

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Union County

John C. Hayes, III, Circuit Court Judge

Opinion No. 2014-UP-217 (S.C. Ct. App. filed June 11, 2014)

11-GS-44-0552-0553

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S.C. Supreme Court

THE STATE,

RESPONDENT,

V.

DOUGLAS BRET BISHOP,

PETITIONER

APPENDIX

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INDEX

INDEX	i
OPINION NO. 2014-UP-217, FILED JUNE 11, 2014	1
PETITION FOR REHEARING FILED JUNE 26, 2014	3
ORDER DENYING PETITION FOR REHEARING	12

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Douglas Bret Bishop, Appellant.

Appellate Case No. 2012-212240

Appeal From Union County
John C. Hayes, III, Circuit Court Judge

Unpublished Opinion No. 2014-UP-217
Submitted April 1, 2014 – Filed June 11, 2014

AFFIRMED

Appellate Defender Susan Barber Hackett, of Columbia,
for Appellant.

Attorney General Alan McCrory Wilson and Assistant
Attorney General Mark Reynolds Farthing, both of
Columbia, for Respondent.

PER CURIAM: Affirmed pursuant to Rule 220(b), SCACR, and the following
authorities: *State v. Logan*, 405 S.C. 83, 90, 747 S.E.2d 444, 448 (2013) ("In
reviewing jury charges for error, this [c]ourt considers the trial court's jury charge

as a whole and in light of the evidence and issues presented at trial."); *State v. Mattison*, 388 S.C. 469, 479, 697 S.E.2d 578, 583 (2010) ("The trial court is required to charge only the current and correct law of South Carolina."); *State v. Aleksey*, 343 S.C. 20, 27, 538 S.E.2d 248, 251 (2000) ("[J]ury instructions should be considered as a whole, and if as a whole they are free from error, any isolated portions which may be misleading do not constitute reversible error.").

AFFIRMED.¹

WILLIAMS, KONDUROS, and LOCKEMY, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

THE STATE,

RESPONDENT,

V.

DOUGLAS BRET BISHOP,

APPELLANT

Appeal from Union County

John C. Hayes, III, Circuit Court Judge

Opinion No. 2014-UP-217

Appellate Case No. 2012-212240

PETITION FOR REHEARING

On June 11, 2014, this Court affirmed Appellant's convictions and sentences for two counts of sexual exploitation of a minor in the second degree and two counts of sexual exploitation of a minor in the third degree in an unpublished opinion. State v. Bishop, Op. No. 2014-UP-217 (S.C. Ct. App. filed June 11, 2014). On appeal, Appellant challenged the trial court's failure to offer clarifying jury instructions on circumstantial evidence. In the one-paragraph opinion, this Court affirmed because (1) the reviewing court considers a trial court's jury instructions as a whole and in light of the evidence and issues presented at trial; (2) the trial court is required to charge only the

free from error, then any isolated portions, which may be misleading, do not constitute reversible error. Pursuant to Rule 221(a), SCACR, Appellant now files this petition for rehearing requesting this Court rehear the matter due to the significant points overlooked or misapprehended by this Court as explained below.

While Appellant's case was pending on appeal, the South Carolina Supreme Court issued State v. Logan, 405 S.C. 83, 99, 747 S.E.2d 444, 452 (2013) holding that although a trial court may instruct a jury concerning circumstantial evidence as defined in Grippon¹ and Cherry,² the trial court "should provide" an instruction guiding the jury on how to analyze circumstantial evidence, in addition to a proper reasonable doubt instruction, when requested to do so by a defendant. The approved charge provides jurors with much-needed guidance in analyzing circumstantial evidence:

There are two types of evidence which are generally presented during a trial – direct evidence and circumstantial evidence. Direct evidence directly proves the existence of a fact and does not require deduction. Circumstantial evidence is proof of a chain of facts and circumstances indicating the existence of a fact.

Crimes may be proven by circumstantial evidence. The law makes no distinction between the weight or value to be given to either direct or circumstantial evidence, however, to the extent the state relies on circumstantial evidence, all of the circumstances must be consistent with each other, and when taken together, point conclusively to the guilt of the accused beyond a reasonable doubt. If these circumstances merely portray the defendant's behavior as suspicious, the proof has failed.

The state has the burden of proving the defendant guilty beyond a reasonable doubt. This burden rests with the state regardless of whether the state relies on direct evidence, circumstantial evidence, or some combination of the two.

Id.

This Court's citation to State v. Mattison, 388 S.C. 469, 479, 697 S.E.2d 578, 583 (2010) for the proposition that a trial court is required only to charge the current and correct law of South

¹ State v. Grippon, 327 S.C. 79, 489 S.E.2d 462 (1997).

Carolina suggests this Court determined Logan is not retroactive. Such a holding suggests that Logan is not retroactive. This runs counter to this Court's holding in State v. Jenkins, Op. No. 5232 (S.C. Ct. App. filed May 21, 2014) and Griffith v. Kentucky, 479 U.S. 314, 328 (1987). Appellant seeks rehearing concerning the retroactive applicability of Logan, *supra*.

Further, Appellant seeks rehearing of this Court's additional holding that consideration of the instructions as a whole and in light of the evidence and issues presented at trial and that isolated misleading portions do not constitute reversible error, there was no error in the trial court's failure to provide clarifying instructions concerning circumstantial evidence. The paucity of evidence against Appellant presented at trial necessitated a clear instruction for the jury concerning how to analyze circumstantial evidence.

On May 6, 2010, police seized two computer towers from Appellant's residence. R. 16, lines 7 – 14; R. 20, lines 4 – 22; R. 24, lines 18-19; R. 26, lines 5-10; R. 32, lines 20-24. SLED purportedly analyzed the imaged hard drives of both computers. R. 114, lines 9 – 12. On one of the imaged hard drives, SLED located approximately thirty images and videos of "graphic, and explicit nature with what appeared to be young teens, young children prepubescent, males, females, involved in sexual acts with other children or other adults." R. 117, lines 3 – 15; R. 184, line 24 – R. 185, line 6. According to SLED, the computer did not require a password for access and the prosecution had no evidence that Appellant actually downloaded the pornographic images or even knew the images were present on the hard drive. R. 158, lines 3-25; R. 179, line 8 – R. 180, line 20. Further, it appeared someone had tried to delete the pornographic images from the hard drive. R. 181, lines 11-17; R. 182, lines 18-21; R. 184, lines 13-15; R. 193, line 25 – R. 194, line 5.

² State v. Cherry, 361 S.C. 588, 606 S.E.2d 475 (2004).

Two female teenagers, who often visited Appellant's stepdaughters at Appellant's home frequently used the computer along with Appellant's stepdaughters. R. 49, lines 22-23; R. 50, lines 8-15; R. 51, lines 4-6; R. 51, line 24 – R. 52, line 2; R. 52, lines 3-11; R. 53, line 20 – R. 54, line 6; R. 54, lines 13-19. One of the teens testified she never saw child pornography on the computer despite her frequent use of it. R. 54, lines 20-24.91. The other teen recalled seeing an unidentified man use the computer previously. R. 56, lines 1-2; R. 56, lines 12-19; R. 57, lines 9-22; R. 58, lines 5-7; R. 59, lines 15-16; R. 60, lines 1-8; R. 61, lines 2-13.

A male teenager frequently visited Appellant's home and used the computer. He recalled a large number of teenagers used the computer, which he identified as belonging to Appellant's stepdaughters. He never saw Appellant use that computer. R. 211, lines 3-4; R. 211, line 21 – R. 212, line 3; R. 212, line 20 – R. 213, line 21; R. 214, lines 1-19; R. 233, line 18 – R. 234, line 24. Dennis Tucker, Appellant's neighbor and friend, testified that he saw Appellant's stepdaughters using the computer. Appellant, on the other hand, used a laptop. Additionally, he testified to observing approximately nine different teenagers using the desktop computer. R. 241, lines 9-21; R. 244, lines 14-25; R. 245, lines 1-23; R. 250, lines 5-7; R. 251, lines 9-13. Another neighbor, Robert Warr, testified that he never saw Appellant use the desktop computer. He only observed Appellant use the laptop. Additionally, he testified there were teenagers at Appellant's home almost every day using the computer. R. 256, lines 11-15; R. 257, line 17 – R. 258, line 13; R. 259, lines 11-23; R. 260, lines 1-6; R. 260, lines 11-19; R. 262, line 6 – R. 263, line 3.

Appellant testified that the desktop computer was for his stepdaughters, and everyone in his family and his stepdaughters' friends had access to the computer. His daughters' friends stayed at his home for weeks at a time and had unlimited access to the computer. Neither Appellant nor his wife restricted access or use of the computer. He did not monitor what his stepdaughters or their

friends were doing on the computer. R. 281, line 6 – R. 289, line 20. He testified he did not use the desktop computer, except on rare occasions when his laptop was not working. He explained he had no reason to use the desktop computer. R. 296, line 20 – R. 297, line 9; R. 310, line 22 – R. 311, line 6; R. 312, lines 6-24; R. 350, line 1 – R. 353, line 11. Appellant had no idea there was any pornography on the computer. R. 294, lines 23-25; R. 295, lines 20-22.

In closing argument, Appellant admitted the images were of child pornography, but explained the question for the jury was who downloaded the images. The state presented no evidence Appellant downloaded the images or was aware of the presence of the images. The most reasonable inference was that one of the teenagers who had unlimited and unmonitored access to the desktop computer downloaded the images of child pornography. R. 424, line 6 – R. 426, line 7; R. 428, line 18 – R. 430, line 3; R. 432, line 2 – R. 433, line 2; R. 435, line 14 – R. 437, line 2.

At the conclusion of the trial, the judge charged the jury as follows concerning circumstantial evidence:

There are two types of evidence which are generally presented in a trial such as this. Those two types are direct and circumstantial evidence. Direct evidence is testimony of someone who claims to have actual knowledge of the facts such as an eyewitness. It is evidence which establishes the main fact sought to be proven.

Circumstantial evidence is proof of a chain of facts and circumstances which indicate the existence of a fact. Circumstantial evidence is evidence which immediately establishes collateral facts from which the main fact may be inferred. Circumstantial evidence is based on inference and not on personal knowledge or personal observation. Our law makes absolutely no distinction between the weight or value to be given either direct or circumstantial evidence, our law does not require a greater degree of certainty to circumstantial, as opposed to direct evidence what you should do in this case is weigh all of the evidence. If you are not convinced of [Appellant]'s guilt beyond a reasonable doubt after weighing all the evidence, you would find him not guilty.

R. 463, line 8 – R. 464, line 4. At the conclusion of the court's jury instructions, Appellant asked that the jury be instructed that in order to be convicted of a crime based on circumstantial evidence,

the state must disprove all the other possible facts which could lead to a finding of innocence. R. 471, lines 15 – 18.³

In Logan, supra, the Court “revisited [its] past discussions regarding the circumstantial evidence charge, and articulate[d] for the benefit of the bench and bar a circumstantial evidence charge reflecting the proper balance between the state’s burden and the jury’s responsibility.” As the Court explained, the purpose of a clear jury instruction concerning analyzing circumstantial evidence is paramount. Id. Although direct and circumstantial evidence may carry the same weight, “a jury cannot accurately analyze these two types of evidence using identical approaches.” Id.

Specifically, circumstantial evidence, unlike direct evidence, “requires jurors to find that the proponent of the evidence has connected collateral facts in order to prove the proposition propounded.” Id. Thus, “[a]nalysis of circumstantial evidence is plainly a more intellectual process.” Id. In light of the differing analysis required when examining direct versus circumstantial evidence, the Court provided a proper jury instruction for trial courts to use. Important for Appellant’s case, the instruction directs jurors that “to the extent the state relies on circumstantial evidence, all of the circumstances must be consistent with each other, and when taken together, point conclusively to the guilt of the accused beyond a reasonable doubt.” The instruction also provided that “[i]f these circumstances merely portray the defendant’s behavior as suspicious, the proof has failed.” Id.

³ In his motion for reconsideration, Appellant argued the trial court failed to charge the jury properly concerning circumstantial evidence. He explained the error deprived him of a fair trial. R. 481. As to this argument, the trial court found the proper circumstantial evidence instruction was given. R. 483.

Although the Court held that a trial judge may instruct the jury as to circumstantial evidence as provided in State v. Grippon, 327 S.C. 79, 489 S.E.2d 462 (1997) and State v. Cherry, 361 S.C. 588, 606 S.E.2d 475 (2005), the Court held that a trial judge may not rely exclusively on that charge over a defendant's objection. Id. Clear, cogent, and concise instructions directing the jury on how to analyze the circumstantial evidence before it was necessary in Appellant's case. The state's weak case against Appellant exemplified why Appellant was entitled to the Logan charge regarding circumstantial evidence. The statute required the prosecution to prove Appellant possessed material that contained a visual representation of a minor engaging in sexual activity and knew the content of the material. S.C. Code Ann. § 16-15-410(A). Although Appellant admitted the material found on the hard drive satisfied the statute's definition of child pornography, Appellant denied possessing the material or having knowledge of the content of the material. The prosecution presented absolutely no direct evidence that Appellant downloaded the material or was aware the material had been downloaded. Even the prosecution's witnesses denied observing child pornography on the computers and testified that multiple people had unfettered access to the computer. The issue of who downloaded the materials was the only issue before the jury. It was imperative that the jury not make its decision based on "emotion or intuition instead of a rational, deliberative process," and the way to accomplish this goal was through a clear and concise jury charge, such as the one announced in Logan.

Due to the state's lack of direct evidence and the fact that the circumstantial evidence indicated that at least four other people had access to the computer and the knowledge required to download materials at the time the prohibited materials were downloaded, justice required the trial judge to instruct the jury that the circumstantial evidence must "point conclusively to the guilt of the accused to the exclusion of every other reasonable hypothesis." Here, the evidence against

Appellant was the same as the evidence against his stepdaughters and their friends. None of the circumstantial evidence conclusively pointed to Appellant's guilt to the exclusion of the others.

Respectfully submitted,

Susan B. Hackett

Susan B. Hackett
Appellate Defender

This 26th day of June, 2014.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

 Appeal from Union County

 John C. Hayes, III, Circuit Court Judge

THE STATE,

RESPONDENT,

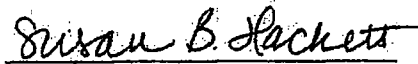
V.

DOUGLAS BRET BISHOP,

APPELLANT

 CERTIFICATE OF SERVICE

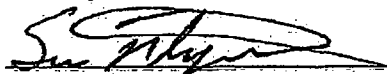
The undersigned attorney hereby certifies that a true copy of the Petition for Rehearing in the above-entitled case has been served upon Mark R. Farthing, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, and Mr. Douglas Bret Bishop, #350914, at Tyger River Correctional Institution, 200 Prison Road, Enoree, SC 29355, this 26th day of June, 2014.



Susan B. Hackett
Appellate Defender

ATTORNEY FOR APPELLANT

SWORN TO BEFORE ME this 26th day
of June, 2014.

 (L.S.)

Notary Public for South Carolina

My Commission Expires: October 30, 2022.

The South Carolina Court of Appeals

State of South Carolina, Respondent,

v.

Douglas Bret Bishop, Appellant

Appellate Case No. 2012-212240

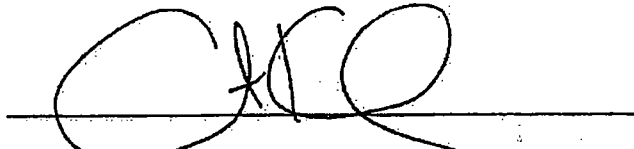
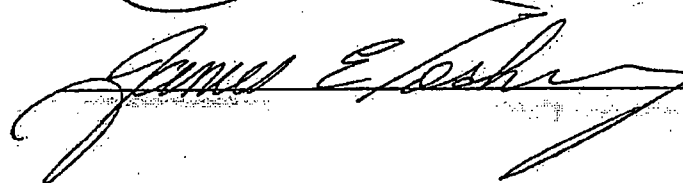
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SC OFFICE OF
APPELLATE DEFENSE

ORDER

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

 J.
 J.
 J.

Columbia, South Carolina

cc: Susan Barber Hackett, Esquire
Alan McCrory Wilson, Esquire
Mark Reynolds Farthing, Esquire

FILED

September 4, 2014

20754

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM UNION COUNTY

John C. Hayes, III, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DOUGLAS BRET BISHOP,

APPELLANT

APPELLATE CASE NO. 2012-212240

RECORD ON APPEAL

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INDEX

INDEX.....	i
TRIAL TRANSCRIPT DATED MAY 14-17, 2012.....	1
STATE CALLS THE CASE.....	2
PRELIMINARY INSTRUCTIONS BY THE COURT	5
OPENING STATEMENT BY MR. ANTHONY	9
OPENING STATEMENT BY MR. SOWELL.....	12
TESTIMONY	
ROXIE BELUE	
Direct examination by Mr. Anthony.....	15
Cross examination by Mr. Sowell	24
Re-direct examination by Mr. Anthony.....	35
Re-cross examination by Mr. Sowell.....	37
TROY BREWINGTON	
Direct examination by Mr. Anthony.....	39
Cross examination by Mr. Sowell	43
Re-direct examination by Mr. Anthony.....	47
DESTINY CIPRIANO	
Direct examination by Mr. Anthony.....	49
Cross examination by Mr. Sowell	55
DENISE C.	
Direct examination by Mr. Anthony.....	55
Cross examination by Mr. Sowell	62
Re-direct examination by Mr. Anthony.....	80
Re-cross examination by Mr. Sowell.....	81
BART CAVE	
Direct examination by Mr. Anthony.....	82
Cross examination by Mr. Sowell	96
WALKER GALLMAN	
Direct examination by Mr. Anthony.....	97
Cross examination by Mr. Sowell	100

DAVID SALLEY

Direct examination by Mr. Anthony.....	100
Cross examination by Mr. Sowell	104
Re-direct examination by Mr. Anthony.....	109
Re-cross examination by Mr. Sowell.....	109

COLIN DUNCAN

Direct examination by Mr. Anthony.....	110
Voir Dire by Mr. Sowell	111
Continued Direct examination by Mr. Anthony.....	118
Cross examination by Mr. Sowell	148
Re-direct examination by Mr. Anthony.....	184
Re-cross examination by Mr. Sowell.....	195

MOTION FOR DIRECTED VERDICT.....	206

TESTIMONY

CHANCE WILLIAMS

Direct examination by Mr. Sowell.....	210
Cross examination by Mr. Anthony.....	214
Re-direct examination by Mr. Sowell.....	233
Re-cross examination by Mr. Anthony.....	237

DENNIS CARSON TUCKER

Direct examination by Mr. Sowell.....	241
Cross examination by Mr. Anthony.....	248
Re-direct examination by Mr. Sowell.....	253

ROBERT WARR

Direct examination by Mr. Sowell.....	255
Cross examination by Mr. Anthony.....	263

DOUGLAS BISHOP

Direct examination by Mr. Sowell.....	271
Cross examination by Mr. Anthony.....	326
Re-direct examination by Mr. Sowell.....	356
Re-cross examination by Mr. Anthony.....	369

DESTINY CIPRIANO

Direct examination by Mr. Anthony.....	373
Cross examination by Mr. Sowell	380
Re-direct examination by Mr. Anthony.....	386

COLIN DUNCAN	
Direct examination by Mr. Anthony.....	387
Cross examination by Mr. Sowell	398
Re-direct examination by Mr. Anthony.....	401
ROXIE BELUE	
Direct examination by Mr. Anthony.....	402
Cross examination by Mr. Sowell	403
Re-direct examination by Mr. Anthony.....	410
DOUGLAS BISHOP	
Direct examination by Mr. Sowell.....	411
Cross examination by Mr. Anthony.....	417
RENEWAL OF MOTION FOR DIRECTED VERDICT	420
CHARGE CONFERENCE.....	421
CLOSING ARGUMENT BY MR. SOWELL	423
CLOSING ARGUMENT BY MR. ANTHONY.....	440
CHARGE ON THE LAW.....	458
OBJECTION TO THE CHARGE ON THE LAW	471
VERDICT	474
MOTION FOR NEW TRIAL	475
SENTENCING	479
MOTION FOR RECONSIDERATION DATED MAY 18, 2012	481
ORDER DENYING MOTION FOR RECONSIDERATION DATED MAY 22, 2012	483
INDICTMENTS AND SENTENCE SHEETS	485
STATE'S EXHIBIT # 5A (TIME LINE)	491
CERTIFICATE OF COUNSEL.....	495

State of South Carolina.,)

In the Court of General
Sessions of Union

Union County.

Case No.:2012-GS-44-00553

State of South Carolina.,)

Plaintiff.,

-v-

Douglas Bret Bishop.,

Defendant.

Transcript of Record

May 14-17, 2012
Union, South Carolina

B E F O R E:

Honorable John C. Hayes, III., Judge, and a jury.

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

Deputy Solicitor John Anthony
Sixteenth Judicial Circuit
Union, South Carolina
For the Plaintiff

Mr. Kenneth Sowell
Attorney at Law
Anderson, South Carolina
For the Defendant

Wanda Nelson, CVR-M
Official Court Reporter
Sixteenth Judicial Circuit

ORIGINAL

1 (ON THE RECORD MONDAY, MAY 14, 2012 AT 03:50 P.M..)

2 THE COURT: Thank you.

3 Mr. Solicitor, if you'll call the first case please.

4 SOLICITOR ANTHONY: Yes, sir, Your Honor. The first
5 case is State of South Carolina versus Douglas Bishop.
6 This is 2011-44-552, 553 both of these indictments have
7 been True Billed by the Grand Jury. Both of these
8 indictments are for one count of sexual exploitation of a
9 minor in the second degree.

10 MR. SOWELL: Your Honor, you can't read off this the
11 list of cases.

12 THE COURT: I was asking him to announce the cases to
13 get ready for trial.

14 MR. SOWELL: Its more than specificity?

15 THE COURT: No.

16 SOLICITOR ANTHONY: We can call two counts, two
17 indictments.

18 THE COURT: Two indictments for sexual exploitation.
19 That's my understanding, that's what was discussed in
20 chambers and that's what he's doing is telling me - -

21 MR. SOWELL: I thought he was mentioning the other.

22 THE COURT: No. I understand but no he is not.

23 SOLICITOR ANTHONY: Each one of these indictments are
24 two counts. One count is sexual exploitation of a minor in
25 the second degree. And one count is for sexual

-7-

1 exploitation of a minor in the third degree. I'm handing
2 the indictments up at this time.

3 THE COURT: All right, members of the jury panel, this
4 is the case of State versus Douglas Bret Bishop.

5 Mr. Bishop, would you stand so the jury can see you.

6 (DEFENDANT STOOD.)

7 This is Mr. Bishop and he's represented by Mr. Ken
8 Sowell.

9 (ATTORNEY SOWELL STOOD.)

10 THE COURT: The State is represented by Mr. John
11 Anthony.

12 (SOLICITOR ANTHONY STOOD.)

13 THE COURT: You may be seated.

14 Mr. Bishop is charged with having visual
15 representations of minors engaged in sexual activity in
16 these charges. To these charges he has entered pleas of
17 not guilty which places on the State the burden of proving
18 his guilt beyond a reasonable doubt. It's alleged that he
19 possessed these visual representations in February and May
20 of 2010. First, are any of you related by blood or
21 marriage, or are you a personal friend of Douglas Bret
22 Bishop, if so, please stand?

23 No one stands.

24 Next, do any of you know anything about these cases?
25 Have any of you heard about them from any source whatsoever

1 Anything else the State wants me to cover before we
2 stop for the day?

3 SOLICITOR ANTHONY: No, sir, not on the jury.

4 MR. SOWELL: No, sir.

5 THE COURT: All right. Have a pleasant evening.

6 We'll see you back here in the jury room the deputy will
7 show you on the way out and we'll see you at Ten o'clock in
8 the morning.

9 (JURY PANEL DISMISSED AT 04:28 P.M..)

10 THE COURT: Anything from the State at this time?

11 SOLICITOR ANTHONY: The only matter that I have is
12 basically what we were talking about in chambers, Your
13 Honor. There is a pending lewd act indictment against Mr.
14 Bishop. The victim, the alleged victim of that indictment
15 will be a witness for the State. The State has not called
16 the lewd act indictment as part of this case. We do not
17 intend to elicit any testimony regarding the lewd act
18 allegation. I just wanted to verify with Defense counsel
19 that there is no intended cross examination of her on that.
20 That will be the only matter I really have before we start
21 in the morning.

22 MR. SOWELL: I didn't understand that. Did John ask
23 me am I gonna open the door to that? Definitely not, Your
24 Honor.

25 THE COURT: I don't think he ask if you are. He's

-42-

1 We've never lost a juror but they do catch you by surprise
2 but a caution on that. Now that you all are comfortably
3 seated I'm going to ask you to stand and the clerk will
4 administer the oath.

5 (JURY PANEL SWORN AT 10:25 A. M..)

6 THE COURT: Thank you and be seated.

7 Members of the jury panel, I'm going to chat with you
8 for a few minutes and then I'll turn the case over to the
9 attorneys. I told you yesterday what Mr. Bishop was
10 charged with and that is showing or having explicit
11 pictures they will tell you more about the State and of
12 course the evidence if presented to show what we're talking
13 about.

14 He has entered a plea of not guilty to these two
15 charges. Actually there are four but there are two
16 indictments, there are two counts on each indictment so you
17 got four charges on two pieces of paper, what we call
18 indictments which are charging papers. He has entered
19 pleas of not guilty and these pleas of not guilty place on
20 the State the burden or proving his guilt beyond a
21 reasonable doubt. Mr. Bishop like anyone charged in our
22 judicial system of any offense is presumed innocent of the
23 charge and need not prove his innocence. The State has to
24 prove his guilt beyond a reasonable doubt.

25 Now I'm going to give an opportunity to the attorneys

1 to come before you in just a moment; they don't have to but
2 they have a right to come before you and make what are
3 called opening statements. These opening statements are
4 not evidence because the attorneys are not witnesses. And
5 they are not arguments, they are not trying to convince you
6 of anything. At the end of the trial the attorneys have
7 the opportunity and a right to come before you and tell you
8 why the evidence, applying the law as I charge it, should
9 lead you to a certain verdict. That's not what they're
10 doing now. They are just sort of giving you a road map or
11 an outline or a blue print of the trial. They're telling
12 you a little bit more about what to expect as far as the
13 presentation of evidence and what the issues are.

14 I have three primary jobs in a trial as the trial
15 judge. One is that I'm the logistic's person. I call it
16 the wagon master sometimes. I make sure we take breaks and
17 make sure you can see what you need to see and make sure
18 you can hear; the mechanical part of the trial. The second
19 job of mine is that I rule on questions of evidence. That
20 is if one side believes that a certain evidence should be
21 allowed to be presented to you as the trial jury in this
22 case and the other based on some legal principle or some
23 rule believes that the evidence should not be allowed it is
24 up to me to make that determination. Once I have made that
25 determination that determination is binding on the

1 witnesses and the attorneys. My third job is that I am the
2 sole judge of the law in this case. You must take accept
3 and apply the law as I charge it. And this is true even if
4 you think I charge the law in error or even if you think
5 the law should be different. Your oath requires you to
6 take accept and apply the law as I charge it.

7 You are not to infer from anything I say or do at any
8 time during this trial as indicating an opinion of mine on
9 the facts. Our law does not allow a trial judge to
10 formulate or express to a jury any opinion on the facts.
11 It is solely your job to examine the evidence and give to
12 the evidence the effect, the value, the weight and truth
13 you believe it should have. You may believe one witness as
14 opposed to several; several witnesses as opposed to one.
15 You may believe all or part or none of a witness's
16 testimony. You use your common sense, your sense of logic,
17 your sense of reason, use your experiences in life in
18 analyzing the evidence.

19 As judges of the facts you must necessarily judge the
20 credibility that is the believability of the witnesses who
21 testify. In assessing believability use those things I
22 just talked to you about. Use those things that you find
23 in your day to day life as indicating to you the
24 truthfulness in an individual and you can use certain
25 evaluators; how a witness acts on the stand, that is, their

1 demeanor, are they hesitant or straight forward, is their
2 testimony consistent or inconsistent. Consider the
3 opportunity a witness has to know those things to which
4 they testify. And you can consider whether a witness has
5 any reason to help or hurt one side or the other. That is
6 whether a witness has a bias or prejudice. All of these
7 things you consider in determining the true facts, apply
8 the law, and you will be in a position to return a verdict
9 that speaks the truth.

10 I remind you not to make up your mind or discuss the
11 case until I instruct you to do so. I remind you not to let
12 yourself be exposed to anything outside the courtroom
13 including doing any electronic social media or anything and
14 I remind you not to let yourself be exposed to news
15 coverage or let anyone talk to you about this case.

16 Madame Forelady, you will be the liaison between the
17 jury and myself. You will preside over the jury
18 deliberations and ultimately sign the jury's unanimous
19 verdict. If you can't see or you can't hear let me know.
20 Cup your ear, give me a voice raising gesture, nudging
21 gesture and I'll correct things so that you can see and
22 hear. Don't talk bad about Union County courthouse because
23 I love it. It's a beautiful courthouse and I've been doing
24 this for forty years actually twenty on the bench. But the
25 acoustics are not the best here so if you can't hear don't

OPENING STATEMENT: BY SOLICITOR ANTHONY

-46-

1 feel bad about raising your hand to let me know. I'll try
2 to make sure that you can hear.

3 We take breaks about every hour and a half. I find
4 that's a pretty good comfort level for most people but not
5 for everybody. So if any of you at any time need a break
6 simply raise your right hand and with no questions ask
7 we'll take a break. I know you won't be able to pay
8 attention like you should if you're not comfortable. Of
9 course if you need a break raise your right hand and we'll
10 take a break. And I extend that to counsel and Mr. Bishop.
11 Again we want to move the case along but we're not in such
12 a hurry that we won't take a break if you need one. You do
13 not need to take notes but I do ask that you listen
14 attentively.

15 Counsel.

16 SOLICITOR ANTHONY: Thank you, Your Honor.

17 Good morning. My name is John Anthony. I'm the
18 Deputy Solicitor here in Union and I will be representing
19 the State in the trial of this case.

20 I was listening to what Judge Hayes told you all. The
21 last thing yesterday afternoon when he said don't go home
22 and get up on the internet and try to find out about this
23 case. And that's a notable thing because I'm old enough to
24 remember when getting up on the internet really wasn't an
25 option. As recently as maybe fifteen years ago maybe even

1 ten years ago, a judge would have never said anything like
2 that because nobody would have thought about getting up on
3 the internet to do research about something. But now
4 that's what people do. When you want to know a fact that's
5 really the first place you go is you get up on the internet
6 and that allows us to find out and access all kinds of
7 things. You can get news, you can get music, you can plan
8 a trip, you keep in touch with people. You can do all
9 kinds of things now just in the space of the last ten or
10 fifteen years that you couldn't do before because of the
11 internet.

12 But there is a dark side to the internet because along
13 with the good things of the internet allows people to do
14 now they couldn't do before. The internet also allows
15 people to access things that they couldn't access ten or
16 fifteen years ago. And things that are helpful to access.
17 And that's what this case is about. This case is about the
18 dark side of the internet.

19 In May of 2010 Investigator Belue for the Sheriff's
20 office executed a search warrant at a house on Wardlaw
21 Street. It was the house of Doug Bishop. And in executing
22 that warrant she took some computer equipment from that
23 house. And the computer equipment was sent to a place in
24 Columbia which is called the Computer Crime Scene which is
25 a branch of the South Carolina Law Enforcement Division or

OPENING STATEMENT: BY SOLICITOR ANTHONY

-48-

1 SLED. And it was analyzed down there and on one of the
2 hard drives of that computer there were a number of videos
3 and pictures of young children what we would call legal
4 sexually explicit pictures of young children who were naked
5 and were in sexual positions who were being abused. So in
6 this case this computer came from Mr. Bishop's residence
7 and what we intend to do in this case is to offer evidence
8 to prove that those were pictures that were in the
9 possession of Mr. Bishop. And we intend to prove that by
10 showing that he was the man, he was the adult male who was
11 living at that house and he was the only person who has the
12 kind of access to that computer to do the kind of extensive
13 downloading of videos and pictures that was done here.

14 And we have two witnesses, Destiny and Denise C [REDACTED]
15 who will testify about the living situation there at the
16 Wardlaw Street residence where Mr. Bishop lived. And then
17 we have a number of witnesses who will talk about the
18 actual taking of the computer from the home taking it to
19 SLED and the processing of it at SLED. So that's the
20 evidence we intend to present.

21 Now the one thing I'll go ahead and tell you. It does
22 not give me any pleasure to subject you as jurors to these
23 - this kind of material. Okay. I know that there's some
24 things in this case that are going to be hard to see. But
25 I will tell you that that's my job, and to present this

OPENING STATEMENT: BY SOLICITOR ANTHONY
BY MR. SOWELL

-49-

1 case you can't really appreciate what's on those computers
2 just by having somebody tell you about it. You really have
3 to see it. And once you've seen it and see what kind of
4 material it is, it gives you some - a pretty good
5 indication who must have downloaded it. And that's why
6 we're going to show it to you. We're not going to show you
7 everything that was taken off that computer but when we do
8 in the presentation of this case we have to show you a few
9 things. So that won't come until later in the day. I just
10 wanted to tell you about it for the time. So all we ask is
11 that you listen to this case, that you consider the
12 evidence, that you give it your full attention. And we
13 believe that once you've heard the evidence that we'll
14 present that you're going to find that Mr. Bishop is guilty
15 of two counts of sexual exploitation of a minor. Thank you
16 all.

17 MR. SOWELL: May it please the Court.

18 THE COURT: Yes, sir.

19 MR. SOWELL: Ladies and gentlemen, I'm Kenny Sowell,
20 I'm not from Union. You all have heard of Sharon just
21 north of here. That's where I'm from. I live in
22 Greenville I do a large portion of my work in the upstate.
23 York, Rock Hill, Chester, Union.

24 I represent Mr. Bishop. He's charged with installing
25 and having on his computer X rated movies, X rated pictures

OPENING STATEMENT: BY MR. SOWELL

-50-

1 of young children. You will - The judge will charge you
2 later what that means, what the X rated pictures mean and
3 what the age means. But we do not deny that those pictures
4 were found on the computer. Not his computer but on a
5 computer that was in his home. Now I don't know if any of
6 you have any teenagers or young children, six, eight, ten
7 year old kids in your home or in your children's home, your
8 grandchildren. But if you all know very much about what
9 they're doing in school they are amazingly intelligent with
10 computers. Kids can do anything you want them to do. When
11 I had problems with my computer I get my grandchild and say
12 show me this, show me this. She knows everything. I
13 don't. The kids grew up with these things. Mr. Bishop
14 lived in a home with two - his wife and two daughters or
15 his step daughters and every teenager in town seems like;
16 an awful lot of teenagers had access to those computers.

17 The computers they found the pictures on are not even
18 - those are the computers used by the - and the girls
19 friends and quite often the girls friends and quite often
20 Mr. Bishop's friends spent the night at their home. We are
21 not contesting the pictures on the computer. We are
22 contesting that the people in there that he even knew they
23 were. I don't know how many of you are computer experts or
24 computer literate, but if you all have ever seen the media
25 of what's on a computer it takes several, several thousand

OPENING STATEMENT: BY MR. SOWELL

-51-

1 and millions of pages just to list the files on that
2 computer. It would be impossible to go through that list
3 and pick out the picture if you didn't know where it was
4 and what was on there.

5 We are trying to show you that Mr. Bishop was in that
6 position. He didn't have any idea what was on that
7 computer or that it was possible for him to have known what
8 was on that computer. He didn't - bad on the computer not
9 on his computer he didn't deal with the two girls
10 computers. I would mention at this point that Mr. Bishop's
11 wife's exhusband is a computer geek. Not only is he a
12 computer geek, he was the one who built this computer. I'm
13 not sure that was built when he and the computer and
14 installed all the programs on the computer and the programs
15 on the hard drives. And we also know that he wanted
16 custody of those kids, the two daughters. He built those
17 computers, he wanted custody of those two kids, he went to
18 Family Court and said I'm entitled to those kids because
19 they're step father put some bad pictures on the computer.
20 We don't know anything that was involved on that computer.
21 Never did know. We've never seen these pictures. I'm just
22 asking you to be - listen to both sides of the story and
23 decide what access or what efforts Mr. Bishop had to put
24 those on the computer or what knowledge he had to own it.
25 And when the case is over Your Honor is going to charge you

OPENING STATEMENT: BY MR. SOWELL
INVESTIGATOR ROXIE BELUE: BY SOLICITOR ANTHONY

-52-

1 that Mr. Bishop is entitled to a presumption of innocence
2 and if you cannot be convinced beyond a reasonable doubt
3 that he is innocent you've got to find him innocent.
4 That's going to be your job, is to listen to this case, see
5 who had access to those computers, see on those computers,
6 find who built those computers and determine if Mr. Bishop
7 had anything to do with any of those things because I
8 believe you will find when it's all over that he didn't
9 know what was on there much less have anything to do with
10 it. Thank you.

11 THE COURT: Call your first witness.

12 SOLICITOR ANTHONY: Our first witness will be
13 Investigator Belue.

14 ((WHEREUPON: ROXIE BELUE, BEING
15 FIRST CALLED, WAS EXAMINED AND TESTIFIED AS FOLLOWS:))

16 DIRECT EXAMINATION

17 INVESTIGATOR ROXIE BELUE BY SOLICITOR ANTHONY:

18 Q. Would you state your name please?

19 A. Roxie Belue.

20 Q. Investigator Belue, how are you employed?

21 A. Union County Sheriff's Office, Investigator.

22 Q. And how long have you been an investigator with the
23 sheriff's office?

24 A. Since January of 2010 officially moved into that
25 position. I actually was working cases later of 2009.

1 Q. And do you have any kind of specialization as far as
2 the crimes you normally investigate?

3 A. I only investigate sexual assaults children and
4 adult. And pretty much any child welfare case or adult.

5 Q. And how long have you been in law enforcement?

6 A. Since January of 2001.

7 Q. And back in May of 2010 did you come to investigate
8 any allegations concerning an incident at the Bishop
9 residence?

10 A. I did.

11 Q. And I want to take you back to May 6, 2010. Did you
12 have a conversation with Dana Bishop on - or Dana Bishop on
13 that day?

14 A. I did.

15 Q. And what is her relationship to Mr. Bishop?

16 A. That would be Doug's wife.

17 Q. And based on that conversation, without going into
18 the actual content of it.

19 MR. SOWELL: Objection.

20 THE COURT: He's told her not to go into the content
21 on it. He's ask based on --

22 MR. SOWELL: May we be heard?

23 THE COURT: Yes, sir.

24 Let the jury go to the jury room for just a minute.

25 (JURY EXITS COURTROOM AT 10:43 A.M..)

INVESTIGATOR ROXIE BELUE: BY SOLICITOR ANTHONY

-54-

1 THE COURT: Let me go ahead and hear what the question
2 and answer will be.

3 SOLICITOR ANTHONY: The question is just based on that
4 conversation what did you do?

5 MR. SOWELL: Your Honor, this jury is not ignorant.
6 They understand that if this witness was talking to his
7 wife she told him something and based on what he told her
8 she went and got a warrant; this jury can very easily read
9 between the lines and see that the wife told law
10 enforcement something that he did wrong. I object to that.

11 SOLICITOR ANTHONY: I wouldn't know how to tailor it
12 any more than have her not go into what she said and say I
13 had a conversation and I went and got a warrant. That's
14 how I have always approached these situations.

15 SOLICITOR ANTHONY: She doesn't need to say she had a
16 conversation. She just says she obtained evidence from a
17 third party or she obtained facts that led her to get a
18 warrant. Telling them the facts came from his wife and
19 knew that his wife lived there with him they now know the
20 wife --

21 THE COURT: Why can't you approach it that way, Mr.
22 Anthony, and take the wife out of it and just say based on
23 information that you received?

24 SOLICITOR ANTHONY: I can. I will be happy to tailor
25 it however the Court wants me to tailor it.

INVESTIGATOR ROXIE BELUE: BY SOLICITOR ANTHONY

-55-

1 THE COURT: Okay.

2 SOLICITOR ANTHONY: Your Honor, I'd like you to
3 instruct the jury to disregard what they previously heard.

4 THE COURT: All right. Bring the jury back in.

5 SOLICITOR ANTHONY: And also move for a dismissal.

6 THE COURT: You mean a mistrial?

7 MR. SOWELL: Yes, sir.

8 THE COURT: Motion for a mistrial is denied.

9 (JURY REENTERS COURTROOM AT 10:46 A.M..)

10 THE COURT: A couple of things, one is logistics. The
11 next time if I send the bailiff back to get you and you're
12 not ready just tell him and he will let me know and tell us
13 when you're ready to come so you don't have to come in and
14 sit like we did this time. And I apologize. I know that
15 whenever you take a break we utilize that opportunity to
16 best manage. I do the same thing so just rather than have
17 you come in piece meal Madame Forelady if you're not ready
18 just tell the bailiff that you'll let him know.

19 Now, the last question that was ask by Mr. Anthony of
20 this witness I have stricken from the record so you are not
21 to consider that last question and we'll move forward.

22 SOLICITOR ANTHONY: Yes, sir.

23 DIRECT EXAMINATION - CONTINUED.

24 INVESTIGATOR ROXIE BELUE BY SOLICITOR ANTHONY:

25 Q. Investigator Belue, on May 6 did you receive some

INVESTIGATOR ROXIE BELUE: BY SOLICITOR ANTHONY

-56-

1 information concerning Mr. Bishop and his residence?

2 A. I did.

3 Q. And based on that information what did you do?

4 A. I obtained an affidavit for a search warrant for his
5 residence at [REDACTED]

6 Q. What town is that in?

7 A. Union.

8 Q. Is that in Union County?

9 A. Yes it is.

10 Q. All right. And after you prepared a search warrant
11 affidavit, who did you present it to?

12 A. Jimmy Crocker, Judge.

13 Q. Okay. Could you speak just a little louder?

14 A. Judge Jimmy Crocker.

15 Q. All right. And did he sign the warrant?

16 A. He did.

17 Q. All right.

18 SOLICITOR ANTHONY: Your Honor, objection to leading?

19 THE COURT: I sustain the objection. Let's just move
20 on to what she did as a result of what she obtained.

21 SOLICITOR ANTHONY: All right.

22 Q. Well after obtaining that warrant, what did you do?

23 Well if I can ask one more question?

24 What were - what did you go to the residence and
25 search for?

1 A. That would be one electronic devices of media
2 storage, computers, Ipods, cameras; anything that would
3 hold photographs, videos, media devices.

4 Q. All right. And then after you obtained a warrant
5 where did you go?

6 A. To [REDACTED]

7 Q. And when you got there did you execute the warrant
8 at that time?

9 A. I did.

10 Q. All right. And what was taken as a result of the
11 execution of the search warrant at 224 Wardlaw Street?

12 You can just in general terms.

13 A. There were computers that were taken that were in
14 the residence. There was a flash drive, a camera, external
15 hard drives.

16 Q. All right. So those --

17 A. It's just the basis of ---

18 Q. So there were ---

19 A. --- of electronic devices.

20 Q. --- a variety of computer hard drives and computer
21 items?

22 A. Correct.

23 Q. Okay. I'm going to show you - I'm going to show you
24 what's been marked for identification as State's Exhibit
25 Number One. I'm going to set it here on this table.

INVESTIGATOR ROXIE BELUE: BY SOLICITOR ANTHONY

-58-

1 Can you see that from there?

2 A. I can.

3 Q. All right. Do you recognize this item?

4 A. I do.

5 Q. What is that?

6 A. It's a computer tower that was taken from the living
7 room at Mr. Bishop's.

8 Q. Okay. And you say it was in the living room?

9 A. The living room area. As soon as you walk in the
10 front door in the living room area.

11 Q. Okay.

12 A. What I consider the living room area.

13 Q. And I'll just show you just we can identify it a
14 little bit better, is there a brand name on that tower?

15 A. E-Machines.

16 Q. Okay. And then is there a part, a model number or
17 something underneath that?

18 A. There is.

19 Q. What is that?

20 A. W 2888 ---

21 Q. Okay.

22 A. --- model.

23 Q. All right. And is there anything kind of distinctive
24 about this - is there anything kind of distinctive about
25 this desk top computer?

1 A. It's missing the side from it.

2 Q. And was it like that - -

3 A. Its missing some parts in the front.

4 Q. Was it like that on May 6?

5 A. It was.

6 Q. Okay. So once you recovered that desk top and you
7 recovered the other items in the course of the search
8 warrant, what did you do with them?

9 A. I obtained those and turned them over to the evidence
10 custodian at the time to be stored on the bottom floor of
11 the courthouse.

12 Q. Okay. And who was that?

13 A. That would be Troy Brewington.

14 Q. Okay. And then did you do anything further to have
15 any other work done with that computer and the other items
16 you took?

17 A. I did. I obtained another search warrant for the
18 analysis of the computer to be sent to SLED.

19 Q. Okay.

20 A. And analyzed.

21 Q. All right. And then what was done with the computer
22 after that?

23 A. I assume that it was analyzed and then once the
24 analyzation was finished --

25 Q. Well just - just --

INVESTIGATOR ROXIE BELUE: BY SOLICITOR ANTHONY

-60-

1 MR. SOWELL: This witness can't possibly know
2 that.

3 THE COURT: I couldn't hear you.

4 MR. SOWELL: This witness can't possibly know
5 that. She's testified from hearsay.

6 THE COURT: All right. Don't go into hearsay.

7 SOLICITOR ANTHONY: Just let me rephrase.

8 Q. Once you had got the warrant did you request anybody
9 from the sheriff's department to do anything to that
10 computer?

11 A. I did. I requested it be put into evidence, locked
12 by Troy Brewington.

13 Q. Okay. And then did you make any request of Sergeant
14 Brewington about - -

15 A. Oh to take the computer to SLED?

16 Q. Yeah.

17 A. Right. To take the computer to SLED, that he
18 transport that to SLED.

19 Q. All right. And what was the purpose as the
20 investigator who had taken the computer from the residence,
21 from the Bishop residence, what was your purpose in asking
22 that it be sent to SLED?

23 A. TO analyze it for any porn, child porn, videos,
24 photographs and porn material to be analyzed for that.

25 Q. All right. And during the course of the investigation

INVESTIGATOR ROXIE BELUE: BY SOLICITOR ANTHONY
BY MR. SOWELL

-61-

1 did you see Mr. Bishop, see Doug Bishop the defendant?

2 A. I did.

3 Q. And is he here in the courtroom?

4 A. He is.

5 Q. Would you point him out please?

6 A. He's to the right of his attorney, Mr. Sowell.

7 Q. All right. Okay. Thank you very much.

8 SOLICITOR ANTHONY: That's everything on direct.

9 CROSS EXAMINATION

10 INVESTIGATOR ROXIE BELUE BY MR. SOWELL:

11 Q. How many pieces of electronic equipment did you
12 remove from his home?

13 A. When you say electronics, would that be something
14 that would have to attach to the wall or any piece
15 of evidence? I'm not clear on that.

16 Q. Did you obtain this tower?

17 A. I did.

18 Q. How many towers did you obtain?

19 A. Two actual towers.

20 Q. Now, is this the condition it was in when you
21 obtained it?

22 A. That's the exact condition it was in when I obtained
23 it.

24 Q. No drivers in it? No hard drives, no interior hard
25 drive; no nothing? Where is the rest of it?

INVESTIGATOR ROXIE BELUE: BY MR. SOWELL

-62-

1 A. I didn't analyze the inside of the computer. I take
2 it as it is and store it into evidence.

3 Q. I ask you is this the condition it was when you took
4 it and you said yes. Now, did it have hard drives in it
5 when you took it?

6 A. I don't recognize the insides of the computer being
7 a hard drive or not. I only know that it didn't have the
8 side in it and this front part when we took it.

9 Q. This is the exact condition it was in when you took
10 it?

11 A. To the best of my knowledge.

12 Q. Nothing but these two stobs sticking out in the back?

13 A. Not that I'm aware of.

14 Q. Nothing was stored inside here. What was hooked up
15 to this?

16 A. I have no knowledge of the inside of the computer.

17 THE COURT: Mr. Sowell, I don't think the jury can see
18 what you're referring to.

19 BY MR. SOWELL:

20 Q. What are these things?

21 A. I don't have any education on the internal components
22 of the computer.

23 Q. And so this computer was taken in this condition from
24 his home?

25 A. Correct.

1 Q. And you sent it to SLED?

2 A. With the exception of the tag where I tagged it.

3 Q. And you sent this to SLED exactly in this condition?

4 A. Correct.

5 Q. And what else did you send to SLED?

6 A. There was another computer tower that was sent as
7 well. There were some hard drives, external hard drives
8 identified as hard drives. Four hard drives aside from the
9 two computer towers. And a flash drive; thumb drive, and
10 stored it.

11 Q. But this is the exact condition it was in when you
12 got it - when you took it from his home?

13 A. When I got to the residence that is the condition
14 that it was in.

15 Q. Was there a power cord connected to it?

16 A. Not to my knowledge. There was at the time when we
17 took it down but we normally don't take the power cords.
18 Sometimes we don't. They don't ask us to provide those.

19 Q. When you got to [REDACTED] was the power
20 cord connected to this computer?

21 A. It was.

22 Q. And was the power cord inside connected to anything?

23 A. Not to my knowledge.

24 Q. So this computer was completely unusable when you
25 saw it?

INVESTIGATOR ROXIE BELUE: BY MR. SOWELL

-64-

1 A. I have no idea. It was connected to the power cord
2 and we obtained the power cord along with the warrant. But
3 I have no idea about the internal components of the
4 computer and what makes them run.

5 Q. But you know none of these was hooked up?

6 A. To my knowledge no, sir.

7 Q. Did you take a picture of it?

8 A. No, sir, I didn't.

9 Q. Why not?

10 SOLICITOR ANTHONY: I'm sorry. What was the last - I
11 didn't hear the last --

12 A. Did I take photographs. No I did not.

13 SOLICITOR ANTHONY: Okay.

14 BY MR. SOWELL:

15 Q. Do you contend that this computer had anything to do
16 with what we're talking about here today?

17 A. I didn't analyze the computers. I sent those to be
18 analyzed and the report that was given to us which I can't
19 elaborate on because I don't have that knowledge. That's
20 SLED's report. I'm not quite sure what they do when they
21 get there. That's just the condition it was in when I got
22 there.

23 Q. Do you have a computer in your home?

24 A. I have several laptops.

25 Q. And you don't know what these things do?

- 1 A. I do not.
- 2 Q. You don't know what this thing does?
- 3 A. I do not.
- 4 Q. And you don't know what goes back here in the back?
- 5 A. I can't see what you're pointing at.
- 6 Q. This hole here on the back side.
- 7 A. Which hole? I'm not sure.
- 8 Q. When - How old are you?
- 9 A. Thirty-seven.
- 10 Q. When you were in high school, did you have computers
- 11 in the classroom?
- 12 A. If we took a computer class and know what kind of
- 13 computer. Correct?
- 14 Q. Pardon me?
- 15 A. In a class we did have access to a Apple computer.
- 16 Q. Did you take that computer course?
- 17 A. What course?
- 18 Q. Did you take the course you're speaking of?
- 19 A. I took a type writing course.
- 20 Q. Did you take a computer course in high school?
- 21 Is that a no?
- 22 A. I took a type writing course. I don't know to what
- 23 extent is asking to learn to type.
- 24 Q. Just to type on a typewriter?
- 25 A. To be able to type.

INVESTIGATOR ROXIE BELUE: BY MR. SOWELL

-66-

1 Q. Did you learn how to load a computer?

2 A. Turn it on.

3 Q. Did you learn how to load a program into the
4 computer?

5 A. No.

6 Q. Have you had any other formal training, Tech school,
7 college, since high school?

8 A. No.

9 Q. You never went to Union County Tech? You never went
10 to USC?

11 A. I went to USC. I did not take - I didn't have a
12 completed computer class other than high school.

13 Q. Did you use a computer to prepare any of your papers
14 you had to turn into your professors?

15 SOLICITOR ANTHONY: Your Honor, this is just
16 irrelevant.

17 THE COURT: Well this is cross examination. I'm going
18 to let him do it. Objection over ruled.

19 BY MR. SOWELL:

20 A. I just don't remember. I just don't recall.

21 Q. But you don't know whether this computer was -

22 A. I used computers a lot and I use them daily even
23 today.

24 Q. Do you use towers or laptops?

25 A. Both.

1 Q. And so you are familiar with computers then aren't
2 you?

3 A. Generally familiar with them.

4 Q. And you know what these cords hook up to don't you?

5 A. I do not.

6 Q. You don't know they hook up to drives?

7 A. I do not.

8 Q. You don't know if it's the hard drives?

9 A. I don't know the inside of the components. I don't
10 know anything about them.

11 Q. The other computers that you obtained - I'll return
12 this here - is that your list?

13 A. It is.

14 Q. What happened to the other computer towers?

15 A. It was also taken and placed in the log by evidence
16 custodian Jordan.

17 Q. And was it sent to SLED?

18 A. It was.

19 Q. Pardon me?

20 A. It was.

21 Q. How about the - what's a possible hard drive?

22 A. It was - possible hard drive. It was found external.
23 It was in a drawer in the house.

24 Q. Do you know what a hard drive looks like?

25 A. Most of them.

INVESTIGATOR ROXIE BELUE: BY MR. SOWELL

-68-

1 Q. And they hook up to wires like this don't they?

2 A. Generally. I don't know what they hook to.

3 Q. How do you know it's a hard drive?

4 A. That's just what I've been told.

5 Q. What's a reader?

6 A. Three and a half A external reader with disc?

7 Q. Yes, ma'am.

8 A. That would be an external drive that reads three and
9 a half A floppies.

10 Q. What is that?

11 A. What?

12 Q. What's a floppy?

13 A. It's a three and a half A disc that stores media.

14 Q. Pardon me?

15 A. That stores data.

16 Q. How does it hook up to this?

17 A. USB.

18 Q. What's a smart drive?

19 A. Smart disc?

20 Q. Number Six it says Samsung possible hard drive.

21 A. I thought you said Smart drive. Samsung possible
22 hard drive. Those were in my knowledge to be external hard
23 drives.

24 Q. What's an external hard drive?

25 A. A drive that's been taken out of the computer.

1 Q. Where's the driver?

2 A. I don't have that knowledge.

3 Q. Zippy possible hard drive. What is that?

4 A. These are things that could possibly been hard
5 drives. Appeared to be computer equipment.

6 Q. Where's the thumb drive?

7 A. It's what I use to store pictures on or data that
8 plugs in USB, a small device.

9 Q. Where's the memory chip?

10 A. The memory that goes into the computer if you want
11 to add extra memory. Those are the things that I will
12 purchase for extra memory.

13 Q. What does it look like?

14 A. They were green and they were rectangular. Like this
15 long and they had obviously something - connectors that we
16 connect slots. They would go into the back of the
17 computer.

18 Q. Connect to these?

19 A. No they wouldn't fit into that.

20 Q. What's a Palm AA 100?

21 A. I really am not familiar with a Palm Pilot other than
22 the advertisement that you can store data on these and I
23 was told that there would be one found there that stores
24 pictures and data.

25 Q. What does a Palm look like?

INVESTIGATOR ROXIE BELUE: BY MR. SOWELL

-70-

1 A. It's a small hand held - -

2 Q. What does it look like? Tell me what it look like?

3 A. It's a small hand held device electronic.

4 Q. How does it hook up to anything?

5 A. I have no idea.

6 Q. A laptop mother board. What is that?

7 A. We took - I took a laptop pieces that was broken and
8 it - it was all still kind of together but it was falling
9 apart so I put it in a bag and it was laying at the back
10 door so I took it as well.

11 Q. What did you do with all this electronic equipment
12 you took out of the house?

13 A. I put it in the car and transported it to the
14 courthouse and logged it.

15 Q. Did you personally send it to SLED?

16 A. I did not send it to SLED. The evidence custodian
17 logged it and transported it to SLED.

18 Q. Where are the other electronic equipment that you
19 took out of the house?

20 A. They are also in the courtroom. The ones that had
21 not been turned back over to Mr. Bishop.

22 Q. Which ones were turned back over to him?

23 A. Its gonna be a VHS tape.

24 Q. You gave him the VHS tape?

25 A. I did.

1 Q. Okay. What else did you give him?

2 A. I gave him a Palm, one silver. That was one of the
3 palms, one silver with cord.

4 Q. You gave that back to him?

5 A. Uh-huh.

6 Q. Okay.

7 A. Three and a half A external reader with disc in it.

8 Q. You gave that back to him?

9 A. Disc, brown. It went back to him as well. 12 was
10 as disc CD, DVD. I'm not sure which one it was. It was a
11 similar disc.

12 Q. Nine disc? Was this the nine disc you took? You
13 gave those back to him?

14 A. Correct. And a Palm N 100 and cord.

15 Q. I thought you - Okay.

16 A. There was two.

17 Q. So you gave him five items and kept the rest of them?

18 A. Correct.

19 Q. Could I see the other things you took pursuant to
20 this arrest warrant; the search warrant? Are they here?

21 A. What has not been turned back over is in the
22 courtroom.

23 Q. Where's the other computer tower?

24 A. Its also in the courtroom. Rolling cart.

25 Q. Where's the Hitachi possible hard drive?

INVESTIGATOR ROXIE BELUE: BY MR. SOWELL
BY SOLICITOR ANTHONY

-72-

1 A. What number is that?

2 Q. It's three.

3 A. It's in the basket.

4 Q. In these?

5 A. Correct.

6 MR. SOWELL:. Nothing further, Your Honor.

7 THE COURT: Redirect?

8 REDIRECT EXAMINATION

9 INVESTIGATOR ROXIE BELUE BY MR. ANTHONY:

10 Q. When you did the warrant or executed the warrant on
11 May 6, do you recall when you saw that tower in the living
12 room if there was anything hooked up to it, a keyboard,
13 monitor, anything along those lines?

14 A. I don't recall.

15 Q. Okay.

16 A. I don't recall. There were two there. I don't
17 recall which one had a keyboard with it or both maybe had.

18 Q. Okay.

19 A. I just don't remember.

20 Q. Okay. All right. And the items that you said that
21 you returned to Mr. Bishop, why did you return those items?

22 A. They were not analyzed by SLED and we didn't see them
23 being necessary for the investigation any further.

24 Q. All right. Why would they be analyzed at SLED?

25 A. Well the memory chip simply could not be analyzed

INVESTIGATOR ROXIE BELUE: BY MR. SOWELL
BY SOLICITOR ANTHONY

-73-

1 according to the computer crime scene --

2 MR. SOWELL: Objection.

3 THE COURT: Unless she's an expert in that area I
4 sustain the objection. You need to lay a better
5 foundation.

6 SOLICITOR ANTHONY: Well I was just asking --

7 THE COURT: No. No, you need to lay a foundation
8 before she can answer like she was answering.

9 BY SOLICITOR ANTHONY:

10 Q. You returned the memory chip; is that correct?

11 A. I didn't return the memory chip.

12 Q. Okay. And that was based on information provided
13 for you - to you from SLED?

14 MR. SOWELL: Objection to hearsay, Your Honor.

15 THE COURT: I sustain the objection.

16 BY SOLICITOR ANTHONY:

17 Q. Who did you speak with before you returned the memory
18 chip?

19 A. That would be Bart Cave with SLED.

20 Q. And based on a conversation you had with Mr. Cave,
21 what did you do?

22 A. I restored - We never sent them. We never sent them
23 to SLED.

24 Q. Okay. If I can have one moment.

25 (PAUSE)

INVESTIGATOR ROXIE BELUE: BY MR. SOWELL

-74-

1 SOLICITOR ANTHONY: Thank you. That's everything on
2 redirect.

3 THE COURT: Recross?

4 RECROSS EXAMINATION

5 INVESTIGATOR ROXIE BELUE BY MR. SOWELL:

6 Q. Why if you were trying to find any pictures did you
7 return the three and a half inch external reader disc? Why
8 didn't you send that to SLED?

9 A. The disc that was in there didn't obtain anything
10 relevant to the case so I turned that back over. We are
11 limited on - very limited on space for evidence and what we
12 do not use for the court trial we will try to turn back
13 over to the owner of the belongings.

14 Q. Did you personally examine the contents of the
15 external reader with the disc?

16 A. Did I personally examine it?

17 Q. Yes, sir.

18 A. It was an externa device no, sir.

19 Q. Did you ask someone else to examine it?

20 A. I didn't.

21 Q. So you had an electronic device that holds memory
22 which would also hold pictures and you didn't examine it to
23 see if any pictures were on it?

24 A. No, sir.

25 Q. Did you examine the tape called Austin?

1 A. The tape of Austin I did not.

2 Q. Why did you not check to see what Austin was?

3 A. Because during the investigation I was told by my
4 only --

5 Q. Don't tell me what somebody told you.

6 THE COURT: Well you ask the question as to why she
7 did something.

8 A. I was told that it ---

9 THE COURT: But she's got to give --

10 A. --- was a relative of his on the video and I thought
11 that was very sentimental so I didn't keep that.

12 Q. Palm One, silver with a cord. And the 2G hard
13 drive. Did you examine the contents of those?

14 A. I did not.

15 Q. Did you ask that someone else examine it?

16 A. I did not.

17 Q. The nine CD disc, did you examine those?

18 A. I did not.

19 Q. Did you ask for someone else to examine them?

20 A. I did not.

21 Q. Palm M100 with cord. Did you examine the contents
22 of that?

23 A. The...

24 Q. Number 13, Palm --

25 A. I did not.

INVESTIGATOR ROXIE BELUE: BY MR. SOWELL
TROY BREWINGTON: BY SOLICITOR ANTHONY

-76-

1 Q. Is anything on those disc? You didn't examine those?

2 A. I did not.

3 Q. No one else examined them?

4 A. No, sir.

5 Q. And if they had something on that to exonerate Mr.
6 Bishop, you just threw it out the window?

7 A. No, sir. They were turned back over to him on July
8 1st I think of - July the 28th of 2010 pretty early on.

9 MR. SOWELL: Nothing further.

10 THE COURT: Okay. You can step down and have a seat
11 at counsel's table.

12 Call your next witness.

13 SOLICITOR ANTHONY: We call Mr. Brewington.

14 (WHEREUPON: TONY BREWINGTON,
15 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

16 DIRECT EXAMINATION

17 TONY BREWINGTON BY SOLICITOR ANTHONY:

18 Q. Would you state your name please?

19 A. Troy Brewington.

20 Q. And Mr. Brewington, I want to take you back to May
21 of 2010. Where were you working then?

22 A. I was working for the Union County Sheriff's Office.

23 Q. What was your position with the Sheriff's office
24 back then?

25 A. I was Master Sergeant over uniform patrol. Also

TROY BREWINGTON: BY SOLICITOR ANTHONY

-77-

1 evidence custodian.

2 Q. And do you work for the Sheriff's department now?

3 A. No, sir. I'm retired.

4 Q. All right. Do you have some other employment now?

5 A. Yes, sir. I'm self employed. I do bobcat work and
6 I also work some at USC Upstate Police Department.

7 Q. Going back to when you worked for the sheriff you
8 were the evidence custodian, what did you do? What were
9 your responsibilities in regards to being an evidence
10 custodian?

11 A. I would usually take control of any evidence turned
12 in.

13 MR. SOWELL: Your Honor, the issue of this witness
14 is just chain of custody we don't wish to question him.

15 SOLICITOR ANTHONY: I just think it would help to let
16 him say what his job was, Your Honor.

17 THE COURT: Go ahead.

18 BY SOLICITOR ANTHONY:

19 Q. What were your duties in regards to evidence?

20 A. I would take evidence in as cases were made, log them
21 in to the evidence room and also was responsible for taking
22 the evidence to be analyzed. Most of the things taken to
23 SLED to be analyzed.

24 Q. All right. And sitting there in front of you, on
25 this table here, is State's Exhibit Number One. Have you

TROY BREWINGTON: BY SOLICITOR ANTHONY

-78-

1 had a chance to look at that this morning?

2 A. Yes, sir.

3 Q. All right. Going back to May 13 of 2010 did you have
4 any involvement with that piece of evidence?

5 A. Yes, sir. That's what I logged into the evidence
6 room. One piece.

7 Q. Okay. This item here?

8 A. Yes, sir.

9 Q. Okay. And what did you do with that item on May 13
10 of 2010? Where did you take it?

11 A. On the 13th I took it to the SLED Computer Crime Lab
12 in Columbia.

13 Q. All right. Where did you get it from to take it
14 there?

15 A. I took - I went into the evidence room I had access
16 to. I logged it back out of the evidence room,
17 transported it to Columbia.

18 Q. Okay. And was this desk top in the same condition
19 then as far as the side being missing as it is now?

20 A. Yes, sir.

21 Q. All right. And where did you take it to in Columbia?

22 A. The computer crime lab, an extension of SLED.

23 Q. All right. And did you take anything else along
24 with it?

25 A. Yes, sir.

TROY BREWINGTON: BY SOLICITOR ANTHONY

-79-

1 Q. And you don't have to specifically name everything
2 but in general what else was taken?

3 A. Mostly his computer components. I'm not real up on
4 computer parts.

5 Q. And then when you got to SLED what did you do with
6 Item No. 1 and then the other evidence you transported?

7 A. I turned them over to I believe the agents name
8 was Cave, Mr. Cave.

9 Q. And what did you request happen with the items you
10 took to SLED that you turned over to Mr. Cave?

11 A. I had - If I'm not mistaken Investigator Belue had
12 already talked with him and by doing - analyzing those
13 components.

14 Q. And what specifically were you asking they be
15 analyzed for?

16 MR. SOWELL: Your Honor, apparently this witness
17 didn't ask them anything. I object to this.

18 THE COURT: Well the first question is did he ask.

19 BY SOLICITOR ANTHONY:

20 Q. Did you fill out the paperwork there at SLED?

21 A. I did.

22 Q. Did you make any request of SLED as far as what you
23 were asking them to look for on the computer?

24 A. I think the phone he had to put a request.

25 THE COURT: Well just change the question.

TROY BREWINGTON: BY SOLICITOR ANTHONY
BY MR. SOWELL

-80-

1 Did you make - not what --

2 Ask the question again.

3 BY SOLICITOR ANTHONY:

4 Q. What specifically did you ask them to look for?

5 A. Just photos, videos.

6 Q. Of what particular sort?

7 A. Explicit pornography type.

8 Q. Involving children?

9 A. Yes, sir.

10 Q. All right. Thank you.

11 SOLICITOR ANTHONY: That's everything on direct.

12 THE COURT: Cross?

13 CROSS EXAMINATION

14 TROY BREWINGTON BY MR. SOWELL:

15 Q. Mr. Brewington, is this the condition of this tower
16 when you first saw it?

17 A. To my knowledge yes, sir.

18 Q. Now how would this tower could possibly have had
19 the pictures in it?

20 A. That I don't know.

21 Q. Well there's no drive in it is there?

22 A. I'm not sure. I'm not - Like is said, I'm not a
23 computer person.

24 Q. There's no hard drive in it is there?

25 A. I don't know.

TROY BREWINGTON: BY MR. SOWELL

-81-

1 Q. Is there any drive at all in it?

2 A. I couldn't look at it and tell you what's a drive or
3 what's not. I'm not a technician.

4 Q. But no question these wires were not hooked up when
5 you saw it?

6 A. I cannot honestly tell you that I recall that. Took
7 that in along with several other items.

8 Q. Was it --

9 A. The side plate was missing. I don't know if SLED
10 when they had to do whatever they had to do if they take
11 anything out of it or not. I'm not sure.

12 Q. You testified that this exhibit was in the exact
13 condition as when you saw it, first saw it, was it when you
14 took it from the evidence room to SLED; is that correct?

15 A. That's correct.

16 Q. Now you're changing your --

17 A. To my --

18 Q. Pardon me?

19 A. As well as I can remember that's the condition.

20 Q. A minute ago you didn't say as well as I remember.

21 A minute ago you said it's in the identical condition as it
22 was when I first saw it. Is it or is it not?

23 A. As well as I can remember it yes, sir.

24 Q. And these drivers cords were not hooked up?

25 A. Apparently not.

TROY BREWINGTON: BY MR. SOWELL

-82-

1 Q. Who did you discuss this with at SLED?

2 A. I believe the agents name was Cave, Mr. Cave. I'm
3 not sure of the first name.

4 Q. And did you give him a note from anybody at the
5 solicitor's or the sheriff's department telling him what to
6 examine, the tower for?

7 A. I don't remember giving him a note but I had to fill
8 out the forms there is what was being requested of them.

9 Q. And you filled out the form and what did the form
10 say?

11 A. I would have to see it. I can't tell you right off
12 the top of my head.

13 Q. You told us a minute ago. You can't remember five
14 minutes?

15 A. All I can tell you is I filled out that form. If you
16 let me look at it I could tell you what's on it. That's
17 been months and months ago.

18 Q. Five minutes ago you knew what was on it. You can't
19 tell us now?

20 A. I can --

21 Q. Five minutes ago is not months and months away. Five
22 minutes ago you told us exactly what was on it. I'm asking
23 you to repeat what was on it.

24 A. All I done was fill out a request.

25 Q. And what did you put on the request?

1 A. Check the evidence for explicit material.

2 Q. And you have the form?

3 A. I don't have it with me no, sir. I'm sure its
4 probably in the case file.

5 Q. Could you obtain it for me?

6 A. Check with Mr. Anthony or Ms. Belue. They probably
7 got the form.

8 Q. Where did you get the form?

9 A. I got it from SLED. I mean they provided the form.
10 As well as I can remember I didn't have a form when I got
11 there. I just took it down there filled out the proper
12 paperwork turned it over to them.

13 Q. You think Ms. Belue might have the form?

14 A. Possibly.

15 Q. The form on the table, is that the form?

16 A. Sir?

17 Q. She's pushing something on that table for you. Is
18 that the form?

19 A. I don't know. I can't see it from here.

20 Q. Step down and find out.

21 THE COURT: Well I'm not going to let him step down.
22 Somebody hand it to him.

23 SOLICITOR ANTHONY: That form's been provided to Mr.
24 Sowell.

25 THE COURT: Well that's not the question. The

TROY BREWINGTON: BY MR. SOWELL
BY SOLICITOR ANTHONY

-84-

1 question is he's asking if that's the form laying there on
2 the table.

3 BY MR. SOWELL:

4 Q. And this is the form you gave him?

5 A. It is.

6 Q. Who returned these towers from SLED back to the
7 Union County Evidence Log?

8 A. If I recall I think I picked them up and brought them
9 back.

10 Q. When did you do that?

11 A. I would have to see the paperwork. I'm not sure
12 which date is on them.

13 Q. You wouldn't have been the one who picked them up?

14 A. I'm pretty sure I did that day yes, sir.

15 MR. SOWELL: Nothing further, Your Honor.

16 THE COURT: Redirect?

17 REDIRECT EXAMINATION

18 TROY BREWINGTON BY SOLICITOR ANTHONY:

19 Q. Having looked at that form, does that refresh your
20 recollection about specifically what you requested SLED to
21 check the computers for?

22 A. Yes, sir.

23 Q. And what was it?

24 A. Child porn images, sexually explicit material.

25 SOLICITOR ANTHONY: Thank you. That's everything.

1 THE COURT: Recross?

2 MR. SOWELL: No, Your Honor.

3 THE COURT: All right. You can step down and have a
4 seat.

5 (WITNESS LEAVING WITNESS STAND.)

6 THE COURT: Members of the jury panel, we've been
7 going since Ten. You all got a short break we did not so
8 we gonna take a real short refresher break.

9 (JURY EXITS COURTROOM AT 11:28 A.M..)

10 (COURT IN RECESS AT 11:29 A.M..)

11 THE COURT: Thank you. Take your seats.

12 Reckon we can round up a lawyer for the State?

13 State ready?

14 SOLICITOR ANTHONY: Yes sir, we're ready.

15 THE COURT: Defense?

16 MR. SOWELL: Yes, sir.

17 THE COURT: Bring in the jury.

18 (JURY REENTERS COURTROOM AT 11:45 A.M..)

19 THE COURT: Call your next witness.

20 SOLICITOR ANTHONY: We call Destiny Cipriano.

21 Your Honor, before we start. Is it okay that Mr.
22 Brewington be excused?

23 THE COURT: Yes he can be excused.

24 SOLICITOR ANTHONY: Thank you, Your Honor.

25 THE COURT: Any objection?

DESTINY CIPRIANO: BY SOLICITOR ANTHONY

-86-

1 MR. SOWELL: No objection.

2 THE COURT: No objection?

3 MR. SOWELL: That's correct, Your Honor.

4 THE COURT: Okay. You can be excused.

5 MR. BREWINGTON: Thank you.

6 (TROY BREWINGTON EXITS COURTROOM.)

7 MR. SOWELL: Your Honor, may counsel approach?

8 THE COURT: Yes, sir.

9 (BENCH CONFERENCE OFF THE RECORD OUT OF THE HEARING
10 OF THE JURY AT 11:46 A.M..)

11 (WHEREUPON: DESTINY CIPRIANO,
12 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

13 THE COURT: You may proceed.

14 DIRECT EXAMINATION

15 DESTINY CIPRIANO BY SOLICITOR ANTHONY:

16 Q. Would you state your name please?

17 A. Destiny Cipriano.

18 Q. And, Ms. Cipriano, where do you live?

19 A. Huh?

20 Q. What town do you live in?

21 A. Union.

22 Q. And how old are you?

23 A. Eighteen.

24 Q. And are you in school now?

25 A. Yes, sir.

1 Q. Where do you go to school?

2 A. University of South Carolina in Union.

3 Q. And what year are you finished up in school?

4 A. My first year.

5 Q. I want to take you back to May of 2010. Back at that
6 time who did you live with?

7 A. My mother and sister.

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

9 A. Denise C. [REDACTED].

10 Q. Now, going back to the ten months to the year before
11 that, have you and Denise spent time at [REDACTED]

12 A. Yes, sir.

13 Q. And why would you spend time at [REDACTED]

14 Who did you know there?

15 A. Brittany and Kelly P. [REDACTED].

16 Q. And what was the age relationship between you and
17 Brittany P. [REDACTED]?

18 A. We were just a few months apart.

19 Q. And how long had you been friends with Brittany?

20 A. Since elementary school.

21 Q. And what was the age relationship between your sister
22 Denise and Kelly P. [REDACTED]?

23 A. They were about a year and a half apart.

24 Q. Okay. So were they friends too?

25 A. Yes, sir.

DESTINY CIPRIANO: BY SOLICITOR ANTHONY

-88-

1 Q. And during the time that you would go to Wardlaw
2 Street, who was the adult who lived there?

3 A. Doug Bishop.

4 Q. And what was Mr. Bishop's relationship with Brittany
5 P [REDACTED] and Kelly P [REDACTED]?

6 A. Their step-father.

7 Q. And when had Mr. Bishop, roughly you know, to the
8 best of your recollection, when had he moved in at [REDACTED]
9 [REDACTED]

10 A. I know it was before Thanksgiving of 2010.

11 Q. Okay. '10 or '09?

12 A. '09. I'm sorry.

13 Q. Okay. And when he moved in at Wardlaw Street had
14 any other adults moved in with him?

15 A. No, sir.

16 Q. All right. Had Ms. P [REDACTED] or the mother of Brittany
17 and Kelly had she moved in with him?

18 A. No, sir.

19 Q. Okay. And what was her name? What was his wife's
20 name?

21 A. Dana Bishop.

22 Q. And she was Brittany and Kelly's mom?

23 A. Yes, sir.

24 Q. Is that correct? All right. And after he moved,
25 after Mr. Bishop moved in at Wardlaw Street, how often

1 would Brittany and Kelly be there?

2 A. They was there just about every day.

3 Q. All right. And going now into 2010 in the period of
4 the first part of 2010, say January to April, how often
5 would you go to Wardlaw Street with the P [REDACTED] girls during
6 that period of time?

7 A. About four or five days out of the week.

8 Q. And would you spend the night there?

9 A. Yes, sir

10 Q. And how often would you spend the night there?

11 A. About the same amount of time.

12 Q. And what was occurring with your family that would
13 have led you to spend so much time over there at Wardlaw
14 Street rather than at your house?

15 A. My mother was working second shift.

16 Q. All right. And at some point in 2010 did Ms. Bishop
17 move back into the residence?

18 A. Yes, sir

19 Q. And approximately when was that?

20 A. End of April beginning of May.

21 Q. Okay. But before she moved in who was - who were -
22 who was or were the adults living there at Wardlaw Street?

23 (VERY LOUD COUGH.)

24 MADAME COURT REPORTER: I'm sorry. I couldn't hear
25 that.

DESTINY CIPRIANO: BY SOLICITOR ANTHONY

-90-

1 A. Only Doug Bishop.

2 Q. Okay. And during that time from January through the
3 early part of May of 2010, did Mr. Bishop have a job?

4 A. No, sir.

5 Q. All right. Was Mr. Bishop at some point in time in
6 school?

7 A. Yes, sir

8 Q. When had he been in school?

9 A. The fall of 2009.

10 Q. Okay. And what he gone to school for?

11 A. Computers.

12 Q. All right. But after - at the end of 2009, end of
13 - at the start of 2010 was he in school at that point in
14 time?

15 A. No, sir.

16 Q. All right. To your knowledge did he have anything
17 that occupied him during the day during the first four
18 months of 2010?

19 A. No, sir.

20 Q. Now, were there computers kept at [REDACTED] or a
21 computer kept at [REDACTED]?

22 A. Yes, sir

23 Q. Okay. What kind of computer was it?

24 A. It was a desktop.

25 Q. Okay. And where was it kept?

1 A. In the living room.

2 Q. And you have there in front of you State's Exhibit
3 Number One, do you recognize this computer or this desktop?

4 A. Yes, sir.

5 Q. Okay. And where do you recognize it from?

6 A. From Doug Bishop's house.

7 Q. All right. And what is distinct about that desktop
8 tower?

9 A. It didn't have a side on it.

10 Q. All right. And when did that computer come to the
11 Wardlaw residence?

12 A. When Doug Bishop moved in.

13 Q. And during the time that Mr. Bishop was living there
14 on Wardlaw Street, you were visiting there, who used the
15 computer?

16 A. Myself, my sister, Brittany, Kelly and Doug.

17 Q. Did you ever see the computer used by anybody else
18 other than the five of you all?

19 A. No, sir.

20 Q. And during the time that you lived there, or not
21 lived there, but during the time that you frequently stayed
22 there, did you ever see any child pornography, photos or
23 videos, on the computer? Did you ever see that?

24 A. No, sir.

25 Q. If I can have one moment.

DESTINY CIPRIANO: BY MR. SOWELL
DENISE C [REDACTED]: BY SOLICITOR ANTHONY

-92-

1 (PAUSE.)

2 SOLICITOR ANTHONY: All right. That's everything on
3 direct.

4 CROSS EXAMINATION

5 DESTINY CIPRIANO BY MR. SOWELL:

6 Q. I didn't understand your answer to the last question.

7 A. No, sir, I never seen any. Any child pornography
8 on the computer.

9 Q. You never saw what?

10 A. No child pornography.

11 MR. SOWELL: Nothing further.

12 THE COURT: All right. You may step down. Thank you.
13 You can be excused if you wish.

14 (WITNESS LEAVING WITNESS STAND.)

15 THE COURT: Call your next witness.

16 SOLICITOR ANTHONY: All right. Thank you.

17 The next witness would be Denise C [REDACTED].

18 (WHEREUPON: DENISE C [REDACTED],

19 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

20 DIRECT EXAMINATION

21 DENISE C [REDACTED] BY SOLICITOR ANTHONY:

22 Q. Would you state your name please?

23 A. Denise C [REDACTED].

24 Q. And, Ms. Cipriano, what town do you live in now?

25 A. Union.

DENISE C [REDACTED]: BY SOLICITOR ANTHONY

-93-

1 Q. And how old are you?

2 A. Fourteen.

3 Q. And are you in school?

4 A. Yes, sir.

5 Q. Where do you go to school?

6 A. Union County High School.

7 Q. What grade did you just finish?

8 A. Ninth.

9 Q. Going back to May of 2010, who did you live with
10 back in May of 2010?

11 A. My mother and my sister.

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

13 A. Destiny Cipriano.

14 Q. Back in 2010 in the first part of 2010, January up
15 to the first of May, did you and Destiny spend time at

16 [REDACTED]

17 A. Yes, sir.

18 Q. And who would you go there to see?

19 A. Brittany and Kelly P [REDACTED].

20 Q. And of the two P [REDACTED]; who were you closest in age
21 to?

22 A. Kelly P [REDACTED].

23 Q. And how long had you known Kelly?

24 A. Since elementary school.

25 Q. And who was Kelly, or what was Brittany's

DENISE C [REDACTED]: BY SOLICITOR ANTHONY

-94-

1 relationship to Kelly?

2 A. She was her sister.

3 Q. Okay. And what was Kelly _- how did Kelly compare
4 in age - I'm sorry. How did Brittany compare in age to
5 Destiny?

6 A. They were just a couple of months apart.

7 Q. Okay. And were they in school together?

8 A. Yes, sir.

9 Q. Okay. During that first part of 2010, how often
10 would you go over to - Well when would you go over to [REDACTED]

11 [REDACTED]

12 A. Almost every day.

13 Q. And would you spend the night there as well?

14 A. Yes, sir

15 Q. And how long --

16 MR. SOWELL: He's leading, Your Honor.

17 THE COURT: Just don't lead. Rephrase your question.

18 BY SOLICITOR ANTHONY:

19 Q. How often would you spend the night there?

20 A. About the same time.

21 Q. When you say time, say same time what do you mean?

22 A. Almost every day.

23 Q. Okay. And why was that? What was going on to be
24 the reason why you would spend so much time over there?

25 A. My mother was working.

DENISE C [REDACTED]: BY SOLICITOR ANTHONY

-95-

1 Q. And who were the adults - Who was the adult that
2 lived at [REDACTED] during the time that you were
3 going over there?

4 A. Doug Bishop.

5 Q. And what was Mr. Bishop's relationship to Brittany
6 and Kelly P [REDACTED]?

7 A. He was their step-dad.

8 Q. Who was he married to?

9 A. Dana Bishop.

10 Q. And Ms. Bishop, what was her relationship to Brittany
11 and Kelly?

12 A. She was their mother.

13 Q. She was their mom. Okay. Did Ms. Bishop live there
14 during the first part of 2010?

15 A. No, sir.

16 Q. And during the time - Well, were there any other
17 adults that lived there during the first part of 2010?

18 A. No, sir.

19 Q. During this time the first part of 2010, to your
20 knowledge, was Mr. Bishop employed?

21 A. No, sir.

22 Q. Was there anything going on that you knew of that
23 occupied his time during the day?

24 A. He went to school.

25 Q. And at some point, and you recall it, there was a

DENISE C [REDACTED]: BY SOLICITOR ANTHONY

-96-

1 time he was in school?

2 A. Yes, sir.

3 Q. Okay. Do you remember specifically when that was?

4 A. In the fall.

5 Q. The fall of 2009?

6 A. Yes, sir.

7 Q. All right. And at some point did Ms. Bishop move
8 back in the house?

9 A. Yes, sir

10 Q. And do you recall there being a computer or
11 computers --

12 MR. SOWELL: Leading, Your Honor.

13 THE COURT: Rephrase your question.

14 BY SOLICITOR ANTHONY:

15 Q. What type computer equipment was in the house if any?

16 A. Regular desktop computers.

17 Q. All right. And where was --

18 MR. SOWELL:.. I couldn't understand her.

19 A. Just regular desk top computers were in the house.

20 MR. SOWELL: Are you saying just desk top?

21 A. That I know of.

22 THE COURT: She said just desktop computers were in
23 the house.

24 MR. SOWELL:.. Thank you.

25 BY SOLICITOR ANTHONY:

DENISE C [REDACTED]: BY SOLICITOR ANTHONY

-97-

1 Q. And where were the computers kept?

2 A. In the living room.

3 Q. And there's a computer there or a desk top in front
4 of you marked State's Exhibit Number One. Do you recognize
5 that?

6 A. Yes, sir.

7 Q. And what is that?

8 A. It's the main computer we used.

9 Q. And when was that computer brought to Wardlaw Street?

10 A. When he moved in.

11 Q. When who moved in?

12 A. Doug Bishop.

13 Q. And you say the main computer. Was there another
14 computer there?

15 A. Only when Dana moved in when she brought hers.

16 Q. Okay. So during the time before Ms. Bishop moved in
17 were there any other computers or were there any other desk
18 tops being used besides that one?

19 A. No, sir.

20 Q. Okay. And is there anything distinct about that
21 computer that allows you to recall how to identify it?

22 A. It doesn't have a side on it.

23 Q. Okay. Was it that way when it was there ---

24 A. Yes, sir

25 Q. --- at [REDACTED]?

DENISE C [REDACTED] BY SOLICITOR ANTHONY

-98-

1 A. Yes, sir

2 Q. Okay. And during the time that you would visit over
3 there, who used that desktop tower?

4 A. Just me, Kelly, Brittany, Doug and my sister.

5 Q. Okay. Did you ever see anybody else use it?

6 A. Only one person.

7 Q. Okay. And did you know who that person was?

8 A. I don't know him.

9 Q. Okay. It was a man?

10 A. Yes, sir.

11 Q. How many times did you see that one person use the
12 computer?

13 A. Just once.

14 Q. All right. And was that computer kept - well, what
15 components were hooked up to that computer during the time
16 you visited there?

17 A. What do you mean?

18 Q. Well, a keyboard, a laptop, mouse. What was it
19 hooked up to?

20 MR. SOWELL: Your Honor.

21 THE COURT: Just rephrase the question. Those would
22 be leading a good bit.

23 BY SOLICITOR ANTHONY:

24 Q. To use that computer what kind of items or equipment
25 were there with it that go along with it?

DENISE C [REDACTED]: BY SOLICITOR ANTHONY
BY MR. SOWELL

-99-

1 A. The monitor, keyboard and the mouse.

2 Q. Thank you.

3 SOLICITOR ANTHONY: That's everything on direct.

4 CROSS EXAMINATION

5 DENISE C [REDACTED] BY MR. SOWELL:

6 Q. Denise, how do you know when Dana Bishop moved in?

7 A. What do you mean? What do you mean moved in?

8 Q. When did Dana Bishop move into the house?

9 A. At the beginning of May, end of April.

10 Q. Beginning of May, 2010?

11 A. 2010. Yes, sir.

12 Q. Are you sure she didn't move in December of 2009?

13 A. I'm sure.

14 Q. Pardon me?

15 A. I'm sure.

16 Q. How do you know she moved in, in May of 2010?

17 A. Because I stayed there a lot.

18 Q. And Dana Bishop was not living there in December of
19 2009?

20 A. No, sir.

21 Q. Didn't you stay there during Christmas vacation?

22 A. I think so. I'm not sure.

23 Q. When you say no, is you don't want to tell us about
24 it?

25 SOLICITOR ANTHONY: Objection.

DENISE C [REDACTED]: BY MR. SOWELL

-100-

1 THE COURT: Rephrase the question. Don't comment on
2 it. Just ask questions.

3 BY MR. SOWELL:

4 Q. Do you know a JJ Boone?

5 A. No, sir.

6 Q. Never saw him at the house?

7 A. No, sir.

8 Q. Do you know a Audrey?

9 A. Audrey who?

10 Q. Howell.

11 A. Yes, sir.

12 Q. You do?

13 A. Yes, sir.

14 Q. How do you know him?

15 A. Her. She's my cousin.

16 Q. Pardon me?

17 A. Her. She's my cousin.

18 Q. And did she ever come over to the house?

19 A. Once, but she never used the computers.

20 Q. Did you know Miranda?

21 A. Yes, sir.

22 Q. Who was she?

23 A. She was my best friend.

24 Q. The computer you say was - How many computers were
25 there at the house?

DENISE C [REDACTED]: BY MR. SOWELL

-101-

1 A. There was one until Dana moved in and then there
2 was two.

3 Q. I'm sorry, I couldn't understand you.

4 A. There was one until Dana moved in and then there was
5 two.

6 Q. Were they both towers?

7 A. Yes, sir

8 Q. You never saw any other computers there?

9 A. No, sir.

10 Q. And where did you sleep in the house?

11 A. I slept with Kelly or Brittany.

12 Q. How many bathrooms are in that house?

13 A. There's one.

14 Q. How many bedrooms?

15 A. Two.

16 Q. And I believe you said that - What time did you
17 normally go to bed at night time?

18 A. Just whenever I felt sleepy.

19 Q. When would that normally be?

20 A. Different times. Sometimes around 10:00 and
21 sometimes around 1:00.

22 Q. The bedroom you slept in how far was that from the
23 front door?

24 A. I slept in both rooms so it's no different.

25 Q. How many bedrooms are in that house?

DENISE C [REDACTED]: BY MR. SOWELL

-102-

1 A. Two.

2 Q. You and your - Did you ever go back to your mother's
3 house when you were sleeping at the house on Wardlaw
4 Street?

5 A. Yes, sir.

6 Q. Did you ever spend the night at that house?

7 A. At my mother's house?

8 Q. Yes.

9 A. Yes, sir

10 Q. How often did you spend the night at your mother's
11 house?

12 A. On the weekends when she wasn't working.

13 Q. So you don't know how many people had access to that
14 computer on the weekends do you?

15 A. I usually spent the night at Doug's house on the
16 weekends but sometimes I lived with my mom.

17 Q. If you spend the night with your mother you don't
18 know who was using that computer when you were at your
19 mother's house do you?

20 A. No, sir.

21 Q. Did you spend Sunday night at your mothers?

22 A. No not really.

23 Q. Why not?

24 A. Because I had school the next morning.

25 Q. You had school the next morning why couldn't you

DENISE C [REDACTED]: BY MR. SOWELL

-103-

1 sleep at your mother's house and get up for school the next
2 morning? She was at home wasn't she?

3 A. Yes, sir.

4 Q. So explain to me why you didn't sleep at your
5 mother's house on the nights that she wasn't working?

6 A. Because it was just easier for transportation because
7 we lived close to him so it was just easier transportation.

8 Q. So you didn't stay with your mother because she was
9 working you just wanted to go somewhere else; is that
10 correct?

11 A. What do you mean?

12 Q. You could have spent every Friday, Saturday and
13 Sunday at your mothers but she wasn't working; is that
14 correct?

15 A. Yes, sir.

16 Q. But you didn't do that.

17 A. No, sir.

18 Q. How many nights did you stay at your mother's
19 every weekend?

20 A. Probably one, sometimes two.

21 Q. Where when you were staying at your mothers where
22 did Dana sleep?

23 A. In the living room on a mattress.

24 Q. Pardon me?

25 A. In the living room on a mattress.

DENISE C [REDACTED]: BY MR. SOWELL

-104-

1 Q. So Doug's wife when you were at your mother's house
2 would sleep on the couch?

3 A. Yes, sir.

4 Q. How many times did she sleep on that couch?

5 A. Usually ever night.

6 Q. Starting in December?

7 A. May.

8 Q. Pardon me?

9 A. She moved in in May so she started staying there
10 in May.

11 Q. She stayed on the couch for two weeks.

12 A. I don't know how long it was.

13 Q. Well you said she didn't move there until May. When
14 did she move out?

15 A. I don't know.

16 Q. You don't know where Dana was living do you?

17 A. She was living on Pine Street and then she couldn't
18 afford it any more so she moved in with Doug.

19 Q. And how long did she live with Doug?

20 A. I don't know.

21 Q. Well you were living there weren't you?

22 A. For the most part.

23 Q. Pardon me?

24 A. For the most part.

25 Q. So if you were living there don't you know whether

DENISE C [REDACTED]: BY MR. SOWELL

-105-

1 she was living there or not?

2 A. Yeah but I don't remember that long ago.

3 Q. Well was it six months or six days?

4 A. I don't know.

5 Q. So you don't know if Dana lived there six months
6 or six days?

7 SOLICITOR ANTHONY: Objection. Ask and answered.

8 THE COURT: I over rule the objection. It's cross but
9 let's don't stay there too long.

10 BY MR. SOWELL:

11 A. I don't know how long she lived there. I don't
12 remember.

13 Q. Well you said she moved there in May.

14 A. Yes, sir.

15 Q. Didn't she move out in May also? .

16 A. I don't know.

17 Q. So you don't have any idea how long Dana was there
18 do you?

19 A. No, sir.

20 Q. But you do know she moved out in May?

21 A. She moved in in May.

22 Q. When did she move out?

23 SOLICITOR ANTHONY: Objection. Ask and answered.

24 THE COURT: This is the last time. You ask her that
25 and she's indicated she didn't know.

DENISE C [REDACTED]: BY MR. SOWELL

-106-

1 But he's asking you do you know when Dana moved
2 from the 224 address? You said she moved in in May. When
3 did she move out?

4 A. I don't know when she moved out.

5 BY MR. SOWELL:

6 Q. Were you still living there when she moved out?

7 A. I don't know when she moved out so I don't know.

8 Q. The last night you stayed at Doug's house, was Dana
9 there?

10 A. I don't remember.

11 Q. The week before you moved out was Dana still there?

12 A. I think so.

13 Q. You think. Is that a yes or no?

14 A. I don't know. I don't really remember.

15 Q. The month before Dana moved out were you living
16 there?

17 A. I don't know when she moved out so I don't know when.

18 Q. Two months before Dana moved out were you still
19 living there?

20 A. I don't know when she moved out so I have no idea
21 if she was still living there or not.

22 Q. Five months before you moved out was Dana still
23 living there?

24 SOLICITOR ANTHONY: Objection. Once again this has
25 all --

1 THE COURT: I over rule your objection.

2 A. I don't know.

3 Q. Six months before Dana moved out were you still living
4 there?

5 A. I don't know.

6 Q. So you don't know if she was staying there in December
7 or not is what you're telling us.

8 A. I know when she moved in but I do not know when
9 she moved out because it was near the end of summer and I
10 stayed with my mom during the summer.

11 Q. End of summer is when, August?

12 A. Yes, sir.

13 Q. So in March was Dana still living there?

14 A. March of 2000 what?

15 Q. 2010?

16 (LOUD COUGH IN COURTROOM.)

17 A. 2000 what?

18 Q. '10.

19 A. If she moved in in May she couldn't have been there
20 in March.

21 Q. Is that a no?

22 A. I guess.

23 Q. How long - Do you know when they came up and
24 searched the house?

25 A. No, sir. I don't know.

DENISE C [REDACTED]: BY MR. SOWELL

-108-

1 Q. Was the computer still at the house the last night
2 that you spent the night there?

3 A. Yes, sir.

4 Q. You're saying that you moved out in August of 2010.

5 THE COURT: That's not what she said. Let's get back
6 on track.

7 MR. SOWELL: I'm sorry.

8 THE COURT: I don't think she said she moved out in
9 August 2010. She testified she stayed the summer with her
10 mother. Lets kind of get back on track.

11 BY MR. SOWELL:

12 Q. Did you stay with your mother the summer of 2010?

13 A. For the most part. Sometimes I'd go spend it with
14 Kelly and sometimes I would stay home with my mom.

15 Q. In August of 2010 were you with your mother?

16 A. Yes because it was right before school started.

17 Q. Pardon me?

18 A. Yes because it was right before school started.

19 Q. Was the computer still at Doug's house the last night
20 you spent the night there?

21 A. Yes, sir.

22 Q. If the computer was removed by the sheriff's
23 department on May 6, that's not right is it?

24 A. I don't remember the last night I spent the night
25 with him or her.

DENISE C [REDACTED] BY MR. SOWELL

-109-

1 Q. Pardon me?

2 A. I don't remember the last time that I stayed there.
3 It was so long ago. But the last time I stayed there the
4 computer was there.

5 Q. So if the sheriff's department removed that computer
6 in May 6, and what you told us about staying there all that
7 summer didn't count does it?

8 SOLICITOR ANTHONY: I didn't hear the question.

9 THE COURT: Ask the question again.

10 BY MR. SOWELL:

11 Q. If the computer was moved on May 6 and the last
12 night you spent the night there the computer was still
13 there, then you haven't been back since May 6 have you,
14 2010?

15 A. I understand now. No, sir, I was not there.

16 Q. Pardon me?

17 A. I understand. I was not there.

18 Q. Did you say you were not there?

19 A. I remember staying the summer in 2009 not 2010 because
20 of what happened.

21 Q. I don't understand. Are you saying you didn't spend
22 the night there in 2010?

23 A. Yes, sir. I understand. I understand what you're
24 trying to say now. I did not spend the summer there in
25 2010. I was staying there in 2009.

DENISE C [REDACTED]: BY MR. SOWELL

-110-

1 Q. So everything you told this jury was a year off?

2 SOLICITOR ANTHONY: Objection. That's not a clear
3 question.

4 THE COURT: I over rule the objection.

5 A. I don't understand.

6 THE COURT: You need to be a little bit more specific.

7 BY MR. SOWELL:

8 Q. Everything you've told this jury that happened in May
9 of 2010 actually happened in May of 2008; is that what
10 you're telling this jury?

11 A. I don't know. I guess. I don't know.

12 Q. So the time you spent at Doug's house was back in
13 2009.

14 A. Yes, sir.

15 Q. Not 2010?

16 A. Yes, sir.

17 Q. So you don't know if Dana moved in in December of
18 2009 or not because you weren't there were you?

19 A. I know she moved in in May.

20 Q. What year?

21 A. I don't remember exactly what year.

22 Q. Was Dana there only six days that you were there?

23 A. Elaborate.

24 Q. Pardon me?

25 A. Elaborate. I'm not understanding the question.

DENISE C [REDACTED]: BY MR. SOWELL

-111-

1 Q. Was Dana there only six days when you were there?

2 A. What time?

3 Q. Pardon me?

4 A. What time? I still don't understand the question.

5 Q. Before - When the computer was there was the computer
6 there every time you went in the house?

7 A. The computer was always there when I stayed there.

8 Q. But that was in 2009; is that correct?

9 A. 2009 and 2010 I stayed --

10 Q. I'm sorry, I couldn't understand you.

11 A. 2009 and 2010 because I stayed a lot so it was both
12 years.

13 Q. How much is a lot?

14 A. Usually every day. I usually spent there like when
15 I was in school.

16 Q. When your mother - When you were on summer break,
17 you don't know who was there because you weren't there; is
18 that correct?

19 A. Correct.

20 Q. And when your mother was at home you don't know who
21 was at Doug's house because you were at your mother's
22 house?

23 A. No, sir.

24 Q. Is that correct?

25 A. Yes, sir.

DENISE C [REDACTED]: BY MR. SOWELL

-112-

1 Q. So when you told this jury that you only saw one
2 man over there, was that in 2009 or 2010?

3 A. 2009. I only saw one man. When I wasn't there I
4 don't know who was there obviously.

5 Q. Then why did you tell this jury that there was only
6 one man there?

7 A. That I seen. There was only one man that I seen that
8 was there.

9 Q. So in some year, you don't know which one year it
10 was, but some year you spent a few nights every week
11 when your mother wasn't working at his house and in that
12 few times you saw one man?

13 A. Yes, sir.

14 Q. But there are a lot of nights that you weren't even
15 there.

16 A. During the summer. During school time I was there
17 practically all the time.

18 Q. On Friday night?

19 A. I don't - Sometimes I spent it at my mother's and
20 sometimes I spent it at his house.

21 Q. You told us a few minutes ago that you always spent
22 the night at your mothers' when she wasn't working.

23 A. That's not what I said.

24 Q. What did you say?

25 A. I said sometimes I Would spend it with my mother.

DENISE C [REDACTED]: BY MR. SOWELL

-113-

1 Sometimes I would spend it at his house.

2 Q. You told this jury that you stayed over there all the
3 time and you saw one man over there.

4 SOLICITOR ANTHONY: Objection. Is that a question?

5 BY MR. SOWELL:

6 Q. Is that what you told this jury?

7 A. I told the jury that the times that I stayed over
8 at his house all - me was a person that I only seen one man
9 over there that used the computer.

10 Q. That didn't count holidays, summer vacation,
11 weekends. Those don't count when you weren't there?

12 A. Sometimes I was there on holidays. Sometimes I was
13 staying on the weekends.

14 Q. There was a lot of nights you weren't there; is that
15 correct?

16 A. Not a lot because I usually stayed over there.

17 Q. Pardon me?

18 A. Not a lot because I usually stayed over at his house.

19 Q. Well you told us you never spent it there on the
20 weekends when your mother was not working. You never spent
21 it there in the summer time. Never spent it there on
22 vacation time. It must have been a lot of days that you
23 don't know there was a man there or not; is that correct?

24 A. No, sir, because during the summer before the
25 computer was taken, I stayed over at his house and

DENISE C [REDACTED]: BY MR. SOWELL

-114-

1 spent time with Kelly and Brittany. And during the
2 holidays I would stay over there sometimes too. Not all
3 the time but sometimes.

4 Q. Do you remember when the computer was taken?

5 A. Sir?

6 Q. Do you remember when the computer was taken?

7 A. I don't know when it was taken.

8 Q. How about Doug's laptop, was it there?

9 A. I don't know.

10 Q. You told this jury there was only two computers
11 there.

12 A. Yes, sir. I don't remember seeing a laptop at that
13 house. I don't remember distinctly.

14 Q. You don't remember there was a laptop there at the
15 house?

16 A. No, sir.

17 Q. Although the laptop was Doug's computer.

18 SOLICITOR ANTHONY: Objection.

19 THE COURT: I sustain the objection.

20 BY MR. SOWELL:

21 Q. Did you ever use the computer at Doug's house?

22 A. Yes, sir.

23 Q. Did you ever use the computer when Doug wasn't there
24 in the room with you?

25 A. Yes, sir.

DENISE C [REDACTED]: BY MR. SOWELL

-115-

1 Q. Did any of your other friends that would come over
2 and use the computer when Doug wasn't in the room?

3 A. No, sir.

4 Q. Pardon me?

5 A. No, sir.

6 Q. So anytime any of your friends were there, Doug was
7 in the room with the computer?

8 A. No, sir. None of my friends used the computer.

9 Q. How many of your friends ever came over to the house?

10 A. One.

11 Q. When?

12 A. One.

13 Q. Who was that?

14 A. Miranda.

15 Q. Did she ever use the computer?

16 A. No, sir..

17 Q. How old is Brittany?

18 A. Brittany is eighteen.

19 Q. But she's somewhat of a computer geek is she not?

20 A. No, sir.

21 Q. She knows how to work computers?

22 A. Desk top yes, sir.

23 Q. Did she ever teach you how to use it?

24 A. No, sir.

25 Q. Did she ever teach your sister how to use it?

DENISE C [REDACTED]: BY MR. SOWELL

-116-

1 A. I don't know.

2 Q. Did she ever teach any of your friends how to use
3 it?

4 A. No, sir.

5 Q. But shew as somewhat of a geek wasn't she?

6 A. Yes, sir.

7 Q. What all did she show you how to do?

8 A. She didn't show me how to do anything. The only
9 thing that I ever seen her do on the computer was play a
10 game called --

11 Q. But if you only saw her play one single game how
12 do you rate her as a computer geek then?

13 A. Because she would also be on the internet.

14 Q. She what?

15 A. She would be on the internet too like Facebook and
16 Youtube and all that kinds of stuff.

17 Q. She knew how to download programs didn't she?

18 A. Sir?

19 Q. She knew how to download programs didn't she?

20 A. Yes, sir.

21 Q. She knew how to download pictures too didn't she?

22 A. Yes, sir.

23 Q. Did any of her friends try to download pictures?

24 A. I don't know who her friends are so I don't know.

25 Q. Pardon me?

DENISE C [REDACTED]: BY MR. SOWELL
BY SOLICITOR ANTHONY

-117-

1 A. I don't know any of her friends so I don't know.

2 Q. Did any of her friends ever come over to the house?

3 A. Not that I know of.

4 Q. So she never had any friends over to the house?

5 A. Not that I know of.

6 MR. SOWELL: Nothing further, Your Honor.

7 THE COURT: Redirect?

8 SOLICITOR ANTHONY: Yes, sir.

9 REDIRECT EXAMINATION

10 DENISE C [REDACTED] BY SOLICITOR ANTHONY:

11 Q. The one guy that you said you did see use the
12 computer, did you see what he was doing on it?

13 A. Yes, sir.

14 Q. What was he doing?

15 A. He was on Ebay.

16 Q. Okay. And after May of 2010, that next summer of
17 2010, did you continue to go to Wardlaw Street?

18 A. No, sir.

19 Q. Okay. So after May of 2010 were you ever over there?

20 A. No, sir.

21 Q. Okay. So as far as knowing when Ms. Bishop would
22 have left Wardlaw Street after she moved back in, would you
23 know, would you have any way of really knowing that?

24 A. No, sir.

25 Q. Okay. And when you talk about staying over there

DENISE C [REDACTED]: BY SOLICITOR ANTHONY
BY MR. SOWELL

-118-

1 during the summer time, are you talking about - Well what
2 summer are you referring to, the summer before May of 2010
3 or the summer after May --

4 A. Before.

5 Q. Okay. The summer which would be 2009; is that
6 correct?

7 A. Yes, sir.

8 SOLICITOR ANTHONY: If I can have one moment.

9 (PAUSE.)

10 SOLICITOR ANTHONY: All right. Thank you.

11 That's everything.

12 RECROSS EXAMINATION

13 DENISE C [REDACTED] BY MR. SOWELL:

14 Q. The summer of 2009 did you spend the whole summer
15 over at Doug's house?

16 A. Not the whole summer.

17 Q. Most of the summer?

18 A. Sometimes I would spend it at his house. I would
19 spend it at home. I Would spend it at some other friends
20 house. I don't know exactly how much time I spent over
21 there.

22 Q. When did you start going to Doug's house?

23 A. What do you mean?

24 Q. When did you start spending the night going to
25 Doug's house a lot?

DENISE C [REDACTED]: BY MR. SOWELL
BART CAVE: BY SOLICITOR ANTHONY

-119-

1 A. When me and Kelly became best friends.

2 Q. When was that?

3 A. I don't remember. Ever since elementary school.

4 Q. Pardon me?

5 A. I don't remember when we became best friends but I've
6 known her since elementary.

7 Q. Was Doug living at Wardlaw Street when you became her
8 best friend?

9 A. No, sir.

10 Q. Well when did you first start going over to Wardlaw
11 Street?

12 A. When he got settled into that house.

13 Q. When was that?

14 A. I don't know when he got settled in but he moved in
15 during the year 2009 I think.

16 MR. SOWELL: Nothing further.

17 THE COURT: All right. You can step down and be
18 excused. Thank you for your time.

19 Call your next witness.

20 SOLICITOR ANTHONY: The next witness will be Mr. Cave.

21 (WHEREUPON: BART CAVE, BEING

22 FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:

23 DIRECT EXAMINATION

24 BART CAVE BY SOLICITOR ANTHONY:

25 Q. Would you state your name please?

BART CAVE: BY SOLICITOR ANTHONY

-120-

1 A. Bart Cave.

2 Q. Mr. Cave, how are you employed?

3 A. I'm employed at the South Carolina Law Enforcement
4 Division in the computer crime center.

5 Q. And what is your responsibility there?

6 A. I'm the evidence custodian, network administrator,
7 cell phones analyst, computer forensic analysts and
8 computer imager.

9 Q. And how long have you worked for SLED at the Crime
10 Center?

11 A. Since October of 2007.

12 Q. And you said that along with this job that you had,
13 you said you were the evidence custodian?

14 A. Yes, sir.

15 Q. Is that right? All right. In that role what do you
16 do as your responsibilities as far as being the evidence
17 custodian?

18 A. When we assist local and other agencies they bring
19 the evidence in, I'm in charge of entering it into our
20 system, verifying that we have the correct model, serial
21 number, enter it into our evidence system and we store it
22 in our evidence room.

23 Q. And then do you do anything else with the computers
24 that are submitted to prepare them for analysis?

25 A. Yes, sir. I'm also the person who does the imaging

BART CAVE: BY SOLICITOR ANTHONY

-121-

1 of the computers. Once that case comes available and the
2 agent is ready to start working on it, I'll pull the
3 computer out of the evidence room, I'll take and remove the
4 hard drives verify the model number, serial number, we'll
5 do date and time on the computers and I'll take a use a
6 write blocker to image the drives securely to our server so
7 the agent has access to them so they can start their
8 analysis.

9 Q. And we'll talk about that in a little more detail in
10 a minute. First of all let me just ask you what training
11 do you have in the forensic analysis of computers?

12 A. I've been trained by EnCase and FTK. I've also been
13 to NW3C for training on the proper ways to handle computer
14 equipment forensically to make sure that you don't change
15 the data or that you don't harm the equipment by handling
16 it improperly.

17 Q. All right. When you say you've been trained by In-
18 Case, that other term you used, what exactly is that? What
19 does that involve?

20 A. EnCase is the name of the software product used by
21 Guidance Software and the other product is FTK which is
22 produced by Access Data. Those are the two most well known
23 forensic analysis systems that we use. And I've been to
24 basic intermediate and advanced training on both of those
25 for properly handling and I'm doing computer forensics.

BART CAVE: BY SOLICITOR ANTHONY
BY MR. SOWELL

-122-

1 Q. All right. And have you testified before in regards
2 to analysis of computers that you've done?

3 A. Yes, sir.

4 Q. All right. How many times have you been qualified
5 as an expert to give testimony about computer forensics?

6 A. About six or seven.

7 Q. All right.

8 SOLICITOR ANTHONY: Your Honor, at this time we would
9 submit Mr. Cave as an expert in the field of computer
10 forensic analysis.

11 THE COURT: Any voir dire?

12 MR. SOWELL: Yes, Your Honor.

13 CROSS EXAMINATION

14 BART CAVE BY MR. SOWELL:

15 Q. Forensic'S Computer Analysis. Is that what you said?

16 A. Yes, sir.

17 Q. That means you know how to take things apart without
18 mixing them up and without changing the serial numbers.
19 What else does that mean?

20 A. That the way we receive an item we're trained that
21 however it comes in and we remove the drive to do the
22 forensic analysis bit by bit and copy to make sure that the
23 evidence stays intact; that we put it back in the way that
24 we received it.

25 Q. And do you have anything to do with the programs?

BART CAVE: BY MR. SOWELL

-123-

1 A. No, sir.

2 Q. So what you do is you receive the computer from
3 somebody delivers it to you from the evidence locker, you
4 take the computer apart, you make notes of the serial
5 numbers of these individual parts and you copy the hard
6 drive to make sure it doesn't get damaged?

7 A. Correct. And no data is changed.

8 Q. Now do you verify those things or do you just copy and
9 use someone else to verify that?

10 A. No. We verify the software we use to do the copy of
11 the drive. At the end of that there's a report and it
12 shows that it was a match. It gives us a Shaw One and a
13 hash back that shows that it was an exact copy of the
14 original drive.

15 Q. So you take it in you take it apart you copy all the
16 serial numbers and you put serial numbers in the right
17 place, you copy the hard drives to verify that the copy is
18 the same as the original by some kind of a reading the
19 computer --

20 A. The software has an algorithm that verifies the hash
21 value of the original drive. And then it has a hash
22 value of the copy that was made and it verifies that it's
23 the exact same and there's no differences.

24 Q. But you don't look into that hard drive to see what's
25 on it do you?

BART CAVE: BY MR. SOWELL

-124-

1 A. No, sir.

2 SOLICITOR ANTHONY: I object. This is irrelevant to
3 his qualifications.

4 MR. SOWELL: I'm trying to find out exactly his
5 qualifications are, Your Honor.

6 THE COURT: Okay. I over rule the objection.

7 A. When we image the computer the only thing we look
8 at is we look at the file structure to see that it does
9 have a file structure in the drive. Besides that that's
10 all I do when I image the drive. After that that's all we
11 do. Then it's stored on a server for the agent that's
12 assigned the case to work the case.

13 Q. So the file structure uses all these pluses and
14 minuses and all these weird looking numbers and names and
15 you verify that the - all those weird names on one hard
16 drive is the same as the numbers and names on the copy you
17 made?

18 A. I do not verify that. That's what the Shaw value
19 gives us.

20 Q. That's what the computer does?

21 A. Yeah that's what the software shows us that it's an
22 exact duplicate. We just verify that there is file
23 structure there before we image because if we image and we
24 don't verify there's file structure then the agent goes to
25 work the case and they say ha there's nothing in this file

BART CAVE: BY MR. SOWELL
BY SOLICITOR ANTHONY

-125-

1 we can go back and relook to see if there's an issue or an
2 error somewhere.

3 Q. But you don't know what's in that file, you just know
4 the file is identical to the one you copied?

5 A. Correct.

6 Q. And that's what you're here to testify to?

7 A. Correct.

8 MR. SOWELL: We have no objection to this witness.

9 THE COURT: I find he is qualified.

10 DIRECT EXAMINATION - CONTINUED.

11 BART CAVE BY SOLICITOR ANTHONY:

12 Q. I'm going to show you; do you have up there in front
13 of you what's been marked as State's Exhibit Number One,
14 and I guess maybe we can set this up here.

15 (STATE'S EXHIBIT NUMBER ONE DISPLAYED TO WITNESS AND
16 JURY ON TABLE IN FRONT OF JURY BOX.)

17 Q. All right. And I'd ask you, have you seen that item
18 before?

19 A. Yes, sir. It has my label I put on the front of it
20 right here.

21 Q. All right. Can you turn it around just so we can
22 show the jury that?

23 A. Yes, sir. That's the white label with the bar code
24 on it.

25 Q. All right. And when was that submitted to you?

BART CAVE: BY SOLICITOR ANTHONY

-126-

1 A. The label doesn't have an exact date, but there's a
2 - we have a chain of custody we provide and that will list
3 the date and time on there.

4 Q. I want to show you a document. Would that refresh
5 your recollection as to when you received it?

6 A. Yes, sir. This is our evidence admission receipt.
7 It says we received this on Thursday May 13, 2010 at 15:47.

8 Q. Okay. How did you come to get that?

9 A. It was brought to us by Union County Sheriff's Office.

10 Q. Okay. And who submitted that to you?

11 A. Troy Brewington.

12 Q. All right. And after you took custody of Exhibit
13 Number One, what did you do with it, you know, for short
14 term purposes, Mr. Cave?

15 A. Once I logged it into the system and created a chain,
16 and provided a copy of the chain back to the officer
17 submitting the evidence, I then transported it to our
18 evidence room, logged it into a location in our evidence
19 room and stored it until the time it needed to be imaged
20 for analysis.

21 Q. And so when was the next time that you did anything
22 pertaining to that item, Exhibit Number One?

23 A. It was probably - in our chain of custody it would
24 show us. It was normally several weeks later. You show me
25 the imaging work sheet I can tell you the exact date.

1 Q. All right. I'm handing you ---

2 A. Okay.

3 Q. --- this item and ask you to review that see if
4 that refreshes your recollection when you next did anything
5 with the computer.

6 A. This is Item 2 and on July 29th, 2010, is whenever we
7 pulled it out for imaging.

8 Q. And when you imaged the computer, tell the jury
9 exactly what you do to the computer.

10 A. What we do when we pull it out of the evidence room
11 the first thing we do is we take the side cover off. This
12 one doesn't have a side cover so that kind of made it a
13 little easier. Then once we do we verify where the hard
14 drives are located at, and in this particular computer
15 they're located right here.

16 (WITNESS INDICATING.)

17 A. Standing up side ways. When there's more than one
18 drive in the computer I go ahead and I notate the drive and
19 location. And it's kind of hard to see but there's like
20 one right here that's easy to see but I mark it and on this
21 one its kind of hard to see but it's right here on the
22 corner. I put a Number 2 on it to let us know there's two
23 drives in the machine. Once I do that these cables are
24 normally hooked up but I unhook these cables and the power
25 cord, remove the drive. Once I remove them I set them to

BART CAVE: BY SOLICITOR ANTHONY

-128-

1 one side. We then put the computer up to what's called our
2 time and date station. And we have an atomic clock in our
3 lab so we can verify date and time on the machine. That
4 way if the case ends up being time sensitive for a certain
5 time of day, we can know that the computer has the correct
6 time and date currently so we are looking at the correct
7 times. On this sheet it states right here that we did have
8 the exact time and date on there because this computer did
9 have the current time and date on it.

10 Q. Okay. And so after you made that determination about
11 the time and date, what's the next thing you do?

12 A. After that what I do is I take the hard drives and
13 I'll take the one I got marked Number 1, I'll pull that
14 drive out and with a Sharpie I write across the top of the
15 drive the case number, the item number; if it's multiple
16 drives it'll be Drive 1 and Drive 2 and I'll put my
17 initials on it. Once I do that we have an imaging station
18 we go and actually do the imaging of the computers on.
19 I'll go over there and we open up what's called an Imaging
20 Worksheet and that's pretty much a blank copy of this form
21 right here and I'll go through and I'll fill out all the
22 pertinent data on this form so that way when the
23 investigator gets to it they can look and see and it'll
24 show the information on the drive. Once I get that filled
25 out I then take the hard drive hook it up to what's called

1 a write blocker and that's a piece of hardware that
2 protects the drive so that will be the day can only go in
3 one direction. That prevents any changes from being made
4 to the drive. Also all of our machines we do the imaging
5 on, you have also a software write blocker that also is a
6 second step to prevent any changes from being made to the
7 drive. At that time I take and I go in and on our form
8 which indicates our imaging program I take off the work
9 sheet my copy of the make and model of the drive and that's
10 how we label our -- structure, you know, this is what drive
11 when the agent gets it this is the analysis of it. And
12 once we start that it runs and depending on the size of the
13 drive it could take an hour. It could take up to six or
14 seven hours. And the newer drive sizes it could get up on
15 the five hundred giga bytes to a terra byte size. It could
16 take over an hour or a day for it to completely do the
17 analysis. Once it finishes it gives us the things it has
18 completed. We have a report we go into and it shows us
19 where it shows the hash values for the drive and that's
20 where it shows us that it was a match.

21 If we ever have one where it doesn't match, then we
22 have to go back and relook at it again to see what's
23 causing it not to match. Sometimes if the drive errors
24 when we have that we go back and we redo it to make sure
25 that it matches the exact same copy. Actually at the time

BART CAVE: BY SOLICITOR ANTHONY

-130-

1 of imaging it and that's been saved out to the server -

2 Q. Let me just stop you ---

3 A. Okay.

4 Q. --- and back up so we kind of understand everything
5 that's happening here. So this is done, the imaging that
6 you're talking about, is accomplished through a software
7 program?

8 A. Yes, sir.

9 Q. And with this drive you used that software program
10 to make it do that?

11 A. Yes, sir.

12 Q. Was there anything - Were there anything unusual
13 occur? Were you able to successfully do the duplication?

14 A. Yes I was.

15 Q. Okay.

16 A. It was on Drive 2; there was one reader during
17 imaging and normally one read error is less than one
18 percent of the actual drive and so it had a file that it
19 could not read and so that's a report that goes up to the
20 investigator so they can know there was an error that went
21 through there and so that way if they come up to a file
22 that won't open they'll know that yes there was one error
23 in there.

24 Q. All right. So once you have done the imaging, the
25 information off of the drive that you imaged, where is it

BART CAVE: BY SOLICITOR ANTHONY

-131-

1 stored? What happens to it?

2 A. We have a server on our evidence network and it's
3 stored here and the agents have access to that from their
4 analysis computers so they can go and get that image so
5 they can begin working on their case.

6 Q. All right. And how many drives are on or inside of
7 that computer?

8 A. It has two hard drives.

9 Q. Two hard drives. Okay.

10 A. One here and one here.

11 Q. All right. And the one that you labeled Drive 2,
12 what was the make and model of that drive?

13 A. That was an Hitachi HDS 722580VLAT 20. It was a
14 83.2 giga byte hard drive.

15 Q. Okay. And do you have the serial number to that
16 drive?

17 A. Yes, sir.

18 Q. What was the serial number?

19 A. Charlie 2 Sierra Golf 46 November, November.

20 Q. And if you would once again just show the jury
21 where was hard drive 2 located physically in that machine?

22 A. This is the drive that's got the white label down
23 the front of it right here. That's Drive 2.

24 Q. Okay.

25 A. Can everybody see?

BART CAVE: BY SOLICITOR ANTHONY

-132-

1 Q. Turn that around so everybody can see?

2 (WITNESS DISPLAYED STATE'S EXHIBIT ONE TO JURY.)

3 Q. Okay. Thank you. All right. And once you do the
4 images, what happens to the actual desk top tower itself?
5 What do you do with it?

6 A. Once we get done with the imaging we take the drives
7 we put them back in the computer the way they were found.
8 The one thing we don't do is we don't hook the power cable
9 or the data cables back up. At that time that's when I
10 take and I put the green dot on the front of it to let us
11 know that it was imaged successfully and then we sign it
12 back into the evidence room and we contact the agency to
13 let them know that its ready to be picked up.

14 Q. And is that tower in the same condition it was in
15 once you completed your imaging process there at SLED?

16 A. Yes, sir.

17 Q. Okay. All right we move Number One into evidence.

18 MR. SOWELL: No objection.

19 THE COURT: In without objection.

20 (WHEREUPON: STATE'S EXHIBIT NUMBER ONE IDENTIFIED
21 AND MARKED, RECEIVED INTO EVIDENCE.)

22 BY SOLICITOR ANTHONY:

23 Q. And aside from just the imaging the two drives
24 associated with that tower, did you image some other
25 computer equipment that was sent down from Union?

BART CAVE: BY SOLICITOR ANTHONY
BY MR. SOWELL

-133-

1 A. Yes, sir.

2 Q. Pertaining to this case?

3 A. Yes, sir.

4 Q. And were those also placed on the network?

5 A. Yes, sir.

6 Q. All right. I will get that out of your way.

7 A. Okay.

8 (SOLICITOR ANTHONY MOVED STATE'S EXHIBIT NUMBER ONE.)

9 SOLICITOR ANTHONY: That's everything on direct.

10 THE COURT: Mr. Sowell.

11 CROSS EXAMINATION

12 BART CAVE BY MR. SOWELL:

13 Q. Agent Cave, what you just told us is that the
14 computer as it sits there is in the same condition it was
15 in when it was brought in to you?

16 A. Yes, sir.

17 Q. So all these things you told us boils down to you
18 didn't change it after you got it?

19 A. Correct.

20 MR. SOWELL: Nothing further.

21 SOLICITOR ANTHONY: No redirect.

22 THE COURT: You can step down.

23 This witness can be excused.

24 (WITNESS LEAVING WITNESS STAND.)

25 THE COURT: All right. We're going to break for lunch

WALKER GALLMAN: BY SOLICITOR ANTHONY

-137-

1 introduce the videos I'll just ask for a brief recess at
2 that time so we can set the courtroom up.

3 THE COURT: Okay. Bring in the jury.

4 (JURY REENTERS COURTROOM AT 02:14 P.M..)

5 THE COURT: Call your next witness.

6 SOLICITOR ANTHONY: The State's next witness would be
7 Mr. Gallman.

8 (WHEREUPON: WALKER GALLMAN,
9 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

10 DIRECT EXAMINATION

11 WALKER GALLMAN BY SOLICITOR ANTHONY:

12 Q. Would you state your name please?

13 A. Yes. My name's Walker Gallman.

14 Q. And, Mr. Gallman, how are you employed?

15 A. I'm employed with the city of Union as the finance
16 director.

17 Q. And how long have you been worked for the city of
18 Union in that capacity?

19 A. Twenty years.

20 Q. And what is your responsibility as the finance
21 director for the city of Union in regards to utility
22 records and billing?

23 A. The utility billing division of the city of Union is
24 under my direction as the finance director.

25 Q. And how is it -

1 MR. SOWELL: Your Honor, we'll stipulate to all the
2 facts in this email that was sent over to me. It's the
3 date that this defendant's name at the same time.

4 SOLICITOR ANTHONY: Okay.

5 THE COURT: Well tell us what the stipulation is.

6 A stipulation is - This stipulation is just where
7 both sides agree a fact is true and you don't have to
8 wrestle with whether or not it's been proven, its agreed to
9 be true. And I'm going to let Mr. Anthony tell you what
10 the - What I understand the stipulation to be is that
11 electricity was turned on at this address in Mr. Bishop's
12 name at a certain time and I don't know what beyond that.

13 SOLICITOR ANTHONY: I think it would be easier to
14 explain.

15 THE COURT: All right.

16 SOLICITOR ANTHONY: And let me ask Mr. Gallman a few
17 questions.

18 THE COURT: Okay.

19 BY SOLICITOR ANTHONY:

20 Q. In your capacity do you all keep records of bills
21 when people ask to have electricity turned on in a
22 particular place?

23 A. Yes we do.

24 Q. Okay. And I'm going to show you what's been marked
25 State's Exhibit, for identification, State's Exhibit

WALKER GALLMAN: BY SOLICITOR ANTHONY

-139-

1 Number Two and ask you to identify that document.

2 A. Yes, sir, it's a work order to turn on power at a
3 certain location at [REDACTED]

4 Q. And who does it indicate the power was going to be
5 turned on for; who's the customer?

6 A. Douglas B. Bishop.

7 Q. And when was that request made?

8 A. The day the request was July the 21st, 2009.

9 Q. And then when does the record indicate the power was
10 actually turned on there?

11 A. July the 22nd, 2009.

12 Q. All right. We move Number Two into evidence.

13 SOLICITOR ANTHONY: Pardon?

14 SOLICITOR ANTHONY: We move it into evidence Number
15 Two.

16 MR. SOWELL: That?

17 SOLICITOR ANTHONY: Yes.

18 MR. SOWELL: No objection.

19 THE COURT: Without objection.

20 (WHEREUPON: STATE'S EXHIBIT NUMBER TWO IDENTIFIED AND
21 MARKED, RECEIVED INTO EVIDENCE.)

22 SOLICITOR ANTHONY: Thank you. That's everything on
23 direct.

24 THE COURT: Cross?

25 CROSS EXAMINATION

WALKER GALLMAN: BY MR. SOWELL
DAVID SALLEY: BY SOLICITOR ANTHONY

-140-

1 WALKER GALLMAN BY MR. SOWELL:

2 Q. Did the power stay on continually until May 8th 2010?

3 A. I'm sorry, I didn't hear the question.

4 Q. Did the power stay on continually until May 8th, 2010?

5 A. Sir, I did not look at that. I'd have to go look at
6 it. I don't remember.

7 Q. I have no further questions.

8 THE COURT: You can step down. Thank you. You can
9 be excused. We appreciate your time.

10 (WITNESS LEAVING WITNESS STAND.)

11 THE COURT: Call your next witness.

12 SOLICITOR ANTHONY: The next witness will be Mr.
13 Sally.

14 (WHEREUPON: DAVID SALLEY,

15 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

16 DIRECT EXAMINATION

17 DAVID SALLEY BY SOLICITOR ANTHONY:

18 Q. Would you state your name please?

19 A. David Salley.

20 Q. And, Mr. Salley, how are you employed?

21 A. I'm the Assistant Executive Director for the
22 Department of Employment and Workforces Appellate Division
23 or the Division of Appeals.

24 Q. How long have you worked for the Department of
25 Employment and Workforce?

DAVID SALLEY: BY SOLICITOR ANTHONY

-141-

1 A. Twenty-one years, four months.

2 Q. And what do you do in your job?

3 A. The division that I'm responsible for handles
4 contested employment tax cases and employment insurance
5 cases for the State.

6 Q. And what is the responsibility of the Department of
7 Employment and Workforce in regards to unemployment
8 insurance?

9 A. We administer the unemployment trust fund and
10 determine the eligibility for those parties that fall into
11 unemployment to file for unemployment to determine their
12 eligibility and whether or not they get granted benefits or
13 denied benefits.

14 Q. And as the agency that's responsible for that
15 program, do you maintain records for the person that
16 applies for unemployment insurance and it's -

17 A. Yes, sir.

18 Q. And how are those records kept?

19 A. On their inception?

20 Q. Yes. How do you maintain that record? How does the
21 Department maintain it?

22 A. Electronically.

23 Q. And how does somebody make a claim for unemployment
24 benefits?

25 A. One of several ways, the most common way it typically

1 from a computer. It can be any computer in their home,
2 library or they can come in one of our work force centers
3 or they can file in the work force center their job claim.

4 Q. And while you were receiving that unemployment
5 benefits is there anything you have to do to maintain
6 eligibility for them?

7 A. Yes. It's a condition, statutory provision is that
8 in order to claim and be eligible for unemployment you must
9 answer a weekly certification which states are you able,
10 available and actively seeking full time work. Have you
11 refused work and if you have worked also you must report
12 all wages on the weekly certification.

13 Q. So if you're actually working you can't get
14 unemployment. Is that a fair statement?

15 A. Well you can but you would have to report your
16 wages.

17 Q. You have to report ---

18 A. Yes.

19 Q. --- what you made? Okay. All right. And in
20 your capacity with the Department do you have access to the
21 records of individuals who have received unemployment
22 benefits?

23 A. Yes, sir, I work with them daily all day.

24 Q. And have you reviewed the records, the unemployment
25 benefit records concerning Mr. Doug Bishop?

DAVID SALLEY: BY SOLICITOR ANTHONY

-143-

1 A. Yes.

2 Q. And what do those records show concerning
3 unemployment payments from January through May of 2010?

4 MR. SOWELL: Your Honor, that's an open ended
5 question. This particular question is opened ended -

6 THE COURT: Rephrase your question.

7 SOLICITOR ANTHONY: All right.

8 Q. Do those records show that Mr. Bishop was receiving
9 unemployment benefits between January and May of 2010?

10 A. Yes they do.

11 Q. Okay. And was there any interruption in those
12 benefits or was it for the whole period between January and
13 May?

14 A. Based on my examination it's for each week that he
15 claimed weekly yes, sir.

16 Q. And --

17 A. No interruption.

18 Q. No interruption?

19 A. Yes, sir.

20 Q. He was continuously receiving unemployment?

21 A. Let me just verify.

22 (PAUSE.)

23 A. Yes, sir, he was getting unemployment.

24 Q. And as a person who receives unemployment benefits
25 during that time, he was attesting that he was not

DAVID SALLEY: BY SOLICITOR ANTHONY
BY MR. SOWELL

-144-

1 employed; is that correct?

2 A. Yes, sir, by virtue of the fact the certification
3 just like any other certification that if - that you are
4 certifying you are unemployed and you must report earnings
5 if you have any and for the period in question there were
6 no earnings and he was certifying that he was in fact
7 unemployed and received benefits.

8 Q. All right.

9 SOLICITOR ANTHONY: Thank you very much.

10 CROSS EXAMINATION

11 DAVID SALLEY BY MR. SOWELL:

12 Q. I assume you want to continue seeking unemployment?

13 A. Well on the mission statements of the Department of
14 Unemployment and Workforce is to pay eligible individuals
15 and to assist them in seeking full time work being
16 gamefully employed so that's the hope of for every
17 unemployed individual of our agency.

18 Q. Is that a yes to my answer - my question?

19 A. I would say that is a yes.

20 Q. You would want him although he's receiving
21 unemployment benefits to be out beating the streets looking
22 for jobs.

23 A. That would be the expectation of paying benefits is
24 the hope that they are seeking work pursuant to the
25 expectations of the statute.

DAVID SALLEY: BY MR. SOWELL

-145-

1 Q. And you would want them to seek jobs for forty hours
2 a week wouldn't you?

3 A. Would you repeat the question?

4 Q. You would want them to seek employment for forty
5 hours a week wouldn't you?

6 A. You would want them to seek work.

7 Q. How much seeking do you want them to do?

8 A. Full time work.

9 Q. No. How much effort do you want them to put into
10 seeking a job?

11 A. They have to establish to the satisfaction of the
12 Department that they are seeking work each week.

13 Q. And how much time do you want them to spend seeking
14 a job? I keep asking the same question and you keep
15 avoiding it.

16 A. I'm not avoiding it.

17 SOLICITOR ANTHONY: Objection. That's not a question.

18 THE COURT: Ask the question again.

19 BY MR. SOWELL:

20 Q. If someone is receiving unemployment, you prefer them
21 to be out looking for a job forty hours a week if they
22 weren't working forty hours wouldn't you?

23 A. I wouldn't expect that the certifications that they
24 make that they are looking for full time work and the
25 amount of time that they devote to it would satisfy

DAVID SALLEY: BY MR. SOWELL

-146-

1 whatever checks that we have in place to insure that
2 they're seeking full time work.

3 Q. I understand what you require but my question is
4 would you prefer them to be out looking for a job forty
5 hours a week?

6 A. I would say that we prefer people looking for work of
7 course.

8 THE COURT: He's asking - He's asking instead of them
9 working forty hours a week, shouldn't they be out looking
10 forty hours a week.

11 A. Yes.

12 THE COURT: Isn't that what you're asking?

13 MR. SOWELL: Yes, sir.

14 THE COURT: What's the answer?

15 A. They should be looking for work yes. Either I'm not
16 --

17 Q. How many hours a week do you expect them to be out
18 looking for a job if they don't have a job?

19 A. I can't personally answer that question. I don't
20 know the answer to that question how many hours should be
21 dedicated; only that we verify that through job contacts.

22 Q. You verify they make one application a week; is that
23 correct?

24 A. No. There is four job contacts per week.

25 Q. They have to have four potential employees, employers

DAVID SALLEY: BY MR. SOWELL

-147-

1 one a week and if they were able to spend more time and
2 contact one employer that would save your employment - your
3 department some money if they get a job.

4 A. I wouldn't dispute that.

5 Q. Wouldn't you appreciate your recipients to work
6 seeking a job more than just four interviews a week?

7 A. Assuming it's - they would only become employed that
8 would be an expectation yes.

9 Q. But you would expect them to work forty hours a week
10 if they were working and expect them to seek a job forty
11 hours if he's not working; is that correct?

12 A. I would suppose so yes.

13 Q. Now, I assume that you are here to show that he was
14 not working, but you can't give any information about how
15 many hours a week he was looking for a job can you?

16 A. No, sir, I can't. I can just testify to the questions
17 that have been put to me that he drew
18 benefits during the time that he certified that he was
19 unemployed.

20 Q. So what benefit do you give this jury to make a
21 decision if you have no idea how many hours a week he was
22 out there looking for a job?

23 SOLICITOR ANTHONY: Objection.

24 THE COURT: I over rule the objection. I mean - I'm
25 sorry, I sustain the objection.

DAVID SALLEY: BY MR. SOWELL

-148-

1 You don't need to answer that question. He'll move
2 on to something else.

3 BY MR. SOWELL:

4 Q. So my understanding of your testimony is that you
5 were looking for a job at least four hours a week - I'm
6 sorry, at least four interviews a week, and you have no
7 idea how much additional time he spent looking for a job?

8 A. No, sir, not personally I don't.

9 Q. Did you ask him how many times he interviewed for
10 a job each week or did you ask him if he interviewed four
11 times?

12 A. I have no knowledge of that.

13 Q. Do you instruct your employees to find out how many
14 times he interviewed or just to verify he interviewed four
15 times?

16 A. It is typically customary when they come in
17 eligibility review an unemployment check up that they
18 bring documentation that supports an ongoing sustained
19 effort to seek full time work by way of self documented job
20 contacts.

21 Q. You have no idea how many hours a week he -

22 A. That's right.

23 MR. SOWELL: Nothing further.

24 THE COURT: Redirect?

25 REDIRECT EXAMINATION

DAVID SALLEY: BY SOLICITOR ANTHONY
BY MR. SOWELL

-149-

1 DAVID SALLEY BY SOLICITOR ANTHONY:

2 Q. What you just testified to about what you're
3 required to do, have him interview is that the extent of
4 the requirements as far as what you have to present to
5 maintain unemployment status?

6 A. Yes, sir. I mean there are other questions on the
7 documents that mailed to them to talk about their work
8 background, how much money they made, if they have any
9 restrictions like medical restrictions, school,
10 incarcerated; anything that prevents them from complying
11 with their daily requirements of accepting full time work
12 and therefore it hinges on their ability to accept
13 unemployment compensation.

14 Q. That he would not be required to submit or verify
15 hours and hours of job interviews through the Department?

16 A. No. Absolutely not.

17 SOLICITOR ANTHONY: Thank you. That's everything.

18 RECROSS EXAMINATION

19 DAVID SALLEY BY MR. SOWELL:

20 Q. If he spent sixty hours a week looking for a job,
21 you would have no way to dispute that would you?

22 A. No.

23 MR. SOWELL: Thank you.

24 THE COURT: You can step down and be excused. We
25 appreciate your time. Thank you.

COLIN DUNCAN: BY SOLICITOR ANTHONY

-150-

1 (WITNESS LEAVING WITNESS STAND.)

2 THE COURT: Call your next witness.

3 SOLICITOR ANTHONY: We call Agent Duncan.

4 (WHEREUPON: COLIN DUNCAN, BEING
5 FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

6 DIRECT EXAMINATION

7 AGENT COLIN DUNCAN BY SOLICITOR ANTHONY:

8 Q. Would you state your name please?

9 A. Colin Duncan.

10 Q. And Agent Duncan, how are you employed?

11 A. I'm with the South Carolina Law Enforcement Division.
12 I'm currently on the Governor's executive protection
13 detail.

14 Q. How long have you worked for SLED?

15 A. Roughly seven and a half years.

16 Q. And back in August and September of 2010 what was
17 your assignment at SLED at that time?

18 A. I was with the Computer Crime Center.

19 Q. What was your position with them?

20 A. Investigator/Forensic Analysts for both computers
21 and cell phones.

22 Q. And how long did you do that work for SLED?

23 A. Just shy of four years.

24 Q. And would you give the Court your education and
25 training in the field of forensic analysis of computers?

COLIN DUNCAN: BY SOLICITOR ANTHONY
BY MR. SOWELL

-151-

1 A. Certainly. I been to several cyber crime academies,
2 one if Alabama and one in Tennessee, one put on by the
3 Secret Service and the Department of Homeland Security in
4 addition to the software training that we do, EnCase and
5 FTK or Forensic Tool Kit both again are intermediate and
6 advanced portions of those classes.

7 Q. And have you testified before in court about analysis
8 you've done on computers?

9 A. Yes, sir. I would say six or seven times.

10 Q. Have you been qualified as an expert witness in
11 those cases?

12 A. I have, sir.

13 Q. All right.

14 SOLICITOR ANTHONY: Your Honor, at this time we would
15 submit Agent Duncan to the Court as an expert in the field
16 of Forensic Computer Analysis.

17 THE COURT: Any voir dire?

18 MR. SOWELL: Yes, Your Honor.

19 CROSS EXAMINATION

20 AGENT COLIN DUNCAN BY MR. SOWELL:

21 Q. Agent Duncan, where did you go to school?

22 A. Where did I graduate, sir?

23 Q. Yes, sir.

24 A. University of South Carolina.

25 Q. In what degree?

1 A. Degree in Broadcast Journalism.

2 Q. Broadcast Journalism?

3 A. That's correct.

4 Q. And what --

5 A. A BA in Electronic Journalism.

6 Q. And did you except for work related training did
7 you have any other educational pursuits?

8 A. I did not, no advanced degrees, no graduate degrees
9 if that's what you're asking.

10 Q. You said you went to some academes, didn't figure
11 out who - what kind of academes did you go to?

12 A. One was called Introduction of Cyber Crimes Altamount
13 Academy held at UT Knoxville. And --

14 Q. Did you go there as an employee of SLED?

15 A. I did yes, sir. I did almost all the training has
16 been on the job training.

17 Q. And what kind of training did you have?

18 A. Introduction to forensics, learning how to read
19 certain file systems and how to use software programs to
20 retrieve data off of computers that have been submitted to
21 our agency as evidence.

22 Q. Are you - Do you qualify as a Geek?

23 A. Sometimes people call me "the go to guy" or the
24 "whiz kid" or the "computer nerd" yeah. So Geek yeah we
25 can probably say that in some instances.

COLIN DUNCAN: BY MR. SOWELL

-153-

1 Q. And what -I've been practicing law for nearly forty
2 years and I've yet to figure out forensic science. Tell
3 me, you said forensic examinations?

4 A. That's correct.

5 Q. What does that involve?

6 A. It involves looking after the computers been made
7 available to me on the server as Mr. Cave testified he
8 would prepare an evidence file for me or one of the other
9 agents and so we're working not with the physical evidence,
10 I've never touched the physical evidence but we work with a
11 bit by bit copy or an image or a mirror, a mirror image of
12 the exact data file and it's loading it into our software
13 and pouring over maybe thousands of records, thousands of
14 files, documents, images, videos, looking for evidence
15 that's been requested by the submitting agency.

16 Q. And do you consider yourself an expert in computer -
17 Windows?

18 A. Windows XP maybe not some of the newer Windows 7.
19 Vista and 7 I've kept my computers at, you know, I still
20 haven't upgraded most of my computers if you will.

21 Q. But you think you are a current geek?

22 A. I would say I'm a current geek. I keep up with the
23 trends.

24 Q. If have computer questions to ask you, you can answer
25 those as an expert?

COLIN DUNCAN: BY SOLICITOR ANTHONY

-154-

1 A. Yes, sir.

2 MR. SOWELL: Thank you.

3 No objection.

4 THE COURT: All right. I find he is qualified as
5 a Forensic Computer in the area of forensic computer
6 analysis.

7 DIRECT EXAMINATION - CONTINUED

8 AGENT COLIN DUNCAN BY SOLICITOR ANTHONY:

9 Q. Agent Duncan, did you come to analyze a computer,
10 computer images from hard drives that were submitted by the
11 Union County Sheriff's Office?

12 A. That's correct.

13 Q. And how did you come to analyze those hard drive
14 units?

15 A. It's really just a random selection basis. Our
16 captain would look at our current case load and see how
17 many items were submitted at - for each particular case and
18 just maybe it's happen circumstances my captain selected me
19 to examine these computers and once they are imaged and put
20 on the server for an agent to examine we are then notified
21 by Mr. Cave that they are ready for examination. We would
22 have no other way of knowing unless we just went and
23 constantly checked to see if those files are out there so
24 he would let us know when it was time that we could start
25 examining them.

COLIN DUNCAN: BY SOLICITOR ANTHONY

-155-

1 Q. And did you come to analyze a hard drive from a
2 Hitachi HDS722580BLAT hard drive?

3 A. Yes, sir, I did examine that hard drive.

4 Q. And when you began your examination of that hard
5 drive, what were you looking for?

6 A. The request made by the sheriff's office was for
7 videos and pictures of - and I want to say that they ask to
8 see if there were any images or videos of child pornography
9 and the software allows for us to weed through all the - you
10 can set certain perimeters for all the image files on the
11 computer. You select one button and it'll populate all -
12 excuse me. It'll populate all the fields and show you all
13 the image files on the computer. You can weed out images
14 of certain sizes so you're not getting the little pointer
15 icons or cycle bin icon and that kind of stuff. And then
16 you can see all the big JPEG files, the pictures that are
17 pretty adequate in size. And that's how I was able to see
18 them. They're pretty visible right off the bat. You
19 didn't have to do - dig too deeply into the file structure.

20 Q. Okay. And so what kind of tool, what kind of program
21 do you use to make this analysis?

22 A. This is also the EnCase Forensic and their parent
23 company is Guidance Software and we've been to their
24 training in Sterling, Virginia where they're headquartered
25 right outside DC.

1 Q. And so basically that software allows you to do your
2 job?

3 A. That's correct. Yes it's something we use daily.

4 Q. And so when you started to make the analysis, you
5 said you pulled out video files; is that --

6 A. I may have done the - I probably did the gallery
7 first or the image files first.

8 Q. And that's pictures?

9 A. That's pictures yes, sir.

10 Q. Okay. And then what did you pull out after that?

11 A. And then it would have been the video files.

12 Q. And what do you have to do in working with the
13 software what do you have to do to pull out the pictures
14 and the video files?

15 A. The picture files it shows them almost like in a
16 thumb nail view and you'll get maybe four rows of four
17 pictures each so you got sixteen that you can see. And
18 then you - it's a lot of scrolling and those that you
19 recognize that are notable images or ones you would
20 bookmark you just select those, continuing searching down.
21 You may have twenty thousand images and once you're done
22 selecting those - It's best though to select some bookmark
23 them and then continue otherwise if the computer freezes up
24 for whatever reason and you don't want to loose any work
25 that you had done prior to saving it.

COLIN DUNCAN: BY SOLICITOR ANTHONY

-157-

1 Q. And this is all just done through EnCase software?

2 A. It is. It's all done through EnCase software.

3 Q. All right. And so when you started this analysis of
4 the images of the hard drive from the Hitachi, Hitachi hard
5 drive, did you see any pictures that were - that were of
6 interest to you?

7 A. Yes. I saw pictures I want to say roughly thirty
8 images that I book marked that were of graphic and explicit
9 nature with what appeared to be young teens, young children
10 prepubescent, males, females, involved in sexual acts with
11 other children or other adults.

12 Q. And then did you find videos that were of the same
13 nature?

14 A. I did. I found roughly the same amount of videos as
15 well.

16 Q. Okay. Now when you say you book marked them, what
17 does that mean? How does the software allow you to
18 bookmark? What do you do when you bookmark?

19 A. It's - you're just checking off each file that you
20 want to bookmark for purposes once you're finished
21 examining that item of evidence you can then export out or
22 - Yeah, export out your report with those files, images and
23 or videos, or text or what have you, and it will attach
24 itself to the report for to view later or just to submit
25 back to the agency that requested it.

COLIN DUNCAN: BY SOLICITOR ANTHONY
BY SOLICITOR ANTHONY - IN CAMERA

-158-

1 Q. And did you do that in regards to the Hitachi hard
2 drive?

3 A. I did.

4 Q. And so those are the notable files that you found
5 compiled into a document; is that correct?

6 A. That's correct

7 Q. I'm going to hand you what's been marked for
8 identification as State's Exhibit Number Three.

9 MR. SOWELL: Your Honor, that document is hearsay.
10 We need to take that up.

11 THE COURT: All right, let me let the jury go to the
12 jury room while we take up a legal matter.

13 (JURY EXITS COURTROOM AT 02:43 P.M..)

14 THE COURT: All right. Okay.

15 MR. SOWELL: Your Honor, it's a little bit late to
16 start discussing this hard drive. To be able to examine
17 this you should be able to tell you and not Mr. Duncan.
18 It should be Mr. Cave to introduce that evidence -
19 documents.

20 THE COURT: Well let me let you make a proffer on
21 that. It does say examiner name Colin Clark Cave.

22 SOLICITOR ANTHONY: I can ask questions.

23 DIRECT EXAMINATION - IN CAMERA

24 AGENT COLIN DUNCAN BY SOLICITOR ANTHONY:

25 Q. Agent Duncan, you see there on the first page where

COLIN DUNCAN: BY SOLICITOR ANTHONY - IN CAMERA

-159-

1 it says Examiner Name, Bart Cave?

2 A. I do, sir.

3 Q. All right. Is that accurate?

4 A. That's not accurate. He didn't examine the drive.

5 But that - his name is there because he imaged the drive

6 and that's always populated in that field prior to an

7 examination. I want to say every evidence file I'd ever

8 gotten or every report that's been generated it's always

9 had either Bart's name or a previous image technician, a

10 guy by the name of Tony Pantsari. Every report I've ever

11 generated has had one of those two names.

12 Q. All right. I'd ask that you just look at the report.

13 (WITNESS COMPLIED.)

14 Q. Okay. Is that your report?

15 A. It is my report.

16 Q. All right. And is that when you testified earlier

17 about book marking images, does that report just compile

18 the images and files that you book marked?

19 A. That's precisely what it does.

20 Q. Okay. All right. Thank you.

21 SOLICITOR ANTHONY: That's my proffer.

22 THE COURT: Any examination at this time, Mr. Sowell?

23 MR. SOWELL: Your Honor, I don't have a copy of that.

24 I haven't seen that document certainly in my discovery and

25 I don't see it. Its not been provided to me.

COLIN DUNCAN: BY SOLICITOR ANTHONY - IN CAMERA
BY SOLICITOR ANTHONY

-160-

1 SOLICITOR ANTHONY: Yes it has. I sent him the SLED
2 with the Forensic report. It would have been --

3 MR. SOWELL: I'm sorry, Your Honor, I do have it. It
4 does say Examiner Bart Cave. Now they have - and admitted
5 that's one thing, but this is still hearsay. He didn't
6 examine this. This is not his document.

7 THE COURT: Well I over rule you. He's testified it
8 was his document and he testified why Mr. Cave's name was
9 on there. And I can't get around the fact that he
10 testified that that's his work product. I'll ask him.

11 Is that your work product?

12 A. Yes, sir.

13 THE COURT: I over rule the objection. Move on.

14 Bring in the jury.

15 (JURY REENTERS COURTROOM AT 02:47 P.M..)

16 THE COURT: All right, you may proceed.

17 DIRECT EXAMINATION - CONTINUED

18 AGENT COLIN DUNCAN BY SOLICITOR ANTHONY:

19 Q. All right. Agent Duncan, just to go back. State's
20 Exhibit Number Three I just handed up to you. What is
21 that?

22 A. This is the EnCase Report, the software we work with
23 daily would generate once we're ready to finalize the
24 results of an examination.

25 Q. All right. And what is contained in that report?

COLIN DUNCAN: BY SOLICITOR ANTHONY

-161-

1 A. It starts out with the drive info that was examined,
2 the Hitachi drive and the size of the drive. The version
3 of EnCase in which we were working with, the operating
4 system in this case Windows XP. And it also gives the hash
5 value which is something Mr. Cave alluded to earlier as far
6 as verifying the integrity of the drive that if the hash
7 values matched we know we're working with a copy that has
8 been or there has not been any access to that drive since
9 submitting to our evidence lab.

10 Q. Okay. And as far as what's after that, the actual
11 content on pages 5 through 24, what is that?

12 A. These are the images that were book marked for court
13 purposes and the videos and each file has certain
14 attributes. Also listed including the dates the files were
15 last accessed, last written, which means may have been
16 modified and the full path or the storage location where
17 those files were found.

18 Q. And as far as the copy of the report that you have
19 up there with you, the actual photos that you retrieved,
20 were they included; were they part of that document?

21 A. These, the photos in this report had been redacted
22 or covered up so their not visible to me ---

23 Q. All right.

24 A. --- at this time.

25 Q. And then has anything been done to number as

COLIN DUNCAN: BY SOLICITOR ANTHONY

-162-

1 specified so if --

2 A. That's right. Our reporting does not enumerate
3 files but the copy I hold here has a number beside each
4 file.

5 Q. All right. But other than those two changes, the
6 deletion of the photos and the numbering of the actual
7 files, is that a true and accurate copy of your EnCase
8 Report?

9 A. Yes. Yes, sir.

10 Q. All right. We move Three into evidence.

11 MR. SOWELL: Same objection.

12 THE COURT: Over rule the objection. It's in.

13 (WHEREUPON: STATE'S EXHIBIT NUMBER THREE IDENTIFIED
14 AND MARKED, RECEIVED INTO EVIDENCE.)

15 SOLICITOR ANTHONY: All right. At this time I ask to
16 publish this.

17 What I'm gonna do, Agent Duncan, I'm gonna give you
18 a copy of the Exhibit. We will add --

19 A. That was it.

20 Q. That will be page 30.

21 A. All right.

22 Q. Okay. All right. Just to once again we blotted out
23 fifty but I'm just going to show you a couple of items here
24 so the jury will be familiar with what we have.

25 I'll just ask you about...

COLIN DUNCAN: BY SOLICITOR ANTHONY

-163-

1 All right. I'm gonna ask you about Image No. 2.

2 You got that up there?

3 A. Yes, sir.

4 Q. Okay. So when the report was generated - anyway.

5 When the report was generated I take it there was
6 what was right there?

7 A. A picture that I marked notable for the report of an
8 offending image.

9 Q. All right. And then the information - Well when you
10 made this report does EnCase along with the picture what
11 other information does it use?

12 MR. SOWELL: Your Honor, I think this evidence was
13 supposed to be presented by the witness, not by the State.
14 I object to this.

15 THE COURT: Rephrase your question.

16 MR. SOWELL: I object to the procedure. This is
17 what they showed in the pictures.

18 THE COURT: I over rule the objection.

19 BY SOLICITOR ANTHONY:

20 Q. What other information was provided along side those
21 pictures?

22 A. You can probably give - a file created is one filed
23 or one attribute you can probably get thirty different
24 attributes per each file. We just choose the most common
25 as far as when the file was accessed or created, sorry. And

1 created in terms of being downloaded or stored to the
2 computer. That's what created means. And of course you've
3 got the last written date which means the last time the
4 file may have been altered in any way. Knowing just means
5 the file would have been changed, changed location or
6 appended in some way, the file, the actual file name. And
7 last access is pretty self explanatory, the last time a
8 user may have clicked on a file but sometimes the Window in
9 Windows environment it could mean that the user simply just
10 hovered the mouse over the file and just saw the file size.
11 It doesn't necessarily mean that the file was clicked on or
12 accessed if you will. So sometimes you do get different
13 dates as far as accessed and written dates.

14 Q. Okay. So basically with each file you printed out
15 how many dates and times are associated with each file?

16 A. We've got three there.

17 Q. Three? Okay. And for the document this - Well the
18 information that goes to No. 2 is -

19 A. That's correct. That's the - Its above it.

20 Q. Above it or?

21 A. It's above it.

22 Q. Okay. And so the file created information what does
23 that indicate?

24 A. That the time and date in which it was downloaded or
25 stored to that user's device or computer.

COLIN DUNCAN: BY SOLICITOR ANTHONY

-165-

1 Q. Now last written. What would that indicate?

2 A. That would be similar to create it but it could be
3 last written could be prior to the creation date because
4 the file may not have originated on that computer in which
5 this case these files were got or were retrieved off the
6 internet so any last changes may have been well prior to
7 the actual saving of the file.

8 Q. All right. And last accessed.

9 A. That means it was either viewed or the access date
10 can mean it was simply as we discovered recently it could
11 have been scanned by a virus scanner and because of the
12 virus scanner's attempt to access that file or to scan that
13 file it may could have possible changed the access date.

14 Q. I'll wind this up in a little bit. You've got
15 another line underneath last access it says full path.

16 A. Full path.

17 Q. What does that mean?

18 A. Well if you look below, directly under Full Path you
19 can see the file in question was located on the C drive in
20 the Windows folder and there was a folder called Web and
21 Web is a folder that's created by the Windows by default.
22 But the folder underneath that is a folder called New
23 Folder and New Folder is not a default folder in the
24 Windows environment. It's a folder that a user would have
25 to elect to create and it's one in which the user did not

1 give a specific name. So if you decide you want to right
2 click on your desk top or anywhere in your folder or file
3 structure to get a new folder or to create a new folder,
4 and you decide I don't want to give it a name by default
5 its called New Folder. And then the rest of that address
6 there is the - You can tell every slash denotes another
7 folder and a subfolder and then the last bit before the
8 .JPG is the file name.

9 Q. So --

10 A. Indicating it was a picture file.

11 Q. So basically that full path in fact accurately says
12 where it is on the computer?

13 A. It does. It tells you where to go to find it yes,
14 sir.

15 Q. And then the hash value; what is the significance
16 of that?

17 A. Hash value is a - it's basically a digital finger-
18 print if you will. It's more certain than DNA actually.
19 And the hash value is used to authenticate and in the
20 computer crime centers the majority of what we do is child
21 pornography it's a valuable tool to help verify certain
22 files that have already been - already been verified by the
23 National Center for Missing and Exploited Children in
24 Virginia. We can run certain files against the known data
25 base of child pornography files to verify that they are

COLIN DUNCAN: BY SOLICITOR ANTHONY

-167-

1 indeed child pornography by the content or the individuals
2 in the picture and or videos are indeed minors or had been
3 identified as known victims. A lot of pictures and videos
4 we find are a series that include the same individual or
5 individuals. And they're more easily verified and the hash
6 value is as like I said it's more certain than DNA. The
7 only way to change that hash value is a user would have to
8 use a software editing program to - if he or she just
9 changed one pixel in the picture that entire algorithm is
10 entirely changed. It doesn't just change one character,
11 it's completely different, it renders the entire file. You
12 can rename - he or she can rename the file, they can change
13 the extension. They can change it to a .doc or a Word
14 document file. It does not change the hash value, it's
15 that certain.

16 Q. All right. And you were talking about the
17 relationship earlier between the file created information
18 and the last written information. I'm going to take you
19 over to Page 8 and show you information that goes with
20 picture Number 9. When is the file created indicated
21 there?

22 A. Picture Number 9 is created 3/4/2010.

23 Q. All right. But then what is the last written
24 information on that to go with that picture?

25 A. It precedes almost a year and a half at December the

1 11th of 2008.

2 Q. All right. And how would that be?

3 A. That would be that where the file originator or the
4 file where a user would have down loaded or saved that file
5 from whatever location it came from that's the last time
6 that file was altered in any way. So it simply was just
7 transferred from one computer to the other. It wasn't
8 actually written to it. There was no data that was
9 actually added to or subtracted to that file.

10 Q. So it's actually written to in 2008 when it was
11 created. Was there any event when it was created on March
12 4, 2010 that would amount to a routing?

13 A. No. Not in this case no, sir.

14 Q. Okay. And then I'm showing you pictures how they are
15 arranged on the report. I want to show you now and take
16 you over to Page 20 of the report. And what section of the
17 report are we looking at now on Page 20?

18 A. Picture - Excuse me. The page about or the videos
19 were book marked or...

20 Q. So what's the difference as far as the EnCase Report
21 what's the difference between the way EnCase reports out
22 pictures and the way it reports out videos?

23 A. It won't give you a thumb nail or a freeze frame or
24 a capture of the video, so you're not going to get any
25 preview on a sheet of paper or on the report on the CD.

COLIN DUNCAN: BY SOLICITOR ANTHONY

-169-

1 You have to double click those hyperlinks or the links that
2 are underlined, the actual file names, to get the video to
3 play.

4 Q. Okay. But as far as the information that EnCase
5 gives you associated with the videos, is there any
6 difference between what you get from EnCase in regards to
7 videos and what you get from EnCase in regards to pictures?

8 A. No, sir.

9 Q. You still get --

10 A. You still get --

11 Q. Go ahead.

12 A. You still get the same attributes.

13 Q. Okay. So the only difference is with the pictures
14 EnCase actually gives you a picture of the videos they give
15 you a --

16 A. That's correct.

17 Q. All right. I'm handing you what's been marked for
18 identification State's Exhibit Number Five.

19 And I'd ask if you would review that document.

20 (WITNESS COMPLIES.)

21 Q. What is that document that's been marked Number Five
22 for identification?

23 A. This is a time line with dates and videos and
24 pictures that have been numbered per the report that I have
25 in my hand also that correspond with the times that these

COLIN DUNCAN: BY SOLICITOR ANTHONY

-170-

1 files were created or downloaded.

2 Q. All right. And to the best of your knowledge do
3 the times on that document reflect the times that are
4 indicated on the EnCase Report for each picture and each
5 video as to their creation?

6 A. They do, sir.

7 Q. All right. We move Five into evidence.

8 THE COURT: Any objection?

9 (PAUSE.)

10 THE COURT: Any objection, Mr. Sowell, to move that
11 into evidence?

12 MR. SOWELL: No objection, Your Honor.

13 THE COURT: In without objection.

14 (WHEREUPON: STATE'S EXHIBIT NUMBER FIVE IDENTIFIED
15 AND MARKED, RECEIVED INTO EVIDENCE.)

16 SOLICITOR ANTHONY: Thank you.

17 Your Honor, I'd ask to publish this.

18 What I want to do is I'm just going to show you the -
19 show you this time line and explain how that matches up to
20 the report okay. You will start off first date I'm showing
21 - for the record I'm showing Exhibit Number Five to the
22 jury.

23 The first date on the time line is February 25th, 2010;
24 is that correct?

25 A. That's correct.

COLIN DUNCAN: BY SOLICITOR ANTHONY

-171-

1 Q. Do you see it? Okay. And which is - What's the
2 first item or first file that's indicated as having been
3 downloaded on February 25th, 2010?

4 A. That's a Video Number 28.

5 Q. Okay.

6 A. I can --

7 Q. And so the time line indicates on - Well what does
8 the time line indicate about Video Number 28 on February
9 25th, 2010?

10 A. I think the date associated with each file I think
11 it was miss - because the date is above each number it may
12 not be - I want to say that each one was recorded
13 incorrectly so if Video 28 is showing at 7:58 on the 25th I
14 have actually Video 29 so I think they may be one number
15 off on each because the data per the report - does that
16 appear right?

17 Q. I'm sorry.

18 A. I think Video 28 was actually created on the 28th of
19 February and not the 25th. So it would be 29th, it would
20 be Video 29 at...

21 Q. I'm sorry. If I can have just one moment.

22 (PAUSE.)

23 Q. All right. We'll deal with what we know is right
24 about it if we have to amend it to fix it we'll do that.
25 Okay?

1 A. Yes, sir.

2 Q. Okay. Let's look at Video Number 1.

3 A. Okay.

4 Q. On your report on Page 19.

5 A. Yes, sir.

6 Q. And I'm showing the Exhibit to the jury and it shows;
7 what does it show on 4/9/2010/

8 A. File created at 9:57.

9 Q. Okay.

10 A. P.M.

11 Q. That's the video marked Video Number One?

12 A. That's correct.

13 Q. All right. And then I'm gonna show you page - I'm
14 gonna show the jury Page 19 in your report. And what does
15 that indicate about video - what's been marked Video Number
16 One on your report?

17 A. Video Number One is - it's that long title
18 Bestyet.abi and the file information or attributes
19 about that file are above the file.

20 Q. Okay.

21 A. And it shows the location and the times associated
22 with it.

23 Q. And that corresponds to what the time lines shows?

24 A. That's correct.

25 Q. Is that correct?

COLIN DUNCAN: BY SOLICITOR ANTHONY

-173-

1 A. Yes, sir.

2 Q. All right. And then in so far as photographs go,
3 on 2/28 what is indicated as being created on 2/28 at 7:42?

4 A. Pictures to that I can verify here. And thirteen -
5 it will take me must a second to get to thirteen.

6 Thirteen as well on 2/28.

7 Q. Okay.

8 A. And also at 7:48.

9 Q. So I'll show the jury now Exhibit Three.
10 And what time corresponds with Picture Number Two?

11 A. What time? 7:42.

12 Q. All right. And I'm going to show you now - I'm
13 showing you now what's been marked for identification as
14 State's Exhibit Number Four. Ask if you could review that
15 document.

16 (WITNESS COMPLIES.)

17 Q. What is that?

18 A. It's a calendar for the year 2010 and it's got dates
19 circled over a three month period that correspond with the
20 downloaded time line that's on the board.

21 Q. And does that accurately reflect the days? What's
22 been done on the calendar, just indicate what days the
23 files were downloaded?

24 A. Each day has been circled to show there was activity
25 or down load activity on those certain days. Three

COLIN DUNCAN: BY SOLICITOR ANTHONY

-174-

1 days in February and four in March and five in April.

2 Q. And does that fairly and accurately reflect the
3 dates documented on the EnCase Report as being dates where
4 material was downloaded?

5 A. Yes it does.

6 Q. All right. We move Four into evidence.

7 MR. SOWELL: No objection.

8 THE COURT: In without objection.

9 (WHEREUPON: STATE'S EXHIBIT NUMBER FOUR IDENTIFIED
10 AND MARKED, RECEIVED INTO EVIDENCE.)

11 BY SOLICITOR ANTHONY:

12 Q. And just to ask a few more questions about the
13 evaluation you did of the computers. Were you able to
14 locate any programs on the computer that would be
15 associated with downloading files?

16 A. That's right. One program - There were two programs
17 in particular but one was called FrostWire which is a spin
18 off of a program called Limewire and if we'd go back
19 further most may remember a program called Napster where
20 people were able to download music. Well music transformed
21 into software into video files and now Limewire and
22 FrostWire are the most popular - they call them peer to
23 peer or P To P file sharing programs because one computer
24 or one user is a peer and you go out and you connect it
25 through this network through this FrostWire network and

COLIN DUNCAN: BY SOLICITOR ANTHONY

-175-

1 you're able to browse the files that are stored on someone
2 else's computer that they have allowed the network to see.
3 So if they'd gone out and said I want - would I be able to
4 - and that's the way it works. You go and download from
5 other people and the community grows or is able to download
6 from others when they open their other - their files can be
7 shared as well.

8 Q. All right. And was that enabled on the computer on
9 the hard drive you imaged?

10 A. That's right.

11 Q. On the hard drive you analyzed?

12 A. That's right. FrostWire was had been downloaded and
13 installed.

14 Q. And then were there any other - Did you find anything
15 else on the computer that would indicate that it had been
16 used by someone having an interest in child pornography?

17 A. I did. I did. I found certain key terms that were
18 used in another file sharing program called uTorrent. And
19 uTorrent is a program that's downloaded and instead of you
20 downloading a file from one individual or one other peer
21 computer you go and tell it to download a certain file and
22 all the users across the globe that have that file
23 depending on their connection your computer goes and says I
24 want to get it from maybe twenty or thirty different people
25 so all the people start kind of receiving that file. They

1 don't know that they're doing it but they know that they've
2 made it available so the file starts coming. It's a
3 quicker way to get large video files instead of getting it
4 from one computer that's going to hog down that traffic
5 it's just going one way. It's all kind of connections that
6 you're being - that you're making all over the globe to
7 speed up the downloading process. And there were certain
8 words I was able to find an internet history certain words
9 that the user was inputting into this torrent search engine
10 to indicate that they would only be looking for content
11 associated with child pornography.

12 Q. What words specifically did you find?

13 A. I found the term Lolita, the term Preteen, and the
14 term or the acronym PTHC which stands for Preteen Hard
15 Core.

16 Q. And did you aside from the analysis you did of the
17 hard drive associated with a group of Number One, did you
18 examine the other hard drive that was on that computer?

19 A. I did. I examined the other hard drive as well.

20 Q. And did you locate any kind of - anything that
21 appeared to be child pornography on that hard drive?

22 A. There may have been. I think there was one video but
23 that --

24 Q. Well on that - on the drive involving this computer?

25 A. No. Sorry, sorry. No that was just a bunch of

COLIN DUNCAN: BY SOLICITOR ANTHONY

-177-

1 videos like Hollywood feature films. Ironman, Star Trek,
2 and most of those appeared to have been downloaded through
3 the uTorrent program as well.

4 Q. All right.

5 A. Because they could possibly take six to eight hours
6 to download and it speeds it up when you've got multiple
7 people feeding you the file.

8 Q. And on the other drive that were submitted by the
9 sheriff's office, were there any downloads from 2010 that
10 you - any pornographic downloads from 2010 on the other
11 drives?

12 A. On the other drives? I can't - I don't believe so.

13 Q. All right.

14 (PAUSE.)

15 Q. I'm going to show you --

16 MR. SOWELL: Your Honor, we renew our motion to just
17 stipulate to these pictures are hard core porn or under
18 age children without the necessity to show them to the
19 jury.

20 THE COURT: I over rule that request.

21 BY SOLICITOR ANTHONY:

22 Q. I'm going to show you although there's a set of
23 photos in this envelop that have been marked as State's
24 Exhibit Seven through Nineteen, I ask that you look through
25 those please.

COLIN DUNCAN: BY SOLICITOR ANTHONY

-178-

1 (WITNESS COMPLIES.)

2 Q. And do you recognize those photos?

3 A. Yes, sir.

4 Q. And where are those pictures from?

5 A. The Hitachi hard drive from Item 2, Drive 2.

6 Q. All right. And are those pictures actually from the
7 EnCase Report?

8 A. That's correct

9 Q. And what aside from the Exhibit individually Exhibit
10 Seven through Nineteen contained in the photos, what also
11 is contained in the photos?

12 A. It all shows the actual photo itself.

13 Q. Okay.

14 A. It's not - And as well in addition to the file
15 created written accessed and full path phase.

16 Q. All right.

17 SOLICITOR ANTHONY: Your Honor, we move Seven through
18 Nineteen into evidence.

19 THE COURT: Over objection their in.

20 (WHEREUPON: STATE'S EXHIBIT NUMBERS SEVEN THROUGH
21 NINETEEN IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

22 SOLICITOR ANTHONY: Your Honor, at this time I would
23 ask for a recess so we can prepare the courtroom.

24 THE COURT: We'll take a recess at this time.

25 (JURY EXITS COURTROOM AT 03:20 P.M..)

COLIN DUNCAN: BY SOLICITOR ANTHONY

-179-

1 THE COURT: You can step down while we're having to
2 wait.

3 MR. DUNCAN: Thank you, Judge.

4 THE COURT: How long do you think this is going to
5 take?

6 SOLICITOR ANTHONY: I would ask for --

7 I may need a little extra time. Could I have at
8 least fifteen. I'll let you know if I need more.

9 THE COURT: All right. Fifteen minutes we'll be at
10 ease.

11 (COURT IN RECESS AT 03:21 P.M.)

12 (COURT BACK IN SESSION AT 03:50 P.M..)

13 (WHEREUPON: STATE'S EXHIBIT NUMBER FIVE - A PREMARKED
14 FOR IDENTIFICATION.)

15 THE COURT: Take your seats.

16 Before we get the jury in, Mr. Sowell, I understand
17 you're happy where you are; you don't want to - at one time
18 we talked about you, Mr. Bishop moving where you could see
19 these. I been told now that you are satisfied without
20 being moved.

21 MR. SOWELL: We're satisfied. We'll sit here.

22 THE COURT: Okay. Mr. Bishop?

23 MR. BISHOP: Your Honor, I'm gonna sit here.

24 THE COURT: Okay.

25 MR. SOWELL: He's gonna show the pictures?

COLIN DUNCAN: BY SOLICITOR ANTHONY

-180-

1 SOLICITOR ANTHONY: No.

2 THE COURT: You don't want to see these?

3 SOLICITOR ANTHONY: I was not going to publish the
4 actual photos to the jury that was just moved into
5 evidence. I just moved them in so they could have them in
6 the jury room. As to the - The only thing I'm gonna
7 publish on the TV the only thing sexually explicit I'm
8 gonna publish at all in court are the videos.

9 MR. SOWELL: How many?

10 SOLICITOR ANTHONY: Four.

11 THE COURT: That's about twenty minutes worth you
12 said?

13 SOLICITOR ANTHONY: Yes, sir.

14 THE COURT: Okay. You want to position yourself so
15 you can --

16 MR. SOWELL: Yes, sir, we'll step over this way.

17 THE COURT: All right. You do want to come over here?

18 (DEFENSE MOVED TO VIEW VIDEOS.)

19 THE COURT: He's got one for me and we'll put another
20 one.

21 MR. SOWELL: I don't need a chair.

22 THE COURT: You don't need a chair? Okay.

23 Bring in the jury.

24 (JURY REENTERS COURTROOM AT 03:52 P.M..)

25 THE COURT: Members of the jury panel, the next thing

COLIN DUNCAN: BY SOLICITOR ANTHONY

-181-

1 that you will see will be the videos and I'm going to let
2 Mr. Sowell position himself over -

3 MR. SOWELL: The slides are not ready yet.

4 SOLICITOR ANTHONY: I had a few more questions I was
5 gonna ask him.

6 THE COURT: All right.

7 SOLICITOR ANTHONY: And then --

8 THE COURT: Well, in just a moment when we do show
9 the video nor I and Mr. Sowell can see them without showing
10 them to the world so to speak. I'm going to be sitting
11 there and I won't be in your way and let Mr. Sowell come
12 stand over here or move a chair if he wishes. If you see
13 us moving around don't be alarmed.

14 All right.

15 SOLICITOR ANTHONY: All right.

16 DIRECT EXAMINATION - CONTINUED

17 AGENT COLIN DUNCAN BY SOLICITOR ANTHONY:

18 Q. Agent Duncan, I had shown you earlier this time line
19 or this - Yeah, this time line. And I believe when I was
20 showing it to you you noticed a problem with it; is that
21 correct?

22 A. That's right.

23 Q. And what was the problem?

24 A. The data that corresponded with the file name that
25 was marked or numbered I think the form I was given or the

1 chart on the board was incorrect in that it had the data
2 from the file that was underneath it instead of on top of
3 it.

4 Q. Okay. I'm going to show you now what we've just put
5 together and marked Exhibit Five A and ask that you would
6 look at that and see what we've done to change the
7 numbering in the videos.

8 A. (WITNESS COMPLIED.)

9 Q. And what's been done to change it?

10 A. It appears that some have been reordered I guess.
11 Most were correct to begin with but some had been
12 renumbered.

13 Q. All right.

14 We move Five A into evidence.

15 MR. SOWELL: No objection, Your Honor.

16 THE COURT: In without objection.

17 (WHEREUPON: STATE'S EXHIBIT NUMBER FIVE A IDENTIFIED
18 AND MARKED, RECEIVED INTO EVIDENCE.)

19 Q. I have a couple of questions I'm gonna ask you. I'm
20 gonna show you now the Exhibit Five A; the corrected chart
21 here. And just going back to February 25th, what is the
22 first video that supposedly showing that's been downloaded
23 on February 25th?

24 A. I still got Exhibit Five showing -

25 Q. Oh, I'm sorry. Sorry. Let me give you - Well, if

COLIN DUNCAN: BY SOLICITOR ANTHONY

-183-

1 you look on the screen.

2 A. Sure.

3 Q. Just reference what's on the screen.

4 A. Certainly.

5 Q. I'm showing the Exhibit, Exhibit Five A is on the
6 screen. So that according to the Exhibit there is the
7 first one shown on February 25th?

8 A. Video 29.

9 Q. Okay. And what time?

10 A. 7:58 p.m..

11 Q. All right. And now I'm going to put Exhibit Number
12 Three on the projector and ask is Video 29 is that
13 reflected on the EnCase Report there?

14 A. It is at 7:58 p.m. for the created date.

15 Q. Okay. So is there a correlation - This is 29;
16 what is that, that line there?

17 A. That's the title of the video.

18 Q. And then what is the correlation between the file
19 created line and 2/25 10:57 a.m., then this line on the
20 diagram?

21 A. The time in which it was downloaded.

22 Q. Okay.

23 A. Or saved to the user's computer.

24 Q. So those two match?

25 A. They match.

1 Q. All right. And we'll just show you one more.

2 Exhibit or Number 30 on Exhibit Three indicates a
3 file created date of what?

4 A. 2/25 at 08:11 p.m..

5 Q. Okay. And then what's the correlation there
6 between what the report shows about Video Number 30 and
7 what time that it shows?

8 A. That it matches up 08:11 p.m. on the 25th of Video
9 30.

10 Q. Okay. I'm going to do to make it clear to the jury
11 will be one picture. I'm going to refer you to Page -
12 refer you to Page 10 of your report. I'm showing you the
13 information concerning Picture 14. When does that indicate
14 Picture 14 was created?

15 A. On the 23rd of March, 2010 at 12:05 a.m..

16 Q. And then I'll show you a time line that also
17 references March 23rd. What's the correlation between the
18 report and the time line as in regards to Picture 14?

19 A. That they say the same thing, the same time 14.

20 Q. All right. And I want to ask you one thing that is
21 kind of notable about the time line is on March 4th
22 starting - I call your attention to that March 4th, we have
23 a number of pictures and it looks like the same time; is
24 that correct?

25 A. That's correct

COLIN DUNCAN: BY SOLICITOR ANTHONY

-185-

1 Q. All right. And then we have sort of a run going over
2 to the next page of pictures that all show file created
3 date is within seconds of each other; is that right?

4 A. That's correct

5 Q. What would account for that as far as the file
6 created dates being so close together?

7 A. A user would download likely a batch of files or a
8 folder of files so it wouldn't just be - A user couldn't
9 possibly click on each file he or she wanted to download
10 within a half a second of each other so these files almost
11 certainly came as one batch or one grouping if you will,
12 one set of pictures.

13 Q. All right. Okay. Now moving on to the videos.

14 I'm going to hand you a DVD that's been marked as
15 State's Exhibit or marked for identification as State's
16 Exhibit Number 20. I'd ask if you recognize that DVD.

17 A. I do, sir.

18 Q. And when have you seen that DVD?

19 A. This morning.

20 Q. All right. And what did you do in regards to
21 reviewing it?

22 A. I reviewed the four video files on this disc and I
23 checked to see if they correspond because the titles are
24 not listed on the disc itself to make sure the titles
25 corresponded with the videos I book marked for the report.

COLIN DUNCAN: BY SOLICITOR ANTHONY

-186-

1 Q. All right. And are those videos actually four of the
2 same thirty videos that you book marked for your report?

3 A. They are, sir.

4 Q. Okay. And did you do anything just to identify the
5 DVD as the one you watched so that you know that that's the
6 one that has the files on it?

7 A. I did. I initialed it and dated the top of the CD or
8 the ---

9 Q. Okay.

10 A. --- or the front of the CD.

11 Q. All right.

12 SOLICITOR ANTHONY: Your Honor, at this time we move
13 Twenty into evidence.

14 MR. SOWELL: No objection.

15 THE COURT: In without objection.

16 (WHEREUPON: STATE'S EXHIBIT NUMBER TWENTY IDENTIFIED
17 AND MARKED, RECEIVED INTO EVIDENCE.)

18 SOLICITOR ANTHONY: All right. Thank you, Your Honor.

19 At this time I would ask Agent Duncan to step down
20 and we would start the process of publishing to the jury.

21 (WITNESS LEFT WITNESS STAND.)

22 SOLICITOR ANTHONY: And the four files, do you want to
23 just start with the first one there on the left.

24 (STATE'S EXHIBIT NUMBER TWENTY PUBLISHED TO THE COURT
25 AND THE JURY AT 04:02 P.M..)

COLIN DUNCAN: BY SOLICITOR ANTHONY

-187-

1 BY SOLICITOR ANTHONY:

2 Q. Now of those files which one was that?

3 A. I can look. That was Video Number 9.

4 Q. And so going to your report, I call your attention
5 to the screen. This is the information as to Video Number
6 9; is that right?

7 A. That's right.

8 Q. All right. And is this - I won't say the title - is
9 this the title of it?

10 A. That's correct.

11 Q. And then the file, this is the file created with
12 the access information?

13 A. That's correct.

14 Q. Okay. All right. Thank you. You can go ahead and
15 play the next one.

16 (WHEREUPON: STATE'S EXHIBIT NUMBER TWENTY PUBLISHED
17 TO THE COURT AND THE JURY AT 04:06 P.M..)

18 Q. Which number was that one?

19 A. Thirteen.

20 Q. All right. I won't say the title but just tell them
21 from the screen, is that the title of 13?

22 A. That's the title yes.

23 Q. All right. Just go on and play the next one.

24 (STATE'S EXHIBIT NUMBER TWENTY PUBLISHED TO THE COURT
25 AND THE JURY AT 04:08 P.M..)

COLIN DUNCAN: BY SOLICITOR ANTHONY
BY MR. SOWELL

-188-

1 Q. Which number was that?

2 A. That was Number 19.

3 Q. Okay. Is this the file for the information for 19?

4 A. Yes.

5 Q. Moving on to Number - is that the rest of it there?

6 A. Yeah.

7 Q. And if you would go ahead and just cue up the last
8 one.

9 (STATE'S EXHIBIT NUMBER TWENTY PUBLISHED TO THE COURT
10 AND THE JURY AT 04:11 P.M., STOPPING AT 04:24 P.M..)

11 Q. Agent Duncan, what number was that one?

12 A. Number Three.

13 Q. I'm going to put Exhibit Number Three back on the
14 screen and ask you, is that the information associated with
15 Number 30?

16 A. That's correct.

17 Q. Is that the title?

18 A. That's the title.

19 Q. All right. Thank you, Agent Duncan.

20 (WITNESS RETURNED TO WITNESS STAND.)

21 SOLICITOR ANTHONY: That's everything on direct.

22 THE COURT: Cross?

23 CROSS EXAMINATION

24 AGENT COLIN DUNCAN BY MR. SOWELL:

25 Q. Agent Duncan.

COLIN DUNCAN: BY MR. SOWELL

-189-

1 A. Yes, sir.

2 Q. Can it be possible to erase a picture once it gets
3 on a hard drive?

4 A. Yes.

5 Q. Erasing there's apparently two kinds of erasers. One
6 means I can't pull it up and two, that you can't pull it
7 up.

8 A. That's correct

9 Q. Now what's the difference?

10 A. If you simply delete a file you as a user when you're
11 connected to the physical computer and you tell it to
12 delete a file, what you're telling it to do is just to go
13 to the recycle bin and even if you go into the recycle bin,
14 its basically freeing up other space on the computer,
15 freeing up space on the computer that that file allocated
16 and for something else to go in it's place. There's no -
17 When you delete it doesn't poof and magically erase the
18 file. The file still exist on the computer, it's just that
19 you're telling the computer it's okay if something goes in
20 it's place. Or something else occupies the portion on the
21 hard drive that it once occupied.

22 Q. And it erases for your purposes what does that mean?

23 A. Erase for our purposes means if we can't retrieve it
24 it means it's been also deleted by the user or by a program
25 and it's also been over ridden by some other file either in

1 part or in it's entirety so we may still be able to pull up
2 portions of a file where if a file that was deleted was
3 larger than the file that replaced it and therefore that
4 file replaced it but only would fill up a portion of its
5 file allocation.

6 Q. Now, all these notations on your document here, file
7 created which means it's the first time its added to the
8 computer.

9 A. That's correct

10 Q. Last written means what?

11 A. The file was appended in some way or altered in some
12 way. Normally it just means it was either moved or the
13 name was changed on it.

14 Q. The last access means the last time it was pulled up?

15 A. It could mean viewed or in the instance like a virus
16 scan so a user would not actually have to go in and
17 retrieve it himself or herself. The virus scan is scanning
18 all the contents of the computer that may change the access
19 date as well.

20 Q. Now I believe you said that the last access could have
21 been accessed just because a mouse put over it.

22 A. Yes simply like a mouse it would be like if you
23 wanted just to single click and it would just give you the
24 file size and the date modified I believe instead of double
25 clicking and actually opening the file. So that could also

COLIN DUNCAN: BY MR. SOWELL

-191-

1 - we've seen instances where that can also change the
2 access date.

3 Q. So the last access could have been someone clicking
4 on a file? Click once and saw it that it wasn't going to
5 click any more they erased it and went on to something
6 else?

7 A. Correct.

8 Q. Now, is it possible to look in your computer program
9 is it possible to find out how long it stayed on the screen
10 when it was - the file was created?

11 A. The manner in which the user was getting these files
12 the file is not going to appear or open itself once it's
13 been downloaded. It goes directly into a folder that the
14 user has predetermined or that the program chooses by
15 default so the user then has to go and view or play those
16 files after they've been downloaded. So its not gonna auto
17 generate or auto open on the screen once it's been
18 downloaded.

19 Q. Once it's put on the screen, do you know how long it
20 stayed on the screen?

21 A. There's no way to determine that.

22 Q. Pardon me?

23 A. There's no way - There's no way for me to determine
24 how long he had the file open.

25 Q. So you can't tell if these files were viewed or just

1 pulled up and then erased?

2 A. That's correct

3 Q. So if someone was looking for a particular picture
4 on his computer, accidentally pulled this one up, immediately
5 erased it, you wouldn't know?

6 A. No, sir.

7 Q. When a electrical surge, lightening or whatever, and
8 the electricity in the house blinks, would that reset the
9 time on the computer?

10 A. Its possible that the time Mr. Cave would have
11 checked would have been not current with the actual GMT
12 time.

13 Q. So these times you have on this program and these
14 times you have on all these other summaries could be
15 completely inaccurate if it had been on an electrical
16 blink?

17 A. That's - That's - I guess that's plausible but I
18 would say that --

19 Q. If I'm on my computer, on anybody's computer, and I'm
20 working on it and an electrical surge for half a second,
21 electricity cuts off and went back on, my time clock resets
22 and I don't reset it back to the correct time then all
23 these times you have here mean nothing didn't it?

24 A. Well the computer clocks internal so you wouldn't
25 manually go back and change the time unless you noticed it

COLIN DUNCAN: BY MR. SOWELL

-193-

1 was several hours off or it was - your computer clock is
2 not going to flash 12 o'clock. It would simply it can be
3 changed or it wouldn't.

4 Q. And if the operator didn't notice the blink and the
5 time reset all these times you have on these, from these
6 computers and summaries mean nothing; is that correct?

7 A. If the time were incorrect. But since we verified
8 the time since it's the first thing we do when after we log
9 the evidence.

10 Q. My point is that if someone is using the computer
11 and the electric blinks, resets the computer back to 0000
12 the operator never resets it, and then two or three months
13 later he resets it or two or three days he resets it all
14 your times on these summaries mean nothing; is that
15 correct?

16 A. Right the times would not be accurate in that case.

17 Q. If that happened and the time - If that happened and
18 the computer was never reset to the right time, then none
19 of your times mean anything do they?

20 A. That's a possibility if the user didn't change the
21 time back but the times would not --

22 Q. I don't want a possibility. I want a definite. If
23 someone is operating the computer and the electricity
24 blinks the clock sets to zero the operator does not reset
25 the time and still that operator goes back and manually

COLIN DUNCAN: BY MR. SOWELL

-194-

1 resets the time all of your times on all these summaries
2 would mean nothing; is that correct?

3 A. If the clock did not change or if the - if when the
4 power regained, if the computer regained power it was at
5 the incorrect time that's correct the times would be
6 incorrect.

7 Q. And your summaries would likewise be incorrect
8 wouldn't they?

9 A. I believe so. I'm pretty certain.

10 Q. Thank you. So if the electricity ever blinked since
11 the time has been set on that computer all of your
12 summaries are inaccurate aren't they?

13 A. Is that a hypothetical?

14 Q. If it happened your summaries are incorrect were they
15 not?

16 A. Only if the power - Only if Windows did not auto
17 correct the time itself.

18 Q. And Windows, does Windows automatically correct?

19 A. Sometimes it might. Probably depends on the power
20 and or the length that the outage.

21 Q. Sometimes it might. Is that one of those burden of
22 proof things?

23 SOLICITOR ANTHONY: Your Honor, objection. That's a -

24 THE COURT: I sustain the objection.

25 BY MR. SOWELL:

COLIN DUNCAN: BY MR. SOWELL

-195-

1 Q. No question your time entered on all these
2 summaries could very likely be incorrect?

3 A. If the power surge and the time that was reflected
4 on the screen on the operating system after it regained
5 power was not correct and the user did not go back and
6 change it it's possible. It's possible. But since we
7 first - The first thing we did was verify the time and date
8 on the computer, it's not possible. We verified it with
9 current GMT time.

10 Q. The operator of this machine after the power surge
11 two weeks, two days, two months later, noticed it was
12 incorrect and then reset it and then when you checked it,
13 it wouldn't be accurate would it?

14 A. That's right because the activity recorded by the
15 operating system with the time being incorrect would then
16 record incorrectly the activity on the computer.

17 Q. Thank you. I'm going to show you a document and
18 ask you if you can identify this.

19 A. Yes. This is the examination report that we
20 generate and submit back to the originating agency, the
21 requesting agency.

22 Q. And --

23 A. It list the item numbers that were submitted or the
24 number of items and their description and whether or not we
25 found anything notable.

COLIN DUNCAN: BY MR. SOWELL

-196-

1 Q. Look at Item Number Three. Mr. Bishop's laptop. Did
2 you find anything notable on his laptop?

3 A. It says "no items of interest found on Item Three."

4 Q. And if Item Three was his laptop, then he had no
5 porn on his laptop; is that correct?

6 A. No. No child pornography.

7 Q. Nothing what we're here for today?

8 A. That's correct, sir.

9 Q. And that's what it says, there's no kiddy porn on
10 his computer?

11 A. That's correct

12 Q. If you will pull up your summary. This is what I'm
13 calling your summary.

14 A. All right.

15 Q. I guess it's your summary.

16 A. Okay. Sure.

17 Q. Can we call that your summary?

18 A. That's not something I actually generated.

19 Q. Does it correspond to what you found?

20 A. It does. But I want to make sure that's the 5-A
21 and not 5.

22 Q. It's originally 5 and I made corrections for 5-A.

23 A. Okay. Sure. I may not have the correct or wrong
24 version. Okay. Yes, sir.

25 Q. Now, did you find any evidence that on May 6 or on

COLIN DUNCAN: BY MR. SOWELL

-197-

1 May 14th - I'm sorry, May 14th, 2009, on May 6th, 2010, was
2 anyone using this computer did record, photograph, filmed,
3 developed, duplicate, produce, create, distribute,
4 transform, distribute, receive, sale, purchase, exchange or
5 solicit digital electronic file information which contains
6 a visual representation of a minor engaged in sexual
7 activity?

8 A. Not on those dates.

9 Q. Did you find any evidence on your search that on or
10 approximately or about May 14th, 2009, or May 6th, 2010,
11 did anyone on this computer record, photograph, filmed,
12 developed, duplicate, produce, create, distribute,
13 transform, distribute, receive, sale, purchase, exchange or
14 solicit digital electronic file material that contains a
15 visual representation of a minor engaged in sexual
16 activity?

17 A. No, sir, not on those dates.

18 Q. Did you find any evidence of the identify of anyone
19 who had loaded such material onto any of the computers that
20 you checked?

21 A. No, sir. Just a main user account or administrator
22 account.

23 Q. Did this computer have an administrative user
24 account?

25 A. By default it was given administrative privileges.

COLIN DUNCAN: BY MR. SOWELL

-198-

1 Q. Was any restriction on those privileges?

2 A. No, sir.

3 Q. Did the use of this computer require any pass code?

4 A. The EnCase software was telling us that there was
5 no pass word required, that one had been set up in the past
6 but that basically anybody had unfettered access if you
7 would just went up and pushed - There may have been or
8 there was a password prompt for one but it was easily
9 bypassed by hitting okay. So there was no password
10 required to get into it.

11 Q. So anybody in the whole world who had access to this
12 computer could have put these pictures on this computer?
13 Or pictures or video?

14 A. Certainly anybody with physical access to the
15 computer.

16 Q. Did anything that you did when you discovered
17 evidence that Mr. Bishop had anything to do with those
18 pictures or knew that they were on the computer?

19 A. He had never taken pictures of himself if you will or
20 no user names said Doug Bishop was using the computer at a
21 certain time.

22 Q. Well did you find any evidence that Doug Bishop put
23 any of these explicit pictures or videos on that computer?
24 Or even knew they were there?

25 A. No, sir.

COLIN DUNCAN: BY MR. SOWELL

-199-

1 Q. You discussed earlier complications when the
2 computer freezes up. How often does a computer freeze up?

3 A. That would be a computer that we would be working
4 with. It's quite common. I guess it's quite common. It's
5 pretty taxing, the software requires a lot of memory and if
6 you're running heavy searches and intensive searches for
7 certain key words and you're trying to - and you're running
8 other processes on a computer then you may - it may be too
9 much for the computer at that moment so it may, you know,
10 it may lock up on you.

11 Q. Is that why my all powerful computer locks up
12 sometimes?

13 A. And we've got some good computers and they still
14 lock up so.

15 Q. You got 8 gig and all that stuff ---

16 A. That's right.

17 Q. --- and mine still locks up?

18 A. That's right.

19 Q. Mine has got the highest number rating gig and it
20 still locks up?

21 A. It will.

22 Q. I mean why --

23 A. Well sometimes you're lucky enough where you can
24 kind of just wait it out and it'll come back. Or you're
25 able to move the mouse and actually type in key strokes or

1 sometimes you just have to do a - either pull the plug from
2 the back or just do a hard reset and hold the power button
3 down until it goes off. And just pray that your work is
4 saved.

5 Q. You use the same computer. Now, you talked about
6 a program to download files and you talked about FrostWire.

7 A. Yes, sir.

8 Q. And you implied that FrostWire is used to down
9 load porn.

10 A. It's used to download any number of types of files.
11 Mainly MP3's or audio files.

12 Q. It's used to download big files isn't it?

13 A. It's used to download files normally that you're
14 not - that users I guess don't want to purchase.

15 Q. Don't all teenagers download films, films
16 using FrostWire?

17 A. No, sir. No, sir. I think most teenagers are on
18 YouTube these days.

19 Q. Is there a large percentage of teenagers that use
20 FrostWire?

21 A. I can't say. I would say - I really can't say. I
22 can't say.

23 Q. This other download program uTorrent?

24 A. UTorrent. Yes, sir.

25 Q. Now that is used to download the bigger movies

COLIN DUNCAN: BY MR. SOWELL

-201-

1 isn't it?

2 A. Bigger movies and software, pirated software -
3 software. Excuse me.

4 Q. And so a lot of people use that to download I
5 think you mentioned Ironman.

6 A. Ironman. That's one of the movies I remember
7 seeing on the computer.

8 Q. That's a long movie ---

9 A. Long movie.

10 Q. --- takes a lot of memory and UTorrent is the
11 program you down load that one because it's got all the
12 power in it?

13 A. It does. And then its hard for the movie industry
14 to traffic or to police those cites.

15 Q. And that's the programs that so many teenagers use
16 to download films because they're stealing them off the
17 internet; is that correct?

18 A. That's the main culprit for downloading full films
19 yes.

20 Q. And if a teenager wanted to download a long film,
21 he would probably use UTorrent wouldn't he?

22 A. Most likely. Otherwise if you start downloading it
23 on FrostWire or Limewire, if that person, the single person
24 you are downloading it from decides - his computer either
25 freezes up or he decides to turn his computer off, you've

1 lost your connection from that person.

2 Q. How do you do? You download it from a friend and
3 for whatever reason his computer is going to freeze up, how
4 do you prevent that from happening?

5 A. That's why they use the Torrent cites so you -

6 Q. UTorrent doesn't freeze up?

7 A. Right. It's less likely to freeze up and you've
8 got - you've got thousands of users that you can be - that
9 you can rely on to help get you that file.

10 Q. Now I'm having a real hard time understanding why
11 you implied that kiddy porn, teenagers or people copy kiddy
12 porn use FrostWire and uTorrent because those are the big
13 powerful programs but these videos that we watched - What,
14 ten minutes at the most - why did you imply that anyone
15 using FrostWire or uTorrent was downloading kiddy porn when
16 kiddy porn you can download the simplest easiest program?
17 You don't have to use one of these high powered programs.
18 Why did you imply that anybody can use that program to down
19 load kiddy porn when kiddy porn didn't even use that
20 program?

21 A. There's actually a lot of kiddy porn on both
22 Limewire and FrostWire.

23 Q. There is a lot of movies, legitimate movies out of
24 Hollywood that are on FrostWire and uTorrent are there not?

25 A. Mostly on uTorrent yes, sir.

COLIN DUNCAN: BY MR. SOWELL

-203-

1 Q. So why did you imply to this jury that if you use
2 uTorrent, you get uTorrent on your program, you're
3 downloading kiddy porn?

4 A. No. If the user has got uTorrent that he would be
5 downloading kiddy porn?

6 Q. Yes, sir.

7 A. No. It's likely it would be most likely that the
8 user would be downloading long two hour films instead of
9 ten minute video clips on uTorrent because those movies are
10 two hours long and it could take twenty hours to download
11 them.

12 Q. Why did you tell this jury that this computer had
13 FrostWire or uTorrent on it and therefore you knew it was
14 probably being used to download kiddy porn? Did you mean
15 to tell them that?

16 A. I don't recall telling them that

17 Q. The Solicitor you told him the same time. So when
18 you said about this computer having FrostWire and uTorrent
19 on it used to download kiddy porn were all wrong wasn't it?

20 A. The kiddy porn that was found on the item is - that's
21 the way in which it got there both on line from FrostWire
22 and the uTorrent program. It was searched for through
23 uTorrent and it was --

24 Q. And that's only --

25 SOLICITOR ANTHONY: Objection.

1 THE COURT: Let him finish his answer. Yeah. Let
2 him finish his answer.

3 A. I can definitively say that it was - that both
4 programs were used to download child pornography with both
5 programs. FrostWire has a folder called a save folder and
6 a folder that's called an incomplete folder. I found
7 videos in both of those folders in the FrostWire file
8 structure. And those videos were subsequently moved to
9 that - the folder that was named New Folder. The uTorrent
10 files that were searched or that were downloaded were -
11 there were traces of search, the search history in the
12 uTorrent search engines, the Lolita and the Preteen PTHC,
13 so both programs were used to download.

14 Q. FrostWire's kind of ----- share?

15 A. I don't know if it's a messaging program or not.
16 You're not using your real name so you just look like
17 another client or a host computer out on the network.

18 Q. I didn't think people used their real name on
19 Facebook?

20 A. I'd say at least Ninety percent of the users use
21 their real name on Facebook.

22 Q. So let me see if I understand this. The fact that
23 he had FrostWire and uTorrent on that computer could be
24 that he put the download program on there so his
25 stepdaughters could download movies?

COLIN DUNCAN: BY MR. SOWELL

-205-

1 A. That's correct

2 Q. And the --

3 A. Movies and music.

4 Q. And that would fully explain why he had FrostWire
5 and uTorrent on that computer because that computer
6 belonged to the girls; isn't that logical?

7 A. It's logical. Might not fully explain it but
8 it's logical.

9 Q. Which second drive did you talk about had the IronMan
10 program on it?

11 A. It was just a separate drive that had no Windows
12 operating system on it. It seemed like it was used just
13 for storage.

14 Q. Is that Number Two in that --

15 A. It was actually -- We labeled it as actually Drive
16 One. But it was not the drive that was booted up when you
17 pushed the power on. You had to go and access the drive by
18 clicking on it and it was simply just used for storage.

19 Q. And when you booted up the other drive, didn't you
20 come to the Windows screen; turn into a movie screen and
21 turn it into a Windows screen did it not?

22 A. No because we don't boot it; we don't boot the drive
23 up. We just simply look at the file structure and so I
24 just looked at the files that were saved on it and it was a
25 bunch of Hollywood type movies.

COLIN DUNCAN: BY MR. SOWELL

-206-

1 Q. A bunch of Hollywood type movies?

2 A. Yeah full length films. You know hour and a half,
3 two hours films.

4 Q. Like the films the girls were supposed to be
5 downloading?

6 SOLICITOR ANTHONY: Objection. He wouldn't know the
7 girls downloaded --

8 THE COURT: I sustain the objection.

9 BY MR. SOWELL:

10 Q. Like the films the girls did download?

11 SOLICITOR ANTHONY: Objection.

12 THE COURT: I sustain the objection.

13 BY MR. SOWELL:

14 Q. Like the films that somebody downloaded?

15 A. Somebody certainly downloaded them.

16 Q. Did you find any evidence in all your investigation
17 that indicated Mr. Bishop didn't teach the girls how to use
18 uTorrent or FrostWire on that computer and walked out and
19 didn't go back?

20 SOLICITOR ANTHONY: Once again, objection. That just
21 requires speculation.

22 THE COURT: Yeah. I sustain the objection.

23 BY MR. SOWELL:

24 Q. Now, on the drive when someone wanted to watch a
25 movie on that computer, do they go to pictures and then to

COLIN DUNCAN: BY MR. SOWELL

-207-

1 movies and then or a box there you typed in the name of the
2 movie you wanted to see?

3 A. I'm sure they could have done a search if they knew
4 the actual key words to get to the movies. But these were
5 saved under a My Documents folder.

6 Q. These were saved under My Documents?

7 A. Right. Under - No. Sorry, not My Documents but
8 under a particular user's - the main user C Windows web.
9 So on the C drive; on the main drive.

10 Q. Do you know that the step-father's - father is a
11 computer geek and he makes computers or builds computers?

12 SOLICITOR ANTHONY: Objection.

13 THE COURT: I over rule the objection. If he knows he
14 knows. If he doesn't he doesn't.

15 A. No, sir.

16 Q. Now if a computer geek built one computer for the
17 girls and he sold them another computer and taught them
18 how to use uTorrent and Mr. Bishop used his computer to
19 download movies that had no kiddy porn on it, do you have
20 any evidence Mr. Bishop done anything improper?

21 SOLICITOR ANTHONY: Once again objection, speculation.

22 THE COURT: I sustain the objection.

23 BY MR. SOWELL:

24 Q. I note that in this document that we have entered
25 into evidence ---

COLIN DUNCAN: BY MR. SOWELL

-208-

1 A. Yes, sir.

2 Q. --- and all these - what do you call these things
3 down here?

4 A. Just file attributes.

5 Q. File attributes created, written off -

6 A. That's right.

7 Q. Now how is it Mr. Bishop's name is listed on all
8 this?

9 SOLICITOR ANTHONY: I'm sorry. What was the question?

10 THE COURT: I didn't understand the question either.

11 Ask the question again.

12 Q. How Mr. Bishop's name entered into all those file
13 attributes?

14 A. That's simply the case name. So the location in the
15 full path location is it simply starts with the C drive so
16 Bishop has nothing to do with the identification of the
17 drive. It's simply just a reference for the case that the
18 examiner that I was working with. So in each instance
19 there you would just start with the file path of C, C
20 Windows for the file location.

21 Q. So if you were trying to be fair to Mr. Bishop you
22 would omit that word Bishop on all these identifications
23 because he really didn't have nothing to do with it. Why
24 did you list his name?

25 A. That's the way our software saves each file so

COLIN DUNCAN: BY MR. SOWELL

-209-

1 otherwise - It's gonna generate a report to look like that.
2 I can certainly leave the name out and just put Item 2,
3 Drive 2 but --

4 Q. That would be fair to Mr. Bishop wouldn't it? Did
5 you intend for the jury to see this?

6 A. I've always done every report, I've always appended
7 each case name - case number with the name.

8 Q. Is that fair to Mr. Bishop for his name to say
9 "Ha, look what Mr. Bishop did." That's what you did when
10 you entered his name on all these things didn't you?

11 A. That's not --

12 Q. Tell the jury look at this --

13 SOLICITOR ANTHONY: Objection.

14 THE COURT: Wait. When you ask him a question he's
15 got to be given an opportunity to answer.

16 BY MR. SOWELL:

17 Q. Is that what you did?

18 A. That's not what I did. This is simply so if I had
19 to different cases going since it's easier to reference a
20 name than it is an eight character number, eight digit
21 number, it's easier for me to click on Bishop down at the
22 task bar when I'm working with evidence.

23 Q. And to be fair to Mr. Bishop you could have whited
24 all of that out before you introduced it to the jury
25 couldn't you?

COLIN DUNCAN: BY MR. SOWELL

-210-

1 A. I certainly could have whited it out I guess so.

2 Q. Wouldn't that be fair to him?

3 A. Sure. Yes.

4 Q. Thank you. Now this hash value that means that
5 you all have seen this picture before in some national
6 committee that attorneys have seen and so if that picture
7 ever shows up anywhere a big red flag is gonna say obscene,
8 obscene, obscene?

9 A. That's --

10 Q. The hash value --

11 A. That's true.

12 Q. So if that picture ever shows up anywhere on a
13 computer, it's going to have that number behind it?

14 A. That's true. Unless the pictures been altered in
15 any way.

16 Q. And if someone takes one of these pictures and puts
17 it on the internet that number is going to flash behind it?

18 A. It's going to stay the same.

19 Q. And immediately some place up in Virginia or
20 Pennsylvania somewhere is going to say ha we got an
21 obscene, something on the internet that's obscene and this
22 is what it is and a big red flag?

23 A. Normally you have to post them in large numbers but
24 Yahoo and AOL and Goggle they're pretty good about self
25 reporting. They will report it to the national center in

COLIN DUNCAN: BY MR. SOWELL

-211-

1 Virginia if they flag a file that's on that list of known
2 CP images.

3 Q. Anybody who's a computer expert knows that don't
4 they?

5 A. No.

6 Q. They don't?

7 A. I would say no.

8 Q. Just you and me the only one/s that know it?

9 A. A lot of people don't know about hash values.

10 Q. But from this point forward you and I are gonna know
11 if you put a picture on the internet and they're declared
12 obscene, then ---

13 A. If it's been verified --

14 Q. --- somebody's gonna start screaming?

15 A. That's right. If it's been verified and it's a
16 known, it's a known victim and it's one that's often traded
17 and it's not new content and it's not already known, then
18 it's out there.

19 Q. Six or 9 o'clock the next morning you gonna knock
20 on your door aren't you?

21 A. Let's hope so.

22 Q. If anyone who is a computer geek knew that he would
23 know not to download or send out the picture wouldn't he?

24 A. A geek or not I think he would know not to send
25 that picture out.

COLIN DUNCAN: BY MR. SOWELL

-212-

1 Q. Not to download it too doesn't he?

2 A. I would say so.

3 Q. So somebody in Pennsylvania or DC or wherever it is
4 anytime one of these pictures gets on the internet either
5 receiving or sending it somebody in DC said go down there
6 in Union, South Carolina and pull up in some yard and knock
7 on his door?

8 A. That's not - no, sir.

9 Q. Wouldn't that thing happens?

10 A. They're not likely gonna come after you for one
11 picture. We've got thousands here in this state that are
12 using FrostWire and LimeWire to download the same type
13 content.

14 Q. So would anybody download twenty-five or thirty-five
15 and not expect a knock on the door?

16 A. I would hope they would expect a knock on the door.

17 Q. And would anyone download twenty-five videos and
18 not expect a knock on the door?

19 A. We have people that we've arrested two or three
20 times because they continue to do it so I wish I could
21 speak for everybody.

22 Q. Did they know how you caught them?

23 A. They did in some cases.

24 Q. And they still kept doing it?

25 (WITNESS INDICATED.)

COLIN DUNCAN: BY MR. SOWELL

-213-

1 THE COURT: You have to answer yes or no.

2 A. Yes, sir, they still do it.

3 Q. This last video we saw. When was the last time that
4 surfaced?

5 A. That is not a known video to me. Its' not one I've
6 seen over the four years that I've been doing computer
7 exams. Its not one that - There are certain videos that I
8 see on nearly all the computers that contain child
9 pornography or videos so that was a new video to me at
10 least.

11 Q. Well all these video - What did you call this thing?
12 What did you call this?

13 A. Oh. The attributes or the different file data.

14 Q. On all these video attributes they all have a hash
15 value. Do they all involve obscene?

16 A. No, sir.

17 Q. Well which ones have been declared obscene? They all
18 have hash values written on them.

19 A. Right. Any file - every file has a hash value.

20 Q. So you can't tell if they've been declared obscene
21 without looking at your report here?

22 A. I can't. I can't.

23 Q. Would every picture that goes on the internet
24 automatically gets a hash value?

25 A. Every picture - Every file created automatically

COLIN DUNCAN: BY MR. SOWELL

-214-

1 gets a hash value. You can down load a program, a free
2 program that can scan your entire computer and give every
3 file on your computer a hash value.

4 Q. Would I have to give it a hash value or does it
5 automatically come up on my computer?

6 A. It automatically comes up. It will - the algorithm
7 generates the hash value for each file.

8 Q. So any picture I put on the internet can be
9 traced forever?

10 A. Not necessarily traced but -

11 Q. Can you tell whether - Can you tell what computer
12 that picture came from though?

13 A. Not necessarily.

14 Q. Well --

15 A. Only - Only if you upload it and somebody flags it
16 and then they can trace it.

17 Q. What do you mean by somebody flags it?

18 A. If Yahoo is scanning their servers for known hash
19 values or known child pornography, and they see that there
20 is a file that contains contraband and they can find out
21 who uploaded it or from what IP address and then they find
22 out who owns that IP address whether it be Time Warner or
23 Charter Cable or whatever internet server provider owns
24 that range of IP addresses and they go back and find out
25 who pays the bill for that IP address.

COLIN DUNCAN: BY MR. SOWELL

-215-

1 Q. Agent Case told us there was an error on one of these
2 disc. Are you familiar with that?

3 A. I'm familiar. I saw the imaging worksheet. Its not
4 an error I would have ever seen while examining the
5 computer. It's something that was generated while he was
6 making a copy --

7 Q. A copy verification?

8 A. Yes, sir.

9 Q. I'm not sure I fully understand all this. You're
10 saying the dates on your summaries mean nothing if the
11 computer had been cut off and left -

12 SOLICITOR ANTHONY: Objection.

13 Q. Is that what you're saying?

14 THE COURT: Your objection?

15 SOLICITOR ANTHONY: Ask and answered.

16 THE COURT: I over rule the objection. This is cross.

17 BY MR. SOWELL:

18 Q. And you said you had no evidence of anybody reporting
19 coping all those things on or about May 14th of 2009 or
20 May 6, 2010?

21 A. Nothing recorded for those dates.

22 Q. You have nothing on or about those dates?

23 A. No, sir.

24 Q. And you found no porn on Doug's laptop?

25 A. No, sir.

COLIN DUNCAN: BY MR. SOWELL

-216-

1 Q. In all these porn you found on one of these computers
2 owned by the girls none of them had no porn at all on them?

3 A. That's correct

4 Q. And I believe you said the date of the last access
5 means nothing because it could be just make a little mouse
6 over some kind of access code?

7 A. It could certainly change the date if you moused
8 over it or clicked it once.

9 Q. And if someone were trying to find a movie on one
10 of these computers all they would have to do is go to
11 the computer program or a movie program and put in the name
12 of the movie and it'll pop up?

13 A. If they were trying to download a movie?

14 Q. Yes, sir.

15 A. For the FrostWire you're ask - you open the program
16 and type in what you're looking for in FrostWire. And in
17 the uTorrent you actually go to Google basically and then
18 Google whatever it is you're looking for plus the word
19 uTorrent and you get sites that have that file.

20 Q. And if you were trying to find a movie do you have
21 a choice between looking for program on FrostWire - You got
22 a hundred movies on your computer, do you have to go to
23 FrostWire to find the ones that FrostWire loaded down and
24 uTorrent find the ones that uTorrent loaded down?

25 A. No because you could tell both programs to save them

COLIN DUNCAN: BY MR. SOWELL

-217-

1 into the same folder, My Documents, My Movies.

2 Q. And if you wanted to peruse one of these folders can
3 you just start at the top and go down or do you have to
4 have some kind of idea what the name of the program is?

5 A. Sure. You can just click - double click into the
6 folder, open the folder and look at the contents of the
7 folder.

8 Q. But if you were looking for say IronMan and you put
9 in Iron Man these videos that obscene films on it, they
10 wouldn't pop up if you put in Iron Man?

11 A. If you're searching for Iron Man I don't think you
12 would get videos like we watched today.

13 Q. And if you were looking for one that had say
14 something about a police chase, you wouldn't get these type
15 movies would you?

16 A. No. I don't think the word police or chase would
17 be used in one of those titles.

18 Q. And if you're looking at one about Christmas
19 Vacation, you put in Christmas Vacation there is no way for
20 these obscene movies to pop up?

21 A. Somebody could certainly use the word Christmas if
22 there was a Christmas child pornography video when the user
23 simply typed in Christmas it's possible that he or she
24 would get...

25 Q. Now many movies were on that bad film, on that bad

1 drive?

2 A. Thirty movies.

3 Q. Thirty bad movies?

4 A. Thirty bad --

5 Q. Thirty bad videos. Would total movies, full fledged
6 Hollywood movies, how many Hollywood movies were on that
7 disc?

8 A. I'd say roughly the same amount, thirty, and then
9 there's a bunch of cartoons like animation, animation
10 movies, Japanese animation.

11 Q. Is it entirely possible that someone were looking
12 for a clean movie to go to that computer and download a
13 name and a movie pop up, the movie they were looking for,
14 and then have no idea that these obscene movies were on
15 that computer?

16 A. It's entirely possible but if the movies, the obscene
17 movies were already on the computer that somebody doing an
18 entirely fresh or a new search, yeah, they're not going to
19 see the movies that have already been stored on the
20 computer.

21 Q. So --

22 A. When the program - When you open the program its
23 not going to show you what you've already downloaded.

24 Q. So if Doug showed the girls how to download these
25 movies, and then he went back to work on his laptop, he

COLIN DUNCAN: BY MR. SOWELL

-219-

1 probably would never know the obscene movies were on that
2 computer would he?

3 SOLICITOR ANTHONY: Once again, objection,
4 speculation.

5 THE COURT: Well I over rule you're objection.

6 Go ahead.

7 A. Can you repeat? I'm sorry.

8 Q. If Doug showed the girls or anybody else, how to
9 download movies, genuine Hollywood movies, and then he went
10 back in his room and worked on his laptop, and they stayed
11 in 364 days a year like they told us there were over there,
12 and kept playing with the computer, is there any evidence
13 that Doug ever knew what programs or what movies were put
14 on that hard drive?

15 A. No there's nothing that says he was the actual
16 user of the computer when those files were downloaded.

17 Q. And I understand if you're saying there is no
18 evidence that Doug did no movies from that report?

19 A. I say there is no evidence that says he knew yes.
20 Yes there's no evidence.

21 Q. You're saying yes no --

22 A. All right, sir.

23 Q. Are you saying that there is no evidence. The State
24 has no evidence that Doug knew those obscene movies were on
25 that hard drive.

COLIN DUNCAN: BY MR. SOWELL

-220-

1 SOLICITOR ANTHONY: Objection.

2 THE COURT: Yeah. I sustain the objection.

3 BY MR. SOWELL:

4 Q. Was there anything you did to tell you that Doug
5 knew those obscene movies were on that hard drive?

6 A. There were certain searches that I found that I
7 would think that young teens would not know or be familiar
8 with to enter in such search engines to pull up certain
9 videos.

10 Q. Well if they're daddy who made the computer taught
11 them how to use uTorrent they would know wouldn't they?

12 A. I don't know that they would know the term PTHC and
13 Lolita and Preteen.

14 Q. They wouldn't know what Preteen means?

15 A. They might know Preteen. I don't think they would
16 know PTHC.

17 Q. You don't think teenagers know what we're talking
18 about?

19 A. I didn't know what PTHC or Lolita meant until, you
20 know, until a few years ago.

21 Q. You and I grew up at different times. But teenagers
22 these days know how to search for questionable movies don't
23 they?

24 A. They certainly do.

25 Q. I think that answers they certainly do?

COLIN DUNCAN: BY MR. SOWELL

-221-

1 A. I would think if they want to look at such material
2 they can find out how to find it.

3 Q. So when I ask --

4 A. If they don't know their friends know.

5 Q. Pardon me?

6 A. If they don't know their friends know likely.

7 Q. So if a thirteen or fourteen year old girl or her
8 seventeen year old sister wanted to find a racy movie they
9 can certainly do that couldn't they?

10 A. Yes.

11 Q. All these pictures and videos that you found they
12 were not attempting to erase them?

13 A. They looked as though they had been. Since we don't
14 look at the computer in it's native environment we don't
15 ever see the Windows screen flash up we can't say for
16 certain but it looks as though they appeared to have been
17 deleted or tried to have been deleted. I can say that.

18 Q. So a --

19 A. So a user going to a computer your average user
20 would not have been able to navigate the folder structure
21 and find those files at the time we examined it.

22 Q. My question is the pictures that you found on the
23 computer - Let's see, there was two versions erased. My
24 eraser to me and your eraser to you, and yours is a lot
25 more complicated in detail and all this stuff, but the

COLIN DUNCAN: BY MR. SOWELL

-222-

1 simple eraser, my type of eraser, would these files have
2 been attempted to be erased on that hard drive?

3 A. Yes.

4 Q. So you found these by your work not by somebody who
5 actually --

6 A. Correct.

7 SOLICITOR ANTHONY: I'm sorry. I didn't follow the
8 question.

9 MR. SOWELL: The question is, would these files
10 attempted to be erased.

11 SOLICITOR ANTHONY: I heard that. What was the next
12 question?

13 I just didn't hear the question.

14 A. Were they attempted to be erased maybe.

15 MR. SOWELL: I don't remember the question after --

16 SOLICITOR ANTHONY: Okay.

17 BY MR. SOWELL:

18 Q. So someone attempted to erase these pictures.

19 A. Yes, sir.

20 Q. And someone attempted to erase those videos?

21 A. Yes, sir.

22 Q. Now a - someone with my life experience would not
23 have been able to erase them, deleted from the present
24 eraser but not from your type of eraser. Would a geek who
25 wanted to erase them from a computer have been able to?

COLIN DUNCAN: BY MR. SOWELL

-223-

1 A. A geek would have been able to I would think.

2 Q. So --

3 A. Although - I'm sorry. Although we've had several
4 Geeks that we found child pornography and they weren't
5 using any kind of sophistication storage wise or any - some
6 were saving them in just a My Document folder content that
7 they had saved.

8 Q. So these pictures someone downloaded them didn't
9 want their mother or anybody else find out they downloaded
10 them, after they downloaded them they erased them.

11 SOLICITOR ANTHONY: Once again objection. That's
12 assuming facts not in evidence.

13 THE COURT: I sustain the objection.

14 BY MR. SOWELL:

15 Q. Is it probable - Let me back up. If a - someone
16 of my caliber, my lack of expertise, downloaded these
17 films, looked at them, giggled at them, laughed about them,
18 didn't want their mother to know they did it and they
19 erased them, but a geek would have known to use your type
20 of eraser; is that correct?

21 A. A geek probably would have formatted the entire
22 computer and you would have no data whatsoever on the
23 if we had gotten it and a geek could touch the computer if
24 somebody was really trying to cover their tracks.

25 Q. If all these pictures were erased probably by someone

COLIN DUNCAN: BY MR. SOWELL
BY SOLICITOR ANTHONY

-224-

1 that they would not have erased by a geek -

2 SOLICITOR ANTHONY: Well objection.

3 THE COURT: I sustain the objection.

4 BY MR. SOWELL:

5 Q. Does it appear that someone of my expertise tried
6 to erase these pictures?

7 SOLICITOR ANTHONY: Objection.

8 THE COURT: I'm not sure he knows what you're
9 expertise is. You've told us several times but I think
10 this - I think that's not a good question so I sustain the
11 objection.

12 BY MR. SOWELL:

13 Q. No question someone attempted to erase these
14 pictures?

15 A. Someone attempted yes.

16 Q. And a geek would probably have known how to
17 permanently erase them?

18 A. A geek probably would have known but a geek doesn't
19 always choose that method.

20 Q. Thank you, sir.

21 MR. SOWELL: Nothing further, Your Honor.

22 REDIRECT EXAMINATION

23 AGENT COLIN DUNCAN BY SOLICITOR ANTHONY:

24 Q. You were ask about a set of dates. I'll just ask you
25 do you, is there evidence from the examination you did that

COLIN DUNCAN: BY SOLICITOR ANTHONY

-225-

1 between the 25th of February 2010 and the 6th of May of
2 2010 that there were representations of minors who were
3 engaged in sexual activity downloaded to that Hitachi
4 computer that you examined?

5 A. That's correct. February 25th, 2010 to April 20th,
6 2010.

7 Q. Okay. And so you have evidence of the downloading
8 of sexually explicit material during those days?

9 A. That's correct

10 Q. All right. And is it also true that in order to
11 - in order for that material to have been downloaded there
12 would have to had been a reception by the computer - by the
13 operator using the Hitachi drive?

14 A. That's correct

15 Q. There would have been receipts of material?

16 A. That's - I'm not sure I'm understanding.

17 Q. There would be a receipt of at the reception of
18 sexually explicit material over the internet to the
19 computer?

20 A. Yes, sir, that's correct.

21 Q. And is it your job to figure out who downloaded
22 sexually explicit material there? Basically is what you do
23 at SLED figuring out who is doing the downloading?

24 A. No it's just basically to find the contraband.

25 Q. Okay. And is there any evidence - You were ask if

COLIN DUNCAN: BY SOLICITOR ANTHONY

-226-

1 there was any evidence just from your examination of the
2 computer if there was anything found on the computer that
3 would attach to download the files to Mr. Bishop. Do you
4 recall that?

5 A. Yes, sir

6 Q. Okay. And I believe your answer was no there is not;
7 is that correct?

8 A. That's correct

9 Q. Is there any evidence that would attach the down-
10 loading of material to anybody else beside Mr. Bishop?

11 A. No, sir.

12 Q. Okay. So is there anything on that computer that
13 basically like a flag that says, you know, Joe Smith is
14 sitting here at the computer downloading child pornography?

15 A. No, sir.

16 Q. Okay. Now you were ask about the hash values. I
17 just want to make sure I understand this. If a picture -
18 Does the picture have to be obscene or sexually explicit to
19 have a hash value?

20 A. No, sir.

21 Q. Okay. So basically that's every photo; is that
22 correct?

23 A. Any file, any file period. A text file, photo,
24 video, it doesn't matter.

25 Q. And but there are I take it photos that have

COLIN DUNCAN: BY SOLICITOR ANTHONY

-227-

1 identifiable hash values; is that correct?

2 A. That's correct.

3 Q. Or they've been flagged as hash values connected to
4 obscene or sexually explicit material?

5 A. That's correct

6 Q. Okay. Is in your experience are those type photos,
7 you aware of those type photos and videos still being
8 downloaded?

9 A. That's correct. A lot of them are common types
10 that are downloaded and are familiar with me.

11 MR. SOWELL: Are we talking about downloading by
12 anybody?

13 SOLICITOR ANTHONY: Yes. Just in general.

14 A. Yes.

15 Q. They still being downloaded?

16 A. Yes. I've seen a lot of different pieces of
17 evidence that have come in.

18 Q. All right. And this is even though a lot of these
19 photos circulate?

20 A. They do.

21 Q. And even though at someone who is a computer geek
22 might very well know that these hash values - the hash
23 values on these pictures have been marked; is that correct?

24 Like of people who - people who are interested in
25 downloading this material might very well know they're

COLIN DUNCAN: BY SOLICITOR ANTHONY

-228-

1 downloading something that's been marked.

2 A. Oh certainly.

3 Q. Okay. And in your experience is that still going
4 on?

5 A. Absolutely.

6 Q. Okay. And I take it that's probably why SLED is
7 still in the business of enforcing, trying to enforce the
8 laws pertaining to this?

9 A. That's correct

10 Q. You were ask about a laptop.

11 SOLICITOR ANTHONY: If I can have just one moment.

12 (PAUSE.)

13 Q. All right. You don't as far as any kind of laptop
14 you would not have actually set down with a laptop and
15 analyzed it; is that correct?

16 A. That's correct. I never would have touched the
17 physical device or the computer.

18 Q. Okay. So you don't know like really what you were
19 when you were ask questions about analyzing Item No. 3 I
20 believe it was, and Mr. Sowell was referring to that
21 laptop, do you know if that was a laptop?

22 A. No, sir.

23 Q. Okay. All it is for you is data on a server?

24 A. That's right.

25 Q. Okay. So you don't know what that was?

COLIN DUNCAN: BY SOLICITOR ANTHONY

-229-

1 A. No, sir.

2 Q. Okay. Now as to the FrostWire. Was there evidence
3 that you found on that computer that FrostWire had been
4 used in accessing child pornography?

5 A. Yes.

6 Q. And just tell the jury, what was that evidence?

7 A. Well by default FrostWire creates a folder and a
8 title is saved and a folder title shared and a folder
9 entitled incomplete. And by default everything that you
10 download through FrostWire automatically goes into your
11 shared folder and movies that you may - movies or music -
12 any types files that you're starting to download and for
13 some reason they're interrupted they go into the incomplete
14 folder and found traces of file names that were downloaded
15 through FrostWire that contained child pornography terms.
16 And they were not stored there when I did - when we created
17 the report but there were traces that they had been stored
18 there originally but they existed there originally and then
19 they were either deleted or moved out of that - the shared
20 or the saved folder.

21 Q. Okay. And was there evidence that there had been
22 searches of FrostWire or child pornography?

23 A. I don't recall there being any. I don't recall any
24 of the terms other than - I think there was a PTHC search.

25 Q. All right. Going to the uTorrent. Was there

1 evidence from your analysis that the uTorrent program had
2 been utilized for accessing child pornography?

3 A. I couldn't see that the movie content had been
4 downloaded but I could see the content that had been
5 searched through uTorrent using some of those key words.

6 Q. And in your - What were the key words again?

7 A. Lolita, Preteen and PTHC.

8 Q. And in your experience is utilizing either FrostWire
9 or uTorrent to download child pornography, is that
10 something that's consistent with the behavior of teenage
11 girls?

12 MR. SOWELL: Your Honor, that's leading.

13 THE COURT: Well also - I sustain the objection.

14 BY SOLICITOR ANTHONY:

15 Q. And is - Well what do you have to go through to set
16 up either the uTorrent program or the FrostWire program?
17 They're both file sharing programs, what do you have to do
18 to set them up?

19 A. Simply just go and download them. They're both free
20 downloads on the web and click the file, the executable
21 file, they both are quick set ups, hit next a few times and
22 finish and you're ready to use both programs.

23 Q. All right. And in your experience is the setting up
24 of those programs something that would be done to store or
25 to require child pornography to be stored?

COLIN DUNCAN: BY SOLICITOR ANTHONY

-231-

1 A. Yes. We've certainly seen Limewire and FrostWire
2 used in the past.

3 Q. All right. If I can have just a moment.

4 (PAUSE AT 05:36 P.M..)

5 Q. Agent Duncan, can you tell the jury what a C Moss
6 battery is?

7 A. C Moss Battery is - it's a piece of hardware inside
8 the tower or laptop that actually keeps the time and date
9 of the machine.

10 Q. All right...

11 A. So it's not actually time and date on it is stored
12 on the hard drive.

13 Q. And what's the roll if there is say a power surge or
14 something like that with a computer, what's the roll of
15 that battery? What function does it perform?

16 A. Well it keeps the time and date accurate or course;
17 to tell the Windows operating system to reflect the right
18 time. And it would also maintains the date and time
19 integrity so you don't have to reset manually the time.
20 You don't get the flashing time for the Windows.

21 Q. All right. And when you - When the computer was
22 analyzed at SLED is the date and time correct?

23 A. Yes, sir. The time is correct I believe according
24 to Mr. Cave.

25 Q. And --

COLIN DUNCAN: BY SOLICITOR ANTHONY

-232-

1 MR. SOWELL: Your Honor, that's hearsay. Objection.

2 THE COURT: I sustain the objection.

3 Disregard what Mr. Cave said about the time. He would
4 have to testify to that.

5 BY SOLICITOR ANTHONY:

6 Q. And is there any indication from your analysis or
7 from your examination of the computer that there was ever
8 any kind of reset on the times on that machine?

9 A. No indication.

10 SOLICITOR ANTHONY: If I can have one moment.

11 (PAUSE AT 05:39 P.M..)

12 Q. When you received the computer, you received the
13 image worksheet from Mr. Cave?

14 A. That's correct. I had access to look at -

15 Q. All right. After looking at that would there have
16 been any reason for you to have any concern about whether
17 there had been a reset on the computer as far as the date
18 and time?

19 A. No, sir..

20 Q. You testified that it appeared that there had been
21 some attempt made to delete the files that you recovered;
22 is that correct?

23 A. That's correct

24 Q. Okay. But those files were still present for you
25 to --

COLIN DUNCAN: BY SOLICITOR ANTHONY

-233-

1 MR. SOWELL: Your Honor, I object to leading.

2 THE COURT: Rephrase your question.

3 BY SOLICITOR ANTHONY:

4 Q. Were they still accessible when you opened the
5 computer?

6 A. They were still accessible to me.

7 Q. Okay. And what happens over time that makes files
8 inaccessible to somebody like you?

9 A. If they become over ridden or if they become so
10 fragmented which means that they - if a file is stored and
11 it kind of gets degraded over time the file starts losing
12 bits and pieces of itself you may not be able to play an
13 entire video. If you don't have the entire file you can
14 double click the video you may have the title there and it
15 may look like it'll play but, you know, the entire video
16 won't play if you're missing - if you're getting - if
17 you're missing bits and pieces of a large file like that.
18 It could corrupt the entire file.

19 Q. So the fact that you were still able to recover the
20 items would indicate --

21 MR. SOWELL: Your Honor, that's - that's leading.

22 THE COURT: That's leading. That's a leading
23 question.

24 BY SOLICITOR ANTHONY:

25 Q. Well what would be indicated about the presence of

COLIN DUNCAN: BY SOLICITOR ANTHONY

-234-

1 the items and in fact you were able to recover?

2 A. That they had just been merely deleted or thrown in
3 the recycle bin and may have not been - that they were not
4 over written. They just at the most simplest attempts I
5 guess were made to delete the file.

6 Q. And the last files - Well I'll show you Exhibit -

7 MR. SOWELL: Your Honor, it looks like to me the
8 question --

9 BY SOLICITOR ANTHONY:

10 Q. I'll show you --

11 MR. SOWELL: That's just --

12 THE COURT: Let's hear the question before we
13 decide.

14 BY SOLICITOR ANTHONY:

15 Q. I'll show you Exhibit 5-A. If you would what were
16 the last four dates that files were created on the hard
17 drive?

18 A. The last four dates would be 4/17/2010; 4/18; 4/19 and
19 4/20/2010.

20 Q. Okay. And this may sound like a stupid question.

21 I'll just ask it. Can a file be deleted before its
22 created?

23 A. No, sir.

24 Q. So what would that tell you about at least the files
25 from 4/17/2010 to 4/20/2010 as far as when they were

COLIN DUNCAN: BY SOLICITOR ANTHONY
BY MR. SOWELL

-235-

1 deleted? When someone may have been able to delete them?

2 A. If they were deleted after 4/20 or after 4/21.

3 Q. All right.

4 A. The dates following those set of four days.

5 SOLICITOR ANTHONY: If I can have one moment.

6 (PAUSE.)

7 SOLICITOR ANTHONY: Thank you.

8 That's everything on redirect.

9 RECROSS EXAMINATION

10 AGENT COLIN DUNCAN BY MR. SOWELL:

11 Q. You said you didn't have the laptop but you had a
12 laptop hard drive did you not?

13 A. Yes, sir.

14 Q. And the laptop hard drive sort of tells you
15 everything about that computer.

16 A. Yes the hard drive will tell me other than the
17 physical box or laptop that it came from or device it came
18 from. It will almost tell me everything.

19 Q. And you didn't find any obscene pictures on that
20 laptop did you?

21 A. Not on that laptop. Not on the laptop drive.

22 Q. I believe this laptop is a 80 gigabyte hard drive
23 is it not?

24 A. I would not be certain. The laptop could be a 40
25 gig drive. That's correct. 82 - the drive in question,

COLIN DUNCAN: BY MR. SOWELL

-236-

1 82.3 gigabyte hard drive.

2 Q. This is a 80 gigabyte hard drive? .

3 A. Yes, sir.

4 Q. And 80 gigabyte hard drive's went out with the
5 1962 Corvair?

6 A. Yeah they've not been around for a while.

7 Q. So tell me how old this computer is?

8 A. I say the computer could be at least be - at least
9 be four years old maybe.

10 Q. Maybe fifteen?

11 A. No I wouldn't think fifteen.

12 Q. 80 gigabytes four years ago?

13 A. Maybe five, four or five years ago.

14 Q. Now show me where the C Moss battery is.

15 A. The C Moss battery is on - The C Moss battery is
16 this guy right here.

17 (INDICATING.)

18 Q. Okay. Now that --

19 THE COURT: The jury can't see what you all talking
20 about.

21 A. It looks like a watch battery. Here on the mother
22 board.

23 Q. And so that battery is four to five years old?

24 A. Yes certainly. It would have come with the computer.

25 Q. And how old would that computer be, four to five

COLIN DUNCAN: BY MR. SOWELL

-237-

1 years old?

2 A. I'd say four to five years old.

3 Q. And the C Moss battery is how old?

4 A. Four to five years old.

5 Q. And how long do they normally last?

6 A. I've never had to replace one.

7 Q. You ever had a computer that old?

8 A. Well certainly.

9 Q. Did you check to see if that C Moss battery was
10 any good?

11 A. I did not check it.

12 Q. Could have though couldn't you?

13 A. I guess I could have but I don't touch the boxes, the
14 computers physically so not likely that I would have done
15 that.

16 Q. So you would just rather assume the C Moss battery
17 is good than run the risk of having to testify to this jury
18 the C Moss battery is bad; is that correct?

19 SOLICITOR ANTHONY: Objection. Its irrelevant.

20 THE COURT: I sustain - Well I don't know if it's
21 irrelevant but the way its posed I sustain the objection.

22 BY MR. SOWELL:

23 Q. If you wanted to verify the truth of all of your
24 statements made today you would check to see if the C
25 Moss battery was good?

COLIN DUNCAN: BY MR. SOWELL

-238-

1 A. I would have done Mr. Cave's job like if I wanted
2 to verify the time was correct but that's not my - its
3 not my --

4 Q. So its Mr. Cave's job to check the C Moss battery?

5 A. He verifies date and time that's right.

6 Q. We don't know if he checked the C Moss battery do
7 we?

8 A. We know that he verified the date and time.

9 Q. Just that it's set the date and time you checked it
10 had nothing to do with the C Moss battery did it?

11 A. I'm not certain.

12 Q. Well if the C Moss battery had been checked then
13 we could truthfully tell this jury I guess it worked or it
14 didn't work couldn't we?

15 A. I guess so. We don't - I don't know if we even
16 have a C Moss battery checker.

17 Q. Well isn't it possible to take it out of this
18 computer and put it in another to see if it works?

19 A. Sure but we don't have --

20 Q. So we'd rather convict an innocent man and allow
21 a guilty man go free?

22 SOLICITOR ANTHONY: Objection.

23 THE COURT: I sustain the objection.

24 BY MR. SOWELL:

25 Q. No question you had that laptop's hard drive?

COLIN DUNCAN: BY MR. SOWELL

-239-

1 A. Never physically, only over the network.

2 Q. You didn't have that box of things that were
3 removed pursuant to the search warrant?

4 A. We had them in our lab, in our evidence locker but
5 I never physically saw them or touched them or handled
6 them.

7 Q. But you did have the hard drive?

8 A. I had an image of the hard drive.

9 Q. And all the questions you gave me earlier are still
10 accurate?

11 SOLICITOR ANTHONY: I'm sorry, I didn't --

12 THE COURT: I didn't understand that either.

13 Reask the question again.

14 BY MR. SOWELL:

15 Q. All the answers you gave earlier are still accurate
16 aren't they?

17 A. Yes, sir.

18 Q. Now when we were discussing we talked about how
19 uTorrent program is used by all these people who are
20 stealing this big long Hollywood type movies. And we
21 discussed the fact that its doubtful that someone would use
22 uTorrent to copy the four or five or fifteen minute X rated
23 films. We talked about that didn't we?

24 A. That it's unlikely.

25 Q. And then your testimony evolved apparently -

COLIN DUNCAN: BY MR. SOWELL

-240-

1 SOLICITOR ANTHONY: Objection.

2 THE COURT: Let's don't comment on his testimony.

3 Just ask him a question. I sustain the objection.

4 BY MR. SOWELL:

5 Q. So during redirect a few minutes ago you said that
6 uTorrent is used to download porn films. You told me it's
7 not used to download porn movies. It's used to download
8 big long movies. But on redirect John was able to convince
9 you to testify --

10 THE COURT: No.

11 SOLICITOR ANTHONY: Objection.

12 THE COURT: Ask --

13 BY MR. SOWELL:

14 Q. Did John ask you was uTorrent used to download porn
15 films and what was your answer?

16 A. I'm not certain but in my experience uTorrent is
17 not normally used to download porn films.

18 Q. Why did you tell John it was in front of this jury?

19 A. I can't recall - recall that.

20 Q. Don't you remember him asking you about did you have
21 any evidence that FrostWire was used to download porn ---

22 A. Right. And there was evidence --

23 Q. --- on this computer?

24 A. There was evidence that FrostWire was used.

25 Q. And then he ask you about uTorrent and you said yes

COLIN DUNCAN: BY MR. SOWELL

-241-

1 uTorrent was used to download porn?

2 A. I don't recall saying it was used to download porn.

3 Q. So when you said that you didn't mean it? It's not
4 accurate was it?

5 A. If I said it yeah it certainly wasn't accurate.

6 Q. So uTorrent is not used to download porn films?

7 A. It can certainly be used to download porn films.

8 Q. It can be but normally is not. Is that accurate?

9 A. I would say normally it is not that's accurate.

10 Q. And FrostWire is more likely to be used to download
11 porn. FrostWire is also used to download movies; is that
12 not correct?

13 A. Porn movies?

14 Q. No. Regular two hour movies.

15 A. No. FrostWire no. FrostWire is also used to do that
16 but Hollywood is able to track those. The motion picture
17 industry is able to track the content on those much easier
18 so it's less likely that the two hour movies are going to
19 be downloaded on FrostWire.

20 Q. So teenagers who download from FrostWire can get
21 themselves in trouble?

22 A. Well they're just going to have a harder time
23 getting the content because it's not as readily available
24 as it is on uTorrent sites.

25 Q. I think you said that all these people work together

1 on this FrostWire they --

2 A. On uTorrent they work together.

3 Q. Pardon me?

4 A. uTorrent sites they work together.

5 Q. They don't work together on FrostWire?

6 A. FrostWire is simply a peer to peer. It's just a
7 single computer to a single computer.

8 Q. But FrostWire is used to download Hollywood movies
9 and also used to download porn?

10 A. FrostWire can be used to download either of those.

11 Q. Well uTorrent is not used for anything except the
12 Hollywood movies.

13 A. That's not correct. Its used to download any type
14 of content but mostly Hollywood movies and software. If
15 you wanted a copy of Adobe Photo Shot an unlicensed copy
16 that's where you would go.

17 Q. So when you talk about uTorrent being used as porn
18 movies that was completely inaccurate?

19 A. If I said that that was completely inaccurate.

20 Q. And you were ask did you have any proof that the
21 time had been reset on this computer and you said no I have
22 no proof of it.

23 A. No, sir.

24 Q. But would it have been fairer and more truthful to
25 say I have no proof it was or was not reset? Do you have

COLIN DUNCAN: BY MR. SOWELL

-243-

1 any proof it was not reset?

2 A. No, sir.

3 Q. So when he ask you if you have any proof that it had
4 been reset, you could have more honestly said I don't have
5 any proof whether it was or wasn't reset; is that correct?

6 A. That's correct.

7 Q. Now you said you had some evidence that one or a
8 small number of films had been downloaded on FrostWire and
9 it was incomplete. Could that have been when mom walked in
10 the room?

11 SOLICITOR ANTHONY: Objection.

12 THE COURT: I sustain the objection.

13 BY MR. SOWELL:

14 Q. If a teenager was downloading porn and heard mom
15 coming down the hallway, if she had cut it off right quick,
16 would that be the same evidence of the incomplete movies

17 ---

18 SOLICITOR ANTHONY: Objection. Speculation.

19 Q. --- like you talked about earlier?

20 THE COURT: Well, I think - the question really is
21 if it was cut off in the middle of downloading for whatever
22 reason.

23 BY MR. SOWELL:

24 Q. Would that have completed the result in the same?

25 A. If the program is then started back up at a later

COLIN DUNCAN: BY MR. SOWELL

-244-

1 date then the program will attempt if the person simply did
2 not delete that file from the cue that download cue when
3 you restart the program it's going to go back out and try
4 to start, finish that download. So its likely that it
5 would be given - go in the incomplete folder yes if it was
6 either cut off the download was stopped right there or if
7 the user on the other end that the file was coming from
8 went off line.

9 Q. If the person downloading for whatever reason had to
10 go to emergency cancel and cancel the download and delete
11 the temporary file or incomplete file, would it have shown
12 up as the same result as when you testified you found it?

13 A. Are you saying the person deleted it out of the cue?

14 Q. For whatever reason they stopped the downloading and
15 erased it and closed the file and cut the computer off for
16 whatever reason, would that have ended up in the same
17 result as you found when you found a incomplete download?

18 A. Yes, sir.

19 MR. SOWELL: Nothing further.

20 THE COURT: You can step down and be excused.

21 Thank you. We appreciate your time.

22 MR. DUNCAN: Thank you, sir.

23 (WITNESS LEAVING WITNESS STAND.)

24 THE COURT: We done for the day?

25 SOLICITOR ANTHONY: Yes, sir.

-245-

1 THE COURT: All right. Members of the jury panel,
2 its time to stop for the day and we'll start back at 10 in
3 the morning. Keep in mind my admonition about you not
4 going on line and not reading about it and discussing the
5 case and trying to make up your own mind. We'll see you
6 back at Ten in the morning. Have a pleasant evening.

7 (JURY EXITS COURTROOM AT 06:00 P.M..)

8 THE COURT: Mr. Anthony, where are we?

9 SOLICITOR ANTHONY: Since I moved everything in that
10 will be my case. I would just require of Ms. Nelson is
11 she sure everything has been moved in?

12 (PAUSE.)

13 SOLICITOR ANTHONY: We're good. It appears that that
14 is going to be my case, Your Honor.

15 And this is Twenty.

16 MADAME COURT REPORTER: Thank you.

17 Are you happy, Mr. Sowell? Now before it goes back
18 to the jury I would like for you to go through everything.
19 Before it goes back yes, sir.

20 MR. SOWELL: I was watching you.

21 MADAME COURT REPORTER: I'm sorry.

22 MR. SOWELL: I was watching you.

23 MADAME COURT REPORTER: Appreciate it.

24 Yes, sir, Judge.

25 THE COURT: Okay. Then I'll let you --

1 SOLICITOR ANTHONY: She's put - Ms. Nelson has placed
2 an exhibit tag on my witness list but that's not an
3 exhibit.

4 MADAME COURT REPORTER: That's where my witness list
5 went to.

6 SOLICITOR ANTHONY: I guess --

7 MADAME COURT REPORTER: I'm sorry, Mr. Anthony.

8 SOLICITOR ANTHONY: Yeah. It may have just gotten
9 mixed up with some other papers or something. Well Six is
10 not in evidence.

11 THE COURT: All right. I'll let you rest in front of
12 the jury tomorrow but I will treat this stage as the State
13 having rested.

14 Any motions?

15 MR. SOWELL: Yes, Your Honor. Move for a directed
16 verdict.

17 THE COURT: Keep your voice up a little, I'm having
18 trouble hearing you.

19 MR. SOWELL: We move for a directed verdict and
20 acquittal. The State has failed to prove it's prima facie
21 case. Your Honor has heard all of this evidence. I can
22 review it for you but I don't think that will be necessary.
23 I don't anticipate you granting the motion on -

24 THE COURT: Well -

25 MR. SOWELL: Your Honor heard everything.

-247-

1 THE COURT: I think there is sufficient, there is
2 direct evidence and there is substantial circumstantial
3 evidence from which the jury could find that the State has
4 by beyond a reasonable doubt proven the allegations of the

5 --

6 MR. SOWELL: Your Honor, reasonable doubt was an issue
7 this morning.

8 THE COURT: I beg your pardon.

9 MR. SOWELL: Your Honor, reasonable doubt is not an
10 issue at this point.

11 THE COURT: Well I know reasonable doubt is not an
12 issue but the issue for me is whether or not there is
13 enough evidence from which the jury could reach that
14 conclusion. That is, is whether or not the evidence is
15 sufficient. I'm not finding that they've proven anything.
16 That's not my job. I'm just saying that evidence exist,
17 substantial circumstantial and direct evidence from which
18 the jury could reach a verdict of guilt. Maybe a better
19 way to say it would be without a reasonable doubt so motion
20 for directed verdict is denied.

21 All right, Mr. Bishop, can you hear me?

22 MR. BISHOP: Yes, sir.

23 THE COURT: We've reached the point in the trial where
24 you have a right to present a defense if you wish, you do
25 not have to present a defense because you are presumed

1 (COURT REPORTER DREW LOT.)

2 THE COURT: All right.

3 THE CLERK: It will be Juror No. 188, Clyde Millwood.

4 THE COURT: All right. Mr. Millwood will now be on
5 the panel.

6 Now anything else before we get the jury in?

7 SOLICITOR ANTHONY: No, sir.

8 MR. SOWELL: My understanding he's going to rest and
9 say - no need for me to renew my motion?

10 THE COURT: That's correct. And are you presenting a
11 case; that is, you gonna be calling witnesses?

12 MR. SOWELL: Yes, sir.

13 THE COURT: Okay. Anybody have any request to charge?

14 MR. SOWELL: Burden of proof plus your normal -

15 SOLICITOR ANTHONY: I don't have anything unusual. I
16 know there is a statutory definition that has to be
17 charged.

18 THE COURT: Well, I couldn't find any statutory
19 definitions. You might need to help direct me to that
20 because there is a lot of words in there.

21 SOLICITOR ANTHONY: Yes, sir.

22 THE COURT: And I looked to see if I could find a
23 definition section and I'll look again. The Clerk, he's
24 working on the charge so he's got the code section back
25 there, the code, but I did not find the definition section.

-254-

1 SOLICITOR ANTHONY: Okay.

2 THE COURT: Well I did as to sexual - Well, I couldn't
3 as to some of the words, receive, duplicate, all those
4 things I guess.

5 SOLICITOR ANTHONY: Those aren't defined.

6 THE COURT: Okay. Then I do have the other
7 definitions.

8 SOLICITOR ANTHONY: Okay.

9 THE COURT: The other word would be just up to the
10 common cost.

11 Bring in the jury.

12 THE CLERK: Judge, do we need to make this a Court's
13 Exhibit or not?

14 THE COURT: I would. She doesn't have enough paper
15 work.

16 (WHEREUPON: COURT'S EXHIBIT NUMBER ONE IDENTIFIED
17 AND MARKED, RECEIVED INTO THE RECORD.)

18 SOLICITOR ANTHONY: Your Honor, there's one thing
19 I'll go ahead and cover.

20 THE COURT: When I ask you all this I really need to
21 know. Now we got -

22 SOLICITOR ANTHONY: I can just cover it when he
23 testifies. That's fine. I'll just approach. Thank you.

24 (JURY REENTERS COURTROOM AT 10:31 A.M..)

25 THE COURT: Mr. Millwood, I have excused Mr. Knight.

1 He didn't do anything wrong. I don't want nobody having
2 any ill will toward him or feel like he did something
3 wrong. He did exactly what he was supposed to so he's been
4 excused. And Mr. Millwood is now on the jury panel.

5 And even though you were drawn as the alternate before
6 Mr. Millwood we don't go in order. We pull lots so you got
7 pulled. We didn't over look you, that's just the way it
8 works.

9 Call your next - The State I understand is resting?

10 SOLICITOR ANTHONY: Yes, sir.

11 THE COURT: Okay. The State has rested, that is, the
12 State is telling us it has presented its case. And so now
13 the defense has a right but no obligation to present a case
14 and call witnesses if it wishes.

15 Mr. Sowell.

16 MR. SOWELL: Your Honor, it's my understanding I need
17 to restate my prior motion, need to be made at this time.

18 THE COURT: All right. Motions were properly made and
19 at the proper time and have been ruled on and the ruling
20 still stands.

21 MR. SOWELL: The Defendant will call Chance Williams.

22 (WHEREUPON: CHANCE WILLIAMS,
23 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

24 DIRECT EXAMINATION

25 CHANCE WILLIAMS BY MR. SOWELL:

CHANCE WILLIAMS: BY MR. SOWELL

-256-

1 Q. Chance, what's your full name?

2 A. Chance Nicholas Williams.

3 Q. And how old are you?

4 A. Seventeen.

5 Q. When's your birthday?

6 A. August 13th, 1994.

7 Q. And do you know Doug Bishop?

8 A. Yes, sir.

9 Q. Do you know his wife?

10 A. Yes, sir.

11 Q. Does he have any step-daughters?

12 A. Yes, sir.

13 Q. Do you know his wife's ex-husband?

14 A. Uh, kind of. A little.

15 Q. Did you - Have you ever visited his home on Pine
16 Street?

17 A. Yes, sir.

18 THE COURT: When you say his, you mentioned several
19 peoples names, so instead of using - I think you need to --

20 BY MR. SOWELL:

21 Q. Have you ever visited the home of Doug Bishop on
22 Pine Street?

23 A. Yes, sir. I used to live there.

24 Q. You used to live there?

25 A. Yes, sir

CHANCE WILLIAMS: BY MR. SOWELL

-257-

1 Q. And did you ever visit with his home on Wardlaw
2 Street?

3 A. Yes, sir, I visited there I never stayed there.

4 Q. You never lived there?

5 A. Yes, sir.

6 Q. Did you ever spend the night there?

7 A. Once.

8 Q. Did you ever stay in the wee hours of the night or
9 late at night --

10 SOLICITOR ANTHONY: Objection, leading.

11 THE COURT: I sustain the objection.

12 Just rephrase it.

13 BY MR. SOWELL:

14 Q. How late did you ever stay there on Wardlaw Street?

15 A. Uh I'm not sure. I mean I stayed over there it was
16 never later probably about Ten, Nine.

17 Q. And are you familiar with the computers that are in
18 his home?

19 A. Yes, sir

20 Q. I call your attention to this computer that's sitting
21 there on the counter. Have you ever seen that computer?

22 A. Yes, sir

23 Q. Where did you see that computer?

24 A. It was in the living room.

25 Q. Did you ever see another tower also?

CHANCE WILLIAMS: BY MR. SOWELL

-258-

1 A. I remember the laptop and that computer.

2 Q. And where was the laptop?

3 A. It stayed in the living room too but sometimes Doug
4 kept it in his room.

5 Q. And did you ever see Doug on the tower computer?

6 A. Not the big computer in the living room cause that
7 was the girl's. The only time he was on that one was
8 helping me or Kelly or Brittany sometimes.

9 Q. I'm not sure the jury can understand what you just
10 said. Repeat that.

11 A. The only time he got on there was when he was
12 helping us with something and he stayed on the other
13 computer because that was his.

14 Q. Are you saying he used the laptop and he would use
15 the large computer to help you and the girls learn now to
16 do something?

17 A. Yes, sir.

18 Q. Did you ever see other kids in the neighborhood
19 playing with the larger computer?

20 A. Yes, sir, all kinds of kids come over and got on
21 the computer.

22 Q. When he first moved to Wardlaw Street, did - how
23 long after that did you first visit him over there on
24 Wardlaw Street?

25 A. Uh it wasn't too long after that.

CHANCE WILLIAMS: BY MR. SOWELL
BY SOLICITOR ANTHONY

-259-

1 Q. And after he moved to Wardlaw Street, did you see
2 a large number of teenagers come into his home using his
3 computer?

4 A. Yes, sir there was still kids coming over using his
5 computer.

6 Q. And would Doug play on the computer with them or
7 is that the girls computer?

8 A. That was the girls computer.

9 Q. Did Doug ever play on that computer?

10 A. Uh not that I know of.

11 Q. When Doug wasn't helping you or the girls or some
12 other neighborhood girl, teenagers, learn how to use the
13 computer did you ever see him on the large computer by
14 himself?

15 A. No, sir.

16 Q. Any time you saw Doug use the computer when he
17 wasn't with someone else or trying to assist someone else,
18 what computer was he on?

19 A. The laptop.

20 MR. SOWELL: Nothing further, Your Honor.

21 Answer any questions...

22 CROSS EXAMINATION

23 CHANCE WILLIAMS BY SOLICITOR ANTHONY:

24 Q. Mr. Williams, let me make some things clear here.

25 You used to live on Pine Street; is that correct?

CHANCE WILLIAMS: BY SOLICITOR ANTHONY

-260-

1 A. Yes, sir.

2 Q. Okay. And who did you live with on Pine Street?

3 A. I lived with Doug and his wife and my daddy was
4 staying there at the time.

5 Q. Okay. Your father's name is Chris Williams?

6 A. Yes, sir.

7 Q. Okay. And Doug's wife's name is Dana. Correct?

8 A. Yes, sir.

9 Q. And there was a relationship between your father,
10 Chris Williams, and Doug's wife Dana Bishop; is that right?

11 A. Yes, sir.

12 Q. Okay. And when you all lived on Pine Street together
13 all three, Ms. Williams was in a house or - I'm sorry, Ms.
14 Bishop, Dana Bishop, was in a house with her husband and
15 your father; is that right?

16 A. Yes, sir.

17 Q. Okay. And she was - basically she was married to
18 Mr. Bishop but she was in a relationship with your dad.

19 A. I don't know if she was in a relationship then. I
20 know when we moved out she moved in with my dad.

21 Q. Okay. She was in a relationship with Chris Williams,
22 your father at some time - Well, you all lived - the three
23 adults, Mr. Bishop, Ms. Bishop, Mr. Williams your dad, are
24 all together in a house on Pine Street; is that correct?

25 A. Yes, sir

CHANCE WILLIAMS: BY SOLICITOR ANTHONY

-261-

1 Q. Okay. And so when Mr. Bishop moved - Mr. Bishop,
2 Ms. Bishop's husband, the defendant Doug Bishop, he moved
3 to Wardlaw Street. Right?

4 A. Yes, sir

5 Q. Okay. And he moved out and -

6 MR. SOWELL: Your Honor, I assume counsel will lay
7 some kind of foundation to show that this is relevant.

8 THE COURT: Well this is cross examination. It's
9 cross examination and I - if that's an objection I over
10 rule it.

11 BY SOLICITOR ANTHONY:

12 Q. And he left your father and his wife on Pine Street.
13 Correct?

14 A. Yes, sir

15 Q. And then --

16 THE COURT: Keep in mind when you use these pronouns
17 you're talking about two or three males and when you ---

18 SOLICITOR ANTHONY: I'm sorry.

19 THE COURT: --- say he, some of us don't know who
20 he is.

21 BY SOLICITOR ANTHONY:

22 Q. Mr. Bishop left your father Chris Williams and Ms.
23 Bishop living at the house on Pine Street; is that right?

24 A. Yes, sir

25 Q. And you still lived on Pine Street too ---

CHANCE WILLIAMS: BY SOLICITOR ANTHONY

-262-

1 A. Yes, sir

2 Q. --- when Mr. Bishop moved to Wardlaw Street; is
3 that right?

4 A. Yes, sir

5 Q. Okay. And then Mr. Williams is your dad and Ms.
6 Bishop moved again. Right?

7 A. Yes, sir.

8 Q. And Mr. Bishop moved to Wardlaw Street, Ms. Williams
9 and Mr. Bishop and you all moved to Linersville Road; is
10 that correct?

11 A. Yes, sir

12 Q. Okay. So for a time Ms. Bishop was living with your
13 father; just Ms. Bishop and your father, the two adults in
14 the house, and Mr. Bishop was over on Wardlaw Street by
15 himself; is that right?

16 A. Yes, sir

17 Q. Okay. Now you moved, you stayed with your dad.
18 Correct?

19 A. Yes, sir.

20 Q. So you moved to Linersville Road. Correct?

21 A. Yes, sir.

22 Q. And you say that there were times you'd go over to
23 Mr. Bishop's house at Wardlaw Street; is that right?

24 A. Yes, sir

25 Q. Well wasn't there some tension between Mr. Bishop

CHANCE WILLIAMS: BY SOLICITOR ANTHONY

-263-

1 and your father?

2 A. Not really.

3 Q. Okay. That when Mr. Bishop moved out of the house
4 on Pine Street there were no problems between Mr. Bishop
5 and your dad over Ms. Bishop?

6 A. If there was I didn't - I ain't - you couldn't tell.

7 Q. You couldn't tell?

8 A. Yeah.

9 Q. Well what was your - What was your - What were you
10 told was the reason Mr. Bishop moved out?

11 A. I knew why he moved out.

12 Q. You don't know why he moved out?

13 A. I knew why he moved out.

14 Q. You knew why he moved out. He moved out because
15 he didn't like Ms. Bishop being with your dad. Right?

16 A. Yes, sir.

17 Q. That's a yes?

18 A. Yes.

19 Q. Okay.

20 MR. SOWELL: Your Honor, this is all speculation, no
21 evidence to tie it up. Questions that ain't facts.

22 THE COURT: Well if the young man doesn't know the
23 answer he can tell us.

24 MR. SOWELL: He can't answer on speculation though.

25 THE COURT: Well he can't speculate that's why if he

CHANCE WILLIAMS: BY SOLICITOR ANTHONY

-264-

1 didn't know he can say I don't know.

2 BY SOLICITOR ANTHONY:

3 Q. So your testimony is that even though Mr. Williams
4 and Mr. Bishop were together when Mr. Bishop moved out of
5 the house on Pine Street, you were still going over to
6 Wardlaw Street where Mr. Bishop lives?

7 A. Yes, sir.

8 Q. I mean why would you go over there for?

9 A. Because I went over there because Brittany and Kelly
10 went over there and I'd go over there and play games on the
11 computer and stuff like that.

12 Q. Okay. So Brittany and Kelly would be over there;
13 they were over at Mr. Bishop's house on Wardlaw Street at
14 least some of the time?

15 A. Yes, sir.

16 Q. Is that right? Okay. And you'd go over there
17 some of the time; is that right?

18 A. Yes, sir.

19 Q. Okay. And how often would you be over there?

20 A. I mean sometimes he'd come pick us up after school
21 when I'd go over there with them and then he'd carry us to
22 Linersville Road and sometimes I'd just ride the bus to my
23 house. Its just -

24 Q. You mean you wouldn't go to Wardlaw Street; you'd
25 just ride the bus from school to Linersville?

1 A. Sometimes.

2 Q. Okay. So sometimes you wouldn't go to Wardlaw
3 Street?

4 A. Yeah.

5 Q. But then some afternoons you'd go home with Brittany
6 and Kelly; is that right?

7 You need to say yes or no.

8 A. Yes, sir.

9 Q. Okay. But you would just stay there for the
10 afternoon and then Mr. Bishop would take you back to where,
11 to Linersville Road where his wife was living with your
12 father?

13 A. Yes, sir.

14 Q. Okay. And was that pretty much - That was pretty
15 much when you were there in the afternoons after school?

16 A. Yes, sir.

17 Q. Okay. And you say that when you were there, there
18 would be other kids who'd come in and they'd play on the
19 computer too?

20 A. Yes, sir.

21 Q. Is that correct?

22 A. Yes, sir.

23 Q. All right. Now after Mr. Bishop moved in at Wardlaw
24 Street, how long did you keep going over there?

25 A. I'm not sure.

CHANCE WILLIAMS: BY SOLICITOR ANTHONY

-266-

1 Q. I mean was there a point in time you stop going
2 over there?

3 A. Not really until we moved to Lockhart.

4 Q. When did you move to Lockhart?

5 A. When my daddy went to prison.

6 Q. Do you know when that was?

7 A. I'm not sure.

8 Q. Okay. Was there a time that Ms. Bishop moved out
9 of the house on Linersville Road?

10 A. Yes, sir.

11 Q. Were you still living on Linersville Road when
12 she moved out?

13 A. No. When my daddy went to prison I moved back in
14 with my mama and I'm not sure.

15 Q. Okay. So when you left, when you moved out of the
16 house on Linersville Road, Ms. Bishop was still living
17 there?

18 A. Yes, sir

19 Q. Okay. And up till that time there was still
20 afternoons you'd go over to Wardlaw Street?

21 A. Not after I moved ----

22 Q. No. I mean - I'm sorry, I didn't mean to - Let
23 me rephrase that. Before that time, before you moved out
24 of the house on Linersville Road there was still time you'd
25 go over to Wardlaw Street; is that right?

1 A. Yes, sir, when Brittany and Kelly went over there to
2 see Doug.

3 Q. Okay. And Mr. Bishop was still there?

4 A. Yes, sir.

5 Q. Okay. And you remember this particular desktop; is
6 that correct?

7 A. Yes, sir.

8 Q. And had that desktop, did that desktop come to
9 Wardlaw Street with Mr. Bishop? I mean did he take that
10 desktop out of the house on Pine Street and move it to
11 Wardlaw Street?

12 A. No, sir.

13 Q. What?

14 A. No, sir. When did it - When did that computer
15 wind up at Wardlaw Street?

16 A. I'm not sure when. It was still at Linersville
17 Road when my daddy went to prison and I went to Lockhart.

18 Q. Well I thought you testified that this computer here
19 was the one that you all played on?

20 A. It was.

21 Q. At Wardlaw Street?

22 A. I said it was the one we played on at Linersville
23 Road. He had the laptop like Wardlaw Street. He took his
24 computer...

25 THE COURT: You need to keep your voice up. I can't

CHANCE WILLIAMS: BY SOLICITOR ANTHONY

-268-

1 understand you.

2 BY SOLICITOR ANTHONY:

3 Q. Well I thought when you testified - Didn't you just
4 testify that you'd go home from school with Kelly and
5 Brittany and over at Wardlaw Street; is that right?

6 A. Yes, sir.

7 Q. Okay. And you testified you played on the computer.

8 A. The laptop when we went over there.

9 Q. Okay. So your testimony is you - When you went to
10 Wardlaw Street that computer wasn't even there?

11 A. I'm not - This is a long time ago.

12 Q. Well you know, you're under oath, Mr. Williams. You
13 know if you don't know -

14 A. I'm not sure.

15 Q. Okay. So could it have been there?

16 A. It could have.

17 Q. Or it might not have been there?

18 A. Yeah.

19 Q. You just don't know?

20 A. Yes, sir.

21 Q. And have - When the other kids played on the computer
22 you don't know which computer they would play on. Is that
23 what you're saying now?

24 A. On Pine Street I do.

25 Q. No. I'm asking about Wardlaw Street.

1 A. I'm not sure.

2 Q. So you can't say, you don't remember this computer
3 ever being there on Wardlaw Street is your testimony?

4 A. I'm not saying that. I'm just saying I don't know.

5 Q. Okay. Well do you remember when - What year it was
6 when Doug moved in on Wardlaw Street?

7 A. No, sir. I know it was when I lived on Linner --

8 Q. And Doug - I'm sorry.

9 A. It was in 2009 and 2010.

10 Q. Okay. And when Mr. Bishop moved out, he was - he
11 moved out - When he moved over to Wardlaw Street as far as
12 you know he was the only adult living there; is that right,
13 during his time on Wardlaw Street?

14 A. Yes, sir

15 Q. And Kelly and Brittany would stay over there with
16 Doug during that time?

17 A. Most of the time he's bring them back to their
18 mama's house on Pine Street.

19 Q. Okay. But they'd go over and see Doug after school?

20 A. Yes, sir

21 Q. And then - And did that continue - do you remember
22 him moving in in the summertime?

23 THE COURT: Him who?

24 SOLICITOR ANTHONY: I'm sorry.

25 Q. Do you remember Mr. Bishop moving in on Wardlaw

CHANCE WILLIAMS: BY SOLICITOR ANTHONY

-270-

1 Street in the summertime?

2 A. I'm not sure.

3 Q. You don't remember ---

4 A. No, sir.

5 Q. --- what time of the year it was?

6 Do you remember - But you moved - Your testimony is
7 you moved out of the house on Linersville while Ms.
8 Bishop was still there; that's correct? Okay. Okay.

9 And at that point whenever - whenever you moved out
10 of the house on Linersville Road, you quit going to
11 Wardlaw Street?

12 A. Yes, sir. I went back to stay with my mom in
13 Lockhart.

14 Q. Okay.

15 A. I didn't have no --

16 Q. Were you --

17 MR. SOWELL: Your Honor, he was trying to finish his
18 statement and he was interrupted.

19 SOLICITOR ANTHONY: I'm sorry.

20 Q. I didn't mean to cut you off. Anything else you
21 need to say?

22 A. I was just saying I didn't really have a way over
23 there so I didn't go over there any more.

24 Q. All right. Were you aware of when Ms. Bishop
25 moved back to Wardlaw Street?

CHANCE WILLIAMS: BY SOLICITOR ANTHONY

-271-

1 A. No, sir.

2 Q. You weren't?

3 A. No, sir.

4 Q. You don't have any idea when that happened?

5 A. No, sir.

6 Q. Okay. But basically you moved back to Lockhart, that
7 was the end of you going to Wardlaw Street?

8 A. Yes, sir.

9 Q. And you don't know what was going on after you
10 moved back to Lockhart? You don't know what was going on
11 on Wardlaw Street; is that correct?

12 A. Not after I moved back to Lockhart.

13 Q. All right. You don't know who would be coming in
14 and playing on the computer; is that correct?

15 A. Yes, sir.

16 Q. Okay. And even though you don't know which computer
17 was there, which computers were there, is it safe to say
18 that the people you saw playing on a computer at Wardlaw
19 Street were all teenagers?

20 A. Most of the time it was teenagers like Brittany and
21 Kelly. They'd have friends that's come home or they'd go
22 over there and play on the computer and stuff like that.

23 Q. All right. And would it be fair to say it was
24 friends from school hanging out after school?

25 A. Yeah.

CHANCE WILLIAMS: BY SOLICITOR ANTHONY

-272-

1 Q. Okay.

2 A. When I went over there if I had a friend with me he
3 always got on the computer. Pretty much the neighborhood
4 computer.

5 Q. And do you still see Mr. Bishop?

6 A. I talk to him sometimes when I see him.

7 Q. When do you see him? Where do you see him?

8 A. I just see him places like when I go places.

9 Q. Like what places?

10 A. Walmart, places like that.

11 Q. All right. How did you get notified about being
12 in court today?

13 A. I saw Doug.

14 Q. When did you see him?

15 A. It was like - I'm not sure how long ago it was.

16 Q. Well how did you come to see him?

17 A. I'm not really sure.

18 Q. Well that wasn't ---

19 A. I just ---

20 Q. --- too long ago ---

21 A. I just ---

22 Q. --- this week.

23 THE COURT: Wait. One at a time. Let him finish.

24 A. I was saying when I just happen to see Doug and
25 he was telling me about he had to go to court and he

CHANCE WILLIAMS: BY SOLICITOR ANTHONY

-273-

- 1 wanted me to come and be a witness.
- 2 Q. Okay. Well when was - How long ago was that?
- 3 A. About two weeks ago, three weeks ago.
- 4 Q. And do you remember where it was?
- 5 A. He come to Lockhart.
- 6 Q. He came to Lockhart?
- 7 A. Yeah.
- 8 Q. Is that where you live now?
- 9 A. Yes, sir.
- 10 Q. Did he come to your house?
- 11 A. I was walking around when I saw him.
- 12 Q. Okay. Did he tell you he was trying to find you?
- 13 A. (NEGATIVE RESPONSE.)
- 14 Q. All right.
- 15 A. And --
- 16 Q. But he came to Lockhart and basically told you he
- 17 wanted you to come to court today or come to court for this
- 18 case?
- 19 A. Yes, sir.
- 20 Q. All right. And do you know Destiny and Denise
- 21 C. [REDACTED]?
- 22 A. Yes, sir.
- 23 Q. You do?
- 24 A. Yes, sir.
- 25 Q. Okay. Would they be over there in the afternoons?

CHANCE WILLIAMS: BY SOLICITOR ANTHONY

-274-

1 A. Yes, sir.

2 Q. All right. And did the two of them spend a lot of
3 time over there at Mr. Bishop's house during this period
4 of time you were going over there?

5 A. Yes, sir.

6 Q. Because they were very good friends; the Cipriano
7 sisters were very good friends with Brittany and Kelly;
8 is that right?

9 A. Yes, sir.

10 Q. And you are aware that they would sometimes be
11 planning on staying over and spending the night there; is
12 that right?

13 A. Yes, sir.

14 Q. Okay. But you never did do that? You never spent
15 the night?

16 A. No, sir. I never stayed all night.

17 Q. And during this period of time that you were going
18 over there, were you aware that Doug didn't have a job?

19 A. No, sir.

20 Q. You didn't know if he had a job or not?

21 A. No, sir.

22 Q. All right. Would he be home in the afternoons?

23 A. Sometimes. Doug used to work at Timkin when we
24 lived on Pine Street.

25 Q. Okay. Well I'm just talking about Wardlaw Street.

CHANCE WILLIAMS: BY SOLICITOR ANTHONY

-275-

1 During that time on Wardlaw Street he's be home in the
2 afternoons?

3 A. Yes, sir.

4 Q. Okay. If I can just have a moment.

5 (PAUSE AT 10:56 A.M..)

6 Q. Now, Mr. Williams, you - how old are you now?

7 A. Seventeen.

8 Q. Okay. So back a couple of years ago you had been
9 fifteen?

10 A. Yes, sir.

11 Q. Is that right?

12 A. Yes, sir.

13 Q. And were you - were you and Brittany kind of
14 boyfriend girlfriend?

15 A. Yes, sir.

16 Q. I'm sorry.

17 A. Yes, sir.

18 Q. Okay. And was that like during the time you were
19 living on Pine Street?

20 A. It was like right at the end when we first moved
21 to Linersville Road.

22 Q. Okay. So there's a period of time like - You mean
23 like right at the end of the time you lived on Pine Street?

24 A. Yes, sir.

25 Q. You were boyfriend girlfriend?

CHANCE WILLIAMS: BY SOLICITOR ANTHONY

-276-

- 1 A. Yes, sir.
- 2 Q. Okay. And then the two of you all broke up didn't
- 3 you?
- 4 A. Yes, sir.
- 5 Q. Okay. And that was when - That was after Doug -
- 6 Well was that before Doug moved over to Wardlaw Street or
- 7 after Doug moved to Wardlaw Street?
- 8 A. I'm not real sure.
- 9 Q. Okay. Would it have been at least just shortly after
- 10 Doug moved to Wardlaw Street?
- 11 A. I'm not really sure. I don't know.
- 12 Q. Isn't it true that Brittany got pretty mad at you
- 13 when you all broke up?
- 14 A. Yes, sir.
- 15 Q. She got pretty mad didn't she?
- 16 A. Yes, sir.
- 17 Q. And she didn't want you around her didn't she?
- 18 A. She didn't never said that.
- 19 Q. She didn't never say I don't want you around me?
- 20 A. No, sir.
- 21 Q. Could you tell she was mad at you?
- 22 A. I mean of course she was gonna get mad.
- 23 Q. All right. She got mad at you?
- 24 A. Yeah.
- 25 Q. And generally, I mean you're seventeen years old.

CHANCE WILLIAMS: BY SOLICITOR ANTHONY

-277-

1 Right?

2 A. I am now yes, sir.

3 Q. All right. When your girlfriend gets mad at you
4 that pretty much means she doesn't want you around doesn't
5 it?

6 A. Yes, sir.

7 Q. All right. And so didn't you - didn't you ease off
8 going to Wardlaw Street because of that breakup?

9 A. I mean she wasn't really mad at me then because, I
10 mean I broke up with her on Pine Street. I was living with
11 her on Linersville Road for a long time and really we just
12 become friends.

13 Q. All right. Did the breakup occur after you - she
14 moved to Linersville Road with Ms. Bishop; is that right?

15 A. Yes, sir.

16 Q. Brittany did? Brittany moved to Linersville Road.
17 You two broke up while you were living on Linersville Road;
18 is that correct? While you all were living in the same
19 place; is that right? The two of you, you and Brittany?

20 A. Yeah. We broke up on Pine Street and we lived
21 together down on Linersville Road so we just...

22 Q. Okay. You broke up on Pine Street?

23 A. I'm not real sure. This was a long time ago.

24 Q. All right. But isn't it safe to say that there was
25 a period of time that Brittany didn't want you coming

CHANCE WILLIAMS: BY MR. SOWELL
BY SOLICITOR ANTHONY

-278-

1 around where she was gonna be after school?

2 A. I guess so.

3 SOLICITOR ANTHONY: If I can have just one minute.

4 (PAUSE AT 11:00 A.M..)

5 SOLICITOR ANTHONY: All right. No further cross.

6 THE COURT: Redirect?

7 MR. SOWELL: Yes, Your Honor.

8 REDIRECT EXAMINATION

9 CHANCE WILLIAMS BY MR. SOWELL:

10 Q. Did the fact that your father and Doug's wife had
11 some kind of relationship, does that mean you couldn't be
12 Doug's friend?

13 A. No, sir.

14 Q. Did you continue to be his friend?

15 A. Yes, sir.

16 Q. Are you still his friend?

17 A. Yes, sir.

18 Q. When you would come over to his house on Wardlaw
19 Street, did you see - did you ever see Doug playing on the
20 tower computer?

21 A. No, sir.

22 Q. Did you ever see a bunch of teenagers playing on the
23 tower computer?

24 A. I mean I guess if that was Doug's computer. I'm not
25 real sure.

1 Q. Did you see a bunch on Wardlaw Street? Did you see
2 a bunch of kids playing on the big computer there?

3 A. Yes, sir.

4 Q. Did you ever see Doug playing on the big computer?

5 A. I'm not really sure on Wardlaw Street but I know
6 when we lived on Pine Street we had and I ain't never seen
7 him on it. He was always on his computer.

8 Q. He used the laptop and kids used the tower?

9 A. Yes, sir.

10 Q. And you visited the family on Wardlaw Street?

11 A. Yes, sir.

12 Q. Did you visit the family there when the girls were
13 living there?

14 A. Not when they were living there.

15 Q. Did you visit the family there when the girls were
16 visiting Doug there?

17 A. Yes, sir.

18 Q. And did you and the girls and other teenagers use
19 the big tower computer?

20 A. Yes, sir.

21 Q. At Pine Street did you ever see Doug using the big
22 tower computer except to show you and the kids and the
23 girls how to use it?

24 A. No, sir.

25 Q. Did you see the girls sitting back here that was

CHANCE WILLIAMS: BY MR. SOWELL

-280-

1 helping Mr. Anthony?

2 A. Sir?

3 Q. Did you see the girls sitting back here on the back
4 row that was helping Mr. Anthony?

5 A. Yes, sir.

6 Q. Did she accuse you of homosexual activities?

7 SOLICITOR ANTHONY: Objection.

8 THE COURT: Well, I over rule the objection. I think
9 I saw you discussing something with somebody. I don't know
10 who it was.

11 SOLICITOR ANTHONY: I'm not objecting to the question
12 about whether he saw them. I'm objecting to the question
13 that he just ask about allegations -

14 THE COURT: Well I over rule the objection.

15 BY MR. SOWELL:

16 Q. Did Brittany get mad at you when this girl back here
17 accused you of messing with her -

18 SOLICITOR ANTHONY: Objection. That's leading.

19 THE COURT: Rephrase your question.

20 SOLICITOR ANTHONY: And move to strike.

21 THE COURT: Strike the question.

22 BY MR. SOWELL:

23 Q. Was there any relationship in time that Brittany
24 broke up with you and this girl back here accused you of
25 messing with her on the trampoline?

CHANCE WILLIAMS: BY MR. SOWELL

-281-

1 SOLICITOR ANTHONY: Objection. That's leading and
2 move to strike.

3 THE COURT: Rephrase your question.

4 BY MR. SOWELL:

5 Q. Did Brittany break up with you after this girl back
6 here accused you of molesting her on the trampoline?

7 SOLICITOR ANTHONY: Objection. Move to strike. It's
8 leading.

9 THE COURT: Well, I over rule the objection.

10 Go ahead.

11 A. We wasn't dating then.

12 Q. I'm sorry.

13 A. Me and Brittany wasn't dating then.

14 Q. You and Brittany weren't dating at all when this
15 girl accused you of molesting her?

16 A. Yes, sir.

17 Q. But that was on Pine Street?

18 A. Yes, sir.

19 Q. How long did they live on Pine Street?

20 A. I'm not real sure. It was a good while.

21 Q. A good while?

22 A. Yes, sir.

23 MR. SOWELL: Nothing further, Your Honor.

24 THE COURT: Recross?

25 RECROSS EXAMINATION

CHANCE WILLIAMS: BY SOLICITOR ANTHONY

-282-

1 CHANCE WILLIAMS BY SOLICITOR ANTHONY:

2 Q. Now, didn't you just say on cross examination that
3 you didn't even know if this computer was in the house on
4 Wardlaw Street?

5 A. I'm not real sure.

6 Q. Okay. But then Mr. Sowell got up and ask you a
7 question and you just told him that that was the computer
8 in the house; right?

9 A. I'm sure it was the one on Pine Street. I don't
10 know about Wardlaw Street.

11 Q. Okay. Well I'm asking you about Wardlaw Street.
12 You said you don't even know if that computer went to
13 Wardlaw Street?

14 A. No, sir.

15 Q. Okay. And when you were talking about Doug using a
16 laptop, that's using a laptop on Pine Street?

17 A. Yes, sir.

18 Q. Okay. Because that laptop tore up didn't it?

19 MR. SOWELL: Your Honor, there's no testimony that
20 laptop tore up.

21 THE COURT: There's no what?

22 MR. SOWELL: There's no testimony that laptop tore up.

23 THE COURT: Well --

24 SOLICITOR ANTHONY: Well I'm asking him --

25 THE COURT: Yeah. I think the doors been open as to

1 the use of that laptop where and when, so I over rule the
2 objection.

3 BY SOLICITOR ANTHONY:

4 Q. The laptop was tore up wasn't it?

5 A. Not that I know of.

6 Q. But you don't - you just testified about seeing Doug
7 use the laptop on Pine Street; right?

8 A. Yes, sir.

9 Q. You don't recall him using it on Wardlaw Street?

10 A. Yes he still had the laptop on Wardlaw.

11 Q. All right. Do you recall it tearing up?

12 A. No, sir. I ain't...

13 Q. I'm sorry.

14 A. No.

15 Q. And at some point you said the girls moved
16 out of the house on Linersville Road; the P [REDACTED] girls?

17 A. I'm not sure. I was moved back to Lockhart.

18 Q. Okay. When you moved back to Lockhart were they
19 still living in the house on Linersville Road; the P [REDACTED]
20 girls?

21 A. With their momma.

22 Q. I'm sorry.

23 A. With their momma.

24 Q. Okay.

25 SOLICITOR ANTHONY: If I can have just one second.

CHANCE WILLIAMS: BY SOLICITOR ANTHONY

-284-

1 (PAUSE.)

2 Q. And you testified I believe Mr. Sowell ask you if
3 you were still friends with Doug; is that right?

4 A. Yes, sir.

5 Q. And you said you are.

6 A. Yes, sir.

7 Q. Okay. And you said that Doug came to Lockhart to
8 see you a couple of weeks ago?

9 A. Yes, sir.

10 Q. Okay. Like how many times have you seen Doug say in
11 the past couple of months?

12 A. I'm not really sure. I see him when I see him.

13 Q. All right. But friends help each other out; right,
14 Mr. Williams?

15 A. I mean I know what you're trying to say with that
16 question.

17 Q. Friends help each other out don't they?

18 A. Yes, sir.

19 SOLICITOR ANTHONY: If I can have just one moment.

20 Q. You were ask about an accusation being made against
21 you; is that correct?

22 A. I'm not sure.

23 Q. I mean you were ask, you were ask if Destiny Cipriano
24 had ever accused you of molesting her; is that right?

25 A. Yes, sir.

1 Q. Were you ever questioned about that by the police?

2 I'm asking the question, were you ever questioned
3 about that by the police?

4 A. No, sir.

5 Q. Okay. I mean to your knowledge did that ever get
6 reported to anybody that you had done anything to her?

7 A. No, sir.

8 Q. What?

9 A. No, sir.

10 Q. So as far as you know she never reported that to
11 anybody?

12 A. I'm not sure. As far as I know she did.

13 Q. But nobody came and talked to you about it?

14 A. I mean people ask me about it.

15 Q. No. I'm asking you did any law enforcement people

16 ---

17 A. No.

18 Q. --- ever come to talk you about it?

19 A. No, sir.

20 SOLICITOR ANTHONY: All right. That's everything.

21 THE COURT: You can step down and be excused. Thank
22 you for your time.

23 (WITNESS LEAVING WITNESS STAND.)

24 THE COURT: Call your next witness.

25 MR. SOWELL: Your Honor, we call Dennis Tucker.

DENNIS TUCKER: BY MR. SOWELL

-286-

(WHEREUPON: DENNIS CARSON TUCKER,
BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

DIRECT EXAMINATION

DENNIS CARSON TUCKER BY MR. SOWELL:

Q. Dennis what is your full name?

A. Dennis Carson Tucker.

Q. And how old are you?

A. Thirty-four.

Q. And where do you live?

A. [REDACTED]

Q. Is that here in Union?

A. Yes, sir.

Q. And 217 Wardlaw, that's near where Doug lives is it
not?

A. Yes, sir.

Q. Next door?

A. Yes, sir.

Q. And how long have you known Dennis? I'm sorry, Doug.

A. I've known Doug probably since '93.

Q. Would you consider him a friend?

A. Yes, sir.

Q. Would you say an untruth to protect him?

A. No, sir.

Q. How long have you lived near Doug?

A. Off and on since '93.

DENNIS TUCKER: BY MR. SOWELL

-287-

1 Q. Do you live in the house that he once lived in?

2 A. He stayed with me for a couple of weeks.

3 Q. Doug lived at [REDACTED]?

4 A. Yes, sir.

5 Q. And is that across the street from you?

6 A. At an angle it is.

7 Q. And you said you all were friends since '94 you said?

8 A. '93, '94.

9 Q. Did you ever visit him at Pine Street?

10 A. Yes, sir.

11 Q. Did you ever see him or did you ever see his wife,

12 Dana, and her two daughters there with him?

13 A. Yes, sir.

14 Q. Were they living there with him?

15 A. Yes, sir.

16 Q. And did you ever see the daughters using a large

17 lap - desktop computer?

18 A. Yes, sir.

19 Q. Resemble the one there in front of you?

20 A. Yes, sir.

21 Q. And did you ever see Doug having anything to do with

22 that large computer?

23 A. The only time Doug was on that computer was when

24 there was a problem with it or he was helping one of the

25 kids.

DENNIS TUCKER: BY MR. SOWELL

-288-

1 Q. He was helping the kids?

2 A. Yes, sir.

3 Q. Did he help them with homework and things like that?

4 A. Yes, sir.

5 Q. When he was owning the computer in that house on
6 Pine Street, did he - what computer did he use?

7 A. The laptop.

8 Q. Do you remember when he moved to Wardlaw Street?

9 A. Yes, sir.

10 Q. Did it have something to do with his wife having an
11 affair with his friend who lived there with him?

12 A. There was mentions of that but they would just
13 couldn't get along.

14 Q. Did Doug ever do anything to make you think he was
15 upset with the gentleman who was there ---

16 A. No, sir.

17 Q. --- with his wife?

18 A. No, sir.

19 Q. After Doug found out about the relationship between
20 his friend and his wife, did Doug move out?

21 A. Yes, sir.

22 Q. Do you remember what year that was?

23 A. 2009.

24 Q. December of that year did Doug's wife move back in
25 with him?

DENNIS TUCKER: BY MR. SOWELL

-289-

1 SOLICITOR ANTHONY: Objection. Leading.

2 A. Yes, sir.

3 THE COURT: Rephrase the question.

4 BY MR. SOWELL:

5 Q. What happened in December 2009 in regard to Doug and
6 his wife?

7 A. Doug's wife Dana and Chris had an argument and she
8 moved out and moved back in with Doug.

9 Q. That was in December of 2009?

10 A. Yes, sir.

11 Q. And did Doug ever get upset with Chris any time
12 during this fiasco?

13 A. No, sir.

14 Q. Did you visit with Doug after you moved into Wardlaw
15 Street?

16 A. Yes, sir.

17 Q. Did his two step daughters visit him quite often
18 there?

19 A. Yes, sir.

20 Q. Did they live with him after December 2009 at
21 Wardlaw Street?

22 A. Yes, sir.

23 Q. Did you ever go into the home and see Doug playing
24 on the big computer at Wardlaw Street?

25 A. No, sir.

DENNIS TUCKER: BY MR. SOWELL

-290-

1 Q. What computers did Doug use at Wardlaw Street?

2 A. His laptop.

3 Q. Did he continue using the laptop the last week of
4 April 2010?

5 A. It tore up in April I think but he wasn't using it
6 -- I know.

7 Q. And did you ever see the Cipriano girls - Do you
8 know the Cipriano girls?

9 A. Yes, sir.

10 Q. Did you ever see them there at Wardlaw Street?

11 A. Yes, sir.

12 Q. Did you see them use the big computer?

13 A. Yes, sir.

14 Q. Did you see Doug trying to help them with homework
15 and other things using the big computer at Wardlaw Street?

16 A. Doug helped ever one of the kids.

17 Q. I'm sorry. What?

18 A. Doug was helping all the kids with their homework
19 then.

20 Q. How many different kids from the neighborhood did you
21 ever see coming into Doug's Wardlaw home and use the big
22 computer?

23 A. Eight or nine.

24 Q. Did the big computer come to Wardlaw Street the same
25 time as Dana and the two girls moved back in with Doug on

DENNIS TUCKER: BY MR. SOWELL

-291-

1 Wardlaw Street?

2 A. Yes, sir.

3 SOLICITOR ANTHONY: Objection. Leading.

4 THE COURT: Rephrase. Strike the question and answer
5 and rephrase the question.

6 BY MR. SOWELL:

7 Q. In terms of the time and the events that were going
8 on at the time, when did you first see the big computer at
9 Wardlaw Street?

10 A. December of 2009.

11 Q. December of 2009?

12 A. Yes, sir.

13 Q. Is that the same time that Dana and the girls moved
14 in at Wardlaw Street?

15 A. Yes, sir.

16 Q. Were you there at any time when Doug helped the girls
17 download a movie?

18 A. Yes, sir, I watched them download movies and stuff.

19 Q. I couldn't understand you. I'm sorry.

20 A. Yes, sir.

21 Q. And when Doug helped the girls download movies would
22 he stay there with them and watch the movie or did he go
23 back?

24 A. No, sir.

25 Q. What would he do after he helped the download?

DENNIS TUCKER: BY MR. SOWELL

-292-

1 A. He come out and hanged out with us in the yard or
2 do house cleaning.

3 Q. Did - Were there any times that the girls stayed and
4 play with the computer and Doug would leave the house all
5 together?

6 A. Yes, sir.

7 Q. Was there any time that Doug would leave the girls
8 alone with that computer and Dana would be not in the
9 house?

10 A. Yes, sir.

11 Q. Did the girls have unfeathered use of that big
12 computer?

13 A. Yes, sir.

14 Q. At Wardlaw Street?

15 A. Yes, sir.

16 Q. At Pine Street?

17 A. Yes, sir.

18 Q. Did Doug impose any regulations or rules on anybody
19 using the big computer?

20 SOLICITOR ANTHONY: Objection. That calls for
21 hearsay.

22 BY MR. SOWELL:

23 Q. Did you ever hear Doug tell anybody about the use
24 of the big computer when helping them use it?

25 SOLICITOR ANTHONY: Once again same objection.

DENNIS TUCKER: BY SOLICITOR ANTHONY

-293-

1 THE COURT: I sustain the objection.

2 A. Uh --

3 THE COURT: No. He'll ask another question.

4 MR. SOWELL: I'm not sure I understood that ruling.

5 I can't ask him did he ever hear?

6 THE COURT: Well, you ask him what a third party said
7 so I sustain the objection.

8 MR. SOWELL: I'm asking what he heard.

9 THE COURT: I understand.

10 MR. SOWELL: Nothing further, Your Honor.

11 THE COURT: Cross.

12 CROSS EXAMINATION

13 DENNIS CARSON TUCKER BY SOLICITOR ANTHONY:

14 Q. Mr. Tucker, you said that you remember Mr. Bishop
15 moving into the Wardlaw Street house in the summer of '09;
16 is that right?

17 A. I remember him moving in in 2009.

18 Q. Okay. And so you think Dana and the girls moved
19 back in around Christmas of 2009. Is that what you said?

20 A. I know they moved in in 2009 ---

21 Q. Okay.

22 A. --- at Christmas.

23 Q. Okay. But there was a period of time where Doug
24 was living there by himself; correct?

25 A. Yes, sir.

DENNIS TUCKER: BY SOLICITOR ANTHONY

-294-

1 Q. And how long did Doug live there before Ms. Bishop
2 moved back in?

3 A. Five or six months.

4 Q. Okay. And during that period of time would the P [REDACTED]
5 girls come over?

6 A. Yes.

7 Q. And would the Cipriano girls, would you see them
8 over there?

9 A. Yes I seen them over there.

10 Q. All right. And would you be over there sometimes
11 when they would be over there?

12 A. I'd be around the neighborhood cause I cut all the
13 grass. He lived in my daddy's house.

14 Q. Okay. And you're friends; right?

15 A. Yes.

16 Q. So sometimes you would be in the house like on a
17 weekday afternoon after school was out; correct?

18 A. Yes sometimes I'd go over there and see 'em.

19 Q. And this was before Ms. Bishop moved back in; right?

20 A. Yes.

21 Q. And they would play on the computer at that point in
22 time before Ms. Bishop moved in?

23 A. The only time I seen them on the computer was when
24 Dana lived there.

25 Q. Okay. So you're saying that like there is - you

DENNIS TUCKER: BY SOLICITOR ANTHONY

-295-

1 think there is a five, six month period where there wasn't
2 any computer for the girls to use there at the house?

3 A. There might have been a computer there but I didn't
4 see it.

5 Q. But your testimony is this computer would have
6 definitely been in the house after December of 2009?

7 A. Yes.

8 Q. So for the rest of 2010 from December of 2010 through
9 May of 2010 you remember that computer being there at the
10 house?

11 A. Yes I remember that computer being there.

12 Q. Okay. The only adult male living in the house
13 during that time was Mr. Bishop; is that right?

14 A. No Dana lived there too.

15 Q. Who?

16 A. Dana his wife.

17 Q. No I said adult male.

18 A. Male yes.

19 Q. Okay. There's two adults there Doug and Dana; right?

20 A. Yes.

21 Q. Chris Williams never lived over there on Wardlaw
22 Street; is that right?

23 A. Yes, sir.

24 Q. Is that right?

25 A. Yes, sir.

DENNIS TUCKER: BY SOLICITOR ANTHONY

-296-

1 Q. He never lived over there? Chris Williams never
2 lived over there?

3 A. Yes, sir, he never lived there.

4 Q. Okay. And did you - Did you ever see Chance Williams
5 over there?

6 A. Yes I seen Chance running around some over there.

7 Q. All right. Occasionally?

8 A. Yes.

9 Q. And the times you saw teen - the times you saw people
10 using that computer it was always just a situation where it
11 was teenagers like friends of Kelly and Brittany after
12 school; is that right?

13 A. Yes, sir.

14 Q. And you said that Doug - You live at 217 Wardlaw?

15 A. Yes, sir.

16 Q. Is that right? And where does Doug live now?

17 A. Doug lives at [REDACTED] now.

18 Q. So he's still your neighbor?

19 A. Yes, sir.

20 Q. And does he rent from your father; is that right?

21 A. He used to.

22 Q. I mean who owns the house he lives in now?

23 A. He's staying in a camper right now.

24 Q. Okay. Whose property is he on?

25 A. It belongs to Robert Ward.

DENNIS TUCKER: BY SOLICITOR ANTHONY

-297-

1 Q. And what's your relationship to Mr. Ward? Are you
2 kin to him?

3 A. He's my brother in law.

4 Q. Okay. And to your knowledge is Ms. Bishop still
5 with Mr. Bishop?

6 A. No, sir.

7 Q. You don't ever see them together?

8 A. I see them talk every once in a while but they don't
9 live together.

10 Q. Where do you see them talk?

11 A. She'd come by his camper and talk to him.

12 Q. So she still comes to see him?

13 A. Yes, sir, on occasion. And they also talk on the
14 phone ever once in a while.

15 Q. Okay. You hear them talking on the phone?

16 A. Yes, sir.

17 Q. And is that - I mean has that been pretty recently?

18 A. Yes, sir.

19 Q. Like say within the last couple of weeks?

20 A. I heard them talk last week on the phone.

21 Q. Okay. You heard him talk to her on the phone last
22 week?

23 A. Yes, sir.

24 Q. And to your knowledge does he still see her - his
25 step-daughters Kelly and Brittany?

DENNIS TUCKER: BY SOLICITOR ANTHONY
BY MR. SOWELL

-298-

1 A. No, sir, he does not see them no more.

2 Q. But he still sees Dana?

3 A. Yes, sir.

4 SOLICITOR ANTHONY: If I can have just one moment.

5 (PAUSE AT 11:27 A. M.)

6 Q. Ms. Bishop obviously would know exactly when she
7 moved in the house wouldn't she?

8 A. Yes, sir.

9 Q. All right. Thank you.

10 SOLICITOR ANTHONY: That's everything on cross.

11 REDIRECT EXAMINATION

12 DENNIS CARSON TUCKER BY MR. SOWELL:

13 Q. You work with Robert Warr?

14 A. Yes, sir.

15 Q. And his --

16 SOLICITOR ANTHONY: Objection. That's beyond the
17 scope of cross.

18 MR. SOWELL: You ask him about it and he responded to
19 you. He said he did work for him.

20 THE COURT: Wait. What was the question?

21 MR. SOWELL: Did he work for Robert Warr?

22 THE COURT: I didn't hear anything about that. The
23 first that name. Maybe I missed it. But go ahead ask the
24 question.

25 A. Its Robert Warr.

DENNIS TUCKER: BY MR. SOWELL

-299-

1 Q. Warr?

2 A. Warr.

3 Q. You work for him?

4 A. Yes, sir.

5 Q. Where is his place of business?

6 A. Right across in - Right in front of my house.

7 Q. Is it in the back door where Doug lives?

8 A. Yes, sir.

9 Q. How often does Dana come by Doug's trailer?

10 A. I see her every once in a while but I ain't always
11 at home. I'm always doing something.

12 Q. In December of 2009 when Dana and the girls moved
13 back into Wardlaw Street did they bring that large desk
14 type computer with them?

15 A. Yes, sir.

16 MR. SOWELL: Nothing further.

17 SOLICITOR ANTHONY: No recross.

18 THE COURT: All right. You can step down and be
19 excused. We appreciate your time.

20 (WITNESS LEAVING WITNESS STAND.)

21 THE COURT: Member of the jury panel, we'll take about
22 a short ten minute refresher break.

23 (JURY EXITS COURTROOM AT 11:29 A.M..)

24 (COURT IN RECESS AT 11:29 A.M..)

25 (COURT BACK IN SESSION AT 11:51 A. M..)

ROBERT WARR: BY MR. SOWELL

-300-

1 THE COURT: Thank you. Take your seats.

2 Is the State ready?

3 SOLICITOR ANTHONY: Yes, sir. One thing I will
4 mention since this is what I was gonna mention before. I
5 gave NCIC's on all the witnesses that Mr. Sowell advised me
6 of to him this morning. The only person who has any
7 impeachable prior convictions is Christopher Williams who
8 has got a - two convictions in 2011, failure to stop for a
9 blue light and a 2008 conviction for third degree burglary
10 and a 2007 conviction for malicious injury to property over
11 a Thousand Dollars and a 2006 conviction for petit larceny
12 and that's what his NCIC shows for falling under the rules.

13 THE COURT: You have a comment on that, Mr. Sowell?

14 MR. SOWELL: No, Your Honor.

15 THE COURT: All right. Bring in the jury.

16 (JURY REENTERS COURTROOM AT 11:53 A.M..)

17 THE COURT: Call your next witness.

18 MR. SOWELL: The Defense calls Robert Wagner. Robert
19 Warr.

20 (WHEREUPON: ROBERT WARR, BEING
21 FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

22 DIRECT EXAMINATION

23 ROBERT WARR BY MR. SOWELL:

24 Q. What's your full name?

25 A. Robert Seven Warr.

ROBERT WARR: BY MR. SOWELL

-301-

1 Q. And what's your age?

2 A. Thirty-nine.

3 Q. And where do you live?

4 A. [REDACTED]

5 Q. And where do you work?

6 A. Warr's Auto. I run it.

7 Q. Is that your business?

8 A. That's my business.

9 Q. And where is it located?

10 A. It's also at [REDACTED]

11 Q. And how far is that from the house that Doug and Dana
12 used to live in?

13 A. The house that he was living in at that time is
14 actually two doors down. There is a vacant lot between
15 mine and his.

16 Q. And who owns all that real estate?

17 A. Me and my father in law. I own half the street and
18 my father in law owns the other half.

19 Q. And I believe Mr. Tucker works there with you?

20 A. He does.

21 Q. And how long have you known Doug Bishop?

22 A. I met Doug in Spartanburg in 1995.

23 Q. And how long have you considered him to be a friend?

24 A. Probably towards the end of '91.

25 Q. And would you tell a lie to protect him?

ROBERT WARR: BY MR. SOWELL

-302-

1 A. No, sir.

2 SOLICITOR ANTHONY: Objection.

3 THE COURT: I over rule the objection.

4 SOLICITOR ANTHONY: Well --

5 THE COURT: I over rule it.

6 BY MR. SOWELL:

7 Q. And did you know him when he lived on Pine Street?

8 A. Yes, sir, I did.

9 Q. And who lived there with him?

10 A. Him, his wife, his two step children. Later on
11 the other gentleman - what's his name moved in with Chance.

12 Q. Chris Williams?

13 A. Chris yes, sir.

14 Q. And did you ever go over to his house on Wardlaw - on
15 Pine Street?

16 A. Yes, sir, I did.

17 Q. And are you familiar with the computers there were
18 used in that house?

19 A. Yes, sir.

20 Q. What computers were in that house?

21 A. There were two tower units and Doug's laptop.

22 Q. And did you ever see Doug using the tower unit?

23 A. Not to my knowledge. I never seen Doug on the tower
24 units, only the laptop.

25 Q. Did you ever see him on the laptop?

1 A. Yes, sir.

2 Q. Did you ever see any teenagers using the towers?

3 A. At his house it was always teenagers on the computer.

4 Q. Is that at Pine Street?

5 A. That's at Pine Street yes, sir.

6 Q. And how many different teenagers did you see using
7 his tower?

8 A. I know his children and all of them had friends, I
9 do not know their names, they was always four or five
10 people in the house playing on the computers.

11 Q. And how many different teenagers did you see? Give
12 an estimate.

13 A. Between four and six at given times.

14 Q. And was it always the same six?

15 A. I can't say. I don't know their names so I really
16 can't say.

17 Q. And when you saw the teenagers on the tower computer,
18 were they receiving any supervision from the adults?

19 A. Very seldom.

20 Q. Were there any times that you know of when teenagers
21 were the only ones in the rooms where the computers were?

22 A. Yes.

23 Q. How often would the teenagers be in the room with
24 the computers by themselves?

25 A. Probably about seventy percent of the time.

ROBERT WARR: BY MR. SOWELL

-304-

1 Q. Do you live - When Doug moved to Wardlaw Street who
2 initially moved there with him?'

3 A. It was just him at the beginning.

4 Q. And do you remember what month and date and year that
5 would have been?

6 A. It would have been 2009.

7 Q. And who did he rent from?

8 A. My father in law.

9 Q. And did you handle the lease or did your father -

10 A. No my father in law handled all of that.

11 Q. And are you familiar when the two step daughters and
12 Doug's wife moved in to Wardlaw Street?.

13 A. It was towards the end of the year in 2009 they
14 moved in and when they moved in they brought all their
15 stuff with them.

16 Q. Did they bring two computers with them?

17 A. Yes, sir, they did.

18 Q. Two tall laptops?

19 A. Two laptops.

20 Q. Desk tops?

21 A. I can't identify them but I never played on them
22 but there were two desk top computers came when they came
23 in.

24 Q. And what other computers were besides the two
25 computer --

1 A. Doug had his laptop and that's all the computers I
2 know of that was there.

3 Q. Did you ever see Doug do anything with the two
4 desktops; the two big ones?

5 A. Honestly I never seen Doug on the desktop computer
6 at all.

7 Q. Did you see him watching movies on his laptop?

8 A. Yes, sir, I did.

9 Q. Did you see him download movies on his laptop?

10 A. Yes, sir, I did.

11 Q. Did you see the girls download movies on the
12 desktops?

13 A. I can't say that I seen them what they were doing
14 when they played on the computers.

15 Q. Would you know whether they were watching movies or
16 playing games?

17 A. No not really. I just, you know, when they're
18 sitting in front of a monitor you don't know what they're
19 doing.

20 Q. Did - Does Doug ever come over to your place of
21 business?

22 A. Yes, sir, pretty much every day.

23 Q. When he was unemployed did he come over there?

24 A. Pretty much every day.

25 Q. What time did he normally get there?

ROBERT WARR: BY MR. SOWELL

-306-

1 A. Between 10:00 and 10:30 hang around and we'd go to
2 lunch. He'd come back from lunch usually around 1:00 he'd
3 go home to get ready to go get the children at school.

4 Q. And after he brought the children back from school
5 did he - does he normally come to your place of business?

6 A. Very seldom in the afternoon because they help the
7 children, all the children with homework. I usually
8 didn't see him again unless it was later that night or the
9 next morning.

10 Q. Now how many days a week during the year 2000 - Let
11 me back up. When Doug lived on Pine Street, did he visit
12 your place of business also?

13 A. Yes but not as much.

14 Q. After he moved to Wardlaw Street you were in his
15 back yard?

16 A. That's correct.

17 Q. And how many days a week would he come over to your
18 place of business at 10:30 in the morning?

19 A. Four to five days a week.

20 Q. And how about weekends?

21 A. I'm usually gone on weekends so I can't honestly
22 say on the weekend. It just depended.

23 Q. When Doug would go take the kids to school, did he
24 come back to your place of business?

25 A. Yes, sir.

1 Q. He stayed there until what time?

2 A. Well actually we went to lunch, when he would stay
3 at the shop we'd go to lunch at 12:00 and we'd usually get
4 back around 1:00 and he would stay usually until about 1:30
5 and he'd leave to go get the children.

6 Q. And would you ever go to his home after school and
7 the children were there playing on the computers?

8 A. Very seldom was I down there. I don't care for a
9 lot of people so I didn't spend a lot of time down there
10 when there was a lot of people there.

11 Q. Did you often times see people going in that home?

12 A. Yes.

13 Q. What age group was going into the home?

14 A. Most of them were fifteen or younger.

15 Q. Were they - Were you familiar with the kids?

16 A. The only two I actually know was Brittany and Kelly.

17 Q. That's his step children?

18 A. That's correct

19 Q. So the other children you didn't know who they were?

20 A. I didn't know their names. I mean he'd tell me who
21 they was but I didn't know them. They were Brittany and
22 Kelly's friends.

23 Q. How many days a week would you see teenagers besides
24 the two step daughters ---

25 A. Al --

ROBERT WARR: BY MR. SOWELL
BY SOLICITOR ANTHONY

-308-

1 Q. --- come into that house?

2 A. Almost every day during the, you know, Monday
3 through Friday.

4 Q. Now you were in his back yard how do you see all
5 these teenagers going into his home?

6 A. There - You can actually see his front door from
7 my kitchen window.

8 Q. From your kitchen window?

9 A. From my kitchen window. Or in my yard either one.
10 Like I say, the only thing between me and him was a vacant
11 lot.

12 MR. SOWELL: Nothing further, Your Honor.

13 THE COURT: All right. Cross?

14 SOLICITOR ANTHONY: Thank you, Your Honor.

15 CROSS EXAMINATION

16 ROBERT WARR BY SOLICITOR ANTHONY:

17 Q. Mr. Warr, I pronounced that right, right? Warr.

18 A. Yes, sir.

19 Q. You said that the house that Doug moved into at
20 224, who owns that house?

21 A. My father in law.

22 Q. Okay. Your father in law owns that house. All
23 right. And did you kind of sort of pay the way for him to
24 move in there?

25 A. Between me and my brother in law we both known him

1. for ever and we talked to my father in law about letting
2 him stay there.

3 Q. Okay. And did you go over there after he moved in?

4 A. Yes I did.

5 Q. And that would have been in the summer of 2009?

6 A. Yes, sir.

7 Q. Were you aware of there being a computer in the
8 house when he moved in?

9 A. At that time the only computer that he had was a
10 laptop.

11 Q. So to your knowledge there were no desk tops in the
12 house?

13 A. No, sir, there was not because I helped him move in.

14 Q. All right. And that didn't change until his wife
15 moved in?

16 A. When his wife moved in me and my brother in law
17 helped move stuff in and that's when the computer was
18 staying there.

19 Q. And they - You recall them having two desktops; is
20 that right?

21 A. Yes. Both children they had two to share so they
22 didn't share very well.

23 Q. Okay. And would it be fair to say that one was
24 kind of an ole beat up and the other one was newer?

25 A. Honestly I couldn't say.

ROBERT WARR: BY SOLICITOR ANTHONY

-310-

1 Q. Well you remember this one here being one of them?

2 A. I want to be honest with you, a computer is a
3 computer. A tower computer they all look the same.
4 I got five of my own.

5 Q. Okay. You remember -

6 A. I remember two tower computers in the house. I
7 remember one was white and one was black.

8 Q. All right. Do you remember the black one not having
9 a side?

10 A. I do when they was at the other residence but I
11 don't remember when it was there honestly I don't.

12 Q. At Pine Street?

13 A. When they was at Pine Street I remember it being
14 having the side off of it.

15 Q. Okay. Which would be like this?

16 A. Right.

17 Q. Like Number One.

18 A. But you can't - I can't say for sure that's it.

19 Q. All right. And you said one was black and you
20 thought --

21 A. I think the other one was an off white color.

22 Q. Okay. Do you remember one of them being older than
23 the other? Do you remember when they got the two of them
24 back when they lived on Pine Street?

25 A. No.

1 Q. Okay.

2 A. I didn't see them as much because they was
3 further away.

4 Q. Okay. And you remember Mr. Bishop having a laptop?

5 A. Yes because the keyboard was bad on it.

6 Q. All right. And that was the keyboard -

7 A. The keyboard was bad on it for years. They spilt
8 coffee on it. He had to use an extra keyboard on it.

9 Q. All right. And did he eventually stop using that
10 laptop?

11 A. If he did it was, you know, like in 2010 that I
12 know of.

13 Q. All right. And you say that in the afternoons you
14 would see from your business you's be working and you'd see
15 teenagers come - young teenagers - you said normally like
16 most of them would be fifteen or younger; right?

17 A. Right. They were all Brittany's age or younger.

18 Q. Okay. And you don't know what they did in the house
19 but you know that they were coming to the house?

20 A. Yes, sir.

21 Q. And to you knowledge that was - it was just after
22 school, come in after school hang out with the girls?

23 A. Yes.

24 Q. Go home?

25 A. Yeah.

ROBERT WARR: BY SOLICITOR ANTHONY

-312-

1 Q. Okay. And you said that during this period of time
2 like specifically I'll ask you about the first part of 2010
3 say from January through April of 2010. Mr. Bishop didn't
4 have a job during any of that time?

5 A. No, sir.

6 Q. And so about the middle of the morning he'd come
7 over to your business?

8 A. Yes, sir.

9 Q. And he's hang out with you like say from 10:30 to
10 about 1:00 or so?

11 A. Yes, sir.

12 Q. And that was pretty much a daily kind of thing?

13 A. That was pretty much a daily thing.

14 Q. Okay. All right. And he was living at Wardlaw
15 Street. Basically he was the only adult in the house from
16 the time he moved in to the time Dana and the kids moved
17 in; is that right?

18 A. Yes, sir, that's correct.

19 Q. And then after Dana and the kids moved in then like
20 late 2009 or when you recall them moving in, the rest of
21 that time it was just him and Dana. Mr. Bishop and Dana
22 would have been the only two adults in the house?

23 A. That's correct.

24 Q. And Mr. Bishop would have been the only adult man
25 in the house?

ROBERT WARR: BY SOLICITOR ANTHONY

-313-

1 A. That's correct

2 Q. Okay. And as far as you know like did you see
3 enough of the computer, the desktop computer they were
4 using though that it was operational there at Wardlaw
5 Street?

6 A. It was operational when we moved it in.

7 Q. Okay.

8 A. If I remember correctly. Its been a long time.

9 Q. Okay. But as far as you know you -

10 A. As far as I know they were both working.

11 Q. Okay. It had a monitor hookup to it?

12 A. Well I helped move them in and we hooked everything
13 up but as far as running them I never actually...

14 Q. Okay.

15 A. I never got on the computer.

16 Q. All right. So you don't really know like what kind
17 of - how it was being used ---

18 A. No.

19 Q. --- or anything like that? All right.

20 And during that time your testimony is during that
21 time from January through April of 2010 Mr. Bishop and Ms.
22 Bishop were living there together?

23 A. Yes, sir.

24 Q. And were you aware of Doug - I mean did you know
25 Doug well enough to know when he'd go to bed at night and

ROBERT WARR: BY SOLICITOR ANTHONY

-314-

1 stuff like that? Was he kind of a night owl? Would he
2 stay up kind of late or did you know anything like that
3 about him?

4 A. Not particularly. I mean normally because he had
5 to get up so early in the mornings. You know I would
6 assume he would go to bed a normal time.

7 Q. But you don't really know that one way or the other?

8 A. Not a hundred percent no.

9 Q. Okay.

10 A. There's some nights I stay up late.

11 Q. And would you say that most of the kids that came
12 over there, the kids you're talking about being up to
13 fifteen you saw going in the house; would most of them be
14 girls?

15 A. Most of the time what I seen was young girls yes.

16 Q. All right.

17 SOLICITOR ANTHONY: If I can have just one moment.

18 (PAUSE 12:11 A.M..)

19 SOLICITOR ANTHONY: All right.

20 That's everything on cross.

21 THE COURT: Redirect?

22 MR. SOWELL: No.

23 THE COURT: You can step down. We appreciate your
24 time. You can be excused. Thank you.

25 (WITNESS LEAVING WITNESS STAND.)

1 THE COURT: Call your next witness.

2 MR. SOWELL: The next witness will be the defendant.

3 He will be extensive.

4 THE COURT: All right. It's a little earlier than we
5 usually go to lunch and we just took a break but the next
6 witness is going to take some amount of time. So why don't
7 we go ahead and break for lunch until 1:15. That's an hour
8 and ten minutes. Start back at a quarter till Two. Let
9 me think through this.

10 Let's break until 1:15. 1:15; we'll start back at
11 1:15. Thank you.

12 (JURY EXITS COURTROOM FOR LUNCH AT 12:12 P.M..)

13 (COURT IN LUNCH RECESS AT 12:12 P.M..)

14 (COURT BACK IN SESSION AT 01:23 P.M..)

15 THE COURT: Thank you. Take your seats.

16 Is the State ready?

17 SOLICITOR ANTHONY: Yes, sir.

18 THE COURT: Mr. Sowell?

19 MR. SOWELL: Yes, sir.

20 THE COURT: All right. Bring in the jury.

21 MR. SOWELL: Your Honor.

22 THE COURT: Yes, sir.

23 MR. SOWELL: John wanted the laptop before the jury
24 came in.

25 THE COURT: All right. Well you all need to tell me

DOUG BISHOP: BY MR. SOWELL

-316-

1 before the jury comes in.

2 SOLICITOR ANTHONY: I don't have anything right now.

3 MR. SOWELL: I'm sorry.

4 THE COURT: Okay.

5 MR. SOWELL: I forgot.

6 THE COURT: You all know when I come in I'm ready to
7 go. Stop me if you need to.

8 (JURY REENTERS COURTROOM AT 01:23 P.M..)

9 THE COURT: You may call your next witness.

10 MR. SOWELL: We call the defendant to the stand, Your
11 Honor.

12 THE COURT: Please come up and be sworn.

13 (WHEREUPON: DOUGLAS BISHOP, BEING
14 FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

15 DIRECT EXAMINATION

16 DOUGLAS BISHOP BY MR. SOWELL:

17 Q. State your name for the record please, sir.

18 A. Doug Bishop.

19 Q. And, Doug, what's your middle name?

20 A. Bret.

21 Q. And how old are you?

22 A. I'm forty-four.

23 Q. And where do you live?

24 A. I live at [REDACTED]

25 Q. Is that in Union County, South Carolina?

DOUG BISHOP: BY MR. SOWELL

-317-

1 A. Yes, sir.

2 Q. How long have you lived in Union County, South
3 Carolina?

4 A. In Union approximately fifteen, sixteen years.

5 Q. And before that where did you live?

6 A. Spartanburg County, Spartanburg, Duncan Park. Duncan
7 Park in Spartanburg.

8 Q. We think it's the easiest to tell your life story. I
9 don't think it would accomplish that now. Tell the - how
10 you originally met your wife now?

11 A. My wife Dana was actually my best friends wife. I
12 had known her for approximately ten years. Me and Scott
13 went to school together. They were having some rough
14 times, it was right after my dad had passed away, I moved
15 in with them for a while. They were going through some
16 rough times and I decided both my friends were down here
17 and I was going to move back to Union and I offered them
18 the chance to come with me to help them out. That worked
19 for about a week. Her husband at the time Scott just
20 couldn't handle it, didn't like it, he left, he told me to
21 take care of Dana and the girls. They went through about a
22 year of a ugly divorce back and forth and that year period
23 of time me and Dana figured out that we liked each other
24 decided to start seeing each other and at the end of the
25 divorce Scott put it in the paperwork that I was not to be

DOUG BISHOP: BY MR. SOWELL

-318-

1 around the girls that the girls had to be kept in a moral
2 environment only - the only way we could, you know, do that
3 was for me and Dana to get married. So at the end of the
4 divorce when she got the divorce paperwork three days later
5 we got married. And her and the girls came back to stay
6 with me in Union.

7 Q. So Dana and her husband lived with you and you and
8 Dana had an affair, they get divorced, you marry Dana, and
9 then another guy moves in with you two. She shacks up with
10 him and kicks you out?

11 A. She didn't kick me out but she finally told me and
12 admitted the fact that she had cheated on me. I told her
13 that, you know, me and her didn't actually have an affair
14 behind Scott's back. We waited until the divorce was over.
15 I mean we saw each other but never actually did anything so
16 we didn't actually, you know, commit adultery or anything
17 but when she had admitted that she had, you know, cheated
18 on me, I told her it was over. If I couldn't trust her not
19 to cheat on me that I didn't need her.

20 Q. So you didn't cheat on her first husband but she
21 cheated on you?

22 A. She cheated on me.

23 Q. On you?

24 A. Yes.

25 Q. How old were the girls when you and Dana had married?

1 A. We got married in '04. I think Brittany was around
2 between ten and eleven. Kelly was between eight and nine.

3 Q. Now did the girls need tutoring in school?

4 A. No. They both are extremely smart.

5 Q. And did you help them with their homework?

6 A. Every night.

7 Q. If they were so extremely smart why did you need to
8 help them with their homework?

9 A. The main thing I had to help them with was Brittany
10 had a hard time. The only thing she had a hard time was
11 with math and I'm extremely good with math so I helped her
12 with it, any kind of research project or whatever, you
13 know, I would help her with. Other subjects she was
14 fantastic with.

15 Q. Brittany is the older daughter?

16 A. Yes. Kelly on the other hand; Kelly got so used to
17 Dana actually doing her homework for her and was getting
18 behind in school and I took over her education to make sure
19 she would start learning at home. I stopped doing it for
20 her and I had to actually make her how - learn how to get
21 the information out of the text book because Dana had
22 always done it for her.

23 Q. Now you apparently have had a laptop. How long have
24 you had that computer?

25 A. I bought that laptop back in 2003.

DOUG BISHOP: BY MR. SOWELL

-320-

1 Q. Before you moved in with Dana?

2 A. Right. In fact I was living with Scott and Dana
3 when I bought the laptop.

4 Q. Now is Scott a computer geek?

5 A. Oh yes. He is ten times more computer literate
6 than I am.

7 Q. What was his connection to that laptop there in
8 front with the desktop there, computer there in front of
9 us?

10 A. The desktop right here he actually built it for the
11 girls for their gaming system that way they had their own
12 computer they could play games on so he -

13 Q. And that's the E-machine?

14 A. Yes.

15 Q. And how about the second desktop computer we haven't
16 seen?

17 A. The other tower we actually had - Scott was going
18 through a rough time, he was between jobs and he had child
19 support to do every week. He was having a rough time. I
20 don't have any hard feelings from Scott and so to help him
21 out we decided to pay him to build us a tower. Instead of
22 me doing it I paid him to do it.

23 Q. Now before you obtained the second tower, how old
24 were the girls when that second tower was ordered?

25 A. The second tower we had it built back in - I'd say

1 it was probably around '06, '07.

2 Q. And before that you had two teenage girls trying to
3 learn the computer on one computer?

4 A. Yes.

5 Q. That cause a conflict?

6 A. Yes.

7 Q. What type of conflict?

8 A. They both wanted to argue. They both wanted to use
9 the computer the exact same time and that was the main
10 reason we had the other tower built. I didn't want them on
11 my laptop all the time. The more people you have use one
12 the more likely you are to get viruses and everything so to
13 keep the fussing and arguing down we just had another tower
14 built.

15 Q. I think you said Scott is an extremely efficient
16 computer expert?

17 A. Yes he is.

18 Q. A geek too?

19 A. Oh yes. He has built numerous amount of computer
20 systems for different friends, for himself. At one time
21 when I stayed with them in Spartanburg on Highland Court he
22 literally had five computers in his bedroom all hooked up
23 running.

24 Q. So you had two teenage daughters using one computer.
25 What time did they get on the computer?

DOUG BISHOP: BY MR. SOWELL

-322-

1 A. They were literally from the time they got up to the
2 time they went to bed if they didn't have school.

3 Q. When they were both using one computer what time
4 did the second one finish their homework?

5 A. Usually late at night because one of them would stay
6 on the computer so long and the second one I would have to
7 make the first one get off the computer so the other one
8 could do their, you know, research or whatever they needed.

9 Q. Now did that have anything to do with your decision
10 to get the second computer?

11 A. Yes.

12 Q. Now did the girls ever - by girls I mean your step
13 daughters. Did the girls ever use your laptop?

14 A. Yes they have.

15 Q. And they used the laptop since they got the second
16 desktop?

17 A. No.

18 Q. And when was the second desktop purchased?

19 A. Like I said it was probably I would say '07,
20 somewhere around there. We lived at Pine Street at
21 the time when we purchased it.

22 Q. After that did the girls use whatever computer was
23 available or the first one they grabbed or did one of them
24 use one and one would use the other one?

25 A. They still argued a little bit. Most of them they

1 always wanted to use the newer system, it was a little
2 faster, a little better. They still argued a little bit
3 who was going to use which one but we just kind of - one
4 day we finally made a schedule and basically said you use
5 it today she uses it tomorrow and just went back and forth.

6 Q. Everyday they would have to record their individual
7 work on disk and save it until they get to use that
8 computer again?

9 A. If they had work yes. You know if they had research
10 or anything like that they would save it to the hard drive.

11 Q. Now what was your daily schedule? What time - I'm
12 sorry. When you all first got married where did you live?

13 A. Where we first lived when we got married we lived at
14 [REDACTED]

15 Q. Is this your first marriage?

16 A. No.

17 Q. How long had you been divorced from your first wife?

18 A. We had been divorced probably five years or better
19 before me and Dana got married.

20 Q. Now you all lived where when you first got married?

21 A. At [REDACTED] We were living there when
22 Scott and Dana were going through their divorce and Dana
23 was having to stay up at her moms at the time going through
24 the divorce and I had already gotten the house at Gage
25 Avenue.

DOUG BISHOP: BY MR. SOWELL

-324-

1 Q. And what computers were in that house?

2 A. The only thing that was in Gage Avenue was my laptop.

3 Q. Now, why did you leave Gage Avenue?

4 A. We actually was purchasing the double wide trailer
5 at [REDACTED] We were renting to own it.

6 Q. How long did you live there?

7 A. We stayed at Pine Street from '05 up to '09
8 approximately four years.

9 Q. Did you become unemployed while you were living at
10 Pine Street?

11 A. Yes in February of '08. Timkin had a lay off and I'
12 was the last person in the first lay off.

13 Q. Now, when you left - You were living at Pine Street
14 and you allowed a friend of yours and his son to move in
15 with you; ---

16 A. Yes.

17 Q. --- correct? And who was that?

18 A. That was Chris Williams. He had gotten to be a
19 friend of the family and he was - had been living with
20 somebody else and they were taking a big advantage of him
21 on his pay check and making him pay exorbitant bills over
22 at their house and everything so we told him to take care
23 of, you know, basically just help us out with some bills
24 when we needed it and he was working and we had an extra
25 bedroom and he was welcome to come stay with us.

1 Q. This is the gentleman who developed the affair with
2 your wife?

3 A. Yes.

4 Q. So when you found out - Well before that time what
5 computers were in the house?

6 A. Once we moved in at Pine Street we had the or that
7 tower there was at Pine Street and then less than a year
8 later we had the other tower.

9 Q. And how about your laptop?

10 A. And my laptop was also. It stayed in my bedroom most
11 of the time.

12 Q. What do you do with your laptop? What purpose - For
13 what purpose do you use your laptop?

14 A. My laptop was mainly a - The main thing I did with it
15 was watch movies. Like I said we didn't have cable so we
16 downloaded most of our movies and watched them. The only
17 other thing I would do is we could hook into the internet.
18 Someone up the street had Wi Fi that was open so we would,
19 you know, get WiFi from them and basically I could play on
20 Ebay or - But the main thing was downloading music and
21 movies.

22 Q. So you used the WiFi to download music and movies on
23 your laptop?

24 A. Yes. And the girls used the towers to search and
25 play on the internet and download movies and download a

DOUG BISHOP: BY MR. SOWELL

-326-

1 bunch of different songs.

2 Q. Now the South Carolina Computer Crime gentleman who
3 spoke yesterday told us that they didn't find any obscenity
4 on your laptop. Is that the computer we're talking about?

5 A. Yes.

6 Q. Who had access to use the two - The two computers,
7 the two desktops, the big towers, those are the two
8 computers that SLED found some obscene pictures and videos
9 on.

10 A. Right. Both of those were in the living room at Pine
11 Street and at Wardlaw Street.

12 Q. And who had access to those?

13 A. Everybody in the family. All the kids friends.
14 Anybody that came over. Neither one of them were password
15 protected. They were both - Both of them were open to use
16 by anybody.

17 Q. How about Austin Bishop?

18 A. Yes.

19 Q. Who is he?

20 A. That's my nephew. He lived with me at Gage Avenue
21 for quite a while.

22 Q. Did he ever live with you at Wardlaw Street?

23 A. No.

24 Q. Did he visit you at Wardlaw Street?

25 A. No, sir.

DOUG BISHOP: BY MR. SOWELL

-327-

1 Q. So he didn't have access on Wardlaw Street?

2 A. No, sir.

3 Q. I'm talking about access to your computer at
4 Wardlaw Street.

5 A. Okay.

6 Q. Courtney Bradburn, Bradford?

7 A. Bradford. Yes Courtney would have access when ever
8 she came over to visit.

9 Q. And how old is she?

10 A. She is now sixteen.

11 Q. And --

12 A. She was one of Kelly's best friends.

13 Q. She would come over to the house and have the same
14 access as the girls did?

15 A. Yes.

16 Q. Who is B.J. Reynolds?

17 A. B.J. Reynolds is a friend of Austin's. He wouldn't
18 have had access at Wardlaw Street. That would have been at
19 Gage Avenue.

20 Q. Who is Wade McAbee?

21 A. Wade McAbee is also one of Austin's friends.

22 Q. Would he have had access at Wardlaw Street?

23 A. Actually he did come over a couple of times after
24 I had moved and everything and me and Wade kept in contact
25 with each other. He came over a couple of different times

DOUG BISHOP: BY MR. SOWELL

-328-

1 when he needed to download some different movies and files
2 and stuff.

3 Q. So he did download some files from these two ---

4 A. Yes.

5 Q. --- towers? Who is Joe Reynolds?

6 A. Joe Reynolds? That is Joe, he is a friend of
7 Austin's also.

8 Q. Did he have access to the Wardlaw Street computers?

9 A. No he did not.

10 Q. Who is R.J. Williams? R.D. Williams?

11 A. R.D. Williams is Paula's - I wouldn't say step day
12 but it's Paula's boyfriend that has been in her life over
13 time. He has been over to the house several times.

14 Q. Would he have had access to the computer when you
15 were not present?

16 A. Yes. He could have come by when Dana was there and
17 when the girls were there and he would have been free to
18 use them.

19 Q. Who is Kenny Holland?

20 A. Kenny Holland is one of Austin's friends.

21 Q. How old is he?

22 A. He's probably in his mid twenties but he didn't have
23 access at Wardlaw.

24 Q. Did not?

25 A. No. He would have been on Gage Avenue.

DOUG BISHOP: BY MR. SOWELL

-329-

1 Q. Who is Shirley Reynolds?

2 A. Shirley Reynolds is B.J.'s sister. She never came
3 over at Wardlaw but she would - she would have had access
4 at Gage Avenue.

5 Q. Not Wardlaw?

6 A. No not at Wardlaw.

7 Q. Who is Destiny Cipriano?

8 A. Destiny Cipriano is one of Brittany's best friends.

9 Q. She one of the girls that testified yesterday?

10 A. Yes.

11 Q. You said she lived there -

12 A. She basically come to stay with us. Her and her
13 sister came to stay with us for - A lot of times on Pine
14 Street she stayed, both of them stayed with us for three
15 straight weeks while her momma went on a cruise and
16 different things. They constantly stayed at the house
17 early week and during, you know, weekends and everything.

18 Q. Did they have access at Wardlaw Street?

19 A. Yes. They stayed with me a good bit at Wardlaw
20 Street. Even - several times even when Brittany and Kelly
21 weren't there Destiny and Denise would stay with me.

22 Q. What do you mean by stay with you?

23 A. They would actually spend the night with me.

24 Q. And did they have access to the two towers?

25 A. Oh, yes.

DOUG BISHOP: BY MR. SOWELL

-330-

1 Q. Who is Taylor Childers?

2 A. Taylor Childers is one of Brittany and Destiny's good
3 friends. She lives in Buffalo.

4 Q. Did this Chris - Did Taylor Childers have access to
5 the Wardlaw Street computers?

6 A. She came over every once in a while but yes she did
7 have access to them.

8 Q. By access I mean they were -

9 A. She could use them.

10 Q. Could use them?

11 A. Yes she could use them anytime she wanted to if she
12 came over.

13 Q. Did you ever see her using the computers?

14 A. Yes.

15 Q. How often did you see her --

16 A. She wasn't over very often. Her and Brittany were
17 still good friends and her and Destiny were still good
18 friends so they would come over occasionally.

19 Q. Who is Taylor Cooper?

20 A. Taylor Cooper is one of the girls that's friends with
21 Brittany that lives in Buffalo.

22 Q. Did she ever come over to Wardlaw Street?

23 A. Not that I know of. She was at Pine Street a good
24 bit.

25 Q. Marina Williams, who is she?

DOUG BISHOP: BY MR. SOWELL

-331-

1 A. Marina is Chance Williams sister and Chris William's
2 daughter. She - Her and Kelly were extremely good friends.
3 She would actually come over many times and would stay the
4 night several times too over at Wardlaw Street.

5 Q. Did she have access to your computer when you were
6 not present?

7 A. Yes.

8 Q. Who is Jake Johnson?

9 A. Jake Johnson is one of Chance's friends. He came
10 with Chance several times over to the house.

11 Q. Did he have access to your tower computers?

12 A. Yes.

13 Q. When I say access I mean access when you were not
14 present.

15 A. Yes.

16 Q. Who is Drew Boone?

17 A. Drew Boone is just a friend of Chances. He was also
18 who - I met him many a time over at Linersville Road and
19 whenever Chance would come over to my house a lot of times
20 he would bring three or four friends over at one time. And
21 so Drew was one of the friends, you know, people that was
22 over at the house.

23 Q. Did he have unfettered access to both computers?

24 A. Yes, sir.

25 Q. No supervision?

DOUG BISHOP: BY MR. SOWELL

-332-

1 A. Yes, sir.

2 Q. Who is Luke Manning?

3 SOLICITOR ANTHONY: I'm sorry, I didn't hear that
4 name.

5 Q. Luke Manning.

6 A. He was the same. He would come over to the house
7 with Chance.

8 Q. Luke Manning, did he have unfettered access to your
9 tower computers on Wardlaw Street?

10 A. Yes, sir, he would come over with Chance on occasion
11 yes.

12 Q. Megan Trammell. Who is that?

13 A. That was Chance's girlfriend after Brittany and yes
14 he would bring her to the house sometimes which would not
15 make Brittany real happy but she dealt with it. But yes
16 she had access to the computers also.

17 Q. Without supervision?

18 A. Yes.

19 Q. Who is Shawn Kemp?

20 A. Shawn Kemp is one of the boys that Chance knew over
21 on Linersville Road, went to school with him and Brittany.
22 He would bring him over sometimes.

23 Q. Did he have access to the computers?

24 A. Yes he did.

25 Q. John Whitmire. Who is that?

DOUG BISHOP: BY MR. SOWELL

-333-

1 A. John Whitmire is just one of the friends of the
2 girls. I'm not - I met him on occasion. The main place I
3 ever really saw him mainly was at Linersville Road. He may
4 have come over to Wardlaw but it's been two years I can't
5 exactly remember if he was there or not.

6 Q. Who is Devin Bates?

7 A. Devin Bates is about the same way. He was one of
8 Chance's friends.

9 Q. Did he come over to Wardlaw Street?

10 A. He probably did.

11 SOLICITOR ANTHONY: Objection.

12 Q. Did he not? Tell me what you know.

13 A. He may have. I'm not sure.

14 Q. Skip that one. Chelsea Bryant. Who is that?

15 A. Chelsea is one of Brittany and Kelly's friends. She
16 had access to the computers, she was over several times.

17 Q. James Bonanno.

18 A. What's the name?

19 Q. James Bonanno.

20 A. That was one of the girls friends but I think that
21 was mainly at Linersville Road.

22 Q. Miranda Rhinehart.

23 Q. Miranda yes. That was one of Kelly's friends. It's
24 also one of Denise's best friends. She came over to
25 Wardlaw Street. In fact I had to go get her on several

DOUG BISHOP: BY MR. SOWELL

-334-

1 occasions. Her and her parents were into it and she would
2 take off and give Denise a call and I'd have to end up
3 going to get her to get her off the street. They would
4 come over to our house. I would call her parents to let
5 her know where she was and just tell them, you know, she's
6 gonna stay over here for a little while, let 'em play on
7 the computers and whatever and when she gets being upset
8 I'll bring her home and they would be fine with it.

9 Q. Did she have unfettered access to your computers?

10 A. Yes.

11 Q. To the towers?

12 A. Yes.

13 Q. Audrey Howell. Who is that?

14 A. Audrey is Destiny and Denise's - I think it's cousin.

15 Everybody knows her around here as Pooky. She goes to
16 church with Destiny and was going to church - I was going
17 to the same church. She had been over several times, she
18 had access to the computers. I've actually helped her with
19 many different school projects and stuff and research
20 papers at the house at Wardlaw Street.

21 Q. When you left after Dana's affair, you left Pine
22 Street?

23 A. Yes.

24 Q. Where did she go?

25 A. Dana stayed at Pine Street for about - till the end

DOUG BISHOP: BY MR. SOWELL

-335-

1 of the summer. I left at the very beginning of the summer.

2 Q. What year was this?

3 A. This was 2009. I left at the beginning of the
4 summer. As soon as the girls got out for summer they went
5 to Scott's house for three weeks. I moved out while they
6 were gone.

7 Q. I believe you installed electricity at the Wardlaw
8 Street in July of '09?

9 A. Right.

10 Q. When you left Pine Street earlier than that where
11 did you go?

12 A. I actually went to stay with Robert's brother, Jimmy,
13 for about three weeks until we got to talking to Bill
14 Tucker and he actually - because I was looking for an
15 apartment or something that I didn't want to keep staying
16 with Jimmy and Danny. I stayed with them about three
17 weeks. After I really couldn't find an apartment or
18 whatever, Robert and Dana talked to Bill and Bill had moved
19 out of that house they were just using it for storage.

20 Q. This was the [REDACTED]

21 A. Yes it is. Me and Bill talked; I was starting
22 college and everything at the same time and he told me as
23 long as I was in college and I was unemployed I was welcome
24 to use the house. Said that the only thing he wanted me to
25 do was make sure I kept the house up and make sure I paid

DOUG BISHOP: BY MR. SOWELL

-336-

1 the taxes on it every year which I did.

2 Q. So you moved into Wardlaw Street in July of '09?

3 A. Yes.

4 Q. Did the girls and Dana visit you at Wardlaw Street
5 after July of '09?

6 A. Yes.

7 Q. And did the girls use your laptop when they were
8 visiting at Wardlaw Street?

9 A. Yes.

10 Q. Now, what happened in December of '09?

11 A. In December of '09 Chris, and I hate to say it,
12 enjoyed drinking a lot and him and Dana would constantly
13 get into fights. And she called me one night and he had
14 gotten real belligerent and real angry.

15 Q. Let's cut to the chase. Did she move in with you?

16 A. Yes.

17 Q. What month?

18 A. In December.

19 Q. Of what year?

20 A. Of '09.

21 Q. Now, part of that time Dana was living with --

22 A. With Chris on Linersville Road.

23 Q. The girls were living there too?

24 A. Yes.

25 Q. The girls and Dana would visit you at Wardlaw Street?

DOUG BISHOP: BY MR. SOWELL

-337-

1 A. Oh yes.

2 Q. Did Chris get upset that she was now going back and
3 having an affair with you while she was living with him?

4 A. No. Me and Chris are still good friends even to
5 today. I mean I look at it this way. It wasn't all his
6 fault; it wasn't all her fault. It was partly my fault. I
7 mean I understand I drove her partly away.

8 Q. Was he here this morning to show support to you?

9 A. Yes he was.

10 Q. In December of '09 arguments broke out when Dana
11 and the girls would come visit you at Wardlaw Street?

12 A. Yes they would.

13 Q. They would use your computer?

14 A. They would use my laptop because that's the only
15 thing I had at the house.

16 Q. And you would let them use your laptop to do their
17 homework and things like that?

18 A. Yes. If they needed to yes.

19 Q. Did you teach them how to download movies?

20 A. Oh yes.

21 Q. Did Scott help you teach them how to download movies?

22 A. Yes he did. In fact he's the one who showed Brittany
23 how to use Utorrent.

24 Q. Use what?

25 A. Utorrent. I didn't know anything about it. She came

DOUG BISHOP: BY MR. SOWELL

-338-

1 home one weekend from her daddy's and said I got a new
2 program, you know, we need to download a new program daddy
3 taught me how to that's better.

4 Q. And --

5 A. Up to that point we had been using FrostWire to get
6 movies and it was slow.

7 Q. So you used FrostWire on your laptop to download
8 Hollywood movies?

9 A. Yes.

10 Q. Would you ever download any bad movies?

11 A. Not intentionally. I mean I never actually on
12 purposely download any kind of porn.

13 Q. When you were - You did accidentally download, what
14 would happen when you found out it was porn?

15 A. As soon as I found out it was any kind of adult
16 porn I immediately deleted it. I didn't want to expose the
17 girls to that. I'm not one into porn so I wouldn't have
18 wanted to look at it.

19 Q. So did you and Scott help the kids learn how to
20 download?

21 A. Yes.

22 Q. And you were teaching them the slow project, or
23 program, and he said no I got something fifteen million
24 times better and that was Utorrent?

25 A. Utorrent yes.

1 Q. He's the one that taught the girls to use Utorrent?

2 A. Yes. And then Brittany came home and taught me.

3 Q. Now who put Utorrent on the two desktop tower
4 computers?

5 A. Brittany did.

6 Q. Who put FrostWire on those computers?

7 A. Actually I think I did.

8 Q. Now, when you learned about this Utorrent, was
9 FrostWire out the window?

10 A. No actually no. UTorrent is not real good for
11 downloading music not unless you want to get whole albums
12 which were not - we were just wanting specific songs so we
13 still kept FrostWire on there to do the music and Utorrent
14 for doing movies.

15 Q. Now, was FrostWire free?

16 A. Yes it is.

17 Q. Was uTorrent free?

18 A. Yes it is.

19 Q. Do you get them off Google?

20 A. You can Google it and go to the web site and get
21 both of them free and their very easy to download and set
22 up.

23 Q. Did you ever have any idea there was any porn on the
24 two towers?

25 A. No, sir, I did not. In my examination of both

DOUG BISHOP: BY MR. SOWELL

-340-

1 towers I never saw porn on either one.

2 Q. When you tried to open a movie that was on - Well
3 which tower did you all use? Which tower did you use to
4 teach the girls to use to put Utorrent on?

5 A. Actually we used both of them but this was the
6 primary one. And then when we got the other one the other
7 one handles movies a little better so we started --

8 Q. More memory?

9 A. Yes. Bigger hard drive is the biggest thing.

10 Q. More ram?

11 A. Yes.

12 Q. Now, after the girls and Dana brought the two towers,
13 did you remove your laptop and never used it again?

14 A. Yes.

15 Q. Where did you put it?

16 A. It stayed in my bedroom.

17 Q. Do you have any evidence or any reason to think that
18 the laptop had any porn at all on it?

19 A. No, sir.

20 Q. Did you in fact have any evidence or any knowledge
21 that the two towers had any porn at all on them?

22 A. No, sir.

23 Q. You were going to either of these computers and
24 wanted it to open up and view a movie how would you do
25 that?

DOUG BISHOP: BY MR. SOWELL

-341-

1 A. Simply once Windows booted up I --

2 Q. Would that would be once you turned it on?

3 A. Right. Once we turned the computer on which they
4 stayed on most of the time anyway, you would literally go
5 to either My Documents and look at My Movies or a lot of
6 times on the other tower I put a actual movies folder on
7 the desktop and every time we downloaded one we just moved
8 it over to that folder, that way everything was in one
9 spot.

10 Q. So you would go to a Movie folder?

11 A. Uh-huh, and then look at the different icons and just
12 click on which ever one we wanted to watch.

13 Q. Was there a little screen there you just typed in
14 the name of the movie?

15 A. No actually you could actually go to the bottom at
16 run and type in what you wanted to watch and it would, you
17 know, bring you to that folder. But most of the time we
18 literally just opened that window and we clicked on the
19 movie that we wanted to watch.

20 Q. After the girls brought those movies on those
21 computers, Dana brought those computers also to Wardlaw
22 Street, did you have any reason at all to use either of the
23 towers?

24 A. No, sir.

25 Q. Did you ever use any of the towers?

DOUG BISHOP: BY MR. SOWELL

-342-

1 A. The only time I ever had any dealings with the
2 towers is that if something messed up on them or if the
3 girls had something they couldn't, you know, they couldn't
4 figure out I would take and help them with it.

5 Q. The computer stuff or school stuff?

6 A. Both.

7 Q. So you never sat there and operated either tower?

8 A. No, sir, I had no reason to use them. I had my
9 laptop.

10 Q. How old is this computer here?

11 A. That computer is at least eight years old. I know
12 that for a fact.

13 Q. How old are the internal batteries in it?

14 A. They were in it when we got it so when Scott built
15 it so I'm assuming they're at least eight years old.

16 Q. How long do the computer batteries last before they
17 begin to --

18 A. On an average -

19 SOLICITOR ANTHONY: Objection. There is no foundation
20 for or any basis at all for him to answer that question.

21 THE COURT: Rephrase your question.

22 BY MR. SOWELL:

23 Q. Where did you go to school?

24 A. I went to Spartanburg; Spartanburg High School and
25 then to Spartanburg Tech for a while.

1 Q. What did you take at Spartanburg Tech?

2 A. Electronic's engineering.

3 Q. And what did you study in that?

4 A. AC DC circuits and everything with anything to do
5 with electronics on fixing things.

6 Q. Tell me why I should believe you're a computer
7 expert?

8 A. I'm not an expert. I'm just very knowledgeable.

9 Q. How did you get knowledgeable?

10 A. I'm not a dummy when it comes to computers. I know
11 how to build them; I know usually how to fix them. I mean
12 I can usually, you know, tear one apart and put it back
13 together. You build a new one you put everything in it.
14 You load Windows on everything and all the drivers and
15 everything.

16 Q. Do you know how to replace batteries?

17 A. Yes I do.

18 Q. Did you ever replace batteries on a computer?

19 A. Yes I have.

20 Q. How long do batteries in computers normally last?

21 A. About three years. Its about like a car battery
22 unless the system is left on twenty-four hours a day the
23 battery will not last.

24 Q. So that battery was five years past -

25 A. Past it's life time yes.

DOUG BISHOP: BY MR. SOWELL

-344-

1 Q. What do you call that?

2 A. A C Moss battery.

3 Q. A C Moss battery. And that battery serves what
4 purpose?

5 A. The C Moss battery keeps the BIOS and the internal
6 clock so that nothing changes.

7 Q. What is BIOS?

8 A. The BIOS is the actual basic instructions that tell
9 the mother board okay I've got these parts in me and this
10 is how to use them. If the battery goes out the settings
11 will reset and you will have to end up resetting the BIOS
12 and resetting the clock every time it goes off.

13 Q. Is that that disc that you use to stick in the A
14 drive on the computer to make it learn how to operate?

15 A. Yeah that was the old timey computers used the
16 floppy that actually started it up yes.

17 Q. Used that on this computer?

18 A. That's what I used in high school was the old Apples.

19 Q. So the computer, the disc that teaches the computer
20 how to work ---

21 A. Right.

22 Q. --- that's the BIOS?

23 A. Yes. It is on a chip inside the computer now.

24 Q. And that little battery keeps that BIOS -

25 A. It keeps it from resetting to it's actual battery

1 specs.

2 Q. So it doesn't wipe it out it just -

3 A. It just resets itself.

4 Q. Okay. And the clock; what does the clock do?

5 A. It would reset itself back to the time that was
6 whatever was on the BIOS chip.

7 Q. And that would be 00000.

8 A. It would be probably 12:00 o'clock at night on
9 whatever day they decided whatever the BIOS was burned into
10 it.

11 Q. So when the -- What would make the computer need
12 the C Moss battery?

13 A. If you didn't want to have to reset the BIOS every
14 time and didn't want to have to reset -

15 Q. What do you mean by every time?

16 A. Every time you powered it off.

17 Q. When --

18 A. Every time it was shut down it would reset itself.

19 Q. When the girls and Dana left Pine Street they went
20 where?

21 A. They went to Linersville Road.

22 Q. Did you ever go to Linersville Road to help them
23 with the computers?

24 A. Yes I did. I had to reset the BIOS several times
25 over at Linersville Road.

DOUG BISHOP: BY MR. SOWELL

-346-

1 Q. And why would that be?

2 A. Because Linersville Road just like Wardlaw Street
3 has piss poor wiring in it and the power kept flickering on
4 and off.

5 Q. Now tell me about Wardlaw Street electricity. How
6 many outlets were in each room?

7 A. One. There is one outlet in each room.

8 Q. Now how do you get - Did you use an electric heater
9 in that room also, in the living room?

10 A. No. Bill was lucky enough I didn't have to worry
11 about that. He had gas heat.

12 Q. When Dana and the girls moved into Wardlaw Street,
13 what electrical usage or what instruments used electricity
14 in the living room?

15 A. Both tower computers, both monitors, both sets had -
16 both computers had speaker systems with them.

17 Q. What about printers?

18 A. We had one printer also. All of them would have been
19 pulling power. All of that out of one outlet.

20 Q. Television?

21 A. Do what?

22 Q. Television?

23 A. None in that room. The television was in my
24 bedroom.

25 Q. Lamps?

1 A. Yes there was two lamps in the room.

2 Q. And this one electrical plug had two outlets?

3 A. Yes.

4 Q. Did it have - Did it have a ground plug?

5 A. No it didn't. It originally only had a two prong
6 outlet and I took the two prong outlet out, switched it to
7 a three prong outlet and just did not have a ground wire
8 hooked up simply so that I had two surge protectors. Just
9 extension cords with the six outlets. I had two of them
10 plugged into that one outlet.

11 Q. Was the original kitchen in this house was it
12 inside or outside the house?

13 A. Inside.

14 Q. Did it have a bathroom in it originally?

15 A. Originally it had out door plumbing. It had been
16 added on one bedroom and the bathroom had actually been
17 added on. The house was probably built back in the '40's
18 and had been moved to that location. Its an old mill
19 house.

20 Q. So when it was first built it had no electricity
21 at all?

22 A. It probably didn't but they added it when they moved
23 it to that location because it had all two wire wiring it
24 with --

25 Q. What happens when you plug fifteen million or three

DOUG BISHOP: BY MR. SOWELL

-348-

1 computers and lamps and all this other stuff into one
2 single plug?

3 A. You --

4 Q. How did you do that first?

5 A. Because I had two of those six outlet little strips.
6 Power strips. I had two of them plugged into that one
7 outlet so you had computer monitor and speakers in both of
8 them which took up three on each side plus a lamp on one
9 side plus the printer on the other side. You didn't have a
10 whole lot left over and then turn around either one of them
11 had a cell phone to charge there went another outlet.

12 Q. And what effect did that have on the power
13 consistency?

14 A. The power in that house would flicker at least
15 once a day. Sometimes two or three times a day. If it was
16 -- If we didn't have all the computer stuff on or whatever
17 it might stay a week without flickering but as long as the
18 computers were on I was constantly having to reset
19 everything.

20 Q. Did you finally get tired of resetting it?

21 A. Yes I did.

22 Q. Is there any really need to reset the time on the
23 computer?

24 A. No. Not unless you're the one that wants to go by
25 the clock that's on the Windows screen. I used to wear a

1 watch all the time, I've got a cell phone and a clock on it
2 and I had a clock on the wall so I didn't care what time
3 the computer said. I just got tired of having to reset it.

4 Q. After Dana and the girls moved in with you in
5 December of '09, how often would the electricity flicker in
6 that house?

7 A. Two or three times a week.

8 Q. And when it would flicker what would happen?

9 A. It would shut both computers down.

10 Q. Would it throw the breaker?

11 A. Sometimes. Not all time but it would sometimes.

12 Q. Was it a fuse or a breaker box?

13 A. It's an old old breaker box. You can't even hardly
14 find breakers for that box any more.

15 Q. And tell me, I didn't quite understand your answer.
16 What is the need to have a clock? If you're just a normal
17 person like me and most of the people around; is there
18 really any need to have a clock on a computer?

19 A. Not really no, sir.

20 Q. And ----- you say you bought that?

21 A. Yes I did.

22 Q. A long time and the clock not working?

23 A. Yes I did. After December I reset it a half a dozen
24 times or so when they first moved in. I finally got tired
25 of doing it. I told them not to worry about it just boot

DOUG BISHOP: BY MR. SOWELL

-350-

1 it up and keep using it and basically just forgot I told
2 them to forget about it.

3 Q. How many days after they moved in in December of '09
4 did you give up on resetting that clock?

5 A. It was less than two weeks.

6 Q. Did there ever come a time when you decided to reset
7 it?

8 A. Actually yes there was.

9 Q. When was that?

10 A. Kelly's birthday which is 4/30/90. Well she was born
11 in '96 but 4/30 I had bought her a new game.

12 Q. April 30th?

13 A. April 30th.

14 Q. What year?

15 A. When I reset it would have been April 30th 2010.

16 Q. Tell me about her birthday.

17 A. I bought her a new game for her birthday and it was
18 one of the Simm's games and it is actually doing with
19 timing and everything. And she looked at me and said its
20 my birthday and I want the time and everything right so I
21 went through all the stuff I had to do and reset the clock
22 and reset everything on her birthday.

23 Q. How long did that take?

24 A. Just a couple of minutes. It didn't take long.

25 Q. When the Cipriano girls, your step daughters, were

1 there five, six days a week; what time -- Well let's back
2 up. In the mornings what time would you get up?

3 A. I wake up at -- I was waking up at 6 o'clock. I'd
4 get them up at six.

5 Q. Did you prepare lunch - breakfast for them?

6 A. No. We were not big breakfast eaters. I would get
7 them up at six to make sure they had an hour to do hair and
8 makeup and whatever they needed to do so we could leave the
9 house anywhere between seven and 7:15.

10 Q. Now four teenage girls would get ready to go to
11 school in an hour using one bathroom?

12 A. Yes, sir. That and also in my bedroom I had my big
13 mirror in there so they had room enough to get multiple
14 mirrors.

15 Q. And after you took them to school what would you do?

16 A. I took them --

17 Q. Let me narrow this down to time. In December of '09
18 Dana and the girls moved in until May of 0 - 2/10 your
19 schedule was to get up at 6 o'clock and get the kids ready
20 for school, leave at 7:15 to take them to school?

21 A. Yes.

22 Q. Then what?

23 A. Take them school, come back to the house at a little
24 after 8 o'clock.

25 Q. Were you working at that time --

DOUG BISHOP: BY MR. SOWELL

-352-

1 A. No I was not. I was drawing unemployment. Come back
2 at a little after eight, usually I would either take a
3 shower or I would lay down and take a quick nap because I
4 usually was tired. I would get up about 9:30 or so and I
5 would be up at the shop at ten or a little after ten.
6 Would stay at the shop until they went to lunch, would go
7 to lunch with them, come back from lunch and I would stay
8 at the shop until approximately 1:30. I would leave the
9 shop at 1:30 to make sure I was first in line at Sims by 2
10 o'clock.

11 Q. Why did you have to be first in line?

12 A. Because that was the school system. If you weren't
13 -- They decided to make Sims and the high school release
14 less than fifteen minutes apart. I have girls at Sims, I
15 have girls at the high school. I didn't want my girls at
16 the high school to have to wait any longer. And if you're
17 in the back of the line at Sims you could be at Sims
18 thirty, forty-five minutes. So I made sure I took the time
19 to b there at 2 o'clock so I was in the first line to get
20 out of the school.

21 Q. After the two girls - After the two younger girls were
22 finally in the car then you would go where?

23 A. Then I would leave there at about 3:15 would go over
24 to the high school to pick Brittany, Destiny, and usually
25 Audrey, I had her to.

DOUG BISHOP: BY MR. SOWELL

-353-

1 Q. Who is Audrey?

2 A. Audrey Howell is Destiny and Denise's cousin. She
3 was a --

4 Q. The girl ---

5 A. She was a good --

6 Q. --- we were talking about earlier that had access to
7 your computer?

8 A. Yes.

9 Q. What time did the high school get out?

10 A. High school got out about 3:20; 3:25.

11 Q. So you were not always the first in line?

12 A. I couldn't be because I was at Sims until 3:15. The
13 bell would let out at 3:15 and we would get out by 3:30 if
14 you were lucky.

15 Q. So you just did the best you could to get over to
16 the high school -

17 A. Brittany would call me every day and say ha where are
18 you at and I would be at the traffic light sitting at the
19 Foster Park lake just about every time.

20 Q. And after you picked the kids up what did you do?

21 A. It depends on what Audrey needed to do. A lot of
22 times I would take Audrey home or if she needed school work
23 done or whatever I would bring her over to the house but
24 all five of the girls usually came over to my house to do
25 school work and everything.

DOUG BISHOP: BY MR. SOWELL

-354-

1 Q. Did they get on the two computers?

2 A. Yes they did.

3 Q. Did they try their best to share?

4 A. Yes. And actually the two younger ones shared pretty
5 good and the three older ones actually shared pretty good.

6 Q. And when - Would you helped the girls with their
7 homework and their computer work after school every day?

8 A. Yes if they needed it yes I would.

9 Q. What time did they finish their computer work?

10 A. We wouldn't finish that until usually between five
11 and six we would get all of the school work done.

12 Q. What did you do after six?

13 A. That's when I usually --

14 Q. After school work?

15 A. Do what?

16 Q. After the school work was completed what did you do?

17 A. I would usually end up I would be the one cooking
18 dinner and then from there I would make sure, you know,
19 what ever house work needed to be done, if laundry needed
20 to be done, dishes, stuff like that. I wasn't employed so
21 I figured I was the housewife.

22 Q. Where was Dana at this time?

23 A. Dana was working at Walmart and her schedule was so
24 up and down I never knew from one day to the next whether -
25 when she was gonna be there.

DOUG BISHOP: BY MR. SOWELL

-355-

1 Q. So after the meal was cooked and eaten, did the girls
2 go back to the computers?

3 A. Yes, sir. They stayed on the computer until they
4 went to bed.

5 Q. What would they do on the computers?

6 A. They could be playing games, they could have been
7 downloading music, they could have been downloading movies,
8 they could have been watching movies, just pretty much
9 anything. They knew how to run the computer so I didn't,
10 you know, they were on their own. I had stuff I needed to
11 do around the house or yard work or I might have to go up
12 there to help Robert with something at the shop.

13 Q. Did you ever go back in the bedroom with your laptop?

14 A. Yes I have. If I had a day that was easy going I
15 would actually just go back and lay on my bed with my
16 laptop in my lap and turn a movie on. That's usually how I
17 ended up going to sleep.

18 Q. If you had a computer in your bedroom and your wife
19 did she ever use your laptop?

20 A. No. She would have to argue with the kids on using
21 one of the towers.

22 Q. You had four kids in your house and you had a laptop
23 back in your bedroom with the door closed, is there any
24 reason in the world you would go to the girls computers and
25 download kiddy porn on their computers rather than use your

DOUG BISHOP: BY MR. SOWELL

-356-

1 protected private laptop?

2 A. No I wouldn't.

3 Q. Can you think of any reason why anybody would go into
4 the girls computers and put on kiddy porn rather than go
5 hide in the bedroom and put it on a laptop?

6 A. No. It wouldn't make sense to me. I mean why would
7 you put it on the tower that everybody uses and have
8 somebody accidentally find it? I mean my laptop was only
9 used by me.

10 Q. Is that thought magnified by the fact that you were
11 the only one who had the right to use your laptop?

12 A. Once Dana moved in and brought the two towers I pass
13 word protected my laptop.

14 Q. So no one could get on your laptop after the girls
15 no longer needed to use your laptop your laptop was closed?

16 A. Right.

17 Q. What do you mean by password protected?

18 A. Means I had - When you start a laptop up it wouldn't
19 even boot up into Windows until you put - typed the
20 password in.

21 Q. And did anyone have your password except you?

22 A. No.

23 Q. If you were trying to hide kiddy porn, what computer
24 would you use?

25 A. The laptop.

DOUG BISHOP: BY MR. SOWELL

-357-

1 Q. Is there any logic explanation you can think of no
2 matter how far you have to reach to explain why you would
3 put kiddy porn on the girls computer when your's is
4 password protected?

5 A. No.

6 Q. What time would the girls finally turn the computers
7 off to go to bed?

8 A. The computer probably - most of the time the
9 computers never actually got shut down. They would
10 actually get off of them - they would go take showers and
11 everything and then I would try to make sure they were in
12 bed between ten and eleven. Although I have gotten up in
13 the middle of the night to go use the bathroom and find one
14 of the girls on the tower in the middle of the night and
15 would fuss at them especially if it was a school day the
16 next day. That they needed to get their butt in bed
17 because it was school the next day.

18 Q. Did you ever look over their shoulders to what
19 they were looking at?

20 A. No. I didn't really pay it no attention.

21 Q. Did you think there was any reason to?

22 A. Do what?

23 A. Did you think there was any reason to?

24 Q. No.

25 Q. Need to?

DOUG BISHOP: BY MR. SOWELL

-358-

1 A. No. They had never done anything in the past that
2 I knew of so there, I mean, I don't restrict access to the
3 internet or anything so I just let them do what they wanted
4 to. They never gave me a reason to worry about it.

5 Q. What did you have to do to the computer to put a
6 password on it so no one could use it and not your
7 password?

8 A. You would have to actually go into the BIOS on the
9 computer and tell it to put a master password on it.

10 Q. And how difficult is that to do?

11 A. Not very. When you boot the computer up it usually
12 has an F key that you can actually hit on the keyboard that
13 will bring you into the BIOS actual internal screen of the
14 computer and you can go over to security, go down and tell
15 it password; it will let you enter the password and confirm
16 the password and once you click out and save it's on there
17 until you change it.

18 Q. How long does that take?

19 A. Two minutes at the most.

20 Q. The Cipriano girls testified yesterday they never
21 saw any girly pictures or movies on your laptops.

22 A. Correct.

23 Q. On the desktops?

24 A. Correct.

25 Q. They also testified they have spent five to six days

1 a week at your house; is that correct?

2 A. Yes it is.

3 Q. There was some question about what time when they
4 moved back into Wardlaw with you.

5 A. Dana moved - Dana moved back into Wardlaw Street in
6 December of '09. I know that for a fact because we even
7 had a slight argument about whether or not I was gonna put
8 a Christmas tree up.

9 Q. Did you put a Christmas tree up?

10 A. Yes I actually gave in and put a Christmas tree up.

11 Q. Before Christmas?

12 A. Yes.

13 Q. 2009?

14 A. Yes. I had to move the entire living room around
15 to put a Christmas tree up. I wasn't very happy.

16 Q. When Dana and Chris were living together, how often
17 would she spend the night with you?

18 A. Who Dana?

19 Q. Yes.

20 A. When ever she would get in an argument with Chris
21 while they were living at Linersville Road she came over on
22 several occasions and would spend a couple of days at my
23 house to get away from him off and on the whole time from
24 the end of summer 'till she moved in in December. She was
25 there several times.

DOUG BISHOP: BY MR. SOWELL

-360-

1 Q. After she moved in in December did she move out and
2 back in?

3 A. No. She stayed with me in December all the way up
4 'till May.

5 Q. Tell me about the laptop. Where is the hard drive
6 from the laptop?

7 A. SLED took it and did a investigation on it. I'm
8 assuming it's on their little cart wherever the evidence
9 is. I have the rest of the laptop at the house.

10 Q. Is that the one in which no items of interest were
11 found?

12 A. Yes.

13 Q. Now the rest of it is at the house. Why, why would
14 you take the hard drive out of the laptop?

15 A. In April the laptop ended up with a virus and it
16 crashed Windows so bad that I was going to have to reload
17 Windows on it. As Robert said, it already had the keyboard
18 damaged in it well the computer was getting old the CD Rom
19 drive had quit working and I was having too much trouble
20 with it trying to get Windows to reload onto the hard drive
21 and that was probably in the middle of April.

22 Q. Of what year?

23 A. 2010.

24 Q. So you took the hard drive out?

25 A. I took the computer apart.

1 Q. For what purpose did you take it apart?

2 A. Well first not knowing the laptop I didn't realize
3 you didn't have to take the whole computer apart; all you
4 have to do was take the board off the bottom but when I
5 finally figured that out I had already had the screws out
6 of the rest of it, so I got kind of curious as to what the
7 rest of it look like so I took it all the way apart and was
8 gonna put it all the way back together then I lost too many
9 screws I couldn't put it back together.

10 Q. And that was in the middle of April of 2010?

11 A. Yeah.

12 Q. Have you replaced the laptop?

13 A. Yes I have a Netbook, the little bitty tiny laptop.

14 Q. Does that do everything a laptop did?

15 A. It does not have a CD Rom drive but I bought an
16 external one to plug to it so I can play DVD's if I want to
17 or load programs if I want to. But it's just a little
18 bitty one so it's easy to carry around.

19 Q. It does everything a normal laptop does?

20 A. Yes.

21 Q. Does it have all the ram you need?

22 A. Yes. I updated the ram on it.

23 Q. Does it have all the memory you need?

24 A. Oh yes.

25 Q. Does the new little computer has everything you need?

DOUG BISHOP: BY MR. SOWELL

-362-

1 A. Yes.

2 Q. That's the computer you're using now?

3 A. Yes.

4 Q. And the old laptop was -

5 A. It was getting old and outdated.

6 Q. You took it apart in the middle of April ---

7 A. Yes.

8 Q. --- 2010? If you went to buy a new hard drive could
9 you put it back together if you had the screws?

10 A. Yeah if I could find - if I could get the screws and
11 everything I could put it back together. And SLED actually
12 - When Roxie Belue came in and did the search and seizure
13 she found parts laying all over the place as I got mad at
14 it and chunked it in the trash - about chunked it in the
15 trash. And literally they actually kind of stuck it back
16 together. All I needed was actually was to get a whole
17 bunch of screws and put it back together.

18 Q. Did you ever use Facebook?

19 A. Facebook? Yes, sir.

20 Q. Did the girls know how to use Facebook?

21 A. Oh yes. They in fact they taught me how to use
22 Facebook. In fact they were the ones who helped me set up
23 my Facebook page.

24 Q. Did one of the girls put a sexual statement on
25 Facebook?

DOUG BISHOP: BY MR. SOWELL

-363-

1 SOLICITOR ANTHONY: Objection. Hearsay.

2 MR. SOWELL: On Facebook, Your Honor. I haven't said
3 it was true. I said the Cipriano -

4 THE COURT: Let's back up and lay a better foundation.
5 You said on Facebook. Whose Facebook account?

6 MR. SOWELL: What is Facebook?

7 I'm sorry, Your Honor. Am I allowed?

8 THE COURT: Go ahead.

9 BY MR. SOWELL:

10 Q. What is Facebook?

11 A. Facebook is a chat and internet program that people
12 put up basic to their life style on the computer they put
13 what they do everyday. I mean we have people that are so
14 addicted to Facebook that literally every minute of the day
15 they're putting up what they're doing at that minute.

16 Q. Do girls loose custody of their kids based on what
17 they put on Facebook?

18 A. Sometimes yes.

19 Q. Have you seen a Facebook picture of my client put on
20 Facebook?

21 A. Yes.

22 Q. Extremely obscene pictures put on his Facebook?

23 SOLICITOR ANTHONY: Objection. This is irrelevant.

24 THE COURT: I sustain the objection.

25 MR. SOWELL: I'm trying to get into Facebook...

1 THE COURT: Let me let the jury go to the jury room
2 just a minute.

3 (JURY EXITS COURTROOM AT 02:28 P.M..)

4 THE COURT: I have to start by admitting I'm some what
5 lost. I heard you say at least I understood that you ask
6 him had he seen a picture of your client put on Facebook.

7 MR. SOWELL: Yes, sir.

8 THE COURT: He's your client.

9 MR. SOWELL: Not him.

10 THE COURT: You said client and we don't know who that
11 is.

12 MR. SOWELL: I've shown him an extremely obscene
13 picture of one of my clients put on Facebook. I these kids
14 away from them - I mean my client's wife, I represented the
15 wife. She got custody because of this picture of his
16 private parts he put on Facebook and his fifteen year old
17 son had to go to school to explain why his father's penis
18 is on Facebook.

19 THE COURT: Well -

20 MR. SOWELL: I'm just trying to show what people put
21 on Facebook.

22 THE COURT: Well I think -

23 Do you object?

24 SOLICITOR ANTHONY: Yes, sir. I just don't see the
25 relevance.

DOUG BISHOP: BY MR. SOWELL - IN CAMERA

-365-

1 THE COURT: I sustain the objection. I don't find
2 it's relevant.

3 MR. SOWELL: I'm trying to show that one of these
4 girls put on Facebook that she was bisexual.

5 THE COURT: Well you might can go into what one of the
6 witness's; if you get into something that's going to
7 impeach a witness's testimony but just -- Who is the girl?

8 MR. SOWELL: Which girl?

9 A. Denise C [REDACTED].

10 THE COURT: Denise C [REDACTED]?

11 MR. SOWELL: She was a witness here yesterday. She
12 has not been released.

13 THE COURT: I'm still not sure about the relevancy of
14 it other than you having to show maybe she is inclined to
15 be someone who would be looking for sexual oriented
16 material somewhere else. Go ahead and make a proffer on
17 it. I'm not so inclined at this point to let it in but go
18 ahead and make a proffer.

19 DIRECT EXAMINATION - IN CAMERA

20 DOUGLAS BISHOP BY MR. SOWELL:

21 Q. Which girl was it that put the article on Facebook?

22 A. Denise C [REDACTED].

23 Q. And what did the article involve?

24 A. She came out as they put it she admitted on Facebook
25 that she was bisexual and that she had a seventeen year old

DOUG BISHOP: BY SOLICITOR ANTHONY - IN CAMERA

-366-

1 girl friend at the high school that was in the eleventh
2 grade.

3 MR. SOWELL: This puts criticism back to the girls the
4 obscene picture of girls.

5 THE COURT: Do you have any questions of this witness
6 on this issue?

7 CROSS EXAMINATION - IN CAMERA

8 DOUGLAS BISHOP BY SOLICITOR ANTHONY:

9 Q. You claim you saw this, Mr. Bishop?

10 A. Yes.

11 Q. Okay.

12 A. And I verified it with my wife and both of my step
13 daughters when I saw it.

14 Q. And you say there was a picture put up?

15 A. No she just made a claim that she had come out and
16 said that she was bisexual.

17 Q. Oh this was something that was said?

18 A. Yes she put it in - on the Facebook page that she
19 was bisexual and that she had a seventeen year old
20 girlfriend in the eleventh grade at the high school.

21 Q. Okay.

22 SOLICITOR ANTHONY: I don't have any other questions.

23 THE COURT: Do you object to --

24 SOLICITOR ANTHONY: Yes I do.

25 THE COURT: All right. I sustain the objection. I

1 find its not relevant. And it's not - it doesn't fall into
2 impeachment category, any impeachment category.

3 While the jury is out I know all of you want to use
4 the restroom so why don't we take about a quick five to ten
5 minute break.

6 Do you need to use the restroom?

7 MR. BISHOP: If you don't mind.

8 THE COURT: That will be fine.

9 (COURT IN RECESS AT 02:32 P.M..)

10 (COURT BACK IN SESSION AT 02:46 P.M.)

11 THE COURT: Thank you. Take your seats.

12 (WITNESS RETURNED TO WITNESS STAND.)

13 THE COURT: Anything from the State before we get the
14 jury in?

15 SOLICITOR ANTHONY: No, sir.

16 THE COURT: Anything from the defense before we get
17 the jury in?

18 MR. SOWELL: Yes, Your Honor. As the courtroom was
19 clearing out my client walked by me and ask me a question
20 and I told him I --

21 THE COURT: Wait just a minute. I couldn't hear you
22 for the squeaking. Go ahead.

23 MR. SOWELL: I said I don't think it would made any
24 difference and I shouldn't have said anything at all to him
25 and I'm sorry that I did that. We didn't discuss the case

DOUG BISHOP: BY MR. SOWELL

-368-

1 except I did say I don't think it made any difference. And
2 we didn't discuss any future testimony either.

3 SOLICITOR ANTHONY: I have nothing.

4 THE COURT: All right. Thank you. I appreciate you
5 putting that on the record.

6 Bring in the jury.

7 (JURY REENTERS COURTROOM AT 02:48 P.M.)

8 THE COURT: All right, you may proceed.

9 DIRECT EXAMINATION

10 DOUGLAS BISHOP BY MR. SOWELL:

11 Q. Mr. Bishop.

12 A. Yes, sir.

13 Q. When the girls left, the girls and your wife left
14 Pine --

15 A. Pine Street?

16 Q. Pine Street?

17 A. Yeah.

18 Q. When they moved out of Pine Street they moved to
19 where now?

20 A. Linersville Road.

21 Q. Linersville Road?

22 A. Yes.

23 Q. Did they have the laptop --

24 A. No.

25 Q. I'm sorry, did they have internet?

DOUG BISHOP: BY MR. SOWELL

-369-

1 A. They did when they first moved in.

2 Q. Which would have been?

3 A. They didn't have it but about a month before they
4 couldn't afford the bill and had it cut off.

5 Q. After they had the bill cut off, they had no internet
6 at home?

7 A. Uh-huh.

8 Q. Is that the reason they kept coming to your house?

9 A. Yes. That and my girls had always been close to me.
10 I've known both of them since they were born and they
11 always spent time with me anyway.

12 Q. Why did you not subpoena your girls and your wife
13 to testify for you here?

14 SOLICITOR ANTHONY: Objection.

15 THE COURT: I sustain the objection.

16 BY MR. SOWELL:

17 Q. You had thirty minutes to think of it, think about
18 it; can you - did you think of any reason why an adult
19 would use the girls computer to load kiddy porn ---

20 A. No.

21 Q. --- rather than use his password protected computers
22 back in the bedroom?

23 A. No.

24 Q. Did you have any idea this porn was on these
25 computers?

DOUG BISHOP: BY MR. SOWELL

-370-

1 A. No, sir.

2 Q. And when was it that you quit resetting the clock,
3 time clock when the electricity would flash?

4 A. When Dana and them moved in in December probably
5 about two weeks after that. I just got tired of resetting
6 it and told them not to worry about it.

7 Q. And when was the last time you reset it?

8 A. On 4/30 of '09.

9 Q. Did you reset it any time from December of '09 to
10 April 30th, 2010?

11 A. No.

12 Q. Do you love your step daughters?

13 A. Yes like their my own. Always have.

14 Q. Would you do anything to harm them?

15 A. No I would not. I'm Brittany's god father.

16 Q. Would you put kiddy porn on their computer?

17 A. No I would not.

18 Q. Did you do that?

19 A. No I did not.

20 Q. Did you have any idea it was on there?

21 A. No I did not.

22 MR. SOWELL: Nothing further, Your Honor.

23 THE COURT: Cross?

24 SOLICITOR ANTHONY: Thank you, Your Honor.

25 CROSS EXAMINATION

DOUG BISHOP: BY SOLICITOR ANTHONY

-371-

1 DOUGLAS BISHOP BY SOLICITOR ANTHONY:

2 Q. Mr. Bishop, ---

3 A. Yes, sir.

4 Q. --- as I understand it your testimony is that - well,
5 When did this computer here come to your house?

6 A. In December.

7 Q. Okay. December '09?

8 A. '09.

9 Q. Okay. And your testimony is that this computer
10 was there at your house in your living room from December
11 of '09 until May of 2010?

12 A. Yes.

13 Q. Right? All right. And during that time it was
14 fully operational?

15 A. Yes, sir.

16 Q. And you all had internet access at that time?

17 A. Yes, sir.

18 Q. So you could download movies onto it ---

19 A. Yes, sir.

20 Q. --- at will? Okay. And you testified - I want to
21 make sure, just ask you a few questions about this. You
22 actually had two desk top computers; is that correct?

23 A. Yes.

24 Q. All right.

25 A. he old one here and the new black tower.

DOUG BISHOP: BY SOLICITOR ANTHONY

-372-

1 Q. And this is the computer you would refer to as the
2 old computer; right?

3 A. Right. That's the kids gaming computer. It's the
4 old one.

5 Q. All right. And that's the computer that Scott
6 Percy built for you?

7 A. He built both of them.

8 Q. Oh he built both of them. Okay. But this is the
9 first one built?

10 A. Right.

11 Q. Okay.

12 A. We paid him to build the second one.

13 Q. Okay. And you had - Both of those computers were
14 built while you all were living on Pine Street; is that
15 correct? Or this one was built actually before you moved
16 to Pine Street; is that right?

17 A. It was built about the time that we - We actually
18 had it at Gage Avenue right before we moved out.

19 Q. Okay.

20 A. To go to Pine Street.

21 Q. Okay. And then the second desk top computer was built
22 a ---

23 A. Year or something later.

24 Q. --- year or so later?

25 A. Yes.

1 Q. Okay. And the idea was that that desk top would be
2 a little bit faster than ---

3 A. Yes.

4 Q. --- the older computer ---

5 A. Yes.

6 Q. --- that's there in front of you?

7 A. I don't remember what processor is in this one but
8 I know its just a single cord. The other computer is a
9 double cord, dual cord so it's a little faster.

10 Q. Okay. And did your - Did Dana want a computer to
11 use during that time when you all were living on Pine
12 Street?

13 A. She always just kind of shared use with the girls.

14 Q. Okay. Was she wanting a newer computer as well ---

15 A. She --

16 Q. --- so she could --

17 A. That's why we got the other one and she was tired of
18 all the girls arguing over one and her and the girls trying
19 to get on one so we had another one built that way three
20 people could split across two computers.

21 Q. Okay. And I'll show you just so we're clear on it.
22 And I'll go ahead -

23 If you'll put a sticker on this so the record is
24 clear.

25 (WHEREUPON: STATE'S EXHIBIT TWENTY-ONE PREMARKED

DOUG BISHOP: BY SOLICITOR ANTHONY

-374-

1 FOR IDENTIFICATION.)

2 Q. I'm showing you what's been marked State's Exhibit
3 Number Twenty-one for Identification. Is this the other
4 tower?

5 A. Yes. That's just a generic black tower that I built.

6 Q. Okay. So this is the new one; right?

7 A. Right.

8 Q. And then --

9 A. It's got a much larger power hard drive in it.

10 Q. Okay. And then this is the old one?

11 A. Yes.

12 Q. Okay. Now you went through this list with Mr. Sowell
13 of people who - friends basically of your daughters ---

14 A. Yes.

15 Q. --- who came over to the house; is that right?

16 A. Yes.

17 Q. And they'd be over there after school; is that
18 correct?

19 A. They'd be over there after school and many a times
20 several of them would spend the night.

21 Q. All right. Who would spend the night besides the
22 Cipriano sisters?

23 A. Just - Audrey Howell spent the night once or twice.

24 I really - that was over two years ago I can't even figure
25 out the exact list but there were several of them that

1 spent the night.

2 Q. Okay.

3 A. Off and on.

4 Q. All right. But it was just girlfriends of the ---

5 A. There were several boys that spent the night.

6 Q. --- of Kelly and Brittany? Okay. And would people
7 spend the night mainly on weekends or during the week?

8 A. Mostly if it was a boy it usually on the weekend.

9 The girls sometimes during the week. The main ones that we
10 always had were Destiny and Denise and Brittany and Kelly
11 in the house.

12 Q. Okay.

13 A. But friends either girls or boys either one a lot of
14 times especially on non school nights we would have a crowd
15 in the house.

16 Q. And you have like - You're saying teenage boys would
17 spend the night at your house with at least two teenage
18 girls there?

19 A. Yes.

20 Q. In two bedrooms?

21 A. We had - I've kept them in separate bedrooms.

22 Q. Well I mean you had to sleep somewhere didn't you?

23 A. Yes.

24 Q. Okay. Well you and Dana are sleeping in a bedroom;
25 right?

DOUG BISHOP: BY SOLICITOR ANTHONY

-376-

1 A. No.

2 Q. Okay. Well ---

3 A. I told ---

4 Q. --- how does that happen -

5 A. --- her - When we split up I did not know. We had
6 extra mattresses that we put out in the other bedroom and
7 made pallets and everything on the floor.

8 Q. Okay. So you're saying that after Ms. Bishop moved
9 back in, but you say that was in December of 2009, you're
10 saying you and her didn't have - share a bed?

11 A. No.

12 Q. Okay.

13 A. Like I said, we split up that summer and I have had
14 short of helping her out and trying to keep her, you know,
15 a float and helping her with the girls, I have had nothing
16 sexual or anything to do with her. We have been split up
17 for over three years now.

18 Q. All right.

19 A. The only reason I help her now is because of the
20 girls.

21 Q. So you had a bedroom. You had a bedroom in the
22 house; right?

23 A. Yes.

24 Q. That was your house?

25 A. Yes.

DOUG BISHOP: BY SOLICITOR ANTHONY

-377-

1 Q. Okay. So --

2 A. And Kelly and when she moved in we made the back
3 bedroom Brittany's with a queen size bed. My bedroom had
4 my queen size bed and we put Kelly's bedroom suite in my
5 bedroom and the living room and we had extra mattresses and
6 everything to put down in the living room and make their
7 pallets in the floor if we needed to. Because Dana usually
8 slept in the living room on a mattress.

9 Q. Dana would sleep in the living room?

10 A. Yes.

11 Q. And then you said Brittany slept --

12 A. Brittany had her own bedroom.

13 Q. Huh-huh.

14 A. About three quarters of the time she wouldn't
15 sleep in it she would sleep on a mattress with her momma.

16 Q. Okay. And so you had these weekends where you would
17 have Brittany, Kelly and the Cipriano girls over there.

18 A. Yeah.

19 Q. Four teenage girls?

20 A. Yeah.

21 Q. Okay. And you're saying there would be teenage boys
22 just in the house ---

23 A. Every once in a while yes.

24 Q. --- to spend the night? All right.

25 A. Not very often.

DOUG BISHOP: BY SOLICITOR ANTHONY

-378-

1 Q. All right. Well let's define every once in a while.
2 What does that mean?

3 A. Once a month. Once every two months. Just - and it
4 would only be trusted friends that I knew that I didn't
5 have to worry about.

6 Q. Okay. So what we're saying now is like over a four
7 month period say from January through April of 2010, it
8 could be - there could have been boys in the house as few
9 as two nights during a four month period: is that
10 accurate?

11 A. Two to three.

12 Q. Okay. So it wouldn't have been very common for you
13 to let teenage boys to spend the night in that house?

14 A. Not very common. At the same time a lot of times
15 on the weekends when Brittany and Kelly would have to go to
16 their mom or went to their dad then the boys would be at my
17 house.

18 Q. What --

19 A. Because you got to realize Brittany and Kelly were
20 with their dad's every other weekend.

21 Q. Okay.

22 A. So ever other weekend I didn't have Brittany and
23 Kelly. A lot of times on those weekends I would
24 have Destiny and Denise.

25 Q. All right. So you're saying Destiny and Denise would

1 spend weekends over there just with you?

2 A. Yes.

3 Q. And the girls would be gone?

4 A. es. Their momma's work schedule didn't change so I
5 mean if they needed to stay I didn't mind a bit. They were
6 no trouble.

7 Q. When these people, the people who were in and out,
8 are friends of your daughters?

9 A. Yes.

10 Q. Is that correct? I mean they're basically your
11 daughter's ages?

12 A. Yes.

13 Q. Is that correct? Okay. And during that time from
14 January through April you're the only adult male in the
15 house?

16 A. Permanently yes.

17 Q. All right. And you had a bedroom and that's where
18 you would sleep?

19 A. Uh-huh.

20 Q. And you did not - Well, during the time, the months
21 from January through April you weren't employed during that
22 period of time; is that right?

23 A. No I was on lay off from Timkin and went back to
24 work with them last February.

25 Q. Now you had been in school the semester before that;

DOUG BISHOP: BY SOLICITOR ANTHONY

-380-

1 is that right?

2 A. Yes. Right. In fact in December I had to rush home
3 from college home several times so that on Wednesday I
4 would have a late class and I would have to get out of
5 class early so I could get the girls in December.

6 Q. Okay.

7 A. When Dana would have to work.

8 Q. All right. So you were in school from say ----

9 A. August to December.

10 Q. To December of 2000 -

11 A. In fact my last day of college was December the 15th
12 or December the 19th. I can't remember.

13 THE COURT: Mr. Bishop, kind of wait until he gets
14 through. You're kind of talking over each other and the
15 court reporter can't take it down.

16 A. Okay.

17 THE COURT: He's gonna ask a question and you seem
18 to kind of anticipate what he's asking which is what we do
19 in normal conversation, but it doesn't work in here so just
20 wait until he finishes.

21 BY SOLICITOR ANTHONY:

22 Q. So your testimony is that you were in school from
23 August to December of 2009?

24 A. Yes.

25 Q. Is that right? Okay. But you weren't in school

1 after that ---

2 A. No.

3 Q. --- in 2010?

4 A. No.

5 Q. Okay. And as far as these drives go in this
6 computer; could you access both drives at one time, both
7 the hard drives?

8 A. You could bring up two separate photos and have one
9 of them as C drive and one as D drive yes.

10 Q. So your testimony is that it would have been possible
11 for somebody to at the same time have access each of the
12 two hard drives in there from - just from a desk top using
13 Windows?

14 A. Yeah.

15 Q. And your testimony is that when you moved to Wardlow
16 Street or Wardlaw Street, what computers did you bring with
17 you?

18 A. My laptop only.

19 Q. Okay. And so you didn't bring that one with you; ---

20 A. No.

21 Q. --- is that right?

22 A. I left both of the towers with Dana and they were
23 the girls computer and that I just considered Dana's
24 computer she used it more than this one.

25 Q. And you didn't bring that one there in front of you?

DOUG BISHOP: BY SOLICITOR ANTHONY

-382-

1 A. No.

2 Q. Okay.

3 A. The only thing I brought with me was my laptop.

4 Q. And did you ever - and I'm not talking about child
5 porn but did you ever - Well let me just back up a minute.
6 Did you use uTorrent programs yourself to download movies?

7 A. Yes. And Brittany taught me how to.

8 Q. Brittany taught you how to?

9 A. Yes.

10 Q. Okay. And would you download them to one of the two
11 drives in that machine?

12 A. No if it was for me I would be putting them on my
13 laptop.

14 Q. You would just put them on your laptop?

15 A. Yes, sir.

16 Q. Okay. All right. So your testimony is you never
17 downloaded anything - any movies to that computer?

18 A. No, sir.

19 Q. All right. Did you ever examine like - Were you
20 aware of what was on it?

21 A. The girls had - I would ask them what they had on it
22 and everything and they'd kind of holler out what was on it
23 and everything. If I wanted something that they had
24 downloaded I'd use a flash drive to - and have them move
25 over to the flash drive that I could put it on mine.

DOUG BISHOP: BY SOLICITOR ANTHONY

-383-

1 Q. All right.

2 A. If I wanted to watch something on theirs. But like
3 I said they were on them all the time.

4 Q. All right. And, Mr. Bishop, did you ever download
5 an adult pornographic film to that computer?

6 A. No I did not.

7 Q. Okay. You never - You never watched an adult
8 pornographic film of any sort on that computer?

9 A. No, sir, I have not.

10 Q. Never, never shown an adult pornographic film to
11 anybody at the Wardlaw Street address?

12 A. No, sir, I have not.

13 Q. And do you still - Do you still see Ms. Bishop; see
14 Dana?

15 A. We have contact with each other. In fact she just
16 called me last night to find out how the case was going.

17 Q. She was actually here yesterday for a while wasn't
18 she?

19 A. No.

20 Q. Was she here Monday?

21 A. No.

22 Q. Okay.

23 SOLICITOR ANTHONY: If I can just have a moment.

24 (PAUSE AT 03:05 P.M..)

25 Q. When you testified about people coming over and

DOUG BISHOP: BY SOLICITOR ANTHONY

-384-

1 spending the night at your residence.

2 A. Yes.

3 Q. Did anybody - Did you ever have anybody sleep in
4 your bed with you during those times?

5 MR. SOWELL: Your Honor, we need to take up a matter.

6 THE COURT: Let me let you go to the jury room just a
7 minute.

8 (JURY EXITS COURTROOM AT 03:08 P.M..)

9 THE COURT: Yes, sir.

10 MR. SOWELL: Your Honor, counsel is trying to get into
11 a matter that is not - Counsel is trying to get into
12 another General Sessions matter that is not before the
13 court at this time. We discussed this with Your Honor
14 Monday.

15 THE COURT: Well what we discussed Monday had to do a
16 movie. This is the first time I heard about anybody being
17 in somebody's bed.

18 MR. SOWELL: He ask -

19 THE COURT: I'm sorry. You go ahead.

20 MR. SOWELL: He ask my client if a person was sleeping
21 in the bed with you. I know he's trying to open the door
22 to that other pending General Sessions case.

23 THE COURT: Well let me have a proffer and see what -

24 MR. SOWELL: Sir?

25 THE COURT: I'm gonna see what he really is after.

DOUG BISHOP: BY SOLICITOR ANTHONY

-385-

1 MR. SOWELL: When he answers that question it's gonna
2 open the door. Can we go in your office?

3 THE COURT: Yeah I'll be glad to see you in camera.

4 SOLICITOR ANTHONY: I can make a proffer right now.

5 THE COURT: We probably need it on the record.

6 MR. SOWELL: With an audience I'd rather it be in
7 camera, Your Honor.

8 SOLICITOR ANTHONY: I was just gonna ask him did other
9 people sleep with him when people spent the night there.

10 That's my question.

11 THE COURT: It's the only question? You don't have
12 any follow up? What if his answer is yes?

13 SOLICITOR ANTHONY: I'd probably ask who.

14 THE COURT: And then what was gonna be the next
15 question?

16 SOLICITOR ANTHONY: That would be it.

17 THE COURT: All right. What's the --

18 MR. SOWELL: He's trying to trap him.

19 SOLICITOR ANTHONY: I'm not gonna ask him about a
20 specific incident and his association with a lewd act
21 charge.

22 THE COURT: What's the relevance?

23 SOLICITOR ANTHONY: Well he's talking about all the
24 people spending the night at his residence and I just think
25 - I already inquired at some degree about sleeping

DOUG BISHOP: BY SOLICITOR ANTHONY

-386-

1 arrangements I just think I'm entitled to ask if anybody
2 eve slept with him.

3 THE COURT: Well that doesn't have anything to do with
4 this case in my opinion so I sustain the objection. And I
5 don't think we need to make a proffer about the question
6 and answer because you've indicated what the question was
7 going to be and I'm indicating that the answers are
8 irrelevant.

9 SOLICITOR ANTHONY: All right. Thank you, Your Honor.
10 That's fine.

11 THE COURT: Bring in the jury.

12 (JURY REENTERS COURTROOM AT 03:13 P.M..)

13 THE COURT: All right you may proceed.

14 SOLICITOR ANTHONY: Thank you, Your Honor.

15 CROSS EXAMINATION - CONTINUED

16 DOUGLAS BISHOP BY SOLICITOR ANTHONY:

17 Q. Mr. Bishop, you recall having testified in this
18 courtroom before on last August 20011, or I'm sorry, August
19 11 of last year?

20 MR. SOWELL: Your Honor, I haven't got to see what
21 he's --

22 THE COURT: Show him what you're talking about.

23 (DEFENSE COUNSEL REVIEWING DOCUMENTS.)

24 MR. SOWELL: Your Honor, he's trying to bring up the
25 same thing.

DOUG BISHOP: BY SOLICITOR ANTHONY

-387-

1 THE COURT: All right let me let the -

2 SOLICITOR ANTHONY: No I'm not. But we can do this
3 out of the presence of the jury, Your Honor.

4 THE COURT: You want me to let the jury go back out?

5 SOLICITOR ANTHONY: Yes, sir.

6 THE COURT: All right let me let you go back out.

7 Sorry.

8 (JURY EXITS COURTROOM AT 03:13 P.M..)

9 THE COURT: What's the issue this time?

10 SOLICITOR ANTHONY: I apologize, I didn't mean to cut
11 the Court off. He - There was a DSS hearing in this case
12 on August 11 of last year. He gave sworn testimony about
13 the computers and when he had various computers and when he
14 stopped using one computer and started using another and
15 I'm more than happy to let Mr. Sowell review the transcript
16 obviously before about it but I think I'm entitled to ask
17 him --

18 THE COURT: Well you are if it's different than what
19 he said today.

20 SOLICITOR ANTHONY: Yes, sir.

21 THE COURT: Let Mr. Sowell look at it.

22 MR. SOWELL: Your Honor, if he's just talking about
23 the computer he can -

24 SOLICITOR ANTHONY: Well that's what it's gonna be
25 about.

DOUG BISHOP: BY SOLICITOR ANTHONY

-388-

1 MR. SOWELL: We don't have a record of that and I
2 don't have a record of it. He's got it in his file.

3 SOLICITOR ANTHONY: Well I have a transcript from the
4 court reporter.

5 THE COURT: Do you question whether it's accurate?

6 MR. SOWELL: Certainly it wasn't given to this court
7 to open. I think using a transcript the original must be
8 handed to the court in unopened form, Your Honor.

9 THE COURT: Well that's the way it's usually handled.
10 I'm not sure that's exactly the way it's required. I know
11 of no rule that requires that but it does need to be
12 authenticated as to being the official record by I guess a
13 notary and notarized seal or a raised seal.

14 MR. SOWELL: And also we were not given notice of
15 this. No discovery or not nothing.

16 SOLICITOR ANTHONY: Well it's testimony that Mr.
17 Sowell elicited from him.

18 THE COURT: He just has to give you basically as I
19 understand it matters that can be used in his case in
20 chief. I don't know that he knows what kind of questions -
21 I don't think the prosecution is required to anticipate all
22 the questions that will be ask and provide all of the
23 potential impeachment evidence they have because they don't
24 know what the issues are gonna be. So I don't think this
25 is a violation of any discovery rule. I think we got some

1 other issues but let me see the transcript.

2 (TRANSCRIPT RECEIVED UP BY THE COURT TO REVIEW.)

3 THE COURT: This has a certificate of the reporter and
4 it's signed in blue ink on paper that has black typing so
5 its obviously got the original signature at least appears
6 to of Angela Berry the court reporter.

7 You still object to it, Mr. Sowell?

8 MR. SOWELL: Yes, Your Honor.

9 THE COURT: Do either one of you have any case law on
10 this unique issue?

11 MR. SOWELL: Your Honor, we were not - have no idea
12 this was going to pop up...

13 THE COURT: All right. Well I find that the use of
14 the transcript of a court proceeding is proper and
15 appropriate and for use of impeachment. I do not find that
16 I have to be given a sealed copy. An officer of the court
17 of course the Solicitor is handing this up as a correct
18 copy.

19 Mr. Sowell, you apparently were there not that makes
20 a difference where we go with it but while it doesn't have
21 a raised seal or any kind of notary it does have - I don't
22 know Angela Berry and I don't know her signature, but there
23 is a signature as I said written in a different color ink.
24 It appears to me to be an original certificate of record
25 and saying that this is true and accurate - just partial

DOUG BISHOP: BY SOLICITOR ANTHONY

-390-

1 transcript so I'm going to allow them to use it for
2 impeachment purposes.

3 MR. SOWELL: Your Honor, may I respond?

4 THE COURT: Yes, sir.

5 MR. SOWELL: It's not notarized. As to the rules at
6 least requiring that it be notarized.

7 THE COURT: I beg your pardon?

8 MR. SOWELL: The rules require it to be notarized.

9 THE COURT: Well show me where.

10 MR. SOWELL: Your Honor, I don't have notice prior to
11 prepare a brief for it. I didn't know this was even gonna
12 come up.

13 THE COURT: Well you made a statement that it's
14 required to be notarized and you ought to have something at
15 least on the tip of your tongue to back that up.

16 MR. SOWELL: Your Honor, I've never seen a transcript
17 used in court that is not notarized. Maybe I'm wrong.
18 Maybe I was assuming it needed to be notarized. Is there
19 any other transcript in use in court? I'm sure there is
20 one down stairs somewhere that's got a notaries signature
21 on it.

22 THE COURT: Well there may be. I've got a court
23 reporter here and I'm not gonna put her on the spot but I'm
24 not sure that the transcripts that are submitted to the
25 Supreme Court or the Court of Appeals are actually

DOUG BISHOP: BY SOLICITOR ANTHONY

-391-

1 notarized. I think they just have the certificate of the
2 court reporter and if it's good enough for the Appellate
3 Court I would think it would be good enough to use in the
4 lower court's also.

5 MR. SOWELL: I've never dealt with this issue of the
6 transcript. May I ask the reporter?

7 (COLLOQUY BETWEEN MR. SOWELL AND THE COURT REPORTER.)

8 THE COURT: Okay. Well I'm gonna allow it to be used.

9 You might -- We'll just put it on the record that the
10 court reporter, Ms. Nelson, did indicate that notary is not
11 required although she is a notary. The transcript is just
12 required to be signed by - certified to by an official
13 court reporter.

14 All right, bring the jury back in.

15 (JURY REENTERS COURTROOM AT 03:01 P.M..)

16 THE COURT: All right, you may proceed.

17 CROSS EXAMINATION CONTINUED

18 DOUGLAS BISHOP BY SOLICITOR ANTHONY:

19 Q. Mr. Bishop, you remember testifying in this courtroom
20 on August 11th of 2011?

21 A. It's been a while ago but I think I was here yes,
22 sir.

23 Q. Okay. And you gave sworn testimony that day;
24 correct?

25 A. I think so.

DOUG BISHOP: BY SOLICITOR ANTHONY

-392-

1 Q. Okay. And you were ask questions by Mr. Sowell; is
2 that correct?

3 A. I assuming yes.

4 Q. And when you would have been answering questions
5 for Mr. Sowell that day and you answered some other
6 questions from another lawyer as well; correct?

7 A. I assume so yes.

8 Q. All right. When you answered questions that day
9 you were - it was your intention to tell the truth; is that
10 right?

11 A. Yes.

12 Q. Because that's what you had sworn to do?

13 A. Yes.

14 Q. All right. Well I'm gonna show you - I'm just gonna
15 hand you a copy of pages 111 through 113 of the transcript
16 of that hearing. And I call your attention to Line 17 of
17 page 111. Do you see what I'm referring to?

18 A. Uh-huh.

19 Q. And you are ask a question of "what computers are in
20 the household what computers have been in the household
21 since you got married" is that correct?

22 A. Yes.

23 Q. Okay. And at that point in time you answered "we
24 had a desk note which looks like a laptop without a
25 battery. Later on we ended up getting one of the junk

1 computers from the junk yard and I ended up getting it
2 fixed so the girls would have something to play their video
3 games on. A little later we ended up purchasing a custom
4 built computer from Scott." Is that correct?

5 A. Yes.

6 Q. Okay. And so when you make a reference to the
7 computer that you got fixed; is that this one here?

8 A. Yes.

9 Q. Okay.

10 A. We took it to Scott and had him fix it.

11 Q. All right. And then --

12 A. He built it.

13 Q. And then when you say a little later you ended up
14 purchasing a custom built computer from Scott ---

15 A. Yes, sir.

16 Q. --- he actually had it, he built it for us. That's
17 the one here in the floor; right?

18 A. Yes.

19 Q. All right. And if I call your attention over to
20 Page 112 you got - you were ask on Line 6 you were ask
21 which computer did you all consider to be Dana's computer.
22 Is that right?'

23 A. Yes.

24 Q. And your answer was "the brand new one was what we
25 all used to kind of said was Dana's because she was the one

DOUG BISHOP: BY SOLICITOR ANTHONY

-394-

1 that wanted it, she was tired of not being able to have the
2 girls play games and stuff." Is that right?

3 A. Yes.

4 Q. Okay. And you go on to talk about - And if you need
5 to take a minute to read down that page that's fine. Okay.

6 (PAUSE.)

7 Q. Have you had a chance to read through it?

8 A. Yes.

9 Q. All right. I'm going back to 112. You go on to talk
10 about how the old computer wasn't - was a little bit slow I
11 guess basically?

12 A. Yes that's right.

13 Q. And so you decided to have a new computer --

14 THE COURT: Mr. Anthony, if you're going to use that
15 properly you've got to not paraphrase.

16 SOLICITOR ANTHONY: I'm sorry.

17 THE COURT: You've got to use what's on that piece of
18 paper.

19 SOLICITOR ANTHONY: I'm sorry.

20 Q. You decided to have the new computer built; ---

21 A. Yes.

22 Q. --- is that correct? All right. And then calling
23 your attention to page 113 on Line 1 of 113 you were ask
24 "Which computer did you consider your computer?" Correct?

25 A. Yes.

1 Q. And your response was "The one I normally considered
2 mine - was mine the one that looks like a laptop called
3 the desk note." Is that correct?

4 A. Yes. That's my laptop.

5 Q. That's your reference to the laptop. And you say
6 "That's the one I usually played on most of the time." Is
7 that right?

8 A. Yes.

9 Q. And then you say it's been dead approximately two
10 years now, it finally just died." Correct?

11 A. Yes.

12 Q. So your testimony at that point in time was that
13 the laptop computer had been dead for two years. Correct?

14 A. It died and I ended up fixing it.

15 Q. Well my question was, your testimony was, that the
16 laptop computer had been dead for two years. "That's
17 right." That's what you said?

18 A. Yes but I did get it fixed.

19 Q. Well that's not my question. You said it had been
20 dead.

21 A. Yes.

22 Q. Correct? And you said that under oath. Correct?

23 A. Yes.

24 Q. And you said that on August 11th of 2011.

25 A. Yes.

DOUG BISHOP: BY SOLICITOR ANTHONY

-396-

1 Q. All right. So if we subtract two years from 2011
2 August of 2011, where does that put us, Mr. Bishop?

3 A. About August 2009.

4 Q. All right. And so then we go to the next question on
5 Line 6 which is "And so the last two years what have you
6 used, what kind of computer have you used?" That was the
7 next question; correct?

8 A. Yes.

9 Q. All right. And your answer is "About two years ago
10 when it died I was going to Spartanburg Community College
11 and I borrowed --

12 A. That would have been from August to December.

13 THE COURT: You got to wait until he finished like I
14 told you earlier.

15 SOLICITOR ANTHONY: Just let him finish the question.

16 Q. Your response is "About two years ago when it died
17 I was going to Spartanburg Community College and I borrowed
18 the girls old computer and used it because I didn't have
19 to. It didn't have anything to do with anything major
20 except school work until SLED came in and confiscated it
21 when they come in." That was your testimony; correct?

22 A. Yes.

23 Q. So your testimony was that two years ago back in
24 August of 2009 when you were going to Spartanburg Community
25 College. Correct?

1 A. Yes.

2 Q. That you borrowed that computer?

3 A. I didn't borrow that computer until December. I was
4 still going to college in December.

5 Q. Well you didn't say in December.

6 A. They didn't ask specific months. He just ask when.

7 Q. Well wasn't the question "so the last two years what
8 have you used?" Wasn't that the question, two years?

9 A. I still had - I borrowed it in December right before
10 as Dana - I was still going to college when Dana and them
11 moved in so I used it until I got the desk note fixed.

12 Q. Isn't two years back from August 2011 2009?

13 A. Yes.

14 Q. Then you started --

15 A. And it also says approximately two years.

16 Q. Didn't you start --

17 A. Or about two years.

18 Q. Didn't you start college in August 2009?

19 A. Yes.

20 Q. By the time they moved in in December of 2009 you
21 were through with college?

22 A. No I was not.

23 Q. You didn't go back in January did you?

24 A. I couldn't because I couldn't afford it financially.

25 Q. The question was you didn't go back in January did

DOUG BISHOP: BY SOLICITOR ANTHONY

-398-

1 you?

2 A. No I did not.

3 Q. So in August of 2011 when you testified to that
4 you knew that back in 2009 and 2010 you had been jail - or
5 I'm sorry, not jail, you had been in school - may have
6 seemed like jail - but you had been in school from - you
7 had been in school the first part of 2009, you stopped
8 school and you hadn't gone back?

9 A. No I was not at school the first part of 2009. I was
10 in school from August 2009 to December of 2009.

11 Q. That's right.

12 A. And then in the first part of December the laptop ---

13 MR. SOWELL: Your Honor,---

14 A. --- had trouble.

15 MR. SOWELL: --- my client needs to finish his
16 response.

17 THE COURT: Yeah, I'm going to ask Mr. Anthony now to
18 back off a little bit and let him get through.

19 SOLICITOR ANTHONY: Okay.

20 THE COURT: Go ahead.

21 A. But the laptop had trouble in - early part of
22 December 2009. About that time Dana and the kids moved in
23 and then I ask Dana if she didn't mind me using that off
24 and on to finish my school work until I could get the desk
25 note fixed which I fixed in December but I didn't want to

DOUG BISHOP: BY SOLICITOR ANTHONY

-399-

1 take the time to fix it and have to do all my school work
2 because I had end of the year projects due within that
3 week.

4 Q. That's not what you testified to --

5 A. They didn't ask all of that when I testified the
6 first time.

7 Q. Mr. Sowell ask you the question what -

8 MR. SOWELL: Your Honor, if he's gonna testify to
9 what's on that record let's hear him testify to what's on
10 the record, not paraphrase. He's saying things that aren't
11 in the record.

12 THE COURT: Well, I think you're getting into a little
13 bit of argumentative. Just ask him the questions and you
14 know you can argue to the jury the implications of it and
15 not with him.

16 BY SOLICITOR ANTHONY:

17 Q. You said in Line 4 talking about your laptop
18 computer has been dead approximately two years now and it
19 finally just died; isn't that correct? On Page 113, Line 4
20 and 5.

21 A. Yes.

22 Q. And you didn't say anything about you fixed it did
23 you?

24 A. No I did not.

25 Q. Okay. And then you say on Page - on Line 8 and 9 of

DOUG BISHOP: BY SOLICITOR ANTHONY

-400-

1 Page 113 that you were going to Spartanburg Community
2 College and you borrowed the girls old computer because you
3 didn't have - you needed - I didn't have to - it didn't
4 have anything to do anything major except school work until
5 SLED came in and confiscated it. Isn't that what you said?

6 A. Yes.

7 Q. It didn't say anything about going back and using
8 your laptop then did you?

9 A. No. But I went back and fixed it in December
10 because I knew once the girls moved in and everything they
11 were going to need it.

12 Q. But you left out, when you told Mr. Sowell -

13 MR. SOWELL: Your Honor.

14 THE COURT: We're gonna move on. I think we've heard
15 enough on this part.

16 MR. SOWELL: Your Honor, I'd like the jury to know.

17 THE COURT: No you can't give any speech at this time.

18 You're going to have a right to argue to the jury
19 later. And you've got recross and then redirect.

20 SOLICITOR ANTHONY: If I can have just one moment.

21 (PAUSE.)

22 Q. Now the e-Machine computer was built with all
23 different kinds of parts; is that correct?

24 A. Yes.

25 Q. But as far as how old the battery is you really -

DOUG BISHOP: BY SOLICITOR ANTHONY
BY MR. SOWELL

-401-

1 you don't know how old the battery is?

2 A. Eight years because the mother board and tower were
3 all together. The only thing that has been replaced in it
4 has been the hard drives were killed and I think you had to
5 end up putting a power supply in it.

6 Q. Thank you.

7 SOLICITOR ANTHONY: That's everything on cross.

8 THE COURT: All right. Redirect?

9 MR. SOWELL: Your Honor, may I steal this book?

10 THE COURT: Sure.

11 REDIRECT EXAMINATION

12 DOUGLAS BISHOP BY MR. SOWELL:

13 Q. Doug, all the things that opposing counsel ask you
14 why you didn't tell us during this testimony, did anyone
15 ever ask you any of those issues?

16 A. No they did not.

17 Q. Is that the reason you didn't tell us is you
18 weren't ask?

19 A. Yes, sir. They didn't ask exact details of anything.

20 Q. When the disc was transferred was your laptop
21 working?

22 A. Yes it was.

23 Q. Did you fix it after it had been not working?

24 A. Yes, sir.

25 Q. When you were working or your laptop was not working

DOUG BISHOP: BY MR. SOWELL

-402-

1 and you were in school you borrowed the girls computer and
2 worked in the living room with your girls and your wife
3 watching television or doing whatever they were gonna do in
4 the living room, while you were on that computer; is that
5 correct?

6 A. Yes.

7 SOLICITOR ANTHONY: Objection.

8 THE COURT: I sustain. That's a leading question.

9 SOLICITOR ANTHONY: Move to strike.

10 THE COURT: And assuming facts that aren't in
11 evidence.

12 BY MR. SOWELL:

13 Q. When you --

14 MR. SOWELL: We put it into evidence, Your
15 Honor.

16 THE COURT: Well, you can't - there has been no
17 evidence - yeah you are. Okay. I agree with that but
18 its hearsay. I sustain the objection.

19 BY MR. SOWELL:

20 Q. When you - when your computer died and you started
21 school, when you went to use the girls computer to do your
22 school work, you started using their computer to do your
23 school work.

24 A. In December.

25 Q. Where was that computer located in the house when

DOUG BISHOP: BY MR. SOWELL

-403-

1 you were using it?

2 A. In the living room.

3 Q. And who else was in the living room with you?

4 A. Dana and the girls.

5 Q. Did you ever take that computer when you tried to
6 do your school work and pick it up and unplug it and take
7 it all back in the bedroom and hide back there with it?

8 A. No I couldn't.

9 Q. When you were using that computer to do your school
10 work, what room in the house are you in?

11 A. The living room.

12 Q. And who else was in the living room with you when
13 you were using it?

14 A. Dana and the kids.

15 Q. Is it any way possible that you could have down
16 loaded porn with them in the same room with you?

17 A. No.

18 SOLICITOR ANTHONY: Objection. Calls for speculation.

19 THE COURT: Well I'll allow this.

20 BY MR. SOWELL:

21 Q. Now, tell me about the laptop.

22 A. I started --

23 Q. When the laptop went out of use, and apparently it
24 was out of use for three years, what did you - what did you
25 use - Now this was with the girls weren't living with you.

DOUG BISHOP: BY MR. SOWELL

-404-

1 So when your laptop was out of use and the girls were not
2 living with you, did you have a computer at all to use?

3 A. No.

4 Q. So during a two year period when you didn't have your
5 laptop in use and the girls were not living with you, you
6 had no computer at all?

7 A. No.

8 Q. And in December when you were getting ready for the
9 girls to move back in with you, of course it had nothing to
10 do with you getting ready for them, during that same time
11 what did you do to make the laptop work again?

12 A. I finally got it to reload Windows on it then. It
13 had crashed and I had to end up reloading Windows on it.

14 Q. And what happened in April 2010, to the laptop
15 again?

16 A. It crashed and lost Windows and it had a virus and it
17 crashed Windows and this time it would not reload Windows
18 on it. The CD Rom Drive had gone bad and would not load
19 Windows.

20 Q. This big production about showing this transcript --

21 SOLICITOR ANTHONY: Objection to the characterization.

22 THE COURT: Yeah you don't need to editorialize. Just
23 ask a question.

24 MR. SOWELL: Save that for closing argument, Your
25 Honor.

DOUG BISHOP: BY MR. SOWELL

-405-

1 Q. The questions that were ask you about this, have
2 you fully answered those questions?

3 A. Yes.

4 Q. In respond to those questions?

5 A. Yes.

6 Q. And does that explain when you didn't have a computer
7 and when you fixed the computer and it crashed again?

8 A. Yes.

9 Q. Is there anything that's been brought up in the last
10 thirty minutes that is in derogation to anything you've
11 already said today?

12 SOLICITOR ANTHONY: Objection.

13 A. No.

14 SOLICITOR ANTHONY: That's a leading question.

15 THE COURT: Well I sustain the objection.

16 MR. SOWELL: Your Honor, I can't remember all of those
17 questions and then reask him, Your Honor.

18 Q. Have you told me the truth about everything today?

19 A. Yes.

20 SOLICITOR ANTHONY: Objection. That calls for
21 speculation.

22 THE COURT: I over rule the objection.

23 Go ahead.

24 MR. SOWELL: Do I need to start back over from the
25 beginning?

DOUG BISHOP: BY MR. SOWELL

-406-

1 THE COURT: Well I don't know. You can't ask just
2 broad questions about is everything you said - I'm not even
3 sure what the question was but you can't do that. I'm not
4 telling you what you can do; that's up to you to determine.

5 BY MR. SOWELL:

6 Q. Did you tell the truth during that hearing in this
7 courtroom back last August when you said the laptop had
8 crashed?

9 A. Yes.

10 Q. All the statements you made about the laptops being
11 crashed three years before were true and are still true?

12 A. Yes.

13 Q. And did you fix the laptop before the girls moved
14 back in?

15 A. Yes.

16 Q. And when the girls moved back in, did they use the
17 computer they had brought to your house?

18 A. Yes.

19 Q. And did you use the laptop at your house?

20 A. Yes.

21 Q. When you went to school, the girls were not living
22 with you, they were visiting a lot?

23 A. Yes.

24 Q. Did they bring that computer over to your house with
25 with them?

1 A. They did right when they started to move in yes.

2 Q. And did you ask to borrow it?

3 A. Yes.

4 Q. And did you in fact borrow it?

5 A. I borrowed it for about a week until they moved in.

6 I was intending on borrowing it to finish school out and
7 everything not knowing that within a week they were going
8 to be moving in with me.

9 Q. And when you borrowed it how long did you use it?

10 A. Less than a week. I had finished up my school
11 projects; they moved in with me and I knew that they were
12 going to be needing it so I went ahead and - I didn't have
13 time to do the school projects, fix my laptop and
14 everything all at the same time so I used that one for
15 about a week. They moved in, I took the time then after I
16 finished school and got my laptop back running.

17 Q. When you were using their computer, was that
18 computer, their computer that's sitting over there, was
19 that in your living room?

20 A. Yes it was.

21 Q. Were they also in your living room too?

22 A. Yes they were.

23 Q. Was your wife's in the living room too?

24 A. Yes they were.

25 SOLICITOR ANTHONY: Objection. Leading.

DOUG BISHOP: BY MR. SOWELL

-408-

1 THE COURT: Those are leading questions. Just
2 rephrase them.

3 BY MR. SOWELL:

4 Q. Who else was in the living room with you?

5 A. Brittany, Kelly and Dana. And a lot of times Denise
6 and Destiny.

7 Q. And were -- This was in December of 2009?

8 A. Yes, sir.

9 Q. Did in December of 2009 you got your laptop?

10 A. Yes.

11 Q. Did it crash again in April --

12 A. Yes it crashed again in April.

13 Q. And it died since then and been buried and preached a
14 funeral?

15 A. It had, buried and gone.

16 Q. And what computer are you using now?

17 A. I have a little bitty HP Netbook that I use, a small
18 laptop.

19 Q. Does that do everything you need?

20 A. Yes.

21 Q. Got all the power you need?

22 A. Yes.

23 Q. All - You have an external hard drive with it?

24 A. Not an external hard drive. I do have an external
25 DVD drive to where I can play CD's.

DOUG BISHOP: BY MR. SOWELL

-409-

1 Q. You haven't used up the memory?

2 A. No it's got a lot harder - bigger hard drive than
3 my old laptop ever thought about having.

4 Q. You testified in the prior trial that you bought
5 an old junker and you fixed it up. Is this the old junker?

6 A. That's the old junker.

7 Q. When you said fixed it up, does that mean you took
8 it to somebody to fix it up?

9 A. Yes.

10 Q. And who was that person you took it to to fix it up?

11 A. Scott Percy.

12 Q. And Scott Percy is?

13 A. Dana's exhusband and Brittany and Kelly's father.

14 Q. Did you tell any untruths during that testimony?

15 A. No.

16 SOLICITOR ANTHONY: Objection. Move to strike.

17 THE COURT: I over rule the objection.

18 BY MR. SOWELL:

19 Q. And that computer over there in the floor, I think
20 it's Number Twenty-seven, that's a lot faster than Exhibit
21 Number One?

22 A. Yes. The one in the floor is a 4 giga hertz. I
23 think the processor in the one right here is if you're
24 lucky it might be 1 giga hertz.

25 Q. I think you said on direct that your wife - I guess

DOUG BISHOP: BY MR. SOWELL

-410-

1 this was on cross - that you and the girls - the Cipriano
2 girls came over and stayed at your house?

3 A. Yes, sir.

4 Q. Even when your step daughters were at their ---

5 A. Father's house.

6 Q. --- father's house ---

7 A. Yes.

8 Q. --- to spend the night? Was your wife there when the
9 Cipriano girls were there also?

10 A. Sometimes. She had to work at Walmart so she would
11 be there sometimes and might not be there sometimes.

12 Q. When she was living there at the time?

13 A. Yes.

14 Q. She was just working sometimes when the girls got
15 there?

16 A. Right.

17 Q. But she would always come home before the evening
18 was over?

19 A. Yes. The latest she ever worked was 10:30 or eleven
20 o'clock.

21 Q. So it wasn't like you were left there with the
22 Cipriano girls by yourself?

23 A. No.

24 Q. She was just at work and coming home a little later?

25 A. Right.

DOUG BISHOP: BY MR. SOWELL

-411-

1 Q. You told us earlier about taking electronic courses.
2 Is that the electronic course you were taking at
3 Spartanburg we spoke about a little while ago?

4 A. In December of '09? No. I changed my - what do you
5 call it - what I wanted to do I changed it over to a
6 computer networking course to become a Cisco network
7 engineer. It's just networking computers together.

8 Q. So you actually have had more electronics in
9 computer training than you told us about earlier?

10 A. Right.

11 Q. You didn't mean to mislead us though did you?

12 A. Right. He ask about my earlier education. It was
13 - or you did and it was involving electronics engineering.

14 Q. To me that's computers.

15 SOLICITOR ANTHONY: Objection. That's not a question.

16 THE COURT: Yeah.

17 MR. SOWELL: I withdraw that.

18 Q. So you had four years high school?

19 A. Yes.

20 Q. Some electronics training?

21 A. Approximately one year of electronics engineering.

22 SOLICITOR ANTHONY: Objection. This is all beyond
23 the scope of cross. I didn't ask --

24 THE COURT: Well --

25 MR. SOWELL: Well --

DOUG BISHOP: BY MR. SOWELL

-412-

1 THE COURT: Just a minute. I'll let you - cross is
2 fairly broad, I'll allow him to go into this a little bit.

3 Go ahead.

4 BY MR. SOWELL:

5 Q. So you've had one year two years ago?

6 A. It's been quite a while ago yes.

7 Q. And then how much computer electronic courses have
8 you taken since then?

9 A. I just did the one semester and then my financials
10 ended up where I couldn't go back in January.

11 Q. That's what we were talking about earlier is when
12 you were in school?

13 A. Uh-huh.

14 Q. And you haven't dropped out, you just hadn't
15 registered yet is that --

16 A. Right.

17 Q. And you're still an active student you just hadn't
18 registered last year?

19 A. Correct. I still plan on going back.

20 Q. Did you ever take courses at Limestone?

21 A. No.

22 Q. You know Limestone does have these satellite courses?

23 A. Uh-huh. Spartanburg --

24 SOLICITOR ANTHONY: Objection.

25 THE COURT: I sustain the objection. We're not

DOUG BISHOP: BY MR. SOWELL

-413-

1 interested --

2 MR. SOWELL: I used to teach there.

3 THE COURT: I know but let's stick to the issues in
4 this trial.

5 BY MR. SOWELL:

6 Q. Now what was the issue about using a flash drive to
7 transfer movies from the girls computer onto your computer?

8 A. To - If I was to ask them what they had downloaded
9 for a movie instead of wasting all the time of sitting
10 there and letting my computer down load it, it's very easy
11 just to take a flash drive move the movie to the flash
12 drive and move - put the flash drive in my computer and
13 load it onto mine.

14 Q. So you say the girls down loaded movies and they
15 say yeah I got one, you say here's a flash drive give it to
16 me?

17 A. Yes. Just that simple. At the same time if I had
18 down loaded something and they wanted to watch a movie it
19 would go the other way.

20 Q. So you didn't have to go struck through a computer
21 to get to the right stuff, you just ask them and they give
22 it to you?

23 A. Yeah.

24 Q. Computer Number 27 that has full hard drives?

25 A. Yes.

DOUG BISHOP: BY MR. SOWELL
BY SOLICITOR ANTHONY

-414-

1 Q. Even though Number One has got two hard drives, this
2 one hard drive is bigger than those two?

3 A. Oh yes. Probably double the size.

4 MR. SOWELL: Nothing further, Your Honor.

5 THE COURT: All right. Recross?

6 SOLICITOR ANTHONY: Just briefly.

7 RECROSS EXAMINATION

8 DOUGLAS BISHOP BY SOLICITOR ANTHONY:

9 Q. Mr. Bishop, when you said that from July to December
10 of '09 the P [REDACTED] sisters they were over at your house a
11 lot; is that right?

12 A. Yes.

13 Q. They would be there after school a lot of the time;
14 correct?

15 A. Not all the time no. But they were over at the
16 house a good bit.

17 Q. Okay. Would it be fair to say most afternoons after
18 school they would be over at your house?

19 A. It depends on if I needed to pick them up or if they
20 were gonna ride the bus home. Most of the time I took
21 them.

22 Q. Over fifty percent of the time?

23 A. Yes.

24 Q. And it's also true that the Cipriano girls were over
25 there a lot too; correct?

DOUG BISHOP: BY SOLICITOR ANTHONY

-415-

1 A. Yes.

2 Q. Okay. And you testified basically when you were
3 talking about how things were from January to April, you
4 said that pretty much from the time the girls got home to
5 the time they went to bed they were on the computers?

6 A. Yes.

7 Q. Is that correct? So your testimony is that from
8 July of '09 through December of '09 there were no computers
9 at your house?

10 A. I - From when --

11 Q. From July of '09 from the time you moved in at
12 Wardlaw Street December of '09 when the girls and when you
13 say the girls and Dana moved back in with you, there were
14 no computers at your house?

15 A. No that's not what I said.

16 Q. Okay. Well what was - What functioning computer was
17 there at your house?

18 A. The only functioning computer at the time was the
19 laptop at my house.

20 Q. Okay. All right. So you're testimony is that the
21 laptop was the only computer there were?

22 A. At my house --

23 Q. During that period of time?

24 A. Right. It died the very beginning of December.

25 Q. From July to December?

DOUG BISHOP: BY SOLICITOR ANTHONY

-416-

1 A. From July to about December it was there. It worked
2 fine.

3 Q. Okay.

4 A. The --

5 Q. And so when the girls - when the girls would come
6 home from school in the afternoons during that period of
7 time, is that what they did they just used the laptop?

8 A. Yes.

9 Q. And you were in school at that time as well; right?

10 A. Right.

11 Q. And you were taking computer classes?

12 A. Right.

13 Q. And your testimony is you were using the laptop then?

14 A. Yes.

15 Q. Okay.

16 A. Up until the first part of December when the laptop
17 crashed and I had so many school projects to do at one time
18 and I borrowed that one for about a week and about a week
19 later they moved in with me.

20 Q. And it's true that in August of 2011 you said you
21 know your laptop crashed and it crashed two years before;
22 is that correct?

23 A. It crashed. It had been fixed and crashed and fixed
24 and crashed.

25 Q. You didn't mention that it was fixed; correct?

DOUG BISHOP: BY SOLICITOR ANTHONY

-417-

1 A. No, sir. Nobody ask.

2 Q. All right. Thank you.

3 SOLICITOR ANTHONY: That's all.

4 THE COURT: You can step down and have a seat with
5 counsel.

6 (WITNESS LEAVING WITNESS STAND.)

7 THE COURT: Call your next witness.

8 MR. SOWELL: Defense rest, Your Honor.

9 THE COURT: All right. Anything in reply?

10 SOLICITOR ANTHONY: I think there probably will be,
11 Your Honor.

12 THE COURT: All right. Let me let the jury go to the
13 jury room.

14 The Defense is now resting. The Plaintiff's have
15 finished their case. The Defense has finished it's case.
16 Under certain circumstances the State represented by Mr.
17 Anthony has a right to put up what we call reply testimony.
18 So I'm gonna give him a few minutes to decide whether he on
19 behalf of the State whether there is any reply testimony is
20 going to be presented, so I'm gonna let you go to the jury
21 room for a few minutes while that's worked out.

22 (JURY EXITS COURTROOM AT 03:53 P.M..)

23 THE COURT: I'll give you a few minutes and then after
24 you make up your mind come and let me know. And also, if
25 we can just have a minute to look at the charges and a

DESTINY CIPRIANO: BY SOLICITOR ANTHONY

-430-

1 the jury go out and we'll see where we are with sur
2 rebuttal so we got a little bit of things to do before we
3 get there.

4 Bring 'em in.

5 (JURY REENTERS COURTROOM AT 10:30 A.M..)

6 THE COURT: Good morning.

7 Mr. Anthony.

8 SOLICITOR ANTHONY: Your Honor, the State would begin
9 it's reply case by recalling Destiny Cipriano to the stand.

10 THE COURT: Ms. Cipriano, will you please come
11 forward. And you're still under oath for the purposes of
12 this trial.

13 DIRECT EXAMINATION

14 DESTINY CIPRIANO BY SOLICITOR ANTHONY:

15 Q. Ms. Cipriano, was there ever a time when you were
16 over at Mr. Bishop's residence that he showed you a
17 distinct --

18 MR. SOWELL: Your Honor, I object to leading.

19 THE COURT: Well I don't know if that's leading but
20 rephrase. Let's just make sure...

21 BY SOLICITOR ANTHONY:

22 Q. Were you ever shown a distinct movie by Mr. Bishop?

23 A. Yes, sir.

24 Q. And what made that movie distinct?

25 A. It was a pornographic version of *Pirates of the*

1 *Carribean* basically.

2 Q. All right.

3 MR. SOWELL: I couldn't understand her.

4 SOLICITOR ANTHONY: Can you put that microphone up a
5 little closer.

6 THE COURT: Repeat that; Mr. Sowell was -

7 BY SOLICITOR ANTHONY:

8 Q. Once again, what made the movie distinct?

9 A. It was a pornographic version of *Pirates of the*
10 *Carribean*.

11 Q. And when you say a pornographic version, what was it
12 in your mind that made it pornographic?

13 A. There was males and females having sexual intercourse
14 and females and females having sexual intercourse.

15 Q. What kind of clothes did these people have on when
16 they were having sexual intercourse?

17 A. They wouldn't have on any.

18 Q. And what - Approximately what time of the year was
19 it when you were shown this movie ---

20 MR. SOWELL: Your Honor.

21 Q. --- by Mr. Bishop?

22 MR. SOWELL: I assume my prior objection is continued?

23 THE COURT: Over ruled.

24 BY SOLICITOR ANTHONY:

25 Q. What time of the year was it?

DESTINY CIPRIANO: BY SOLICITOR ANTHONY

-432-

1 A. It was spring of 2010.

2 Q. And do you recall what day of the week it was or
3 whether it was a weekday or weekend?

4 A. It was a weekday because I had school the next day.

5 Q. And do you recall what time of day it was?

6 A. It was at night. It was dark outside.

7 Q. Who was at the house when you saw this movie?

8 A. Myself, my sister, Brittany and Kelly and Doug.

9 Q. Was Ms. Bishop, had Ms. Bishop moved in at this time?

10 A. No, sir.

11 Q. Where did you see the movie?

12 A. In the living room.

13 Q. And how was it played for you?

14 A. On the desk top computer.

15 MR. SOWELL: I can't understand what she's saying.

16 A. It was shown on the desk top computer.

17 Q. And when you say on the desk top computer, I'm
18 showing you State's Exhibit Number One, was that the
19 computer?

20 A. Yes, sir.

21 Q. And what was the movie about? What was the - what
22 kind of movie was it?

23 A. It was a different version of *Pirates of the*
24 *Carribean*. It had scenes in it that wasn't sexual; it had
25 basically a story line with it but it had sexual scenes in

DESTINY CIPRIANO: BY SOLICITOR ANTHONY

-433-

1 it.

2 Q. What were the ages of the people who were having
3 sex?

4 A. They were all adults.

5 Q. Okay.

6 MR. SOWELL: Was that all adults?

7 A. Yes.

8 THE COURT: Yes.

9 BY SOLICITOR ANTHONY:

10 Q. And how did you come to have Mr. Bishop show you
11 this movie?

12 A. We were in the kitchen fixing us something to eat
13 and we were talking about a girl at school that was a
14 lesbian and we was wondering how would she be able to do
15 that with a girl and we had talked about Pirates of the
16 Carribean earlier that day because I like Pirates of the
17 Carribean and he said that he could show me on the computer
18 and we went to the living room and he showed it to us.

19 Q. And how old were you when you showed you this?

20 A. Fifteen.

21 Q. Okay. Fifteen?

22 A. Yes, sir.

23 Q. All right. And who watched the video?

24 A. In the beginning or at the full thing?

25 Q. The - Well both. How did it start and who watched

DESTINY CIPRIANO: BY SOLICITOR ANTHONY

-434-

1 what parts of it?

2 A. Brittany went into the bedroom and played a game
3 because she didn't want to see it.

4 MR. SOWELL: Your Honor, I can't understand her.

5 A. Brittany went into the bedroom because she didn't
6 want to see it. Myself, my sister and Kelly all sat around
7 the computer with Doug. When it come up into a
8 pornographic scene Denise was like no I don't want to see
9 this so she went in the room and played the game with
10 Brittany.

11 Q. And Denise is your sister; correct?

12 A. Yes, sir.

13 Q. Okay. And what happened after that?

14 A. And then me an Brittany - not Brittany, but me and
15 Kelly watched about twenty minutes of it with Doug and then
16 we went in there and played the game with Brittany and
17 Kelly.

18 Q. And when you left what did Mr. Bishop do?

19 A. He stayed on the computer.

20 Q. Did you ever see Mr. Bishop with a laptop computer
21 during the time he ---

22 MR. SOWELL: Your Honor, ---

23 Q. --- was at the Wardlaw Street?

24 MR. SOWELL: --- this is all --

25 THE COURT: Yeah I sustain the objection.

DESTINY CIPRIANO: BY SOLICITOR ANTHONY

-435-

1 SOLICITOR ANTHONY: May I approach on that?

2 THE COURT: Yes.

3 (SIDE BAR CONFERENCE OFF THE RECORD OUT OF THE HEARING
4 OF THE JURY AT 10:37 A.M..)

5 THE COURT: I over rule the objection.

6 BY SOLICITOR ANTHONY:

7 Q. Did you ever see Mr. Bishop with a laptop at
8 Wardlaw Street?

9 A. No, sir.

10 Q. Do you have any recollection of the Bishops ever
11 had a laptop?

12 A. Yes, sir.

13 Q. And when was that? When do you remember the laptop
14 being used?

15 A. When they lived on Pine Street.

16 Q. Do you remember a laptop ever being returned to the
17 Wardlaw residence or seeing one at the Wardlaw residence at
18 all?

19 A. It came when Dana moved back in.

20 Q. And when was that?

21 A. It was end of April beginning of May.

22 Q. Did you ever spend the night at the Wardlaw Street
23 when the P [REDACTED] sisters weren't there?

24 A. No, sir.

25 Q. And while you were there during the times that you

DESTINY CIPRIANO: BY SOLICITOR ANTHONY

-436-

1 would be there at the Wardlaw Street, who were the people -
2 who were the other younger people who would visit there on
3 a regular basis that you would see?

4 MR. SOWELL: Your Honor, this was definitely brought
5 up, this was not --

6 THE COURT: Well I sustain the objection.

7 SOLICITOR ANTHONY: Well this is in direct reply to
8 his testimony.

9 THE COURT: Well I sustain the objection. She wasn't
10 there twenty four hours a day. I mean she was there quite
11 a bit. I sustain the objection.

12 SOLICITOR ANTHONY: May I ask her when she was there
13 who she saw?

14 THE COURT: Yeah.

15 SOLICITOR ANTHONY: Okay.

16 Q. My question is, during the times that you were there,
17 who were the other younger people that you saw there?

18 A. Myself and my sister and my cousin came with me once
19 or twice.

20 MR. SOWELL: All this came up in cross during -

21 THE COURT: Well I over rule the objection.

22 But let's move on. I think we've - let's don't plow
23 ground again.

24 SOLICITOR ANTHONY: I'm almost through.

25 Q. And what was your cousin's name?

DESTINY CIPRIANO: BY MR. SOWELL

-437-

1 A. Audrey Howell.

2 Q. And during the times the nights you spent there, were
3 there ever - do you ever remember any boys spending the
4 night at the residence?

5 A. One night.

6 Q. Okay. And who was that?

7 A. David Warren.

8 Q. And who is David Warren?

9 A. Audrey's boyfriend.

10 Q. And Audrey is your cousin?

11 A. Yes, sir.

12 Q. Okay. And what night was that?

13 A. Valentine's Day.

14 Q. All right. Thank you.

15 SOLICITOR ANTHONY: That's everything on direct.

16 THE COURT: Any questions, Mr. Sowell?

17 CROSS EXAMINATION

18 DESTINY CIPRIANO BY MR. SOWELL:

19 Q. Dana, you said - I'm sorry, Destiny, you said Denise
20 moved in when?

21 A. Can you repeat the question?

22 Q. When did Denise move in at Wardlaw Street?

23 THE COURT: Wait just a minute, I hate to interject,
24 but it think Denise is her sister.

25 A. Yeah Denise is my sister.

DESTINY CIPRIANO: BY MR. SOWELL

-438-

1 Q. When did Dana move into the Wardlaw Street?

2 A. End of April beginning of May.

3 Q. And how long did she stay there?

4 A. I don't know.

5 Q. Did she stay there three months?

6 A. I don't know.

7 Q. How do you know when she moved in?

8 A. Because I was there when she moved in.

9 Q. And how long did you stay there after that?

10 A. After that I stayed there about a week.

11 Q. And you don't know how long Dana stayed there after
12 she moved in?

13 A. I do not know.

14 Q. And undoubtedly you - your story is that Dana
15 didn't move in in December?

16 A. No.

17 Q. Was Dana there when the Christmas tree was put up
18 in 2009?

19 A. I do not know.

20 Q. Were you there during Christmas of 2009?

21 A. I did not stay there on Christmas Eve night if that's
22 what you're asking --

23 Q. I'm sorry. What now?

24 A. I did not stay there on Christmas Eve night if that's
25 what you're asking me.

1 Q. During the Christmas season in 2009 were you there
2 several nights?

3 A. I don't recall.

4 Q. You don't recall?

5 A. I don't recall if I was there then because that's
6 around Christmas time and I usually spent it with my
7 family.

8 Q. When you stayed with your mother during the holidays;
9 right?

10 A. Sometimes.

11 Q. And Christmas vacation starts on December 20th
12 doesn't it?

13 A. Sometimes.

14 Q. So prior to December 20th you were there at Wardlaw
15 Street weren't you?

16 A. Yes, sir.

17 Q. So why did you tell you weren't there during
18 Christmas time?

19 SOLICITOR ANTHONY: I'm sorry, I did not understand
20 that question or hear it.

21 THE COURT: He ask why did you tell me you were there
22 during Christmas time. I think that was the question.

23 Go ahead.

24 A. Christmas time is about like - In my mind Christmas
25 time is a week before Christmas and that's the Christmas

DESTINY CIPRIANO: BY MR. SOWELL

-440-

1 time right there because I'm out of school and I'm with my
2 family. Before that it's just December.

3 Q. Were you there when the Christmas tree was put up at
4 Wardlaw Street in the year 2009?

5 A. No, sir.

6 Q. Although the Christmas tree was put up December 10th.

7 SOLICITOR ANTHONY: Objection.

8 THE COURT: That - I don't remember that being a fact
9 in evidence.

10 BY MR. SOWELL:

11 Q. During January of 2010 were you staying nights at
12 Wardlaw Street?

13 A. Yes, sir.

14 Q. And was Dana staying nights at Wardlaw Street?

15 A. No, sir.

16 Q. She wasn't staying nights at Wardlaw Street in
17 January of 2010?

18 A. No, sir.

19 Q. You said that Doug showed you a movie of the *Pirates*
20 *of the Carribean*.

21 A. Not *Pirates of the Carribean*. It was the knock off
22 version. It's a pornographic knock off version of *Pirates*
23 *of the Carribean*.

24 Q. And what was the name of it?

25 A. *Pirates*.

1 Q. Pirates. And that showed adult nudity?

2 A. Yes, sir.

3 Q. No kiddy nudity?

4 A. No, sir.

5 Q. Have you ever seen any kiddy nudity ---

6 A. No, sir.

7 Q. --- on these - either of these computers of the
8 Bishop family?

9 A. No, sir.

10 Q. Have you ever seen you, your daughter, Doug's step
11 daughters; have you ever seen them download movies onto the
12 computer?

13 A. I do not have a daughter.

14 THE COURT: I think he meant your sister.

15 She doesn't have a daughter. At least there's no
16 testimony that she does so I don't know.

17 MR. SOWELL: I'm sorry, Your Honor.

18 Q. Have you ever seen your sister, you, or Doug's step
19 daughters, ever down load movies?

20 A. I've never seen anybody down load movies on the
21 computer.

22 Q. I'm sorry.

23 A. I have never seen anyone down load any kind of movies
24 on the computer.

25 Q. No one?

DESTINY CIPRIANO: BY MR. SOWELL

-442-

1 A. No one.

2 Q. What computer was at Wardlaw Street when you first
3 started staying there at night?

4 A. The desktop computer.

5 Q. Now you said the laptop didn't come until Dana moved
6 in?

7 A. Correct.

8 Q. Who was using the laptop computer?

9 A. I don't know I wasn't there.

10 Q. Pardon me?

11 A. I do not know I was not there.

12 Q. Well you said that it came when they came?

13 A. Oh I thought you meant before. When it came with
14 them then it was set beside the desktop computer on the
15 table and if somebody was on this computer then the other
16 person would get on this computer.

17 Q. So when did that start ---

18 A. When Dana moved in.

19 Q. --- on Wardlaw Street?

20 A. That started when Dana moved in.

21 Q. So you're saying that the laptop computer was not
22 broken whenever Dana moved in?

23 A. Can you repeat that? I didn't understand.

24 Q. When Dana moved in, the laptop computer did not
25 break?

DESTINY CIPRIANO: BY MR. SOWELL
BY SOLICITOR ANTHONY

-443-

1 A. It was like - It didn't have no keyboard so you had
2 to put a keyboard on it and then it had a tower to the side
3 of it. So I mean it was - You could use it if it was
4 plugged up to the other part.

5 Q. So the laptop computer was being used after Dana
6 moved into the house?

7 A. Correct.

8 MR. SOWELL: Nothing further, Your Honor.

9 THE COURT: Redirect?

10 REDIRECT EXAMINATION

11 DESTINY CIPRIANO BY SOLICITOR ANTHONY:

12 Q. Were you ever at Wardlaw Street after the first part
13 of May 2010?

14 A. No, sir.

15 Q. So as far as how long somebody would stay there after
16 - as far as how long Ms. Bishop stayed there after she
17 moved in you wouldn't have any knowledge of that?

18 A. Correct.

19 SOLICITOR ANTHONY: Thank you.

20 That's everything.

21 THE COURT: You can step down and be excused. We
22 appreciate your time.

23 (WITNESS LEAVING WITNESS STAND.)

24 THE COURT: You can call your next witness.

25 SOLICITOR ANTHONY: We call Agent Duncan.

COLIN DUNCAN: BY SOLICITOR ANTHONY

-444-

1 THE COURT: You are still under oath four purposes of
2 this trial.

3 (WHEREUPON: AGENT COLIN DUNCAN, BEING FIRST CALLED
4 AND PREVIOUSLY SWORN, TESTIFIED AS FOLLOWS:)

5 DIRECT EXAMINATION

6 COLIN DUNCAN BY SOLICITOR ANTHONY:

7 Q. Would you state your name please?

8 A. Colin Duncan.

9 Q. And Agent Duncan, you testified Tuesday afternoon
10 about the analysis of the hard drive that's part of State's
11 Exhibit Number One here; is that right?

12 A. That's correct, sir.

13 Q. Okay. When you analyzed the hard drive on that
14 computer, did - what were you looking for?

15 A. I was looking for images and videos of child
16 pornography.

17 Q. And is that all you put on your report is the child
18 pornography?

19 A. That's correct

20 Q. Okay. When you get a request to look for child
21 pornography, do you ever make any kind of report about
22 finding adult porn?

23 A. Not unless it's specified in the agency's request so
24 its rare that we would include adult pornography.

25 Q. That said, did you find any adult pornography on the

1 hard drive that you testified containing child porn?

2 A. I did.

3 Q. And specifically what did you find?

4 A. There was certain images, animated images, simulated
5 images like Japanese animation images and a few of I would
6 say thumbnail size images of adults engaging in sexual
7 activity or just similar male or females, just individual
8 pictures of males or females naked.

9 Q. And did you find - Did you look for any or find any
10 porn films based on any popular movies?

11 A. I did.

12 Q. What did you find?

13 A. There were two adult themed or more mature content
14 related *Pirates of the Carribean* movies. There were four
15 movies; I think it was *Pirates One* and *Pirates Two* but they
16 both had two parts because they were both pretty lengthy
17 films, roughly I guess two hours in length for both so the
18 files had to be separated or, you know, it's easier I guess
19 for people to share or download two different files.

20 Q. And did you review those movies?

21 A. I did, sir.

22 Q. And when you say adult theme; what was going on in
23 the movie, what kind of material was did the movies contain
24 that made them adult themed?

25 A. Adults engaged in sexual activity. But male on

COLIN DUNCAN: BY SOLICITOR ANTHONY

-446-

1 female; female on female and they were - They were - If a
2 porn movie can have a plot it had a plot and there were
3 costumes and sets and it was a rather lengthy film so there
4 was some dialogue mixed in amongst the sexual scenes if you
5 will.

6 Q. All right. And did you do anything to document
7 finding those films?

8 A. I did.

9 Q. All right. What did you do?

10 A. I burned where I copied the films onto a DVD and as
11 for the other notable files that were book marked for the
12 original in case report I did the same for these four video
13 files.

14 Q. Okay. All right I'm gonna show you what's been
15 marked for identification as State's Exhibit Number Twenty-
16 two; ask if you can identify this document?

17 A. Yes, sir, I can identify it.

18 Q. And what is that?

19 A. It's a document with the titles of the videos. It's
20 something that in case generates; its not an entire in case
21 report, its just a single book mark page showing the four
22 videos, their titles, and the attributes, file attributes,
23 last access, file created, the last written date, and the
24 path in which the movies were stored on that drive.

25 Q. And does that page fairly and accurately represent

COLIN DUNCAN: BY SOLICITOR ANTHONY

-447-

1 the in case information?

2 A. It does.

3 Q. All right.

4 SOLICITOR ANTHONY: We move Twenty-two into evidence.

5 MR. SOWELL: This is - This was marked earlier?

6 SOLICITOR ANTHONY: I have it marked for right now.

7 MR. SOWELL: No objection.

8 THE COURT: In without objection.

9 (WHEREUPON: STATE'S EXHIBIT NUMBER TWENTY-TWO
10 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

11 SOLICITOR ANTHONY: I'd ask to publish this.

12 THE COURT: All right. We'll take a short break
13 while you get that working.

14 SOLICITOR ANTHONY: I'm sorry. I may be coming on
15 here. I don't know why it didn't pick up on the projector.
16 It doesn't seem to want to do it. If we can just have a -

17 THE COURT: Yeah. Let's take a short break; no sense
18 in us sitting here while you're working on that.

19 (JURY EXITS COURTROOM AT 10:57 A.M.)

20 THE COURT: You can step down if you need to.

21 AGENT DUNCAN: Thank you, sir.

22 (COURT IN RECESS AT 10:57 A.M..)

23 (COURT BACK IN SESSION AT 11:14 A. M.)

24 THE COURT: Thank you. Take your seats.

25 Is the State ready?

COLIN DUNCAN: BY SOLICITOR ANTHONY

-448-

1 SOLICITOR ANTHONY: Yes, sir.

2 THE COURT: The Defense?

3 Bring in the jury.

4 (JURY REENTERS COURTROOM AT 11:14 A.M..)

5 THE COURT: You may proceed.

6 SOLICITOR ANTHONY: Thank you, Your Honor.

7 All right, we got our technical issues dealt with

8 here. What I'm gonna do I placed Exhibit Number Twenty-two

9 upon the screen.

10 (STATE'S EXHIBIT NUMBER TWENTY-TWO PUBLISHED TO THE
11 COURT AND THE JURY AT 10:54 A.M..)

12 Q. You said there were two different files.

13 A. Four different files that equaled two different
14 full length films.

15 Q. All right. And what's the type of film I'm just
16 pointing to with the pointer?

17 A. It says adult vivid Pirates 2005 CD 2 so that would
18 be part two of that film. And then it looks like a bunch of
19 names of the actresses that are in the film ---

20 Q. All right.

21 A. --- for actors.

22 Q. And I just moved down one. Where would be Part I?

23 A. Yes, sir, that would be Part I of the same thing.

24 Q. So the first and third entry that is on that report
25 go together; is that correct?

1 A. That's correct.

2 Q. All right. And what is the file creation date on
3 those on the first entry?

4 A. The creation date, I can't --

5 Q. Let me, I'll zoom on it a little bit for you. Okay.

6 On the first entry what's the creation date?

7 A. It says August 14th, 2009 at 8:00.

8 Q. And then on the third one what's the -- which is the

9 --

10 A. Which is the same date with just three minutes,
11 three minutes past the first one.

12 Q. Okay. And then you said that the first and the
13 third entries go together; so what's the relationship
14 between the second entry and the fourth entry? These two
15 here?

16 A. Those would be the *Pirates II* it appears.

17 Q. All right. And when were those two files created?

18 A. Those also -- Well they say August 14th I believe.

19 Q. Okay.

20 A. 2009.

21 Q. Okay. And what is on the -- on this film, *Pirates*
22 *II* film, which is the second and forth entries; when is the
23 last access date showing?

24 A. The last access April 17th, 2010.

25 Q. All right. And that's for one of the files; is that

COLIN DUNCAN: BY SOLICITOR ANTHONY

-450-

1 correct?

2 A. That's from one of the.

3 Q. All right.

4 A. That's for the - That would be for the *Pirates II*
5 there. The date would be above the film name that's
6 underlined.

7 Q. All right. And then the other file of *Pirates II*,
8 what's the last access date on it?

9 A. April the 7th, 2010.

10 Q. All right. And then going back to the 2005 *Pirates*,
11 which are the first and the third lines, what's the last
12 access date for those two files?

13 A. It also says April the 7th, 2010.

14 Q. And is that the same for both of those two files?

15 A. That's correct.

16 Q. All right. And what's the time?

17 A. Yeah just minutes apart. 1:51 a.m.; 1:53 am.

18 Q. All right. And these files, these four files that
19 you - Where were they located on the hard drive? Or how
20 would you access them off a regular desktop computer?

21 A. They were located on the desktop in a folder titled
22 New Folder so it was once again a folder created but not
23 given or stipulated a certain name so it defaults to new
24 folder and they were just one level below that so if you
25 were to be on the computer you would just click new folder

COLIN DUNCAN: BY SOLICITOR ANTHONY

-451-

1 on the desktop and there the files would be.

2 Q. And was there any indication that there had been
3 any attempt to delete those files?

4 A. No, sir.

5 Q. Okay. So those files, would a regular user have
6 ready access to those files?

7 A. Yes, sir.

8 Q. Just moving on to a couple of other things. If you
9 - A computer resets; what date does it go back to?

10 MR. SOWELL: Your Honor, this is not new --

11 THE COURT: Well I over rule the objection.

12 BY SOLICITOR ANTHONY:

13 Q. If a computer resets, what date does it go back to?

14 A. It's gonna go back to the date in which the OS was
15 installed. Or the last time the operating system was - a
16 fresh install was put on the computer. Or it's likely that
17 it will go back - Sorry. It's gonna go back to the BIOS so
18 it's gonna go back to the chip on the mother board the time
19 that it told, you know, it was first built. So like the
20 manufacture date. Sorry.

21 Q. All right. So if the computer resets back to that
22 date --

23 MR. SOWELL: Your Honor, I object to leading.

24 THE COURT: That's a leading question. Rephrase your
25 question.

COLIN DUNCAN: BY SOLICITOR ANTHONY

-452-

1 BY SOLICITOR ANTHONY:

2 Q. When new files are created on a computer that has
3 recently reset, what date would be reflected on those new
4 files?

5 A. The date in which it currently was on the computer.

6 Q. All right. If I can just try to give you an example
7 how --

8 (DEFENSE ATTORNEY STOOD.)

9 THE COURT: I sustain the objection. Just ask
10 questions.

11 BY SOLICITOR ANTHONY:

12 Q. If a computer resets and say it resets back to 2006
13 and a file was created, the date on the computer is not
14 being not updated to make it correct, to make it 2012, a
15 file is created after it is reset; what date would be
16 reflected, what year would be reflected as the file
17 creation year on a computer?

18 A. 2006.

19 Q. All right. And if you subsequently say files are
20 created in 2012, the computer shows 2006, you subsequently
21 fix the computer; bring it back up to 2012, would that
22 alter the files that were created that showed created in
23 2006?

24 MR. SOWELL: Your Honor, I object to leading, Your
25 Honor.

1 THE COURT: I over rule the objection.

2 A. No, sir. It's not gonna retroactively go back and
3 change the times and correct the times for those files
4 created dates. Once its created and the computer thinks it
5 was created on a certain date it will always keep that date
6 associated with that file.

7 Q. All right. And the item you were questioned about
8 you were questioned Tuesday about a hard drive that was
9 submitted to you; is that correct, from your Item Number 3?

10 A. Yes, sir.

11 Q. And that was indicated to be as a laptop hard drive;
12 is that correct?

13 A. That's correct

14 Q. All right. Did you make an examination of that hard
15 drive?

16 A. I did.

17 Q. And what was the status of that hard drive when you
18 examined it?

19 A. There was no operating system on that drive so we
20 were not able to perform an examination on it. Or other
21 than to be able to see that it had a C drive but there was
22 no Windows on it so no data, no dates.

23 Q. So is there anything you could do as a forensic
24 examiner to determine the last time that drive could be
25 operational and could be used?

COLIN DUNCAN: BY SOLICITOR ANTHONY

-454-

1 A. No, sir.

2 Q. And if when a computer, you take a computer in at
3 SLED and it is verified to have the working date and time
4 or a correct date and time, what does that indicate about
5 the C Moss battery in a computer?

6 A. It indicates that the date and time were correct. We
7 verify - We plug the computer in with the drives already
8 removed.

9 MR. SOWELL: Your Honor, I object to this. He just
10 said we did all this stuff. He wasn't the one that did it,
11 it's all hearsay.

12 THE COURT: Don't go into what somebody else did.

13 A. Certainly.

14 THE COURT: I sustain the objection.

15 BY SOLICITOR ANTHONY:

16 Q. If a computer is --

17 THE COURT: I sustain the objection.

18 BY SOLICITOR ANTHONY:

19 Q. If a computer is off for three months and it is
20 booted up and has the working date and time, what does that
21 indicate about the C Moss battery?

22 A. It indicates the C Moss battery is good.

23 Q. Thank you.

24 SOLICITOR ANTHONY: That's everything.

25 THE COURT: Mr. Sowell.

COLIN DUNCAN: BY MR. SOWELL

-455-

1 CROSS EXAMINATION

2 COLIN DUNCAN BY MR. SOWELL:

3 Q. If someone resets the date after a power surge or
4 power termination; when someone resets the date and doesn't
5 reset the time from that point forward can you rely on the
6 time being accurate?

7 A. No. If the times wrong then you can't rely on the
8 time if the time were wrong after a power surge.

9 Q. So a power surge, the computer goes down, someone
10 resets the time or the date, resets the date, and doesn't
11 reset the time, or resets the time inaccurate, is that time
12 wrong forever or does it reset again?

13 A. If the times wrong it's wrong until it's corrected.

14 Q. When you found these adult - Now these weren't kiddie
15 porn, these were adult porn you found; right?

16 A. That's correct

17 Q. Did you find anything to tell you who put them on
18 the - downloaded that file?

19 A. No, sir.

20 Q. Did you find anything that would tell that you a
21 particular person would have known the files were on the
22 computer?

23 A. No, sir.

24 Q. Did you find anything to indicate that - Let me
25 back up. How long - When these files were accessed -

COLIN DUNCAN: BY MR. SOWELL

-456-

1 Access means pulled up on the computer?

2 A. That's correct

3 Q. And you can't tell how long they were used?

4 A. No, sir.

5 Q. And what is a file created mean?

6 A. File created means the time in which it was first
7 stored on a user's computer. The first history of that
8 file on a computer.

9 Q. And what is the last written mean?

10 A. Last written is the last time the file may have
11 been altered by the person who published it or the person
12 who had it stored on the internet so that date could be
13 before or after a creation date.

14 Q. File created that's when you originally develop it -

15 A. No, sir. File created is simply in terms of when
16 it touches that user's computer for the first time.

17 Q. What does last written mean?

18 A. That's when the author may have edited the video or
19 finalized the video. The written date would be the last
20 time that was actual data written to that file.

21 Q. How would a user write to a film to my computer?

22 File created means the date that the developer created the
23 film; is that correct?

24 A. That's correct. No. Which date again?

25 Q. My computer I have at home.

1 A. Okay.

2 Q. Filed created is the date that the developer made
3 the film; is that correct?

4 A. No, sir.

5 Q. Tell me what file created --

6 A. Created is when it first appeared on your computer;
7 first downloaded to your computer. That's the date
8 reflected.

9 Q. Now so when it's created on my computer that's means
10 file created?

11 A. Yes.

12 Q. And last written. What does last written mean?

13 A. When it was last modified or last altered in some
14 way.

15 Q. I'm just a user, got a computer. How would I write
16 anything to a movie?

17 A. It could simply be changing the naming convention or
18 changing the format of the film or the extension of the
19 film.

20 Q. How would I do that?

21 A. Just change the name of the ending of the title of
22 the film.

23 Q. How would I do that?

24 A. Just one click on it, if the file starts blinking or
25 the name starts blinking, you just back out two or three

COLIN DUNCAN: BY MR. SOWELL
BY SOLICITOR ANTHONY

-458-

1 key strokes and change the name to see if it'll play on a
2 certain - a certain player.

3 Q. So if it has - the last time it was written means
4 I changed the name on it?

5 A. Yeah you can change the naming scheme or if you've
6 got certain software that would allow you to, you know,
7 maybe edit a clip out in Windows Media Player or Windows
8 Movie Maker would allow you to do something like that.
9 Just any programs that would come stored with Microsoft
10 operating systems.

11 Q. But you found nothing in any of these computers that
12 indicated Doug had anything to do with these movies?

13 A. No, sir, there's no names tied to any of the down
14 loads.

15 MR. SOWELL: Nothing further.

16 THE COURT: Redirect?

17 REDIRECT EXAMINATION

18 COLIN DUNCAN BY SOLICITOR ANTHONY:

19 Q. Did you find anything to indicate anybody else was
20 downloading movies?

21 A. No, sir.

22 SOLICITOR ANTHONY: Nothing further.

23 THE COURT: Thank you. You can be excused.

24 MR. DUNCAN: Thank you, Judge.

25 THE COURT: You can be excused. We appreciate your

ROXIE BELUE: BY SOLICITOR ANTHONY

-459-

1 time.

2 MR. DUNCAN: Thank you, sir.

3 THE COURT: Thank you.

4 (WITNESS LEAVING WITNESS STAND.)

5 THE COURT: Mr. Anthony.

6 SOLICITOR ANTHONY: I have one more; briefly we call
7 Investigator Belue.

8 MR. SOWELL: Your Honor.

9 THE COURT: Well I have to hear -

10 Come on up and be - You're already sworn and you're
11 under oath.

12 Why don't counsel step over here.

13 (SIDE BAR CONFERENCE OFF THE RECORD OUT OF THE
14 HEARING OF THE JURY AT 1:31 A.M..)

15 (WITNESS RETOOK WITNESS STAND.)

16 REDIRECT EXAMINATION

17 ROXIE BELUE BY SOLICITOR ANTHONY:

18 Q. Investigator Belue, just briefly. You testified on
19 Tuesday about the execution of a search warrant at Mr.
20 Bishop's residence on May 6; is that correct?

21 A. I did.

22 Q. And was there a laptop computer retrieved during
23 that search warrant execution?

24 A. There was.

25 Q. And where did you find the laptop?

ROXIE BELUE: BY SOLICITOR ANTHONY
BY MR. SOWELL

-460-

1 A. It would be at the back door in the kitchen area.

2 Q. And what kind of condition was it in when you found
3 it?

4 A. It was in pieces all laid together.

5 Q. And the hard drive that you sent to SLED; is that
6 one of the pieces?

7 A. It was. It was laid with it; everything just kept
8 falling out. I was trying to pick it up so.

9 Q. So at the time it was discovered by you, was it
10 operational?

11 A. I would say no.

12 Q. All right. Thank you.

13 SOLICITOR ANTHONY: That's everything.

14 CROSS EXAMINATION

15 ROXIE BELUE BY MR. SOWELL:

16 Q. You were here earlier today were you not?

17 A. Yes, sir.

18 Q. And you heard Ms. Cipriano --

19 SOLICITOR ANTHONY: Objection to what somebody else --

20 THE COURT: I haven't heard the question yet. Let him
21 ask the question.

22 BY MR. SOWELL:

23 Q. You heard Ms. Cipriano testify that that laptop was
24 operational when her mother moved in in supposedly in
25 April, 2010?

ROXIE BELUE: BY MR. SOWELL

-461-

1 SOLICITOR ANTHONY: Objection. It's irrelevant.

2 THE COURT: Yeah. Well I sustain the objection. You
3 can't pit one witness against another.

4 MR SOWELL: I am trying to find out if law enforcement
5 didn't testify when other's didn't in particular --

6 THE COURT: Just - Don't tell me what you're doing;
7 just ask the question and we'll see if it's appropriate or
8 not. I'm ruling you can't what we call 'you know pit one
9 witness against another.

10 BY MR. SOWELL:

11 Q. Did - So in May; what day in May? When did you
12 execute this search warrant?

13 A. The 6th, May 6.

14 Q. May 6. My birthday. Now, so, the laptop was not
15 sitting in the kitchen beside the desktop was it?'

16 A. When I saw it?

17 Q. Yes, ma'am.

18 A. It was in the kitchen at the back door in pieces.

19 Q. So it was not sitting in the kitchen beside the
20 laptop - beside the desktop where anybody could use either
21 one of them was it?

22 A. You're asking was it sitting in the kitchen -

23 Q. Beside the laptop - beside the desktop where anybody
24 could use either one of them?

25 A. The desktops were in the living room.

ROXIE BELUE: BY MR. SOWELL

-462-

1 Q. Was the laptop sitting beside the desktops so that
2 anybody could use either one?

3 A. No.

4 Q. What we heard earlier wasn't true was it?

5 SOLICITOR ANTHONY: Objection.

6 THE COURT: I sustain the objection. That's - I
7 sustain the objection.

8 A. At the time I --

9 THE COURT: I sustain the objection so don't answer
10 the question. He'll ask you something else.

11 BY MR. SOWELL:

12 Q. Now, when you found the laptop the hard drive was
13 taken out of it; is that correct?

14 A. It was broken into pieces. It was stacked up in
15 pieces.

16 Q. Was it in the condition like Doug said it was when
17 he tried to dismantle it?

18 A. I don't recall the condition he stated that it was
19 in.

20 Q. So if someone had dismantled it, to dismantle the
21 hard drive, to remove the hard drive to fix it, that would
22 have been the condition it was found in.

23 A. I don't know that.

24 Q. You said the hard drive wasn't out of it.

25 A. It was broken into pieces at the back door.

ROXIE BELUE: BY MR. SOWELL

-463-

1 Q. What do you mean by broken?

2 A. It was broken down into pieces. It was not intact.

3 Q. Broken down, does that mean broken?

4 A. It could have been broken. It was not intact.

5 Q. And the hard drive had been taken out of it?

6 A. It wasn't intact.

7 Q. Was the hard drive taken out of it?

8 A. I don't know that it was taken out but it was not
9 inside the laptop. It was on top of it.

10 Q. Somehow the hard drive got out of that -

11 A. Correct.

12 Q. Like Doug said.

13 SOLICITOR ANTHONY: Objection. It's pitting.

14 THE COURT: Don't answer that question.

15 Just go on to your next question.

16 BY MR. SOWELL:

17 Q. So somehow the hard drive got taken out of the laptop
18 and when you found it was beside the rest of the laptop?

19 A. It was on top of the rest of the laptop.

20 Q. Now where the pieces broken or were they just
21 dismantled?

22 A. There seemed to have been a crack in the hard case of
23 it somewhere but I couldn't recollect whether that was what
24 caused it to be dismantled or not.

25 Q. Crack in the casing. Is that what you mean by in

ROXIE BELUE: BY MR. SOWELL

-464-

1 pieces?

2 A. I don't know that that's what caused it. I just
3 recall there being a crack.

4 Q. Well you told this jury that it was all in pieces.

5 A. It was.

6 Q. What pieces were there?

7 A. There was a CD Rom drive and the hard drive. The CD
8 Rom drive was not completely out of the side of the laptop
9 but it was sticking out. The hard drive was laying on top.

10 Q. Is that what you call in pieces?

11 A. It wasn't intact.

12 Q. Did it appear that someone was working on it?

13 SOLICITOR ANTHONY: Objection. That calls for a
14 conclusion.

15 THE COURT: I'll let her answer it.

16 A. I don't know.

17 Q. But there was three pieces there. The casing, the
18 hard drive and the CD Rom which was not completely removed
19 but it was just partially removed; is that correct?

20 A. Correct.

21 Q. And you told this jury and trying to imply to this
22 jury --

23 THE COURT: Wait, wait, wait, wait. I'm gonna stop
24 the question now. Let's don't use the word she tried to
25 imply something. That's an improper approach to a

ROXIE BELUE: BY MR. SOWELL

-465-

1 question. Just ask her specific questions.

2 BY MR. SOWELL:

3 Q. You told this jury it was all in pieces didn't you?

4 A. When I went to pick the laptop up it fell apart. The
5 CD Rom fell out and of course the hard drive was already
6 laying on top. It fell apart.

7 Q. So the CD Rom -

8 A. It was not intact by screws.

9 Q. I'm sorry.

10 A. There was no screws to hold it together so it was not
11 intact.

12 Q. You told this jury that it was all in pieces and the
13 pieces were the casing, the hard drive, and the CD Rom.
14 That's what you mean by all in pieces; is that correct?

15 A. I indicated in my inventory that there was laptop
16 pieces; simply that it wasn't intact.

17 Q. You told this jury it was all in pieces.

18 A. I --

19 SOLICITOR ANTHONY: Once again -- .

20 THE COURT: Yeah I think we - Let's move on.

21 BY MR. SOWELL:

22 Q. And it was in the back door?

23 A. Yeah the back door at the kitchen, kitchen area.

24 Q. Was there a back door in the kitchen?

25 A. There was a door; I'm assuming it was a back door to

ROXIE BELUE: BY MR. SOWELL

-466-

1 the house, to the residence.

2 Q. Were there any screw drivers left on the table where
3 the laptop was?

4 A. I don't recall.

5 Q. Do you have any pictures with you?

6 A. I do not.

7 Q. You executed a search warrant and didn't take any
8 pictures?

9 A. I did not.

10 Q. Have you changed your procedure now?

11 A. I take pictures on most all search warrants.

12 Q. I think you just said to this jury that you take
13 pictures of most all search warrants.

14 A. Correct.

15 Q. But you for some reason in this particular search
16 warrant you didn't take pictures?

17 A. No I didn't.

18 Q. But the pictures could be used if you were telling
19 the truth or not wouldn't it?

20 SOLICITOR ANTHONY: Objection.

21 THE COURT: Well I over rule the objection.

22 Go ahead.

23 BY MR. SOWELL:

24 Q. How many search warrants do you execute where you
25 don't take pictures?

ROXIE BELUE: BY MR. SOWELL
BY SOLICITOR ANTHONY

-467-

1 A. There has been a time when I've gotten to the scene
2 and there was a camera that was not functioning at that
3 time so there has been a time that there has not been
4 pictures. That's not mandatory procedure but it is the
5 norm.

6 Q. And you had a camera at this scene?

7 A. I don't recall if I did or not.

8 Q. You recall why you didn't take one?

9 A. No I don't. I don't recall the reason why there
10 wasn't pictures.

11 Q. And it just so happened that one particular case you
12 didn't have pictures?

13 A. There's probably more than one.

14 MR. SOWELL: Nothing further.

15 SOLICITOR ANTHONY: Quickly.

16 REDIRECT EXAMINATION

17 ROXIE BELUE BY SOLICITOR ANTHONY:

18 Q. Do you remember the condition of the keyboard?

19 A. I don't.

20 Q. And do you remember where in the kitchen the - was
21 the laptop on a table or -

22 A. It was in the floor.

23 MR. SOWELL: Leading, Your Honor.

24 THE COURT: That's a leading question.

25 BY SOLICITOR ANTHONY:

ROXIE BELUE: BY SOLICITOR ANTHONY
DOUG BISHOP: BY MR. SOWELL

-468-

1 Q. Where in the kitchen was it located?

2 A. It was in the floor.

3 Q. In the floor. All right. Thank you.

4 THE COURT: You can step down and have a seat back
5 there. Thank you.

6 (WITNESS LEAVING WITNESS STAND.)

7 THE COURT: Anything else, Mr. Anthony?

8 SOLICITOR ANTHONY: No, sir.

9 THE COURT: Anything in your rebuttal?

10 MR. SOWELL: Yes, Your Honor.

11 THE COURT: All right.

12 MR. SOWELL: Call Mr. Bishop.

13 THE COURT: Mr. Bishop, you're still under oath.

14 (DEFENDANT RETAKES THE STAND.)

15 REDIRECT EXAMINATION

16 DOUG BISHOP BY MR. SOWELL:

17 Q. Mr. Bishop, did you load any porn, adult porn, kiddie
18 porn, did you load any porn on any computer at your house,
19 in any house, since you first meet your wife?

20 A. No, sir.

21 Q. Did you know any porn was on any computer?

22 A. No, sir.

23 Q. Did you in fact take all four girls into the living
24 room and say I'm gonna show you all a porn picture?

25 A. No, sir. My wife would have killed me if I'd done

DOUG BISHOP: BY MR. SOWELL

-469-

1 that.

2 Q. Did the girls tell your wife when she got home that
3 night you did this?

4 A. No, sir.

5 Q. Was there any night that this girl or any of the
6 other four girls ever told your wife that you showed them a
7 kiddy - showed them a porn picture?

8 A. No, sir.

9 Q. So there is nothing to substantiate this testimony -
10 SOLICITOR ANTHONY: Objection.

11 THE COURT: I sustain the objection. That's an
12 improper question.

13 BY MR. SOWELL:

14 Q. But this lady over here, Ms. Cipriano, never told
15 your wife that you or anybody that you showed them a porn
16 movie?

17 A. No, never.

18 Q. Did you show them a porn picture?

19 A. No, sir, I did not.

20 Q. Did you know there was a porn picture on that -

21 A. No, sir, I did not.

22 Q. When you told us - I'm sorry, I can't use that.

23 Since the last time - Did you ever in numerous times
24 reset that computer did you ever set - reset the date and
25 not reset the time?

DOUG BISHOP: BY MR. SOWELL

-470-

1 A. Probably several times. Along with that the kids
2 would reset it and, you know, if they got that or whatever
3 they would reset it.

4 Q. Did you teach them how to reset it?

5 A. No. They just kind of figured it out on their own so
6 they may have not done it right.

7 Q. So you're telling us at times it wasn't you that
8 reset that computer but that it was the girls resetting it?

9 A. Yes, sir.

10 Q. Which girls knew how to reset the computer?

11 A. Brittany, Kelly and my wife Dana. All of them knew
12 basically how to do it.

13 Q. Is it possible to reset the date and not reset the
14 time?

15 A. Yes.

16 Q. If you did that would the date show up correctly on
17 any of these reports that the time being inaccurate?

18 A. Yes.

19 Q. Or is there any time when you reset the date and not
20 reset the time?

21 A. I may have. I mean if I get in a hurry or got
22 interrupted I may have reset one without resetting the
23 other.

24 Q. And from that date forward these reports would have
25 been off by the time they --

DOUG BISHOP: BY MR. SOWELL

-471-

1 A. Yes, sir.

2 Q. If the computer was reset at let's say 4:30 and the
3 kids came home and reset it at 4:30 and then reset the date
4 and didn't reset the time; would the time be sixteen hours
5 off from there forward?

6 A. Uh-huh.

7 Q. And it always stays sixteen hours off until it was
8 reset?

9 A. Until it would get corrected, you know, the next
10 time yes.

11 Q. When Ms. Roxie came over at your house and removed
12 your hard drive and your laptop, why was that hard drive
13 destroyed?

14 A. The computer was literally had been disassembled. It
15 had crashed. I couldn't get Windows to reload on it. I
16 had gotten the hard drive to format which blanked it out
17 but I could not get the computer to accept windows back on
18 it. I was going to take the hard drive out and take it to
19 a friend to see if he could actually put it in a different
20 computer to get it formatted but I never got a chance to.

21 Q. And do you remember what day it was when you removed
22 that hard drive?

23 A. It would have been in April I'm pretty sure.

24 Q. Of what year?

25 A. Of 2010.

DOUG BISHOP: BY MR. SOWELL

-472-

1 Q. And did you remove the CD Rom?

2 A. Yes.

3 Q. Did you have to remove the CD Rom in order to remove
4 the hard drive?

5 A. At the time I didn't realize no I didn't have to but
6 I had started taking the computer apart. I didn't figure
7 it out that it had a panel on the back that I had simple
8 access to the hard drive.

9 Q. So you didn't have to dismantle the whole thing but
10 you did?

11 A. Yes, sir.

12 Q. When you reformatted the hard drive, did that wipe
13 all the memory out of that computer?

14 A. It wiped the hard drive completely.

15 Q. Is that where the memory is stored?

16 A. That's the storage part of the computer yes.

17 Q. When you formatted the hard drive it was just like a
18 brand new computer, completely --

19 A. Yes.

20 Q. Its even more like when you buy them at the store?

21 A. Yes because it has no operating system, no nothing
22 on it.

23 Q. In order to bridge the operating system that you
24 formatted, what does it take to bridge and install an
25 operating system?

DOUG BISHOP: BY MR. SOWELL

-473-

1 A. You either have to put the CD in and let it read off
2 the CD is what most people do. The CD Rom drive in that
3 computer had been going bad for quite a while and it would
4 not read the CD long enough to load Windows.

5 Q. Well there's a system behind Windows is it not?

6 A. Yes the BIOS is on the main chip of the computer.

7 Q. And when you format the hard drive, it wipes out the
8 BIOS and everything don't you?

9 A. No. The BIOS chip is actually burnt from the factory
10 at a certain date.

11 Q. So the BIOS is - never is wiped out?

12 A. No.

13 Q. When you format - when you reformat the hard drive
14 the BIOS is still there?

15 A. Yes. The BIOS tells the computer itself what kind of
16 hardware it's got and how to use the parts.

17 Q. So when you - The BIOS is like what used to be the
18 first disc you put in an Apple II isn't it?

19 A. Yes, sir.

20 Q. And Apple II had nothing?

21 A. Right. They didn't even have hard drives back then.

22 Q. But you install the BIOS in the first disc that told
23 the computer how to work and you installed the programs
24 disc is how they work particular?

25 A. Right.

DOUG BISHOP: BY MR. SOWELL
BY SOLICITOR ANTHONY

1 Q. Just like you teach a child when you first teach
2 them how to talk.

3 SOLICITOR ANTHONY: Objection.

4 A. Right.

5 SOLICITOR ANTHONY: This is very far afield.

6 THE COURT: I sustain the objection.

7 Just ask questions and let's stick to what was
8 brought out in reply.

9 MR. SOWELL: Nothing further, Your Honor.

10 THE COURT: Anything?

11 SOLICITOR ANTHONY: If I can have just one moment.

12 (PAUSE.)

13 CROSS EXAMINATION

14 DOUG BISHOP BY SOLICITOR ANTHONY:

15 Q. Mr. Bishop, did you know on May 6 the police were
16 coming to serve a warrant at your house?

17 A. No, sir.

18 Q. You didn't have any idea of that?

19 A. On May 6 my wife received a phone call that Union
20 County Sheriff's wanted to talk to her.

21 Q. And that was before the search warrant; right?

22 A. Yes.

23 Q. Okay. So before the sheriff's office ever came to
24 your house you know there was some law enforcement interest

25 --

1 A. All I knew was that she - they wanted to talk to her.

2 Q. Okay.

3 A. And from then I went to pick the girls up from
4 school.

5 Q. Okay. And the laptop, was there any damage to the
6 keyboard on the laptop?

7 A. The laptop was missing the keyboard. Brittany had
8 spilled a cup of coffee in it and the keyboard didn't work
9 and I used a USB keyboard in front of it to access it.

10 Q. And you made the comment that if - that you would
11 never have shown the adult porn movies to the girls.

12 A. No, sir, I would not.

13 Q. And part of the reason you gave was that you said
14 well my wife would have killed me; is that right?

15 A. Yes.

16 Q. Okay.

17 A. My wife had a very assorted history with her
18 exhusband; she had caught him with child porn ---

19 Q. I'm not ---

20 A. --- on his pics, on his computers.

21 Q. The only question I have for you is you said your
22 wife would have killed you; right?

23 A. That's the reason she would have ---

24 Q. Okay.

25 A. --- is she already had ---

DOUG BISHOP: BY SOLICITOR ANTHONY

-476-

1 Q. Well I didn't ask you a reason.

2 A. --- caught him.

3 THE COURT: Whoa, whoa, whoa. Just answer the
4 question.

5 BY SOLICITOR ANTHONY:

6 Q. The question was you thought your wife would be
7 upset; correct?

8 A. Yes.

9 Q. All right. Your wife's aware of these charges;
10 correct?

11 A. Yes.

12 Q. Okay. And you and her still talk; right?

13 A. Yes.

14 Q. Did you talk to her last night?

15 A. Yes I did. I called her after I got out of here
16 and let her know what was going on with the trial.

17 Q. Okay. So even after knowing what you were charged
18 with, she still is very involved in your life?

19 A. No.

20 Q. She just called you the last two nights?

21 A. She calls to find out how the trial is going.

22 Q. My question was did she call you the last two nights;
23 correct?

24 A. Yes. Just to find out how the trial was going.

25 Q. All right. Thank you.

1 SOLICITOR ANTHONY: That's everything on cross.

2 MR. SOWELL: Nothing further, Your Honor.

3 THE COURT: You can step down and have a seat with
4 counsel.

5 Anything else? All right.

6 Members of the jury panel we have now received all
7 of the evidence. The next stage of the trial will be the
8 arguments of the attorneys and then my charge on the law.

9 We have some legal matters to take up before we do
10 that and also we're going to order lunch. The Clerk will
11 bring in menus and tell you how to order your lunch. So
12 we'll take a break while you do that and while we finish up
13 our last legal matter and when you come back you will hear
14 the attorneys make their closing arguments or summations
15 and then I will charge you the law.

16 You are not yet, we're getting close, you are not yet
17 in a position to make up your mind or discuss the case. Do
18 not do that. And we'll send for you in just a few minutes.

19 (JURY EXITS COURTROOM AT 11:56 A.M..)

20 THE COURT: Anything from the State?

21 SOLICITOR ANTHONY: Not at this time at the trial
22 phase, Your Honor.

23 THE COURT: The Defense?

24 MR. SOWELL: Your Honor, we move for an order of
25 dismissal of the charges. The State has failed to prove

-478-

1 - failed to prove guilt beyond a reasonable doubt and we
2 ask Your Honor --

3 THE COURT: I deny the motion. I find there is as I
4 said earlier there is direct evidence and there is
5 substantial, circumstantial evidence so I'm gonna deny the
6 motion.

7 Now you had something you wanted to put on the record
8 or something.

9 SOLICITOR ANTHONY: Well I have a question to the
10 charge.

11 THE COURT: Let's do those and also take this break to
12 order our lunch and give them a chance. I'll let you look
13 at the verdict forms, we now have a form; I think we talked
14 about that yesterday but tell me about the charge.

15 SOLICITOR ANTHONY: Well I was just - we can discuss
16 this in chambers if you like, I was going to enquire as to
17 how the Court intended to charge possession in regards to
18 the third degree, sexual exploitation charges. I know
19 there is some standard possession charges; I was just
20 wondering if the Court was going to do that or how you
21 intended to approach it.

22 THE COURT: Well the truth of the matter is I hadn't
23 planned to charge, are you're requesting that I charge
24 actual and constructive possession?

25 SOLICITOR ANTHONY: No I'm not, I'm just - I just

1 wanted to know if that's how --

2 THE COURT: I was just gonna charge just like I'm
3 charging - in other words I kind of mentioned it earlier -
4 receive - the words used in the statute I'm just going to
5 charge them as they are and the jury will apply them in
6 common parts unless I tell them otherwise. So I wasn't
7 gonna charge anything about actual constructive possession.

8 SOLICITOR ANTHONY: That's fine. That's fine. I
9 don't - I was just inquiring.

10 THE COURT: Okay. Anything else?

11 MR. SOWELL: This is your normal charge plus I'm sure
12 you have reasonable doubt.

13 THE COURT: Okay. The State waive opening?

14 SOLICITOR ANTHONY: Yes we will waive opening.

15 THE COURT: All right. It took a couple of days to
16 try this case, about how long do you think arguments - -

17 MR. SOWELL: I would like to have thirty minutes.

18 THE COURT: Oh easy. Yeah. I don't cap time but I
19 just like to know for my own - thirty minutes is certainly
20 --

21 MR. SOWELL: I would assume that unless they get on a
22 roll, I assume thirty minutes would be fine.

23 THE COURT: Yeah. I think that's reasonable so I'll
24 say approximately thirty minutes each. But if you go over
25 I'm not going to start hitting on the desk or anything. If

CLOSING: BY MR. SOWELL

-485-

1 grounds?

2 THE COURT: That's right.

3 MR. SOWELL: Thank you, sir. But I would if you
4 wanted me to.

5 THE COURT: You would what?

6 MR. SOWELL: If you needed me to I could go into the
7 other reasons.

8 THE COURT: That would be bolstering. All right.

9 Bring in the jury.

10 (JURY REENTERS COURTROOM AT 12:28 P.M..)

11 THE COURT: Mr. Sowell.

12 MR. SOWELL: Have we appointed a foreman, Your Honor?

13 THE COURT: Sorry?

14 MR. SOWELL: Have we appointed a foreman to the jury?

15 THE COURT: Yeah we got a forelady, Ms. Berry.

16 MR. SOWELL: I didn't know what to say.

17 MADAME FORELADY: I can be called a lot of things.

18 MR. SOWELL: I didn't know if that's Madame Forelady

19 --

20 THE COURT: Talk to the jury as a whole. Let's go.

21 MR. SOWELL: Ladies and gentlemen, you heard from me
22 for four days. I'm Kenny Sowell, I represent the
23 defendant.

24 Let me tell you up front I want you all - this is the
25 main thing I want you all to remember about this case - I

CLOSING: BY MR. SOWELL

-486-

1 know when you all looked at those pictures you all were
2 shocked. So was I. Doug he never seen those pictures.

3 SOLICITOR ANTHONY: Objection. That's testimony
4 that's not in the record.

5 THE COURT: Move on.

6 MR. SOWELL: Those pictures were horrendous. I
7 understand that. Everybody understands that. The quality
8 of those pictures, the grossness of those pictures is not
9 what we're here for. We all admit those pictures were
10 terrible. The question to you is to did it. You don't
11 have to say that the person who took the pictures whether
12 their bad or not but we all understand that. But the
13 question for you all and remember this, is that we're not
14 trying here to decide if those are bad pictures. The only
15 thing we're here for is who downloaded them; who copied
16 them; who kept them, who held them, who put them on the
17 computer. We been arguing for four days that Doug didn't
18 do that.

19 The truth of the matter is the State has absolutely no
20 evidence, no evidence at all that Doug did that. Think
21 about it. No one testified that Doug did it. Because
22 there is no one who can say Doug did it. We did testify
23 about it could be every teenage boy in town and a lot of
24 teenage girls in town who had access to the computers that
25 could have done it. We don't know who did it. We suspect

CLOSING: BY MR. SOWELL

-487-

1 who did it. We suspect that one of the girls who had
2 access to those computers was awfully anxious to get Doug
3 convicted. You know who we're talking about. How about
4 the fourteen year old girl who sat behind the Solicitor's
5 chair during the trial who kept whispering to the
6 Solicitor. Did you all see that? A fourteen year old girl
7 sitting there behind the Solicitor whispering to him
8 throughout the trial. That's the most unusual thing I've
9 ever seen in my life. But you know if she can get Doug
10 convicted she doesn't have to worry about anything can be
11 done to her sister and her. Those are probably the ones
12 that downloaded them. We don't know that but I know it's
13 extremely unusual for two teenage girls to sit there behind
14 the solicitor's office - behind the Solicitor's chair
15 feeding him information on the trial. What was she doing?
16 What was she telling him? She was trying to get Doug
17 convicted.

18 SOLICITOR ANTHONY: Objection. That's outside the
19 record.

20 THE COURT: I sustain the objection as to what she was
21 doing but as far as what could have been observed in the
22 courtroom I don't have any reason for you not to talk about
23 that.

24 MR. SOWELL: I know that if I or my sister downloaded
25 those pictures I would do everything possible to get Doug

CLOSING: BY MR. SOWELL

-488-

1 convicted because if Doug is convicted I am free. Think
2 about what really happened. The last time the little girl
3 came up here in front of you she told you that the laptop
4 didn't come over until Dana moved in. She told you that
5 four times the laptop did not come to the house. Did not
6 come to Wardlaw until Dana moved in. And then three or
7 four times she told us that Dana moved in the last of April
8 2010.

9 If the laptop didn't come over until April of 2010
10 like she told, like she's trying to get Doug convicted, it
11 didn't come over until April of 2010, let's see which one
12 of these pictures would have been taken when Doug had the
13 computer, the laptop. Most of these pictures that were
14 downloaded once before that so she either told you a tale
15 trying to get Doug convicted about when Dana first came.
16 Or she told you a tale about the pictures being on the
17 laptop. Or Doug not having any access to only the laptop.

18 Let's review. The testimony was that the computer
19 kept flicking, going on and off because of an electrical,
20 the electrical in the house was so deficient that six or
21 seven or eight electrical computers or lines or whatever,
22 cameras; all in one outlet, either the lights would
23 flicker. Sometimes he would reset it, sometimes the girls
24 would reset it. Sometimes they both would set the time and
25 so they would set only the time. Sometimes they would set

CLOSING: BY MR. SOWELL

-489-

1 the date and time and sometimes they would set the time.
2 They would set the date but not the time. When the time
3 was correct - I'm sorry - the dates would have been correct
4 the time would be. The time would eight or ten, twelve
5 hours off. So when you see these reviews or summaries that
6 say they were downloading during the time Doug was over at
7 school picking up the kids or when Doug was at home getting
8 the kids ready for school. Or when he was over at the body
9 shop or he was home alone. You can't rely on those times
10 because the computer was not resetting or the times was not
11 resetting.

12 8:00 p.m., the girls were playing on the computer.
13 7:42 p.m., the girls would be on the computer. 10:22 a.m.,
14 on the way to school, on the way back from school. And
15 6:19 a.m., 6:19 a.m., he was getting the girls ready for
16 school. These don't show whether Doug did it or didn't do
17 it but it does show it's impossible that Doug did it at the
18 times that he said he did it. So in those reviews no
19 question the films were downloaded but not at the times
20 they say. No question the laptop had a pass code on it.
21 Pass code means no one can use it except the person on the
22 pass code which would have been Doug. So anything that
23 Doug had put on the laptop would have been pass code
24 connected but they found nothing on the laptop because Doug
25 didn't use the laptop. I'm sorry, Doug used the laptop but

CLOSING: BY MR. SOWELL

-490-

1 never downloaded it - pictures. Somebody did. Somebody
2 downloaded a lot of pictures, a lot of bad pictures. There
3 was a lot of people who had access to that computer.

4 Now we all know how inquisitive teenagers are. And we
5 all remember when we were teenagers and what we would do.
6 We all played Doctor and things like that. And we looked
7 at girly pictures and things like that. Same thing
8 happened over at the house on Wardlaw. On Pine Street
9 every teenager in town had access. Every teenager, every
10 boy in town had access. We all remember how it was when we
11 were teenagers. We all remember how teenage boys are. We
12 all remember how teenage girls are.

13 Roxie didn't tell us much of anything. Mr. Brewington
14 tried to mention how important he was. When he left the
15 stand he went and shook hands with all the court personnel
16 which is highly improper. But he sure did want to tell you
17 how important he was.

18 Destiny Cipriano an eighteen year old girl came up
19 today and told us a tale. No question if the computer, the
20 laptop, the computer didn't go over there until Dana moved
21 in and she said Dana didn't move in until April 2010.
22 Wasn't possible. But everybody, the Cipriano girls,
23 everybody testified told you all that Dana moved in in
24 December 2009. Seven different people told you that Dana
25 moved in in 2009. The Cipriano girls dispute that but

CLOSING: BY MR. SOWELL

-491-

1 they're the only ones who disputes it. Said they spent
2 four to five nights every two weeks at the home; had
3 perfect access to the computers. All the boys had access
4 until eight or nine or ten o'clock at night.

5 Destiny Cipriano told you - Destiny Cipriano told you
6 - was ask, did you ever see the computer used by anyone
7 else other than the five of you all. No, sir. And during
8 the time that you lived there or not lived there but during
9 the time you stayed there did you ever see any child
10 pornography pictures or videos on the computer? Did you
11 ever see that? No, sir. On cross examination I ask her, I
12 didn't understand your answer to the last question. No,
13 sir, I never seen any, no child pornography on the
14 computer. Ever see any what? Saw no child pornography.
15 But today she wants to tell you oh I didn't see child
16 pornography I did see adult pornography. If she'd seen any
17 pornography she would have told us. I ask her four
18 different times did you see any and she said no I never saw
19 any.

20 Now today in an attempt to get Doug charged with this
21 time so she and her sister are clear. What I meant was I
22 didn't see any child pornography but I saw plenty of adult
23 film. She didn't tell us who put it on there. She just
24 said that Doug showed it to her. You were on the witness
25 stand and someone ask you if you seen any child

CLOSING: BY MR. SOWELL

-492-

1 pornography, you say not any child pornography, none at
2 all. If you'd seen adult pornography you would have told
3 us about it.

4 SOLICITOR ANTHONY: Objection.

5 THE COURT: I sustain the objection. What you would
6 do you got to decide the credibility and believability of
7 the witnesses and not question you as a juror would or
8 would not do.

9 MR. SOWELL: I never understood what David Salley came
10 to testify about Doug drawing unemployment. If he was
11 drawing unemployment it doesn't tell you anything about
12 where he is twenty-four hours a day. I don't know why they
13 brought him. Officer Duncan says when the electricity
14 flickers; Doug told you all about it. Reset the clock,
15 reset the time, reset the date. And no one knows exactly
16 when happened and what because you don't know the time of
17 day has anything to do the same time you set the date.
18 Told us about how his computer would freeze up. Told us
19 about how - couldn't tell if someone - couldn't tell how
20 long a picture had been on a screen. Nor could you tell if
21 someone had called that picture back. He says I can't
22 tell. The first - when he first came on when it was first
23 downloaded I can't tell how long it was on the screen. And
24 then he said about the last time it was on the screen he
25 said well I can't tell. Actually I just put the mouse over

CLOSING: BY MR. SOWELL

-493-

1 the little icon, it registered being called up when it
2 really wasn't.

3 We talked about that battery but no one ever took the
4 battery out to see if it works or not. Now Agent Duncan
5 first told us that he could tell the videos, child porn,
6 had bene used on a computer because the computer had the
7 uTorrent and FrostWire on it. But on cross examination he
8 admitted all the kids use FrostWire to copy music. And
9 they all use uTorrent to copy film movies. And I ask him
10 well you told us these computers was used to download porn
11 because FrostWire was on it. And he went well they use
12 FrostWire for a lot of other reasons to. Now when I ask
13 him about uTorrent he said well you normally use uTorrent
14 to copy long Hollywood movies for a long time. It down
15 loads quicker. So he finally admitted the fact that
16 FrostWire and uTorrent was on the computer had nothing at
17 all to do with child porn.

18 The main question when I first talked to him and I
19 haven't talk to him since, is why in the world would
20 anybody use the laptop that you use in your bedroom to load
21 innocent movies on and go in the living room and your
22 children is here and download kiddy porn on it. And I ask
23 you this same, why would anybody do that? Why would they
24 use a password protected laptop to load innocent movies and
25 use the children's computer to download kiddy porn. It

CLOSING: BY MR. SOWELL

-494-

1 didn't make sense.

2 Now we talked at length about how Doug would use the
3 laptop and the kids used the towers. And then I think John
4 first brought it up, I'm not sure he brought it up, about
5 when Doug was in school on September to December he didn't
6 appear during that period for some length of time his
7 laptop was not in use, unusable, so he borrowed the girls
8 tower. So if there was school work if he finished school
9 in December and then they started jumping on him about how
10 that's when the pictures had gotten on the hard drive on
11 the tower. But there's no movies got put on the tower when
12 Doug was using it - the tower. Doug used the tower to do
13 his school work in December 2009. There is not a single
14 movie and on that computer during that period of time. Now
15 if he was going to be using the tower to put bad movies on
16 it he would have done it when he was the only one living
17 there. And he would have done it on the computer that he
18 was using. And he was using the tower because the laptop
19 was out of order when he was trying to get ready for an
20 exam. Filing papers and everything in his laptop weren't
21 working so he went over to borrow the tower for one month.
22 Well school was over for the summer. Now that meant he
23 would have had access to that computer in December of 2009.
24 There is not a single entry of a kiddy porn movie during
25 the time he had that machine. If he was the one that

CLOSING: BY MR. SOWELL

-495-

1 downloaded this kiddy porn he would have done it when he
2 had the computer.

3 There is two things I don't understand why anyone
4 would download kiddy porn on the girls computer and not on
5 the laptop. I don't understand how they can say he was
6 putting it on the computer when he had the computer to do
7 school work. The school work was over - remember he said
8 he borrowed the laptop a tower. He borrowed the big
9 computer when he was getting ready to do the school work.
10 And everybody understood and agreed and discussed his
11 school work ended in December of '09. When the girls came
12 over in January or December of '09 - The girls came over
13 in December of '09 too but there is not a single kiddy porn
14 picture on the computer during that time. What does that
15 tell you? It tells you it wasn't when the time when he had
16 access to the computer and now pictures were on it.

17 Now, Doug's wife is apparently jumping from bedroom to
18 bedroom. And you all can say - I don't want you all to
19 hold it against Doug, don't hold it against Doug how gross
20 these pictures were because he had nothing to do with it.
21 And don't hold it against Doug his present wife dumped the
22 first husband to be with him because he didn't have any
23 sexual contact with her until she got divorced. And then
24 after she married Doug then she shacks up with a male
25 roommate. And Doug had nothing to do with her after that

CLOSING: BY MR. SOWELL

-496-

1 so the sexual activity with his wife has nothing to do with
2 Doug. We don't have any evidence Doug's done anything
3 immoral. He testified and everybody testified Doug would
4 get up and take care of his step daughters six o'clock
5 everyday and get them ready for school and took them to
6 school. Came back and went to the body shop. And then at
7 1:30 he would leave again and go get the kids from school.
8 It took a long time because he had to wait in line to be
9 the first in line so he could come back and pick up both
10 kids or all four kids from different schools. Why did he
11 do that? Because he loved the kids. He'd take the kids
12 back to the house. He would fix them dinner, he would help
13 them with their homework, and when their homework was done
14 the girls would stay there on Doug's computer and then go
15 back in the bedroom and watch movies on his laptop. Clean
16 movies. No one except the two little girls who want Doug
17 convicted.

18 SOLICITOR ANTHONY: Objection. Once again that's not
19 in the record.

20 THE COURT: I sustain the objection. There is no
21 testimony to that regard.

22 MR. SOWELL: No one besides the two little girls who
23 say - they whisper to the solicitor throughout the whole
24 trial --

25 SOLICITOR ANTHONY: Objection. That's not an accurate

CLOSING: BY MR. SOWELL

-497-

1 characterization what happened in the trial.

2 MR. SOWELL: I saw it. They were here --

3 THE COURT: Whoa, whoa, whoa. I sustain the
4 objection.

5 MR. SOWELL: No one except the two little girls who
6 sat her and whispered to the Solicitor during the trial
7 many many times, told you anything about Doug having any
8 porn at all on his computers - on those computers. Now
9 adult porn is not illegal. So what they are accused of the
10 two girls are accusing him of is really not illegal.

11 SOLICITOR ANTHONY: Objection. That's not fact,
12 legally accurate either.

13 THE COURT: Disregard. Let's move on. Move on.

14 MR. SOWELL: Anyway, no one, no one at all, has ever
15 testified in this four day trial that Doug had anything at
16 all to do with kiddy porn. And only the one girl that had
17 a reason to protect herself, never said she saw any porn at
18 all. We're not here based on what she said she saw.
19 Everybody testified, Doug testified, the girls testified
20 that they never saw any kiddy porn on the computer. Now
21 don't misunderstand me. I'm not telling you there was no
22 porn on the computer. Apparently there was. But Doug knew
23 nothing about it. The issue is did anybody put any kiddy
24 porn and was Doug the one who did it? There is one little
25 bitty skip here where one of the girls said Doug knew about

CLOSING: BY MR. SOWELL

-498-

1 some porn. Not kiddy porn but porn. The reason we're here
2 is for the kiddy porn. I don't care if you all decide that
3 Doug watched video x rated videos all day long every day
4 for the rest of his life, it makes no difference to us
5 today or during this trial. The only issue in this trial
6 is the kiddy porn of a young girl fifteen and under. Even
7 if you all believe that Doug did show them that Pirate
8 movie which is completely wrong, but if you all do believe
9 Doug knew about the Pirate movie it has nothing to do with
10 this trial. Then you should find Doug not guilty.

11 Now let's talk about the teenagers who were in the
12 house all the time. Robert Warr talked about all the - I'm
13 not - Robert Warr talked about the teenagers going in the
14 house all different hours of day and night. The case boils
15 down to this, who had access to that computer? Every
16 teenager in town. Now your job is to determine beyond a
17 reasonable doubt whether of course Doug - You all have
18 absolutely not one thread of evidence - have you all heard
19 that Doug put any kiddy porn on that computer or even knew
20 there was any kiddy porn on the computer. You all's
21 decision is this. Did Doug put the kiddy porn - I stress
22 the word kiddy - Did Doug put the kiddy porn on the
23 computer? And did Doug know there was kiddy porn on the
24 computer? And there's not one single thread of evidence
25 that you all can recall that anyone that's testified to

CLOSING: BY MR. SOWELL

-499-

1 nobody testified that Doug knew about any kiddy porn or
2 that Doug had stole the kiddy porn.

3 In America we have a legal system of justice. Its not
4 perfect, it's about the best you're gonna find. And your
5 job is not to decide if you all - girls are not or despise
6 me or whatever, that's completely irrelevant. The issue is
7 did the State prove that Doug either installed the kiddy
8 porn or if he knowed it was on the computer. And there's
9 not one shred of evidence to tell you that. The judge is
10 also going to tell you that in America you have a system of
11 defending defendants. You have a system of making sure we
12 don't convict an innocent person. And we have a system
13 that if you all think he did or thinks he didn't it don't
14 make a whole lot of difference. The issue is did the State
15 remove all doubt in your mind. Of course there's no way to
16 remove all doubt, any reasonable doubt. If you have any
17 reason to think that Doug's not guilty even though you
18 think he might be guilty, if you have any reason to think
19 he might not be guilty, you know it's a reasonable doubt,
20 then your job is to find him not guilty. That does not
21 mean he's innocent. When this is all over you won't go out
22 of here and say oh we found him guilty, we found him
23 innocent. The issue is to this day remove all doubt, all
24 answers, all questions, if you call on one count here and
25 say I'm not real sure but I think, then you got to vote not

CLOSING: BY MR. SOWELL

-500-

1 guilty. Not guilty does not mean you think he's innocent.
2 It means the State did not remove all doubt in your mind.
3 When you walk out of here you got to be able to say yeah
4 I'm convinced beyond all doubt.

5 Now we used to have ever time the Supreme Court had a
6 session they would come out with a different definition of
7 reasonable doubt. But years ago they got wised up and they
8 said okay from this point forward reasonable doubt means
9 that doubt which would make a reasonable person hesitate to
10 act. When you get ready to vote and if you hesitate and
11 say I don't know about this then you got to vote not
12 guilty. We been sitting here four days and you set here
13 four days ago and you swore you could find this case
14 according to the law. And that law is that you all have
15 any doubt in your mind, anything besides something
16 frivolous you can always say I'm not sure the suns gonna
17 shine that's kind of stupid. But if you have any doubt
18 which would make you hesitate to act and you have - if you
19 can't vote and say I know it I know it I know it, if you
20 can say that then you got the obligation to find him not
21 guilty. And unless you can say completely good with this I
22 know for a fact if you can't do that then the judge is
23 gonna tell you your job is to find him not guilty.

24 I told you about our system of justice is pretty good.
25 There is one thing that's not clear. When you were growing

CLOSING: BY MR. SOWELL

-501-

1 up you said mom he hit me. And then your sister said she
2 hit you and your sister would say no no you hit me first,
3 no no you hit me first and who ever argues last is the one
4 that's gonna win the argument. Remember that? The person
5 that argues last is probably gonna win the argument. Well
6 it's kind of like that in a jury. Because I get up here
7 and I talk to you all and hopefully I've convinced you and
8 hopefully I didn't have to convince you. My job is not to
9 convince you, my job is just to point out what you've seen
10 and it's your job is to see not how convincing I am by Mr.
11 - But your job is to - My job is to - if I tell you
12 something that's not exactly like I remember it but just
13 ignore what I told you. My job is not to trick you. My
14 job is not to make you forget something. My job is just to
15 bring out those trial points I want you all to remember and
16 I'll set down. But anyway, if I argue last I'm gonna argue
17 the strongest. Now the judge is gonna get up in a minute
18 and say can you shut up and sit down I think you've had
19 enough time. John the Solicitor gets to come up and argue
20 last. And he gets to argue best and he gets to argue last.
21 But I want you all to do me one favor. If he says
22 something and you think - wonder what Kenny would have told
23 us he would have to come back up and explain what John just
24 said. So if you all will give me just the favor of
25 thinking well Kenny would have probably said this. If you

CLOSING: BY MR. SOWELL
BY SOLICITOR ANTHONY

-502-

1 all will think about that. Got to even things up. I told
2 you this sixteen thousand million times already and I'm
3 gonna tell you one more time. Unless you are fully
4 convinced beyond any reasonable doubt, then your job - and
5 the judge will tell you this is to vote not guilty. I
6 thank you and I thank you for your time. I'm ready to go
7 home. Chair is not that far away. Thank you.

8 THE COURT: Mr. Anthony.

9 SOLICITOR ANTHONY: I imagine that a number of you all
10 are probably in a spot right now where you been sitting
11 here for three days and you're tired and you want to get
12 just ---

13 THE COURT: Yes, Sir.

14 Mr. Sowell wants to go over where he can get --

15 MR. SOWELL: I'm having problems hearing.

16 SOLICITOR ANTHONY: Okay.

17 --- you want to get this done. And you probably have
18 heard this case and you're thinking no he must have done
19 this because nobody else could. You know its that simple
20 indistinctive reason. So what I want to do is I want to
21 take and try to talk to you just a few minutes. I'll tell
22 you I'm going to try to do this as quickly as I can but
23 this is important and this is my job so I'm gonna try to go
24 through as quick as I can. It will take me a little while
25 to try to explain all of this. But what I want to do is

CLOSING: BY SOLICITOR ANTHONY

-503-

1 try to take what I think probably a lot of you are feeling
2 in your gut right now and explain to you what that ought to
3 be in your head. So when you go back in that jury room
4 what's in your gut and what's in your head match up. And
5 you can be firmly convinced that Mr. Bishop is guilty and
6 you can go back to that jury room and you can do the right
7 thing in this case. All right?

8 So I want to just first of all take you through a few
9 basic points and I think this is things that you pretty
10 much just kind of know. I don't think there is a whole lot
11 of dispute about most of what I'm getting ready to say.

12 First of all, quite simply Mr. Bishop lived at 224
13 Wardlaw Street. Second of all, Mr. Bishop moved in there
14 in July of 2009. Third, Mr. Bishop was still there when
15 they served the search warrant on May 6, 2010. Four,
16 during that period of time Mr. Bishop was the only adult
17 man who lived at that residence. Five, during the period
18 in question and I want to make this clear because we hadn't
19 talked a whole lot about this but the days we're worried
20 about here are from February to April of 2010. Okay. So
21 during that period of time February to April of 2010 Mr.
22 Bishop was living there and Mr. Bishop didn't have a job.
23 That's why we had the guy testify from the employment place
24 because it's important to show that during that period of
25 time twenty-four seven, Mr. Bishop didn't really have any

CLOSING: BY SOLICITOR ANTHONY

-504-

1 kind of commitments. He was free to hang out download
2 child porn do whatever he wanted to do. So that's pretty
3 well uncontroverted.

4 The next thing is this computer here the next thing we
5 know is this computer here was at that residence on Wardlaw
6 Street [REDACTED] during the time that the images
7 were downloaded. Now there is some dispute about when it
8 go there. Our witnesses say it came over there with Mr.
9 Bishop and Mr. Bishop's witnesses say it didn't come until
10 December of 2009 which is actually when Mr. Bishop
11 initially said it came in the summer of 2009 like our
12 witnesses do. But now they say it didn't come until
13 December of 2009. But regardless that tower was there at
14 [REDACTED] when Mr. Bishop was living unemployed,
15 the only man during the time from February through April of
16 2010 when he was charged with doing this.

17 Now what I want to do is to show you a couple of
18 things off this time line. Okay. And I'm not going to go
19 into this extensively because it would take too long but
20 there's just a few things I want to accentuate because I
21 would submit to you that really this time line and the
22 report that go with it that's really the most important
23 evidence in this whole case. Because the time line lets
24 you see how many different days this pornography was
25 downloaded onto that computer and let's you see all the

CLOSING: BY SOLICITOR ANTHONY

-505-

1 times that the pornography was downloaded on the computer.
2 We have sixty six images over twelve different days that
3 come from all hours of the day. And so the big question
4 you have to answer is well who would have been at home
5 enough to do that you know. Because they say Doug - I mean
6 by his closing argument he was simply saying the Cipriano
7 girls did it. Okay. I mean they say the Cipriano girls
8 did this. Well we say Mr. Bishop did it. All right. And
9 this is sort of what breaks the tie. This is what you can
10 look at and no Doug Bishop had to do this. And so I just
11 want to show you a couple of things about this.

12 First of all let's look at March 3rd, okay. March
13 3rd, and March 3rd we have a calendar back here in the jury
14 room, March 3rd is a Wednesday, okay. So here we are on
15 Wednesday in March and at 10:16 a. m., we have a little
16 porn download session starting up. And you see we have
17 porn downloaded at 10:16 and 10:21; 10:22, all the way up
18 to about 11:30, maybe about time to go up to the shop and
19 met your buddies for lunch. We've got porn being
20 downloaded on the computer just pictures here, okay. So
21 what you have to ask yourself is who, you know, who would
22 have been at that house at ten o'clock in the morning on a
23 Wednesday to download porn?

24 And then we go to April 19th. Like I said I'm going
25 through this as fast as I can but I just want to show you a

CLOSING: BY SOLICITOR ANTHONY

-506-

1 couple of things. April 19th is interesting because - Well
2 first of all we start off on the night of the 18th which
3 the 18th is a Sunday, okay. So you start - we start
4 downloading porn videos Sunday at about 11:03 p.m. And
5 then we just stay up. This is April 19th is on Monday so
6 this is real early on Monday morning. Basically we just
7 stay up all night long till 4:47 a.m., downloading porn
8 videos on a school night on a Monday morning. And then we
9 quit downloading porn at 4:47 am because apparently it may
10 be time to get the girls up and maybe get a little sleep
11 before we get the girls up; whatever we do on Monday
12 morning. And then after we take the girls to school and
13 come back and maybe get a little nap and at 9:44 am we're
14 back at the computer and we're downloading videos, over
15 twenty-five and video Number 13.

16 Now were the Cipriano girls there at 9:44 in the
17 morning on a Monday morning downloading porn? I don't
18 think so, you know, and that's what you got to look at
19 here. I mean you got porn just downloading all the time,
20 all hours of the day and there is just no, you know, whose
21 gonna be doing that. And then I just want to go over to
22 the 20th and the 20th is a Tuesday. And here we are at
23 5:00 am, okay. And this is video Number 9; it's downloaded
24 at 5:00 am. You may not remember the number but Video
25 Number 9 is the very first - whatever you want to call it -

CLOSING: BY SOLICITOR ANTHONY

-507-

1 video trash or whatever that you all saw on Monday. It's
2 the one with the little girl and it starts off with her
3 laying on the bed and she's got like shoulder length brown
4 hair and this man gets on the bed and she has to do things
5 to him, okay. That is Video Number 9. So what we have -
6 just imagine little Destiny Cipriano who is fifteen at the
7 time and little Denise C [REDACTED] who was thirteen at the
8 time and it's a school night and they spent the night over
9 at Mr. Bishop's house. And they wake up, they decide well
10 I'm gonna wake up; one of them says I'm gonna wake up at
11 5:00 am in the morning, 5:00 am in the morning so I can get
12 on the internet and download some child pornography; so I
13 can download a little girl getting raped by a grown man.
14 That's your choice, okay. You know that's what - that's
15 our defense in this case is little thirteen, fourteen,
16 fifteen year old girls are gonna get up at 5:00 in the
17 morning in which that would be kind of a miracle in itself
18 based on my experience. They're gonna get up at 5:00 in
19 the morning and their gonna download what you looked at the
20 first thing on Tuesday afternoon. That's your choice, them
21 or them, okay.

22 And that shows you why we had to show you that stuff,
23 okay. I mean it wasn't any fun to show you that stuff; its
24 not fun for me to watch it and it wasn't any fun for you to
25 watch it. But to understand that material you had to see

CLOSING: BY SOLICITOR ANTHONY

-508-

1 it. And being told what those pictures show that just
2 really doesn't let you see how depraved somebody would have
3 to be to want to see that stuff. You know all of you all
4 have common sense, okay. And that's one thing like you
5 know some people, sometimes I think get to be jurors and
6 they think they just have to like take their life
7 experience and just check it and you know when they're in
8 this kind of vacuum but that's not the way it is. We want
9 jurors to bring their common sense and life experience to
10 the jury box. So all of you have lived, you know, all of
11 you have lived a while, okay. And all of you are expected
12 to just take your common sense, just what you know, and
13 apply it to jury service. So that's what I'm asking you to
14 do. I'm just asking you to ask yourself who's gonna want
15 to be looking at that stuff. You know is that the kind of
16 stuff that a teenage, preteen girl is gonna want to be
17 looking at. Or is it the kind of thing that a grown man is
18 gonna want to be looking at. And of all the people of the
19 people who were in that household who had access to that
20 computer, the only person who could be wanting to look at
21 that stuff is Doug Bishop. And, you know, that -

22 MR. SOWELL: Your Honor, I object to this. We
23 discussed this earlier.

24 THE COURT: Disregard the last remark.

25 Go ahead.

CLOSING: BY SOLICITOR ANTHONY

-509-

1 SOLICITOR ANTHONY: That child porn did not just
2 download itself onto that computer, okay. Somebody
3 intentionally put that there. And the only person who had
4 the opportunity and the access to that computer to download
5 the kind of stuff you all watched on those videos and the
6 kind of stuff that's on the pictures - we hadn't even shown
7 you the pictures yet but you'll have the pictures in the
8 jury room and it's more of the same kind of thing. And I'd
9 ask you just to look at those pictures and think back on
10 those videos and just think to yourself just apply your
11 common sense and say well who'd do that, you know, because
12 is it - does it look like something a twelve or fourteen
13 year old girl would want to see? Or does it look like
14 something Mr. Bishop would want to see? And our - we
15 submit to you that's not a real hard question, that you can
16 be firmly convinced that Doug Bishop is the one who
17 downloaded that material.

18 I want to just address a few things. There's a lot
19 the defense brought up and I'm probably not gonna hit all
20 of it but I do feel like I need to just mention a few
21 things just to try to clear some things up. There has been
22 an awful lot said about the times on the computer. And you
23 know really the basic thing to remember about that is when
24 they got that computer to SLED Agent Cave testified,
25 testified he checked the computer for date and time and the

CLOSING: BY SOLICITOR ANTHONY

-510-

1 date and time was wrong when he checked it. And when if a
2 computer resets it resets back to a much earlier date. It
3 resets to whenever it's been - the BIOS or whatever.
4 Whenever the manufacturing date is its gonna reset. Well
5 if files are created after a computer has been reset, they
6 are going to show a real old date. Now you don't have that
7 here. You know all the days on those files are 2010 dates.
8 So you can tell just from the dates on the files that they
9 - that that computer has not been reset. And they want to
10 talk about the battery. Well the computer was off for
11 three months from the time it was taken during the
12 execution of the search warrant and the time Agent Cave
13 tested the date and time on it is off for almost three
14 months and it still was fine, so there's nothing wrong with
15 that battery. And you know there is just no evidence that
16 that computer has ever been - was reset and there is no
17 evidence the battery wasn't working, there is no evidence
18 that there was any reason to think the date and time on
19 that computer were wrong. And it was real interesting how
20 Mr. Bishop was up there on the stand for Lord knows how
21 long yesterday and he, you know he talked about resetting
22 and just said well I never reset that computer after I got
23 it for a while. I got tired of it. And then all of a
24 sudden today it's well I told the girls how to reset it,
25 You know I didn't reset it but I told them how to reset it.

CLOSING: BY SOLICITOR ANTHONY

-511-

1 Well you know it - why didn't we hear about that yesterday?
2 Why did we have to wait until this morning for him to
3 decide that he needed to say that, okay. There is also was
4 some testimony about the attempt being made to take files
5 off the computer. You know that didn't happen until after
6 April 20th because the files were downloaded onto the
7 computer until April 20th which is only a couple of weeks
8 before the search. I do not know, you know, why somebody
9 would try to delete stuff off of it.

10 MR. SOWELL: Your Honor, there is no testimony the
11 date those things were deleted.

12 THE COURT: He didn't testify there was.

13 SOLICITOR ANTHONY: I didn't.

14 THE COURT: I over rule the objection.

15 SOLICITOR ANTHONY: I cannot say why those files were
16 deleted. Sometimes people delete things when they think
17 the police might be coming to get them. And its like Agent
18 Duncan told you people who don't delete files leave them on
19 computers all the time. You know people who get in trouble
20 by downloading child pornography they will do it all the
21 time. And the other thing is that adult porn film it
22 weren't deleted, it was still there on the hard drive
23 readily accessible.

24 You know you heard a lot disparaging remarks during
25 the defense closing about the Cipriano girls. And it's

CLOSING: BY SOLICITOR ANTHONY

-512-

1 real interesting that we decided to wait until closing
2 arguments to start talking about the Cipriano girls and how
3 the Cipriano girls weren't even convicted and all this kind
4 of thing, you know Destiny Cipriano testified twice; she
5 could have been cross examined twice. Denise C [REDACTED] was
6 cross examined. Did you hear anything, any questions about
7 any reason why the Cipriano girls would not like Doug
8 Bishop or why the Cipriano girls would have a grudge
9 against Doug Bishop or why the Cipriano girls would want to
10 see Doug Bishop get convicted? Did you hear anything like
11 that all during the times that they crossed by Mr. Sowell?
12 Because I'm sure if he thought that there was some reason
13 they would want him convicted, he would ask them about it.
14 Don't you? So you know you can get up and be a lawyer and
15 you know throw stuff out and talk about oh you want someone
16 convicted and that kind of thing, but the thing is as
17 jurors you don't base a decision off what lawyers say. You
18 know you don't - you know lawyers aren't witnesses, lawyers
19 can't testify so you have to ask yourself is well did we
20 hear any evidence of that? Did we hear any evidence the
21 Cipriano's were under an investigation? You know was
22 anybody ever ask oh you were considering charging the
23 Cipriano girls with putting this horrible child porn on
24 this computer? No I didn't hear anybody say that. So
25 there is no reason to think that because there is no

CLOSING: BY SOLICITOR ANTHONY

-513-

1 evidence of it. There was, you know if there was some
2 reason to think it there probably would have been some
3 questions ask along the those lines. But as jurors you
4 can't just go back there and think that the Cipriano's want
5 him convicted because there is no testimony of that; there
6 is no evidence of that. And they want to talk about - a
7 couple of more things about, you know that he wanted to
8 make a big to do about me talking to Destiny Cipriano. And
9 I never talked to Denise C [REDACTED] by the way.. I mean she
10 wasn't here yesterday but I did, you know when he was
11 putting up witnesses I would ask Denise C [REDACTED] things
12 about who was at the house and who was this person and how
13 often was this person at the house. And she told me a
14 couple of things and I think I probably ask her a couple of
15 questions based on things that she told me. But I will
16 tell you he may never tried a case against a lawyer that
17 does that but I do that all the time. I mean that's my
18 job. You know I've got a situation trying this case where
19 there is only - the only two people that come into this
20 courtroom other than Mr. Bishop who are over there any
21 appreciable amount of time who know what was going on and
22 who knows what's doing what are Destiny and Denise
23 Cipriano. So is the person representing the state trying
24 this state, you know, who am I supposed to go ask? You
25 know I can't go ask Mr. Bishop so I'm gonna ask them. And

CLOSING: BY SOLICITOR ANTHONY

-514-

1 that's what that was, you know that's just me talking to my
2 witnesses trying to find out what was going on in a
3 particular place.

4 And then the other thing, and this sounds more
5 complicated and I'm gonna tell you this, when he talked
6 about, when Mr. Sowell got to talking about how well
7 wouldn't she have said she saw the adult porn when she
8 testified the first time? Well no she couldn't have said
9 that. And the reason she wouldn't have said that is
10 because him having adult porn is not relevant to the case
11 when I'm putting up my case. I don't have him charged with
12 having adult porn. I had him charged with having child
13 porn. So I did not ask Destiny Cipriano did you see adult
14 porn on that computer. I ask her specifically did you see
15 child porn because she would not - it probably have been
16 objectionable for me to ask her about seeing adult
17 pornography so I didn't do it. I just ask her about the
18 child pornography.

19 Now after he testified yesterday when he got up there
20 and sworn on the Bible to tell the truth and said I never
21 downloaded adult porn. There was no adult porn on that
22 computer. Well that's why we have reply cases is when
23 defendants testify and they say things that I have evidence
24 of but it's not true. Well you know I've got evidence and
25 defendant got up and swore to tell the truth and then said

CLOSING: BY SOLICITOR ANTHONY

-515-

1 something to the jury that is not true. Well even if it's
2 not quite relevant to where I can use it when I'm putting
3 up my case in chief as it's called, I can put that evidence
4 up in a reply case. And so that's what we did today
5 because Agent Duncan had found that Pirates of the
6 Carribean movie on the hard drive. I knew that that
7 evidence was there and I knew Ms. Cipriano had seen it so
8 that's why we did what we did this morning. And that's just
9 the way court works.

10 Just a couple of more things, I'm moving along. I
11 promise you it won't be a whole lot longer. I want just to
12 talk to you a minute about these other computers. You know
13 he said when he testified in August of 2011 and that's the
14 testimony when I was asking questions yesterday. I ask him
15 about some testimony he gave. And at that point in time he
16 said that two years ago I borrowed this computer here. And
17 so two years back from August of 2011 would have been
18 August of 2009. And that's what he said then. And of
19 course it changed --

20 MR. SOWELL: Your Honor, this is not the testimony.

21 THE COURT: Members of the jury panel, you remember
22 what the testimony was. If an attorney misstates it then
23 you disregard what they say and remember what the witness
24 testified to.

25 SOLICITOR ANTHONY: And yesterday it changed and also

CLOSING: BY SOLICITOR ANTHONY

-516-

1 we started talking about which by the way just to back up a
2 minute, but the computer moved into that house in August of
3 2009; that's consistent with what the Cipriano girls say.
4 But yesterday it all suddenly changed and he started
5 talking about well I had this laptop and I got the laptop
6 fixed and you heard what all he said. But the thing was
7 when he testified last year he had every opportunity to say
8 that I use this computer and then I gave it back or
9 whatever I use this computer but I didn't start using it
10 until December. But he didn't say that. He didn't say
11 three months ago, he said two years ago. So really all
12 this stuff about the laptop is just kind of a rag. You
13 know it's not really - the thing you have to remember about
14 the laptop is that there is no corroboration for anything
15 he says about the laptop as far as it having a password on
16 it and him just using it, you know him not letting anybody
17 use it from after December of 2009 and him getting it fixed
18 and all this kind of stuff. There is no corroboration to
19 that, no body, you know the only person who has testified
20 about what happened to that laptop is Mr. Bishop. So what
21 do you expect Mr. Bishop to say. You know he's gonna say
22 oh yeah I had this old computer and that's the computer I
23 used. Well you know that's what you expect him to say.
24 There's not anything to verify that; nobody else has come
25 in and testified about oh yeah Doug had a laptop; I know

CLOSING: BY SOLICITOR ANTHONY

-517-

1 that's the last laptop he used. Destiny Cipriano didn't
2 even remember the laptop being at Wardlaw Street until
3 right before the search warrant was executed. She said
4 when it got brought back it didn't have a keyboard that
5 would work. So the laptop, this whole thing about the
6 laptop you just have to remember it's just a rag. And Mr.
7 Bishop is not credible talking to you about that laptop.
8 It's just a story that you would expect somebody who
9 downloaded child porn on one computer to give to turn
10 around and say oh no I had another computer. But the most
11 important thing you have to remember is nobody else has
12 said that. Nobody says that but Mr. Bishop.

13 Just a couple of more things. There are two
14 indictments in this case, okay. We got one indictment that
15 charges him with having pictures. And we got one
16 indictment that charges him with having videos. And those
17 indictments charge two crimes. One is sexual exploitation
18 of a minor in the second degree and the other one is sexual
19 exploitation of a minor in the third degree. Now the
20 sexual exploitation of a minor in the second degree has
21 this whole list of things that you can do with sexually
22 explicit material that make you guilty. But in this case
23 the one applicable thing is reception. If you receive
24 sexually explicit material you're guilty of a crime.

25 Well somebody - When you download something from a

CLOSING: BY SOLICITOR ANTHONY

-518-

1 computer you are receiving it so that is sexual
2 exploitation of a minor in the second degree. Now third
3 degree sexual exploitation of a minor only requires one
4 thing. It just requires possession. You've got that kind
5 of material in your possession, you're guilty of sexual
6 exploitation of a minor. So the way the judge is going to
7 instruct you is that you consider the second degree first.
8 And if you find that he has received this material then
9 that's what he's guilty of, he's guilty of second degree
10 sexual exploitation of a minor. If you find for some
11 reason that he is just in possession of it, then you find
12 him guilty of third degree. You wouldn't find him guilty
13 of both; you consider the second degree and then the third
14 degree and make a decision in that order.

15 One other thing. Your verdict in this case has to be
16 unanimous. If you get back there and you have a situation
17 where some of you are thinking well I think he's guilty of
18 second degree, and some of you are thinking he's guilty of
19 third degree; that does not mean you just have to find him
20 not guilty, it doesn't work that way. If you have that
21 kind of disagreement then you would just put - write a note
22 to the judge and let him know that you got a disagreement
23 as to charge and then we'll, you know, the judge will give
24 you further instructions about how to proceed. But it
25 doesn't mean that if you get back there and you can't agree

CLOSING: BY SOLICITOR ANTHONY

-519-

1 on the verdict as far as what to convict him of, it doesn't
2 mean you just have to find him not guilty. Okay.

3 There's two things that are really troubling about
4 this case. And you know this. The first thing is that
5 these are real victims. You know those girls that you all
6 watched on Tuesday and the kids that are on those photos
7 that you will have back in the jury room, those are real
8 little girls having absolutely horrible things done to
9 them. You know these are real people that this happened
10 to. And what you need to remember is, Mr. Bishop he makes
11 that possible. You know this is a market. Mr. Bishop is
12 part of a market. People make this stuff cause people want
13 this stuff. And Doug Bishop is one of those people that
14 want it so he's a reason; Doug Bishop is a reason why those
15 little girls got put through the things that you saw on TV
16 Tuesday. He's a reason that those little kids got posed
17 for those pictures you will have back in the jury room.
18 These are real people. You know it's not just pictures on
19 a computer, somebody committed crimes against these people.
20 And somebody likes to watch them, people commit crimes
21 against little children.

22 The other thing is that this stuff is here. You know
23 it would be really nice to think that there is not a house
24 in Union County where there is this kind of filth but it is
25 here. It's here where I live, and it's here where you

CLOSING: BY SOLICITOR ANTHONY
CHARGE TO THE JURY

-520-

1 live. It would be nice to think that it wasn't in a house
2 in Union County. It would be nice to think that you didn't
3 have to worry about what having this kind of stuff might
4 lead somebody to do. But you know this stuff is here and
5 we do have to worry about it. And you know I don't know
6 what we can do about this problem, all these children being
7 abused, all this pornography out there. I don't know, I
8 don't have that answer. All I know is what we can do
9 today. All I know is that we can deal with what's
10 happening right now. And right now we know that one man
11 downloaded this stuff on a computer. And we know that one
12 man kept it at his house. And we know that one man needs
13 to be stopped. And I know that twelve people can tell that
14 one man that this is wrong. Twelve people can say that to
15 one man. And twelve people can do something about this
16 today. When you go back to that jury room sift through
17 this evidence, give it your consideration, think about all
18 the things you've heard, but then come back to this jury
19 room and stop Doug Bishop. Find Doug Bishop guilty of
20 sexual exploitation of a minor. Thank you all.

21 THE COURT: Members of the jury panel I am now going
22 to ask you

23 (PAUSE.)

24 THE COURT: Members of the jury panel I appreciate the
25 attention you have given to the attorneys and to me to this

CHARGE TO THE JURY

-521-

1 point and their witnesses. I am now going to charge you
2 the law that you are to apply to the facts that you
3 determine them to be.

4 These two indictments charge Mr. Bishop with sexual
5 exploitation of a minor or minors. They are identical
6 except for one that alleges that he had videos, videos were
7 involved and one related - that photographs were involved -
8 pictures, so there are two charges. There are a little
9 difference about the dates but they pretty much encompass
10 the same period of time, late February to early May of
11 2010. These charges and these indictments that you will
12 have with you in the jury room are not evidence; they are
13 simply charging papers by way of which this case is
14 processed through our court system. They contain the
15 charges. Again they are not evidence, they are the formal
16 documents where the ultimate unanimous verdict of the jury
17 will be enrolled. We'll take care of that later and I'll
18 tell you about the verdict form, Ms. Berry, Madame Forelady
19 in just a little bit.

20 The fact that there are two indictments and the fact
21 that each indictment is split into two charges is not
22 evidence and it does not give this case any more weight
23 than if there were only one. By that I mean that you are
24 to look at the charges each and determine whether or not
25 the State has proven beyond a reasonable doubt the charge.

CHARGE TO THE JURY

-522-

1 Now as I pointed out as to each indictment you would not
2 find the defendant guilty of both count one and count two
3 but when I show you the verdict form there will be an
4 option depending on the order taking your determination of
5 what the verdict should be. I will show you how it is set
6 up and when you consider whether or not he's guilty of
7 either of these offenses and whether or not he's guilty of
8 first or second degree exploitation or third degree. You
9 cannot find him guilty of both but you could find him
10 guilty to one and you do not have to as to either
11 indictment find the same. That is, hypothetically if you
12 were to find him guilty of videos second degree which you
13 don't believe he was guilty of anything but third degree on
14 the photographs you would find him guilty of second degree
15 on one and third degree on one. Or you would find him of
16 course not guilty as to either or both.

17 Now as to the charges as to any charge against anyone
18 in our legal system, Mr. Bishop is presumed innocent. The
19 presumption of innocence is a substantial right in our
20 justice system. It is not a mere legal theory or a mere
21 legal phrase. The presumption of innocence attaches to an
22 individual at the time they are arrested; it remains with
23 them as their case is processed through our court system
24 and remains with Mr. Bishop throughout this trial. The
25 presumption of innocence in his favor remains in effect at

CHARGE TO THE JURY

-523-

1 this moment and even continues as you deliberate. The
2 presumption of innocence in Mr. Bishop's favor is removed
3 if and when and only if and when you as the jury in this
4 case determine the State has proven his guilt beyond a
5 reasonable doubt.

6 Now the State is not required to prove his guilty
7 beyond all or beyond every doubt. We know that it is not
8 possible in our world to resolve all doubt or every doubt
9 but the State must prove his guilt beyond a reasonable
10 doubt. Our courts have defined a reasonable doubt as the
11 kind of doubt that would cause a reasonable person to
12 hesitate to act. Proof beyond a reasonable doubt is proof
13 that leaves you firmly convinced of one's guilt. If based
14 on your consideration of the evidence you are firmly
15 convinced that Mr. Bishop is guilty of one of the charges,
16 you would find him guilty. On the other hand if you think
17 there is a real possibility that he is not guilty as to the
18 charges you would give him the benefit of that reasonable
19 doubt and find him not guilty. He is entitled to the
20 benefit of every reasonable doubt you have as to any issue
21 in this case.

22 I remind you I am the sole judge of the law in this
23 case and you must take and accept and apply the law as I
24 charge it. And you are not - you must do that even if you
25 think I charge the law in error or even if you think the

CHARGE TO THE JURY

-524-

1 law should be different. You are not infer from anything I
2 have said or done in any time during this trial as
3 indicating an opinion of mine on the facts. Our law does
4 not allow a trial judge to formulate or express to a jury
5 any opinion on the facts. It is solely your job. It is
6 solely up to you as the trial jury in this case to examine
7 the evidence, to give to the evidence the effect the value
8 the weight and the truth it should have. In accessing the
9 facts in this case and determine the true facts you may
10 believe one witness as opposed to several; several
11 witnesses as opposed to one. You may believe all or none
12 of a witness's testimony. In analyzing the evidence use
13 your common sense, your sense of logic, your sense of
14 reason, use your experiences in life in determining the
15 facts in the case.

16 You must necessarily judge the credibility, that is
17 the believability of the witnesses who have testified. In
18 accessing believability use those things I just talked
19 about. Use the things you in your day to day life find as
20 being indicative of truthfulness of an individual. And you
21 can use certain evaluators. How a witness acts on the
22 stand, that is their demeanor. Consider the opportunity a
23 witness had to know those things to which a witness
24 testified. Look at whether a witness had any bias or
25 prejudice, that is, any reason to wish to help or hurt one

CHARGE TO THE JURY

-525-

1 side or the other. Look at consistencies or
2 inconsistencies; look to see whether a witness was hesitant
3 or straight forward in responding to questions. All these
4 things you consider to determine the true facts and apply
5 the law and you will be in a position to return a verdict
6 that does in fact speak the truth which is what the word
7 verdict means.

8 There are two types of evidence which are generally
9 presented in a trial such as this. Those two types are
10 direct and circumstantial evidence. Direct evidence is
11 testimony of someone who claims to have actual knowledge of
12 the facts such as an eyewitness. It is evidence which
13 establishes the main fact sought to be proven.

14 Circumstantial evidence is evidence which immediately
15 - I'm sorry. Circumstantial evidence is proof of a chain
16 of facts and circumstances which indicate the existence of
17 a fact. Circumstantial evidence is evidence which
18 immediately establishes collateral facts from which the
19 main fact may be inferred. Circumstantial evidence is
20 based on inference and not on personal knowledge or
21 personal observation. Our law makes absolutely no
22 distinction between the weight or value to be given either
23 direct or circumstantial evidence. Our law does not
24 require a greater degree of certainty to circumstantial as
25 opposed to direct evidence. What you should do in this

CHARGE TO THE JURY

-526-

1 case is weigh all of the evidence. If you are not
2 convinced of Mr. Bishop's guilt beyond a reasonable doubt
3 after weighing all the evidence you would find him not
4 guilty.

5 In this case you had testimony of an individual that I
6 qualified - actually more than one - as an expert.
7 Generally an individual can only testify as to something
8 they observed with one of their five senses. Usually means
9 somebody seen something or heard something and it could be
10 taste, touch or smell; however, where an individual has
11 certain skill, training, knowledge, education and
12 experience in a certain area, that person can be qualified
13 as an expert and render opinions. Now these opinions of
14 experts are allowed into evidence to assist you, they are
15 not binding on you. You may accept or reject an experts
16 testimony in whole or in part. When you examine an experts
17 testimony you look at the qual - look at the experts
18 witness - expert witness's testimony through the same lens
19 that you look at other witnesses. All that stuff I said
20 earlier how you evaluate a witness's testimony, you look at
21 an expert with those same thoughts in mind. But as to an
22 expert you can also even though I qualified them as an
23 expert, it's still up to you to determine whether they had
24 any expertise to reach the opinions they reached. And you
25 can also examine the reason they gave in reaching the

CHARGE TO THE JURY

-527-

1 opinion they reached. Again, expert testimony is allowed
2 in your - into evidence to assist you as the trial jury but
3 it is not binding on you.

4 The sections of law that we are dealing with are
5 statutory sections of law, that is, laws passed by our
6 General Assembly and made into law. There are certain
7 definitions that apply through the legislation that was
8 passed in Columbia by our legislature. These definitions
9 apply to both second and third degree sexual exploitation
10 of a minor and apply whether it's videos or photographs.

11 These definitions are as follows: The word minor as
12 used in the law means an individual who is less than
13 eighteen years old. The word material means pictures,
14 videos, - pictures, videos recordings, digital electronic
15 files or other visual digital - depictions or
16 representations but does not include material consisting of
17 written words. Sexual activity includes any of the
18 following acts or simulations obscene. The word
19 masturbation is included as a sexual activity whether it is
20 done alone or with another human being. Sexual activity
21 includes vaginal, anal, or oral intercourse when done with
22 another human being. Sexual activity includes touching, in
23 an act of apparent sexual stimulation of the clothed or
24 unclothed genitals, pubic area, or buttocks of another
25 person or the clothed or unclothed breast of a human being.

1 The term sexual activity also includes the insertion of any
2 part of a person's body, other than the male sexual organ,
3 or of any other object into another person's anus or
4 vagina, except when done as a part of recognized medical
5 procedure.

6 Now sexual exploitation of a minor second degree is
7 like I said is a statutory offense. The State here must
8 prove beyond a reasonable doubt that Mr. Bishop knowing -
9 and I use the term knowing in both second and third - and
10 knowing means something that is done intentionally, that is
11 knowing means something that is done with an awareness,
12 something that is not voluntary but something that is
13 voluntary, something that is not accidental or intentional.
14 But as second degree the State must prove beyond a
15 reasonable doubt that the defendant knowing the character
16 or content of the material at issue, did record, receive,
17 or solicit digital electronic material that contains a
18 visual representation of a minor engaged in sexual
19 activity. This would include like I said videos and still
20 pictures.

21 Under the law of this state you may infer that a
22 participant in sexual activity depicted in material as a
23 minor through its title, text, visual representations, or
24 otherwise, is in fact a minor. In a case of sexual
25 exploitation of a minor, mistake of age is not a defense.

CHARGE TO THE JURY

-529-

1 As to sexual exploitation of a minor in the third
2 degree, in order to find Mr. Bishop guilty of that, the
3 State must prove beyond a reasonable doubt that he knowing
4 - the same word I used earlier - character or content of
5 the material, did possess material that contains a visual
6 representation of a minor engaged in sexual activity.

7 You may infer that a participant in sexual activity
8 depicted in material as a minor through its title, text,
9 visual representations, or otherwise, is in fact a minor.
10 Also as I told you in second degree in the case of sexual
11 exploitation of a minor, mistake is not a defense.

12 Now the State must prove Mr. Bishop guilty of one of
13 those offenses beyond a reasonable doubt before you could
14 convict him. Your verdict must be unanimous, all twelve
15 jurors must agree, once all twelve jurors have agreed on
16 the verdict, Madame Forelady, you will write it and I will
17 show you the verdicts forms in just a moment. You will
18 write it - enroll it on the verdict form and sign it, put
19 today's date. Your verdict cannot be based on sympathy,
20 passion, public opinion, public feeling, or matters outside
21 the record. While you are deliberating if you have any
22 questions write them down and knock on the door and give
23 them to the bailiff and the bailiff will come and get us.
24 He'll bring it to me and I will consult the attorneys and
25 I'll respond to the question. It may be that I can write

CHARGE TO THE JURY

-530-

1 an answer on the note. It may be that I have to bring you
2 back out here in open court and answer the question.

3 If you send a note out, Madame Forelady, and I send it
4 back, keep it and turn it with the evidence because it has
5 to be part of the record. We do not in South Carolina send
6 in a written charge on the law. If you wish for me to go
7 over any part or all of the law, let me know and I'll bring
8 you back out in here in open court recharge you anything on
9 the law that you wish the whole law or parts thereof.

10 If you wish testimony replayed, let us know and we
11 will bring you back in and replay the testimony. We will
12 send in a laptop and the CD - DVD that is in evidence and
13 you may play it if you wish. Of course we have the
14 photographs in there in an envelop. They are part of the
15 evidence and you of course may review them if you wish.

16 Once you have reached a verdict, knock on the door and
17 tell the bailiff and the bailiff will let me know. I may
18 be doing some other work but I will send for you as
19 promptly as I can. We've got lunch coming and you can
20 break and not deliberate while you are eating lunch or you
21 can eat lunch and discuss the case. That is your choice.
22 However, if you are working I want all twelve of you
23 working because your verdict must be unanimous. If you
24 take a break all twelve of you will be on break. I don't
25 want eight people to be working and four are not. So you

CHARGE TO THE JURY

-531-

1 can - while you are eating lunch you can break if you want
2 or you can continue to work on the case.

3 Ms. Kirby, you will stay in as the alternate. You
4 will be provided lunch for you too and I ask that you have
5 a comfortable place to eat. But you will not participate
6 any further in the deliberations.

7 Now when you first go into the jury room do not start
8 deliberating yet because I have to go over my charge with
9 the attorneys. Don't start eating lunch cause I may have
10 to send for you. If I do it will be just a couple of
11 minutes. If I do not have to send for you I will send in
12 the exhibits and the verdict form and the bailiff will tell
13 you to start deliberating. Again when you've reached a
14 verdict, knock on the door, tell the bailiff and I will
15 send for you as promptly as I can. Again I'm going to be
16 working on some other issues but I will try to send for you
17 as promptly as I can.

18 The verdict form is the same as to each. Keep in mind
19 one has to do with videos and one has to do with still
20 pictures, photographs. There are three options. You of
21 course can only choose one and that is whatever the
22 unanimous verdict of the jury is. You will put a check
23 mark in front of the verdict that is unanimously agreed on
24 by the jury, Madame Forelady, and sign it. The order these
25 are in, the three options are in, is of no importance. I

CHARGE TO THE JURY

-532-

1 have to put them in some order so I put them in this order.
2 The fact that one is first and one is second does not mean
3 that one has any greater weight or is entitled to any
4 greater consideration by you. It is up to you to determine
5 what the verdict should be.

6 The first line says we find the defendant guilty of
7 sexual exploitation of a minor in the second degree. And
8 if that's your verdict - unanimous verdict of the jury you
9 will naturally check in front of that. If you find that
10 the State has not proven him guilty of that, that you have
11 found him guilty of sexual exploitation of a minor beyond a
12 reasonable doubt in the third degree you will put a check
13 on the second line. If you find that the State has failed
14 to prove his guilt as to either of the charges, you would
15 use the third line and say we find the defendant not guilty
16 and then put a check or x on there.

17 Now I'm going to let you go to the jury room but don't
18 get too comfortable yet. I have to go over with the
19 attorneys my charge.

20 Ms. Kirby, you will stay in here.

21 (JURY EXITS COURTROOM FOR DELIBERATIONS AT 01:59 P.M.)

22 THE COURT: Anything regarding the charge from the
23 State?

24 SOLICITOR ANTHONY: No, sir.

25 THE COURT: Anything from the Defense?

-533-

1 MR. SOWELL: Yes, Your Honor. I would like for you to
2 charge in order to convict of a crime based on
3 circumstantial evidence the evidence must be presented
4 which would disprove all other --

5 SOLICITOR ANTHONY: Your Honor, I was just gonna ask
6 that the alternate be --

7 THE COURT: I'll take care of the alternate in just a
8 minute.

9 SOLICITOR ANTHONY: I'm sorry.

10 THE COURT: Go ahead. I can see her. I was just
11 asking her to be with us --

12 MR. SOWELL: I'm sorry. I didn't know she was --

13 THE COURT: Well when I ask you I want to get the
14 other jurors back in if we have to so let's go ahead.

15 MR. SOWELL: I'd like you to charge in order to be
16 convicted of a crime based on circumstantial evidence the
17 State must disprove all the other possible facts which
18 could lead to a finding of innocence.

19 THE COURT: All right. I'm not going to charge that.
20 That was part of the charge at one time but I deleted it.
21 But after the Gallman position - I can't remember - Godfrey
22 - but anyway after the Supreme Court said somebody observed
23 about reasonable doubt is a moving target and the charge I
24 use now a prepon - a prepon question charge is the one I
25 use and it's the latest announcement does not include that

1 language so you're on the record in asking that and I'm not
2 going to charge it. Anything else?

3 MR. SOWELL: No, Your Honor.

4 THE COURT: Let's check the exhibits.

5 MR. SOWELL: Oh, possession required knowledge of the
6 possession.

7 THE COURT: Well I said he had to know the - or
8 knowing the content.

9 MR. SOWELL: You kind of passed over it. It wasn't
10 like no one noticed if you talked about it.

11 THE COURT: Well I indicated it had to be knowingly as
12 to the content but I think this is - these are valid per se
13 offenses. Its against the law to possess them knowing the
14 character or content of the material. But I'll bring them
15 back in and tell them that the possession or the
16 duplication of it has to be knowing and the definition I
17 gave.

18 SOLICITOR ANTHONY: Yes, sir, you intend to basically
19 reread the code section?

20 THE COURT: No. I'm just going to tell them that as
21 to both second and third degree that before you can convict
22 Mr. Bishop that he is in possession or recording, receiving
23 or soliciting was done knowingly.

24 I'm ready for the jury.

25 Bear with us.

VERDICT

-537-

1 THE COURT: All right. Let's send in the verdict
2 forms and the exhibits.

3 And, Ms. Kirby, I'm going to ask you to eat, but you
4 are free for the rest of the week.

5 (JURY ALTERNATE DISMISSED AT 02:08 P.M..)

6 (COURT IN LUNCH RECESS AT 02:09 P.M..)

7 (NOTE FROM THE JURY AT 02:45 P.M..)

8 (BACK ON THE RECORD AT 03:05 P.M..)

9 THE COURT: Thank you, take your seats.

10 We got word - We received word the jury has reached a
11 verdict.

12 Anything before we get the jury in from the State?

13 SOLICITOR ANTHONY: No, sir.

14 THE COURT: The Defense?

15 MR. SOWELL: I couldn't understand the question, Your
16 Honor.

17 THE COURT: Is there anything before the jury comes
18 in?

19 MR. SOWELL: No, sir.

20 THE COURT: All right, bring in the jury.

21 (JURY REENTERS COURTROOM AT 03:06 P.M..)

22 THE COURT: Madame Forelady, I understand the jury has
23 reached verdicts.

24 MADAME FORELADY: Yes, sir.

25 THE COURT: If you will hand them to the bailiff he

VERDICT

-538-

1 will hand them up to me.

2 (VERDICTS RECEIVED UP BY THE COURT.)

3 THE CLERK: In the State of South Carolina versus
4 Douglas Bishop, we find the defendant guilty of
5 exploitation of a minor third degree. we find the
6 defendant guilty of exploitation of a minor third degree.

7 THE COURT: If these be your verdicts so say you all
8 by raising your right hand.

9 (JURORS COMPLIED.)

10 THE COURT: All twelve jurors have raised their right
11 hand. Anything from the State before the jury is
12 dismissed?

13 SOLICITOR ANTHONY: No, sir.

14 THE COURT: Anything from the Defense?

15 MR. SOWELL: No, Your Honor. Oh, we ask the jury be
16 polled.

17 THE COURT: All right. Members of the jury panel, the
18 clerk is going to ask you a specific question about your
19 verdict and he will explain to you how to do that.

20 THE CLERK: Juror Lizzie Beatty, was this your verdict
21 and is it still your verdict?

22 JUROR BEATTY: Yes.

23 THE CLERK: Juror Clifford Gossett, was this your
24 verdict and is it still your verdict?

25 JUROR GOSSETT: Yes.

SENTENCE

-541-

1 And, Ms. Berry, it will just take a minute, the Clerk
2 will help you with that.

3 (JURY DISMISSED AT 03:09 P.M..)

4 THE COURT: Mr. Solicitor, I'm going to let you finish
5 filling out these sentencing sheets. They don't have all
6 the information on them. I have pulled out - there were
7 originally four - and I have motions also - there were
8 originally four sentencing sheets prepared and handed up.
9 Two dealt with count one. I'm pulling them out of course
10 because he by virtue of the verdict found not guilty of
11 count one on both. And so I'm having the solicitor fill in
12 the pertinent information and I'll have Mr. Sowell review
13 it. On the sentencing sheets count two on each indictment.

14 Anything else, Mr. Sowell, at this point?

15 MR. SOWELL: Yes, Your Honor. We move for judgement
16 N.O.V.; the evidence didn't substantiate proof beyond a
17 reasonable doubt. And Number Two, if they didn't find him
18 guilty of receiving, inconsistent it would be possession
19 but not receiving it. It's inconsistent verdicts and we
20 want a dismissal.

21 THE COURT: I deny the motion. I find that the State
22 - honestly it would be no reason to have a count one and a
23 count two or a third degree following your logic which does
24 make sense, but you can't have it, you don't get it. That
25 were the law and that were the case then you could never

SENTENCE

-542-

1 find nobody guilty of third degree because they would
2 always be guilty of second degree or nothing. Also I think
3 the facts support the verdicts on both of these so I deny
4 the motion to dismiss and the motion for a new trial and
5 however you couch a dismissal, both trial motions are
6 denied. We'll get this fixed up and then I'll hear
7 mitigation and hear from the State about any prior records
8 or anything.

9 (PAUSE.)

10 MR. SOWELL: Your Honor, this offense says 5/4/2010.
11 Shouldn't that be from the period of the indictment?

12 SOLICITOR ANTHONY: The sentencing sheets are wrong.
13 I will just take them and make them consistent with the
14 indictments.

15 THE COURT: Okay.

16 MR. SOWELL: I don't know if we need to do it or not.

17 THE COURT: Let's just make it conform to the
18 indictment.

19 SOLICITOR ANTHONY: Okay.

20 MR. SOWELL: Your Honor, this conviction does he need
21 to sign?

22 SOLICITOR ANTHONY: That will be up to the court.

23 THE COURT: When it's a conviction as opposed to the
24 plea I don't think the defendant is required to sign it.

25 MR. SOWELL: I don't know.

SENTENCE

-543-

1 THE COURT: I won't require the defendant to --

2 MR. SOWELL: Do you want me to sign it?

3 THE COURT: I think you ought to sign it. The
4 defendant usually only signs a plea.

5 Mr. Anthony, does Mr. Bishop have any prior record?

6 SOLICITOR ANTHONY: He had a conviction I believe it
7 was in 1997. If I can just have a second, Your Honor.

8 In 1997 he has a public disorderly conduct conviction.
9 That's the extent of his record. Your Honor, may I --

10 THE COURT: I want both of you - Bring Mr. Bishop
11 around I want to here any mitigation and hear anything in
12 aggravation. Of course I've heard the facts, I don't need
13 those. And I seen four films, I did not see the pictures.

14 SOLICITOR ANTHONY: The only two things the State
15 would have, Your Honor, the pictures are marked.

16 THE COURT: I may ought to just thumb through since I
17 am getting ready to a impose sentence.

18 (COURT REVIEWED EXHIBITS.)

19 THE COURT: All right, I thumbed through State's
20 Exhibit Seven through - They are out of order. Seven
21 through Nineteen.

22 Yes, sir.

23 SOLICITOR ANTHONY: The State would just briefly say
24 to the Court you've examined this material, it's obviously
25 quite disturbing and quite heinous. And these are two ten

SENTENCE

-544-

1 year offenses and we think that the punishment merited here
2 would be punishment that the law allows for them.

3 Thank you, Your Honor.

4 MR. SOWELL: Your Honor, I don't know what to tell you
5 other than you've seen our position, our point of views,
6 you've seen what we thought he did and saw the jury didn't
7 agree with us. He's been a good upstanding citizen for
8 years and years and years. Had one public drunk or
9 something like that. He's not been a citizen, he's not
10 done anything to merit a large sentence, and I'm hoping
11 Your Honor imposes a sentence of probation.

12 THE COURT: All right, Mr. Bishop, anything you want
13 to say?

14 MR. BISHOP: I just promise you, sir, that I did not
15 do this. I mean I love my children to death, I love the
16 kids to death. I could not see myself hurting or
17 exploiting any type of child at all. In looking when the
18 pictures came over to the table I about got sick in looking
19 at them. That's why I refused to look at the videos
20 because I knew I was gonna get sick. I promise you, sir, I
21 did not do this.

22 THE COURT: Well you used an appropriate term
23 exploitation and that's what happened to these four
24 children. Some of them may not know it but in these
25 unfortunately do know what it looks like. In the videos

SENTENCE

-545-

1 the young females appear to have experience in what they
2 were doing and I find it very interesting and maybe its
3 disturbing and interesting at the same time, I didn't have
4 a real good angle to see them and I didn't have watch them
5 that close, but I don't believe the men ever dared show
6 their face except in the one you all handed up which is
7 obviously - obviously there is a reason they didn't show
8 their face. These four children don't know that they've
9 been exploited. These know something hadn't been done
10 right. But these are very egregious, they are repetitive
11 offenses even though they were over a short period of time.

12 Mr. Bishop, the sentence on each of these are
13 concurrent; they both are for ten years, and run
14 concurrent. Thank you.

15 SOLICITOR ANTHONY: Your Honor, one other thing. I
16 think the Court might need to address this. In just
17 looking at the punishment, in my sentencing book it
18 indicates that electronic monitoring may be required for
19 this case. Mr. Fowler might can help me out with this but
20 I believe this is one where discretionary with the court -

21 THE COURT: Well what about sex offender registry?

22 SOLICITOR ANTHONY: Well the sex offender registry I
23 think is mandatory by virtue of the conviction. But the
24 monitoring is discretionary.

25 THE COURT: Is that correct, Mr. Fowler?

SENTENCE

-546-

1 PROBATION AGENT FOWLER: Yes that's the way I
2 understand it, Your Honor.

3 THE COURT: I'm not going to require monitoring.
4 These - Monitoring ain't gonna prevent - if he's inclined
5 to - if Mr. Bishop is inclined to do this again monitoring
6 ain't gonna have anything to do with this. Unfortunately
7 no - I can't say there were no victims because there
8 obviously were. Anyway it's pretty obvious that monitoring
9 can't prevent that this won't happen again. It can't
10 prevent that so I'm not going to require monitoring. Sex
11 offender registry. Thank you.

12 SOLICITOR ANTHONY: Thank you, Your Honor.

13 (COURT AT EASE AT 03:10 P.M..)

14 - END OF TRANSCRIPT IN THE MATTER OF STATE V. DOUGLAS
15 BISHOP, 2011-GS-44-00552;00553 -

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25

STATE OF SOUTH CAROLINA)

BEFORE THE COURT OF GENERAL SESSIONS

COUNTY OF UNION)

Indictments: 2011-GS-44-0552
2011-GS-44-0553

The State)

PLAINTFF)

vs)

Douglas Bret Bishop)

DEFENDANT)

MOTION FOR RECONSIDERATION

Indictments: 2011-GS-44-0552

2011-GS-44-0553

Jury Trial May 14 - 17, 2012

Verdict: May 17, 2012

RECEIVED

MAY 30 2012

SC Court of Appeals

Your defendant would move before the Trial Court, The Hon. John C. Hayes, that the judge reconsider the rulings on Motions and Sentence in the trial and grant a dismissal of the charges, or in the alternative, for a new trial, or in the alternative, for a substantial reduction in the sentence.

The grounds for such motions are:

1 The sentence issued is extremely long and harsh and not warranted by the facts.

2 The judge erred in the following aspects:

A The court failed to grant a mistrial on the issue of the witnesses' attempt to convince the jury of his importance and influence. The witness was able to convince the members of the jury of his importance by such acts and able to convince the jury that the witness was important and his assistance to the prosecution was such that his testimony had a inflated influence on the jury's decision. The failure to grant a mistrial or at least a curative instruction deprived the defendant to a fair trial.

B The court failed to grant a mistrial on the issue of the introduction of inflammatory pictures. The pictures were so gross that even the sight of the pictures convinced one juror of defendant's guilt that he determined that he could not render a fair verdict. The court should have restricted the introduction of the pictures and video in conformity to

defendant's motion. The refusal to restrict the introduction of the pictures and video so inflamed the jury that defendant was deprived of a fair trial.

C The court failed to grant a mistrial on the issue of witness Tucker not allowed to answer questions of "what he heard." The testimony was not for the truth of the matter asserted and the refusal to allow that testimony deprived the defendant of a fair trial.

D. The court failed to grant a mistrial on the issue of witness's sexual orientation and comments entered in Facebook. The testimony as to the witness's Facebook entry was not for the truth of the matter but to show her inclination of viewing nude girls. The refusal to allow defendant to testify as to the Facebook entry deprived the defendant of a fair trial.

E The court failed to grant a mistrial on the issue of allowing transcript from the Family Court hearing. The transcript was not notarized, was not properly introduced and deprived the defendant of a fair trial.

F The court failed to grant a mistrial on the issue of allowing Reply witness testimony not in response and anticipated. The testimony which the Reply testimony introduced to rebut was not unexpected and therefore in not proper reply testimony and deprived the defendant of a fair trial.

G The court failed to charge the proper charge on Circumstantial evidence. The use of circumstantial evidence was not properly explained to the jury and deprived the defendant of a fair trial.

H The court failed to grant a mistrial on the issue of such other grounds as will be revealed by a complete review of the trial proceedings.

GREENVILLE, S.C.

May 18 , 2012



KENNETH E. SOWELL
768 MAULDIN ROAD
GREENVILLE, S.C. 29607
864-271-7777
FAX: 864-277-7999
sowellken@aol.com
ATTORNEY FOR DEFENDANT

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	
COUNTY OF UNION	)	Indictments: 2011-GS-44-0552
	)	2011-GS-44-0553
	)	
State of South Carolina,	)	
	)	
vs.	)	ORDER
	)	
Douglas Bret Bishop,	)	
	)	
Defendant.	)	
_____	)	

The above cases were tried to verdict before a jury over a four day period of time. The jury rendered a verdict of guilty as to third degree sexual exploitation of a minor on the indictments on May 17, 2012.

Defendant has moved the Court to "reconsider the rulings on Motions and Sentence in the trial and grant a dismissal of the charges, or in the alternative, for a new trial, or in the alternative, for a substantial reduction in the sentence."

Defendant's motions are denied in all respects.

Ground I argues the sentence is extremely long, harsh and unwarranted. The Court is satisfied that the sentence is neither harsh nor unwarranted. The length of any sentence is a matter of prospective. Defendant considers his sentence of ten (10) years extremely long. Actually, the sentence is one-half of the amount of time to which Defendant could have been sentenced for the two (2) guilty verdicts. The Court finds the sentence appropriate based on the evidence produced at trial, the nature of the offenses and the statutory sentences attached to the crime for which Defendant was convicted.

Handwritten signature/initials

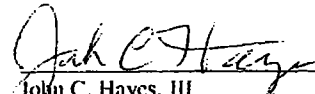
Ground 2 lists seven (7) grounds for the granting of a mistrial. First, the Court does not recall these motions for mistrial were made as to all of the issues here raised. To the extent motions were properly made for a mistrial at the time of the alleged grounds for same, the Court adopts its ruling at the time and finds Defendant was not entitled to a mistrial on any of the grounds alleged.¹

As to Ground 2.G., the Court finds the proper circumstantial evidence was charged to the jury at Defendant's trial.

Ground 2.H does not establish any grounds of which the Court can take cognizance.

Wherefore, Defendant, Douglas Bret Bishop's Motion for Reconsideration dated May 18, 2012, is Denied.

IT IS SO ORDERED.


John C. Hayes, III
Presiding Judge #2

May 22, 2012
York, South Carolina

¹ As to 1.A, the Court notes Defendant was willing to stipulate to the facts to which this witness testified.

WITNESSES

Belue/UCSO

The State of South Carolina

County of Union

COURT OF GENERAL SESSIONS

JUNE 13, TERM 2011

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

Defendant

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

Defendant

Witness:

C.C.C. PLS. AND G.S.

ARREST WARRANT NUMBER

Direct Indictment - RE: K393771

THE STATE

vs.

DOUGLAS BRETT BISHOP

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: JUN - 9 2011

VERDICT

Indictment for

COUNT 1 - SEXUAL EXPLOITATION OF A MINOR,
SECOND DEGREE

COUNT 2 - SEXUAL EXPLOITATION OF A MINOR,
THIRD DEGREE

Count 1 - SC Code: 16-15-0405

Count 1 - CDR Code: 0380

Count 2 - SC Code: 16-15-0410

Count 2 - CDR Code: 0381

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
)
 COUNTY OF UNION)

INDICTMENT

At a Court of General Sessions, convened on June 09, 2011, the Grand Jurors of Union County present upon their oath:

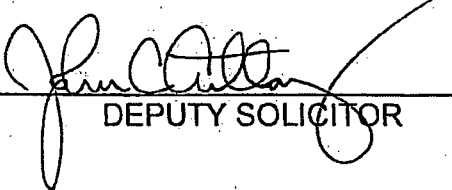
COUNT 1 – SEXUAL EXPLOITATION OF A MINOR, SECOND DEGREE

That in Union County, South Carolina, between on or about February 25, 2010 and on or about May 6, 2010, Douglas Brett Bishop, did knowingly, willfully, and unlawfully commit the crime of Sexual Exploitation of a Minor, Second Degree, in that the Defendant, Douglas Brett Bishop, knowing the character or content of the material, did record, photograph, film, develop, duplicate, produce, create, distribute, transport, exhibit, receive, sell, purchase, exchange or solicit digital electronic file material that contains a visual representation of a minor engaged in sexual activity, as defined by Section 16-15-375(5), Code of Laws of South Carolina (1976, amended), to wit: one or more video files located on eMachines W2888 Tower, Drive 2 Hitachi HDS722580VLAT20, all in violation of Section 16-15-0405, Code of Laws of South Carolina (1976, as amended).

COUNT 2 – SEXUAL EXPLOITATION OF A MINOR, THIRD DEGREE

That in Union County, South Carolina, between on or about February 25, 2010 and on or about May 6, 2010, Douglas Brett Bishop, did knowingly, willfully, and unlawfully commit the crime of Sexual Exploitation of a Minor, Third Degree, in that the Defendant, Douglas Brett Bishop, knowing the character or content of the material, did possess digital electronic file material that contains a visual representation of a minor engaged in sexual activity, as defined by Section 16-15-375(5), Code of Laws of South Carolina (1976, amended), to wit: one or more video files located on eMachines W2888 Tower, Drive 2 Hitachi HDS722580VLAT20, all in violation of Section 16-15-0410, Code of Laws of South Carolina (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


 DEPUTY SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF

Union

STATE

VS.

Douglas Brett Bishop

CA:

Race: W Sex: M Age:

DOB: SS#:

Address:

City, State, Zip: Union, SC 29379

SID# SC01198574

CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

Disposition of the said indictment comes now the Defendant who was

Violation of § 16-15-410 of the S.C. Code of Laws, bearing CDR Code # 0381

NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ \$17-25-45 (CSC w/minor 1st or Lewd Act)Charge is: ☐ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)Plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

TEST: 7116

Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or ☐ CONSECUTIVE to sentence on: 5/17/12
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
 Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ _____ plus 20% fee: \$ _____

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐

Set by SCDPPPS

Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Fine: \$ _____

Random Drug/Alcohol Testing ☐

14-1-206 (Assessments 107.5%) \$ _____

Fine may be pd. in equal consecutive weekly/monthly

14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00

pmts. of \$ _____ Beginning _____

14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

\$ _____ Paid to Public Defender Fund

56-5-2995 (DUI Assessment) \$12 \$ _____

56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso 47.9 (Public Def/Prob) \$500 \$ _____

14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

14-1-213 (Drug Court Surcharge) \$150 \$ _____

50-21-114 (BUI Breath Test Fee) \$50 \$ _____

56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.00

% to County (if paid in installments) \$ _____

TOTAL \$ 133.00

Clerk of Court/Deputy Clerk _____

Court Reporter: _____

Presiding Judge: *Jah C. Hays III*
 Judge Code: 2049/12
 Sentence Date: 5/17/12

WITNESSES

Belue/UCSO

Direct Indictment

The State of South Carolina

County of Union

COURT OF GENERAL SESSIONS

JUNE 13, TERM 2011

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

Defendant

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

Defendant

Witness:

C.C.C. PLS. AND G.S.

ARREST WARRANT NUMBER

Direct Indictment – RE: K393771

THE STATE

vs.

DOUGLAS BRETT BISHOP

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury:

Date: JUN - 9 2011

VERDICT

Indictment for

**COUNT 1 – SEXUAL EXPLOITATION OF A MINOR,
SECOND DEGREE
COUNT 2 – SEXUAL EXPLOITATION OF A MINOR,
THIRD DEGREE**

Count 1 - SC Code: 16-15-0405

Count 1 - CDR Code: 0380

Count 2 - SC Code: 16-15-0410

Count 2 - CDR Code: 0381

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
COUNTY OF UNION)

INDICTMENT

At a Court of General Sessions, convened on June 09, 2011, the Grand Jurors of Union County present upon their oath:

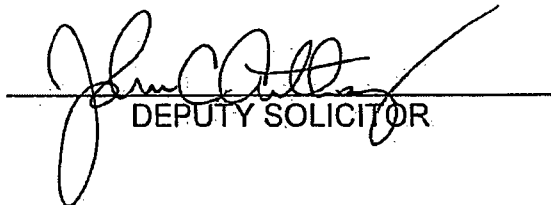
COUNT 1 – SEXUAL EXPLOITATION OF A MINOR, SECOND DEGREE

That in Union County, South Carolina, between on or about February 28, 2010 and on or about May 6, 2010, Douglas Brett Bishop, did knowingly, willfully, and unlawfully commit the crime of Sexual Exploitation of a Minor, Second Degree, in that the Defendant, Douglas Brett Bishop, knowing the character or content of the material, did record, photograph, film, develop, duplicate, produce, create, distribute, transport, exhibit, receive, sell, purchase, exchange or solicit digital electronic file material that contains a visual representation of a minor engaged in sexual activity, as defined by Section 16-15-375(5), Code of Laws of South Carolina (1976, amended), to wit: one or more photographs located on eMachines W2888 Tower, Drive 2 Hitachi HDS722580VLAT20, all in violation of Section 16-15-0405, Code of Laws of South Carolina (1976, as amended).

COUNT 2 – SEXUAL EXPLOITATION OF A MINOR, THIRD DEGREE

That in Union County, South Carolina, between on or about February 25, 2010 and on or about May 6, 2010, Douglas Brett Bishop, did knowingly, willfully, and unlawfully commit the crime of Sexual Exploitation of a Minor, Third Degree, in that the Defendant, Douglas Brett Bishop, knowing the character or content of the material, did possess digital electronic file material that contains a visual representation of a minor engaged in sexual activity, as defined by Section 16-15-375(5), Code of Laws of South Carolina (1976, amended), to wit: one or more photographs located on eMachines W2888 Tower, Drive 2 Hitachi HDS722580VLAT20, all in violation of Section 16-15-0410, Code of Laws of South Carolina (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


DEPUTY SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF

Union

STATE

VS.

Douglas Brett Bishop

AKA:

Race:

W

Sex:

M

Age:

DOB:

SS#:

Address:

City, State, Zip:

Union, SC 29379

DL#

SID#

SC01198574

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: 32 Joyce Street, Explosion & 5 MinorViolation of § 16-15-410 of the S.C. Code of Laws, bearing CDR Code # 0381☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ \$17-25-45(CSC w/minor 1st or Less Act)The charge is: ☐ As indicted, ☐ Lesser Included Offense,☐ Defendant Waives Presentation to Grand Jury. (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation,☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST

7116

Solicitor

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed 10 years and/or to pay a fine of \$ 100; provided that upon the service of 10 days/months/years and or payment of \$ 100; plus costs and assessments as applicable*; the balance is suspended with probation for 10 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ _____ plus 20% fee: _____ \$ _____

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐☐ Set by SCDPPPS

Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____

May serve W/E beginning

Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund

Other: _____

*Fine:

§14-1-206 (Assessments 107.5%)	\$	_____
§14-1-211 (A)(1)(Conv. Surcharge)	\$	_____
§14-1-211 (A)(2)(DUI Surcharge)	\$	100
§56-5-2995 (DUI Assessment)	\$	100
§56-1-286 (DUI Breath Test)	\$	12
Proviso 47.9 (Public Def/Prob)	\$	25
§14-1-212 (Law Enforce. Funding)	\$	500
§14-1-213 (Drug Court Surcharge)	\$	25
§50-21-114 (BUI Breath Test Fee)	\$	150
§56-5-2942(J) (Vehicle Assessment)	\$	50
Proviso 90.5 (SCCJA Surcharge)	\$	40/ea
3% to County (if paid in installments)	\$	5
TOTAL	\$	335

Clerk of Court/Deputy Clerk
Court Reporter: _____
☐ Appointed PD or appointed other counsel, \$47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code: _____

Sentence Date

John H. Hays
2049
5/17/12

02/25/2010

07:58 PM Video #29

08:11 PM Video #30

02/27/2010

10:27 PM Video #27

02/28/2010

7:42 pm Picture #2

7:48 pm Picture #13

7:50 pm Picture #3

10:55 PM Video #28

03/03/2010

10:16 AM Picture # 12

10:21:12 AM Picture #34

10:21:46 AM Picture #18

10:22 AM Picture #20

10:23:32 AM Picture #19

10:23:40AM Picture #35

11:03 AM Picture #17

11:30 AM Picture #16

03/04/2010

06:54:28 PM Picture #21

06:54:28 PM Picture #27

06:54:28 PM Picture #06

06:54:29 PM Picture #7

06:54:30 PM Picture #28

06:54:30 PM Picture #29

06:54:30 PM Picture #30

06:54:30 PM Picture #31

06:54:30 PM Picture #8

06:54:30 PM Picture #9

06:54:30 PM Picture #10

06:54:31 PM Picture #32

06:54:31 PM Picture #33

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03/23/2010

12:05 AM Picture #14

12:06 AM Picture #15

12:07 AM Picture #5

12:11 AM Picture #22

12:19:36 AM Picture #1

12:19:36 AM Picture #23

12:22 AM Picture #26

12:26 AM Picture #25

12:34 AM Picture #24

03/27/2010

04:55 PM Video #5

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04/09/2010

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04/17/2010

09:03 PM Video #4

10:33 PM Video #2

04/18/2010

02:36 AM Video #3

11:03 PM Video #14

11:21:45 PM Video #15

11:21:45 PM Video #16

04/19/2010

12:31 AM Video #17

12:43 AM Video #19

01:10 AM Video #20

03:17 AM Video #23

03:40 AM Video #21

03:23 AM Video #18

04:18 AM Video #22

04:22 AM Video #24

04:47 AM Video #26

09:44 AM Video #25

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10:50 PM Video # 7

11:22 PM Video #8

11:41:21 PM Video #11

11:41:21 PM Video #12

04/20/2010

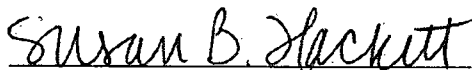
05:00 AM Video #9

06:19 AM Video #10

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

November 14th, 2013.

A handwritten signature in cursive script that reads "Susan B. Hackett". The signature is written in black ink and is positioned above the printed name and title.

Susan B. Hackett
Appellate Defender

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