

VOLUME ONE OF TWO

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Lexington County

William P. Keesley, Circuit Court Judge

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S.C. Supreme Court

SCOTT PARKER,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-001320

APPENDIX

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COURT OF GENERAL SESSIONS

Defendant.

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October 4-7, 2010
Lexington, South Carolina

HONORABLE R. KNOX MCMAHON, Judge; and a jury.

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1 (The following proceedings are reported on
2 October 4, 2010.)

3 THE COURT: Solicitor, call your first case
4 for trial.

5 MR. GRAHAM: Thank you, Your Honor. The State
6 calls for trial Indictment 2009-GS-32-822, the State
7 versus Scott Douglas Parker, indictment for criminal
8 sexual conduct with a minor at least 14 years of age but
9 less than 16.

10 2009-GS-32-849, the State versus Scott Douglas
11 Parker, indictment for criminal sexual conduct with a
12 minor at least 14 years of age but less than 16.

13 Indictment 2009-GS-32-850, the State versus
14 Scott Douglas Parker, indictment for criminal sexual
15 conduct with a minor 11 to 14 years of age.

16 2009-GS-32-851, the State versus Scott Douglas
17 Parker, indictment for criminal sexual conduct with a
18 minor 11 to 14 years of age.

19 2009-GS-32-852, the State versus Scott Douglas
20 Parker, criminal sexual conduct with a minor 11 to 14
21 years of age.

22 (Hands to Court.)

23 THE COURT: Ladies and gentlemen of the jury
24 panel, if you would please give me your complete and
25 undivided attention. We are going to begin a procedure

1 to select a trial jury for the first case that has been
2 called for trial.

3 Please consider yourselves still under oath.
4 You have been placed under oath previously this morning
5 for purposes of this proceeding. If you must respond to
6 any of the questions that are asked of you, make sure
7 your responses are accurate and complete.

8 I am going to publish or read to you the
9 indictments. Indictments or an indictment is the formal
10 charging document by which an individual is placed on
11 notice of the charges that have been brought against him
12 or her.

13 The indictment contains mere allegations and
14 is not any evidence of the allegations contained
15 therein. I publish or read these documents to you
16 because of some of the questions that I must ask you as
17 we go through this procedure. The purpose of this
18 procedure is to select a fair and impartial jury for the
19 trial of this case.

20 It appears there are five indictments:
21 2009-GS-32-822, 849, 850, 851, and 852. The first
22 indictment, 822, reads that Scott Douglas Parker did in
23 Lexington County, South Carolina, between July 2006 and
24 July 2008, commit a sexual battery upon a minor, MINOR 1
 , who was at least 14 years of age but who

1 was less than 16 years of age; to wit, the Defendant
2 performed oral sex upon the victim; to wit, such act
3 occurring at Masters Inn located at 2125 Commerce Drive
4 in the Cayce area, and the Defendant was older than the
5 victim or was in a position of familial, custodial or
6 official authority to coerce the victim to submit in
7 violation of Section 16-3-655(b)(2) of the Code of Laws
8 of South Carolina.

9 The second indictment alleges that the
10 Defendant did in Lexington County between those same
11 dates, July '06 and July '08; commit a sexual battery
12 upon the same named minor, **MINOR 1** , who was
13 at least 14 years of age but who was less than 16 years
14 of age; to wit, the Defendant performed oral sex upon
15 the victim; to wit, such act occurring on [REDACTED]
16 in the Gaston area in violation of 16-3-655(b)(2).

17 The next indictment, 850, reads that Scott
18 Douglas Parker did in Lexington County, South Carolina,
19 between July '06 and July '08, commit a sexual battery
20 upon a minor, **MINOR 2** , who was 14 years of
21 age or less but who was at least 11 years of age; to wit
22 the Defendant performed oral sex upon the victim; to
23 wit, such act occurring at the Masters Inn in the Cayce
24 area in violation of Section 16-3-655(b)(1).

25 The next indictment, Indictment 851, reads

1 that the same named Defendant between those same dates
2 committed a sexual battery upon a minor, MINOR 2
3 , who was at least 14 years of age or less but --
4 who was 14 years of age or less but who was at least 11
5 years of age; to wit, the Defendant performed oral sex
6 upon the victim, such act occurring on [REDACTED] in
7 the Gaston area of Lexington County.

8 And finally, Indictment 852, that the
9 Defendant between those same dates committed a sexual
10 battery upon a minor, MINOR 2 , who was 14
11 years of age or less but who was at least 11 years of
12 age; to wit, the Defendant performed anal sex upon the
13 victim, such act occurring on [REDACTED] in the Gaston
14 area of Lexington County in violation of 16-3-655(b)(1).

15 Again, ladies and gentlemen, these indictments
16 are the formal charging documents. They are the notice
17 documents which places an individual on notice of the
18 charges that have been brought against him or her. They
19 contain mere allegations and are in no sense any
20 evidence of the allegation contained therein.

21 The State in this case is represented by
22 Solicitors Whetstone and Graham. If you would please
23 stand and face the jury panel and introduce yourself,
24 please, Solicitors.

25 MR. GRAHAM: I'm Shawn Graham, Deputy

1 Solicitor with the Lexington County Solicitor's Office.

2 MS. WHETSTONE: I'm Kate Whetstone, Assistant
3 Solicitor with the Lexington County Solicitor's Office.

4 THE COURT: Thank you. Thank you very much.
5 The Defendant is present and he is represented by
6 Mr. Wesley Locklair.

7 Mr. Locklair, if you would please stand and
8 introduce yourself to the jury panel and your client.

9 MR. LOCKLAIR: Thank you, Your Honor. My name
10 is Wesley Locklair. I'm in private practice in Columbia
11 and also have an office in Garden City Beach. This is
12 my client, Scott Parker.

13 THE COURT: Thank you. Thank you very much,
14 Mr. Locklair. Thank you, Mr. Parker. Is any member of
15 the jury panel related by blood or marriage or close
16 personal friends with any of the attorneys involved in
17 this case, either Deputy Solicitor Graham, Assistant
18 Solicitor Whetstone or Mr. Locklair? If so, please
19 stand.

20 (Juror stands.)

21 THE COURT: Yes, sir, your number and name,
22 please?

23 PROSPECTIVE JUROR: Gene Driggers, Number 37.

24 THE COURT: Related, friends?

25 PROSPECTIVE JUROR: Just friends of Scott.

1 THE COURT: I haven't gotten to Scott yet. I
2 was asking about the attorneys. So you are friends with
3 Mr. Parker?

4 PROSPECTIVE JUROR: The gentleman on trial.

5 THE COURT: Step up here for me, sir. Step up
6 here.

7 (The following bench conference with the
8 Court, counsel, and the juror is reported.)

9 THE COURT: I am saying I haven't gotten to
10 Mr. Parker yet. That's quite all right. It suits me
11 perfectly. You say you are friends with Mr. Parker?

12 PROSPECTIVE JUROR: With his family and I
13 consider him a friend.

14 THE COURT: How long have you been friends of
15 Mr. Parker's?

16 PROSPECTIVE JUROR: Three or four years. I
17 saw his father upstairs. I didn't know what the case
18 was about today.

19 THE COURT: Do you know anything about the
20 case?

21 PROSPECTIVE JUROR: No, not really. No, just
22 hearsay. I know nothing.

23 THE COURT: When you say hearsay, other
24 people -- you have heard other people talking about it?

25 PROSPECTIVE JUROR: I know he was arrested. I

1 don't know anything other than that.

2 THE COURT: The fact you are a friend of
3 Mr. Parker's and you knew he was arrested and you know
4 his father, could you still be a fair and impartial
5 juror to both the State and the defense in this case?

6 PROSPECTIVE JUROR: I have doubts. I wouldn't
7 want to, you know...

8 THE COURT: You know yourself. You know
9 yourself better than any of us standing up here.

10 PROSPECTIVE JUROR: I guess I could. It's
11 kind of uncomfortable having known him and his family.

12 THE COURT: Step back over there to the
13 bailiff.

14 (The juror leaves the bench conference and the
15 following is reported.)

16 THE COURT: Do y'all have any other questions?

17 MR. LOCKLAIR: No, sir.

18 MR. GRAHAM: No, sir.

19 THE COURT: Step back up here for me.

20 (The juror returns to the bench conference and
21 the following is reported.)

22 THE COURT: I am going to set you aside for
23 the trial of this case. You may return to your seat.
24 Please do not say anything to your fellow jurors. Thank
25 you very much.

1 (The bench conference is concluded.)

2 THE COURT: Is any member of the jury panel
3 related by blood or marriage or close personal friends
4 of Mr. Locklair? If so, please stand.

5 (There is no response.)

6 THE COURT: Has any member of the jury panel
7 ever been represented by or prosecuted by either -- or
8 any member of your immediate family -- ever been
9 represented by or prosecuted by either Deputy Solicitor
10 Graham, Assistant Solicitor Whetstone or Mr. Locklair?
11 If so please stand.

12 (There is no response.)

13 THE COURT: Is any member of the jury panel
14 related by blood or marriage or close personal friends
15 of the Defendant in this case, Mr. Scott Douglas Parker?
16 If so, please stand.

17 (There is no response.)

18 THE COURT: These indictments allege acts of
19 criminal sexual conduct that occurred between July of
20 '06 and July of '08, in Lexington County. One named
21 victim is **MINOR 2**, at the time being 14 years
22 of age or less but at least 11 years of age. Another
23 named victim, another named minor, **MINOR 1**,
24 who was at least 14 years of age but less than 16 years
25 of age.

1 The allegations are that these incidents
2 occurred at the Masters Inn on Commerce Drive in Cayce
3 and on [REDACTED] in the Gaston area of Lexington
4 County. Does any member of the jury panel have any
5 knowledge about the case? If so, please stand.

6 (There is no response.)

7 THE COURT: Does any member of the jury panel
8 have any bias or prejudice towards the parties, that
9 being the State or the Defendant or the subject matter
10 involved in the case? If so, please stand.

11 (There is no response.)

12 THE COURT: Has any member of the jury panel
13 heard or know anything about the case from any source
14 whatsoever? If so, please stand.

15 (There is no response.)

16 THE COURT: I will call a list of names of
17 potential witnesses in the trial of the case. If any of
18 the witnesses are present when your names are called, I
19 would ask you to please stand and face the jury panel.

20 I would advise the panel that the witnesses
21 are not required to be present during this proceeding.
22 The question, of course, is any member of the jury panel
23 related by blood or marriage or close personal friends
24 with any of these individuals whose names I now call.
25 If you are, please stand.

1 Lance Anderson. Angela Finley. **MINOR 1**
2 . Hailey Finley. Christal Hernandez. That would
3 be the first five names. Is any member of the jury
4 panel related by blood or marriage or close personal
5 friends with any of those individuals? If so, please
6 stand.

7 (There is no response.)

8 **THE COURT:** The next five: Marcus Johnson.
9 Correctional Officer Craig Kinley, Lexington County
10 Sheriff's Department. Sergeant Robbie Lint, L-I-N-T,
11 Lexington County Sheriff's Department. Lieutenant
12 Ernestine McDaniels, Lexington County Sheriff's
13 Department. Christen Moran, M-O-R-A-N.

14 Is any member of the jury panel related by
15 blood or marriage or close personal friends with any of
16 those individuals whose names I just called? If so,
17 please stand.

18 (There is no response.)

19 **THE COURT:** The next five names: **MINOR 2**
20 . Detective Sergeant Roy Mefford, M-E-F-F-O-R-D,
21 Lexington County Sheriff's Department. Deputy Chris
22 Ricciardi, R-I-C-C-I-A-R-D-I, Lexington County Sheriff's
23 Department. Heather Scoggins and Heather Smith.

24 (Juror stands.)

25 **THE COURT:** Yes, ma'am, your number and name,

1 please?

2 PROSPECTIVE JUROR: Number 14, Melanie Brown.

3 THE COURT: Tell me your situation.

4 PROSPECTIVE JUROR: Heather Scoggins is the
5 stepsister of one of my best friends who grew up in the
6 family.

7 THE COURT: Step up here for me, please.

8 (The following bench conference with the
9 Court, counsel, and the juror is reported.)

10 THE COURT: Tell me your name.

11 PROSPECTIVE JUROR: Melanie Brown.

12 THE COURT: Your number?

13 PROSPECTIVE JUROR: Fourteen.

14 THE COURT: Tell me the relationship again.

15 PROSPECTIVE JUROR: My best friend growing up
16 when I was, you know, still in about middle school, that
17 was her stepsister.

18 THE COURT: Heather Scoggins is your best
19 friend's growing up stepsister.

20 PROSPECTIVE JUROR: Yes, sir. I don't know
21 her that well, but I do have knowledge of who she is.

22 THE COURT: Do you see her regularly?

23 PROSPECTIVE JUROR: No.

24 THE COURT: Socialize with her?

25 PROSPECTIVE JUROR: Never. I've seen her

1 around the house but that was it, and that was years
2 ago.

3 THE COURT: When was the last time you saw
4 her?

5 PROSPECTIVE JUROR: Probably I would say 16,
6 17 years ago.

7 THE COURT: The fact -- let me make sure I get
8 this right -- that fact Ms. Scoggins is the stepsister
9 of your best friend growing up?

10 PROSPECTIVE JUROR: Right.

11 THE COURT: Could you still be a fair and
12 impartial juror to both the State and the Defendant in
13 this case?

14 PROSPECTIVE JUROR: Yes, sir.

15 THE COURT: Thank you very much. You may stay
16 with us. You may go back and have your seat.

17 (The bench conference is concluded.)

18 THE COURT: Any others?

19 (There is no response.)

20 THE COURT: Any additional requested voir dire
21 from the State?

22 MR. GRAHAM: No, sir, Your Honor.

23 THE COURT: Any additional witnesses from the
24 State or potential witnesses, Solicitor or Mr. Locklair?

25 MR. GRAHAM: Not from the State, Your Honor.

1 MR. LOCKLAIR: No, sir, Your Honor.

2 THE COURT: Any additional requested voir dire
3 from the Defendant Mr. Locklair?

4 MR. LOCKLAIR: Your Honor, I do have some
5 proposed voir dire. I can hand it up. I can limit it
6 to a couple of questions.

7 (Hands to Court.)

8 THE COURT: Do you have a copy of this,
9 Solicitor?

10 MR. GRAHAM: I think everything but what he
11 added, Your Honor.

12 MR. LOCKLAIR: I didn't add anything. I just
13 circled the ones I wanted.

14 (Attorneys confer.)

15 MR. GRAHAM: Your Honor, may I approach?

16 THE COURT: Yes, sir.

17 (Whereupon there is a bench conference off the
18 record in the presence of the jury but out of the
19 hearing of the jury.)

20 THE COURT: If you would please give me your
21 complete and undivided attention. You have gotten them
22 marked now, Solicitor; is that correct?

23 MR. GRAHAM: Yes, sir, Your Honor.

24 THE COURT: Is there any member of the jury
25 panel that is a member of or contributes to any civic

1 group, such as Mothers against Drunk Driving; M.A.D.D.;
2 People Against Rape, P.A.R.; Citizens Advocating Decency
3 and a Return to Ethics, C.A.D.R.E., Parents Empowered to
4 Save Teens, P.E.S.T. or Citizens Against Violent Crime,
5 C.A.V.E.?

6 If you are a member, belong to or contribute
7 to any of those type -- any of those organizations or
8 those types of organizations, please stand.

9 (Juror stands.)

10 THE COURT: Yes, your number and name, please?

11 PROSPECTIVE JUROR: Jean Paquin, 110.

12 THE COURT: You are a member of or contributor
13 to?

14 PROSPECTIVE JUROR: Contributor to M.A.D.D.

15 THE COURT: Any others?

16 PROSPECTIVE JUROR: No.

17 THE COURT: The fact you are a contributor to
18 M.A.D.D., could you still be a fair and impartial juror
19 in the trial of this case for both the State and the
20 defense?

21 PROSPECTIVE JUROR: Yes, sir.

22 THE COURT: Thank you very much. You may be
23 seated. Any others?

24 (There is no response.)

25 THE COURT: Thank you. I think I asked this

1 question in a different, perhaps more general, manner.
2 I asked the jury panel is any member of the jury panel
3 biased or prejudice towards the parties or the subject
4 matter involved in the case?

5 In other words, can you be a fair and
6 impartial juror in a case alleging sexual acts upon a
7 child, a person, one of them between 11 and 14 and one
8 between 14 and 16? If you cannot, please stand.

9 (Jurors stand.)

10 PROSPECTIVE JUROR: Linda DeLoach.

11 THE COURT: Step up here for me please, ma'am,
12 and you, sir.

13 (The following bench conference with the
14 Court, counsel, and the juror is reported.)

15 THE COURT: This is Ms. DeLoach?

16 PROSPECTIVE JUROR: Yes, sir.

17 THE COURT: Tell me your situation,
18 Ms. DeLoach.

19 PROSPECTIVE JUROR: My daughter was molested
20 at 11.

21 THE COURT: The fact that that occurred with
22 your relative, could you still be a fair and impartial
23 juror in the trial of this case for both the State and
24 the defense?

25 PROSPECTIVE JUROR: I guess so.

1 THE COURT: Here is really the question. We
2 are looking for a fair and impartial jury, and the
3 question is can you set aside what may have occurred to
4 your relative and try this case based on what you hear
5 in this courtroom?

6 PROSPECTIVE JUROR: Yes, sir.

7 THE COURT: And the law as I tell you the law?

8 PROSPECTIVE JUROR: Yes, sir.

9 THE COURT: Not based on what may have
10 occurred?

11 PROSPECTIVE JUROR: Yes, sir.

12 THE COURT: Thank you. You can stay with us.
13 Do not say anything to any of your fellow jurors. Thank
14 you very much, Ms. DeLoach.

15 (The juror leaves the bench, and a bench
16 conference with the next juror is reported as follows.)

17 THE COURT: Good morning. Tell me your
18 number.

19 PROSPECTIVE JUROR: Fifty-one.

20 THE COURT: Tell me your situation.

21 PROSPECTIVE JUROR: I got a little girl, a
22 little daughter. Just the thought of somebody doing
23 harm to another child, whether it's 10, 14, 16, I can't
24 think straight. Right away they are guilty to me.
25 That's in all honesty.

1 THE COURT: Sure. That's what we were looking
2 for, your opinion. There are no right or wrong answers.

3 PROSPECTIVE JUROR: So I don't know if I could
4 be able to focus on the actual situation, what is going
5 on, because of that.

6 THE COURT: I will set you aside for the trial
7 of this case. I would ask you not to say anything to
8 any of your fellow jurors. Thank you very much. You
9 may be seated.

10 (The bench conference is concluded.)

11 THE COURT: Ladies and gentlemen of the jury
12 panel, to replot part of the field, I will cover this
13 question also. Of course, there are no right or wrong
14 answers during this process. Your answers, whatever
15 they are, are correct and right. They are not right or
16 wrong. It's just whatever your answers are is what they
17 are. I don't want you to think you will be penalized in
18 any way if you say you cannot be fair and impartial.

19 Is there any member of the jury panel that
20 believes that I would penalize them in any way if you
21 said you could not be fair and impartial? If so, please
22 stand.

23 (There is no response.)

24 THE COURT: Thank you. Thank you very much.

25 I have asked those that you have circled on

1 the first page, Mr. Locklair, number 3, 4, and 5. I
2 decline to ask Number 11 and 12. You can certainly make
3 the document part of the record. I decline to ask 11
4 and 12 that you circled.

5 MR. LOCKLAIR: Thank you, Your Honor. I
6 appreciate it.

7 THE COURT: Certainly.

8 Finally, ladies and gentlemen, you know
9 yourselves best. Based on that knowledge, that
10 self-knowledge, is there any reason whatsoever why you
11 feel like you could not be a fair and impartial juror in
12 the trial of this case for both the State and the
13 defense? If so, please stand.

14 (There is no response.)

15 THE COURT: Thank you. Thank you very much.
16 I find our panel is qualified with the exception of
17 those individuals that I set aside. I believe Number 37
18 and Number 51. Are there any others that I set aside
19 besides 37 and 51?

20 CLERK: Number 14?

21 THE COURT: I didn't set her aside.

22 CLERK: I apologize. I put a checkmark.

23 THE COURT: Give us a jury panel. What are
24 the strikes, Solicitor?

25 MR. GRAHAM: Five for the State and ten for

1 the defense, Your Honor.

2 THE COURT: Do you agree with that,
3 Mr. Locklair?

4 MR. LOCKLAIR: Yes, Your Honor.

5 THE COURT: Five strikes for the State and ten
6 strikes for the defense.

7 MR. LOCKLAIR: Yes, sir, Your Honor.

8 (Pause.)

9 CLERK: As I instructed you this morning, when
10 I call your name, come down and stand in front of the
11 podium and stay there until I instruct whether you to
12 have a seat in the jury box or return to your seat.
13 Make sure you bring your purses or whatever you have
14 with in case you go this way instead of back that way.

15 Are you ready, Your Honor?

16 THE COURT: Yes, ma'am, please give us a jury.

17 CLERK: Number 34 Dennis Dewolfe.

18 (The juror, a white male, comes forward.)

19 CLERK: What say you for the State?

20 MR. GRAHAM: Please present Mr. Dewolfe.

21 CLERK: What say you for the defense?

22 MR. LOCKLAIR: Please excuse Mr. Dewolfe from
23 this case.

24 CLERK: Return to your seat, please. Sir
25 Number 149, Joel Smith.

1 (The juror, a white male, comes forward.)

2 CLERK: What say you for the State?

3 MR. GRAHAM: Please present Mr. Smith.

4 CLERK: What say you for the defense?

5 MR. LOCKLAIR: Please present Mr. Smith.

6 CLERK: Have a seat in the jury box, sir.

7 Number 158, Matthew St John.

8 (The juror, a white male, comes forward)

9 CLERK: What say you for the State?

10 MR. GRAHAM: Please present Mr. St John.

11 CLERK: What say you for the defense?

12 MR. LOCKLAIR: Please present Mr. St John.

13 CLERK: Have a seat in the jury box, sir

14 Number 137, Roger Schroppe.

15 (The juror, a white male, comes forward.)

16 CLERK: What say you for the State?

17 MR. GRAHAM: Please present Mr. Schroppe.

18 CLERK: What say you for the defense?

19 MR. LOCKLAIR: Please excuse Mr. Schroppe for

20 the trial of this case.

21 CLERK: Return to your seat, please, sir.

22 Number 180, Sherrie Wilkins.

23 (The juror, a black female, comes forward.)

24 CLERK: What say you for the State?

25 MR. GRAHAM: Please present Ms. Wilkins.

1 CLERK: What say you for the defense?

2 MR. LOCKLAIR: Please seat Ms. Wilkins for
3 this case.

4 CLERK: Have a seat in the jury box, please,
5 ma'am. Number 33, Linda DeLoach.

6 (The juror, a white female, comes forward.)

7 CLERK: What say you for the State?

8 MR. GRAHAM: Please present Ms. DeLoach.

9 CLERK: What say you for the defense?

10 MR. LOCKLAIR: Your Honor, I move to strike
11 this juror for cause.

12 THE COURT: Denied.

13 MR. LOCKLAIR: Please excuse Ms. DeLoach for
14 the trial of this case.

15 CLERK: Return to your seat, please, ma'am.
16 Number 50, Michael Gullledge.

17 (The juror, a white male, comes forward)

18 CLERK: What say you for the State?

19 MR. GRAHAM: Please present Mr. Gullledge.

20 CLERK: What say you for the defense?

21 MR. LOCKLAIR: Please excuse Mr. Gullledge from
22 this trial.

23 CLERK: Return to your seat, please, sir
24 Number 36, Mary Downing.

25 (The juror, a white female, comes forward.)

1 CLERK: What say you for the State?

2 MR. GRAHAM: Please present Ms. Downing.

3 CLERK: What say you for the defense?

4 MR. LOCKLAIR: Please present Ms. Downing.

5 CLERK: Have a seat in the jury box, ma'am.

6 Number 133, Rene Salter.

7 (The juror, a white female, comes forward.)

8 CLERK: What say you for the State?

9 MR. GRAHAM: Please present Ms. Salter.

10 CLERK: What say you for the defense?

11 MR. LOCKLAIR: Please present Ms. Salter.

12 CLERK: Have a seat in the jury box, ma'am.

13 Number 13, April Browder.

14 (The juror, a white female, comes forward.)

15 CLERK: What say you for the State?

16 MR. GRAHAM: Please present Ms. Browder.

17 CLERK: What say you for the defense?

18 MR. LOCKLAIR: Please present Ms. Browder.

19 CLERK: Have a seat in the jury box, ma'am.

20 Number 140, Katherine Scott.

21 (The juror, a white female, comes forward.)

22 CLERK: What say you for the State?

23 MR. GRAHAM: Please present Ms. Scott.

24 CLERK: What say you for the defense?

25 MR. LOCKLAIR: Please present Ms. Scott.

1 CLERK: Have a seat in the jury box, ma'am.

2 Number 71, Robin Jacobs.

3 (The juror, a white female, comes forward.)

4 CLERK: What say you for the State?

5 MR. GRAHAM: Please present Ms. Jacobs.

6 CLERK: What say you for the defense?

7 MR. LOCKLAIR: Please excuse Ms. Jacobs for
8 the trial of this case.

9 CLERK: Return to your seat, please, ma'am,
10 Number 64, Brian Hollis.

11 (The juror, a white male, comes forward.)

12 CLERK: What say you for the State?

13 MR. GRAHAM: Please present Mr. Hollis.

14 CLERK: What say you for the defense?

15 MR. LOCKLAIR: Please present Mr. Hollis.

16 CLERK: Have a seat in the jury box, sir.

17 Number 55, Stephen Harriman.

18 (The juror, a white male, comes forward.)

19 CLERK: What say you for the State?

20 MR. GRAHAM: Please present Mr. Harriman.

21 CLERK: What say you for the defense?

22 MR. LOCKLAIR: Please present Mr. Harriman.

23 CLERK: Have a seat in the jury box, sir

24 Number 23, Charles Cashwell.

25 (The juror, a white male, comes forward.)

1 CLERK: What say you for the State?

2 MR. GRAHAM: Please present Mr. Cashwell.

3 CLERK: What say you for the defense?

4 MR. LOCKLAIR: Please present Mr. Cashwell.

5 CLERK: Have a seat in the jury box, sir.

6 Number 119, Dustin Pritchett.

7 (The juror, a white male, comes forward.)

8 CLERK: What say you for the State?

9 MR. GRAHAM: Please excuse Mr. Pritchett.

10 CLERK: Return to your seat, please, sir.

11 Number 165, Kimberly Taylor.

12 (The juror, a white female, comes forward.)

13 CLERK: What say you for the State?

14 MR. GRAHAM: Please present Ms. Taylor.

15 CLERK: What say you for the defense?

16 MR. LOCKLAIR: Please present Ms. Taylor.

17 CLERK: Have a seat in the jury box, ma'am.

18 Number 182, James Wolfe.

19 (The juror, a white male, comes forward.)

20 CLERK: What say you for the State?

21 MR. GRAHAM: Please present Ms. Wolf.

22 CLERK: What say you for the defense?

23 MR. LOCKLAIR: Please present Mr. Wolfe.

24 CLERK: Have a seat in the jury box.

25 Alternates, Your Honor?

1 THE COURT: One alternate. The strikes are
2 one and two.

3 CLERK: Yes, sir. Number 17, Dana Bagwell.

4 (The juror, a white female, comes forward.)

5 CLERK: What say you for the State?

6 MR. GRAHAM: Please present Ms. Bagwell.

7 CLERK: What say you for the defense?

8 MR. GRAHAM: I'm sorry, Madame Clerk, the
9 number and name again?

10 CLERK: Seventeen, Dana Bagwell.

11 MR. GRAHAM: Please present Ms. Bagwell.

12 CLERK: What say you for the defense?

13 MR. LOCKLAIR: Please excuse Ms. Bagwell.

14 CLERK: Return to your seat, please, ma'am,
15 Number 8, Jeannie Bedenbaugh.

16 (The juror, a white female, comes forward.)

17 CLERK: What say you for the State?

18 MR. GRAHAM: Please present Ms. Bedenbaugh.

19 CLERK: What say you for the defense?

20 MR. LOCKLAIR: Please excuse Ms. Bedenbaugh.

21 CLERK: Return to your seat, please, ma'am.
22 Seventy-three, Jacqueline Kenner.

23 (The juror, a black female, comes forward.)

24 CLERK: What say you for the State?

25 MR. GRAHAM: Please present Ms. Kenner.

1 CLERK: What say you for the defense?

2 MR. LOCKLAIR: Please present Ms. Kenner.

3 CLERK: Have a seat in the jury box, ma'am.

4 That's the alternate, Your Honor.

5 (The jury is impaneled at 11:38 a.m.)

6 THE COURT: Any motions regarding the jury
7 selection process from the State?

8 MR. GRAHAM: Not from the state, Your Honor.

9 THE COURT: From the defense?

10 MR. LOCKLAIR: No, sir, Your Honor.

11 THE COURT: Thank you. Thank you very much.

12 Ladies and gentlemen of the jury panel just
13 selected for trial of this case, momentarily I am going
14 to allow you to step to your jury room. The bailiff
15 will show you the way to your jury room.

16 During this brief recess, I will give
17 instructions to your colleagues who were not selected
18 for the trial of this case and find out where we are at
19 administratively.

20 I would remind you during this brief recess,
21 you are not to discuss this case with anyone. That
22 includes your fellow jurors or anyone else. If anyone
23 tries to talk with you about the case, please let me
24 know immediately.

25 You will not be authorized to talk with anyone

1 about the case until you have heard all the evidence,
2 all of the testimony in the case, the closing arguments
3 by the attorneys, and the instructions on the law by the
4 Court and then directed by the Court to begin your
5 deliberations with your fellow jurors in your jury room.

6 I will give you further instructions
7 concerning your jury service upon your return to the
8 courtroom, but at this time I will ask you if you would
9 please go with your bailiff to your jury room, following
10 my instructions. Thank you. Thank you very much.

11 (The jury retires to the jury room.)

12 (The panel is excused.)

13 THE COURT: Solicitor, where are we at
14 administratively, the time frame as far as the State is
15 concerned? Then I will go to Mr. Locklair.

16 MR. GRAHAM: Your Honor, we have several
17 motions that we need to hear. I believe the only one
18 with testimony is a Jackson versus Denno. There is an
19 issue involving release of records. My understanding is
20 that Judge Chewning in family court will hear that
21 today.

22 I would imagine honestly that they will be
23 released to Mr. Locklair, and I'm sure Mr. Locklair will
24 need time to review it and determine how he is going to
25 use it. There is some potential impeachment evidence in

1 there. Per that, Your Honor, as far as testimony and
2 opening statements, we have planned to start tomorrow.

3 THE COURT: Mr. Locklair?

4 MR. LOCKLAIR: Yes, sir, that's what we had
5 discussed. I have some motions for this afternoon, most
6 of which are just brief, just a couple of statements
7 that won't take long at all.

8 THE COURT: I would like to take up all the
9 motions we can take up before lunch.

10 MR. LOCKLAIR: Yes, sir.

11 THE COURT: If that's all right. Then we will
12 do the one with the live testimony after lunch if that
13 will be all right.

14 MR. GRAHAM: Yes, Your Honor.

15 THE COURT: Is that all right with you,
16 Mr. Locklair?

17 MR. LOCKLAIR: Yes, sir.

18 THE COURT: Then I will tell the panel, I will
19 tell this jury panel, to be back at 9:30 in the morning.
20 If you would bring me the jury panel please.
21 Number 133, Ms. Salter, is the foreperson. If you would
22 put her in the foreperson's seat and, of course,
23 Ms. Kenner --

24 BAILIFF: Yes, Your Honor.

25 THE COURT: -- is the alternate.

1 (The jury returns to the courtroom.)

2 THE COURT: We have had an election in y'all's
3 absence and a volunteer foreperson for the service as
4 foreperson of this jury. So I thank you very much --

5 FOREMAN: You're welcome.

6 THE COURT: -- for performing that vital
7 service. If you would always maintain that seat.
8 Ms. Kenner, if you would always maintain your seat. I
9 need to keep up with the forelady and the alternate.
10 The other members of the jury panel, you may sit
11 wherever you like.

12 I have found trying cases over the years, both
13 as a trial lawyer and as a judge, that sometimes jurors
14 are very territorial. They like to sit in the same seat
15 every time. Other jurors don't really care. But if you
16 can get to the same seat every time, that's fine or you
17 may sit wherever you like in the jury box.

18 Ladies and gentlemen, momentarily I am going
19 to release you from your service in this particular
20 trial for the remainder of the day. This trial is no
21 different than many others that are tried in this and
22 other courtrooms throughout South Carolina. There are
23 certain pretrial matters that must be addressed prior to
24 the actual commencement of the trial and the taking of
25 testimony.

1 Rather than hold you captive or bring you back
2 after lunch and not be done with those matters -- it's
3 always hard to predict how long they will take -- I will
4 release you, as I say, for the remainder of the morning
5 and the remainder of the day and ask you to report back
6 to your new temporary home, your jury room, promptly at
7 9:30 in the morning. We will start the trial at that
8 time.

9 I must give you a little bit further
10 instructions concerning your duties and responsibilities
11 as jurors in the trial of this case. During this recess
12 I will remind you, you may not discuss this case with
13 anyone. That includes your fellow jurors, your family,
14 your friends or anyone else.

15 If anyone tries to talk with you about the
16 case, please let me know. I further must instruct you
17 that during your jury service until it is concluded on
18 this trial, you may not discuss this case with others,
19 except as authorized by the Court.

20 You may not read or listen to any news reports
21 about the case, should there be any. You may not use a
22 computer, cellular phone or other electronic device with
23 communication capabilities while in attendance at trial
24 or during deliberations.

25 These devices may be used during lunch breaks

1 and over the evening but may not be used to obtain or
2 disclose certain prohibited information. In other
3 words, you may not use a computer to gain any
4 information about the case, including but not limited to
5 the following:

6 Information about a party, a witness, an
7 attorney or a Court officer, information concerning news
8 accounts of the case, information collected through
9 juror research on any topics raised or testimony offered
10 by any witness or information collected through juror
11 research on any other topic the juror might think would
12 be helpful in deciding the case.

13 Ladies and gentlemen, what that means in this
14 age of the readily accessible information, that you
15 can't go to your computer and do research about any of
16 the parties or research about the law that applies or
17 may apply in this matter.

18 You must try and decide the case based on the
19 evidence and the testimony that is presented to you in
20 this courtroom by the witnesses testifying under oath
21 from this witness stand and the law as I tell you the
22 law is in South Carolina.

23 Up until March of this year, I would advise
24 jurors of this. This directive actually came out 20
25 July, 2009 from our State Supreme Court and said, you

1 know, it's kind of in response to cases that were
2 occurring in other areas of the country. There was none
3 of this as far as any South Carolina cases.

4 Well, I can't say that anymore. In March of
5 this year, a juror did some research on the internet.
6 Everybody goes back to square one. The juror was held
7 in contempt, was fined. I do not believe that
8 particular juror was jailed, but I wasn't the judge.

9 Be that as it may, your oath will be to try
10 the case based on the evidence and testimony you hear in
11 the courtroom and the law as I instruct you the law is.
12 I know you will be faithful to that oath. With that
13 being said, any objections to what I have told the jury
14 from the State?

15 MR. GRAHAM: Not from the State, Your Honor.

16 THE COURT: Any additional requested
17 instruction for the overnight recess, Solicitor?

18 MR. GRAHAM: No, sir.

19 THE COURT: Mr. Locklair?

20 MR. LOCKLAIR: No, sir, on both questions.

21 THE COURT: Thank you. Thank you very much.

22 I am going to release you from your jury service for the
23 remainder of the morning -- I just about wore that
24 out -- and the remainder of the day.

25 I will ask you to, again, please be back

1 promptly at 9:30 in the morning. Thank you for being
2 with us today. It has been my pleasure and privilege.
3 You are now excused.

4 (The jury is excused for the day at
5 11:54 a.m.)

6 THE COURT: What motions do we have?

7 MR. LOCKLAIR: May it please the Court, Your
8 Honor. The first motion I think the prosecutor has
9 already complied with in advance, Rule 5 for statements,
10 that any witness that will testify, after they testify,
11 if they haven't already produced them -- I know they
12 have given me the statements of the victims -- I am sure
13 they have produced those already. If there were any
14 additional statements, I would like them after the
15 testimony of the witnesses.

16 THE COURT: Are there any additional
17 statements, Solicitor?

18 MR. GRAHAM: I don't believe that there are
19 any additional statements that were taken by law
20 enforcement in this case, Your Honor.

21 THE COURT: Thank you.

22 MR. LOCKLAIR: The second one is a motion to
23 prohibit references to the Defendant's prior bad acts.
24 He is currently on probation for a lewd act charge. I,
25 just want that motion and ask the Court to instruct the

1 prosecutor -- I am sure they have already -- to go over,
2 especially with some of the witnesses being kids, the
3 importance of not bringing that up during the trial.

4 Obviously if he were to choose to testify
5 later, that might change the Court's ruling, but at this
6 point he is not planning on testifying. I would ask the
7 Court to prohibit any reference to that or any other
8 prior bad acts.

9 THE COURT: Solicitor?

10 MR. GRAHAM: Your Honor, we have instructed
11 our witnesses and we will again. The only issue, and
12 I'm not exactly sure how to deal with it, both boys
13 became aware of his conviction through hearsay, I
14 believe both of them from their mothers.

15 Both of them would testify that the abuse on
16 them stopped around that time. I haven't quite figured
17 out how I am going to deal with that. Obviously I don't
18 plan on asking them do they know that the Defendant was
19 convicted of a lewd act charge at this time, but I have
20 instructed the witnesses, all witnesses, not to discuss
21 that fact, that it would result in a mistrial.

22 THE COURT: I guess at this time as far as a
23 motion in limine, I am granting the motion in limine.
24 If you think during the course and development of the
25 testimony, that changes, just say you have a matter of

1 law, and I will send the panel out.

2 I would further advise that many times in
3 those cases, Solicitor and Mr. Locklair, it's best to
4 let the opposing attorney lead the path through that
5 quicksand, so to speak, and perhaps to where they have a
6 particular witness on a real short leash in that regard,
7 but at this time I am granting it as far as the motion
8 in limine.

9 MR. LOCKLAIR: Thank you, Your Honor. Your
10 Honor, my next motion is to prohibit references to
11 complainants slash alleged victims and victims and
12 prohibit references to the Defendant as a suspect.

13 The jury's verdict could reflect the alleged
14 victims in the case are not victims of any crime. That
15 is an ultimate issue for the jury to decide. I think
16 calling them victims presupposes the fact they were
17 victims of the crime and prejudices my client.

18 Further, in State versus Jones, the South
19 Carolina Supreme Court held the testimony calling the
20 Defendant the immediate suspect was inadmissible, as it
21 put the Defendant's character at issue.

22 We would ask that he not be called a prime
23 suspect or immediate suspect in this case and also that
24 the alleged victims not be referred to as victims during
25 the trial.

1 THE COURT: What shall we call them,
2 Mr. Locklair?

3 MR. LOCKLAIR: I think calling them the
4 complainant, the alleged victims. I have had it granted
5 in other trials.

6 THE COURT: I don't mind granting it. I just
7 want to -- everybody on the same sheet of music in that
8 regard. Solicitor?

9 MR. GRAHAM: Your Honor, I don't believe that
10 there is any case law dealing with this issue or
11 probably Mr. Locklair would have cited it. Obviously we
12 wouldn't be here if the State, myself and Ms. Whetstone,
13 didn't believe that he was guilty and that these were
14 victims.

15 Obviously we have got to convince the jury of
16 that beyond a reasonable doubt. I believe in our
17 opening and closing statements, for sure, we ought to be
18 able to refer to them as victims. That's what we have
19 to prove and we are asking for that.

20 MR. LOCKLAIR: I would just reinforce on that
21 point, that's what they have to prove. Until they prove
22 it, it's not a fact, not in evidence, and should be
23 inadmissible. The whole point of this is to prove they
24 were victims. That's the whole point of this trial.

25 THE COURT: I think that's a slightly

1 different twist. What the solicitor is saying, he said
2 in his opening and closing. My understanding of what an
3 opening is and my understanding of what a closing is,
4 first off, it's not evidence. The opening is a brief
5 statement of what you intend to prove.

6 He intends to prove that MINOR 2 and MINOR 1 are
7 victims. So in that regard I think I would allow that,
8 but I also tell the jury prior to the openings, that
9 that is not evidence, what the attorneys say is not
10 evidence.

11 In the closing, of course, he can argue the
12 facts and the reasonable inferences to be drawn from the
13 facts, again telling the jury that that's not evidence
14 either, his closing or your closing. I think he could
15 use the term victim.

16 I think your motion goes more to the questions
17 to where you kind of, if you say suspect long enough or
18 you say victim long enough, do they become suspect and
19 do they become victim just because it's repeated.

20 It kind of harkens back to the O.J. Simpson
21 trial when they show pictures of a victim of abuse
22 enough, they desensitize to it. It may cut both ways in
23 that regard. If you want to call them the alleged
24 victims in your questioning, I will grant that. I don't
25 know whether the officer is going to refer to Mr. Parker

1 as the suspect.

2 MR. GRAHAM: I don't know either.

3 THE COURT: I mean, the question, did you
4 develop a suspect, that's a pretty commonsensical
5 question that I think kind of directs the focus and why.
6 Because I take it that MINOR 2 and MINOR 1 knew
7 Mr. Parker. I take it this is not --

8 MR. GRAHAM: You are correct.

9 THE COURT: -- an identification case.

10 MR. LOCKLAIR: Your Honor, I don't care if
11 obviously he asks, did you develop a suspect or
12 something limited to that nature. I just ask that he
13 kind of not repeat the references. If he could just
14 watch that. If it comes up, I can object later on if
15 that's the case.

16 THE COURT: Well, I mean, he can limit it. By
17 the way, which State versus Jones was that?

18 MR. LOCKLAIR: The one from 2001.

19 THE COURT: What's the first name?

20 MR. LOCKLAIR: I don't have the case with me.
21 I just cited it in the motion, a written thing I
22 drafted. I don't have it in front of me. Do you want
23 the next motion, Your Honor?

24 THE COURT: Yes, sir.

25 MR. LOCKLAIR: Finally, we have a motion to

1 sever. Obviously there's two victims in this case.
2 Really, obviously we would concede that the law on
3 motion to sever, the only point we would have is the
4 right of the Defendant being prejudiced.

5 Obviously this case is with the same witnesses
6 and same similar facts. We concede that. It's an
7 extreme prejudice it causes the Defendant. Obviously
8 these cases are prejudicial enough by the nature of the
9 charge, the very connotation, criminal sexual conduct
10 with a minor, and the emotions that it carries.

11 When you have two victims that are going to be
12 tried together, I think it's much more likely the
13 Defendant is prejudiced. Because basically in cases
14 like this, it's basically their word against his word.

15 And when you have two people corroborating the
16 same story from different incidents, it prejudices the
17 Defendant because it makes the jury think in their mind
18 it's more likely to happen if two different people are
19 saying the same thing occurred; whereas if there is one
20 person in one trial saying they are a victim and another
21 person in another trial saying they are alleged victims.

22 We would ask the Court to sever the cases of
23 the two alleged victims in the case for two separate
24 trials.

25 THE COURT: Solicitor?

1 MR. GRAHAM: Your Honor, the State has
2 prepared a memorandum in support of consolidation of
3 these indictments. I will hand one to Mr. Locklair and
4 pass one up to Your Honor.

5 (Hands to Court.)

6 MR. GRAHAM: Your Honor, the allegations in
7 this case and the testimony that will be elicited from
8 these two boys is basically they were both present on --
9 they were both together, the two of them together with
10 Mr. Parker, either at the hotel, the Masters Inn, or at
11 the trailer, camper that Mr. Parker lived in on [REDACTED]
12 [REDACTED]. They are both witnesses to each other.

13 They will testify that they saw the Defendant
14 perform oral sex on the other victim as well as the fact
15 that he performed it on them. Under State v. Smith,
16 consolidation would be proper because they are connected
17 transactions. They are closely related in time, place,
18 and character.

19 The Court has held that is proper
20 consolidation. In State v. Jones, 479 S.E.2d 517, a
21 Court of Appeals case from '96, the Court of Appeals
22 determined that the offenses charged were the same
23 general nature involving allegations of abuse involving
24 two minor victims.

25 The Court noted that both victims had been

1 taken to the same location and were present in the same
2 hotel room on the occasions of abuse, which is the
3 situation we have here in our case.

4 Additionally, Your Honor, and I guess finally
5 probably, the Court has held that the Defendant would
6 not suffer greater prejudice by consolidation of the
7 trial merely because the testimony of each victim would
8 be admissible in the alternative as evidence of common
9 scheme or plan pursuant to Rule 404(b). There is a
10 lists of cases that site that proposition, Your Honor.

11 Even if we chose to go forward on one victim,
12 the other victim would be a witness, and the jury would
13 hear the same facts. So if we didn't consolidate the
14 trial, we would have to have a second trial on the other
15 set of charges, but the testimony itself would come in.

16 Your Honor, I do have a copy -- Ms. Whetstone
17 handed me a copy -- of the State versus Jones case if
18 you would like to look at that.

19 THE COURT: Yes, sir.

20 (Hands to Court.)

21 MR. GRAHAM: Just for clarity, in case I
22 misrepresented something or it was misunderstood, while
23 each victim will testify of seeing the other victim,
24 there are going to be times when they both were present
25 but did not -- for example, a victim may say they were

1 molested X. number of times.

2 The other victim or witness will testify that
3 they saw the sexual abuse occur, but it was a lesser
4 number than that, although they will both maintain that
5 they were both present in the same physical location.

6 THE COURT: Mr. Locklair, do you care to
7 respond?

8 MR. LOCKLAIR: No, sir, I don't have anything
9 additional, Your Honor.

10 THE COURT: I'm sorry?

11 MR. LOCKLAIR: I don't have anything
12 additional, Your Honor.

13 THE COURT: Based on the representations to
14 the Court at this point, it appears it would be a common
15 plan or scheme and that it would be admissible under
16 State versus Jones, 479 S.E.2d 517, both as to the
17 victim MINOR 1 and MINOR 2 in the same trial.

18 Further, this line of cases going back to
19 McClellan and Hallman and the other line of cases, I
20 realize -- I think there is a little bit of a different
21 twist in sexual abuse cases, but it also goes to the
22 issue, for example in Cutro and those type of cases
23 also, where you have multiple victims. So I would deny
24 your motion to sever in that regard. Do you have any
25 other motions, Mr. Locklair?

1 MR. LOCKLAIR: No, sir, that's all the defense
2 has at this time, Your Honor.

3 THE COURT: Solicitor?

4 MR. GRAHAM: Your Honor, the only motions from
5 the State would be the Jackson versus Denno that we will
6 handle after lunch. Mr. Locklair and I need to go to
7 schedule a time to meet with Judge Chewning on the
8 family court records that I mentioned earlier.

9 The only other thing for Your Honor to handle
10 right now on the record is I note that I filed a
11 reciprocal Rule 5 and I have not received anything from
12 the defense counsel at this time.

13 MR. LOCKLAIR: We are not planning on
14 introducing any documents into evidence, and there is
15 nothing that fell under Rule 5 for us to produce.

16 THE COURT: All right. See you at 1:30.

17 MR. GRAHAM: Yes, Your Honor.

18 MR. LOCKLAIR: Yes, sir, Your Honor.

19 THE COURT: Court will be in recess until
20 1:30. Thank you. Thank you very much.

21 MR. LOCKLAIR: Thank you, Your Honor.

22 (Whereupon there is a luncheon recess.)

23 THE COURT: Solicitor?

24 MR. GRAHAM: Thank you, Your Honor. We have a
25 Jackson versus Denno hearing. I have two witnesses for

ROY MEFFORD -- IN CAMERA -- MR. GRAHAM

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1 the State on that, Your Honor.

2 THE COURT: You may call your witness.

3 MR. GRAHAM: The State calls Detective
4 Sergeant Roy Mefford to the stand.

5 ROY MEFFORD, being
6 first duly sworn, testifies as follows:

7 CLERK: Once you are seated, state your full
8 name, spelling your last.

9 THE WITNESS: Roy Mefford, M-E-F-F-O-R-D.

10 IN CAMERA EXAMINATION

11 BY MR. GRAHAM:

12 Q Detective Mefford, where are you currently
13 employed?

14 A With the Lexington County Sheriff's Department.

15 Q In what capacity do you work for Sheriff Metts?

16 A I'm a detective sergeant in the property crimes
17 unit.

18 Q What does that entail?

19 A We work -- I run a team that works burglaries and
20 larcenies and motor vehicle theft.

21 Q Prior to that were you a major crimes investigator?

22 A I was.

23 Q What is a major crimes investigator?

24 A A major crimes investigator handles crimes
25 primarily against persons, sexual assaults,

1 robberies, and criminal domestic violence type
2 situations.

3 Q January 13, 2009, did you have the opportunity to
4 assist Detective Robbie Lint involving the arrest
5 of Scott Douglas Parker?

6 A I did.

7 Q And what was he being placed under arrest for at
8 that time?

9 A Detective Lint was working a criminal sexual
10 conduct case involving the Defendant, and I rode
11 with him to effect the arrest at the location that
12 Detective Lint found he was working at.

13 Q Is that common or uncommon for you to work with
14 another detective in that capacity?

15 A It's very common.

16 Q On January 13, 2009, where did you go to place
17 Mr. Parker under arrest? Where did you find him?

18 A He was working in the Three Fountains area off of
19 Emmanuel Church doing a construction job there, and
20 Detective Lint had that address. He was given the
21 address. I drove there with him to arrest him.

22 Q And was he, in fact, placed under arrest?

23 A He was.

24 Q And does that include -- you are detaining him. Is
25 he put in handcuffs at that time?

1 A Correct. He was advised that he was under arrest
2 and handcuffed and placed in the vehicle.

3 Q Whose car was he placed in?

4 A We were in Detective Lint's unmarked vehicle.

5 Q Would you describe where everybody was in the
6 vehicle.

7 A Detective Lint drove, the Defendant was placed in
8 the front seat, and I rode in the back.

9 Q During the car ride, did you or anyone advise
10 Mr. Parker of his Miranda rights?

11 A We did. Detective lint was driving and I was in
12 the back seat. It was easier for me to advise him
13 of his rights at that point.

14 Q And prior to advising him of his rights or during
15 the advisement or before, did you or Detective Lint
16 explain what the -- why he was under arrest and
17 what the allegations were?

18 A We explained the charges, I Mirandized him, and
19 then I read the affidavit to him in the vehicle.

20 Q Did you have anything to assist you? How did you
21 read him his rights?

22 A If I am not doing it on a statement form, I use a
23 card that I keep in my wallet from the South
24 Carolina Law Enforcement Association.

25 Q And do you have that card that you used to

1 Mirandize Mr. Parker with you?

2 A I do.

3 Q And would you go through the rights the you went
4 through with Mr. Parker that day in the manner that
5 you did.

6 A I was in the back seat and I would read the card to
7 him. You have the right to remain silent.

8 Anything you say can be used against you in a court
9 of law. You have the right to talk to an attorney
10 and have him or her present with you while you are
11 being questioned.

12 If you cannot afford to hire an attorney, one
13 will be appointed to represent you before any
14 questioning if you wish. You can decide at any
15 time to exercise these rights and not answer any
16 questions or make any statements.

17 Then at that time I would ask him if he
18 understood his rights and ask if he was willing to
19 talk to us, at which time he indicated to me he did
20 understand his rights, and he wanted to talk about
21 the allegations.

22 Q Was there any indication to you that he did not
23 understand his rights?

24 A There was no indication.

25 Q Any indication to you that his decision to speak

1 with you was not knowingly and intelligently and
2 voluntarily made on his behalf?

3 A None.

4 Q Was there any question in your mind whether
5 Mr. Parker was under the influence of drugs or
6 alcohol at the time that you Mirandized him?

7 A I did not detect any indication of that.

8 Q Did you or Detective Lint coerces or threaten
9 Mr. Parker to make statements to you that day?

10 A No.

11 Q Did you or Detective Lint give Mr. Parker any hope
12 of reward or promise of leniency for speaking with
13 you?

14 A No.

15 Q And did he, in fact, speak with you all?

16 A Yes, he did.

17 Q Do you remember, not being the lead detective on
18 the case, do you remember what he said?

19 A After I read him the affidavit on the warrants that
20 we had at that time -- I had the affidavits with me
21 and I read them to him -- Detective Lint and him
22 were having a conversation about the case. I knew
23 very little about the case, other than riding with
24 Detective Lint to make the arrest.

25 After I Mirandized him, I know he did deny the

- 1 allegations against him and made reference to a
2 witness but did not provide the witness'
3 information to Detective Lint. Then at that time
4 we took him up to the jail and booked him in.
- 5 Q The allegations, do you remember which juvenile the
6 allegations dealt with?
- 7 A I would have to refer to the warrants for the
8 names. I would have to refer to the warrants.
9 Which juvenile I read?
- 10 Q Which one he was placed under arrest for?
- 11 A I would have to go and look at those.
- 12 Q If you don't, that's okay.
- 13 A I don't remember their names.
- 14 Q He was placed under arrests for one juvenile?
- 15 A I remember he was placed under arrest for one of
16 the charges and additional charges came later. I
17 found that out from talking to Detective Lint.
- 18 Q Do you remember anything else about the statements
19 that Mr. Parker made, other than he denied it?
20 What else did you say?
- 21 A That there was a female witness that could -- that
22 would straighten everything out, words to that
23 effect, but he didn't provide her name.
- 24 Q Was he asked to provide her name?
- 25 A By Detective Lint, yes.

1 Q But he did not?

2 A He did not at that time.

3 Q Do you remember anything else about Mr. Parker's
4 statements?

5 A Just a brief conversation and that he denied the
6 allegations. I do know that.

7 Q Please answer any questions defense counsel has.

8 MR. LOCKLAIR: I don't have any questions for
9 this witness, Your Honor.

10 THE COURT: Thank you. Thank you very much,
11 Sergeant.

12 THE WITNESS: Thank you, Your Honor.

13 (Witness leaves the witness stand.)

14 MR. GRAHAM: The State calls Sergeant Robbie
15 Lint.

16 CHARLES ROBERT LINT, JR.,
17 being first duly sworn, testifies as follows:

18 CLERK: Once you are seated state your full
19 name spelling your last.

20 THE WITNESS: Charles Robert Lint, Jr.,
21 L-I-N-T.

22 IN CAMERA EXAMINATION

23 BY MR. GRAHAM:

24 Q Sergeant Lint, where are you employed, sir?

25 A Lexington County Sheriff's Department.

1 Q And how long have you been employed there?

2 A Since May of 2003.

3 Q Prior to that where were you employed?

4 A I was employed with Probation, Parole and Pardon
5 Services for the State since October of '97.

6 Q Back on January 13, 2009, what was your capacity
7 with the sheriff?

8 A I was a detective in the major crimes unit.

9 Q And specifically were you the investigator,
10 detective who was assigned to the case involving
11 Scott Parker?

12 A I was.

13 Q January 13th of 2009, where, if anywhere, did you
14 go to place Mr. Parker under arrest?

15 A I was provided information that Mr. Parker was
16 working at a job site, I believe possibly a roofing
17 job or some type of construction job. It was at
18 504 Cedar Field Road in the Three Fountains area of
19 Lexington County.

20 Q Who, if anyone, was with you when you went there?

21 A Detective Mefford at that time, Sergeant Mefford
22 now.

23 Q And did you, in fact, find Mr. Parker at that
24 location?

25 A I did. I believe he was working with his brother.

1 Q And was he placed under arrest and handcuffed?

2 A Yes, sir. I'm the one who effected advising him
3 that he was under arrest and placing him in
4 handcuffs.

5 Q And for the warrants that he was placed under
6 arrest on that day, do you know who the alleged
7 victim was?

8 A MINOR 2 , better known as MINOR 2 . They
9 were for three counts of C.S.C. with a minor.

10 Q After Mr. Parker was placed under arrest, was he
11 transported from the site?

12 A He was.

13 Q In whose vehicle was that?

14 A That was my unmarked vehicle. Mr. Parker was
15 placed in the front seat, I drove, and Detective
16 Mefford at that time sat in the back seat.

17 Q Mr. Parker was in custody and detained at that
18 time?

19 A He was.

20 Q And did you or Detective Mefford advise him of the
21 allegations in the warrants?

22 A Yes, sir, I advised him what he was under arrest
23 for at the time. We had three warrants for
24 criminal sexual conduct with a minor.

25 Q And was he Mirandized?

1 A He was.

2 Q Who Mirandized him?

3 A Detective Mefford.

4 Q And you were present when that happened?

5 A I was.

6 Q That was in the car as y'all were traveling away?

7 A Yes, sir.

8 Q Do you know if Detective Mefford used anything to
9 advise Mr. Parker of his rights?

10 A He read them from his Miranda card.

11 Q And do you have a Miranda card just like that one?

12 A I do, the one I keep here in my pocket.

13 Q Would you explain to the Court how Detective
14 Mefford advised Mr. Parker of his Miranda rights.

15 A He read Mr. Parker his Miranda rights straight from
16 the card. If you like, I could go through all of
17 them.

18 Q Please do.

19 A One, you have the right to remain silent. Two,
20 anything you say can and will be used against you
21 in a court of law. Three, you have the right to
22 talk to an attorney and have him or her present
23 with you while you are being questioned.

24 Four, if you cannot afford to hire an
25 attorney, one will be appointed to represent you

1 before any questions if you wish. Five, you can
2 decide at any time to exercise these rights and not
3 answer any questions or make any statement. Do you
4 understand each of these rights as I have explained
5 them to you? Having these rights in mind, do you
6 wish to talk to us now?

7 Q Did Mr. Parker seem to understand those rights?

8 A He did.

9 Q Did he indicate he understood them?

10 A Yes, sir.

11 Q And how did he do that, do you remember?

12 A He acknowledged that he understood his rights.

13 Q And did he decide to talk to you?

14 A He did.

15 Q Do you have any reason to believe that his decision
16 to speak with you was not knowingly made on his
17 part?

18 A He was free and willing, yes, sir.

19 Q Any indication that he didn't do it of his own free
20 will?

21 A He did it of his own free will, yes, sir.

22 Q Any indication he didn't understand what he was
23 doing and chose to do it?

24 A No, sir.

25 Q Did he appear to be under the influence of drugs or

1 alcohol at the time when you talked to him?

2 A No, sir, he didn't.

3 Q Did you or Detective Mefford coerce or threaten him
4 to get him to speak with you?

5 A No, sir.

6 Q Did you or Detective Mefford promise him leniency
7 or give him hope of reward if he spoke to you?

8 A No, sir.

9 Q Did he, in fact, waive his rights and speak to you
10 and answer questions?

11 A He did.

12 Q After he waived his rights and agreed to speak with
13 you, what did you ask him or what did you explain
14 to him?

15 A After the affidavits were read to Mr. Parker by
16 Detective Mefford explaining the charges against
17 him, I asked Mr. Parker at this time if he was
18 willing to speak to me and explain if he had any
19 information to these allegations and whether or not
20 these allegation were true or not or his side of
21 the story.

22 Q Those were allegations involving what minor?

23 A ^{MINOR 2}, MINOR 2 .

24 Q What was his response to your questions?

25 A He quickly advised me they were lies, that ^{MINOR 2} is

1 just lying because he was in trouble with his
2 mother, and that he didn't do this. It was just a
3 big mess, that there is a witness, a female
4 witness, that would escort him with the boys over
5 to the Masters Inn that would straighten this all
6 out, that saw nothing happen.

7 He would provide that information to me,
8 stating that he didn't want to get anybody else
9 involved in this and that we needed to talk to
10 MINOR 1 referring to MINOR 1 and that
11 MINOR 1 would straighten this all out, that ^{MINOR 2} is
12 lying.

13 Q Did he make any comment about other witnesses that
14 will say none of this ever happened?

15 A He only referred to, that I know of, was the female
16 that would go to the hotel room.

17 Q Do you have a copy of your report?

18 A Yes, sir.

19 Q Look on page 1 at the bottom, about four lines from
20 the bottom.

21 A Yes, sir. I am referring to the witness at the
22 motel and other witnesses in the neighborhood that
23 would testify, stated nothing happened.

24 Q Did he provide any of those other witnesses?

25 A He would not provide me any names whatsoever. He

1 didn't want to get anybody involved in this mess.

2 Q And did you ask him specifically who the female
3 was?

4 A I did.

5 Q What was his response?

6 A He said he wasn't going to give me her name.

7 Q Did he admit or what did he say regarding taking
8 MINOR 1 and MINOR 2 to the Masters Inn
9 over in Cayce on Airport Boulevard or off Airport
10 Boulevard?

11 A He freely and willing told me that he did take the
12 boys to the Masters Inn so they could go swimming.

13 Q Did he say anything else other than that?

14 A At that point he said he didn't want to talk about
15 this anymore, so we ended the conversation.

16 Q Please answer any questions defense counsel has.

17 THE COURT: Mr. Locklair?

18 MR. LOCKLAIR: I don't have any questions for
19 this witness, Your Honor.

20 THE COURT: Thank you. Thank you very much,
21 Officer.

22 THE WITNESS: Thank you, Your Honor.

23 (Witness leaves the witness stand.)

24 THE COURT: Solicitor, you may call your next
25 witness.

1 MR. GRAHAM: Your Honor, that's all the State
2 has in this motion.

3 THE COURT: Thank you. Mr. Locklair?

4 MR. LOCKLAIR: Nothing from the defense, Your
5 Honor.

6 THE COURT: Solicitor, I would be glad to hear
7 from you.

8 MR. GRAHAM: Your Honor, I think the testimony
9 shows that Mr. Parker was advised of his Miranda rights
10 appropriately, that he understood his rights. There was
11 no indication that he did not.

12 He freely, voluntarily, and knowingly waived
13 those rights and did agree to speak with Detective
14 Mefford and Robbie Lint and, in fact, did provide the
15 statement as to the conversation that Detective Lint
16 testified to. I believe it would be admissible.

17 THE COURT: Mr. Locklair?

18 MR. LOCKLAIR: Your Honor, we are not
19 contesting the voluntariness of the statement. We would
20 have a motion in limine though to exclude any testimony
21 about him not providing names of witnesses and having
22 that come into trial.

23 We believe that that is unduly burden
24 shifting, shifting the burden to the Defendant, and
25 making the jury believe it's the defense's job to call

1 witnesses.

2 THE COURT: What about the statement though,
3 Mr. Locklair, where the deputy just testified, Sergeant
4 Lint just testified, that he asked the Defendant who the
5 female was and the Defendant's response was he was not
6 going to tell her name. Further, earlier he said he was
7 not going to get anyone else involved. That's different
8 than asking, did he ever provide any names?

9 MR. LOCKLAIR: I do understand the legal
10 differences and I understand the law, Your Honor. I
11 just felt I should make that motion to protect myself.
12 I certainly would understand Your Honor's ruling on it.

13 THE COURT: Solicitor, do you care to respond?

14 MR. GRAHAM: No, Your Honor, other than I
15 believe it's admissible. I believe it's relevant. He
16 was asked the question and given the opportunity. He
17 denied the statements and was given an opportunity -- he
18 said there were witnesses and he was given an
19 opportunity to provide them and he did not. I think
20 that's all information for the jury to consider.

21 THE COURT: I think his responses are
22 relevant. His responses, of course, one time being did
23 not want to get anyone else involved and MINOR 1 would
24 straighten it out. Those other responses, as I
25 understand it, was the officer asked him who the female

1 was, and he said I'm not going to provide you her name.
2 I think all that is admissible.

3 I think the other part of the statements are
4 admissible. Clearly, there is no objection by the
5 Defendant under State versus Parker, 671 S.E.2d 619, and
6 I find by a preponderance of the evidence that the
7 statements would be admissible.

8 I don't think you can ask, did he ever provide
9 you any names? Because that's silence there, the
10 answer. Do you see what I'm saying? That's not a
11 statement. That's a non-statement in my mind.

12 MR. GRAHAM: I don't want to mess up. I guess
13 my question would be would defense counsel have
14 objection if I asked: In response to your questions,
15 did you ask him -- I am trying to think of the right way
16 to do it.

17 MR. LOCKLAIR: If I may, Your Honor. I think
18 what Your Honor is trying to say is he asked in effect
19 what did Mr. Parker say to you? He said there's some
20 witnesses.

21 He could say, did he ever provide those
22 witnesses? Again, he didn't provide any witnesses. Is
23 that Your Honor's ruling, addressing the specific
24 statement?

25 THE COURT: My ruling is trying to be

1 consistent with what the detective testified to, that
2 there was a female witness that escorted him to the
3 Masters Inn. He didn't want to get anyone else
4 involved.

5 I think the detective said, will you provide
6 that information to us. He said he didn't want to get
7 anyone else involved, but MINOR 1 would straighten this
8 out. Did you ask him specifically who the female was,
9 and his response was I'm not going to give you her name.

10 MR. GRAHAM: Okay.

11 THE COURT: I thought that's what the
12 testimony was.

13 MR. GRAHAM: It was. There was also another,
14 when I referred him back to his report itself, he has a
15 line in there that says the Defendant said everybody
16 knows he's a liar and there are witnesses -- plural --
17 that will say none of this ever happened. I thought I
18 got that out.

19 THE COURT: That's his statements. His
20 statements are admissible. I'm saying his silence on
21 those issues is not admissible. That's all I'm saying.

22 MR. GRAHAM: But the follow-up questions and
23 the statements he says are admissible?

24 THE COURT: Yes, sir. His questions, his
25 response are admissible.

1 MR. GRAHAM: Thank you, Your Honor.

2 THE COURT: They were voluntary. I mean, I
3 would be glad to tell the jury at that point the burden
4 of proof is on the State of South Carolina.

5 MR. LOCKLAIR: Yes, sir.

6 THE COURT: The burden never shifts to the
7 Defendant. I would be glad to advise them of that at
8 that time.

9 MR. LOCKLAIR: I would appreciate that, Your
10 Honor.

11 THE COURT: It doesn't shift. That's not what
12 the solicitor is trying to do. He is trying to get a
13 voluntary statement into evidence.

14 MR. LOCKLAIR: Thank you, Your Honor.

15 THE COURT: That's what I understand. Any
16 other motions?

17 MR. GRAHAM: Not from the State, Your Honor.

18 MR. LOCKLAIR: No, sir, Your Honor.

19 THE COURT: So we are done on this case until
20 9:30?

21 MR. GRAHAM: Yes, Your Honor.

22 THE COURT: We will be in recess until 9:30.

23 (Whereupon the proceedings are concluded for
24 October 4, 2010.)

25 (The following proceedings are reported on

1 October 5, 2010.)

2 THE COURT: Anything from the State before we
3 bring in our jury?

4 MR. GRAHAM: No, Your Honor.

5 THE COURT: Defense?

6 MR. LOCKLAIR: Yes, sir, Your Honor.

7 THE COURT: All right, sir.

8 MR. LOCKLAIR: Your Honor, at this time I will
9 have to make a motion to ask the Court to continue this
10 case. Yesterday we had a hearing in family court where
11 some juvenile records were turned over regarding one of
12 the victims, **MINOR 2**

13 In those records there are several things that
14 stand out to me as a reason for needing a continuance.
15 First is there is a prior incident where **MINOR 2** had
16 accused his mother of physically abusing him. It's my
17 understanding he was placed in D.S.S. custody at that
18 time, and then he later recanted that story of physical
19 abuse against his mother.

20 Additionally, in part of the report -- and I'm
21 not sure how extensive the notes will be on this and
22 what all potentially is going to be available -- but
23 there's some statements that **MINOR 2** denied anything
24 inappropriate was going on, even after the initial
25 allegations speaking to his mother. Then the fact the

1 witness came out with -- it came out because of another
2 incident involving him and his sister.

3 Basically, Your Honor, as you know, these
4 cases pretty much hinge totally on the credibility of
5 the alleged victims. If the jury believes the alleged
6 victim, the Defendant gets convicted. That's really
7 what these cases all boil down to, especially in the
8 case where there is no physical evidence, especially no
9 D.N.A.

10 These cases, they boil down to whether the
11 jury believes the two children or the jury does not
12 believe them. The fact that this one alleged victim has
13 previously made allegations of criminal conduct against
14 his own mother, even though it's physical abuse and not
15 sexual abuse, and recanted definitely goes to his
16 credibility.

17 We think we need time to be able to look at
18 that. There really was no impeachable evidence on
19 either of these victims until this stuff came out. This
20 is the first real glimmer of any real hope on cross
21 examination that the defense has had.

22 I feel without the evidence it would prejudice
23 my client's case. I feel these cases hinge totally on
24 the credibility of the witnesses, and finally there is
25 something to give the defense a chance to take the

1 witness and impeach the witness, both to this crime and
2 to the incident where he made false allegations and
3 recanted those and admitted that they were false. I
4 would ask the Court to continue the case based on those
5 issues.

6 THE COURT: Tell me what you want to do as far
7 as those allegations if I grant the continuance.

8 MR. LOCKLAIR: The first thing I was going to
9 do would be, as far as the stuff from D.J.J., is apply
10 for a subpoena to get the notes from the person who did
11 the evaluation and see what the notes say because so
12 many time notes and evaluations differ.

13 The second thing I would want to do is
14 obviously subpoena or see if there are any medical
15 records that there were made of the incident or other
16 things that were taken out regarding the sexual abuse,
17 see if they filled something out at the time, even
18 though it was recanted, and look at the investigative
19 copy of the D.S.S. records. I'm sure they did a home
20 investigation, et cetera, once he was taken into custody
21 back in November of 2007.

22 THE COURT: Tell me the familiarity, if any,
23 between Mr. Parker or Mr. Parker's family and MINOR 2
24 and MINOR 2's family back in '07, if you can share
25 that with me, Mr. Locklair.

1 MR. LOCKLAIR: They all lived in the trailer
2 park where he lived and where they lived. At one time
3 he lived there.

4 THE COURT: As I say, if you can share that
5 with me. I'm not trying --

6 MR. LOCKLAIR: These people have known each
7 other throughout the years. He has known the two
8 victims since they were young children but it has been
9 sporadic, off and on. Sometimes he was away and came
10 back.

11 THE COURT: Let me see the documents that you
12 were given access to yesterday, please.

13 MR. LOCKLAIR: I can tell the Court my client
14 had no knowledge of the charges of sexual abuse prior to
15 us getting this. If I may approach?

16 THE COURT: Yes, sir.

17 (Hands to Court.)

18 THE COURT: Solicitor.

19 MR. GRAHAM: Your Honor, I know that
20 Mr. Locklair didn't say anything, but for the record, I
21 only became aware of this report last week. Once I
22 became aware of its existence, I notified the defense
23 counsel and tried to get to it earlier.

24 Specifically as to his request for a
25 continuance, I don't believe that anything that he could

1 gain from getting a police report or doing a Freedom of
2 Information Act would be things that he could introduce
3 in court.

4 The question is to impeach the credibility of
5 the witness. It's the recantation itself that he can
6 use, not the actual contents of the abuse. The physical
7 abuse, if any, between the parties would not be
8 admissible. So absent that, the only thing he has to go
9 to his credibility is about the recantation.

10 The part about why this disclosure was made is
11 clear in there why. I don't know what else he could ask
12 or want for there. The mother of MINOR 2 as well as MINOR 2
13 himself, are going to testify to those issues about how
14 and when the disclosure came about and why.

15 I'm not sure where he is actually talking in
16 the report about MINOR 2 denied anything was going on after
17 he disclosed. So I don't know how to address that. I
18 don't know where in the report he is referring to.

19 (Attorneys confer.)

20 MR. GRAHAM: Mr. Locklair told me he is
21 talking about what is on page 6 of the report, the top
22 paragraph: MINOR 2 spent time with his step-grandfather
23 regularly. When MINOR 2 was 12 years old, he would go to
24 Mr. Parker's house with his 14-year-old cousin.

25 At that time Ms. Hernandez said that she asked

1 if anything inappropriate was going on and MINOR 2 would
2 deny it. Later MINOR 2 reported to his mother that
3 Mr. Parker would give him beer and let him drive his
4 truck in a secluded area and bought him gifts.

5 Reportedly Ms. Hernandez continued to let
6 MINOR 2 see Mr. Parker even after those initial
7 allegations because she did not believe the allegations,
8 and MINOR 2 denied anything inappropriate was going on.

9 That is not referring to his disclosure of
10 sexual abuse because right below it talks about when she
11 found out about it. She is going to testify that she
12 didn't -- once she -- well, that was earlier -- but I
13 don't believe that, even after the initial allegations
14 that are referring to the allegations of sexual abuse, I
15 believe it's probably referring to the beer and letting
16 him drive his truck and things like that. I honestly
17 don't know.

18 Regardless, it's a question of credibility and
19 questions that he can ask. I don't think it's -- again,
20 I don't think there is anything he needs beyond that,
21 and I think he can do a good job of cross examining the
22 victim in the case with what he has at his disposal, and
23 I don't think that a continuance is warranted.

24 THE COURT: Do you have any other records,
25 Solicitor?

1 MR. GRAHAM: As far as any other documents
2 behind these, Your Honor?

3 THE COURT: Yes, sir.

4 MR. GRAHAM: No, sir.

5 THE COURT: So there is nothing additional in
6 the family court files, no supporting documentation from
7 Dr. Wright about this evaluation?

8 MR. GRAHAM: I have not looked in the family
9 court file, Your Honor. I don't know what it contains.
10 The only thing I became privy to was this report and
11 then MINOR 2's Form 5 behind it.

12 THE COURT: Have you subpoenaed or interviewed
13 Dr. Wright?

14 MR. GRAHAM: No, Your Honor.

15 THE COURT: Or Beverly Clyburn?

16 MR. GRAHAM: No, sir.

17 THE COURT: The D.S.S. records, Mr. Locklair,
18 are from '07?

19 MR. LOCKLAIR: Yes, sir. I only have one copy
20 of the report. I believe it's November of '07.

21 THE COURT: That's from allegations of
22 physical abuse?

23 MR. LOCKLAIR: Yes, sir. I believe
24 November of '07 he was placed into D.S.S. custody, and I
25 think December of '07 he recanted his story.

1 If I can just address a couple of points the
2 solicitor made. The purpose of wanting these records is
3 if he told a lie once, he could have lied again. The
4 records could have inconsistent statements. They could
5 have lies in them that I could use to impeach him.

6 We know that he lied about his mother
7 physically abusing him or he lied when he recanted it.
8 I mean, she either did or she didn't. One of those two
9 statement is a lie.

10 I don't know what else he told the D.S.S.
11 worker. I don't know what he told the police when it
12 happened. There could be a lot of inconsistencies that
13 I could use to beat him up the on the stand to show that
14 he is not a truthful person, to impeach him. I just
15 don't know what is in those files.

16 This definitely makes me think that there is
17 something out there that I would be remiss not to look
18 into and not doing my job if I didn't look into it to
19 get a hold of it. It really is the one thing that we
20 have now to be able to cross examine this victim on.

21 Before there was basically: You are not
22 telling the truth, are you? You are not telling the
23 truth, are you, was the real cross examination because
24 there was nothing really to beat him up, other than the
25 fact trying to make it with a dog and pony show to show

1 the jury he was lying. Now we have something solid with
2 teeth in it.

3 THE COURT: Well, the question really becomes,
4 I think, whether or not a witness tells a falsehood on
5 the stand, tells a lie on the stand. During cross
6 examination if you ask a question of a witness, many
7 times an attorney may ask a generic question: Have you
8 ever told a lie in the past? And, of course, the answer
9 can be yes or the answer can be no.

10 The question is have you ever reported alleged
11 mistreatment in the past and if the answer is no, with a
12 witness like this, that would certainly be subject to
13 impeachment by the use of this material that you now
14 have access to, either under -- I guess that would be
15 under or it's almost 608(b), specific instances of
16 conduct, and it's also perhaps under prior inconsistent
17 statement, although it's collateral to a certain extent.

18 You obviously can't -- the State nor the
19 defense can present a witness as pristine or angelic
20 that has told and made false reports to the police in
21 the past.

22 That paragraph you are referring to on the top
23 of page 6, if you refer back to the last two paragraphs
24 on page 5 and then the second paragraph on page 6, it
25 kind of encapsulates and seems to be the thread running

1 through there that there was sexual activity and then
2 beer and driving the truck, which may not even be
3 admissible in that regard in the State's case in chief.
4 I'm not ruling that it is or isn't.

5 That seems to be the thread running through
6 those three or four or five paragraphs is the sexual
7 activity. In those paragraphs, of course, is the
8 incident concerning the conduct with the sister. I
9 forget the age now, I think ten-year-old sister. I
10 don't have a copy of the report in front of me.

11 Solicitor, I would like for the Solicitor's
12 Office to prepare a subpoena for Dr. Gary Wright with
13 the South Carolina Department of Juvenile Justice and
14 Beverly Clyburn with the South Carolina Department of
15 Juvenile Justice and have an investigator serve those
16 subpoenas and have them available for the defense
17 attorney to interview, if he requests.

18 I will deny the motion for a continuance at
19 this time. I will say this, Solicitor. You proceed
20 somewhat at your own peril in this regard. It's not
21 your fault. I understand you just got access to the
22 report, and that's not a complaint whatsoever. That's
23 just the timing of it, but I will give the defense
24 attorney some leeway in regards to cross examining the
25 subject of the report, given the time frame.

1 Anything further, Mr. Locklair?

2 MR. LOCKLAIR: Just for the record, Your
3 Honor, I want you to know that part of our request for
4 continuance also involves the counselor because we
5 weren't aware that he had tried inappropriate sexual
6 conduct with his ten-year-old sister. These allegations
7 came out as soon as he got in trouble for that. Then he
8 did the allegations on Mr. Parker.

9 THE COURT: Who is the counselor, I'm sorry?

10 MR. LOCKLAIR: Heather Scoggins.

11 MR. GRAHAM: Heather Scoggins. She is under
12 subpoena, Your Honor.

13 THE COURT: Do you want to interview her?

14 MR. LOCKLAIR: I would like to be able to talk
15 to her. If I had known he had made allegations about
16 his sister or tried inappropriate conduct with his
17 sister and then brought this up when he got trouble for
18 that, if I had known that at the time, I would have
19 wanted to get her file and look at it and see --

20 THE COURT: Have her file available. If you
21 need a subpoena or Court order for that, if you need a
22 subpoena for that, I will issue one. She is under
23 subpoena now, I take it?

24 MR. GRAHAM: She is under subpoena now.

25 THE COURT: Make her available so Mr. Locklair

1 can speak with her.

2 MR. GRAHAM: Yes, sir.

3 THE COURT: Anything further, Mr. Locklair?

4 MR. LOCKLAIR: No, sir, Your Honor, not at
5 this time.

6 THE COURT: Solicitor?

7 MR. GRAHAM: No, Your Honor.

8 THE COURT: Bring us our jury, please.

9 (The jury returns to the courtroom at
10 9:55 a.m.)

11 THE COURT: Madame Clerk, would you place our
12 jury under oath, please.

13 (The jury is duly sworn.)

14 THE COURT: Good morning, ladies and gentlemen
15 of the jury panel. Welcome back. As you recall, the
16 case we are about to try is the case of the State versus
17 Scott Douglas Parker, seated to my front left. What I
18 will now say is intended to serve as an introduction to
19 the trial of this case. These remarks are not a charge
20 on the law in this case.

21 I will instruct you on the law that applies to
22 this case at the end of the trial before you retire to
23 consider your verdicts. This is merely an explanation
24 of the procedure that we will follow in the trial of
25 this case so that you may better understand what may be

1 happening.

2 The Defendant is charged by indictments filed
3 in this Court with the crimes of criminal sexual conduct
4 with a minor, at least 14 years of age but less than 16
5 years of age -- there are two indictments for that --
6 and then criminal sexual conduct with a minor, at least
7 11 years of age to 14 years of age. There are three
8 indictments for that. The elements of those charges
9 will be explained to you later.

10 These indictments, again, ladies and
11 gentlemen, are simply the charges by which the case is
12 brought into court, and they are not in any sense
13 evidence of any of the allegations they contain.

14 The Defendant has pled not guilty to these
15 indictments. The State therefore has the burden of
16 proving each of the elements of the indictments beyond
17 a reasonable doubt. That burden never shifts to the
18 Defendant. A defendant in South Carolina, regardless of
19 the seriousness of the charge or charges brought against
20 him or her, is always presumed to be innocent.

21 It will be your duty, ladies and gentlemen, to
22 decide whether or not the State meets its burden of
23 proof as to each indictment, separately and distinctly
24 from each other indictment.

25 Your purpose as jurors is to find and

1 determine the facts. You are the sole judges of the
2 facts. If at any time I make any comment regarding the
3 facts, you must disregard it.

4 You are to determine the facts from the
5 testimony you hear from the witnesses testifying under
6 oath from this witness stand and any other evidence
7 introduced in court.

8 It is up to you to determine the inferences
9 which you feel may properly be drawn from the evidence.
10 It is especially important that you perform your duty of
11 determining the facts diligently and conscientiously
12 because ordinarily there is no way to correct an
13 erroneous determination of the facts by a jury.

14 On the other hand and with equal emphasis,
15 the same law that makes you the judges of the facts
16 makes me the judge of the law. The law as given by the
17 Court is the only law you may consider. You must
18 accept it and apply it, even though you may disagree
19 with it.

20 I cannot tell you what the facts are, and you
21 cannot disagree with me about what the law is or should
22 be. Your job is take the law as I give it to you and
23 apply it to the facts as you find them from the
24 testimony of the witnesses and any other evidence that
25 is introduced. After doing that, you will render your

1 verdicts, true and just verdicts, under the solemn oath
2 that you just took as jurors.

3 Ladies and gentlemen, it is important that you
4 keep an open mind and not decide any issue in this case
5 until all of the evidence has been presented, the
6 parties have made their closing arguments to you, and I
7 have instructed you on the law in this case.

8 It is your solemn responsibility to determine
9 the guilt or innocence of the Defendant, and your
10 verdict must be based solely on the evidence as it is
11 presented to you in this trial and on the law as I
12 instruct you during the trial and at the close of the
13 trial.

14 In just a moment, ladies and gentlemen, the
15 solicitor will make what is called an opening statement
16 in which the solicitors will explain to you the issues
17 in the case or at least what the solicitor thinks the
18 issues are in the case.

19 Mr. Locklair, the attorney for the Defendant,
20 may also make an opening statement, although he is not
21 required to do so because the Defendant never has the
22 burden of proof. The Defendant is presumed to be
23 innocent.

24 What the attorneys tell you, what the
25 attorneys say during their opening statements or at any

1 other time, is not evidence. It's only their contention
2 as to what the issues are.

3 The evidence comes from this witness stand,
4 not from the questions, but from the answers by the
5 sworn witnesses testifying under oath and any other
6 documentary evidence that may be introduced.

7 From time to time during the trial, you may
8 hear one of the lawyers say something like, Your Honor,
9 I believe we have a question of law or a matter of law
10 to discuss with you or Your Honor, may we approach the
11 bench or sometime I myself might find it necessary to
12 excuse you from the courtroom for a short while so that
13 the attorneys and I can discuss a matter of law.

14 Why do I do that? The reason for this is
15 because you are the judges of the facts in this case.
16 Sometimes when I am discussing matters of law with the
17 attorneys, it may be necessary for me to make some
18 comment as to the facts in connection with ruling
19 whether or not a particular law applies.

20 I am not supposed to tell you what I think the
21 facts are. I am not allowed to have an opinion about
22 the facts. So I will excuse you from the courtroom
23 while these discussions take place so that in no way
24 will you be influenced by anything I might say or do in
25 connection with the facts.

1 In determining what the true facts are in this
2 case, you must decide whether or not the testimony of
3 the witnesses is believable. It will be my
4 responsibility to rule as a matter of law as to whether
5 certain testimony is admissible at all or not, but once
6 the testimony is admitted, whether or not you believe it
7 is solely for you to determine.

8 In deciding whether to believe a witness, you
9 have a right to consider the interest of any witness,
10 the bias of any witness, the prejudice of any witness,
11 the opportunity for the witness to have seen the matters
12 and things about which the witness may testify, and the
13 way the witness acts on the witness stand, the demeanor
14 of the witness.

15 You do that against the background of your
16 good judgment and your common sense. You have the right
17 to consider anything that is in the record that will
18 help you evaluate the testimony and the credibility of
19 the witnesses.

20 That means it will be your duty to pay close
21 attention to the witnesses, to look at them, to observe
22 them, to listen to them, and to pay close attention to
23 the attorneys and to the Court.

24 Don't let your thoughts wander but give strict
25 attention to the testimony in this case, so that at the

1 end of all the testimony, after the arguments of counsel
2 and the charge on the law by the Court, you will then be
3 in a position to determine what the true facts are and
4 to apply the law to those facts and thus render a true
5 and just verdict.

6 Madame Forelady, it will be your added
7 responsibility to preside in the jury room and to be
8 the jury's spokesperson here in court. It will also be
9 your duty to write the verdict, but I will give you
10 further instructions about that at the conclusion of the
11 case.

12 Just a few housekeeping matters, ladies and
13 gentlemen. From time to time, documents may be
14 introduced into evidence. I don't know. I don't know
15 what may be introduced. If they are introduced in the
16 courtroom, many times they may be handed to the forelady
17 and passed among members of the jury while you are in
18 the courtroom in your jury box.

19 You may look at all those items all you wish
20 to look at them. Keep in mind, if I allow an item into
21 evidence, a document, a photograph -- and like I say, I
22 don't know what the evidence is. I haven't heard the
23 testimony of any witnesses -- but if I allow a document
24 into evidence, you will also have it with you in your
25 jury room at the time of your deliberations.

1 I say that to tell you, you can look at it all
2 you want to look at it here in the courtroom in your
3 jury box, but it won't be the only time or the last time
4 you get an opportunity to look at any documentary items
5 of evidence.

6 Also, I tell jurors from week to week, I have
7 kind of a simple rule. When I want to take a break, we
8 take a break. It's kind of that simple. That may be
9 the only authority I have. Well, this is not some type
10 of judicial marathon.

11 If you sit out here too long, if your thoughts
12 start to wander, please raise your hand. Y'all will
13 take your break. We will take our break. I don't rush
14 good trial attorneys. These are good trial attorneys.
15 I don't rush them. They have time to prepare and
16 present their case. As I say, if at any time any of you
17 need a break, please raise your hand, let me know.
18 Y'all will take your break. We will take our break.

19 If you cannot hear a witness, obviously we
20 have a speaker system in this courtroom, but if you
21 can't hear a particular witness, please raise your hand,
22 particularly those jurors a little bit further away from
23 the witness stand. Get my attention, the attention of
24 the bailiff or the clerk, and we will have them speak up
25 as best we can.

1 If you have any questions or concerns during
2 the course of the trial, Madame Forelady, or any members
3 of the jury, write me out a note. Remember, you cannot
4 discuss the case amongst yourselves so you can't write
5 me notes and you can't go back there and discuss it and
6 say, I have this question or that question.

7 But if anyone has commitments this evening
8 that needs to leave any earlier than -- I don't know --
9 shall we say 6:30, 7:00 o'clock, Madame Court Reporter?
10 At 5 or 5:30 is usually about the time I break.

11 Any objections from the State to anything I
12 have told the jury, Solicitor?

13 MR. GRAHAM: No, Your Honor.

14 THE COURT: From the defense?

15 MR. LOCKLAIR: No, sir, Your Honor.

16 THE COURT: With that we will begin the trial.
17 Solicitor, you may address the jury.

18 MS. WHETSTONE: Thank you, Your Honor. May it
19 please the Court.

20 THE COURT: Yes, ma'am.

21 **OPENING STATEMENT**

22 MS. WHETSTONE: The perfect victim. That's
23 what Scott Parker was looking for, the perfect victim.
24 He found them. He found them in July 2006 to July 2008.
25 He found two young boys. He found **MINOR 1** ,

1 who throughout this trial we will refer to as MINOR 1
2 and he found MINOR 2 , who we will refer to as
3 MINOR 2 .

4 He found them and he sexually abused them. He
5 not only sexually abused them, he abused their trust.
6 He abused their friendship. He took advantage of them
7 and he manipulated them. He manipulated them with
8 gifts. He manipulated them by using guilt.

9 Ladies and gentlemen, we have five counts,
10 five indictments, against the Defendant, Scott Parker.
11 Two involve -- excuse me -- three involve MINOR 2 [REDACTED]
12 , [REDACTED] who we will refer to as [REDACTED] Two of them
13 occurred at the address of [REDACTED].

14 That's where the Defendant was living at that
15 time from July of 2006 to July 2008. One involves the
16 Masters Inn in Cayce where he would take the boys. We
17 have two involving the victim, MINOR 1 one at the
18 Defendant's address and one at the Masters Inn in Cayce.

19 Criminal sexual conduct involves a sexual
20 battery. Sexual battery is defined by statute, and you
21 will hear that from Judge McMahon. But briefly a sexual
22 battery involves sexual intercourse, anal intercourse or
23 any type of inappropriate touching that would intrude
24 upon the body, intrude upon the anal glands of the body
25 by touching and also oral, such as fellatio, oral sex.

1 You will hear this. You will hear from
2 MINOR 1 and you will hear from MINOR 2 You will hear how
3 the Defendant sexually abused them from July 2006 to
4 July 2008. They will take the stand. In addition, you
5 will hear from their mothers. They will talk about what
6 they saw, what they saw occurring to the boys, how they
7 were acting.

8 You will hear from the officers who
9 investigated this case and the work they did.
10 Furthermore, you will hear from witnesses, such as the
11 manager at the Masters Inn in Cayce and how many times
12 the Defendant would come there and what he would say
13 when he was there. You will hear from a friend of the
14 Defendant who would observe the relationship between the
15 Defendant and MINOR 1 and MINOR 2

16 Ladies and gentlemen, during this trial we ask
17 that you listen to the witnesses. Evaluate their
18 testimony and use your common sense. We will show you
19 how the Defendant looked for and found his perfect
20 victims and how he manipulated them.

21 And at the end of this trial, we will ask you
22 to go back to the jury room, and we will ask you to find
23 the Defendant guilty of sexually assaulting MINOR 2 and
24 MINOR 1 Thank you.

25 THE COURT: Thank you, Solicitor.

1 Mr. Locklair.

2 MR. LOCKLAIR: May it please the Court, Your
3 Honor.

4 THE COURT: Yes, sir.

5 **OPENING STATEMENT**

6 MR. LOCKLAIR: Ladies and gentlemen of the
7 jury, once again my name is Wesley Locklair. I
8 represent Scott Parker. You have one of the most
9 difficult jobs in this courtroom. Because as the judge
10 told you, you are the sole judges of the facts of the
11 case.

12 As the judge told you, you can't decide what
13 the facts of the case are until you go back in your jury
14 room and deliberate. So you have to sit here throughout
15 this whole trial with an open mind. When you hear
16 allegations and the stories as the solicitor said, human
17 instinct is to be like, oh, my goodness, what's going on
18 here?

19 But it is your job to keep an open mind until
20 you hear all the evidence because things are not always
21 what they appear. The first thing you have to
22 understand is the oath you took and how important that
23 oath is.

24 Because in our judicial system, Mr. Parker
25 sits there cloaked in a cape of innocence, and until

1 y'all go back in the jury room and deliberate, he is
2 presumed innocent throughout this whole trial.

3 The State has the sole burden of proving this
4 case to you beyond a reasonable doubt, not proving to
5 you it's more likely something happened or it's
6 probable that something happened, but beyond a
7 reasonable doubt.

8 As you sit here and listen to the witnesses,
9 credibility is going to be one of the key factors. You
10 are going to hear evidence from both of these boys about
11 what they alleged happened, but you are also going to
12 hear evidence about one of them bringing false charges
13 against somebody else, against his mother for physical
14 substance, and then recanting those and learning how the
15 system works, calling the police and what happens.

16 You are going to hear that over the years,
17 Scott gave these boys gifts. He has known them since
18 they were young boys, known the families. Some of these
19 people were intertwined. He had given them gifts since
20 they were little kids. He would help take care of them.
21 He would take them out to Frankie's Fun Park, going to
22 the mall, doing all sorts of things in public.

23 You will hear about what type of parents they
24 had, too, and you will see their parents and realize
25 that, yeah, he took care of them sometimes and he did

1 nice things for them.

2 Then you are also going to hear that one day
3 he stopped giving them gifts, and then when they stopped
4 getting all these nice toys, gifts, and money, things
5 they were given, then these allegations came up. In
6 fact, these allegations didn't come up until one of the
7 boys got in trouble for some alleged inappropriate
8 attempted sexual conduct with his sister.

9 Then when he was getting in trouble, then
10 these allegations came up. You are going to hear about
11 inconsistencies in what the boys told the police and
12 what they told their mothers.

13 There is one thing my dad always taught me,
14 the truth stays consistent. The truth doesn't change.
15 Lies change because it's hard to keep track of them, but
16 the truth is the truth. If you are telling the truth,
17 the truth is going to be the truth today, tomorrow, and
18 next year.

19 I understand people have lapses in memories,
20 but some of these things you are going to hear from the
21 witness stand aren't simple lapses of memory. They are
22 clear inconsistencies of what has been said over time.

23 Now, once you hear all the evidence, and like
24 I said, y'all need to keep an open mind because you will
25 hear some graphic stuff from the witness stand, stuff

1 that is hard to hear from anyone.

2 That's why y'all have the toughest job because
3 what I think doesn't matter to y'all, what the
4 prosecutor thinks doesn't matter. The judge is not
5 allowed to have an opinion on the facts. Y'all are the
6 only ones that the facts matter.

7 You have to sit there with an open mind and
8 listen to all of this. When you hear these things said,
9 I want you to keep an open mind and realize, there's two
10 sides to every story and things aren't always as they
11 appear.

12 Once you hear all the evidence, you are going
13 to realize that the State has failed to carry their
14 burden and prove the Defendant guilty beyond a
15 reasonable doubt. Once you deliberate, I think you will
16 come back with a verdict of not guilty. Thank you.

17 THE COURT: Thank you. Thank you,
18 Mr. Locklair.

19 Solicitor, you may call your first witness.

20 MR. GRAHAM: The State calls MINOR 2 .

21 THE COURT: MINOR 2 , if you would come
22 around for us and be sworn.

23 MINOR 2 , ,
24 being first duly sworn, testifies as follows:

25 CLERK: Once you are seated, I need you to

1 speak up loud and clear, stating your full name and
2 spelling your last on the record, please.

3 THE WITNESS: You said state my full name and
4 what else?

5 THE COURT: Your full name and spell your last
6 name for us, MINOR 2 .

7 THE WITNESS: My name is MINOR 2 ,
8 [REDACTED] . The last name is spelled [REDACTED] .

9 THE COURT: Thank you, Solicitor.

10 MR. GRAHAM: Thank you, Your Honor.

11 DIRECT EXAMINATION

12 BY MR. GRAHAM:

13 Q What name do you go by?

14 A Currently at home, MINOR 2 but at school MINOR 2 I
15 don't know.

16 Q So either MINOR 2 or MINOR 2

17 A Yes, sir.

18 Q MINOR 2 how old are you right now?

19 A Sixteen.

20 THE COURT: Make sure you speak up so
21 everybody on the jury can hear you, please, MINOR 2 .

22 BY MR. GRAHAM:

23 Q Move the microphone a little closer to you. How
24 old are you?

25 A I am currently 16.

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1 Q And what is your date of birth?

2 A [REDACTED].

3 Q Tell me a little bit about your family. Who is
4 your mother?

5 A My mom is Christal Joanne Hernandez. I don't
6 really know how you want me to say it.

7 Q That's fine. How about brothers and sisters?

8 A I have three sisters and no brothers on my mom's
9 side.

10 Q How old are your sisters?

11 A My youngest is two months old and it goes two years
12 and then my 11-year-old sister.

13 Q Are you familiar with the [REDACTED] area of
14 Lexington County?

15 A Yes, sir, I am. I kind of grew up back and forth
16 from there and my house, so, yes, sir.

17 Q How much time in your life have you spent there
18 back and forth do you think?

19 A My whole life.

20 Q If I said the name MINOR 1 to you, who am I
21 referring to? Who is that to you?

22 A My cousin.

23 Q Do you know his full name?

24 A Yes, sir, MINOR 1.

25 Q Do you know how old MINOR 1 is?

- 1 A Eighteen.
- 2 Q And how long have you known him?
- 3 A My whole life.
- 4 Q And y'all are close?
- 5 A Yes, sir.
- 6 Q Let's talk about Scott Parker. Do you know Scott
- 7 Parker?
- 8 A Yes, sir.
- 9 Q Do you see him in the courtroom today?
- 10 A Yes, sir.
- 11 Q Would you point him out for the jury, please.
- 12 A He is on my left, right next to the attorney for
- 13 the defense.
- 14 Q How do you know Scott Parker?
- 15 A He is a friend of the family. I have known him my
- 16 whole life, too.
- 17 Q When you knew him, where was he living at? During
- 18 your life where has he lived?
- 19 A Always on [REDACTED].
- 20 Q How close is the property where he was at and his
- 21 family's property and you and your family's
- 22 property?
- 23 A They were all on the same road, within -- it would
- 24 be like a three-minute walking distance.
- 25 Q As you were growing up, how much time did you spend

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1 with Scott Parker?

2 A I really don't know the answer to that. It's a
3 little here and there, a lot maybe.

4 Q What kind of things did you do with him when you
5 were younger?

6 A I know he used to watch us. He used to baby-sit us
7 here and there, but I don't really know as far as
8 details.

9 Q Did he come over to dinner to your house?

10 A My house?

11 Q Or your family member's house?

12 A The past couple of years he hasn't, but I'm not
13 sure about how long ago, if he did then.

14 Q How would you describe your relationship with him?

15 A Well, as I said, he's a friend of the family, but I
16 kind of considered him a little more. I kind of
17 considered him as a family member.

18 Q What, if anything, happened during the summer of
19 2006 that changed your and MINOR 1 relationship
20 with the Defendant?

21 A Meaning?

22 Q What, if anything, did Scott Parker -- what, if
23 any, change was his relationship with you as far as
24 him being a family friend, something that caused
25 you concern or something different?

1 A Well, I mean, I've never had anyone, other than my
2 mom and my family, actually treat me the way he
3 did. He was always there.

4 Q The summer of 2006, what happened to change that
5 relationship?

6 A Sexual abuse and stuff like that. I don't know.
7 I'm a little nervous.

8 Q Let's talk about that. When was the first time
9 that something -- that you remember that something
10 out of the ordinary happened between you and Scott
11 Parker?

12 A In the year 2006?

13 Q During the summer of 2006.

14 A I would say around the summer, around July, right
15 after school.

16 Q Tell the jury what happened, the very first time
17 something different or out of the ordinary
18 happened?

19 A The first thing that kind of felt awkward to me is
20 when he told us to compare penises, and so that
21 seemed a little awkward that day.

22 Q Who was present when the Defendant said that?

23 A My cousin MINOR 1 and the Defendant and me.

24 Q What, if anything, did the Defendant do after he
25 made a comment about comparing penises?

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1 A I don't really know. I don't really remember as
2 far as that.

3 Q What did you do?

4 A I was a little hesitant about it. As I said, it
5 was kind of weird and awkward for me, but I kind of
6 did go forward with it.

7 Q Did you expose your penis?

8 A Yes, sir.

9 Q And who was present when that happened?

10 A My cousin MINOR 1

11 Q And Scott Parker?

12 A Yes, sir.

13 Q How about MINOR 1 Did he do that as well?

14 A Yes, sir.

15 Q What, if anything, else happened at that time?

16 A I don't believe anything else happened on that
17 specific day.

18 Q A few days later, what, if anything, did Scott
19 Parker say to you regarding sex?

20 A I mean, like he -- he kind of made it seem like he
21 wanted to do certain things, like perform oral or
22 something like that, just stuff that made me feel
23 awkward.

24 Q Did he say something about that or what did he do?
25 What did he say or what did he do that made you

1 feel that way?

2 A I don't really remember what he said, but I
3 remember how it went about a couple of days after
4 that.

5 Q Tell the jury what happened after that.

6 A I believe that I was on top -- like the camper has
7 this little bed above the driver's area. I was up
8 there laying down. I don't know for what reason,
9 but I was up there.

10 Scott had came up there and he had started
11 talking to me about performing oral on me. First,
12 it was just I figured it was just playing and then
13 he kind of -- it turned out it was for real and I
14 felt awkward a little bit.

15 Q Did anything happen at that time?

16 A Yes, sir.

17 Q Who else was present in camper at that time?

18 A My cousin MINOR 1

19 Q We are talking about a camper. Whose camper is it?

20 A I believe it belonged to Don Latham and Scott
21 Parker was paying the money for it.

22 Q Was that camper located on [REDACTED]?

23 A Yes, sir.

24 Q Let me show you two photographs and ask if you
25 recognize these?

1 A Yes, sir. That's his camper and his building that
2 we used the bathroom in.

3 Q Look at the second photo as well.

4 A Yes, sir.

5 Q Does that fairly and accurately depict the camper
6 as you remember it?

7 A Yes, sir.

8 Q Would it assist you in explaining to the jury where
9 this happened?

10 A Yes, sir, it would.

11 MR. GRAHAM: Your Honor, at this time the
12 State would move these two photographs into evidence.

13 MR. LOCKLAIR: Without objection, Your Honor.

14 THE COURT: State's 1 and 2 is in evidence.
15 May I see them, Solicitor.

16 (State's Exhibits Number 1-2 are received into
17 evidence.)

18 BY MR. GRAHAM:

19 Q Referring to State's Exhibit Number 1, ^{MINOR 2} when
20 you were talking about where you were laying down
21 and where Scott Parker was, where are you talking
22 about?

23 A This window right here (indicating), right above
24 the driver's door.

25 Q So above where the driver is, what kind of

1 compartment is that there?

2 A It's like a small bed. I mean, I don't know, kind
3 of like what I would refer to as like when the
4 18-wheeler truckers have beds. That's kind of like
5 what that is.

6 Q Was there also another bed in that camper?

7 A Yes, sir.

8 Q Where would that be located?

9 A That would be located right there (indicating)
10 above that little compartment and under that window
11 to the left.

12 Q Is that the back of the camper?

13 A Yes, sir.

14 Q That would be where that window is?

15 A Yes, sir.

16 Q So how many total beds were there in the camper?

17 A There was two.

18 Q When Scott Parker climbed up into the bed above the
19 driver's compartment, who else was present in the
20 camper?

21 A My cousin MINOR 1 and I.

22 Q Where was he at? Where was MINOR 1 at?

23 A I believe he was in the chair right in front of the
24 T.V. playing X. box.

25 Q Where in relation -- where in the camper would that

1 be?

2 A Right beside the bed on the left of the camper in
3 the back.

4 Q You had talked about Scott Parker performing oral
5 sex on you. When you talk about oral sex, what do
6 you mean?

7 A Putting my penis in his mouth.

8 Q And did he do that?

9 A Yes, sir.

10 Q Was that the only time that it happened?

11 A No, sir, it was not.

12 Q How old were you the first time Scott Parker
13 performed oral sex on you?

14 A I believe I was 12 years old.

15 Q Between the summer of 2006, around July and around
16 July of 2008, how many times would you say that
17 Scott Parker performed oral sex on you?

18 A Between 15 or 20ish, give or take.

19 Q Those 15 or 20 incidents, did some of those
20 instances occur in the last half of 2006?

21 A I'm sorry, what?

22 Q Of the 15 to 20 incidents, the first one happened
23 the summer of 2006?

24 A Yes, sir.

25 Q Were there other instances that happened in 2006?

1 A Yes, sir.

2 Q Were there instances of oral sex that happened in
3 2007?

4 A Yes, sir.

5 Q And were there incidents that happened in the
6 beginning months of 2008?

7 A Yes, sir, I believe so.

8 Q Of the 15 to 20 times that he performed oral sex on
9 you, where did those happen? Where were you
10 physically? One you testified to was in the
11 camper. Were there any other locations?

12 A There was two, the camper and the Masters Inn, sir.

13 Q Let me show you two photographs and ask if you
14 recognize these photographs?

15 A Yes, sir, it's the Masters Inn.

16 Q And the second one?

17 A Yes, sir.

18 Q Do those fairly and accurately depict the way the
19 Masters Inn looked to you, the way you remember it
20 from going there?

21 A Yes, sir. There was only one difference.

22 Q What is that?

23 A The pods that are in the second photo, they were
24 further back to the left. But other than that,
25 everything looks the same.

MINOR 2 -- DIRECT -- MR. GRAHAM

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1 Q The property of the Masters Inn itself, the office,
2 the pool area, and the rooms themselves, does that
3 picture fairly and accurately represent those?

4 A Yes, sir.

5 MR. GRAHAM: Your Honor, at this time the
6 State would introduce these two photographs into
7 evidence.

8 MR. LOCKLAIR: Without objection.

9 THE COURT: State's 3 and 4 without objection.
10 (State's Exhibits Number 3-4 are received into
11 evidence.)

12 BY MR. GRAHAM:

13 Q Describe the Masters Inn property for the jury.
14 What did it look like and what do you remember
15 about it?

16 A I remember it came off the highway exit, and it's
17 kind of like a curve through there. When you look
18 to your left, there is like a Knights Inn right in
19 front of it.

20 Then coming into the Masters Inn, there is a
21 pool right in front of the main office, and to your
22 left is the motel/hotel. I don't know what the
23 difference is.

24 Q So identify where the pool area is.

25 A The pool area would be right there (indicating) in

1 front of the little apartment thing.

2 Q That's looking at State's 3. That's the area with
3 the fence around it and the pool chairs?

4 A Yes, sir.

5 Q How about the office?

6 A The office is that little building right there
7 (indicating). It kind of connects right around
8 here (indicating).

9 Q You are referring to the small building that is
10 under the sign, Masters Inn?

11 A Yes, sir.

12 Q Then the rooms themselves, where are they located?

13 A To the left, right behind the flag pole.

14 Q The incidents that occurred at the Masters Inn, of
15 the 15 to 20 you are testifying that some occurred
16 at the camper and some occurred at the Masters Inn,
17 that Masters Inn; is that correct?

18 A Yes, sir.

19 Q The ones that occurred at the Masters Inn, did
20 those occur in the latter half of 2006? Did some
21 of those events occur at the Masters Inn at the
22 latter half of 2006?

23 A I believe so. They started somewhere in between
24 the later half of 2006, earlier half of 2007,
25 somewhere in between there.

MINOR 2 -- DIRECT -- MR. GRAHAM

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1 Q Did it also happen in 2007?

2 A Yes, sir.

3 Q And in the first part of 2008?

4 A I believe so. I'm not exactly sure on the 2008
5 part.

6 Q The times the sex acts were performed on you by
7 Mr. Parker, who else was with you?

8 A Always my cousin.

9 Q Was there any time that your cousin was not with
10 you?

11 A There was a time I went with Scott without my
12 cousin, but he never did anything without my cousin
13 there.

14 Q What, if anything, did you observe regarding sexual
15 contact between Scott Parker and your cousin
16 MINOR 1

17 A Are you asking me what all I observed and seen
18 through them?

19 Q Yes. When you all were together, what, if
20 anything, did you observe as far as sexual contact
21 between Scott Parker and your cousin MINOR 1

22 A He would do the same that he did to me, oral sex.

23 Q And how many times would you actually observe that?

24 A Every time that I was there, about 15, 20ish.

25 Q Was there any other sexual act -- and just so I

1 understand. You are saying that there was how many
2 times, not what happened to you, but how many times
3 you saw what happened to your cousin MINOR 1

4 A Yes, sir.

5 Q You are saying that is 15 to 20 times as well?

6 A Yes, sir, we were always together.

7 Q What, if any, other sex acts did Scott Parker
8 perform on you?

9 A He had talked to me about anal and he actually did
10 perform it.

11 Q When you say he talked about anal and he did
12 perform it, you are talking about anal intercourse?

13 A Yes, sir.

14 Q And that did happen?

15 A Yes, sir.

16 Q Where did that happen at?

17 A On the same place, right above the driver's window
18 in his camper.

19 Q That was in the camper on [REDACTED]?

20 A Yes, sir.

21 Q Was that during the time frame of the last half of
22 2006 or sometime in 2007 or at the beginning of
23 2008?

24 A Yes, sir.

25 Q How many times did that happen?

MINOR 2 -- DIRECT -- MR. GRAHAM

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1 A One time, sir.

2 Q Why did it only happen one time?

3 A I really don't know how to answer that. I told
4 him -- either way we told him we felt awkward. I
5 don't know how to explain that.

6 Q Did he ever try to do it again?

7 A I believe once or twice more, but he kind of didn't
8 force that one the last time that he tried.

9 Q You talked about force. Did he ever use force on
10 you in accomplishing the sexual acts?

11 A Yes, sir.

12 Q Describe what force you mean.

13 A There has been a chance or two when he has hit me,
14 but that was involved around playing before. Then
15 he would actually get into it. Before, he would
16 actually force our pants down or just little things
17 to get what he wanted.

18 Q When you said he hit you and you said playing
19 around, you are talking about horseplay?

20 A Yes, sir. But then he would like -- his way of
21 horse playing would not only be like wrestling
22 around, but then when we would start wrestling, he
23 would like go straight for the sexual.

24 Q So he would grab at you?

25 A Yes, sir.

1 Q And then at some of those times, did you say he
2 pulled your pants down?

3 A Yes, sir.

4 Q What about any force he used with your cousin

5 MINOR 1

6 A I believe, yes. I don't know if he has hit my
7 cousin, but I do know that he has forced his pants
8 down.

9 Q Did you and MINOR 1 ever fight back?

10 A Yes, sir.

11 Q Tell me about that.

12 A I know we fought back a lot. I do remember one
13 incident where I came home from his house when my
14 parents and I was on [REDACTED] in South
15 Congaree with a shirt -- his blood all over my
16 shirt.

17 Q What, if any, acts did Mr. Parker try to get you to
18 perform with MINOR 1

19 A Oral and anal, the same thing he does to us. He
20 wanted us to perform it to each other, too.

21 Q Did you all ever do that?

22 A No, sir.

23 Q What, if anything, did Mr. Parker do during this
24 time period as far as providing you alcohol?

25 A I mean, he always had beer but he would just

1 provide it, and I was the only one that he provided
2 the cigarettes to because my cousin didn't smoke.

3 Q January 9, 2009, you made a disclosure of this
4 abuse to your mother; is that correct?

5 A I believe that was right around the time, yes, sir.

6 Q Where did you tell her? Where were you all at when
7 you told her?

8 A Pulling into the parking lot of the Lexington
9 Medical Health right beside the eye clinic.

10 Q You were going to where, I'm sorry?

11 A We were pulling into the Lexington Mental Health
12 Center.

13 Q What was the purpose of you going there that day?

14 A To see Heather Scoggins about the incident between
15 me and my sister.

16 Q Tell me about the incident between you and your
17 sister.

18 A As far as?

19 Q What, if anything, did you say to your sister that
20 caused your mom to be taking you to Ms. Scoggins?

21 A I can't tell you the exact wording, but I can tell
22 you along the baselines.

23 Q Please do.

24 A I had told her that I could teach her how to kiss
25 and that -- basically along those lines. I could

1 teach her how to kiss.

2 Q How old was your sister at that time?

3 A I believe she was ten.

4 Q Did you actually kiss her?

5 A No, sir.

6 Q Did your mom find out about that?

7 A Yes, sir.

8 Q And that was the purpose of her taking you to
9 Ms. Scoggins that day?

10 A Yes, sir.

11 Q Why did you decide to disclose that day?

12 A Well, me and my cousin, we have always had thoughts
13 about disclosing it or whatever, but we couldn't go
14 through with it. Me, myself I was afraid of what
15 people would think or whatever, but I guess I
16 already had the motivation. I didn't know how to
17 go about it, but that pushed me over the edge to
18 say it even more. So I kind of went through with
19 it.

20 Q Were you trying to throw attention off of yourself
21 to get out of trouble?

22 A There was a chance I was but not much. I've always
23 been the type that, yes, if I got in trouble, I am
24 not going to lie. I've always been the type that
25 didn't care too much about trouble.

1 Q Regardless though, are you telling the truth or are
2 you -- did you make these allegations up?

3 A I am telling the truth.

4 Q In the summer of 2008, did there come a time where
5 your mom forbid you to see Scott Parker anymore?

6 A Yes, sir.

7 Q And after she did that, did you abide by that and
8 not see him anymore?

9 A Yes, sir, I actually lost all contact with him at
10 the time.

11 Q Going back to when the abuse was going on, between
12 the last part of the 2006 to the mid part of 2008,
13 why didn't you tell anybody?

14 A I don't know. I'm nervous. As you can tell I
15 don't like being talked about or anything like
16 that. It kind of makes me -- I don't know. I go
17 off emotions most of the time.

18 Q What, if any, concerns did you have about what your
19 family and friends would think?

20 A I believe that was the main part. I thought they
21 would think I would be gay or like how -- I don't
22 know. I don't even know how to explain it.

23 Q Why did you keep going back after the first time
24 this happened? Why did you keep going back?

25 A Because he said that he would not do it again, and

1 he would always bribe us and give us money and
2 gifts and just things I wasn't used to.

3 Q When you talk about money, what kind of money are
4 you talking about?

5 A Every time it was at least a hundred or \$200.

6 Q And did that apply to MINOR 1 as well?

7 A Yes, sir.

8 Q How about gifts? Did he give you things?

9 A A long list, yes, sir.

10 Q During that time period, can you tell the jury some
11 of the things he gave you?

12 A Bowling balls, bikes, skateboards, a moped, B.B.
13 guns, things that were expensive.

14 Q How about taking you places? Did he take you
15 places?

16 A He took us out to eat all the time. We went to
17 Frankie's Fun Park a lot. We always went bowling.

18 Q You had said earlier, I think, something about
19 things you weren't used to. What did you mean by
20 that?

21 A My mom, yes, she has spoiled me growing up, but
22 I've never had a father figure in my life. So I
23 wasn't used to getting that from anyone else but my
24 parents -- my mom or my family members. So I don't
25 know, just...

1 Q Besides giving you money and gifts and taking you
2 places, what other kind of ways -- what, if
3 anything, did Scott Parker say to you to get you to
4 allow him to have oral sex with you?

5 A He would say that he would do this for us or take
6 us somewhere or buy us some more stuff. He would
7 say he wouldn't do it again, just anything you
8 could think of.

9 Q What, if anything, did he say about his feelings
10 for you?

11 A He said that he loved us and he wanted to make us
12 happy all the time. We told him a lot that we
13 didn't feel okay with that at all.

14 Q What did he say in response to that?

15 A I don't know. I keep playing that word, that whole
16 phrase in my mind, I want to make you happy thing.

17 Q What, if any, allegations have you made about your
18 mom physically abusing you?

19 A Like I said, me and my mom -- I'm very close to
20 her. We grew up together. She was 15 when she had
21 me. We had a rough relationship growing up. So we
22 would physically fight here and there.

23 I don't remember what year it was, but I know
24 we were living in South Congaree at the time. I
25 had just been arrested for fighting my mom, and so

1 at the time I had told him that me and her had
2 always fought and that she abused me.

3 Q Was that true?

4 A She had not abused me, but, yes, we had a lot of
5 fights.

6 Q Did you later recant or take back that story and
7 tell the police that it wasn't true?

8 A Yes, sir, I did.

9 Q That she didn't abuse you?

10 A Yes, sir.

11 Q Why did you tell the truth about that? Why did you
12 say that you had lied?

13 A Well, for one I felt bad because, I mean, I know it
14 kind of looks bad on people, like my mom. For
15 another I was in a new place I had never been to.
16 I am not used to staying away from home so long. I
17 kind of freaked out in the place I was at.

18 Q Did you change your story because you wanted to get
19 something out of it or did you change your story
20 because it was true and you had lied?

21 A I had lied.

22 Q Today talking about your testimony regarding the
23 sexual acts that Mr. Parker performed on you and
24 MINOR 1 are you lying or are you telling the
25 truth?

MINOR 2 -- CROSS -- MR. LOCKLAIR

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1 A I am telling the truth.

2 Q Please answer any questions that the defense
3 counsel has.

4 A Yes, sir.

5 THE COURT: Mr. Locklair.

6 MR. LOCKLAIR: May it please the Court, Your
7 Honor.

8 THE COURT: Yes, sir.

9 CROSS EXAMINATION

10 BY MR. LOCKLAIR:

11 Q MINOR 2, you stated that Scott Parker allegedly
12 would give you and MINOR 1 a hundred or \$200 each
13 time something occurred?

14 A Yes, sir.

15 Q Was that every time, the 15 to 20 times something
16 occurred?

17 A It was pretty much most of it.

18 Q Pretty much most of that. So let's say out of 15
19 to 20 times, how many times did he give you a
20 hundred to \$200 would you estimate?

21 A In between 8 to 12 of them. Other times he would
22 take us places or buy us things.

23 Q And he had been buying you toys and stuff even
24 since you were little kids, right?

25 A I couldn't tell you. I don't remember that far

1 back.

2 Q Did you make a list out for the prosecutor about
3 some of the gifts that he had given you?

4 A Yes, sir.

5 Q Do you remember writing down toys and things when
6 we were younger?

7 A Yes, sir, I do.

8 Q He gave you toys and things when you were younger
9 at some point in your life, right?

10 A I'm pretty sure he did. I don't remember exactly.

11 Q As you claim, he also at some point gave you a
12 bike?

13 A Yes, sir, that was within the last -- within 2006
14 to 2009, 8.

15 Q Portable D.V.D. players and skateboards?

16 A Christmastime, yes, sir.

17 Q A moped?

18 A Yes, sir.

19 Q And he allegedly took you a lot of places, too;
20 right?

21 A Yes, sir.

22 Q Frankie's Fun Park?

23 A Yes, sir.

24 Q Would take you bowling?

25 A Yes, sir.

1 Q Take you to the lake?

2 A Yes, sir.

3 Q Take you to Gamestop Rhinos?

4 A Yes, sir.

5 Q Take you out to the river?

6 A Yes, sir.

7 Q Take you out to Walmart, different stores; is that
8 correct?

9 A Yes, sir.

10 Q And then back in the summer of '08 when your mom
11 told you you couldn't see him anymore, all that
12 quit; right?

13 A Yes, sir, it did.

14 Q You didn't go anywhere else and you didn't get
15 anymore gifts either, correct?

16 A I didn't even -- I had no contact with him at all.

17 Q When you originally spoke to the police back on
18 January 9, 2009, you weren't fully honest with them
19 at that point either; were you?

20 A No, sir, I was hesitant about most things.

21 Q So you gave them one statement and then three days
22 later gave them another statement when you added
23 more to what you originally said, correct?

24 A Yes, sir.

25 Q Made it worse, correct, for him, made the acts that

1 occurred worse?

2 A I told them most of what I could think the truth
3 is, yes, sir.

4 Q Now, when you and your mother were going to
5 Lexington Mental Health regarding the incident with
6 your sister, that's when you first brought up these
7 allegations; correct?

8 A That same day on the first appointment, yes, sir.

9 Q And it had been since July of the previous year
10 when everything had quit happening, correct?

11 A I guess. I believe so.

12 Q Okay. From the time your mom told you not to see
13 Scott until all the way in January of 2009 when you
14 went to mental health because you were in trouble
15 for trying to do something with your sister, you
16 didn't say anything to anybody up until that point;
17 correct?

18 A No, sir.

19 Q Now, you alleged your mom physically abused you
20 back in 2007?

21 A Yes, sir.

22 Q Was she arrested for that?

23 A No, sir.

24 Q Do you remember talking to any detectives about
25 what had occurred specifically or did you make a

1 general allegation about what had occurred?

2 A A little of both.

3 Q What did you tell them had happened? What did you
4 tell them your mom had done to you?

5 A She had thrown me into a basket at the door and hit
6 me with a flyswatter.

7 Q Anything else?

8 A Other than just the random fights we used to have,
9 yes, that's about it.

10 Q When you told them that you and your mom would have
11 random fights, did they ask you anymore details
12 about those fights?

13 A No, sir, not that I know of.

14 Q Did they ask you if your mom ever slapped you?

15 A Not that I know of.

16 Q Did they asked if your mom ever punched you?

17 A Not that I know of.

18 Q Did they ever ask if your mother had thrown you
19 down before?

20 A Yes, sir, they have.

21 Q What did you tell them about that?

22 A I was just saying we had fights and we both
23 physically hit each other.

24 Q Your mom has actually struck you before in a
25 fighting manner, not in a disciplinary matter?

1 A Yes, sir, I'm the reason that caused it. I was the
2 first one to hit.

3 Q Would she tell you it was appropriate for her to
4 punch you back if you hit her first?

5 A No, sir. She would later on apologize and tell me
6 it's not right.

7 Q But she would punch you?

8 A I don't think she has ever punched me, no, sir.

9 Q Has she ever struck you in the face?

10 A She has slapped me but she has never punched me.

11 Q And she would later on come back and admit that
12 what she had done was inappropriate and a mother
13 shouldn't act that way towards a child?

14 A Yes, sir.

15 Q Did you ever tell police about any of these
16 instances of abuse?

17 A Well, I mean, the police officer or the detective
18 that I told about this was actually my dad's
19 cousin. So I'm pretty sure he knew about it
20 already anyway. It's Officer Jonas of South
21 Congaree.

22 Q What's his name again?

23 A Officer Jonas, South Congaree.

24 Q So it was your dad's cousin that you told about the
25 abuse. Do you know if he actually reported this to

1 any higher authorities?

2 A He probably did.

3 Q And at that point the Department of Social Services
4 got involved?

5 A Yes, sir.

6 Q And you were removed from the home, correct?

7 A Yes, sir.

8 Q Where did you go?

9 A Somewhere off Platt Springs. It was a foster care
10 home. It was like J.K. Moore or something like
11 that.

12 Q Do you know if the Department of Social Services
13 opened an investigation?

14 A I'm sorry, sir, what?

15 Q Do you know if the Department of Social Services
16 opened an investigation into your allegations of
17 abuse? Did somebody from D.S.S. come talk to you
18 about it or just the police officer spoke to you
19 about it?

20 A I believe they did open an investigation.

21 Q And you told the solicitor on direct examination
22 that you later admitted lying because you felt bad
23 and I think you used the word freaked about being
24 away from home and somewhere different?

25 A Yes, sir.

1 Q And how long did it take you to tell them that you
2 had lied?

3 A I left November 3rd or 4th of 2007 and came back
4 December 17th, I believe. So it had been maybe a
5 week or two right before then.

6 Q So November 3rd and you came back December 17th?

7 A Somewhere around there.

8 Q So about six weeks that you were there?

9 A Yes, sir.

10 Q You said about a week before you came home, you
11 told him you had lied; correct?

12 A Yes, sir.

13 Q So for five weeks you let people think that your
14 mom was abusing you and you were stuck in foster
15 care and didn't do anything to clear it up?

16 A That is incorrect, sir. Actually I was writing
17 suicidal notes.

18 Q Okay.

19 A And telling them that I had lied before about that.
20 It was during like the first two weeks that I
21 started writing those notes.

22 Q Who were you writing notes to?

23 A My parents.

24 Q And your parents didn't act on notes from you
25 talking about suicide and admitting that you had

1 falsely accused your mom?

2 A They did. That's exactly why D.S.S. pushed so hard
3 for the investigation to quickly be investigated.

4 Q You don't think that was because there were
5 allegations of a mother hitting her child?

6 A No, sir.

7 Q No. Have you ever made any other false allegations
8 about people committing crimes?

9 A Not to the police or on record, no, sir.

10 Q Let's talk about off the record, not the police.
11 Who else have you falsely accused of committing
12 crimes to people that were off the record or not to
13 the police?

14 A I don't really know what you are getting at there,
15 not really anybody.

16 Q So the only one we know for sure right now is you
17 lied about your mom committing a crime. You
18 haven't lied about anybody else committing a crime,
19 other than your mom?

20 A No, sir.

21 Q Never called the cops on anybody else, your dad or
22 step-dad?

23 A I've never called the cops in my life.

24 Q You claim that every time something occurred with
25 you and Mr. Parker that your cousin was there too?

1 A Yes, sir.

2 Q And did everything occur -- did every time that
3 your -- let me rephrase that.. Every time your
4 cousin was with you, did you see something occur
5 with him?

6 A Yes, sir. Well, not every time but every time that
7 it did happen to my cousin, I was pretty much
8 there, yes, sir.

9 Q How many times would that have been?

10 A It was around 15 or 20ish, the same amount of times
11 to me.

12 Q And you didn't tell the prosecutors before in
13 pretrial preparation that it was a different amount
14 of time, four to ten times?

15 A Sir?

16 Q You met with the prosecutors to get ready for
17 trial?

18 A I believe so. Yes, sir, I did.

19 Q And you talked to these people sitting at this
20 table about the case to prepare for trial, did you
21 not?

22 A Yes, sir.

23 Q When you talked to them, you didn't tell them that
24 you saw it happen with MINOR 1 15 to 20 times; did
25 you?

1 A I believe I did, sir.

2 Q The camper y'all were in, I'm assuming that is a
3 one-room camper; right? There's no dividers inside
4 of it to divide it into separate rooms?

5 A I mean, there is a bathroom on the right side of
6 the wall, but it doesn't work.

7 Q What about the Masters Inn? Is that a regular
8 motel room, like an open room with a couple of beds
9 and a bathroom?

10 A Yes, sir, and it was actually one single bed almost
11 every time.

12 Q One single bed?

13 A Yes, sir.

14 Q Or like one bed?

15 A One bed most of the time.

16 Q Y'all would go over and would you swim over there
17 when you went over there?

18 A We swam maybe a maximum of two to three times.

19 Q Did your mother ever go over there to drop you off
20 or to pick you up?

21 A My mom did not, sir.

22 Q Anybody else in your family?

23 A I believe my aunt did when we had a family reunion.

24 Q In your statement to the police -- and this would
25 be your second statement after you added some stuff

1 to your story -- you told the police that you were
2 asked: When he performed anal sex on you, was your
3 cousin present? And your answer was: Yes, but not
4 in the same room. What room was he in?

5 A Well, in the photographs of the camper, I believe
6 my cousin would have been in the bathroom part, the
7 building right beside the camper at the time. I'm
8 not sure. I don't know.

9 Q So he actually left the camper? He wasn't in the
10 camper when it occurred?

11 A I don't know. I don't remember putting that, sir.

12 MR. LOCKLAIR: May I approach, Your Honor?

13 THE COURT: Yes, sir.

14 BY MR. LOCKLAIR:

15 Q Let me show you this and ask you if you recognize
16 that document. If you could look over it briefly,
17 please.

18 A (Pause.) Yes, sir, I do recognize this. It is my
19 handwriting.

20 Q Can you look at the second page and look down
21 towards the bottom. I can show you if you want to
22 see if this will refresh your recollection. Read
23 down here (indicating) and see if that refreshes
24 your recollection about what you told the police on
25 January 12, 2009.

1 A Yes, sir.

2 Q What did you tell them about where MINOR 1 was when
3 that occurred?

4 A It says: Was he present at the time? I said, yes,
5 but not in the same room.

6 Q So back then you said he was present but not in the
7 same room?

8 A Yes, sir.

9 Q But now you are saying he was potentially not even
10 in the camper at all?

11 A I'm saying I don't know at the moment at all. I
12 can't remember that far back.

13 Q Why did you try to say he was in the outhouse if
14 you are not sure? Is your answer the outhouse, the
15 camper or you just can't remember?

16 A Now I can't remember but probably then I did. I
17 don't know. I was probably overwhelmed at that
18 time, sir.

19 Q When you made the allegations of physical abuse
20 against your mother, did you have to meet with any
21 sort of mental health counselor or anybody of that
22 nature?

23 A When I was in the foster care with that allegation,
24 they actually had their own little person there. I
25 don't know what they call her -- a therapist.

1 Q So you were in more of a group home versus like a
2 foster home, a family?

3 A J.J. Perry Moore or something. I don't know. It
4 was off of Platt Springs.

5 Q But you were in with a bunch of other boys? It
6 wasn't like you were in somebody's house living
7 with a family?

8 A Yes, sir. It was with boys. Boys were on one side
9 of the building and girls were on the other.

10 Q Okay. So basically they had a therapist on site?

11 A Yes, sir.

12 Q Did you talk to that therapist?

13 A Rarely. I'm not really the talking type.

14 Q So none of those sessions, I guess, none of those
15 allegations would come up at that point; did they?

16 A No, sir.

17 MR. LOCKLAIR: Beg the Court's indulgence one
18 moment.

19 THE COURT: Yes, sir.

20 (Pause.)

21 BY MR. LOCKLAIR:

22 Q Just a few more questions. Some of these gifts,
23 you would allege that he would buy you gifts for
24 performing certain acts, but some of them were
25 things for like birthdays; correct?

1 A Yes, sir.

2 Q He bought you a bike for your birthday, right?

3 A Yes, sir.

4 Q He got you another bike about the same time right
5 before Christmas when you came home from D.S.S.,
6 correct, from the group home?

7 A Yes, sir, I do believe so.

8 Q And he would buy you some of these gifts for
9 Christmas gifts, correct?

10 A He bought me two gifts for Christmas.

11 Q And I'm assuming a lot of these places he took you
12 were out in public and all with other people and
13 nothing occurred on those days, correct?

14 A They may have occurred on those days but not in
15 public.

16 Q Okay.

17 MR. LOCKLAIR: That's all I have, Your Honor.

18 THE COURT: Thank you, Mr. Locklair.

19 Redirect, Solicitor?

20 MR. GRAHAM: Yes, Your Honor. Beg the Court's
21 indulgence.

22 (Pause.)

23 REDIRECT EXAMINATION

24 BY MR. GRAHAM:

25 Q MINOR 2 Mr. Locklair asked you about you making these

1 allegations after Mr. Parker stopped giving you
2 gifts. Do you remember him asking you that?

3 A Maybe not in that wording, but I do remember him
4 asking.

5 Q Did you make these allegations up because he
6 stopped giving you gifts?

7 A No, sir.

8 Q He also pointed out some inconsistencies in things
9 that you said today versus things you said the
10 other day versus things you said two or four years
11 ago. Do you remember him doing that?

12 A Yes, sir.

13 Q Are the inconsistencies there because you made the
14 story up?

15 A No, sir, I do not believe so. I just believe my
16 memory is a little mixed up at certain points.

17 Q While your memory may be mixed up about certain
18 points, is there any question in your mind that
19 Mr. Parker performed oral sex on you and anal sex
20 on you?

21 A No, sir, I know 100 percent that he did.

22 Q Thank you.

23 THE COURT: Recross?

24 MR. LOCKLAIR: No, sir, Your Honor.

25 THE COURT: Thank you. Thank you very much,

1 MINOR 2 . You may step down.

2 THE WITNESS: Yes, sir.

3 (Witness leaves the witness stand.)

4 THE COURT: Perhaps now would be an
5 appropriate time to take a morning recess. Ladies and
6 gentlemen, I remind you during this recess, do not
7 discuss this case with anyone. That includes your
8 fellow jurors.

9 Please remember to keep an open mind and not
10 begin your deliberations until you are directed to do so
11 by the Court. We will take about a 15-minute recess.
12 You may go with your bailiff.

13 (The jury retires to the jury room.)

14 THE COURT: Court will be in recess 15
15 minutes.

16 (Whereupon there is a recess.)

17 THE COURT: Anything before we bring in our
18 jury, Solicitor?

19 MR. GRAHAM: Yes, sir, Your Honor. I did want
20 to address the subpoena for the mental health records
21 from Heather Scoggins and the Department of Mental
22 Health.

23 I had a phone conversation with her earlier
24 and during that conversation she said that she didn't
25 think a subpoena -- not today, earlier in preparing for

1 the case and when I asked about getting all the
2 records -- she stated that she didn't think a subpoena
3 would work and she thought it would need a Court order,
4 and I am just thinking --

5 THE COURT: Is she here?

6 MR. GRAHAM: No, she's not here.

7 THE COURT: Get her here and put her on the
8 stand and I will give her a Court order. It's just that
9 simple.

10 MR. GRAHAM: Thank you, Your Honor.

11 THE COURT: It doesn't have to be written,
12 does it?

13 MR. GRAHAM: No, sir -- I don't know. I don't
14 know the answer to that.

15 THE COURT: Tell her to come here with the
16 records and put her on the stand, and I will order her
17 to do it. If she doesn't want to follow the order, tell
18 her to bring her lawyer with her. In fact, tell her to
19 bring her lawyer with her.

20 MR. GRAHAM: Yes, Your Honor.

21 THE COURT: Bring the jury, please.

22 (The jury returns to the courtroom.)

23 THE COURT: You may call your next witness.

24 MS. WHETSTONE: Thank you, Your Honor. The
25 State calls Christal Hernandez.

CHRISTAL HERNANDEZ -- DIRECT -- MS. WHETSTONE

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1 CHRISTAL HERNANDEZ, being
2 first duly sworn, testifies as follows:

3 CLERK: Once you are seated, speak up loud and
4 clear. State your full name, spelling your last.

5 THE WITNESS: My name is Christal Hernandez,
6 H-E-R-N-A-N-D-E-Z.

7 COURT REPORTER: How do you spell Christal?

8 THE WITNESS: C-H-R-I-S-T-A-L.

9 DIRECT EXAMINATION

10 BY MS. WHETSTONE:

11 Q Christal, do you know ^{MINOR 2}?

12 A Yes, he is my son.

13 Q What is ^{MINOR 2}'s full name?

14 A MINOR 2 , [REDACTED].

15 Q Speak up, please. What is ^{MINOR 2}'s birthday?

16 A [REDACTED].

17 Q Christal, I will take you back to January 9, 2009.

18 Can you describe for me what you were doing that
19 day?

20 A I was taking my son to mental health to meet with a
21 therapist.

22 Q Why were you doing that?

23 A Because on my daughter's visitation to my home when
24 she went back to her father, she had told him that
25 she wanted to call and tell me something that

1 happened over the weekend.

2 Q Subsequent to that conversation, you made an
3 appointment with mental health?

4 A Yes.

5 Q Describe for me what happened while you were
6 driving to mental health that day.

7 A Well, I was nervous like I am now. Nothing really
8 happened up until we got right there in Lexington.
9 My son turned down the radio, and then he told me
10 he had been molested.

11 Q How was he acting at that time?

12 A Nervous, really scared.

13 Q Did he tell you anything else as far as when it
14 occurred or a time period?

15 A Not -- I don't really remember at that point if
16 he -- I know that I asked questions, but I don't
17 know exactly what I asked. I don't remember that
18 far back, but I'm sure I did ask. It's just I
19 can't really tell you what I asked until we went
20 inside mental health, and he spoke to Heather.

21 Q So tell me what happened when you got to mental
22 health.

23 A Heather Scoggins had came out, his therapist that
24 he was supposed to meet with. I don't know if ^{MINOR 2}
25 actually walked into the little designated area

1 where there is like a glass that separates everyone
2 from being able to hear what they are talking
3 about.

4 But when she first came out, I told her to
5 walk into the other room. I don't remember if ^{MINOR 2}
6 followed or if ^{MINOR 2} stayed outside. It was just a
7 simple conversation. I was upset. (Pause.) I'm
8 sorry. I then told her what he had told me.

9 Q Did you hear ^{MINOR 2} talk to Heather after that?

10 A Briefly but he didn't really want to say too much
11 in front of me. So she asked me to step outside.
12 He told her in front of me that he was molested,
13 but he didn't really get into the details. I
14 didn't hear any of the details.

15 Q What he said to her in front of you, was that
16 consistent with what he had said in the car to you
17 on the way there?

18 A Yes.

19 Q And after he met with Heather, what did y'all do
20 next?

21 A We went home. Well, before we went home, I
22 actually had told her that I was going to call the
23 police, but I had just learned this information.
24 So I wanted her to do whatever she had to do.

25 She said that she was a mandated informer or

1 something. I don't know what it's called, but she
2 pretty much was going to call the police, and then
3 she told me I should do so as well.

4 Q Did you call the police?

5 A Yes.

6 Q Where did you meet with the police?

7 A At my home.

8 Q Were you present when the police talked to ^{MINOR 2}

9 A Yes. They, of course, kind of -- at first it was
10 the same thing. They wanted to ask him certain
11 questions in front of me, but I kind of walked away
12 because I felt like he would feel more comfortable.

13 Q From what you heard of that conversation, was what
14 ^{MINOR 2} told police consistent with what he had told
15 you in the car and what he had said earlier at
16 mental health?

17 A Yes.

18 Q Christal, beginning in 2006 -- backing up now,
19 2006 -- who was the male figure, father figure, in
20 ^{MINOR 2} life?

21 A There were two.

22 Q Tell me who those were.

23 A My stepfather and my ex-husband.

24 Q Tell me -- and I'm talking about 2006 -- tell me
25 when the relationship that was going on with his

1 stepfather -- well, tell me about his relationship
2 with his stepfather.

3 A With my stepfather or his stepfather, my
4 ex-husband?

5 Q His stepfather.

6 A My ex-husband was really close to ^{MINOR 2} but we
7 were -- I was young when I married him, and I think
8 my son felt like he had to choose between my
9 ex-husband and me. So, of course, my ex-husband
10 wasn't his biological father and he chose me.

11 Q He stayed with you?

12 A Yeah, he stayed with me. He stopped seeing my
13 ex-husband. Like my ex-husband got him every other
14 weekend, and actually I think ^{MINOR 2} even went to
15 live with him for like a month or two.

16 Q When did that relationship end?

17 A 2005, 2006, once we split up. He actually fought
18 for custody of my daughter.

19 Q And after that what male figure was in ^{MINOR 2} life?

20 A None.

21 Q Do you know Scott Parker?

22 A Yes.

23 Q How do you know Scott Parker?

24 A He was a friend of the family.

25 Q Is he in the courtroom today?

1 A Yes.

2 Q Can you please point him out for me?

3 A Right there (indicating).

4 Q What is he wearing?

5 A I think that's a stripped shirt with some kind of
6 tie, black and grayish. I don't know. I'm getting
7 old. My eyes can't...

8 Q That's fine. Thank you. For how long has Scott
9 Parker been involved in MINOR² life?

10 THE COURT: Excuse me a minute, Solicitor.
11 What is that noise?

12 CLERK: I apologize. It's my computer acting
13 up, Your Honor.

14 THE COURT: Thank you. Go right ahead,
15 Solicitor.

16 BY MS. WHETSTONE:

17 Q I will repeat the question. How long has Scott
18 Parker been involved in MINOR² life?

19 A He wasn't really involved in MINOR² life when he
20 was little. He would come over to my stepfather's
21 house. Because, like I said, my husband was the
22 father figure up until we divorced.

23 He wasn't really involved in my son's life
24 until me and my husband split and MINOR² stopped
25 seeing my ex-husband. That's when he started

1 having things to do with my son.

2 Q What time frame was that?

3 A 2006.

4 Q What did you notice about the relationship that was
5 different in 2006 than before?

6 A There really was no relationship before. So, I
7 mean, he was -- I allowed him to be a part of my
8 child's life in 2006; whereas, before he would just
9 be at my stepfather's house, I don't know, having
10 beer, and he would be talking it up with my
11 stepfather before my stepfather passed away.

12 Q So after 2006 describe ^{MINOR 2} and Scott Parker's
13 relationship.

14 A ^{MINOR 2} I guess he was -- he was a friend. I mean,
15 they hung out and I would let ^{MINOR 2} go over to
16 MINOR 1 and he would be there, and he would be
17 hanging out with my sister. I guess that's how
18 ^{MINOR 2} and him became closer, whatever.

19 Q Describe to me who MINOR 1 is.

20 A My nephew.

21 Q So when you say you would let ^{MINOR 2} go to MINOR 1
22 house, he would go to?

23 A My mother's land which is right around the corner
24 from where Scott lived.

25 Q Thank you. Did you ever see Scott Parker touch

1 MINOR 2

2 A Yeah, he would hug him. He seemed kind of weird
3 and I would even say things to Scott about that --
4 to my nephew and my son. I couldn't tell really if
5 he was -- if it was inappropriate or if it was just
6 him being him, and I wasn't used to it or
7 something.

8 So I didn't want to make assumptions on the
9 way he acted versus the way I thought he should.
10 He would hug them and stuff like that, but it was
11 more so when he did something to my nephew one day
12 and it kind of caught my attention, and I thought
13 it was kind of weird.

14 Q You saw this?

15 A Yes.

16 Q What did you see?

17 A We were at my sister's house, and he pinched my
18 nephew on the butt.

19 Q By nephew are you talking about MINOR 1

20 A MINOR 1 uh-huh.

21 Q Did you see anything happen such as the Defendant
22 giving MINOR 2 gifts?

23 A Oh, yes.

24 Q Did you actually see MINOR 2 receive gifts from the
25 Defendant?

1 A Yes.

2 Q Tell me about that.

3 A He always was buying them things. The one thing
4 that irritated me the most was I think the phones.
5 Because I had my nephew and my son, when they lived
6 with me, cell phones through Suncom. It was
7 unlimited everything.

8 So I couldn't understand why Scott kept
9 wanting to buy them cell phones. It was always
10 prepaid phones, but I guess they got better-looking
11 phones at Walmart or something. I don't know.

12 I would never buy them the fancy phones. I
13 would just buy them the phones that I could get in
14 touch with them. So Scott always brought prepaid,
15 nice-looking, flip -- I don't know, just different
16 gadgets.

17 Q How many phones did he buy them a lot?

18 A A lot.

19 Q Can you put a number on it?

20 A Me saying a lot, a lot for me, a lot for me. I
21 would say anywhere -- at least five apiece, at
22 least, and that would be in the total of one and
23 half years.

24 Q What also would he give ^{MINOR 2}

25 A He gave ^{MINOR 2} and MINOR 1 or ^{MINOR 2}

1 Q MINOR 2

2 A A necklace. He bought him a necklace with a cross
3 on it, I believe. It was one of those big, gaudy
4 looking things. Bicycles, baseballs -- not
5 baseballs -- basketballs, skateboards, bowling ball
6 and shoes. The X. box was MINOR 1 That wasn't
7 given to my son.

8 Phones, money, candy, like they came home with
9 just different stuff, school supplies. He bought a
10 lot of stuff, and I didn't really understand why
11 and I asked.

12 Q Christal, is it fair to say that during this time
13 period, you struggled financially to provide for
14 your family?

15 A Yes.

16 Q Have you struggled to buy things for your children?

17 A Yes, ma'am.

18 Q You just mentioned it earlier. Did you ever ask
19 Scott Parker why he was buying these things and
20 doing things for MINOR 2

21 A Yes. I actually said things to him on a regular
22 basis. He always told me that -- because I told
23 him, I said, you know, you are spending all this
24 money and these kids aren't related to you. You
25 always told me because my stepfather passed away,

1 they had no father figure in their life. So he was
2 going to do that for them.

3 Q That he thought he was filling that role?

4 A Yeah, that's what he said.

5 Q And how often would you ask Scott Parker that
6 question, why are you doing this?

7 A I asked him several times.

8 Q Christal, did you ever drop ^{MINOR 2} off at the
9 Defendant's trailer on [REDACTED]?

10 A The camper?

11 Q The camper.

12 A Yes, ma'am.

13 Q I am showing you State's Exhibit Number 1. Is that
14 where you would drop him off?

15 A Yes.

16 Q Do you recognize that?

17 A Yeah.

18 Q How many times would you say you dropped him off
19 and picked him up?

20 A I dropped him off maybe a handful of times there.
21 It was always for them to go do things, maybe a
22 handful, and I may have picked him up once from
23 there.

24 Q Did you ever take ^{MINOR 2} or pick him up, drop him off
25 at the Masters Inn in Cayce?

1 A No, ma'am.

2 Q Did you know ^{MINOR 2} was going to the Masters Inn in
3 Cayce?

4 A Yeah, I knew about it, but it was always because
5 they told me they wanted to go swimming. I didn't
6 have a swimming pool. I used to have like one of
7 those Walmart swimming pools, and I would never buy
8 one because it was always so hard to take care of
9 afterwards. They always told me that they were
10 going there to swim, that Scott wanted them to go
11 swimming.

12 Q During this time did you ever tell Scott Parker he
13 couldn't be around ^{MINOR 2} anymore?

14 A When ^{MINOR 2} was on restriction, I told him he
15 couldn't do a lot of things, and Scott was included
16 in those things.

17 Q How would the Defendant react when you told them
18 that?

19 A He would call numerous amounts of time. Actually I
20 would cuss him out when he would call my phone.
21 Then he would call their phones. I would take
22 their phones from them. Then he would start
23 calling my phone.

24 Then he would try and tell me that they needed
25 this or they needed that, and he would come take

1 them to go do this and that, and he was annoying,
2 really annoying with it.

3 Q Was he calling on the phone that he bought them or
4 the phone you had for them?

5 A Both. I mean, he was outlandishly non-stop.

6 Q Did you ever talk to ^{MINOR 2} about his relationship
7 with Scott Parker?

8 A I didn't really talk to him about his relationship
9 with Scott Parker. Scott made me feel
10 uncomfortable the way he acted, and I assumed that
11 my children or my nephew would tell me things, you
12 know.

13 So I asked them about certain things, like if
14 he was to have ever messed with them, would they
15 let me know, and they was like -- they told me they
16 would tell me. So I didn't think anything was
17 going on.

18 Q If they had told you he was molesting them, would
19 you have called the police?

20 A Oh, yes and he knows that as well.

21 Q At any time prior to January 9, 2009, did you make
22 a police report regarding molestation?

23 A No.

24 Q At some point did you tell ^{MINOR 2} he could no longer
25 hang out with Scott Parker?

1 A Yes.

2 Q Can you tell me a time frame when you told ^{MINOR 2} he
3 could no longer hang out with Scott Parker?

4 A June or July of 2008.

5 MS. WHETSTONE: No further questions, Your
6 Honor.

7 THE COURT: Thank you, Solicitor.
8 Mr. Locklair.

9 MR. LOCKLAIR: May it please the Court, Your
10 Honor.

11 THE COURT: Yes, sir.

12 **CROSS EXAMINATION**

13 BY MR. LOCKLAIR:

14 Q Ms. Hernandez?

15 A Yes, sir.

16 Q When you went to mental health, about how long did
17 you meet with Ms. Scoggins?

18 A Which time?

19 Q The first time on January of '09 when he first made
20 the alleged allegation.

21 A Did I meet, or was my son in there?

22 Q How long did you talk to her personally?

23 A Not very long at all.

24 Q When you talked to the police, how long did you
25 talk to them?

1 A Not very long at all.

2 Q Did they follow up with you at all?

3 A I mean, I was always there but they would briefly
4 say things to me. They just pretty much told me
5 not to ask my son any questions, and it would come
6 out, he would get tired of hearing the questions
7 over and over again. It was just telling me how to
8 react.

9 Q At any point did you ever tell either the therapist
10 or the police about these new allegations that you
11 made that Scott was calling them all the time,
12 constantly pestering, that you were saying leave
13 them alone? Did you ever report that to anybody?

14 A I don't think. I don't think they asked.

15 Q You didn't think that would be pertinent at the
16 time?

17 A They didn't ask. You are asking different
18 questions. I am giving you the answers.

19 Q You are currently remarried again, correct?

20 A Yes.

21 Q When did you get remarried?

22 A 2007.

23 Q And how long did you date your current husband
24 prior to getting married? How long had y'all been
25 together?

1 A A year and a half before that.

2 Q Sometime in 2005?

3 A Yeah. We met at the end of 2005.

4 Q And at that point when y'all met, according to you,
5 your ex-husband was still really close to ^{MINOR 2} --

6 A Yes, he was.

7 Q -- and a father figure?

8 A He was my son's father, the only one he had, other
9 than my stepfather.

10 Q Your son's real father is not a very upstanding
11 guy, correct?

12 A No, he's in prison actually.

13 Q He's in prison for giving your son --

14 A Child support.

15 Q -- child support. At some point thought didn't he
16 get in trouble for giving your son alcohol and
17 marijuana?

18 A He sure did. Anybody that hurts my child, I will
19 make sure that they do what they are supposed to be
20 doing.

21 Q Why back in 2005 did your ex-husband get custody of
22 your daughter? Did you not fight for custody or
23 did the Court award him custody over your request
24 for custody?

25 A Actually I fought for custody, and then my daughter

1 actually said right before we had the final hearing
2 that she chose to live with her father.

3 Q How old was she?

4 A She was nine at the time, I guess. Now she is 11.

5 Q Did you concede that point?

6 A What do you mean by that?

7 Q Did you allow her to go live with the father or did
8 the Court order her, in despite of your request, to
9 live with the father?

10 A Well, yeah. It was more or less that way because I
11 don't think I would have just gave my child.

12 Q So the Court held a hearing and found that was in
13 the best interest of your daughter to go live with
14 your father versus you?

15 A Yes, because she wanted to. Her father wasn't a
16 bad guy at all.

17 Q That's actually one of several factors the Court
18 looks at, isn't it, in family court? They don't
19 determine by what a child wants, what a nine year
20 old wants to do?

21 A It was because neither one of us were found to be
22 unfit actually. That's what the papers state. It
23 was just because he had been in a stable job
24 atmosphere, and my daughter said that she thought
25 she would have a better life with my husband, my

1 ex-husband actually, is what she stated. Those
2 were her words.

3 Q Back in 2007 y'all had an incident where your son
4 accused you of physically abusing him, correct?

5 A Yes.

6 Q And when that first occurred, you actually called
7 the police on him three times that weekend;
8 correct?

9 A Yes.

10 Q Then they took him into custody?

11 A No. Actually I think ^{MINOR 2} might have thought that
12 they were taking him into custody because that was
13 what we were leading him to believe because the
14 police officers told me that maybe they could scare
15 him into, I guess, stopping his behavior at that
16 time.

17 So two of the policemen from South Congaree
18 actually took him down there and told me to give
19 them 30 to 45 minutes, and then I could come pick
20 him up.

21 Q So the police took him into their custody --

22 A Yeah.

23 Q -- and took him to the police station?

24 A He wasn't arrested like he thought he was.

25 Q And then he made allegations that you had abused

1 him, correct?

2 A I don't think he really actually came out and said,
3 hey, my mom beats me. It was more or less like
4 Officer Jonas -- this is the way I was told it
5 happened by both of them, that Officer Jonas was
6 doing the whole tough love kind of thing.

7 He knows his father. That's his cousin. They
8 don't get along. He was pretty much talking down
9 to my son like, you don't want to be like your
10 father, blah, blah, blah, and my son was getting
11 angry.

12 Q Does your son have anger management issues?

13 A He has. He has grown a lot. I think you have seen
14 that.

15 Q Back in this whole time period we are talking
16 about, he had a lot of anger management issues?

17 A With me, with me.

18 Q He obviously had some with Officer Jonas. You said
19 he started to get angry.

20 A No, he has -- it's mainly me. I raised him. I had
21 him at 15 years old. There was a lot of things
22 that I did that weren't so great. I parented the
23 best I knew how at 15 years old. If ^{MINOR 2} is talked
24 down to or feels like he is being hurt, he reacts
25 in anger.

1 Q If somebody takes something away from him?

2 A No, not taking anything away from him. If you hurt
3 him physically or if you hurt him emotionally, he
4 kind of acts out in anger. He is not -- whereas, I
5 cry, he is an emotional child. He is an angry
6 feeler. He reacts in emotion.

7 Q You don't think it would affect him emotionally if
8 he were getting thousands and thousands of dollars
9 and thousands of dollars of gifts and all of a
10 sudden that was taken away? That wouldn't hurt him
11 emotionally?

12 A That is why he was angry with me.

13 Q So it's fair to say that he was angry when all the
14 gifts and money stopped coming from Scott?

15 A No. He was angry at me because I put him on
16 punishment, and then when I let him go back to
17 Scott -- there is a reason why I stopped him from
18 seeing Scott.

19 Q I'm not talking about that reason. I don't want to
20 go there. I'm talking about as far as you are
21 saying he was angry at you but not anybody else
22 over not being able to receive things?

23 A Okay. Yeah, he was angry at me. I'm the closest
24 one to him. Of course, he's angry at me.

25 Q Going back to the physical abuse with you and ^{MINOR 2}

1 were you aware that when he reported this, he said
2 you were physically abusing him and beating him
3 with a flyswatter? Did they not bring that to your
4 attention?

5 A First off, my son is not lying about this.

6 Q You did abuse him?

7 A I mean, it depends on what you are saying about
8 abuse. I guess it's your perception. I have
9 smacked my child in the face before. I have. Like
10 I said, there are things I'm not proud of, but I
11 have slapped him in the face before.

12 Q How old was he when you slapped him in the face?

13 A I have no idea. I didn't write it down. I done it
14 more than once.

15 Q You've done it so much you can't remember?

16 A Not so much I can't remember but I have smacked
17 him. I have.

18 Q Did you admit that --

19 A And I did hit him with a flyswatter. So he wasn't
20 lying.

21 Q Did you admit to the police that you hit your child
22 in the face?

23 A Uh-huh. (Indicating affirmative response.)

24 Q They didn't arrest you?

25 A Actually they didn't ask me, hey did you slap your

1 child? I didn't slap my child on that date. I've
2 never punched him. It was never like that. I
3 smacked him.

4 If he, I don't know, called me certain names
5 or something like that, it was a reaction. I don't
6 believe that a child should look at you and call
7 you out of your name if you are the mother.

8 Q But you believe it's okay to strike a child in the
9 face?

10 A No, I don't. Like I said, I was 15 when I had him,
11 okay, so I've learned along the way of raising him.

12 Q So did you mainly slap him when he was an infant, a
13 small child?

14 A No, I didn't smack him when he was an infant.

15 Q Well, if you had him at 15 and he was 10 years old,
16 you would be 25 and you were still smacking him,
17 hadn't you learned to parent by then?

18 A I probably smacked him around the age of about ten,
19 probably.

20 Q That's when you started hitting him?

21 A When I started hitting him? When I smacked him in
22 the face, yeah, I would smack him in the mouth or
23 if he would call me a name, I would smack him
24 across the face. Yeah, that will make me look bad,
25 but I'm telling you the truth.

1 Q That's after ten years of learning to parent, you
2 learned that was the best way to do it?

3 A Not every parent knows how to exactly raise their
4 child, okay. I tried the best I can.

5 Q You don't know better than to hit a kid in the
6 face?

7 MS. WHETSTONE: Objection, Your Honor.

8 MR. LOCKLAIR: We will move on, Your Honor.

9 BY MR. LOCKLAIR:

10 Q Did D.S.S. ever start an investigation --

11 THE COURT: When you make an objection, if you
12 would allow me to at least rule on it one way or the
13 other.

14 MR. LOCKLAIR: I said I withdraw the question.
15 I apologize.

16 THE COURT: You may ask your next question.

17 BY MR. LOCKLAIR:

18 Q When he reported the physical abuse and the beating
19 with the flyswatter, was a D.S.S. investigation
20 begun?

21 A Yeah, D.S.S. came by.

22 Q Did D.S.S. come to your house and talk to you?

23 A Yes. Actually they had -- yeah, they came.

24 Q Did you admit to them about hitting him?

25 A I told them that I hit him with a flyswatter, but

1 not the way it seemed at the moment. I mean, me
2 and ^{MINOR 2} we grew up together. So, like I said, my
3 parenting was a little off because I kind of raised
4 him like he was my little brother instead of like
5 he was my child.

6 Q When they came to the house, did you just talk to
7 them about the flyswatter incident and fail to
8 mention the other incidents?

9 A They didn't ask me about anything else, okay. I
10 don't think -- they didn't say, hey, have you ever
11 smacked your child in the face because he called
12 you a name? They didn't say anything.

13 I'm not going to -- I don't know what you want
14 me to say. Yeah, we talked about the flyswatter.
15 I told them that I flopped the flyswatter on his
16 head, and he was angry. Then he reacted. That's
17 what happened.

18 Q Did they ask you if there were any other incidents
19 of physical violence?

20 A No, they didn't ask me anything.

21 Q They just asked about that one incident and moved
22 on their way?

23 A I don't really remember, but, I mean, you have the
24 papers. You can see.

25 Q He was sent to a group home, correct?

1 A Yes.

2 Q And eventually he left that group home because he
3 was allegedly suicidal?

4 A He didn't leave the group home because he was
5 suicidal. We went to court. Actually the D.S.S.
6 lady had given me papers that he had written me
7 while he was there, and it said something about him
8 hurting himself or killing himself and how he
9 didn't want to live if he wasn't with us.

10 I told them then that if something happened to
11 my son, that I would bring charges against them
12 because they weren't acting as though they cared --
13 not as if they cared, but kind of like they didn't
14 believe that he would do anything.

15 So I was just letting them know that if he did
16 anything, then I knew that he had said this.
17 Actually the guardian ad litem took the copies of
18 the letters and made copies for herself. So that's
19 when they gave him back.

20 Q They gave him back in December of 2007?

21 A Yes.

22 Q Did he return straight home to you or did he go
23 live with another relative?

24 A No, he came home to me.

25 Q Did he go stay with an uncle?

1 A No, not at the time.

2 Q When did he go stay with his uncle?

3 A I don't really remember the time. Probably it was
4 about two years ago. It wasn't for long.

5 Q Why did he go to his uncle's?

6 A Because he was acting out. He thought anywhere
7 would be better than my house. He thought I was
8 more strict on him, which I am told I am very
9 strict.

10 He thought it would be better somewhere else.
11 So I gave him to my brother for a little while. He
12 was -- which was like right around the corner from
13 my house, which is not on [REDACTED]. It was in
14 Gaston, the other end of Gaston.

15 Q How many times, other than 2007 when he went to
16 D.S.S. and then he went to his uncle's house, has
17 he lived outside the home?

18 A Never, except for like I said, when my ex-husband
19 got him for like not very long, but when he chose
20 to live with my ex-husband. It was all because
21 of behavior problems when he lived with other
22 people.

23 MR. LOCKLAIR: Beg the Court's indulgence,
24 please.

25 THE COURT: Yes, sir.

1 (Pause.)

2 MR. LOCKLAIR: That's all the questions I have
3 for this witness, Your Honor.

4 THE COURT: Thank you, Mr. Locklair.
5 Solicitor, redirect?

6 MS. WHETSTONE: Nothing further from the
7 State, Your Honor.

8 THE COURT: Thank you. Thank you very much,
9 Ms. Hernandez. You may step down.

10 THE WITNESS: Thank you.

11 (Witness leaves the witness stand.)

12 THE COURT: Solicitor, you may call your next
13 witness.

14 MR. GRAHAM: Thank you, Your Honor. The State
15 calls MINOR 1 .

16 THE COURT: Say the name again. I couldn't
17 quite hear you.

18 MR. GRAHAM: MINOR 1 . MINOR 1

20 MINOR 1 , being
21 first duly sworn, testifies as follows:

22 CLERK: Once you are seated, if you will speak
23 up loud and clear. State your full name, spelling your
24 last.

25 THE WITNESS: My name is MINOR 1 .

1

DIRECT EXAMINATION

2

BY MR. GRAHAM:

3

Q Spell your last name, please.

4

A [REDACTED].

5

Q What name do you go by?

6

A I go by MINOR 1

7

Q MINOR 1 how old are you right now?

8

A I'm 18.

9

Q What's your date of birth?

10

A [REDACTED].

11

Q Tell me a little bit about your family.

12

A Well, basically we are like -- I don't know. I

13

don't know what you mean by that.

14

Q Tell me about the members of your family.

15

A What do you want me to tell you about them?

16

Q Who is your mom? What's her name?

17

A My mom's name is Angela Finley.

18

Q Then how about brothers and sisters?

19

A I have one sister and two brothers.

20

Q MINOR 2 who is MINOR 2

21

A That's my -- I was about to say nephew. That's my

22

cousin.

23

Q How long have you known MINOR 2

24

A All my life. Well, all his life.

25

Q Were y'all close?

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1 A Yes, sir, we have always been close.

2 Q How about Scott Parker? Tell me how long you have
3 known him.

4 A Scott Parker, he has been always in my life. He's
5 been a family friend. He has been there basically
6 all of it. Our parents knew him and his family
7 when they were growing up.

8 Q That's over on the [REDACTED] area?

9 A Yes, sir.

10 Q Scott Parker is the man that is sitting next to
11 Mr. Locklair, the attorney, over at that table?

12 A Yes, sir.

13 Q As you were growing up, how would you describe your
14 relationship with Mr. Parker?

15 A He's always been close. Like, we'd always see him
16 as a family friend, like family. He's always been
17 around.

18 Q Did you think of him as family?

19 A Yes, sir, I did.

20 Q If you had to describe what role he had in your
21 life, how would you describe that?

22 A I have always seen him as an uncle, like one of my
23 uncles.

24 Q Is it fair to say as you were growing up that you
25 loved him?

1 A Yes, sir.

2 Q Going backs to the summer of 2006, what, if
3 anything, happened that was a change in your
4 relationship with Scott Parker?

5 A Well, basically we started spending more and more
6 time with him. As we were together, like he would
7 suggest things. Then finally one day he suggested
8 that we compare penises.

9 Q When you say we, who are we talking about?

10 A Me, my cousin, which is ^{MINOR 2} and Scott Parker.

11 Q Did you all do that?

12 A Yes, sir.

13 Q Where did that happen at?

14 A At Scott's camper.

15 Q Referring to State's Exhibit Number 1, is that the
16 camper you are referring to?

17 A Yes, sir.

18 Q After that incident what, if anything, else did
19 Mr. Parker say to you or ^{MINOR 2}

20 A He would just suggest a lot of things as we kept
21 hanging out with him.

22 Q What kind of things?

23 A Like oral, anal. He just suggested a lot of
24 things.

25 Q At some point after he was making those

MINOR 1 -- DIRECT -- MR. GRAHAM

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1 suggestions, what, if anything, physical happened,
2 either that happened to yourself or that you saw
3 happen to MINOR 2

4 A Yes, sir, I saw it happening to my cousin MINOR 2

5 Q You saw what?

6 A I saw Scott Parker on top of him giving MINOR 2 oral.

7 Q One time, tell me what you mean about oral sex?
8 What does that mean?

9 A Well, Scott had my cousin's penis in his mouth.

10 Q Where did that happen at?

11 A In Scott's camper right there on that bed, the top
12 bunk, which is over the stairwell.

13 Q That time what, if anything, happened to you?

14 A A couple of days later I let him do oral on me.

15 Q Where did that happen?

16 A That happened, I want to say up there at the same
17 spot, but it might have been done on the other bed.

18 Q In the camper though?

19 A Yes, sir, in the camper.

20 Q Was that the only time that you saw Scott Parker
21 perform oral sex on MINOR 2

22 A No, sir, I have seen it eight, nine times.

23 Q What locations were those at?

24 A Most of the time I have seen him doing it on
25 [REDACTED], but for whatever reason, I was out of it.

1 I know I seen him do it a couple of times at the
2 hotel.

3 Q And when you are talking about the hotel, you are
4 talking about the Masters Inn?

5 A Yes, sir.

6 Q The picture, State's Exhibit Number 3?

7 A Yes, sir.

8 Q How many times -- was there more than the one time
9 that you described where Scott Parker performed
10 oral sex on you?

11 A Can you repeat the question?

12 Q You had told the jury about one time when Scott
13 Parker performed oral sex on you.

14 A Yes, sir.

15 Q Was that the only time?

16 A No, sir.

17 Q How many times --

18 A It's happened 15, 20 times, 20-plus. It probably
19 happened more than 20 times.

20 Q Where did those incidents happen?

21 A In Scott's camper and the Masters Inn?

22 Q Were you by yourself or were you with someone?

23 A I was with my cousin ^{MINOR 2}

24 Q Were you always in the same room when this
25 happened? Were you always awake?

1 A We were always around each other. We was at the
2 same spot, but there's some instances where one of
3 was outside for whatever reason and one was in
4 there, and there is some instances where we were
5 asleep. One of us was asleep and the other one
6 wasn't.

7 Q When did these -- time frame wise -- when did these
8 incidents occur?

9 A Around July of '06.

10 Q And did they continue throughout the end of '06?

11 A Yes, sir.

12 Q How about in 2007?

13 A Yes, sir.

14 Q Did they continue into the first part of 2008?

15 A Yes, sir.

16 Q Talking about the Masters Inn, how many times do
17 you think you went there?

18 A I think we went there around, I want to say, 15.

19 Q Did you always go there to swim?

20 A Not all the time, sir.

21 Q Was it always during the summer?

22 A It wasn't. It was not during the summer always.
23 It was -- we went there like a lot more in the
24 summer, but we still went there other times.

25 Q Were there ever any times that Scott Parker rented

- 1 a room at the Masters Inn and you and ^{MINOR 2} didn't
2 go?
- 3 A He told me and my cousin that he did, that he took
4 his girlfriend. So, yes, sir, he told us. I don't
5 really know for sure.
- 6 Q When the three of you went to the hotel, how many
7 beds would there be in the room?
- 8 A Usually there was one bed, one king size bed.
- 9 Q So the three of you, where did you all sleep?
- 10 A We slept together.
- 11 Q How old were you at the end of 2006 when this abuse
12 began?
- 13 A At the end of the 2006, I would have been 15.
- 14 Q How about during the summer of '06?
- 15 A I would have been 14.
- 16 Q And then during the year 2007, how old were you?
- 17 A Can you repeat the question?
- 18 Q You turned -- how old were you -- what is your
19 birthday?
- 20 A [REDACTED].
- 21 Q So [REDACTED] of '06 how old were you?
- 22 A I would have been turning 16.
- 23 Q You were born in --
- 24 A No, I'm sorry, I was 14.
- 25 Q So you were 14 turning to 15?

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1 A Yes, sir.

2 Q November of '07 you were 15 turning 16?

3 A Yes, sir.

4 Q And then you would not have turned 17 until
5 November of '08?

6 A Yes, sir.

7 Q What, if any, force did Scott Parker use on you or
8 ^{MINOR 2} that you saw?

9 A Usually if we were going for it, like he would
10 force the rest -- like if we were even thinking
11 about it, like putting our hands on like to take
12 off our pants and we stopped, he would continue to
13 force it.

14 Q When you say he forced it, what do you mean?

15 A He forced our pants down and he forced to give us
16 oral.

17 Q Were there other time when you and ^{MINOR 2} were able
18 to keep him away?

19 A Yes, sir, there was only like four.

20 Q Did Scott Parker ever suggest or ask you and ^{MINOR 2}
21 anything regarding you all performing acts on each
22 other?

23 A Yes, sir. He asked us like basically everything to
24 do. He asked us to experiment with a lot of
25 things.

1 Q What, if anything, during this time frame, from the
2 summer of 2006 to the summer of 2008, what, if
3 anything, did Scott Parker give you or ^{MINOR 2} for
4 allowing him to perform these acts on you?

5 A He gave us a lot of things. He gave us a D.V.D.
6 player, necklaces, bikes. He gave us -- he took
7 us places. He gave us money. That's pretty much
8 it.

9 Q In addition to giving you things and taking you
10 places, did he ever say anything through words?

11 A Yes, sir. He said he wanted to be there even when
12 no one else could. He wanted to always be a part
13 of our life.

14 Q What did he ever say about his feelings for you and
15 what he wanted for you?

16 A He said he loved us and he didn't want us to get
17 hurt or anything.

18 Q During the time this was going on and after the
19 first time it happened to ^{MINOR 2} and then it happened
20 to you in the camper, why did you keep going back
21 to his home?

22 A Because growing up I didn't really have any things
23 that he was giving us. I guess I was just going
24 there to get stuff, get things, and like we would
25 go there to hang out and stuff. We just went there

1 to go places.

2 Q Was there more to it than that though?

3 A There was. I love him. I still do, even though
4 all this has happened.

5 Q You still love him today sitting there?

6 A Yes, sir.

7 Q In the summer of 2008, did there come a point where
8 your mom stopped you from seeing Scott Parker?

9 A I was living with my aunt. But by the time she
10 stopped letting him, I stopped.

11 Q I will take you back. Do you remember talking to
12 the police the first time you ever told anybody?

13 A Vaguely, yes, sir.

14 Q Where did that happen at?

15 A That happened at school.

16 Q Was that Airport High School?

17 A Yes, sir, Airport High School.

18 Q Sitting at the table with me is an officer in a
19 uniform. Do you recognize him?

20 A Vaguely.

21 Q How did you find out that the police were coming to
22 talk to you?

23 A Well, when I got the letter telling me to go up to
24 the office, I immediately stepped out of the P.E.
25 room that I was in, and I called my mom. My mom

1 explained to me, like my cousin ^{MINOR 2} has told
2 everything. She told me to be honest, so I already
3 knew what to expect.

4 Q When you say she told you that ^{MINOR 2} told
5 everything, did she go into specific details or
6 not?

7 A No, sir, she just told me ^{MINOR 2} told. She didn't
8 give any detail. She just said ^{MINOR 2} told
9 everything, just be honest.

10 Q Based on your conversation with your mom, when the
11 police came, what did you say to them?

12 A I didn't want to tell them anything. Truthfully I
13 didn't want to go up there. I just wanted to go,
14 but when I was leaving, when we were about to get
15 dismissed, the officer, she had already came and
16 got me.

17 Q So if the officer came -- if the officer had not
18 come and got you, would you have gone to talk to
19 the police?

20 A No, sir. I would have got on the bus and went
21 home.

22 Q But she got you and actually took you to go to the
23 detectives?

24 A Yes, sir.

25 Q If the police had not come that day and that

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1 officer had not taken you to the room that day, do
2 you think you ever would told what happened?

3 A No, sir.

4 Q Tell me why not.

5 A Because like at the time, I didn't want to see him,
6 Scott Parker, go to jail or get in trouble of any
7 sort because I love him. I just didn't want
8 anybody to have a different opinion of me. I just
9 worried about what everybody thought of me.

10 Q Please answer any questions Mr. Locklair has.

11 THE COURT: Thank you, Solicitor.

12 Mr. Locklair.

13 MR. LOCKLAIR: If the Court please, Your
14 Honor.

15 THE COURT: Yes, sir.

16 CROSS EXAMINATION

17 BY MR. LOCKLAIR:

18 Q MINOR 1 , in addition to some of the gifts that
19 y'all say that Mr. Parker bought y'all, he also set
20 up small jobs for y'all to work at, correct, to
21 make some money?

22 A Yes, sir.

23 Q He would buy y'all sometimes things like school
24 supplies or clothes?

25 A I don't really remember.

1 Q In fact, he had lent you some money right before
2 all this came out; right?

3 A He didn't lend us no money, ever.

4 Q When your mom first called you and you were talking
5 to her on the phone, isn't it true you first told
6 her you didn't know anything about it?

7 A I told her I didn't know. I told her -- I didn't
8 want to tell. I didn't want to tell anybody.

9 Q Did you tell her you didn't want to tell anybody or
10 you told your mom -- just tell me what did you tell
11 your mom when she called you?

12 A I called her. She didn't call me. I called her.
13 She basically said ^{MINOR 2} told everything, and I was
14 like, I was just like okay. I was like okay and I
15 was going with it.

16 Q But at that point didn't you tell her you didn't
17 know anything about anything?

18 A I didn't say I didn't know anything about anything.
19 I just went like okay, okay, okay.

20 Q And when Detective Lint first talked to you, didn't
21 you tell him you didn't know anything about it?

22 A Yes, sir.

23 Q You did tell him that?

24 A Yes, sir.

25 Q Who all was present when you first spoke to the

MINOR 1 -- CROSS -- MR. LOCKLAIR

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1 police at school?

2 A It was me and two officers, I do believe.

3 Q Do you know who the other one was, other than
4 Officer Lint?

5 A No, sir, I don't really.

6 Q Male or female?

7 A It was a male.

8 Q When Detective Lint first started talking to you,
9 were there any females present or was it just him
10 and the other detective?

11 A I really can't remember back then. I can't
12 remember if there was a female or not. I don't
13 know. There has been a lot running through my mind
14 since then.

15 Q When you first gave a statement to the police, back
16 when you gave that statement at Airport High School
17 on January 13, 2009, do you remember telling them
18 how many times you thought he had performed oral
19 sex on you?

20 A Yes, sir. But I didn't -- like I said, it was
21 sudden. I didn't really have time to think about
22 anything. That statement was just rushed. Nothing
23 processed in my mind.

24 Q When you said under 20 and above 15, now you say
25 probably more than 20, you are --

1 A I gave it more thought.

2 Q It was incorrect back then, okay. Back then they
3 asked you if you ever ejaculated when he performed
4 oral sex on you, and your answer was yes; correct?

5 A Yes, sir, but it's kind of -- to get him off, like
6 I would pee in his mouth.

7 Q At the time you were asked the question, did you
8 know the difference between urination and
9 ejaculation?

10 A I did know the difference, but I was kind of
11 embarrassed.

12 Q You were embarrassed when they asked you whether
13 you did or didn't?

14 A I was embarrassed by the whole situation.

15 Q I know it was embarrassing and obviously it's
16 embarrassing to be talking about something like
17 this, but did you understand the question when he
18 asked you what happened?

19 A Yes, sir.

20 Q You told him yes at the time?

21 A I did ejaculate some times, but it was like very
22 rarely.

23 Q And you say that you probably went to the Masters
24 Inn at least 15 times, approximately 15 times?

25 A Around that number.

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1 Q And you allege that something occurred every time
2 y'all went to the Masters Inn?

3 A Not every time, not every time.

4 Q You are also claiming you saw Scott perform oral
5 sex on ^{MINOR 2} eight to nine times?

6 A I have seen it, yes, sir.

7 Q Can you recall how many of those would have been at
8 Masters and how many allegedly would have been at
9 [REDACTED]?

10 A Probably more would be at the camper than the
11 hotel.

12 Q How tall, from the floor of the camper up to the
13 bed, what is the height of that bed?

14 A I want to say four and a half feet. I don't know.

15 Q When the police first came and talked to you, did
16 they tell you they had already -- I guess, what did
17 they tell you when they first came to talk to you?

18 A They told me they had spoken with my cousin.
19 That's basically all.

20 Q Did they tell you what they had spoke to him about?

21 A About Scott Parker, but they didn't give me any
22 more info.

23 Q They didn't mention any sort of alleged sexual
24 abuse or anything like?

25 A I'm not really sure. I don't really remember.

1 Q Was your cousin allegedly present every time Scott
2 Parker allegedly performed any sexual acts on you
3 or with you?

4 A Yes, sir.

5 Q He was there every time?

6 A Yes, sir.

7 Q Would he have seen everything that happened?

8 A We were at the same place. Like I said, there was
9 always outside.

10 Q So you can't say for sure if he was inside or
11 outside when you allege these things occurred?

12 A When it was happening to me, no, sir, I wasn't
13 really looking for MINOR 2

14 Q Were you aware back in 2007 when MINOR 2 alleged his
15 mother was physically abusing him?

16 A I was there.

17 Q You were there when it happened?

18 A I was there when it happened.

19 Q When she was beating him or when he told the police
20 that she was beating him?

21 A When the police were called, not for that reason.

22 Q What did he tell you -- did he ever tell you those
23 allegations of physical abuse were false?

24 A I know. I was there the whole time. He was
25 scared. That's the only reason he alleged that.

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1 Q What was he scared of?

2 A He was scared that he was going to jail. He was
3 scared that he would get sent to D.J.J.

4 Q So he was scared of potentially going to D.J.J., so
5 he made up false allegations of abuse against his
6 own mother?

7 A I mean, I suppose, yeah.

8 Q He was scared of going to D.J.J.; correct?

9 A Correct.

10 Q And he made up false allegation of his own mother
11 beating him, correct?

12 A Correct.

13 Q Or maybe they are false. They could be true. You
14 don't know, do you? She could beat him. You are
15 not sure, right?

16 A I mean, I have different views of beating, so I
17 don't know. I wouldn't really consider that
18 beating, but, I mean, uptight parents would, I
19 guess.

20 Q Do you think uptight police and law enforcement
21 people would?

22 A Not really.

23 Q Not really. How would she beat him? How would she
24 punish him?

25 A What he would do is he would like -- I don't

1 know -- he'd try to be more powerful than his mom
2 and her boyfriend because he was jealous of her.
3 At that time he was jealous of John, which is her
4 husband now.

5 Q Did you ever see her strike him in the face?

6 A I have seen her like push him off of him and stuff,
7 yeah.

8 Q Have you ever seen her punch him?

9 A She didn't ever punch him.

10 Q Have you ever seen her slap him in the face?

11 A I might have. I don't really remember.

12 Q Have you ever seen her beat him with any objects,
13 other than flyswatter, like electrical cords?

14 A No.

15 Q Belts?

16 A No.

17 Q Did you ever see the flyswatter?

18 A I seen the incident.

19 Q Where did she hit him with the flyswatter?

20 A On the top of the head.

21 Q How many times did she hit him on the top of the
22 head?

23 A She was just doing like this (indicating). She
24 wasn't doing nothing serious.

25 Q She was just tapping him on the head?

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1 A She was instigating, I guess.

2 Q So she was egging on her child into a fight?

3 A Yes.

4 Q That's all I have. Thank you.

5 THE COURT: Redirect, Solicitor?

6 MR. GRAHAM: No questions, Your Honor.

7 THE COURT: Thank you. Thank you very much,

8 MINOR 1 . You may step down.

9 (Witness leaves the witness stand.)

10 THE COURT: Solicitor, you may call your next
11 witness.

12 MR. GRAHAM: The State calls Angela Finley.

13 ANGELA BRANTLEY FINLEY, being
14 first duly sworn, testifies as follows:

15 MR. LOCKLAIR: Once you are seated, state your
16 full name, spelling your last on the record, please.

17 THE WITNESS: My name is Angela Brantley
18 Finley, F-I-N-L-E-Y.

19 DIRECT EXAMINATION

20 BY MR. GRAHAM:

21 Q Angela, explain your relationship to MINOR 1

22 A MINOR 1 is my son.

23 Q How about to Christal and MINOR 2

24 A Christal is my next youngest sister and MINOR 2 is my
25 nephew.

1 Q And how many children do you have?

2 A I have had five but I only have two with me. My
3 first one died at birth.

4 Q And how about the other two?

5 A I got on cocaine and I lost them. They were
6 adopted out.

7 Q In fact, because of that in December of 2006, you
8 were convicted of unlawful neglect of a child?

9 A Yes, sir.

10 Q Do you know Scott Parker?

11 A Yes, sir.

12 Q Do you see him in the courtroom today?

13 A Yes, sir.

14 Q Is that the individual sitting at the defense table
15 next to his attorney, Mr. Locklair?

16 A Yes, sir.

17 Q How long have you known him?

18 A At least 25 years.

19 Q Do you know how old he is?

20 A He is 40.

21 Q You say you have known him for 25 years. Describe
22 your relationship with him.

23 A Scott has always been like a brother to me. We all
24 grew up together, and any time I needed help with
25 anything, he was there.

1 Q Specifically during the time -- during the summer
2 of 2006 to the summer of 2008, where was MINOR 1
3 living?

4 A He was with Christal.

5 Q Why was that?

6 A Because I was on cocaine. I have been clean for
7 two years now.

8 Q Who, if any, males did MINOR 1 have in his life at
9 that time?

10 A When all this stopped, my step-dad was the only
11 male that's ever been in his life, besides Scott.

12 Q Did your step-dad pass away?

13 A Yes, sir, in 2000.

14 Q What was your ability to provide for MINOR 1 during
15 the summer of 2006 to the summer of 2008?

16 A I wasn't able to provide anything for anybody of
17 anything.

18 Q Was there ever a time during that time period that
19 you took MINOR 1 and ^{MINOR 2} to the Masters Inn?

20 A Yes, sir, it was -- I know it was after school. It
21 was June or July, and we had one of my family
22 members come up from Florida and was at my
23 cousin's.

24 We was going there and the boys wanted to go
25 swimming. So we took them and dropped them off. I

1 wasn't the one driving, but the people we were
2 riding with dropped them off.

3 Q When we are talking about the Masters Inn, is that
4 the Masters Inn we are talking about in State's
5 Exhibit Number 3?

6 A Yes, sir, the one right off 26.

7 Q How about the camper, have you ever seen the
8 camper?

9 A Yes, sir.

10 Q Referring to State's Exhibit Number 1, do you
11 recognize that camper?

12 A Yes, sir.

13 Q Where was that camper at back in 2006 and 2007?

14 A The same place on Mr. Latham's land.

15 Q That's on [REDACTED]?

16 A Yes, sir.

17 Q That's in Lexington County?

18 A Yes, sir.

19 Q The time that you took ^{MINOR 2} and MINOR 1 swimming,
20 that was, during the time frame that we are talking
21 about?

22 A Yes, sir, it was right after school. It was in
23 2006, June or July, I'm not sure.

24 Q Were they going there to meet anybody?

25 A They were going to swim, and Scott said he would be

1 watching them. He said he would stand on the
2 balcony and watch them swim.

3 Q That's what Scott Parker told you?

4 A Because I was worried about somebody keeping an eye
5 on them. He was like I've got them.

6 Q During this time frame, the summer of 2006 to the
7 summer of 2008, did you develop concerns about
8 MINOR 1 and MINOR 2 relationship with Scott Parker?

9 A Between 2006 and 2008?

10 Q Yes, ma'am.

11 A I did. I always questioned it but I always asked
12 Scott and I asked the kids. They always denied it.
13 Then one day at Sunday dinner, MINOR 2 flipped out on
14 him, and I knew something was wrong then because
15 MINOR 2 didn't act like that. He might with his
16 mother because they grew up together. He didn't
17 act like that around us. He flipped and I knew
18 something was wrong then.

19 Q Where was that at?

20 A At my momma's house on Sunday, Sunday dinner.
21 Scott had brought them there.

22 Q When you say he flipped out, what happened?

23 A I don't know what Scott had done or said to MINOR 2
24 before they come in the door, but he did something,
25 and MINOR 2 he turned red. He started shaking and he

1 started cussing him, calling him a F-ing faggot and
2 telling him to keep his hands off of him and don't
3 ever touch him again and stuff like that.

4 My momma took ^{MINOR 2} in the back to see if
5 anything happened. They never would tell anything.
6 They are boys and they didn't want nobody to think
7 nothing of them.

8 Q Do you remember when that Sunday dinner was?

9 A No, sir, not exactly. I want to say 2008, like
10 before the kids quit going around him.

11 Q Is it fair to say they stopped going around him
12 during the late summer or early fall?

13 A Yes, sir, I remember it was fall time.

14 Q Of 2008?

15 A Yes, sir.

16 Q What was -- in addition to MINOR 1 you said you
17 had, I think, one other child at home?

18 A Hailey. She is 20 now.

19 Q What was Hailey's relationship with Scott Parker?

20 A When they were little, Scott used to baby-sit. I
21 mean, really little. He was like an uncle to her,
22 too, but he wouldn't ever take her anywhere. When
23 they got older, he wouldn't take her because he
24 said it looked funny for a grown man to be hanging
25 out with a teenage girl. He would never let Hailey

1 come up there and hang out or anything.

2 Q Do you remember January 13, 2009, receiving a phone
3 call from an individual named Detective Lint?

4 A Yes, sir.

5 Q Based on his conversations with you, what, if
6 anything, did you say about his ability to go talk
7 with your son?

8 A He said that ^{MINOR 2} had spoken out about something
9 that was going on. I told him to go talk to
10 MINOR 1 I wasn't going to be there. I knew
11 MINOR 1 wasn't going to talk in front of me. I
12 told him, please, because I know they will tell
13 you. He won't tell nothing in front of me because
14 MINOR 1 can't stand me to cry. He don't like to
15 see me cry.

16 Q Shortly after that conversation with Detective
17 Lint, did you receive a phone call from MINOR 1

18 A Yes, sir, and he said he didn't want to go. I
19 said, MINOR 1 has done told everything. If
20 something happened, tell the truth. I'm not there,
21 just tell the truth.

22 Q What, if any, details did you provide to MINOR 1

23 A I didn't even have any details at that time, so I
24 couldn't have provided him with anything.

25 Q What was your emotional state when you were on the

1 phone with him that day, with MINOR 1

2 A I was confused because I didn't want to believe any
3 of it was happening because we all grew up
4 together, you know. We was always close.

5 Q Were you calm and cool or were you upset and
6 crying?

7 A I was probably upset and crying. I know I wasn't
8 calm and cool. Me and MINOR 1 still really haven't
9 discussed anything because I don't want to ask him
10 about it because I know he won't tell me. He gave
11 me the paper that he wrote to Detective Lint.

12 When he come in the door, he handed it to me,
13 and I read it and started crying. He just hugged
14 me and I just hugged him, and we sat there holding
15 each other. I told him I was sorry that I didn't
16 protect him better.

17 Q Do you know of any reasons why MINOR 1 would make
18 these allegations up?

19 A MINOR 1 wouldn't. I still love Scott. I don't
20 like what he has done, but, I mean, he was there
21 for me when I needed somebody to be there as a
22 friend, not like anything else.

23 Q Would you know of any reason why MINOR 1 would make
24 this up?

25 A No, sir, he wouldn't.

1 Q Please answer any questions Mr. Locklair has.

2 THE COURT: Thank you, Solicitor.

3 Mr. Locklair.

4 MR. LOCKLAIR: May it please the Court, Your
5 Honor.

6 CROSS EXAMINATION

7 BY MR. LOCKLAIR:

8 Q Just a few questions Ms. Finley. When MINOR 1
9 first called you and talked to you on the day you
10 learned this allegedly happened, didn't he tell you
11 nothing had happened?

12 A No, sir, that's not what he said. I said, MINOR 1
13 if something happened, you need to talk to them.
14 He kept saying, okay, I will. Okay, I will. He
15 never told me it didn't happen.

16 Q You say Christal Hernandez is your sister?

17 A My little sister, one of my little sisters.

18 Q So when Scott would baby-sit your kids, he would
19 baby sit her kids?

20 A I don't believe so because I lived right next door
21 to him.

22 Q You said y'all grew up together?

23 A Yes, sir.

24 Q Scott was like a brother to you?

25 A Yes, sir.

1 Q Where was your sister during all this time?

2 A Christal has always been the better one, I guess
3 you could say. She had her family going on
4 somewhere else.

5 Q While you were growing up?

6 A When I was growing up, we were all in the same
7 house.

8 Q Right. You have known Scott about 25 years, right?

9 A Uh-huh. (Indicating affirmative response.)

10 Q Twenty-five years --

11 A Christal didn't hang out with him. He creeped her
12 out.

13 Q Even though he was like a brother to you, they
14 didn't hang out?

15 A No, they didn't hang out at all.

16 Q And is it fair to say she hasn't liked him for 25
17 years?

18 A Yeah, that's very fair to say that.

19 Q And would it be fair to say she hated him for 25
20 years?

21 A I don't think she has ever hated him until all this
22 happened.

23 Q But she had a strong dislike for him even 25 years
24 ago?

25 A She tolerated him, but if you knew Scott you would

1 understand.

2 Q Was Detective Lint the first person to call you and
3 tell you what ^{MINOR 2} alleged had happened?

4 A Yes, sir.

5 Q When did Christal call you?

6 A I think I called her after I done told MINOR 1 to
7 tell the truth. I think I called Christal after
8 that, after I had already talked to MINOR 1 at
9 school.

10 Q In 2006 you were convicted of unlawful neglect of a
11 child?

12 A Yes, sir, I was because I tested positive. I was
13 tested for cocaine.

14 Q So you had been doing cocaine while you were
15 pregnant?

16 A Yes, sir, I did.

17 Q Did you do that with all your other kids?

18 A No, I didn't. Just the last one I got stupid.

19 Q The two that have been adopted, they terminated
20 your parental rights; correct?

21 A Yes, sir.

22 Q That's basically where the Court finds that you are
23 unfit to ever have anything to do with your
24 children ever again?

25 A Them two anyway.

1 Q Right, those two, yes.

2 A Uh-huh. (Indicating affirmative response.)

3 Q When the Court found that you were unfit to have
4 anything to do with those two children ever again,
5 where was MINOR 1 and Hailey living?

6 A They were staying with my sister Christal.

7 Q And did the Court not take them into consideration
8 because they were staying there, and they found
9 that was a fit place for them to stay?

10 A They found that was a fit place for them to stay.

11 Q Do you have any other convictions, other than this
12 one?

13 A Not that stuck.

14 Q How long were you on cocaine?

15 A I was on it about a year and a half.

16 Q You have obviously said you dropped the kids off or
17 at least dropped MINOR 1 off at Masters Inn?

18 A I dropped MINOR 1 and MINOR 2 off there.

19 Q They were both there when you have done that?

20 A Uh-huh. (Indicating affirmative response.)

21 Q Isn't it true that MINOR 1 has had to call you from
22 there a couple of times to straighten the boys out
23 when they were misbehaving?

24 A That never happened. They called me to straighten
25 him out.

1 Q This Sunday dinner where you alleged that ^{MINOR 2}
2 flipped out and said all this stuff, who all was
3 there?

4 A My momma, my sister, the littlest one, Stephanie,
5 my daughter Hailey. I don't believe my brother was
6 there. Lance was there.

7 Q I assume Christal was not there?

8 A No, Christal wasn't there.

9 MR. LOCKLAIR: Beg the Court's indulgence.

10 THE COURT: Yes, sir.

11 (Pause.)

12 MR. LOCKLAIR: No more questions for this
13 witness.

14 THE COURT: Redirect, Solicitor?

15 MR. GRAHAM: No questions.

16 THE COURT: Thank you. Thank you very much.
17 You may step down.

18 (Witness leaves the witness stand.)

19 THE COURT: Solicitor, you may call your next
20 witness.

21 MS. WHETSTONE: Thank you, Your Honor. The
22 State calls Deputy Ricciardi.

23 CHRISTOPHER RICCIARDI, being
24 first duly sworn, testifies as follows:

25 CLERK: Once you are seated, state your full

1 name, spelling your last on the record.

2 MR. GRAHAM: May I approach, Your Honor?

3 THE COURT: Yes, sir. Mr. Locklair.

4 (Whereupon there is a bench conference off the
5 record in the presence of the jury but out of the
6 hearing of the jury.)

7 THE COURT: Thank you for indulging me, ladies
8 and gentlemen. That will hopefully make things move
9 more efficiently.

10 Solicitor, you may proceed.

11 THE WITNESS: My name is Christopher
12 Ricciardi, R-I-C-C-I-A-R-D-I.

13 THE COURT: Solicitor.

14 **DIRECT EXAMINATION**

15 BY MS. WHETSTONE:

16 Q Thank you, Deputy Ricciardi. Where do you
17 currently work?

18 A Lexington County Sheriff's Department.

19 Q How long have you worked there?

20 A About two and a half years now, ma'am.

21 Q And what positions have you held at Lexington
22 County Sheriff's Department?

23 A Patrol deputy and field training officer.

24 Q January 9, 2009, what position did you hold at that
25 time?

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1 A Patrol deputy.

2 Q On that date did you receive a call to respond to
3 [REDACTED] in Gaston?

4 A No, ma'am, I went to the [REDACTED] address.

5 Q Did you receive a call to that address?

6 A Yes, ma'am.

7 Q And what type of dispatch did you receive for that
8 address?

9 A It was dispatched as a signal 11, which is our code
10 for a rape or sexual assault.

11 Q And tell me where you responded to.

12 A Excuse me?

13 Q Tell me the address you responded to.

14 A It was the address on [REDACTED]. I believe it
15 was [REDACTED], but I may be wrong. I don't have my
16 paper in front of me. It was the address of
17 Christal.

18 Q That was my next question. Who lived at that
19 address?

20 A Christal Hernandez and her son ^{MINOR 2} were there.

21 Q Who did you speak to you when you responded to that
22 address?

23 A I spoke to Christal Hernandez.

24 Q Was that address within Lexington County?

25 A Yes, it is, in Gaston, ma'am.

1 Q Who else did you speak to when you responded?

2 A Her son ^{MINOR 2}

3 Q When you responded was the call that you had been
4 issued out there for, a rape, was that confirmed
5 upon talking to the witnesses at that location?

6 A Yes, it was.

7 Q Did you learn at that time from ^{MINOR 2} during what
8 time period the rape had occurred?

9 A Between 2006 and 2008.

10 Q And at what location did the rape occur?

11 A He claimed they all happened at the Masters Inn in
12 Cayce.

13 Q Is that location within Lexington County?

14 A Yes, it is.

15 Q It was all at the Masters Inn, no other locations?

16 A At that time I was only told about the Masters Inn.

17 Q What did you do upon him reporting that information
18 to you?

19 A I took the information from the mother. Then I
20 took ^{MINOR 2} aside and spoke to him without his mother
21 and then had him write a written statement about
22 what had happened.

23 Q After you got that information, what did you do
24 next?

25 A I typed up the report, went back to the region

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1 headquarters in Pelion, typed the report, and then
2 turned it -- forwarded it to the investigators.

3 MS. WHETSTONE: Beg the Court's indulgence.

4 THE COURT: Yes, ma'am, certainly.

5 (Pause.)

6 BY MS. WHETSTONE:

7 Q Deputy Ricciardi, I am going to hand your report up
8 to you. I would just like to refresh your memory
9 on your report.

10 A Yes, ma'am.

11 MR. LOCKLAIR: Your Honor, I think she needs
12 to ask a specific question to refresh his recollection
13 on. You can't just refresh your recollection in
14 general.

15 THE COURT: If you would direct his attention
16 to a particular area. What is that, 803(5)?

17 MR. LOCKLAIR: I'm not sure, Your Honor.

18 THE COURT: I'm not either. That rule just
19 speaks about the document itself as being offered.

20 MR. LOCKLAIR: Your Honor, if she is not going
21 to try to admit it into evidence, I will go ahead and do
22 it that way. That's fine.

23 THE COURT: All right. Yes, I didn't think
24 she was. You may proceed, Solicitor.

25 MS. WHETSTONE: Thank you, Your Honor.

1 BY MS. WHETSTONE:

2 Q Deputy Ricciardi, I am going to hand your report
3 up. Would reading your report refresh your memory
4 as to what information you took down on January 9,
5 2009?

6 A Yes, ma'am.

7 THE COURT: I think I am looking at Rule 612.
8 That is probably the rule I should have referred to.

9 MR. LOCKLAIR: As long as she is not going to
10 introduce it in evidence, I don't have a problem with
11 it.

12 THE COURT: Thank you.

13 BY MS. WHETSTONE:

14 Q Have you read that report?

15 A Yes, ma'am.

16 Q I am going to ask you again, what locations did the
17 victim^{MINOR 2} say that he was assaulted at that time
18 when you spoke to him?

19 A At the [REDACTED] address and the hotel in Cayce,
20 the Masters Inn.

21 Q What address, the [REDACTED] address, are you
22 referring to?

23 A [REDACTED].

24 Q Is that address within Lexington County?

25 A Yes, ma'am, it is.

1 MS. WHETSTONE: No further questions.

2 THE COURT: Thank you, Solicitor.

3 Mr. Locklair.

4 MR. LOCKLAIR: No questions for this witness,
5 Your Honor.

6 THE COURT: Thank you. Thank you very much,
7 Sergeant. You may step down.

8 (Witness leaves the witness stand.)

9 MS. WHETSTONE: Your Honor, may this witness
10 be excused?

11 THE COURT: Any objection?

12 MR. LOCKLAIR: No objection from the defense,
13 Your Honor.

14 THE COURT: He may be excused. Thank you for
15 being with us today.

16 Ladies and gentlemen, in speaking with the
17 attorneys earlier, I think at the conclusion of that
18 witness it would now be an appropriate time to take our
19 luncheon recess.

20 I would again remind you during this recess,
21 you are not to discuss this case with anyone. That
22 includes your fellow jurors, lunch mates, family,
23 friends or anyone else. Do not read or listen to any
24 news reports about the case, should there be any.

25 Do not use your computer, cellular phone or

1 other electronic device with communication capabilities
2 or any other method to obtain or disclose information
3 about the case.

4 Information about the case includes but is not
5 limited to the following: Information about a party, a
6 witness, an attorney or a Court officer, news accounts
7 of the case, information collected through juror
8 research on any topics raised or testimony offered by
9 any witness or information collected through juror
10 research on any other topic that you might think would
11 be helpful in deciding the case.

12 Don't do any independent investigation. Don't
13 do any investigation on the internet. Please remember
14 to keep an open mind and not begin your deliberations
15 until I direct you to do so.

16 I would ask you to please be back in your jury
17 room at 2:30. If you would please be back at promptly
18 at 2:30 in your jury room. You are now excused for your
19 luncheon recess. I hope y'all have a pleasant lunch.
20 Thank you very much.

21 (The jury is excused for lunch at 12:50 p.m.)

22 THE COURT: Anything further, Solicitor?

23 MR. GRAHAM: No, Your Honor.

24 THE COURT: Mr. Locklair?

25 MR. LOCKLAIR: No, sir, Your Honor.

1 THE COURT: How many more witnesses do you
2 have, Solicitor?

3 MR. GRAHAM: Possibly seven, Your Honor.

4 THE COURT: When do you think you would be
5 resting? Will it take the remainder of the day?

6 MR. GRAHAM: Yes, Your Honor. I would think
7 it would be at least the remainder of the day.

8 THE COURT: Thank you very much. We will be
9 in recess until 2:30.

10 (Whereupon there is a luncheon recess.)

11 THE COURT: Solicitor, anything before we
12 bring in our jury?

13 MR. GRAHAM: Briefly, Your Honor. On the
14 witness list I made a typo. The correctional officer's
15 name is Craig Finley with an F. I had it with a K.,
16 Kinley. I wanted to bring that to Your Honor's
17 attention in case you wanted to question the jury again
18 about that name. He is present in the courtroom.

19 THE COURT: All right.

20 MR. GRAHAM: The other thing, Your Honor, is I
21 wanted to update you on the records. The D.J.J.
22 records, we have obtained them. We are making a copy
23 now, and we ought to be able to present that to
24 Mr. Locklair at the break. It's my understanding those
25 are all the D.J.J. records.

1 Beverly Clyburn, who was the community
2 specialist on there, my understanding what that means is
3 she is the one that appeared in court and explained the
4 matter to the judge. She is not necessarily the author
5 of anything in there. She is on standby if Mr. Locklair
6 wants to talk to her.

7 Dr. Gary Wright, who was the examiner, is in
8 Atlanta, Georgia. We have not attempted to contact him,
9 other than find out that's where he currently practices.
10 The mental health records, Heather Scoggins and her
11 supervisor are over in our office right now copying that
12 file.

13 In addition to what they think will take
14 them a significant time, I am hoping they can get it
15 done by today. They are working on it right now.
16 There are also computer screens that they are having
17 people print off that are separate from the physical
18 file that she has, and somebody is working on those as
19 well.

20 The only concern that they have is they have
21 some H.I.P.P.A. concerns because there are some things
22 in their file that they are not the originators of. So
23 at some point they would like to -- they are sorting
24 through that now.

25 At some point they are going to address Your

1 Honor on that issue of what to do about that. They are
2 hesitant to turn it over because they don't want to get
3 in trouble.

4 THE COURT: All right. Certainly.

5 MR. GRAHAM: Other than that, Your Honor, the
6 State is ready to proceed.

7 THE COURT: Mr. Locklair?

8 MR. LOCKLAIR: We have nothing further,
9 nothing at this time.

10 THE COURT: Thank you, Solicitor, for that
11 update. Bring us our jury, please.

12 (The jury returns to the courtroom at
13 2:45 p.m.)

14 THE COURT: Welcome back, ladies and
15 gentlemen. I hope y'all had a pleasant lunch. We are
16 continuing the trial of the case by the presentation of
17 testimony by the State in its case in chief.

18 Solicitor, you may call your next witness.

19 MR. GRAHAM: Thank you, Your Honor. The State
20 calls Detective Sergeant Roy Mefford.

21 ROY MEFFORD, being
22 first duly sworn, testifies as follows:

23 CLERK: Once you are seated, state your full
24 name, spelling your last.

25 THE WITNESS: It's Roy Mefford, M-E-F-F-O-R-D.

1 DIRECT EXAMINATION

2 BY MR. GRAHAM:

3 Q Where are you employed?

4 A With the Lexington County Sheriff's Department.

5 Q In what capacity?

6 A I'm a detective sergeant in the property crimes
7 unit in the south region area.

8 Q What does that mean?

9 A I'm in charge of a squad that investigates
10 burglaries and motor vehicle thefts.

11 Q How long have you work for Sheriff Metts?

12 A Just under 13 years.

13 Q And in addition to being a detective sergeant over
14 the property crimes in the south region, what else
15 have you done?16 A I've been on road patrol, a school resource
17 officer, a master deputy with the road, shift
18 supervisor, a major crimes detective, and my
19 current position is a sergeant in the investigative
20 unit.21 Q January 13, 2009, what were your job
22 responsibilities?

23 A I was in the major crimes unit at that time.

24 Q What does that mean?

25 A We investigate primarily crimes against persons,

ROY MEFFORD -- DIRECT -- MR. GRAHAM

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1 sexual assaults, armed robberies, kidnapping, child
2 abuse, things of personal attacks on people.

3 Q On that day January 13, 2009, did you have the
4 opportunity to assist Detective Lint in serving
5 warrants?

6 A I did.

7 Q On Mr. Parker?

8 A I did.

9 Q Do you see Mr. Parker in the courtroom today?

10 A I do.

11 Q Is that the individual sitting next to the
12 attorney, Mr. Locklair, at the defense table?

13 A He is, without the jacket on.

14 Q Were you and Detective Lint able to place
15 Mr. Parker under arrest without incident?

16 A We were.

17 Q And when we talk about him being under arrest, we
18 are talking about him being detained and put in
19 handcuffs; is that correct?

20 A He was. He was handcuffed and placed into a county
21 vehicle.

22 Q While he was in the county vehicle, who was present
23 with you?

24 A It was Detective Lint, the Defendant, and me.

25 Q What, if anything, do you remember either yourself

1 or Detective Lint saying to Mr. Parker about why he
2 was being arrested?

3 A Detective Lint was the primary officer on the case.
4 He advised him of the charges at that time. He
5 placed him under arrest and we positioned him in
6 the front seat of Detective Lint's unmarked
7 vehicle. Detective Lint drove and I rode in the
8 back of the vehicle.

9 Q During the course of that drive when you were in
10 the vehicle, did you Mirandize Mr. Parker?

11 A I did. Once we were in the vehicle and on the way
12 to the Sheriff's Department, I verbally Mirandized
13 him prior to reading him the allegations in the
14 arrest warrant.

15 Q When we talk about Mirandizing, that is commonly
16 known as reading somebody their rights?

17 A Correct, we read them their rights.

18 Q Did you use anything to assist you in reading or
19 explaining the rights to Mr. Parker?

20 A I did. When I advise people verbally of their
21 rights, I have a card that I keep in my wallet that
22 is given to us by the South Carolina Law
23 Enforcement Officers' Association.

24 Q Is that the card you actually used?

25 A It is.

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1 Q Would you explain to the jury how you advised
2 Mr. Parker of his rights?

3 A In this particular case, I was in the back seat and
4 he was in the front seat, and I used my card and I
5 read him his rights directly from the card. I
6 began by saying: You have the right to remain
7 silent. Anything you say can and will be used
8 against you in a court of law. You have the right
9 to talk to an attorney and have him or her present
10 with you while you are being questioned.

11 If you cannot afford to hire an attorney, one
12 will be appointed to represent you before any
13 questioning if you wish. You can decide at any
14 time to exercise these rights and not answer any
15 questions or make any statements.

16 After I read those to him, I would ask him if
17 he understood his rights and that if he was still
18 willing -- knowing his rights, was he willing to
19 speak to us about the allegations.

20 Q In response to the question of whether he
21 understood his rights, what did Mr. Parker say?

22 A He said he did understand his rights.

23 Q Did you have any reason to believe that he did not
24 understand his rights?

25 A None at all.

1 Q Did you have any reason to believe that he was
2 under the influence of any kind of alcohol or drugs
3 that would make him not understand what was going
4 on?

5 A I didn't detect any signs of that.

6 Q Did he have any questions about what his rights
7 were? Did he ask you any questions?

8 A He did not. He said he understood them and was
9 willing to talk about the charges against him.

10 Q The next question you asked him was, knowing those
11 rights, did he want to talk to you; is that
12 correct?

13 A Yes.

14 Q What did he say in response to that question?

15 A He said he did want to speak about it, and at that
16 time I read him the affidavit on the warrants. We
17 advised him what he was charged with prior -- or
18 during the arrest.

19 Then when we got in the vehicle, after I
20 myself Mirandized him, I read the actual affidavit
21 and the allegation to him. At that point once I
22 read the allegations in the warrant, Detective
23 Lint, having more detail and knowledge about the
24 case, he then proceeded to question the Defendant.

25 Q Let me ask you this question, and that's a good

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1 place to stop. Did you or Detective Lint threaten
2 or coerce Mr. Parker into speaking to you all?

3 A No.

4 Q Did you or Detective Lint give Mr. Parker any hope
5 of reward or promise of leniency if he spoke with
6 you?

7 A None.

8 Q And did he, in fact, speak with you all?

9 A He did.

10 Q To the best of your knowledge, what do you
11 remember, after the allegations were explained to
12 him, what did Mr. Parker say?

13 A He made -- speaking to Detective Lint about it --
14 he said the allegations were untrue. He denied
15 them. During that conversation he offered up some
16 information of somebody, a female, who could -- who
17 would be able to prove this; however, I do remember
18 him refusing to give that information to Detective
19 Lint.

20 Q Anything else about the conversation or statements
21 that Mr. Parker made that you remember?

22 A None of the details, other than he denied the
23 allegations. I do know that.

24 Q Please answer any questions defense counsel has,
25 Detective.

1 THE COURT: Prior to questioning,
2 Mr. Locklair, I would advise the jury -- and I will give
3 you further instructions concerning the admissibility of
4 the statement.

5 I have admitted the statement into evidence.
6 Ultimately it will be your decision to determine whether
7 or not the statement was given freely and voluntarily.
8 But I do at this point want to advise the jury that the
9 State has the burden of proof; that is, the burden of
10 proving the case beyond a reasonable doubt.

11 The burden never shifts to the Defendant. A
12 criminal defendant is presumed to be innocent, no matter
13 what the seriousness of the charges that have been
14 brought against him or her, and therefore never bears
15 any burden of proof. Thank you. Thank you very much.

16 Mr. Locklair, you may now cross examine the
17 witness.

18 MR. LOCKLAIR: Thank you, Your Honor. I don't
19 have any questions for this witness.

20 THE COURT: Thank you. Thank you very much
21 for being with us, Sergeant. You may step down.

22 THE WITNESS: Thank you, Your Honor.

23 (Witness leaves the witness stand.)

24 THE COURT: You may call your next witness.

25 MR. GRAHAM: Thank you, Your Honor. May

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1 Detective Mefford be excused?

2 THE COURT: Any objection?

3 MR. LOCKLAIR: No, sir.

4 THE COURT: You may be excused. Thank you.

5 MR. GRAHAM: The State calls Sergeant Lint to
6 the stand.

7 CHARLES ROBERT LINT, JR.,
8 being first duly sworn, testifies as follows:

9 CLERK: Once you are seated, state your full
10 name, spelling your last.

11 THE WITNESS: Charles Robert Lint, Jr. Lint
12 is spelled L-I-N-T.

13 DIRECT EXAMINATION

14 BY MR. GRAHAM:

15 Q Sergeant Lint, where are you currently employed?

16 A Lexington County Sheriff's Department.

17 Q And in what capacity?

18 A I am a sergeant over road patrol.

19 Q Would you describe to the jury what that means.

20 A I supervise a shift of five individuals. I'm
21 assigned to the west region area where I supervise
22 five patrol deputies.

23 Q Prior to -- when did you take over those job
24 duties?

25 A November of 2009.

1 Q How long have you worked for Sheriff Metts?

2 A Since May of 2003.

3 Q Would you explain to the jury what different
4 positions you have held for the sheriff during that
5 time.

6 A I have held the position of patrol deputy. I was
7 promoted in 2004 to investigations. I worked three
8 years as a property crime investigator and then
9 three years as a major crime investigator.

10 Q In addition to your experience with the Sheriff's
11 Department, where were you working prior to working
12 for the sheriff?

13 A I was employed with the South Carolina Department
14 of Probation, Parole, and Pardon Services from
15 October of 1997 until May of 2003.

16 Q In what capacity did you work there?

17 A I worked as an agent supervising a case load of
18 offenders, and then I was promoted to investigator
19 with that department for the last four years that I
20 was with them.

21 Q In January of 2009, in what capacity were you
22 working for the Sheriff's Department?

23 A I was working in the major crimes unit as a major
24 crimes investigator.

25 Q What is a major crimes investigator? What are you

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1 responsible for doing?

2 A A major crimes investigator investigate crimes
3 against a person, anywhere from homicides, armed
4 robberies, sexual assaults, aggravated assaults,
5 and so on.

6 Q Monday, January 12, 2009, when you came into the
7 office, did you have a case assigned to you
8 involving the allegations made against Scott
9 Parker?

10 A I was.

11 Q When you came in the office and that case was
12 assigned to you, what was the first thing you did?

13 A When you are assigned a case, the first thing is
14 you review the case file, any statements that may
15 be attached to the case, review the information in
16 the case, and basically get an idea of your
17 starting point of how you are going to proceed with
18 the investigation.

19 Q Did you, in fact, review the case and any
20 statements that were made?

21 A I did. There was the incident report written by
22 Deputy Ricciardi and a written statement by ^{MINOR 2}
 , known as MINOR 2 .

24 Q After your review of the case, what was the next
25 thing you did in the investigation?

1 A Initially you do background information on a
2 possible suspect, if you have that information, and
3 any information relayed in the incident report,
4 which the incident report indicated that this
5 incident occurred at Mr. Parker's residence and
6 also at a location known as Masters Inn located in
7 West Columbia, 2124 Commerce Drive.

8 Q Based on your review of the report, was there a
9 reason to go to the Masters Inn?

10 A Yes, there was.

11 Q Did you, in fact, go there that day?

12 A I did.

13 Q Do you remember who you spoke with?

14 A I spoke with a Marcus Johnson, the manager of the
15 Masters Inn, in asking him any questions in
16 relation if he knew a Scott Parker and if he had
17 ever rented any motel room between the time of July
18 of 2006 and July of 2008.

19 Q Based on your conversation with him, was he able to
20 produce any records for you?

21 A He was.

22 Q After speaking with Mr. Johnson, what was the next
23 step in your investigation?

24 A I made contact with MINOR 2 again just to go
25 over his statement again that he provided to the

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1 deputy to make sure that I had all the information
2 relating to this case and there is nothing possibly
3 new that may have developed or additional
4 information for me to follow up on.

5 Q And did you take another statement at that time?

6 A I did.

7 Q After you met with ^{MINOR 2} what, if anything, else
8 did you do on Monday the 12th?

9 A On that particular day, I again did more background
10 information on Mr. Parker in reference to
11 information received at the Masters Inn to
12 determine -- information was relayed to me that he
13 had an ex-wife and children, and I was determining
14 whether or not he did actually have an ex-wife or
15 children, which he did not.

16 Q You were able to confirm that?

17 A I was.

18 Q Were you able to develop contact information for
19 Scott Parker at that time?

20 A I was.

21 Q And did you obtain warrants for his arrest based on
22 your investigation and the allegations made by

23 ^{MINOR 2}

24 A I did.

25 Q The following day, Tuesday, January 13th, with the

1 arrest warrants in your hand, did you and Detective
2 Mefford proceed to locate Mr. Parker and place him
3 under arrest?

4 A I was able to locate information that he was at
5 504 Cedar Field Road in the Three Fountains area of
6 Lexington County at a job site, which we located
7 him at that job site, I think at 2:30 in the
8 afternoon.

9 Q At that time did you and Detective Mefford place
10 him under arrest?

11 A Yes, sir.

12 Q And at some point after you effectuated the arrest,
13 he was in handcuffs and in the car?

14 A Yes, sir.

15 Q At that time did you all -- what's the next thing
16 that happened? Was he advised of his rights or was
17 he given information about what the allegations
18 were?

19 A I'm the one who advised Mr. Parker that he was
20 under arrest. I had three warrants for criminal
21 sexual conduct with a minor. I placed him in
22 handcuffs.

23 I placed him in the front passenger seat of
24 my car, at which time Detective Mefford, Sergeant
25 Mefford now, sat in the rear seat of my vehicle,

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1 and we proceeded to drive towards the detention
2 center.

3 Q Detective Mefford testified as to rights that were
4 read and how he read them. What do you remember
5 about Mr. Parker being advised of his rights?

6 A Detective Mefford, Sergeant Mefford, read from his
7 Miranda card, what we call the Miranda card. It's
8 their rights. He read from the card and advised
9 him of all those.

10 Q Do you have a copy of the exact same card?

11 A I do. I carry it in my front pocket, along with
12 other cards.

13 Q Could you explain to jury what rights Mr. Parker
14 was advised of?

15 A Certainly. The card is provided to us by the South
16 Carolina Law Enforcement Association, officers'
17 association. It states that these are the
18 suspect's rights, Miranda warnings.

19 They read as follows: One, you have the right
20 to remain silent. Two, anything you say can and
21 will be used against you in a court of law. Three,
22 you have the right to talk to an attorney and have
23 him or her present with you while you are being
24 questioned.

25 Four, if you cannot afford to hire an

1 attorney, one will be appointed to represent you
2 before any questioning if you wish. Five, you can
3 decide at any time to exercise these rights and not
4 answer any questions or make any statements. Six,
5 do you understand each of these rights as I have
6 explained them? Seven, with these rights in mind,
7 do you wish to talk to us now?

8 Q When Mr. Parker was asked the question of whether
9 he understood his rights, what was his response?

10 A He understood them, yes.

11 Q Any question in your mind that he didn't understand
12 them?

13 A No.

14 Q Was there any indication that he was under alcohol
15 or drugs, that he wouldn't have understood them at
16 that time?

17 A Not that he indicated to me.

18 Q After he stated he understood his rights, I think
19 the next question was, knowing all that would he
20 agree to talk; is that correct?

21 A Yes, sir.

22 Q What was Mr. Parker's response to that question?

23 A I'm sorry. Repeat it again.

24 Q What was his response to the question of whether he
25 would agree to talk with you?

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1 A He wanted to talk about the allegations.

2 Q Is there any question in your mind that his
3 decision to do that was made freely, voluntarily,
4 and knowingly?

5 A Yes, sir.

6 Q Is there any question in your mind?

7 A Oh, no, sir. I'm sorry. No, sir, there's no
8 question in my mind.

9 Q Did you or Detective Mefford coerce or threaten him
10 to make a statement?

11 A No, sir.

12 Q Did you or Detective Mefford promise him leniency
13 or give him hope of reward if he made a statement
14 to you?

15 A No, sir.

16 Q Did he, in fact, talk to you?

17 A Yes, sir.

18 Q What did you -- tell the jury what you explained to
19 him the allegations were.

20 A Actually Detective Mefford read the warrants to
21 Mr. Parker with the -- in the affidavit part
22 explaining what the charges were, what the
23 allegations were.

24 After Detective Mefford finished reading the
25 warrants, I explained to Mr. Parker, I said, you

1 know, I would like to hear your side of the story.
2 Can you tell me about these allegations that have
3 been brought against you and what is going on?

4 Q Did you inform him at that time who was making the
5 allegations against him?

6 A I did.

7 Q Who did you tell him was making the allegations?

8 A MINOR 2 , as you have heard in court today,
9 MINOR 2 .

10 Q What, if anything, when you advised Mr. Parker of
11 the allegations that MINOR 2 was making, what, if
12 anything, did Mr. Parker say?

13 A Mr. Parker immediately said MINOR 2 is a liar.
14 Everybody knows he's a liar, and there are
15 witnesses that will say that none of this ever
16 happened. MINOR 2 is just doing this because he got
17 in trouble with his mother.

18 He went on to say that MINOR 1, as y'all know
19 it's MINOR 1 , will tell the truth.
20 None of this happened and that there was a female
21 with him at the motel that could tell me that these
22 incidents didn't occur, but he would not provide
23 that female's information. He told me that he just
24 didn't want to get anybody else involved in this
25 mess or any other witnesses.

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1 Q What, if anything, did Mr. Parker say about the
2 Masters Inn and MINOR 1 and MINOR 2

3 A He did go on to say that he did rent rooms at the
4 hotel, at the Masters Inn, for MINOR 2 -- or MINOR 2 and
5 MINOR 1 so that they could go swimming. I
6 pressured -- not pressured him -- but I continued
7 questioning him in reference to this possible
8 female witness, at which time he said he was not
9 going to provide me that name, and he exercised his
10 right to remain silent and didn't want to speak
11 anymore.

12 Q After arresting and interviewing Mr. Parker, did
13 you have an occasion to call Angela Finley?

14 A I did.

15 Q Who is she?

16 A She is the mother of MINOR 1, MINOR 1 .

17 Q What was your purpose in calling her?

18 A I called her and made contact with her and advised
19 her that I am investigating a case involving a
20 MINOR 2 Murphy. He has made some allegations in
21 reference to Scott Parker, that has also advised me
22 that MINOR 1 is involved as well, and we need
23 to speak to her son in reference to these
24 allegations.

25 Q Based on your statement to her, what, if anything,

1 did she say regarding permission to speak with her
2 son?

3 A She stated that her son was currently at school, at
4 Airport High School. She gave us permission to go
5 to the school and speak with him there. She
6 requested that we actually do it there at school
7 and not when he got home because she wanted this
8 handled right away.

9 Q How much detail did you provide her at that time?

10 A What I just stated earlier, that there was -- MINOR 2
11 provided us with some allegations involving
12 an incident. That's as far as I took it. I didn't
13 explain what the allegations were.

14 Q Based on your conversation with Angela Finley,
15 where did you go?

16 A We went to Airport High School, myself and
17 Detective Mefford.

18 Q And at some point did you come in contact with
19 MINOR 1?

20 A I did.

21 Q Who was present when that conversation began?

22 A He was in a conference room, I guess you could say,
23 in the principal's office. That's the best way to
24 describe where he was at in school, inside where
25 there was an administrator of the school sitting

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1 with him when we walked in to interview him.

2 Q And at that time what, if anything, did you say to
3 MINOR 1

4 A I introduced myself and Detective Mefford to
5 MINOR 1 and explained to him that we have been
6 talking with MINOR 2 , ^{MINOR 2} , and ^{MINOR 2} has made
7 some allegations about some things that have
8 happened with Scott Parker and that we are here to
9 talk to you about your possible involvement as
10 well.

11 Q And what was his reaction when you informed him of
12 that?

13 A At first he hung his head and he made the statement
14 to me, he said, I don't really know what you are
15 talking about.

16 Q After he made that statement, what, if anything,
17 did you or Detective Mefford do?

18 A Detective Mefford asked the administrator if she
19 could step outside for just a minute, gave the
20 impression that MINOR 1 was embarrassed to talk at
21 that time with another person in the room. So at
22 that time he asked her to step out so I could
23 continue the interview.

24 Q Did she, in fact, step out?

25 A She did.

1 Q Were you able to continue the interview?

2 A I was.

3 Q Did you again ask -- what did you ask MINOR 1 at
4 that point?

5 A At that point once she stepped out, I explained to
6 MINOR 1 what -- the allegations that MINOR 2 has made
7 involving Mr. Parker and to let him know Mr. Parker
8 is currently in jail and, you know, we are here
9 just to hear his side of the story, if anything had
10 happened.

11 His mother is aware that I am here speaking
12 with him, even though she doesn't know exactly what
13 we are going to talk about, but she wanted us to
14 come to school and talk to him.

15 Q How much detail did you go in in talking with
16 MINOR 1 at that time?

17 A At this point I explained to him what some of the
18 issues of what MINOR 2 had said had happened and that
19 MINOR 1 was present and witnessed these incidents
20 and also possibly is a victim of these incidents
21 himself, which would refer to the oral sex, at
22 which time MINOR 1 began to start talking and
23 tell us what happened to him.

24 Q Did he, in fact, make a statement and also provide
25 a written statement at that time?

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1 A Both, yes, sir.

2 Q Comparing the information that you advised him of
3 versus what he told you, did he tell you more than
4 you told him?

5 A I'm sorry. Repeat it one more time.

6 Q The information, the allegations and the
7 information you provided to MINOR 1 at that time,
8 when he answered your questions and he described
9 what happened and he gave you a statement, did he
10 give you any information that was beyond what you
11 told him?

12 A Yes, sir, a lot more.

13 Q What, if anything, did he say to you as to when
14 these events occurred?

15 A Again, the allegations of what happened between
16 July of 2006 and July of 2008.

17 Q That's what MINOR 1 told you?

18 A Yes, sir.

19 Q Did MINOR 1 tell you where these incidents
20 happened?

21 A They began at [REDACTED] in the Gaston
22 area and also at the Masters Inn located at 2124
23 Commerce Drive.

24 Q Did you have an opportunity -- you already
25 testified, I think, that you went to the Masters

1 Inn. Did you have an opportunity to go to both of
2 those locations?

3 A Yes, sir.

4 Q Let me show you some photographs and ask if you
5 recognize them. Referring to State's 1 and 2, do
6 you recognize those?

7 A That would be the camper that Mr. Parker lived in.

8 Q Again, what was the address for that camper?

9 A [REDACTED].

10 Q Is that in Lexington County?

11 A Yes, sir, it is.

12 Q Looking at State's Exhibit Number 3 and 4, do you
13 recognize those?

14 A Those are the pictures of the Masters Inn located
15 at 2124 Commerce Drive.

16 Q That's where you went to talk to Mr. Johnson?

17 A Yes, sir.

18 Q And is that location in Lexington County?

19 A It is.

20 Q And, Sergeant Lint, were you able to, through your
21 investigation, determine what Mr. Parker's date of
22 birth is?

23 A [REDACTED]. He's 40 years old.

24 Q I believe that's it, Sergeant Lint. If you would
25 please answer any questions that Mr. Locklair has

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1 for you.

2 A Yes, sir.

3 THE COURT: Thank you, Solicitor.

4 Mr. Locklair.

5 MR. LOCKLAIR: No questions for this witness,

6 Your Honor.

7 THE COURT: Thank you very much, Sergeant.

8 You may step down.

9 THE WITNESS: Thank you, Your Honor.

10 (Witness leaves the witness stand.)

11 THE COURT: Solicitor, you may call your next
12 witness.

13 MS. WHETSTONE: Thank you, Your Honor. The
14 State calls Marcus Johnson.

15 MARCUS LEE JOHNSON, being
16 first duly sworn, testifies as follows:

17 CLERK: Once you are seated, state your full
18 name, spelling your last on the record.

19 THE WITNESS: Marcus Lee Johnson,
20 J-O-H-N-S-O-N.

21 THE COURT: Solicitor.

22 MS. WHETSTONE: Beg the Court's indulgence
23 briefly, Your Honor.

24 THE COURT: Yes, ma'am.

25 (Pause.)

1 DIRECT EXAMINATION

2 BY MS. WHETSTONE:

3 Q Mr. Johnson, where do you work?

4 A I'm currently the front office manager at the
5 Masters Inn at 2125 Commerce Drive. That's in
6 Cayce.7 Q That's in Cayce. I am showing you State's Exhibit
8 Number 3. Is that the Masters Inn you are
9 referring to?

10 A Yes, ma'am.

11 Q And how long have you worked at that address?

12 A Since July of 2007, so a little over three years.

13 Q What positions have you held at the hotel while
14 working at the Masters Inn?

15 A I was hired originally as the front office manager.

16 Q What duties do you have as the front office
17 manager?18 A To oversee the other employees that work the desk,
19 as well as maintaining all records and customer
20 complaints.

21 Q And what is your current position again?

22 A Front office manager.

23 Q So you are still the front -- you have been in the
24 same position the entire time you have been there?

25 A Yes.

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1 Q Do you know Scott Parker?

2 A Yes, I do.

3 Q Why is that name familiar to you?

4 A When I first was hired, he became known to me. He
5 checked in on a regular basis. After working the
6 desk, a lot of regulars, they became known to you.
7 He would make small talk at the desk.

8 Q Is Scott Parker present in the courtroom today?

9 A Yes, ma'am.

10 Q And can you identify him for me, please.

11 A Yes, he is the gentleman sitting next to the
12 defense attorney without the jacket.

13 Q Thank you. As the custodian of the records, can
14 you tell me how those records are kept at your
15 office when people check into the hotel?

16 A Yes. When someone checks in, all the information
17 is entered through the computer system there. It's
18 stored electronically. The records are maintained
19 for four years. Once you input them, they go
20 through a guest history, which is a 24-hour cycle.
21 You cannot change them.

22 Q Who would enter the information?

23 A Any of the clerks working the desk at the time.

24 Q So when someone checked in, is that information
25 immediately entered into the computer?

1 A Yes.

2 Q And that's how it's kept, in a computer?

3 A Yes, ma'am.

4 Q When you retrieve those records, are they going to
5 reflect the same information as to the date they
6 were entered into the computer?

7 A Yes.

8 Q And those records are kept in the normal and
9 ordinary course of business?

10 A That is correct.

11 Q Do you recall a Detective Lint with the Lexington
12 County Sheriff's Department coming to your business
13 and requesting hotel records for Scott Parker?

14 A Yes, I do.

15 Q And did you retrieve that information that he
16 requested?

17 A Yes, that is correct.

18 Q Did you bring the records with you today?

19 A Yes, ma'am.

20 Q Can I please view those records?

21 A (Witness complies.)

22 MS. WHETSTONE: Your Honor, State's permission
23 to enter State's Exhibit, the guest records, I believe
24 it's Number 5.

25 MR. LOCKLAIR: No objection, Your Honor.

MARCUS JOHNSON -- DIRECT -- MS. WHETSTONE

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1 THE COURT: State's 5 is in evidence without
2 objection.

3 (State's Exhibit Number 5 is received into
4 evidence.)

5 MS. WHETSTONE: Permission to publish these
6 records, Your Honor.

7 THE COURT: Yes, ma'am.

8 BY MS. WHETSTONE:

9 Q Can you read that from where you are sitting,
10 Mr. Johnson?

11 A Yes, ma'am.

12 Q I will ask you a few questions about the records.
13 When someone checks into the hotel, I notice on
14 this particular record, it says adults, one; is
15 that correct?

16 A Yes, that's correct.

17 Q When someone checks in, do you always enter the
18 number of adults that are checking in at that time?

19 A Yes, we ask for how many adults will be occupying
20 the room.

21 Q Why do you do that?

22 A At that particular time, we used to charge extra
23 per adult.

24 Q At that particular time. When did that practice
25 stop?

- 1 A Roughly the beginning of this year.
- 2 Q The beginning of this year, January, February,
3 March?
- 4 A January 2010.
- 5 Q Prior to that while you worked at the hotel, you
6 would charge additional. How much additional would
7 you charge?
- 8 A Roughly four to five dollars extra.
- 9 Q And I also note number of children is indicated up
10 there. Would you write down the number of children
11 that would be checked into a room?
- 12 A Yes.
- 13 Q Did you charge additional for children?
- 14 A No.
- 15 Q So when Scott Parker checked into a room and it
16 says zero, he had no children with him when he
17 checked in?
- 18 A That would have been correct. We would have asked
19 how many children would have been checking in.
- 20 Q Did you ever see children with Scott Parker when he
21 checked in?
- 22 A No.
- 23 Q How many times did you check Scott Parker in, do
24 you recall?
- 25 A Maybe a dozen times maybe.

MARCUS JOHNSON -- DIRECT -- MS. WHETSTONE

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1 Q I notice that there is a note on the top of this
2 record that looks like it was handwritten in?

3 A Yes, that's correct.

4 Q Describe for me what that is.

5 A Those are my initials.

6 Q Why did you write your initials up there?

7 A I went through the records and initialed all the
8 time that the computer showed I had entered under
9 my initials, that I had checked Mr. Parker in.

10 Q Is that information in the computer?

11 A Yes, it would be but it would not print out on the
12 printouts.

13 Q Can you ever print that information out?

14 A No.

15 Q Did you go back through and do that to every
16 record?

17 A Yes.

18 Q I am handing you back up these records,
19 Mr. Johnson. How many times did the Defendant
20 check into your hotel between July of 2006 and July
21 of 2008?

22 A How many times?

23 Q Yes.

24 A (Pause.) I'm not precisely sure how many times,
25 but looking at this I would say about 30 times

1 roughly.

2 Q And then there's some other documents that you have
3 up there?

4 A Yes.

5 Q Can you describe to me what other documents you
6 brought with you today?

7 A These documents is a printout of the summary of
8 multiple guest days.

9 Q What additional information would that record
10 reflect that the previous records do not reflect?

11 A It's pretty much precisely the same information.
12 It just gives a quick summary of the arrival date,
13 the departure date, the room type, and the amount
14 he was charged, along with his name and address and
15 driver's license.

16 Q Does it indicate the type of bed that would be in
17 each particular room?

18 A Yes, ma'am, it does.

19 Q Is that on the other records that I entered,
20 State's Exhibit Number 5?

21 A No, only the room number itself is on the other
22 folios.

23 MS. WHETSTONE: Your Honor, permission to
24 enter the summaries as State's Exhibit Number 6.

25 MR. LOCKLAIR: No objection, Your Honor.

MARCUS JOHNSON -- DIRECT -- MS. WHETSTONE

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1 THE COURT: State's 6 in evidence without
2 objection.

3 (State's Exhibit Number 6 is received into
4 evidence.)

5 MS. WHETSTONE: Permission to publish these
6 records, Your Honor.

7 THE COURT: Yes, ma'am.

8 BY MS. WHETSTONE:

9 Q On these records, Mr. Johnson, room type, can you
10 describe for me what the different symbols mean on
11 this. Let's start at the top. What does D. mean?

12 A D.X. is a non-smoking, two-bed room.

13 Q D. means?

14 A Two beds.

15 Q And X. means what?

16 A Designates non-smoking.

17 Q And the room that Mr. Parker would have rented on
18 5/13/07 indicates one B. What does that mean?

19 A One B. would be one smoking, single bed.

20 Q So B. means?

21 A One full-size bed.

22 Q And because there is no X. on that?

23 A It would have been smoking.

24 Q I will jump down to 6/27/07. What does one K.
25 mean?

1 A That would be a standard smoking, king.

2 Q Then all the way down to 9/28/07, what does D.D.
3 mean?

4 A That would have been a smoking room with two beds.

5 Q And then 10/11/07, what does B.X. mean?

6 A That would have been non-smoking, single bed.

7 Q How many times on this particular summary from
8 July 15, 2006, to October 18, 2007, does it
9 indicate that there is more than one bed in a room?

10 A There's six times with one smoking bed and two
11 times with non-smoking bed, so eight times with one
12 bed.

13 Q Repeat that for me again. I'm sorry.

14 A Yes, ma'am. There's eight times on there with one
15 bed.

16 Q I am looking at the second page of this record,
17 State's Exhibit Number 6. I will put it on here a
18 little straighter. How many times on this summary
19 are there two beds in the hotel room?

20 A None.

21 Q That's from November 22, 2007, to March 13, 2008?

22 A Yes, that's correct.

23 Q Looking at the final summary of records from
24 March 28, 2008, to July 15, 2008, how many times
25 are there two beds in a room on that record?

MARCUS JOHNSON -- DIRECT -- MS. WHETSTONE

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1 A None.

2 Q Mr. Johnson, did you ever have a chance to speak to
3 Mr. Parker?

4 A Yes.

5 Q Do you recall your conversations?

6 A Yes, I do, ma'am.

7 Q Tell me what you recall of those conversations.

8 A When Mr. Parker would check in, he would
9 occasionally make small talk. He would talk about
10 he was going through a divorce, and he would ask
11 occasionally for his phone to be turned off because
12 he did not want his kids to call and pester him for
13 money.

14 There's often other times that he would check
15 in and afterwards he would ask if it would be okay
16 to let his friends come swimming for a few hours
17 or so, and usually I have no problem with that or
18 any other desk clerk.

19 We would give permission. We would not enter
20 that in the system since they were not staying the
21 night that we knew of, but pretty much the
22 conversation consisted of those items.

23 Q Did you ever meet Mr. Parker's children?

24 A No, ma'am, I did not.

25 MS. WHETSTONE: No further questions for this

1 witness, Your Honor.

2 THE COURT: Mr. Locklair.

3 MR. LOCKLAIR: May it please the Court, Your
4 Honor.

5 CROSS EXAMINATION

6 BY MR. LOCKLAIR:

7 Q Just a few questions, Mr. Johnson. In the time you
8 have been working there, it would be fair to say
9 you checked in a large number of guests?

10 A That's correct.

11 Q Do y'all have a lot of regular guests?

12 A Yes, we do.

13 Q It would be fair to say this all occurred several
14 years ago, correct?

15 A Yes.

16 Q When Mr. Parker would talk about, as you said, his
17 kids, are you sure he used the word kids? He might
18 have said I am bringing the boys over, my boys over
19 or some other term?

20 A I am positive he used his kids.

21 Q And you never once saw the kids over there?

22 A No, I did not.

23 Q You never saw them swimming or them outside?

24 A No, sir.

25 MR. LOCKLAIR: Beg the Court's indulgence.

MARCUS JOHNSON -- CROSS -- MR. LOCKLAIR

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1 (Pause.)

2 BY MR. LOCKLAIR:

3 Q You don't recall ever having met the two boys when
4 they were at the pool and having to go get
5 Mr. Parker out of his room because they were being
6 disruptive?

7 A No, sir.

8 MR. LOCKLAIR: That's all I have, Your Honor.

9 THE COURT: Redirect, Solicitor?

10 MS. WHETSTONE: Nothing further for this
11 witness, Your Honor. We would ask that he be excused.

12 THE COURT: Any objections?

13 MR. LOCKLAIR: None from the defense, Your
14 Honor.

15 THE COURT: Thank you for being with us,
16 Mr. Johnson. You may step down and you may be excused.

17 (Witness leaves the witness stand.)

18 THE COURT: Solicitor, you may call your next
19 witness.

20 MR. GRAHAM: Thank you, Your Honor. This is
21 Correctional Officer Craig Finley who was mistakenly put
22 on as Craig Kinley on the witness list.

23 THE COURT: Ladies and gentlemen of the jury,
24 when I qualified the jury, I used the name Correctional
25 Officer Craig Kinley. The officer's name is actually

STEPHEN FINLEY -- DIRECT -- MR. GRAHAM

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1 Craig Finley, F-I-N-L-E-Y. Is any member of the jury
2 panel related by blood or marriage or close personal
3 friends of Officer Finley? If so, please stand.

4 (There is no response.)

5 THE COURT: No one stands. Thank you,
6 Solicitor. You may call your next witness.

7 MR. GRAHAM: Your Honor, the State would call
8 Correctional Officer Craig Finley to the stand.

9 STEPHEN CRAIG FINLEY, JR.,
10 being first duly sworn, testifies as follows:

11 CLERK: Once you are seated, speak up loud and
12 clear, stating your full name, spelling your last.

13 THE WITNESS: My name is Stephen Craig Finley,
14 Jr., F-I-N-L-E-Y.

15 DIRECT EXAMINATION

16 BY MR. GRAHAM:

17 Q Officer Finley, where are you employed?

18 A I am employed at the Lexington County Sheriff's
19 Department, the detention center.

20 Q And how long have you worked there?

21 A Four and a half years.

22 Q In what capacity have you worked at the detention
23 center?

24 A I have been a correctional officer, and right now I
25 am a field training officer at the booking desk.

STEPHEN FINLEY -- DIRECT -- MR. GRAHAM

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1 Q The booking desk, is that the area where when
2 someone is arrested, they are booked in?

3 A Yes, sir.

4 Q Back on January 13, 2009, were you the booking
5 officer for Scott Parker?

6 A Yes, sir, I was.

7 Q Do you recognize Mr. Parker?

8 A I do.

9 Q Where is he located in this courtroom?

10 A The gentleman with, it looks like, white shirt and
11 tie.

12 Q Sitting at the defense table?

13 A Yes, sir.

14 Q And part of the booking process when you booked
15 him, did you ask him some personal information
16 about himself?

17 A Yes, sir, we do.

18 Q And as part of that, did he provide to you his date
19 of birth?

20 A Yes, sir.

21 Q What did he tell you his date of birth was?

22 A [REDACTED].

23 Q And is one of the questions you asked him the
24 number of children that he has?

25 A Yes, sir.

1 Q And what was his response to that? What did he
2 tell you?

3 A No children.

4 Q Another question that you would have asked is his
5 marital status?

6 A That's correct, yes, sir.

7 Q What are the different types of marital status that
8 you -- what are the different types of marital
9 status that you record?

10 A During the booking process, it asks when I get to
11 that question if the person is married, single,
12 divorce, separated, widowed.

13 Q In response to that question to him of whether he
14 was single, married, divorced or widowed, what did
15 he tell you?

16 A Single.

17 Q I believe that's it, Officer. Please answer any
18 questions Mr. Locklair has.

19 THE COURT: Thank you, Solicitor.

20 Mr. Locklair.

21 MR. LOCKLAIR: No questions for this witness,
22 and we have no objection to him being excused.

23 THE COURT: Thank you. Thank you for being
24 with us, Officer Finley. You may step down and you may
25 be excused.

LANCE ANDERSON -- DIRECT -- MS. WHETSTONE

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1 THE WITNESS: Thank you. Appreciate it.

2 (Witness leaves the witness stand.)

3 THE COURT: Solicitor, you may call your next
4 witness.

5 MS. WHETSTONE: The State calls Lance
6 Armstrong (sic).

7 LANCE ANDERSON, being
8 first duly sworn, testifies as follows:

9 CLERK: Once you are seated, you will need to
10 speak up loud and clear, stating your full name,
11 spelling your last, please.

12 THE WITNESS: My name is Lance Anderson,
13 A-N-D-E-R-S-O-N.

14 DIRECT EXAMINATION

15 BY MS. WHETSTONE:

16 Q Thank you, Mr. Anderson. Where do you work?

17 A Right now I am at His House Ministry.

18 Q And how long have you been working at His House?

19 A Since February 9th.

20 Q Why are you currently working at His House?

21 A Because I became homeless.

22 Q And do you know the boys we referred to as MINOR 1
23 and ^{MINOR 2} in this trial?

24 A Yes, ma'am.

25 Q How do you know them? What name do you know them

1 by?

2 A MINOR 1 and MINOR 2

3 Q How long have you known them?

4 A For several years.

5 Q Do you know the Defendant, Scott Parker?

6 A Yes, ma'am, I do.

7 Q Do you see him in the courtroom today?

8 A Yes, he is sitting right over there.

9 Q Sitting right over there next to defense counsel at
10 the table?

11 A Yes, ma'am.

12 THE COURT: Speak up just a little. Pull that
13 microphone a little closer to you.

14 Thank you, Solicitor.

15 BY MS. WHETSTONE:

16 Q How long have you known the Defendant?

17 A Probably since the early 2000s.

18 Q What kind of relationship have you had with him?

19 A We drank beer together. That's about it.

20 Q Did you ever see the Defendant, during your time
21 with the Defendant, did you ever see him with
22 MINOR 1 and MINOR 2

23 A I have seen them, you know, visit him and stuff
24 like that, yes.

25 Q And how often did you see them together?

LANCE ANDERSON -- DIRECT -- MS. WHETSTONE

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1 A Well, just about any time you seen MINOR 1 and
2 MINOR 2 you seen Scott.

3 Q Did anything strike you as unusual about that?

4 A Well, I don't see no sense in a grown man hanging
5 around with young boys all the time.

6 Q When you saw them, did you ever see him touching
7 them inappropriately?

8 A Maybe touch them on the shoulder or something.
9 That's about it.

10 Q Do you think the amount of time together was
11 unusual at all or not at all?

12 A He spent too much time with them, yes.

13 Q Did you ever address that with the Defendant?

14 A I told him a couple of times that it didn't look
15 right the way that he was hanging around the boys
16 like that all the time.

17 Q Did you ever see the Defendant give MINOR 1 and
18 MINOR 2 gifts or cell phones?

19 A No. I've heard MINOR 1 and MINOR 2 talk about that he
20 give them cell phones and gifts.

21 Q Did you ever see them with these gifts?

22 A Yes, ma'am.

23 Q Do you ever hear the Defendant talking about giving
24 them gifts?

25 A There was one time when they got mad at Scott

1 because he took their phones away because they was
2 getting in an argument or something.

3 Q The Defendant took their phones away?

4 A Yes, ma'am.

5 Q Thank you. I just wanted to make sure I heard you
6 correctly. Do you recall what time period you saw
7 them together?

8 A No, ma'am.

9 Q During that time that you saw them together, did
10 you notice any changes in MINOR 1 and MINOR 2

11 A Not at first I didn't until that one day over their
12 grandmother's house when MINOR 2 was really pissed off
13 at Scott.

14 Q When you say really pissed off, can you describe
15 that for me?

16 A He was calling him names and stuff like that and
17 told him to leave him alone and don't touch him and
18 all kind of stuff like that.

19 Q And that was unusual to you?

20 A It seemed unusual to me, yeah.

21 MS. WHETSTONE: No further questions at this
22 time, Your Honor.

23 THE COURT: Thank you, Solicitor.
24 Mr. Locklair.

25 MR. LOCKLAIR: May it please the Court.

LANCE ANDERSON -- CROSS -- MR. LOCKLAIR

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1 CROSS EXAMINATION

2 BY MR. LOCKLAIR:

3 Q Mr. Anderson, when you say that you saw ^{MINOR 2} got
4 mad at Scott Parker, you don't know what that was
5 over; do you?

6 A No, sir, I don't.

7 Q Had you been drinking that day?

8 A No, sir.

9 Q Back in November of 2009, you were held in contempt
10 of court by the family court. What was that for?

11 A Child support.

12 Q You failed to pay your child support?

13 A (Witness nods.) (Indicating affirmative response.)

14 Q You had to go jail instead of paying it?

15 A Yeah.

16 MR. LOCKLAIR: Beg the Court's indulgence.

17 (Pause.)

18 MR. LOCKLAIR: No more questions of this
19 witness, Your Honor.

20 THE COURT: Redirect?

21 MS. WHETSTONE: No further questions, Your
22 Honor. We ask that he be excused.

23 MR. LOCKLAIR: No objection from the defense,
24 Your Honor.

25 THE COURT: Thank you. Thank you very much

1 for being with us today, Mr. Anderson. You may step
2 down and you may be excused.

3 (Witness leaves the witness stand.)

4 THE COURT: Solicitor, you may call your next
5 witness.

6 MR. GRAHAM: Your Honor, if we could take a
7 break to discuss some scheduling issues, I would
8 appreciate it.

9 THE COURT: Ladies and gentlemen, perhaps now
10 would be a good time to take an afternoon recess then.
11 Please remember during this recess, do not discuss the
12 case with anyone. Remember to keep an open mind and not
13 begin your deliberations until you are directed to do
14 so. You may go with the bailiff.

15 (The jury retires to the jury room.)

16 THE COURT: Court will be in recess 15
17 minutes.

18 (Whereupon there is a recess.)

19 THE COURT: What about that matter on the
20 records, Solicitor?

21 MR. GRAHAM: Your Honor, I wanted to put on
22 the record that we have obtained and provided
23 Mr. Locklair the D.J.J. records. They are somewhat
24 voluminous. I don't know how many pages there are.

25 Additionally, mental health has separated

1 their records. They are here with all their records,
2 and they are in the courtroom here with me now.

3 They have some concerns -- we are copying what
4 they have given us that are records that they are the
5 authors of. They have some concerns about other records
6 that they did not originate, that they are not authors
7 of, and are concerned about the disclosure of those
8 records.

9 I'm not exactly sure what kind of records
10 those are, but they would be from other agencies. I
11 asked them to be present in court so that we could
12 address that issue.

13 Then we have one more witness and scheduling
14 wise I'm not sure how you want to handle it. What
15 Mr. Locklair and I had discussed was that we would not
16 put up our last witness and rest and give him time to
17 look through all the records.

18 He stated that he believed he could be -- if
19 we provided them to him in the near future, he would be
20 able to have them reviewed by first thing in the
21 morning.

22 Because at that time we had discussed the
23 possibility of recalling any witnesses that we have for
24 his cross examination. It would be our case in chief,
25 not his case, so that he would not be calling the

1 witnesses.

2 We would be recalling them to allow him to
3 cross examine them as to anything he finds in those
4 documents. But we are prepared to go forward with the
5 last witness if Your Honor chooses.

6 THE COURT: All right. So what do you want me
7 to do first?

8 MR. GRAHAM: I guess deal with the mental
9 health issues and what their concerns are regarding not
10 turning over matters -- not turning over documents they
11 didn't originate.

12 THE COURT: Who do you want me to hear from?

13 MR. GRAHAM: I have, I believe, Deborah Lyles
14 from the Department of Mental Health.

15 THE COURT: Yes, ma'am, I would be glad to
16 hear from you.

17 MS. LYLES: Just wondering about records. We
18 have records from an M.E.C. evaluation at the Department
19 of Juvenile Justice. We have some school records, that
20 kind of thing, things we have gotten from other sources
21 that we did not originate, just documents from a
22 hospitalization, I believe, that kind of thing.
23 Normally we don't release those. We just release things
24 that we originate.

25 THE COURT: Let me ask you something,

1 Ms. Lyles and Solicitor. Has the parent consented to
2 the release of the records?

3 MR. GRAHAM: The parent has, Your Honor, yes.

4 THE COURT: Mr. Locklair, do you have a
5 position in that matter?

6 MR. LOCKLAIR: Well, Your Honor, we would
7 obviously like to see anything that could be relevant
8 and possibly have impeachment evidence. I would think,
9 based on H.I.P.P.A. and what I know about personal
10 injury, if there is a release signed, then you get
11 around H.I.P.P.A., even if it's documents that a doctor
12 has.

13 Like, say, I had a personal injury client who
14 was treated with an orthopedic surgeon, they get medical
15 records from the hospital, from the primary physician.
16 They can disclose all those through their office,
17 medical records of that sort.

18 I would think under H.I.P.P.A. that they
19 would be disclosable with the consent. I obviously
20 don't know the entire H.I.P.P.A. law backwards and
21 forwards.

22 MR. GRAHAM: Your Honor, I just spoke with
23 MINOR 2 mother, and she wanted me to state for the
24 record and tell you that she does want those records
25 released.

1 THE COURT: She does want them released?

2 MR. GRAHAM: She does want them released.

3 THE COURT: Ms. Lyles, tell me your position
4 with mental health.

5 MS. LYLES: Yes, sir, I'm Director of Child
6 and Family Services.

7 THE COURT: Based on the solicitor's statement
8 to me that Ms. Hernandez consents to the release of the
9 records and she is present in the courtroom, and also
10 looking at various cases that have interpreted
11 H.I.P.P.A., specifically Arons, A-R-O-N-S, versus
12 Jutkowitz, J-U-T-K-O-W-I-T-Z, 880 N.E.2d 831, 2007, I'm
13 going to order also additionally the release of the
14 records with a protective order.

15 They will go to the Solicitor's Office. They
16 will go to review by Mr. Locklair. Thereafter, they
17 will be marked, after use, as a Court's exhibit and
18 sealed and returned at the end of the trial to sealed
19 files, both your copy, Mr. Locklair, and the Solicitor's
20 copies.

21 Should there -- obviously should there be a
22 verdict, if the case goes to the jury, be not guilty,
23 they could be destroyed, correct, if it's not guilty?

24 MR. GRAHAM: Yes, Your Honor.

25 THE COURT: The copies that y'all have.

1 Should the verdict be guilty, then they would remain
2 sealed in the Court's file for any appellate review.
3 Would that satisfy the State?

4 MR. GRAHAM: Yes, Your Honor.

5 THE COURT: Would that satisfy you,
6 Mr. Locklair?

7 MR. LOCKLAIR: Yes, Your Honor.

8 THE COURT: Do you think that protects the
9 interests of D.M.H., Ms. Lyles?

10 MS. LYLES: Yes, sir.

11 THE COURT: Any other suggestions as far as
12 the -- and I find there is good cause to release the
13 records also under that case and a number of other cases
14 that have been decided under H.I.P.P.A. in this criminal
15 setting.

16 I don't think I need to cite those cases
17 because I wouldn't be able to spell them correctly or
18 pronounce them correctly, but I think there is good
19 cause to release the records in this regard.

20 MR. GRAHAM: The only thing further, Your
21 Honor, that I would suggest is that the Court order
22 myself and defense counsel not to disseminate those
23 out.

24 THE COURT: That's right. They should not be
25 disseminated. Obviously, you can review them and I

1 understand you have to confer with your client, but, as
2 I say, no copies will be kept. You can use them through
3 the course of the trial, through cross examination, and
4 there may be some that come into evidence. I don't
5 know.

6 MR. LOCKLAIR: I work under protective orders
7 in federal court all the time.

8 THE COURT: All right. Then you are more
9 familiar with them than I am, Mr. Locklair, as far as
10 protective orders.

11 Thank you. Thank you very much, Ms. Lyles.
12 Does that take care of that issue then, Solicitor?

13 MR. GRAHAM: Yes, Your Honor. Right now I
14 will ask Ms. Lyles and Ms. Scoggins to take those files
15 back and begin copying those as well. So I don't know
16 how long it will take to finish copying. I am hoping to
17 get them to Mr. Locklair this afternoon.

18 THE COURT: Who is your last witness?

19 MR. GRAHAM: Heather Smith. She's an expert
20 in child sexual abuse.

21 THE COURT: How long is her testimony going to
22 take?

23 MR. GRAHAM: Probably less than 30 minutes, I
24 would imagine.

25 THE COURT: Does she need those records to

1 testify?

2 MR. GRAHAM: The only thing that concerns me,
3 Your Honor, is depending on what Mr. Locklair finds and
4 if he decides to cross -- if we put the witnesses up and
5 he crosses them and questions them, I might need to deal
6 with an issue with her.

7 THE COURT: All right.

8 MR. LOCKLAIR: I actually prefer, if we could,
9 Your Honor, to continue her until tomorrow just because
10 she's an expert. If she is not really directly involved
11 in the case, there are a lot of records and stuff that
12 could be for cross examination on her.

13 THE COURT: Will she be provided those
14 records?

15 MR. GRAHAM: I'm sorry, Your Honor?

16 THE COURT: Will she be provided those
17 records?

18 MR. GRAHAM: I can.

19 THE COURT: I'm just asking the question.

20 MR. GRAHAM: I wasn't planning on it.

21 MR. LOCKLAIR: Judge, my cross will be in
22 general like if she says, well, this person exhibits
23 characteristics of this, I can say, well, he did or he
24 didn't. I don't know what is in there yet.

25 THE COURT: The only reason I ask is I ordered

1 you not to disseminate it. If you were going to have
2 your expert look at them -- and, of course, anyone like
3 that would be under the protective order.

4 MR. LOCKLAIR: We certainly wouldn't have any
5 objection to the expert witness being allowed to look at
6 them. We certainly think that would be proper.

7 THE COURT: Probably the prudent thing to do
8 would be to quit for the day. What about timing
9 tomorrow?

10 MR. GRAHAM: It depends honestly on when we
11 get the final records to Mr. Locklair and how much time
12 he needs to review them, Your Honor. Your Honor,
13 co-counsel has informed me we should have the mental
14 health records finished within the next 30 minutes
15 probably and will be able to provide those to
16 Mr. Locklair.

17 THE COURT: How long is your case going to
18 take, Mr. Locklair? Do you know that yet? Can you
19 answer that question yet?

20 MR. LOCKLAIR: At this time we don't
21 anticipate putting up a defense, but obviously I will
22 have to speak more with my client when the State rests
23 and have Your Honor go over with him his right to
24 testify. At this point we don't plan on it.

25 THE COURT: You don't at this time -- I am not

1 holding you to it -- you don't intend to call any
2 witnesses?

3 MR. LOCKLAIR: No, sir, we don't intend to
4 present any evidence at this time.

5 THE COURT: So then it would appear that the
6 case would probably go to the jury by lunchtime?

7 MR. LOCKLAIR: Yes, sir, I would anticipate
8 that.

9 MR. GRAHAM: Or before, Your Honor, I would
10 think if we have only one witness and he doesn't call
11 anybody.

12 THE COURT: We will send y'all's jury home for
13 the evening. They would probably like an extra 15
14 minutes off. You can bring us our jury.

15 (The jury returns to the courtroom.)

16 THE COURT: Welcome back, ladies and
17 gentlemen. I apologize for the delay. I had to take up
18 a matter outside of your presence, which is not yet
19 totally resolved.

20 Given that fact, I felt the best thing to do,
21 rather than keep you captive any further today, that I
22 will release you from your jury service for the
23 remainder of the day. It would be time for your late
24 afternoon and evening recess.

25 I would remind you again, do not discuss the

1 case with anyone, including your fellow jurors or anyone
2 else. Do not read or listen to any news reports about
3 the case, should there be any.

4 Do not use your computer, cellular phone or
5 other electronic device with communication capabilities
6 or any other method to obtain or disclose any
7 information about the case.

8 Information about the case includes but is not
9 limited to the following: Information about a party, a
10 witness, an attorney or a Court officer, news accounts
11 about the case, information collected through juror
12 research on any topics raised or testimony offered
13 during the trial by any witness or information collected
14 through juror research on any other topic that you might
15 think would be helpful in deciding the case.

16 Y'all could repeat it back to me. You have
17 heard this several times. You must decide the case
18 based on the evidence and testimony presented in the
19 courtroom and the reasonable inferences to be drawn from
20 that evidence and the law as I tell you the law is in
21 South Carolina.

22 Please remember to keep an open mind and do
23 not begin any deliberations until directed to do so by
24 the Court after you have heard all the evidence and
25 testimony, the closing arguments of the attorneys, and

1 the instruction on the law by the Court.

2 I would ask you to please be back promptly at
3 9:30 in the morning in your jury room. If you would
4 please be back promptly at 9:30. Thank you very much
5 for your patience and your attention that you have shown
6 all the parties during the trial of this case. You are
7 now excused.

8 (The jury is excused for the day at 4:15 p.m.)

9 THE COURT: Anything further, Solicitor?

10 MR. GRAHAM: Not from the State, Your Honor.

11 MR. LOCKLAIR: Nothing from the defense, Your
12 Honor.

13 THE COURT: Thank you very much. Are you
14 going to get the information to Mr. Locklair this
15 afternoon?

16 MR. GRAHAM: Yes, Your Honor.

17 THE COURT: We will start back at 9:30 in the
18 morning promptly, and Ms. Smith will be available for
19 us?

20 MR. GRAHAM: Yes. I would think we would
21 start first on his review of the file and whether he
22 wants to recall any witnesses so he can cross them,
23 depending on what he finds and what he wants to do, Your
24 Honor.

25 MR. LOCKLAIR: I will make sure to make that

1 information available to Solicitor Graham first think in
2 the morning and let him know anything I found and if I
3 need anything further.

4 THE COURT: You probably need Ms. Scoggins
5 present and the custodian, whoever the custodian is.
6 Thank you very much, Solicitor.

7 MR. GRAHAM: Thank you, Your Honor.

8 (Whereupon the proceedings are concluded for
9 October 5, 2010.)

10 (The following proceedings are reported on
11 October 6, 2010.)

12 THE COURT: Anything from the State?

13 MR. GRAHAM: No, Your Honor.

14 THE COURT: Defense?

15 MR. LOCKLAIR: May it please the Court, Your
16 Honor.

17 THE COURT: Yes, sir.

18 MR. LOCKLAIR: After going through all these
19 records, there are several issues that have come up.
20 The main one, I guess, would involve the D.S.S. case
21 involving the alleged physical abuse that MINOR 2
recanted against Christal Hernandez.

23 From what we had in the file and from what
24 came out on direct and cross examination from the mother
25 and the child, it made it seem that it was not that long

1 of an investigation and wasn't that big of an
2 investigation.

3 Going through both D.J.J. and mental health
4 records, there are many references to it basically going
5 all the way into August of '08, when the investigation
6 was initiated in November of '07.

7 The investigation goes a lot further than they
8 led us to believe through their testimony. I made my
9 motion for a continuance. One of the things I requested
10 and said I wanted to get was the D.S.S. file regarding
11 MINOR 2 and the mother.

12 So in addition to the '07 incident, it
13 apparently appears to me from the records, that was not
14 the first time D.S.S. was involved. Way back in '04,
15 the child had reported to his mental health counselor
16 that his mother had -- I will paraphrase -- basically
17 she had lit a cigarette lighter and had taken it around
18 his face and told him she was going to burn him if he
19 wasn't quiet.

20 Apparently that one was not reported because
21 he said it was when he was much younger. There are also
22 some other records regarding him reporting that his
23 mother had essentially -- he was fighting with his
24 mother, and she had slammed him to the ground and held
25 him by his neck while she spanked him.

1 So obviously the D.S.S. involvement goes much
2 further back, and it appears if there was nothing done,
3 then there might be at least three incidents of him
4 claiming false abuse, other than the one we knew about.

5 So I think that D.S.S. file is critical. I
6 would ask the Court to continue the case, at least for a
7 few days, to allow me to get access to that file and go
8 through it. If not, I don't know if it's proper to
9 declare a mistrial and continue it to the next term.

10 I think that's critical information we should
11 have had before. All this has come out at the last
12 minute. I spent eight hours reading through this
13 because a lot of it is his handwritten notes. I didn't
14 have time to really do any research on additional
15 issues.

16 It definitely appears that a lot of stuff
17 was going on with D.S.S. that we were not made aware
18 of, that in my opinion, the mother and the son
19 intentionally kept from me and from the prosecutor on
20 the stand.

21 Without that D.S.S. file, I don't think I can
22 properly cross examine these people because there are
23 more allegations of false abuse that this child has
24 brought up in the past, which unfortunately I don't have
25 much of the details of. When they were on the stand,

1 the mother tried to deny that the investigation was
2 anything big.

3 But all throughout the counseling notes, the
4 mother talks and the stepfather talks about her
5 continued frustration with D.S.S., tired of D.S.S. The
6 mother doesn't need parenting classes because she has
7 had them.

8 The stepfather substitutes these counseling
9 classes for his parenting classes. Is the mom going to
10 go on the child abuse registry? There is a lot of
11 information in there that is just not there or we don't
12 have yet that will be in a D.S.S. file.

13 The other thing was the D.J.J. notes or the
14 D.J.J. records contain no notes whatsoever from
15 Dr. Wright, who is the psychiatrist who actually
16 performed the evaluation, where he talks about the past
17 physical abuse, talks about the alleged sexual abuse.
18 In part of that, his story differs from what he has
19 testified to on the stand as well, but there's no notes
20 from that doctor, who apparently has left D.S.S. and is
21 now in Atlanta.

22 THE COURT: You don't have the D.S.S. file?

23 MR. LOCKLAIR: I have the D.S.S. file, but it
24 doesn't have any of the psychiatrist's note to clarify
25 what he took and other things. It has a bunch of other

1 notes in the file and things in it. I don't know if
2 they keep those separately.

3 It appears from the records that this doctor
4 was in Lexington County and might have gone to Richland
5 County D.S.S. or vice-versa and at some point subsequent
6 to that moved to Georgia.

7 THE COURT: My question is do you have the
8 D.S.S. file?

9 MR. LOCKLAIR: Oh, no. No, sir. I have the
10 D.J.J. file. I apologize, Your Honor. D.J.J., I have,
11 not D.S.S., yes, sir.

12 THE COURT: Tell me again, what are you asking
13 me to do?

14 MR. LOCKLAIR: I'm asking the Court to at
15 least continue the case temporarily to get the D.S.S.
16 file for me to look at because obviously the State has
17 their last witness and they want to rest.

18 But I am really asking the Court to declare a
19 mistrial and continue the case and retry it
20 because basically all this information has really
21 reaffected (sic) how I would have tried the case, had I
22 had all this beforehand with what is in D.S.S.

23 I mean, it's a really complicated issue
24 because now it looks like there might be the potential
25 need to call witnesses or had I had this in hindsight,

1 maybe the potential at this point.

2 I don't really think I could be able to do it.
3 I am kind of in a bind. There is too much information
4 that has come out, and I think the D.S.S. file will have
5 more new information that's impeachable.

6 THE COURT: My question again is I can't do
7 but one thing.

8 MR. LOCKLAIR: I would ask Your Honor to
9 declare a mistrial.

10 THE COURT: You are making a motion for a
11 mistrial?

12 MR. LOCKLAIR: Yes, sir.

13 THE COURT: Not a motion for a continuance?

14 MR. LOCKLAIR: I am making a motion for a
15 mistrial. If that is denied, then I am making a motion
16 for the Court to at least continue the case during this
17 term to allow me to get the D.S.S. records and go over
18 them for how many hours that would take, but I don't
19 think that would be an appropriate remedy to protect my
20 client.

21 THE COURT: Solicitor?

22 MR. GRAHAM: Your Honor, I'm not exactly sure
23 what documents Mr. Locklair is referring to. I know
24 that he cross examined ^{MINOR 2} on recantation, and he
25 admitted that he did.

1 I know that he cross examined his mother.
2 With the notes he has, if he wants to cross examine them
3 again, he can. The mother is not on trial. The D.S.S.
4 investigation is only important as to the recantation,
5 which he admitted he did.

6 That's what that investigation was about was
7 the physical abuse that he claimed. I believe, unless I
8 am mistaken, that was recanted, and he admitted that on
9 the stand.

10 I don't know that there is anything, as far as
11 that recantation, that would be proper for him to go
12 into on cross examination of either one. I don't
13 believe that a mistrial is appropriate. If Your Honor
14 is considering that, I would ask that you allow us to
15 obtain the D.S.S. records and give Mr. Locklair time to
16 review that.

17 THE COURT: Please prepare a subpoena for the
18 D.S.S. records and have them given to an investigator.
19 Can you do that by subpoena or do you need a Court
20 order?

21 MR. GRAHAM: I don't know, Your Honor. I
22 think we can do it by subpoena.

23 THE COURT: If you cannot do it by subpoena,
24 prepare a Court order. I would be glad to sign it and
25 have an investigator go immediately to D.S.S. All this

1 is Lexington County D.S.S.?

2 MR. LOCKLAIR: Yes, sir.

3 THE COURT: And secure those records.

4 MR. LOCKLAIR: Your Honor, if it would be
5 quicker, I would be happy -- if it's close by, I would
6 be happy to go over there and review their file in their
7 office if that would make it faster.

8 THE COURT: Subpoena their custodian. Call
9 them. However y'all normally do that, Solicitor, what
10 would be the most expedient way. Let me see what the
11 documents are that I would be ruling on.

12 MR. GRAHAM: Your Honor, the only question I
13 have is he wants the subpoena for what records exactly?
14 I know he wants D.S.S. records. Is it D.S.S. involving
15 MINOR 2 all his records or is it D.S.S. involving the
16 mother and all her records? I just need some
17 clarification.

18 THE COURT: I don't think Ms. Hernandez is on
19 trial. Although -- it's not by way of criticism. I
20 don't mean it like that -- although there has been some
21 effort to put her on trial. At times I have felt like a
22 family court judge, for which I would be eminently
23 unqualified to be a family court judge.

24 I think there are records as to MINOR 2 ,
25  , MINOR 2 I'm not ruling they are relevant. I would

1 also cite State versus Parker for the proposition that
2 Ms. Hernandez's records wouldn't even been discoverable,
3 I do not believe in that regard.

4 MR. LOCKLAIR: We are not -- all the defense
5 is requesting is any D.S.S. records relating to any
6 investigation regarding MINOR 2 . That's MINOR 2

8 THE COURT: And however is the most expedient
9 way to do that, Solicitor.

10 MR. GRAHAM: Yes, Your Honor.

11 THE COURT: Let's see what confronts us at
12 that time. We will be awaiting those records or the
13 D.S.S. custodian of the records.

14 Mr. Bailiff, would you tell the jury we will
15 be a few minutes.

16 MR. LOCKLAIR: Thank you, Your Honor.

17 THE COURT: Anything further, Mr. Locklair?

18 MR. LOCKLAIR: No, sir, not at this time.

19 THE COURT: I am taking your motion under
20 advisement.

21 MR. LOCKLAIR: Thank you, Your Honor.

22 THE COURT: Anything further, Solicitor?

23 MR. GRAHAM: No, Your Honor.

24 (Whereupon there is a recess.)

25 THE COURT: Bring us our jury, please.

1 (The jury returns to the courtroom at
2 11:00 a.m.)

3 THE COURT: Good morning, ladies and gentlemen
4 of the jury panel. Welcome back. I apologize for the
5 delay. Unfortunately the delay has not ended, but I
6 have decided not to hold you captive any further while I
7 flesh out several issues.

8 Perhaps in my opening comments to you, I
9 alluded to the fact that the jury and the trial court
10 each have distinct roles and separate responsibilities
11 that must be executed during a trial.

12 You the jury serve as the fact finders and are
13 charged with the duty of weighing the evidence admitted
14 at trial and rendering a verdict on the evidence. The
15 trial court, myself on the other hand, am charged with
16 the duty of determining the issues of law.

17 As part of that duty, the trial court serves
18 as the gatekeeper and must determine whether the
19 evidence submitted or offered by a party is admissible
20 pursuant to the rules of evidence as a matter of law.

21 Once I make a ruling that a particular item of
22 evidence or testimony is admissible, then it exclusively
23 becomes within the jury's province to decide how much
24 weight the evidence deserves.

25 With that, from time to time, I have to have

1 what is known as in camera hearings outside of your
2 presence to determine the admissibility of evidence or
3 not admissibility of evidence as that gatekeeper
4 function of mine.

5 It appears that it may take a while to resolve
6 that matter as to potential items of evidence. With
7 that being said, I am going to excuse you from your jury
8 service for the remainder of the day.

9 I was debating bringing you back about 2:30.
10 I feel like if I brought you back at 2:30, we may be
11 having this same conversation. I realize it's not
12 much of a conversation from y'all's point. You are
13 kind of a captive audience. I think of it as a
14 conversation.

15 But I don't want to just drag you back, so to
16 speak, just to send you away again. So in an abundance
17 of caution and in an attempt to not impose upon your
18 valuable time, your personal and professional lives --
19 because I realize none of you are volunteers.

20 But it is the highest form of civic duty that
21 an individual can perform for their community, it has
22 been said, except serving in the military in combat
23 during times of war.

24 It's one of the few civic duties and
25 responsibilities where citizens have direct input into

1 their form of judgment. It's just one vote of 12
2 people. It's what makes our system great, the greatest
3 ever been created by man in my opinion and many others'
4 opinions.

5 With that being said, please remember my
6 instructions to you. Do not discuss the case with
7 anyone. Do not read, watch, listen to any news reports,
8 should there be any. Do not do any investigation on the
9 internet or otherwise.

10 Remember to keep an open mind and do not begin
11 your deliberations until I instruct you to do so.
12 Again, thank you very much for your focus and attention
13 to all the parties and witnesses throughout the trial of
14 this case and your patience with the Court.

15 With that being said, you are excused for the
16 remainder of the day. I will ask you to be please back
17 at 9:30 in the morning. Thank you. Thank you very
18 much.

19 (The jury is excused for the day at
20 11:05 a.m.)

21 THE COURT: Any objections to anything I have
22 told the jury from the State?

23 MR. GRAHAM: No, Your Honor.

24 THE COURT: Defense?

25 MR. LOCKLAIR: No, Your Honor.

1 THE COURT: Just one further thing, if there
2 are any in camera motions that need to be heard further,
3 I would like to hear those today.

4 MR. GRAHAM: I'm not aware of any, Your Honor.

5 THE COURT: Whether it's -- we still have to
6 revisit the motion for mistrial, Mr. Locklair. Perhaps
7 we could do that at, say, 4:00 o'clock today.

8 MR. LOCKLAIR: Yes, sir.

9 THE COURT: If there are any other motions,
10 for example, a motion concerning the admissibility --
11 should I deny the motion for mistrial, if there's any
12 motion concerning the admissibility of the expert
13 testimony, I would like to clear everything today.

14 Whether I do or do not grant the mistrial, I
15 want to rule on that today or at least hear it further
16 today. If there's any other motions, I would like to
17 hear them today. So if I deny that motion and bring the
18 jury back tomorrow, we will be ready to start in the
19 morning.

20 MR. LOCKLAIR: Yes, sir.

21 THE COURT: Thank you. You have -- let's get
22 clear on the record, what records do you now have?

23 MR. LOCKLAIR: I now have the D.J.J. and
24 mental health records and the current D.S.S. records
25 they have. I am about to sit down with D.S.S. and go

1 over those right now, what they have, other than the
2 archive records.

3 THE COURT: Then there is one set of D.S.S.
4 records that are from 2007?

5 MR. GRAHAM: I thought there were two, Your
6 Honor.

7 UNIDENTIFIED FEMALE: That is correct, two.

8 MR. GRAHAM: Two sets of records from 2007.

9 THE COURT: Tell me your name for the record.

10 MS. GIFFORD: It's Leslie Gifford,
11 G-I-F-F-O-R-D. There is a home study that was ordered.
12 I believe it was in '07, Your Honor. Then there is also
13 a foster care file on a specific child. I'm not sure
14 but there is a line of foster care, and I believe that
15 was in '07 also, Your Honor.

16 MR. LOCKLAIR: That would make sense, Your
17 Honor, because November of '07 was when the initial
18 report was made. Then he was in the group home or
19 foster care until December 17th or so or something of
20 '07. That would make sense. There would be two
21 separate files from '07. That was the incident that he
22 recanted.

23 THE COURT: But those files, I just want to
24 make clear and make sure I am tracking right -- you may
25 be seated, Mr. Parker -- to make sure I am tracking

1 right, Ms. Hernandez and MINOR 2 have been cross
2 examined concerning the '07 foster care and the '07
3 incident, not with the benefit of you having the D.S.S.
4 records, but they have been cross examined in those
5 regards.

6 MR. LOCKLAIR: Yes, sir.

7 THE COURT: Those time frames, November,
8 December of '07 are surrounded by the time frames
9 alleged in the indictments.

10 MR. LOCKLAIR: Yes, sir.

11 THE COURT: In other words, the indictments
12 allege a time frame from July of '06 to July of '08.
13 Within that time frame, the end of '07, is the D.S.S.
14 incident where he alleged physical abuse when the police
15 were called and the flyswatter incident.

16 He and Ms. Hernandez were cross examined by
17 you without objection in regard to that incident,
18 again, with you not having the benefit of those D.S.S.
19 records.

20 MR. LOCKLAIR: Yes, sir.

21 THE COURT: So it's not other instances that
22 you know of within that '07 time frame?

23 MR. LOCKLAIR: Not with the '07 stuff she has
24 right now. It might have other incidents, of course,
25 it's going back years.

1 THE COURT: I am trying to get it clear in my
2 mind. What dates did the ones you have now,
3 Ms. Gifford, cover?

4 MS. GIFFORD: Sir, this is a -- we call them
5 an assessment, which was the end of the investigation.
6 The treatment file folder, that is this file right here.
7 It's dated 11/06/07 through 9/24/08. That's this file
8 right here. The file name is for Christal Kendrick.

9 THE COURT: Who is Christal Kendrick?

10 MR. LOCKLAIR: That's MINOR 2 's mother's
11 name prior to marrying Joe Hernandez, Your Honor.

12 MS. GIFFORD: This is another file on Christal
13 Kendrick. It's dated 02/10 and closed 3/26/10. This is
14 another file on Christal Brantley that opened on 5/19/09
15 and closed on 6/24/09. This is another file on
16 Christina Brantley. It opened on 5/15/09 and closed on
17 7/7/09. These last three files, Your Honor, are
18 unfounded cases.

19 THE COURT: Isn't there cases on that, Tuttle?
20 Isn't their cases on that where they are unfounded,
21 Solicitor?

22 MR. GRAHAM: I don't know, Your Honor. I
23 would have to go look. I'm sorry.

24 THE COURT: That's all right. That's all
25 right. Help me track. Who is Brantley?

1 MR. LOCKLAIR: I think that's her other name.
2 That was her maiden name. Then she got pregnant by
3 Bobby Murphy and had MINOR 2. They were unmarried. After
4 that she subsequently married another stepfather of
5 MINOR 2 who I guess was Kendrick. She separated and
6 divorced from him sometime in the early 2000s and a few
7 years ago married Mr. Hernandez.

8 THE COURT: Of course, my ruling, if these
9 files do not cover -- if they are not in regard to
10 MINOR 2 they are not -- my ruling only covers files in
11 regards to MINOR 2, MINOR 2, not
12 Ms. Brantley/Hernandez/Kendrick.

13 MR. LOCKLAIR: Yes, sir. If it doesn't apply
14 to MINOR 2 we wouldn't request it, but my biggest concern
15 is the records from mental health reflect that back on
16 October 28, 2004, when he said his mother body slammed
17 him and held him down by his throat or neck while she
18 spanked him, it says: Reviewer has contacted D.S.S.
19 to report incidents and says press client about
20 feelings.

21 Then on the next time, 11/9/04, followed up
22 with client regarding D.S.S. call that the school had
23 made regarding complaint of possible abuse. Complainant
24 states D.S.S. worker was supposed to come and take him
25 to see a group home so he could see what it's like.

1 The client reports D.S.S. worker never came.
2 That's from '04, and it appears they don't have any
3 records on **MINOR 2** from '04, which if it was
4 unfounded, you would think there would have if there was
5 a D.S.S. report from '04.

6 THE COURT: Maybe that report is not accurate
7 also. Maybe the D.J.J. report is not accurate.

8 MR. LOCKLAIR: Yes, sir.

9 THE COURT: Well, I guess the unfounded
10 reports could be -- could go to the issue of the
11 reporter's credibility if the reporter was the alleged
12 victim in this case.

13 MR. LOCKLAIR: Yes, sir. We would concede if
14 it was another child reporting or was unfounded, we
15 don't have the right to those records. We understand
16 that, Your Honor.

17 THE COURT: But unfounded, I was just reading
18 this in State versus -- I said Tuttle, but I was
19 wrong -- it's State versus Tyler, a case heard by Judge
20 Keesley in Aiken County, 2004.

21 It talks about discoverability of an unfounded
22 case, but I can see where if it goes to -- for example,
23 if ^{MINOR 2} reported abuse and they unfounded it, perhaps
24 there would be an argument that that went to
25 credibility. But just because it's in D.J.J. records

1 doesn't mean there is D.S.S. records --

2 MR. LOCKLAIR: Yes, sir.

3 THE COURT: -- that support that. We will be
4 at ease until 4:00 o'clock.

5 MR. LOCKLAIR: Yes, sir. Thank you, Your
6 Honor.

7 THE COURT: Anything further, Solicitor?

8 MR. GRAHAM: No, Your Honor.

9 THE COURT: Thank you. Thank you very much.
10 (Whereupon there is a recess.)

11 THE COURT: Solicitor?

12 MR. GRAHAM: Your Honor, I think the only
13 issue regarding the records at this moment is
14 Mr. Locklair's request for the 2004 unfounded report.
15 D.S.S. was able to tell us that the file itself has been
16 destroyed, I believe after five years. It was destroyed
17 in 2009.

18 They were able to print out some computer
19 screens of information that was entered. They do have
20 some information to provide. The only concern that
21 D.S.S. has is that they are under 63-17-330, and the
22 reporter is confidential.

23 So right now they are asking under that
24 statute for that not to be released. The D.S.S.
25 attorney is present in the courtroom as well, Your

1 Honor.

2 THE COURT: 63-17-340?

3 MR. GRAHAM: 330, Your Honor.

4 MR. LOCKLAIR: Your Honor, we are fine with
5 that name being redacted. We already know who it is.
6 It was the nurse at the high school he attended at the
7 time. I don't need the name on the report. The
8 actual fact it was reported is what we are looking to
9 look at.

10 THE COURT: Does that take care of that then,
11 Solicitor?

12 MR. GRAHAM: Your Honor, I don't even know
13 what is on that page. I don't know if there is anything
14 on the page other than the name.

15 MR. LOCKLAIR: If there are any other personal
16 identifiers that they feel is confidential, we would be
17 happy to have it redacted.

18 MR. GRAHAM: It might be best to ask D.S.S.
19 themselves, Your Honor. I don't know if they have any
20 other concerns. I don't want to misrepresent what they
21 are saying.

22 THE COURT: I take it that D.S.S. is willing
23 to turn over certain amounts of information from the
24 2004 screen copy?

25 MR. GRAHAM: Yes, Your Honor. They are

1 willing to turn over what they have from the 2004
2 information from the report, except for the reporter.

3 THE COURT: Tell them to redact and turn over
4 to you what they are willing to turn over.

5 MR. GRAHAM: That part is not a problem. I
6 can get that part to Mr. Locklair. I just didn't --

7 THE COURT: Isn't that what he saying, he is
8 fine with that?

9 MR. LOCKLAIR: There is one page that lists
10 the reporter, the person who reported it. I don't know
11 that potentially there could be other information on
12 that.

13 If he reviews it and it has no pertinent
14 information to MINOR 2 or him withdrawing
15 allegations or allegations were made, then I don't need
16 that if it doesn't have anything involving ---I think
17 there is another page that supposedly describes the
18 allegations which might have been destroyed.

19 So if this page doesn't contain the
20 allegations or his denial, just as to who reported it,
21 when and to whom, then it might be something I wouldn't
22 need if he looks at it and can tell that without me
23 having to see it or if their attorney can look at it and
24 say that, I would trust her.

25 MR. GRAHAM: I don't know if D.S.S. wants to

1 turn it over to me under the statute as well, Your
2 Honor. I haven't seen it.

3 MR. LOCKLAIR: I will trust their attorney as
4 an officer of the Court. If she says it doesn't have
5 anything to apply to the report itself other than the
6 names or information, then...

7 THE COURT: Maybe I'm not tracking. I thought
8 initially you said they are willing to turn over
9 everything, but the name of the reporter.

10 MR. GRAHAM: There is one piece of paper that
11 comes off the computer screen that has the name of the
12 reporter, and I have no idea what else is on that page.

13 THE COURT: Whatever they are willing to turn
14 over, have them turn over.

15 MR. GRAHAM: We will do that, Your Honor.

16 THE COURT: You look at it and he looks at it,
17 and if he thinks he wants more, he can make a motion.

18 MR. LOCKLAIR: The only thing I really need,
19 Your Honor, to know from D.S.S. is does that page
20 contain anything I might need because I don't know
21 what's on it. All I know is it's called the reporter
22 page and is private.

23 THE COURT: I don't know what is on it either.
24 I thought initially they just said they didn't want to
25 turn over the name of the reporter.

1 MR. LOCKLAIR: That would be fine. Let's say
2 it's called the reporter page -- well, it might be best
3 to have the D.S.S. attorney look at what is actually on
4 it, and she can probably clarify it.

5 THE COURT: Why don't y'all ask her?

6 (Pause.)

7 MR. GRAHAM: After conferring with the D.S.S.
8 attorney, they are going to redact the name and other
9 identifying information on that page, and that page was
10 not -- the reporter was not ^{MINOR 2} and I believe that was
11 his concern, that he would make an allegation and then
12 recant it.

13 MR. LOCKLAIR: Right. On this case, this
14 incident, he reported it to the school nurse, and the
15 school nurse was the reporter.

16 THE COURT: He says he already knows who the
17 reporter was.

18 MR. GRAHAM: Okay.

19 MR. LOCKLAIR: It's in the notes, the R.N.

20 THE COURT: So then that will not be an issue.

21 MR. GRAHAM: Apparently not, Your Honor.

22 THE COURT: Any other issues then, Solicitor?

23 MR. GRAHAM: Not from the State, Your Honor.

24 THE COURT: Thank you, Solicitor.

25 Mr. Locklair?

1 MR. LOCKLAIR: Your Honor, just as far as
2 adding something to our motion for a mistrial, this
3 would just add to the fact that it's another allegation
4 that he apparently has recanted.

5 Obviously we could put him put back up on the
6 stand. It interrupts the whole story. If he denies it,
7 then we have to go and subpoena the person that actually
8 reported it, the nurse or some D.S.S. worker.

9 It's the same with the other incident. I know
10 it's obviously not directly only point, but I looked up
11 a case, State versus Baum, 355 S.C. 209. It's a little
12 different because that was a body that was discovered
13 during trial.

14 The State got the mistrial declared, but the
15 important part of that was that basically it was dicta,
16 not the law of the case, just saying the jury should be
17 given all relevant evidence, and that a mistrial was
18 based on manifest necessity.

19 A lot of mistrials are obviously based on it
20 has to be a clear error, and that error has to prejudice
21 the Defendant. It just cited, saying, given the very
22 and often unique situations that arise in the course of
23 a criminal trial, the U.S. Supreme Court has recognized
24 broad discretion in granting mistrials.

25 We would just say that this is just another

1 reason that the whole story can't be told without the
2 background stuff. Obviously we couldn't send blanket
3 subpoenas for D.J.J. records and things of that, but the
4 main thing that brought this out was the D.J.J. and the
5 recantation of that. So we want to add that to our
6 motion.

7 THE COURT: Solicitor.

8 MR. GRAHAM: I'm not sure how to argue this,
9 Your Honor, because I don't know exactly what he wants
10 to be able to do with the information. But 801 -- or
11 excuse me -- 608(b) talks about specific instances of
12 conduct that you can go to impeach somebody. It talks
13 about how that is done and what for.

14 The recantation, I think he can properly ask
15 him questions on cross examination. I don't know what
16 recantations he has found in there. It says: Specific
17 instances of the conduct of the witness for purposes of
18 attacking or supporting the witness' credibility, other
19 than the conviction of a crime, may not be proved by
20 extrinsic evidence.

21 So he is not going to be able to recall a
22 witness or a records keeper or a nurse or anything like
23 that to contradict what somebody says about an unrelated
24 matter for prior conduct.

25 He wouldn't be able to call the school nurse

1 and have her come up here and say, didn't ^{MINOR 2} tell you
2 this? What he can do under the rules and under the case
3 law is he, under your discretion, Your Honor, if they
4 are probative of truthfulness or untruthfulness, he can
5 inquire into them on cross examination.

6 State versus Joseph, Your Honor, is 491 S.E.2d
7 275. In that case it quotes: A witness may be
8 impeached with prior bad acts not the subject of
9 conviction that affect the credibility.

10 So we are limited to credibility here, not
11 whether Christal is a bad mother or whether she slapped
12 somebody, but the credibility. The cross examiner must
13 take the witness' answer concerning these alleged acts;
14 however, if the witness denies them, he may not be
15 contradicted.

16 So I don't know what areas he wants to go
17 into, but he's not going to be able to do anything,
18 other than ask him a question. I believe he has already
19 asked every question that he wants, unless there is
20 another instance of one of these witnesses making an
21 allegation that they later recanted that he has not
22 addressed. I don't know there is any other issue that
23 he needs to cross examine any witness about.

24 THE COURT: Mr. Locklair, I guess I'm not
25 tracking. Tell me what it is you want to ask MINOR 2

1 or Ms. Hernandez.

2 MR. LOCKLAIR: I guess, first off, would be
3 from a consultation report where he went to a physician.
4 He talked about -- he states while the reports of
5 fighting are true, they have also thrown him into walls
6 and tried to choke him in the past. That is information
7 I didn't precisely ask about, how the abuse occurred.

8 THE COURT: When was that incident?

9 MR. LOCKLAIR: This would have been referring
10 back. The consultation was in July of '09, but he's
11 talking about two or three years ago, he reported his
12 parents were abusive and was placed in D.S.S. custody.
13 He is talking about the '07 incident is what that's
14 referring to. About how it occurred, some of the
15 specifics he went into, he further --

16 THE COURT: Let me take that incident. If you
17 are talking about other incidents, let me take them one
18 at a time. So what is the theory, what is your theory
19 that that goes to MINOR 2's credibility?

20 MR. LOCKLAIR: Because he says, I believe, she
21 was attacking him on the head with a flyswatter is how
22 they put it. I know she put it that way. I was doing
23 cross, so I can't remember, but I know he said that she
24 wasn't hitting him hard with the flyswatter.

25 THE COURT: I believe MINOR 1 put it that

1 way because MINOR 1 alleged he observed the incident.
2 I don't believe the description of the incident, as far
3 as a tapping on the head with the flyswatter, came out
4 thoroughly through MINOR 2 or Ms. Hernandez.

5 I could be incorrect in that regard, but I
6 know MINOR 1 spoke about it. But given that, he has
7 already testified that he lied about that incident. He
8 recanted that.

9 MR. LOCKLAIR: But it also goes to his
10 credibility because she did say that she didn't hit him
11 hard. She just tapped him with it. I know she said
12 that, and there's actually a picture which shows a big
13 red mark across his head.

14 THE COURT: All right. How can you get into
15 the fact of under 608(b), specific instances of conduct?
16 I went back and read the Court of Appeals decision on
17 State versus Douglas, in which -- and, of course, I know
18 that case also went up to the Supreme Court and was
19 changed somewhat, but I don't think it was changed in
20 regard to what they call victim impeachment testimony.

21 In that case they attempted to get into a
22 specific instance of conduct, and the trial court held
23 that the statement was inadmissible under 608(b), which
24 deals with specific instances of conduct.

25 The credibility issue goes to her -- I mean,

1 goes to the alleged victim, MINOR 2 . In that regard
2 it doesn't go to Ms. Hernandez, although her credibility
3 has to be weighed by the jury overall. She does not
4 testify to any alleged instances of criminal sexual
5 conduct between her son and the Defendant that I recall.

6 MR. LOCKLAIR: Right, other than what he said,
7 because she didn't testify -- I mean, she testified he
8 confessed to her on the way to the therapy place.

9 THE COURT: And she is allowed to testify to
10 that under consistent reporting because the defense has
11 appropriately brought out evidence of prior recantation
12 and testing MINOR 2's credibility, and that's why she
13 can testify to it. It's, of course, limited to certain
14 time, date, place, and not the details of the incident.
15 So you want to ask her about what he said occurred?

16 MR. LOCKLAIR: No. Obviously I would have
17 crossed her differently about what she said occurred and
18 about there being no -- basically I could go through --
19 the easiest way would be things about what I believe
20 that she lied about on the stand.

21 She said she just hit him in the face but very
22 lightly. She never said she hit him hard, which he
23 contradicts. She said she had thrown him down, just
24 different things that she said about that.

25 Further, what she said about the D.S.S.

1 investigation was clearly misleading and attempting to
2 mislead the jury because it was a full investigation and
3 took like nine months. As far as his credibility, it's
4 just different discrepancies in his story.

5 THE COURT: He has already said he's a liar.
6 He has already said that wasn't true.

7 MR. LOCKLAIR: Yes, sir. But involving the
8 2004 incident, just more little specific of the case
9 make him --

10 THE COURT: I'm still on -- I'm still gnawing
11 on the 2007 bone right now, Mr. Locklair.

12 MR. LOCKLAIR: I guess the best way to put it
13 is the more I can show of how much a liar he is to the
14 jury, the better it is for my case. If I can point out
15 six little lies he told rather than two little lies, the
16 cases, the way you win them is to destroy the
17 credibility of the alleged victim.

18 THE COURT: And I'm not saying that's not a
19 good strategy, Mr. Locklair, or a good trial tactic. I
20 am saying you are limited by the rules of evidence.

21 MR. LOCKLAIR: Yes, sir, I understand. I can
22 ask specific questions and if he denied then, of course,
23 the solicitor is right, I wouldn't be to call the nurse.
24 If he denies them, you have to move on.

25 It could be, didn't you tell this doctor on

1 this date, this happened? Didn't you tell the doctor on
2 this date this happened? Didn't you tell him on this
3 date this happened? Didn't you tell him this happened?
4 Then you recanted all that, so all those were lies.

5 THE COURT: Do you have objection to that,
6 Solicitor? We are talking about 2007.

7 MR. GRAHAM: I'm sorry. The 2007 incident, he
8 wants to recross who?

9 THE COURT: Yes, sir.

10 MR. GRAHAM: Which witness does he want to
11 recross?

12 THE COURT: He said he could ask him, so I am
13 taking it to be MINOR 2 .

14 MR. LOCKLAIR: At this point, Your Honor, to
15 be honest I don't think I would want to bring him up
16 just for the purpose of a limited recross examination.
17 That's why I am moving for a mistrial.

18 At that point it would look like me bringing
19 him back up to beat up on the poor kid for two or three
20 minutes and sit back down. At that point it looks bad
21 because I have already brought him up once. Then it
22 look like I am bringing him up there to badger him to a
23 jury in my opinion.

24 That's why I am moving for a mistrial because
25 if that's the case, I probably will not recall him for

1 that limited purpose of bringing up four or five
2 questions. It just makes me look bad for beating up on
3 an alleged victim.

4 THE COURT: Sometimes the cure is worse than
5 the disease, Mr. Locklair. As I understand it, they
6 have said previously they would allow -- they would
7 recall witnesses for you to test their credibility.

8 I will tell this jury -- I would be glad to
9 tell this jury -- this witness is being recalled for
10 continued cross examination based on trial rulings of
11 the Court.

12 I'm not trying to get you in a precarious
13 position with the jury in that regard, either one of
14 you. If they hold it against anybody -- I hope they
15 don't hold it against anybody -- but I will tell them if
16 they do, they hold it against me, not against the State,
17 not against you, not against your client.

18 MR. LOCKLAIR: It's not so much the way, it's
19 just that if we bring the witness back up and he doesn't
20 have any questions for him and I ask him four questions,
21 Didn't you lie about this? Didn't you lie about that?
22 Didn't you lie about this?

23 THE COURT: I would tell them that's based
24 upon my ruling.

25 MR. LOCKLAIR: In my opinion because of what I

1 found, I would not want to recall him just for that
2 purpose. I don't think it would benefit my client.

3 What I'm saying is if the Court doesn't grant
4 the mistrial, I will not want to recall MINOR 2
5 just for that limited questioning because I don't think
6 it would be appropriate, nor in my client's best
7 interest.

8 THE COURT: I'm saying I would -- do you have
9 objections to continued cross examination on the 2007
10 incident?

11 MR. GRAHAM: Just a second, Your Honor. I
12 apologize.

13 (Pause.)

14 MR. GRAHAM: I don't know that the details --
15 we got into the details and we've said what they are.
16 He has already admitted that he made it up and he
17 recanted. So I'm not sure what --

18 MR. LOCKLAIR: I'm saying if you don't grant a
19 mistrial, I am not going to recross MINOR 2 That
20 is my trial strategy at this point, not to recross him.
21 After what I learned and what has occurred in the case,
22 that's a non-issue.

23 I have decided not to. Because for a limited
24 amount, it doesn't in my opinion, it doesn't complete
25 the story and breaks it up and I think it would lose the

1 point to the jury.

2 MR. GRAHAM: Your Honor, if I may?

3 THE COURT: Yes, sir.

4 MR. GRAHAM: I don't want to concede the
5 admissibility at this moment because I don't know
6 exactly what the questions are and what they relate to,
7 but I am willing to recall him and ask him those
8 questions. Anything I don't cover, Mr. Locklair can
9 bring up in cross. That way it looks like I am bringing
10 up the credibility of my own witness.

11 MR. LOCKLAIR: I guess we can go over the
12 questions if he wants to do that.

13 THE COURT: As you all know, a mistrial is a
14 drastic remedy not to be taken lightly, and I am right
15 now searching for the least obtrusive remedy in that
16 regard.

17 That's why you got the records, Solicitor, and
18 turned over D.J.J. records yesterday and the Department
19 of Mental Health records. I think the D.J.J. records
20 were included within the Department of Mental Health
21 record.

22 Mr. Locklair had the opportunity during the
23 evening recess to review those records. This then led
24 to the D.S.S. records. He has had -- not all day -- but
25 a substantial part of the day to review the D.S.S.

1 records and can continue to review those over the
2 evening hours if I do not declare a mistrial.

3 If there is, based on those records, there
4 is additional information that he wants before the
5 jury that is admissible under the rules, I'm not
6 asking you to waive your objections now and say, yes,
7 I will recall him and he can ask the question? Then
8 the first question, if you've got an objection, you
9 can object.

10 MR. GRAHAM: Yes, sir.

11 THE COURT: I'm not saying that at all. I am
12 not trying to hamstring or hogtie the State in any
13 manner. But if based on those records there are
14 additional questions he would like to ask or have asked
15 of MINOR 2, my in limine ruling right now is I will
16 allow you to do that.

17 He can think trial tactics. That is
18 obviously -- that's a decision of the attorney in
19 consultation with his client as far as trial tactics is
20 concerned. That's 2007. What other areas do you want
21 to explore should I not grant the mistrial?

22 MR. LOCKLAIR: There is another incident in
23 2004 that was reported, but obviously I don't think I
24 asked him, was there any other incidents where you
25 reported child abuse, while he was on the stand. I

1 didn't know about that, where he said he was fighting
2 his mother and she grabbed him or body slammed him on
3 the ground --

4 THE COURT: Can I see what you are referring
5 to?

6 MR. LOCKLAIR: Yes. Let me find that exact
7 record. Actually one is where -- may I approach, Your
8 Honor?

9 THE COURT: Yes, sir.

10 MR. LOCKLAIR: Where she lit the cigarette
11 lighter -- this is reported from years earlier. I have
12 not researched the admissibility about circling the
13 cigarette lighter and saying she was going to burn his
14 face, and the another one alleged she slammed him down
15 to the ground and held him by the neck while she slapped
16 him. It's hard to read.

17 (Pause.)

18 THE COURT: What about these two instances?
19 One, Solicitor, 1/13/04, it looks like, when he was
20 talking to -- it indicates clinical services notes --
21 where the child stated that it was so bad one time that
22 his mother lit the lighter and circled his face and
23 stated she was going to burn him if he was not quiet.
24 This was when the child was much younger. What about
25 that, Solicitor?

1 MR. GRAHAM: I don't think it's admissible at
2 all to his credibility. I don't even understand where
3 the question would come in, Your Honor.

4 THE COURT: I guess it would be admissible
5 because I think he was asked a question if he had
6 reported other instances and he denied that. I think he
7 was asked that question.

8 MR. GRAHAM: You are right, Your Honor. The
9 only question is if he asked it or not.

10 THE COURT: What about this question?

11 MR. LOCKLAIR: Your Honor, I can't recall if I
12 ask him that specific question or not. That's one of
13 the reasons I am making the motion is the new
14 information, it makes it a puzzle where all the pieces
15 don't fit together correctly.

16 Trying to go back and put this in and that in,
17 there is also -- I know it doesn't involve this
18 incident, but there is a lot of stuff with his mother
19 that I found out from some of these things about her
20 talking to him explicitly about men and other things and
21 sex and the fact that **MINOR 1** had been kicked out
22 of their home for hurting his sister twice, all before
23 the sexual abuse ever allegedly started.

24 A lot of this stuff occurred all before any
25 abuse to show a background that this might have been the

1 most dysfunctional family setting on the face of the
2 planet if it all came through a lot of this.

3 The police were called to the house at 10:30
4 with the kids being alone and the mother being called
5 and she said, Oh, I was on the way home and a bunch of
6 other background stuff that would have made it all flow
7 together otherwise.

8 THE COURT: This is admissible, if at all --
9 you did ask that question about whether or not he had
10 ever reported other instances to authorities and all,
11 the cops or something of that nature. He said, I've
12 never called the cops in my life. That was during your
13 cross examination of the 2007 incident.

14 My question is this one and there is another
15 one, Solicitor, dated 10/28/01. That's clinical
16 services notes, and he states mother body slammed him
17 and told him -- grabbed him by his neck while she
18 spanked him, something of that nature. This is dated
19 10/28/01.

20 I guess the theory is there are two documents
21 which he reported to someone, or it appears because it
22 has his name on it, of prior physical abuse. Of course,
23 the limited instruction in this regard is not whether or
24 not this happened. It's not whether or not
25 Ms. Hernandez is or is not a fit or unfit mother.

1 The sole issue on this is the credibility or
2 the weight, if any, that the jury wants to give it as it
3 may affect the credibility of **MINOR 2**

4 MR. GRAHAM: Your Honor, could that be 10/28
5 of 2004? That's the unfounded D.S.S. case that I have
6 records on. The facts seem very similar.

7 THE COURT: Yes, sir, I guess it could. I'm
8 sure it's the same one. It looked like an '01 to me.
9 If that's a 4, I will take your and Mr. Locklair's eyes
10 for it.

11 MR. GRAHAM: Your Honor, if after reading the
12 D.S.S. reports, if it's a recantation, then, yes, he
13 should be able to ask that question.

14 THE COURT: It's not --

15 MR. GRAHAM: It goes to his credibility.

16 THE COURT: It's not really a recantation. He
17 has not gotten up here and said this didn't happened.

18 MR. GRAHAM: You're right, Your Honor. I
19 guess he gave varying stories.

20 THE COURT: He reported instances in the past.
21 He could get up here and say, but it didn't happen. I
22 don't know. How old is he now, 16?

23 MR. GRAHAM: Sixteen.

24 THE COURT: He was ten years old. So he
25 hadn't recanted that. It didn't come out. I take it

1 there's nothing in the record showing he recanted that.

2 MR. GRAHAM: There is a different version.
3 It's not as strong as what you are reading here. What
4 he told D.S.S., it's different.

5 THE COURT: All right. But it's limited to
6 his credibility.

7 MR. GRAHAM: Correct. I think the question
8 that Mr. Kendrick (sic) would ask him was --

9 THE COURT: Mr. Locklair?

10 MR. GRAHAM: I'm sorry. Thank you. I guess,
11 isn't it true you reported this and changed your story
12 and reported it to somebody else? He would say yes or
13 no and we would move on.

14 THE COURT: Before he said, you've never
15 reported instances of alleged abuse in the past, but
16 isn't it correct in 2004, you twice spoke with, on at
17 least two occasions, spoke with a counselor and reported
18 an incident, enough to focus his attention on what he
19 did.

20 MR. GRAHAM: Yes, sir.

21 THE COURT: I will allow those two questions
22 to be asked, Mr. Locklair.

23 MR. LOCKLAIR: Yes, sir. I guess the only
24 other issues that have really come up that I would have
25 wanted to get into him with is about his mom. A lot of

1 stuff in here about how she treated him and all that,
2 and then it goes back into her background about her
3 being a dancer or leaving home at night while she
4 danced.

5 There's the fact that he knew she worked as an
6 escort for about three or four years, the fact he
7 allegedly know she takes people from Platinum Plus to a
8 hotel across the street to show where he could have got
9 his -- I'm sure their expert is going to get up and say
10 the normal 11 or 12 doesn't know this sort of sexual
11 stuff in any details.

12 It's a sign that somebody has been abused if
13 they can come back and recall a story and give the sort
14 of details if they only hear that type of explicit type
15 of sexual language.

16 That helps verify their truthfulness, et
17 cetera, and have all this for the jury. But in his
18 home environment, he was a lot different than most --
19 or any 11 year old I remember in my life the way he
20 grew up.

21 It goes to show, look, this kid could have
22 intimate knowledge because his mom even admits that he
23 was her best friend and not her son, more like a brother
24 type of deal. He even talks about her talking about men
25 and drinking and all this.

1 So that would be another area I would have
2 wanted to explore with him because it goes to show
3 where he could have come up -- because, like I said, a
4 lot of these experts will say it's not normal for a 12,
5 13, 14 year old to talk about this sort of stuff in this
6 sort of detail without having been influenced by
7 something.

8 MR. GRAHAM: Your Honor, I believe the time he
9 disclosed he was 15. He disclosed January of 2009. I
10 can go check his birthday.

11 THE COURT: (sic).

12 MR. GRAHAM: He would have been 14 going on
13 15.

14 THE COURT: It's the day I got out of the
15 American Army. That's why I remember that date. No, it
16 wasn't '94.

17 MR. GRAHAM: But no, Your Honor, I have no
18 intention of asking my expert any questions about where
19 he would have obtained knowledge of oral and anal sex.

20 MR. LOCKLAIR: As long as he is not even going
21 forward into that area about his knowledge of that.

22 THE COURT: If he does it sounds like you have
23 got pretty good fodder to cross examine the expert.

24 MR. LOCKLAIR: Yes.

25 THE COURT: I mean, if there is an alternate

1 source from which he could have gained that knowledge
2 and the expert is not aware of it, it seems like you
3 would have a pretty good cross examination.

4 MR. LOCKLAIR: Right. I would want that to
5 come out of MINOR 2 mouth. Yeah, I knew my mom did this.
6 Yeah, I knew my mom did that. Yeah, I knew my mom was
7 like this. Yeah, my mom talked to me about that.

8 THE COURT: I don't think that's relevant at
9 this point.

10 MR. LOCKLAIR: Yes, sir. That's what I'm
11 saying. As long as his expert isn't going into that
12 sort of stuff, yes, sir, I agree.

13 THE COURT: I think that would become relevant
14 if he went into it on cross examination. I guess what
15 I'm saying it's hard for me to rule what I might have
16 ruled on had you attempted to ask those questions.

17 I'm not sure they -- I don't think they would
18 have been relevant at the time he was on the witness
19 stand even subject to cross examination. What other
20 areas?

21 MR. LOCKLAIR: The last one, I guess, would be
22 the fact that MINOR 1 (sic) was allegedly kicked
23 out of the house --

24 THE COURT: MINOR 1

25 MR. LOCKLAIR: MINOR 1. In November, somewhere

1 around November of '05, before any of this alleged abuse
2 happened, for violence toward MINOR 2 little sister. I
3 don't know what kind of violence because there is some
4 sexual violence that MINOR 2 tried to commit towards his
5 sister in his records of a sexually violent act that he
6 tried to commit on her.

7 I don't know if these were sexually violent
8 acts or physically violent acts, but once again without
9 knowing and being able to ask him about that,
10 psychologically that goes into aggression against
11 younger women.

12 If it was sexual, then obviously that shows he
13 had some sort of knowledge of violent sexual behavior
14 back in '05 before this happened, but I don't know what.
15 It was bad enough for the mom to kick him out of the
16 house for.

17 THE COURT: Who do you want to ask about that?

18 MR. LOCKLAIR: I probably want to ask MINOR 1
about it, if he has ever been physical. I don't
20 know. It's one of those things in hindsight I would
21 have asked MINOR 2 Ms. Hernandez, and MINOR 1 about what
22 had occurred.

23 MR. GRAHAM: For the purpose if any sexual
24 knowledge came from that event; is that correct? Is
25 that what I am understanding?

1 MR. LOCKLAIR: Basically to show -- basically
2 to show where they would have gotten reason to make this
3 up if they had other abuse, whether physical, sexual.
4 They already knew these things.

5 THE COURT: I will allow you to put MINOR 1
6 up in camera to hear it, but I fail to make a connection
7 between the fact that he may have been removed from the
8 Hernandez household in 2005 and that somehow later on
9 between 2006 and 2008, these allegations didn't occur,
10 and then on January 13th of '09, he gave a statement to
11 Sergeant Lint at the Airport High School. I don't make
12 that connection.

13 MR. LOCKLAIR: I'd just like to be able to
14 explore it. In cases like this, you've got to explore
15 every avenue you can.

16 THE COURT: I understand that. The connection
17 I am talking about is the connection of relevancy. I
18 will allow you to examine MINOR 1, if that's who you
19 want to examine, in that regard in camera and let me
20 hear it so I know what I am ruling on.

21 MR. LOCKLAIR: I guess I would actually also
22 want to -- because MINOR 2 is the one who said
23 that's the reason he got kicked out.

24 THE COURT: I will allow you to present
25 whatever testimony you want to present in that regard in

1 camera.

2 MR. LOCKLAIR: All I want to ask him, Your
3 Honor, is what happened. What would y'all say happened?
4 What was the actual fight? If he said, oh, he punched
5 her in the face a couple of times, and my mom is
6 intolerable, you have to go, obviously we are not going
7 to want to offer that.

8 MR. GRAHAM: No, sir. I think the question
9 would be was whether that event involved sexual
10 activity. Because I don't want to ask a question and
11 have them --

12 MR. LOCKLAIR: He said in camera.

13 MR. GRAHAM: I understand that. I guess it
14 doesn't matter if it's in camera, Your Honor.

15 THE COURT: I will let him make an offer of
16 proof. I will allow him to make his offer of proof in
17 camera.

18 MR. LOCKLAIR: If he says it was just a
19 regular physical altercation, I will quit, and no need
20 to worry about it at that point.

21 THE COURT: All right. What else do I need to
22 rule on, evidentiary wise?

23 MR. GRAHAM: The only thing -- nothing of
24 evidentiary wise that I know of, Your Honor.

25 MR. LOCKLAIR: Nothing else I'm aware of, Your

1 Honor.

2 THE COURT: At this time I find that a
3 mistrial, being a drastic remedy -- and I have looked at
4 the factors and the standards and the discretion I have
5 in that regard.

6 I have requested the State and the State has
7 complied with those requests, as has the Department of
8 Mental Health and the Department of Social Services, to
9 expedite the securing of records and turning them over
10 to the defense in this case.

11 The defense has had since about 4:00 o'clock
12 yesterday afternoon, Tuesday afternoon, to review the
13 mental health records and has been provided with the
14 D.S.S. records today.

15 There has been no evidence or evidence taken
16 since about 3:30 yesterday afternoon, which would have
17 been the 5th of October. We are not starting back as
18 far as the jury until 9:30 in the morning, and I will
19 allow the defense at their request and the State
20 consents to recalling **MINOR 2**. Correct, Solicitor?

21 MR. GRAHAM: That's the only one so far we
22 have agreed on that should be recalled, Your Honor.

23 MR. LOCKLAIR: Your Honor, I actually would
24 prefer to have the evening to think about the strategy
25 and talk to my client about it and know if we even want

1 to do that.

2 THE COURT: If you don't want him recalled,
3 that's fine. The State has offered to do that.

4 MR. LOCKLAIR: Yes, sir.

5 THE COURT: And I think that would be
6 appropriate depending on the trial strategy. I don't
7 think it would be -- I am not requiring you to do that
8 at all, Mr. Locklair.

9 MR. LOCKLAIR: Yes, sir.

10 THE COURT: I would deny the motion for a
11 mistrial at this time.

12 MR. LOCKLAIR: Thank you, Your Honor.

13 THE COURT: Just so I can do a little
14 research, Solicitor, what is the alleged nature of the
15 expert's area or field of expertise?

16 MR. GRAHAM: She's an expert in child sexual
17 abuse, Your Honor.

18 THE COURT: Child sexual abuse?

19 MR. GRAHAM: Yes, Your Honor.

20 THE COURT: That's what she would be
21 attempting to testify to?

22 MR. GRAHAM: Yes, Your Honor.

23 THE COURT: Thank you. Thank you very much.
24 Please convey my thanks to both the Department of Social
25 Services and Mental Health.

1 MR. GRAHAM: For clarification for the record,
2 D.J.J. did supply records separately.

3 THE COURT: And D.J.J. I didn't realize that.

4 MR. LOCKLAIR: I received those also on
5 Tuesday.

6 MR. GRAHAM: Those were provided. Actually
7 the very first thing that was provided was the D.J.J.
8 records.

9 THE COURT: If we have got an in camera
10 hearing, I would like to start at 9:00 o'clock in the
11 morning with those. If you would have the witnesses
12 here, Solicitor.

13 MR. GRAHAM: Yes, Your Honor.

14 MR. LOCKLAIR: Thank you, Your Honor.

15 THE COURT: Thank you, Mr. Locklair. Court
16 will be in recess until nine in the morning.

17 (Whereupon the proceedings are concluded for
18 October 6, 2010.)

19 (The following proceedings are reported on
20 October 7, 2010.)

21 THE COURT: Mr. Locklair, you had some
22 testimony you wanted to present in camera; is that
23 correct?

24 MR. LOCKLAIR: Yes, sir, Your Honor.

25 THE COURT: What witness? You can call your

MINOR 2 -- IN CAMERA -- MR. LOCKLAIR

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1 witness.

2 MR. LOCKLAIR: I would call MINOR 2 .

3 THE COURT: Come around, MINOR 2 .

4 CLERK: Under oath?

5 THE COURT: Place him under oath, please.

6 MINOR 2 , [REDACTED],

7 being first duly sworn, testifies as follows:

8 CLERK: State your full name on the record and
9 speak up loud and clear, please.

10 THE WITNESS: MINOR 2 .

11 IN CAMERA EXAMINATION

12 BY MR. LOCKLAIR:

13 Q MINOR 2 , do you recall back in November 2005
14 when your cousin was living with you and then had
15 to leave or moved out?

16 A I believe so, yes, sir, on [REDACTED].

17 Q And do you recall at some point telling one of your
18 counselors that he had to move out because he had
19 hurt your little sister twice?

20 A No, sir, I do not.

21 Q Did he ever hurt your little sister while he was
22 living there?

23 A No, sir, he has not.

24 MR. LOCKLAIR: That's all I have, Your Honor.

25 THE COURT: Thank you, Mr. Locklair. Any

MINOR 1 -- IN CAMERA -- MR. LOCKLAIR

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1 questions, Solicitor?

2 MR. GRAHAM: No, Your Honor.

3 THE COURT: Thank you very much, MINOR 2 .
4 You may step down.

5 THE WITNESS: Yes, sir.

6 (Witness leaves the witness stand.)

7 THE COURT: Any other witnesses, Mr. Locklair?

8 MR. LOCKLAIR: I will go ahead and call MINOR 1

10 THE COURT: MINOR 1 , come around please and
11 be sworn.

12 MINOR 1 , being
13 first duly sworn, testifies as follows:

14 CLERK: State your name once you have a seat
15 and speak up loud and clear.

16 THE WITNESS: MINOR 1 .

17 IN CAMERA EXAMINATION

18 BY MR. LOCKLAIR:

19 Q MINOR 1 , when you were living with your aunt
20 back in 2005, did she make you move out for any
21 particular reason?

22 A No, I wasn't living with my aunt in 2005.

23 Q You weren't living with her in November of 2005?

24 A (Witness shakes head.) (Indicating negative
25 response.)

1 THE COURT: Questions?

2 MR. GRAHAM: No, Your Honor.

3 THE COURT: Thank you, MINOR 1 .

4 (Witness leaves the witness stand.)

5 MR. LOCKLAIR: Nothing further, Your Honor.

6 We don't have any motions or further testimony.

7 THE COURT: I would be glad to hear from you.

8 MR. LOCKLAIR: After this point, Your Honor,
9 we are not going to go forward with them or even offer
10 to put the testimony in.

11 THE COURT: Thank you very much.

12 MR. LOCKLAIR: Thank you, Your Honor.

13 THE COURT: Tell me where we were at
14 administratively. Procedurally you are going to recall
15 MINOR 2 ; is that correct?

16 MR. GRAHAM: My understanding is the only
17 person that Mr. Locklair informed me of that he wanted
18 to recall was MINOR 2 .

19 MR. LOCKLAIR: Yes, sir.

20 THE COURT: You are going to cross examine or
21 continue your cross examination of MINOR 2 ?

22 MR. LOCKLAIR: Yes, sir, not many questions at
23 all though.

24 THE COURT: There is no other -- at this point
25 there's no other witnesses that have previously been

1 called by the State that you want recalled?

2 MR. LOCKLAIR: That's correct, Your Honor.

3 THE COURT: And then the State, you have one
4 more witness?

5 MR. GRAHAM: At this time, yes, Your Honor,
6 one more witness.

7 THE COURT: You are going to call that witness
8 before or after the recalling of MINOR 2 ?

9 MR. GRAHAM: After in case something comes up
10 that might be relevant to her testimony.

11 THE COURT: All right. Just let me know when
12 the jury is here. I will be ready whenever they get
13 here.

14 (Whereupon there is a recess.)

15 THE COURT: Anything from the State before we
16 bring in our jury?

17 MR. GRAHAM: No, Your Honor.

18 MR. LOCKLAIR: No, Your Honor.

19 THE COURT: Bring us our jury, please.

20 (The jury returns to the courtroom at
21 9:28 a.m.)

22 THE COURT: Good morning, ladies and gentlemen
23 of the jury panel. Welcome back. Again, I apologize
24 for the delay yesterday. I know you will not hold it
25 against the parties. It was not of the party's making

1 | whatsoever.

2 It was issues I had to resolve before the case
3 could go forward. If you would please continue to give
4 the parties your complete and undivided attention as we
5 continue the trial of the case.

6	Solicitor.

7 MR. GRAHAM: Thank you, Your Honor. The State
8 would recall MINOR 2 .

9 MINOR 2

10 | being first duly sworn, testifies as follows:

11 CLERK: Once you are seated, speak up loud and
12 clear and state your name on the record.

13 THE WITNESS: MINOR 2

14 THE COURT: Solicitor?

15 MR. GRAHAM: No questions, Your Honor.

16 MR. LOCKLAIR: May it please the Court, Your
17 Honor.

18 THE COURT: Mr. Locklair.

19 CROSS EXAMINATION

20 BY MR. LOCKLAIR:

21 Q MINOR 2 , do you remember us talking about the
22 events that occurred in November of 2007 where you
23 allege that your mother had physically abused you?

24 | A Yes, sir.

25 Q You later said you recanted and took that story

1 back and said it wasn't true, correct?

2 A Yes, sir.

3 Q Had you ever reported to anybody else that your
4 mother had ever done anything abusive to you
5 before?

6 A I did not report that she had abused me or anything
7 like that. I have said maybe she had hit me or
8 something like that but never abused.

9 Q Did you ever change those stories?

10 A Once or twice.

11 Q Do you recall back in October of 2004 that you had
12 reported that you and your mother were fighting and
13 she had body slammed you and held you down by your
14 neck while she spanked you?

15 A Yes, sir.

16 Q Was that true or not true?

17 A She had grabbed me by the back of my neck. That
18 was years ago. I don't remember exactly what I
19 said.

20 Q Didn't it end up being that you said she had held
21 you by the shoulder while she was spanking you
22 because you were trying to run away from her?

23 A Yes, sir.

24 Q You changed your story that time, too?

25 A Not that I know of.

MINOR 2 -- CROSS -- MR. LOCKLAIR

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1 Q Do you recall back in January of '04 reporting that
2 one time your mother had lit a lighter and circled
3 your face and stated she was going to burn you if
4 you were not quiet?

5 A I do not.

6 MR. LOCKLAIR: That's all I have, Your Honor.

7 THE COURT: Any redirect, Solicitor?

8 MR. GRAHAM: No, Your Honor.

9 THE COURT: Thank you. Thank you very much,

10 MINOR 2 . You may step down.

11 (Witness leaves the witness stand.)

12 THE COURT: Ladies and gentlemen, as you
13 recall me telling you earlier, you and I have different
14 functions to perform in this trial. As the trial judge
15 and presiding judge in this case, I also must rule on
16 the admissibility of any evidence.

17 On the other hand, you are the judges of the
18 facts in the case. You must determine the credibility
19 of the witnesses, which means you must weigh the
20 evidence and give what weight and value you think it
21 deserves.

22 The testimony just presented goes solely to
23 the issue of credibility, if it goes to any issue at
24 all. It does not go to any substantive issue of an
25 incident or the facts of an incident from 2004, but it

1 goes to the weight and value, if any, you give to the
2 testimony as it may affect the credibility and
3 truthfulness of the witness that testified. Thank you.

4 Solicitor, you may call your next witness.

5 MR. GRAHAM: Your Honor, may I approach?

6 THE COURT: Yes, sir.

7 (Whereupon there is a bench conference off the
8 record in the presence of the jury but out of the
9 hearing of the jury.)

10 THE COURT: Ladies and gentlemen, it appears
11 our next witness to be called by the State has not yet
12 arrived at the courthouse. I am going to give the State
13 an opportunity to locate that witness.

14 It could be traffic delay. I don't know. It
15 could be anticipating how slow the judge is I don't
16 know. Be that as it may, if y'all would step to your
17 jury room. Do not discuss the case during this brief
18 recess. Thank you very much.

19 (The jury retires to the jury room.)

20 THE COURT: If you would please, Mr. Parker,
21 step around to the podium to the microphone for me, you
22 and your attorney.

23 (Pause.)

24 THE COURT: Madame Clerk, would you place
25 Mr. Parker under oath for me, please.

1 SCOTT DOUGLAS PARKER is first
2 duly sworn.

3 THE COURT: Speak up where I will be able to
4 hear you, Mr. Parker. How old are you, Mr. Parker?

5 THE DEFENDANT: Forty years old, sir.

6 THE COURT: Tell me your full name.

7 THE DEFENDANT: Scott Douglas Parker.

8 THE COURT: Your date of birth?

9 THE DEFENDANT: [REDACTED].

10 THE COURT: How much education do you have?

11 THE DEFENDANT: High school, sir.

12 THE COURT: Did you graduate?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: Prior to being incarcerated, what
15 type of work did you do?

16 THE DEFENDANT: I'm an electrician, work
17 shutdowns and stuff like that.

18 THE COURT: You say you are an electrician.
19 Are you a licensed electrician?

20 THE DEFENDANT: I worked under a licensed
21 electrician.

22 THE COURT: Today are you under the influence
23 of any medication, drugs or alcohol?

24 THE DEFENDANT: No, sir.

25 THE COURT: I am going to ask you a few

1 questions and go over a few of your rights with you. I
2 do this with everyone that is on trial, and I always
3 place those individuals under oath. Do you understand?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: If at any time during my
6 questioning you do not understand my questions, please
7 let me know. I will try to explain them to you. If at
8 any time you wish to talk with your attorney, please let
9 me know. I will allow you to do so. Do you understand?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: We have almost reached the stage
12 of the trial where the State is going to rest. You have
13 been in the courtroom this morning. You have heard the
14 solicitor say they have one final witness they intend to
15 produce upon her arrival.

16 After the State rests, the defense, your side,
17 would have the opportunity to present evidence for the
18 jury to consider. Do you understand that?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: In that regard you, your attorney
21 may call witnesses to testify on your behalf or if you
22 choose to testify yourself, you may do so. Do you
23 understand that?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: No one can force you to testify.

1 You have an absolute right, Mr. Parker, to remain
2 silent. And if you choose not to testify, I will tell
3 this jury that they cannot hold your silence against you
4 in any way. I will tell them that they are not to even
5 discuss the fact that you do not testify in the jury
6 room. Do you understand?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: If your side offers no evidence at
9 all, in other words, if neither you nor anyone on your
10 behalf testifies or offers any exhibits, then your
11 attorney, Mr. Locklair, will get to make the last
12 argument to the jury. Otherwise, the prosecutor gets to
13 make the last argument. Do you understand?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Mr. Locklair, Solicitor, does
16 Mr. Parker have any criminal record that would subject
17 him to impeachment under Rule 609?

18 MR. GRAHAM: Your Honor, the only conviction
19 that Mr. Parker has within the proper time period that
20 would be appropriate was a July 28, 2008, conviction for
21 lewd act with a minor.

22 THE COURT: What is your position in that
23 regard, Mr. Locklair?

24 MR. LOCKLAIR: I believe that would probably
25 be admissible if he were to testify.

1 THE COURT: Is that a felony?

2 MR. GRAHAM: It carries 15 years, Your Honor.
3 I believe it is. I would have to look, Your Honor. I'm
4 sorry.

5 THE COURT: What is the C.D.R. code, do you
6 know that?

7 MR. GRAHAM: 24-68.

8 THE COURT: I can look it up.

9 (Pause.)

10 THE COURT: 24-68, is that what you said,
11 Solicitor, 24-68?

12 MR. GRAHAM: That's what is on the sentencing
13 sheet, Your Honor, is 24-68.

14 THE COURT: That's 16-15-140?

15 MR. GRAHAM: Yes, Your Honor.

16 THE COURT: That appears to be a Class D.
17 felony. Tell me the date of that conviction again,
18 Solicitor.

19 MR. GRAHAM: July 28, 2008.

20 THE COURT: I would find under 609 it would be
21 admissible that Mr. Parker was convicted of a felony on
22 July 28, 2008, not that he was convicted of a felony of
23 committing or attempting to commit a lewd act on a
24 minor. I would rule that inadmissible under Rule 403
25 and State versus Colf.

1 If you were to testify, Mr. Parker, the
2 prosecutor could ask you if you had previously been
3 convicted of a felony crime July 28, 2008. Do you
4 understand?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: Do you understand my ruling,
7 Mr. Locklair?

8 MR. LOCKLAIR: Yes, Your Honor.

9 THE COURT: Solicitor, if you want to put
10 anything on the record in that regard, I didn't mean to
11 cut you off.

12 MR. GRAHAM: No, Your Honor. I believe the
13 way you have classified that question is appropriate.

14 THE COURT: Now, what does that mean,
15 Mr. Parker, when I say I rule that? That means if you
16 take the witness stand, that will come up that you have
17 a felony conviction from July of '08.

18 I would allow the prosecutor to ask you that
19 question in front of the jury about whether or not you
20 have been so convicted. The prosecutor cannot go into
21 the details of the prior offense, but he can ask you
22 about that conviction.

23 If that happens I would tell the jury that
24 they can only consider that evidence against you, if
25 they consider it against you at all, on the issue of

1 whether your testimony is believable or not, on the
2 issue of your credibility, and for no other purpose. Do
3 you understand?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: The decision about whether you
6 testify or not is your decision to make and yours alone.
7 I expect that you may confer with your attorney,
8 Mr. Locklair, and with others whose opinions you value
9 on important decisions, but ultimately the decision
10 about whether to testify or not is your decision. It's
11 your call. Do you understand?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: Has anyone exercised any undue
14 influence over you to get you to choose to testify or
15 not to testify?

16 THE DEFENDANT: No, Your Honor.

17 THE COURT: Do you have any physical,
18 emotional or mental problem that affects or negatively
19 affects your thinking ability today?

20 THE DEFENDANT: No, Your Honor.

21 THE COURT: All right. What I am going to do
22 is take a brief recess. We will say until at least
23 10:00 o'clock. If you will give me a report or if your
24 witness arrives before then, Solicitor, let me know, of
25 course.

1 I will say at 10:00 o'clock so he will have a
2 few more moments to also talk with his attorney
3 concerning his right to testify or not. I will not ask
4 him the ultimate question of his decision until after
5 the State rests.

6 MR. LOCKLAIR: Yes, Your Honor.

7 THE COURT: Any other questions you would like
8 to ask me to ask him, Mr. Locklair, in regards to his
9 right to testify or not testify?

10 MR. LOCKLAIR: No, sir, Your Honor.

11 THE COURT: Mr. Parker, do you have any
12 questions you would like to ask me in regards to your
13 right to testify or not to testify?

14 THE DEFENDANT: No, Your Honor.

15 THE COURT: Thank you very much. We will be
16 at ease until 10:00 o'clock.

17 MR. LOCKLAIR: Thank you, Your Honor.

18 (Whereupon there is a recess.)

19 THE COURT: Anything before we bring in our
20 jury, Solicitor?

21 MR. GRAHAM: No, Your Honor.

22 THE COURT: Mr. Locklair?

23 MR. LOCKLAIR: No, Your Honor.

24 THE COURT: Bring us our jury, please.

25 (The jury returns to the courtroom.)

1 THE COURT: Welcome back, ladies and
2 gentlemen.

3 Solicitor, you may call your next witness.

4 MR. GRAHAM: Thank you, Your Honor. The State
5 calls Heather Smith.

6 THE COURT: If you would come around and be
7 sworn, please.

8 HEATHER M. SMITH, being
9 first duly sworn, testifies as follows:

10 CLERK: Once you are seated, state your full
11 name, spelling your last on the record, please.

12 THE WITNESS: My name is Heather M. Smith,
13 S-M-I-T-H.

14 DIRECT EXAMINATION

15 BY MR. GRAHAM:

16 Q Ms. Smith, could you tell the jury about your
17 educational background and training.

18 A Sure. I have an undergraduate degree from the
19 University of South Carolina in psychology. I have
20 a Master's degree in counseling from the University
21 of South Carolina School of Medicine with an
22 advanced degree in psychiatric rehabilitation.

23 Q Where are you currently employed?

24 A I have been working for the past eight years for
25 the Lexington and Richland County Children's

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1 Advocacy Centers, which is a clinic that provides
2 assessment and treatment for children and
3 adolescents who have been abused or neglected.

4 Q And specifically what do you do for those two
5 agencies?

6 A I provide forensic evaluations for law enforcement
7 and the Department of Social Services to assess
8 allegations of child abuse and neglect. I also
9 provide treatment services for clients who have
10 been determined to have been abused. I also
11 provide training nationally, locally. I supervise
12 therapists at the Richland County center, so I
13 provide clinical supervision.

14 Q What kind of classes or training have you put on
15 regarding child sexual abuse?

16 A I have worked and trained in many areas, both in
17 the assessment of child abuse and in the treatment
18 of child abuse, and also with just the dynamics of
19 trauma in child abuse, both for the Department of
20 Justice, for the Federal Bureau of Investigation,
21 and locally here for our local statewide trainings.

22 Q Can you tell the jury a little bit about your
23 experience with working with children who have been
24 victims of child sexual abuse?

25 A Sure. For the past eight years, I've been working

1 in the Child Advocacy Centers in Richland and
2 Lexington Counties providing the assessment and the
3 treatment for children that have been alleged to be
4 abused. I also, before that, worked with children
5 and adolescents in residential settings and
6 psychiatric inpatient settings.

7 Q Have you ever testified as an expert in child
8 sexual abuse before?

9 A I have.

10 Q How many times have you been qualified as an expert
11 in the State of South Carolina in that field?

12 A I have been qualified approximately 20 to 25 times.

13 MR. GRAHAM: Your Honor, at this time the
14 State would offer Heather Smith as an expert in the
15 field of child sexual abuse.

16 THE COURT: Mr. Locklair?

17 MR. LOCKLAIR: Without objection, Your Honor.

18 THE COURT: Madame Forelady, ladies and
19 gentlemen of the jury, normally a person cannot give
20 opinion testimony. Normally when a person testifies,
21 they must testify as to what they either saw, heard or
22 sensed by smell or something of that nature.

23 However, there is an exception when someone is
24 qualified because of education or experience. They are
25 permitted to give their opinion in certain areas if the

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1 Court qualifies them that way.

2 This witness, Heather Smith, will be qualified
3 in the area of child sexual abuse to give opinion
4 testimony in that area. That does not mean that you
5 must accept the opinion, but it is evidence for you the
6 jury to use in any way you see fit.

7 Thank you, Solicitor.

8 MR. GRAHAM: Thank you, Your Honor.

9 BY MR. GRAHAM:

10 Q Ms. Smith, what makes a child vulnerable to sexual
11 abuse?

12 A There are some characteristics that can make a
13 child more vulnerable. Younger children, just
14 being young, can make them vulnerable because they
15 are not really able to reach out and seek help.

16 But with adolescents there are extra added
17 criteria that could make them vulnerable. One
18 would be living in a single parent home, having a
19 lot of stressors in the home, if there is a lot of
20 chaos or environmental problems in the home,
21 domestic violence, substance abuse issues. That
22 type of thing can really make a adolescent and a
23 child vulnerable to being victimized.

24 Because really it's about the child is seeking
25 out something to replace maybe what they are not

1 getting in the home environment. So often they
2 will seek out people that they can be attached to,
3 people that can help them, and they can trust and
4 feel comfortable with.

5 So we do see victims often come from home
6 environments that aren't as supportive or as normal
7 as maybe children that come from a two-parent
8 family home with no substance abuse and don't have
9 a lot of stressors in the house.

10 Q Let's talk a little bit about the different types
11 of disclosures. What kind of disclosures are
12 there?

13 A Children typically disclose in two ways. They
14 disclose by accident or on purpose. We find that
15 younger children typically, situations of abuse
16 come out through an accidental means, instead of a
17 child's decision to take it upon themselves to
18 tell.

19 Adolescents, on the other hand, teenagers tend
20 to really be more -- make the decision to seek out
21 help and to tell someone, usually because they are
22 either tired of it happening and they have had
23 enough.

24 They are either angry and they have had
25 enough, and they are angry at the perpetrator or

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1 something might change in their environment and
2 they feel safe, and they feel like they can finally
3 reach a point where they can tell.

4 Q On a purposeful disclosure, why does that usually
5 come about in your experience?

6 A Usually it's out of just a child being fed up with
7 what is going on or through an anger issue, whether
8 it's they weren't allowed to do something by the
9 perpetrator that they wanted to do or they in some
10 way felt like they weren't getting what they were
11 supposed to be getting from the perpetrator.

12 Because sometimes with adolescents, there is a
13 relationship in sexual abuse with a perpetrator who
14 either will give them gifts or give them things or
15 make them feel special. And if that is ever taken
16 away, then they oftentimes might decide that's the
17 point to tell.

18 Q In addition to the issues related to the --
19 emotional issues involved with the perpetrators
20 themselves, are there other types of emotional
21 issues that may trigger that that are unrelated to
22 the perpetrator?

23 A There could be outside external things that are
24 happening in the adolescent's life. It could be
25 that someone else has been targeted by the

1 perpetrator, that they might feel like they need to
2 protect that person. There may be something going
3 on in their family life that causes them to reach a
4 level where they need to tell.

5 Q How about some reasons why children don't tell?

6 A Typically children will not tell because of the
7 relationship that they have with the perpetrator.
8 That's the first and foremost reason. In my
9 experience of treating over a thousand children and
10 talking to a thousand children in my career,
11 typically children are afraid that that bond that
12 they have with the person who is abusing them will
13 be broken.

14 For us as adults it's hard to imagine not
15 reaching out and seeking help immediately, but
16 often that relationship between -- it requires
17 trust to be built for anything like this to happen.
18 So typically a lot of the victims claim to love or
19 care about the person doing it to them. So that's
20 one of the first reasons not to tell.

21 Another reason might be that they are
22 worried that the home will be split up in some
23 way, that they will have to be removed from their
24 family. That's another reason kids don't want to
25 tell.

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1 Then the third reason we see a lot is children
2 feel like they will get in trouble. Even though as
3 adults we know we wouldn't -- a child would never
4 get in trouble for telling us something so serious,
5 they still believe that they will be. They feel
6 like they have been doing something wrong and so
7 they are going to get in trouble.

8 Q Is there anything specific about an adolescent
9 victim as far as why they do not disclose?

10 A Typically those three are the same for young
11 children and for adolescents. I think that
12 adolescents who engage in a -- have some type of
13 relationship, an attachment, it's even stronger for
14 them.

15 They are oftentimes less likely to tell
16 because that is -- especially if they come from an
17 environment that doesn't have a lot of attachment
18 or closeness because of the stressors, then they
19 tend to bond with the abuser.

20 That is a huge one for an adolescent because
21 that might be the only person that they rely on,
22 that they have a friendship with. It may be that's
23 that the person for them that they go to when they
24 need help.

25 Q How about if we add the added dynamic of it being a

1 male victim, male adolescent victim, and a male
2 perpetrator?

3 A What we see is that boys don't like to tell about
4 sexual abuse because there is an added stigma for
5 them that their sexuality will be questioned in
6 some way.

7 So if they have been sexually abused,
8 especially by a man, then they are forever labeled
9 as, you know, not being normal or not -- or being
10 gay. They often will say that.

11 You know, you have to understand, too, an
12 adolescent's brain is not as developed as an
13 adult's brain. So they are not really able to
14 think through that that is not the case, but they
15 continue to believe that. So that really keeps a
16 lot of boys, especially older boys, from talking
17 about it or telling.

18 Q What's the difference between -- in the process of
19 disclosure, what do you mean with the terms chronic
20 and acute?

21 A There are different types of abuse that we know
22 about. We know that children can be abused many
23 times over a long time span or it could be a
24 situation where they are only abused once or twice
25 by a stranger or by someone not in the family

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1 structure or a family friend. It might be someone
2 that just came to visit, and so it only happened
3 maybe once or twice.

4 Those two types of abuses really make a
5 difference in how children tell about it and also
6 whether or not they tell. A child who is abused
7 once or twice is more likely to tell immediately
8 because they don't know this person. They don't
9 have an attachment to that person. There is really
10 no reason to not tell.

11 Whereas, a child that has been abused over a
12 long period of time, more than once, many times,
13 accommodates. They really find ways to make it
14 okay that it's happening so that they can make it
15 okay, survive within it is how we usually talk
16 about it. So children who are chronically abused
17 often tend to disclose at a lesser rate and not as
18 often.

19 Q You used the word during that answer accommodation.
20 What is meant by that?

21 A Accommodation is what we do when we need to put up
22 with something. So we all do it. We all
23 accommodate to things in our life that we don't
24 like. We find ways to make them fit, to make it
25 work if we are in an experience that we don't like.

1 We will do it.

2 Children will accommodate to sexual abuse.
3 They find ways to rationalize it. They find ways
4 to continue to love, if it is a relationship where
5 there is attachment and trust. Children will find
6 ways to still love that person and try to
7 understand what's going on so that they can
8 continue -- so that it can continue.

9 Q What are some examples of some things that an
10 adolescent would want or get out of a relationship
11 to allow the accommodation to occur that you just
12 talked about?

13 A First and foremost, the majority of adolescents
14 that I have worked with that have been sexually
15 abused talked about just wanting that relationship,
16 just wanting to have someone that is there for them
17 that they can trust, that they feel safe with, in
18 the sense of having someone there just for them,
19 feeling special, wanting to kind of be a part of
20 something, to belong. So that's usually the first
21 and foremost reason.

22 Other reasons are sometimes with adolescents,
23 because they are older and they do need more
24 persuasion to keep the secret, sometimes gifts or
25 money, things to kind of bribe, oftentimes

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1 adolescents talk about getting those things, and
2 they become used to getting them.

3 Sometimes they rely and depend on money, gifts
4 or bribes in order to get what they need,
5 especially if their home environment is depleted
6 and they are not getting that there.

7 Q What is meant by the term delayed disclosure?

8 A Delayed disclosure is the typical way sexual abuse
9 is talked about. Most kids don't run out, if
10 someone touches them sexually, they don't run out
11 to the police and say stop it or help me.

12 Most of the time children, the majority, wait
13 to talk about it. They wait to tell. Usually they
14 wait until they feel safe or they feel like it's
15 time or they become so tired of it that they can't
16 help but tell. But it is the majority of children
17 that they do disclose later. They do not disclose
18 right when it starts.

19 Q That's with children in general. Is there a
20 difference with adolescents?

21 A The only difference is the difference in maybe
22 motivators of why they wouldn't do it, but it's the
23 same for adolescents.

24 Q Can you describe some factors that affect why a
25 delayed disclosure would occur?

1 A Typically it's the similar reason why children
2 accommodate and don't want to tell. It's very
3 similar to that. They have a trust they don't want
4 to break with someone. They don't want to lose a
5 relationship. It means a lot to them. They may
6 have needs that the abuser is providing that they
7 need, even for their home.

8 I have talked to adolescents who tell me that
9 the money or the gifts that they get are given back
10 into the home and help support the family, other
11 family members. So it can be a very intertwined
12 relationship with the abuser that they almost need
13 to keep it going.

14 Q Can you talk a little bit about the process of
15 disclosure? Would you expect a child of any age
16 who has been sexually abused to make a full and
17 complete disclosure the first time they tell
18 somebody?

19 A No. It's actually more common that children will
20 tell a little bit and then over time -- they kind
21 of watch how people respond to them, and over time
22 they are able to tell much more once they feel
23 safe.

24 If they feel safe and the way people respond
25 to them is supportive and, you know, provides a

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1 safety so that they can continue to tell, then they
2 will talk about it more over time.

3 Q Why would a child who has been sexually abused by
4 someone who is close to them, why would they keep
5 allowing themselves to be put in a position to be
6 alone with that perpetrator and to let it happen
7 over and over?

8 A What we see is the first motive is belonging, a
9 sense of belonging, a sense of having someone that
10 makes you feel special, that you think you can
11 trust.

12 For an adolescent it's easier for them because
13 they don't have the brain development to think as
14 rationally as adults do. For adolescents that
15 relationship is probably the most important thing
16 in their life beyond anything else. That is the
17 biggest factor for children to stay in it and go
18 back into it.

19 Q Thank you, Ms. Smith. Please answer any questions
20 that Mr. Locklair has.

21 THE COURT: Thank you, Solicitor.
22 Mr. Locklair.

23 MR. LOCKLAIR: May it please the Court, Your
24 Honor.

25 THE COURT: Yes, sir.

CROSS EXAMINATION

BY MR. LOCKLAIR:

Q Good morning, Ms. Smith. How are you?

A Very well.

Q I wanted to go back through some of your background. You say eight years at the Lexington and Richland Children's Advocacy Center?

A Yes.

Q Do you split time between both of them? How does that work exactly?

A I provide full-time work at the Richland County center, and I am a private contract provider for the Lexington County center.

Q And do y'all do just sexually abused children or physically abused children as well?

A We do physical abuse, sexual abuse, physical neglect, psychological abuse, domestic violence, witness to violent crimes.

Q When you said you have seen a thousand clients, were those all sexual abuse victims?

A No, they were not.

Q About how many of those would have been sexual abuse victims?

A It's hard to know. We do specialize in the treatment of sexual abuse, sexually abused children

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1 and adolescents, but I would say it's really hard
2 to give an estimate, 500, and that's a low
3 estimate.

4 Q Where else have you worked that you provided
5 treatment to sexually abused children?

6 A When I was -- when I worked in residential
7 treatment facilities, oftentimes children there had
8 had a history of sexual abuse. I provided extra
9 added wraparound -- what is called wraparound
10 services -- to children in order to keep them
11 stable, especially if they had to be removed into a
12 foster care setting or removed out and put into a
13 residential setting.

14 Q Have you held any other positions where you were
15 working with sexually abused children?

16 A No.

17 Q The residential treatment facility, obviously the
18 children live there; correct?

19 A They do.

20 Q Were any of the children that lived there, was it
21 ever found out that they had made false allegations
22 of sexual abuse?

23 A That really wasn't my role at the residential
24 treatment facility to assess that, so I don't
25 know. My job mainly there was to provide -- to

1 coordinate and to provide like extra services,
2 positive role model, mentoring, behavior management
3 specialist.

4 So I would go out into the community --
5 actually it was the State -- and meet different
6 clients that needed these services. So I don't
7 know about that setting. I don't have a number of
8 false allegations or that type of thing in that
9 setting.

10 Q How about at the Lexington and Richland Children's
11 Advocacy Children, do you deal with children with
12 false accusations there?

13 A Yes, we do.

14 Q And how many people have you treated, what
15 percentage would you say, have been false
16 accusations that you've had to deal with?

17 A The percentage, we have done some -- we've
18 researched it and looked at cases. It's about 2 to
19 5 percent of the number of clients that we see a
20 year.

21 Q And based on that and any educational training
22 background you have, are there any characteristics
23 that often come with children who would make false
24 allegations?

25 A Sometimes children make false allegations in child

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1 custody disputes where there is some tension
2 between parents going through a divorce. We've
3 noticed that trend.

4 Another trend that we have noticed with false
5 allegations is sometimes children who have been in
6 trouble for some reason may make false allegations
7 in order to get out of trouble.

8 Q Have you noticed with any of the children that have
9 made false allegations, that they have made other
10 false allegations of sexual or physical abuse in
11 the past?

12 A In some cases. It's not a trend but in some cases,
13 yes.

14 Q Have you had any specific training in any, I guess,
15 seminars or training classes or classes that you
16 took in college or graduate school that dealt with
17 false accusations?

18 A Yes. Actually I provide a quarterly training every
19 three months to the State, statewide, which is to
20 prepare law enforcement, the Department of Social
21 Services, and also courts for how to assess and
22 look at and interview children who have alleged
23 abuse.

24 Part of that training that I now train on is
25 to look at the statements that are made by a child

1 to assess them for false allegations. So that's a
2 part of what we do at child advocacy centers is I
3 train law enforcement and social services to do
4 that as well.

5 Q So it would be fair to say that false accusations
6 occur enough that you, as an expert in child sexual
7 abuse, think it's proper to implement that into
8 your training for law enforcement, the judiciary,
9 and things of that nature?

10 A I would agree with that. I think it's a low, very
11 low, percentage that happens, 2 to 5 percent, a low
12 percentage, but that is enough, especially when you
13 are assessing child abuse allegations, where
14 someone could possibly get in trouble for that. So
15 it's definitely an aspect that you want to look at.

16 Q Did you ever sit down and interview the two alleged
17 victims in this case?

18 A I did not.

19 Q You haven't spent any time with them?

20 A I have not.

21 MR. LOCKLAIR: That's all I have. Thank you,
22 Your Honor.

23 THE COURT: Thank you. Solicitor?

24 MR. GRAHAM: Thank you, Your Honor, just a few
25 questions.

REDIRECT EXAMINATION

BY MR. GRAHAM:

Q Ms. Smith, talking about false allegations, some of the reasons again why they are made?

A They are made -- we see them being made in child custody disputes. Again, it's a very rare number, but we do see that, where a child might make an allegation against one parent or another that is involved in a divorce case.

We also see children make false allegations when they have gotten in trouble, and they may make a false allegation in order to get out of trouble. That may or may not work for them, but those are the two main types.

Q Regarding false allegations of being in trouble, what is your experience or what you have read as far as once the reason to lie, the reason they were in trouble, disappears?

A Usually the allegations that they have made do not stick together. As a professional trained in assessing that and treating it, you are looking -- you are constantly looking to see if a child makes a statement of abuse and then takes that back. That's a suspicion.

That's a red flag to look at whether a false

1 allegation has been made, but a child who continues
2 to maintain and has a consistent statement of what
3 has happened to them over time, it's generally
4 looked at as that hasn't been a false allegation.

5 Q So it would raise a red flag if somebody made an
6 allegation during a time period when they were in
7 trouble for something else? Is that fair to say?

8 A That is.

9 Q But once that reason or the fear of being in
10 trouble is removed, what, if any, reasons would you
11 be aware of that an adolescent male would continue
12 to make those allegations and continue to confirm
13 his story for over a year and a half and actually
14 appear in court and testify?

15 A Typically that would indicate to me that there had
16 not been a false allegation made.

17 Q Thank you, Ms. Smith.

18 THE COURT: Recross?

19 MR. LOCKLAIR: No, sir, Your Honor.

20 THE COURT: Thank you. Thank you very much,
21 Ms. Smith. You may step down.

22 THE WITNESS: Thank you, Your Honor.

23 (Witness leaves the witness stand.)

24 MR. GRAHAM: Your Honor, the State would ask
25 that Ms. Smith be excused.

1 THE COURT: Any objection?

2 MR. LOCKLAIR: No objection, Your Honor.

3 THE COURT: She may be excused.

4 MR. GRAHAM: Your Honor, that was the State's
5 last witness, and with that the State would rest.

6 THE COURT: Thank you, Solicitor.

7 With that, ladies and gentlemen, you have
8 heard all the evidence and all the testimony you are
9 going to hear in the trial of this case from the State
10 in its case in chief.

11 The law requires that I must take up certain
12 matters outside of your presence briefly at this stage
13 of the proceedings. I would ask you to please step to
14 your jury room for about a 15-minute recess. Do not
15 discuss the case during this brief recess. Thank you
16 very much.

17 (The jury retires to the jury room.)

18 THE COURT: Any motions, Mr. Locklair?

19 MR. LOCKLAIR: Yes, sir. For the record the
20 defense would make a motion for directed verdict of
21 acquittal offering that the State has failed to offer
22 competent evidence in order to prove the charges in the
23 indictment and ask the Court to direct a verdict of
24 acquittal. Thank you, Your Honor.

25 THE COURT: Solicitor?

1 MR. GRAHAM: Your Honor, I think there is
2 sufficient evidence presented by the State through its
3 various witnesses that taken in the light most favorable
4 to the State, the jury could find that the Defendant was
5 guilty of this crime and would ask that you deny that
6 motion.

7 THE COURT: I would respectfully deny the
8 motion. I think there is adequate direct and
9 substantial circumstantial evidence as to each count of
10 each indictment, both as to the victim **MINOR 2** and
11 **MINOR 1**.

12 MR. LOCKLAIR: Thank you, Your Honor.

13 THE COURT: I would respectfully deny the
14 motion. Any other matters, Mr. Locklair?

15 MR. LOCKLAIR: No, sir, Your Honor.

16 THE COURT: Will you come back around -- did
17 you have something, Solicitor? I'm sorry.

18 MR. GRAHAM: No, Your Honor.

19 THE COURT: Come back around, please,
20 Mr. Parker.

21 (Pause.)

22 THE COURT: You are still under oath. Have
23 you had the opportunity to speak further with your
24 attorney concerning your right to testify or not
25 testify?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: Do you understand your right to
3 testify or not testify?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: Do you have any questions you
6 would like to ask me about that?

7 THE DEFENDANT: No, Your Honor.

8 THE COURT: Whatever decision you have made
9 about whether to testify or not testify, is it your
10 decision?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: Made of your own free will and
13 accord?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: What is your decision?

16 THE DEFENDANT: Not to.

17 THE COURT: Not to testify?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: No one has forced you or coerced
20 you into making that decision?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: I find that he intelligently and
23 knowingly understands his right to testify or not to
24 testify. Further, that he has made the decision not to
25 testify in this case. That is his own decision made

1 freely, knowingly, and voluntarily.

2 Mr. Locklair, do you intend to offer any
3 evidence or testimony in the case?

4 MR. LOCKLAIR: No, sir, Your Honor.

5 THE COURT: You may return to your seat,
6 Mr. Parker.

7 Any specific requests to charge from the
8 defense?

9 MR. LOCKLAIR: Obviously we would want the
10 general charges on credibility, reasonable doubt,
11 presumption of innocence, and also ask the Court to
12 charge the jury that law enforcement officers are not to
13 be believed more than any other witnesses because they
14 are in law enforcement, something of that nature. That
15 would be the only other specific request.

16 THE COURT: I don't charge that. You can
17 certainly argue that.

18 MR. LOCKLAIR: Yes, sir.

19 THE COURT: I charge it very generally as far
20 as the truthfulness and credibility.

21 MR. LOCKLAIR: Yes, sir. Thank you, Your
22 Honor.

23 THE COURT: Solicitor, any specific requests
24 to charge?

25 MR. GRAHAM: No, Your Honor.

1 THE COURT: So when the jury comes back out,
2 we will be ready for closings. Solicitor, I guess you
3 would go first, you or Solicitor Whetstone. Then
4 thereafter the Defendant would close; is that correct?

5 MR. GRAHAM: That's my understanding, Your
6 Honor.

7 MR. LOCKLAIR: Yes, sir, Your Honor.

8 THE COURT: When they come back, I will ask
9 you -- I will turn to you about whether or not you want
10 to present evidence or testimony, and you can formally
11 rest in front of the jury.

12 MR. LOCKLAIR: Yes, sir.

13 THE COURT: Anything else, Solicitor?

14 MR. GRAHAM: No, Your Honor.

15 THE COURT: We will be in recess about 15
16 minutes. Thank you very much.

17 (Whereupon there is a recess.)

18 THE COURT: How long do you need to close,
19 Solicitor?

20 MR. GRAHAM: About 15 to 20 minutes, Your
21 Honor.

22 MR. LOCKLAIR: I would estimate roughly the
23 same, if not a little less.

24 THE COURT: All right. Bring us the jury.
25 (The jury returns to the courtroom.)

1 THE COURT: Welcome back, ladies and gentlemen
2 of the jury. As you recall, the State has now rested.
3 At this stage the defense may present evidence or
4 testimony if the defense chooses to do so.

5 You will recall, as I have instructed you
6 previously, the State has the burden of proving each and
7 every element of the offenses charged beyond a
8 reasonable doubt.

9 The burden of proof never shifts to the
10 Defendant. A defendant, no matter what the seriousness
11 of the offenses charged, is always presumed to be
12 innocent. However, the Defendant may present evidence
13 and testimony if he or she desires to do so.

14 We will now turn to Mr. Locklair and ask,
15 Mr. Locklair, you may call your first witness.

16 MR. LOCKLAIR: Your Honor, at this time the
17 defense would rest.

18 THE COURT: Thank you. Thank you very much,
19 Mr. Locklair. Do you renew your motions for the record?

20 MR. LOCKLAIR: Yes, I do, for the record, Your
21 Honor.

22 THE COURT: I would renew my previous rulings.
23 Ladies and gentlemen, in that regard you have
24 now heard all the evidence and all of the testimony you
25 are going to hear in the trial of this case. We are now

1 at the stage of the closing arguments by the attorneys.

2 Closing arguments are different from the
3 opening statements. They are true arguments. The
4 attorneys may argue the facts, the reasonable inferences
5 to be drawn from the facts, and how that applies to the
6 law that I will instruct you on at the conclusion of the
7 closing arguments by the attorneys.

8 The procedure we follow in this setting is the
9 State, being the party that has the burden of proof,
10 will present its closing argument to you first. That
11 will be followed by Mr. Locklair who will present the
12 closing argument on behalf of his client, Mr. Parker.

13 I don't hold attorneys to specific time
14 frames; however, I would say generally less than 30
15 minutes per side, maybe less than that. As I say, I
16 don't hold attorneys or parties to particular time
17 frames, provided it's within reason as far as the
18 closing argument is concerned.

19 Thereafter I will charge you or instruct you
20 the law which applies in South Carolina to a case such
21 as this. That would take -- I didn't number my pages --
22 I will count them up and kind of see. Generally my
23 charges are 25 minutes, somewhere in that range.
24 Thereafter the case will be submitted to you for your
25 deliberations and your verdicts.

1 With that being said, again, please remember
2 what the attorneys tell you is not evidence, but please
3 give them your complete and undivided attention, as you
4 have done throughout the trial of this case.

5 With that being said, Solicitor, you may
6 address the jury.

7 **CLOSING ARGUMENT**

8 MR. GRAHAM: Thank you, Your Honor. The
9 perfect victims. That's what Scott Parker thought he
10 had found in ^{MINOR 2} and MINOR 1 the perfect victims.
11 What is a perfect victim who will allow themselves to be
12 sexually abused over and over and over?

13 Somebody who is available, somebody that the
14 perpetrator has access to. Scott Parker had access to
15 ^{MINOR 2} and MINOR 1 They were family friends, grew up
16 with them, baby-sitted when they were little. MINOR 1
17 mother knew him for 25 years. Scott Parker knew ^{MINOR 2}
18 and MINOR 1 their entire lives.

19 He helped them out. He came to Sunday dinner.
20 So ^{MINOR 2} and MINOR 1 were available and Scott Parker knew
21 it. They were vulnerable. You heard about the chaos in
22 their lives.

23 No male figures, struggling financially, in
24 and out of homes, mothers who did their best. You may
25 not believe they did their best, and maybe they got beat

1 up on the stand, but they are not on trial today. Don't
2 hold any feelings you have against them against ^{MINOR 2} and
3 MINOR 1

4 They didn't have the money. They didn't have
5 the financial resources. They didn't have the bikes
6 that other kids had. They didn't have the opportunities
7 that other kids had. They didn't have a man in their
8 life.

9 They had very few people in their lives that
10 they actually had relationships with that were stable at
11 all. Who could have been more vulnerable than ^{MINOR 2} and
12 MINOR 1 And Scott Parker knew that.

13 What else does a perpetrator look for in a
14 victim? Silence. He is looking for someone who won't
15 talk, who will keep the despicable acts that he is doing
16 quiet and be silent.

17 And ^{MINOR 2} and MINOR 1 did that for years. And
18 how did Scott Parker know they were going to do that?
19 Because those boys told you they thought he was like
20 family to them. He was an uncle and they loved him, and
21 he knew it and he abused that love.

22 You heard MINOR 1 testify that he loved him
23 before and he loved him today, today, but he was also
24 counting on one more thing, ladies and gentlemen. Scott
25 Parker was counting on if this ever comes up, nobody is

1 going to believe those boys.

2 That's the other card he had in his pocket.

3 That is what made them the perfect victims. Because
4 their lives were in shambles and there were problems.

5 He knew that ^{MINOR 2} was in and out of trouble all the
6 time. He knew ^{MINOR 2} made up stories and recanted them.

7 ^{MINOR 2} and MINOR 1 were Scott Parker's perfect victims or
8 so he thought.

9 The abuse those children had to endure for
10 years and they lived with. And why would they keep
11 going back? Scott Parker knew they would. He
12 manipulated them.

13 He had their trust, he had their love, and he
14 manipulated them. He used that trust that he had built
15 and he used the love they had for him. He told them, I
16 love you and I want to make you happy.

17 He bought them gifts. He gave them money. He
18 took them swimming. He took them out to eat. He bought
19 them bowling balls and he bought them phones. Why did
20 he buy them phones?

21 The mother told you they already had phones,
22 and he bought them more and that he called those boys
23 all the time. Those boys would not have had the things
24 they had in their lives to be like every other teenager
25 if Scott Parker hadn't given them the things they

1 needed, not only the money and the gifts but the love.

2 As twisted as it sounds to us today, the love
3 that Scott Parker gave them. That's what Heather Smith
4 was talking about, the last witness, when she was
5 talking about accommodation. Why do they let it happen?
6 Why do they continue to go back?

7 Because those boys were searching for
8 something, and Scott Parker knew it and he abused it and
9 took advantage of it. What are some things that Scott
10 Parker told us?

11 Angela, MINOR 1 mother, testified that she
12 asked him one time, why don't you do things with my
13 daughter? Why are you only doing things with the boys?
14 And his answer, if you will remember, was it looks bad
15 for a grown man to be with a girl that age.

16 Scott Parker obviously cared about what people
17 thought about what he was doing with people. It's not
18 right for me to be with those girls, he said, to be with
19 a girl.

20 Lance Anderson, the drinking buddy of Scott
21 Parker, sat up on that stand, had known Scott Parker for
22 years, had known MINOR 2 had known MINOR 1 had seen them
23 together, had watched them interact over a long period
24 of time during this time.

25 And what did Lance Anderson tell you that he

1 asked Scott Parker? He told him, it doesn't look right
2 that you are hanging out with those boys. But Scott
3 Parker didn't stop hanging out with the boys because he
4 didn't really care what people thought.

5 He didn't want to be around the girls because
6 that's not his type. He wanted to be around the boys.
7 So when somebody called him on it and said it doesn't
8 look right, he doesn't care and he kept doing what he
9 was doing. He kept abusing them.

10 What else did Scott Parker say? Scott
11 Parker -- if you will remember Marcus Johnson, he was
12 the manager from the Masters Inn, from the hotel. He
13 came up and testified. He brought records and the
14 records will be back there with you.

15 He knew him because he checked in so many
16 times, and I think he told us that he checked him in
17 over 30 times during that time period. All those times,
18 I think except for two or three, had a single bed.

19 I think MINOR 1 told you that when they went
20 there, there was always a single bed. Why was that? Is
21 that normal? Is that something you would do? Or is it
22 something a child molester like Scott Parker would do so
23 they can all sleep together?

24 But what did he tell Marcus Johnson? He said,
25 I'm going through a divorce and I'm bringing my children

1 to swim. We know that's a lie. Scott Parker was
2 single, not divorced.

3 Scott Parker doesn't have children. So why
4 did he lie? Because it looked bad. But that didn't
5 stop him because he was getting what he wanted, access
6 to ^{MINOR 2} and MINOR 1

7 Let's talk about the disclosure and how this
8 came about and why we are here today. ^{MINOR 2} is easy to
9 beat up. He has made up a story before and he has
10 recanted it, but he recanted it. So he said something
11 that wasn't true and he took it back.

12 He was going to mental health because of the
13 allegation or his comment of trying to teach his sister
14 how to kiss. He was in trouble. I think there was
15 testimony that his mom was upset, that maybe he was
16 going to be removed from the house or something, something
17 was going to happen and he was scared, and he told that
18 day.

19 Maybe he told to get the pressure off himself.
20 He said that. Maybe I did. But he said he had been
21 thinking about telling for a long time, and his emotions
22 were up that day and that was the day to tell, and he
23 did.

24 You can disbelieve him if you want. That's
25 your job, to determine credibility. But why a year and

1 a half later is ^{MINOR 2} willing to sit up on that stand and
2 tell you the horrible abuse he suffered? What's in this
3 for him today? Nothing.

4 Heather Smith, the expert, told you in the
5 last question I asked her that once that issue that
6 might make them cause to make a false allegation is
7 gone, there would be no reason for them to sustain it
8 for this long.

9 The only reason MINOR 2 got up there this
10 week to talk to y'all was to tell you the truth and tell
11 you how Scott Parker abused and molested him and his
12 cousin MINOR 1

13 But you know maybe that wasn't the first time
14 that ^{MINOR 2} disclosed. If you remember Angela, MINOR 1
15 mom, getting up on the stand and talking about a Sunday
16 dinner.

17 MINOR 1 was there. ^{MINOR 2} was there. Scott
18 Parker was there. They all came together and something
19 happened, and we don't know what. ^{MINOR 2} was upset and he
20 was mad and he was angry. Excuse my words, but he
21 called him an F-ing faggot, and everybody heard it.

22 How did Scott Parker react? What did she tell
23 you? He didn't say anything? What else did ^{MINOR 2} say?
24 Keep your hands off me. Don't touch me. Maybe that was
25 the first time the truth came out. The moms told you

1 that they asked those boys over and over whether
2 something was going on and they denied it, but maybe the
3 truth came out that day.

4 Let's talk about MINOR 1 Maybe you don't
5 believe ^{MINOR 2} Maybe you think it's over an incident
6 that he was going to mental health that day, and he is
7 still maintaining that for some reason.

8 What about MINOR 1 Did you hear any motive
9 that he had to lie, any motive that he had to come make
10 this up? Both boys told you they were embarrassed.
11 They didn't want to be doing this, that it was very
12 hard, but they did it and they did it because it's the
13 truth.

14 MINOR 1 told you how he disclosed. He got a
15 note from school that said the police are coming to talk
16 to you, and he called his mom and his mom told him, ^{MINOR 2}
17 said something happened with Scott Parker. You need to
18 tell the police the truth.

19 And what did MINOR 1 testify that he was going
20 to do? A school resource officer came and got him
21 before school was over. What did he say? He said, I
22 wasn't going to go. I was going to leave.

23 He didn't want to tell. He was doing exactly
24 what Scott Parker was hoping that he would, be silent
25 because he loved him and he didn't want to ruin that

1 relationship with him.

2 But he was taken to the police after his mom
3 said, if something happened, tell them the truth and he
4 did. MINOR 1 told the truth. He told about what
5 happened to him, and he told what he saw that happened
6 to his cousin.

7 What motive ever did MINOR 1 have to lie back
8 then, the last several years, and today? None. And, in
9 fact, he stills loves him today. But that wasn't enough
10 to overcome the truth.

11 If you believe those boys made this story up
12 because of gifts and because they stopped getting them
13 when their mothers said, you can't go over there
14 anymore, and then they waited six more months to tell
15 the story, and they somehow got together and made it up,
16 then find him not guilty. Find him not guilty. That's
17 your job.

18 But if you think they are lying and you don't
19 believe them, find him not guilty. Let him go. The
20 Masters Inn will always have a room available with a
21 single bed.

22 Twenty-five feet away from you sits a
23 predator, a child molester, who thought he had found the
24 perfect victims in ^{MINOR 2} and MINOR 1 He was wrong. Let
25 your verdict shatter the silence that he was counting

1 on. Tell him he is guilty. Convict him of five counts
2 of criminal sexual conduct with a minor. Don't let ^{MINOR 2}
3 and MINOR 1 be the perfect victims.

4 THE COURT: Thank you. Thank you very much,
5 Solicitor. Mr. Locklair.

6 MR. LOCKLAIR: May it please the Court, Your
7 Honor.

8 THE COURT: Yes, sir.

9 **CLOSING ARGUMENT**

10 MR. LOCKLAIR: Ladies and gentlemen of the
11 jury, I first want to thank you for your service. I
12 know it's been a long week for you. It's obviously a
13 very important trial for the State, Mr. Parker, and the
14 alleged victims. So we all appreciate your attention.

15 As the judge told you, once we are done with
16 the closing argument, he is going to charge you on the
17 law. He went over a little bit of the law this morning,
18 and I mentioned some of it in my opening argument.

19 As y'all know, Mr. Parker sits here presumed
20 innocent, and even after all this testimony, he still
21 sits here presumed innocent. That's why y'all have one
22 of the toughest jobs in the judiciary because you have
23 to keep an open mind until you go back to deliberate.

24 That's why the oath you took beforehand is so
25 very important, to deliberate all the facts and all the

1 evidence as a group before making a decision. If you
2 have made a decision already, then you have violated
3 that oath, and it's important to bring that to
4 somebody's attention.

5 I think you are going to go back there and you
6 are going to be fair and you are going to listen to what
7 the judge says on the law. One of the most important
8 things he will talk about is the burden of proof that
9 the State holds before you can convict somebody of a
10 crime.

11 It's beyond a reasonable doubt, and it's a
12 hard thing to define. But it's basically, has there
13 been evidence enough to get rid of any reasonable doubt
14 out of your mind? We are not allowed to specifically go
15 into it and specifically define what it is, but I'd like
16 to put it this way.

17 Just imagine this room is the scale of
18 justice. Well, to get an arrest warrant or something
19 that is probable cause, that might be somewhere in here
20 (indicating). There is other standards of evidence
21 which is more likely than not, just over halfway.

22 You can get into other standards of evidence
23 that get even higher. Is it most probable? Is it
24 really probable? But until you get almost to the wall
25 of it being, is this exact? Is this definitive?

1 Reasonable doubt is all the way back here (indicating).

2 The solicitor talked about the credibility of
3 the witnesses. You got to see the witnesses on the
4 stand, and obviously there were some discrepancies in
5 their testimony. Some of that is important.

6 First off is looking at some of the little
7 facts they said, about saying that each of them had been
8 there about 15 to 20 times when the other one had been
9 molested.

10 One of them said they only swam at the Masters
11 Inn two to three times but had been to the Masters Inn
12 15 to 20 times. So if all but two or three of those
13 times something occurred at the Masters Inn, then all
14 these other stories about what could have allegedly
15 occurred at the camper add up to too many times from
16 what they tried to say.

17 MINOR 1 specifically said that he never
18 denied anything happened when he talked to Detective
19 Lint at the Airport High School. Detective Lint said,
20 when he first initially asked MINOR 1 about it, he
21 denied it. Other things that MINOR 1 had previously
22 told the police changed, too. At one point he had told
23 them he had ejaculated some, but then he said he didn't.

24 Mr. Johnson, the man from the Masters Inn,
25 says, oh, he said he was going through a divorce and

1 these were his kids. Well, I would submit to you that,
2 number one, there has been no evidence offered by the
3 State to prove that Scott Parker was never married and
4 got divorced.

5 Number two, he could have said things like
6 bringing the kids, the boys, something of that nature,
7 and this man could have misinterpreted it. Now that he
8 is being called to court and knows what the charge is
9 about, his memory might not be that good.

10 Why back then would he remember all this
11 occurring every time Scott checked in with all the
12 people he had? He specifically remembered the exact
13 wording he used every time.

14 Another thing I would like to point out to you
15 is the records from the Masters Inn. They said they
16 were constantly going to the Masters Inn throughout the
17 abuse. If you look at this, there is an arrival date of
18 July 15th of '06, when they allege the abuse started.

19 Well, until May of '07, he never checked back
20 into the Masters Inn. So their story about constantly
21 going to and from the Masters Inn over the whole time of
22 the abuse, there is almost a year where they weren't at
23 the Masters Inn. That is proved by these records.

24 Another thing that they discussed was where
25 things occurred in the camper and how things occurred.

1 Y'all will have a picture to see. They would say they
2 couldn't see some things or somebody was in another
3 room. There's not another room. He said, I might be in
4 the little bathroom.

5 Well, out of the 15 to 20 times, it seems for
6 some of them almost half the time they were there. That
7 is a small space up there, and it doesn't go back very
8 far.

9 Now, they wanted to talk about disclosure and
10 things of that nature and their expert witness up here
11 about why people would disclose, why they wouldn't
12 disclose, why they would have false allegations.

13 She sounds great. She has great credentials,
14 very highly educated woman. I'm sure she is excellent
15 at her job. That's why she probably testified 20 to 25
16 times in cases in South Carolina.

17 But, you know, the one thing they didn't do?
18 They didn't have her sit down with those two boys and
19 talk to them, not even for five minutes before court,
20 not even ten minutes. Hundreds of hours they have
21 invested into this case, and the expert can't sit down
22 with the alleged victims for five minutes, ten minutes,
23 even an hour?

24 It seems appropriate to give her a day to talk
25 to them to get some real substance of what actually

1 happened from an expert witness that they brought here
2 to testify.

3 You also heard -- and it's important to look
4 at the lack of evidence they have on certain things --
5 you heard about these cell phone records and all these
6 cell phones he bought them.

7 Why didn't they subpoena any of these records
8 showing their cell phones in Scott Parker's name? Why
9 didn't they bring in any of these cell phones? They
10 don't have any of that.

11 They also don't have any forensic evidence.
12 There were no search warrants executed to bring back
13 evidence from his trailer or anything of that nature, to
14 look for things that might show a predatory nature.

15 No search warrants on computers for any
16 pictures. No searches for pornography or anything of
17 that nature. They didn't go to see if the guy keeps
18 beer and alcohol in the trailer.

19 I would submit to you when you go back to your
20 jury room, it's most important for y'all to remember
21 what the judge is going to tell you about the State's
22 burden of proof. It's up to the prosecution to prove
23 Mr. Parker guilty beyond a reasonable doubt.

24 Now, a lot of times for juries it's hard to
25 understand and the judge will tell you, you can't hold

1 the fact that Mr. Parker didn't testify against him in
2 any way whatsoever.

3 A lot of times people are like, well, if you
4 are not guilty, why don't you say you are not guilty.
5 Well, he said he is not guilty. He has pled not guilty
6 to this charges. You have heard him tell the police he
7 wasn't guilty of these charges.

8 So the judge is going to tell you he doesn't
9 have to get up here and tell you that he is not guilty
10 of those charges, and you can't hold that against him.
11 That's another hard thing to do.

12 You have a difficult job ahead of you. You
13 have to go back and weigh all this evidence and weigh
14 the lack of evidence. Look at some of the stories.
15 Look at some of the dates where there is a whole year
16 where he wasn't at the Masters Inn.

17 Look at some of the evidence they didn't
18 collect, forensic evidence, D.N.A. evidence, other
19 things they didn't submit to you.

20 I would submit that after you carefully weigh
21 the evidence, you will find the State has failed to meet
22 their burden of proving Scott Parker guilty beyond a
23 reasonable doubt, and I would ask you to return a
24 verdict of not guilty on all five counts. Thank you.

25 THE COURT: Thank you. Thank you very much,

1 Mr. Locklair.

2 (Whereupon the Court charged the jury as
3 follows.)

4 THE COURT: Madame Forelady, ladies and
5 gentlemen of the jury, if you would please give me your
6 complete and undivided attention. I am going to
7 instruct you on the law that applies in this case.

8 The manner in which I do this is I cover the
9 general law that applies to all criminal cases in South
10 Carolina first. I then cover the charges specific in
11 the indictments in this case, and finally I will cover
12 the form of verdict in the case.

13 I usually will give you the caption of the
14 particular area I am fixing to cover. When I change
15 from one area to the next, I will give you the caption
16 of that paragraph I am fixing to cover.

17 Charge, arrest, indictments not evidence. The
18 indictments charge the Defendant with five counts of
19 criminal sexual conduct with a minor: Two counts of
20 criminal sexual conduct with a minor at least 14 years
21 of age but less than 16, and three counts of criminal
22 sexual conduct with a minor 11 years of age to 14 years
23 of age.

24 I remind you that the fact that the Defendant
25 was arrested, charged, and indicted in this case is not

1 evidence in the case and cannot be considered by you as
2 evidence of guilt in the case, nor does it create any
3 presumption or inference of guilt.

4 These documents, these indictments, are simply
5 the formal written instruments which contain the charges
6 made against the Defendant. They are the formal
7 documents by which the case is brought into court.

8 Multiple charges. The indictments in this
9 case allege several different offenses against the
10 Defendant. The charges are an indictment, one and two,
11 criminal sexual conduct with a minor at least 14 years
12 of age but less than 16 years of age, and indictments
13 number three through five, criminal sexual conduct with
14 a minor 11 to 14 years of age.

15 Each indictment charges a separate and
16 distinct offense. You must decide each indictment
17 separately on the evidence and the law that applies to
18 it, uninfluenced by your decision as to any other
19 indictment.

20 The Defendant may be convicted or acquitted on
21 any or all of the offenses charged. You will be asked
22 to write a separate verdict of guilty or not guilty on
23 each indictment.

24 Presumption of innocence. The Defendant has
25 pled not guilty to these indictments. That plea puts

1 the burden of proof on the State to prove the Defendant
2 guilty. A person charged with committing a criminal
3 offense in South Carolina is never required to prove
4 himself or herself innocent.

5 I charge you that it is an important rule of
6 the law that a defendant in a criminal trial, no matter
7 what the seriousness of the charge may be, will always
8 be presumed to be innocent of the crime for which the
9 indictment was issued unless guilt has been proven by
10 evidence satisfying you the jury of that guilt beyond a
11 reasonable doubt.

12 This presumption of innocence does not end
13 when you begin your deliberations, but it accompanies
14 the Defendant throughout the trial until you reach a
15 verdict of guilt based on evidence satisfying you of
16 that guilt beyond a reasonable doubt.

17 The presumption of innocence is like a robe of
18 righteousness placed about the shoulders of the
19 Defendant, which remains with the Defendant until it has
20 been stripped from the Defendant by evidence satisfying
21 you of the Defendant's guilt beyond a reasonable doubt.

22 The presumption of innocence is not a mere
23 legal theory. It is not just a legal phrase. It is a
24 substantial right to which every defendant is entitled
25 unless you the jury are satisfied from the evidence of

1 the Defendant's guilt beyond a reasonable doubt.

2 Reasonable doubt. What is a reasonable doubt
3 in the law? A reasonable doubt is the kind of doubt
4 that would cause a reasonable person to hesitate to act.
5 The State has the burden of proving the Defendant guilty
6 beyond a reasonable doubt.

7 Some of you in the past may have served as
8 jurors in civil cases where you were told that it is
9 only necessary to prove that a fact is more likely true
10 than not true, such as by the greater weight or the
11 preponderance of the evidence.

12 In criminal cases the State's proof must be
13 more powerful than that. It must be beyond a reasonable
14 doubt. Proof beyond a reasonable doubt is proof that
15 leaves you firmly convinced of the Defendant's guilt.

16 There are very few things in this world that
17 we know with absolute certainty, and in criminal cases
18 the law does not require proof that overcomes every
19 possible doubt.

20 If based on your consideration of the evidence
21 you are firmly convinced that the Defendant is guilty of
22 the crime charged, you must find the Defendant guilty.
23 If, on the other hand, you think there is a real
24 possibility that the Defendant is not guilty, you must
25 give the Defendant the benefit of the doubt and find him

1 not guilty.

2 Duties of jury and trial judge. I remind you
3 that during the trial, you and I have certain duties to
4 perform. As the trial judge, it is my responsibility to
5 preside over the trial in this case, and I also have the
6 additional duty to rule on the admissibility of evidence
7 offered during the trial.

8 You are to consider only the competent
9 evidence before you. You are to consider only the
10 testimony which has been presented from this witness
11 stand and the exhibits which have been made part of the
12 record in this case.

13 I have the additional duty to charge you, to
14 instruct you, on the law that applies in this case. As
15 the presiding judge, I am the sole judge of the law of
16 this case, and it is your duty as jurors to accept and
17 apply the law as I now state it to you.

18 If you already have any idea as to what the
19 law is or what the law ought to be and it does not agree
20 with what I now tell you the law is, you must set aside,
21 you must abandon this idea, your idea, because you are
22 sworn to accept the law and apply the law exactly as I
23 state it to you.

24 In every case tried in this courtroom before a
25 jury, the jury becomes the sole and exclusive judge of

1 the facts in the case. A trial judge cannot intimate,
2 state, comment on or make any statement to a trial jury
3 about the facts in a case.

4 Since you the jury are the sole judge of the
5 facts in this case, you are not to infer from what I
6 have said during the progress of the trial, in ruling
7 upon the admissibility of evidence or otherwise, or
8 anything that I say now to you during the course of this
9 instruction that I have any opinion about the facts in
10 this case.

11 The law does not allow me to have an opinion
12 about the facts in the case. This is a matter solely
13 for you the jury to determine. As jurors it is your
14 duty to determine the effect, the value, the weight, and
15 the truth of the evidence that has been presented during
16 this trial.

17 Direct and circumstantial evidence. There are
18 two types of evidence which are generally presented
19 during a trial, direct evidence and circumstantial
20 evidence.

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

25 Circumstantial evidence is proof of a chain of

1 facts and circumstances indicating the existence of a
2 fact. It is evidence which immediately establishes a
3 collateral fact from which the main fact may be
4 inferred.

5 Circumstantial evidence is based on inference
6 and not on personal knowledge or observation. The law,
7 our law, makes absolutely no distinction between the
8 weight or the value to be given to either direct or
9 circumstantial evidence, nor is there a greater degree
10 of certainty required of circumstantial evidence than of
11 direct evidence.

12 You should weigh all of the evidence in the
13 case. After weighing all the evidence, if you are not
14 convinced of the guilt of the Defendant beyond a
15 reasonable doubt, you must find the Defendant not
16 guilty.

17 Credibility of witnesses, the crux of your
18 duties and responsibilities. Necessarily as the trial
19 jury, you must determine the credibility of the
20 witnesses who have testified in this case.

21 Credibility, as you all know, simply means
22 believability. It becomes your duty as jurors to
23 analyze and to evaluate the evidence and determine which
24 evidence convinces you of its truth.

25 In determining the believability of witnesses

1 who have testified in this case, with the background of
2 your good judgment and your common sense, you may
3 believe one witness over several or several witnesses
4 over one.

5 You may believe part of the testimony of a
6 witness and reject the remaining part of the testimony
7 of that same witness. You may believe the testimony of
8 a witness in its entirety or reject the testimony of a
9 witness in its entirety.

10 You may consider whether any witness has
11 exhibited to you any interest, any bias, any prejudice
12 or other motive in this case. You also may consider the
13 demeanor or the appearance and the manner of a witness
14 while on the witness stand, again applying your good
15 judgment and your common sense.

16 Ladies and gentlemen, I instruct you and
17 emphasize that the fact that the Defendant did not
18 testify is not a factor to be considered by you in any
19 way in your deliberation and in your consideration on
20 the question of the guilt or innocence of the Defendant.
21 It must not be considered by you in any manner
22 whatsoever.

23 A defendant has the constitutional right to
24 remain silent, and the assertion of this right must not
25 be considered by you in your deliberations. I repeat,

1 under your oath you are to draw no conclusions
2 whatsoever from the fact that the Defendant in this case
3 did not testify.

4 The fact that this Defendant did not testify
5 should not even be discussed in the jury room. The
6 burden of proof, as I have stated to you, is on the
7 State. The Defendant is not required to prove his
8 innocence. The burden of proof remains on the State to
9 prove guilt beyond a reasonable doubt.

10 Expert witness. The rules of evidence -- and
11 I gave you a shortened version of this during the trial,
12 although this is not a particularly long version -- the
13 rules of evidence ordinarily do not permit witnesses to
14 testify to opinions or conclusions.

15 An exception to this rule exists for witnesses
16 that we call expert witnesses. A witness who by
17 education and experience has become expert in some art,
18 science, profession or calling may state an opinion as
19 to relevant and material matter in which the witness
20 claims to be an expert and may also state the reasons
21 for the opinion.

22 You should consider any expert opinion
23 received in evidence in this case and like any other
24 evidence give it the weight you think it deserves. If
25 you decide that the opinion of an expert witness is not

1 based on sufficient education and experience or if you
2 conclude that the reasons given in support of the
3 opinion are not sound or that the opinion is outweighed
4 by other evidence, you may disregard the opinion
5 entirely.

6 An expert witness' opinion is to be given no
7 greater weight than that of any other witness simply
8 because the witness is an expert. Further, you are not
9 required to accept an expert's opinion even though it is
10 uncontradicted.

11 Statement of the Defendant. A statement
12 alleged to have been made by the Defendant has been
13 admitted into evidence in this case. While this Court
14 has determined that the statement is admissible, I
15 instruct you that you make the ultimate decision as to
16 whether or not the Defendant made the statement.

17 If the Defendant did make the statement, you
18 must determine whether the statement was made by the
19 Defendant voluntarily and of his own free will. This
20 means that the statement was not caused by pressure,
21 force, fear, threats, coercion or intimidation or by a
22 hope or a promise of leniency or a reward of any kind.

23 In determining whether the statement was
24 voluntarily you should consider both the characteristics
25 of the Defendant and the details of the questioning.

1 Some of the factors you must consider are the age of the
2 Defendant, the Defendant's education or lack of
3 education, the Defendant's mental ability or capacity,
4 the Defendant's I.Q. or intelligence, the Defendant's
5 background and environment, the place and length of
6 detention, the nature of the questioning and the advice
7 or lack thereof to the Defendant of his constitutional
8 rights, including but not limited to:

9 The right to remain silent, that any statement
10 could be used against him in a court of law, the right
11 to have a lawyer present, that if he could not afford a
12 lawyer, a lawyer would be appointed to represent him
13 without any cost, and that he could stop making a
14 statement at any time.

15 You must carefully consider all of the
16 surrounding circumstances before you give any weight to
17 any alleged statement. The State has the burden of
18 proving beyond a reasonable doubt that the alleged
19 statement was voluntarily.

20 If you determine it was, you may give the
21 statement any further consideration that you deem
22 proper. You the jury must decide what weight, if any,
23 should be given to the alleged statement. If you
24 determine that the alleged statement was not the free
25 and voluntary statement of the Defendant, you should not

1 consider the statement at all.

2 Ladies and gentlemen, that is the general
3 criminal law that applies in this case and in South
4 Carolina. I am now going to cover the specific charges
5 alleged in the indictments.

6 Second degree criminal sexual conduct with a
7 minor is a statute in South Carolina, 16-3-655. It has
8 subsections. One subsection applies to the allegations
9 as to MINOR 2. The other subsection applies as to
10 allegations as to MINOR 1. I am going to generally
11 charge it and then specifically charge it. The
12 difference primarily is the age of the alleged victims.

13 The Defendant is charged with second degree
14 criminal sexual conduct with a minor. The State must
15 prove beyond a reasonable doubt that the Defendant
16 engaged in a sexual battery with the victim. The term
17 sexual battery is defined in our code.

18 A sexual battery is sexual intercourse,
19 cunnilingus, fellatio, anal intercourse or any
20 intrusion, however slight, of any part of a person's
21 body or any object into the genital or anal openings of
22 another person's body, except when the intrusion is
23 accomplished for medically recognized treatment or
24 diagnostic purposes. That is the definition of a sexual
25 battery.

1 As to the counts in the indictments as to
2 **MINOR 2** there are three allegations as to
3 **MINOR 2** . The State must then prove beyond a
4 reasonable doubt that the victim was at least 11 years
5 old but not more than 14 years old at the time of the
6 sexual battery.

7 One indictment alleges an incident that
8 occurred between July of '06 and July of '08, in which
9 the Defendant allegedly performed oral sex upon the
10 victim, such act occurring at the Masters Inn in the
11 Cayce area of Lexington County.

12 Another indictment as to the same alleged
13 victim, **MINOR 2** , alleges between those same
14 dates, July 2006, July '08, the Defendant performed oral
15 sex upon the victim, such act occurring on [REDACTED]
16 in the Gaston area.

17 And a third indictment alleges between July
18 '06 and July '08, the Defendant performed anal sex upon
19 the victim, such act occurring on [REDACTED] in the
20 Gaston area of South Carolina.

21 That is as to the victim, alleged victim,
22 **MINOR 2** , and that that victim was at least --
23 alleged victim -- was at least 11 years old but not
24 more than 14 years old at the time of the sexual
25 battery.

1 There are two other indictments as to the
2 minor, **MINOR 1** , who was at least 14 years of
3 age but who was less than 16 years of age. One
4 indictment alleges an act of oral sex occurring on
5 [REDACTED] in Gaston, and the other alleges an act of
6 oral sex that occurred at the Masters Inn in Cayce.

7 As to that the State must then prove beyond a
8 reasonable doubt that the victim was less than 16 years
9 old but at least 14 years old and that the Defendant was
10 either in a position of familial, custodial or official
11 authority to coercion the victim to submit or that the
12 Defendant was older than the victim.

13 Consent, willingness, indifference or
14 ignorance on the part of the minor, if any, as to what
15 was taking place does not in any way affect the charge
16 of criminal sexual conduct.

17 Ladies and gentlemen, there are two possible
18 verdicts which you may find in this case as to each
19 indictment. There is no significance whatsoever in the
20 order in which I state these possible verdicts. It's
21 simply that one must be stated first.

22 As to each indictment, you may find the
23 Defendant either guilty or not guilty. Again, you must
24 consider the indictments separately and distinctly based
25 on the evidence you heard as to each indictment, if any,

1 and the weight that you give whatever testimony that you
2 heard and whatever you decide the facts are.

3 Ladies and gentlemen, your verdicts must be
4 unanimous ones. All 12 of you must agree. Madame
5 Forelady, when the jury agrees on the verdicts, you will
6 have in the jury room, besides the exhibits, you will
7 have a verdict form in the jury room with you.

8 I have the indictment numbers and I have
9 tracked which minor is alleged as to an indictment
10 number, which type of act is alleged, and what location
11 is alleged.

12 Once you have reached a verdict, say, as to
13 Indictment 09-GS-32-822 for criminal sexual conduct with
14 a minor, **MINOR 1**, who was at least 14 years
15 of age but less than 16 years of age alleging oral sex
16 at the Masters Inn, whatever your verdict is, we the
17 jury by unanimous consent find the Defendant either
18 guilty or not guilty.

19 When you have reached that unanimous verdict,
20 you would check to the left of the word, whichever your
21 verdict is, guilty or not guilty, and I will ask you to
22 please then circle both the checkmark and the word
23 guilty or not guilty, whichever your verdict is.
24 That's the same throughout. I have identified the
25 locations alleged and the type of conduct alleged in

1 that regard.

2 Once you have reached those unanimous verdicts
3 on all the indictments and you have properly filled out
4 the verdict form, Madame Forelady, if you would sign,
5 date it today's date -- I believe it is the 7th -- knock
6 on the jury room door and inform the bailiff you have
7 reached a verdict. At that time we will receive you
8 back into the courtroom.

9 Momentarily I will ask you to step to your
10 jury room. Do not begin the deliberations until you are
11 instructed to do so by either the clerk or the bailiff.
12 I am required to take up matters with the attorneys one
13 final time outside of your presence.

14 If I have to bring you back out here to give
15 you additional charges, I will do so. If not, what will
16 happen is you will be sent in the items of evidence and
17 the verdict form. Everybody looks well today. Our
18 alternate would then come out, and then you would be
19 directed to begin your deliberations.

20 Madame Forelady, if you have any questions
21 during the course of your deliberations, if you would
22 please write me out a note, knock on the jury room door.
23 The bailiff will be posted outside, and they will get it
24 to my attention. If you would now please go with your
25 bailiff to your jury room.

1 (The jury retires to the jury room.)

2 THE COURT: Any exceptions, Solicitor?

3 MR. GRAHAM: Just a question, Your Honor. Is
4 there -- I don't remember -- is there a normal component
5 of the charge that has to do with the verdict has to be
6 unanimous?

7 THE COURT: I said that.

8 MR. GRAHAM: You did, okay.

9 THE COURT: Yes, sir. I did say, I said, it
10 had to be unanimous. Then I also read off the form, we
11 the jury by unanimous consent. I say I said it,
12 Solicitor.

13 It's kind of like driving home. Sometimes you
14 don't realize you have gone a few blocks and you think
15 about it. If you think I didn't, I will bring them back
16 out.

17 MR. GRAHAM: No, Your Honor. I heard you say
18 those words.

19 THE COURT: Mr. Locklair?

20 MR. LOCKLAIR: Your Honor, I just have a
21 couple of exceptions. I don't know if the Supreme Court
22 has approved this language or not. You used the word if
23 there is a real possibility of the Defendant being
24 innocent, you should find him not guilty.

25 Then you said, but if you are a firmly

1 convinced of his guilt, you should find him guilty. To
2 me firmly convinced seems more of a clear and convincing
3 standard than beyond a reasonable doubt standard.

4 THE COURT: I have used that language right
5 out of Victor versus Nebraska. That's why I charge both
6 Manning, hesitate to act, and firmly convinced. If you
7 want me to -- and I don't mind -- if you want me to look
8 back at Victor versus Nebraska, it has been awhile since
9 I've read it.

10 MR. LOCKLAIR: That's why I said I didn't know
11 if the language is there or not. You fully covered
12 reasonable doubt. I think the jury fully understands
13 it. I just wanted to make sure that I wasn't going to
14 miss anything on the record.

15 THE COURT: Yes, sir.

16 MR. LOCKLAIR: The other issue I would have,
17 Your Honor, and I don't really know how big an issue it
18 is, on the verdict form it seems to me listing the
19 victim, the locations, and what occurred could be a
20 little prejudicial and inflammatory towards my client.

21 Because it -- I guess I am being a little
22 anal, but it just kind of reiterates on the verdict form
23 what he is accused of doing and brings it back into
24 people's mind stronger. It might be just being an anal
25 defense attorney, but I would prefer to have that

1 stricken.

2 THE COURT: Here was my issue with that. I
3 didn't have that listed on my original verdict form, but
4 then my concern was, for example, they could think --
5 they could look at the picture of the camper, say,
6 State's 1 or 2 and say, there wasn't room enough in
7 there for him to get up on top of whoever and perform
8 oral sex. They could find him not guilty on [REDACTED]
9 [REDACTED].

10 Then they could say, well, you know, he is
11 checking in a motel with a 13 year old and a 15 year old
12 with one bed, with the direct and circumstantial
13 evidence.

14 Then they could say, you know, the anal act
15 you would have medical issues or that couldn't have
16 happened, and they don't know what they are deciding if
17 I don't either send in the indictment or do it on the
18 form of verdict. That's why I did it that way.

19 MR. LOCKLAIR: Yes, sir. If I had a choice, I
20 would rather it be on the verdict forms than have the
21 indictments go in.

22 THE COURT: That's why I did it that way. If
23 you want to come up with a different type of verdict
24 form and just say -- I was just trying to focus them on
25 where the allegations are because they would be like,

1 what is Indictment 822?

2 MR. LOCKLAIR: Yes, sir.

3 THE COURT: If they were all the same type of
4 battery or the same location -- I mean, I don't mind
5 changing it if you tell me how you want me to change it.

6 MR. LOCKLAIR: I can't think of a better way,
7 Your Honor, other than to send in the indictment, which
8 I prefer not to do. So I am fine with that.

9 THE COURT: Actually after I read my verdict
10 form, I thought, well, I will just send the indictments
11 in. That used to be the practice, just send the
12 indictments in. Then I thought, I don't know.

13 MR. LOCKLAIR: That's fine. We are fine with
14 that verdict form then, Your Honor.

15 THE COURT: She is going to print it out now
16 because she was changing it while I was charging. I
17 will let y'all look at it.

18 MR. LOCKLAIR: Thank you, Your Honor.

19 THE COURT: Any other exceptions?

20 MR. LOCKLAIR: No, sir, Your Honor.

21 THE COURT: Let's look at the form of verdict
22 when she gets it printed. Y'all can check the exhibits
23 while we are waiting.

24 (Pause.)

25 THE COURT: Here is the verdict form. If you

1 want that changed in any way, let me know. I just
2 wasn't sure. I didn't know how the jury would know what
3 they would be deciding without some of the allegations.

4 MR. GRAHAM: Judge, I can't think of anything
5 better. Basically what you are doing is putting the
6 facts of the indictment in there so that they can
7 differentiate them, rather than sending the indictments
8 back. There is really not much more you can do.

9 MR. LOCKLAIR: Yes, I think it's the best way
10 to do it, Your Honor.

11 THE COURT: All right. I will send that in
12 then. Here is the verdict form. Y'all have checked the
13 evidence?

14 MR. GRAHAM: Yes, Your Honor.

15 MR. LOCKLAIR: Yes, Your Honor.

16 THE COURT: Send that in and bring the
17 alternate to the back hall. We will be awaiting our
18 jury's verdict.

19 (The jury commences its deliberation at
20 12:00 p.m.)

21 (The following occurred at 12:12 p.m.)

22 MR. LOCKLAIR: I apologize, Your Honor. I
23 stepped out for a minute. I'm sorry.

24 THE COURT: I got to thinking about that
25 unanimous issue. I will cover that more thoroughly.

1 Bring us the jury, please.

2 (The jury returns to the courtroom.)

3 THE COURT: Ladies and gentlemen, I just
4 wanted to cover one final issue that I did cover
5 previously, but I'm not sure I covered it as thoroughly
6 as I normally do. It's on the jury's verdict.

7 Again, you recall I said there are two
8 possible verdicts which you may find in this case as to
9 each indictment, guilty or not guilty. There is no
10 significance whatsoever in the order in which I stated
11 these possible verdicts. It's simply that one must be
12 stated first.

13 All 12 of you must agree on the verdicts.
14 Your verdicts cannot be based on sympathy, passion,
15 prejudice, emotion or any other consideration not in
16 evidence in this case.

17 Madame Forelady, when the jury reaches a
18 verdict, a unanimous verdict as to all of the
19 indictments, you will sign your name as foreperson on
20 the line on the form, then knock on jury room door and
21 inform the bailiff that you have reached a verdict. At
22 that time we will receive you back into the courtroom.

23 Again, thank you. Thank you very much for
24 your attention and your patience with the Court. You
25 may now return to your jury room and resume your

1 deliberations.

2 (The jury retires to the jury room at
3 12:14 p.m.)

4 THE COURT: Any exceptions, Solicitor?

5 MR. GRAHAM: No, Your Honor.

6 MR. LOCKLAIR: No, sir, Your Honor.

7 THE COURT: Thank you very much. I don't
8 think I had that other paragraph in there, and I wanted
9 to cover that.

10 (Whereupon there is a recess.)

11 (The following occurred at 1:22 p.m.)

12 THE COURT: Bring us our jury, please.

13 (The jury returns to open court to report its
14 verdicts.)

15 THE COURT: One thing before we take our
16 verdict, any of the spectators in the courtroom, the
17 jury has a hard enough time with the job they must
18 perform.

19 I do not allow any show of emotion, shaking of
20 heads or outbursts of any kind. Should there be any, I
21 would expect the sheriff to take any individuals into
22 custody in that regard.

23 Madame Clerk.

24 CLERK: Madame Forelady, have you reached your
25 verdicts?

1 FOREMAN: Yes, ma'am, we have.

2 CLERK: Please pass them up by the bailiff.

3 (Hands to Court.)

4 THE COURT: The verdict appears to be in the
5 proper form, signed and dated. Madame Clerk, publish
6 our verdicts please.

7 (Whereupon the verdicts of the jury are
8 published as follows.)

9 CLERK: Yes, sir, Your Honor.

10 Indictment 2009-GS-32-822, indictment for
11 criminal sexual conduct on a minor, MINOR 1 ,
12 who was at least 14 years of age but less than 16 years
13 of age, we the jury unanimously consent and find the
14 Defendant guilty.

15 Indictment 2009-GS-32-849, for criminal sexual
16 conduct with a minor, MINOR 1 , who was at
17 least 14 years of age but less than 16 years of age, we
18 find the Defendant guilty -- unanimously consent and
19 find the Defendant guilty.

20 Indictment 2009-GS-32-850, for criminal sexual
21 conduct with a minor, MINOR 2 , who was 11 to
22 14 years of age, we the jury by unanimous consent find
23 the Defendant guilty.

24 Indictment 2009-GS-32-851, for criminal sexual
25 conduct with a minor, MINOR 2 , who was 11 to

1 14 years of age, we the jury by unanimous consent find
2 the Defendant guilty.

3 Indictment 2009-GS-32-852, for criminal sexual
4 conduct with a minor, MINOR 2 , who was 11 to
5 14 years of age, we the jury by unanimous consent find
6 the Defendant guilty, and it is so signed Rene Salter,
7 foreperson.

8 Ladies and gentlemen of the jury, if these are
9 your verdicts, please indicate each of you by raising
10 your right hand.

11 (All jurors so indicate.)

12 CLERK: All hands are raised, Your Honor.

13 THE COURT: Thank you. Thank you very much,
14 Madame Clerk.

15 Anything further for the jury from the State?

16 MR. GRAHAM: No, Your Honor.

17 THE COURT: From the defense?

18 MR. LOCKLAIR: The defense requests that Your
19 Honor poll the jury.

20 THE COURT: Thank you. Madame Clerk, would
21 you explain that procedure, please, to the members of
22 the jury and conduct the polling procedure.

23 CLERK: Yes, sir. As I call your name, if you
24 would hold your hand up where I can recognize you,
25 please. I will ask you -- the first question will be as

1 to the verdicts on the victim, MINOR 1 , was
2 this your verdict and are they still your verdicts?

3 Then as to the victim, MINOR 2 ,
4 were these your verdicts and are they still your
5 verdicts? And then please respond.
6 as to the verdict, was this your verdict and is it still
7 your verdict?

8 Joel Smith, as to the verdicts on victim
9 MINOR 1 , was this your verdict and are they
10 still your verdicts?

11 JUROR: Yes, it is.

12 CLERK: As to the victim MINOR 2 ,
13 were these your verdicts and are they still your
14 verdicts?

15 JUROR: Yes.

16 CLERK: Matthew St John, as to the verdicts on
17 the victim MINOR 1 , were these your verdicts
18 and are they still your verdicts?

19 JUROR: Yes.

20 CLERK: As to the victim MINOR 2
21 were these your verdicts and are they still your
22 verdicts?

23 JUROR: Yes.

24 CLERK: Sherrie Wilkins, as to the verdicts on
25 the victim MINOR 1 , were these your verdicts

1 and are they still your verdicts?

2 JUROR: Yes.

3 CLERK: As to the victim MINOR 2 ,
4 were these your verdicts and are they still your
5 verdicts?

6 JUROR: Yes.

7 CLERK: Mary Downing, as to the verdicts on
8 victim MINOR 1 , were these your verdicts and
9 are they still your verdicts?

10 JUROR: Yes.

11 CLERK: As to the victim MINOR 2 ,
12 were these your verdicts and are they still your
13 verdicts?

14 JUROR: Yes.

15 CLERK: Rene Salter, as to the verdicts on the
16 victim MINOR 1 , were these your verdicts and
17 are they still your verdicts?

18 JUROR: Yes.

19 CLERK: As to the victim MINOR 2 ,
20 were these your verdicts and still your verdicts?

21 JUROR: Yes.

22 CLERK: April Browder, as to the verdicts on
23 the victim MINOR 1 , were these your verdicts
24 and are they still your verdicts?

25 JUROR: Yes.

1 CLERK: As to the victim MINOR 2
2 (sic), are these your verdicts and are they still your
3 verdicts?

4 JUROR: Yes.

5 CLERK: Katherine Scott, as to the verdict on
6 the victim MINOR 1, were these your verdicts
7 and are they still your verdicts?

8 JUROR: Yes, ma'am.

9 CLERK: As to the verdicts on the victim MINOR 2
were these your verdicts and are they
11 still your verdicts?

12 JUROR: Yes, ma'am.

13 CLERK: Brian Hollis, as to the verdicts on
14 the victim MINOR 1, were these your verdicts
15 and are they still your verdicts?

16 JUROR: Yes.

17 CLERK: As to the victim MINOR 2,
18 were these your verdicts and are they still your
19 verdicts?

20 JUROR: Yes.

21 CLERK: Stephen Harriman, as to the verdicts
22 on the victim MINOR 1, were these your
23 verdicts and are they still your verdicts?

24 JUROR: Yes.

25 CLERK: As to the verdicts on the victim MINOR 2

1 MINOR 2 were these your verdicts and are they
2 still your verdicts?

3 JUROR: Yes.

4 CLERK: Charles Cashwell, as to the verdicts
5 on the victim MINOR 1 , were these your
6 verdicts and are they still your verdicts?

7 JUROR: Yes.

8 CLERK: As to the victim MINOR 2 ,
9 were these your verdicts and are they still your
10 verdicts?

11 JUROR: Yes.

12 CLERK: Kimberly Taylor, as to the verdicts on
13 the victim MINOR 1 , were these your verdicts
14 and are they still your verdicts?

15 JUROR: Yes, ma'am.

16 CLERK: As to the victim MINOR 2 ,
17 were these your verdicts and are they still your
18 verdicts?

19 JUROR: Yes, ma'am.

20 CLERK: James Wolfe, as to the verdicts on
21 victim MINOR 1 , were these your verdicts and
22 are they still your verdicts?

23 JUROR: Yes, ma'am.

24 CLERK: As to the victim MINOR 2 ,
25 were these your verdicts and are they still your

1 verdicts?

2 JUROR: Yes, ma'am.

3 CLERK: All jurors are polled, Your Honor.

4 THE COURT: Thank you. Thank you very much.

5 Anything further for the jury from the defense?

6 MR. LOCKLAIR: No, sir, Your Honor.

7 THE COURT: Thank you. Thank you very much.

8 Madame Forelady, ladies and gentlemen of the
9 jury, I never criticize nor commend a jury for its
10 verdict. However, I do always share when appropriate,
11 when I think it's appropriate, with a jury that has been
12 focused and attentive and patient.

13 I hope you never find yourself part of the
14 system again, but if you ever do, as a witness or
15 otherwise, I hope the jury selected in the trial of that
16 case is as focused and attentive and as patient and
17 hardworking as you have been throughout the trial of
18 this case.

19 Sometime justice moves very slowly and
20 methodically and repetitive. It's a very necessary part
21 of our system of justice. Without you and your
22 participation, we would not be able to resolve, not only
23 conflicts between citizens or citizens and businesses,
24 but conflicts between the State and its citizens in
25 criminal court such as this. You have the most

1 important job in this courtroom.

2 I do like to share from time to time what I
3 consider news of other great Americans besides
4 yourselves. Has anybody ever heard the name Clyde
5 Green? Have you seen that in the news lately?

6 I read with a high degree of interest. Clyde
7 Green is now by all accounts the last U.S. Army draftee
8 who fought in Vietnam. He has just retired. He was
9 drafted in 1970, got on the bus in of all places,
10 Sumter, South Carolina.

11 He didn't want to join the Army, but he said
12 the Army came and got him. He enjoyed the order of the
13 Army and stayed in 39 years, 9 months, and 15 days, and
14 he just retired from Fort McPherson, Georgia.

15 He also lived in the oldest house on Fort
16 McPherson, Georgia. He farmed pumpkins and soybeans,
17 and other things like that. I think the house he lived
18 in was built in 1887. So he was the oldest soldier on
19 Fort McPherson living in the oldest house, and now as I
20 say is the last draftee who fought in Vietnam.

21 With that being said, I now will release you
22 from your jury service for the remainder of the day
23 and -- have we got anything to do tomorrow for the
24 jury -- and the remainder of the week. Again, thank you
25 very much. I guess the check is in the mail?

1 CLERK: Yes, sir.

2 THE COURT: I tell people, don't go home and
3 get on the internet and book a cruise waiting on that
4 check, not even to Shull Island. If we paid you what
5 you were worth, we wouldn't be able to afford it.

6 Thank you very much. It has been my honor and
7 my privilege to be with you this week. The clerk needs
8 to see the foreperson out in the hallway momentarily.
9 Thank you very much.

10 (The jury is excused.)

11 THE COURT: Any motions, Mr. Locklair?

12 MR. LOCKLAIR: Your Honor, we just renew our
13 motion for directed verdict and ask the Court to grant a
14 judgment of acquittal as a matter of law and also ask
15 the Court to grant a new trial in this case.

16 THE COURT: I would respectfully deny the
17 motions. I believe there was -- I reaffirm my trial
18 rulings, and I believe there was adequate testimony in
19 the record for the jury to have reached the verdicts
20 which they did.

21 MR. LOCKLAIR: Thank you, Your Honor.

22 THE COURT: Do I recall that Mr. Parker is on
23 probation?

24 MR. LOCKLAIR: Yes, sir, Your Honor.

25 THE COURT: This is a violation of that

1 probation?

2 MR. LOCKLAIR: I would certainly assume it
3 would be found to be a violation.

4 THE COURT: Do we have a probation agent?

5 DEPUTY: We do, downstairs.

6 THE COURT: Is there any reason I could not
7 impose sentence on Mr. Parker at this time?

8 MR. LOCKLAIR: No, sir, Your Honor.

9 THE COURT: Let's see if we can get a
10 probation agent up here. As soon as the agent gets up
11 here, I will be glad to hear from the State on any
12 additional -- or I can go on and hear that now waiting
13 on the agent, Solicitor.

14 MR. GRAHAM: Whatever Your Honor desires.

15 THE COURT: I will go ahead and hear it now.

16 MR. GRAHAM: No one from the family wishes to
17 speak, Your Honor.

18 THE COURT: Anything further from the State?

19 MR. GRAHAM: Yes, Your Honor. Mr. Parker has
20 a prior conviction in 1991 for burglary second -- excuse
21 me -- burglary third degree. The same year he has a
22 conviction for grand larceny. It appears that in 1993
23 he was convicted of burglary first -- excuse me --
24 larceny and burglary second degree in Lexington County.

25 July 28, 2008, he was convicted of committing

1 or attempting to commit a lewd act on a child under the
2 age of 16. That case involved a boy who was
3 approximately seven to eight years old, Your Honor.

4 I would point out for the record that during
5 the period of abuse that ^{MINOR 2} and MINOR 1 suffered, that
6 Mr. Parker had been arrested and was actually coming to
7 roll call during that time period up until July of 2008
8 when their parents, their mothers, discovered that he
9 had been convicted and forbid them to see him anymore.

10 I would ask, Your Honor, that you impose a
11 sentence on Mr. Parker that would guarantee that he
12 would not be able to get out and reoffend again on any
13 of the children.

14 THE COURT: Thank you, Solicitor. Anything
15 further, Solicitor?

16 MR. GRAHAM: No, Your Honor. Thank you.

17 THE COURT: Mr. Locklair, you and Mr. Parker
18 may come around.

19 (Pause.)

20 THE COURT: I would be glad to hear from you,
21 Mr. Locklair.

22 MR. LOCKLAIR: May it please the Court, Your
23 Honor. Mr. Parker is 40 years old. You heard that he
24 worked doing electrical work, a resident of Lexington
25 County.

1 Obviously he has the probation violation
2 hanging over his head. I believe he has 15 years on
3 that, which would give him a little bit. Obviously we
4 know that these are very serious charges.

5 We would ask the Court to consider imposing a
6 sentence that would serve the dual functions of both
7 punishing Mr. Parker but also allowing him to be
8 rehabilitated through the South Carolina Department of
9 Corrections and other programs.

10 I would suggest to the Court that concurrent
11 sentences of 15 years, along with his probation
12 violation, would serve as the appropriate punishment in
13 this case.

14 And with the South Carolina Sexually Violent
15 Predator Law, he mostly likely will be taken into civil
16 custody after this to receive the rehabilitation that he
17 would need to help him keep from reoffending in the
18 future.

19 He would have to stay there, from what I am
20 told, it's about three or four years. That would be
21 three or four years on top of what he is getting. If
22 the Court does not see fit to go along with the 15
23 years, we would ask that you run these five counts and
24 the probation violation all concurrent.

25 THE COURT: All right. Tell me again,

1 Solicitor -- well, before I do that, Mr. Parker,
2 anything you would like to say?

3 THE DEFENDANT: Ask for your mercy, sir.

4 THE COURT: Tell me again about the victim in
5 the prior case, Solicitor. Was that a family friend or
6 what?

7 MR. GRAHAM: From what I remember about the
8 case, he had offered to baby-sit this boy and his older
9 brother, along with some -- I'm not sure if there were
10 other children, maybe just those two at the time.

11 It was on New Year's Eve while the mother of
12 those children went out. And while not a close family
13 friend, I believe they knew -- I'm not sure exactly how
14 their relationship was. I don't believe it was a former
15 girlfriend or a family member.

16 THE COURT: What sentence did he receive?

17 MR. GRAHAM: He received a probationary
18 sentence and sexual offender registry, and he had to
19 begin to wear the ankle monitor at that time.

20 THE COURT: That was in July of '08?

21 MR. GRAHAM: July 28, 2008, Your Honor.

22 THE COURT: And MINOR 2 and MINOR 1's
23 parents discovering that is what led to them cutting off
24 contact between him, Mr. Parker, and MINOR 2 and
25 MINOR 1 ?

1 MR. GRAHAM: Yes, Your Honor. My
2 understanding was there has always been concerns, I
3 think that they expressed on the stand, about Mr. Parker
4 and child abuse. When that was ultimately confirmed
5 with that conviction, at that point they stopped any
6 contact between their children and Mr. Parker.

7 THE COURT: Was he required to go to any sex
8 offender programs while on probation?

9 MR. GRAHAM: I do not know what the exact
10 requirements of his probation were, Your Honor.

11 THE COURT: I see we have Mr. Rentz.

12 PROBATION OFFICER: Your Honor, I was not
13 aware who was on trial up here. I did look him up. All
14 I have is he was on for a lewd act. I can make an
15 assumption that he was required to go to sex offender
16 counseling.

17 MR. LOCKLAIR: Your Honor, he tells me he was
18 ordered to attend sex counseling.

19 THE COURT: Did he go?

20 THE DEFENDANT: Yes, Your Honor, I did.

21 THE COURT: Where did you go?

22 THE DEFENDANT: Dr. Burke over in Columbia at
23 that time. They moved him up to Lexington now.

24 PROBATION OFFICER: Your Honor, I would add, I
25 checked on the computer. We do have a citation that we

1 have served for a violation. I do not have the physical
2 file, so I do not know what the charge was.

3 THE DEFENDANT: Drinking.

4 MR. LOCKLAIR: My understanding that was from
5 drinking a beer. He admitted to his probation officer
6 he had drank, and that was a condition of his probation.
7 I'm not sure what else, if there were any fees or
8 anything of that nature.

9 THE DEFENDANT: It was for drinking.

10 THE COURT: Anything further, Mr. Locklair?

11 MR. LOCKLAIR: No, sir, Your Honor.

12 THE COURT: Anything further, Solicitor?

13 MR. GRAHAM: No, Your Honor -- yes, I do have
14 a question, Your Honor. I have never done this before.
15 Is it proper for me to discuss other cases that were not
16 the result of convictions or is that improper?

17 THE COURT: I don't think so. Of course, you
18 know, there is law if they ever move for him to be
19 adjudicated under the Sexually Violent Predator Act,
20 there is law in that regard, Solicitor.

21 I don't take it into account, even if it were
22 arrests. I would say I would not want to hear it. I
23 don't think that would be appropriate. Thank you for
24 asking me before you brought it to my attention,
25 Solicitor.

1 I assume you agree with that, Mr. Locklair?

2 MR. LOCKLAIR: Yes, sir.

3 THE COURT: Do you have the indictments,
4 Madame Clerk?

5 CLERK: Yes, sir.

6 (Hands to Court.)

7 THE COURT: All of these carry 20 years,
8 Solicitor?

9 MR. GRAHAM: Yes, Your Honor.

10 THE COURT: With this conviction is he placed
11 on the central registry of child abuse and neglect
12 pursuant to 17-25-135?

13 MR. GRAHAM: I don't know, Your Honor.

14 CLERK: Your Honor, under the paperwork I
15 obtained from D.S.S. registry, you can order it. That's
16 the only way he can be placed on it, if he violates
17 anything to do with that, the morality.

18 (Pause.)

19 THE COURT: It tells me I shall order it.

20 As to 2009-GS-32-849 and 822, those are the
21 indictments concerning the minor, MINOR 1 ,
22 the jury having found the Defendant guilty of performing
23 oral sex upon the victim between 14 and 16 years of age,
24 the Defendant is committed to the State Department of
25 Corrections for a period of 20 years on 849 and 20 years

1 on 822.

2 Those are concurrent one with the other. He
3 is given credit for time served. He is placed on the
4 central registry of child abuse and neglect pursuant to
5 17-25-135.

6 I realize he is already placed on that;
7 however, I further order it, for whatever reason should
8 he not be placed on the sex offender registry. I
9 recommend sexual abusing counseling and no contact with
10 the victim or any member of the victim's family. That
11 is as to the indictments on MINOR 1 .

12 As to 2009-GS-32-850 and 851, the Defendant
13 having been found guilty of performing sexual battery
14 with and upon the victim, MINOR 2 , when he
15 was between the age of 11, at least 11 years of age and
16 14, the Defendant is committed to the State Department
17 of Corrections for a determinate term of 20 years.
18 Those are concurrent one with the another and concurrent
19 with the sentences imposed as to MINOR 1 .

20 Also, sex offender registry, sexual abuse
21 counseling and treatment, no contact with the victim or
22 any member of the victim's family, placed on the central
23 registry of child abuse and neglect pursuant to
24 17-25-135.

25 As to 2009-GS-32-0852, indictment alleging --

1 indictment where he is found guilty of performing anal
2 sex upon the victim MINOR² who was at least 11 but less
3 than 14 years of age, the Defendant is committed to the
4 State Department of Corrections for a determinate term
5 of 20 years. That is consecutive to all other
6 previously imposed sentences this date.

7 He has credit for time served on all these
8 sentences, no contact with any victim or any members of
9 the victim's family. As to his probation violation,
10 it's revoked in full, 15 years, whatever amount is still
11 pending. That is concurrent. Good luck to you,
12 Mr. Parker.

13 MR. LOCKLAIR: Thank you, Your Honor.

14 THE COURT: Thank you, Mr. Locklair. Anything
15 further, Solicitor?

16 MR. GRAHAM: The only other issue would be the
17 sealing of the records that we discussed earlier, Your
18 Honor. I'm not sure...

19 THE COURT: Would you prepare me an order in
20 that regard. If you would return those copies,
21 Mr. Locklair, and they shall be returned to the
22 appropriate agencies, whether it's Department of Mental
23 Health, Department of Juvenile Justice or D.S.S. I'm
24 not sure but I will sign whatever order is necessary to
25 seal those records.

1 MR. LOCKLAIR: Should I just turn mine
2 directly to the Solicitor's Office and let them return
3 them to the agencies or do I need to give them back
4 separate to each agency?

5 THE COURT: I don't have an objection if you
6 give them to the solicitor and he gets them back if the
7 solicitor doesn't have an objection to that.

8 MR. GRAHAM: No, Your Honor, that's fine.

9 THE COURT: If you will do me an order sealing
10 it.

11 MR. GRAHAM: Yes, Your Honor.

12 THE COURT: Thank you. Thank you very much.
13 Good luck to you.

14 MR. LOCKLAIR: Thank you, Your Honor.

15 THE COURT: Court will be in recess.

16 *** END OF REQUESTED TRANSCRIPT OF RECORD ***

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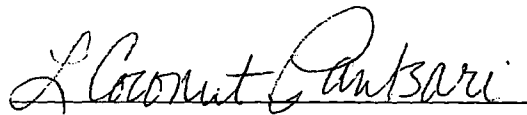
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C E R T I F I C A T E

I, the undersigned L. Coconut Pantsari, Official Reporter for the Eleventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of all the proceedings had and the evidence introduced in the trial of the captioned cause, relative to appeal, in the Civil Court for Lexington County, South Carolina on the 4th through the 7th days of October, 2010.

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

March 25, 2011

A handwritten signature in cursive script that reads "L. Coconut Pantsari". The signature is written in dark ink and is positioned above the printed name of the court reporter.

Court Reporter

ORIGINAL 11

FORM 5

STATE OF SOUTH CAROLINA

FILED

IN THE COURT OF COMMON PLEAS

County of Lexington

2013 JAN -3 P 1:59

Scott D. Parker #197951

Full name and prison number (if any) of Applicant

DEBRA CARRIGG
CLERK OF COURT
LEXINGTON, SC

v.

State of South Carolina

APPLICATION FOR

POST-CONVICTION RELIEF

2013 CP3200099

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention McCormick C.I., 386 Redemption Way, McCormick S.C. 29899
2. Name and location of Court which imposed sentence Lexington County Court of General Sessions
3. Name(s) of co-defendant(s) (if any) _____
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2009-GS-32-822 and 849 (CSC) 14 to 16 years of age
 - (b) 2009-GS-32-850-851-852 (CSC) 11 to 14 years of age

- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence: **FILED**
 (a) OCT. 7, 2010 (CSC) 14 to 16 -20 years
 (b) CSC-11 to 14-20 years concurrent (Ind-850-851-8 P 1:59)
 (c) CSC-11 to 14 -)852-20 years concecutive
6. Check whether a finding of guilty was made: **BETH A. CARRIGG
CLERK OF COURT
LEXINGTON, SC**
 (a) after a plea of guilty _____
 (b) after a plea of not guilty x _____
 (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
Yes
8. If you answered "yes" to (7), list:
 (a) the name of each Court to which you appealed:
 i. South Carolina Court of Appeals
 ii. _____
 iii. _____
 (b) the result in each such Court to which you appealed:
 i. _____
 ii. _____
 iii. _____
 (c) the date of each such result:
 i. _____
 ii. _____
 iii. _____
 (d) if known, citations of any written opinion or orders entered pursuant to such results:
 i. _____
 ii. _____
 iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
 (a) N/A
 (b) _____

- FILED
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully: Improper Reasonable Doubt Instructions: 59
- (a) Ineffective Assistance of Counsel - Conflict of Interest
- (b) Prosecutorial Misconduct - Improper Comments
- (c) Improper vouching of expert witness
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) See Attachments
- (b) _____
- (c) _____
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? no
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? no
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? no
- (d) any other petitions, motions or applications in this or any other Court? no
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. _____
- ii. N/A
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. _____
- ii. N/A
- iii. _____
- iv. _____

(c) the disposition thereof:

FILED

i. _____
 ii. _____ N/A _____ 2013 JAN -8 P 1:59
 iii. _____ BETH A. CARRIGG
 iv. _____ CLERK OF COURT
 _____ LEXINGTON, SC

(d) the date of each such disposition:

i. _____
 ii. _____ N/a _____
 iii. _____
 iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. _____
 ii. _____ N/A _____
 iii. _____
 iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

yes _____

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. _____ Improper reasonable Doubt instruction _____
 ii. _____
 iii. _____

(b) the proceedings in which each ground was raised:

i. _____ Direct appeal _____
 ii. _____
 iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) PCR Issues

(b) Issues not properly preserved

(c) _____

2013 JAN -8 P 1:59

BETHEL A. CARRIGG
CLERK OF COURT
LEXINGTON, SC

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? Yes

(b) your trial, if any? Yes

(c) your sentencing? Yes

(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?

Yes

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

i. Robert Madsen-207^{1/2} West Main st. Lexington S.C.

John Wesley Locklair-Attorney

ii. DAYNE C. Phillips -Office of Appellate Defense

iii. _____

(b) the proceedings at which each such attorney represented you:

i. Pretrial

Trial

ii. Direct Appeal

iii. _____

19. State clearly the relief you seek in filing this application:

New Trial

FILED

2013 JAN -8 P 1:59

20. Are you now under sentence from any other court that you have not challenged?

No

BETH A. CARRIGG
CLERK OF COURT
LEXINGTON, SC

STATE OF SOUTH CAROLINA)

County of McCormick)

2013 CP3200099

VERIFICATION

I, Scott D. Parker, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

x Scott Parker

SWORN to and subscribed before me this 7th
day of January, 2013.
Susan N. Frye (L.S.)
Notary Public

My Commission Expires: _____

FILED

APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF

2013 JAN -8 P 2:00

BETH A. CARRIGG
CLERK OF COURT
LEXINGTON, SC

I, Scott D. Parker, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

x Scott Parker
Applicant

SWORN or affirmed to and subscribed before me this

20 day of January, 2013.

Susan H. Frye
Notary Public

My Commission Expires: _____

2013CP3200069

Ineffective Assistance of Counsel

FILED

- 1.) Counsel failed to give applicant Rule 5 discovery with phone records, investigative reports that could have been used to impeach the state's witnesses to show that they called the defendant and not that the defendant called them over 30 times. See pg.s 146 and 366 trial transcript. See Hart v. Gomez, 174 F.3d 1067, 1073 (9th Cir. 1999) also Tucker v. Prelesnik, 181 F.3d 747, 757 (6th Cir. 1999). Counsel's failure to introduce and obtain known critical evidence prejudicial because a reasonable factfinder would likely not have convicted defendant had all relevant evidence been presented.
- 2.) Counsel failed to adequately develop defense by cross-examining mother to establish what support the defendant gave her to support the theory that the allegations were made up after he stopped supporting her. See pg. 72 trial trans. Counsel failed to present this theory in the opening statement to the jury. Pg.s 90, 139, 142-43, 147-48.
- 3.) Counsel failed to properly elicit on cross-examination the exact reasons why the mother stopped the victim from hanging out with Scott Parker. Pg. 91, 153-54. The reasons would have shown that defendant stopped giving the mother support in 2008.
- 4.) Counsel failed to adequately cross examine the victims to show they had knowledge of sexual activity because the mother was an escort and both victims knew what an escort did and they knew of sexual activities and could have adequately made up the allegations. See Hill v. Moore, 175 F.3d 915, 923 (11th Cir. 1999). Failure to adequately cross examine witness constitutes ineffective assistance of counsel. See Steinkuehler v. Meschner, 176 F.3d 441, 445 (8th Cir. 1999).
- 5.) Counsel failed to attack the credibility of mother with showing she was an escort and that her son and nephew knew that she done this for a living and that showing Scott Parker knew this also and supported them would show that they had sufficient motive to make up a story alleging that defendant committed the acts upon them and the mother had a reason to help them create the story. See pg. 72 and 151.
- 6.) Counsel Failed to enter exculpatory evidence of the phone records to impeach the mother that showed they called the

Page. 2 Ineffective Assistance

FILED

defendant not that the defendant called them. This evidence could have been used to attack the credibility of the state's witness when she claimed defendant called them 30 times. See pg.s 146-47, 257, 366. Counsel also failed to present the statements the victims made to the jury to show the inconsistencies to cause reasonable doubt. See *Groseclose v. Bell*, 186 S.W.2d 1161, 1170 (6th Cir. 1997). (Counsel's failure to introduce exculpatory evidence was outside the range of professionally competent assistance.

- 7.) Counsel failed to allege the testimony was coached by showing the jury the statements to have them determine the truthfulness of the statements by comparing them with the direct testimony of the witnesses. See pg.s 97, 103-107, 119-20, 132, 175. Counsel stated on record during cross that he told the prosecutors that it happened around 15 or 20 times and in pretrial it happened four to ten times. See pg.s 126-27.
- 8.) Counsel failed to adequately cross examine Angela Finley to ask her to explain why she didn't like defendant and to explain why she thought the victims would not make up this story and to ask her if she had any knowledge that defendant was supporting the victims mother. Counsel was ineffective for failing to recall the witnesses to elicit this testimony to support his defense in violation of Rule 611 (D).
- 9.) Counsel failed to adequately recross MINOR 2 concerning the phone calls to Scott Parker and whether the defendant supported the mother also to support his theory of defense. See pg. 291-92.
- 10.) Counsel was ineffective for failing to discover and utilize prior criminal records of prosecution witnesses. See *People of State of Michigan v. Nickson*, 120 Mich App. 681, 327 N.W.2d 333 (1982).
- 11.) Counsel was ineffective for failing to obtain expert witness to testify as a defense as to reasons that a mother would have her son help make up allegations if she was suddenly cut off from support to show sufficient motive to initiate allegations of this nature. See pg. 339.
- 12.) Counsel was ineffective for failing to present a viable defense. See pg. 256.
- 13.) Counsel was ineffective for misadvising and not adequately explaining to applicant the extent of how they could use prior convictions in that only they could tell the jury

he had felonies and not what the exact crimes were because they would be prejudicial. Counsel's misadvice prevented defendant from presenting his defense that the mother made up this whole story because he stopped giving her money to support her. Counsel's misadvice prejudiced the defendant to the extent he could not explain his defense to the jury and show the phone records to show that they constantly called him begging for money casting reasonable doubt on the victims story. See Pg.s 321,347.

FILED
2019 JAN -8 P 2:00
DELLA GARRIGG
CLERK OF COURT
LEXINGTON, SC

- 14.) Counsel failed to object to vouching of the expert witness concerning Accomodation by inserting her opinion of accomodation by alleging we all do it. We all accomodate to things in our life we don't like. Pg.s 333-34. Futher, counsel failes to object again to the expert's vouching her own credibility by stating "Typically that would indicate to me that there had not been a false allegation made." Pg.344.
- 15.) Counsel failed to object to the prejudicial closing remarks of the solicitor stating "Is that something you would do?" "Or is it something a child molester like Scott Parker would do so they all could sleep together?" Pg.356 lines 22-23. The solicitor makes futher inflamatory remarks to play on the prejudices and passions of the jury by stating "But if you think they are lying and you don't believe them, find him not guilty." "Let him go." "The Masters Inn will always have a room avabile with a single bed." "Twenty Five feet away from you sits a "Predator", a "Child Molester". Counsel failed to object to these highly prejudicial remarks that inflammed the passions of the jury. Pg. 360 lines 7-23.
- 16.) Counsel failed to properly preserve an objection for the court giving two different reasonable doubt instructions in violation of the Supreme Court ruling in "Manning" that only the "Hesitate To Act" instruction should be given. The two different instructions created a higher standard that prejudiced the defendant. See Pg.s 384-85.
- 17.) The court erred in violation of due process of the 14th Amendment by giving two different jury instructions of " Firmly Convinced" and "Hesitate To Act" which changes the standard of reasonable doubt and is not approved by the Supreme Court in State V. Manning, Pg.s 371,384-85.
- 18.) The solicitor engaged in prosecutorial misconduct by stating in closing arguments highly prejudicial and inflamatory remarks used to play on the passions and prejudices of the jury.
- 19.) Counsel engaged in a conflict of interest by not giving defendant his discovery, giving him misadvice, not impeaching the state's witnesses, not objecting to the improper comments, not properly cross examining the witnesses to present a complete defense, failing to introduce exculpatory records, and not preserving an objection to the reasonable doubt instructions.

Scott Parker #197951
B.R.C.I. Mon 286
4460 Broad River Rd.
Columbia, S.C. 29210

Clerk of Court
Lexington County
139-B Main St., Rm. #102
Lexington, SC 29072-3456

RECEIVED

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	ELEVENTH JUDICIAL CIRCUIT
COUNTY OF LEXINGTON	)	
	)	Case No. 2013-CP-32-0099
Scott D. Parker,	)	
S.C.D.C. No. 197951	)	
	)	
Applicant,	)	
	)	
v.	)	RETURN
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

The Respondent, making its Return to the Application for Post-Conviction Relief (PCR) filed January 8, 2013, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Lexington County. Applicant was indicted at the April 2009 term of the Court of General Sessions for Lexington County for criminal sexual conduct with a minor at least 14 years of age but less than 16 (2009-GS-32-00822) and four counts of criminal sexual conduct with a minor 11 to 14 years of age (2009-GS-32-00849, -00850, -00851, and -00852). John Wesley Locklair III, Esquire, and Robert M. Madsen, Esquire, represented Applicant. On October 7, 2010, a jury found Applicant guilty indicted. The Honorable R. Knox McMahon sentenced Applicant to twenty years concurrent imprisonment for charges 2009-GS-32-00822, -00849, -00850, and -00851 and twenty years consecutive imprisonment for the 2009-GS-32-00852 charge.

Applicant appealed his convictions and sentences to the SC Court of Appeals and was represented by Dayne C. Phillips, Esquire. On October 31, 2012 the SC Court of Appeals affirmed Applicant's convictions and sentences in unpublished opinion No. 12-UP-592 and the matter was remitted to the lower court.

Attached herewith and incorporated herein by reference are the records of the Lexington County Clerk of Court regarding the subject conviction(s), Applicant's records from the Department of Corrections, and a transcript of the proceeding against Applicant. Respondent reserves the right to amend its return upon the receipt of other relevant records.

II.

In his Application, Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. "Ineffective Assistance of Counsel"
 - a. Counsel failed to provide Applicant with discovery materials
 - b. "Counsel failed to adequately develop defense" by failing to cross-examine witnesses and present a certain theory during his opening statement
 - c. "Counsel failed to adequately cross-examine the victims"
 - d. "Counsel failed to attack the credibility" of a witness
 - e. "Counsel failed to enter exculpatory evidence"
 - f. "Counsel failed to allege [that] the [witness'] testimony was coached"
 - g. "Counsel failed to adequately recross" a witness
 - h. Counsel failed to "discover and utilize prior criminal records of prosecution witnesses"
 - i. Counsel failed to "obtain expert witness to testify as a defense as to reasons that a

- mother would have her son help make up allegations”
- j. Counsel failed to “present a viable defense”
- k. Counsel failed to adequately explain to Applicant how his prior convictions could be used
- l. “Counsel failed to object to vouching of the expert witness”
- m. “Counsel failed to object to the prejudicial closing remarks of the solicitor”
- n. “Counsel failed to properly preserve an objection for the court giving two different” jury instructions on reasonable doubt
- o. “Counsel engaged in a conflict of interest” by failing to do all the items listed above [items a – n]
- 2. “Improper Reasonable Doubt Instructions”
 - a. Court violated due process clause of 14th amendment by giving two different jury instructions
- 3. “Prosecutorial Misconduct” by solicitor in his closing statement

III.

The Applicant alleges ineffective assistance of trial counsel. The Respondent contends that the Applicant's trial counsel rendered adequate assistance and provided representation within the range of competence required by attorneys in criminal cases. See Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

In a post-conviction relief proceeding, the Applicant bears the burden of proving the allegations in their application. Id. Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as

having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 80 L.Ed.2d 674. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Applicant raises additional direct appeal allegations. These allegations are not proper matters for PCR. Simmons v. State, 264 S.C. 417, 215 S.E.2d 833 (1975). Therefore Applicant's direct appeal allegations must be summarily dismissed.

VI.

The Respondent therefore requests that this Court convene an evidentiary hearing solely on the issue of ineffective assistance of counsel. As to all other allegations, the Respondent moves for summary dismissal pursuant to S.C. Code Ann. § 17-27-70 on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law.

VII.

Applicant must specify any claims he intends to raise at the PCR trial. Any claims not *specifically* laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing. S.C. Code § 17-27-10 et seq; SCRCP 71.1. All claims should be made well in advance of the PCR hearing. If Applicant has an attorney appointed, the attorney, and not the inmate, is the only one authorized to file amendments. SCRCP Rule 11. Filings by inmates will not be considered at the PCR hearing.

VIII.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied.

IX.

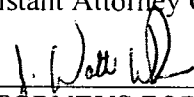
WHEREFORE, having made its Return, the Respondent requests that a hearing be held.

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

WALT WHITMIRE
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

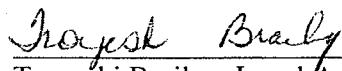
May 31st, 2013

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	IN THE ELEVENTH CIRCUIT
COUNTY OF LEXINGTON	)	
	)	
	)	2013-CP-32-099
	)	
Scott D. Parker, #197951	)	
	)	
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent	)	
_____	)	

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Anna R. Good, Esq.
1720 Main St. Ste. 303
Columbia, SC 29201

DATED this 3rd day of June, 2013



 Troyeshi Brailey, Legal Assistant
 For Respondent

1 State of South Carolina

Court of Common Pleas

2 County of Lexington

3
4
5 Scott D. Parker)

6 Applicant,)
7 v.)

Transcript of Record
13-CP-32-0099

8 State)
9 _____)

10 April 14, 2014

11 Lexington, South Carolina

12
13 B E F O R E:

14 The Honorable William P. Keesley, Judge.

15
16 A P P E A R A N C E S:

17 Anna R. Good, Esquire
Attorney for the Applicant

18 Walt Whitmire, Assist. Attorney General
19 Attorney for the State

20
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22
23
24 Stacy L. Sheppard, RPR
25 Circuit Court Reporter

1		I N D E X	
2	<u>WITNESS</u>		<u>PAGE</u>
3	Scott Parker		
4	Direct Examination By Ms. Good		5
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7	John Wesley Locklair, III		
8	Direct Examination By Mr. Whitmire		38
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E X H I B I T S

(There were no exhibits.)

1 (The following proceedings were held on
2 April 14, 2014.)

3 **MR. WHITMIRE:** May it please the Court. The
4 last case before Your Honor today is Scott Parker v.
5 State of South Carolina, case number 2013-CP-32-99.
6 Before Respondent calls the case, Your Honor,
7 there's a brief administrative matter. The
8 appellate records I have in my hand -- may I
9 approach?

10 **THE COURT:** Sure.

11 **MR. WHITMIRE:** Currently, Respondent's copy of
12 the direct appeal filed is missing Appellate
13 Defense's brief on behalf of Mr. Parker. I've
14 spoken with the legal assistant for the Eleventh
15 Circuit for taking steps to ensure that Your Honor
16 gets that to have a complete review of this case,
17 and present counsel has been informed of it as well.

18 **THE COURT:** Okay. Are you ready?

19 **MS. GOOD:** Yes, sir.

20 **MR. WHITMIRE:** Mr. Parker was indicted on
21 several counts of CSC with a minor, 14 to 16, and I
22 believe one or two counts of CSC with a minor 11 to
23 14. The State called this case to trial on October
24 7th, 2010. He was represented by Mr. Wesley
25 Locklair. The jury found Mr. Parker guilty as

1 indicted on all counts. Judge McMahon sentenced
2 Mr. Parker 20 years on each count. He ran one of
3 those counts consecutive, one of the 11 to 14,
4 equating to 40 total years, also violated or revoked
5 Mr. Parker's probationary sentence 15 years for, I
6 believe, a 2006 lewd act charge.

7 A timely notice of appeal was filed on
8 Mr. Parker's behalf and perfected by Dayne Phillips
9 of Appellate Defense. On October 31st, 2012, the
10 Court of Appeals affirmed his conviction and
11 sentence in an unpublished opinion numbered
12 12-UP-592. Remittitur soon followed. A timely
13 application of post-conviction relief was filed.

14 Mr. Parker is present and represented by
15 Ms. Good. At this time, Ms. Good is -- I'll turn
16 matters over to Ms. Good to announce the allegations
17 she is pursuing today.

18 **MS. GOOD:** Thank you, Your Honor.

19 Pursuant to Mr. Parker's original
20 post-conviction relief application and his
21 attachment, we're going to be going forward on
22 number one, counsel failed to give Applicant Rule 5
23 discovery; number four, counsel failed to adequately
24 cross-examine the victims as to their prior
25 knowledge of sexual activity; number six, counsel

1 failed to enter exculpatory evidence of phone
2 records to impeach testimony; number 12, counsel was
3 ineffective for failing to present a viable defense;
4 counsel -- number 13, counsel was ineffective for
5 misadvising the Applicant regarding use of his prior
6 conviction if to testify at the trial; number 14,
7 counsel failed to object to vouching of an expert
8 witness; and number 15, counsel failed to object to
9 the prejudicial closing remarks of the Solicitor in
10 closing arguments.

11 **THE COURT:** All right. Call your witness.

12 **MS. GOOD:** Call Scott Parker.

13 **THE COURT:** Come around, please.

14 SCOTT PARKER,

15 having been duly sworn, testified as follows:

16 **THE CLERK:** Have a seat and state your name for
17 the record.

18 **THE WITNESS:** Scott Parker.

19 DIRECT EXAMINATION

20 BY MS. GOOD:

21 **Q** Mr. Parker, you just heard Mr. Whitmire say
22 that you were convicted during trial for two counts
23 of CSC with a minor second degree and you received
24 20 years consecutive on those; correct?

25 **A** Yes, ma'am.

1 Q And during that trial, Mr. Locklair was your
2 attorney?

3 A Yes, ma'am.

4 Q How long had you had him as your attorney?

5 A I had him for about four months. I had Robert
6 Madsen before him for over a year. They conflicted
7 me out.

8 Q So you had Mr. Locklair for about four or five
9 months before the trial?

10 A Yes, ma'am.

11 Q Four or five months before the trial, once he
12 got appointed, about how many meetings did you have
13 with him?

14 A Two that I recall.

15 Q When was your first meeting?

16 A About a month after they conflicted out, I seen
17 him for the first time and then before trial.

18 Q In that first meeting, about how long did it
19 last?

20 A About 30 minutes.

21 Q Okay. And what did y'all discuss in that
22 meeting?

23 A We went over the discovery real quick. And
24 then the next time we had, we went over discovery
25 again on the things to be ready for trial Monday

1 morning, you know.

2 Q And we're going to stick to this first meeting
3 for right now. You said you went over it real quick
4 with him. Can you explain how you went over the
5 discovery with him?

6 A Pretty much he told me the charges and
7 everything that I was up against and said that they
8 was willing to make a deal or something like that.
9 And I said, No, I ain't wanting no deal.

10 Q Did you see the pieces of paper in the
11 discovery?

12 A I wasn't paying -- I didn't pay no attention to
13 that.

14 Q Did he show them to you?

15 A No, ma'am. I didn't pay no attention to that.
16 It was just verbal.

17 Q Okay. Did he ever give you a copy of the
18 discovery at that time?

19 A No, ma'am.

20 Q Do you have a copy now?

21 A Yes, ma'am.

22 Q And how did you get a copy of it?

23 A I wrote the Supreme Court of South Carolina.
24 It took me about six months, but I finally got it.

25 Q So you got it after your conviction?

1 **A** Yes, ma'am.

2 **Q** You said you met with him again for your second
3 meeting. You said it was right before trial?

4 **A** Yes, Friday morning about midday.

5 **Q** So Friday before the trial on Monday?

6 **A** Yes, ma'am.

7 **Q** About how long was that meeting?

8 **A** About 30 minutes, 35 minutes.

9 **Q** Okay. And did y'all prepare for trial together
10 in any way?

11 **A** It was pretty much they -- they got to prove
12 you guilty. They got to find you guilty is pretty
13 much what it is.

14 **Q** Did y'all discuss any type of trial strategy or
15 how you wanted --

16 **A** Not to my knowledge, not that I recollect.

17 **Q** We discussed earlier about you receiving your
18 discovery after you were convicted. When you
19 received your discovery, what did you find of
20 importance?

21 **A** I found out -- I found phone records that they
22 had a lot more of, to my understanding, that would
23 prove that the mother and them contradicted
24 theirselves in trial while they was on --

25 **MR. WHITMIRE:** Objection; hearsay.

1 **THE COURT:** Hold on a second.

2 **MS. GOOD:** Your Honor, we're discussing
3 information that is in the trial transcript that's
4 part of the record about what she testified to.

5 **THE COURT:** What's your hearsay objection now?

6 **MR. WHITMIRE:** Discussing phone records that
7 were mentioned from the mother as some sort of
8 mysterious Rule 5 disclosure that's now available
9 without any foundation.

10 **THE COURT:** My concern is the foundation. Can
11 he explain to me what he's talking about?

12 **MS. GOOD:** Let me go through it a little bit.

13 BY MS. GOOD:

14 **Q** During the trial, did the mother testify?

15 **A** Yes, ma'am.

16 **Q** And as part of the transcript, did she testify
17 that, after these allegations were brought forward,
18 that you continued to call the two victims?

19 **A** Yes, ma'am.

20 **Q** And it's your understanding that you saw or
21 found in discovery from Mr. Locklair that there were
22 phone records contradicting that testimony?

23 **A** Yes, ma'am.

24 **MS. GOOD:** That's what I'm talking about, Your
25 Honor.

1 **THE COURT:** Okay. Go ahead.

2 BY MS. GOOD:

3 **Q** These phone records that you saw, did
4 Mr. Locklair ever bring these up in the trial?

5 **A** No, sir -- no, ma'am. They never really
6 mentioned nothing about no phone records that I can
7 remember.

8 **Q** Okay. And how did these phone records come
9 about? Who got them?

10 **A** Robert Madsen did.

11 **Q** And are you aware if Mr. Madsen gave them to
12 Mr. Locklair?

13 **A** My understanding, he said he turned everything
14 over to Wesley Locklair.

15 **Q** Okay. And these phone records are phone
16 records between you and the mother's telephone?

17 **A** Me and the -- me, the mother and the two boys.

18 **Q** The two boys?

19 **A** Yes, ma'am.

20 **THE COURT:** Did he say they talked about this
21 in the testimony or did not talk about it in
22 testimony?

23 **MS. GOOD:** Part of this, Your Honor, is we are
24 saying that Mr. Locklair failed to present this
25 evidence during the trial.

1 **THE COURT:** Okay.

2 BY MS. GOOD:

3 **Q** And just to follow up on what I just spoke to
4 the Judge, these phone records were never brought
5 out during trial?

6 **A** Not to my knowledge, ma'am.

7 **Q** We discussed earlier that you never came up
8 with a defense or strategy for this case. Did you
9 speak about the phone records to Mr. Locklair?

10 **A** On numerous occasions, I told him to pull the
11 phone records. There's things, I mean, in there
12 because they kept claiming that I kept calling. And
13 I said, That's a lie because I -- I mean, they
14 called me 30, 40 times a day. And I told Robert
15 Madsen and him that over and over again.

16 **Q** So you did discuss it with Mr. Locklair?

17 **A** Yes, ma'am.

18 **Q** And, at some point, did you inform him what
19 theory you wanted to go through at trial regarding
20 the case?

21 **A** I think that just -- well, I have, but it never
22 got -- it never got to where -- the way I wanted to
23 it to go, because like I say, I'm no lawyer by no
24 means, but --

25 **Q** What theory did you discuss that you wanted to

1 go forward on?

2 **A** That she was just got scorned. She got cut
3 off.

4 **Q** What do you mean by cut off --

5 **A** And we was in --

6 **Q** -- because the Judge doesn't know the facts --

7 **A** -- an -- payment with the -- giving her money,
8 taking care of her.

9 **Q** So you're saying that you were giving money to
10 them --

11 **A** Yes, ma'am.

12 **Q** -- and that you cut them off and that's why?

13 **A** Yes, ma'am.

14 **Q** As we're talking about the mother of the victim
15 in this case testifying, what was her occupation?

16 **A** She was a stripper-combination-escort.

17 **Q** And were the two -- let me back up a little
18 bit. These two boys, what was your relationship to
19 them?

20 **A** I've been friends with their mom and their
21 grandparents and stuff pretty much all their life
22 and all mine.

23 **Q** And so you hung out with them a good bit
24 between the family and the boys?

25 **A** Pretty much they hung out with me a lot or they

1 would drop them off on me while they was going to
2 take care of their business.

3 Q And, to your knowledge, were the boys aware of
4 their mother's occupation?

5 A Yes, ma'am. She would bring them to the house.

6 Q Did Mr. Locklair ever go into this line of
7 questioning with the victims regarding their
8 knowledge of their mother's occupation?

9 A No, ma'am, not that I recall.

10 Q At some points with your conversations with
11 Mr. Locklair, did you discuss potentially testifying
12 at the trial?

13 A Yes, ma'am. I really wanted to testify, but,
14 you know, I mean, then, you know, you're scared, you
15 know, because -- I don't know. I don't know.

16 Q Well, when you discussed potentially testifying
17 at the trial, what did Mr. Locklair tell you about
18 your prior record?

19 A They'll probably bring it up to me.

20 Q And what was your prior record?

21 A I had a lewd act.

22 Q And what was your impression of what would be
23 brought up during a trial if you were to testify on
24 the stand regarding your prior record?

25 A If they would have brought the prior record up,

1 I'd be trashed.

2 Q Was it your impression that the words lewd act
3 would be used as your prior record?

4 A Yes, ma'am.

5 Q If you had known and been advised that
6 potentially only the fact that you were convicted of
7 a felony was put on the record, would you have
8 testified?

9 A I believe I would have testified because I want
10 -- I mean, I was raised on truth and being trustful
11 and stuff like that. I mean, on things like that,
12 it's a very delicate issue. And I was scared the
13 whole way around because of the people, the way they
14 brought stuff out, you know, and -- like, I'm scared
15 now.

16 Q If you would have testified that day, would you
17 have -- what would you have testified to regarding
18 whether you touched those boys or not?

19 A Well, nothing never happened like that. I
20 always treated them like my sons. I mean, I tried
21 to be there for them when their mama wasn't. And I
22 was there for them even though their mama wasn't,
23 but --

24 Q And would you have testified to when you
25 stopped giving their mother money?

1 **A** When me and her had a falling out.

2 **Q** And when was this falling out in relation to
3 when these allegations came about?

4 **A** I took up with another girl and she told me I
5 had to leave her alone.

6 **Q** About how long before these allegations came
7 did that occur?

8 **A** It took a while because she was trying to get
9 me in other areas and then --

10 **MR. WHITMIRE:** Objection; hearsay.

11 **MS. GOOD:** Your Honor, he's not testifying --

12 **THE COURT:** She asked about time. It's
13 overruled. Go ahead.

14 BY MS. GOOD:

15 **Q** How long before the allegations that you cut
16 the mother off?

17 **A** Probably about five months.

18 **Q** And between those five months of the
19 allegations, she was still trying to get you back in
20 her life?

21 **A** Yeah. She was trying to. She was wanting
22 money, that's all it was about, money. I knew it;
23 she knew it.

24 **Q** During the trial, do you recall Heather Smith
25 testifying regarding -- as being an expert in child

1 sexual abuse?

2 A Yes, ma'am, I do.

3 Q Do you recall if Mr. Locklair objected to this
4 testimony?

5 A No, ma'am, he didn't.

6 Q And after looking at the trial transcript, was
7 there anything that caused you concern about what
8 she testified to?

9 A She kept saying in her own opinion.

10 Q And did she make a comment that, Typically,
11 that would indicate to me there had not been a false
12 allegation made?

13 A Yes, ma'am.

14 Q Did Mr. Locklair object to that?

15 A No, ma'am.

16 Q And also, at some point prior to the trial,
17 when these allegations came about, was DSS involved?

18 A DSS, to my knowledge, did -- involved all the
19 kids' lives.

20 Q And did Mr. Locklair subpoena some DSS records
21 of the victims?

22 A To me before trial, not to my knowledge, no.

23 Q So he did not receive them before trial?

24 A No, ma'am.

25 Q When did the records get to him?

1 **A** I think it was two to three days into trial.

2 **Q** You're not aware of when he subpoenaed the
3 records?

4 **A** No, ma'am. I think the judge had to order to
5 get them.

6 **Q** And subsequently, as is on the record in the
7 trial transcript, these records indicated the victim
8 -- one of the victims had some mental illness issues
9 and had lied subsequently regarding the allegation?

10 **A** Yes, ma'am. That's the one that started the
11 allegation to begin with.

12 **Q** And was Mr. Locklair able to cross-examine the
13 witness on this subsequent false allegation?

14 **A** All the witnesses and stuff and alleged victims
15 has been -- or testified before we got a hold of
16 them. He would have had to have brought them back
17 up and go through it again with them.

18 **Q** And at some point, this trial came to an end
19 and there were some closing arguments. During the
20 closing arguments, were there any remarks that you
21 believed should have been objected to?

22 **A** Yes, ma'am. Pretty much four or five times the
23 Solicitor made really marks. See, there was
24 supposed to be the thing -- he called me from
25 everything under the book in front of the jury and

1 brought me down in front of the jury, I mean,
2 prejusticing {sic} me in front of everybody.

3 MS. GOOD: I'm going to hit a couple of them
4 real quick. If you'll give me some leeway a little
5 bit on the leading.

6 Q On page 356 of the transcript, did the
7 Solicitor make the comment, Is that something you
8 would do or is that something a child molester like
9 Scott Parker would do so they can all sleep
10 together?

11 A Yes, ma'am.

12 Q Did Mr. Locklair object to that?

13 A Yes -- no, ma'am.

14 Q Page 360 of the transcript, the Solicitor
15 stated, But if you think they are lying and you
16 don't believe them, find him not guilty, let him go.
17 The Masters Inn will always have a room available
18 with a single bed?

19 A Yes, ma'am, that's it.

20 Q Did Mr. Locklair object to that?

21 A No, ma'am, he didn't.

22 Q And just to give the Judge a little bit of
23 facts, is the Masters Inn where these allegations
24 were supposedly taken place?

25 A I was staying there at the time because my

1 motor home was getting worked --

2 Q And is that where the victims allege that these
3 incidents happened?

4 A Yes, ma'am. Some of them was at my -- in the
5 motor home. See, I work nights. And a lot of times
6 I'd leave them there because their mama would have
7 her friends come over and I rented a motel room for
8 me anyway, but I'd leave them there because I work
9 nights and a lot of times I worked during the day.

10 Q So that's what he's referring to to the Masters
11 Inn?

12 A Yes, ma'am.

13 Q And also on page 360, did the Solicitor state,
14 Twenty-five feet away from you sits a predator, a
15 child molester?

16 A Yes, ma'am.

17 Q And did Mr. Locklair object to that?

18 A No, ma'am.

19 Q Are you asking the Court today to overturn your
20 convictions based on those errors of Mr. Locklair's
21 failure to object --

22 A Yes, ma'am, because I believe that, through the
23 trial, I mean, it was -- I don't know. It seem like
24 it was going too quick. And I believe I was
25 prejudiced to do that because they was withhold --

1 not letting stuff come out in proper form and order.

2 Q And when you went through with your appeal,
3 were the issues that we just brought up able to be
4 appealed?

5 MR. WHITMIRE: Objection; relevance. The
6 witness is not qualified to give a legal opinion.

7 MS. GOOD: Were any of the -- we'll stipulate
8 to that, Your Honor.

9 THE COURT: Go ahead.

10 BY MS. GOOD:

11 Q Were any of the issues that we just brought up,
12 were they appealed?

13 A I think on the vouching I think, not on the --
14 no, they was on the --

15 THE COURT: Say that again.

16 THE WITNESS: I was thinking on the vouching,
17 but it wasn't. I was trying to think what they had
18 on the direct appeal. It was on the continuance and
19 the --

20 BY MS. GOOD:

21 Q But it wasn't on any of these issues that you
22 testified to?

23 A No, ma'am. It wasn't on any of them.

24 Q Is there anything else you would like to tell
25 the Court that we may have missed or skipped over?

1 **A** No, ma'am.

2 **MS. GOOD:** No further questions, Your Honor.

3 **THE COURT:** Cross.

4 **MR. WHITMIRE:** May it please the Court.

5 **THE COURT:** Yes.

6 CROSS-EXAMINATION

7 BY MR. WHITMIRE:

8 **Q** Mr. Parker, who represented you on your prior
9 lewd act conviction?

10 **A** Bill Rast.

11 **Q** So you're familiar with working with your
12 attorney?

13 **A** Not really.

14 **Q** Did you help Mr. Rast prepare a case?

15 **A** Sir, that case went on from, I think it was
16 1998 to the year 2006. That case was totally forgot
17 about, that I forgot about. I thought it was
18 handled and it was a misunderstanding, but it come
19 back and bit me in 2006. I went ahead and pled out.
20 I didn't want to contest it. I just wanted to get
21 out, but I messed up and made a mistake.

22 **Q** I'm not asking you about the merits of that
23 case; like you said, long gone. What I'm asking you
24 is did you provide any information on these victims
25 to either one of your attorneys?

1 **A** Information to any what victim?

2 **Q** Any information regarding their credibility,
3 their background?

4 **A** Well, that -- what do you mean on the -- can
5 you break it down for me a little bit?

6 **Q** You just previously testified that your version
7 of the facts were that -- was it MINOR 2 mother had a
8 grudge against you?

9 **A** Yeah. It turned out to be that way.

10 **Q** And as a result, MINOR 2 and his cousin had made
11 up these lies. That's your version --

12 **A** Well, I asked where it come from. It come from
13 MINOR 2 to start off with.

14 **Q** I'm asking is that your version?

15 **A** Hmm? Pretty much, yeah.

16 **Q** Your record reflects all that where it
17 originates?

18 **A** Uh-huh.

19 **Q** What I'm asking is did you give your attorneys
20 or attorney in this -- your last attorney any
21 information on these two victims?

22 **A** Well, Robert Madsen supposed to have had all
23 that to begin with. He was supposed to have turned
24 everything, he said he had everything, said he was
25 supposed to have turned it all over to Mr. Wesley

1 Locklair.

2 Q And Mr. Madsen had hired an investigator; is
3 that correct?

4 A Yes, Lee Connelly.

5 Q And that investigator continued to work with
6 Mr. Locklair?

7 A I don't know. I don't know about that.

8 Q How long had you known ^{MINOR 2} and, I believe, the
9 other victim in this case?

10 A Pretty much all their life.

11 Q Did you know about their DSS troubles?

12 A Hmm? Not off specifically, just off of what I
13 heard.

14 Q Now, did you tell your attorney any of this to
15 give him a lead to investigate?

16 A Robert Madsen, yes.

17 Q Did you go ahead and tell Mr. Locklair about
18 any of this?

19 A Well, if they had done a proper investigation,
20 they would have had that beforehand before trial.

21 Q How would they have had it?

22 A They got to apply for it.

23 Q What I'm asking you is what would have led them
24 to apply for the DSS materials? What information?

25 A The stuff that I gave Robert Madsen.

1 **Q** Because didn't the Solicitor discover about a
2 week prior to trial that there were some DSS issues?

3 **A** Probably it was after trial started. To my
4 recollection, it was in trial. I think it was the
5 second day.

6 **Q** Thank you, Mr. Parker. And do you recall your
7 attorney and the Solicitor saying, This has just
8 popped up; it was all in good faith? Do you recall
9 that?

10 **A** My lawyer said it just popped up.

11 **Q** What I'm asking you is if you had any
12 information that could have helped your attorney
13 investigate this earlier, why didn't you give it to
14 him or tell him about it?

15 **A** At the time, I didn't know and didn't
16 understand.

17 **MR. WHITMIRE:** Beg the Court's indulgence.

18 **THE COURT:** Yes, sir.

19 (Pause.)

20 BY MR. WHITMIRE:

21 **Q** And how long had you known the victims' mothers
22 in this case?

23 **A** We went to school together, one of us did; the
24 other one was younger.

25 **Q** Did you -- I'm sorry. I didn't mean to

1 interrupt you. Go ahead.

2 **A** Me and the older sister went to school
3 together; the other one was younger.

4 **Q** Did you provide Mr. Locklair anything to
5 investigate any information about them prior to
6 trial?

7 **A** Yes. He know all about them. I told him all
8 about them.

9 **Q** So you talked to him --

10 **A** Yeah.

11 **Q** -- about strategy and --

12 **A** No. We didn't talk about no strategy or
13 nothing like that, that was never brought up. He
14 says, it's their word against mine is pretty much
15 what it's going to be, open and shut.

16 **Q** And did he explain to you what information you
17 could tell him about that would help him make a good
18 case for you?

19 **A** Not right off the rit {phonetic}. The only
20 thing I know is I got offered, I think it was zero
21 to 15. And I said, I ain't taking a plea, going to
22 trial.

23 **Q** And Lance Anderson testified at trial he was a
24 drinking buddy of yours?

25 **A** No. He's not a drinking buddy of mine. He's a

1 friend of their side of the family.

2 Q Now, Lance Anderson also testified that he had
3 witnessed an altercation where ^{MINOR 2} told you to quit
4 touching him; is that correct?

5 A No.

6 Q What he testified to, not --

7 A What he testified to and did is a different
8 subject.

9 Q Now, did you have -- tell your attorney
10 anything about Mr. Anderson that would help your
11 attorney --

12 A I don't -- he's a drunk, you know. He's not
13 one of my drinking buddies as you say it is.

14 Q Well, that's what he testified to. I'm not --

15 A I can't have that --

16 Q I'm just telling you what's on the record,
17 that's it. I'm not trying to accuse you of
18 anything. I'm asking what did you do to help your
19 attorney in this case?

20 A I told him, I said, That's a drunk.

21 Q Did you know anything else about --

22 A He's homeless. He was living off -- he was
23 living off the people. The grandparents are the
24 people that rent a few mobile homes out and he does
25 a little work for them, so they give him a place to

1 stay. And if he didn't come up and say something,
2 they'll put him in the street, which they eventually
3 did after trial. And he's still a drunk.

4 Q Did you tell your attorney any of this?

5 A Yes, I did.

6 Q And these are these two times you met with him;
7 correct?

8 A Huh? No, that was during trial.

9 Q Do you ever -- that's another question. Did
10 you ever nudge him during trial and say, hey, will
11 you ask --

12 A I told him a few things during trial.

13 Q And did he do it?

14 A No.

15 Q Can you give examples of those?

16 A Huh?

17 Q Can you give examples of those?

18 A That was a good little while ago. That was
19 about five and a half years ago.

20 Q You gave a statement in this case; is that
21 correct?

22 A No.

23 Q To the police?

24 A No.

25 Q Did the police interview you when you were

1 arrested?

2 **A** They tried or they didn't try, they started
3 speculating is all they started. The only thing
4 they did is speculate.

5 **Q** And when Detective Lint testified that you told
6 him that there was a woman with you at the Master's
7 Inn, clear all of that up?

8 **A** That was the girlfriend I was -- that's one of
9 the girls I started running around with.

10 **Q** Now, did you tell your attorney who this woman
11 was?

12 **A** Huh? He knew who she was.

13 **Q** What's her name?

14 **A** Huh?

15 **Q** What's her name?

16 **A** Her name is Lisa.

17 **Q** Lisa what?

18 **A** Huh? Lisa, I'll leave it at that.

19 **Q** Did you give him any personal information that
20 would have helped him or the investigator track this
21 woman down?

22 **A** Well, he knew everything, everything that I
23 knew. And I told Robert Madsen everything that I
24 knew. He was called -- Wesley's a good lawyer and
25 he's a good attorney. He's dagblame good, but he

1 was pressured, under the gun. I mean, everything
2 went quick. Everything was awkward put it that way,
3 and it was for me and him, because it was my first
4 time ever going through trial, and I was scared, you
5 know, because I'm facing all this time for something
6 I ain't even did. And I got people like Lexington
7 County out there beating me down for something I
8 ain't did. See, that's what gets me upset.

9 **Q** What I'm asking you, you told the police that
10 there was a woman who would clear everything up, did
11 you tell your attorney her full name, her address
12 and her contact information?

13 **A** No, I didn't.

14 **Q** Do you think that would have helped?

15 **A** Nah, not really. Not the way they had it on
16 me, it wouldn't.

17 **Q** You're testifying today that you desired to
18 actually testify at your own trial?

19 **A** Yes, I would be.

20 **Q** Now, Judge McMahon decided that he would only
21 tell the jury that you were -- you had been
22 convicted of a felony; do you recall that?

23 **A** Huh?

24 **Q** Didn't Judge McMahon give you some time to talk
25 it over with your attorney before you made that

1 decision?

2 A Well, I figured the felony would bring up the
3 lewd act.

4 Q But didn't he specifically say on the record
5 that they could only refer to it as a felony?

6 A I don't remember that. It's been a while back.

7 Q Did you stop and ask your attorney when he gave
8 you this time, what the judge's ruling meant?

9 A What, when he give me 40 years?

10 Q No. When he was advising you of your right to
11 testify and what the jury would hear about your past
12 conviction.

13 A Well, the way the jury and them come up -- the
14 way the prosecutor was out chopping my head up, I
15 mean, you know, what am I supposed to do?

16 Q What I'm asking you is did you take the time to
17 ask your attorney what the judge's ruling meant when
18 he gave you time to think it over?

19 A I figured they was going to come up and bring
20 it up anyway.

21 Q And did your attorney talk to you about
22 potentially bad character evidence or opening the
23 door if you say the wrong thing?

24 A On who?

25 Q On you.

1 **A** On me saying the wrong thing?

2 **Q** Uh-huh.

3 **A** I ain't never said the wrong thing yet.

4 **MR. WHITMIRE:** Beg the Court's indulgence.

5 **THE COURT:** Yes, sir.

6 (Pause.)

7 BY MR. WHITMIRE:

8 **Q** And if I get this right, you're testifying that
9 you and Mr. Locklair talked about what issue would
10 hurt the credibility of the State's witnesses?

11 **A** Credibility of the State's witnesses?

12 **Q** Uh-huh.

13 **A** Well, he knew they were lying and I know they
14 were lying, that's it. Because, see --

15 **Q** I'm asking, y'all talked about that?

16 **A** It's pretty much hearsay, hearsay. Their word
17 against mine, what was mostly talked about.

18 **Q** He explained some of his strategy or the
19 methods he was going to take on cross-examining
20 these witnesses?

21 **A** It's their job or y'all's job to prove me
22 guilty is what they said.

23 **Q** Nothing else?

24 **A** That's it.

25 **Q** And you're saying you're innocent of this?

1 **A** Because it's -- it's base --

2 **Q** I'm asking you a question right now. You say
3 you're innocent of this?

4 **A** That's right.

5 **Q** You asked the judge for mercy in sentencing,
6 didn't you?

7 **A** Huh?

8 **Q** You asked the judge for mercy in sentencing,
9 didn't you?

10 **A** I didn't have a fair shake. That's why I'm
11 here now. If I was guilty, I would've took the
12 plea.

13 **Q** What was the name of the second victim in this
14 case? MINOR 1?

15 **A** Yeah.

16 **Q** Who was MINOR 1's mother?

17 **A** Angela.

18 **Q** When did you become aware that Angela was going
19 to testify that she saw you fondle MINOR 2

20 **A** She didn't saw me nothing.

21 **Q** But when did you become aware --

22 **A** I never heard of that.

23 **Q** It was just sprung on you?

24 **A** Right now as you said it.

25 **Q** No. That was in the trial transcript.

1 **A** No, it ain't, not the trial transcript I read.

2 **Q** Fondle -- pinch?

3 **A** Pinch?

4 **Q** Yeah, pinch his butt?

5 **A** I don't recall that.

6 **Q** So we have two witnesses who actually see
7 conduct on your part to these children. Did you and
8 your attorney talk about how important it was to
9 attack their credibility?

10 **A** You got it right. You've got two witnesses,
11 one's a drunk, can't see straight. He fall out,
12 passed out in the yard half the time. Then you got
13 another one a prostitute and a sister, so they burn
14 me down. Sure, you're going to come up with stuff.

15 **Q** But inevitably, when you were arrested, you
16 told the police?

17 **A** I ain't told the police --

18 **Q** Well, you told the police that there -- that
19 this woman named Lisa could clear it all up?

20 **A** Huh?

21 **Q** This woman named Lisa would clear it all up for
22 you.

23 **A** Then you'd be bringing somebody in it that done
24 nothing. It's not going to do nothing because they
25 already had their mind made up just like you do.

1 **MR. WHITMIRE:** No further questions, Your
2 Honor.

3 **THE COURT:** Who had their mind made up?

4 **MS. GOOD:** I think he's referring to the State,
5 Your Honor.

6 **THE WITNESS:** The State.

7 **THE COURT:** Go ahead.

8 **MS. GOOD:** Thank you, Your Honor.

9 REDIRECT EXAMINATION

10 BY MS. GOOD:

11 **Q** You said you did speak with Mr. Locklair about
12 the mom's phone records?

13 **A** Yes, ma'am.

14 **Q** And you told him about her occupation?

15 **A** Yes, ma'am.

16 **Q** You told him about the girlfriend, Lisa?

17 **A** Yes, ma'am.

18 **Q** And you ultimately became aware of DSS
19 information --

20 **A** Yes, ma'am.

21 **Q** -- and he was aware of it because he requested
22 it before the hearing -- or before the trial?

23 **A** Yes.

24 **Q** And Mr. Whitmire asked about Lance Anderson and
25 what he testified to. In fact, he never testified

1 that he saw you touching the boy, did he?

2 **A** No, ma'am.

3 **Q** In fact, he testified on page 245 --

4 **MS. GOOD:** Beg the Court's indulgence, Your
5 Honor.

6 **Q** -- When you saw them, did you ever see him
7 touching them inappropriately? And his answer was,
8 Maybe touched them on the shoulder or something,
9 that's about it.

10 **A** Yeah.

11 **Q** So he never testified anywhere during his
12 testimony that you touched them in a sexual manner?

13 **A** No, ma'am.

14 **Q** And in addition, Mr. Whitmire discussed that,
15 on the record, the judge told you he would only say
16 it was a felony if you were to testify. On page 345
17 of the transcript is where the judge spoke with you
18 regarding your rights about testifying; correct?

19 **A** Yes, ma'am.

20 **Q** And during those rights where it began -- and
21 he gave you time to talk to your attorney?

22 **A** Yes, ma'am.

23 **Q** And at no point did the judge say anything
24 about your prior record or what type of prior record
25 would come in, did he?

1 **A** No, ma'am.

2 **Q** Because it was never discussed on the record,
3 was it?

4 **A** No, ma'am.

5 **Q** You discussed it with Mr. Locklair?

6 **A** Yes, ma'am.

7 **Q** And it was your impression that the words --

8 **MR. WHITMIRE:** Objection; leading.

9 **THE COURT:** Don't lead.

10 BY MS. GOOD:

11 **Q** What was your impression of what would have
12 been brought in regarding your prior record if --

13 **A** I understand that they said it was going to be
14 a felony, but I understand too that they were going
15 to bring the charges up. The felony is the charge,
16 it's a lewd act. And, see, the Solicitor was
17 busting around all over the place on me and, you
18 know, and just setting me up.

19 **Q** So you thought the facts of your felony would
20 be brought in --

21 **A** Yes, ma'am, I do believe that.

22 **Q** And that's why you decided not to testify?

23 **A** Yes, ma'am.

24 **Q** And Mr. Whitmire said during sentencing, you
25 asked for mercy. At any point did you say, I'm

1 sorry, I did this?

2 **A** No, ma'am.

3 **Q** At any point did you admit guilt to this?

4 **A** No, ma'am.

5 **Q** You just asked the court to give you some mercy
6 when sentencing you because you had just been
7 convicted?

8 **A** Yes, ma'am.

9 **Q** Okay. And you had two meetings prior to your
10 trial for a CSC with a minor second degree with
11 Mr. Locklair?

12 **A** Yes, ma'am.

13 **Q** For a total of about one hour?

14 **A** Yes, ma'am.

15 **Q** And at that point, y'all never discussed
16 strategy; correct?

17 **A** No, ma'am.

18 **Q** But you had told him all the things you wanted
19 him to look into?

20 **A** Yes, ma'am.

21 **Q** And did any of those things come out during the
22 trial?

23 **A** No, ma'am.

24 **MS. GOOD:** No further questions, Your Honor.

25 **THE COURT:** Recross.

1 **MR. WHITMIRE:** None, Your Honor.

2 **THE COURT:** Thank you, sir. You may step down.

3 **THE WITNESS:** Thank you, Your Honor.

4 **MS. GOOD:** No further witnesses, Your Honor.

5 **THE COURT:** Thank you.

6 **MR. WHITMIRE:** May it please the Court.

7 Respondent calls Mr. Locklair to the stand.

8 JOHN WESLEY LOCKLAIR, III,

9 having been duly sworn, testified as follows:

10 **THE CLERK:** Have a seat, please.

11 DIRECT EXAMINATION

12 BY MR. WHITMIRE:

13 **Q** Good afternoon, Mr. Locklair. What is your
14 experience or how many general sessions trials have
15 you taken to try -- taken to trial?

16 **A** I'd say general sessions trials, roughly 15 to
17 20, and then probably another seven or eight federal
18 trials, and then a bunch of other, you know, lesser
19 than general sessions trials and common plea trials
20 and things of that nature.

21 **Q** Have you had a chance to review your file in
22 this case?

23 **A** Yes, sir.

24 **Q** Do you recall your representation in this
25 matter?

1 **A** Yes, I do.

2 **Q** What were the circumstances surrounding your
3 substitution on this case?

4 **A** I got into the case rather late. Rob Madsen
5 had called me and actually asked me to take it as a
6 conflict because it was, you know, a higher felony,
7 a more major felony. Apparently, there was a
8 conflict where the, I believe it was the public
9 defender's office may have had some representation
10 issues with one of the victims or the victims'
11 families in the past. But it got conflicted out
12 rather late in the case, you know, well after they
13 had done discovery, Rob had hired an investigator,
14 because the case was pretty far along before the
15 conflict was discovered, I guess.

16 **Q** Now, roughly how much time are we talking about
17 from your appointment to trial?

18 **A** About five months roughly. It wasn't that long
19 of a time because the case was older when I got it.

20 **Q** Have you tried cases under similar
21 circumstances in the past?

22 **A** Yes. My first ever trial was in federal court
23 in front of Judge Shedd three weeks after I got
24 sworn into the Bar.

25 **Q** Now, what procedures did you take to get caught

1 up on this case really fast?

2 **A** Basically, what I did right away when I got it
3 was I initially reviewed the notes that Rob had
4 given me. He gave me their handwritten notes, as
5 well as the initial intake sheet that the Lexington
6 County Public Defender uses. And in that, you know,
7 they go through the details of the incident.

8 So when I initially got the file, I had,
9 obviously it's hearsay, but what they say Mr. Parker
10 had said and then I also had the rest of the
11 statements that had been taken from the alleged
12 victim and the mother, along with some reports from
13 Lee Connelly with Info Inc., she's a private
14 investigator that Rob had hired, and so a lot of her
15 reports. She had gotten some witnesses to --

16 **Q** Are you familiar with Ms. Connelly?

17 **A** Yes. Ms. Connelly actually used to be a
18 paralegal of mine and Debra Chapman's when I was
19 working with Debra Chapman back in the late 90s,
20 from like 1998 until about 2000, prior to moving to
21 Horry County. Ms. Connelly had worked with us
22 before going to work for an investigator to earn her
23 investigator's license.

24 **Q** How much time did you spend evaluating Rob's
25 file prior to speaking with Mr. Parker?

1 **A** It probably took me about an hour, hour and a
2 half to go through everything. It wasn't a huge
3 file, you know, but the main thing was there were a
4 lot of witness statements in it. And then obviously
5 I had a bunch of the notes from Ms. Connelly where
6 she'd already gone, you know, and spoken with some
7 of the potential witnesses and evaluated them way
8 back in July of -- in early -- later in 2009,
9 investigation that she had done, you know, given
10 synopses of what people would testify to, potential
11 impeachment evidence, things of that nature.

12 **Q** What was your impression of the State's case
13 based on your view of the file as you inherited it?

14 **A** I thought they had a very strong case, there
15 being two witnesses, their two victims being two
16 different locations, their stories matched up.
17 There were a lot of issues with it. So I actually
18 thought they had a strong case, especially the fact
19 that the boys were older and were willing to come in
20 and testify, which in a lot of these cases, the
21 victims back out.

22 In a lot of the cases that I've seen, the one
23 -- the CSC cases that I've had, it tends to be that
24 male victims back down more than a female victim
25 just because of the stigma that comes from the

1 homosexuality of it not just the rape part of it.
2 But it was very evident that these two kids were
3 going to go forward, they were going to come and
4 testify, that they weren't going to back down, and
5 that was evident through their statements, through
6 the discovery Lee had in talking with their parents
7 and other people in her investigation and in having
8 talked with Rob.

9 **Q** How many times did you meet with Rob when you
10 took on this case?

11 **A** We only met in person one time. We talked
12 about it on the phone several times, you know,
13 different times to get me caught up to speed, then
14 actually I even spoke to him right before trial, you
15 know, just talking to him about some, you know, what
16 kind of advice you got, is there something you saw
17 that I didn't. Since he had worked on the case, you
18 know, I figured two minds are better than one, but
19 there wasn't any sort of huge, you know, insight or
20 something I had missed that, you know, he thought
21 would, you know, be groundbreaking or ring the bell.

22 **Q** Based on the file you got, did you have any
23 reason at all to investigate DSS matters on your
24 own?

25 **A** Well, it actually wasn't a DSS matter; it was a

1 DJJ matter. And there's no way for me to
2 investigate that because those records are sealed.
3 I would not have had access to them. Without
4 knowing that he had been charged, I wouldn't have
5 even known to request them. But, you know, I mean,
6 fortunately, we did get them, but I had no way to
7 know ahead of time. You know, it wasn't something I
8 was informed of, you know.

9 And obviously we had to get the judge to order
10 the records to be unsealed, then we had to go to
11 family court to have another hearing, an emergency
12 hearing, to get them unsealed by the family court
13 judge because, technically, the general sessions
14 judge -- the family court judge believed the general
15 sessions judge didn't have the jurisdiction to do
16 that, so the family court judge held their own
17 hearing to unseal the records.

18 Q And how were these records of this matter, how
19 was it disclosed to you?

20 A Shawn Graham had brought it to up to me, and I
21 think it was either right before trial or right when
22 the trial had started, but he basically brought it
23 up and said, look, you know, we just found this out;
24 it's something we had missed. And they actually
25 provided me with a copy of his entire psychological

1 evaluation and everything, which is what they do
2 when you go -- in family court when you're
3 adjudicated delinquent, they do either a community
4 evaluation or an evaluation in the Reception and
5 Evaluation Center for juveniles. In this particular
6 case, the child was given a community evaluation.

7 Q Was there anything in the file to tip off a
8 woman named Lisa with your client at the Master's
9 Inn when some of these incidents happened?

10 A No. And, in fact, I believe that the manager
11 of the Master's Inn, who was always there, when we
12 had talked to him, it was either me or Lee had
13 talked to him, he said he'd never seen him with a
14 woman there, that he was with his kids. He'd
15 represented them as his sons, I believe, is what he
16 called them.

17 Q Did he ever talk about this woman?

18 A Not that I can recall. I mean, and I think I
19 would have recalled that if he had, you know, an
20 alibi witness for any of these times or, you know,
21 something like that, I certainly would have
22 remembered that. And, obviously, with an alibi
23 witness, I would have had to give the State notice,
24 at least, you know, the ten-day notice.

25 Q Do you recall -- I mean, did you have a chance

1 to review his statement he gave to the police upon
2 his arrest?

3 **A** Yes.

4 **Q** Briefly describe the substance of that
5 statement.

6 **A** I'd have to flip back through it, but, I mean,
7 a lot of it was denial. I went through them all.
8 I'll have to find his particular one, but -- and
9 part of it is because I -- the main thing, I'd
10 reviewed my notes and Rob's notes and then that, I'm
11 trying not to confuse which was in which.

12 Sorry, I don't have his statement tabbed in
13 here, so it's going to take me a second.

14 **Q** One moment.

15 **MR. WHITMIRE:** Your Honor, I'm referring to
16 page 209 when it was presented at trial in the
17 transcript.

18 **A** I mean, I remember basically, you know, I mean,
19 he was obviously in denial about anything having
20 occurred, and he kept that up all the way through
21 trial. I mean, you know, he maintained his
22 innocence the whole time.

23 **Q** Did he mention a woman in his statement?
24 Direct your attention to page 209 of the transcript.

25 **A** Yes, he did. Yeah. And he said he refused to

1 give the information to Detective Lint.

2 Q Did you ever discuss any of this with him?

3 A We'd gone over potential witnesses and I think
4 he was the same way. He never had a last name for
5 her or an address, but I really don't recall
6 specifics on that, but I know that I was never given
7 a last name or an address or any way to get that
8 witness. And I know that Ms. Connelly never talked
9 to her either under Rob. Like, she was never able
10 to locate her either based on information she had.

11 And plus, to be honest, when there's a case
12 where there's multiple incidents, it's -- a lot of
13 times the defendant thinks I can bring in this one
14 witness. Even if we had found her, which, you know,
15 we didn't know about, I don't think it would have
16 helped because there were so many instances of
17 conduct that there's -- it's almost an impossibility
18 of fact that she would have been a witness to all of
19 them. I mean, we know for a fact that she was not
20 there when a bunch of the incidents occurred based
21 on, you know, the testimony of the manager at the
22 hotel saying that, you know, they were the only ones
23 there, unless she had snuck in or something, but.

24 Q Did you share your impression of the State's
25 witness with Mr. Parker?

1 **A** I did. We went over -- when I went over all
2 the evidence with him when I met him the first time,
3 he'd actually already seen the discovery or been
4 over the discovery with Rob. A lot of the discovery
5 came out in middle to late '09. In fact, Rob had
6 filed his motion on December 20th of '09, is when he
7 first filed for his discovery. So a lot of this Rob
8 had said he'd already gone over with him, you know,
9 statements and things of that nature.

10 I mean, it'd progressed enough into the case
11 that Lee had already -- Lee Connelly, the private
12 investigator, had already spoken to almost everybody
13 that needed to be spoken with by the time I even got
14 the case.

15 **Q** Did you make yourself available to Mr. Parker
16 to meet prior to trial?

17 **A** Yes.

18 **Q** Did he ever reach out to you and ask for
19 additional consultations?

20 **A** He never said anything additional, and I felt I
21 gave him enough time. I mean, it was a case where,
22 I mean, even though it's a serious charge,
23 everything was there, you know, it was like the
24 investigation's been done by Rob, so I can follow up
25 on that with Lee, you know, the State's provided all

1 the evidence other than the DJJ stuff that we
2 subsequently got. But even though it's serious
3 charges, it was sort of like, here's what you got
4 and this is, you know, what you got to deal with.

5 Q A credibility case?

6 A Yeah. It's what really it was going to boil
7 down to in trial was credibility. And my strategy
8 was trying to, you know, discredit the victims as
9 much as I could, but then to try and contradict them
10 on statements as to time and place when things
11 occurred.

12 Q Who was the best person to give you information
13 regarding the credibility of state -- witnesses,
14 particularly the victims and their mothers?

15 A Scott Parker.

16 Q Did you explain this to Mr. Parker?

17 A Yeah. He was fully aware because, I mean, he
18 had given some information. He had, at one point,
19 talked about, I think it was ^{MINOR 2} allege -- one of
20 his theories was that ^{MINOR 2} told his mother that ^{MINOR 2}
21 was having sex with his sister and when ^{MINOR 2} got
22 caught, that they got in trouble. And he thinks he
23 told the detective this because he was scared, and
24 said the same thing happened with Scott. And I --
25 we couldn't find anything out about that. We looked

1 into that, but I have no proof that he'd ever had
2 sex with his sister or been charged with having sex
3 with his sister.

4 **Q** Were you able to formulate a defense theory to
5 attack credibility?

6 **A** It wasn't like a direct theory because it's
7 hard to come out and say, you know, these two guys,
8 you know, colluded to try and do this. It was just
9 more of a thing of, you know, family histories
10 together, that their past of being friends and kind
11 of the -- I didn't want to bring up the fact that
12 they had heard, you know, everybody knew that he had
13 been charged and basically convicted of, you know,
14 molesting a child before.

15 **Q** That's actually another question I wanted to
16 ask you. How did his prior lewd act charge affect
17 your ability to present his case?

18 **A** It hurt a lot because even if he'd testify, you
19 know, and just come out that it's a felony, most
20 often in those cases, you know, the Solicitor's
21 going to ask a question to set the defendant up to
22 open the door. And, you know, once you get into,
23 well, I wouldn't do something like this, it's not in
24 my character, you know, everybody knows I'm not this
25 kind of guy, well, then all of a sudden, boom, the

1 door is wide open. And I explained to him about how
2 it would work that, you know, if a judge rules that
3 they can only bring up that it's a felony and that's
4 the judge's ruling, that's only if you don't open
5 the door for other, you know, other character
6 evidence to come in.

7 Q Did y'all talk about this prior to trial?

8 A Yes.

9 Q What was his desire or did he desire to
10 testify?

11 A No. My recollection, he didn't want to testify
12 and it wasn't really an argument about testifying.
13 I think, in fact, that he had talked about, if I
14 recall correctly, about how the fact, you know, he
15 was scared and nervous, and that stuff too played
16 into it. But I can't recall him ever, ever
17 considering testifying.

18 Q I believe Mr. Parker also referenced a plea
19 deal on the table. Were there plea negotiations?

20 A There were. We had talked a little bit about
21 it. And they had -- initially, they agreed to offer
22 a cap, I think, because of the age of the case and
23 some things. And normally, like I said, in
24 Lexington, they don't like to do deals. It's very
25 rare to get a recommendation. But in a case like

1 this, I think Shawn's position was, you know,
2 especially having two young men having to relive the
3 incident through the stand, they decided to go ahead
4 and make an offer.

5 And I also think they made the offer knowing
6 that once it was done, most likely he would be --
7 try to -- the State would probably, in the end, try
8 to commit him as a sexually violent predator based
9 on his other conviction too. So I think that might
10 have played in the prosecutor's mind, but obviously
11 he never said that, but.

12 **Q** Mr. Parker testified about the phone records.
13 Did you obtain any phone records that would have
14 impeached the victims?

15 **A** No. Lee Connelly got a bunch of different
16 phone records. We tried -- we got his and some
17 other ones, but I didn't see anything there that was
18 going to directly impeach their credibility because
19 both parties had had contact with each other. And I
20 also didn't think the strategy would be good of
21 trying to say, basically, well, they deserved to get
22 raped because they called him all the time, you
23 know. That's how I thought it would play to the
24 jury, you know, they were asking for it, and that
25 just -- to me, that just seemed like a bad strategy,

1 you know.

2 I don't care if the kids, you know, as an adult
3 -- in my opinion, for a jury, I don't care if the
4 kids call you a million times, you're the adult,
5 they're children, there's different standards, and I
6 think that would have negatively affected the jury
7 had I tried to play it off. I think it would have
8 come across as they were asking for it would have --
9 how my defense would have come across if I'd focused
10 on those records.

11 **Q** Did Mr. Parker ever whisper in your ear or
12 relay information to you during the trial regarding
13 how you're asking questions?

14 **A** I recall, you know, he would, you know, talk to
15 me during trial. I don't remember specifics about
16 anything that he told me to ask or not ask or
17 anything of that nature, but, obviously, if my
18 client tells me they want something asked and I
19 think it's relevant and pertinent and not going to
20 hurt them, I'll ask it. But, obviously, I don't
21 just ask something because my client wants me to ask
22 it.

23 **Q** I believe he testified today that he desired
24 that you cross-examine the victims on their mothers,
25 I believe, stripping. Would that have been a good

1 trial strategy?

2 **A** I don't think so, and I think the judge would
3 have probably ruled it to be irrelevant too. But,
4 in my opinion, just trying to -- when you try to
5 trash the victims too much, it can hurt you,
6 especially when the mothers weren't on trial, their
7 credibility wasn't on trial. The fact of saying
8 that they knew about sex because their mom was a
9 stripper, well, I mean, I hate to say it, but I want
10 to say every ten-year-old boy in the world knows
11 about sex. I mean, it's how the world works. So
12 it's not like because their mom's a stripper, they
13 know how sexual intercourse occurs.

14 **Q** How did the victims' testimonies come across at
15 trial?

16 **A** They actually came across as really credible.
17 And, you know, I mean, they -- they had a good
18 presence about them as far as, you know, being
19 well-spoken young men, but they also had that little
20 bit of emotion playing into it too, that they came
21 across as very credible witnesses.

22 **Q** Did you discuss the State's witness list with
23 Mr. Parker prior to trial?

24 **A** Yeah. We discussed it because when we had gone
25 over other people, obviously, about, you know, who

1 was going to testify and things about them and, you
2 know, like, with the mothers, you know, we had
3 talked to them and tried to get information and
4 background on them. So we pretty much knew who was
5 going to testify, obviously, other than the expert,
6 we didn't go into details about that because that's
7 obviously out of his realm, and, you know, about --
8 he didn't know the expert, so it's not like he could
9 say cross-examine the expert on this, you know.

10 Q Did y'all talk about State's witness, Lance
11 Anderson, what he could potentially testify to?

12 A I don't recall if we discussed him specifically
13 or not. I don't believe that we ever did.

14 Q Do you recall State's expert, Heather Smith,
15 her testimony?

16 A Yes.

17 Q Can you describe your reaction to her testimony
18 as part of -- in part of your case?

19 A I mean, obviously, any time those witnesses
20 come in, they hurt your case. And, obviously, our
21 appellate courts are doing something about that.
22 I've always had a problem with that before they even
23 issued that opinion. But, you know, I just tried to
24 get out from her that, you know, that there could be
25 some inconsistencies in stories, that not everybody

1 always tells the truth.

2 But it was a catch-22 because back at the time,
3 you know, I guess, and I was wrong and other lawyers
4 were wrong too to think that their opinions about
5 the truth would always come out in trial. You know,
6 as an expert, they always know how to insert their
7 opinion.

8 Q Did Ms. Smith ever interview or meet with the
9 two victims in this case?

10 A I think all she did was look at all the records
11 and stuff, and she might have talked to the parents.
12 I can't recall on that if she talked to Ms. Finney
13 or not.

14 Q And did she provide any testimony that was
15 actually beneficial to you?

16 A Yes, she did. I mean, she talked about needing
17 to meet with them and I think some inconsistencies
18 and some other things. I mean, I think I got out as
19 much beneficial stuff from her as I could without
20 giving her the chance to hurt us too much.

21 Because the problem as a trial lawyer with an
22 expert is they are an expert. They are smart.
23 They're not your average lay witness that, to be
24 quite honest, most of the time you can run over and
25 bully around because they're scared out of their

1 mind being on the witness stand. The expert's been
2 on the witness stand. They're comfortable. They
3 understand their material very well because they are
4 an expert and they obviously have good
5 qualifications for a judge to allow them to be an
6 expert.

7 So I just think you got to tread lightly when
8 dealing with them because you open too many doors.
9 They -- they're trained to rehash the points that
10 they want to get rehashed in front of the jury.

11 Q During your cross-examination, were you able to
12 get out any examples of situations that would make a
13 child more prone to giving a false disclosure?

14 A I think there were. I don't recall the pages,
15 but I think there were some things that would say
16 that, you know, children were more likely to give
17 false disclosures. I think it has something to do
18 with their history and things of the nature.

19 Q History recantation?

20 A Right, that's what it was.

21 Q Was that applicable in this case?

22 A Yes.

23 Q And were you able -- what else did you do
24 regarding Ms. Smith in your closing argument? How
25 do you mention her testimony?

1 **A** I mean, I tried to mention the stuff that
2 played in our favor, you know, to show that, you
3 know, that not that, you know, like that she hadn't
4 met with them, you know, that -- I basically tried
5 to get the jury to see that, look, while she's an
6 expert on the subject, she's not an expert on this
7 case, she's not an expert on these particular
8 victims, and she didn't do a good enough, you know,
9 forensic evaluation to be able to come in here and
10 testify to what happened.

11 **Q** Did you have any reason to object to her
12 qualifications to testify to a delayed disclosure
13 generically?

14 **A** No, no reason to testify {sic}. I mean, she
15 seemed qualified. Obviously, in hindsight, you
16 know, I wish I would have objected saying she can't
17 go to the truth, but she never did that, so it
18 didn't matter, but -- but in light of what the Court
19 of Appeals said, obviously, that was, you know,
20 we're supposed to watch out for that, but.

21 **Q** She wasn't a forensic interviewer?

22 **A** No. Huh-huh.

23 **Q** Regarding the State's closing, what is your
24 general practice and procedure in making objections
25 during an attorney's argument?

1 **A** I generally try not to object and mainly that's
2 due to you don't want to draw attention to something
3 they say. It makes a jury think you're scared of it
4 in my opinion, but I do try to look out for, you
5 know, blatant misstatements of the law or
6 misstatements of fact. But, obviously, the
7 Solicitor is always going to use salacious words
8 and, and certain things that try to play on the
9 passion of the jury without playing on the passion
10 of the jury.

11 I mean, every lawyer does it. If they say they
12 don't, then they haven't had a very successful trial
13 career. There's a gray line you got to dance on as
14 far as what's playing on their passion and what
15 isn't, but if you can't connect with a juror, it's a
16 hard thing. So it's -- some of the comments that
17 they made in hindsight, maybe I should have objected
18 to, but I don't think that they -- I think they were
19 what a judge would probably find harmless error. I
20 know that's not my job to find, but that they -- in
21 the grander scheme of things, I think the objection
22 would have hurt me more than not objecting and
23 letting the stuff come in.

24 **Q** Just one or two more questions. If Mr. Parker
25 had told you about some of the past juvenile issues

1 with MINOR 2 would you have moved for those DSS
2 records independently or DJJ records?

3 A Oh, yeah, yeah. I definitely would have wanted
4 -- got those independently had I known, but, I mean,
5 I don't even know if he knew about it at the time,
6 you know, he'd been through it.

7 MR. WHITMIRE: Beg the Court's indulgence.

8 (Pause.)

9 Q Just two more questions. You tried this case
10 to the best of your ability?

11 A Oh, yes. There were several personnel in the
12 courtroom afterwards who told me they thought he was
13 going to walk.

14 Q And did you have enough time to be effective in
15 this case?

16 A Yeah. I had more than enough time to prepare.
17 Time wasn't an issue.

18 MR. WHITMIRE: No further questions. Please
19 answer any questions opposing counsel has for you.
20 Thank you, Mr. Locklair.

21 THE WITNESS: You're welcome.

22 CROSS-EXAMINATION

23 BY MS. GOOD:

24 Q You said you received Rob's notes when
25 everything came to you. Were phone records included

1 in that?

2 **A** Some of them were and then some of them came
3 afterwards from Lee. And I can't recall which were
4 which because I ended up having to pay part of the
5 bill for those since I was appointed even though he
6 had hired her because the work came under my
7 employment.

8 **Q** And you just testified that you didn't go into
9 those phone records at trial because you didn't want
10 to go after the victims calling him multiple times
11 saying they were walking into getting raped. But,
12 in fact, did you look at the phone records to see if
13 they continued to call him after the allegations
14 were made?

15 **A** Yeah, there were calls afterwards.

16 **Q** From the victims?

17 **A** Uh-huh.

18 **Q** And from the mother?

19 **A** Yeah.

20 **Q** And you didn't think it was pertinent to use
21 those during the trial when the mother testified
22 that he continued to call them?

23 **A** Well, I think there were records showing he had
24 called them, but, I mean, I didn't think it was a
25 strategy thing. I didn't think it was something I

1 wanted to bring up because most of the time in these
2 cases, the victims are made to feel friendly with
3 the person, so, of course, they're going to continue
4 the relationship afterwards. I mean, that's why, if
5 it did occur, they kept going over there after they
6 got raped.

7 I mean, you know, they -- the psychology of a
8 child molester slash rapist and a child victim are
9 very different than the normal psychology of anybody
10 else that we can imagine in our minds because you
11 would think, why would this child ever go back there
12 again if he was raped? Well, you can't think -- we
13 can't think that way because we've never been in
14 that situation.

15 **Q** But you're not a child psychologist, are you?

16 **A** No, I'm not, certainly not.

17 **Q** And you just thought it was not pertinent, in
18 your opinion, to use the records?

19 **A** Correct. In my trial strategy, I felt the best
20 trial strategy as his trial lawyer to win his trial
21 was not to bring in the phone records.

22 **Q** And how many times did you meet with Mr. Parker
23 before the trial?

24 **A** It was two or three.

25 **Q** In total, how much time do you think you spent

1 with him?

2 **A** Maybe a couple hours, I mean, because when I
3 went over the discovery with him the first time, he
4 said he already, you know, seen it and gone over it
5 with Rob. We went over it some more. I mean, there
6 wasn't -- unfortunately, I'm not a big hand holder
7 with my clients. It's, you know, let's go and get
8 it done, and, you know, we were ready. I mean,
9 there wasn't anything else that I felt I needed to
10 go forward at trial.

11 **Q** And you said you made yourself available to
12 meet with Mr. Parker. He was in jail the entire
13 time; correct?

14 **A** Correct.

15 **Q** And where was your office at that time?

16 **A** 2007 Lincoln Street.

17 **Q** Were you in Myrtle Beach?

18 **A** I have two offices.

19 **Q** How often were you in Myrtle Beach versus
20 Columbia?

21 **A** It would depend on when I had court, but my
22 main office is 2007 Lincoln Street, and that's been
23 my main office since February 1st of 2010.

24 **Q** And you said you probably met with him a couple
25 hours?

1 **A** Uh-huh.

2 **Q** During the time --

3 **A** And we take -- just to interject -- we collect
4 -- take -- accept calls at that office, which he had
5 the card, 254-9007, and we have an answering service
6 24/7. So it's not hard to get me.

7 **Q** You said this came down to a credibility case.
8 At what point did you try to discredit the victims?

9 **A** Well, I mean, during the trial, I just tried to
10 make out questions about, you know, where they were,
11 their locations as far as the trailer or the camper,
12 and just some other little things, but there wasn't
13 a lot to discredit them on unfortunately.

14 **Q** At this time when they testified, how old were
15 the alleged victims?

16 **A** I want to say around 16 to 18.

17 **Q** So they were in their later teens? They were
18 no longer --

19 **A** Yeah, they were young men.

20 **Q** -- ten year olds?

21 **A** No, no, no. They were young -- they were on
22 the verge of adulthood.

23 **Q** And in order to discredit them, you decided not
24 to use the phone records, correct?

25 **A** I didn't think --

1 **MR. WHITMIRE:** Objection; asked and answered.

2 **THE COURT:** Overruled --

3 **THE WITNESS:** Yeah, I didn't see a need to use
4 the phone records.

5 BY MS. GOOD:

6 **Q** And you also did not try to discredit them when
7 it came to their prior sexual knowledge, correct,
8 regarding their mother's occupation?

9 **A** Well, could -- I know I'm not allowed to ask
10 questions, but if you could explain to me how I
11 discredit somebody with prior sexual knowledge. I'm
12 not sure how you do that at trial.

13 **Q** Under the rules with victims in sexual abuse
14 cases, you're not allowed to go into their prior
15 sexual activity; correct?

16 **A** Uh-huh.

17 **Q** Is there not an exception to those rules that
18 you can go into prior knowledge of sexual -- just to
19 show that a particular child at a particular age who
20 might not know about sexual acts where they could
21 potentially get that information from?

22 **A** And how would that discredit them?

23 **Q** It would show sexual knowledge that -- of how
24 they could make a potential false allegation?

25 **A** I completely disagree with you. I don't think

1 it would discredit them at all. I think every 10 or
2 11-year-old boy knows about sex and I don't think
3 that would have gone to their credibility
4 whatsoever.

5 **Q** So if I told you my child has no idea about it,
6 would you agree that --

7 **MR. WHITMIRE:** Objection.

8 **THE WITNESS:** I was your child, I'd say you're
9 probably naive thinking that. You need to sit your
10 child down if he's ten years old and talk to him.
11 It's a naughty world out there.

12 BY MS. GOOD:

13 **Q** The prior -- when you were discussing
14 testifying with Mr. Parker, what was your discussion
15 with him -- I guess the judge asked, Would you like
16 to have a discussion with your attorney off the
17 record? What was your discussion with him regarding
18 his testimony, whether he would testify?

19 **A** I don't remember the specifics, but I'm sure I
20 went over the fact, you know, that my general spill
21 would start off with is you have a right to testify;
22 you have a right not to testify, it's solely your
23 decision; should you choose not to testify, the
24 judge will instruct the jury that your not
25 testifying could not be construed against you in any

1 way or held against you in any way; that the judge
2 is going to bring you back in front of him and ask
3 you some questions. And I probably went over, I
4 said, about his prior conviction and talked to him
5 about what's called opening the door for character
6 evidence and how easily the door could be opened to
7 get the lewd act in.

8 Q And was it your impression after speaking with
9 him that he thought all those facts, the lewd act,
10 would probably come into play?

11 A I don't know what he thought to be honest. I
12 know he didn't want to testify, but you'd have to
13 ask him what he thought.

14 Q That was after you told him that the facts
15 could potentially come in if --

16 A Well, he didn't want to testify from day one is
17 my impression.

18 Q The DJJ records, can you explain to me again
19 how they came about?

20 A Yeah. The prosecutor came to me and said that
21 apparently one of the victims had had some
22 involvement with DJJ. They had just discovered it,
23 that they weren't trying to hide anything and let's
24 go to the judge and let him know and see if we can
25 get them.

1 Q And how far before the trial did that happen?

2 A To be honest, I can't tell you. It was right,
3 I mean, it was at trial. It might have even been in
4 the trial that we actually went to family court. I
5 mean, I know we were up here at least doing motions
6 or jury hearings. I mean, I was at the courthouse
7 and I think we had already started the trial.

8 Q And you did request a continuance; correct?

9 A Yes.

10 Q And that was one of the basis for the appeals
11 -- for the appeal?

12 A I didn't do the appeal, so I have no idea what
13 the appeal had in it.

14 Q These DJJ records, in a typical investigation
15 where Lee Connelly works for you, is this something
16 she normally finds out for you?

17 A No, because there's no way to find it out. I
18 mean, you can't just -- they're sealed records. I
19 mean, it's -- in fact, I think the order on these
20 actually said they were unsealed only for trial.

21 Q And you said you did have a discussion with
22 Mr. Parker regarding Lisa?

23 A I believe so, yeah, early on.

24 Q Regarding Heather Smith, you were testifying
25 that you didn't believe she made any statements

1 regarding whether the child was telling the truth;
2 correct?

3 **A** I said I couldn't recall, yeah.

4 **Q** On page 344, she testified, after given a
5 question of basically the facts of this case of what
6 had occurred up till that point, and I'll read the
7 question -- But once that reason or the fear of
8 being in trouble is removed, what, if any, reasons
9 would you be aware of that an adolescent male would
10 continue to make those allegations and continue to
11 confirm his story for over a year and a half and
12 actually appear in court and testify? -- and her
13 response was -- Typically, that would indicate to me
14 that there had not been a false allegation made.
15 Correct?

16 **A** Correct.

17 **Q** And in your opinion is that not a testimony as
18 to the credibility of the victim in this case is
19 that there had not been a false allegation made?

20 **A** In hindsight, I would say, yes, it is. It goes
21 to credibility.

22 **Q** And you didn't object to that?

23 **A** No, I did not.

24 **Q** And, finally, regarding closing arguments in
25 this case, you stated that typically you try not to

1 object just because you don't want to draw more
2 attention to it; correct?

3 **A** Correct.

4 **Q** At what point do you object once so many
5 particular statements are thrown into the mix?

6 **A** I don't have any standard rule for that. It's
7 -- as a trial lawyer, a lot of trials, there -- I'm
8 sure -- because you know from doing PCRs and other
9 trials, you know, they happen quickly, so there's no
10 sort of standard rule. It's like -- it's sort of
11 like a gut instinct what's enough to kind of cross
12 the line, but there's really no black and white
13 definition for it.

14 **Q** And I won't go through it again since I've
15 already been through it with Mr. Parker. But the
16 three that we mentioned with Mr. Parker earlier, you
17 didn't object to those, did you?

18 **A** No. And in hindsight, the one with the bed, I
19 probably should have on that one, that there will
20 always be an open bed, that's probably the one. The
21 rest I probably would have still let go, but on that
22 one, probably I should have objected.

23 **MS. GOOD:** No further questions, Your Honor.

24 **THE COURT:** Redirect.

25 **MR. WHITMIRE:** May it please the Court, Your

1 Honor.

2 **THE COURT:** Sure.

3 REDIRECT EXAMINATION

4 BY MR. WHITMIRE:

5 **Q** Regarding testimony just mentioned about
6 Heather Smith on page 344, she never testified that
7 she met with either victim?

8 **A** No.

9 **Q** And she gave a lot of indicators that would
10 have helped you out generically of why they wouldn't
11 be credible?

12 **A** Yeah, she did. I mean, she gave me reasons,
13 you know, to -- she got reasons out in front of the
14 jury that would, you know, show why they would be
15 making things up.

16 **Q** And last question, did you tell the jury in
17 closing that she never met with the victim?

18 **A** Yeah. I believe I went over all that in
19 closing and pointed out that, you know, that was
20 kind of my strategy was to point out, look, she's a,
21 quote, expert, but how much of an expert can you be
22 when you never met the kids who say something
23 happened.

24 **MR. WHITMIRE:** No further questions.

25 **THE COURT:** Anything else of the witness?

1 **MS. GOOD:** No, sir.

2 **THE COURT:** Thank you, sir. You may step down.

3 **THE WITNESS:** Thank you, Your Honor.

4 **MR. WHITMIRE:** Your Honor, that is Respondent's
5 case. We just ask that Mr. Locklair be excused from
6 his subpoena.

7 **MS. GOOD:** No objection.

8 **THE COURT:** You're free to go. Thank you, sir.

9 Do you all wish to make an argument?

10 **MS. GOOD:** Yes, sir, Your Honor. Regarding the
11 grounds for this PCR, we'd ask that the Court remand
12 it to general sessions and to the Clerk of Court's
13 office to go back through the Solicitor's office for
14 a new trial based on the fact that there were
15 several things exculpatory that Mr. Locklair could
16 have introduced into evidence regarding the phone
17 records, which you heard him testify to that there
18 were, showing phone calls after the allegations were
19 made that he did not use to impeach the mother or
20 the victims in this case.

21 In addition, Your Honor, he failed to ask the
22 victims, which at the time the allegations were
23 made, they were ten years old, as to their prior
24 sexual knowledge or at least go into it with the
25 mother as to what her occupation was so he could

1 imply in closing that they could have gotten this
2 sexual knowledge to make up these allegations from
3 the mother's occupation and what she did.

4 And in addition, Your Honor, we believe that
5 prejudice -- Mr. Parker was prejudiced by the
6 comments of Heather Smith regarding her testimony as
7 to that there had not been a false allegation made
8 in this case.

9 And as to the closing arguments to the improper
10 comments, we believe, Your Honor, under the case law
11 that the three comments that we mentioned on page
12 356 and then the two on 360 so affected the trial
13 with unfairness as to make the resulting conviction
14 a denial of due process as they completely
15 prejudiced the jury and made them passion use that,
16 especially regarding the Master's Inn single bed, as
17 well as calling Mr. Parker a child molester and
18 said, Is that something you would do, and asking the
19 jury to put themselves in Mr. Parker's shoes to see
20 if would they do the same thing in his position,
21 Your Honor.

22 **MR. WHITMIRE:** Your Honor, addressing the
23 alleged exculpatory phone calls, first, Respondent
24 submits those phone calls were never presented to
25 this court, records of them. Therefore, under