the rape
19 trauma, and so that's another reason why, I mean,
20 the things she says, there has been no testimony
21 about nightmares, no testimony about the anxiety
22 and no testimony, it's not explained from the fact
23 of by the time this came around after litigation in
24 late 2003 and 2004, this was somebody who was over
25 extended, burning the candle at both ends, and so,

1 you know, for them to do that, it doesn't link
2 back.

3 The alleged victim in this case has already
4 given her explanation as to why she delayed
5 reporting. She's given that explanation and what
6 the State's trying to do, it comes right back to my
7 argument about them repeating what she said and
8 providing an explanation to it and giving the stamp
9 of approval of the psychotherapist, which is what I
10 think the Morgan court was suggesting in their
11 discussion in the case, that just because medical
12 evidence which is not involved here and
13 psychotherapist evidence is admissible in South
14 Carolina under the right situations, it should be
15 challenged under this Rule 403 analysis in the
16 appropriate circumstances, and courts, whether it's
17 here or on appeal, are going to have to make that
18 analysis, make that, you know, balancing under 403,
19 and in Morgan they said, you know, "We can't rule
20 on that because that wasn't preserved at trial,"
21 that objection, the 403 objection under Schumpert
22 wasn't made.

23 Just to add one point, with the question
24 about the boyfriend, I didn't specifically make
25 reference to the counseling records. The

1 government made reference to the counseling
2 records, and there is a rule also that deals with,
3 you know, questioning a witness about whether they
4 made a statement and then offering proof later on,
5 and, you know, all I asked was whether she, I don't
6 even know that I referred to the statement, I knew
7 about the statement from the records, I just,
8 initially I asked her if she was aware of that and
9 I may have asked her if she had ever made that type
10 statement. I didn't refer to the counseling
11 record, that was something they interjected and if
12 they feel that, and they can't prove that the
13 statement was never made, you know, if they feel
14 that they need to somehow address that statement
15 it's one thing to call her on the limited issue if
16 there is an appropriate rule for them to do it and
17 ask her questions about that statement, but that
18 doesn't go to expert testimony or expertise. That
19 would be, even though she would be properly an
20 expert under the proper circumstances, that would
21 be more a lay issue about whether the statement was
22 made or not made and what the substance of it was,
23 and not an expert testimony type issue.

24 THE COURT: Thank you, Mr. Grose. Anything
25 in response, Miss Mayes?

1 MS. MAYES: Yes, sir, Your Honor. Just again
2 briefly. In the records that I submitted to the
3 Court the therapist actually made the diagnosis of
4 post traumatic stress disorder. With her actually
5 making a diagnosis, again the information that she
6 acquired, the history that she acquired from the
7 victim, in addition to her actual therapy with that
8 victim, is necessary for treatment and diagnosis of
9 the patient and would be an exception pursuant to
10 Rule 803.

11 In addition, it is not natural or common for
12 any victim, whether they are eight years old or
13 twenty years old, to take the witness stand and use
14 words like hypervigilant or anxiety disorder or
15 sleep disturbance and things of that nature, but
16 the victim certainly testified that she had sleep
17 problems, that she was always tired, that she was
18 not allowed to basically sleep, that she was on the
19 run literally and historically, that she was
20 constantly afraid of both the defendant and of
21 refusing his assaults, as well as being
22 apprehensive about how she should behave or react
23 to the assaults that she was experiencing, and
24 certainly she expressed continued fear and anxiety,
25 even if anxiety wasn't the word she used, about how

1 to deal with what was happening to her and whether
2 or not to disclose it to someone, and that
3 continued even after she had left the home.

4 Finally, Your Honor, I would just say that it
5 is extremely probative in this case to offer
6 testimony from an expert in this field concerning
7 why a child might not disclose right away or why a
8 child may allow abuse to continue or actually
9 cooperate or comply with abuse over a period of
10 time, especially when the defense admits here that
11 they do believe or they are alleging that these
12 charges are fabricated, that there was a motive to
13 create false charges in March of 2002 and only
14 thereafter did the victim make a report. We
15 certainly find it necessary and probative to have
16 an expert in this field explain why that is and how
17 common that may be, and it's also supported by the
18 case law as well, Your Honor.

19 THE COURT: Thank you, Miss Mayes.

20 MS. MAYES: I will submit to the Court as
21 well the case of State versus Henry, which is 495
22 Southeastern 2d 463, 1997. That is actually South
23 Carolina.

24 THE COURT: 495, 1997?

25 MS. MAYES: Yes, sir, Your Honor, 460, 495,

1 yes.

2 THE COURT: Thank you. All right, we'll rest
3 at ease, please, just a moment. It will be just a
4 few minutes. What the Court wants to do is read
5 the documents that were submitted before the 27th
6 of July. Now, the Court understands that the
7 documents themselves may not be the subject of the
8 position taken by the defendant. The defendant
9 takes the position here that testimony by any
10 individual qualified as an expert to support the
11 testimony of the witness who was first called by
12 the defense, the quote, prosecuting witness, end
13 quote, may be to bolster her credibility by saying
14 that an expert opinion has been gained by
15 interviewing her and that her late reporting is an
16 accepted view of experts in the field and that the
17 rape trauma or post traumatic stress disorder
18 symptoms were shown through the interview and an
19 opinion thereby gained that post traumatic stress
20 disorder existed.

21 Now, we have a couple things that the Court
22 will bring to your attention while we're in recess,
23 and one is that the motive is not indicated
24 necessarily by the marital distress. Now, the
25 defendant argues in one of his briefs, that's just

1 really a memorandum, I believe you call it, Mr.
2 Grose, but it's a good explanation of the law,
3 argument of the law as it may apply to what we're
4 now talking about. I'm trying to find the place
5 that was marked earlier.

6 We're going to take a recess, I don't have
7 the document to which I want to refer. We'll be at
8 ease, please.

9 MS. MAYES: Yes, sir, Your Honor.

10 (Recessed at 6:15 p.m.).

11 (Reconvened at 6:40 p.m.).

12 THE COURT: We are coming into session, State
13 of South Carolina versus Mark Richard Bolte,
14 2003-296. The Court has reviewed the notes of Mrs.
15 McTaggart and the Court has heard the argument to
16 allow testimony based upon the notes. That would
17 be the position of the State. Is that correct,
18 Miss Mayes?

19 MS. MAYES: Concerning the notes, Your Honor?

20 THE COURT: You want to allow Miss McTaggart
21 to testify based upon the notes?

22 MS. MAYES: Yes, sir, including what may be
23 in the notes.

24 THE COURT: All right. Now, Mr. Bolte
25 objects to that and the Court has understood and

1 appreciates his attorney's argument with regard to
2 his position. The Court has reviewed the cases
3 that were cited and the arguments of both sides and
4 the records that have been accumulated by the
5 proposed witness.

6 Now, the threshold issue is whether she will
7 be qualified as an expert. Now, the Court has
8 reviewed, of course, her resume' which you handed
9 up, Miss Mayes, but that in and of itself does not
10 make her an expert. There are other steps to be
11 taken and that would include questions on her voir
12 dire and an examination of her on voir dire on
13 cross-examination. We'll wait and see what
14 develops with regard to whether the Court will or
15 will not qualify her as an expert.

16 Step two is whether her testimony as an
17 expert will be more probative than it would be
18 prejudicial, or stated another way, whether it
19 would be more prejudicial than it would be
20 probative. That is an issue for the Court as well.

21 The case law indicates that were she to be
22 qualified as an expert witness, then she would not
23 under any circumstances be able to give direct
24 opinion testimony and the Court would preclude any
25 opinion testimony as to what diagnosis she made or

1 explanation she may have for any late reporting or
2 any rape trauma symptoms or things in the nature of
3 post traumatic stress disorder. That would not be
4 permitted as it would be unfair, unfair bolstering
5 of the prosecuting witness' testimony.

6 On the other hand, the giving of an opinion
7 that late reporting and/or certain symptoms whether
8 they be rape trauma or post traumatic stress
9 disorder or -- strike that -- or conclusions with
10 regard to those things may be entered, in that the
11 testimony of the witness must be, must be based
12 upon a conclusion that those things that she
13 observes were consistent with rather than a direct
14 opinion.

15 Now, it appears that the courts have already
16 wrestled with the problem that Mr. Grose clearly
17 identifies, and that is whether this would be a
18 strengthening of the credibility of the witness'
19 testimony, the first and only witness who has
20 testified in this case, and they have decided that
21 direct opinion testimony is not permitted but that,
22 quote, consistent with, end quote, language is
23 permitted.

24 So, the Court also notes for the benefit of
25 all concerned that there appears to be a question

1 as to motive and that is up to the finder of fact.
2 There is no issue here, that this Court can find,
3 that the one who signed the warrant, being [REDACTED]
4 [REDACTED], does not have a right to prosecute her case.
5 There may be a coincidence that the mother had a
6 hearing in Family Court on the same day. That the
7 hearing occurred with regard to her petition for
8 protection order is not clear at this point. There
9 may be a motive but that's up to the defense to
10 indicate and for this fact finder, twelve people,
11 to find or not find if that's why we're here. To
12 say it another way, that the mother has a motive
13 that is connected with the prosecuting witness'
14 motive is a double leap and the Court is not going
15 to make that double leap upon the testimony that's
16 lying before the court at this time. It can't do
17 that.

18 So that the defense is clear, it is clear
19 that is part of the defense, that there is motive
20 and fabrication. On the other hand, any witness
21 who testifies is going to be subject to
22 cross-examination and the whole case is going to be
23 subject to a possible defense case in chief.
24 Therefore the lady will be permitted to be examined
25 on voir dire and offered as an expert and

1 cross-examined on voir dire with regard to her
2 expertise and the Court will rule. Thereafter we
3 will make a ruling as to what opinion -- no, what
4 language that she may use, and it's going to have
5 to be well coached, Miss Mayes, to avoid any direct
6 opinion testimony and to draw only those
7 conclusions that allow her to say that her
8 descriptions of things that happened are consistent
9 with, quote, consistent with, end of quote, a
10 certain syndrome or knowledge within the realm of
11 her expertise.

12 Clear?

13 MS. MAYES: Yes, sir, Your Honor.

14 THE COURT: Your objection is noted without
15 your further speaking but if you want to --

16 MR. GROSE: I don't want to speak to the
17 objection. I just want to make sure that I
18 understand the ruling. As I understand it, she's
19 not allowed to offer an opinion about credibility?

20 THE COURT: That's correct.

21 MR. GROSE: She's not allowed to offer an
22 opinion that she has that the alleged victim has
23 these certain diagnoses, but she can offer a
24 limited opinion that some of the symptoms reported
25 are consistent with these types of diagnoses?

1 THE COURT: That is what this judge has
2 concluded is the body, the essence of the body of
3 the law.

4 MR. GROSE: Okay. I don't think I have any
5 question about that right now but I may just want
6 to make sure it sinks in and we're clear because
7 obviously we're getting into a very sensitive area
8 where there is a lot of danger for mishap and, you
9 know, if I have any other questions I'll ask you in
10 the morning before we start but I don't think it
11 will take a lot of time.

12 THE COURT: That's appreciated, Mr. Grose.
13 And, Miss Mayes, in conclusion please advise your
14 witness with regard to these very delicate and
15 sensitive areas of which we are now going into and
16 for her to avoid at all costs any direct opinion
17 drawn from anything that may have been gleaned by
18 her from all sessions with this prosecuting
19 witness. She can say that she has concluded that
20 she has symptoms that are, quote, consistent with,
21 end of quote, certain diagnoses and conditions that
22 are recognized within the realm of her expertise.
23 Understood, again?

24 MS. MAYES: Yes, sir, Your Honor.

25 THE COURT: Take your time and talk with her

1 so that we don't make a pitfall.

2 We are coming back into session at 9:30.

3 We're in recess.

4 (Recessed at 6:50 p.m.).

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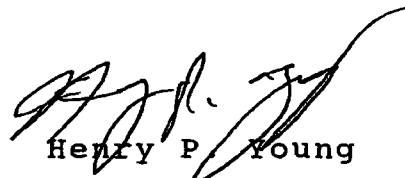
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4 I, the undersigned Henry P. Young, Official
5 Court Reporter for the Eighth Judicial Circuit of
6 the State of South Carolina, do hereby certify that
7 the foregoing is a true, accurate, and complete
8 transcript of record of all the proceedings had and
9 evidence introduced in the trial of the captioned
10 case in the Circuit Court for Abbeville County,
11 South Carolina, on the 8th day of September, 2004.

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

14 May 28, 2004

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19 Henry P. Young
20 Court Reporter
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STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS
2003-GS-01-296

COUNTY OF ABBEVILLE

THE STATE,

-vs-

MARK BOLTE,

Defendant.

B E F O R E:

HONORABLE WYATT T. SAUNDERS

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

LAURA SUZANNE MAYES, Esquire
Attorney for the State

E. CHARLES GROSE, Esquire
Attorney for the Defendant

Henry P. Young

VOLUME III OF IV

September 9, 2004

1 (Reconvened at 9:51 a.m.).

2 THE COURT: The record is open in the State
3 versus Mark Richard Bolte, indictment 2003-296.

4 Anything from the State before we call the
5 jury in?

6 MS. MAYES: No, sir, Your Honor.

7 THE COURT: From the defense?

8 MR. GROSE: Just very briefly. I believe
9 they had indicated their first witness is going to
10 be Mrs. MacTaggart and I think I understand your
11 rulings from yesterday but I wanted to make certain
12 the record is clear. We had moved to exclude her
13 completely under Rule 403, and based on your
14 ruling, that has obviously been denied.

15 We had also made some arguments under the
16 medical diagnosis exception to the hearsay that the
17 statements were not admissible because the
18 litigation had commenced, and I'm not sure if you
19 ruled on that specific point, and we had also made
20 an argument under the 801 nonhearsay about the
21 timing of the motive and I believe you said that
22 was an issue for the jury and not an issue for the
23 Court, and it would just be our position that it
24 would be an issue for the Court on admissibility
25 first.

1 THE COURT: The timing of what?

2 MR. GROSE: We had made an argument under --
3 if you can bear with me just one second. The State
4 had argued they wanted to introduce some of the
5 statements through the counselor to rebutt our
6 allegations of motive. Of course we had said and
7 were developing a picture of the motive having
8 arose long before the statements were ever made to
9 the counselor. 801(D)(1)(B)) seems to require that
10 the Court make the ruling on admissibility and I
11 believe what you had said yesterday that was an
12 issue for the jury, and I just wanted to make
13 certain the record contains the rulings on the
14 argument we made under 801-D, yes, 801(D)(1)(B))
15 and the hearsay exception, which is 803(4)..

16 THE COURT: Miss Mayes, do you want to
17 respond to that?

18 MS. MAYES: I'm not sure about the statement.
19 The only statement that I think she might be
20 repeating would be the time frame and place, and of
21 course time and place is already admissible
22 pursuant to other exceptions, and then when she's
23 talking about the history that was given to her,
24 some of the symptoms, as we stated before, there is
25 already an existing Rule 803 exception for history

1 for purposes of medical diagnosis and treatment.
2 I'm really not anticipating any other repetition of
3 statements from the victim to the counselor. The
4 counselor may be giving opinions based on observing
5 the patient in therapy in addition to her own wide
6 clinical experience, but I don't expect any direct
7 repetition of statements at all, if that's what
8 counsel is concerned about.

9 THE COURT: Is that a concern?

10 MR. GROSE: No, sir, not entirely. That was
11 part of the concern but the objection was a broad
12 concern. The 803(4) exception that Miss Mayes
13 refers to, statement for purposes of medical
14 diagnosis or treatment contains a limitation that
15 the admissibility of the statement made after
16 commencement of the litigation is left to the
17 Court's discretion. It's not an absolute matter of
18 allowing the information to come in, and through
19 the Court's ruling yesterday on the Schumpert,
20 Morgan, 403 type argument, you were obviously
21 concerned about some type of prejudice that could
22 outweigh the probative value, because you have
23 already placed some limits on the State, and I'm
24 just not certain that the 803(4) argument had been,
25 had been ruled on. It sounds like the government

1 may be abandoning the 801(D)(1)(B)) argument that
2 they were making yesterday.

3 MS. MAYES: As far as 801(D) and time and
4 place, this witness would be allowed, as any other
5 witness, to testify to time under the time and
6 place exception.

7 MR. GROSE: The D(1)(B) exception is broader
8 and I understood them yesterday to say that they
9 were going to offer it for those purposes. If they
10 say they're not, you know, that's fine, I don't
11 think we need to debate that any more.

12 MS. MAYES: Beg the Court's indulgence.

13 MR. GROSE: The time and place argument is
14 also in 801(D)(1) but it's a different subsection.

15 MS. MAYES: Maybe if counsel could advise the
16 Court what it is, what the concern is that the
17 counselor might say, we might know how best to work
18 around it. I mean, if there is a specific concern
19 about her repeating details of sexual abuse, as I
20 stated earlier, that was never our intention. I
21 mean, for the counselor to say, "Then she said that
22 such and such happened in the bedroom," our
23 expectation was always that she would testify about
24 time frame and place and then any general symptoms
25 that were reported to her pursuant to the history

1 provided for purposes of diagnosis and treatment.
2 Now, she will be giving opinions, obviously, based
3 on the underlying data that she has received and
4 worked on throughout her therapy, but I don't
5 expect for her to go into explicit details of
6 statements that were made by the victim. At least
7 not on direct examination, I don't expect that.

8 THE COURT: Does that clear up things?

9 MR. GROSE: I think it does. If they are not
10 going into the specific allegations, I think that
11 clears that up to some extent, although the
12 statements, they do say they are going to offer
13 statements for medical diagnosis and, you know, I
14 just want to make certain that it's clear, in order
15 for her to be able to testify and repeat any
16 statements made for medical diagnosis, even if it's
17 about symptoms, the 803(4) provides a limitation
18 and we're asking the Court to exclude the counselor
19 from making those statements based on the 803(4)
20 limitation that litigation had commenced before any
21 of these statement were made to the counselor, and
22 they are clearly, I think, wanting to offer
23 statements made for purposes of medical diagnosis
24 and treatment.

25 THE COURT: That's not what the Court heard

1 you say, Miss Mayes.

2 MS. MAYES: I believe the symptoms described
3 as part of her history were nightmares, anxiety,
4 sleep disturbance, depression and what the
5 counselor termed as a high startle response. Those
6 are the counselor's words based on whatever it was
7 the victim reported to her, probably nervousness
8 and things of that nature. The State contends,
9 that history, the State contends, is admissible
10 pursuant to Rule 803 as an exception to hearsay for
11 purposes of medical diagnosis and treatment.
12 That's exactly what the therapist's job is, to
13 determine what, if any, emotional or physical
14 symptoms the victim is experiencing so that she can
15 work on that as a goal in therapy, and that's her
16 job, to help her resolve whatever physical and
17 emotional disturbances she may be having.

18 THE COURT: The Court is going to permit the
19 testimony of those things that Miss Mayes just
20 stated but not any specific things that the
21 prosecuting witness may have told the counselor
22 concerning the charges before the Court. That's
23 not going to be permitted. Only the general
24 references to the time and place, where and when,
25 if you will, will be permitted.

1 MR. GROSE: When they call her I'm going to
2 make an objection to the witness being called and I
3 just want the record to be clear that I'm
4 referencing this discussion as well as the hearings
5 that we had yesterday afternoon, just to make sure
6 of error preservation.

7 THE COURT: Well, let's have a clear record.
8 It appears that we have a defense that the
9 allegations that are out there are fabricated, and
10 we have a psychotherapist comes into play after the
11 issuance of a warrant and the commencement of
12 litigation, and you make a point rising out of the
13 rules that that causes a discretionary ruling by
14 the Court to be required upon motion. The Court is
15 doing that and allowing the State to go forward,
16 even though she went to the psychotherapist after
17 commencement of the litigation in this case, being
18 a criminal charge, because there is a question
19 concerning motive, as you have brought up, and the
20 Court can see that it is a jury issue as to whether
21 the causation information for the marital discord
22 was brought about by the allegations made by this
23 prosecuting witness or, on the other hand, whether
24 your position taken on behalf of Mr. Bolte would be
25 that the allegations of the prosecuting witness

1 were brought about as a result of and to cooperate
2 and to assist to some extent the marital discord
3 effort on behalf of her mother.

4 Now, which caused which is a question for
5 this jury. The Court can't say that. That she
6 went to the psychotherapist after the commencement
7 of litigation and the psychotherapist was told
8 things about what happened, the psychotherapist is
9 not going to be able to talk about what happened.
10 She will be able to talk about where it happened
11 and when it happened according to what the
12 prosecuting witness told her, and she will be able
13 to say these non direct factual things such as the
14 symptoms that Miss Mayes just stated in order to
15 base her opinion that those things are consistent
16 with her report, that is, the report of the
17 prosecuting witness to the psychotherapist that
18 these things, type of things happened. Now, that's
19 going to be a thin line, Miss Mayes, you understand
20 that you can't get into what happened?

21 MS. MAYES: Yes, sir, Your Honor.

22 THE COURT: Are we clear, Mr. Grose?

23 MR. GROSE: Yes, sir, and at this point I'm
24 just interested in the error preservation issue, so
25 my next objection, when they call the witness, will

1 just be for that purpose.

2 THE COURT: Well, let's go ahead and call the
3 witness and let you place your objection outside
4 the presence of the jury, then.

5 MR. GROSE: Okay.

6 THE COURT: Let's don't prejudice the State,
7 either.

8 MR. GROSE: Sir?

9 THE COURT: Let's don't prejudice either
10 side, if you object.

11 MR. GROSE: If the government will agree she
12 is the next witness to be called and this issue is
13 preserved and I won't have to make an objection
14 when they call this witness in front of the jury,
15 I'm happy. The cases are unclear. Some say, I
16 think, that we're okay now because we talked about
17 last night's hearing and the very next thing that
18 happened is this witness is to be called, it
19 probably is preserved but the Attorney General's
20 likely to argue that I abandoned it if I don't make
21 it next, so if the government will make that
22 agreement that this issue is preserved and that I
23 don't need to make it when they call her in front
24 of the jury, that's fine with me.

25 THE COURT: Miss Mayes?

1 MS. MAYES: I have no objection to that
2 agreement, Your Honor.

3 MR. GROSE: Thank you, Your Honor.

4 THE COURT: Very well. Bring the jury in.
5 (The jury returned to the courtroom
6 at 10:06 a.m.).

7 THE COURT: Exhibit 12 will be part of the
8 record.

9 MR. GROSE: Yes, sir.

10 (Defendant's Exhibit Number 12 was
11 received in evidence).

12 THE COURT: All jurors are present, with the
13 forelady and the alternates properly seated. The
14 matter lies with the State. Call your next
15 witness.

16 MS. MAYES: The State calls Cherry
17 MacTaggart.

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CHERRY MacTAGGART - DIRECT

1 CHERRY MacTAGGART,
2 after being first duly sworn testified as follows:

3 THE CLERK: Okay, be seated, please. If you
4 will state your full name for the record.

5 THE WITNESS: My name is Cherry MacTaggart.

6 THE COURT: You may examine.

7 MS. MAYES: All right.

8 Duly sworn testified as follows:

9 THE CLERK: Okay, be seated, please. If you
10 will state your full name for the record.

11 THE WITNESS: My name is Cherry MacTaggart.

12 THE COURT: You may examine.

13 MS. MAYES: All right.

14 DIRECT EXAMINATION

15 QUESTIONS BY MS. MAYES:

16 Q Miss MacTaggart, where are you employed?

17 A I'm the owner and director of Uptown
18 Professional Counseling In Greenwood, South
19 Carolina.

20 Q What is Uptown Professional Counseling?

21 A It's a group of therapists that do
22 psychotherapy ranging in ages, I guess the youngest
23 are about three, to adults well into older age.

24 Q All right. And what is your job description
25 there?

CHERRY MacTAGGART - DIRECT

1 A I see a variety of patients every day and I
2 am responsible for the running of the business as
3 well.

4 Q Are you a therapist yourself?

5 A Yes, I am.

6 Q All right. Could you give us some
7 information concerning your educational background
8 and training?

9 A Yes. I have an undergraduate degree in
10 psychology from Lander University, I have a
11 Master's in psychology from Augusta State
12 University, I have owned this practice for the last
13 eight years, and before that I was counselor at
14 Lander University, and I'm also adjunct faculty at
15 Lander University, so occasionally I will go in and
16 teach a class in psychology.

17 Q That is what I was going to ask you next,
18 what type of courses do you teach at Lander?

19 A They can be any kind of psychology courses
20 that are 200 level and below because I have a
21 Master's Degree and not a Ph.D.

22 Q All right. Can you give us some information
23 concerning any courses, seminars or other training
24 that you have received in connection with child
25 sexual abuse or adult survivors of sexual assault?

CHERRY MacTAGGART - DIRECT

1 A I have a requirement by my licensor to
2 complete a number of hours every year in continuing
3 education, and one of the things that I do every
4 single year is to be involved in educational
5 training that has to do with sex assault, with
6 victim survivor, post traumatic stress disorder,
7 the kind of things I see most predominantly in my
8 practice.

9 Q And what type of license is it that you are
10 referring to?

11 A A licensed professional counselor.

12 Q And have you had the opportunity during your
13 years of being a therapist with Uptown Counseling
14 to work with victims of sexual assault which
15 includes children or adult survivors of sexual
16 assault?

17 A Yes, very often.

18 Q Is it possible for you to estimate the number
19 of sexual assault victims that you have worked with
20 over the years?

21 A I would say at least sixty children, and by
22 children, I mean under the age of eighteen. And
23 the adult population is a little bit greater
24 because sometimes when people have had a sexual
25 assault in their life they may not report right

CHERRY MacTAGGART - DIRECT

1 away, so it may be into adulthood that they report.
2 They might come into my practice for marital
3 therapy or under the auspices of some other kind of
4 counseling and then disclose that at some point in
5 their life they have been sexually abused.

6 Q All right. And have you testified previously
7 as an expert in the courts of South Carolina?

8 A Yes, I have, in Family Court about six times,
9 I suppose, at least.

10 Q And can you tell us whether or not you were
11 qualified as an expert in the field of child sexual
12 abuse counseling?

13 A Yes, I was.

14 MS. MAYES: Beg the Court's indulgence.

15 THE COURT: Take your time.

16 MS. MAYES: Your Honor, the State offers Miss
17 MacTaggart as an expert in the field of child
18 sexual assault counseling and treatment.

19 THE COURT: Questions on voir dire?

20 MR. GROSE: No, sir, Your Honor.

21 THE COURT: The area, again is what?

22 MS. MAYES: Child sexual assault counseling
23 and treatment.

24 THE COURT: Ladies and gentlemen, this is an
25 expert witness in the field of child sexual assault

CHERRY MacTAGGART - DIRECT

1 and counseling.

2 Continue.

3 BY MS. MAYES:

4 Q Now, Miss MacTaggart, have you had the
5 opportunity in your field to associate with other
6 professionals in the field of child abuse,
7 specifically child sexual abuse?

8 A Yes.

9 Q And does that include ongoing training and/or
10 seminars, things of that nature?

11 A And sometimes just good advice from another
12 good seasoned therapist.

13 Q Among child abuse professionals what is meant
14 by the term delayed disclosure or delayed
15 reporting?

16 A Delayed disclosure or delayed reporting means
17 simply that when the incident or incidents occurred
18 in the child's life they didn't come forward right
19 away and explain this to an adult in authority.
20 That's more the norm than not. I would say about
21 90 percent of the cases that I get are delayed
22 disclosure, so the child doesn't come right away
23 and tell.

24 Q Can you explain the prevailing family
25 dynamics which may be consistent with a child's

CHERRY MacTAGGART - DIRECT

1 delayed reporting of sexual abuse?

2 A There are lots of reasons why and each of
3 them have their own special merits. One thing that
4 we have to consider is just size. We look at an
5 adult who is abusing a child, the child is small,
6 the adult is very big and very powerful, and so
7 right away they're not going to challenge this big
8 person in their life.

9 One of the other good reasons is that we
10 teach our children to obey authority, we teach them
11 to obey the parents, and when they're younger and
12 they don't have a lot of experience in the world
13 and their little brains can't figure these things
14 out yet about who's safe and who is not, the most
15 safe people are going to be family members, those
16 are going to be the ones they are most trusting
17 with. And, so, generally if they are going to
18 disclose they have to feel safe enough in an
19 environment or with another adult that they are
20 able to do that.

21 One of the other reasons there is delayed
22 disclosure, perpetrators in these cases, the people
23 who are victimizing the children threaten the
24 children and they will tell them things like
25 nobody's going to believe you, you're going to

CHERRY MacTAGGART - DIRECT

1 destroy the family, your siblings may be taken
2 away, you might be taken away, they might put you
3 in foster care, you'll embarrass the family, and
4 then of course there is this huge issue of shame,
5 because as the children are being molested they
6 have an internal sense of the rightness and
7 wrongness of things anyway. I think most of you
8 can relate to that. You have sort of an internal
9 microscope that lets you know when something is
10 wrong or as the kids would say it's just yucky.

11 So, whenever the perpetrator is saying this
12 is how we show love and affection in this family,
13 the kid kind of knows it's not exactly normal. And
14 of course every child wants a very normal life they
15 want a very normal family, and so they try to make
16 the appearance that things in their family are just
17 like things in everybody else's family but they
18 feel that it's wrong and they get ashamed.

19 We're talking about secret touching and
20 private parts and the children are just very
21 ashamed by all that. And one of their biggest
22 fears is if this gets out it has happened to them,
23 what if people start thinking, gee, I really like
24 this, so they begin to feel dirty and embarrassed,
25 and they have to hide this secret.

CHERRY MacTAGGART - DIRECT

1 Q All right. Hypothetically, if a perpetrator
2 is a family member can you tell us whether the late
3 disclosure may be consistent, or inconsistent with
4 sexual abuse in that scenario?

5 A It's very definitely consistent. If the
6 perpetrator lives in the home, then the constant
7 threat is there. Let's say, for instance, the
8 perpetrator is a parent or an older sibling. They
9 already have power over that child and the constant
10 threat of their being there, especially if there's
11 been, let's say there's been physical violence in
12 the household or it's a violent kind of household,
13 if you have seen, if you have seen adults
14 assaulting each other and people walking away with
15 black eyes, you're not likely to cross the person
16 who is the perpetrator in that case, because again
17 you have this threat of physical pain, immediate
18 and difficult violence, so you're just going to do
19 whatever you're told to do and stay in your little
20 section of the world.

21 Q Based upon your training and clinical
22 experience can you tell us whether or not [REDACTED]
23 [REDACTED] delayed reporting is consistent, or
24 inconsistent with her history of sexual abuse?

25 A Yes, it's very much.

CHERRY MacTAGGART - DIRECT

1 Q And why or why not?

2 A Again, if you, if you have a perpetrator who
3 happens to be in the family or around the family
4 you have that constant threat of what happens if.
5 There are usually always specific threats in these
6 cases of what will happen if you disclose.

7 Q What factors may ultimately encourage a child
8 to reveal or report sexual abuse?

9 A Some of the things that can happen with these
10 children, they may disclose it to a friend, they
11 may disclose it to a teacher, they may become so
12 comfortable with the amount of power they
13 themselves have grown into. So, it is not uncommon
14 for a child who is being abused, whether it's
15 physical or sexual, as they gain maturity, as they
16 get bigger, to begin to resent and rebel and decide
17 they are going to take their lives into their own
18 hands. In that case they can report based on that.

19 Other things that happen certainly in my work
20 at Lander, I found that as children leave home and
21 there has been sexual assault and they get to a
22 place that they're safe, they are now out of the
23 family, they are living in a dorm and they're ready
24 to report and it may be to one of their professors
25 they become close to or they may come straight into

CHERRY MacTAGGART - DIRECT

1 counseling, but that's not an unusual occurrence.

2 Q Why may some children cooperate with an
3 abuser or with a perpetrator and allow abuse to
4 continue over the course of time?

5 A Well, all the reasons that we just talked
6 about, things like feelings of safety, personal and
7 private safety, keeping the family together, the
8 shame and guilt, obedience of authority, and the
9 children still want to have love from these people,
10 too. So, there is a feeling of if I am good enough
11 this will stop.

12 There is a lot of magical thinking involved
13 in children's ideas. Their cognitions are not
14 exactly like ours, they think more in terms of
15 black and white. So, the same kind of things that
16 would make them think that if they're good enough
17 it will stop, or if they do the right things it
18 will stop, but yet these magical kind of thoughts
19 in their mind about if I continue with this and I
20 don't put up a fight then everybody else in the
21 family will be safe.

22 Q Can you tell us whether the cooperation or
23 continued cooperation with a perpetrator is a
24 common, I'm sorry, is consistent, or inconsistent
25 as reaction to sexual abuse?

CHERRY MacTAGGART - DIRECT

1 A Could you repeat that, I'm sorry?

2 Q Could you tell us why the continued
3 cooperation with an abuser is consistent, or
4 inconsistent with child sexual abuse?

5 A It depends on the situation. They
6 consistently are cooperative if they are trying to
7 avoid pain, if they're trying to avoid being
8 revealed, and so of course that's normal because
9 this child is hiding a secret and protecting it.
10 And as long as they are not putting up a fuss, then
11 the threats don't come through, so, yes, it
12 certainly is consistent.

13 Q All right. And specifically can you tell us
14 whether that reaction of cooperation with an abuser
15 is consistent, or inconsistent with [REDACTED]
16 behavior from sexual abuse?

17 A Yes, very normal.

18 Q In your practice at Uptown Counseling have
19 you had the opportunity to have counseling with

20 [REDACTED]

21 A Yes, I have.

22 Q And when was she first referred to you for
23 counseling?

24 A She was referred to me in September of 2003
25 and we got our schedules together by October of

CHERRY MacTAGGART - DIRECT

1 2003.

2 Q All right. And for what purpose have you
3 treated [REDACTED]

4 A For the reduction of symptoms relating to
5 post traumatic stress disorder.

6 Q All right. Can you share with us some of the
7 symptoms that you have worked with with [REDACTED]

8 A Yes. We worked in trying to reduce levels of
9 anxiety, which is certainly one of the symptoms
10 that you see in groups that have been identified as
11 having post traumatic stress disorder. Other terms
12 like hypervigilant, which means sort of looking
13 over your shoulder constantly. The basic features
14 of this group of symptoms that we call post
15 traumatic stress disorder is sort of like if you
16 can relate to, remember 9/11, do you remember how
17 agitated you were when you heard about the towers
18 and how threatened you felt or maybe even anytime
19 the president raises the level of alert you begin
20 to feel, oh, my goodness, and you look around and
21 you get hypervigilant. In other words, you look
22 over your shoulder for danger in a lot of places.
23 Well, this is one of the primary symptoms.

24 There is also just a general inability to
25 relax. It's like this morning I'm very nervous and

CHERRY MacTAGGART - DIRECT

1 I'm very well aware of that, so I've been breathing
2 deeply and trying to make myself calmer. And
3 that's one of the problems that these people have,
4 they can't just go from I'm nervous to I'm going to
5 breathe without a lot of work and training, so we
6 do, we do progressive muscle relaxation, we do deep
7 breathing exercises, and in some cases we're able
8 to do systematic desensitization, is a long word
9 that simply means you put your mind in another
10 place and you begin to relax and breathe and you
11 change your thoughts to something that's a lot more
12 relaxing.

13 The other things are tearfulness, depression,
14 feelings of sadness, feeling like you're being
15 chased, not being able to run away far enough or
16 fast enough, and certainly in this case
17 specifically business and keeping a crazy schedule
18 of I've got to do this, I've got to do that is one
19 way to combat thoughts of things that have happened
20 that were unpleasant. And, so, keeping the crazy
21 schedule is another way to do it.

22 Some of the other features in this set of
23 symptoms that we identify with people who have been
24 diagnosed with post traumatic stress, you can have
25 skin and nail problems. You have physical

CHERRY MacTAGGART - DIRECT

1 reactions as well. You can have nausea for no
2 reason, the inability to swallow for some period of
3 time, feeling so stressed and anxious. If you have
4 ever been in a real stressful or anxious situation,
5 you know the last thing you want to do is sit down
6 to a steak dinner.

7 So, there are many things that we have been
8 treating over the course of months now, and also
9 the anxiety of having to wait on court dates is
10 another thing that creates a lot of anxiety.

11 Q Why may symptoms of trauma follow sexual
12 abuse?

13 A When you fear for your life, as often victims
14 of sexual abuse do, you have had a threat to your
15 safety that is profound and significant. And as it
16 is repeated, it becomes more and more magnified, so
17 that your life becomes a kind of war zone, hiding
18 out, trying to protect yourself, trying to think up
19 new ways to protect yourself from assault. And,
20 so, for all of those reasons you develop this
21 anxiety and this try to flight, being on red alert.

22 Q Has your treatment of [REDACTED] also included
23 treatment for sleep disturbance?

24 A Yes, it has. Sleep disturbance is another
25 one of the symptoms, one of the major symptoms

CHERRY MacTAGGART - DIRECT

1 because, again, if you are able to fall asleep, if
2 you can quiet your thoughts enough to fall asleep,
3 many times you will get jarred out of a very
4 restful situation by night terrors or nightmares,
5 anything that has to do with a threat. And I think
6 we have all shared that experience at one time or
7 another, maybe not night terrors, but a nightmare
8 when you wake up and your car is sailing off the
9 end of a bridge, and you feel what's happening in
10 your body, your blood pressure goes up, your
11 breathing becomes rapid and shallow and you are
12 prepared to fight. Those are the kind of things
13 that disturb you from sleep and you have to settle
14 down again.

15 Q In your expert opinion are [REDACTED] [REDACTED]
16 symptoms of trauma that you worked with in therapy,
17 are they consistent with, or inconsistent with her
18 history of sexual abuse?

19 A They're consistent.

20 Q And I'm going to ask you for specific
21 reference now, please don't repeat anything beyond,
22 any hearsay beyond what I'm asking you.

23 Did [REDACTED] report to you anything concerning
24 the time or time frame in which sexual abuse was
25 experienced?

CHERRY MacTAGGART - DIRECT

1 A Yes, she did. [REDACTED] explained to me that
2 her memories of the sexual abuse --

3 MR. GROSE: Objection, Your Honor. That is
4 beyond the scope of your ruling, I believe, and
5 beyond the scope of the question.

6 THE COURT: Restate your precautions given to
7 the witness and the question.

8 MS. MAYES: Yes, sir, Your Honor.

9 BY MS. MAYES:

10 Q Again, you can't repeat anything that [REDACTED]
11 said to you which would be, which would be hearsay,
12 beyond the question that I'm asking you concerning
13 the time frame in which sexual abuse was
14 experienced.

15 A So, you're asking me how old --

16 Q Time frame would be if you are aware of the
17 time frame, chronological time frame, which would
18 include age.

19 A Age five through the time that she was able
20 to get away, age seventeen, eighteen.

21 Q All right. And specifically as to the time
22 frame in which assaults would occur, was that
23 reported to you as well?

24 A Time frame, you mean during those years?

25 Q Right, as to any specific incident, any time

CHERRY MacTAGGART - DIRECT

1 frame in which that occurred?

2 A Normally, I'm trying to be very cautious,
3 Your Honor, normally these assaults occurred when
4 her mother was away at work on third shift.

5 Q All right. Now, again without repeating
6 anything that the victim said to you, any knowledge
7 that you have concerning the place or locations in
8 which sexual assault occurred with [REDACTED] [REDACTED]

9 A In the family home.

10 Q How, in your experience, Miss MacTaggart, may
11 excelling outside the home be consistent with a
12 history of an abusive home environment?

13 A Children need praise so badly and one of the
14 things that they do if they can't get praise at
15 home they are going to try to get it from
16 elsewhere. You maybe remember having a grandmother
17 who praised you or gave you cookies or was proud of
18 you and said so, and many times children find this
19 at school if they are lucky enough, and we are
20 lucky in our state to have some really wonderful
21 and warm and kind teachers, and as the children do
22 well in their classroom they praise the children
23 and they get rewarded for their good grades and
24 they get stroked for being good writers and good
25 painters or wonderful mathematicians, so the

CHERRY MacTAGGART - DIRECT

1 children who are craving this praise and craving
2 this normalcy will excel in school situations and
3 school settings for that reason.

4 Q How, if at all, what were those factors
5 consistent with [REDACTED] [REDACTED] history of sexual
6 abuse?

7 A [REDACTED] has been a good student, as we have
8 heard presented as evidence, and every time she
9 does, performs in some way that she is rewarded
10 publicly, it's personal praise and it's, it's
11 almost as though the world is saying to her we see
12 that you're very normal and very successful.

13 Q How may that occur in light of a home life
14 that is unstable or abusive?

15 A Compartmentalization is another important
16 factor here, too, because you can only sustain this
17 level of intense fright and hypervigilance for so
18 long, and so being able to compartmentalize and
19 sort of divide your brain into sections and say
20 this part of my life I live this way, in this part
21 of my life I live this way. I guess a good example
22 would be if you have a rowdy little boy and he can
23 misbehave a little bit at home. That's okay
24 because we can tolerate that, everybody
25 understands he's just rowdy. But he goes into

CHERRY MacTAGGART - DIRECT

1 church and he has a different set of behaviors. He
2 knows that once he gets in there he has got to
3 behave himself and so he does it. He conforms to
4 that. And, so, it is with children who have been
5 victims of sexual assault, they have this set of
6 behaviors for this place and this set of behaviors
7 for another situation.

8 Q How, if at all, may shame or embarrassment be
9 consistent with [REDACTED] delayed reporting of
10 sexual abuse?

11 A No child ever wants to be labeled. They
12 don't want to be different, they want to try to fit
13 in, they want that consistency, as I mentioned
14 earlier, of the family where everybody loves
15 everybody else and everybody is kind to everybody
16 else and there is no threat, and to have the shame
17 of something going on that's very secretive and
18 very dark at your house is not something that any
19 child wants to have exposed to a community. You
20 have had or may have known people in the family who
21 were alcoholics and that night have been a problem
22 in the family, oh, my goodness, we can't let them
23 see Uncle Ralph because he is not anywhere near
24 decent today, or something like that, that you took
25 on as personal shame.

CHERRY MacTAGGART - DIRECT

1 So, in these kind of cases they don't want
2 the exposure because it means shame not just to
3 themselves, but to the rest of the family as well,
4 especially if you have close ties to the other
5 siblings.

6 MS. MAYES: Beg the Court's indulgence.
7 Nothing further at this time, your Honor.

8 THE COURT: Cross-examination.

9 MR. GROSE: If it please the Court.

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CHERRY MacTAGGART - CROSS

CROSS EXAMINATION

QUESTIONS BY MR. GROSE:

Q You were asked about the nature of the referral?

A Yes.

Q Okay. And that referral was from Judy Davis?

A Yes, sir, it was.

Q And the date of that referral was September 24th, 2003?

A I can check. If that's in the notes, then that's what it was. Yes, sir.

Q You agree with that?

A Yes, I do.

Q And you were also asked about the date of the first visit. You said that was in October?

A Yes, sir.

Q And that date was actually October 23rd, 2003?

A Yes, sir.

Q Now, you were asked about some of the type of symptoms that you were treating, and I believe you said that those included anxiety, sleep disturbance and depression?

A Yes, sir.

Q And you talked about sleep disturbance as

CHERRY MacTAGGART - CROSS

1 being a possible symptom of the anxiety and the
2 post traumatic stress disorder?

3 A Yes, sir.

4 Q Also when you're dealing with depression,
5 sleeping too much can be a sign of depression?

6 A It can but not always, because depression and
7 anxiety are; they exist together, and you might
8 have this much depression and this much anxiety, or
9 almost any gradation between, so because we have
10 something that we call depression doesn't mean that
11 it has exactly the same symptoms. It's like
12 arthritis, there are many.

13 Q Okay. So, symptoms that could be involved
14 could be sleeping too much or could be sleeping not
15 enough?

16 A Could be, depending on the situation.

17 Q Okay. And you talked about exceeding well
18 and striving for excellence as being an example of
19 somebody coping with child sexual abuse?

20 A Can be, yes.

21 Q Also poor performance in school can be a
22 symptom of that?

23 A Can be, yes.

24 Q So, you either do real well in school or you
25 don't do well in school, they both can be symptoms?

CHERRY MacTAGGART - CROSS

1 A They can be, or you can be somewhere in the
2 middle.

3 Q So, it could be anything?

4 A Could be. It's most likely it's pronounced
5 one way or the other.

6 Q Okay. But just because it's pronounced one
7 way as opposed to the other, it could be both, it
8 could be, both could be examples?

9 A There could be examples of both but it's not
10 going to exist with the same child.

11 Q When you look at a different child, one may
12 have one, one may have the other?

13 A Yes.

14 Q Exceeding in school may also be an example of
15 being driven to exceed?

16 A Of course.

17 Q And not being able to get enough sleep can
18 also be an example of having anxiety, general
19 anxiety in life?

20 A Yes.

21 Q It's not uncommon for people who are worried
22 about paying bills to have anxiety?

23 A True.

24 Q And not be able to sleep, correct?

25 A If it gets to be problematic they usually

CHERRY MacTAGGART - CROSS

.1 will see their physician, though, it's not just
2 like a simple thing of this week I have a bill
3 problem.

4 Q All right. But bill problems over a long
5 period of time can cause people to lose sleep? It
6 can?

7 A It can.

8 Q And having to work a lot of jobs to meet bill
9 payments can cause people to lose sleep?

10 A It can.

11 Q Having anxiety about raising children
12 sometimes can cause, can be a source of anxiety,
13 too, can't it?

14 A It can be.

15 Q Now, you were asked some questions about the
16 history. What is history is somebody, and you do
17 this in any type of visit, somebody reporting to
18 you what their symptoms are?

19 A Yes.

20 Q And that's done in an interview situation?

21 A Yes, it is.

22 Q And the information that you write down in
23 your notes in any case is the information that's
24 given to you by the patient?

25 A It doesn't necessarily include all the

CHERRY MacTAGGART - CROSS

1 information given by the patient but it can include
2 pertinent facts.

3 Q Okay. Well, you certainly would write down
4 what you think is important?

5 A Yes, most often.

6 Q Okay. And in this case your source of [REDACTED]
7 [REDACTED] claimed history is all from her?

8 A Yes, it is.

9 Q You mentioned people seeing doctors sometimes
10 when they have sleep disturbance. You haven't
11 reviewed any doctor records for [REDACTED] [REDACTED]
12 medical doctor records?

13 A No, sir.

14 Q Not from Abbeville?

15 A No, sir.

16 Q Not from when they lived in Illinois?

17 A No, sir.

18 Q Not from when they lived in California?

19 A No, sir.

20 Q In fact, pretty much your entire file
21 regarding the history is information that was
22 provided by [REDACTED]

23 A Yes, sir.

24 Q And your services for counseling are being
25 compensated by the state government, aren't they?

CHERRY MacTAGGART - CROSS

1 A Yes, sir.

2 MR. GROSE: I beg the Court's indulgence.

3 That's all I have at this time, Your Honor.

4 THE COURT: Thank you. Redirect?

5 MS. MAYES: Yes, sir, Your Honor.

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CHERRY MacTAGGART - REDIRECT

1 REDIRECT EXAMINATION

2 QUESTIONS BY MS. MAYES:

3 Q In addition to a patient providing you with
4 their own history of sickness, do you ever have the
5 opportunity to observe such symptoms yourself
6 during your course of treatment?

7 A Yes, of course I do.

8 Q Can you explain how that may work?

9 A You can see lots of things that go on in
10 human behaviors. If I look around the room I'm
11 going to see a variety of behaviors in the room
12 that we're observing now. Interest, stretching,
13 people trying to relax. You see lots of different
14 kind of behaviors. You may see some things that
15 are naturally a part of the character or
16 personality of each individual. You will see
17 people who are more active, more hyperkinetic than
18 others, you will see people who have a very calm
19 demeanor. There are all sorts of things we
20 observe, nail biting, hair twisting, those kind of
21 things that might be understood as anxious
22 behaviors.

23 Q All right. And were the symptoms described
24 to you by [REDACTED] such as you mentioned before,
25 anxiety, depression, was that consistent with what

CHERRY MacTAGGART - REDIRECT

1 you observed from her during treatment?

2 A Yes, it was.

3 Q And in your opinion, in your opinion are the
4 emotional and physical symptoms that you treated
5 [REDACTED] for most consistent, or inconsistent with
6 the history of sexual abuse?

7 A Yes, they were consistent.

8 MS. MAYES: Nothing further.

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CHERRY MacTAGGART - RECROSS

1 RECROSS EXAMINATION

2 QUESTIONS BY MR. GROSE:

3 Q The opportunities to observe [REDACTED]
4 behavior, that was all after October 23rd, on or
5 after October 23rd?

6 A On that date and after, yes, sir.

7 Q 2003?

8 A Yes.

9 MR. GROSE: Nothing further, Your Honor.

10 THE COURT: Miss Mayes?

11 MS. MAYES: Nothing further, Your Honor.

12 THE COURT: Thank you. Come down, please.

13 (Witness excused).

14 THE COURT: Madam Forelady and ladies and
15 gentlemen, we're going to have a very brief recess,
16 very brief. Please do not discuss the case by,
17 between and among yourselves. Retire to the jury
18 room.

19 (The jury left at 10:41 a.m.).

20 THE COURT: Anything from the State?

21 MS. MAYES: Nothing at this time, Your Honor.

22 THE COURT: From the defense?

23 MR. GROSE: No, sir.

24 THE COURT: We're going to be in recess just
25 for a few minutes.

1 (Recessed at 10:42 a.m.).

2 (Reconvened at 11:11 a.m.).

3 THE COURT: We are in session, State of South
4 Carolina versus Mark Richard Bolte, 2003-296.
5 Anything from the State?

6 MS. MAYES: No, sir, Your Honor.

7 THE COURT: From the defense?

8 MR. GROSE: No, sir.

9 THE COURT: Thank you. Show the jury in.

10 (The jury returned to the courtroom
11 at 11:12 a.m.).

12 THE COURT: All jurors are present, with the
13 foreperson and the alternates properly seated.
14 Call your next witness, Miss Mayes.

15 MS. MAYES: Yes, sir, Your Honor. The State
16 calls Ruth Burton.

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RUTH BURTON - DIRECT

1 RUTH BURTON,
2 after being duly sworn, testified as follows:

3 THE CLERK: Thank you, be seated.

4 THE COURT: You may examine, Miss Mayes.

5 MS. MAYES: Yes, sir, Your Honor.

6 DIRECT EXAMINATION

7 QUESTIONS BY MS. MAYES:

8 Q Miss Burton, could you state your full name
9 for the Court?

10 A My name is Ruth Burton.

11 Q And where do you reside?

12 A At Carnegie Dorm at Erskine College in Due
13 West.

14 Q Can you give us some information about
15 yourself, concerning the job that you hold?

16 A I'm a resident director for the freshman
17 dorm, which is Carnegie Hall, at Erskine. There is
18 a lot involved with that job. Would you like to
19 hear the job description?

20 Q If you would.

21 A All right. One of the primary
22 responsibilities for the resident director is to
23 ensure the safety and welfare of residents in the
24 dorm, in my case all freshmen women. Also I give
25 guidance, whether physical or emotional or spiritual

RUTH BURTON - DIRECT

1 concerns, anything that's needed in that regard.

2 Q All right. What is a dorm mom?

3 A Excuse me, what is it?

4 Q Yes.

5 A Well, it's often referred to as dorm mother
6 or a lot of times mama away from mom. In other
7 words, I am the mother or the parent fill-in, the
8 mother, because these students who are housed in a
9 college dorm are away from their parents.

10 Q All right. And how long have you been doing
11 that at Erskine?

12 A I just started my tenth year.

13 Q All right. And can you tell us whether or
14 not your experience as the dorm mother at Erskine
15 involved contact with [REDACTED] [REDACTED] in the fall of
16 2002?

17 A I met [REDACTED] when she started to college her
18 freshman year, in the fall of 2002.

19 Q All right. And at that point in time can you
20 tell us where she was residing?

21 A Prior to moving into the dorm, or in the
22 dorm?

23 Q In the dorm.

24 A All right. She moved into a room, actually
25 it's one of four in the dorm, first floor, just

RUTH BURTON - DIRECT

1 right around the corner from my apartment on first
2 floor.

3 Q All right. And at any period of time during
4 the fall of 2002 did you become aware of the
5 defendant Mark Bolte attempting to make contact on
6 campus with [REDACTED]

7 A Mark Bolte called me on like three occasions
8 I'm sure of to ask, you know, if I could get in
9 touch with [REDACTED] and have her call him. He was
10 very agitated that he had not been able to reach
11 her. He asked me to see if she was in the room,
12 which I did, and each time she wasn't. I learned
13 later that she was not in the room a lot of times,
14 she stayed in other students' rooms.

15 Q All right. And can you tell us what time of
16 day or night, if you recall, you received the calls
17 from Mr. Bolte?

18 A I know at least or I remember at least a
19 couple of the calls were early morning, very early
20 morning, and then maybe one late night call.

21 Q Okay. And can you tell us whether or not you
22 became aware of the defendant Mark Bolte attempting
23 contacts with [REDACTED] directly on campus?

24 A There was one occasion that I received a
25 telephone call from one of our student life

RUTH BURTON - DIRECT

1 assistants to tell me that Mark --

2 MR. GROSE: Objection to the hearsay, Your
3 Honor.

4 THE COURT: Sustained.

5 Q You can't repeat what anyone else said to
6 you. Did you become aware?

7 A I was, yes, I became aware of Mark's being in
8 the dorm and I immediately went to investigate that
9 and when I rounded the corner I saw both [REDACTED] and
10 Mark engaged in, in fact both of them were yelling
11 either in anger or frustration over something.

12 Q All right. And what did you do in response
13 to observing that?

14 A Well, because resident directors are made
15 aware of any kind of action taken against persons,
16 including trespass notices, I'm required in my job
17 to notify law enforcement if someone breaks that
18 trespass notice. I was aware that Mark was on
19 trespass notice and immediately went back to call
20 Due West Police. Normally I would have called
21 Public Safety, that's Erskine's law enforcement,
22 but it was during the afternoon and they don't have
23 a person on duty until nighttime.

24 Q All right. So, there was a pre-existing
25 trespass notice against Mr. Bolte?

RUTH BURTON - DIRECT

1 A That's correct.

2 Q And when had you become aware of that?

3 A We're always made, we meaning resident
4 directors, are always made aware at the start of
5 each school year who is on trespass notice and
6 we're advised to advise law enforcement at anytime
7 that we see anybody on that list on campus.

8 Q Now, was there ever an occasion in which
9 [REDACTED] came to you around exam time?

10 A Yes. On one occasion there was a knock on my
11 door late one evening and I opened the door and
12 [REDACTED] just really crumbled into my arms in
13 hysterics over the fact that she had been trying to
14 study for exams and was constantly receiving phone
15 calls from her father.

16 MR. GROSE: Objection.

17 THE COURT: Sustained.

18 MR. GROSE: This is hearsay, Your Honor. I
19 move to strike and a curative instruction.

20 THE COURT: The objection is sustained and,
21 ladies and gentlemen of the jury, you will ignore
22 and disregard completely the testimony that you
23 just heard, the last comment that the witness made.
24 It is stricken from the record and it will not be
25 considered to be evidence.

RUTH BURTON - DIRECT

1 Continue.

2 BY MS. MAYES:

3 Q You can't repeat anything that someone said
4 to you.

5 Can you describe to us what [REDACTED]
6 reaction, physical reaction was that you observed?

7 A All right. The physical reaction, let me
8 think, her physical reaction that evening was she
9 was just in hysterics, concern over not passing
10 exams, but keeping --

11 MR. GROSE: I object to the hearsay again,
12 Your Honor.

13 MS. MAYES: I can rephrase that.

14 MR. GROSE: And I move to strike and request
15 a curative instruction.

16 THE COURT: All right. Ladies and gentlemen,
17 the last comment by this witness will be
18 disregarded completely and absolutely by you. It's
19 not evidence in the case and it will be stricken
20 from the record. If necessary, give your witness
21 some instructions.

22 BY MS. MAYES:

23 Q Please do not repeat anything someone said to
24 you. Do you remember when it was that you saw
25 [REDACTED] and she came to you with this response?

RUTH BURTON - DIRECT

1 A It was during exam time, which had to be like
2 either the first or second week of December.

3 Q Okay. And did you also become aware at any
4 point in time that [REDACTED] was seeking an order of
5 protection on or about December 9th of 2002?

6 MR. GROSE: Your Honor, this is going to be
7 hearsay.

8 THE COURT: Madam Forelady and ladies and
9 gentlemen, you will not discuss the case. Retire
10 to the jury room while we take up a matter of law.

11 (The jury was excused from the courtroom at
12 11:21 a.m.).

13 THE COURT: Now, the question to the witness
14 evoked her statement that she was aware of an order
15 of protection, where upon an objection was lodged
16 by the defendant. The issue here is whether the
17 order of protection is a public notice and a public
18 order of protection, and --

19 MR. GROSE: That wasn't the question, though.
20 The question was about seeking it, and that would
21 have been the only way she could know about that,
22 is hearsay. We have no evidence she was involved
23 in the process of doing that, assisting in doing
24 that or anything of that nature. It's one thing, I
25 didn't object when there was questions about, "Were

RUTH BURTON - DIRECT

1 you aware there was a trespass notice," and
2 certainly that would have come by hearsay but that
3 would have to be some type of basis of knowledge
4 that she had that caused her to react a certain
5 way.

6 The question that they asked was, "Did you
7 ever become aware of [REDACTED] [REDACTED] seeking an order
8 of protection," and this would get into
9 conversations that she had with you don't know who,
10 probably a number of people, probably [REDACTED]
11 probably some other people. She also has a
12 connection with the Sheriff's Department.

13 THE COURT: The objection is well taken,
14 then, the Court did not clearly understand the
15 question. Was that the question, whether she
16 became aware of the --

17 MS. MAYES: I believe it was, Your Honor, I
18 have no problem withdrawing that question and
19 moving on.

20 MR. GROSE: Thank you, Your Honor.

21 THE COURT: All right, thank you both, and
22 show the jury in, please.

23 MR. GROSE: Can I, one other thing real
24 quick?

25 THE COURT: Wait a minute, Mr. Simpson.

RUTH BURTON - DIRECT

1 MR. GROSE: I would just note that this is
2 the fourth hearsay objection with this witness,
3 three have been sustained and one the question has
4 been withdrawn. If this continues to become a
5 problem with this witness we're going to get to a
6 situation where I'm having to get up and object a
7 lot and you have told this jury that, you know,
8 they shouldn't hold it against the lawyers or their
9 client if they are doing the objection, but if I
10 have to keep objecting you don't know what kind of
11 appearance that's going to give to the jury. The
12 next time there is a hearsay objection I'm going to
13 also follow with a mistrial motion if it comes
14 within this witness because the prejudicial effect
15 is going to keep, is going to keep mounting up if
16 we don't do something to control this, and we have
17 had several times throughout this trial where there
18 has been hearsay objection, I think with every
19 witness who has testified so far there have been
20 sustained hearsay objections followed by an
21 instruction by Miss Mayes not to talk about what
22 other people said. We need to get something clear
23 so I don't have to raise this objection with every
24 single witness that's going to testify.

25 THE COURT: Mr. Grose, you do a good job and

RUTH BURTON - DIRECT

1 it's expected that you will continue to do a good
2 job but the witnesses aren't schooled in the law
3 and when they are testifying it's not as if they
4 are in a vacuum, they're just doing what they
5 ordinarily usually do in responding to a question.
6 They're not aware they are going into hearsay
7 areas, so help us guard the record and that's
8 appreciated, but if it happens, now, the question
9 is withdrawn and is there any curative instruction
10 needed at this point? I believe you intercepted it
11 before anything was said. It is true that the
12 order of protection was discussed in the first
13 witness' testimony, so if you want anything said
14 additionally to the jury we'll do that.

15 MR. GROSE: I just would ask you to tell them
16 to disregard that last question.

17 THE COURT: All right. In addition to
18 withdrawal of it? The Court would prefer that they
19 hear the question is withdrawn.

20 MR. GROSE: Actually, I think both, Your
21 Honor, that the question was withdrawn and they are
22 to disregard it.

23 THE COURT: Very well, thank you. Show them
24 in, please, Mr. Simpson.

25 (The jury returned at 11:27 a.m.).

RUTH BURTON - DIRECT

1 THE COURT: All jurors are present, all
2 persons are properly seated.

3 Anything with regard to the last question?

4 MR. GROSE: Yes, sir.

5 MS. MAYES: Yes, sir, Your Honor, that
6 question is withdrawn.

7 THE COURT: Ladies and gentlemen, you will
8 disregard the last question.

9 Continue the direct examination.

10 MS. MAYES: Yes, sir, Your Honor.

11 BY MS. MAYES:

12 Q Now, Miss Burton, can you describe to us the
13 location of [REDACTED] dorm room in relation to the
14 street area?

15 A The room that [REDACTED] was in in Carnegie is
16 located on the first floor and all right actually
17 directly across from Highway 20 but can be seen all
18 the way around to the ARP Church parking lot on
19 Main Street.

20 Q All right. And do you recall when it was
21 that the defendant Mark Bolte actually appeared on
22 campus at [REDACTED] dorm room as you previously
23 described?

24 A I don't remember the date but it had to be,
25 as I said, the first or second week of December.

RUTH BURTON - DIRECT

1 MS. MAYES: All right, nothing further.

2 THE COURT: Mr. Grose?

3 MR. GROSE: Beg the Court's indulgence, Your
4 Honor.

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RUTH BURTON - CROSS

CROSS EXAMINATION

QUESTIONS BY MR. GROSE:

Q You said that [REDACTED] dorm room was located directly across from Highway 20?

A Right.

Q And Highway 20 is the main, one of the main roads that come into Due West?

A That's correct.

Q And if you're coming into Due West from this direction you drive right past that dorm and particularly that dorm room?

A Well, it can be seen, yes.

Q It can be seen if you're driving on the road?

A Right, that's correct.

Q And it could be seen on Main Street?

A That's correct.

Q And you said that Mark called on three occasions that you could remember. Is that right?

A That's correct.

Q Concerned about his daughter?

A Right.

Q And on one of those occasions it turns out she was missing or not able to be located for two days?

A No. On each occasion I checked, because

RUTH BURTON - CROSS

1 that's what he asked me to do, the dorm room and
2 she was not in the dorm room at that time.

3 Q You're not aware of whether or not she was
4 missing for two days?

5 A Well, she was missing from the dorm room at
6 that time. Not missing like for consecutive days,
7 no.

8 Q But all you did was check the dorm room?

9 A That's correct.

10 MR. GROSE: Nothing else, Your Honor.

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RUTH BURTON - REDIRECT

REDIRECT EXAMINATION

QUESTIONS BY MS. MAYES:

Q Miss Burton, is it common, or uncommon in your experiences of being a dorm mom for some students to spend the night in another student's room either in the dorm or in another dorm?

A It's not uncommon, you know, students visit with other students regularly, sometimes they study late, they fall asleep. It's not uncommon for students to be gone a lot of the time out of their own room.

Q Okay. And can you describe to us Mr. Bolte's voice or manner in the conversation that Mr. Grose was referring to?

A In his call to me asking about where [REDACTED] was?

Q Yes.

A He was apparently distressed that he could not get in touch with her.

MS. MAYES: Nothing further.

MR. GROSE: No further questions, Your Honor.

THE COURT: Thank you ma'am. You may come down. Watch your step.

(Witness excused).

MS. MAYES: The State calls Judy Davis.

JUDY DAVIS - DIRECT

1 JUDY DAVIS,
2 after being first duly sworn, testified as follows:
3 THE COURT: This witness is with you, Miss
4 Mayes.

5 DIRECT EXAMINATION

6 QUESTIONS BY MS. MAYES:

7 Q Could you state your full name for the court?

8 A Judy Davis.

9 Q All right. Try to speak up a little bit
10 louder so even this last juror can hear you.
11 All right?

12 What is your job description, Miss Davis?

13 A I'm the director of victim services for the
14 sheriff's office and I'm also a certified officer
15 with the sheriff's office.

16 Q All right. So, are you a law enforcement
17 officer as well?

18 A Yes.

19 Q And how long have you been a member of the
20 Abbeville County Sheriff's Department?

21 A Next month will be six years.

22 Q And what are your job duties as a law
23 enforcement officer responsible for victim
24 services?

25 A My primary duty is, as I say, victim

JUDY DAVIS - DIRECT

1 services. I'm on call 24 hours a day seven days a
2 week and I offer crisis intervention, court escort
3 for victims, referrals to service providers,
4 counseling. Just a variety of services for
5 victims.

6 Q All right. Have your job duties here in
7 Abbeville County included having contact with

8 [REDACTED]

9 A Yes, it has.

10 Q And you mentioned before that you made
11 counseling referrals. Why is that?

12 A Usually when a victim is -- well, sometimes I
13 call them clients, have been victimized they need
14 that counseling to help them get over the
15 victimization they have incurred.

16 Q All right. And how common or uncommon is it
17 for you as a member of the Sheriff's Department to
18 make referrals for counseling?

19 A Very common.

20 Q All right. And can you tell us whether or
21 not you made such a referral for [REDACTED]

22 A I did.

23 Q And with who?

24 A Cherry MacTaggart.

25 Q All right. In working with [REDACTED] did you

JUDY DAVIS - DIRECT

1 have the opportunity to learn from her the place or
2 location in which sexual assaults may have
3 occurred?

4 A I did.

5 Q And can you tell us what those locations
6 were?

7 A There was a blue house on [REDACTED] [REDACTED] a
8 trailer, I don't remember the name of the street
9 but there was a trailer they lived in, and then
10 there was a white house on [REDACTED] [REDACTED]

11 Q All right. And during your involvement in
12 this case in conjunction with the Abbeville County
13 Sheriff's Department have you had the opportunity
14 to determine if all three of those locations are
15 within the jurisdiction of Abbeville County?

16 A Yes, they are.

17 Q Now, did you also have the opportunity to
18 respond to [REDACTED] dorm room at Erskine in
19 November of 2002?

20 A I did.

21 Q Can you tell us what happened upon arriving
22 or what you observed upon arriving?

23 A I observed that [REDACTED] was visibly upset and
24 she had received some messages on her tape, on her
25 answering machine and she wanted me to listen to

JUDY DAVIS - DIRECT

1 those.

2 Q And did you have an opportunity to listen to
3 the answering machine tape?

4 A I did.

5 Q Okay. And upon doing that did you have the
6 opportunity to take custody of that answering
7 machine tape for purposes of evidence with the
8 Sheriff's Department?

9 A I did.

10 Q Did you have the opportunity to listen to the
11 answering machine tape with [REDACTED] present?

12 A I did.

13 Q What, if anything, did you observe at that
14 point?

15 A I observed that she was visibly upset, her
16 hands, I remember her hands and arms shaking like
17 this while we were listening to the tape.

18 Q Now, what, if any, recommendation did you
19 make as a member of law enforcement at this point?

20 A I suggested to her that she seek an order of
21 protection.

22 Q So, you were the person that suggested that?

23 A I did.

24 Q What is an order of protection?

25 A Well, it's a piece of paper but a lot of

JUDY DAVIS - DIRECT

1 times it does carry a lot of weight. Generally we
2 go before a Family Court judge, sometimes a
3 magistrate, but once the order of protection is
4 issued it is to basically keep the offender away
5 from the victim.

6 Q All right. And do you routinely accompany
7 victims to court proceedings such as restraining
8 orders, order of protections and things of that
9 nature?

10 A Most all court proceedings I do, whether it's
11 Magistrate Court, General Sessions or Family Court.

12 Q And what was the date of the order of
13 protection hearing in this case concerning Mark
14 Bolte?

15 A December the 9th, 2002.

16 Q And were you present?

17 A I was.

18 Q What was the purpose of that hearing?

19 A That was for the order of protection.

20 Q Was it a sexual abuse hearing?

21 A No, it was not.

22 Q At any point during that hearing was the
23 victim required to provide specifics concerning
24 sexual abuse?

25 A No.

JUDY DAVIS - DIRECT

1 Q Now, did you become aware at any point -- let
2 me ask you this. Is it also routine for you to
3 assist victims of crimes in obtaining criminal
4 warrants?

5 A Yes, it is.

6 Q Did you become aware at any point in time of
7 [REDACTED] [REDACTED] pursuing criminal charges in this
8 case?

9 A I did, I was aware of it, I was there.

10 Q Okay. And what role, if any, did you play in
11 that, such as obtaining the warrant or warrant
12 being issued?

13 A I generally accompany the victim to the
14 magistrate's office while they're obtaining the
15 warrant.

16 Q And were you present when the magistrate
17 issued the warrants in this case?

18 A I was.

19 Q What was the date of Mark Bolte's arrest?

20 A September the 22nd, 2003.

21 Q And can you tell us the date of birth of Mark
22 Bolte?

23 A [REDACTED] [REDACTED] [REDACTED].

24 MS. MAYES: Beg the Court's indulgence.

25 Nothing further, Your Honor.

JUDY DAVIS - DIRECT

1 THE COURT: Cross-examination?

2 MR. GROSE: Thank you, Your Honor. May it
3 please the Court, Beg the Court's indulgence for a
4 moment.

5 THE COURET: Take your time, counsel.
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JUDY DAVIS - CROSS

1 CROSS EXAMINATION

2 QUESTIONS BY MR. GROSE:

3 Q I believe you said that the warrants were
4 issued on September 22nd, is that right?

5 A I said that was the date of arrest. I'm not
6 sure they were issued on that same date, too.

7 Q Okay. And you were involved in that?

8 A Yes, sir, uh-huh (Affirmative).

9 Q Do you know what date the police report with
10 Deborah Graham was?

11 A August the 6th, 2003.

12 Q And you witnessed a statement that Ester
13 Bolte provided, didn't you?

14 A I did not witness that.

15 Q Is that your signature?

16 A I notarized it after she wrote it.

17 Q That's what I mean.

18 A But I didn't actually see her while she was
19 writing it. I saw her when she signed it.

20 Q Okay. Well, that's all I'm going to ask you.

21 A Yes.

22 Q When did she sign that statement?

23 A August the 14th, 2003.

24 Q All right. Now, are you aware of the date of
25 the divorce hearing?

JUDY DAVIS - CROSS

1 A I know it was in August, maybe the middle of
2 August. I'm not sure of the exact date.

3 Q Okay. Did you attend that?

4 A I did, uh-huh (Affirmative).

5 Q If I show you this, does that refresh your
6 memory as to the date of the divorce hearing?

7 A That would be right, August 14th, 2003.

8 Q That's the same date that she signed that
9 police statement and you notarized it?

10 A If that's what the date was on there.

11 Q Okay. Now, you indicated that you were
12 involved in the proceedings with [REDACTED] [REDACTED] in
13 regards to the order of protection?

14 A That's correct.

15 Q There was also an order of protection sought
16 at that same date by Ester Bolte, wasn't there?

17 A That's correct, uh-huh (Affirmative).

18 Q And are you aware of the date that that
19 petition was signed?

20 A Not the date of the petition.

21 Q Are you aware of the date of the hearing?

22 A August the 9th -- I mean December the 9th,
23 2003.

24 Q Did you assist in preparing any of those
25 petitions?

JUDY DAVIS - CROSS

1 A No, sir, I did not.

2 MR. GROSE: Beg the Court's indulgence
3 briefly.

4 That's all the questions I have at this time,
5 Your Honor.

6 MS. MAYES: May we approach the bench, Your
7 Honor.

8 THE COURT: You may.
9 (Unrecorded bench conference).

10 THE COURT: Redirect, Miss Mayes?

11 MS. MAYES: Yes, sir, Your Honor.

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JUDY DAVIS - REDIRECT

REDIRECT EXAMINATION

QUESTIONS BY MS. MAYES:

Q Now, Mr. Grose was asking you about an order of protection that was sought by Ester Bolte?

A That's correct.

Q Who is Ester Bolte?

A She is the mother of [REDACTED]

Q All right. And prior to Ester Bolte seeking an order of protection were you aware through your law enforcement responsibilities of any prior criminal domestic violence complaint in which law enforcement responded wherein Ester Bolte or family members made a complaint against Mark Bolte?

A Yes, sir, I was aware of that.

Q Where did that occur?

A In Due West, [REDACTED] [REDACTED] [REDACTED]

Q All right. How did you become aware of that?

A I was called by 911 to respond to help the Due West Police.

Q So, you actually responded, yourself, to that domestic violence complaint?

A I did.

Q All right. And do you have the exact date in which you responded to the home?

A It was April 20th, 2002.

JUDY DAVIS - REDIRECT

1 Q Okay. So, all the way back in 2002 you
2 responded to a domestic violence complaint
3 concerning this defendant?

4 A That's correct.

5 Q And at that point in time who was residing in
6 the family home? Was Ester Bolte residing in the
7 family home?

8 A She was.

9 Q Was [REDACTED] [REDACTED]

10 A Yes, she was.

11 Q And based upon your knowledge what, if any,
12 date of significance was April 20, 2002?

13 A That was [REDACTED] prom.

14 Q Do you have with you the record of that
15 domestic violence response?

16 A I do.

17 Q Can you state for us the complainant or the
18 person that was notifying law enforcement or
19 requesting their presence at the scene?

20 THE COURT: There is some kind of
21 disturbance, noise. Check on that, Lieutenant.
22 Let's all stop momentarily.

23 He'll take care of it, let's continue, Miss
24 Mayes, please.

25 Q Do you have with you the name of the

JUDY DAVIS - REDIRECT

1 complainant or person notifying law enforcement to
2 come to the scene?

3 A I do.

4 Q And who is that person?

5 A Ester Bolte.

6 Q Okay. And based upon -- well, let me ask you
7 this. As a result of responding to the scene what,
8 if any, services did you offer?

9 A I offered Ester, at that time [REDACTED] was not
10 there when I first arrived, but I did talk with
11 Ester and offered her services if she needed to go
12 to a safe home, basically that kind of information.

13 Q What is a safe home?

14 A Well, the one that services Abbeville is in a
15 different town, we don't disclose where it's at for
16 safety for the victims. They can go there and
17 services are provided by the workers there to help
18 them with seeking order of protections, even if
19 they need to relocate somewhere else, help them
20 with their children, just a lot of variety of
21 services.

22 Q Okay. And upon your initial contact with
23 Mrs. Bolte in April of 2002 did you have the
24 opportunity to stay apprised or stay in contact
25 concerning any future law enforcement responses?

JUDY DAVIS - REDIRECT

1 A I did.

2 Q Okay. Prior to Miss Bolte seeking an order
3 of protection against the defendant in December of
4 2002, do you have knowledge as to whether there
5 were any additional criminal domestic violence
6 complaints at the family home?

7 A Prior to that?

8 Q Prior to December, 2002.

9 A I don't recall.

10 Q All right. Whose jurisdiction would that
11 have been where the family was residing between
12 April, 2002, and December, 2002?

13 A It was actually Due West city.

14 Q Okay. Now, based upon your knowledge of
15 working with the Bolte family, was August, 2003,
16 when [REDACTED] met with Deborah Graham of the
17 Sheriff's Department, the first time that she had
18 disclosed sexual abuse to law enforcement
19 authorities?

20 A To my knowledge that was the first time.

21 Q Were you present at the order of protection
22 hearing in December, 2002?

23 A Yes, I was.

24 Q Okay. Can you tell us whether or not a
25 history of sexual abuse was revealed at that point

JUDY DAVIS - REDIRECT

1 in time?

2 A Not a history. It was revealed that there
3 had been allegations that there had been sexual
4 abuse but no details about any of it.

5 Q Okay.

6 MS. MAYES: Beg the Court's indulgence.

7 Nothing further.

8 THE COURT: Recross?

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JUDY DAVIS - RECROSS

RECROSS EXAMINATION

QUESTIONS BY MR. GROSE:

Q The date that we had up here for April 20th as the date that the police came, that's what you were talking about for the CDV?

A Yes, sir.

Q And I believe that you said that you actually went out there?

A I did, uh-huh (Affirmative).

Q And met with Ester Bolte?

A That's correct.

Q And she did not have any visible signs of injury, did she?

A No.

MR. GROSE: Beg the Court's indulgence.

That's all I have, Your Honor.

MS. MAYES: Nothing further, Your Honor. The State rests.

THE COURT: Thank you, come down.

(Witness excused).

THE COURT: Ladies and gentlemen, that is the case in chief. We will allow you, please, to step into the jury room, instructing you not to discuss the case by, between and among yourselves while we take up some matters of law.

1 Retire to the jury room.

2 (The jury was excused from the courtroom
3 at 11:52 a.m.).

4 THE COURT: Mr. Grose?

5 MR. GROSE: Your Honor, at this time we would
6 move for a directed verdict as to the three counts
7 in the indictment that the State is proceeding on,
8 on the ground that the State has failed to produce
9 substantial evidence, either direct or
10 circumstantial based upon which this jury could
11 rely beyond a reasonable doubt in order to convict.

12 THE COURT: Thank you, Mr. Grose. Miss
13 Mayes?

14 MS. MAYES: Yes, sir, Your Honor. Briefly,
15 as to the charge of lewd act, the victim has
16 clearly stated incidents of improper touching which
17 occurred under age sixteen in Abbeville County.

18 In addition, as to criminal sexual conduct
19 with a minor, she has stated multiple acts of
20 sexual battery which include oral sex and digital
21 penetration of the vagina when she was under age
22 sixteen in Abbeville County.

23 And then as to the charge of incest, she has
24 reported that in Abbeville County the defendant
25 engaged in sexual intercourse with her and she has

1 also testified that the defendant is her father.

2 THE COURT: Thank you, Miss Mayes. Mr.
3 Grose, any response?

4 MR. GROSE: We just stand on our motion, Your
5 Honor.

6 THE COURT: Thank you. The Court is
7 concerned at this juncture as to whether there is
8 any evidence brought forward upon which the jury
9 could find that the State has proved its case. The
10 Court finds there exists such evidence and denies
11 the motion.

12 MR. GROSE: Thank you, Your Honor. At this
13 time I would inquire, because it has been placed on
14 the record, about the status of the two counts in
15 the indictment that the State has not proceeded on?

16 THE COURT: Miss Mayes.

17 MS. MAYES: Yes, sir, Your Honor, those
18 charges are and will be nol-prossed.

19 THE COURT: There will be a nolle prosequi
20 entered there.

21 MR. GROSE: With prejudice, I presume?

22 MS. MAYES: That's correct.

23 MR. GROSE: Your Honor, at this time I would
24 note that we had asked the Sheriff's Department to
25 serve a subpoena on Ester Bolte and notified them

1 she would be our first witness. He says he could
2 get her here. I recommend we take a lunch break
3 now early, it's the noon hour, and then after lunch
4 I would present her and I probably have another
5 witness or two after that. I will have either
6 three or four witnesses, Your Honor.

7 THE COURT: How long will it take to get Miss
8 Bolte here?

9 DEPUTY SHERIFF: She just resides in Due
10 West, Judge, it won't take long.

11 THE COURT: She's in Due West now as far as
12 you know?

13 MR. GROSE: We had asked them to have her
14 here, because until the testimony yesterday I
15 wasn't really sure where they were living, or
16 wouldn't have any reason to know that. I had asked
17 Chief Johnson to have her here at the time the
18 State rests. They were in a better position to
19 know that than I did. They had twenty witnesses,
20 told the Court they would call less than ten,
21 called about four.

22 THE COURT: Yes, sir, that's understandable.
23 I'm just trying to get a time line here and see if
24 we can get your directions before the lunch hour.
25 For the information of both of you, we have a civil

1 matter at 2:15 and immediately after that as soon
2 as we can complete it we have, we have to come into
3 session on a short criminal matter, that we
4 probably won't be back into session until a little
5 bit, hopefully before a quarter until 3:00. I
6 would like to get her direct. I realize you
7 thought she would be here but we didn't know when
8 we would need her. That's understandable.

9 MR. GROSE: And that direct may take as much
10 as half an hour or hour or more.

11 THE COURT: If we could get her here now,
12 let's see what the situation is.

13 MS. MAYES: Your Honor, I was completely
14 unaware, I was unaware of any communications he may
15 have had with law enforcement about obtaining the
16 witness. I certainly have a phone number and could
17 have had her here available as the first witness
18 for the defendant.

19 MR. GROSE: And I thought Chief Johnson
20 could, too, as somebody for the Sheriff's
21 Department. So, you know, I don't want to get into
22 a finger pointing thing, I just want her here.

23 THE COURT: It's not necessary. Your
24 position is well taken. Chief Johnson, how long
25 will it take to get Miss Ester Bolte present in the

1 courtroom, approximately?

2 CHIEF JOHNSON: Forty-five minutes.

3 THE COURT: We better take a lunch break. We
4 will not be able to come back into session until,
5 it appears to be about 3:45, 2:45, I'm sorry, so
6 we'll move as quickly as we can.

7 Ask them in, please, Mr. Simpson.

8 (The jury returned to the courtroom
9 at 11:59 a.m.).

10 THE COURT: Madam Forelady and ladies and
11 gentlemen of the jury, we have an administrative
12 delay that is the fault of no one, so we're going
13 to recess now. For your information, we have other
14 matters that have already been scheduled for today
15 at 2:15, which matter should take about ten minutes
16 or maybe twelve minutes, and after that we have
17 scheduled another matter, neither of which involve
18 you, so we're going to recess until, we don't know
19 when to tell you, we're going to try to move up the
20 2:15 matter and see if we can get it here early so
21 that the matter that is scheduled after that can
22 occur at 2:15 and we can begin at 2:30. We don't
23 know that right now. Let's excuse you until 2:30
24 and if we don't get to you we'll get to you as soon
25 as we can. Those two matters are going to be

1 brief, so if you are here at 2:30 we shouldn't be
2 very long in asking you out. We're through with
3 all the other matters we have to handle in this
4 case, so when you come back we will start with the
5 presentation of the defense.

6 Do not discuss the case by, between and among
7 yourselves nor with any other person. Do not allow
8 anyone to discuss the case with you and if anyone
9 were to attempt to do that you should immediately
10 identify yourself at a juror and you should tell
11 that person you can't talk with them. Now, if
12 anyone persists in attempting to talk to you after
13 you identify yourself as a juror and they are alert
14 to your status as a juror, if they continue to talk
15 with you, then that should put you in a very
16 immediate situation of knowing that person is
17 trying to tamper with you or delve into what is
18 going on here in the courtroom. That would be
19 improper and wrong and illegal. So, if that were
20 to happen after you tell a person that you are a
21 juror and you can't talk with them and they
22 continue to try and talk with you, use every
23 reasonable means to identify any person or persons
24 who does that and report it to one of the bailiffs
25 as soon as you come back in and we'll see to it

1 that that is investigated and dealt with
2 immediately and with dispatch.

3 As you already know, if there were to be any
4 media coverage of the trial, such as newspaper,
5 radio or television, as soon as you realize that
6 what you're reading, hearing or seeing has to do
7 with this trial you are to disregard it, pay no
8 attention to it, give no value to it. It is not
9 important, it is not evidence in the case, so
10 completely and absolutely disabuse your mind of
11 anything that you may hear, see or read outside the
12 courtroom and consider only what you have heard in
13 this courtroom to be evidence in the case.

14 Do not discuss the case under any
15 circumstances or permit anyone to discuss the case
16 with you and be back in the courtroom at 2:30.

17 Now, if you hear something going on as you
18 come into the courtroom, you will come around the
19 area to your right, go on, creep along the wall
20 there, go in quietly, you will not hear anything
21 having to do with this case. If you hear some
22 words spoken that you think remotely could involve
23 the case that you're hearing, it does not. We have
24 two matters to hear and you may hear something that
25 you consider that could be related but it will not

1 be related at all.

2 So, just be comfortable as you come in, Mr.
3 Manning will show you in, you will just come on
4 into the jury room by coming along the wall there,
5 and just go in and relax. There will be
6 refreshments there for you.

7 Thank you very much, Madam Forelady and
8 ladies and gentlemen. You are excused.

9 (The jury was excused from the courtroom
10 at 12:02 p.m.).

11 THE COURT: Anything from the State before we
12 recess for lunch?

13 MS. MAYES: Nothing from the State, Your
14 Honor.

15 THE COURT: From the defense?

16 MR. GROSE: No, sir. Could Miss Mayes and I
17 just speak to you off the record about something,
18 it's not something I need to make a record of.

19 THE COURT: Yes, sir.

20 (Unrecorded bench conference).

21 THE COURT: Now, we're in recess in this case
22 until 2:30 but we're going to begin at 2:00 o'clock
23 with the other matters.

24 MR. GROSE: Thank you, Your Honor.

25 THE COURT: Thank you.

1 (Recessed at 12:06 p.m.).

2 (Reconvened at 2:49 p.m.).

3 THE COURT: The record will open, please.
4 State of South Carolina versus Mark Richard Bolte,
5 in indictment 2003-296.

6 Anything from the State before the jurors
7 come in, please?

8 MS. MAYES: No, sir, Your Honor.

9 THE COURT: Anything from the defense?

10 MR. GROSE: No, sir.

11 THE COURT: Thank you.

12 MR. GROSE: I am going to move this again, if
13 that's all right. It blocks my view.

14 THE COURT: Is the witness whom you intended
15 to call here? Are we ready to go?

16 MR. GROSE: I believe she's here.

17 THE COURT: All right. Show the jury in,
18 please, Mr. Simpson.

19 (The jury returned to the courtroom
20 at 2:50 p.m.).

21 THE COURT: All the jurors are present, with
22 the forelady and alternates properly seated. The
23 matter lies with the defense. Call your first
24 witness, please, Mr. Grose.

25 MR. GROSE: I call Ester Lopez, Your Honor.

ESTER LOPEZ - DIRECT

1 ESTER LOPEZ,
2 after being first duly sworn testified as follows:

3 THE COURT: This witness is with you, Mr.
4 Grose.

5 MR. GROSE: Thank you, Your Honor.

6 DIRECT EXAMINATION

7 QUESTIONS BY MR. GROSE:

8 Q Would you state your full name for the
9 record, please?

10 A Esterlina Lopez.

11 Q And have you ever been married?

12 A Yes.

13 Q And who were you married to?

14 A Mark Richard Bolte.

15 Q And when did you and Mark Bolte meet each
16 other?

17 A In the Navy, we married, we were married for
18 twenty years.

19 Q Okay. Where were you all stationed when you
20 all met?

21 A Great Lakes.

22 Q In which state?

23 A That's Illinois.

24 Q And how long did you all date before you got
25 married?

ESTER LOPEZ - DIRECT

1 A About six months before I had agreed and then
2 we were stationed apart for a little over a year,
3 so it was a little while before we were actually
4 together.

5 Q Okay. And what is your, what date did you
6 all get married, the month, the day and the year?

7 A 23 March, 1982.

8 Q 1982, is that what you said?

9 A I believe, uh-huh (Affirmative).

10 Q You said you were stationed apart. Did it
11 ever come where you all were stationed together?

12 A Yes, Camp Lejuene, North Carolina after about
13 a year and a half.

14 Q All right. Before that were you ever
15 stationed together in Tennessee?

16 A No -- well, let me see, I'm sorry. For about
17 three months, it's called temporary assignment,
18 because I was, we were awaiting spousal orders, so
19 it was about three months there.

20 Q Okay. And then you all moved to Camp
21 Lejuene, North Carolina?

22 A Yes, sir.

23 Q And how long were you all in Camp Lejuene,
24 North Carolina?

25 A Three years.

ESTER LOPEZ - DIRECT

- 1 Q And what years would those be, approximately?
- 2 A '83, '86?
- 3 Q Okay. And while you you were in Camp
- 4 Lejuene, North Carolina did you and Mark have any
- 5 children?
- 6 A Two.
- 7 Q And who would those be?
- 8 A [REDACTED] [REDACTED] and [REDACTED] [REDACTED]
- 9 Q Okay. And when was [REDACTED] born?
- 10 A [REDACTED] -- excuse me, [REDACTED] [REDACTED] [REDACTED].
- 11 Q And when was [REDACTED] born?
- 12 A [REDACTED] [REDACTED] [REDACTED].
- 13 Q And after Camp Lejuene, North Carolina where
- 14 was the next place that you were stationed?
- 15 A We went back to Great Lakes.
- 16 Q And how long were you all in Great Lakes?
- 17 A About two years.
- 18 Q And what years would those be, approximately?
- 19 A '87 -- well, '86, March, '86, around there,
- 20 to sometime '88.
- 21 Q And after that station, where was the next
- 22 place that you were stationed?
- 23 A Moffett Field, close to Oakland, California,
- 24 San Francisco.
- 25 Q And what years were you in Moffett Field near

ESTER LOPEZ - DIRECT

1 Oakland, California?

2 A '88 to '90.

3 Q And at some point did you leave the Navy, at
4 least active duty?

5 A Yes, December 19th, 1990.

6 Q And was the last active duty station Moffett
7 Field?

8 A Yes.

9 Q And overall how long were you in the Navy?

10 A Ten years active, five years reserve.

11 Q And when you left the Navy what was your rank
12 or grade when you left active duty?

13 A First Class.

14 Q Okay.

15 A E-6.

16 Q All right. And after you left the Navy --
17 let me, before I move on, when you all were living
18 in California how many children did you have at
19 that point?

20 A Two.

21 Q Okay. And after living in California where
22 was the next place that you and Mark and at that
23 point the two children lived?

24 A Southern Illinois.

25 Q And where was that in southern Illinois?

ESTER LOPEZ - DIRECT

- 1 A Marion.
- 2 Q Okay. And how long did you all live in
3 southern Illinois?
- 4 A Approximately eight years.
- 5 Q And while you were living in southern
6 Illinois did you have any other children?
- 7 A Two.
- 8 Q And what are their names?
- 9 A [REDACTED] and [REDACTED]
- 10 Q And when was [REDACTED] born?
- 11 A [REDACTED].
- 12 Q And when was [REDACTED] born?
- 13 A [REDACTED].
- 14 Q While you were living in Illinois did [REDACTED]
15 attend school there?
- 16 A Yes, sir.
- 17 Q And where did she attend school?
- 18 A She attended, I'm trying to remember the
19 elementary school, but in Marion she attended the
20 elementary school and then we, after being there
21 about four years we ended up moving to another part
22 of southern Illinois, Johnson City, and we were
23 there a few years, so she did go to high school in
24 Johnson City, freshman.
- 25 Q Okay. Freshman meaning her ninth grade year?

ESTER LOPEZ - DIRECT

- 1 A Yes, sir.
- 2 Q And do you remember what years that would
3 have been, calendar years?
- 4 A 1999.
- 5 Q Does 1998, 1999 sound about right?
- 6 A Yes, sir.
- 7 Q And at some point you all moved to South
8 Carolina?
- 9 A Yes.
- 10 Q And do you remember what year and month it
11 probably was that you arrived in South Carolina?
- 12 A It was January, 1999.
- 13 Q Okay. When you moved to South Carolina where
14 was the first place that [REDACTED] attended high
15 school?
- 16 A Dixie.
- 17 Q And how long did she attend high school at
18 Dixie?
- 19 A Maybe a month.
- 20 Q All right. And after attending Dixie for
21 maybe a month did she transfer someplace else?
- 22 A Abbeville High School.
- 23 Q Okay, and what grade would she have been when
24 she transferred to Abbeville High School?
- 25 A She would have been a sophomore.

ESTER LOPEZ - DIRECT

1 Q Her tenth grade year?

2 A Or it was the last half of her ninth grade.

3 Q Either the last half of her ninth grade year
4 or tenth grade year, is that fair to say?

5 A Yes, it was January, it was midway.

6 Q Okay. When you all left southern Illinois,
7 Johnson City High School, what were [REDACTED] grades
8 like at that point?

9 A She graduated valedictorian, junior high.

10 Q A's?

11 A Yes, sir, straight A's.

12 Q And when she attended Dixie High School for a
13 month or the last half of her ninth grade freshman
14 year what were her grades like there?

15 A I believe they were the same. She was
16 looking for accelerated classes and they did not
17 have that for her.

18 Q Okay. So, when you say the same, she was
19 making A's and B's?

20 A Yes, sir.

21 Q When you say she was looking for accelerated
22 classes, what do you mean by that?

23 A She's advanced. The math, the English was
24 not high enough for her, she wanted to be
25 challenged and get the appropriate levels.

ESTER LOPEZ - DIRECT

1 Q More challenging courses at Abbeville High
2 School, is that what you're saying?

3 A Yes, sir.

4 Q And when she was at Abbeville High School did
5 she take the more challenging courses?

6 A Yes, sir.

7 Q Would those be considered college preparatory
8 type courses?

9 A Yes, some of them.

10 Q Would those have weighted grade point
11 averages?

12 A Yes, sir.

13 Q What were her grades like at Abbeville High
14 School in her tenth grade or sophomore year?

15 A She continued to excel, straight A's pretty
16 much.

17 Q And what were her grades like at Abbeville
18 High School her eleventh grade year, her junior
19 year?

20 A The same.

21 Q And her grades her senior year?

22 A She graduated valedictorian.

23 Q Okay. And with the weighted grades do you
24 know what her grade point average was when she
25 graduated, if you know?

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1 A No. It was above the highest.

2 Q Okay. Now, when you were in the Navy,
3 between you and Mark, who earned more money?

4 A I did.

5 Q And after you left the Navy, when you were
6 living in southern Illinois what job did you have
7 there?

8 A I was an operating room technician on call.

9 Q Where at?

10 A Marion Memorial Hospital and also Carbondale
11 Memorial Hospital, in between having the two
12 children, as I could work.

13 Q Okay. And, so, that was two different
14 hospitals?

15 A Yes, sir.

16 Q And you said you were an operating room --

17 A Operating room technician.

18 Q What does that involve?

19 A Being side to side with surgeons doing total
20 knee replacements, gynecological, just general
21 surgery, specialized in orthopaedics, I would hand
22 the instruments to the surgeon, and I was on call
23 quite often, and because I was less than a mile
24 away, they called me quite a bit.

25 Q And, so, it wasn't uncommon for you to work a

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1 lot of hours?

2 A I worked all the time.

3 Q And that's partly how you earned money to
4 support your growing family?

5 A Yes, sir.

6 Q And when you moved to South Carolina where
7 did you work?

8 A Carolina Springs Academy.

9 Q And how long did you work there?

10 A Almost five years total.

11 Q From 1999, would that be when you started?

12 A Yes. I started in January and then spring,
13 not this last spring, but a year ago is when they
14 told me to leave for personal reasons, because of
15 all this that's going on.

16 Q So, it was, that would have been a year ago,
17 so that would have been in 2003?

18 A Yes.

19 Q So, from 1999 to 2003, that's about four
20 years?

21 A Okay, yes, sir.

22 Q And was there ever a period during that four
23 years where your employment was interrupted for any
24 period of time?

25 A Yes, sir.

ESTER LOPEZ - DIRECT

1 Q And for how long was that?

2 A About six months to eight months, somewhere
3 around there.

4 Q Okay. Now, we talked about [REDACTED] school
5 at Abbeville High School. What would her senior
6 year have been, what calendar years?

7 A She graduated, it would be 2001 and 2002.
8 She's a sophomore in college, excuse me, a junior
9 in college, so we'll go back three years, so it
10 would be 2002, 2003.

11 Q Could it have been 2001 and 2002? That's all
12 right, I'll move on.

13 You had indicated that, I believe you said
14 that the date that you and Mark were married was
15 March 23rd, 1982?

16 A Yes.

17 Q And, so, your twentieth wedding anniversary
18 would have been when?

19 A 2002.

20 Q Okay. On the 23rd of March. Am I right?

21 A Yes.

22 Q Now, by your twentieth, or at your twentieth
23 wedding anniversary, before your twentieth, I'm
24 sorry, let me, I believe I wrote this in February,
25 but you said it was March, right?

ESTER LOPEZ - DIRECT

1 A March 23rd.

2 Q All right. For your twentieth wedding
3 anniversary had you wanted to go on a trip
4 anywhere?

5 A Gatlinburg or somewhere would have been nice,
6 I figured that we needed to get away because both
7 of us were so busy, and the children, it would have
8 been nice.

9 Q Okay. You say you stayed so busy with the
10 children. You being busy, that was working at
11 Carolina springs?

12 A Uh-huh (Affirmative), and the house, with the
13 church.

14 Q Okay. And when you say Mark, or both of you
15 being busy, Mark's being busy, too. Was he working
16 at this point in time?

17 A Yes, he was.

18 Q Where was he working?

19 A He worked at Carolina Springs for a little
20 while and then he had a few other jobs.

21 Q In 2002 did he have a different job than
22 Carolina Springs?

23 A Yes. For about four months he worked as a
24 prison guard.

25 Q Where at?

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- 1 A Abbeville.
- 2 Q The detention center?
- 3 A The new building.
- 4 Q Okay. And did that involve him having to go
5 to the police academy or anything for training?
- 6 A Yes.
- 7 Q And do you remember when that training was?
- 8 A Around November time, 2001.
- 9 Q Okay. And you also said that you all were
10 busy with the children, is that right?
- 11 A Yes, sir, always.
- 12 Q And were you actively involved with the
13 children?
- 14 A Nowhere near what I would have liked to have
15 been most of my life.
- 16 Q Okay. And what kept you from being as
17 involved, not as involved as you would like to have
18 been?
- 19 A I have always worked, and besides that, I did
20 most of the housework, laundry, dishes. He cooked
21 but I would do all the dishes and all the
22 housework, and while I did that I thought it was a
23 good thing that my oldest daughter, she was more,
24 she watched over the kids and she did errands, so
25 she, I thought it would be better if I did the work

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1 in the house.

2 Q Did Mark do anything with raising the
3 children?

4 A Yes. When I was at work he was at home, I
5 trusted him.

6 Q And did he take them to doctors'
7 appointments?

8 A Yes, sir.

9 Q Did he help them with homework?

10 A Yes, he did.

11 Q Did he cook meals for them?

12 A Yes.

13 Q Run errands?

14 A Yes, sir.

15 Q Now, you said it would have been nice to have
16 gone to Gatlinburg, Tennessee, I believe?

17 A Yes, sir.

18 Q Were you all able to go on that trip?

19 A No, we did not.

20 Q On your anniversary did you go for a walk
21 that day?

22 A In the midst of hearing my first born
23 daughter [REDACTED] and my husband arguing and the
24 things that I heard, they did not know that I heard
25 some of their argument, their conversation, and so

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1 I walked away baffled and decided to take a walk
2 with the Lord.

3 Q Did you make a decision while you were taking
4 that walk?

5 A Yes, sir.

6 Q And what decision did you make?

7 A To find out who this man is that I married.

8 Q Okay. Did you make a decision that day about
9 whether or not you were still his wife?

10 A The decision I made, yes, sir, was to be more
11 attentive to my family and what was going on,
12 because I did not understand who he was, the things
13 happening in my household.

14 Q I'm going to hand you that document. In
15 fact, you have a copy of it sitting in your lap
16 there?

17 A Yes, sir.

18 Q That's the statement that you made to the
19 police, isn't it?

20 A I believe so.

21 Q And what date did you make that statement to
22 the police?

23 A August 14th, 2003.

24 Q Okay. And I would like, if you would, for
25 you to turn to page five of that statement, if you

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1 would.

2 A My handwritten statement?

3 Q Yes, ma'am. That is in your handwriting?

4 A Yes, sir.

5 Q And if you would look about a third of the
6 way down the page?

7 A Uh-huh (Affirmative).

8 Q Do you state, "I was no longer his wife that
9 day"?

10 A Yes.

11 Q Now, did you ever start having contact with
12 Judy Davis?

13 A The only time that I had contact with her,
14 the first time that I had contact with her was a
15 domestic violence report.

16 Q And when was that?

17 A April, 2002.

18 Q Do you remember what date in April, 2002?

19 A It may have been the 20th.

20 Q Okay.

21 A I may stand corrected.

22 Q All right.

23 A I may stand corrected, because the dates are
24 not real --

25 Q Okay. But April 20th sounds like it could be

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1 close to it?

2 A Yes, sir.

3 Q Okay. And did you ever start having contact
4 with people at the safe home?

5 A It was only after I found out who he was.

6 Q Was it after your anniversary?

7 A Yes, sir.

8 Q Was it after the domestic violence?

9 A Yes, sir.

10 Q All right. Was it during the summer months,
11 perhaps, or the spring, summer or fall of 2002?

12 A Can you ask me that question one more time?

13 Q Do you remember, do you remember the exact
14 dates, let me just ask it that way?

15 A A week before Christmas, excuse me,
16 Thanksgiving, is when I went to the safe house.

17 Q Okay.

18 A Was that the question, I'm sorry?

19 Q And that would have been approximately
20 sometime in the end of November, Thanksgiving, it
21 would have been that last week in November?

22 A Yes, sir.

23 Q Prior to going to the safe house had you ever
24 had any contact with them?

25 A Just the one time when I was pulled aside

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1 because of the domestic violence and they, after
2 they had interviewed [REDACTED] they thought that there
3 was some concern and I had more information, and I
4 said I don't know what's going on, I don't know why
5 he acts out, I don't know why these things are
6 happening, and so that was my initial --

7 Q And for the domestic violence --

8 A Yes.

9 Q -- did you have any injuries?

10 A Did I have anything?

11 Q Did you have any visible signs of injury?

12 A Not for anybody to see right away. I ended
13 up having some bruise on my toe.

14 Q Did you ever show that to anybody in the
15 police?

16 A No, sir.

17 Q Okay. Did you ever show that to a doctor?

18 A No, sir.

19 Q In about November of 2002 did you sign papers
20 for the Family Court?

21 A Yes. That was when I was at the safe house.

22 Q Okay. And do you remember what day that you
23 signed those papers?

24 A No, sir.

25 Q I'm going to hand you, there should be two

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1 pages there, if you would take a look, and take
2 your time, take a look at both pages.

3 A The 26th, November, 2002.

4 Q I'm sorry, what was that?

5 A 26 November, 2002.

6 Q And if you would -- well, let me ask you
7 this. In that did you make any request with regard
8 to the home?

9 A The home?

10 Q Yes, the house that you were living in.

11 A Basically I wanted, if I remember correctly,
12 I wanted to return home as soon as possible.

13 Q Okay.

14 A As I knew it was safe.

15 Q Did you ask for exclusive possession of the
16 home?

17 A Exclusive possession? I did not want him to
18 be there.

19 Q Okay. If you will look at page two of that,
20 if you look at letter F on that page?

21 A Yes, sir.

22 Q Is there a check by that?

23 A Yes.

24 Q And if you read what's after that, is that a
25 request for exclusive possession of the home and

ESTER LOPEZ - DIRECT

1 the furnishings?

2 A Yes, uh-huh (Affirmative).

3 Q Okay. And was there ever a hearing on this?

4 Did you ever go in front of a judge?

5 A Just for the divorce hearing when things were
6 established.

7 Q Did you go in front of a judge in December of
8 2002?

9 A If you have a record of it, I probably have.

10 Q Does this help refresh your memory? And
11 you're welcome to look at that entire document if
12 you want to.

13 A I have never seen this document before, so --

14 Q Well, have you seen this document before?

15 A Yes, sir.

16 Q Okay. Take a good look at it. You have seen
17 that one?

18 A Yes.

19 Q And that's the judge's order that resulted
20 from that hearing, isn't it?

21 A Okay.

22 Q And in that first paragraph does that refresh
23 your memory of the date of the hearing?

24 A Yes.

25 Q And what date was that hearing?

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- 1 A November --
- 2 Q Read that entire first paragraph.
- 3 A December 9th.
- 4 Q Okay. Of 2002?
- 5 A Yes.
- 6 Q At that hearing did you get possession of the
- 7 house?
- 8 A Yes.
- 9 Q Did you get possession of cars?
- 10 A Yes.
- 11 Q Did you get possession of personal property?
- 12 A Rental property.
- 13 Q Well, the items in the house, not so much the
- 14 rental property, but the furniture and the
- 15 kitchenware and stuff like that?
- 16 A Yes, sir.
- 17 Q Now, sometime after December did you file for
- 18 divorce?
- 19 A Yes.
- 20 Q Okay. Do you remember when you filed for
- 21 divorce?
- 22 A No, I don't remember. The spring, January.
- 23 It was shortly after.
- 24 Q Would you take a look at that document,
- 25 please?

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- 1 A Yes.
- 2 Q Do you recognize that document?
- 3 A Yes, sir.
- 4 Q And that's the document where you asked for a
5 divorce?
- 6 A Yes.
- 7 Q And if you would turn over to the last page
8 of that document, do you see your signature on
9 that?
- 10 A Yes, sir.
- 11 Q And what date did you sign that document?
- 12 A That's the 21st of January.
- 13 Q What year?
- 14 A 2003.
- 15 Q Did you have a lawyer representing you in
16 that divorce?
- 17 A Yes.
- 18 Q Who was that?
- 19 A She's in this room.
- 20 Q On the first row here?
- 21 A Yes, sir.
- 22 Q Velvet Moore?
- 23 A Yes, sir.
- 24 Q And are you aware whether or not Mark agreed
25 with getting a divorce or not?

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1 A I am aware that he did not want it.

2 Q And did he make a request of the Court
3 regarding whether or not there should be a divorce?

4 A He did not want it, he represented that.

5 Q Do you know if he asked the Court to look
6 into whether or not the marriage could be
7 reconciled?

8 A Yes, sir.

9 Q Did he do that?

10 A Yes, sir, he asked.

11 Q And did you want that?

12 A No, sir.

13 Q If the marriage couldn't be reconciled, do
14 you know whether or not Mark made a request
15 regarding custody of [REDACTED] and [REDACTED] and [REDACTED]

16 A I don't remember what his standing was on
17 that but I believe he would have wanted to see
18 them.

19 Q Okay. Did you ever take a position regarding
20 whether or not he should be able to have either
21 joint custody or visitation with the three younger
22 children?

23 A Yes, I did take a position, a strong
24 position.

25 Q And what was that?

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1 A That he would not have custody.

2 Q And just so we're clear, by this time [REDACTED]
3 had already turned eighteen, we're talking about
4 [REDACTED] turned eighteen in what year?

5 A That would be 2002.

6 Q And, so, she would have been nineteen in
7 January of 2003 when you signed these papers?

8 A Yes, sir.

9 Q And how old were the other children in
10 January of 2003?

11 A [REDACTED] nine, [REDACTED] six.

12 Q And how about [REDACTED]

13 A Seventeen.

14 Q Do you know if Mark had a lawyer in the
15 divorce?

16 A Yes, he did.

17 Q And do you know who his lawyer was?

18 A I believe Wayne Watson.

19 Q Could it have been Marvin Watson?

20 A Yes, sir.

21 Q Did you ever see any of the correspondence
22 between your lawyer and Mr. Watson?

23 A No.

24 Q Did you ever see any of the correspondence
25 that your lawyer sent to anybody?

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1 A Not that I can remember.

2 Q Do you recall what day your divorce hearing
3 was?

4 A 14 August, I believe.

5 Q Of 2003?

6 A Yes, or was that when it was granted? I
7 believe that's when it was granted.

8 Q Have you seen that document before?

9 A Yes.

10 Q What is that document?

11 A It's the August 2, 2003, divorce decree.

12 Q August what?

13 A The 2nd, 2003.

14 Q The 2nd, or 14th?

15 A This one?

16 Q Not the date that it was filed. If you look
17 at this --

18 A I'm sorry, August 14th here, yes.

19 Q Now, was that the same day that you made your
20 police statement in the criminal case? You have a
21 copy of it. You're welcome to look at that.

22 A If you can help me out, if you could point it
23 out to me, please.

24 Q Just take a look, is that where you signed it
25 down there?

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- 1 A This is my signature.
- 2 Q Does it have a date up there?
- 3 A Yes, sir. That's August 14th.
- 4 Q The same day as your divorce hearing, is that
- 5 right?
- 6 A Yes.
- 7 Q Do you remember which one you did first, the
- 8 police statement or the divorce hearing?
- 9 A No. It was 1:00 o'clock. I don't know if
- 10 there is a time on the divorce degree. I don't see
- 11 a time on it.
- 12 Q Now, during 2002 were there ever any men that
- 13 visited your house, other than Mark?
- 14 A Very few.
- 15 Q Okay. But there were?
- 16 A Yes.
- 17 Q Was one of them named Michael Burgess?
- 18 A I would consider him more a friend of
- 19 [REDACTED] yes.
- 20 Q Was he ever there at the house when [REDACTED]
- 21 was not there?
- 22 A Yes, there were a few times, uh-huh
- 23 (Affirmative).
- 24 Q Was there ever a time when he was there at
- 25 the house when Mark was not there?

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1 A Probably.

2 Q What types of things would he do when he came
3 over to the house?

4 A Let me see. He's a Spanish major so he would
5 always like to share his Spanish, and food.

6 Q And what?

7 A Food.

8 Q Food. Would he cook?

9 A Mostly I would cook.

10 Q Okay. For him?

11 A My family and he would join. It wasn't
12 specific to him.

13 Q Did you ever do any cooking for him when Mark
14 wasn't there?

15 A If he was hungry he might have had a
16 sandwich. I don't really remember.

17 Q Okay. Would he do any type of housework or
18 anything like that?

19 A Let me see. He would cut the grass
20 periodically. I don't remember like housework
21 duty.

22 Q Did he ever go on a trip to Wisconsin?

23 A By himself, he did. He was supposed to take
24 my daughter but he was, the plans fell through for
25 her because of school situations and he decided to

ESTER LOPEZ - DIRECT

- 1 go himself.
- 2 Q Okay. And did he have any contact with your
- 3 family while he was there?
- 4 A Yes, he did.
- 5 Q And what members of your family did Michael
- 6 Burgess have contact with in Wisconsin during 2002?
- 7 A My mother and father, some of my brothers and
- 8 sisters.
- 9 Q And do you remember when in 2002 that was?
- 10 A This, I don't remember.
- 11 Q The fall, the summer, the springs?
- 12 A It was during school.
- 13 Q Okay. Before [REDACTED] graduated?
- 14 A Uh-huh (Affirmative).
- 15 Q Okay. And do you remember what her
- 16 graduation day was?
- 17 A No. Actually, I'm sorry, when you say
- 18 graduation, she was a freshman in college.
- 19 Q Okay. And so it would have been -- do you
- 20 remember when she started college, then?
- 21 A It was the fall of 2002.
- 22 Q Okay.
- 23 A I'm sorry, all these dates are not real clear
- 24 for me.
- 25 Q Okay. Sometime during 2002 did you and

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1 [REDACTED] go on a trip to Myrtle Beach?

2 A [REDACTED] and I went to Myrtle Beach, the first
3 time I have been there with her and I'm trying to
4 remember the time frame. It was, I believe it was
5 the spring.

6 Q Did anybody else go on that trip?

7 A No.

8 Q Other than Michael Burgess, was there any
9 other men that came over to the house during 2002
10 when Mark wasn't there?

11 A Well, there were quite a few of my son's
12 friends, friends of my daughter. I just started
13 getting out, so I don't have a whole lot of friends
14 just yet, but most were their friends.

15 Q You said friends of your daughter?

16 A Friends of my daughter, my son.

17 Q And this was in 2002, is that right?

18 A Yes.

19 Q What, what were the names of some of the
20 friends of your daughter that came over in 2002?

21 A Daniel Banks. Are you looking for male type
22 only?

23 Q Male or female.

24 A Michae?

25 Q Michael Burgess?

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- 1 A Burgess, uh-huh (Affirmative).
- 2 Q All right, who else.
- 3 A Are you talking about the summer?
- 4 Q Anytime during 2002, beginning January 1st,
- 5 through let's say November 26th.
- 6 A That was during her senior year, am I
- 7 correct?
- 8 Q She would have graduated approximately May
- 9 25th of 2002.
- 10 A Okay.
- 11 Q So, during her senior year did she have
- 12 friends come to the house?
- 13 A No. I'm thinking of another time. She
- 14 didn't have, she had a lot of friends at school but
- 15 she was not allowed to have these friends around,
- 16 but --
- 17 Q Did she have friends come to the house or
- 18 not?
- 19 A Rarity.
- 20 Q Rarity, so she did?
- 21 A I'm sorry, I don't remember.
- 22 Q Well, you asked a minute ago if they were
- 23 male or female.
- 24 A Uh-huh (Affirmative).
- 25 Q Were they female friends that came to the

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1 house?

2 A Female friends?

3 Q Yes.

4 A That, I don't remember.

5 Q You don't remember?

6 A No.

7 Q Male friends other than these two people,
8 Daniel Banks and Michael Burgess?

9 A Uh-huh (Affirmative).

10 Q Male friends other than those?

11 A T.J.

12 Q And this was during her senior year?

13 A Uh-huh (Affirmative).

14 Q All right.

15 A Very infrequent, though.

16 Q But they did come?

17 A Uh-huh (Affirmative).

18 Q Did she have friends that came, that you just
19 don't remember or know the names of?

20 A Perhaps.

21 Q Perhaps?

22 A Uh-huh (Affirmative). I mean, my memory is
23 not real good anymore and I slept during the day so
24 I could do my twelve hour shift at night, so I made
25 the statement before that I was not as involved

ESTER LOPEZ - DIRECT

1 with my children as I ever wanted to be, so much
2 happened around me that I am not aware of, but I
3 don't remember people coming to my house.

4 Q Okay.

5 A Much.

6 Q And you said [REDACTED] would have friends come
7 over?

8 A T.J. was one, T.J. is a family, a friend of
9 the family, so is all of these people, and they
10 were more friends of the family.

11 Q All right. But [REDACTED] had interaction with
12 these three people?

13 A Some.

14 Q Some? Did she ever do anything one on one
15 with these three people, any activities?

16 A Well, she met Michael and she would, she was
17 practicing for cross country, so she went on some
18 races with him.

19 Q Okay. Did she ever train with him?

20 A Not like train, train. You know, he had a
21 liking for her, so, you know, his attempts were
22 valid.

23 Q Did he have a liking for you?

24 A I don't know.

25 Q You don't know?

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- 1 A No.
- 2 Q But he was there, you and him, when neither
- 3 [REDACTED] or Mark were there?
- 4 A Sometimes.
- 5 Q At your house?
- 6 A Yes, sir.
- 7 Q During the daytime?
- 8 A Yes, uh-huh (Affirmative).
- 9 Q Now, we talked about your daughter's grades
- 10 in school. I believe we already determined she had
- 11 very good grades, didn't we?
- 12 A She excelled, she was best, she is best.
- 13 Q Did she participate in any activities at
- 14 school?
- 15 A Yes. She would go to the ballgames,
- 16 football, she would, she was involved in cross
- 17 country, she was involved in a couple other clubs.
- 18 I'm not remembering right off what the names of
- 19 them were but --
- 20 Q Football games, you said she would go to
- 21 football games. Did [REDACTED] play football?
- 22 A Yes, he did.
- 23 Q Okay. Where did he play football at?
- 24 A Abbeville High.
- 25 Q And do you remember what years he played

ESTER LOPEZ - DIRECT

1 football?

2 A All four years.

3 Q Okay.

4 A He graduated this year, so four years back.

5 Q When you say graduated this year, that would
6 have been in May, June?

7 A Yes, sir.

8 Q Of 2004?

9 A Correct.

10 Q And you said he played all four years, is
11 that right?

12 A Yes, sir.

13 Q So, he would have been playing in 2001 and
14 2002?

15 A Correct.

16 Q When [REDACTED] was a senior?

17 A Uh-huh (Affirmative).

18 Q Is that right?

19 A Correct.

20 Q You said that [REDACTED] ran cross country?

21 A Yes, sir.

22 Q Was she involved in any other sports?

23 A I'm trying to remember if she was involved in
24 something else. I don't remember.

25 Q What about soccer?

ESTER LOPEZ - DIRECT

- 1 A Yes, but they never formed a team, though.
- 2 Q But she played like in a soccer club?
- 3 A Yes.
- 4 Q All right. And she was involved in clubs?
- 5 Was FCA one of those clubs?
- 6 A Correct.
- 7 Q Was she on the academic team?
- 8 A Yes, sir.
- 9 Q Was she on the prom committee?
- 10 A Yes, sir.
- 11 Q Did she participate in student government?
- 12 A Yes.
- 13 Q How so?
- 14 A The one year she went to Washington. She
- 15 also did announcements.
- 16 Q Okay. You said the one year she went to
- 17 Washington. Was that the Congressional Youth
- 18 Leadership Council?
- 19 A I believe so.
- 20 Q And what type of honor was that? Was that an
- 21 honor?
- 22 A Yes, sir.
- 23 Q Was she selected for that?
- 24 A She was selected and also she got a
- 25 scholarship for that.

ESTER LOPEZ - DIRECT

1 Q And were many people from South Carolina
2 picked for that, that you know of?

3 A Not very many. I don't know who else was but
4 I know it was an honor.

5 Q And how long was she gone to Washington,
6 D.C.?

7 A I don't know exactly. I'm thinking four
8 days.

9 Q Okay. Did you go on that trip as a
10 chaperone?

11 A No.

12 Q Did Mark go on the trip as a chaperone?

13 A No.

14 Q Was she ever selected for a leadership award
15 to go to Columbia and meet state government
16 leaders?

17 A She might have but I don't remember that.

18 Q Did she ever take field trips with school?

19 A Yes, if there was any.

20 Q Okay. I asked you about student government.
21 Was she the president of the student body during
22 her senior year?

23 A Yes, sir.

24 Q And you said she did announcements. Did that
25 have something to do with being student body

ESTER LOPEZ - DIRECT

1 president?

2 A No, I don't believe so. They just picked
3 her.

4 Q Okay. Was she in student government in any
5 of the other years?

6 A She probably was. I don't remember, though.

7 MS. MAYES: Your Honor, I have an objection
8 at this point to cumulative evidence in addition to
9 what you have already heard.

10 THE COURT: The objection is overruled.

11 MR. GROSE: Thank you, Your Honor.

12 BY MR. GROSE:

13 Q Did [REDACTED] participate in any community
14 activities?

15 A Yes. She was involved in, I forget the name
16 of the club but it was to go out in the community.
17 Overall they would make money for children for
18 Christmas and buy gifts and there was different
19 things that they did to raise these monies.

20 Q Okay. Did she ever volunteer at a nursing
21 home, that you know of?

22 A I don't remember that.

23 Q Did she ever volunteer to do anything at
24 Carolina Springs?

25 A I don't believe she did. She baked cupcakes

ESTER LOPEZ - DIRECT

1 when her daddy asked her to for the children.

2 Q At Carolina Springs?

3 A Uh-huh (Affirmative). That's something that,
4 you know, her daddy would ask her to do.

5 MR. GROSE: Beg the Court's indulgence for a
6 moment.

7 Q When you and [REDACTED] went to Myrtle Beach did
8 Mark know that you all were going on that trip
9 before you left?

10 A Yes. I left him a note but he did not know
11 where we were going.

12 Q Okay. So, he found out that you were gone by
13 leaving a note?

14 A I left a note.

15 Q And in that note you didn't tell him where
16 you all were going?

17 A No.

18 Q And while you were in Myrtle Beach was
19 Michael Burgess there during that same period of
20 time?

21 A I didn't know he was going to be there but we
22 went to a concert and he was there.

23 Q So, it was just a coincidence that Michael
24 Burgess was in Myrtle Beach at the same time?

25 A Yes.

ESTER LOPEZ - DIRECT

1 Q And the football team, you said [REDACTED] played
2 football?

3 A Yes.

4 Q Did the football team ever come over to you
5 all's house?

6 A I believe there was a time when like not the
7 whole team came over but there was, there was a
8 selected couple, a few that Mark took interest in
9 for some reason and he did cook for them.

10 Q Okay. Did the cross country team ever come
11 over for a barbecue party?

12 A Cross country team? She had a few special
13 friends from the cross country team, they may have.

14 Q Okay. And who were her few special friends
15 from the cross country team?

16 A There were a couple girls, I don't remember
17 their names. She was friends with everybody, so I
18 don't remember names. They didn't come over that
19 much.

20 Q She was friends with everybody?

21 A She was a likeable person, she was very
22 friendly, everybody loved her.

23 Q Okay. And you said that of some of these
24 friends, she had some special friends on the cross
25 country team?

ESTER LOPEZ - DIRECT

1 A Yes. There was always a few that are
2 special.

3 Q And you don't remember their names?

4 A No.

5 Q Okay. Were there ever times that Michael
6 Burgess would ever sleep over at you all's house?

7 A There were a few times.

8 Q A few times? How many times was that?

9 A I didn't count, I don't remember.

10 Q Was it more than five?

11 A Probably about five.

12 Q About five times?

13 MR. GROSE: Beg the Court's indulgence.

14 Q Do you know if [REDACTED] ever went to any
15 parties or activities with the cross country team,
16 outside the house?

17 A The coach of the cross country team, she
18 lives in Myrtle Beach and she would have the cross
19 country team go over there. A Christmas party, I
20 believe it was.

21 Q I'm sorry?

22 A I believe it was a Christmas party and they
23 exchanged gifts.

24 Q All right. And did you go as a chaperone on
25 that trip?

ESTER LOPEZ - DIRECT

1 A No, sir.

2 Q Did Mark?

3 A No.

4 MR. GROSE: That's all I have at this time,
5 Your Honor.

6 THE COURT: We're going to take a recess at
7 this time.

8 Madam Witness, you are ordered not to talk
9 with anyone about any questions that you have been
10 asked or any answers you have given to them or any
11 questions you conceive could be asked of you or any
12 answers you could be giving to any anticipated
13 questions. You may not talk about the case at all.
14 However, you are expected to relax, walk around and
15 be at ease for a little while just as everyone else
16 will be.

17 Do you understand the order?

18 THE WITNESS: Yes, sir.

19 THE COURT: Very well. Come down, and watch
20 your step, please.

21 Madam Forelady and ladies and gentlemen of
22 the jury, we will recess at this time for a short
23 time. We've been in session here for an hour.
24 We'll be at ease, and do not speak to each other at
25 all about this case, don't discuss it by, between

ESTER LOPEZ - DIRECT

1 and among yourselves, and retire to the jury room.
2 We'll try to have a brief recess.

3 (The jury was excused from the courtroom
4 at 3:50 p.m.).

5 THE COURT: Mr. Simpson, if you have anyone
6 that wants to go smoke, let them go on and someone
7 will accompany them, of course.

8 Is there anything for the record from the
9 State?

10 MS. MAYES: Nothing for the State, Your
11 Honor.

12 THE COURT: From the defense?

13 MR. GROSE: No, sir.

14 THE COURT: We'll be in recess, please.
15 (Recessed at 3:51 p.m.).

16 (Reconvened at 4:16 p.m.).

17 THE COURT: All right, is the State ready?

18 MS. MAYES: Yes, sir, Your Honor.

19 THE COURT: Is the defense ready?

20 MR. GROSE: Yes, sir.

21 THE COURT: The record is open. State of
22 South Carolina versus Mark Richard Bolte,
23 indictment 2003-296. Anything from the State for
24 the record?

25 MS. MAYES: No, sir, Your Honor.

ESTER LOPEZ - DIRECT

1 THE COURT: From the defense?

2 MR. GROSE: No, sir.

3 THE COURT: Ask the jury in, please.

4 (The jury returned to the courtroom
5 at 4:18 p.m.).

6 THE COURT: All jurors are present, with the
7 forelady and the alternates properly seated.

8 Madam Witness, have you talked with anyone
9 under any circumstances about any testimony that
10 you have given or any testimony you expect to give
11 to any questions you have been asked or expect to
12 be asked?

13 THE WITNESS: I have spoken to no one, sir.

14 THE COURT: You remain under oath to tell the
15 truth. Do you understand?

16 THE WITNESS: Yes, sir.

17 THE COURT: Thank you. This witness is with
18 you, Miss Mayes.

19 MS. MAYES: Yes, sir, Your Honor.
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ESTER LOPEZ - CROSS

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CROSS EXAMINATION

QUESTIONS BY MS. MAYES:

Q Miss Lopez, I'm going to have some questions for you about the actual family home and some of the rules that existed in the family here in Abbeville County while you all resided here.

First of all, your husband and you moved with your family to Abbeville County sometime during [REDACTED] ninth grade year, is that correct?

A That's correct.

Q Okay. And you all left, I think, the State of Illinois?

A Yes, ma'am.

Q Where he already had existing family, is that correct?

A Yes.

Q And for a brief period of time upon arriving here in Abbeville County do you recall whether or not your family resided here with a family whose last name is Rice?

A Yes.

Q Okay. After a few months, by March of 1999 you and the family had moved into [REDACTED] [REDACTED]

A That's correct.

ESTER LOPEZ - CROSS

1 Q And you all stayed in this residence through
2 or until at least the middle of [REDACTED] senior
3 year in high school, is that correct?

4 A That's correct.

5 Q Can you tell us some things, Miss Lopez,
6 based on your own observations and your own
7 knowledge from living in the family home, about the
8 defendant's behavior toward [REDACTED] For example,
9 what was the normal routine when [REDACTED] would
10 arrive home from school in the afternoon?

11 A Routinely he would check her book bag, just
12 dump everything out and look through the book bag.
13 I didn't have understanding of this, I thought he
14 knew some things I didn't know, so I would just, I
15 thought it was just once in awhile but it ended up
16 being every day and I said, "Why do you do this, I
17 don't understand why you do this," and he was so
18 into looking at her bag that he wouldn't even
19 respond to me, so I would walk away dumbfounded and
20 anger and bitterness would rise up in me because I
21 know there is something going on but I don't know
22 what's going on, but it was routine.

23 Q Okay. So, when your daughter [REDACTED] would
24 arrive home from school in the afternoon you
25 observed Mr. Bolte turning her book bag over and

ESTER LOPEZ - CROSS

1 going through her belongings?

2 A Yes, looking for special notes, looking for
3 whatever.

4 Q If he found, if he had occasion to find a
5 note would he read that note?

6 A Yes, sir. He would also take it.

7 Q And when you questioned your husband about
8 this did he ever offer you any explanation as to
9 why he was continually going through her notes and
10 her belongings on such a regular basis?

11 A No. He wouldn't reply.

12 Q And what were some of the rules your husband
13 had about the type of dress and wear that [REDACTED]
14 the outer wear that she could use or what was
15 expected?

16 A He would always check the length of her skirt
17 and if she did wear a skirt she had to wear shorts
18 underneath and he would literally check to make
19 sure of that. I said, "Is that necessary," and so
20 they would get in arguments about her dress all the
21 time. No longer was he concerned about what I was
22 wearing, but it was what she was wearing, and again
23 strange happenings.

24 Q Well, how did you feel about having your
25 husband continually check to see if she was wearing

ESTER LOPEZ - CROSS

1 shorts under her skirts and things of that nature?

2 A Very uncomfortable. I thought it was, it was
3 very demeaning for him and for my daughter, I felt
4 ashamed for her and I didn't understand it.

5 Q What, if any, type of reaction did you see
6 from your husband if she was not dressed according
7 to how he desired?

8 A Anger and verbal abuse on my daughter, using
9 words such as whore, slut constantly, and I says,
10 "Why do you call my daughter these things, she is
11 not that, she is a beautiful girl and she's
12 valedictorian, I don't know how much better she can
13 get?"

14 Q How did you feel about having your daughter
15 be called a slut and a whore in her own home?

16 A I felt very hurt, and my faith is very strong
17 and so I would, I would pray for that and I would
18 question it and I would ask God why, why does he do
19 these things, and I figured one day I'm going to
20 get an answer, but I would get into some of the
21 argument, "Please stop, please stop calling her
22 these things," because he also did it at the super
23 table in front of the other children and, I mean, I
24 felt, "I've got a little four year old and she's
25 wondering, you know, what is that, mommy?" And I'm

ESTER LOPEZ - CROSS

1 trying to explain what these words are, why they
2 argue about her dress.

3 Q What, if any, rules did your husband impose
4 on [REDACTED] as far as the places she could go and the
5 things that she could do with her peers outside of
6 things like extracurricular activities, sports and
7 academic related?

8 A There was really nothing. There was one time
9 when a gentleman came over and took her shopping.
10 There was another time, you know, there were very
11 few instances that I remember, there were
12 extracurricular activities and he even tried to be
13 a part of a lot of those when he could.

14 Q All right. How would you describe your
15 husband's attitude or behavior toward [REDACTED] during
16 her younger years and her adolescent years inside
17 the home?

18 A Well, she couldn't have sleep-overs, she
19 couldn't have anybody sleep over, she couldn't
20 sleep over at anybody's house. She was highly
21 protected. People even looked at him like there
22 was a strange relationship, like he was always
23 saying, "I'm an over protective father."

24 MR. GROSE: Objection as to what other people
25 thought and looked at him. Move to strike, Your

ESTER LOPEZ - CROSS

1 Honor.

2 THE COURT: Instruct your witness. The jury
3 will disregard the last statement, it is stricken
4 from the record. Instruct the witness.

5 MS. MAYES: Yes, sir, Your Honor.

6 BY MS. MAYES:

7 Q Please don't guess the thoughts of another
8 person but you can say what the defendant responded
9 to your questioning about his relationship with

10 [REDACTED]

11 A His actual words were, "Well, I may be
12 considered an over protective dad but she's, you
13 know, she's precious and I need to know her every
14 whereabouts and, you know, what she's doing and I
15 am, you know, I'm going to look after her, she's
16 precious to me," and stuff like that he would say,
17 but I thought it was over, over done.

18 Q Okay. What about phone calls in the home,
19 where [REDACTED] was concerned?

20 A He would listen to all of them.

21 Q What do you mean by that?

22 A When there was a phone call for her he would
23 always stay on the line. He did it on me but it
24 wasn't, I didn't have phone calls, I just worked,
25 but she would have phone calls and he would listen

ESTER LOPEZ - CROSS

1 to them all.

2 Q How did you feel about that behavior?

3 A I asked him to stop and I asked him if he had
4 reason, was there something that I need to know but
5 he would never give me reason, "You don't know what
6 I know." And, no, I didn't know what he knew.

7 Q Okay. Let me ask you this. Was there ever
8 an occasion in which you had seen that type of
9 behavior out of your husband before?

10 A Yes, within myself, the first part of our
11 marriage, he even told me there was only one person
12 that I could go to the mall with when I was
13 stationed in Great Lakes and he was in Millington
14 for a little over a year. He also knew what I was
15 wearing that day and I asked him, "How do you know,
16 how do you know I went to the pool, how do you know
17 what I'm wearing?" "I know what you're wearing
18 right now, I have my ways." He was very
19 controlling and possessive over me and I always
20 looked at that, you know, I was very naive, very
21 young, he must love me that much, he want to watch
22 over me, and I saw the same reaction come on my own
23 daughter.

24 Q Okay. Now, when you moved here to Abbeville
25 you took a job right away at the local academy here

ESTER LOPEZ - CROSS

1 in Abbeville County, correct?

2 A Yes, my third night I was night watch
3 supervisor.

4 Q All right. And what are those shift hours
5 that you would routinely work?

6 A 9:00 at night until 9:00 in the morning,
7 twelve hour shifts.

8 Q All right. So, by 9:00 p.m. you are already
9 there on site working?

10 A Yes.

11 Q And did you continue that job until 9:00 a.m.
12 the next morning?

13 A Correct, I couldn't leave the site.

14 Q All right. And for how many years upon
15 living here in Abbeville County did you work that
16 shift when [REDACTED] was in the home?

17 A Three years.

18 Q And was that the shift that you were working
19 when the family lived here on [REDACTED] [REDACTED]

20 A Yes, ma'am.

21 Q And how soon did you get the job at Carolina
22 Springs Academy upon arriving here in Abbeville
23 County?

24 A My third night.

25 Q Okay. So, you were also already working

ESTER LOPEZ - CROSS

1 there when your family was residing temporarily
2 with the Rices over in Donalds?

3 A Yes, ma'am.

4 Q And you continued to work that shift once
5 your family moved to the white house during
6 [REDACTED] senior year?

7 A Yes, ma'am.

8 Q So, you worked that shift at all three homes?

9 A Yes.

10 Q And you were aware that [REDACTED] was taking on
11 a lot of the child care responsibilities while you
12 were gone?

13 A Yes. I tried to get the children in bed
14 before I would leave and then a lot of times at
15 night I knew that's when she would start her
16 homework. I knew she did a lot.

17 Q Can you tell us whether or not she also had
18 your permission to assist with things like school
19 excuses and things of that nature if someone needed
20 that and you weren't available?

21 A Yes.

22 Q Now, you mentioned before about things like
23 sleep-overs.

24 A Uh-huh (Affirmative).

25 Q Before [REDACTED] went away to Erskine and before

ESTER LOPEZ - CROSS

1 she graduated high school do you ever remember when
2 she had, whether there was ever an occasion that
3 you recall her having friends come over to spend
4 the night with her?

5 A No.

6 Q What about her going away to spend the night
7 with girlfriends or things of that nature?

8 A No.

9 Q Okay. I believe Mr. Grose was asking you
10 previously about a Mike Burgess?

11 A Yes, ma'am.

12 Q How did your family meet him?

13 A I believe it was a college orientation,
14 because they were both Spanish majors.

15 Q Okay. And was he also a friend and
16 acquaintance of your husband Mark Bolte?

17 A Yes.

18 Q Okay. And, so, when he came over to your
19 house was that also to associate with Mr. Bolte?

20 A Quite a bit.

21 Q And he was also a friend of your son Josh's?

22 A Yes.

23 Q The times that you mentioned before when he
24 spent the night, in fact he spent the night with
25 [REDACTED] correct?

ESTER LOPEZ - CROSS

- 1 A Correct.
- 2 Q In [REDACTED] room?
- 3 A Yes.
- 4 Q Was he ever a sleep-over friend of [REDACTED]
- 5 A No.
- 6 Q The behavior that you mentioned before, such
7 as monitoring of the phone calls, or let me ask you
8 this, how concerned was the defendant with [REDACTED]
9 whereabouts when she was outside the family home
10 here in Abbeville County?
- 11 A He was so concerned that if she was, you
12 know, ten minutes late he would, you know, give her
13 the third degree on why and he would also check the
14 mileage to see if she took a detour, if she went
15 somewhere else, because he knew specific what that
16 mileage was, and I didn't understand that, he would
17 always look into the car, "What are you doing," I
18 didn't know what he was doing, you know, he was
19 always checking the mileage.
- 20 Q Okay. Was that type of behavior, did you see
21 that for the first time when the family was here in
22 Abbeville County or had you witnessed that before?
- 23 A No, I hadn't witnessed that before, it
24 started in Abbeville County.
- 25 Q Let me ask you this. Did your family, did

ESTER LOPEZ - CROSS

1 [REDACTED] participate in any activities in Illinois?

2 A Not outside the family, no, she wasn't even
3 really involved in school, very little. She was on
4 the track team in middle school.

5 Q Did she ever have the opportunity to attend a
6 dance in Illinois?

7 A She attended the Valentine's dance in eighth
8 grade. She was crowned the queen. I asked if I
9 could be there because I realize I don't do much in
10 her life, I'm realizing these things, I'm always
11 home with the kids, I'm working, I said I'm going
12 to see my daughter be crowned, and he would not let
13 me go, he says he had to go, and she was supposed
14 to dance with the king, he would not allow it.

15 Q Okay. So, he did attend that dance?

16 A Yes, he did.

17 Q Now, when your daughter got older did you
18 ever suggest that as part of routine medical care
19 and her being a female, that at some point in her
20 life she should see a gynecologist?

21 A Yes.

22 Q What was your husband's response to that?

23 A Absolutely no.

24 Q Were there ever occasions in which you
25 observed your husband engage in physical aggression

ESTER LOPEZ - CROSS

1 toward [REDACTED]

2 A Yes. He forced, he would force the door
3 open, she was holding it, in her bedroom, also the
4 bathroom, and that was aggression, I believe, with
5 the door, and also he would choke hold her a few
6 times and straddle her and held her down, making
7 many angry words, verbal abuse.

8 Q Where did you witness him actually straddle
9 her down?

10 A Right in the hallway. She wanted to go to a
11 basketball game, I believe it was right after her
12 18th birthday, and he was demanding information
13 about who she was going to see, why she was going
14 there. She just, "I just want to go to a
15 basketball game," this was Erskine College right
16 across the street, and it came down to a fight and
17 he was straddling her and holding her down and it
18 made me feel uncomfortable for the position that he
19 was in, not to mention how he may have been hurting
20 her.

21 Q Were there ever occasions in which he locked
22 himself in the same room with [REDACTED]

23 A There was many occasions in her bedroom and
24 in the bathroom.

25 Q What did you witness happen in the bathroom?

ESTER LOPEZ - CROSS

1 A There was arguing. I pounded the doors and I
2 would say, "What are you doing in there, you have
3 no reason to be in there, this is not right, I
4 don't understand why you're doing this," and they
5 would argue and she would say, "Get out of here,"
6 you know, and it was in the bathroom. I couldn't
7 even get in because he had locked the door.

8 Q Did there come a time around the senior prom,
9 which I believe was April 20, 2002, in which that
10 was discussed with your husband?

11 A As far as --

12 Q Did you discuss your daughter attending the
13 senior prom in April of 2002?

14 A Yes. I wanted her to go.

15 Q And she would have been eighteen at that
16 point in time, correct?

17 A Correct.

18 Q How did he feel about her attending her
19 senior prom?

20 A He didn't want her to go, and my daughter, I
21 never went to a dance, prom, I never went to a
22 dance, and my daughter had come to me and said,
23 "You should be a chaperone so you can, you know,
24 know what it's like to be at a prom," and she
25 wanted me to be there, and he got upset because he

ESTER LOPEZ - CROSS

1 said, "No, I have to be there," and it was like,
2 all these weird things happening, and she just
3 wanted me to experience what I have never
4 experienced and to help out, because she was on the
5 prom committee and she, and other mothers would be
6 there and she said, "You need to be part of this,
7 mama," and I was excited to be there and he was
8 angry about it and insisted that he go as well.

9 Q Okay. And at that point did he agree that
10 you would go?

11 A Yes, but then he had to go as well.

12 Q Okay. Did there come a time during that day
13 or do you recall the incident during that day in
14 which he confiscated her prom dress?

15 A Yes, he did.

16 Q Okay. And during the course of that day his
17 opposition to the prom ultimately led to a family
18 argument, correct?

19 A Yes.

20 Q And ultimately you ended up having to call
21 the police, correct?

22 A Correct.

23 Q And that is the incident that we have
24 previously, previously referred to as the April
25 20th, 2002, domestic violence incident, correct?

ESTER LOPEZ - CROSS

1 A Correct.

2 Q And the Due West Police Department actually
3 responded out to your home and I believe Eugene
4 Davis was the responding officer, correct?

5 A Correct.

6 Q And you were present when he filed a police
7 report and things of that nature?

8 A Yes.

9 Q And do you recall your husband's behavior
10 once the police arrived on the scene?

11 A He came to me and kept yelling at me, "Why
12 did you do this, why did you do this, you know,
13 this is a family matter, this is a family matter,
14 why did you do this?"

15 Q All right. And why had you felt it necessary
16 to call the police at that point?

17 A Between all the verbal abuse, the shower
18 incident and then, and then it went from the
19 shower, went to her bedroom, and the verbal abuse
20 continued, and I was going to go in there and
21 protect my daughter, I didn't know what was going
22 on, and he slammed the door in my face and I pushed
23 my foot, the bruise showed up later but my foot got
24 caught by the door in trying to prevent the door
25 from closing, locking, but he pushed it hard

ESTER LOPEZ - CROSS

1 enough, he didn't care that I was there, he didn't
2 care if he hurt me.

3 Q At that point did you fear, at the point you
4 called the police did you fear for your daughter
5 [REDACTED] safety?

6 A Yes.

7 Q Did you fear for your own safety?

8 A Yes.

9 Q Upon the officer arriving can you tell us
10 whether or not the defendant continued that
11 behavior?

12 A Yes, he did continue, right in front of the
13 officer, again, "Why did you call, I can't believe
14 you called them? This is a family matter."

15 Q Okay. And what, if any, physical aggression
16 did he show toward you in front of the officer?

17 A He actually was coming forward to me like
18 presenting himself to be doing whatever he has to.
19 He almost, I almost felt like physically he was
20 going to do something, but even better, he stepped
21 back and --

22 Q Did that occur in front of the officer?

23 A Yes.

24 Q And as a result of that can you tell us
25 whether or not your husband was placed under arrest

ESTER LOPEZ - CROSS

1 for domestic violence?

2 A Yes, he was.

3 Q All right. And he was taken on and booked
4 in, correct?

5 A Correct.

6 Q And ultimately you bonded him out of jail
7 that same day, correct?

8 A Yes, I did.

9 Q And why did you choose to do that?

10 A Because I don't understand what's going on.
11 I was threatened and I had fear for my daughter and
12 for myself and my family but I'm the woman of
13 second, third, fourth, fifth, however many chances
14 because I'm a woman of faith and I will do whatever
15 I have to to save my divorce, I mean to save it
16 from a divorce happening. You're talking twenty
17 years of marriage. I knew that there were problems
18 but I had to get the answers and so I brought him
19 out.

20 Q Okay. So, after you get him out of jail,
21 ultimately your daughter [REDACTED] went on to the prom
22 that night, correct?

23 A Yes.

24 Q Where did your husband go that night?

25 A He went also.

ESTER LOPEZ - CROSS

1 Q To the prom?

2 A Uh-huh (Affirmative).

3 Q Okay. So, after he gets out of jail he goes
4 from there and then ultimately to the prom to check
5 on [REDACTED] correct?

6 A Uh-huh (Affirmative).

7 Q Now, your daughter earned a scholarship to
8 Erskine College, correct?

9 A Correct.

10 Q And I don't know if you can see this from
11 over here, but just let me know if I need to adjust
12 it in any way. Your daughter arrives at Erskine
13 College in the fall of 2002?

14 A Yes.

15 Q All right. How did your husband react or
16 respond to [REDACTED] leaving the home and going away
17 to college?

18 A He did not want her to leave at all. He was
19 going to fix up this room any way she wanted, maybe
20 even have half of the house, because this big house
21 we were in has two, basically was two apartments
22 but we have the whole house and he was doing
23 everything, you know, to try to keep her, and I was
24 like, you know, we are the luckiest, most pleased
25 parent to not only have the smartest girl, a

ESTER LOPEZ - CROSS

1 scholarship, but she's not even a mile down the
2 road, give her her wings, let her fly, let her do
3 her life, and I said, "I don't want her here, I
4 want her to go and live, you know, she's right
5 there, she can come home for Sunday dinners," and
6 he got crazy and weird on her leaving, he didn't
7 like it at all.

8 Q Okay. And when you say crazy and weird, what
9 do you mean by that?

10 A He would go to her dorm with nobody watching
11 and peep through the windows.

12 MR. GROSE: I object. This sounds like
13 speculation, Your Honor.

14 THE COURT: Sustained.

15 MR. GROSE: Move to strike and curative
16 instruction.

17 THE COURT: Well, rephrase the question.

18 MS. MAYES: Yes, sir.

19 MR. GROSE: Move to strike the previous
20 answer.

21 MS. MAYES: I have no objection to that, Your
22 Honor.

23 THE COURT: Very well. The jury will
24 disregard the answer given and it will be stricken
25 from the record.

ESTER LOPEZ - CROSS

1 Miss Mayes.

2 MS. MAYES: Yes, sir, Your Honor.

3 BY MS. MAYES:

4 Q On or about November of 2002 did you have the
5 opportunity to visit [REDACTED] at her dorm room?

6 A Yes. Actually I would just go when I saw an
7 opportunity because he didn't want me to have a
8 relationship with her, so when there was a time I
9 knew I could go I would tell my oldest son, say,
10 "I'm going to go and visit my daughter," and so I
11 just, I was beginning to want a relationship with
12 my daughter more than ever because she was not
13 coming home and I didn't know why my daughter would
14 not come home.

15 Q How did your husband feel about you spending
16 time alone with [REDACTED] outside the house?

17 A Never did he like it. Even when we were out
18 of the home, we would go walk and this is when,
19 let's go walk, I thought maybe I would even be able
20 to run with her again, I used to run a lot, she did
21 cross country, we would go walking and the next
22 thing I know he's on the Harley behind us, he's in
23 the car behind us, I couldn't have time alone with
24 her.

25 Q In November of 2002, and again please do not

ESTER LOPEZ - CROSS

1 repeat anything that your daughter said to you,
2 okay?

3 A Uh-huh (Affirmative).

4 Q That would be hearsay, so please just answer
5 whether or not you have knowledge. Did your
6 daughter in November, 2002, make a disclosure to
7 you concerning sexual abuse?

8 A Yes, she did.

9 Q Okay. As a result of learning that
10 information what, if any, decision did you make
11 concerning staying in the marriage?

12 A There was no reason to stay in the marriage.
13 From what I knew, I could not go on.

14 Q When did you make the decision to actually
15 physically leave him?

16 A As soon as I found that information out. I
17 had to work that weekend and then that's when I
18 spoke with Judy Davis and she spoke about the safe
19 house and I had the weekend to prepare, knowing
20 that I had to tell my job that I had to go, so I
21 fulfilled my weekend shift and Monday, the
22 following Monday --

23 Q Okay.

24 A -- I went in the safe house.

25 Q All right. I believe your previous testimony

ESTER LOPEZ - CROSS

1 on direct examination was that you moved into that
2 safe house about a week before Thanksgiving?

3 A It was exactly a week before Thanksgiving.

4 Q Okay. So, in November, 2002, you moved into
5 the safe house?

6 A Yes, ma'am.

7 Q And who accompanied you in moving to that
8 location?

9 A Judy Davis and another representative, Julie,
10 maybe one other person from the safe house, just
11 those people.

12 Q What about [REDACTED] Issaih and [REDACTED]

13 A They did not know anything about it.

14 Q Did they go with you?

15 A Yes, they did.

16 Q Okay. And where did you ultimately spend
17 that holiday?

18 A At the safe house.

19 Q Okay. And did you advise your husband in
20 advance that you would be going into the safe
21 house?

22 A No.

23 Q And why not?

24 A I did not want to have that confrontation.

25 Q All right. After moving into the safe house,

ESTER LOPEZ - CROSS

1 approximately when did you decide to pursue a
2 divorce action against your husband?

3 A When I learned more of what my daughter had
4 to say.

5 Q All right. And do you remember whether, or
6 the approximate date of that? Would that have been
7 after November, 2002?

8 A Correct.

9 Q Were you aware of how many phone calls your
10 husband was making to [REDACTED] at her dorm?

11 A No, I was not aware of it. As a matter of
12 fact there was one particular time I remember he
13 was on the phone and the way he spoke I kind of
14 listened to it and I thought he may have been
15 having an affair but the more and more I listened,
16 I found out he was talking to my daughter.

17 Q You testified previously on direct
18 examination when Mr. Grose was asking you about
19 November, back in early November, 2002, when you
20 said you went out and took a walk and examined
21 whether or not you wanted to be in the marriage,
22 you said then that you had overheard a conversation
23 that left you baffled, and I believe your testimony
24 was you didn't understand who you were married to?

25 A This conversation that I overheard was

ESTER LOPEZ - CROSS

1 actually March 23rd, 2002, my twentieth
2 anniversary. My husband and my daughter were busy
3 all day talking, arguing, and here I am, it's my
4 twentieth anniversary and I'm out of the picture,
5 and in their argument I heard my daughter say --

6 Q You can't repeat what she said.

7 A Okay.

8 Q You discussed about going out and taking a
9 walk and examining your marriage. Can you tell us
10 whether or not that was as a result of overhearing
11 a conversation with the defendant and your
12 daughter?

13 A Yes.

14 Q Okay. Does your daughter assist you now with
15 finances?

16 A Yes, she does.

17 Q Does she assist you with things such as rent?

18 A Yes, she does.

19 Q I believe Mr. Grose was asking you about a
20 petition for divorce and whether or not there was a
21 request for the family home. Do you even own the
22 home?

23 A No. We've been renting all my life, we've
24 rented, have no properties.

25 Q Okay. And in fact are you married now or is

ESTER LOPEZ - CROSS

1 the divorce already final?

2 A The divorce has been final for over a year.

3 Q Okay. And was there an agreement by the
4 parties, meaning you and Mr. Bolte, about
5 possession of the vehicles?

6 A Yes, there was.

7 Q And what was that agreement?

8 A I got two and he got two.

9 Q Okay. So, you split the vehicles?

10 A Yes.

11 Q You don't own any real estate together?

12 A No, no real estate.

13 Q Do you receive any alimony payments by the
14 defendant to you?

15 A No.

16 MS. MAYES: Beg the Court's indulgence.

17 THE COURT: Take your time.

18 Q Finally, just to clarify, your decision to
19 leave, physically leave the defendant and seek a
20 divorce, was that before or after you learned that
21 your daughter had been sexually abused by him?

22 A After I had learned.

23 MS. MAYES: Thank you. Nothing further.

24 THE COURT: Redirect?

25

ESTER LOPEZ - REDIRECT

REDIRECT EXAMINATION

QUESTIONS BY MR. GROSE:

Q Miss Mayes asked you about the twentieth wedding anniversary. That was when you decided that you were no longer his wife, March 23rd, 2002?

A Because of what I heard in the conversation, I had to figure out who he was and who I was, where my daughter was in the midst of it.

Q But you made that decision March 23rd, 2002, is that correct, the twentieth wedding anniversary?

A I did not make a decision to say that I was no longer his wife.

Q Well, that's what you wrote in your police statement.

A Okay.

Q It is, isn't it?

A I wrote that in there and I didn't know who I was but I didn't feel like I was his wife, from what I heard.

Q March 23rd, 2002?

A Correct.

Q And the incident when the police came on April 20th, was that after March 23rd?

A Yes.

Q And during [REDACTED] junior and senior years

ESTER LOPEZ - REDIRECT

1 were you aware of her cutting school at any times?

2 A If I was aware of something it had to do with
3 business, she might have left early to do
4 something.

5 Q Were you aware of any in-school suspensions
6 during her junior year?

7 A I do know of one she had.

8 Q Were you aware of a suspension during her
9 senior year?

10 A Yes.

11 Q This incident April 20th, around the prom,
12 had [REDACTED] been gone for several days before that?

13 A I don't remember that.

14 Q You don't remember that?

15 A I don't remember if she was gone for a few
16 days but it was the day of her prom.

17 Q But you don't remember -- the prom, does it
18 sound like it was April 20th, a Saturday?

19 A I believe it was.

20 Q Okay. Do you remember, you don't remember
21 what happened on the 19th or the 18th or the 17th
22 or any time that week?

23 A No, I don't remember.

24 Q They asked you about living in Illinois. Do
25 you remember [REDACTED] having a friend named Hanna?

ESTER LOPEZ - REDIRECT

- 1 A Yes.
- 2 Q And [REDACTED] would spend free time with Hanna?
- 3 A Yes, there were times, yes, one time.
- 4 Q Free time out of school?
- 5 A Yes.
- 6 Q Yes?
- 7 A Yes.
- 8 Q Was there a friend named Amy in Illinois?
- 9 A Yes.
- 10 Q And would [REDACTED] spend free time with Amy in
11 Illinois?
- 12 A Yes.
- 13 Q Outside of school?
- 14 A Rare but it happened some.
- 15 Q Do you remember [REDACTED] having sleep-overs at
16 Hanna's house?
- 17 A Yes, she did.
- 18 Q At Amy's house?
- 19 A She might have had one or two with either
20 one.
- 21 Q Okay. Do you remember her having sleep-overs
22 with another girl or spending time with another
23 girl in Illinois?
- 24 A No, I don't remember.
- 25 Q The prom, did [REDACTED] have a date to the prom?

ESTER LOPEZ - REDIRECT

1 A Her junior, or senior year?

2 Q Senior year?

3 A Her senior year she had a friend.

4 Q Richard Burton?

5 A Yes.

6 Q And she went with Richard Burton?

7 A Correct.

8 MR. GROSE: Beg the Court's indulgence just
9 one moment.

10 That's all I have at this time, Your Honor.

11 THE COURT: Recross?

12 MS. MAYES: Yes, sir, Your Honor, briefly.

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ESTER LOPEZ - RECROSS

RECROSS EXAMINATION

QUESTIONS BY MS. MAYES:

Q The friend you mentioned she had in Illinois, was that when she was in elementary school?

A Middle school.

Q You mentioned there was an occasion when she spent the night with someone else?

A Yes. There was very few.

Q What was the defendant's reaction about that?

A He didn't like it.

Q And he was asking you about going to the prom with a Mr. Burton?

A Uh-huh (Affirmative).

Q A good friend?

A Yes.

Q Can you tell us whether or not that was as a date or as a friend?

A Solely as a friend. It was kind of strange because she was valedictorian, he was the salutatorian.

MS. MAYES: Thank you. Nothing further.

THE COURT: Anything further?

MR. GROSE: Nothing further, Your Honor.

THE COURT: Thank you, come down. Watch your step, please.

ESTER LOPEZ - RECROSS

1 (Witness excused).

2 THE COURT: The estimated time for the next
3 witness will be what, sir?

4 MR. GROSE: It will be very short, Your
5 Honor, but I have a matter of law to take up before
6 that. The matter of law should be brief.

7 THE COURT: Yes. Madam Forelady and ladies
8 and gentlemen, do not discuss the case by, between
9 and among yourselves. Retire briefly to the jury
10 room.

11 (The jury was excused from the courtroom
12 at 5:02 p.m.).

13 THE COURT: Mr. Grose.

14 MR. GROSE: Your Honor, my next witness is
15 going to be Velvet Moore, who was the lawyer for
16 Miss Bolte at her divorce hearings. There are two
17 letters I want to ask her about, one of July 12,
18 2003, and one of, I'm sorry, July 23rd, 2003, and
19 one of August 12, 2003. One of the letters
20 contains some hearsay alleging Mark had made some
21 sort of confession to [REDACTED] I want to ask
22 specifically about these letters. One is to Marvin
23 Watson indicating that they would use the
24 allegations of rape in order to oppose visitation
25 and joint custody, and another one was a letter to

1 DSS asking for a home study, also indicating that
2 they would use the allegations of rape to oppose
3 visitation, and if they want to get into this
4 alleged confession which Mark denies, it has never
5 been documented, that I'm aware of, by any
6 statement by Mr. [REDACTED] [REDACTED] I just want to make
7 sure that doesn't come out during any of this
8 examination because I want to make sure we have
9 limitations because that would be confrontation
10 clause type issues. If they are going to suggest
11 that, I want that witness here to question. I just
12 want to get some understanding that the questions
13 are going to be, you know, very limited to the
14 divorce strategy and these communications to third
15 parties other than her client.

16 THE COURT: Miss Mayes?

17 MS. MAYES: Yes, sir, Your Honor. That's not
18 something that we intend to ask about but I would
19 have an objection to the document coming in, which
20 would force a redaction and then --

21 MR. GROSE: I'm not going to introduce the
22 document. I'm going to ask if she wrote the
23 letters and if they intended to use questions
24 about, if she wrote the letters and if there was an
25 intent to use the sexual abuse to oppose the

1 visitation and joint custody.

2 THE COURT: Miss Mayes?

3 MS. MAYES: That's something that again we
4 weren't planning to pursue that line of questioning
5 concerning the hearsay statement.

6 THE COURT: All right. Anything further?

7 MR. GROSE: I just want to make sure
8 everybody understands that there is a limitation
9 about that hearsay statement, Your Honor.

10 THE COURT: Do the two of you need to
11 conference?

12 MR. GROSE: I don't think so, and the witness
13 is in the courtroom, so she's heard that.

14 THE COURT: Anything further?

15 MS. MAYES: No, sir.

16 MR. GROSE: No, sir.

17 THE COURT: Show the jury in, please.

18 (The jury returned to the courtroom
19 at 5:05 p.m.).

20 THE COURT: The jurors are present, with the
21 foreman and alternates properly seated. Call your
22 next witness, please.

23 MR. GROSE: Your Honor, I call Velvet Moore.
24
25

VELVET MOORE - DIRECT

1 VELVET MOORE,
2 after being first duly sworn testified as follows:

3 THE COURT: You may examine, Mr. Grose.

4 MR. GROSE: Thank you, Your Honor, may it
5 please the Court.

6 DIRECT EXAMINATION

7 QUESTIONS BY MR. GROSE:

8 Q Would you state your name for the record
9 please?

10 A Velvet Brown Moore.

11 Q And where do you work?

12 A I'm an attorney with the Carolina Center for
13 Equal Justice.

14 Q And what is South Carolina Center for Equal
15 Justice?

16 A The legal services agency of South Carolina.

17 Q And how long have you been there?

18 A I've been there for two years.

19 Q Okay. Did you have an occasion to represent
20 Ester Lopez Bolte?

21 A Yes, I did.

22 Q And what was the nature of that
23 representation?

24 A A divorce.

25 Q And do you recall at what time she came in

VELVET MOORE - DIRECT

1 and signed the pleadings to file for divorce?

2 A I believe the pleadings were signed in
3 January of 2003.

4 Q Would it be about January 21st?

5 A Yes, I believe that's correct.

6 Q And were you aware of a lawyer representing
7 her husband Mark Bolte?

8 A At the time that the pleadings were signed
9 for divorce he was not represented for the divorce,
10 he had been previously represented for the order of
11 protection.

12 Q But he got representation for the divorce?

13 A March, 2003, that was Marvin Watson, that's
14 correct.

15 Q Did Marvin Watson file an answer on his
16 behalf?

17 A He filed an answer and counter-claim, that's
18 correct.

19 Q Would that have been sometime in March of
20 2003?

21 A Yes, it was.

22 Q Do you have that date in your file, by any
23 chance?

24 A I have the -- I don't have the actual date
25 that the document was filed but it was dated by Mr.

VELVET MOORE - DIRECT

1 Watson on March the 12th, I believe.

2 Q Okay.

3 A The copy I received from Mr. Watson was not
4 clocked in by the clerk.

5 Q March 12th is about the right date, is that
6 right?

7 A Yes.

8 Q And in a practice like that it would be
9 common for the original to be sent to the Court and
10 a copy simultaneously to be sent to opposing
11 counsel?

12 A Yes.

13 Q Okay. Are you aware of the position that Mr.
14 Bolte took regarding whether or not the Court
15 should grant a divorce?

16 A Yes, I am.

17 Q And did he want the Court to grant a divorce?

18 A No, he asked for either court ordered
19 reconciliation, marriage counseling or an order of
20 separate support and maintenance, which is
21 basically the right to live separate and apart.

22 Q And that's if he didn't get the Court ordered
23 reconciliation?

24 A That is correct.

25 Q And were you aware of his position on joint

VELVET MOORE - DIRECT

1 custody?

2 A Yes. He asked for, in the event he did not
3 get his reconciliation, he asked for joint custody
4 of the children.

5 Q And what about visitation?

6 A He asked for the standard reasonable
7 visitation.

8 Q Okay. And did you ever write Mr. Watson a
9 letter taking the position on behalf of your client
10 about the reconciliation, the joint custody and the
11 visitation?

12 A I did. I believe that was in July of 2003.

13 Q Do you remember that date?

14 A July 21st, maybe.

15 Q Is that the letter you wrote?

16 A Yes.

17 Q That was July 21st?

18 A Uh-huh (Affirmative).

19 Q And you can hold on to that. What position
20 did you all take regarding the reconciliation?

21 A As far as my client was concerned, I mean,
22 obviously from her complaint that she filed for
23 divorce, she was not interested in reconciliation.

24 Q Okay. Was she opposed to the joint custody?

25 A Very much opposed to it.

VELVET MOORE - DIRECT

1 Q Was she opposed to the visitation?

2 A Very much opposed to the visitation.

3 Q And by July 21st, 2003, was a hearing about
4 to be scheduled for the divorce?

5 A A hearing had already been scheduled.

6 Q And for what date was that?

7 A It was set for August 14th at 3:30 p.m.

8 Q Okay. And in fact your letter was also
9 putting Mr. Watson on notice that the hearing had
10 been scheduled?

11 A He had already been placed on notice by a
12 phone call.

13 Q Okay.

14 A But this was --

15 Q Confirming it in writing?

16 A -- confirming it, yes.

17 Q And at the time that this discussion was
18 going on about the hearing coming up in August did
19 you make any indication to Mr. Watson regarding
20 criminal charges?

21 A I had made a reference to Mr. Watson
22 basically bringing his attention to the fact that
23 allegations had been made by [REDACTED] and just
24 informed him that she had indicated to me that she
25 was to the point that she was emotionally ready to

VELVET MOORE - DIRECT

1 proceed with criminal charges.

2 Q Okay. And you state in your letter, "In
3 fact, she has reached the point where she's ready
4 to make formal criminal charges"?

5 A That is correct.

6 Q And did you write DSS subsequent to the
7 letter to Mr. Watson?

8 A I did shortly before the hearing.

9 Q Okay. Well, shortly before the hearing, is
10 that a copy of the letter?

11 A That is correct.

12 Q And the date of that letter to DSS was what?

13 A August 12th.

14 Q How many days was that before the hearing?

15 A Two.

16 Q And in that letter did you make any reference
17 to the allegations of sexual abuse?

18 A I did.

19 Q And did you make any representations in that
20 letter as to how those allegations related to the
21 position regarding visitation?

22 A I did.

23 Q And what was that representation?

24 A That we were concerned, my client was highly
25 concerned about the defendant pursuing visitation

VELVET MOORE - DIRECT

1 with the three minor children.

2 Q And that you all were opposed to that?

3 A That is correct.

4 Q And you all were trying to get a home study?

5 A We, during the order of protection hearing in
6 December of 2002 I was not present at that time, I
7 had not been retained during the hearing, but it
8 was brought to my attention that there was possibly
9 an off the record request for DSS to possibly look
10 into the situation because allegations were brought
11 up during the order of protection hearing. There
12 was never any type of involvement by DSS. Because
13 of the last minute request from Mr. Watson to
14 pursue visitation, he had not previously asked for
15 the appointment of a guardian.

16 Q But he had brought up visitation in March?

17 A He had brought it up in his answer and
18 counter-claim. He did not follow up on it.

19 Q Did you want, or not want a guardian
20 appointed?

21 A If he was going to pursue it I wanted a
22 guardian but he chose to, like two to three weeks
23 prior to the hearing, to push for the visitation
24 and what I was doing was, the hearing had already
25 been scheduled, I was trying to avoid a

VELVET MOORE - DIRECT

1 continuation, so I wrote to DSS, Thelma Woody, and
2 asked her to basically do an informal home visit
3 basically just to establish the living environment
4 of Miss Bolte at that time.

5 Q And were you hoping to avoid an appointment
6 of a guardian on August 12th, 2003?

7 A I was hoping to avoid appointment of a
8 guardian during the final hearing and my purpose
9 for that was so if it did continue as a contested
10 visitation case, that the judge would hear it by
11 testimony only and would not order a guardian be
12 appointed.

13 Q And that was the position in the August 12th
14 letter?

15 A Yes, that was my position, was to establish
16 the living environment of Miss Bolte so that I
17 would have my side of the case covered if the judge
18 mentioned the guardian ad litem.

19 MR. GROSE: I beg the Court's indulgence.

20 There are no further questions at this time,
21 Your Honor.

22 THE COURT: Cross-examination?

23 MS. MAYES: Yes, sir, Your Honor.

24

25

VELVET MOORE - CROSS

CROSS EXAMINATION

QUESTIONS BY MS. MAYES:

Q You stated, Miss Moore, on direct examination, that based on your observation with [REDACTED] by July of 2003 she appeared to be emotionally ready to pursue criminal charges. Is that correct?

A That is correct.

Q All right. And is it fair to say, based on your observations, that throughout your involvement with the family she had been frightened and reluctant to even have to pursue criminal charges against her father?

A Yes, she was, she was very bottled up, to say the least, with her feelings, with what she wanted to say about the situation, she seemed to be very afraid, from my observations.

Q All right. And you had been dealing with her or with the family for several months, is that correct?

A Yes. I believe they initially came to me in December, shortly after the order of protection was granted.

Q And even when they came to you in December you were already aware that [REDACTED] had reported

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1 sexual abuse in the home?

2 A Yes. I had already received the reports from
3 the safe home advocate Judy Fuller, she referred
4 [REDACTED] and Ester Lopez to our agency.

5 Q So, even though you first met [REDACTED] in
6 December, 2002, and she had already reported sexual
7 abuse, based on your observations she was afraid to
8 have to go that extra step and actually come into a
9 courtroom and face her father?

10 A Yes, she was.

11 Q And do you have all of the divorce action
12 paperwork with you?

13 A I do.

14 Q Okay. Could you give us the date on which
15 the petition for divorce or the summons for divorce
16 actually asking for the divorce was filed?

17 A If you will give me just one second I can get
18 that. The summons and complaint for divorce was
19 filed on February 4th, 2003, but it was actually
20 signed by myself and the plaintiff Miss Bolte on
21 January 21st.

22 Q Okay. And that's the pleadings of the
23 divorce where you actually set forth what the
24 allegations are, such as, "We want a divorce
25 because this, this, and that"?

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1 A That's correct.

2 Q Okay. And in this divorce petition which was
3 filed in February, 2003, you were already aware at
4 this time that [REDACTED] had reported sexual abuse,
5 correct?

6 A That is correct.

7 Q However, nowhere in your divorce petition did
8 you mention the sexual abuse allegations, correct?

9 A That is correct.

10 Q That was not a ground for the divorce in any
11 way, was it?

12 A No, it was not.

13 Q And then what is the date on which the
14 divorce decree or the divorce order which granted
15 the final divorce was signed?

16 A Actually there were three final orders. The
17 very first one was signed by the Court, by the
18 judge on August 25th, 2003, and was filed with the
19 Clerk of Court on August 27th. There were two
20 subsequent amended orders relating to personal
21 property of the parties.

22 Q Okay. And in that divorce order in August of
23 2003, nowhere in that order were the sexual abuse
24 allegations mentioned as a grounds for divorce,
25 correct?

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1 A No, they were not.

2 Q Okay. In fact, what Mr. Grose was asking you
3 about is even though Ester Bolte filed for divorce
4 way back in February of 2003, at the last minute
5 before the divorce, sometime in July the defendant
6 Mark Bolte for the first time comes in with a
7 request to actually have visitation or custody of
8 the children. Correct?

9 A He did make the claim in his answer and
10 counter-claim that he filed in March of 2003 but it
11 wasn't an actual pursuit of visitation as I would
12 call it until July because there was never a
13 request by his attorney to appoint a guardian or to
14 negotiate any type of visitation arrangements until
15 July of 2003.

16 Q Okay. And in fact those steps that you just
17 mentioned such as wanting an appointment of a
18 guardian ad litem or home study, stuff like that,
19 that would be routine in a case such as this,
20 correct?

21 A Yes, it would, when custody and visitation is
22 contested the Court normally appoints a guardian ad
23 litem to represent the children, to protect their
24 interest, and that is to look into both sides,
25 interview witnesses, investigate both homes.

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1 Q Okay. And, so, when you responded with the
2 correspondence that Mr. Grose just asked you about,
3 that was because in July right before the divorce
4 you find out that he is in fact pursuing or asking
5 for visitation with the children, correct?

6 A That is correct.

7 Q And in good conscience or good faith as an
8 attorney would you allow or knowingly permit any
9 person who has been accused of sexual abuse with a
10 child unsupervised visitation with other children
11 without having the guardian ad litem appointed?

12 A No.

13 Q And you were aware that [REDACTED] had concerns
14 about her little sister [REDACTED] having unsupervised
15 contact with the defendant, correct?

16 A Yes, I was.

17 Q And you mentioned previously about some
18 supplemental records that dealt with property?

19 A Uh-huh (Affirmative).

20 Q There was no family home awarded to Ester
21 Bolte in this case, was there?

22 A No, ma'am.

23 Q And the vehicles that they owned were split
24 jointly by agreement of the parties, correct?

25 A Yes.

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1 Q And he has not been ordered to pay alimony to
2 her on any type of ongoing financial duties,
3 correct?

4 A Not alimony, no.

5 Q And finally, when this divorce order was done
6 in August of 2003 both parties agreed that Ester
7 Bolte would have sole custody of the children,
8 correct?

9 A That is correct.

10 Q And that came with his agreement as well?

11 A It was a full agreement.

12 MS. MAYES: Nothing further.

13 THE COURT: Redirect?

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VELVET MOORE - REDIRECT

1 REDIRECT EXAMINATION

2 QUESTIONS BY MR. GROSE:

3 Q But provisions were left open for future
4 determination of visitation, weren't they?

5 A Visitation was left in abeyance but it was by
6 agreement between the parties that visitation would
7 not be ordered at the time, that the defendant
8 would undergo psychiatric evaluation at Beckman
9 Mental Health and we have to petition the Court at
10 a later date to either have court ordered
11 counseling and treatment to build up to visitation
12 or he would have visitation at that time.

13 Q The actual divorce decree says he would have
14 an evaluation and then he could petition the Court.

15 A "That upon receiving such evaluation the
16 defendant shall petition the Court for a follow-up
17 hearing to determine the need for further
18 counseling and/or supervised visitation."

19 Q So, visitation was still an open option on
20 August 14th, 2003?

21 A Supervised visitation was.

22 Q On that date it was still an open option?

23 A At that time there were no formal criminal
24 charges filed against the defendant.

25 MR. GROSE: Nothing else, Your Honor.

VELVET MOORE - REDIRECT

1 THE COURT: Recross?
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VELVET MOORE - RECROSS

RECROSS EXAMINATION

QUESTIONS BY MS. MAYES:

Q To this date has the defendant complied with the court order?

MR. GROSE: Your Honor, we need to approach on this.

(Undrecorded bench conference).

MR. GROSE: Thank you, Your Honor.

THE COURT: Madam Forelady and ladies and gentlemen of the jury, you will disregard any part of the previous question. Strike it from your mind completely and it is off the record.

Anything further, Miss Mayes?

MS. MAYES: No, sir, Your Honor.

THE COURT: Very well. Come down, please. Watch your step.

(Witness excused).

THE COURT: Mr. Grose, do you have another witness we can get in?

MR. GROSE: I don't think so today, Your Honor, nothing we can do in the next thirty minutes, probably.

THE COURT: All right, thank you. Madam Forelady, ladies and gentlemen of the jury, we will recess at this time. You will tire of hearing

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1 these repeated instructions but they are necessary
2 that you be given them. Do not discuss the case
3 by, between and among yourselves nor with any other
4 person. You are to decide the case only and solely
5 upon the information and evidence that you receive
6 in this courtroom and upon nothing else whatsoever.
7 Do not allow anyone to speak to you and don't talk
8 with anybody about it. If anyone attempts to talk
9 with you tell them that you are a juror and you are
10 not permitted to talk with them about this case.
11 If anyone persists in talking with you after you
12 identify yourself as a juror, that is a red alert
13 to you to get that person or persons'
14 identification by any means that you have available
15 and report that to one of the bailiffs or to the
16 Court Clerk who sits immediately before the Court
17 here in private. It won't be taken up in public
18 but if anyone persists in talking with you, and we
19 will see that it's investigated and dealt with
20 quietly, briefly and effectively.

21 If there were to be any media coverage such
22 as newspaper, television or radio you are to
23 completely and absolutely disregard anything that
24 you see, hear or read, and disabuse your mind
25 completely of it were you to see, hear or read

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1 anything having to do with this case. As you know,
2 you must decide this case exclusively upon the
3 evidence that you are hearing and seeing in this
4 courtroom and upon nothing else whatsoever.

5 Please adhere to the admonishment that you
6 have just been given, knowing it's a tall order,
7 this being on into the week, we hope to give this
8 case to you tomorrow but it may go into Saturday,
9 so make your arrangements accordingly. There is
10 the contingent possibility that we will work on
11 Saturday but we don't know that. Please make such
12 arrangements as are necessary that you could be
13 here if you are required to be here. We will go as
14 long as we can tomorrow and we'll try to get this
15 case to you, Madam Forelady and ladies and
16 gentlemen, tomorrow afternoon, if not sooner.

17 Now, the Court is not aware and you are aware
18 of the list of witnesses that were read to you, so
19 you know those are potential witnesses. We don't
20 know who will or will not be called among those
21 witnesses, and there is the potential for reply,
22 that is, after the defense rests its case there
23 could be some reply, that is, the State could put
24 up something in response to that so you will have a
25 full picture of what the facts were so you can

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1 decide the facts based upon all the evidence
2 available to both parties involved here.

3 So, it could go into Saturday. Be warned and
4 forewarned of that possibility. We'll try to avoid
5 it but sometimes that's not avoidable.

6 So, having told you of your precautionary
7 warning of not discussing the case, not looking at,
8 hearing or seeing anything having to do with it,
9 and if you accidentally stumble upon something
10 outside the courtroom you are to ignore it
11 completely and disregard it absolutely. We'll
12 dismiss you until 9:30 in the morning.

13 Just a moment, Madam Forelady and ladies and
14 gentlemen. I'm advised, ladies and gentlemen, we
15 have a prescheduled matter at 9:30. We'll try to
16 make that very brief. We'll start at 9:45. If you
17 were to come early, and you are certainly welcome
18 to come and relax, partake of the refreshments that
19 your clerk provides, if you were to hear anything
20 as you come into the courtroom it will not involve
21 this matter, so if you hear any words that you
22 think could relate to the case that you are
23 hearing, it does not, and we'll try to be just as
24 brief as we can and get that out of the way. It's
25 already been scheduled, we can't move it up, it's

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1 too late to do that at this time, so we'll look for
2 you at 9:45. Everyone else remain seated, the jury
3 is excused. Thank you.

4 (The jury was excused from the courtroom
5 at 5:30 p.m.).

6 THE COURT: Anything from the State before we
7 close the record?

8 MS. MAYES: No, sir, Your Honor.

9 THE COURT: Thank you. Anything from the
10 defense?

11 MR. GROSE: No, sir.

12 MS. MAYES: Actually, Your Honor, I would
13 like an estimation, I just heard the Court mention
14 to the jury about the possibility of Saturday, we
15 and the staff have not prepared for that and there
16 are a lot of external issues that would be involved
17 with that if those arrangements can be made, I
18 wonder if we could maybe pinpoint for schedule
19 purposes what the probability would be of finishing
20 tomorrow?

21 THE COURT: Well, it's hoped that the jurors
22 haven't been unduly alarmed but, Mr. Grose, the
23 Court doesn't want to put you on the spot but
24 what's your estimation?

25 MR. GROSE: I reasonably think I will be done