

VOLUME ONE OF TWO

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Lexington County

Edgar W. Dickson, Circuit Court Judge

RECEIVED

APR 2 2015

S.C. Supreme Court

RICHARD RATLIFF,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-001868

APPENDIX

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**THE FOLLOWING EXHIBITS ARE ON
FILE WITH THIS COURT:
STATE'S EXHIBIT NOS. 5, 7, 8, 9, 12, 13,
16, 17 (ALL PHOTOGRAPHS)**

1 STATE OF SOUTH CAROLINA
 2 COUNTY OF LEXINGTON COURT OF GENERAL SESSIONS

3
 4
 5 STATE OF SOUTH CAROLINA)
 6 -vs-) TRANSCRIPT OF RECORD
 7 RICHARD DAVID RATLIFF,) 07-GS-32-2884, et al
 8)
 9 Defendant.)

10 February 24-26, 2009
 11 Lexington, South Carolina

12
 13
 14
 15 B E F O R E:
 16 HONORABLE R. KNOX MCMAHON, Judge; and a jury.

17
 18
 19 A P P E A R A N C E S:
 20 DAVID M. STUMBO, Asst. Solicitor
 21 EMILY B. HOWARD, Asst. Solicitor
 Attorneys for the State

22 ROBERT T. WILLIAMS, SR., Esquire
 23 Attorney for the Defendant

24
 25 L. COCONUT PANTSARI, R.P.R.
 Circuit Court Reporter

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STATE'S EXHIBITS

17	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
18	1	Consent to search		484
19	2	Handwritten letter		122
20	3	E-mail		188
21	4	D.V.D.		432
22	5	Photographs		435
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STATE'S EXHIBITS				
	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
1				
2	9	Photograph		435
3	10	Photographs	428	
4	11	Photograph		486
5	12	Photograph		488
6	13	Photograph		435
7	14	Photograph		328
8	15	Photograph		412
9	16	Photograph		435
10	17	Photograph		435
11	18	Photograph	428	
12	19	Photograph		496
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14	21	Photograph		498
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STATE'S EXHIBITS

2	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
3	32	Statement (Smotzer)		301
4	33	Receipt (America's Best)		305
5	34	Receipt (America's Best)	315	
6	35	Receipt (Wal-Mart)		481
7	36	Thongs		477
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25

Lexington County Courthouse RANDOM STRIKE SHEET

JUDGE NAME : McMahon, R. Knox

TRIAL TYPE : Criminal

PANEL ID : 2009-GS-02

COURTROOM CTR

DESCRIPTION : The State v. General Sessions

Sorted by: Random Nbr

Trial

NAME	JUROR NBR	RACE	SEX	ST/PLTFF	DEF	CRT	REMARKS
1 Weyburn, Bevan C	180	W	F	()	()	()	✓ ①
2 Lewandowski, F H	96	W	M	()	✓ ①	()	
3 Jeffcoat, Eric L JR	76	W	M	()	()	()	✓ ②
4 Cade, Troy D	28	B	M	()	()	()	✓ ③
5 Watts, Linda S	178	W	F	()	✓ ②	()	
6 Gibbons, Leslie R	61	W	M	✓ ①	()	()	
7 Degnan, Sharon H	41	W	F	()	✓ ③	()	
8 Greenbaum, David	66	W	M	()	()	()	✓ ④
9 Slycord, Dustin J	149	W	M	✓ ②	()	()	
10 Schimsa, David W	143	W	M	()	✓ ④	()	
11 Mckenzie, Melanie R	109	W	F	()	✓ ⑤	()	
12 Giles, Karen M	63	W	F	()	✓ ⑥	()	
13 Turbeville, Minor 2 M	171	W	F	()	✓ ⑦	()	
14 Moore, Vicky L	119	W	F	✓ ③	()	()	
15 Cockrell, Susan A	33	W	F	()	()	✓ ⑩	
16 Burton, Sherry L	25	W	F	✓ ④	()	()	
17 Wheeler, Hope S	181	W	F	()	()	()	✓ ⑤
18 Jernac, Jane G	77	W	F	()	✓ ⑧	()	
19 Gibson, Vicki V	62	W	F	✓ ⑤	()	()	
20 Allen, Eric R	4	W	M	()	()	()	✓ ⑥
21 Byrd, Aimar Emily J	27	W	F	()	()	()	✓ ⑦
22 Lindler, Alvin L JR	97	W	F	()	()	()	✓ ⑧
23 Ervin, John W	49	W	M	()	()	()	✓ ⑨
24 Wallace, Charles A	177	W	M	()	✓ ⑨	()	

Lexington County Courthouse RANDOM STRIKE SHEET

JUDGE NAME : McMahon, R. Knox

TRIAL TYPE : Criminal

PANEL ID : 2009-GS-02

COURTROOM CTR

DESCRIPTION : The State v. General Sessions

Sorted by: Random Nbr

Trial

NAME	JUROR NBR	RACE	SEX	ST/PLIFF	DEF	GRT	REMARKS
25 Henrich, David W	70	W	M	()	()	()	✓(10)
26 Anderson, Sybil S	6	W	F	()	()	()	✓(11)
27 Isaac, Thelma L	74	B	F	()	()	()	✓(12)
28 Mciver, Lynne B	106	W	F	()	()	()	✓(13)
29 Catoe, Tina S	52	W	F	()	()	()	
30 Baker, Lynn M	11	W	F	()	()	()	
31 Way, Patricia G	179	B	F	()	()	()	
32 Sovcik, Christine A	153	W	F	()	()	()	
33 Johnson, Norma H	78	W	F	()	()	()	
34 Leslie, Elizabeth V	95	W	F	()	()	()	
35 Mckay, Alan W	107	W	M	()	()	()	
36 Feigh, Mark D	51	W	M	()	()	()	

Total Number of Jurors:

36

** END OF REPORT **

1 (The following proceedings are reported on
2 February 24, 2009).

3 THE COURT: Solicitor, anything before we
4 bring in our jury?

5 MR. STUMBO: We are ready for the jury, Your
6 Honor.

7 THE COURT: Mr. Williams?

8 MR. WILLIAMS: Your Honor, I have two matters.
9 The first matter, Your Honor, out of an abundance of
10 caution as the Court knows, yesterday my client was in
11 the hospital and was taken over there, I guess, Sunday.

12 He has been released obviously late last night
13 from the hospital. He indicates to me he still does not
14 feel well. He had a stint put in during his
15 incarceration so far, and I am concerned. Obviously the
16 doctor has released him.

17 I can't argue with the doctor, but I ask the
18 Court to note that we would move, because of the stress
19 of this trial, that the case be continued based on that,
20 his physical condition.

21 THE COURT: Do we have any information
22 concerning his physical condition besides that
23 statement, Mr. Williams?

24 MR. WILLIAMS: Your Honor, obviously the
25 hospital released him. When they released him, part of

1 the instructions they gave him was home care, rest
2 today, and avoid strenuous activity.

3 I would think that a trial in which you have
4 like eight charges would not be very restful in his
5 particular situation. If he has any further problems,
6 he is supposed to return within 24 hours, as I
7 understand it.

8 THE COURT: Is he taking any medication?

9 MR. WILLIAMS: He is. He is taking -- what
10 are you taking?

11 THE DEFENDANT: I'm taking so much, Your
12 Honor, I can't remember it all.

13 MR. WILLIAMS: He is taking blood pressure
14 pills. He is taking heart medication pills.

15 THE DEFENDANT: Nitro tabs. All the time I
16 keep them with me. Anything related to a heart
17 condition. I had three heart attacks, three stints.

18 THE COURT: So he is taking blood pressure
19 medication and heart medication?

20 MR. WILLIAMS: Yes, sir.

21 THE DEFENDANT: Cholesterol medication and
22 anything essentially related to the heart is what I am
23 taking.

24 MR. WILLIAMS: From cholesterol to nitro for
25 the heart to blood pressure pills.

1 THE COURT: When did he have the stint?

2 MR. WILLIAMS: January of this year.

3 THE DEFENDANT: The 13th. I am supposed to go
4 back for more tests. They were only able to do one
5 yesterday, and the tests were not conclusive. Nobody
6 had time to follow through and check out the -- they
7 will be reviewed by another specialist. He will be
8 notified of the new findings. They have not reviewed
9 the tests.

10 THE COURT: Anything further, Mr. Williams?

11 MR. WILLIAMS: No, Your Honor.

12 THE COURT: Mr. Stumbo?

13 MR. STUMBO: Thank you, Your Honor. May it
14 please the Court. I subpoenaed records covering
15 yesterday and Sunday, February 22. As of yesterday
16 afternoon, the only tests they had back on Mr. Ratliff
17 were a C.A.T. scan of his brain, which I have that
18 report. They also did a chest X-ray to check out his
19 heart.

20 Judge, the reports I have here in front of
21 me -- and I would be glad to let Your Honor look at
22 them -- one of them is involving the C.A.T. scan of the
23 head. They were investigating a possible subacute
24 stroke based on information given by Mr. Ratliff that he
25 had mild expressive apapasia, A-P-A-P-A-S-I-A, for 18

1 hours.

2 They indicate -- and I am reading verbatim
3 from the report -- the fourth, third, and both lateral
4 ventricles are demonstrated and appear unremarkable.
5 There is no shift of the midline structures in the infra
6 or sub supratentorial regions. No abnormal areas of
7 increased or decreased attenuation are demonstrated.

8 Judge, reading from the chest X-ray done on
9 Mr. Ratliff, it says: Heart size is normal with
10 unremarkable mediastinal -- and I will spell that,
11 M-E-D-I-A-S-T-I-N-A-L -- contours.

12 The overall impression here in bold letters
13 is: Stable appearance of the chest with findings most
14 consistent with underlying C.O.P.D. I looked up -- I
15 didn't know what C.O.P.D. was, Your Honor.

16 THE COURT: It's a lung issue.

17 MR. STUMBO: It is, Your Honor. I talked by
18 phone, because a lot of these dictations weren't done
19 yesterday, even though we had a subpoena to receive them
20 when they were done ultimately.

21 I talked to a third-year resident by the name
22 of Dr. Thomas Luckey. He was on the floor up until
23 mid-afternoon. He had treated Mr. Ratliff in the
24 morning.

25 Dr. Luckey told me that they were in the

1 process of doing these tests to see if there was a
2 possible stroke. I asked him, What is that based on?
3 He essentially says, It's based off of information given
4 to us by the patient.

5 He said his observations of Mr. Ratliff was
6 that it was nothing unremarkable. He had to do the test
7 essentially because professionally he felt they needed
8 to be done out of an abundance of caution.

9 I received a call about 5:30 last night from
10 the next doctor who was on call. That doctor indicated
11 to me that a full workup had been done on Mr. Ratliff
12 for both stroke and heart issues.

13 They told me that there was nothing abnormal
14 they could find, other than his obvious chronic heart
15 problems and that they intended to release him last
16 night. They had no reason to admit him to the hospital.
17 They had no reason to keep him there.

18 Obviously that is the information, as an
19 officer of the Court, that I am given relayed to me by
20 the doctors over the phone. I don't have any dictations
21 of all of those reports yet. I don't know that they
22 have been done, Judge.

23 Your Honor, obviously he is here today. The
24 hospital released him to the jail last night. We
25 believe there is no reason to continue the case. We

1 have got witnesses subpoenaed from Virginia. They have
2 been here since Sunday night.

3 We have got all our victims here in the
4 courtroom. They have been here hours upon hours waiting
5 for this case to start. Your Honor, we are ready for
6 trial. We have no -- we would strenuously object to the
7 request for a continuance.

8 THE COURT: May I see the records you refer
9 to, Solicitor?

10 MR. STUMBO: Yes, sir.

11 THE COURT: Mr. Williams?

12 MR. WILLIAMS: Your Honor, this is the copy
13 from the January stint that was done. These are the
14 reports from yesterday.

15 MR. STUMBO: This is what I received, Your
16 Honor.

17 (Attorneys hand documents to Court).

18 THE COURT: This is the same thing,
19 Mr. Williams?

20 MR. WILLIAMS: Yes, sir, the skinny one is.
21 The big thick stuff is from --

22 THE COURT: The stint?

23 MR. WILLIAMS: Right.

24 (Pause).

25 MR. STUMBO: Your Honor, just for the record I

1 did provide the Lexington Medical Center records per a
2 subpoena that we served yesterday to Mr. Williams. I
3 would be glad to point out things in that large stack of
4 papers as well if Your Honor would like to hear argument
5 on that.

6 THE COURT: Thank you.

7 (Pause).

8 THE COURT: I am looking for a discharge
9 summary on the 13th of January, '09.

10 MR. STUMBO: Judge, I went through all the
11 records. I didn't see a discharge summary in all this
12 paperwork. The closest thing I think we have is a
13 transfer summary on the day before where they
14 essentially, based on reading through the records, they
15 take him from Lexington to Richland to do the stint
16 procedure, and then he comes back to Lexington for his
17 release.

18 Do you have the transfer summary in front of
19 you, Your Honor?

20 THE COURT: I read the transfer summary.

21 MR. STUMBO: At that time it indicates he was
22 admitted for chest discomfort. It indicates he required
23 stints twice in the past for his heart issues. He was
24 transferred to Richland for the subsequent stint
25 procedure.

1 Your Honor, I do not know the exact time he
2 was released, but I know he was in court that week,
3 Thursday of that week. January 13 was a Tuesday. They
4 brought him over for a possible guilty plea, which
5 obviously didn't happen, on January the 15th, which was
6 Thursday. He was in court that day from the jail.

7 THE COURT: Thank you, Solicitor.

8 MR. STUMBO: Yes, sir.

9 THE COURT: Mark these records, Madame Court
10 Reporter, as a Court's exhibit, please.

11 (Court's Exhibit Number 1 is marked for
12 purposes of the record).

13 THE COURT: I am going to deny your motion,
14 Mr. Williams, for a continuance. I have reviewed the
15 records that have been provided to the Court. I have
16 listened to the arguments of counsel closely and
17 carefully, both the defense lawyer and the solicitor in
18 the case.

19 I will note, however, if at any time,
20 Mr. Williams, you advise me, as an officer of the Court,
21 that your client is experiencing any pain or discomfort,
22 please advise me of that. I will respond to that in
23 whatever manner will be appropriate. If there is
24 anything of that nature, please let me know.

25 With that caveat obviously I will respond to

1 that as reasonably and rapidly as possible to make sure
2 he gets and takes his medication according to his
3 prescriptions.

4 I assume the heart medication, he takes some
5 in the mornings and some in the evenings, and he takes
6 nitro on an as-needed basis for angina. That would be
7 my understanding of how it works.

8 Please advise me if you have any issues in
9 that regard. The other matter, of course, both parties
10 know I have a relative employed with the Lexington
11 County Solicitor's Office.

12 Anything further before we bring in the jury,
13 Solicitor?

14 MR. STUMBO: Nothing from the State, Your
15 Honor.

16 THE COURT: Mr. Williams?

17 MR. WILLIAMS: Your Honor, I do have a matter
18 by way of a motion dealing with -- and we don't have to
19 take it at this time, but I would like to go ahead and
20 at least say it now. It deals with the sequestration of
21 witnesses.

22 I don't know that that's an issue with the
23 solicitor, but we would ask for that. A lot of the
24 matters could fluctuate depending on what the witness
25 says on the stand because there is a lot of backup

1 testimony.

2 MR. STUMBO: Your Honor, we have three victims
3 in this case that were actually victimized. They are on
4 our witness list. Those names are Minor 1

5 Minor 2 -- and we have a witness list in front
6 of you, Judge -- and Minor 3

7 The charges that we are calling to trial all
8 relate and name those three victims. We would obviously
9 ask that those victims have the right under the law to
10 remain in the courtroom for the proceedings.

11 Also, our lead investigator on this case is
12 Detective Eddie Prestigiaco, and I believe he has the
13 right to be here, too, with us during the case. Other
14 than that, Your Honor, obviously I don't have any reason
15 to oppose the sequestration motion.

16 THE COURT: Is that sufficient, Mr. Williams?

17 MR. WILLIAMS: Yes, Your Honor.

18 THE COURT: I will leave that up to y'all to
19 police it. I don't know who these witnesses are.

20 MR. STUMBO: Yes, sir.

21 THE COURT: Anything further before we bring
22 in our jury?

23 MR. STUMBO: Nothing from the State, Your
24 Honor.

25 THE COURT: Mr. Williams?

1 MR. WILLIAMS: Nothing at this time, Your
2 Honor.

3 THE COURT: Sheriff or Madame Clerk, if you
4 would bring our jury, please.

5 (The jury panel enters the courtroom at
6 10:00 a.m.)

7 THE COURT: Good morning, ladies and gentlemen
8 of the jury panel. I appreciate your patience, both
9 yesterday and this morning, those of you who were here
10 yesterday, as far as yesterday afternoon. I know all of
11 you were here yesterday morning.

12 Solicitor, you may call your first case for
13 trial.

14 MR. STUMBO: Thank you, Your Honor. If it
15 please the Court. The State would call for trial
16 Indictment Number 2007-GS-32-2884, an indictment against
17 Richard David Ratliff for criminal sexual conduct with a
18 minor in the second degree.

19 Indictment Number 2007-GS-32-2885, the State
20 versus Richard David Ratliff, an indictment for criminal
21 sexual conduct with a minor in the second degree.

22 Indictment 2007-GS-32-2886, the State versus
23 Richard David Ratliff, an indictment for criminal sexual
24 conduct with a minor in the second degree.

25 Indictment 2007-GS-32-2887, the State versus

1 Richard David Ratliff, an indictment for committing or
2 attempting a lewd act on a minor.

3 Indictment 2007-GS-32-2888, the State versus
4 Richard David Ratliff, indictment for committing or
5 attempting a lewd act upon a minor.

6 Indictment 2007-GS-32-2891, the State versus
7 Richard David Ratliff, an indictment, Your Honor, for --
8 excuse me -- criminal solicitation of a minor.

9 Indictment 2007-GS-32-2893, the State versus
10 Richard David Ratliff, an indictment for criminal
11 solicitation of a minor.

12 Finally, Your Honor, the eighth and final
13 indictment is 2007-GS-32-2894, the State versus Richard
14 David Ratliff, indictment for criminal solicitation of a
15 minor. Your Honor, all indictments have been true
16 billed by the grand jury, and we are ready for trial.

17 THE COURT: Thank you. Thank you, Solicitor.

18 Ladies and gentlemen of the jury panel, I
19 would ask you to please give me your complete and
20 undivided attention. Rather than place you back under
21 oath, I would ask you to consider yourself still under
22 oath for purposes of this proceeding from being placed
23 under oath yesterday with the full panel.

24 We are now going through a process where I
25 will ask you certain questions to qualify you to serve

1 as jurors on this particular case. You have previously
2 been qualified to serve as jurors in Lexington County
3 this week, but this will be the procedure for
4 qualifications as jurors in this particular case.

5 I am going to publish or read the indictments
6 to you. I do that because I am going to ask you some
7 questions about allegations that are contained within
8 the indictments.

9 These indictments, these eight documents that
10 the solicitor called for trial, are merely the formal
11 charging documents by which an individual, a defendant,
12 is placed on notice of the charges that have been
13 brought against him or her. It's a formal -- they are
14 formal notice documents.

15 They apprise the Defendant of what charges he
16 or she must face in court. They are not evidence. They
17 are no evidence of any of the allegations contained
18 therein.

19 The first three indictments -- and I will do
20 this by charges -- 07-GS-32-2884, 2885, and 2886, each
21 of these are true bill indictments alleging criminal
22 sexual conduct with a minor in the second degree.

23 Number 2884 reads that Richard David Ratliff
24 did in Lexington, South Carolina, on or about July 23,
25 2007, did commit a sexual battery upon a minor who was

1 14 years of age or less but who was at least 11 years of
2 age, to wit, the Defendant did digitally penetrate the
3 anus and vagina of Minor 2 Did I pronounce
4 that correct, Solicitor?

5 MR. STUMBO: Yes, Your Honor.

6 THE COURT: Age 11 in violation of 16-3-655
7 (2) of the South Carolina Code of Laws, 1976 as amended.
8 Indictment 2885 alleges that Richard David Ratliff did
9 in Lexington, South Carolina, on or about July 24, 2007,
10 did commit a sexual battery upon a minor who was 14
11 years of age or less but who was at least 11 years, to
12 wit, the Defendant did perform cunnilingus on the
13 victim, upon Minor 2 age 11, in violation of
14 16-3-655 (2) of the South Carolina Code of Laws.

15 Indictment 2886 reads that Richard David
16 Ratliff did in Lexington, South Carolina, on or about
17 June 25, '07, did commit a sexual battery upon a minor
18 who was 14 years of age or less but who was at least 11
19 years of age, to wit, the Defendant did perform
20 cunnilingus on the victim, Minor 3 age 13, in
21 violation of Section 16-3-655 (2) of the South Carolina
22 Code of Laws.

23 The next three indictments are true bill
24 indictments alleging committing or attempting a lewd act
25 on a minor, indictments Number 2007-GS-32-2887, 2888,

1 and 2891.

2 Number 2878 reads that Richard David Ratliff
3 did in Lexington, South Carolina, on or about July 10,
4 '07, being a person over the age of 14, willfully and
5 lewdly commit or attempt a lewd or lascivious act upon
6 or with the body or its parts of a child under the age
7 of 16, to wit, Minor 2 with the intent of
8 arousing, appealing to or gratifying the lust or
9 passions or sexual desires of the person or of the
10 child, to wit, the Defendant did rub the vagina of
11 Minor 2 age 11, with his hand in violation of
12 16-15-140 of the South Carolina Code of Laws.

13 Indictment 2888 reads that Richard David
14 Ratliff did in Lexington, South Carolina, on or about
15 July 10 of '07, being a person over the age of 14,
16 willfully and lewdly commit or attempt a lewd or
17 lascivious act upon or with the body or its parts of a
18 child under the age of 16, to wit, Minor 1 Minor 1 with
19 the intent of arousing, appealing to or gratifying the
20 lusts or passions or sexual desires of the person or of
21 the child, to wit, the Defendant did rub the breasts and
22 vagina of Minor 3 age 13, in violation of Section
23 16-15-140 of the Code of Laws of the State of South
24 Carolina.

25 And Indictment 2007-GS-32-2891 reads that

1 Richard David Ratliff, being a person 18 years of age or
2 older, did in Lexington, South Carolina during April of
3 2007, did knowingly contact or communicate with Minor 3
4 [REDACTED], who is under the age of 18, for the purpose or
5 with the intent of persuading, inducing, enticing or
6 coercing the person to engage or participate in a sexual
7 activity as defined in Section 16-15-375 (5) or with the
8 intent to perform a sexual activity in the presence of
9 the person under the age of 18, to wit, the Defendant
10 masturbated himself in the presence of the victim in
11 violation of 16-15-3, 2. That is a true bill indictment
12 for criminal solicitation of a minor.

13 The next indictment, 2007-GS-32-2893, reads
14 that Richard David Ratliff, being a person 18 years of
15 age or older, did in Lexington, South Carolina during
16 November of '06, did knowingly contact or communicate
17 with Minor 2 who was under the age of 18, for
18 the purpose of or with the intent of persuading,
19 inducing, enticing or coercing the person to engage or
20 participate in a sexual activity as defined in Section
21 16-15-375 (5) or with the intent to perform a sexual
22 activity in the presence of the person under the age of
23 18, to wit, the Defendant masturbated himself in front
24 of the victim in violation of 16-15-340 (2) of the Code
25 of Laws.

1 And finally Indictment 2007-GS-32-2894 is a
2 true bill indictment that alleges that Richard David
3 Ratliff, being a person 18 years of age or older, did in
4 Lexington, South Carolina during November of '06, did
5 knowingly contact or communicate with Minor 1 who
6 was under the age of 18, for the purpose of or with the
7 intent of persuading, inducing, enticing or coercing the
8 person to engage or participate in a sexual activity as
9 defined in Section 16-15-37 5 (5) or with the intent to
10 perform a sexual activity in the presence of the person
11 under the age over 18, to wit, the Defendant masturbated
12 himself in front of the victim in violation of 16-15-342
13 of the Code of Laws of South Carolina.

14 That, ladies and gentlemen, are the three
15 indictments for criminal sexual conduct with a minor in
16 the second degree. Lewd act, two indictments for lewd
17 act on a minor, and three indictments for criminal
18 solicitation of a minor. Again, the indictments are
19 mere allegations. They are the formal charging
20 documents by which the case is brought before the
21 Court.

22 The State in this case is represented by
23 Assistant Solicitor Stumbo. Would you please stand and
24 introduce yourself and any member of your staff that
25 will be assisting you in the prosecution of this case.

1 MR. STUMBO: Thank you, Your Honor. Good
2 morning. My named is David Stumbo. I have the
3 privilege of working for your Solicitor, Donnie Myers,
4 here in Lexington County. I'm an assistant solicitor
5 here and prosecute criminal cases here in Lexington
6 County.

7 To my right is Assistant Solicitor Emily
8 Howard. She is also prosecuting in this case and one of
9 my colleagues. Right in front of me is Susan Powell.
10 She is a victim advocate in our office that works here
11 in the Solicitor's Office, and Kevin Wilson, who is
12 sitting right there in the back. Kevin is one of our
13 investigators with the Solicitor's Office, and you will
14 see him in and out of the courtroom throughout the
15 course of the case.

16 THE COURT: Thank you. Thank you so much.
17 The Defendant is represented by Mr. Theo Williams.
18 Mr. Williams, would you stand and introduce yourself to
19 the jury panel and your client.

20 MR. WILLIAMS: I'm Theo Williams. I practice
21 in the firm of Williams, Hendrix, Steinger, and Brink,
22 which is across the street on the corner of Main and
23 Number 6. This is Richard Ratliff. He is Richard D.
24 Ratliff but known as Rick.

25 THE COURT: Thank you, Mr. Ratliff. You may

1 be seated. Thank you, Mr. Williams.

2 Is any member of the jury panel related by
3 blood or marriage or close personal friends of Solicitor
4 Stumbo or Howard or Ms. Powell or Investigator Wilson or
5 any employee of the Lexington County Solicitor's Office?
6 If so, please stand.

7 (There is no response).

8 THE COURT: Is any member of the jury panel or
9 a member of your immediate family or close personal
10 friend ever been represented by or prosecuted by
11 Mr. Stumbo or Ms. Howard? 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 Mr. Theo Williams who represents Mr. Ratliff? If so,
16 please stand.

17 (There is no response).

18 THE COURT: Is any member of the jury panel or
19 a member of your immediate family or close personal
20 friend ever been represented by Mr. Williams or any
21 member of his firm? If so, please stand.

22 (Jurors stand).

23 THE COURT: Yes, sir, your number and name,
24 please?

25 PROSPECTIVE JUROR: Number 149, Dustin

1 Slycord.

2 THE COURT: Pronounce your last night.

3 PROSPECTIVE JUROR: Slycord.

4 THE COURT: You have been represented by
5 Mr. Williams or a member of his firm?

6 PROSPECTIVE JUROR: Yes, sir.

7 THE COURT: Was it Mr. Williams --

8 PROSPECTIVE JUROR: Yes, sir.

9 THE COURT: -- or a member of his firm?

10 PROSPECTIVE JUROR: A member of his firm.

11 THE COURT: Who was that?

12 PROSPECTIVE JUROR: I'm not for sure.

13 THE COURT: When was that?

14 PROSPECTIVE JUROR: It was in 2004.

15 THE COURT: The fact that you were represented
16 by a member of Mr. Williams' firm, could you still be a
17 fair and impartial juror to both the State and the
18 defense in this case?

19 PROSPECTIVE JUROR: I believe so.

20 THE COURT: When you say you believe so, that
21 may just be a matter of semantics. I guess I have to
22 pin you down to yes or no.

23 PROSPECTIVE JUROR: Yes, sir.

24 THE COURT: Thank you very much. You may be
25 seated. You may stay with us. Yes, ma'am, your number

1 and name?

2 PROSPECTIVE JUROR: One nineteen, Vickie
3 Moore.

4 THE COURT: Ms. Moore, were you represented by
5 Mr. Williams or a member of his firm?

6 PROSPECTIVE JUROR: I was represented by
7 Ms. Steigner in a divorce case.

8 THE COURT: About when was that?

9 PROSPECTIVE JUROR: Oh, gosh, about 15 years
10 ago, and an ex-husband of mine was --

11 THE COURT: Is that again -- you said
12 something about an ex-husband?

13 PROSPECTIVE JUROR: My ex-husband was also
14 represented by Mr. Hendrix in -- it was an accident
15 case.

16 THE COURT: The fact that you were represented
17 by Ms. Steigner, a member of Mr. Williams' firm, and
18 your ex-husband was at another time represented by
19 Mr. Hendrix, could you still be a fair and impartial
20 juror to both the State and the defense?

21 PROSPECTIVE JUROR: Yes, sir.

22 THE COURT: Thank you. Thank you very much,
23 Ms. Moore. You may be seated, any others?

24 (There is no response).

25 THE COURT: Is any member of the jury panel

1 related by blood or marriage or close personal friends
2 of Richard David Ratliff? If so, please stand.

3 (There is no response).

4 THE COURT: These indictments allege incidents
5 that occurred in Lexington, South Carolina on various
6 dates and times, including November of '06, April of
7 '07, July 10, '07, June 25, '07, July 24, '07, July 23
8 of '07.

9 The allegations allege victim's named Minor 1
10 Minor 2 and Minor 3 Does any
11 member of the jury panel have any knowledge about these
12 cases? If so, please stand.

13 (There is no response).

14 THE COURT: Does any member of the jury panel
15 have any bias or prejudice towards the parties, that
16 being the State or the defense, or the subject matter
17 involved? If so, please stand.

18 (Juror stands).

19 THE COURT: Yes, ma'am, your number and name,
20 please?

21 PROSPECTIVE JUROR: I'm 52, Tina Catoe.

22 THE COURT: Ms. Catoe, if you would come
23 forward for me, please.

24 THE COURT: I will talk with her and if I have
25 to put it on the record in a moment, I will do so.

1 (Whereupon there was a bench conference with
2 the juror off the record).

3 THE COURT: Solicitor, Mr. Williams.

4 (Whereupon there was a bench conference off
5 the record in the presence of the jury but out of the
6 hearing of the jury).

7 THE COURT: Number 52 is set aside.

8 BAILIFF: Juror number 11 is the next one,
9 Judge.

10 THE COURT: This is juror number 11.

11 PROSPECTIVE JUROR: Lynn Baker.

12 THE COURT: Ms. Baker, thank you.

13 (Whereupon there was a bench conference with
14 the juror and counsel off the record).

15 THE COURT: You can stay with us. Thank you
16 so much.

17 BAILIFF: The next juror would be number 25.

18 THE COURT: What is this young lady's name?

19 PROSPECTIVE JUROR: Sherry Burton.

20 (Whereupon there was a bench conference with
21 the juror and counsel off the record).

22 THE COURT: Number 25 will stay with us.

23 BAILIFF: Juror number 33.

24 PROSPECTIVE JUROR: Susan Cockrell.

25 (Whereupon there was a bench conference with

1 the juror and counsel off the record).

2 THE COURT: Number 33 is set aside.

3 BAILIFF: Juror number 70, David Hendrich.

4 (Whereupon there was a bench conference with
5 the juror and counsel off the record).

6 THE COURT: Number 70 will stay with us.

7 BAILIFF: Juror 62, Vickie Gibson, Your Honor.

8 (Whereupon there was a bench conference with
9 the juror and counsel off the record).

10 THE COURT: Number 62 is going to stay with
11 us. Numbers 33 and 52 were set aside. Is that correct,
12 Solicitor, Mr. Williams?

13 MR. STUMBO: Yes, sir.

14 MR. WILLIAMS: Yes, sir.

15 THE COURT: Has any member of the jury panel
16 heard or know anything about this case from any source
17 whatsoever? If so, please stand.

18 (There is no response).

19 THE COURT: Besides those jurors that may have
20 already responded to this question, has any member of
21 the jury panel ever been a victim or do you have an
22 immediate family member or a close personal friend that
23 has been a victim of a sexual abuse or assault? If so,
24 please stand.

25 (There is no response).

1 THE COURT: Again, besides those that may have
2 already come up to the bench, has any member of the jury,
3 panel or any member of your immediate family or close
4 personal friend ever been accused or charged with or
5 convicted of a sexually related offense? If so, please
6 stand.

7 (Juror stands).

8 THE COURT: Yes, sir, if you would -- your
9 number and name, please?

10 PROSPECTIVE JUROR: One hundred seven.

11 THE COURT: If you would come around for me,
12 please.

13 (Whereupon there was a bench conference with
14 the juror and counsel off the record).

15 THE COURT: Number 107 is set aside. Does any
16 member of the jury panel have any background or
17 specialized training in the fields of child psychology
18 or family counseling? If so, please stand.

19 (Jurors stand).

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

22 PROSPECTIVE JUROR: Ninety-six, Lewandowski.

23 THE COURT: What is your background in that
24 regard, Mr. Lewandowski?

25 PROSPECTIVE JUROR: I have a graduate degree

1 in social work, and I trained with Nathan Ackerman, who
2 was one of the founders of family therapy.

3 THE COURT: The fact that you have that
4 background and training, could you still be a fair and
5 impartial juror to both the State and the defense in
6 this case?

7 PROSPECTIVE JUROR: I would hope so, yes.
8 Yes.

9 THE COURT: Yes, sir, thank you very much.
10 You may be seated. You may stay with us. This is my
11 Reverend?

12 PROSPECTIVE JUROR: Yes, sir.

13 THE COURT: With the automobile?

14 PROSPECTIVE JUROR: That's right.

15 THE COURT: You had quite a day and a half.
16 Tell me your number and name.

17 PROSPECTIVE JUROR: One seventy-seven, Charles
18 Wallace.

19 THE COURT: Tell me your background.

20 PROSPECTIVE JUROR: I have a Master's of
21 Divinity and am an ordained pastor, a children's pastor
22 at First Baptist Church.

23 THE COURT: The fact that you have that
24 training and experience in that occupation, could you
25 still be a fair and impartial juror to both the State

1 and the defense in this case?

2 PROSPECTIVE JUROR: I think so. I wanted
3 to...

4 THE COURT: When you say you think so, I will
5 go back. I can pronounce his first name, Dustin. I
6 hope you are not offended by me calling the first name.
7 I can't quite remember your last name. When you say, I
8 think so, it may be a matter of semantics.

9 PROSPECTIVE JUROR: Yes.

10 THE COURT: Thank you very much. You may stay
11 with us. Any others?

12 (There is no response).

13 THE COURT: I am going to call a list of names
14 of potential witnesses in the trial of this case, ladies
15 and gentlemen. Of course, the question is: Is any
16 member of the jury panel related by blood or marriage or
17 close personal friends with any of these individuals
18 whose names I call.

19 I will ask the individuals, when I call their
20 name if they are present in the courtroom, to please
21 stand and face the jury panel. I would advise the jury
22 panel that the witnesses are not required to be present
23 at this stage of the proceeding. All of them are not.
24 So I may call names and no one will stand.

25 Detective Eddie Prestigiacomo. This is

1 Detective Prestigiacomo to my front right. Thank you.
2 Detective Roger Beaver, Detective Glenn Davis.
3 Detective Davis is to my right. All three, the two who
4 stood before you and the officer not present, are
5 employed with the Lexington County Sheriff's Department.

6 Minor 2 This is Minor 2 to my
7 front right. Thank you. You may be seated. Minor 1

8 Ms. Minor 1 Thank you, Ms. Minor 1 Minor 3
9 Thank you, Minor 3

10 Again, ladies and gentlemen, is any member of
11 the jury panel related by blood or marriage or close
12 personal friends with any of those individuals whose
13 names I just called and/or who stood before you. If so,
14 please stand.

15 (There is no response).

16 THE COURT: The next is Tracey Smotzer, and
17 this is Minor 2 mother. Thank you. Tracey Chandler,
18 James Shoemaker, Sergeant Vaughan. Is there a first
19 name? Is this Sergeant Vaughan.

20 MR. STUMBO: He is actual now Sheriff Vaughan.
21 I failed to put that on the witness list.

22 THE COURT: Your first name?

23 THE WITNESS: Richard.

24 THE COURT: With the Wythe County --

25 THE WITNESS: I am now with Grayson County,

1 Virginia, Sheriff's Office.

2 THE COURT: Thank you, Sheriff. Sergeant John
3 Thomas, Sergeant Thompson with Wythe County, Virginia,
4 Sheriff's Office.

5 Again, is any member of the jury panel related
6 by blood or marriage or close personal friends with any
7 of those individuals whose names I just called and/or
8 who stood before you? If so, please stand.

9 (There is no response).

10 THE COURT: The next is Dr. Susan Luberoff,
11 Heather Smith, Melanie Tremble, Mike Ratliff, Steven
12 Kilgore, Robert Shaw. The next group is Eddie Ratliff,
13 Sherry Sharpe --

14 MR. STUMBO: Your Honor, Ms. Sharpe is
15 present.

16 THE COURT: Ms. Sharpe. I'm sorry, I got on a
17 roll and didn't think I would catch anymore here. This
18 is Ms. Sharpe. Thank you, Solicitor.

19 Jonathan Grooms, Lexington County; Rick
20 Ratliff. Is there any member of the jury panel related
21 by blood or marriage or close personal friends with any
22 of those individuals whose names I called and/or who
23 stood before you? If so, please stand.

24 (There is no response).

25 THE COURT: Any additional potential

1 witnesses, Solicitor?

2 MR. STUMBO: No, sir, Your Honor.

3 THE COURT: Mr. Williams?

4 MR. WILLIAMS: May I approach?

5 THE COURT: Yes, sir.

6 (Whereupon there was a bench conference off
7 the record in the presence of the jury but out of the
8 hearing of the jury).

9 THE COURT: Any additional requested voir dire
10 from the State?

11 MR. STUMBO: Nothing from the State, Your
12 Honor.

13 THE COURT: From the defense?

14 MR. WILLIAMS: None from the defense, Your
15 Honor.

16 THE COURT: Does any member of the jury panel
17 know of any reason whatsoever why you feel like you
18 would not be a fair and impartial juror to both the
19 State and the defense in this case? If so, please
20 stand.

21 (There is no response).

22 THE COURT: Madame Clerk, could you read back
23 to me the jurors I set aside.

24 CLERK: Yes, sir, juror number 33, Susan
25 Cockrell.

1 THE COURT: A little bit louder.

2 CLERK: Thirty-three.

3 THE COURT: All right.

4 CLERK: Fifty-two and 107.

5 THE COURT: Is that correct with your records,
6 Solicitor?

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

8 THE COURT: Is that correct with your records,
9 Mr. Williams?

10 MR. WILLIAMS: Yes, Your Honor.

11 THE COURT: I find our panel is qualified.
12 The strikes, Solicitor?

13 MR. STUMBO: I did not look at the statute
14 before I came in the courtroom, Judge. I believe it's
15 ten and five on the C.S.C. charges.

16 MR. WILLIAMS: I would agree with that, Your
17 Honor. I think it is ten and five.

18 THE COURT: You think it is?

19 MR. STUMBO: I apologize, Your Honor, I should
20 have checked for sure.

21 THE COURT: What is the statute number
22 14-7-1100?

23 MR. WILLIAMS: That is close if it's not it,
24 Judge, in that section.

25 THE COURT: Section 14-7-1110. If I ever ask

1 y'all in the future, I want to make sure that y'all know
2 1110. How many do you say the strikes are, Solicitor?

3 MR. STUMBO: I believe it's ten and five, Your
4 Honor, for C.S.C. second.

5 MR. WILLIAMS: Yes, sir.

6 THE COURT: That's correct, ten and five.

7 MR. STUMBO: That was just on past experience,
8 not from reading the statute.

9 THE COURT: I understand. Ladies and
10 gentlemen, what will happen now is the clerk will call
11 names. If your name is called, if you would please come
12 forward and stand -- show them where to stand, Madame
13 Clerk.

14 CLERK: Stand right here and face out to the
15 audience.

16 THE COURT: Come forward, turn around, and
17 face back out to your peers. The clerk will ask the
18 State, What say the State? They can accept or they can
19 seat the juror or they can say excuse the juror.

20 It then goes to the defense to accept or seat
21 or excuse the juror. As Judge Ballinger, who was a
22 judge I tried many cases in front of many years ago,
23 used to say, Please don't be offended if you are
24 excused.

25 He said he used to realize he was excusing

1 people that had ears as big as his, and that was his
2 only standard for accepting and excusing jurors. Please
3 do not be offended if you are not accepted as a juror in
4 the trial of this case.

5 Madame Clerk, if you would give us a jury,
6 please.

7 CLERK: Alternates?

8 THE COURT: Will one alternate be sufficient,
9 Solicitor, Mr. Williams?

10 MR. WILLIAMS: Yes, sir.

11 MR. STUMBO: That's fine.

12 THE COURT: The strike are one and two on the
13 alternate.

14 (The jury is impaneled at 11:00 a.m.)

15 (During the jury selection process, the jurors
16 were called forward and peremptory strikes were
17 exercised as noted by the attached voir dire sheet made
18 a part of this record at page 8).

19 THE COURT: Any motions regarding the jury
20 selection process from the State?

21 MR. STUMBO: Nothing from the State, Your
22 Honor.

23 THE COURT: From the defense?

24 MR. WILLIAMS: Nothing from the defense, Your
25 Honor.

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

2 Ladies and gentlemen that were selected for
3 the trial of this case, I will give you a brief recess,
4 about 15 minutes. During this recess and during all the
5 recesses, you are not to discuss the case with anyone.
6 That includes your fellow jurors, your family, your
7 friends or anyone else.

8 You would not be authorized to discuss the
9 case until you have heard all the evidence in the case,
10 the closing arguments by the attorneys, and the charge
11 on the law by the Court. Then and only then would you
12 be directed to discuss the case with your fellow jurors
13 in your jury room.

14 During this brief recess, I will ask you to
15 select amongst yourselves a jury foreperson that would
16 be the jury spokesperson here in the courtroom. That
17 can be any one of the primary jury.

18 It cannot be Ms. McIver. Although she would
19 make a fine jury foreperson, she right now is in the
20 status of an alternate juror. It can be any of you 12
21 that were selected on the primary jury.

22 Once you have made that selection, if you
23 would please write the name out of who is the
24 foreperson, knock on the jury room door, give that note
25 to the bailiff advising me whom has been elected as

1 foreperson.

2 The foreperson will sit in this seat closest
3 to the Court, and the alternate -- I have to keep up
4 with two people. I have to keep up with the foreperson
5 and with the alternate and their assigned seats.

6 The rest of you -- I have found some jurors
7 are very territorial. They like to sit in the same seat
8 every time. Some of them move around. Whichever y'all
9 want to do is fine with me.

10 If you would select a foreperson during this
11 recess. I will give you about a 15-minute recess. If
12 you would go with your bailiff to your jury room. Thank
13 you very much.

14 (The jury retires to the jury room, and the
15 jury panel is excused).

16 THE COURT: Anything before we take a recess,
17 Solicitor?

18 MR. STUMBO: Nothing at this, Your Honor.

19 THE COURT: Do y'all have any pretrial
20 matters?

21 MR. STUMBO: I don't. In my conversations
22 with Mr. Williams, I anticipate some of the evidence we
23 have and we plan to put in, he indicated there may be
24 some objections.

25 MR. WILLIAMS: I think that will be as the

1 case develops.

2 THE COURT: So no pretrial matters?

3 MR. WILLIAMS: No pretrial.

4 THE COURT: We will return at 11:15. We will
5 be ready for openings.

6 MR. STUMBO: Can we have a little more time?
7 I talked to Coconut this morning about actually
8 premarking a lot of this stuff. We have a lot of
9 exhibits. It would go smoother for the jury if we talk
10 to Mr. Williams and put stickers on them and not number
11 them, not necessarily that they are coming in.

12 We will have them numbered and ready to
13 present to the witnesses as we present them instead of
14 having to stop during the testimony every time and have
15 the court reporter mark them. Can we take an extra five
16 or ten minutes to do that? I believe it will help
17 facilitate the case.

18 THE COURT: Okay, 11:25. Court will be in
19 recess until 11:25.

20 (Whereupon there was a recess).

21 THE COURT: Anything before we bring in our
22 jury, Solicitor?

23 MR. STUMBO: No, sir, Your Honor.

24 THE COURT: Mr. Williams?

25 MR. WILLIAMS: Yes, Your Honor. In talking

1 with the solicitor, there is one matter that may
2 simplify things, and that is although there may be some
3 objections to evidence coming in on a case-by-case
4 basis, item-by-item basis, there are a group of items
5 which were seized from the Defendant's bedroom in
6 Virginia without a search warrant.

7 So, Your Honor, we would request the Court to
8 intervene or consider whether or not those items could
9 be introduced and used against the Defendant in that
10 obviously he did not consent to having those items taken
11 out of his bedroom.

12 My understanding is the only witnesses who
13 were present to testify on that matter are the two
14 officers who are down here from Virginia. There is no
15 search warrant by the two officers from Virginia who
16 actually seized them, and the Defendant was not present
17 at the time they were seized.

18 THE COURT: Solicitor?

19 MR. STUMBO: That is correct, Your Honor. I
20 have the officers from Virginia, who we actually removed
21 from the courtroom, because of the sequestration motion.
22 We can get them back down here to testify on that, the
23 issue of consent.

24 THE COURT: So you are saying it's a consent?

25 MR. STUMBO: Absolutely, to search, a consent

1 search by the residents of the house, the Defendant's
2 mother and his brother Eddie. Both officers will
3 testify that those individuals gave them full consent to
4 come in this house.

5 THE COURT: The Defendant's mother and his
6 brother Eddie?

7 MR. STUMBO: Correct, Your Honor.

8 THE COURT: Were the parties that gave
9 consent?

10 MR. STUMBO: They are not present.

11 THE COURT: They are the parties that gave
12 consent?

13 MR. STUMBO: Yes, sir.

14 THE COURT: All right. Mr. Williams?

15 MR. WILLIAMS: I guess the question is whether
16 that is sufficient, the hearsay or the allegation by the
17 officer that two individuals, who are not present, not
18 subject to cross examination, can -- if they can say
19 they gave permission for police officers to go into the
20 Defendant's bedroom and receive items from the
21 Defendant's bedroom and then take them.

22 THE COURT: Well, I think hearsay is
23 admissible on the search warrant issue under a number of
24 cases. I think State versus Nolan was the one that
25 really comes to mind.

1 I think that the issue is whether or not or
2 part of the issue is whether or not they were authorized
3 to give consent and could give consent for the Defendant
4 in this case. In other words, whether or not the
5 consent is valid. As you know, that is a judicial
6 determination. It's not an issue for the jury anyway.

7 MR. WILLIAMS: Yes, sir.

8 THE COURT: It's not like a statement that I'm
9 just the gatekeeper and the jury makes the ultimate
10 determination. I make a determination of whether or not
11 the search is valid under an exception to the search
12 warrant rule.

13 Do we need to take this up now before the jury
14 comes back out?

15 MR. STUMBO: Your Honor, I actually
16 anticipated that we would. Mr. Williams said he didn't
17 have anything. Then we came back in and marked the
18 exhibit a few minutes ago, and he said, I do have this
19 issue on consent.

20 So I think we probably do need to take it up
21 pretrial, at least as a threshold matter, to determine
22 whether this evidence from Virginia is admissible and is
23 going to come in.

24 We would say that our argument is under all
25 the case law on consent. We rest on United States v.

1 Matlock and State v. Laux, L-A-U-X, a Court of Appeals
2 case from 2001.

3 The officers -- we plan to proffer their
4 testimony for the hearing, Your Honor, if need be.
5 Their testimony will be that Mr. Ratliff's mother, who
6 was infirmed, very infirmed and pretty much bedridden
7 and my understanding couldn't be here, gave them full
8 consent to look anywhere they needed to come look in the
9 house.

10 Eddie Ratliff, who I have talked to by phone,
11 who is the sole caretaker to the infirmed mother, also
12 gave them full consent, both Sheriff Richard Vaughan,
13 and First Sergeant John Thompson.

14 They are going to testify to that effect, that
15 they were given unfettered access to the house, and they
16 can testify to the setup of Mr. Ratliff's room, that it
17 was not -- there was not a deadbolt on the door. It was
18 not as if he was paying rent in this place. It's his
19 family.

20 Both Eddie Ratliff and Ms. Ratliff went into
21 this room on a number of occasions, according to the
22 officers before they ever got there, and they had access
23 to this room.

24 In fact, some of the evidence that was seized
25 Mr. Ratliff told them, I have seen this before and this

1 is where it is, which I believe would be essentially a
2 private search outside of the Fourth Amendment
3 analysis.

4 Your Honor, it's our view that consent was
5 valid here, and we are ready to go forward on that
6 issue.

7 THE COURT: All right. Mr. Bailiff, will you
8 advise the jury I am taking up some pretrial matters and
9 will be with them as timely as possible.

10 Solicitor, you may call your witnesses.

11 MR. STUMBO: Thank you, Your Honor, the State
12 calls First Sergeant John Thompson to the stand.

13 JOHN PATRICK THOMPSON, being
14 first duly sworn, testifies as follows:

15 CLERK: State your name for the record and
16 spell your last, please.

17 THE WITNESS: John Patrick Thompson,
18 T-H-O-M-P-S-O-N.

19 IN CAMERA EXAMINATION

20 BY MR. STUMBO:

21 Q Good morning, Sergeant Thompson, how are you doing
22 today?

23 A Fine, thank you.

24 Q Let the Court know where you currently work.

25 A I am employed with the Wythe County Sheriff's

JOHN THOMPSON -- IN CAMERA -- MR. STUMBO

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1 Office in Wythe County, Virginia.

2 Q And how long have you been with the Sheriff's
3 Department in Wythe County?

4 A A little over 17 years.

5 Q Is that the entirety of your experience in law
6 enforcement?

7 A Yes, sir, it is.

8 Q And during that time at the Sheriff's Department,
9 what kind of law enforcement duties have you done?
10 Can you give us a summary of the jobs you have
11 conducted there?

12 A I am mainly assigned to the patrol division, which
13 most of the time we take the initial reports on
14 most criminal matters, and if it needs to involve
15 an investigator, then we will contact them.

16 Q Have you been involved in investigations?

17 A Yes, sir, I have.

18 Q Have you been involved with an investigation
19 related to the Defendant, Mr. Ratliff?

20 A I was called by Investigator Eddie Prestigiaco
21 (phonetic).

22 Q Prestigiaco?

23 A However you pronounce it. I can't pronounce it
24 correctly.

25 Q That's close. Do you remember what the date was

1 when you were contacted by Detective Prestigiacomo?

2 A I was contacted by him on August 1st at
3 approximately at 17:30 hours in the afternoon,
4 about 5:30 p.m.

5 Q And as a result of that call, where did you go or
6 what did you do?

7 A It was later that afternoon before I got to the
8 residence. I had several calls in between that. I
9 finally went to the residence about 8:45 that
10 afternoon, that evening.

11 Q When you say residence, I didn't mean to cut you
12 off, Sergeant. That residence, is that [REDACTED]

13 [REDACTED]

14 A That is correct, sir.

15 Q That is in Max Meadows, Virginia?

16 A Yes, sir, that is.

17 Q Max Meadows is in Wythe County?

18 A Yes, sir, it is.

19 Q Whose residence was [REDACTED] in Max
20 Meadows?

21 A I spoke with Eddie Richardson at the door. His
22 mother was bedridden, and I spoke to him about what
23 Detective Prestigiacomo advised me and asked if he
24 would let me go up to the room upstairs where
25 Richard had stayed or the Defendant.

JOHN THOMPSON -- IN CAMERA -- MR. STUMBO

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- 1 Q And did you inform Mr. Eddie -- you said Eddie
2 Richardson. Was it Eddie Richardson? What was his
3 name?
- 4 A The person I spoke with was Eddie Ratliff, excuse
5 me.
- 6 Q Did you find out from Mr. Ratliff who he was in
7 relation to the house? Did he own the house? Did
8 he live there?
- 9 A His mother was the owner of the house.
- 10 Q Did Mr. Ratliff live there?
- 11 A He lived there, yes, sir.
- 12 Q Were there any other residents of the house there
13 at that time?
- 14 A No, sir, they were the only two people at the
15 residence.
- 16 Q Did you inform Mr. Eddie Ratliff why you were
17 there?
- 18 A That I cannot recall.
- 19 Q Did you have a conversation with him at the door?
- 20 A Yes, sir, I did.
- 21 Q As to why you were at the residence?
- 22 A Yes, sir.
- 23 Q And at that time what was your understanding of why
24 you were going to that house?
- 25 A After speaking with the investigator from South

1 Carolina, he wanted me to go to his residence to
2 see if there were any items of interest that would
3 be involved in a case in South Carolina.

4 Q Okay. You say items of interest. Was there
5 anything to the best of your knowledge that you
6 were looking for at that time?

7 A My best knowledge was pornography, such as that.

8 Q At that time when you talked to Mr. Eddie Ratliff,
9 did you have authority to go in that house? And by
10 what authority did you go into the Ratliff
11 residence?

12 A I just done a knock and talked to him and asked him
13 if he would let me see the room where his brother
14 had stayed. From the information I got from South
15 Carolina, his brother had stayed in that house, and
16 I spoke with Eddie and asked for consent to look at
17 that room.

18 He says, Well, it's my mother's house, and I
19 said, Okay, can I ask her for consent? He said, I
20 will talk to her. I stood at the doorway. He went
21 to ask his mother if she had a problem with me
22 going up to the room. She said that was fine.

23 Q So you waited at the door?

24 A At the door, but I heard the entire conversation
25 between Eddie and his mother.

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1 Q Did you have authority to go in the house after
2 that? Were you given authority?

3 A I was given consent to go to that room.

4 Q What was their understanding at the time based on
5 what they told you? Were they aware that the
6 Defendant had been arrested at that time?

7 A That I do not recall.

8 Q When you came into the house, who directed you to
9 this bedroom?

10 A Eddie did.

11 Q Was there a lock on the door? Was the door to the
12 bedroom locked?

13 A No, sir.

14 Q Were you able to just walk right into the bedroom?

15 A He opened the door up for me when we went to that
16 room.

17 Q What did -- did Eddie describe to you what the
18 setup of the house was? Did he show you where the
19 bedrooms were in relation to each other? Where was
20 Eddie's room in relation to Richard's room that he
21 directed you to?

22 A It was my understanding Eddie's room was on the
23 right side, and this other room was on the other
24 side from it.

25 Q How about the mother?

1 A The mother was downstairs in what I would call a
2 living room area in a bed.

3 Q When you walked into that room with Eddie, he
4 opened the door, you followed him in, what, if
5 anything, in that room did he direct you to?

6 A There was some pictures that he had put away, and
7 he spoke about them. I just asked him if I could
8 look around and see what I could see.

9 Q These pictures, did he tell you why he put them
10 away? What were the nature of the pictures?

11 A Undoubtedly his mother or something had seen these
12 in the past or something and asked him to put them
13 in a drawer.

14 Q And why did he put them in a drawer? Did you have
15 any conversation with him as to why these
16 pictures -- why he went in there and put these
17 pictures away?

18 A No, sir, I did not.

19 Q Did he direct you to those pictures?

20 A That I cannot recall. Like I said, I asked for
21 consent to search the entire room, and I looked
22 through the entire room.

23 Q Did it appear to you that Eddie had access to that
24 room?

25 A Yes, sir, he had been in the room before. He told

JOHN THOMPSON -- IN CAMERA -- MR. STUMBO

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1 me that.

2 Q Did the mother have access to that room to your
3 knowledge?

4 A She would have access. I don't know how long it
5 had been since she could walk up the stairs because
6 she did seem to be bedridden when I was at the
7 residence.

8 Q He indicated the pictures he saw on the dresser, he
9 put them in the drawer, and he directed you to
10 those pictures?

11 A Yes, sir.

12 Q Was there anything else that he alerted you to for
13 any reason at that point?

14 A No, sir, just items that I observed while I was
15 there.

16 Q What items were those?

17 A There was a plastic bag that contained some sex
18 toys, K.Y. jelly, and there was also some Polaroids
19 in the room that I looked at, along with some other
20 photographs. I also seen some panties. A couple
21 of them were on what I call the nightstand.

22 Q Were those items stuff you had to go look for in
23 the room or was it just out?

24 A Those items were pretty much in common view.

25 Q Now, during this time when you see these items, was

1 Eddie in the room with you?

2 A He was standing at the door, yes.

3 Q Did you ultimately see these pictures in the drawer
4 that he directed you to?

5 A Yes, sir, I did.

6 Q What was the nature of those pictures?

7 A They were in a brown folder, and it consisted of
8 what I would consider a middle-age woman. There
9 was oral sex pictures and other sexual pictures
10 inside this folder that looked like they had been
11 blown up.

12 Q And did you take any of that stuff at that time?

13 A No, sir, I did not.

14 Q Did you document it in any way?

15 A I called Investigator Vaughan and let him know
16 what I had seen and also called the Columbia
17 Sheriff's Office and talked to the investigator
18 again and just told him what I observed at the
19 residence.

20 Q Okay. With the exception of the pictures that
21 brother Eddie directed you to in the drawer, was
22 everything else sitting out in the room for your
23 view?

24 A Other than there was some receipts in some drawers.
25 There was a lot of receipts in that room. Other

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1 than that, everything else was pretty much in
2 common view, yes.

3 Q At that time why did you not take any of those
4 items? Did you have any reason to take them at
5 that time?

6 A Not at that time, no, sir.

7 Q Was that based on the fact you had limited
8 information about the case?

9 A Yes, sir.

10 Q It was just based on brief conversations with
11 Detective Prestigiacombo?

12 A Yes, sir.

13 Q Did you report what you had seen back to your
14 supervisor?

15 A Well, I was the shift supervisor. I passed that
16 information on to the investigator.

17 Q Who was the investigator you passed that
18 information on to?

19 A Investigator Vaughan, now Sheriff Vaughan.

20 Q Is that sheriff Vaughan sitting back here in the
21 courtroom?

22 A Yes, sir.

23 MR. STUMBO: That's all I have for Sergeant
24 Thompson, Your Honor.

25 THE COURT: Mr. Williams.

1 MR. WILLIAMS: Thank you, Your Honor.

2 IN CAMERA EXAMINATION

3 BY MR. WILLIAMS:

4 Q Officer, I will try to be brief. Suffice it to say
5 that you don't have the owner of the property here
6 today nor the alleged brother, Eddie Richardson or
7 Eddie Ratliff, here; is that correct?

8 A Eddie Ratliff, no, sir.

9 Q You first called him Eddie Richardson. Is there a
10 reason why you called him Eddie Richardson?

11 A No, sir.

12 Q When you went to the location, had you looked up
13 anything on the tax map to see who the actual owner
14 of the property was?

15 A No, sir, I did not.

16 Q In terms of your knowledge about who the owner of
17 the property was, you really don't know who the
18 legal owner of the property was; do you?

19 A No, sir.

20 Q Now, it's my understanding that you got a call from
21 Prestigiacomo in reference to a case down here in
22 Lexington, and as a basis or as a furtherance of
23 that call, you went to this location because you
24 knew that the Defendant was living in Virginia at
25 this location?

JOHN THOMPSON -- IN CAMERA -- MR. WILLIAMS

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1 A I didn't know if he was living there. I knew he
2 had visited there.

3 Q When you arrived there, you learned he had been
4 living in one of -- at least living in one of the
5 bedrooms there, didn't you?

6 A Staying in one of the bedrooms.

7 Q Staying and living, is there any difference in
8 that?

9 A It is to me. I don't know about you, sir.

10 Q All right. Well, when you got there, did you
11 find -- well, you were directed by, I think by,
12 Eddie Ratliff or this Eddie Richardson to a
13 location where Richard Ratliff had been staying or
14 sleeping; right?

15 A That's correct, sir.

16 Q And I believe you said that you overheard him
17 talking to a lady, an elderly lady, who was in bed;
18 is that correct?

19 A His mother, yes, sir.

20 Q You say it's his mother. Did you go over and talk
21 to her?

22 A No, sir, I did not.

23 Q So you never had any communication with the person
24 that you assumed was the owner of the property,
25 correct?

- 1 A No, sir.
- 2 Q So the only conference you have is with someone who
- 3 you misnamed earlier as possibly being the brother
- 4 of the Defendant; is that correct?
- 5 A Would you repeat that, please.
- 6 Q You called him Eddie Richardson. You assume he is
- 7 the brother of the Defendant, Richard Ratliff;
- 8 correct? That's the only one who had a
- 9 conversation with you?
- 10 A That is correct.
- 11 Q The items you received in the bedroom where the
- 12 Defendant had been living were photographs in a
- 13 brown folder which were in a drawer which was
- 14 closed; is that correct?
- 15 A That's correct.
- 16 Q And there were also some receipts in a drawer which
- 17 were closed; is that correct?
- 18 A That's correct.
- 19 Q And upon going through those items, you called your
- 20 superior, who is now the Sheriff, and told him of
- 21 those items, and you did not take those items; is
- 22 that correct?
- 23 A I did not seize anything, no, sir.
- 24 Q Who actually seized the items we have in the
- 25 courtroom today?

JOHN THOMPSON -- IN CAMERA -- MR. STUMBO

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1 A I would assume that would be Sheriff Vaughan and
2 another investigator.

3 Q But you didn't seize these items?

4 A No, sir, I did not.

5 Q As a result of the information which you gave the
6 sheriff now, number one, you didn't get a search
7 warrant when you went there; correct?

8 A No, sir, I did not.

9 Q To your knowledge did anyone secure a search
10 warrant after you reported back to the sheriff what
11 items were in that location?

12 A Not that I'm aware of.

13 MR. WILLIAMS: That's all the questions I
14 have, Your Honor.

15 THE COURT: Redirect?

16 MR. STUMBO: One question, Your Honor.

17 IN CAMERA EXAMINATION

18 BY MR. STUMBO:

19 Q Sergeant Vaughan, you said you overheard the
20 conversation between Eddie and the mother --

21 A Yes, sir.

22 Q -- in the house. Did the mom object at any time to
23 you being there?

24 A No, sir.

25 Q Did you hear her say, You have the authority to

1 come in the house?

2 A Yes, sir, she gave me permission to go into the
3 room and look.

4 Q You overheard her say that?

5 A Yes, sir, I did.

6 MR. STUMBO: Nothing further, Your Honor, from
7 this witness.

8 THE COURT: Mr. Williams?

9 MR. WILLIAMS: Nothing further.

10 THE COURT: Thank you, Sergeant. You may step
11 down.

12 (Witness leaves the witness stand).

13 THE COURT: Solicitor, you may call your next
14 witness.

15 MR. STUMBO: The State would call Sheriff
16 Richard Vaughan to the stand.

17 THE COURT: Sheriff, come around and be sworn,
18 please.

19 RICHARD ALLEN VAUGHAN, being
20 first duly sworn, testifies as follows:

21 CLERK: State your full name and spell your
22 last for the record.

23 THE WITNESS: Richard Allen Vaughan,
24 V-A-U-G-H-A-N.

25 THE COURT: You may proceed, Solicitor.

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IN CAMERA EXAMINATION

1

2 BY MR. STUMBO:

3 Q Good morning, Sheriff Vaughn.

4 A Good morning.

5 Q Thank you for being here. Sheriff Vaughn, you
6 heard First Sergeant Thompson testify. You used to
7 work with him?

8 A Yes, sir.

9 Q That was with the Wythe County Sheriff's Office?

10 A Yes, sir.

11 Q Since then you have been elected sheriff where?

12 A In Grayson County, the adjoining county to Wythe
13 County.

14 Q That borders Wythe County?

15 A Yes, sir.

16 Q Do you live in Wythe County or Grayson?

17 A I live in Grayson County.

18 Q How long have you been in law enforcement?

19 A Fifteen years.

20 Q And what sort of duties have you done while in law
21 enforcement?22 A I started out as a park ranger with the Department
23 of Conservation and worked on the Wythe County
24 Sheriff's Office, worked in patrol and was promoted
25 to investigations, was promoted to investigation

1 sergeant and then later ran for sheriff and was
2 elected Sheriff of Grayson County.

3 Q While you were with the county, did you conduct
4 criminal investigations?

5 A Yes.

6 Q About how many do you think you conducted in your
7 time there?

8 A I would say 2 to 300.

9 Q During that time while you investigated cases at
10 Wythe County, did you ever have occasion to search
11 people's residences for items of interest?

12 A Yes.

13 Q More than once?

14 A Yes.

15 Q Were you there at Wythe County in August of 2007?

16 A Yes, I was.

17 Q And did you have an occasion while you were there
18 to be involved in an investigation of the
19 Defendant, Richard Ratliff?

20 A Yes.

21 Q What was your involvement with that?

22 A On the morning of August the 2nd, I spoke with
23 Sergeant John Thompson. He told me that he had
24 been requested to go to a residence, and he
25 observed some items at [REDACTED]

RICHARD VAUGHAN -- IN CAMERA -- MR. STUMBO

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1 I later talked with Detective Tracy Barr from
2 Lexington, South Carolina, and they suspected there
3 may be a computer there that may have had child
4 pornography on the computer.

5 Q Did they indicate whether there had been an arrest
6 made in the case or anything of that nature?

7 A Yes, they did say that Richard Ratliff was placed
8 under arrest for criminal sexual conduct and was in
9 custody here.

10 Q And you said something about a computer. Were they
11 looking for pictures of some sort?

12 A Yes.

13 Q Did they explain to you what the nature of those
14 pictures were?

15 A Yes.

16 Q At that point -- you say this was August 2nd -- you
17 heard from First Sergeant Thompson about what he
18 had seen at the house?

19 A Yes.

20 Q What did you determine to do at that point?

21 A Me and another investigator, Investigator Doug
22 Carner, went to the residence at [REDACTED]
23 We met with Eddie Ratliff and his mother,
24 Ms. Ratliff, the owner of the residence.

25 We spoke to both of them in person. They both

1 gave us consent to come in the residence and search
2 anywhere we needed to go to find evidence relevant
3 to this case.

4 Q Was there anywhere in particular you went in that
5 house based on the authority they gave you?

6 A Yes, the focus was on an upstairs bedroom where
7 Mr. Ratliff stayed when he visited with them. That
8 room was a common room where the mother had some
9 clothing stored in the closet. I think Eddie also
10 had some items in there. They both was routinely
11 in that room.

12 Q Was there anything that they saw in that room that
13 they directed you to?

14 A Yes. Eddie had seen some Polaroid pictures that
15 contained some pornographic material. Those
16 pictures were of Mr. Richard Ratliff nude and also
17 a middle-age female was nude in that picture. He
18 took those off the top of the chest of drawers and
19 put them in a drawer in the chest.

20 Q Did he show you where those were, where he placed
21 those?

22 A Yes, he did.

23 Q Did you direct him to put those pictures in that
24 drawer?

25 A No, I did not.

RICHARD VAUGHAN -- IN CAMERA -- MR. STUMBO

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1 Q Had he even heard from anyone in law enforcement to
2 the best of your knowledge before he took them off
3 the dresser and put them into the drawer?

4 A No. He told me the reason he put them in there is
5 he was afraid his mother would come in and that she
6 would see those pictures and she would be upset if
7 she knew that he had pornographic material in the
8 room.

9 Q He wanted to hide his mother's eyes from what he
10 saw essentially?

11 A Yes.

12 Q Was there anything else in that room that you saw?

13 A Yes. There was a plastic bag, I believe, sitting
14 in the floor by the bed that contained several sex
15 toys, several Polaroid photographs of young
16 teenage, possibly younger girls. There was
17 lubricants, K.Y. jelly. There was three pairs of
18 young girl's G-string type panties.

19 Q Why were the sex toys and the panties, little
20 girl's panties, of interest to you at that point?

21 A Because it had been relayed to me by investigators
22 here in Lexington that the victims in the case were
23 very young.

24 Q Were those items just out on the floor in the room?

25 A They was on top of the dresser or top of the

1 nightstand is where the panties were located, three
2 pairs altogether. There was two on top of the
3 chest of drawers and one on top of the nightstand.

4 MR. STUMBO: Beg the Court's indulgence, Your
5 Honor, for a moment.

6 THE COURT: Yes, sir.

7 (Pause).

8 BY MR. STUMBO:

9 Q Sheriff Vaughn, I will show you what has been
10 marked for I.D. purposes --

11 MR. STUMBO: It's State's Exhibits 13, 14, 15,
12 16, 17, 5, 6, 7, 8, and 9, Your Honor.

13 Q I will show you just for I.D. purposes State's 5
14 through 9 and State's 13 through 17.

15 MR. STUMBO: If I may approach the witness and
16 give those to him, Your Honor.

17 THE COURT: Yes, sir.

18 BY MR. STUMBO:

19 Q Take your time. If you could look through those.

20 A (Pause).

21 Q Did you have a chance to look at those pictures,
22 Sheriff Vaughan?

23 A Yes, I did.

24 Q Who took those photographs?

25 A I took some of them and Investigator Doug Carner

RICHARD VAUGHAN -- IN CAMERA -- MR. STUMBO

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1 took some of them.

2 Q Do you recognize the items in all of those pictures
3 that you just looked at?

4 A Yes, I do.

5 Q That would be State's 5 through 9 and State's 13
6 through 17?

7 A Yes.

8 Q How were these pictures arranged? Were they
9 sitting out like that, as they are in the picture,
10 when you found them?

11 A No, they was -- some of them was in a drawer and
12 then some of them was in the plastic bag, and we
13 laid some of those out on the bed and took digital
14 photographs of the pictures that we collected.

15 Q Do they fairly and accurately represent the items
16 contained therein as they were the day that you
17 found them?

18 A Yes, sir.

19 Q Have they been altered or manipulated in any way?

20 A No, sir.

21 Q Are you telling me the only thing you did to them
22 was lay the items out the bed to snap the pictures?

23 A That's correct.

24 Q Did you seize the items that you found in that
25 room?

1 A Yes, we did.

2 Q And what did that include?

3 A That included three pair of panties. We had a
4 D.V.D. that was titled, Blonde and Anal. We also
5 recovered a receipt from American Best Value Inn,
6 West Columbia dated July 9, 2007.

7 There was a receipt from the Movie Stars in
8 Wytheville, Virginia, for where they had rented a
9 D.V.D. Tushie Lickers and Tossing up Teeners.
10 There was also a plastic bag that contained dildos,
11 sex toys, K.Y. jelly, three pair of panties and
12 Polaroid photographs.

13 We also recovered a .32-caliber revolver,
14 serial Number 755557, and we also seized eight and
15 a half by eleven photos of Mr. Richard Ratliff nude
16 with a middle-age female.

17 Q You mentioned a D.V.D. titled, Blonde and Anal. I
18 will hand you what has been marked as State's
19 Exhibit 4 for I.D. purposes. Is this the D.V.D.
20 you found in that room?

21 A Yes, it is.

22 Q Where did you find that D.V.D.?

23 A I'm not for certain if it was in the chest of
24 drawers or the nightstand. It was either one of
25 those, chest of drawers or nightstand.

RICHARD VAUGHAN -- IN CAMERA -- MR. STUMBO

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1 MR. STUMBO: Your Honor, if I may approach the
2 witness.

3 THE COURT: Yes, sir.

4 (Attorneys confer).

5 BY MR. STUMBO:

6 Q Sheriff Vaughn, I will show you one of the
7 photographs. Did you take this photograph or the
8 investigator with you?

9 THE COURT: What number is this?

10 MR. STUMBO: I haven't marked this one, Your
11 Honor. I certainly can. We had not planned on putting
12 it in. I am showing it to refresh his memory.

13 BY MR. STUMBO:

14 Q Does that refresh your memory on where you found
15 the D.V.D., State's Exhibit 4?

16 A Yes, it does. It was in the top bed nightstand
17 drawer.

18 Q Did you seize the D.V.D. at that time out of the
19 drawer?

20 A Yes.

21 Q What time of day did you go to the house, do you
22 remember? Is that recorded anywhere?

23 A Yes, it was approximately 9:00 a.m. on August the
24 2nd.

25 Q Did you ever threaten Eddie Ratliff in any way to

- 1 come into that house?
- 2 A No, sir.
- 3 Q Did you ever threaten Ms. Ratliff, the mother?
- 4 A No.
- 5 Q Did you ever promise them any reward or anything
- 6 for letting you in there?
- 7 A No.
- 8 Q Did you put any pressure on them to let you in the
- 9 house?
- 10 A No.
- 11 Q Did they ever indicate to you by words or actions
- 12 any opposition to you coming in and looking around?
- 13 A No, none whatsoever.
- 14 Q You had indicated that Eddie Ratliff actually took
- 15 you into the room and showed you some of these
- 16 items of interest?
- 17 A Yes.
- 18 Q Items that he had seen before?
- 19 A Yes.
- 20 Q One more question, Sheriff Vaughn. You had
- 21 discussed these items with Sergeant Thompson who
- 22 had gone in the day before?
- 23 A Yes.
- 24 Q So you did have some idea based on what he told you
- 25 what you were looking for?

RICHARD VAUGHAN -- IN CAMERA -- MR. WILLIAMS

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1 A Yes.

2 MR. STUMBO: That's all I have at this time,
3 Your Honor.

4 THE COURT: Thank you. Mr. Williams.

5 MR. WILLIAMS: Very briefly.

6 IN CAMERA EXAMINATION

7 BY MR. WILLIAMS:

8 Q You knew the items were located in the house,
9 correct?

10 A (Witness nods). (Indicating affirmative response).

11 Q You knew the location of the house, correct?

12 A (Witness nods). (Indicating affirmative response).

13 COURT REPORTER: I'm sorry, could you answer
14 out loud.

15 A Yes.

16 Q You had talked to the detective, at least
17 Prestigiacombo with Lexington County, correct,
18 somebody had?

19 A I talked with Detective Tracy Barr.

20 Q Tracy Barr. Why didn't you just get a search
21 warrant?

22 A We did not have a criminal offense in our county at
23 that time. One of the victims had been to Wythe
24 County. We suspected there may have been a
25 criminal offense that occurred there, and we was

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1 just assisting the investigators there. I had
2 already been told we had been given consent to
3 search the residence, and we chose to go with the
4 consent.

5 Q But you never even attempted to get a search
6 warrant?

7 A No, sir.

8 MR. WILLIAMS: That's all I have.

9 THE COURT: Thank you. Anything in redirect,
10 Solicitor?

11 MR. STUMBO: Nothing, Your Honor.

12 THE COURT: Thank you. Thank you, Sheriff.
13 You may step down.

14 (Witness leaves the witness stand).

15 THE COURT: Solicitor, you may call your next
16 witness.

17 MR. STUMBO: Your Honor, that's all the State
18 has on the consent issue at this time.

19 THE COURT: All right, Solicitor, I would be
20 glad to hear from you.

21 MR. STUMBO: Thank you, Your Honor. The State
22 would rest on a couple of cases here. The seminal case
23 on consent searches from the U.S. Supreme Court is U.S.
24 v. Matlock. That's a 1973 U.S. Supreme Court case. The
25 cite on that is 415 U.S. 164.

1 Your Honor, essentially in that case it lays
2 out the standard for who has authority to consent to the
3 search of a residence and items in that residence. The
4 case also discusses, Your Honor, essentially in the
5 Fourth Amendment analysis what the Court looks at is the
6 prospective of the officers who obtained the consent.

7 In other words, did they do a thorough job of
8 finding out who lives in this house, first and foremost,
9 what areas of this house did those people they are
10 speaking with have common authority over, and
11 essentially do they get consent to look in those areas,
12 Your Honor.

13 The Supreme Court says if they get voluntary
14 consent from the parties who have the authority to give
15 it to search, they can do a search in lieu of obtaining
16 a search warrant, Judge.

17 Based on testimony of the witnesses today,
18 Judge, and based on my reading of U.S. v. Matlock and
19 State v. Laux -- the cite is 344 S.C. 374 and 544 S.E.2d
20 276. That's a 2001 Court of Appeals case.

21 Judge, that case is about apparent authority.
22 In that case the Court found that consent to search is
23 valid when based on apparent authority, judged against
24 an objective standard and the facts available to the
25 officer, would lead a person of reasonable caution to

1 believe that the consenting party had authority over the
2 premises.

3 So what the Court looked at in State versus
4 Laux is not even necessarily an analysis of whether
5 there was actual authority, whether this person owned
6 the house. Officers in State versus Laux had apparent
7 authority.

8 In that case, Judge, I believe the facts are
9 as follows. You have someone who had lived in the
10 apartment, maybe a girlfriend who had only been living
11 there about one week and had a suitcase, is the one who
12 gave consent. It was the girlfriend of the Defendant in
13 that case.

14 The Court found in that case that the officers
15 came to the house. Based on their observations of the
16 girlfriend and representations made by the girlfriend,
17 that she had authority over that apartment.

18 They went in the apartment and found evidence
19 in that case, and the Supreme Court said that was -- the
20 officers had acted appropriately because of the apparent
21 authority of the girlfriend.

22 Your Honor, in this case based on what
23 Sergeant Thompson and Sheriff Vaughan have testified to
24 today, they certainly had apparent authority to go into
25 that house.

1 You have a mother, who the first night is in a
2 bed -- it's at nighttime -- and a brother who comes to
3 the door. He talks to them, finds out the nature of
4 their relationship and what their relationship to the
5 house is, and they obtained full consent to go in the
6 house.

7 Mr. Eddie Ratliff directs Sergeant Thompson to
8 the bedroom where he had seen these naked pictures on
9 the dresser and shows them where he actually put them
10 because he had been in the room and seen them.

11 So based on the fact that Sergeant Thompson
12 knew that Eddie had been in that room -- so he had
13 access to the room. This was not a room where there was
14 a deadbolt on the door. There was no apparent reason to
15 think that Mr. Ratliff had sole access to that room, but
16 Mr. Eddie Ratliff had access as well.

17 Day two, Sheriff Vaughn comes back and
18 reaffirms the consent. He talks this time to both
19 mother and son. They both give them full consent to
20 come in and look wherever they need to look and do
21 whatever they need to do in the house.

22 There was no other residents at home. There
23 was no indication from either of the two residents of
24 the house that were present that they had any problem
25 whatsoever with these officers coming in the house and

1 looking and finding what they found in Mr. Ratliff's
2 room where he had stayed in Virginia.

3 Your Honor, based on that I believe it's
4 arguable whether there was any expectation of privacy
5 here on Mr. Ratliff's part if his mother and his brother
6 had full access to the room.

7 Certainly if there is an expectation of
8 privacy, under the third party consent cases that we
9 have cited today, his mother and his brother who had
10 access to the room had the authority to waive his
11 expectation of privacy here.

12 Based on those facts, Your Honor, and the fact
13 that Mr. Ratliff didn't try to hide anything -- these
14 were the pictures that were sitting out on top of his
15 dresser. His mother, when she came into the closet to
16 get clothes, as Sheriff Vaughn indicated, could have
17 seen these pictures.

18 The brother Eddie indicated that he didn't
19 want his mother to see them. So that's why he takes
20 them off the dresser and puts them in the drawer, and he
21 directs them specifically to that drawer where the
22 pictures were found.

23 So, Your Honor, based on U.S. v. Matlock,
24 based on State v. Laux, based on the testimony we have
25 heard today, we believe consent was given and was valid

1 in this case. The scope of that consent was as to
2 Mr. Ratliff's entire bedroom and the things they found
3 and seized as items of evidence.

4 THE COURT: Thank you, Solicitor.

5 MR. STUMBO: Yes, sir.

6 THE COURT: Mr. Williams.

7 MR. WILLIAMS: Your Honor, I will be brief. I
8 think the biggest problem the Defendant would have with
9 the search is the fact that those alleged witnesses who
10 gave the consent to these officers are not present and
11 subject to cross examination.

12 The officers can simply say anything they want
13 to. They can say they had permission. They can say
14 that they didn't threaten anyone. They can say that one
15 of the persons who is not here had said that he only
16 stayed there.

17 The problem is that those witnesses are not
18 present. I will bet in the case of the State versus
19 Laux that there was a witness who was present who was
20 subject to cross examination for the defense counsel.

21 Then he could argue or at least cross examine
22 the girlfriend as to how long she had stayed there, as
23 to whether or not she knew where the items were, where
24 or not she had apparent authority or not apparent
25 authority.

1 I think the true issue is the fact that the
2 Defendant has absolutely no way to cross examine those
3 allegations. Obviously he would take the position that
4 he was the only one living in the room and he paid rent
5 and all these other items.

6 But we don't have those witnesses present for
7 the Court to make a determination as to whether or not
8 they actually made these statements and whether or not
9 they had the authority to give consent.

10 MR. STUMBO: If I may briefly respond to that,
11 on the hearsay argument?

12 THE COURT: Yes, sir.

13 MR. STUMBO: First and foremost, I think it's
14 arguable under our rules of evidence whether it's
15 hearsay as defined. The reason for that is I don't know
16 the statements are being offered for the truth of the
17 matter asserted.

18 They are being offered to demonstrate the
19 effect on Sheriff Vaughn and Sergeant Thompson, whether
20 they believed under the reasonable person analysis
21 whether they had valid consent.

22 So we are offering those items not for the
23 truth of the matter asserted, which under the rules if
24 it's not offered for that purpose, it's not defined as
25 hearsay.

1 Furthermore, Your Honor, as the U.S. v.
2 Matlock case notes -- and I am reading from page 173 of
3 the opinion of U.S. v. Matlock -- it says, It should be
4 recalled that the rules of evidence normally applicable
5 in criminal trials do not operate with full force at
6 hearings before the judge to determine admissibility of
7 the evidence.

8 So as Your Honor has already noted, we believe
9 it's not hearsay. Even if it is, it's admissible for
10 Your Honor's consideration of whether these officers
11 acted appropriately under the circumstances.

12 THE COURT: Well, Mr. Williams is correct that
13 Dea Cooke, the girlfriend of Mr. Laux, did testify in
14 camera. However, in State versus Nolan, which is 456
15 S.E.2d 926, Nolan gave permission for consent to search
16 to Trooper Mark Coates.

17 Trooper Coates and Mr. Nolan then hook up with
18 Trooper McNair, now Chief in Cayce. Trooper Coates
19 advises Trooper McNair that Mr. Nolan had given consent
20 to search.

21 By the time the case comes to trial, Trooper
22 Coates had been the victim of a homicide in another
23 county and was not available. I think it's a different
24 issue than the hearsay issue, and Trooper McNair was
25 allowed to testify on the consent issue.

1 That being said, looking at the case from the
2 totality of the circumstances on the issue of consent
3 and the State having the burden of proof under the case
4 law, I find that there was a valid consent.

5 An individual, identified as Eddie Richardson
6 or Ratliff, alleged to be the brother of the Defendant
7 and a resident of [REDACTED] Max Meadows,
8 Virginia, is approached by Sergeant Thompson.

9 He goes to an individual who is bedridden,
10 identified as Eddie's mother and the Defendant's mother
11 and the owner of the residence. Sergeant Thompson
12 overhears the conversation in which the mother/owner of
13 the residence gives the officer permission to look
14 around in the upstairs bedroom.

15 He is directed to that bedroom, which is not
16 locked. There are no other residents at that location
17 besides Eddie and the mother. In that bedroom there are
18 items which belong to the mother and to Eddie.

19 The officer looks around -- Thompson that
20 day -- and sees various items and does not seize them,
21 leaves, passes information on to then Sergeant, now
22 Sheriff, Vaughn. He goes back the next day and gets
23 consent again.

24 The testimony is still they are only the two
25 residents. The testimony is that Sheriff Vaughan talks

1 to both of those residents, who never object. The
2 bedroom is open. There are common items that belong to
3 all the residents that are present in that one bedroom
4 and that he seizes certain items.

5 So based on the totality of the circumstances,
6 I think the search is valid. Anything further?

7 MR. STUMBO: Just beg the Court's indulgence.
8 (Pause).

9 MR. STUMBO: Nothing further, Your Honor.

10 MR. WILLIAMS: Nothing from the Defendant,
11 Your Honor.

12 THE COURT: If you would bring us our jury,
13 please, Mr. Adams.

14 (The jury returns to the courtroom at
15 12:23 p.m.)

16 THE COURT: It appears our jury is present in
17 the courtroom.

18 Madame Clerk, if you would swear our jury,
19 please.

20 CLERK: Yes, sir.

21 (The jury is duly sworn).

22 CLERK: Was there anyone who cannot take the
23 oath?

24 (There is no response).

25 CLERK: You may be seated please.

1 THE COURT: Mr. Greenbaum; is that correct?

2 FOREMAN: Yes, sir.

3 THE COURT: Thank you. Thank you very much
4 for your willingness to serve as the foreperson of our
5 jury. Perhaps after the trial I will ask you how that
6 election went.

7 I apologize for keeping you captive. It's not
8 unusual in most cases that there are pretrial matters,
9 and hopefully that will make the trial proceed more
10 efficiently.

11 I will try to be a little better judicial
12 host. Your time is very important and valuable to me
13 and to all the parties. I will try to move along in as
14 efficient a manner as possible.

15 Also, before I forget we have a court reporter
16 student with us today. We had two but one of them had
17 to leave. This is Deidre; is that correct?

18 STUDENT: Yes, sir.

19 THE COURT: She is a student sitting with our
20 assigned court reporter, Ms. Pantsari. Before we begin
21 the trial, I want to tell you that this trial will be
22 different from what you might expect.

23 Many people do not have the chance to attend
24 actual court sessions as you are now doing and may think
25 from watching television or movies or reading books that

1 trials are always full of high drama, intense action,
2 and riveting circumstances.

3 While all of these things may be true at
4 times, this trial is not for entertainment. It is a
5 fundamental part of our democracy, a search for the
6 truth in an effort to make sure that justice is done
7 between the parties before the Court.

8 Searching for the truth and making sure that
9 justice is done is often slow, deliberate, and
10 repetitive, the opposite of what you may have seen on
11 television or in the movies or read in books.

12 This courtroom is a place of honor dedicated
13 to the protection and preservation of citizen's rights
14 through what many have called, rightfully so, the
15 greatest system ever created.

16 The attorneys appearing before you are
17 advocates for the parties they represent. First and
18 foremost, they are officers of the Court, sworn to
19 uphold the integrity and fairness of our judicial system
20 and to help you in the search for the truth. You should
21 expect them to be professional, competent, and ethical
22 in the representation of their clients.

23 Remember that you have taken an oath to try
24 this case and reach a fair and just verdict. You are
25 also expected to be professional, reasonable, and

1 ethical. Thank you for accepting this important
2 responsibility of jury service and for your contribution
3 today to our justice system.

4 The cases we are about to try are the cases of
5 the State versus Richard David Ratliff. What I will now
6 say is intended to serve as an introduction to the
7 trial.

8 These remarks are not a charge on the law. I
9 will instruct you on the law at the end of the trial
10 before you retire to consider your verdict. This is
11 merely an explanation of the procedure that we will
12 follow in the trial so that you may better understand
13 what may be happening.

14 The Defendant has been charged by indictments
15 filed with this Court with three counts of criminal
16 sexual conduct with a minor in the second degree, two
17 counts of committing a lewd act on a minor, and three
18 counts of criminal solicitation of a minor, the elements
19 of which will be explained to you later.

20 These indictments are simply the charges by
21 which the case is brought into court. They are not in
22 any sense evidence of any of the allegations they
23 contain.

24 The Defendant has pled not guilty to these
25 indictments. The State therefore has the burden of

1 proving each of the elements of each indictment beyond a
2 reasonable doubt.

3 It will be your duty, ladies and gentlemen, to
4 decide whether the State has met that burden. Your
5 purpose as jurors is to find and determine the facts.
6 You are the sole judge of the facts. If at any time I
7 make any comment regarding the facts, you must disregard
8 it.

9 You are to determine the facts from the
10 testimony you hear and the other evidence introduced in
11 court. It is up to you to determine the inferences
12 which you feel may properly be drawn from the evidence.

13 It is especially important that you perform
14 your duty in determining the facts diligently and
15 conscientiously because ordinarily there is no way to
16 correct an erroneous determination of the facts by a
17 jury.

18 On the other hand and with equal emphasis, the
19 law that makes you the judges of the facts makes me the
20 judge of the law. The law as given by the Court is the
21 only law you may consider.

22 You must accept and follow the law even though
23 you may disagree with it. I cannot tell you what the
24 facts are, and you cannot disagree with me about what
25 the law is or should be.

1 Your job is to take the law as I give it to
2 you and to apply it to the facts as you find them from
3 the testimony of the witnesses and any other evidence
4 introduced. After doing that you will render your
5 verdict, a true and just verdict, under the solemn oath
6 that you have just taken as jurors.

7 Until I advise you to begin your
8 deliberations, you must not discuss this case with
9 anyone, including your fellow jurors, friends, family
10 members or anyone involved in the case. After the case
11 is submitted to you, you must discuss it only in the
12 jury room with your fellow jurors.

13 The attorneys and parties in the case have
14 been advised that they are not to talk to you at all.
15 So if you see anyone involved in the case and they do
16 not even say hello, they are not being unfriendly. They
17 are merely following my instructions.

18 During the trial do not read, listen to or
19 watch any news reports about this case, if there be any.
20 This includes anything that may be in the newspapers, on
21 the internet, radio or television.

22 You must not consider anything you may have
23 read or heard about the case outside this courtroom,
24 whether before or during the trial. Do not do any
25 independent investigation or any investigation on the

1 internet.

2 It is important that you keep an open mind and
3 not decide any issue in the case until all the evidence
4 has been presented, the parties have made their closing
5 arguments, and I have instructed you on the law.

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

11 In just a moment, the solicitor will make what
12 is called an opening statement in which the solicitor
13 will explain to you the issues in this case or at least
14 what the solicitor thinks the issues are in the case.

15 The attorney for the Defendant may also make
16 an opening statement, although he is not required to do
17 so. What the attorneys tell you during their openings
18 is not evidence in the case.

19 It is only their contentions as to what the
20 issues are. The evidence will be presented to you by
21 testimony from sworn witnesses from this witness stand
22 and/or by any exhibits that may be introduced.

23 From time to time during the trial, you may
24 hear one of the attorneys say something like, Your
25 Honor, I believe we have a question of law or a matter

1 of law to discuss with you or Your Honor may we approach
2 the bench or sometimes I myself might find it necessary
3 to excuse you from the courtroom for a short while so
4 the attorneys and I can discuss a matter of law.

5 The reason for this is because you are the
6 judges of the facts in the case. Sometimes when I am
7 discussing matters of law with the attorneys, it may be
8 necessary for me to make some comment as to the facts in
9 connection with ruling whether or not a particular law
10 applies.

11 I am not supposed to tell you what I think the
12 facts are. So I will excuse you from the courtroom
13 while these discussions take place so that in no way
14 will you be influenced by anything I might say or do in
15 connection with the facts.

16 In determining what the true facts are and
17 using your good judgment and common sense, you must
18 decide whether or not the testimony of the witnesses is
19 believable.

20 It will be my responsibility to rule as a
21 matter of law as to whether certain testimony is
22 admissible at all or not, but once the testimony is
23 admitted, whether or not you believe it is solely for
24 you to determine.

25 In deciding whether to believe a witness, you

1 have a right to consider the interest of any witness,
2 the bias of any witness, the prejudice of any witness,
3 the opportunity for the witness to have seen the matters
4 and things about which the witness may testify and the
5 way the witness acts on the witness stand.

6 You have a right to consider anything that is
7 in the record that will help you evaluate the testimony
8 of the witnesses. That means it will be your duty to
9 pay close attention to the witnesses, to observe the
10 witnesses, to listen to the witnesses, and to pay close
11 attention to the attorneys and to the Court.

12 Don't let your thoughts wander but give strict
13 attention to the testimony in this case, so that at the
14 end of all the testimony, after the arguments of counsel
15 and the charge on the law by the Court, you will then be
16 in a position to determine what the true facts are and
17 to apply the law to those facts and thus render a true
18 and just verdict.

19 It will be your added responsibility,
20 Mr. Foreman, to preside in the jury room and be the
21 jury's spokesperson here in court. It will also be your
22 duty to write the verdict, but I will give you further
23 instructions about that at the conclusion of the case.

24 Ladies and gentlemen, just by way of
25 housekeeping, I tell jurors weekly, whenever I want to

1 take a break, we take a break. Well, this isn't some
2 type of judicial marathon.

3 If you sit out here too long, your thoughts
4 may wander. If you need a break, please raise your
5 hand. Y'all will take your break, and we will take our
6 break. Any time you have sat out here too long and you
7 need a break, just let me know. As I say, y'all will
8 take your break, and we will take our break.

9 If items of evidence are presented -- I don't
10 know what may be presented. It could be charts,
11 diagrams, photographs or the like. Many times they may
12 be passed among you while you are out here in the
13 courtroom in the jury box.

14 You may look at them as long as you wish while
15 you are out here in the courtroom, keeping in mind that
16 when the case is submitted to you for your
17 deliberations, you will have all those items of evidence
18 with you in the jury room. That would not be the only
19 opportunity or the last opportunity you will get to view
20 those items of evidence.

21 Sometime this afternoon at a break,
22 Mr. Foreman, if you will check with our jurors to make
23 sure no one has particular commitments, early
24 commitments for the evening. I like to work until 5:30,
25 sometimes 6:00 o'clock. It may depend on where we are

1 at with a particular witness.

2 But if people have other commitments, if you
3 will just let me know, child care issues or other places
4 they need to be. If you would, check with your fellow
5 jurors at the appropriate time.

6 Any time you have any questions or needs or
7 concerns that I can help you with, if you will write out
8 the note and give it to our fine bailiff, Mr. Knight, he
9 will get it to my attention.

10 Any objection from the State to anything I
11 have told the jury, Solicitor?

12 MR. STUMBO: Nothing from the State, Your
13 Honor.

14 THE COURT: The defense, Mr. Williams?

15 MR. WILLIAMS: Nothing from the defense.

16 THE COURT: Thank you very much. We will now
17 begin the trial.

18 Solicitor, you may now address the jury.

19 OPENING STATEMENT

20 MS. HOWARD: Thank you, Your Honor. Good
21 afternoon, ladies and gentlemen of the jury. You are
22 going to hear three names an awful lot over the next day
23 or two. The three names are Minor 1, Minor 3
24 and Minor 2

25 You are going to hear a lot about what

1 happened to these three little girls, and I hope when
2 you go back in the jury room and begin your
3 deliberations when the judge instructs you that you will
4 remember the faces of these three little girls.

5 We are all here today because of what happened
6 to these three girls and what happened to them at the
7 hands of that man, Richard Ratliff. At the hands of
8 Richard Ratliff, these three little girls experienced
9 things that they should never have experienced.

10 At the hands of that man, they were shown
11 things and saw things that no little girl should ever
12 see. And at the hands of that man, they felt pain and
13 agony that no 10, 11, 12, 13-year-old girl should ever,
14 ever feel. That pain and that agony is certainly still
15 with them today and probably will be for the rest of
16 their lives.

17 Richard Ratliff began to know these girls or
18 began to know Minor 2 when she was about six years old.
19 Her mother left her with him a lot when she was going to
20 work.

21 Richard Ratliff became a part of their family.
22 He called Minor 2 his granddaughter and he treated her
23 like that. She loved him and trusted him. He took her
24 to the movies, took her out to eat, took her to Wal-Mart
25 a lot. He took her to the fair every year. They had a

1 great relationship.

2 Minor 2 stayed with him while her mom was at
3 work. He took Minor 2 and her mother Tracey to
4 Virginia with him one Christmas to meet his own family.
5 He was a part of their family.

6 He took on the role that her mother always
7 felt was a void in her life, and that was the role of a
8 positive male influence. He took on all of that, and
9 then he took advantage of Minor 2 and her mother.

10 He took away her innocence and that of her two
11 friends. He took everything they gave him, the love and
12 the trust that a little girl beginning at six year old
13 placed in a man until the time she was about ten.

14 He took that and he trampled it. They can't
15 get that back. He began to prey on Minor 2 when she
16 was about ten, and soon after he began to prey on her
17 two best friends, Minor 1 and Minor 3

18 The things they may went through because of
19 Richard Ratliff aren't normal for little girls. Little
20 girls at that time should be thinking about when they
21 get to shave their legs for the first time, their first
22 year of middle school, maybe a boy they have a crush on
23 at school.

24 They shouldn't be going through what these
25 little girls went through. You are going to see and you

1 are going hear a lot of things during the trial that are
2 unpleasant for adults and should never, ever be brought
3 in front of children.

4 Things like this we hope never happen, but
5 they do and they did here. During the trial you are
6 also going to hear a lot of terms that maybe you are not
7 familiar with, what we call legalese.

8 You will hear about the burden of proof. The
9 State has the burden of proof in every case. My
10 colleague and I, we take that on gladly in this case.
11 The burden of proof, there is nothing exiting about it.
12 It means that we have to convince you beyond a
13 reasonable doubt of Mr. Ratliff's guilt.

14 Beyond a reasonable doubt means we are
15 supposed to present enough evidence to leave you firmly
16 convinced that Richard Ratliff committed the acts he is
17 charged with committing.

18 I have no doubt that at the end of this case
19 when you have heard the story from Minor 2 and Minor 3
20 and Minor 1 and when you have heard the testimony of
21 others to corroborate their stories and when you have
22 seen the evidence we will put before you, I have no
23 doubt you will be firmly convinced of Richard Ratliff's
24 guilt.

25 I would ask you to think about one more thing

1 while you are here today. Think about these girls'
2 names. Think about their faces. Remember them when you
3 go into the jury room. Remember why we are here.

4 We are hear because of what happened to them,
5 and the pain and agony they suffered. We are not here
6 because maybe someone or maybe you think that a mom
7 should have been a little bit more aware.

8 After all, these mothers, he spent four, five,
9 six years building their trust, gaining their trust.
10 They thought of him as part of the family. We are not
11 here because maybe someone should have noticed
12 something, a teacher or someone and didn't. We are not
13 hear for any other reason than what that man did.

14 He brought us here. We are here because these
15 three little girls finally decided they had enough.
16 They couldn't take it anymore and they spoke up. They
17 were brave, they were strong, and they spoke up against
18 him and stood up for themselves.

19 I will ask you to remember that when you go
20 back into the jury room. Remember their names.
21 Remember their faces. Do what these three little girls
22 did. Stand up, be brave, and tell Richard Ratliff that
23 what he did was wrong. Thank you.

24 THE COURT: Thank you, Solicitor.
25 Mr. Williams.

1 MR. WILLIAMS: May it please the Court.

2 THE COURT: Yes, sir.

3 OPENING STATEMENT

4 MR. WILLIAMS: Mr. Foreman, ladies and
5 gentlemen of the jury, opening argument is the time in
6 which the lawyers are supposed to meet you. It's a time
7 in which they are to tell you what their case is about
8 and give you some idea in regards to what the trial is
9 going to be about.

10 It's not supposed to be a time in which we are
11 supposed to give you an argument about why one side is
12 right and one side is wrong. You see, at the end of the
13 case, we have closing arguments.

14 At that point in time, that's when the
15 solicitor and the defense lawyer are supposed to argue
16 to you about why their side is correct and why the other
17 side is incorrect.

18 So I will tell you at the beginning of this
19 case, you may have heard some statements in opening
20 argument about three little girls and what we are here
21 for and about agony and things like that.

22 I will tell you that you haven't heard a case
23 yet. You have heard no facts yet. You have heard no
24 witnesses yet. You have absolutely nothing that should
25 create anything in your mind as to a concept or a

1 perception that anybody did anything.

2 If you have that, that's not right. Because
3 you know what? We have not heard any testimony from the
4 stand. You are not here to remember three little girls'
5 names and faces. You are here to do justice. That's
6 what you are here to do.

7 You are here to listen to the testimony of
8 witnesses, evaluate that testimony, determine what the
9 truth is in the case, and apply those facts to the law
10 as His Honor will charge you in regards to the
11 violations that a person has been charged with.

12 You know, it doesn't make any difference the
13 number of charges that someone is charged with. Because
14 you see, the only person who has control over that is
15 the Solicitor's Office.

16 They can make one charge, they can make eight
17 charges, they can make five charges, they can make four
18 charges. So you don't make a decision based on the
19 number of charges. You don't make a decision based on
20 the types of charge.

21 Because obviously a lot of times when you have
22 a bad charge, somebody who is charge with a bad thing,
23 as opposed -- it depends on how you evaluate stuff --
24 simple possession of marijuana versus criminal sexual
25 conduct. You don't make a decision of guilt or

1 innocence based on what the charge is.

2 Because that's not a logical and rational way
3 to approach things. You listen to the testimony, you
4 determine what the truth is, and you apply the facts
5 that you determine from the truth to the law.

6 Now having said that, I am going to sit down
7 because you need to learn about the case and determine
8 what the truth is in the case, remembering that the
9 whole time you listen to this case that the Defendant
10 doesn't have anything to prove.

11 He has nothing to prove. The State puts the
12 evidence up there, and you will evaluate that. You
13 determine if you believe it all to be true, if all
14 points to one direction. I thank you for your
15 attention.

16 THE COURT: Thank you, Mr. Williams. You may
17 call your first witness.

18 MR. STUMBO: Beg the Court's indulgence.

19 (Pause).

20 MR. STUMBO: Your Honor, the State calls
21 Minor 1 to the stand.

22 THE COURT: Come around and be sworn, please.

23 Minor 1 being

24 first duly sworn, testifies as follows:

25 CLERK: State your name, please.

Minor 1

-- DIRECT -- MR. STUMBO

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1 THE WITNESS: Minor 1

2 THE COURT: Ms. Minor 1 you may have to speak
3 up a little bit -- I know there is a microphone there --
4 so that everybody on the jury can hear you, all right?
5 Thank you.

6 DIRECT EXAMINATION

7 BY MR. STUMBO:

8 Q Good morning, Minor 1

9 A Good morning.

10 Q I should say good afternoon. It's almost
11 1:00 o'clock. Minor 1 could you tell this jury how
12 old you are today?

13 A Thirteen.

14 Q And when did you turn 13?

15 A [REDACTED]

16 Q And do you live around here, do you live close?

17 A In [REDACTED]

18 Q Down in [REDACTED] Who do you live with down in

19 [REDACTED]

20 A My mom and my step-dad.

21 Q Do any of your siblings live there?

22 A No, sir.

23 Q Do you have any siblings?

24 A Yes, sir.

25 Q Who are they?

Minor 1

-- DIRECT -- MR. STUMBO

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- 1 A I have five older brothers and one older sister.
- 2 Q All of them are out of the house now?
- 3 A Yes, sir.
- 4 Q And you said you live with your step-dad. Do you
- 5 ever see your father?
- 6 A Yes, sir, I see him every other weekend.
- 7 Q Where does your father live?
- 8 A In West Columbia.
- 9 Q What street does he live on?
- 10 A [REDACTED].
- 11 Q [REDACTED]?
- 12 A (Witness nods). (Indicating affirmative response).
- 13 Q Do you go to school down in [REDACTED]
- 14 A Yes, sir.
- 15 Q Is that [REDACTED] Middle School?
- 16 A Yes, sir.
- 17 Q What grade are you in this year?
- 18 A Eighth grade.
- 19 Q You are about to go to high school?
- 20 A Yes, sir.
- 21 Q Where are you going to go to high school next year?
- 22 A Airport.
- 23 Q Minor 2 tell us about her.
- 24 A I have known her since I was about three years old,
- 25 and we have been best friends ever since.

Minor 1

-- DIRECT -- MR. STUMBO

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- 1 Q Three years old. You have known her since you can
2 remember?
- 3 A Yes, sir.
- 4 Q Do you spend a lot of time with Minor 2
- 5 A Yes, sir.
- 6 Q At your house?
- 7 A Both houses.
- 8 Q I will take you back to 2006.
- 9 A Yes, sir.
- 10 Q Three years ago. You would have turned how old in
11 2006, nine or ten?
- 12 A One of those two.
- 13 Q Had you lived at [REDACTED] since when? When did
14 you move there?
- 15 A Since I turned about seven years old.
- 16 Q What other houses in [REDACTED] have you been to
17 before?
- 18 A Numbers or?
- 19 Q Who lived there in those houses?
- 20 A Richard lived there a while, and I would go over
21 there with Minor 2 That's the only other house.
- 22 Q When you say Richard, you mean the Defendant,
23 Richard Ratliff?
- 24 A Yes, sir.
- 25 Q He had a house in [REDACTED]

Minor 1

-- DIRECT -- MR. STUMBO

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1 A Yes, sir.

2 Q Is this a mobile home park?

3 A Yes, sir.

4 Q How long have you known Richard Ratliff?

5 A I met him when I was like four but actually met him
6 when I was six.

7 Q The first time you met him was with Minor 2 or
8 with somebody else?

9 A The first time I ever met him in my life was with
10 my mom.

11 Q So your mom knew Richard Ratliff when you were
12 four?

13 A Yes, sir.

14 Q When is the first time you went over to his house
15 there in [REDACTED]

16 A I must have been about eight.

17 Q Do you go there with Minor 2

18 A Yes, sir.

19 Q Would you say that at this time you knew Richard
20 better or Minor 2 knew Richard better?

21 MR. WILLIAMS: Objection, calls for
22 speculation, Your Honor.

23 THE COURT: Yes, if you would rephrase the
24 question.

25 MR. STUMBO: Yes, sir.

Minor 1

-- DIRECT -- MR. STUMBO

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1 BY MR. STUMBO:

2 Q To your knowledge, Minor 1 who spent more time with
3 Richard, you or Minor 2

4 A Minor 2

5 Q Is there any reason why you started to go over to
6 Richard's house with Minor 2

7 A Because she was scared.

8 MR. WILLIAMS: Objection, Your Honor.

9 THE COURT: I would sustain that objection.

10 I'm not sure it's responsive to the question. I would
11 advise the jury not to consider that question or that
12 response. It is struck from the record. Ask your next
13 question.

14 BY MR. STUMBO:

15 Q Minor 1 you would go over to Richard's house with
16 Minor 2

17 A Yes.

18 Q Typically was it just you two or did other people
19 go with you?

20 A Just me and Minor 2

21 Q Now, growing up were you ever told by any adults of
22 did you have any knowledge of places --

23 MR. WILLIAMS: Objection, calling for hearsay.

24 MR. STUMBO: I can rephrase, Your Honor.

25 THE COURT: Thank you. I couldn't hear all

Minor 1

-- DIRECT -- MR. STUMBO

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1 the question anyway, Mr. Williams. Thank you,
2 Solicitor.

3 BY MR. STUMBO:

4 Q Minor 1 growing up did you know there were places on
5 your body that shouldn't be touched by adults?

6 A Yes, sir.

7 Q What places on your body did you believe shouldn't
8 be touched by adults?

9 A Your breasts and your vagina.

10 Q When you and Minor 2 would go over to Richard's
11 house -- did he live anywhere else? Did you go
12 anywhere elsewhere he lived?

13 A He lived in Marlboro (sic) Manor.

14 Q Moore Manor?

15 A Yes, sir.

16 Q Whereabouts is that? Where is it close to, do you
17 know?

18 A It sort of close to Leaphart Road.

19 Q Leaphart over by Lexington Medical Center?

20 MR. WILLIAMS: Objection to leading, Your
21 Honor.

22 THE COURT: I would allow it as far as
23 Leaphart Road.

24 MR. STUMBO: I can rephrase, Your Honor.

25 THE COURT: All right.

Minor 1

-- DIRECT -- MR. STUMBO

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1 BY MR. STUMBO:

2 Q What is close to Leaphart Road, Minor 1

3 A Lexington Medical Center.

4 Q And was this -- what kind of place was Moore Manor?

5 Was it similar in anyway to --

6 A It was a mobile home park but it was larger.

7 Q You said Richard had a place in there, too?

8 A Yes, sir.

9 Q You went there with Minor 2

10 A Yes, sir.

11 Q Was this at the same time or before or after he

12 moved to [REDACTED]

13 A Before.

14 Q When you were over at his house, did Richard ever

15 do anything to you that made you feel

16 uncomfortable?

17 A Yes, sir.

18 Q Could you tell us about the first time that he ever

19 did anything that made you feel uncomfortable.

20 A He showed us porn magazines.

21 Q You say magazines. Where was this porn in the

22 house?

23 A In his bedroom.

24 Q Is it something that you found or did he show it to

25 you?

Minor 1

-- DIRECT -- MR. STUMBO

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- 1 A He showed us the first time.
- 2 Q Where was it in his bedroom?
- 3 A I don't know.
- 4 Q Did you have to dig in somewhere to get it or was
- 5 it out in the open?
- 6 A No, it was just out.
- 7 Q Minor 2 was with you when you saw the porn?
- 8 A Yes, sir.
- 9 Q Did you see anything else in Richard's house that
- 10 made you feel uncomfortable?
- 11 A He had naked pictures of women he had been with.
- 12 Q You said naked pictures of women he had been with.
- 13 Was he with them in the pictures?
- 14 A Some of them.
- 15 Q Was he naked or clothed in the pictures?
- 16 A Naked.
- 17 Q You said he showed you porn. Was it just
- 18 magazines?
- 19 A Yes, sir. He tried one time to show me and
- 20 Minor 2 a porn D.V.D., but we went out of the
- 21 house.
- 22 Q After you saw these things in Richard's house, is
- 23 there anything else that he did that made you feel
- 24 uncomfortable?
- 25 A He jacked off in front of us and tried to get us to

Minor 1

-- DIRECT -- MR. STUMBO

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1 take a picture of him or touch him, and we
2 wouldn't.

3 Q Did you say one time -- the first time, how old
4 were you when this happened?

5 A The first time I was about nine, about to turn ten.

6 Q Do you remember if it was at [REDACTED] or Moore
7 Manor?

8 A No, it was at Moore Manor.

9 Q Is this the only time he ever did that in front of
10 you?

11 A No, sir, he did it multiple times.

12 Q About how many, could you count the number of
13 times?

14 A No.

15 Q At Richard's house when you and Minor 2 were
16 there, were there any places that were off limits
17 in the house?

18 A No.

19 Q Was there anything else you saw there besides the
20 naked pictures and the porn that you mentioned?

21 A He had sex toys in his room.

22 Q When you say sex toys, I don't want to embarrass
23 you, Minor 1 but could you describe for the jury
24 what the sex toys looked like.

25 A Not really.

1 Q What were they shaped like?

2 A Penises.

3 Q You said he -- to use your term, he jacked off in
4 front of you multiple times. Was it while you were
5 looking at or he was showing you the porn? Was it
6 at the same time?

7 A The first time he showed us, and then he jacked
8 off.

9 Q Did he ever do anything with the sex toys while he
10 was doing that?

11 A Not that I know of.

12 Q Did he ever say anything to you while he was
13 jacking off in front of you?

14 A He offered us money to have sex with him, and he
15 would tell us that we could lose our virginity with
16 him so when we got a boyfriend, we wouldn't be a
17 virgin.

18 Q You said this was around the time you were nine,
19 almost ten?

20 A Yes, sir.

21 Q About how long did this last?

22 A Until I was about 11 years old.

23 Q You said there were pictures taken. Pictures he
24 wanted you to take of him?

25 A Yes, sir.

Minor 1

-- DIRECT -- MR. STUMBO

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1 Q Did he ever take any pictures of you?

2 A (Witness shakes head). (Indicating negative
3 response). Well, he tried to one time when me and
4 Minor 2 were outside playing and we got dirty. So
5 we went inside and took a shower. He tried to take
6 a picture of us while we were in the shower.

7 Q What kind of pictures, pictures you had to get
8 developed?

9 A No, Polaroids.

10 Q Did he ever touch you in a way that you felt
11 uncomfortable with?

12 A When I would give him a hug bye, he would touch my
13 breasts or my butt or rub between my legs.

14 Q When you talk about a picture, the Polaroids when
15 you were in the shower, do you ever know what
16 happened to those pictures?

17 A Me and Minor 2 found them and ripped them up.

18 Q About how many pictures do you think there was?

19 A There was maybe four or five.

20 Q Were you clothed or unclothed when he took those
21 pictures?

22 A Unclothed.

23 Q You were in the shower?

24 A Yes, sir.

25 Q Did your mother ever or Minor 2 mom ever go into

Minor 1

-- DIRECT -- MR. STUMBO

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1 Richard's house during this time?

2 A Minor 2 mom would go in the house just to pick
3 me and Minor 2 up from when we was over there. My
4 mom never did.

5 Q You described stuff being out like porn and sex
6 toys and pictures?

7 A There would be porn D.V.D.s just on top of his
8 V.C.R., but that's about it.

9 Q Did he ever leave those out when Minor 2 mom
10 came in the house?

11 A Yes, sir.

12 Q Did she say anything to you about seeing them?

13 A (No response).

14 Q Did you ever go anywhere with Richard?

15 A He would take me and Minor 2 out to lunch or to
16 Wal-Mart.

17 Q You went to Wal-Mart with him?

18 A Yes, sir.

19 Q Did he buy everything or did you have to buy stuff
20 at Wal-Mart?

21 A No, he would buy everything.

22 Q What kind of stuff did he buy you at Wal-Mart?

23 A Gum if we wanted it or any clothes that we wanted.

24 Q Did he ever do anything that made you feel
25 uncomfortable in the car on those drives?

Minor 1

-- DIRECT -- MR. STUMBO

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1 A He would just talk about sex.

2 Q Was there anything that you observed in the car
3 that made you feel uncomfortable?

4 A No, sir.

5 Q You described in the house there was porn and sex
6 toys and pictures of him naked with other women,
7 was there any of that kind of stuff in his car?

8 MR. WILLIAMS: Objection, Your Honor, leading.

9 THE COURT: You can rephrase the question,
10 Solicitor.

11 MR. STUMBO: Yes, sir.

12 BY MR. STUMBO:

13 Q What all was in his car?

14 A Nothing really unusual that's usually in somebody's
15 car.

16 Q About how many times do you think you went to
17 Wal-Mart with him or out to eat with him? Just a
18 handful --

19 A Yeah.

20 Q -- of times or a lot?

21 A A lot.

22 Q You say yeah when I said a handful of times?

23 A I said yes.

24 Q So a few times or a lot of times?

25 A A lot.

Minor 1

-- DIRECT -- MR. STUMBO

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- 1 Q Minor 3 do you know her?
- 2 A Yes, sir.
- 3 Q Who is Minor 3
- 4 A She is one of my good friends.
- 5 Q Have you known Minor 3 for as long as you have known
- 6 Minor 2
- 7 A No, sir.
- 8 Q How did you meet Minor 3
- 9 A Me and Minor 2 went to the skating rink, and
- 10 Minor 2 introduced me to her.
- 11 Q About how old, what grade were y'all in when this
- 12 happened?
- 13 A Sixth grade.
- 14 Q And at that time where did you see Richard? Did
- 15 you ever go with Minor 3 to Richard's house?
- 16 A No.
- 17 Q The things that you told us today that you saw that
- 18 made you feel uncomfortable and him, as you said,
- 19 jacking off in front of you, where did those two
- 20 things happened? Were did those things happen.
- 21 Were they at one place or two places?
- 22 A Two places.
- 23 Q You mentioned the Moore Manor house, did it happen
- 24 there?
- 25 A Yes, sir.

Minor 1

-- DIRECT -- MR. STUMBO

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1 Q And you mentioned the [REDACTED] place, did it
2 happen there?

3 A Yes, sir.

4 MR. STUMBO: Beg the Court's indulgence, Your
5 Honor.

6 THE COURT: Yes, sir.

7 (Pause).

8 (Attorneys confer).

9 MR. STUMBO: If may I approach the witness,
10 Your Honor.

11 THE COURT: Yes, sir.

12 BY MR. STUMBO:

13 Q I will show what has been marked just for I.D.
14 purposes as State's Exhibit 4. Minor 1 have you
15 ever seen State's Exhibit 4 before?

16 A No, sir.

17 Q I will show what has been marked for I.D. purposes
18 as State's Exhibits 5 and 6. If you could look at
19 what is in those two pictures and tell me if you
20 have seen those things before in those pictures.

21 A Yes, sir.

22 Q Where have you seen those things?

23 A I seen those at his house and those at his house
24 also in Marlboro Manor.

25 Q In Moore Manor?

Minor 1

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1 A Yes.

2 Q I will show you what has been marked as State's
3 Exhibits 7, 8, and 9. If you could just flip
4 through those and tell me if you recognize them.

5 A Yes, sir, I have seen those at Moore Manor.

6 THE COURT: You may have to keep your voice up
7 a little bit with the solicitor that close to you.

8 Minor 1 -- excuse me -- Ms. Minor 1

9 A I have seen all of these.

10 Q You have seen what is in State's 7, 8, and 9 at his
11 house in Moore Manor?

12 A Yes, sir.

13 Q I am going to show you what has been marked for
14 I.D. purposes as State's Exhibit 10. Have you seen
15 any of those, anything in State's Exhibit 10
16 before?

17 A I have seen all of these but that right there
18 (indicating).

19 Q I will show you what has been marked as State's
20 Exhibit 11.

21 A I have seen his car, yes, sir.

22 Q Do you recognize that picture as being his car?

23 A Yes, sir.

24 Q That one, State's 10, where you have seen one of
25 the things in the picture, do you remember where

Minor 1

-- DIRECT -- MR. STUMBO

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- 1 you have seen that?
- 2 A At his house in Moore Manor.
- 3 Q You said this happened until you were about 11?
- 4 A Yes, sir.
- 5 Q What eventually stopped this from happening?
- 6 A He moved to Virginia.
- 7 Q And did you tell anybody about what he had done at
- 8 that time?
- 9 A No, sir.
- 10 Q Did you ever tell anybody what had happened?
- 11 A Yes, sir.
- 12 Q Who did you tell first?
- 13 A I told my mom.
- 14 Q And about how long was this after he moved to
- 15 Virginia?
- 16 A Maybe a month or two.
- 17 Q Did you ever see him again after he had moved to
- 18 Virginia?
- 19 A He would come down and visit.
- 20 Q When you say visit, did he still have a house down
- 21 here or where did he stay?
- 22 A No, sir, he stayed in Virginia.
- 23 Q Where would he stay when he came to South Carolina
- 24 for a visit?
- 25 A A motel.

Minor 1

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1 Q And did you ever go to those hotels with him?

2 A No, sir.

3 Q You said you told your mother?

4 A Yes, sir.

5 Q Why did you tell your mother after this had been
6 happening for a year? Why did you decide to tell
7 her then?

8 A Because ^{Minor 2} was supposed to go to Virginia
9 with Richard for a week.

10 Q You didn't want that to happen --

11 MR. WILLIAMS: Objection to leading, Your
12 Honor.

13 THE COURT: I will allow that question.

14 BY MR. STUMBO:

15 Q How did you feel about that, her going and staying
16 with him in Virginia?

17 A I felt a little upset and scared.

18 Q Why did you feel a little upset and scared?

19 A Because I was afraid she was going to get hurt.

20 MR. STUMBO: Beg the Court's indulgence, Your
21 Honor.

22 THE COURT: Yes, sir.

23 (Attorneys confer).

24 BY MR. STUMBO:

25 Q ^{Minor 1}, I will show you what has been marked for

Minor 1

-- DIRECT -- MR. STUMBO

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1 I.D. purposes as State's Exhibit 2. Do you
2 recognize State's Exhibit 2?

3 A Yes, sir.

4 Q What is that?

5 A The letter that I wrote to my mom.

6 Q Is that your handwriting?

7 A Yes, sir.

8 Q Had you talked to her about Richard and things that
9 had happened before you wrote this letter?

10 A No, sir.

11 Q Would it be safe to say this is how she found out?

12 A Yes, sir.

13 MR. WILLIAMS: Objection to leading again.

14 THE COURT: Yes, sir, I would sustain that
15 objection.

16 MR. STUMBO: I can rephrase, Your Honor.

17 BY MR. STUMBO:

18 Q How did you decide to tell your mother what Richard
19 had done to you, Minor 1

20 A I wrote her a letter.

21 Q This is that letter?

22 A Yes, sir.

23 Q Does it look about the same as when you wrote it?

24 A Yes, sir.

25 Q Has anybody changed any of the writing in it?

1 A No, sir.

2 MR. STUMBO: Your Honor, the State would offer
3 State's 2 into evidence.

4 THE COURT: Mr. Williams?

5 MR. WILLIAMS: No objection, Your Honor.

6 THE COURT: State's Exhibit 2 in evidence
7 without objection.

8 (State's Exhibit Number 2 is received into
9 evidence).

10 BY MR. STUMBO:

11 Q To your knowledge did your mother read your letter?

12 A Yes, sir.

13 Q What did she do after that?

14 A The next morning she called the Sheriff's Office.

15 Q And did you ever have to talk to anybody at the
16 Sheriff's Office?

17 A Well, we met them at the Waffle House, and the
18 sheriff asked me to describe Richard for him.

19 Q When you say sheriff, was it this guy, Detective
20 Prestigiacomo, or was it somebody else?

21 A Somebody else. I don't know his name.

22 Q Can you describe him? Was it a white guy, black
23 guy?

24 A He was a black guy.

25 Q And did you tell him what had happened to you?

Minor 1

-- DIRECT -- MR. STUMBO

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- 1 A Somewhat. He didn't really ask me a lot of what
2 had happened. I guess the letter was enough, but
3 he just asked me to describe Richard and where he
4 lived at.
- 5 Q And you gave him this letter, State's Exhibit 2?
- 6 A Yes, sir.
- 7 Q To the deputy?
- 8 A Yes, sir.
- 9 Q And, ^{Minor 1} after you talked to the deputy at
10 Waffle House that day, at any point after that did
11 you talk to any officers about what had happened?
- 12 A Yes, sir, we had to -- I think it was the Sheriff's
13 Office to go talk to that officer (indicating).
- 14 Q Detective Prestigiacomo?
- 15 A Yes, sir.
- 16 Q Did you give Detective Prestigiacomo a statement
17 about what had happened?
- 18 A Yes, sir.
- 19 Q Were there some other officers there that day?
- 20 A I believe there was one more officer there.
- 21 Q Who else was there with you that day? Who went to
22 the Sheriff's Office with you?
- 23 A My mom.
- 24 Q Did any of your friends go with you?
- 25 A The only other people that was there was ^{Minor 2}

Minor 1

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1 and Minor 3 and their moms.

2 Q So the three girls and the three moms were there?

3 A Yes, sir.

4 Q Now, the things you told the deputies that day of
5 what had happened to you with Richard, are those
6 things that really happened?

7 A Yes, sir.

8 Q Looking back on what happened now, Minor 1 how does
9 it make you feel what happened to you?

10 A Sad.

11 MR. STUMBO: Beg the Court's indulgence, Your
12 Honor.

13 THE COURT: Yes, sir.

14 (Pause).

15 BY MR. STUMBO:

16 Q Since that time have you gone to anybody to talk
17 about what happened to you?

18 A I went to a counselor for about a month.

19 Q Did you feel like that helped you some to talk
20 about it?

21 A Not really.

22 Q Do you ever talk to your friends now about what had
23 happened?

24 A Yes, sir.

25 Q Thank you, Minor 1 That's all the questions I have

1 for you.

2 THE COURT: Thank you. Mr. Williams, I
3 believe I will take a break now. I have a matter to
4 take up at 2:00 o'clock. If I don't take a break, I
5 will wear my court reporter out.

6 Mr. Foreman, and ladies and gentlemen of the
7 jury, we are going to take our luncheon recess. I would
8 remind you during this recess you are not to discuss
9 this case with anyone. That includes your fellow
10 jurors, lunch mates, family, friends or anyone else.

11 Please remember to keep an open mind and do
12 not begin your deliberations until you have heard all
13 the evidence, the closing arguments by the attorneys,
14 and the charge on the law by the Court.

15 One further thing. I note that I believe one
16 of our jurors -- and there is absolutely nothing wrong
17 with this -- one of our jurors is taking notes during
18 the trial of this case. That is fine. If any of the
19 others -- maybe more than one, two.

20 If any of the others want to take notes, you
21 may certainly do so. I will have the clerk get some
22 pens and paper for you. Please remember that some
23 people are better note takers than others.

24 Jurors' notes should not be given any greater
25 weight than the recollection of other jurors. The

1 recollections of individual jurors should be considered
2 as reliable as notes taken by other jurors.

3 I would also advise you that when you are
4 taking notes, you may not notice the body language of a
5 particular witness which could be used by you in
6 deciding the witnesses' credibility.

7 As I say, there is absolutely nothing wrong
8 with it whatsoever. If you will let me know upon your
9 return, Mr. Foreman, if any of the other members of the
10 jury want pads and pencils.

11 One further thing. I have to take the notes
12 up and secure them during breaks until such time as your
13 deliberations. I assure you -- I say I take them up. I
14 have the clerk take them up. They are secured and
15 returned to you upon your return.

16 They can't be in the jury room with you until
17 you begin your deliberations. So as you go out, if you
18 would just leave them on your chair or up on the rail.
19 That will be fine.

20 As I say, if you will let me know if any of
21 the other jurors want to, I will certainly make
22 arrangements upon your return. I have another matter to
23 take up at 2:00 o'clock.

24 I would ask you to please be back in your jury
25 room at 2:30, at 14:30 hours. Usually I give jurors

1 about an hour and 15 minutes so they can have an extra
2 15 minutes to sit in Lexington traffic in the middle of
3 lunch hour the way it is.

4 We will say 2:30. I will try to get you back
5 out in the courtroom promptly. With that being said,
6 you are now excused for lunch. I hope you have a good
7 lunch. Thank you.

8 (The jury is excused for lunch at 1:23 p.m.)

9 THE COURT: Minor 1 you may certainly step
10 down during the luncheon recess. You may not discuss
11 your testimony with anyone during this recess. You are
12 subject to cross examination and redirect. You may
13 certainly step down and enjoy your lunch. Thank you
14 very much.

15 (Witness leaves the witness stand).

16 THE COURT: Madame Clerk, would you please
17 secure the notes of the jurors.

18 CLERK: Yes, sir.

19 THE COURT: Court will be in recess until
20 2:30 for this case.

21 (Whereupon there was a luncheon recess).

22 THE COURT: Anything before we bring in our
23 jury, Solicitor?

24 MR. STUMBO: One thing briefly. It has been
25 brought to my attention by our victims back here that

1 the Defendant is continuously staring back at them. It
2 is making them feel a little bit uncomfortable. There
3 is nobody really in between him and them. We would ask
4 the Court to instruct him not to do that.

5 MR. WILLIAMS: Your Honor, I haven't noticed
6 that.

7 THE COURT: I haven't looked. I take it from
8 the solicitor, as an officer of the Court, if that is
9 occurring, it shouldn't.

10 MR. STUMBO: Yes, sir.

11 THE COURT: I will notice it now.

12 MR. STUMBO: We are ready, Your Honor.

13 THE COURT: Anything, Mr. Williams, before we
14 bring in our jury?

15 MR. WILLIAMS: No, Your Honor.

16 (The jury returns to the courtroom at
17 2:37 p.m.)

18 THE COURT: It appears our jury is back
19 present in the courtroom and now in place. I hope y'all
20 had a pleasant lunch. We are continuing the trial of
21 the case with the cross examination of Ms. Minor 1

22 Ms. Minor 1 will you come back around to the
23 witness stand for me, please.

24 Minor 1 having
25 been previously duly sworn, resumed the witness stand

Minor 1

-- CROSS -- MR. WILLIAMS

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1 and testifies as follows:

2 CROSS EXAMINATION

3 BY MR. WILLIAMS:

4 Q Ms. Minor 1 I am Theo Williams. I am Mr. Ratliff's
5 attorney. I was trying to recall -- I will stand
6 this up here because I lose stuff. As I recall
7 what you were saying earlier -- and I just want to
8 make things a little clearer in terms of dates and
9 times when you saw these things happen. You are
10 how old now, 13?

11 A Yes, sir.

12 Q And you are living where now?

13 A In [REDACTED] Mobile Home Park.

14 Q And have you ever lived anywhere other than [REDACTED]
15 [REDACTED] Mobile Home Park?

16 A Yes, sir, I lived on [REDACTED]

17 Q When did you live on [REDACTED]

18 A From the time I was born till I was six.

19 Q From zero to six. So your time in which you lived
20 on [REDACTED] from zero to six, you didn't even
21 know Mr. Ratliff at all; did you?

22 A I met him.

23 Q But in terms of your testimony about what you say
24 that something happened, nothing happened between
25 the years of zero to six; correct?

- 1 A No.
- 2 Q So you moved off of [REDACTED] when you were six
3 years old?
- 4 A Yes, sir.
- 5 Q Then you move to [REDACTED] Mobile Home Park; is
6 that correct?
- 7 A Yes, sir.
- 8 Q Where is that located?
- 9 A On Fish Hatchery Road in Gaston.
- 10 Q Did Mr. Ratliff live in that mobile home park?
- 11 A Not at that time, no.
- 12 Q When did he move into that mobile home park?
- 13 A When I was about ten years old.
- 14 Q Now, as I recall what you said earlier, I think you
15 said that the first episode happened when -- at
16 some other manor or some other mobile home place?
- 17 A Yes, sir.
- 18 Q What was the name of that?
- 19 A Marlboro Manor, I think.
- 20 Q What?
- 21 A I don't really know the name of it. I can't
22 pronounce it.
- 23 Q But you weren't living there?
- 24 A No, sir.
- 25 Q Who was living there?

Minor 1

-- CROSS -- MR. WILLIAMS

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1 A Richard.

2 Q And one of your friends?

3 A No, sir.

4 Q Okay. I am trying to figure this out. You lived
5 on [REDACTED] Is that where Marlboro Manor is?

6 A No.

7 Q You went to Richard's house even though you were
8 living at another location?

9 A Yes, sir.

10 Q And you were living on Fish Hatchery Road at that
11 time?

12 A Yes, sir.

13 Q And none of your friends lived in Marlboro Manor?

14 A No, sir.

15 Q You just happened to go and visit him at his home?

16 A Yes, with Minor 2

17 Q Did Minor 2 live there?

18 A No, sir.

19 Q Where did Minor 2 live?

20 A On [REDACTED]

21 Q But you weren't living on [REDACTED] at the time?

22 A No, sir.

23 Q How did you and Minor 2 hook up together so that
24 y'all could go out to this Marlboro Manor?

25 A I would be at my dad's house, which is on Perry

1 Street.

2 Q So it would be on the weekend?

3 A Yes, sir.

4 Q Because that's the only time you visited your dad
5 was on the weekends, right?

6 A Yes, sir.

7 Q So I assume by this that your mother and father
8 were divorced during this time span?

9 A Yes, sir.

10 Q And you were visiting your dad, and ^{Minor 2} lived
11 on [REDACTED]

12 A Yes, sir.

13 Q So you and ^{Minor 2} would get a ride or would ride
14 your bicycles?

15 A Her mom would take us.

16 Q Her mom would take you. So her mom would take the
17 two of y'all to Marlboro Manor?

18 A Yes, sir.

19 Q But you had already met Richard before that date
20 because you said you met him between the time that
21 you were zero and six years of age, right?

22 A Yes, sir.

23 Q Do they call you ^{Minor 1}

24 A Yes, sir.

25 Q Do you remember when you gave a statement to the

Minor 1

-- CROSS -- MR. WILLIAMS

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1 police officer?

2 A Yes, sir.

3 Q If I show you this statement, can you tell me if
4 you handwrote that statement?

5 A Yes, sir.

6 Q So that's your handwriting?

7 A Yes, sir.

8 Q And would you just read the first line of that
9 statement you gave the police officer.

10 A I met Richard when I was seven or three.

11 Q Seven or three?

12 A Yes, sir.

13 Q So when you talked to the police officer -- do you
14 want to look at that again? Do you want to read
15 that line one more time?

16 A I met Richard when I was seven or three.

17 Q Is that true?

18 A Yes, sir.

19 Q You are sure the thing which you are calling a
20 three is not an eight?

21 A Yes, sir.

22 Q So when you were talking to the police officer, you
23 didn't know if you met him when you were three
24 years old or you were seven years old?

25 A Yes, sir.

1 Q Would you do me a favor. Can you write a three and
2 an eight for me.

3 A (Witness complies).

4 MR. STUMBO: Judge, if we may, I don't know
5 the relevance of this. But if Mr. Williams is going to
6 cross Ms. Minor 1 on a prior statement, we would move
7 under Rule 106, rule of completeness, that the statement
8 be offered into evidence for the jury.

9 MR. WILLIAMS: He can introduce it into
10 evidence if you he wants to, Your Honor.

11 MR. STUMBO: I would like to put it in
12 evidence.

13 MR. WILLIAMS: Without objection.

14 THE COURT: All right.

15 MR. STUMBO: Your Honor, I have a little bit
16 better copy.

17 MR. WILLIAMS: That's fine.

18 THE COURT: Do we have the original?

19 MR. WILLIAMS: His copy is about as good as it
20 gets.

21 (State's Exhibit Number 27 is received into
22 evidence).

23 THE COURT: May I see it, please.

24 (Hands to Court).

25 (Pause).

Minor 1

-- CROSS -- MR. WILLIAMS

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1 THE COURT: You may proceed, Mr. Williams.

2 BY MR. WILLIAMS:

3 Q Ms. Minor 1 let me get you to look at this, I
4 guess, better copy. Maybe if you look at a better
5 copy and if you read that first line, maybe you can
6 tell me what the first sentence is.

7 A I met Richard when I was seven or eight.

8 Q Seven or eight?

9 A Yes, sir.

10 Q Are you sure that's an eight?

11 A Yes, sir.

12 Q Well, when you gave this statement to the police
13 officer then, you could not have met him back when
14 you lived on -- was it [REDACTED] -- or back when
15 you lived on [REDACTED] could you?

16 A Yes. Because my mom was a bartender at a bar, and
17 he used to come into the bar that she worked at.

18 Q But you said in your statement that you met him
19 when you were seven or eight. So you are saying
20 you met him when -- what was the three about? Were
21 you just wrong about that?

22 A I actually came in contact with him when I was
23 seven or eight, but I met him when I was three or
24 four.

25 Q But you didn't tell the police officer that, did

1 you?

2 A No.

3 Q So let's continue. As I understand what you said,
4 that was the first time that he exposed himself to
5 you. How old were you?

6 A About nine.

7 Q About nine or was it about ten?

8 A About nine. I was turning ten.

9 Q Was it nine or ten?

10 A I was like nine but I was about to turn ten in a
11 few months.

12 Q So you could have been nine and a half?

13 A Yes, sir.

14 Q Is that why in your statement you say that he
15 exposed himself to y'all when you were nine or ten?

16 A Yes, sir.

17 Q Because you didn't remember when exactly he did
18 that?

19 A Yes, sir.

20 Q And you are sure you remember when he did it now?

21 A Yes, sir.

22 Q All right. It happened at his trailer; is that
23 right?

24 A Yes, sir.

25 Q And it was in the same neighborhood where you live,

Minor 1

-- CROSS -- MR. WILLIAMS

137

1 right?

2 A No, sir.

3 Q It wasn't?

4 A (Witness shakes head.) (Indicating negative
5 response).

6 Q Let me ask you to look at the statement that you
7 gave the police officer again. What did you tell
8 the police officer when you gave him your
9 statement?

10 A I said it was in my neighborhood.

11 Q Okay. But you are telling us now that that wasn't
12 true?

13 A Yes, sir.

14 Q Now, you said that he took out some pornographic
15 stuff and gave it to y'all to look at?

16 A That was the first time, yes, sir.

17 Q Do you remember what you put in your statement?

18 A Yes, sir, I said one time we was going through his
19 boxes and found some.

20 Q So in your statement you found some pornographic
21 stuff in his boxes, correct?

22 A One time we did, yes, sir.

23 Q Well, did y'all find it again at some other time?

24 A I don't believe so.

25 Q All right. Can you tell me what year that this

- 1 happened?
- 2 A No, sir.
- 3 Q Can you tell me who you told about it?
- 4 A My mom.
- 5 Q As I understand what you have testified to, the
- 6 first time your momma heard anything about it was
- 7 when you wrote this piece of paper?
- 8 A Yes, sir.
- 9 Q And you wrote it with -- in this orange, I guess,
- 10 pen or whatever?
- 11 A Yes, sir.
- 12 Q About what was going on, right?
- 13 A Yes, sir.
- 14 Q When did you write this?
- 15 A I can't recall.
- 16 Q You don't know when you wrote it?
- 17 A I don't know what year.
- 18 Q Do you know the month?
- 19 A June, either June or July.
- 20 Q Either June or July?
- 21 A Yes, sir.
- 22 Q Now, I want to make sure I understand now about
- 23 when you were looking through the boxes. You were
- 24 looking through the boxes when he lived at Marlboro
- 25 Manor, right?

Minor 1

-- CROSS -- MR. WILLIAMS

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1 A Yes, sir.

2 Q I want you to look at the statement you gave your
3 mother, State's Exhibit Number 2. If you will read
4 the statement that you gave your mother about where
5 you found the pornography. You can read it out
6 loud if you want to.

7 A (Pause). We was in my neighborhood.

8 Q In your neighborhood. But you know you didn't live
9 in Marlboro Manor, right?

10 A No, sir.

11 Q But you told your mother that you were looking
12 through some boxes at Richard's when he lived in
13 your neighborhood, right?

14 A This one incident, yes, sir.

15 Q And when did that happen?

16 A I don't know the month or the year.

17 Q Well, let's keep going. Now, you said on direct
18 examination that -- I don't know what word -- he
19 masturbated several times; is that correct?

20 A Yes, sir.

21 Q We only have two statements. We have State's
22 Exhibit Number 2 and State's Exhibit Number 27.

23 A Uh-huh. (Indicating affirmative response).

24 Q Look at the statement that you gave your mother.
25 How many times did you tell her that happened?

- 1 A Once.
- 2 Q Okay. And that was when he lived in your
3 neighborhood?
- 4 A Yes, sir.
- 5 Q When did he live in your neighborhood?
- 6 A Do you mean how old I was?
- 7 Q Yes.
- 8 A Ten or either 11.
- 9 Q All right. That's when he exposed himself,
10 correct?
- 11 A He didn't actually live there. He went there
12 sometimes.
- 13 Q So he didn't live in the neighborhood?
- 14 A But he was there when he worked there. It was his
15 trailer.
- 16 Q Do you recall in your statement that you gave,
17 State's Exhibit Number 27, you said that occurred
18 when you were nine or ten, not ten or eleven?
- 19 A I guess.
- 20 Q Is that correct?
- 21 A Yes, sir.
- 22 Q Before this orange piece of paper or notebook paper
23 was given to your mother, you had told absolutely
24 no one about these events that you are talking
25 about today; is that right?

Minor 1.

-- CROSS -- MR. WILLIAMS

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- 1 A Yes, sir.
- 2 Q There is no date on this document right here?
- 3 A No, sir.
- 4 Q Who was with you when you wrote it?
- 5 A Nobody. I was at home.
- 6 Q Who were you talking to on the phone?
- 7 A Minor 2
- 8 Q So you were talking to ^{Minor 2} and you were
- 9 writing this piece of paper while you were talking
- 10 to ^{Minor 2}
- 11 A Yes, sir.
- 12 Q To give to your mother?
- 13 A Yes, sir.
- 14 Q Well, you could have easily just talked to your
- 15 mother, couldn't you, and told her what your
- 16 concerns were?
- 17 A Yes, sir.
- 18 Q Did it help being able to write it down when you
- 19 were talking to ^{Minor 2}
- 20 A Yes, sir.
- 21 Q It helped you remember what you needed to say?
- 22 A No, it was just easier for me to tell.
- 23 Q Where was your mother when you were writing this
- 24 down?
- 25 A In the shower.

1 Q You gave it to her after she got out of the shower?

2 A Yes, sir.

3 Q In your statement that you gave the police officer,
4 you talk about he started to expose himself, and
5 you made some comment that supposedly you were
6 going to tell your brother or something like that.
7 Do you remember that?

8 A Yes, sir.

9 Q Why did you not mention that in the statement that
10 you gave your mother?

11 A I just summed it up as much as I could.

12 Q When did you give this statement to the police
13 officer?

14 A I'm not sure.

15 Q Let's look at the bottom of this statement.

16 A July 30.

17 Q Of what year?

18 A '07.

19 Q Okay. When did you give that statement to your
20 mother?

21 A I guess the same month of '07.

22 Q How many times have you and ^{Minor 2} talked about
23 Richard Ratliff and about what you were going to
24 say?

25 A What do you mean?

Minor 1

-- CROSS -- MR. WILLIAMS

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1 Q How many times have y'all talked about what y'all
2 were going to say?

3 A I'm not sure.

4 Q More than ten?

5 A No, sir.

6 Q Less than ten?

7 A I'm not sure, probably less than ten.

8 Q More than five?

9 A No.

10 Q Less than five?

11 A Yeah.

12 Q The photographs which the solicitor asked you if
13 you had seen before, you have seen those in the
14 Solicitor's Office; haven't you?

15 A Yes, sir.

16 Q Are those the photographs that you found in some
17 boxes?

18 A No, sir, he showed us those photos.

19 Q What photographs did you find in boxes?

20 A Porno magazines.

21 Q So you didn't find photographs, you found porno
22 magazines in boxes?

23 A Yes, sir.

24 Q Didn't you say earlier that you actually found some
25 pictures?

- 1 A That was in his room. He told us to go back in his
2 room, and we could look at them.
- 3 Q So that's not what you were talking about when you
4 said you found some things in the statement? You
5 found some things in boxes?
- 6 A Yes, sir.
- 7 Q You weren't talking about pictures that you had
8 found?
- 9 A No, sir.
- 10 Q After you found those pictures in the boxes, how
11 long after you found those pictures in the boxes
12 was it that you waited until you told your mother
13 about it?
- 14 A It must have been a year.
- 15 Q A year?
- 16 A (Witness nods). (Indicating affirmative response).
- 17 Q This was back when he was living on Marlboro Manor?
- 18 A Yes, sir.
- 19 Q Is that correct?
- 20 A Yes, sir.
- 21 Q Do you remember anything unique about his trailer
22 that he had when he lived on Marlboro Manor?
- 23 A Not really.
- 24 Q Where was his bedroom?
- 25 A In the back of the trailer.

Minor 1

-- CROSS -- MR. WILLIAMS

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- 1 Q Is that where you found it?
- 2 A Yes, sir.
- 3 Q Did you notice if it had a floor in the back of the
4 trailer or whether or not there had been some water
5 damage and no one was in the back of the trailer?
- 6 A There was water damage in the hallway but not that
7 I recall in the back.
- 8 Q There wasn't?
- 9 A Not that I recall.
- 10 Q And you found these items in what chest?
- 11 A I don't know.
- 12 Q Were they in a box or a chest?
- 13 A I think they were in a drawer.
- 14 Q Why is it you just think they were in a drawer?
- 15 A Because I can't exactly remember.
- 16 Q If you don't remember something, why do you say it
17 was in a drawer if you don't remember something?
- 18 A Because you asked me if it was in a box or a chest.
- 19 Q You and ^{Minor 2} are y'all the same age?
- 20 A Yes, sir.
- 21 Q What school do you go to?
- 22 A I go to [REDACTED]
- 23 Q Where does she go?
- 24 A Northside.
- 25 Q Did y'all go to the same school back then?

- 1 A No, sir.
- 2 Q You are in middle school, eighth grade?
- 3 A Yes, sir.
- 4 Q So when these things happened, would you have been
5 in middle school?
- 6 A Not all the times.
- 7 Q In elementary school?
- 8 A Yes, sir, fifth grade.
- 9 Q And did you tell a teacher that anything happened?
- 10 A No, sir.
- 11 Q Did you tell a principal?
- 12 A No, sir.
- 13 Q Guidance counselor?
- 14 A No, sir.
- 15 Q Your momma?
- 16 A No, sir.
- 17 Q Your daddy?
- 18 A No, sir.
- 19 Q When was the last time you and ^{Minor 2} talked
20 about what y'all were going to say today?
- 21 A I don't think we really talked much.
- 22 Q Not today?
- 23 A The only thing is we were scared to talk. We were
24 nervous.
- 25 Q Did you talk about it this weekend?

Minor 1

-- REDIRECT -- MR. STUMBO

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1 A No, sir.

2 MR. WILLIAMS: I don't have any other
3 questions, Your Honor.

4 THE COURT: Thank you, Mr. Williams.
5 Solicitor.

6 MR. STUMBO: Briefly, Your Honor.

7 REDIRECT EXAMINATION

8 BY MR. STUMBO:

9 Q Minor 1 Mr. Williams was asking you about whether
10 you saw the pictures in a box or a chest. I will
11 ask you this question. Were the naked pictures of
12 Richard in the same place as the porn magazines or
13 in different places?

14 A Different places.

15 Q Was this just in one bedroom?

16 A Yes, sir. His porn D.V.D.s were mostly in his
17 living room on top of his T.V., but his magazines
18 and pictures were back in his bedroom.

19 Q When you say pictures, the magazines and the naked
20 pictures of him?

21 A Yes, sir.

22 Q Was everything in one box or was it in different
23 places?

24 A It was different places.

25 Q Mr. Williams was asking you about a specific date

1 when one of these things happened --

2 A I don't really know any specific date.

3 MR. STUMBO: May I approach the witness, Your
4 Honor?

5 THE COURT: Yes, sir.

6 BY MR. STUMBO:

7 Q Minor 1 take your time with that and just take a
8 look at it. You let me know when you are done.

9 A (Pause). I'm ready.

10 Q Now, was there a specific date or month that you
11 gave the police --

12 A That's just when --

13 Q -- when these things happened?

14 A That's just one month that I remember of it.

15 Q You told the police that?

16 A Yes, sir.

17 Q That month stuck out in your mind for whatever
18 reason?

19 A Yes, sir.

20 Q Now, Mr. Williams talked to you about the two
21 places?

22 A Yes, sir.

23 Q You say one place you think it was Marlboro Manor?

24 A Yes, sir.

25 Q But are you sure it was Marlboro Manor? It sounds

Minor 1

-- REDIRECT -- MR. STUMBO

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1 like you couldn't pronounce it.

2 MR. WILLIAMS: Objection to leading.

3 THE COURT: Yes, sir, if you will rephrase the
4 question.

5 MR. STUMBO: Yes, sir.

6 BY MR. STUMBO:

7 Q Is it a word you can pronounce or is it one you are
8 not sure of?

9 A I'm not really sure how to pronounce it.

10 Q Manor though you are sure of?

11 A Yes, sir.

12 Q And this was before he moved to your neighborhood
13 in [REDACTED]

14 A Yes, sir.

15 Q Or had a house in [REDACTED]

16 A Yes, sir.

17 Q These incidents that you told us about today?

18 A Yes, sir.

19 Q Did they happen at just one or the other or both
20 places?

21 A Both.

22 Q Every time these kind of things happened to you at
23 the hands of Richard, did you write those things
24 down?

25 A No, sir.

Minor 1

-- REDIRECT -- MR. STUMBO

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1 Q Are those things you wanted to remember?

2 A Yes, sir, so I could tell.

3 Q But you didn't write them down?

4 A No, sir.

5 Q Do you write other important dates on the calendar,
6 your birthday or friend's birthday, that kind of
7 stuff?

8 A No, sir.

9 Q Are these pleasant memories for you?

10 A No, sir.

11 MR. STUMBO: Beg the Court's indulgence, Your
12 Honor.

13 (Pause).

14 MR. STUMBO: No further questions, Your Honor.

15 THE COURT: Thank you, Solicitor.

16 Mr. Williams.

17 MR. WILLIAMS: No, Your Honor.

18 THE COURT: Thank you very much, Ms. Howell.

19 You may step down.

20 (Witness leaves the witness stand).

21 THE COURT: Solicitor, you may call your next
22 witness.

23 MS. HOWARD: Thank you, Your Honor. The State

24 calls Minor 2

25

Minor 2

being

Minor 2

-- DIRECT -- MS. HOWARD

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1 first duly sworn, testifies as follows:

2 CLERK: State your name, please.

3 THE WITNESS: Minor 2

4 DIRECT EXAMINATION

5 BY MS. HOWARD:

6 Q Good afternoon, Minor 2

7 A Good afternoon.

8 Q Can you tell the Court and the jury how old you
9 are?

10 A I'm 13.

11 Q When is your birthday?

12 A [REDACTED].

13 Q I will have to get you to speak up a little bit,
14 okay? What school do you go to, Minor 2

15 A Northside Middle School.

16 Q Northside Middle School?

17 A Yes, ma'am.

18 Q What grade are you in now?

19 A Eighth.

20 Q Minor 2 when did you first meet Richard Ratliff?

21 A The first time I met him was when I was about six.

22 Q How did you meet him?

23 A My mom went up to the bar, and he was always up
24 there, and I would go with her.

25 Q When you met Richard Ratliff, where were you

Minor 2

-- DIRECT -- MS. HOWARD

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1 living?

2 A I lived on [REDACTED]

3 Q Is that the same street ^{Minor 1} dad lived on?

4 A Yes, ma'am.

5 Q Were you friends with ^{Minor 1} when you were about
6 six or seven?

7 A Yes, ma'am.

8 Q When you met Mr. Ratliff, do you remember where he
9 lived?

10 A He lived on [REDACTED] Trail.

11 Q Tell me a little bit about what you did with
12 Mr. Ratliff when you were younger.

13 A He would always take me to McDonald's or places
14 where I would want to go, like a grandfather would.
15 I really trusted him. He would take me to the fair
16 and stuff like that.

17 Q Were you alone with him a little bit when you were
18 younger or a lot?

19 A Yes, ma'am.

20 Q Why were you alone with him?

21 A Because my mom had a job and she worked until like
22 four or five, and he would have to baby-sit with
23 me.

24 Q You just lived with you and your mom?

25 A Yes, ma'am.

Minor 2

-- DIRECT -- MS. HOWARD

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1 Q Do you have any brothers or sisters?

2 A No, ma'am.

3 Q How did Richard introduce you to people when you
4 met people?

5 A He always said that I was his granddaughter.

6 Q How did that make you feel?

7 A It made me feel good like, and I was actually
8 loved.

9 Q For about how many years did you know Richard and
10 feel like his granddaughter?

11 MS. HOWARD: Your Honor, may I approach?

12 THE COURT: Yes, ma'am.

13 A I knew him for about three or four years before he
14 started ever doing anything.

15 Q Do you remember how old you were the first time?

16 A I was about nine years old.

17 Q You were still living on [REDACTED]

18 A Yes, ma'am.

19 Q Was ^{Minor 1} living in [REDACTED] Mobile Home Park?

20 A Yes, I think that's about right before she moved.

21 It was like a month later that she moved.

22 Q Can you tell me about the first time when Richard
23 did something that made you feel maybe not like his
24 granddaughter?

25 A We were going to like a store or something, and he

1 would put his hands between my legs and just rub by
2 my vagina.

3 Q This was in the car?

4 A Yes, ma'am.

5 Q How long did he do that for?

6 A It was about a year, not even a year. He would
7 keep doing that before he tried anything else.

8 Q Did Richard have two homes where he lived?

9 A Yes, at one point.

10 Q Were both of them trailers?

11 A Yes, ma'am.

12 Q Do you remember the names of the two trailer parks
13 where he had these homes?

14 A One was [REDACTED] Mobile Home Park and one was
15 Moore Mobile Manor.

16 Q Moore Mobile Manor?

17 A Yes, ma'am.

18 Q Do you think Moore Mobile Manor is the same thing
19 as Marlboro Manor?

20 MR. WILLIAMS: Objection to speculation.

21 THE COURT: It depends on whether she can
22 answer it or not. You can answer the question if you
23 know the answer.

24 A No.

25 Q Moore Mobile Manor is the place you remember where

Minor 2

-- DIRECT -- MS. HOWARD

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1 he kept a trailer?

2 A Yes, ma'am.

3 Q After he rubbed your vagina in the car, what was
4 the next thing that Richard did?

5 A He would -- he just kept doing that, and he started
6 masturbating in front of me.

7 Q Do you remember the first time he ever masturbated
8 in front of you?

9 A Yes, ma'am.

10 Q Can you tell me a little bit about that.

11 A He was like laying on the couch, and I was -- he
12 had a two bedroom trailer, and I was in my room
13 watching T.V., and I came out there and he was just
14 masturbating.

15 He kept asking me if I wanted to help him or
16 join him or whatever like that. He just kept doing
17 it, and I kept telling him to please stop and he
18 wouldn't.

19 Q Do you remember which trailer this was?

20 A I'm pretty sure that was in Moore Mobile Manor.

21 Q And you say you had a bedroom there?

22 A Yes, ma'am.

23 Q And you considered that kind of your room?

24 A Yes.

25 Q When you came out, was he in the den when he was

Minor 2

-- DIRECT -- MS. HOWARD

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1 masturbating?

2 A Yes, ma'am.

3 Q Where was he sitting in the den?

4 A He was laying on the couch.

5 Q Where did you have to sit?

6 A I didn't sit down. I walked in there and I told
7 him to please stop, and I walked outside of the
8 trailer.

9 Q Did he have any clothes on?

10 A No, ma'am.

11 Q No clothes?

12 A No, ma'am.

13 Q Did he ask you to touch him?

14 A Yes, ma'am.

15 Q Did he tell you why he wanted you to touch him?

16 A He said, Come in here and please help me and touch
17 me. I kept saying no. He didn't say anything
18 about why.

19 Q Do you remember if anything came out of his penis
20 when he did that that time?

21 A I'm pretty sure, yes, ma'am.

22 Q Did that ever happen again, ^{Minor 2}

23 A Yes, ma'am, a couple of times, like a lot.

24 Q Like a lot?

25 A Yes, ma'am.

Minor 2

-- DIRECT -- MS. HOWARD

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- 1 Q Can you tell me how long that happened?
- 2 A For a couple of months.
- 3 Q And over those couple of months, can you tell me
- 4 how many times it happened?
- 5 A I don't know, just a lot.
- 6 Q More than five?
- 7 A Yes, ma'am.
- 8 Q What else was he trying to do over this few months
- 9 period, if anything?
- 10 A He kept trying to pull up my shirt and pull down my
- 11 pants.
- 12 Q And you stated this started when you were about
- 13 nine?
- 14 A Yes, ma'am.
- 15 Q Did you tell anybody about any of this?
- 16 A No, I just told Minor 1
- 17 Q You told Minor 1 what was happening?
- 18 A Yes.
- 19 Q Did Richard ever put any part of your body on his
- 20 when he was masturbating?
- 21 A He would stand up and walk toward me. I would
- 22 start walking faster away from him.
- 23 Q Did this always happen when it was just the two of
- 24 you?
- 25 A Yes, ma'am. And sometimes when Minor 1 would go

- 1 with me, he would still try and do it.
- 2 Q But there was no other adult around?
- 3 A No, ma'am.
- 4 Q Did Richard ever show you pictures of himself?
- 5 A Yes, ma'am.
- 6 Q Did Richard ever take pictures of you?
- 7 A Yes, ma'am.
- 8 Q When you were growing up?
- 9 A Yes, ma'am.
- 10 Q Were they just normal pictures?
- 11 A Most of the time, yes, ma'am.
- 12 Q Do you remember what kind of camera?
- 13 A He had a Polaroid and sometimes he had disposables
- 14 but that was rarely ever.
- 15 Q Usually a Polaroid?
- 16 A Yes, ma'am.
- 17 Q And would he ever show you pictures of himself
- 18 naked?
- 19 A Yes, ma'am.
- 20 Q Do you remember when he started showing you those
- 21 pictures?
- 22 A It was about the first time he started masturbating
- 23 in front of me. He actually brought them out and
- 24 showed me.
- 25 Q Was anybody ever in these pictures with him?

Minor 2

-- DIRECT -- MS. HOWARD

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1 A There was some girl in some of them.

2 Q Do you remember where he kept those pictures?

3 A I knew some of them. Most of them were in like his
4 top drawer in his room, but the other ones I'm not
5 sure.

6 Q Did he ever show you what was in that top drawer?

7 A No, ma'am -- well, yes, ma'am.

8 Q He did?

9 A Yes. First I went through it and then he took me
10 back there and told me to look in it, and I looked
11 in it and I was like, Why are you showing me this?
12 And he showed me.

13 Q Do you remember if there was anything else in that
14 drawer besides these pictures?

15 A There was a couple of sex toys and this lollipop
16 thing.

17 Q These toys, do you remember what they were shaped
18 like?

19 A Like a guy's penis.

20 Q A lollipop, what kind of lollipop?

21 A He told me he got it from one of the stores. He
22 told me that when you like ate the lollipop, it
23 tasted like a girl's vagina and that it looked like
24 it.

25 Q Was there anything else in that drawer, Minor 2

Minor 2

-- DIRECT -- MS. HOWARD

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1 A No.

2 Q Did you ever watch any dirty movies with Richard?

3 A No.

4 Q Did you ever see any laying around his house?

5 A Yes, ma'am.

6 Q Where did you see those?

7 A He had -- sometimes when it was just me going over
8 there, he had some on the floor, like the D.V.D.
9 covers, and he had them on top of his D.V.D.
10 player.

11 Q Were you ever around when Minor 1 looked in that
12 drawer?

13 A Yes, ma'am.

14 Q Who showed it to her?

15 A Me and her both were going through the drawer while
16 he was in the living room, and I said, Let's go
17 back in his room. We went back there and we like
18 went through it.

19 Q Do you remember how old you were about this time?

20 A I was about almost -- I had just turned ten.

21 Q When Richard would take you in his car and take you
22 to the store, did Minor 1 ever come with you on
23 those trips?

24 A Yes, ma'am.

25 Q And where did Minor 1 sit in the car?

Minor 2

-- DIRECT -- MS. HOWARD

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- 1 A She would sit in the back seat.
- 2 Q Do you know if he ever tried to do anything to
- 3 Minor 1 when she was in the back seat?
- 4 A Sometimes he would like reach his arm back and
- 5 start rubbing her leg.
- 6 Q Do you remember the first time that Richard
- 7 masturbated in front of you and Minor 1
- 8 A That was at his other trailer in [REDACTED]
- 9 Q Where did that happen?
- 10 A In the living room.
- 11 Q Do you remember if he was wearing anything at that
- 12 time?
- 13 A No, ma'am.
- 14 Q Did anything come out of his penis?
- 15 A Yes, ma'am.
- 16 Q Did he use anything to wipe himself off after that?
- 17 A He used some napkin.
- 18 Q Did you ever see him use everything else the other
- 19 times you saw him do that?
- 20 A No, ma'am.
- 21 Q Did Richard ever masturbate in the car?
- 22 A Yes, ma'am.
- 23 Q Tell me about that.
- 24 A We were driving down the road, and I think we were
- 25 going to his son's house and he started

1 masturbating. Then he liked pulled on the side of
2 the road. this guy came up behind us and asked us
3 what he was doing, and he had put his bill over his
4 penis.

5 Q Like a bill that you get in the mail?

6 MR. WILLIAMS: Objection to leading.

7 THE COURT: Rephrase the question, solicitor.

8 BY MS. HOWARD:

9 Q Did Richard ever use any of these sex toys when he
10 was masturbating?

11 A Yes, ma'am.

12 Q Tell me about that.

13 A The first time that I can remember of him using it
14 was the first time I saw him masturbating, and he
15 asked me if I wanted to come stick it in his butt,
16 and I said no.

17 Q Did Richard ever ask you to have sex with him?

18 A Yes, ma'am.

19 Q What would he say?

20 A It was just like one time. He said, If you ever
21 wanted to, me and you could have sex if you really
22 wanted to.

23 Q Did he ever say anything about when you should lose
24 your virginity?

25 A He said that I should lose it before I get my first

Minor 2

-- DIRECT -- MS. HOWARD

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- 1 boyfriend.
- 2 Q Did Richard ever buy you condoms?
- 3 A No, ma'am -- yes, ma'am.
- 4 Q He did?
- 5 A Yes.
- 6 Q Okay.
- 7 A It was like right before he moved to Virginia
- 8 though.
- 9 Q Were you with him when he bought them?
- 10 A No, ma'am.
- 11 Q Did he just give them to you?
- 12 A Yes. He said if I ever needed them while he was in
- 13 Virginia, then I could have them.
- 14 Q Did Richard ever tell you that he had had sex with
- 15 your mom?
- 16 A Yes.
- 17 Q What did he say?
- 18 A He just said, I had sex with your mom.
- 19 Q Did you believe him?
- 20 A Yeah, I did. But then I talked to mom and she said
- 21 no, but they did date.
- 22 Q Which trailer did most of this stuff happen at if
- 23 you remember?
- 24 A At Moore Mobile Manor.
- 25 Q At some point during this Richard moved?

Minor 2

-- DIRECT -- MS. HOWARD

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1 A Yes.

2 Q Did you ever take a shower over at Richard's house?

3 A Yes, ma'am, about maybe one or two times.

4 Q Did anything funny ever happen when you were in the
5 shower?

6 A One time me and Minor 1 got dirty. We went into his
7 bathroom and took a shower, and he kept trying to
8 open the curtain and unlock the door. But then
9 somehow he got the door unlocked, and he started
10 trying to take pictures of us in the shower.

11 Q Do you know if he took the pictures?

12 A Yeah, I'm pretty sure. I saw the Polaroids.

13 Q What did you do with them when you saw them?

14 A Me and her, we had just got out the shower, and we
15 went and cut them up with scissors.

16 Q And do you remember which trailer that happened
17 at?

18 A Moore Mobile Manor.

19 Q Did Richard ever try to put his head in your
20 vagina?

21 A Yes, ma'am.

22 MR. WILLIAMS: Objection to leading.

23 THE COURT: Would you restate the question
24 please.

25 MS. HOWARD: Yes, Your Honor.

Minor 2

-- DIRECT -- MS. HOWARD

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1 BY MS. HOWARD:

2 Q Can you tell me where Richard would touch you on
3 your body?

4 A He pretty much touched me everywhere.

5 Q What did he use to touch you with?

6 A Mostly his hands, and sometimes he would put his
7 head down toward my vagina.

8 Q When he would touch you with his hands, did you
9 have clothes on?

10 A Yes, ma'am.

11 Q Were there any other incidents when you were in the
12 shower at Richard's house?

13 A No, ma'am.

14 Q Did you and ^{Minor 1} ever take naps at Richard's
15 house?

16 A Yes, ma'am.

17 Q Did anything funny ever happen while you were
18 trying to nap there?

19 A Sometimes he would start feeling on us, and I would
20 wake up and I kept trying to wake her up because he
21 kept feeling on us.

22 Q Did he ever try to take your clothes off when you
23 were napping?

24 A Yes, ma'am.

25 Q Was ^{Minor 1} there when that happened?

Minor 2

-- DIRECT -- MS. HOWARD

166

- 1 A Most of the time, a couple of the times.
- 2 Q Minor 2 when did you meet Minor 3
- 3 A Like in October when I was in sixth grade.
- 4 Q How old were you then?
- 5 A I think I had just turned 12.
- 6 Q How old are you now?
- 7 A No, I was just turning 11. I'm 13 now.
- 8 Q You met at school?
- 9 A Yes, ma'am.
- 10 Q How did you meet?
- 11 A We had nobody else in our class but me and her, and
- 12 the teacher made us be partners.
- 13 Q Since then you have been friends?
- 14 A Yes, ma'am.
- 15 Q Did Minor 3 live near you?
- 16 A Sort of.
- 17 Q Could you walk back and forth to Minor 3 house?
- 18 A No.
- 19 Q Do you remember the first time that Minor 3 met
- 20 Richard?
- 21 A Yes.
- 22 Q Tell me about that.
- 23 A We were over at my house, and I told him to come
- 24 over so he could take us to get some lunch.
- 25 Q You just called him up on the phone?

Minor 2

-- DIRECT -- MS. HOWARD

167

- 1 A Uh-huh. (Indicating affirmative response).
- 2 Q Did that happen a lot?
- 3 A (Witness nods). (Indicating affirmative response).
- 4 Yes, ma'am.
- 5 Q Did he ever call you?
- 6 A Yes, ma'am.
- 7 Q When he first met ^{Minor 3} at your house, which house
- 8 was this?
- 9 A The one on [REDACTED]
- 10 Q Did he say anything to ^{Minor 3} when he first met
- 11 her?
- 12 A Yes.
- 13 Q Tell me about that.
- 14 A He would comment on how big her breasts were and
- 15 how he would love to touch them.
- 16 Q Did he ever say anything to you or the other girls
- 17 about your clothes?
- 18 A He would always ask us why we wore our pants the
- 19 way we did or our shirts.
- 20 Q How did you wear your pants?
- 21 A They were normal, tight, like normal girls wear
- 22 them.
- 23 Q Did Richard ever masturbate in front of you and
- 24 ^{Minor 3}
- 25 A Yes, ma'am, like one time.

Minor 2

-- DIRECT -- MS. HOWARD

168

1 Q One time?

2 A Yes, ma'am.

3 Q Can you tell me about that time.

4 A We were over at his trailer in Moore Mobile Manor,
5 and he just started doing it in front of both of
6 us.

7 Q Did ^{Minor 3} ever go anywhere in the car with you and
8 Richard?

9 A Yes, ma'am.

10 Q Did he ever take out his penis in the car?

11 MR. WILLIAMS: Objection to leading, Your
12 Honor.

13 THE COURT: If you would just rephrase the
14 question, Solicitor.

15 BY MS. HOWARD:

16 Q Did Richard ever do anything that made you
17 uncomfortable in the car?

18 A Sometimes he would take out his penis, but she
19 would always slap him. Sometimes he would like rub
20 my leg, and she would slap him again. He kept
21 trying to reach back and touch her leg, and she
22 would slap him again.

23 Q Did you ever see anything strange in Richard's car?

24 A There was some pictures of him in there.

25 Q Some pictures. What was he doing in the pictures?

Minor 2

-- DIRECT -- MS. HOWARD

169

- 1 A I'm not sure. It was just of his penis.
- 2 Q Did he ever show you any of his toys?
- 3 A Yes, ma'am.
- 4 Q When ^{Minor 3} was around?
- 5 A I'm not sure.
- 6 Q Did Richard ever try to buy you underwear?
- 7 A Yes, ma'am.
- 8 Q What kind?
- 9 A If I wanted thongs, I could have thongs, but most
- 10 of the time it was just like normal underwear.
- 11 Q Do you remember when Richard moved to Virginia?
- 12 A It was about May or June.
- 13 Q May or June. Do you remember the year?
- 14 A 2007, I think.
- 15 Q Before he moved to Virginia, did you ever go to
- 16 Virginia with him?
- 17 A Yes, ma'am.
- 18 Q Tell me about that trip.
- 19 A Me and my mom, he asked us if we wanted to go up
- 20 there for Christmas, so we went up there.
- 21 Q You drove up there?
- 22 A Yes, ma'am.
- 23 Q Did you met any of Richard's family members when
- 24 you were there?
- 25 A Yes, ma'am. I met his brother and his mom and some

1 of his cousins. I think they were his cousins.

2 Q Was that trip -- tell me about it.

3 A I had a lot of fun like. He didn't try anything,

4 but like one time when I got in the car with him,

5 he would rub his hand on my leg again.

6 Q Did you like Richard's family?

7 A Yes.

8 Q Did they like you?

9 A Yes, ma'am.

10 Q Did they ever -- did you ever tell them how you

11 felt about Richard?

12 A No.

13 Q How long did you stay there that Christmas?

14 A I think it was about a week.

15 Q Where did you sleep when you stayed there?

16 A I slept upstairs in what was his room.

17 Q Where did your mom stay?

18 A In that room with me.

19 Q Where did Richard sleep?

20 A On the couch.

21 Q After Richard moved to Virginia, did he ever come

22 back to South Carolina?

23 A Yes, ma'am.

24 Q Do you remember when the first time was that he

25 came back?

Minor 2

-- DIRECT -- MS. HOWARD

171

- 1 A I think it was toward the middle of June.
- 2 Q Did you see him that time?
- 3 A Yes, ma'am.
- 4 Q Where did you see him?
- 5 A He called us and told us to meet him at the hotel.
- 6 So we went to his hotel.
- 7 Q When you say us, who is us?
- 8 A Me and my mom.
- 9 Q And then how long was Richard here for that time?
- 10 A I think it was about three or four days.
- 11 Q Did he go back to Virginia after that?
- 12 A Yes, ma'am.
- 13 Q Did he come back down to South Carolina?
- 14 A Yes, ma'am.
- 15 Q Tell me about the next time he came.
- 16 A He just called us and told us to meet him up there.
- 17 I told him to get a hotel with a pool. So he told
- 18 us, to let us know, like the pool was working.
- 19 Q Do you remember the dates when this was or what
- 20 month it was?
- 21 A In June.
- 22 Q That same summer was ^{Minor 3} ever with you when you
- 23 were with Richard?
- 24 A Barely.
- 25 Q Did you and ^{Minor 3} and Richard ever go anywhere

Minor 2

-- DIRECT -- MS. HOWARD

172

1 that summer?

2 A Sometimes we would go to Wal-Mart or Dollar
3 General.

4 Q Can you tell me about the time that you and Minor 3
5 and Richard went to Wal-Mart.

6 A One time when we went to Wal-Mart, we were walking
7 around, and he took us to the thong section and
8 asked us if we wanted any. He kept trying to like
9 grab Minor 3 butt, so I would stop him and she
10 would yell at him.

11 Q Did he end up buying anything that day?

12 A No, ma'am. He bought Minor 3 a thong though after
13 Minor 3 told him that she didn't want it.

14 Q Did he ask Minor 3 to do anything for the thong?

15 A Yes. He said that if she showed him her boobs,
16 then he would give her money or you can have these
17 thongs forever.

18 Q Did she do it?

19 A No.

20 Q Did he give her the thongs anyway?

21 A Yes, ma'am.

22 Q Did he ever offer Minor 3 money any other times?

23 A It wasn't for thongs but like to show him her
24 boobs.

25 Q In the spring before Richard moved, do you remember

Minor 2

-- DIRECT -- MS. HOWARD

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- 1 having a conversation with ^{Minor 1}
- 2 A Yes, ma'am.
- 3 Q Can you tell me about that day.
- 4 A He was in the living room. I think he was watching
- 5 a porn movie. We went into my room or what he
- 6 called my room at [REDACTED] We sat in there. I
- 7 was sitting in the closet crying, and I didn't know
- 8 if I should tell. She kept telling me that we
- 9 should. We were trying to figure out what would
- 10 happen if we did.
- 11 Q Did you end up telling after that time?
- 12 A Later on.
- 13 Q Why didn't you tell then?
- 14 A We thought our parents would get upset with us and
- 15 nobody would believe us.
- 16 Q Was there any other reason why you didn't tell?
- 17 A No, ma'am.
- 18 Q Did you ever yell at Richard when he was doing
- 19 things?
- 20 A Yes, ma'am.
- 21 Q Did you ever cry?
- 22 A Not in front of him.
- 23 Q Did you ever hit him?
- 24 A Yes, ma'am.
- 25 Q Did you ever break anything when you hit him?

1 A No.

2 Q Did you ever hit him with an object?

3 A No, ma'am.

4 Q Did Richard ever say anything when he was
5 masturbating in front of you?

6 A He would just ask me to come and help him.

7 Q Did he ever yell anything out when he was doing
8 that?

9 MR. WILLIAMS: Objection, leading.

10 THE COURT: It's not leading. I overrule the
11 objection.

12 BY MS. HOWARD:

13 Q Did he ever yell anything out when he was doing
14 that?

15 A No, ma'am. He just kept saying please and asking
16 me if I would get the sex toys for him.

17 Q You told me that Richard was coming back to South
18 Carolina from Virginia. Did he ever come back in
19 July?

20 A Yes, ma'am.

21 Q Did you ever go over there and stay with Richard by
22 yourself?

23 A Yes, ma'am.

24 Q Can you tell me about the first time you did that.

25 A We were there -- I went over there to swim. When I

Minor 2

-- DIRECT -- MS. HOWARD

175

1 got done swimming, I went and took a shower. I was
2 laying on the bed, and he kept trying to turn me
3 over because I was watching T.V. on my stomach. He
4 finally turned me over and started kissing me and
5 like feeling on me.

6 Q Who took you over there?

7 A My mom.

8 Q What were you wearing when you were there?

9 A My bathing suit. I had a shirt over it and some
10 shorts.

11 Q Did you go over there just to hang out and swim?

12 A Yes, ma'am.

13 Q Do you remember where this was?

14 A In July it was the Knights Inn.

15 Q Did Richard stay in one hotel in July?

16 A Yes.

17 Q Minor 2 the first day you went to see Richard at
18 a hotel in July, did you ever go swimming?

19 A Yes, ma'am.

20 MS. HOWARD: Your Honor, may I approach the
21 witness?

22 THE COURT: Yes, ma'am.

23 BY MS. HOWARD:

24 Q Does that look familiar to you, Minor 2

25 A Yes, ma'am.

1 Q That's State's Exhibit 19. State's Exhibit 20,
2 does that look familiar to you?

3 A Yes, ma'am, sort of. I think that was the pool
4 that was broke down.

5 Q Speak up for me a little bit.

6 A I think that was the pool that was broke down.

7 Q When you were at that hotel, what do you remember
8 seeing around you?

9 A There was a Burger King, a McDonald's and a Waffle
10 House and a Rush's.

11 Q Is that kind of like what you saw?

12 A Yes, ma'am.

13 Q That's State's Exhibit 21. Do you know what road
14 that hotel was on?

15 A It was off of 378.

16 Q This first time when you met Richard at that hotel,
17 you were watching T.V. in his room?

18 A Yes, ma'am.

19 Q Why were you laying on the bed?

20 A At the beginning I was laying on my stomach.

21 Q What made you change?

22 A He kept flipping me over.

23 Q Did he try to touch you that day?

24 A Yes, ma'am.

25 Q Did he touch you that day?

Minor 2

-- DIRECT -- MS. HOWARD

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1 A Yes, ma'am.

2 Q Where?

3 A On my vagina and my breasts and my butt.

4 Q Did he touch you on top of your clothes?

5 A Yes, ma'am.

6 Q Did he touch you underneath your clothes?

7 A Yes, ma'am.

8 Q Did you pull your pants down?

9 A No, ma'am.

10 Q Did Richard?

11 A Yes, ma'am.

12 MR. WILLIAMS: Objection to leading, Your
13 Honor.

14 THE COURT: I overrule the objection.

15 BY MS. HOWARD:

16 Q Did Richard have clothes on?

17 A Yes, ma'am.

18 Q At any point on that day, did Richard ever put his
19 hand inside your privates?

20 A Yes, ma'am.

21 Q Can you tell me a little bit about that.

22 A It was after he flipped me over, and he kept trying
23 to like force his finger to go inside my vagina,
24 and I kept telling him no. Finally I just gave up
25 because he was much stronger than me.

- 1 Q Did he ever go inside?
- 2 A Yes, ma'am.
- 3 Q How did that feel?
- 4 A It hurt.
- 5 Q Did his finger ever go inside your behind?
- 6 A Yes, ma'am.
- 7 Q How did that feel?
- 8 A It hurt worse.
- 9 Q Did Richard ever touch your vagina with anything
- 10 else?
- 11 A No, ma'am.
- 12 Q Did Richard ever try and kiss you?
- 13 A Yes, ma'am.
- 14 Q On the mouth?
- 15 A Yes, ma'am.
- 16 Q Did he kiss you anywhere else?
- 17 A He kept trying to, like he kept on kissing my boobs
- 18 and my stomach.
- 19 Q Did Richard ever put his mouth anywhere else on
- 20 your body?
- 21 A Not that day.
- 22 Q The next day did you go see Richard at a hotel?
- 23 A Yes.
- 24 Q Was it the same hotel?
- 25 A Yes, ma'am.

Minor 2

-- DIRECT -- MS. HOWARD

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1 Q At one of the hotels that you saw Richard at, was
2 there a pool at those hotels?

3 A Yes, ma'am.

4 Q Did the pool work at both of them?

5 A No, ma'am.

6 Q Do you know where the Knights Inn is on Airport
7 Boulevard?

8 A Yes, ma'am.

9 Q How do you know where it is?

10 A He stayed there.

11 Q Did you drive by it a lot?

12 A Yes, ma'am.

13 Q Did you ever visit Richard at the Knights Inn?

14 A Yes, ma'am.

15 Q Do you remember the day you went to see him?

16 A Not the exact day.

17 Q Can you tell me what month it was?

18 A It was in July.

19 Q Was it close to the day that we just talked about a
20 minute ago?

21 A Yes, ma'am.

22 Q How close?

23 A Maybe one or two weeks after. That happened at the
24 very end of June, and it like started the very
25 beginning of July.

- 1 Q The time we just talked about?
- 2 A Yes, ma'am.
- 3 Q Happened in June?
- 4 A Yes, ma'am.
- 5 Q Okay. When you stayed with Richard, when you went
- 6 to see Richard at the Knights Inn on Airport
- 7 Boulevard, do you remember what month that was?
- 8 A That was in July.
- 9 Q Do you remember the year?
- 10 A 2007.
- 11 Q Did your mom take you over there again?
- 12 A No, ma'am, he came and got me from my house.
- 13 Q And took you back to the hotel?
- 14 A Yes, ma'am.
- 15 Q Did you go swimming that day?
- 16 A Yes, ma'am.
- 17 Q Did Richard say anything to you when you were in
- 18 the pool?
- 19 A Yes, ma'am.
- 20 Q What did he say?
- 21 A He kept trying to get me to take off my bathing
- 22 suit and swim naked.
- 23 Q Did you do that?
- 24 A No, ma'am.
- 25 Q After you went swimming, what did you do?

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-- DIRECT -- MS. HOWARD

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- 1 A I went back to his hotel room and changed my
2 clothes.
- 3 Q Did you take a shower?
- 4 A Yes, ma'am.
- 5 Q After you took a shower, did you put your bathing
6 suit back on?
- 7 A Yes, ma'am.
- 8 Q Did you put clothes on over it?
- 9 A Yes.
- 10 Q Then what did you do?
- 11 A I went to like the bed, where the bed was, and I
12 laid down and was watching T.V.
- 13 Q What were you watching, do you remember?
- 14 A Sponge Bob.
- 15 Q Is that in the afternoon?
- 16 A Yes, ma'am.
- 17 Q Was Richard on the bed with you?
- 18 A No, ma'am, he was on the couch.
- 19 Q What happened then?
- 20 A I was just laying watching T.V. He kept trying to
21 flip me over again.
- 22 Q So did he come over and sit on the bed?
- 23 A Yes, ma'am.
- 24 Q Did he touch your privates that day?
- 25 A Yes, ma'am.

1 Q Did he take your clothes off that day?

2 A Yes, ma'am.

3 Q What did he do with his body on yours?

4 A He kept trying to get on top of me or he tried to
5 get on top of me and was trying to like flip me
6 over. When he finally did flip me over, he kept
7 trying to take off my pants or my clothes.

8 Q Did he put his mouth on anywhere?

9 A Yes, ma'am.

10 Q Where did he put his mouth?

11 A He put his mouth on my breasts and on my vagina.

12 Q Did he lick your vagina?

13 A Yes, ma'am.

14 Q Did he stick his finger in your vagina that day?

15 MR. WILLIAMS: Objection, leading.

16 THE COURT: If you would rephrase the
17 question, Solicitor.

18 BY MS. HOWARD:

19 Q What else happened that day?

20 A He kept trying to stick his finger in my vagina and
21 in my butt, and it went in.

22 Q To both places?

23 A Yes.

24 Q Did Richard ever try to put his penis anywhere?

25 A Not on me.

Minor 2

-- DIRECT -- MS. HOWARD

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- 1 Q Did Richard have a camera that day?
- 2 A Yes, ma'am.
- 3 Q Did he do anything with that camera?
- 4 A He kept trying to take pictures of me.
- 5 Q Can you tell me about that.
- 6 A He had the camera. He had already taken off all my
7 clothes, and that was like after I had gave up on
8 trying to fight back of him trying to take off my
9 clothes. So I just gave up and let him do it. He
10 had the camera and kept trying to take pictures of
11 me naked.
- 12 Q Were you on the bed?
- 13 A Yes, ma'am.
- 14 Q How were you laying?
- 15 A I was laying on my back.
- 16 Q Did you have your legs open or closed?
- 17 A Yes, ma'am, not until like he pushed them open.
- 18 Q He pushed your legs open?
- 19 A Yes, ma'am.
- 20 Q Did he take a picture of you like that on the bed?
- 21 A Yes, ma'am.
- 22 Q Did he take more than one?
- 23 A Yes, ma'am.
- 24 Q Did he take them with the Polaroid camera?
- 25 A Yes, ma'am.

- 1 Q Did he try to take pictures of you anywhere else?
- 2 A No, ma'am.
- 3 Q Did you ever see those pictures?
- 4 A Yes, ma'am.
- 5 Q Did you see yourself in them?
- 6 A Yes, ma'am.
- 7 Q What happened to those pictures?
- 8 A I'm not sure. I told him he needed to throw them
- 9 away and tear them up.
- 10 Q Were you upset?
- 11 A Yes, ma'am.
- 12 Q What did he say?
- 13 A He told me he would.
- 14 Q Did you see where he put the pictures after he took
- 15 them?
- 16 A No, ma'am.
- 17 Q Did you ever see those pictures again?
- 18 A No, ma'am.
- 19 Q That day did your mom come over to the hotel?
- 20 A Yes, ma'am, at the very end.
- 21 Q Did y'all all go swimming together?
- 22 A Yes, ma'am.
- 23 Q Were you ready to leave when she got there?
- 24 A Yes, ma'am.
- 25 Q Minor 2 do you remember this hotel well?

Minor 2

-- DIRECT -- MS. HOWARD

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- 1 A Yes, ma'am.
- 2 Q Do you pass by it a lot now?
- 3 A Yes, ma'am.
- 4 Q What happens when you pass it?
- 5 A I get really upset. It makes me like want to cry.
- 6 Q Do you try to look the other way?
- 7 A Yes, ma'am.
- 8 Q Minor 2 how did all of this make you feel?
- 9 A It makes me feel really bad and like it's my fault.
- 10 Q Do you think it was your fault?
- 11 A Yes, ma'am.
- 12 Q Why didn't you want to tell your mom?
- 13 A I didn't want her to go and try to kill Richard or
- 14 I didn't want like her -- for us to tell and people
- 15 not believe me.
- 16 Q Do you remember when you finally did decide to tell
- 17 your mom?
- 18 A Yes, ma'am.
- 19 Q Do you remember when that was?
- 20 A I don't remember the exact date.
- 21 Q Do you remember what month it was?
- 22 A I think it was at the end of July, toward the end.
- 23 Q Was it close to the time that you went to the
- 24 Knights Inn with Richard?
- 25 A Yes, ma'am.

- 1 Q The time we just talked about?
- 2 A Yes, ma'am, like a week after.
- 3 Q Can you tell me about how you decided to tell.
- 4 A I was supposed to go to Virginia with him for a
- 5 week to give my mom a break from me and like give
- 6 her a vacation kind of thing. I didn't want to.
- 7 So the first time he came to come and get me, I was
- 8 sleeping.
- 9 My mom got really mad and told me that I had
- 10 to go no matter what. So I went over to my
- 11 friend's house, and when I was over there, I sent
- 12 her an e-mail and told her.
- 13 Q Did your mom think you liked it in Virginia?
- 14 A Yes, ma'am.
- 15 Q Whose friend's house did you go to send the e-mail?
- 16 A My friend Katie.
- 17 Q Did you talk to ^{Minor 1} that day?
- 18 A Yes, ma'am.
- 19 Q Tell me what you and ^{Minor 1} talked about.
- 20 A She had called me telling me that she had to tell
- 21 because I was calling her crying at first.
- 22 Q You called ^{Minor 1} crying at first?
- 23 A Yes.
- 24 Q Why were you crying?
- 25 A Because I didn't want to go with him.

Minor 2

-- DIRECT -- MS. HOWARD

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1 Q To Virginia?

2 A Yes, ma'am.

3 Q And ^{Minor 1} told you?

4 A That she had to tell because she didn't want me
5 getting hurt.

6 Q Because why?

7 A She didn't want me getting hurt.

8 Q Did ^{Minor 1} tell you who she was going to tell?

9 A No, ma'am, she said she --

10 MR. WILLIAMS: Objection to hearsay.

11 THE COURT: Yes, I would sustain the
12 objection.

13 BY MS. HOWARD:

14 Q Do you know who ^{Minor 1} told?

15 A Her mom.

16 Q Did she call you before or after she told her mom?

17 A Before.

18 Q Is that when you decided to tell your mom?

19 A Yes, ma'am.

20 Q And how did you tell your mom?

21 A That's when I went and sent her the e-mail.

22 MS. HOWARD: This is State's Exhibit 3.

23 BY MS. HOWARD:

24 Q Would you look over that.

25 A (Pause). Yes, ma'am.

1 Q Can you tell me what this is?

2 A It was an e-mail to my mom.

3 Q Is this the e-mail that you wrote telling her?

4 A Yes, ma'am.

5 Q About what Richard had done?

6 A Yes, ma'am.

7 MS. HOWARD: I would like to offer this as
8 State's Exhibit 3 into evidence at this time, Your
9 Honor.

10 THE COURT: Mr. Williams.

11 MR. WILLIAMS: I have to see it.

12 (Pause).

13 MR. WILLIAMS: I don't have any objection to
14 that, Your Honor.

15 MS. HOWARD: I would like to offer that as
16 State's Exhibit 3.

17 THE COURT: May I see it?

18 (Hands to Court).

19 THE COURT: All right. State's Exhibit 3 is
20 in evidence without objection.

21 (State's Exhibit Number 3 is received into
22 evidence).

23 BY MS. HOWARD:

24 Q After you wrote that e-mail to your mom, when was
25 the next time you talked to her?

Minor 2

-- DIRECT -- MS. HOWARD

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1 A The very next day.

2 Q What did you say to her?

3 A I didn't say anything to her. I walked into the
4 trailer that we lived in, and she asked me if she
5 could talk to me. We went away from where her
6 boyfriend and his roommate was. We went in her
7 room and started talking. She asked me if I was --

8 MR. WILLIAMS: Objection to the hearsay, Your
9 Honor.

10 THE COURT: I don't know that it's being
11 offered for the truth of the matter asserted. Do you
12 want to be heard on that, Mr. Williams?

13 MR. WILLIAMS: It's not really that important,
14 Your Honor.

15 THE COURT: Thank you. You may proceed. You
16 may answer the question.

17 A She said that we were going to tell the cops.

18 Q Minor 2 do you recognize this place?

19 A Yes, ma'am.

20 Q Can you tell jury what it is or where it is.

21 A It's the one on Airport where he stayed at.

22 Q The hotel where he stayed?

23 A Yes, ma'am.

24 Q This is State's Exhibit Number 22. Is this the
25 same place?

1 A Yes, ma'am.

2 Q State's 23, do you recognize this pool?

3 A Yes, ma'am.

4 Q Tell me where this pool is.

5 A At the Knights Inn.

6 Q All of these pictures are from the Knights Inn?

7 A Yes, ma'am.

8 Q State's Exhibit 25, can you tell me what that is?

9 A It's the room that he stayed in one time.

10 THE COURT: I'm sorry, I can't hear.

11 THE WITNESS: It was the room that he stayed
12 in.

13 BY MS. HOWARD:

14 Q Is this room door at the Knights Inn?

15 A Yes, ma'am.

16 MS. HOWARD: Your Honor, at this time I would
17 like to offer into evidence State's 22, 23, 24, and 25,
18 pictures of the Knights Inn.

19 MR. WILLIAMS: Without objection, Your Honor.

20 THE COURT: State's 22, 23, 24, and 25 are in
21 evidence without objection.

22 (State's Exhibits Number 22-25 are received
23 into evidence).

24 BY MS. HOWARD:

25 Q Is the Knights Inn the only hotel you ever stayed

Minor 2

-- DIRECT -- MS. HOWARD

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- 1 in with Richard?
- 2 A No, ma'am.
- 3 Q Did you also stay at America's Best with Richard?
- 4 A Yes, ma'am.
- 5 Q Did the pool work at America's Best?
- 6 A No, ma'am.
- 7 Q Do you remember when you went to America's Best
- 8 with Richard?
- 9 A No, ma'am.
- 10 Q Do you remember if it was close to the time that
- 11 you were at the Knights Inn?
- 12 A Yes, ma'am, it was a couple of weeks before that.
- 13 Q Was there ever a time during that summer when
- 14 Richard switched hotels?
- 15 A Yes, ma'am.
- 16 Q Can you tell me about that time.
- 17 A Whenever he came down here?
- 18 Q Yes.
- 19 A It was whenever the pool wasn't working.
- 20 Q At America's Best?
- 21 A Yes, ma'am.
- 22 Q Where did he go when the pool wasn't working?
- 23 A I don't recall the name of it.
- 24 Q He went to another motel?
- 25 A Yes, ma'am.

1 MS. HOWARD: Beg the Court's indulgence.

2 (Pause).

3 BY MS. HOWARD:

4 Q When is your birthday?

5 A [REDACTED]

6 Q Minor 2 I am going to show you a few pictures and
7 see if you have ever seen them before.

8 A Yes, ma'am.

9 Q State's Exhibit 4 that has been marked, have you
10 ever seen this?

11 A Yes.

12 Q Can you tell me where?

13 A It was at his house at Moore Mobile Manor.

14 Q Speak up a little bit.

15 A It was at his house at Moore Mobile Manor.

16 Q State's Exhibit Number 5, have you ever seen those
17 before?

18 A Yes, ma'am.

19 Q Where did you see those?

20 A At his house.

21 Q At his house in Columbia?

22 A Yes, ma'am.

23 Q Or in Lexington County?

24 A Yes, ma'am.

25 Q State's Exhibit 6, have you ever seen this before?

Minor 2

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- 1 A Yes, ma'am.
- 2 Q Can you tell me where you have seen that.
- 3 A He had it underneath his couch cushion.
- 4 Q At his house?
- 5 A Yes, ma'am.
- 6 Q Which house?
- 7 A Moore Mobile Manor.
- 8 Q How many times have you seen that?
- 9 A A lot.
- 10 Q State's Exhibit Number 7, have you ever seen those?
- 11 A Yes, ma'am.
- 12 Q Can you tell me where you have seen those?
- 13 A In the drawer at his house.
- 14 Q Did Richard show you these?
- 15 A Yes, ma'am.
- 16 Q State's Exhibit Number 8, have you ever seen those
- 17 pictures?
- 18 A Yes, ma'am.
- 19 Q Where have you seen those?
- 20 A At his house.
- 21 Q Which house?
- 22 A The one in [REDACTED]
- 23 Q Did Richard show you those?
- 24 MR. WILLIAMS: Objection to leading.
- 25 THE COURT: If you would rephrase the

1 question.

2 BY MS. HOWARD:

3 Q How did you see these?

4 A Richard showed me.

5 Q State's Exhibit 9, have you ever seen any of these

6 things or pictures?

7 A Yes, ma'am.

8 Q Have you seen all of them?

9 A Yes, ma'am.

10 Q Did you see all these at the same time?

11 A Yes, ma'am.

12 Q Where have you seen these pictures?

13 A At his house.

14 Q State's Exhibit Number 10, do you recognize those

15 pictures?

16 A Yes, ma'am.

17 Q Do you recognize all of them?

18 A Yes, ma'am.

19 Q Where have you seen these pictures?

20 A At his house in Moore Mobile Manor.

21 Q Do you know how you saw those?

22 A He showed them all to me.

23 Q State's Exhibit Number 11, do you recognize that?

24 A Yes, ma'am.

25 Q Can you tell me what it is.

Minor 2

-- DIRECT -- MS. HOWARD

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1 A His car.

2 Q Whose car?

3 A Richard's.

4 Q Okay.

5 A Can I use the bathroom?

6 Q Can you use the bathroom?

7 A Yes, ma'am.

8 THE COURT: Mr. Foreman, and ladies and
9 gentlemen of the jury, if you would please step to your
10 jury room. Please do not discuss the case during this
11 brief recess.

12 (The jury retires to the jury room).

13 THE COURT: You may step down and refresh
14 yourself. You may not discuss your testimony during the
15 brief recess. Court will be in recess a few minutes.

16 (Whereupon there was a recess).

17 MR. STUMBO: Your Honor, I just briefly have a
18 housekeeping matter whenever you are ready before the
19 jury comes back.

20 THE COURT: Yes, sir.

21 MR. STUMBO: Ms. Howard referenced State's 19,
22 20, and 21 and showed them to ^{Minor 2} pictures of the
23 America's Best on 378, which she recognized. The
24 picture of the Knights Inn are already in evidence is my
25 understanding without objection.

1 MR. WILLIAMS: No objection.

2 THE COURT: State's 19, 20, and 21.

3 MR. STUMBO: Yes, sir.

4 THE COURT: It's not in evidence until it's
5 introduced in front of the jury.

6 MR. STUMBO: Okay. We can do that.

7 THE COURT: Anything further before we bring
8 in our jury, Solicitor?

9 MR. STUMBO: Nothing further, Your Honor.

10 THE COURT: Mr. Williams?

11 MR. WILLIAMS: Nothing from the Defendant,
12 Your Honor.

13 THE COURT: Do either of y'all have a copy of
14 the criminal sexual conduct with a minor, second degree
15 statute, that was in effect in 2007?

16 MR. STUMBO: I don't at this time, Your Honor.
17 I could get that for you if I need to. Your Honor, if
18 I'm not mistaken, the last time that statute was changed
19 was in the summer of 2006 when Jessica's Law was passed.
20 I believe since then it has remained as it is now which
21 is the way it would be recorded on the Statehouse
22 website. It's the way that it was in 2007.

23 THE COURT: Thank you. Mr. Bailiff, you may
24 bring the jury, please.

25 (The jury returns to the courtroom).

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-- DIRECT -- MS. HOWARD

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1 THE COURT: Our witness is back. Our jury is
2 back present in the courtroom. We are continuing with
3 the direct examination of Minor 2

4 Solicitor, you may proceed.

5 MS. HOWARD: Thank you, Your Honor.

6 DIRECT EXAMINATION

7 BY MS. HOWARD:

8 Q Minor 2 the last thing I showed you was State's
9 Exhibit 11. Can you tell me what State's Exhibit
10 11 is?

11 A A picture of Richard's car.

12 Q Speak up for me.

13 A A picture of Richard's car.

14 Q Okay. That summer when Richard was coming down
15 from Virginia to South Carolina, is that the car
16 that he was in?

17 A Yes, ma'am.

18 Q When he took you and Minor 3 to Wal-Mart, was that
19 the car he took you in?

20 A Yes, ma'am.

21 Q Do you remember the day, the date, that he took you
22 to that Wal-Mart with Minor 3

23 A No, ma'am.

24 MS. HOWARD: Your Honor, I would like to show
25 the witness her previous statement.

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-- DIRECT -- MS. HOWARD

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1 THE COURT: All right.

2 BY MS. HOWARD:

3 Q Minor 2 can you read a little bit -- not out loud
4 read it to yourself -- the first few lines?

5 A (Pause).

6 Q Does that look familiar to you?

7 A Yes, ma'am.

8 Q Did you write that statement?

9 A Yes, ma'am.

10 Q Where did you write it?

11 A At the detective's office.

12 Q Can you tell me what the date on the bottom of it
13 is?

14 A Right there, August 1st.

15 Q What year?

16 A 2007.

17 Q After reading that does that help you remember when
18 it was that Richard took you and Minor 3 to
19 Wal-Mart?

20 A Sometime around March.

21 MS. HOWARD: Beg the Court's indulgence for
22 just a moment, Your Honor.

23 (Pause).

24 BY MS. HOWARD:

25 Q Let me get you to read it for me again starting at

Minor 2

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1 the beginning.

2 A (Pause).

3 Q On that day, August 1st, 2007, in that statement
4 did you tell the police anything about --

5 MR. WILLIAMS: Your Honor, I will object to a
6 question in a statement which hasn't been introduced
7 into evidence. Because in effect she would be
8 publicizing an exhibit that hasn't been introduced into
9 evidence.

10 THE COURT: I would sustain that objection,
11 Solicitor.

12 MR. STUMBO: Beg the Court's indulgence for a
13 second, Your Honor.

14 THE COURT: She can certainly use to refresh
15 her memory if that is the purpose of it.

16 BY MS. HOWARD:

17 Q Minor 2 does that statement, reading it, does it
18 remind you and refresh your memory of what you told
19 the police?

20 A Yes, ma'am.

21 THE COURT: That's not the point of what she
22 told the police. Let me see the statement, Solicitor.

23 (Hands to Court).

24 THE COURT: Ladies and gentlemen, step to your
25 jury room momentarily. Do not discuss the case during

1 this recess.

2 (The jury retires to the jury room).

3 THE COURT: All right. I'm not tracking right
4 now. Tell me where we are headed.

5 MS. HOWARD: Your Honor, I was trying to use
6 the statement that she gave back in August of 2007 to
7 refresh her memory on some of these dates.

8 THE COURT: Well, why can't you ask her that.
9 Does that refresh your memory? Does that statement
10 refresh your memory as to dates and times?

11 MS. HOWARD: I apologize, I thought that's
12 what I asked.

13 THE COURT: You were specifying to what you
14 told the police in that statement as opposed to, Does
15 that refresh your memory? Yes. Then your question was,
16 Minor 2 does that statement, reading it, does it
17 remind you and refresh your memory of what you told the
18 police?

19 MS. HOWARD: Okay.

20 THE COURT: I don't think -- I am taking it
21 that you don't want to get out necessarily what she told
22 the police. You are trying to get out the time table.
23 Is that my understanding?

24 MS. HOWARD: I apologize, yes, sir.

25 THE COURT: Is that a correct understanding?

1 MS. HOWARD: Yes, sir, Your Honor.

2 THE COURT: I think you can. I think it can
3 be used to refresh your memory. You lay that
4 groundwork. If she says, Yes, it refreshes my memory,
5 then we can go to the date.

6 THE COURT: Was that your objection,
7 Mr. Williams?

8 MR. WILLIAMS: Yes, Your Honor.

9 THE COURT: Any other objection?

10 MR. WILLIAMS: And it appeared that there was
11 going to be a publishing of the statement.

12 THE COURT: All right. Bring us our jury,
13 please.

14 BAILIFF: Your Honor, the jury said they can't
15 hear.

16 THE COURT: I agree with them a thousand
17 percent. I can't hear either. I try to get people to
18 speak up. I'm not fussing at you, young lady. I try,
19 every time I try a case, I try to get people to speak
20 up. I will remind them again. Thank you, Ms. Bunny.

21 (The jury returns to the courtroom).

22 THE COURT: Our jury is back present in the
23 courtroom. I got your message concerning not being able
24 to hear. If that happens in this courtroom, just please
25 raise your hand, cup your ear, get the attention of me

Minor 2

-- DIRECT -- MS. HOWARD

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1 or one of these fine bailiffs.

2 I will have the witness and/or the attorneys
3 speak up. Obviously if you cannot hear the testimony,
4 you won't be able to determine what the true facts are.
5 So if you will please your keep your voices up, ^{Minor 2}
6 and Solicitor. Thank you. You may proceed.

7 MS. HOWARD: Thank you, Your Honor.

8 DIRECT EXAMINATION

9 BY MS. HOWARD:

10 Q Minor 2 does the statement I gave you a minute
11 ago refresh your memory?

12 A Yes, ma'am.

13 Q When did you go to Wal-Mart with ^{Minor 3}

14 A One time whenever he came down here in July.

15 Q Do you remember around the date it was?

16 A The 9th.

17 Q Is that the time he bought thongs?

18 A Yes, ma'am.

19 Q Did anything happen in the car --

20 A Yes, ma'am.

21 Q -- that time. Tell me what.

22 A He was feeling on my boobs and on my leg, and he
23 was reaching back and feeling on ^{Minor 3}

24 Q ^{Minor 2} have you ever seen State's Exhibit 12?

25 A Yes, ma'am.

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- 1 Q Where did you see State's Exhibit 12?
- 2 A In his car.
- 3 Q When did you see it?
- 4 A Whenever he lived here in South Carolina.
- 5 Q Have you ever seen State's Exhibit 13?
- 6 A Yes, ma'am.
- 7 Q Where have you seen that?
- 8 A At his house at Moore Mobile Manor.
- 9 Q Have you ever seen State's Exhibit 14?
- 10 A Yes, ma'am.
- 11 Q Can you tell me what State's Exhibit 14 is?
- 12 A The house that he lived in in Virginia.
- 13 Q Was this the house that you visited with him?
- 14 A Yes, ma'am.
- 15 Q And tell me who lived there.
- 16 A His brother Eddie and his mom.
- 17 Q Can you tell me what State's Exhibit 15 is?
- 18 A His mom's house.
- 19 Q Have you ever seen any of the items in State's
- 20 Exhibit 16?
- 21 A Yes, ma'am.
- 22 Q Where have you seen those items?
- 23 A At his house in Moore Mobile Manor.
- 24 Q Have you ever seen State's Exhibit 17, any of the
- 25 items in it?

- 1 A Yes.
- 2 Q Where have you seen those items?
- 3 A At his house at Moore Mobile Manor.
- 4 Q Do any of those item belong to you?
- 5 A Yes, ma'am.
- 6 Q Can you tell me what color the items are that
- 7 belong to you?
- 8 A Blue and purple.
- 9 Q Have you seen any of the photos in State's Exhibit
- 10 18?
- 11 A Yes, ma'am.
- 12 Q Where have you seen these photos?
- 13 A At his house in Moore Mobile Manor.
- 14 Q How did you see these photos?
- 15 A He took most of them.
- 16 Q He took most of them?
- 17 A Me and him.
- 18 Q Minor 2 after you told your mom, the e-mail to
- 19 your mother, do you remember when you spoke to the
- 20 police about this?
- 21 A That day that we told the police, Officer Grooms
- 22 came to our house.
- 23 Q What did Officer Grooms ask you?
- 24 A What he looked like --
- 25 MR. WILLIAMS: Objection to that, Your Honor.

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-- DIRECT -- MS. HOWARD

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1 hearsay.

2 THE COURT: Yes, Solicitor, that would be
3 hearsay, I believe.

4 MS. HOWARD: All right.

5 BY MS. HOWARD:

6 Q What did you tell Officer Grooms that day?

7 A He was wondering what Richard --

8 MR. WILLIAMS: Same objection, Your Honor.

9 THE COURT: Minor 2 just tell the jury what
10 you told Officer Grooms.

11 THE WITNESS: I told him what Richard looked
12 like and where he lived, and I showed him -- I gave him
13 a picture of Richard.

14 BY MS. HOWARD:

15 Q The next time you talked to the police, where was
16 that?

17 A At the detective's office.

18 Q Do you remember the officers you spoke to?

19 A Presti and Beaver.

20 Q Is this man Presti?

21 A Uh-huh. (Indicating affirmative response).

22 Q Did you ever talk to anybody else about what
23 happened with Richard?

24 A Like when?

25 Q Did you ever talk to a counselor about what

Minor 2

-- CROSS -- MR. WILLIAMS

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1 happened with Richard?

2 A Yes, ma'am.

3 Q Do you remember when that was?

4 A It was in like August and September.

5 Q Minor 2 everything you told the officers, your

6 mom, your counselors, did all that stuff really

7 happen?

8 A Yes, ma'am.

9 Q Please answer any questions Mr. Williams might have
10 for you.

11 THE COURT: Thank you, Solicitor.

12 Mr. Williams.

13 MR. WILLIAMS: May it please the Court.

14 CROSS EXAMINATION

15 BY MR. WILLIAMS:

16 Q How do you pronounce your last name?

17 A Minor 2 -.

18 Q Minor 2 -?

19 A Yes, sir.

20 Q Now, Ms. Minor 2 , you live -- what location do you
21 live at now?

22 A [REDACTED].

23 Q [REDACTED]?

24 A Yes, sir.

25 Q Here in Lexington?

Minor 2

-- CROSS -- MR. WILLIAMS

207

- 1 A Columbia.
- 2 Q When did you move to [REDACTED] in
3 Columbia?
- 4 A It was about a year ago.
- 5 Q So maybe around the beginning of 2008?
- 6 A Yes.
- 7 Q Before that where did you live?
- 8 A At [REDACTED].
- 9 Q What was the street address at [REDACTED]?
- 10 A I don't remember.
- 11 Q Where is [REDACTED]?
- 12 A In West Columbia.
- 13 Q How long did you live at [REDACTED] in West
14 Columbia?
- 15 A About half a year.
- 16 Q So around the middle of 2007 until the end of 2007,
17 you lived at [REDACTED]?
- 18 A Yes, sir.
- 19 Q So before June of 2007, where did you live?
- 20 A I lived -- at that time I lived at [REDACTED].
- 21 Q In June of 2007, you lived at [REDACTED]?
- 22 A That's when we had just moved there.
- 23 Q June of 2007. So you would have been living at
24 [REDACTED] before July of 2007 obviously
25 because June comes before July, right?

- 1 A Yes, sir.
- 2 Q And are you sure it was June when you moved in?
- 3 A I'm pretty sure. I'm not exactly for sure.
- 4 Q Before you lived on [REDACTED], where did you
- 5 live?
- 6 A With my grandma.
- 7 Q Your grandmother?
- 8 A Yes, sir.
- 9 Q Who is your grandmother?
- 10 A Mary.
- 11 Q Mary?
- 12 A Potts.
- 13 Q Mary what?
- 14 A Potts.
- 15 Q P-O-T-T-S?
- 16 A Yes, sir.
- 17 Q Where did you live with your grandmother?
- 18 A At her house.
- 19 Q Where was that?
- 20 A [REDACTED] -- circle, one of them two.
- 21 Q [REDACTED]. And how long did you live with
- 22 your grandmother?
- 23 A It was about one or two months.
- 24 Q So April and May of 2007 you lived there. Before
- 25 you lived with your grandmother, where did you

Minor 2

-- CROSS -- MR. WILLIAMS

209

- 1 live?
- 2 A On [REDACTED]
- 3 Q Who did you live with on [REDACTED]
- 4 A My mom.
- 5 Q And who else?
- 6 A Just me and my mom.
- 7 Q You said earlier that your mother came to one of
- 8 these motels at some point in time, right?
- 9 A (Witness nods). (Indicating affirmative response).
- 10 Q And she left for some period of time and went and
- 11 picked up her boyfriend, right?
- 12 A Yes, sir.
- 13 Q You said something about her boyfriend and his
- 14 friend living in the same house as your mother?
- 15 A Yes, sir.
- 16 Q Is that a yes, sir or no, sir?
- 17 A Yes, sir.
- 18 Q So you were living with your mother, her boyfriend,
- 19 and some other guy; is that right?
- 20 A Yes, sir.
- 21 Q And when was this that you were doing that?
- 22 A That was when we lived on [REDACTED].
- 23 Q What is her boyfriend's name?
- 24 A Junior.
- 25 Q Junior. And what is his friend's name?

- 1 A Kenny.
- 2 Q Kenny. So you lived with your mother and Junior
3 and Kenny on [REDACTED]. But back when you
4 lived on [REDACTED] it was just you and your
5 mother?
- 6 A Yes, sir.
- 7 Q You have described how Mr. Ratliff would come down
8 from Virginia -- because he was living in Virginia
9 towards the middle of 2007, right?
- 10 A Yes, sir.
- 11 Q When did he move in 2007?
- 12 A I don't know the exact date, but it was around
13 whenever school lets out in May.
- 14 Q May of 2007?
- 15 A Yes, sir.
- 16 Q He moved to Virginia. He would come down to visit
17 with you and your mother?
- 18 A Yes, sir.
- 19 Q Who would do the inviting of him to come down and
20 visit you and your mother?
- 21 A He just came down.
- 22 Q So you wouldn't call him and invite him down?
- 23 A No. He said, I'm coming down. Is that okay? I
24 said, That is perfectly fine.
- 25 Q And your mother wouldn't call him and invite him.

Minor 2

-- CROSS -- MR. WILLIAMS

211

1 down?

2 A No.

3 Q And how often would he come down?

4 A He only came down about three times.

5 Q You said the problem or this thing surfaced when
6 you had to tell your mother that you didn't want to
7 go to Virginia, and she had wanted you to go to
8 Virginia so she and her boyfriend could go off
9 somewhere?

10 A I think it was just going to be her. I think she
11 was going to go out of town for a little while.

12 Q She was going out of town by herself for a little
13 while?

14 A I think so. I'm not for sure what she was going to
15 be doing.

16 Q Were you upset about the fact that your mother was
17 going to leave you for awhile and go out of town?

18 A Not really.

19 Q Do you know where she was going?

20 A No. No, sir.

21 Q Do you know how long she was going to be gone?

22 A It was going to be a couple of days.

23 Q Just two days?

24 A Maybe more. I'm not sure.

25 Q Did you talk to your mother about not wanting her

1 to leave you?

2 A Yes.

3 Q Did you also have a boyfriend down here by the name
4 of Steff, something like that?

5 A No, sir.

6 Q Did you have an argument with Mr. Ratliff about
7 whether or not you could be back in time to see
8 your boyfriend?

9 A No. He wasn't my boyfriend. He was one of my guy
10 friends that I had a little crush on, and I hung
11 out with him every now and then.

12 Q What type of argument did you have with Mr. Ratliff
13 about whether or not you would be back in time to
14 see your guy friend?

15 A I don't ever remember having an argument with him
16 about that.

17 Q Well, you recall the discussion obviously that that
18 was a concern whether you would be back by Friday
19 so you could see him. Do you remember that?

20 A No, sir.

21 Q What were you referring to?

22 A I'm not sure.

23 Q Are you saying that you didn't have any type of
24 argument with Mr. Ratliff about whether or not you
25 would be back from Virginia in time to see your guy

Minor 2

-- CROSS -- MR. WILLIAMS

213

1 friend?

2 A I do not remember.

3 Q You don't remember?

4 A No, sir.

5 Q Is he still your friend?

6 A No, sir.

7 THE COURT: Is who still her friend?

8 BY MR. WILLIAMS:

9 Q What is his name, Steffon?

10 A Seth.

11 Q Seth, S-E-T-H?

12 A Yes, sir.

13 Q What is his last name?

14 A Queen.

15 Q Queen?

16 A (Witness nods). (Indicating affirmative response).

17 Q Seth Queen. And you don't remember what discussion
18 you and Mr. Ratliff had about whether or not you
19 would be back or not to see him?

20 A No, sir.

21 Q Well, when you called your mother -- or you didn't
22 call your mother to tell her all these things, did
23 you?

24 A No.

25 Q You gave her a text?

- 1 A The e-mail.
- 2 Q E-mail.
- 3 A Yes, sir.
- 4 Q What's the difference between a text and an e-mail?
- 5 A A text is through the phone.
- 6 Q And what is an e-mail?
- 7 A Through the computer.
- 8 Q Now, this (indicating) is a what?
- 9 A E-mail.
- 10 Q So you sent this e-mail from whose address?
- 11 A Mine.
- 12 Q Where was your mother?
- 13 A She was at her house.
- 14 Q Okay. Where were you staying?
- 15 A I was over at my friend's house for the night.
- 16 Q Do you have a computer at your friend's house?
- 17 A She does.
- 18 Q Okay. So you didn't send it from your computer,
- 19 you sent from a friend's computer; didn't you?
- 20 A But my e-mail address.
- 21 Q But your e-mail address. Who was the friend that
- 22 you were at?
- 23 A Katie.
- 24 Q Katie?
- 25 A Yes, sir.

Minor 2

-- CROSS -- MR. WILLIAMS

215

1 Q And I think you have already said you talked to
2 Ms. Minor 1 about this problem the same time, right?

3 A Yes.

4 Q And in your e-mail that you sent, you talk about --
5 well, here. Why don't you just read it. Why don't
6 you read it.

7 A Do I have to read it out loud?

8 Q Sure.

9 A Hey, momma. I am really sorry, but Richard has
10 tried to touch me --

11 THE COURT: You may have to do it a little
12 slower.

13 THE WITNESS: Okay.

14 A Hey, momma. I am really sorry, but Richard has
15 tried to touched me and stuff, and I am really
16 scared. Because when me and Minor 1 were at his
17 house, me and her found porn and stuff, and he saw
18 that we were going through his stuff.

19 Because he told us to and when we found it, he
20 started to expose himself to us. Minor 1 told her
21 mom yesterday, and I was freaking out because I am
22 really sorry that I haven't told you sooner.

23 I am really, really sorry, and that was the
24 reason why I didn't want to go to Virginia with
25 him. He started to jack off in front of us and

1 stuff.

2 But I feel like it is my fault and I feel
3 really bad. I am really sorry and love you very
4 much. I am really sorry. We can call the cops and
5 stuff, and he can go to jail I think. I bet. I
6 love you a lot. Call me when you get this, and you
7 can be mad at me but I'm very sorry.

8 Q If we sit down here and analyze that e-mail for the
9 important facts in that e-mail, you mention three
10 things; don't you? You say, Minor 1 and I found
11 some porn. You say he was starting to expose
12 himself, and then you say he jacked off and stuff?

13 A Yes, sir.

14 Q Did you say jake?

15 A That's what it says.

16 Q What did you mean by jake?

17 A I meant jack but I didn't know how to spell it.

18 Q So when you were typing it, you didn't spell it
19 phonetically?

20 A No.

21 Q Now, I want you to read State's Exhibit Number 2,
22 which is the statement which was done by your
23 friend Minor 1

24 A Do I have to read that out loud?

25 Q No, I just want you to read it to yourself.

Minor 2

-- CROSS -- MR. WILLIAMS

217

1 A (Pause).

2 Q Is that the first time you have read that
3 statement?

4 A Yes, sir.

5 Q On both statements they are roughly the same three
6 items that are mentioned, aren't they?

7 A Yes, sir.

8 Q In the same order, aren't they?

9 A Yes, sir.

10 Q Now, let's go back and talk some specifics. You
11 have referenced photographs that were taken of you
12 and Ms. ^{Minor 1} in the shower when you were
13 supposedly taking a shower when you got dirty over
14 at Mr. Ratliff's house?

15 A Yes, sir.

16 Q And that he took some photographs, and you and
17 Ms. ^{Minor 1} cut those photographs up?

18 A Yes, sir.

19 Q And it's your testimony that you don't know what
20 happened to those photographs?

21 A Not those. Well, yeah, those we cut up with
22 scissors and through them in the trash.

23 Q So you threw those away?

24 A Yes, sir.

25 Q The only other photographs that you are aware of

1 which would reveal either you or any other friend
2 of yours in the nude would be the ones which
3 supposedly Mr. Ratliff took at the motel; is that
4 correct?

5 A Yes, sir.

6 Q And those photographs you have seen but you don't
7 have either?

8 A Yes, sir, that's right.

9 Q And to your knowledge has any police officer, any
10 Detective or anyone shown you any photographs which
11 you identified as being you in those photographs?

12 A No, sir.

13 Q So you don't have those photographs?

14 A No, sir.

15 Q Let's go back to these specific times. Who is
16 Tracey -- is it Smotzer?

17 A Yes.

18 Q If I mispronounce your name, don't take offense at
19 it. My middle name is Theo. Sometimes that gets
20 mispronounced.

21 A Yes, sir.

22 Q When you were talking about the detectives that you
23 talked to, you indicated that you had actually
24 talked to two detectives, if I remember correctly.
25 You talked to this detective right here,

Minor 2

-- CROSS -- MR. WILLIAMS

219

1 Prestigiacomo?

2 A Yes, sir.

3 Q And you talked to another detective who was -- it
4 started with a B. Do you remember?

5 A Beaver.

6 Q Beaver. You talked to Beaver. Those are the only
7 detectives that you talked to?

8 A That I can remember.

9 Q Well, let me ask you to look at this statement, and
10 tell me if this statement is a statement from you.

11 A Yes, sir.

12 Q It's a statement from you given to who?

13 A The detectives.

14 Q Which detective is it given to?

15 A I'm not sure.

16 Q Doesn't it have his name at the top part?

17 A Yes, sir.

18 Q What is his name?

19 A Detective Glenn Davis.

20 Q So there is actually another detective that you
21 talked to who was Detective Glenn Davis?

22 A Yes, sir.

23 Q Is that your handwriting in that statement?

24 A Yes, sir.

25 Q So you handwrote that statement?

- 1 A Yes, sir.
- 2 Q And how many pages is it?
- 3 A Three.
- 4 Q And did you sign it?
- 5 A No, sir.
- 6 Q Who signed it?
- 7 A My mom.
- 8 Q Why is it that you would be giving a statement to
- 9 Detective Glenn Davis that you would handwrite it
- 10 and your mother would sign it?
- 11 A I don't know.
- 12 Q But there is no question but that's your signature
- 13 on that statement?
- 14 A Yes, sir.
- 15 Q That's your handwriting?
- 16 A Yes, sir.
- 17 Q There is no question but that your mother signed
- 18 your statement?
- 19 A What do you mean?
- 20 Q It's her signature on that bottom.
- 21 A Yes, sir.
- 22 Q Now, are the facts which are in this statement, are
- 23 they what supposedly happened with Mr. Ratliff?
- 24 A Yes, sir.
- 25 Q Now, this statement is dated what?

Minor 2

-- CROSS -- MR. WILLIAMS

221

1 A July 30.

2 Q Of what year?

3 A 2007.

4 Q When you were talking to Detective Glenn Davis, you
5 said that he started referring to Mr. Ratliff --
6 you want to look at the statement to make sure I am
7 being accurate. Correct me if I'm wrong, you said
8 he started exposing himself in July?

9 A Yes, sir.

10 Q Well, that would put the exposing of him in July of
11 2007; is that right?

12 A Yes, sir.

13 Q Your testimony up until this date was that he had
14 been exposing himself for years to you; isn't that
15 correct?

16 A Yes, sir.

17 Q Why in the statement to Detective Davis did you say
18 that he started exposing himself in July of 2007?

19 A Because I didn't think it would be really important
20 to tell what happened like a year ago.

21 Q Well, the statement from now is really a year and a
22 half ago from today's date; isn't it? Correct?

23 A Yes, sir.

24 Q So when you talked to Detective Davis, you said
25 this first began in July of 2007?

- 1 A Yes, sir.
- 2 Q And in that statement you say that you and ^{Minor 1}
- 3 went to his house, right?
- 4 A Yes, sir.
- 5 Q And that while y'all were there, he took off his
- 6 pants and started jaking off; is that correct?
- 7 A Yes, sir.
- 8 Q You spelled it J-A-K-I-N-G, didn't you?
- 9 A Yes, sir.
- 10 Q But now you are not referencing anything that
- 11 happened before July the 24th or 25th of the year
- 12 2007, are you?
- 13 A No, sir.
- 14 Q On your direct examination you talked about how you
- 15 saw Mr. Ratliff, and when you saw him he didn't
- 16 have any clothes on at all?
- 17 A When?
- 18 Q When he was jaking off.
- 19 A Yes, sir.
- 20 Q Is that correct?
- 21 A Yes, sir.
- 22 Q That was every time that he was jaking off; is that
- 23 right?
- 24 A Yes, sir.
- 25 Q If you look at the statement you gave Officer Davis

Minor 2

-- CROSS -- MR. WILLIAMS

223

- 1 around the middle part, do you say anything about
2 him being completely nude or do you say he simply
3 pulled his pants down?
- 4 A I just said that he took off his pants.
- 5 Q Well, did he just pull down his pants or was he
6 completely nude?
- 7 A He was completely nude.
- 8 Q Why didn't you put that in the statement?
- 9 A I didn't think it was that important.
- 10 Q You say in this statement when you were sleeping,
11 he would try to take your clothes off?
- 12 A Yes, sir.
- 13 Q When did that happen?
- 14 A Like that time I was at the hotel and before that.
- 15 Q The time you were at the hotel. But now didn't you
16 say when you were at the hotel, you had your
17 bathing suit on?
- 18 A Yes, sir.
- 19 Q And you had a shirt over it?
- 20 A Yes, sir.
- 21 Q Did you have your bra on underneath your bathing
22 suit?
- 23 A No, sir.
- 24 Q Well, explain to me how he would be trying to take
25 your bra off if you said that you had your bathing

- 1 suit on and a shirt over your bathing suit?
- 2 A I think that was the time whenever the pool was
- 3 closed down.
- 4 Q So you think that was another time?
- 5 A Yes, sir.
- 6 Q Did you ever do another statement to the same
- 7 police officer than the one I have?
- 8 A I don't recall.
- 9 Q Well, did you ever try to tell the police officer
- 10 that you were at ^{Minor 2} house when her mom was
- 11 there, and he pulled your shorts off?
- 12 A I am ^{Minor 2}
- 13 Q I mean -- you are ^{Minor 2} When you were at your
- 14 house when your mother was there, and he pulled
- 15 your shorts off?
- 16 A No, sir.
- 17 Q What does that mean on the bottom of this
- 18 statement?
- 19 A Right there (indicating)?
- 20 Q Yeah?
- 21 A That is my friend's handwriting.
- 22 Q That's your friend's handwriting?
- 23 A Yes, sir.
- 24 Q Your friend was writing on your statement?
- 25 A Yes, sir.

Minor 2

-- CROSS -- MR. WILLIAMS

225

1 Q That your mother signed?

2 A Yes, sir.

3 Q So you and your friend were giving a statement at
4 the same time with the same officer, Officer Davis,
5 and you had your mother signing the statement?

6 A But the thing she wrote is crossed out.

7 Q Because it wasn't supposed to be her statement, was
8 it?

9 A No, she wrote her own.

10 Q And your mother was signing it?

11 A Yes.

12 Q Now, is this (indicating) another statement that
13 you have given to a different officer?

14 A Yes, sir.

15 Q Did you give that statement to a different officer
16 on the same day?

17 A This says so.

18 Q So why would you be giving one written statement to
19 one officer and have your mother sign it and give
20 another statement to another officer on the same
21 day?

22 A I'm not sure.

23 Q Well, this statement is in a little different
24 format; isn't it?

25 A Yes, sir.

1 Q Do you know what a leading question is?

2 A No, sir.

3 Q Well, it's a question which suggests an answer.

4 The format that you signed that in, it's a question
5 from the officer to you with the answer in the
6 question; isn't it?

7 A Yes, sir.

8 Q So the officer is giving you a question with the
9 answer in it, and you are simply responding to the
10 question?

11 A Yes, sir.

12 Q Can you give me any dates of when these events
13 supposedly happened?

14 A Which ones?

15 Q Any of them.

16 A From like a year ago?

17 Q Any of them.

18 A Or like whenever he was just rubbing on us?

19 Q Just any one.

20 A I don't know like the exact -- like the date but
21 like the month.

22 MR. WILLIAMS: Your Honor, I don't have any
23 other questions.

24 THE COURT: Thank you, Mr. Williams.

25 Redirect, Solicitor?

Minor 2

-- REDIRECT -- MS. HOWARD

227

1 MS. HOWARD: Thank you, Your Honor.

2 REDIRECT EXAMINATION

3 BY MS. HOWARD:

4 Q Minor 2 the first time that you went to the
5 police station who was with you?

6 A My mom, Minor 3 Minor 1 and their moms.

7 Q Who was the first officer that you talked to?

8 A Glenn Davis.

9 Q The statement that Mr. Williams just showed you, is
10 that it?

11 A Yes, sir -- yes, ma'am.

12 Q Whose name is at the bottom of that statement?

13 A My mom's.

14 Q Who else's name is at the bottom of that statement?

15 A Glenn Davis.

16 Q Is that statement in your handwriting?

17 A Yes, ma'am.

18 Q Did you write that for Glenn Davis the first day
19 you went to the police station?

20 A Yes, ma'am.

21 Q What day was that?

22 A It says July 30, 2007.

23 Q Did Mr. Williams just ask you questions about that
24 statement?

25 A Yes, ma'am.

1 MS. HOWARD: Your Honor, at this time I would
2 move to put that statement in evidence under Rule 106.

3 MR. WILLIAMS: I have no objection to the
4 introduction of both statements, Your Honor.

5 MS. HOWARD: Your Honor, we actually have
6 three statements.

7 MR. WILLIAMS: All three.

8 THE COURT: Would that be 28, 29 and 30?

9 MR. STUMBO: That would be it, Your Honor.

10 (State's Exhibits Number 28-30 are received
11 into evidence).

12 BY MS. HOWARD:

13 Q This is now State's Exhibit 28, the statement we
14 were just discussing. After you wrote that
15 statement for Glenn Davis, what did Glenn Davis do?

16 A He just took it.

17 Q Did you talk to him anymore that day?

18 A Not really, like every now and then.

19 Q Did you begin to talk to other officers?

20 A Yes, ma'am.

21 Q And do you know who those other officers were?

22 A Presti and Beaver.

23 Q And did they take additional statements from you
24 that day?

25 A Yes, ma'am.

Minor 2

-- REDIRECT -- MS. HOWARD

229

1 Q The statement in front of you that Mr. Williams was
2 asking you, can you read that out loud to the
3 Court.

4 A All of it? Do I have to read it slowly?

5 Q Yes, you do.

6 THE COURT: You have to read it slowly for our
7 court reporter and for our jury.

8 A What about when it says how old I am?

9 Q Just read it how it's written.

10 A I am 11 years of age and I live at [REDACTED]
11 [REDACTED] West Columbia, South Carolina,
12 29169. I met Richard Ratliff when I was about five
13 or six. He never tried anything until I was about
14 ten.

15 One day in July, about the 24th or 25th, he
16 had exposed himself to us. Me and my friend Minor 1
17 Minor 1 went to his trailer because he lived in the
18 same trailer park. But while we were there, he
19 took off his pants and started jaking off, playing
20 with himself.

21 Then he was always trying to pull down my
22 pants and take off my bra. Well, he tried and when
23 I was asleep, he had tried to take off my pants.
24 Because when I woke up, my pants were down. Then
25 every time I was alone with him, he always tried to

1 touch me.

2 Then he moved to Virginia and he came back
3 down here, and I went to his hotel. He tried to
4 finger me, and then he tried to fuck me in the ass,
5 and I was trying to take a nap because I just got
6 done swimming.

7 While I was trying to sleep, he had pulled
8 down my pants and put his head toward my vagina and
9 licked and tried to lick my butt -- what if I can't
10 read a word? Never mind, I got it. And he was
11 trying to suck my titties, and he had licked my
12 legs and stuff. Then he went back to Virginia and
13 came back down about a week ago, and -- I don't
14 know what that says.

15 (Attorneys confer).

16 MR. WILLIAMS: I don't have any objection to
17 this one going in.

18 THE COURT: Is this a fourth one?

19 MR. WILLIAMS: It's either the fourth or the
20 same as one of them.

21 MS. HOWARD: Your Honor, this is the original
22 of one that she is trying to read. She can't make
23 out --

24 THE COURT: What is the exhibit number?

25 MS. HOWARD: The copy is Exhibit Number 28.

Minor 2

SMOTZER -- REDIRECT -- MS. HOWARD

231

1 THE COURT: All right.

2 BY MS. HOWARD:

3 Q (Hands to witness).

4 A And he came back down a week ago and while he was
5 there -- while he was here, I was at his hotel, and
6 he wouldn't stop trying to touch me. He put his
7 head close to my vagina, and he did it all over
8 again.

9 Then when I went swimming, he asked me to pull
10 down my pants and swim. I told him no and he was
11 like, What, do you not love me anymore? When I was
12 about nine, he had tried one time, and I told him
13 if he ever did it again, I would call the cops.

14 A couple of times I had threatened to call,
15 and he promised me that he would never do it again.
16 When he was touching me, he tried to put his dick
17 close to my mouth. When he was jacking off --
18 jacking off -- was telling me to do a lot for him.

19 Q You wrote that when?

20 A On July 30, 2007.

21 Q After you wrote that statement, did you go to a
22 different room to talk to Detective Prestigiacomo?

23 A Yes, ma'am.

24 Q Did you take this statement with you?

25 A I do not remember.

- 1 Q State's Exhibit 29, can you tell me whose signature
2 is on the bottom of that statement?
- 3 A Mine.
- 4 Q Is your handwriting on that statement?
- 5 A When I answered the questions.
- 6 Q Did somebody else write down the questions?
- 7 A Yes, ma'am.
- 8 Q Who wrote the answers?
- 9 A Me.
- 10 Q Can you tell me what day is on that statement?
- 11 A July 30.
- 12 Q So it was the same day as you wrote the last one?
- 13 A Yes, ma'am.
- 14 Q And can you tell me what officer's name is on the
15 bottom of that statement?
- 16 A I don't know.
- 17 Q Can you make out any of the initials at the bottom
18 of that statement?
- 19 A It looks like an S. and R.
- 20 Q Do you remember what officer wrote down these
21 questions?
- 22 A Presti.
- 23 Q Detective Prestigiacomo?
- 24 A Yes.
- 25 Q This statement was after you wrote the one for

Minor 2

-- REDIRECT -- MS. HOWARD

233

1 Detective Davis?

2 A Yes, ma'am.

3 Q Can you read that statement out loud.

4 A The questions and answers?

5 Q Yes.

6 A Did Richard touch your privates?

7 THE COURT: You have to keep your voice up for
8 us.

9 THE WITNESS: Sorry.

10 A Did Richard touch your privates a week ago? Yes,
11 with his hand. What did Richard do with his
12 finger? He had tried to put it up my butt and up
13 my vagina, and it went in just a little bit into my
14 vagina and butt. What went inside your vagina?
15 The tip of his finger.

16 Did it hurt? Yes. What went inside your butt
17 slash anus? The tip of his finger. Did it hurt?
18 Yes. Did anything else happen? He tried to lick
19 my vagina and my breasts and my butt.

20 Did his tongue touch your vagina? Yes. Did
21 he do anything else? He tried to put his penis in
22 my butt, and I felt it but it didn't go in. Did
23 you fight him? Yes. Was he drinking? Beer and
24 vodka. Where did this happen? America's Best,
25 Room 107.

1 What happened the next day? He was trying to
2 lick my vagina and butt and my breasts. He tried
3 to put his finger in my vagina, but it didn't go
4 in. Where did this happen? The Knights Inn, Room
5 101. What kind of vehicle does Richard drive? And
6 it wasn't answered.

7 Q State's Exhibit 30, can you read that for the
8 Court, please.

9 A Can I have some water? Do I have to read the whole
10 thing?

11 Q Yes, please.

12 A It was around July 9, 2007. Minor 3 and I went to
13 Wal-Mart with him. He was feeling on my vagina
14 with my pants on, and he was feeling Minor 3 boobs
15 and butt, and he felt on my boobs just a little
16 bit.

17 At Wal-Mart he bought me shirts and bought
18 Minor 3 a pair of thongs. About four or five months
19 ago, he just said that a size five thong would fit
20 me, and I told him that I didn't care.

21 Around May when I lived at [REDACTED]
22 he stood up and took his penis out and asked me and
23 Minor 3 to look. So we looked and he was shaking
24 his penis. He asked us to touch him, and me and
25 Minor 3 told him no.

Minor 2

-- REDIRECT -- MS. HOWARD

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1 About three months ago, we were at [REDACTED] [REDACTED]
2 [REDACTED] in the car, and he took out his penis and
3 started playing with himself. I told him to put it
4 up or I will call my mom.

5 Last November at Minor 1 trailer park,
6 Richard had moved into the park. While me and
7 Minor 1 were over there, he started to jake off, and
8 he told us to take pictures and to come and look
9 but we didn't.

10 He did it all the way. One day he gave me a
11 Wal-Mart bag with condoms in it, and he told me
12 that he gave them to me if I ever needed them when
13 I get older.

14 Q What day did you write that statement?

15 A August 1, 2007.

16 Q Whose signature is at the bottom of that statement?

17 A Mine.

18 Q Did you write that for Detective Prestigiacomo?

19 A Yes, ma'am.

20 Q Minor 2 everything you said in those statements
21 did that really happen?

22 A Yes, ma'am.

23 Q Everything you told me today, did those things
24 happen?

25 A Yes, ma'am.

1 MS. HOWARD: No further questions, Your Honor.

2 THE COURT: Thank you, Solicitor.

3 Mr. Williams?

4 MR. WILLIAMS: I don't have anything further,
5 Your Honor.

6 THE COURT: Thank you. Thank you very much,
7 ma'am, you may step down.

8 (Witness leaves the witness stand).

9 THE COURT: Mr. Foreman, ladies and gentlemen
10 of the jury, we are now going to take our evening
11 recess. I remind you during this recess, you are not to
12 discuss this case with anyone.

13 That includes your fellow jurors, your
14 friends, your family, people involved in the trial or
15 anyone else. If anyone tries to talk with you about the
16 case, please let me know.

17 Do not read, watch or listen to any news
18 reports about the trial. Do not do any independent
19 investigation or any investigation on the internet.
20 Remember to keep an open mind about this case until I
21 instruct you to begin your deliberations.

22 I would ask you to please be back in your jury
23 room at 9:30 in the morning. Please be back at 9:30.
24 If you would just leave your notes upside-down on the
25 chair or on the rail will be fine. The clerk will

1 secure them for the evening. Thank you very much. I
2 hope you have a pleasant evening.

3 (The jury is excused for the day at 5:30 p.m.)

4 THE COURT: Madame Clerk, would you secure the
5 jury's notes for me, please.

6 CLERK: Yes, sir.

7 THE COURT: Anything before we break for the
8 evening, Solicitor?

9 MR. STUMBO: Nothing from the State, Your
10 Honor.

11 THE COURT: Mr. Williams?

12 MR. WILLIAMS: Nothing from the Defendant,
13 Your Honor.

14 THE COURT: Thank you very much. Court will
15 be in recess as far as this case is concerned until
16 9:30 a.m.)

17 (Whereupon the proceeding were concluded for
18 February 24, 2009).

19 (The following proceedings were reported on
20 February 25, 2009).

21 THE COURT: Anything before we bring in our
22 jury, Solicitor?

23 MR. STUMBO: Your Honor, I believe what we
24 discussed in chambers about the juror issue we want to
25 put that on the record.

1 THE COURT: All right. You may do so.

2 MR. STUMBO: Your Honor, Assistant Solicitor
3 Emily Howard had indicated that there was one juror she
4 recognized after he was seated. We were out of strikes,
5 I think at the point he was called, and that was John
6 Ervin is that juror.

7 She says that she doesn't know that he knows
8 her specifically but knew her dad really well, and she
9 may have been at some social gatherings, maybe a
10 football game with her dad, when he was there. So we
11 wanted to put that on the record and make Mr. Williams
12 aware of it in case if we needed to ask him any
13 questions.

14 THE COURT: Thank you. Mr. Williams.

15 MR. WILLIAMS: Your Honor, I have talked to my
16 client, Mr. Ratliff, and I have told him what transpired
17 in your office. I told him that I had no problem with
18 that based on two reasons.

19 Number one, the fact that the juror didn't
20 indicate that he had any type of personal relationship
21 with the solicitor involved. Many times, Your Honor,
22 the potential juror may know a family member. Obviously
23 he is an older man. So we are really not concerned
24 about that, and my client is fully aware of it, and we
25 are glad to go with it.

1 THE COURT: Is that correct, Mr. Ratliff?

2 THE DEFENDANT: Yes, Your Honor.

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

4 I would note for the record throughout the day yesterday
5 I carefully watched Mr. Ratliff, particularly during the
6 afternoon session.

7 I did not note him staring in the direction of
8 the State's witnesses or victims in any manner. I did
9 notice that he appears to be alert and aware, taking
10 notes, conferring with his attorney. Obviously I don't
11 know what he is conferring about. I assume it's
12 rational. I have no reason to doubt that it is.

13 There were no complaints from him or his
14 attorney concerning any health issues that he may have
15 had, and he looks fine this morning. I didn't notice
16 yesterday your crutch. I see it now. It's just in a
17 different position.

18 THE DEFENDANT: Yes, sir, I have got it right
19 here. I can put it back over there.

20 THE COURT: No, no, that's all right. I just
21 didn't see it. That's fine. It's not a matter of
22 whether I like it or dislike it.

23 THE DEFENDANT: I have the nitro tabs with me
24 for emergency.

25 THE COURT: Sir?

1 THE DEFENDANT: I have nitro tabs with me for
2 emergency.

3 THE COURT: Did you feel all right yesterday?

4 THE DEFENDANT: To be honest I felt like heck
5 yesterday.

6 THE COURT: Well, you certainly appeared to be
7 able to confer adequately with your attorney.

8 THE DEFENDANT: I am doing what I have to do,
9 Your Honor.

10 THE COURT: All right. We will press on then.
11 Again, if you need any additional breaks or anything of
12 that nature, Mr. Williams, if you will certainly let me
13 know.

14 If you would bring our jury, please, Madame
15 Bailiff.

16 (The jury returns to the courtroom at
17 9:44 a.m.)

18 THE COURT: Good morning, ladies and gentlemen
19 of the jury panel. I hope you all had a pleasant
20 evening. I am glad to see we have 13 returnees.
21 Everybody looks healthy and ready to go. We are
22 continuing the trial of the case by the presentation of
23 testimony by the State.

24 Solicitor, you may call your next witness.

25 MS. HOWARD: Thank you, Your Honor. The State

Minor 3

-- DIRECT -- MS. HOWARD

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1 calls Minor 3

2 THE COURT: Minor 3 , if you would come
3 around, please.

4 Minor 3 being
5 first duly sworn, testifies as follows:

6 CLERK: State your name and speak loudly.

7 THE WITNESS: Minor 3

8 DIRECT EXAMINATION

9 BY MS. HOWARD:

10 Q Good morning, Minor 3 how old are you?

11 A Fifteen.

12 Q Minor 3 when is your birthday?

13 A [REDACTED].

14 Q What school do you go to?

15 A Northside.

16 Q What grade are you in now?

17 A Eighth.

18 Q Minor 3 can you tell me how you first met Minor 2

19 [REDACTED]?

20 A I met her at school. The teachers made us be
21 partners.

22 Q Do you remember how old you were at that time?

23 A Twelve maybe.

24 Q What grade was that in?

25 A Sixth.

Minor 3

-- DIRECT -- MS. HOWARD

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- 1 Q Are you and Minor 2 still friends?
- 2 A Yes.
- 3 Q Do you spend a lot of time together?
- 4 A Yes.
- 5 Q When did you first meet Richard Ratliff?
- 6 A How old was I? I think I was 12.
- 7 Q Do you remember what month it was?
- 8 A No.
- 9 Q Minor 3 do you remember what season it was that you
- 10 first met Richard Ratliff?
- 11 A I think it was like spring.
- 12 Q And where was that?
- 13 A At Minor 2 house on [REDACTED]
- 14 Q Can you tell me about the first time you met him.
- 15 A I met him at Minor 2 house, and he asked me --
- 16 no, when we first met, we shook hands. He was like
- 17 I have big boobs, and he asked me what all I have
- 18 done with a guy.
- 19 Q How did that make you feel?
- 20 A Nervous.
- 21 Q Did Richard ever say anything to you about your
- 22 clothes?
- 23 A No.
- 24 Q After that what was the next thing that Richard
- 25 did?

Minor 3

-- DIRECT -- MS. HOWARD

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1 A Like we would hug and his hands would be kind of
2 low. Like the first couple of times, it would be
3 very close to my butt.

4 Q When was the first time Richard ever touched you?

5 A I don't remember.

6 Q Did you ever go to Richard's house with ^{Minor 2}

7 A One time, yes.

8 Q Do you remember which house that was?

9 A Moore Manor, I think.

10 THE COURT: I'm sorry, I couldn't understand.

11 What house?

12 THE WITNESS: Moore Manor, something like
13 that.

14 BY MS. HOWARD:

15 Q Did something happen in ^{Minor 2} house between
16 you and Richard and ^{Minor 2}

17 A Yeah. He would offer me money to show him my
18 boobs.

19 Q Did you ever do it?

20 A No.

21 Q Can you tell me about the time when you and
22 ^{Minor 2} were in her room and Richard came into the
23 room.

24 A Can you say that again?

25 Q Can you tell me about a time when you and ^{Minor 2}

1 were in her room and Richard came into the doorway.

2 A I don't remember.

3 Q Did Richard ever masturbate in front of you?

4 A Yes.

5 Q Can you tell me about that time.

6 A He just like masturbated a lot, and he asked us to

7 help him or to touch him.

8 Q Where was the first time he did that?

9 A In his car.

10 Q Where were you sitting?

11 A I was in the back seat.

12 Q Do you remember when that was?

13 A No.

14 Q How many times do you think you rode in the car

15 with Richard?

16 A A lot, maybe more than ten. I don't know.

17 Q Did that happen over a long time period?

18 A Yes.

19 Q Months?

20 A Yeah.

21 Q Did Richard ever masturbate in front of you

22 anywhere besides the car?

23 A When I went to his house that first time.

24 Q Anywhere else besides his house and the car?

25 A No.

Minor 3

-- DIRECT -- MS. HOWARD

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1 Q Did you ever see pictures of Richard?

2 A Yes.

3 Q How did you see those?

4 A They were like laying around in his car or

5 sometimes he would show me.

6 Q Did Richard ever ask you to touch his penis?

7 A Yes.

8 MR. WILLIAMS: Your Honor, I would object to
9 the leading.

10 THE COURT: Yes, Solicitor, if you would not
11 lead.

12 BY MS. HOWARD:

13 Q Minor 3 can you tell the jury some of the things
14 that you and Minor 2 did with Richard?

15 A We would go to stores, like Dollar General and
16 Wal-Mart or Zaxby's.

17 Q Have you ever seen anything else in Richard's car?

18 A Yes.

19 Q Tell me about that.

20 A I have seen porn magazines and pictures and toys.

21 Q What kind of toys?

22 A Like a dildo and a strap on.

23 Q How did you see these?

24 A They were like laying around in the car. You could
25 see them like in the seat.

- 1 Q Did Richard ever say anything about them?
- 2 A No.
- 3 Q Did he ever point them out to you?
- 4 A No.
- 5 Q Did Richard ever try to buy you any of these toys?
- 6 A Yeah.
- 7 Q Tell me about that.
- 8 A Well, he didn't buy it but he asked me if I wanted
- 9 a vibrator.
- 10 Q Did Richard ever buy you lingerie?
- 11 A Like underwear, yes.
- 12 Q Can you tell me about that.
- 13 A He has bought me a thong and like a pack of thongs.
- 14 Q Where did he buy those from?
- 15 A Wal-Mart.
- 16 Q Were you with him when those were purchased?
- 17 A Yes, ma'am.
- 18 Q Who else was there?
- 19 A Minor 2
- 20 Q Can you tell me about that time.
- 21 A We would go around and he would ask us if we wanted
- 22 stuff, and he would just buy it for us if we didn't
- 23 even want it.
- 24 Q Did he ever ask you to do anything in exchange for
- 25 the things he bought you?

Minor 3

-- DIRECT -- MS. HOWARD

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1 A He would ask me if he could take a picture of the
2 thongs that he got me or if he could see me naked
3 and stuff like that.

4 Q Did you ever do any of those things?

5 A No.

6 Q Did he still buy you the stuff anyway?

7 A Yes.

8 Q Do you remember when Richard moved to Virginia?

9 A Not really but, yeah, kind of.

10 Q Did you ever see Richard after he moved to
11 Virginia?

12 A Yes.

13 Q Do you remember when that was?

14 A No.

15 Q Was it summertime?

16 MR. WILLIAMS: Objection to leading.

17 THE COURT: Yes. If you would rephrase the
18 question, Solicitor.

19 BY MS. HOWARD:

20 Q Can you remember what season it was?

21 A I think it was summer maybe.

22 Q What did you do with him when he came back from
23 Virginia?

24 A He would just visit and I would say hi. Sometimes
25 we would go out to like Dollar General and stuff

Minor 3

-- DIRECT -- MS. HOWARD

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1 like that.

2 Q Was Minor 2 with you always?

3 A Uh-huh. (Indicating affirmative response).

4 Q Were you ever with Richard alone?

5 A No.

6 Q Did Richard ever do anything to you after he bought
7 you those thongs?

8 A Yeah, he would try to touch me and try to get under
9 my clothes.

10 Q Where was this?

11 A In the car. Sometimes when we were walking in the
12 store, he would try to touch my butt and stuff, and
13 people saw it.

14 Q Do you remember what stores those were?

15 A It was Dollar General and Wal-Mart.

16 Q Did Richard ever say anything when he was
17 masturbating?

18 A He would just ask us to help him and if he could
19 touch us.

20 Q Did Richard ever pull your pants down?

21 A Yes.

22 Q Can you tell me about that.

23 A Like Tracey, Minor 2 mom, and Minor 2 were like
24 in the back room or something doing something, and
25 he knew that they weren't coming. He just like

Minor 3

-- DIRECT -- MS. HOWARD

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- 1 pulled my pants down a little bit.
- 2 Q Where were you?
- 3 A I was in the living room, the den.
- 4 Q Whose house were you in?
- 5 A I was at ^{Minor 2}
- 6 Q Do you remember which house this was?
- 7 A The one on [REDACTED]
- 8 Q What did Richard do after he pulled your pants
- 9 down?
- 10 A He licked my vagina.
- 11 Q He licked your vagina?
- 12 A Uh-huh. (Indicating affirmative response).
- 13 Q For how long?
- 14 A Not long. It was like one second. I pulled my
- 15 pants up after that.
- 16 Q Did you say anything to him when he did that?
- 17 A No.
- 18 Q Did he say anything to you when he did that?
- 19 A No.
- 20 Q Do you remember when this happened, ^{Minor 3}
- 21 A No. I think it was sometime in the summer though.
- 22 Q After you pulled your pants back up, did anything
- 23 else happen?
- 24 A He just kept asking me if I could show my boobs and
- 25 he will give me money or if I will have sex with

- 1 him, he will give me money.
- 2 Q Did he try to hand you money?
- 3 A Yeah.
- 4 Q What happened after that?
- 5 A Can you say it again.
- 6 Q What happened when he tried to hand you money?
- 7 A I took it one time but usually I wouldn't take it.
- 8 Q Minor 3 the day he licked your vagina, how did that
- 9 make you feel?
- 10 A Nervous, nervous.
- 11 Q Did you tell anybody about that?
- 12 A No.
- 13 Q When was the first time you told that had happened?
- 14 A When I had to write the statement.
- 15 Q At the police station?
- 16 A Yeah.
- 17 Q Minor 3 can you tell me if that is in your
- 18 handwriting?
- 19 A Yes, ma'am.
- 20 Q Is that the statement you gave to the police?
- 21 A Yes, ma'am.
- 22 Q Can you read that statement to yourself.
- 23 MR. WILLIAMS: Your Honor, I would object to
- 24 this procedure. She hasn't asked a question which she
- 25 didn't know the answer to. So if there is any

Minor 3

-- DIRECT -- MS. HOWARD

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1 refreshing of the memory, I haven't heard that brought
2 before the Court.

3 THE COURT: Is that the purpose of her reading
4 the statement, Solicitor?

5 MS. HOWARD: Yes, sir, Your Honor.

6 THE COURT: Lay the foundation for that,
7 Solicitor.

8 BY MS. HOWARD:

9 Q Minor 3 do you remember the month that Richard took
10 you to Wal-Mart to buy you gum?

11 A It was July.

12 MR. STUMBO: Beg the Court's indulgence, Your
13 Honor.

14 (Pause).

15 BY MS. HOWARD:

16 Q Minor 3 the time Richard licked your vagina, do you
17 remember what month that happened in?

18 A No, ma'am. No.

19 Q Is that a statement in your handwriting?

20 A Yes, ma'am.

21 Q Did someone else write the questions down on that
22 piece of paper?

23 A Yes, sir.

24 Q But the answers are in your handwriting?

25 A Yes.

1 Q Can you see the date that you wrote that?

2 MR. WILLIAMS: Your Honor, I would object.

3 There is no proper foundation laid for any type of
4 refreshing of the memory.

5 THE COURT: Mr. Foreman, ladies and gentlemen,
6 if you will step out momentarily for me. Do not discuss
7 the case during this brief recess.

8 (The jury retires to the jury room).

9 MS. HOWARD: I apologize.

10 THE COURT: For what? You don't owe me an
11 apology.

12 MS. HOWARD: For the day it was written.

13 MR. STUMBO: Your Honor, just to clarify. We
14 are giving her the statements just to refresh her memory
15 based on a question of when this incident at ^{Minor 2}
16 house happened. So we will give her chance to review
17 the statements and then she can ask the questions.

18 THE COURT: Solicitor, you can do that, no
19 question about doing that, and you can ask her that in
20 front of the jury.

21 MR. STUMBO: Yes, sir.

22 THE COURT: You can hand her that statement
23 and say, Does that refresh your memory as to when this
24 incident happened? And whatever her answer is, you may
25 go to the next statement. You can do that.

Minor 3

-- DIRECT -- MS. HOWARD

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1 MR. STUMBO: I understand.

2 MR. WILLIAMS: I think the Court is right in
3 that, Your Honor, but we weren't there the way it was
4 going.

5 THE COURT: I agree. Bring us our jury,
6 please, Madame Bailiff.

7 (The jury returns to the courtroom).

8 THE COURT: It appears our jury is back
9 present in the courtroom.

10 Mr. Williams, your objection is sustained.
11 Solicitor, you may proceed.

12 MS. HOWARD: Thank you, Your Honor.

13 BY MS. HOWARD:

14 Q Minor 3 does that refresh your memory?

15 A Yes, ma'am.

16 Q Do you know when Richard licked your vagina?

17 A No.

18 Q Minor 3 did you ever talk to Minor 1 about any of
19 these things?

20 A No.

21 Q Do you spend as much time with Minor 1 as you do
22 with Minor 2

23 A No, ma'am.

24 Q Minor 3 I want to show you a couple of exhibits and
25 ask you if you have seen these before. Have you

1 ever seen any of the pictures in what has been
2 marked as State's Exhibit Number 7?

3 A Yes, ma'am.

4 Q Have you seen all of these pictures?

5 A No, ma'am.

6 Q Can you tell me which ones you have seen?

7 A I have seen that one.

8 Q Is that the second picture?

9 A Yes, the second and the third.

10 Q Okay. Where did you see these pictures?

11 A In his car.

12 Q Did Richard show them to you?

13 MR. WILLIAMS: Objection to leading.

14 THE COURT: If you would rephrase the
15 question, Solicitor.

16 BY MS. HOWARD:

17 Q How did you see these pictures?

18 A I saw them in Richard's car, and he didn't show
19 them to me.

20 Q When you saw these pictures, were they on a page
21 like this or were they original Polaroids?

22 A They were Polaroids.

23 Q Have you ever seen any of the photos in State's
24 Exhibit Number 8?

25 A Yes, ma'am.

Minor 3

-- DIRECT -- MS. HOWARD

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1 Q Have you seen all of them?

2 A No, ma'am.

3 Q Can you tell me which ones you have seen?

4 A I have seen the fourth one.

5 THE COURT: What is she calling the fourth?

6 MS. HOWARD: (Indicating).

7 THE COURT: That's the lower left?

8 MS. HOWARD: Yes, Your Honor.

9 BY MS. HOWARD:

10 Q Where did you see that photo?

11 A I think I have seen it in his car.

12 Q Have you ever seen any of the things in State's
13 Exhibit 9?

14 A Yes, ma'am. I saw the sixth picture, the last one.

15 Q Okay.

16 A And I saw the toy thing.

17 Q Where did you see these objects?

18 A I saw the toy in his car and I saw the picture
19 because ^{Minor 2} has the same picture.

20 Q The Polaroid?

21 A Yes.

22 Q And you saw it as a Polaroid?

23 A Uh-huh. (Indicating affirmative response).

24 Q Have you ever seen any of the photos in State's
25 Exhibit 10?

1 A No, ma'am.

2 Q Have you ever seen State's Exhibit 11?

3 A Yes, ma'am.

4 Q Can you tell me what it is?

5 MR. WILLIAMS: Objection to that, Your Honor,
6 publishing it when it is not in evidence.

7 THE COURT: I will allow it.

8 BY MS. HOWARD:

9 Q Can you tell me what this is a photo of?

10 A That's Richard's car.

11 Q And is this the car -- is this the only car you
12 have ever been in with Richard?

13 A Yes, ma'am.

14 Q Is this the car where you have seen photos?

15 MR. WILLIAMS: Objection to leading.

16 THE COURT: If you would rephrase the
17 question, Solicitor.

18 BY MS. HOWARD:

19 Q What have you seen in this car?

20 A I have seen his porn and his pictures and his toys.

21 Q Minor 3 have you ever seen State's Exhibit
22 Number 12?

23 A Yes, ma'am.

24 Q Where did you see this?

25 A He showed me that one day in his car.

Minor 3

-- DIRECT -- MS. HOWARD

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1 THE COURT: Who is he?

2 THE WITNESS: Richard.

3 BY MS. HOWARD:

4 Q Have you ever seen what is marked as State's

5 Exhibit 26?

6 A Yes, ma'am.

7 Q Can you tell me where you saw this?

8 A That's the thong he brought me and the tag.

9 THE COURT: That wasn't the question. The
10 question is, Where have you seen this?

11 THE WITNESS: In his car.

12 BY MS. HOWARD:

13 Q Did you see it in the store?

14 A Yes, at Wal-Mart.

15 Q Minor 3 did you ever discuss any of this with

16 Minor 2

17 A Yeah, one time I told her that we should tell
18 somebody.

19 Q Did you ever tell Minor 2 about when Richard
20 licked your vagina?

21 A No.

22 MS. HOWARD: Beg the Court's indulgence for
23 one minute.

24 THE COURT: Yes, ma'am.

25 (Pause).

1 BY MS. HOWARD:

2 Q Minor 3 please answer any questions Mr. Williams
3 may have for you.

4 THE COURT: Thank you, Solicitor.

5 Mr. Williams.

6 MR. WILLIAMS: Thank you, Your Honor.

7 CROSS EXAMINATION

8 BY MR. WILLIAMS:

9 Q Is it Minor 3

10 A Yes.

11 Q Minor 3 where do you live?

12 A On [REDACTED]

13 Q Who do you live with?

14 A My mom.

15 Q Anybody else?

16 A My three brothers and my sister.

17 Q Anyone else?

18 A No.

19 Q How old is your sister?

20 A She's 11.

21 Q How old are your brothers?

22 A Three, five, and seven.

23 Q And this is [REDACTED]

24 A Yes.

25 Q How long have you been living on [REDACTED]

Minor 3

-- CROSS -- MR. WILLIAMS

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1 A Almost a year.

2 Q Where did you live before [REDACTED]

3 A Essex Park in Saint Andrews.

4 Q And how long did you live in Essex park in Saint
5 Andrews?

6 A Almost a year.

7 Q And how long -- where did you live before you lived
8 at Essex park?

9 A [REDACTED] Drive.

10 Q And how long did you live on [REDACTED] Drive?

11 A Like 11 years.

12 Q So you have never lived at Moore Mobile Home Park?

13 A No.

14 Q And you have never lived in ^{Minor 2}
15 neighborhood; is that correct?

16 A Yes.

17 Q That is correct?

18 A Uh-huh. (Indicating affirmative response).

19 Q Now, in your testimony I think you said you are 15?

20 A Uh-huh. (Indicating affirmative response).

21 Q So you are older than the other two girls?

22 A Yes.

23 Q You were in court all day yesterday when they were
24 here, too; right?

25 A Yes.

1 Q Are all of y'all in the same grade?

2 A Yes, I got left back.

3 Q Correct me if I'm wrong, but when the solicitor was
4 talking to you before she handed you this
5 statement, did you say at one point in time that he
6 didn't do anything to you?

7 A No.

8 Q The statement that the solicitor handed to you, it
9 had a bunch of dates and stuff like that; isn't
10 that right?

11 A Yes.

12 Q And you would have given that statement when you
13 and the other two girls went -- you went with your
14 mother and their mothers and y'all all went to the
15 police officer's place; isn't that correct.

16 A Yes.

17 Q The Sheriff's Department.

18 A Uh-huh. (Indicating affirmative response).

19 Q Prior to that point in time, when, if ever, had you
20 ever made any comments to your brothers, your
21 sister or your mother, police officer, guidance
22 counselor, teacher about what you just said, that
23 somehow Mr. Ratliff did something to you?

24 A I never told anybody except ^{Minor 2}

25 Q So the only persons who have discussed this are you

Minor 3

-- CROSS -- MR. WILLIAMS

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1 and Minor 2

2 A Yes.

3 Q Now, you and Minor 2 went with the other girl up
4 to the police station at the same time. When did
5 you tell your mother about it?

6 A I don't remember. I think Minor 2 told her for
7 me.

8 Q So you and Minor 2 talked together about it. Then
9 you went and talked to your mother about it; is
10 that right?

11 A Yes.

12 Q Minor 2 told your mother about it?

13 A Over the phone.

14 Q So you really didn't tell your mother about it,
15 Minor 2 told your mother about it?

16 A Yeah.

17 Q And when was that?

18 A I don't remember.

19 Q She told her over the phone?

20 A Yes.

21 Q So you were over at Minor 2 house, and Minor 2
22 called your mother and says -- what is your momma's
23 name?

24 A Jennifer.

25 Q Jennifer?

Minor 3

-- CROSS -- MR. WILLIAMS

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- 1 A Uh-huh. (Indicating affirmative response).
- 2 Q What is her last name?
- 3 A Edwards.
- 4 Q What is your last name?
- 5 A Minor 3 .
- 6 Q So she has a different last name. So she calls
- 7 Jennifer Edwards, your mother, and says, Let me
- 8 tell you what has been happening to your daughter
- 9 Minor 3
- 10 A Uh-huh. (Indicating affirmative response).
- 11 Q But you don't know when that was?
- 12 A No.
- 13 Q And you were at Minor 2 house or were you at her
- 14 father's house?
- 15 A I was at Minor 2 house.
- 16 Q Have you been to her father's house?
- 17 A No.
- 18 Q Where would Minor 2 house be at?
- 19 A Say that again.
- 20 Q Where would Minor 2 house have been at when
- 21 Minor 2 called your mother? Where was her house
- 22 at that time?
- 23 A I think that was in the trailer when she lived with
- 24 her mom's boyfriend.
- 25 Q Okay. Well, had you ever been to any other

Minor 3

-- CROSS -- MR. WILLIAMS

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- 1 Location of ^{Minor 2} where ^{Minor 2} lived,
2 besides the one that she lived with her boyfriend?
3 A Yeah, I have been to all of her houses.
4 Q All of her houses?
5 A Uh-huh. (Indicating affirmative response).
6 Q Have you ever met her father?
7 A No.
8 Q But when she called, it would have been -- you
9 don't remember what trailer park it was?
10 A No.
11 Q When was it that you met Richard Ratliff?
12 A I don't remember the dates.
13 Q When was this time that you say that he hugged you
14 improperly?
15 A When I first met him, in like spring, kind of.
16 Q Didn't you say a while ago it was in the summer?
17 Oh, you said spring. Do you remember what month?
18 A No.
19 Q You said that you felt that he hugged you
20 improperly, but he didn't touch your fanny; is that
21 right?
22 A Yes.
23 Q He did touch your fanny?
24 A No, he didn't. That was right.
25 Q So he hugged you and you didn't like it, but he

- 1 didn't touch you improperly in any way?
- 2 A No. His hand was very close on my lower back
- 3 though.
- 4 Q Okay. But it wasn't on your fanny?
- 5 A No.
- 6 Q And it made you feel bad because he hugged you and
- 7 touched your lower back?
- 8 A Yeah.
- 9 Q When was the first time that he did something
- 10 inappropriate to you?
- 11 A I don't remember the date.
- 12 Q Was it that year?
- 13 A Yeah.
- 14 Q It was that year?
- 15 A Uh-huh. (Indicating affirmative response).
- 16 Q So what year was that?
- 17 A 2007.
- 18 Q So it was the year 2007?
- 19 A Uh-huh. (Indicating affirmative response).
- 20 Q And where was this that it happened?
- 21 A Her first house, [REDACTED] I think it was when
- 22 we were in the car, and he reached back and touch
- 23 my legs and started rubbing me.
- 24 Q Did you have pants on?
- 25 A Yes.

Minor 3

-- CROSS -- MR. WILLIAMS

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1 Q So he's driving his car, he reaches back and
2 touches your knee?

3 A Yeah, like driving with one hand and reached back
4 with the other.

5 Q What kind of car was he in?

6 A The green car.

7 Q The green car. Do you know whether it's a big car
8 or little car?

9 A Little car.

10 Q Does he have a seat belt on?

11 A Yes.

12 Q So where are you seated in the car?

13 A I'm in the back towards the right.

14 Q If you are facing the car, is it the right or the
15 left?

16 A It's the right.

17 Q So he is seated in his car, he has got a seat belt
18 on, and he is driving. He reaches around and
19 somehow touches your leg and rubs your legs; is
20 that right?

21 A Uh-huh. (Indicating affirmative response).

22 Q And who else was in the car at the time?

23 A Minor 2

24 Q Where was ^{Minor 2} located?

25 A She was sitting in the front right next to him.

- 1 Q You had all your clothes on?
- 2 A Uh-huh. (Indicating affirmative response).
- 3 Q And did that bother you because he was rubbing --
- 4 did he rub your knee?
- 5 A Yes.
- 6 Q Or did he rub between your legs?
- 7 A He was rubbing my knee when he was driving, but
- 8 like when we were parked in the parking lot or the
- 9 drive-through, he would try to get between my legs.
- 10 Q When were you parked at a parking lot or a
- 11 drive-through?
- 12 A Like the parking lot, we would be at Wal-Mart or
- 13 Dollar General, and the drive-through, we would be
- 14 at Zaxby.
- 15 Q When was this?
- 16 A I don't remember. It was the same year though.
- 17 Q Sometime during the same year that this happened?
- 18 A Uh-huh. (Indicating affirmative response).
- 19 Q And did you go home and tell anybody about this?
- 20 A No.
- 21 Q When was the first time -- I think you said
- 22 something about you have seen him masturbate?
- 23 A Yes.
- 24 Q When was that?
- 25 A I don't remember. I just remember the first time I.

Minor 3

-- CROSS -- MR. WILLIAMS

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- 1 saw him do it was in a car.
- 2 Q He was in the car?
- 3 A Yes.
- 4 Q And was that same time that supposedly he touched
- 5 your knee?
- 6 A No.
- 7 Q A different time?
- 8 A Yes.
- 9 Q Was he going down the road?
- 10 A No, he was -- we were parked in ^{Minor 2} driveway
- 11 because we just pulled in, and we just sat there in
- 12 the car for a minute.
- 13 Q Where was ^{Minor 2} mother at the time?
- 14 A She was working.
- 15 Q So you are sitting in the driveway in the parking
- 16 lot, and he just starts playing with himself?
- 17 A Yeah.
- 18 Q And how long did that last?
- 19 A Like the time?
- 20 Q Yes.
- 21 A Two minutes, I guess.
- 22 Q Two minutes?
- 23 A Yeah.
- 24 Q What happened after two minutes?
- 25 A He just kept asking us if we can touch him or have

- 1 sex with him.
- 2 Q Okay. And what happened next?
- 3 A We would just say no, and he was still trying to
- 4 touch us, and we will hit him and that's it.
- 5 Q And all this time you were still seated in the car?
- 6 A Yeah.
- 7 Q All this time he still had it hanging out there?
- 8 A Yeah, he was masturbating.
- 9 Q And where did you hit him at?
- 10 A I hit him on his arm. Because when he was trying
- 11 to touch me, I would slap his hand or his arm.
- 12 Q You were in the back seat?
- 13 A Yes.
- 14 Q So you are leaning over to hit him or how does that
- 15 work?
- 16 A No. When he reached back to try to touch me, I hit
- 17 him.
- 18 Q Hit his arm?
- 19 A Yeah.
- 20 Q How long did this go on?
- 21 A Not long, just a couple of seconds.
- 22 Q A couple of seconds?
- 23 A Yes.
- 24 Q Then what happened?
- 25 A That's it. I'd just leave.

Minor 3

-- CROSS -- MR. WILLIAMS

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1 Q You just left?

2 A Yeah, me and ^{Minor 2} would just leave.

3 Q Where did you go?

4 A Inside ^{Minor 2} house on [REDACTED]

5 Q Where did Richard go?

6 A I think he came in a couple of times.

7 Q Did anything happen when he came in?

8 A No.

9 Q Well, when you come into -- when you go into the
10 trailer, there was nobody in the trailer; right?

11 A It wasn't in the trailer.

12 Q Nobody could see in the trailer, right?

13 A No.

14 Q But he was sitting in the yard in his car earlier?

15 A Can you say that again?

16 Q Is that right?

17 A Can you say it again?

18 Q When he pulled it out and he was playing with it,
19 and you were hitting his arm and she was hitting
20 his arm, this was happening in the car; right?

21 A Yes.

22 Q But then y'all went inside the trailer and nothing
23 happened inside the trailer?

24 A Yes. Because her mom would be in there sometimes,
25 and he would stop. He wouldn't do anything in

1 front of her mom.

2 Q Didn't you say earlier that her mom was not there?

3 A No, sometimes she was there.

4 Q What about on this particular time that you are
5 describing?

6 A Um, I don't remember.

7 Q You don't remember what?

8 A I don't really remember if she was working or not.
9 I think she was working. I don't know.

10 Q Well, did he follow you into the trailer or not?

11 A Yeah, but it wasn't a trailer. It was her house on

12

13 Q So if he followed you in there, you can't remember
14 if her mother was there or not?

15 A Not really because it happened so long ago.

16 Q And when was the next time that this happened?

17 When did he zip up his pants?

18 A When we just kept turning him down saying that we
19 weren't going to touch him, I think he just gave up
20 and pulled up his pants.

21 Q Pulled down his pants?

22 A Pulled up.

23 Q Pulled up his pants?

24 A Yes.

25 Q So he had pulled his pants down, he didn't unzip

Minor 3

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1 his pants?

2 A Well, he zipped up his pants. He still had his
3 pants on. He just unzipped it.

4 Q Did you see him zip it up?

5 A Yeah.

6 Q And you were still seated in the back seat?

7 A Yes.

8 Q When was the next time that something happened?

9 A When we would go -- Minor 2 called him and asked
10 him if we could go to Dollar General because we
11 needed some stuff for school, like paper and stuff.
12 We went in there and I was walking in front of him,
13 and he was -- when nobody was looking, he would
14 like tap my butt.

15 Q Well, there are cameras inside Dollar General;
16 aren't there?

17 A Yes.

18 Q So there would be some type of video showing him
19 doing this, wouldn't there?

20 A Yes.

21 Q All right. And what happened when he touched your
22 butt?

23 A I just like walked faster.

24 Q When was this?

25 A I don't remember.

1 Q When was the next time?

2 A He has done numerous things. I don't really keep
3 track of any one. I don't know.

4 Q So you don't know when the next time was?

5 A The next time I think we went to Wal-Mart, and we
6 were parked in the parking lot because we just
7 pulled in. He would just like look at my boobs and
8 try to touch them, and he kept asking me, If I
9 could see your boobs, I will give you money.

10 Q But he didn't do anything?

11 A Yeah, he touched my boobs.

12 Q Did he make you lift your shirt up or anything?

13 A No, but he kept asking.

14 Q When was this?

15 A I don't remember.

16 Q When was the next time?

17 A He would jack off in the car a lot.

18 Q When was that?

19 A I don't remember the dates.

20 Q Where would he be when he would do this?

21 A Like Wal-Mart or ^{Minor 2} driveway, and I think
22 that's it.

23 Q So it would always be one of these particular
24 locations, ^{Minor 2} driveway or Wal-Mart?

25 A Yeah, a couple of stores.

Minor 3

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1 Q So there is another store that he did it at?

2 A Yes.

3 Q Which store?

4 A Like in a parking lot. I think it was Dollar
5 General.

6 Q So we are back to the Dollar General. It would be
7 Dollar General, Wal-Mart or ^{Minor 2} driveway?

8 A Yes.

9 Q Always at one of those locations?

10 A Pretty much, yeah.

11 Q When was the next time he did anything to you?

12 A I don't remember. He just always tried to touch
13 me, and he touched me -- like he will grab my butt
14 or my vagina and my boobs.

15 Q When was it that he licked your vagina?

16 A I don't remember the date for that.

17 Q You don't remember a date for that?

18 A No, I think it was the summer though.

19 Q Well, a while ago when you got a chance to review
20 the paper, you gave a date. Do you remember that?

21 A Yes.

22 Q Now do you remember when it happened?

23 A I don't remember a date.

24 Q You remember the month now?

25 A No.

1 Q How is it that you came up with dates that you
2 would give the police officer in your statement,
3 but now you don't remember any of this?

4 A Because this was like two years ago. I don't
5 remember dates.

6 Q And you were with the police officer with who?

7 A Minor 2 and Minor 1 and our moms.

8 MR. WILLIAMS: That's all the questions I
9 have.

10 THE COURT: Thank you, Mr. Williams.
11 Solicitor, anything on redirect?

12 MS. HOWARD: Briefly, Your Honor.

13 THE COURT: All right.

14 REDIRECT EXAMINATION

15 BY MS. HOWARD:

16 Q Minor 3 how many times do you think you went
17 somewhere in the car with Richard and Minor 2

18 A A lot, more than ten.

19 Q More than 20?

20 A Maybe.

21 Q Did you go to Wal-Mart with Richard and Minor 2 in
22 his car one time?

23 A Yes, ma'am.

24 Q Did you go to Wal-Mart with Richard and Minor 2 in
25 his car more than one time?

Minor 3

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- 1 A Yes, ma'am.
- 2 Q On one of those times, did Richard buy you thongs?
- 3 A Yes, ma'am.
- 4 Q Did you go to Zaxby's in the car with Richard and
5 Minor 2 one time?
- 6 A Yes.
- 7 Q Did you go to Zaxby's in the car with Richard and
8 Minor 2 more than one time?
- 9 A Yes, ma'am.
- 10 Q Did you go to the Dollar General with Richard and
11 Minor 2 in the car?
- 12 A Yes, ma'am.
- 13 Q Did you go to the Dollar General more than one time
14 with Richard and Minor 2
- 15 MR. WILLIAMS: Your Honor, objection to the
16 leading.
- 17 THE COURT: If you would rephrase the
18 question, Solicitor.
- 19 BY MS. HOWARD:
- 20 Q How many times did you go to the Dollar General
21 with Richard?
- 22 A More than one time. I don't remember.
- 23 Q Did Richard touch you on the bottom at Dollar
24 General?
- 25 A Yes, ma'am.

1 Q Did Richard touch you in the car?

2 A Yes, ma'am.

3 Q Did he do that more than once?

4 A Yes, ma'am.

5 MR. WILLIAMS: Your Honor, objection to
6 leading on the last three questions.

7 THE COURT: I can only rule --

8 MR. WILLIAMS: I'm sorry, Your Honor, on the
9 last question.

10 THE COURT: I can't rule in retrospect. Do
11 not ask leading questions, Solicitor.

12 MS. HOWARD: Yes, sir, Your Honor..

13 BY MS. HOWARD:

14 Q Minor 3 is what you told today the truth?

15 A Yes, ma'am.

16 Q Is what you told the police the truth?

17 A Yes, ma'am.

18 MS. HOWARD: No further questions.

19 MR. WILLIAMS: No questions, Your Honor.

20 THE COURT: Thank you. Thank you very much.
21 You may step down.

22 (Witness leaves the witness stand).

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

25 MR. STUMBO: Your Honor, the State calls

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1 Sherry Sharpe to the stand.

2 SHERRY SHARPE, being
3 first duly sworn, testifies as follows:

4 CLERK: State your full name and spell your
5 last name.

6 THE WITNESS: My name is Sherry Sharpe,
7 S-H-A-R-P-E.

8 DIRECT EXAMINATION

9 BY MR. STUMBO:

10 Q Good morning, Ms. Sharpe. How are you doing today?

11 A Doing pretty good.

12 Q Are you here because you are ^{Minor 1} mother?

13 A Yes, sir.

14 Q And where do you and ^{Minor 1} live?

15 A We live at [REDACTED] in Gaston. That's
16 [REDACTED] Mobile Home Park.

17 Q Down in [REDACTED]

18 A Yes, sir.

19 Q And ^{Minor 1} and you have lived there for about how
20 long?

21 A Eight years.

22 Q When is the first time you met the Defendant,
23 Richard Ratliff?

24 A It was, I want to say, around 1998, 1999.

25 Q Okay. Were you friends with him? How did you feel

1 about him at that time?

2 A At the very beginning that I knew him, he was a
3 very respectable gentleman that used to come in to
4 where I worked, always well dressed, nice talking,
5 very polite.

6 Q Did he know you had a daughter at that time?

7 A Not at the very beginning. We opened -- we started
8 a thing on Thursdays to where we had from like four
9 to eight, we had teenagers, kids, come in to where
10 I worked. We had a big screen T.V., this type of
11 thing, and I think that was the first time he had
12 met my daughter.

13 Q About how old was ^{Minor 1} during that time?

14 A She was between three and four.

15 Q Did you ever see Richard outside of your work
16 place?

17 A When I found out that he was friends from years ago
18 with Tracey, which is ^{Minor 2} mother, and which
19 she lived just a couple of houses up from me, he
20 would -- we would see him then, you know, at her
21 house. He would come over and eat supper, this
22 type thing.

23 Q So you would see him in the context of being with
24 Tracey and ^{Minor 2} is that correct?

25 A Yes, sir.

SHERRY SHARPE -- DIRECT -- MR. STUMBO

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1 Q And where did Tracey and ^{Minor 2} live at that
2 time?

3 A They lived on [REDACTED] in West Columbia. I
4 lived at [REDACTED] -- I mean, not [REDACTED], [REDACTED]
5 [REDACTED], which is off [REDACTED]d. She was -- there was
6 a house in between mine and her house.

7 Q At this time were you living with ^{Minor 1} father?

8 A Yes, I was.

9 Q And where does he live now?

10 A He still lives at [REDACTED] [REDACTED]

11 Q And that's directly adjacent to Tracey and
12 ^{Minor 2}

13 A There is a house in between, in between us.

14 Q Did you ever see Richard over there at that house?

15 A Yes, sir.

16 Q So what was your observation of Richard's
17 relationship with Tracey and ^{Minor 2}

18 A They were friends. You know, nobody likes to eat
19 supper alone. So sometimes they would eat supper
20 together, this type of thing. He would help her
21 out by maybe watch ^{Minor 2} while her mother had to
22 go to work and didn't have a sitter, this type of
23 thing.

24 Q So you knew that he watched ^{Minor 2} a lot?

25 A Yes, sir.

1 Q And at this time what were your general
2 observations of Mr. Ratliff?

3 A He was a very respectable gentleman who just loved
4 her very much.

5 Q Did you ever have any suspicions of any wrongdoing?

6 A No, sir. He would be out in the yard playing. He
7 would be pushing her on the swing, this type of
8 thing.

9 Q At that time where did Richard Ratliff live?

10 A I'm not really sure where Mr. Ratliff lived. I was
11 never at his house.

12 Q At any point did he come around your neighborhood
13 in [REDACTED]

14 A Yes, sir, he was -- he ended up being the manager
15 of the trailer park that I live in.

16 Q And about how long was that, do you remember?

17 A About three years ago. I want to say like 2006.

18 Q About how old was ^{Minor 1} at that time?

19 A Around nine, nine to eleven.

20 Q Did he have a residence there at [REDACTED] or a
21 place where he could stay?

22 A Yes, sir, he did.

23 Q Was that close to where y'all's house was?

24 A It was right around the corner of our mobile home.

25 Q During that time did ^{Minor 1} and ^{Minor 2} ever go

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1 over to that house?

2 A Yes, sir. Sometimes he would be watching ^{Minor 2}

3 and ^{Minor 1} would go up to play with ^{Minor 2}

4 Q Did ^{Minor 1} spend a lot of time with ^{Minor 2} around

5 this time frame?

6 A If ^{Minor 2} was ever around, wherever you saw

7 ^{Minor 2} you saw ^{Minor 1} On the weekends if

8 ^{Minor 2} was there, ^{Minor 1} was there. They were

9 together quite a bit.

10 Q Was this just at [REDACTED] or was it y'all's house
11 and her house?

12 A Both. They were like two little peas in a pod.

13 You didn't separate them.

14 Q Would it be safe to say that she would spend the

15 weekends with ^{Minor 2} if ^{Minor 2} had to be

16 baby-sat on the weekends, she would be with her?

17 A Yes, sir.

18 Q I am going to show you what has been entered into

19 evidence as State's Exhibit 2.

20 MR. STUMBO: May I approach the witness, Your
21 Honor?

22 THE COURT: Yes, sir.

23 BY MR. STUMBO:

24 Q Ms. Sharpe, you can take your time looking at that

25 document, please. If you could identify that for

1 the jury.

2 A This is a letter that my daughter gave me.

3 Q Before you got that letter, did you know anything
4 about what she told you in that letter?

5 A The night all this came about, Minor 2 had called
6 Minor 1 Minor 2 was supposed to go to Virginia
7 and stay a week, and Minor 2 was crying begging
8 Minor 1 to beg me to stop, to stop it.

9 When they got done with their conversation, I
10 told Minor 1 I said, Minor 1 I am not Minor 2
11 mom. I can't stop it. But if you know something
12 that I don't know, you need to tell me. So Minor 1
13 had me go take my shower first while she sent me an
14 e-mail.

15 Q State's Exhibit 2, you said it was a letter that
16 Minor 1 wrote you. When did you get this letter?

17 A I'm not exactly sure.

18 Q Was it the same day?

19 A It was either that night or the next day.

20 MR. STUMBO: Your Honor, permission to publish
21 State's Exhibit 2 to the jury via the witness.

22 MR. WILLIAMS: Your Honor, I think it's in
23 evidence.

24 THE COURT: You don't need to publish it if
25 it's in evidence.

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1 BY MR. STUMBO:

2 Q Ms. Sharpe, if you could read us the letter that

3 Minor 1 you wrote you that night.

4 A Hey momma, I have something very important to tell

5 you and here it is. Do you remember when Richard

6 lived in the neighborhood, this one? Well, me and

7 Minor 2 was going through the boxes of his because

8 he said we could.

9 Well, we found some porn in one box, and we
10 thought it was funny. So we brought them out and
11 showed them to him and he started exposing himself
12 to us, and he was jacking off, and so then me and
13 her ran out of the house and started walking around
14 the trailer park.

15 Then we went back and he begged us not to
16 tell, so we didn't. But now we want to because we
17 don't like him as a friend like we used to. So,
18 yeah, I'm sorry for not telling you sooner, but we
19 did not know it was bad. It's out now and we do.
20 So please don't yell at us. I'm sorry.

21 Q Ms. Sharpe, after you read this letter from Minor 1
22 what did you decide to do at that point?

23 A My very first thought?

24 Q Yes, ma'am.

25 A I was going to get him.

1 Q After that first thought, what did you decide to
2 do?

3 A I pressed charges. Of course, this was after
4 Minor 1 begged me not to. She said, Momma if you go
5 get him, I won't have you either. So that's when
6 we called.

7 Q Did you have an opportunity to talk to Minor 2 at
8 all?

9 A I did talk to Minor 2 and I gave Minor 2 30
10 minutes to tell her mom. If she didn't tell her
11 mom, I was calling back. Minor 2 was afraid, as
12 any child would be at that time.

13 Q Was it your understanding that Minor 2 ultimately
14 told her mother?

15 A Yes, she did.

16 Q You said you were going to press charges?

17 A Yes, sir.

18 Q Did you call the law enforcement?

19 A Yes, I did.

20 Q Did you have an opportunity to meet with an officer
21 from the Sheriff's Department?

22 A Yes, I did.

23 Q Do you remember who that was?

24 A I am thinking Grooms was the first one we talked
25 to. I think he is the one who filled out the

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1 initial report.

2 Q Was he a uniform deputy?

3 A Yes, sir.

4 Q Do you remember where you talked to him?

5 A We met at the Waffle House on Airport Boulevard.

6 Q After you filled out this initial report, did you
7 talk to any other officers?

8 A Talked to several people. We met at the Sheriff's
9 Department, and we talked to a lot of people. I
10 know Mr. Davis -- I can't remember all their names.

11 Q Did you talk to this guy right here (indicating)?

12 A Yes, sir.

13 Q Do you remember when you were at the Sheriff's
14 Department that night giving a written statement as
15 well?

16 A Yes, sir.

17 Q Did the girls give written statements?

18 A Yes, sir, they did.

19 Q Did they give those statements separately or all in
20 the same room?

21 A Separately.

22 Q And what happened that night?

23 A To my recollection it seems to me -- it has been so
24 long ago. Things were so confusing -- but I do
25 know that Mr. Ratliff contacted ^{Minor 2} if I'm not

1 mistaken.

2 MR. WILLIAMS: Objection to hearsay, Your
3 Honor, or speculation.

4 THE COURT: Yes, Solicitor, unless she has
5 personal knowledge of that.

6 MR. STUMBO: Yes, sir I can move on, Your
7 Honor, absolutely.

8 THE COURT: Ladies and gentlemen, you would
9 disregard that last question and that response as part
10 of your deliberations.

11 Thank you, Solicitor. You may proceed.

12 BY MR. STUMBO:

13 Q After that time at the department, did you go home?

14 A Yes, sir.

15 Q Did you ever see Richard Ratliff after that time?

16 A No, sir.

17 MR. STUMBO: That's all the questions I have,
18 Your Honor.

19 THE COURT: Thank you, Solicitor.
20 Mr. Williams.

21 MR. WILLIAMS: Thank you, Your Honor.

22 CROSS EXAMINATION

23 BY MR. WILLIAMS:

24 Q Ms. Sharpe, what was the name of the place that you
25 were working where Richard came and met you and met

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1 your child?

2 A At the Rooster's Den.

3 Q Where is the Rooster's Den?

4 A It's at Triangle City. It's like right in behind
5 Zesto's. There's a little shopping center. It's
6 on the corner.

7 Q What type of place is it?

8 A It is a bar.

9 Q You said that there was a time where there were
10 teenagers who would go in there between four and
11 eight?

12 A Yes, sir.

13 Q So you had a bar in which teenagers were allowed to
14 come in?

15 A What we did is on every Thursday afternoon, we had
16 a lock on our liquor cabinet. We had a big screen
17 T.V., we had karaoke machine, and we would unlock
18 the pool tables to allow these teenagers a place to
19 go, just to hang in a safe environment. We would
20 serve them popcorn and pretzels and stuff.

21 Q That didn't cause y'all any problems with the
22 licensing bureau?

23 A No, not as long as we had everything locked up. We
24 would put a chain around the one cabinet, and the
25 only thing that was available to these teenagers

1 was iced tea and coke and sprite.

2 Q As I understand your testimony, essentially you
3 have said that Richard Ratliff was a perfect
4 gentleman, grandfatherly type, perfect individual
5 as far as you knew.

6 A Yes, sir.

7 Q Up until the time in which you received some
8 information from your daughter and from ^{Minor 2}

9 A This is correct.

10 Q Now, you mentioned something when you were
11 testifying about you told your daughter to take a
12 shower or go ahead --

13 A No, sir.

14 Q Who was taking the shower?

15 A My daughter -- normally my daughter took a shower
16 before me, and she said, Momma, will you take your
17 shower first?

18 Q Okay. So you went to take your shower?

19 A Yes, sir.

20 Q And then you said something about sending an
21 e-mail?

22 A She sent me an e-mail telling me what was going on.

23 Q Who sent you the e-mail?

24 A My daughter did.

25 Q Where was your daughter?

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- 1 A At my house. We have separate e-mail addresses.
2 She has her own, which has a lot of parental
3 blocks, this type of thing. She is not allowed
4 into certain things. So she went on her e-mail
5 address and sent me a letter to my e-mail.
- 6 Q So both of you were at the same house. You were
7 taking a shower, and she sent you an e-mail even
8 though she was in the same house as you were in?
- 9 A Yes, sir, she was scared.
- 10 Q Is this a copy of the e-mail that she sent you?
- 11 A No, this one is not mine.
- 12 Q That's not your e-mail?
- 13 A No, sir.
- 14 Q Where is your e-mail?
- 15 A I'm not even sure if we printed it out.
- 16 Q But after -- so you say she sent you an e-mail, but
17 you didn't print it out?
- 18 A I don't remember if I printed it out or not.
- 19 Q But then later did you ask her to write this down?
- 20 A No, sir, I have not asked her to do anything.
- 21 Q Did anyone to your knowledge ask her to write this
22 down?
- 23 A No, sir.
- 24 Q Can you tell me why she would send you an e-mail
25 and then later write this down?

1 MR. STUMBO: Objection, Your Honor --

2 A The only thing I can figure is maybe she thought of
3 something else she wanted to tell me --

4 MR. STUMBO: Objection, Your Honor. That
5 calls for speculation.

6 THE COURT: The court reporter can't take down
7 three people talking at the same time. When an
8 objection is made --

9 THE WITNESS: I'm sorry.

10 THE COURT: It's all right. You don't owe me
11 an apology. If you would just give me an opportunity to
12 rule on it so I can decide. The question was, And you,
13 Ms. Sharpe, tell me why ^{Minor 1} wrote the letter after
14 she sent her the e-mail.

15 MR. WILLIAMS: That was the question.

16 THE COURT: I would sustain the objection.

17 MR. STUMBO: Thank you, Your Honor.

18 THE COURT: I would sustain the objection.

19 That would still be hearsay. I would sustain the

20 objection. You may ask your next question.

21 BY MR. WILLIAMS:

22 Q And when did you receive this document?

23 A It was either the next day -- later on that night
24 or the next day.

25 Q You don't remember for sure?

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1 A No, sir, I didn't document dates and times. I'm
2 sorry.

3 Q Well, of course, on this there is no date on this
4 at all; is there?

5 A No, sir.

6 Q What do you have when you have an e-mail?

7 A You have a date on it.

8 MR. WILLIAMS: That's all I have, Your Honor.

9 THE COURT: Thank you, Mr. Williams. Anything
10 in redirect, Solicitor?

11 MR. STUMBO: Just briefly. One question, Your
12 Honor.

13 THE COURT: All right.

14 REDIRECT EXAMINATION

15 BY MR. STUMBO:

16 Q Ms. Sharpe, Mr. Williams was showing you State's
17 Exhibit 3, this e-mail here. [REDACTED],
18 that's not your e-mail address; is it?

19 A No, sir.

20 MR. STUMBO: No further questions.

21 THE COURT: Thank you very much. Anything on
22 recross?

23 MR. WILLIAMS: No, Your Honor.

24 THE COURT: Thank you, Ms. Sharpe. You may
25 step down.

1 (Witness leaves the witness stand).

2 THE COURT: Solicitor, you may call your next
3 witness.

4 MS. HOWARD: The State calls Steven Kilgore.

5 MR. WILLIAMS: Your Honor, I have a matter of
6 law to take up outside the presence of the jury.

7 THE COURT: Perhaps it would be a good time to
8 let our jury take a morning recess. We will be out
9 about 15 minutes, maybe longer, but at least 15 minutes.
10 Thank you very much. Do not discuss the case during
11 this brief recess.

12 (The jury retires to the jury room).

13 THE COURT: Mr. Williams.

14 MR. WILLIAMS: Your Honor, unless I am wrong
15 about what Mr. Kilgore is going to testify, it's my
16 understanding that Mr. Kilgore will give some sort of
17 testimony where he went to a trailer in which
18 Mr. Ratliff was there and ^{Minor 2} was there --

19 (Attorneys confer).

20 MR. STUMBO: I believe Mr. Williams is talking
21 about Mr. Robert Shaw, who is the person he is referring
22 to. The next witness, Mr. Kilgore, is a hotel employee
23 at America's Best who is going to testify about that.
24 But we do intend to call Mr. Shaw, too, if Mr. Williams
25 wants to raise that issue.

1 MR. WILLIAMS: We might as well take it up
2 now, Your Honor. There is an individual by the name of
3 Robert Shaw. This individual's testimony consists of
4 him saying that he went to a trailer in a mobile home
5 park, and he heard some yelling, I think from
6 Mr. Ratliff, as to a young girl.

7 He may even say that he cautioned Mr. Ratliff
8 about how -- or he went to inquire as to whether or not
9 the child was being properly taken care of, whether or
10 not the grandfather or the person was, I guess, physical
11 with the child if you will, Your Honor.

12 My objection goes to this. There is nothing
13 which ^{Minor 2} has said that indicates that she
14 was forced in any way to do anything at the mobile home
15 park where this allegedly happened. Of course, she
16 would be the victim, unless -- I could stand to be
17 corrected from the solicitor, but I don't remember her
18 saying anything about force.

19 MR. STUMBO: That's correct, Your Honor. I
20 can tell you this. Mr. Shaw will testify that he goes
21 up to the trailer in Moore Manor. He personally knows
22 Mr. Ratliff. They had had some interaction.

23 In fact, he became the manager of Moore Manor
24 after Mr. Ratliff, took over for him would be his
25 testimony. He approached the trailer because he hears

1 some yelling inside the trailer, hears a young girl's
2 voice saying, Get off of me, very loudly.

3 It sounded like a panic to him. He goes to
4 the door, knocks on the door to ask what is going on.
5 He talks to Mr. Ratliff, and he says -- tells him
6 basically, I will do whatever I want to my
7 granddaughter. Go away. That's the end of it.

8 He actually identified the girl inside, saw
9 that it was Minor 2 He had kind of pushed her back
10 toward the couch, Mr. Ratliff when he answered the door.
11 Mr. Shaw can identify Minor 2 as the young girl where
12 this incident occurred.

13 So it goes to corroboration of all these
14 incidents that occurred at Moore Manor, I think, Your
15 Honor. It corroborates Minor 2 testimony as to the
16 fact she was there with him by herself a lot.

17 MR. WILLIAMS: But the difference is, Your
18 Honor, Minor 2 never testified that force was used in
19 this particular mobile home park. So, I mean, it
20 doesn't corroborate her.

21 We will stipulate that Minor 2 has been in
22 the mobile home park with Richard Ratliff. So if that's
23 all we are introducing the testimony for, then his
24 testimony would be not relevant.

25 MR. STUMBO: If I'm not mistaken, Your Honor,

1 Minor 2 testified that even in these incidents in the
2 trailer, most of which involved him masturbating in
3 front of her, there were also instances where he would
4 try to touch her, kind of paw her, at one time after the
5 shower incident.

6 When they were taking a nap, he would touch
7 her. Consistently Minor 2 and Minor 1 both testified
8 that when he would try to do this, that they would tell
9 him to get off of them. Basically he would.

10 I don't think there is any allegation of force
11 here. The testimony by the witness is going to be that
12 he heard a young girl say, Get off of me, which is
13 perfectly consistent with what Minor 2 has testified
14 to.

15 MR. WILLIAMS: I would disagree that she
16 testified at the trailer that this occurred, anything
17 where he was on top of her or forced her with anything
18 at the trailer.

19 THE COURT: When did this allegedly occur?

20 MR. STUMBO: It occurred at Moore Manor
21 sometime in the fall, maybe December of 2006, according
22 to the witness.

23 THE COURT: He identifies the young girl --
24 he, Mr. Shaw -- identifies the female at Mr. Ratliff's
25 trailer as Minor 2

1 MR. STUMBO: He said he knows her by face and
2 by the fact that Mr. Ratliff said it was his
3 granddaughter. So as far as he knew, it was his
4 granddaughter.

5 THE COURT: How does he identify ^{Minor 2}
6 [REDACTED] as being the girl in the trailer?

7 MR. STUMBO: He knows her by face now. He has
8 seen her out of court. He will identify her in court,
9 Your Honor, as the girl that he saw that day and saw her
10 not just that day but saw her quite often over at
11 Richard's trailer outside playing and around the trailer
12 park during this time frame.

13 MR. WILLIAMS: Your Honor, we wouldn't have
14 any objection to any testimony that he saw her over
15 there. The objection actually goes to the reference
16 that we had about the, Get off me, part. Because she
17 has never testified to that at the trailer.

18 THE COURT: She has testified, both she and
19 ^{Minor 3} have testified, that there were times when they
20 would hit him. That is some indication that there was
21 physical movement between the parties.

22 MR. WILLIAMS: That was in the car.

23 THE COURT: I'm not sure that was only in the
24 car. It may have only been in the car as far as
25 ^{Minor 3} is concerned. I think he can testify that what

1 brought it to his attention as to why he goes over
2 there, Mr. Shaw, that he knows Mr. Ratliff, knows that
3 is his trailer. He is familiar with him. He asked him,
4 Is everything all right? I take it that's the tenor of
5 the conversation.

6 MR. STUMBO: Yes, sir.

7 THE COURT: I don't know how he testifies to
8 panic. What did ^{Minor 2} do, if it were ^{Minor 2}

9 MR. STUMBO: Your Honor, the way he describes
10 it to me is it was a cry for help type, Get off of me,
11 very loud, very -- I would describe it and we would say
12 under the hearsay exception of excited utterance, it
13 would come in.

14 THE COURT: But you don't have an indictment
15 for November of '06.

16 MR. STUMBO: That is correct.

17 THE COURT: You can have excited utterances
18 for other bad acts. I mean, that may be true, but she
19 hasn't testified to that either. She hasn't got up here
20 and specifically said, I was in a panic over at
21 Mr. Ratliff's trailer in Moore Mobile Manor, and he was
22 trying to do whatever to me. I yelled and this person
23 came to the door. You don't have that at this point.
24 That's why I'm saying, what is the panic? Because I
25 take it -- does he call the police?

1 MR. STUMBO: No, sir.

2 THE COURT: Does she call the police or report
3 anything?

4 MR. STUMBO: No, sir.

5 THE COURT: I think that mitigates against it
6 being a panic situation.

7 MR. STUMBO: I guess if it's not under the
8 excited utterance, we would offer it for the effect on
9 the listener. He would say, This is why I went to the
10 trailer. I hear a young girl crying for help.

11 THE COURT: Something has got to call his
12 attention. He could have been out there selling
13 magazines and heard it. I mean, something causes his
14 attention. He walks over there or looks over there and
15 hears something and responds to that.

16 I don't think there is anything wrong with
17 that, Solicitor. I don't think there is anything wrong
18 with him saying, I had a conversation with him. What
19 about this conversation? That is my daughter -- my
20 granddaughter -- I can do whatever I want with my
21 granddaughter. Is that what he is going to testify to?

22 MR. STUMBO: Yes, sir. I believe based on
23 Minor 2 testimony, he always identified her as his
24 granddaughter. That corroborates her testimony.

25 THE COURT: I'm not concerned about

1 identifying her as his granddaughter. What about the
2 testimony that he, Mr. Ratliff, tells Mr. Shaw, It's my
3 granddaughter. I can do whatever I want. Is that what
4 you intend to offer?

5 MR. STUMBO: I can proffer Mr. Shaw's
6 testimony and he can tell me exactly in those words. I
7 don't know if it's going to be worded that way or it was
8 in the tenor of basically he was disciplining his
9 granddaughter. This is my granddaughter. I can handle
10 her like I want to.

11 I don't think there was any inference there or
12 he was going to give any inference that he was stating
13 that he could do whatever he wants to with his
14 granddaughter in the sense of some sexual assault.

15 THE COURT: We will have an in camera hearing
16 on it. All right.

17 MR. STUMBO: Yes, Your Honor.

18 MR. WILLIAMS: Thank you, Your Honor.

19 THE COURT: Court will be in recess 15
20 minutes.

21 (Whereupon there was a recess).

22 MR. STUMBO: Judge, just to clean this up
23 before the jury comes back in. I discussed this with
24 Mr. Williams. I believe ^{Minor 2} read from one of the
25 originals of her statement. A copy had already been

1 entered as State's 28.

2 The original was never marked, even though she
3 read from it and essentially published this document,
4 the original document. I don't have any problem with
5 this being substituted as State's 28 if Mr. Williams
6 doesn't have any problem with that.

7 MR. WILLIAMS: I actually would, Your Honor.
8 I would prefer if the Court is going to allow its
9 introduction, that it be a separate exhibit.

10 THE COURT: State's 32 without objection.

11 MR. WILLIAMS: I actually thought we did that
12 yesterday. I wasn't even going to give the solicitor
13 the benefit of that.

14 MR. STUMBO: I thought we actually entered it
15 in as State's 31 yesterday. It was never marked.

16 COURT REPORTER: May I mark 31 for I.D. since
17 I haven't done that?

18 THE COURT: Yes, ma'am.

19 (State's Exhibit Number 31 is marked for
20 identification).

21 THE COURT: State's 32 is the original of
22 State's 28, correct?

23 MR. WILLIAMS: Yes, sir. It was when we were
24 talking yesterday about, Is this the third statement or
25 the fourth statement?

1 THE COURT: All right.

2 MR. WILLIAMS: I believe what we were
3 conferring about was the original statement.

4 THE COURT: Mark it as State's 32 in evidence
5 without objection.

6 (State's Exhibit Number 32 is received into
7 evidence).

8 THE COURT: Anything further?

9 MR. STUMBO: Judge, I know we had talked about
10 proffering the testimony of Mr. Shaw for purposes of
11 Mr. Williams' hearing. We will have two witnesses
12 before him. So could we have the two witnesses, send
13 the jury out for the proffer and then put him up?

14 THE COURT: Certainly.

15 MR. STUMBO: Thank you, sir.

16 THE COURT: Anything further?

17 MR. STUMBO: No, sir.

18 THE COURT: Mr. Williams?

19 MR. WILLIAMS: No, Your Honor.

20 THE COURT: Miss Bunny, would you please bring
21 us our jury.

22 (The jury returns to the courtroom).

23 THE COURT: It appears our jury is back
24 present in the courtroom. We are continuing the trial
25 of the case with the presentation of testimony by the

1 State.

2 Solicitor, you may call your next witness.

3 MS. HOWARD: Thank you, Your Honor. The State
4 calls Stephen Kilgore.

5 THE COURT: Mr. Kilgore, if you would come
6 around and be sworn, please.

7 STEPHEN KILGORE, being
8 first duly sworn, testifies as follows:

9 CLERK: State your full name and spell your
10 last name.

11 THE WITNESS: My name is Steven Kilgore,
12 K-I-L-G-O-R-E.

13 COURT REPORTER: How do you spell Stephen?

14 THE WITNESS: With a P-H.

15 DIRECT EXAMINATION

16 BY MS. HOWARD:

17 Q Good morning, Mr. Kilgore.

18 A Good morning.

19 Q Would you please tell the court where you are
20 employed.

21 A America's Best Value Inn and Suites in West
22 Columbia.

23 THE COURT: If you could speak up just a
24 little bit for us, Mr. Kilgore.

25 THE WITNESS: I'm employed at America's Best

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1 Value Inn, which is in West Columbia.

2 Q Can you tell me what road that is on?

3 A It's McSwain Drive.

4 THE COURT: Say again.

5 THE WITNESS: McSwain Drive.

6 BY MS. HOWARD:

7 Q Is that off 378?

8 A Yeah, it's right off of 378.

9 Q How long have you been working there?

10 A I still work there. I've been there going on four
11 years.

12 Q Did you work there during the summer of 2007?

13 A Yes, I did.

14 Q Do you ever remember a Richard Ratliff?

15 A I do.

16 Q Is Richard Ratliff in the courtroom today?

17 A He is.

18 Q Point him out to me.

19 A He's sitting right over there (indicating).

20 Q Tell me what you do at America's Best.

21 A I'm the general manager.

22 Q How about some of your duties as general manager?

23 A From checking in guests, managing employees, doing
24 schedule, scrubbing toilets.

25 Q Did you ever check Mr. Ratliff in?

1 A I did. It was in the beginning of July. He had
2 come in and said that he was going to -- he was
3 from out of town, and he was coming in to see his
4 granddaughter, and he would be in once a month for
5 three or four days, and he was negotiating a rate
6 with me.

7 Q Mr. Kilgore, when you check people in at the
8 America's Best, does that go into a computer?

9 A It does.

10 Q When you check them out, does that also go into the
11 computer?

12 A Once you check them into the computer, they are in.
13 So it shows the date of their stay and the rate
14 that they got at the time, their address and
15 everything.

16 Q Do you print out these dates, this information at
17 any time?

18 A It's printed out. There is a signed copy that goes
19 to the guests. One is a receipt and the other is a
20 signed copy that we keep.

21 Q You do that for every overnight guest?

22 A Yes.

23 MS. HOWARD: Beg the Court's indulgence one
24 minute.

25 THE COURT: Yes, ma'am.

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1 (Attorneys confer).

2 MR. WILLIAMS: Your Honor, I don't have any
3 objection to the introduction of this document into
4 evidence, which it is not marked so I can't refer to it.
5 I can present it to the Court, Your Honor. Oh, I'm
6 sorry, State's Exhibit Number 33. We have no objection
7 to State's Exhibit Number 33.

8 THE COURT: All right. State's 33 is in
9 evidence without objection.

10 (State's Exhibit Number 33 is received into
11 evidence).

12 BY MS. HOWARD:

13 Q Mr. Kilgore, can you tell the Court what State's
14 Exhibit 33 is?

15 A This is a standard receipt or also -- well, a
16 standard receipt would have a line where a
17 signature would be on it. This is a standard
18 receipt saying that -- it looks like it was pulled
19 up. We can print like when guests have stayed
20 there. So this is a record of when Richard Ratliff
21 stayed at the hotel.

22 Q Is that just a regular business record that you can
23 pull up on any guest?

24 A Yeah. You type in the last name, and it will give
25 you a list and then the information comes up. The

1 last time they stayed there -- it helps us when we
2 check people in so we are charging the people the
3 same rate every time they come in.

4 Q Do you recall the first time you checked
5 Mr. Ratliff in the summer of 2007?

6 A I do.

7 Q Can you tell me the dates of that?

8 A I believe it was the first week of July. I don't
9 know exactly what day it was. I can look on this
10 and see what it is. Obviously, this was July 9,
11 '07.

12 Q And you checked Mr. Ratliff in?

13 A I was working the desk. I did check him in.

14 Q What did he tell you? When you checked him in, do
15 you know how long he planned on staying?

16 A He was going to stay for a three or four-night
17 stay. With this bill here, he was planning to stay
18 three nights. It was going to be three or four
19 nights.

20 Q During the stay on July 9, '07, did you ever see
21 any other guests with Mr. Ratliff?

22 A He was with a young girl. He had originally
23 checked in -- he checked in by himself. It was
24 maybe an hour or two after that I had seen them
25 going to the pool.

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1 Q Saw who going to the pool?

2 A I saw Mr. Ratliff and a young girl going to the
3 pool.

4 Q How old do you think this young girl might have
5 been?

6 A She was ten or eleven.

7 Q What color hair?

8 A It was dirty blond or brown, light brown.

9 Q Did you know who this girl was?

10 A He had said that he -- I remember he was
11 negotiating a rate because he was going to be there
12 once a month. So this is the rate if he was going
13 to stay for those three or four days. He had said
14 that he was coming in from out of town, and he was
15 visiting his granddaughter.

16 MS. HOWARD: Your Honor, at this time I would
17 like to enter into evidence State's Exhibits 33.

18 THE COURT: It's in evidence.

19 MR. WILLIAMS: Without objection, Your Honor.

20

21 MS. HOWARD: Permission to approach, Your
22 Honor.

23 THE COURT: Yes, ma'am.

24 BY MS. HOWARD:

25 Q Do you recognize State's Exhibit Number 34 as a

1 business record from the America's Best?

2 A Yes, I do.

3 Q Did you check Mr. Ratliff in on another date at
4 America's Best?

5 A I don't believe I checked him in on this particular
6 date. I was at or around the counter, but I did
7 have an employee there who did check him in. I was
8 around the coroner.

9 Q On Mr. Ratliff's second stay, did you see him
10 around the hotel?

11 A I did.

12 Q Did you see a young girl with him?

13 A I did.

14 Q The same girl?

15 A It was the same girl.

16 Q Do you know the dates of the second stay?

17 A It was -- by this it says --

18 MR. WILLIAMS: Objection to the publication of
19 the document until it's placed into evidence, Your
20 Honor.

21 THE COURT: It is in evidence?

22 MR. WILLIAMS: It is not in evidence.

23 THE COURT: It would have been to be in
24 evidence. Unless he knows of his own personal
25 knowledge, he can't publish a document that is not in

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1 evidence.

2 MR. STUMBO: Beg the Court's indulgence, Your
3 Honor.

4 (Pause).

5 BY MS. HOWARD:

6 Q Is that a record that was kept in the regular
7 course of business at America's Best, State's
8 Exhibit Number 34?

9 A It is.

10 MS. HOWARD: Your Honor, at this time we ask
11 to enter that into evidence, State's Exhibit 34, as a
12 regularly kept business record.

13 MR. WILLIAMS: We would object because there
14 has not been a proper foundation in regard to what this
15 represents in this case.

16 THE COURT: You would have to lay the
17 foundation, Solicitor, under 803 (6). At this point I
18 would sustain the objection until the foundation has
19 been laid.

20 MR. STUMBO: Beg the Court's indulgence, Your
21 Honor.

22 THE COURT: Yes, sir.

23 (Pause).

24 BY MS. HOWARD:

25 Q Do you recognize State's 34, Mr. Kilgore?

1 A Yes.

2 Q What do you recognize that as?

3 A It's a standard receipt or bill, record -- they are
4 all one and the same -- that this particular guest,
5 Richard Ratliff, stayed at the hotel.

6 MS. HOWARD: Your Honor, at this time I would
7 ask to enter this record into evidence as a regularly
8 kept business record at America's Best.

9 MR. WILLIAMS: Your Honor, could I see the
10 exhibit one more time?

11 THE COURT: Yes, sir.

12 MR. WILLIAMS: We would object, Your Honor,
13 because that receipt does not say Richard Ratliff on it.

14 THE COURT: Why are we publishing it in front
15 of the jury at any rate?

16 Mr. Foreman, ladies and gentlemen, please step
17 to your jury room.

18 Would you hand me State's 34, please.

19 (The jury retires to the jury room).

20 THE COURT: Mr. Williams.

21 MR. WILLIAMS: It doesn't say Richard Ratliff
22 on it, Your Honor.

23 THE COURT: Solicitor?

24 MS. HOWARD: Your Honor, Mr. Kilgore has
25 already testified that they enter a guest's last name in

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1 and can pull up any receipt. Both of these receipts
2 were printed on the same day. Entering Mr. Ratliff's
3 last name in, both of these came up as the same guest.
4 Your Honor, if there is a misspelling, it's spelled
5 Richard Ratless (phonetic) on State's Exhibit 34,
6 instead of Ratliff.

7 THE COURT: Would you hand me State's 33,
8 Madame Court Reporter.

9 (Pause).

10 THE COURT: How do I know on State's 34 that
11 is a misspelling, that it's not Richard Ratless? How do
12 I know that or how I do know it's not a misspelling on
13 33, and that should be Richard Ratless and not Richard
14 Ratliff.

15 MS. HOWARD: Your Honor, may I ask
16 Mr. Kilgore?

17 THE COURT: Yes, ma'am.

18 MS. HOWARD: A few questions.

19 IN CAMERA EXAMINATION

20 BY MS. HOWARD:

21 Q Mr. Kilgore, when you checked Richard Ratliff in on
22 July 9, did you enter his information into the
23 computer?

24 A I did.

25 Q Did he provide you with an address on that day?

1 A He did.

2 THE COURT: Do you need to look at 33?

3 THE WITNESS: Sure.

4 BY MS. HOWARD:

5 Q Did he verbally tell you his name and address?

6 A I would have needed some sort of I.D.

7 Q Would you have gotten the spelling of his name off
8 the I.D.?

9 A It either had been scanned in or typed in off the
10 I.D.

11 Q When you enter any guest, is it your personal
12 procedure to put the guest's name and address into
13 the computer?

14 A Absolutely.

15 Q On July 23 you did not check Mr. Ratliff in
16 personally? Another employee entered him into the
17 computer?

18 A That's correct.

19 Q Do you remember any details about how that other
20 employee entered him?

21 A There's times where if you miss the first -- when
22 you first bring up the software and you start to
23 type in the last name, it looks like the girl who
24 typed it in, she went past that page and just went
25 to the next screen.

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1 She probably just mistyped it. That's the
2 only thing because otherwise if she did pull it up
3 correct, then this would have automatically came
4 up, and she wouldn't have to type all this stuff
5 in. All I can say is she made a mistake.

6 Q So when you begin to type in a last name on your
7 software, does your computer take the first few
8 letters and pop up a guest it believes that it
9 recognizes?

10 A Correct. If you were to type in R-A-T, you may be
11 come up with one or two guests, and you could
12 highlight it and click on it. It looks like that
13 was a step that my employee didn't take obviously.

14 Q Were you present at the counter or in the lobby
15 when Mr. Ratliff was signing in with your other
16 employee?

17 A I was there around when he did check in. The
18 reason that I remember is because they ended up
19 leaving after that day because he was -- our
20 chemicals in our pool were off.

21 So the reason that he would stay there was to
22 use the pool. I specifically remember asking him
23 why he was checking out after that first day, which
24 was later that evening. He said he was going to
25 stay that night, and then he would be leaving the

1 next day. I was sorry. I was not happy to lose
2 his business.

3 Q But when he checked in, you were present at the
4 counter or in the lobby?

5 A Sure.

6 Q Did you see Mr. Ratliff checking in?

7 A Yes, I was at or around the desk. I just didn't
8 physically check him in.

9 MR. WILLIAMS: If I could save some effort
10 here. My objection really is not to his testimony. I
11 think he can testify that he saw him in July, and he
12 checked out one day. The objection goes to the exhibit,
13 Your Honor.

14 THE COURT: I understand. I would agree with
15 that, Solicitor. He can testify right now to whatever
16 day or dates he has personal knowledge of that he saw
17 Mr. Ratliff check in, and that's independent of the
18 document itself, State's Exhibit Number 34.

19 MS. HOWARD: Understood, Your Honor.

20 THE COURT: If he knows that date, he can
21 testify to that.

22 MS. HOWARD: Understood, Your Honor. May I
23 approach him?

24 THE COURT: Sure.

25 MS. HOWARD: Number 33 is already in evidence

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1 and 34 is not.

2 (State's Exhibit Number 34 is marked for
3 identification).

4 MS. HOWARD: Your Honor, we can continue with
5 the jury.

6 THE COURT: Are you ready for the jury; is
7 that right?

8 MS. HOWARD: I believe we are.

9 THE COURT: Ma'am?

10 MS. HOWARD: Yes, sir.

11 THE COURT: Madame Bailiff, if you would bring
12 our jury, please.

13 (The jury returns to the courtroom).

14 THE COURT: Solicitor, you may proceed.

15 MS. HOWARD: Thank you, Your Honor.

16 DIRECT EXAMINATION

17 BY MS. HOWARD:

18 Q Mr. Kilgore, you checked Mr. Ratliff in on July 9
19 to the America's Best?

20 A Yes.

21 Q Did you check him in or were you present when he
22 checked in another time to America's Best?

23 A The second time I saw him that he was checking in,
24 I was at or around the desk.

25 Q Do you remember the day that he was checked in the

1 second time?

2 A I can't tell you I know the exact day. It was a
3 couple of weeks after the first time he stayed
4 there.

5 Q In July still?

6 A In July.

7 Q Do you remember how long Mr. Ratliff stayed during
8 that visit?

9 A He checked -- he only stayed one night. He was
10 checked in for longer, but the chemicals in our
11 pool, we had to close down the pool, and that was
12 the reason that he was only staying that one night.

13 Q Did you speak to him about this?

14 A Yeah, I remember I was sorry to lose his business,
15 yeah.

16 Q Do you know if Mr. Ratliff was planning to go
17 anywhere else that he told you?

18 A Was he planning to go to another -- go somewhere
19 else? No, I didn't discuss where he was going.

20 Q Did you see a young girl with him on his second
21 visit to America's Best?

22 A The same girl.

23 Q Did you speak to Detective Prestigiacomo about
24 Mr. Ratliff in late July 2007?

25 A I did.

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1 Q Did he come to the hotel?

2 A He did.

3 Q Did he ask you about the times that Mr. Ratliff
4 stayed there?

5 MR. WILLIAMS: Objection to hearsay, Your
6 Honor.

7 THE COURT: Rephrase the question, Solicitor.
8 BY MS. HOWARD:

9 Q Did you provide him with any information about the
10 times that Richard Ratliff stayed at America's
11 Best?

12 A He showed me a picture of Richard and asked me how
13 many times he had stayed there and to pull up the
14 records.

15 Q Did you do that?

16 A I did.

17 Q Please answer any questions Mr. Williams may have.

18 MR. WILLIAMS: I have no questions, Your
19 Honor.

20 THE COURT: Thank you. Thank you very much,
21 Mr. Kilgore. You may step down.

22 (Witness leaves the witness stand).

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

25 MR. STUMBO: Thank you, Your Honor. The State

1 calls Tracey Smotzer to the stand.

2 TRACEY SMOTZER, being
3 first duly sworn, testifies as follows:

4 CLERK: State your full name and spell your
5 last name.

6 THE WITNESS: My name is Tracey Smotzer. The
7 last name is S-M-O-T-Z-E-R.

8 DIRECT EXAMINATION

9 BY MR. STUMBO:

10 Q Good afternoon, Ms. Smotzer. How are you doing
11 today?

12 A Sick.

13 Q Things are going around. Ms. Smotzer, do you live
14 here in West Columbia in Lexington?

15 A Yes, sir.

16 Q Where do you currently live?

17 A [REDACTED], [REDACTED].

18 Q Have you lived in West Columbia most of your life?

19 A For about 20 years.

20 Q Most of your adult life?

21 A Yes.

22 Q How old are you now?

23 A Forty-four.

24 Q And your daughter is ^{Minor 2}

25 A Yes.

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- 1 Q Have you been up here with her all week?
- 2 A Yes.
- 3 Q Is ^{Minor 2} your only child?
- 4 A Yes.
- 5 Q And I will take you back to the time frame of the
- 6 year 2006. Where did y'all live at that time?
- 7 A On [REDACTED] in West Columbia.
- 8 Q [REDACTED] Did ^{Minor 2} have any friends that
- 9 were neighbors there?
- 10 A Yes.
- 11 Q Who was that?
- 12 A ^{Minor 1} She lived two doors down.
- 13 Q Did her mother and father live there at that time?
- 14 A Yes.
- 15 Q How about do they still live there or just one or
- 16 the other?
- 17 A No, just her father does.
- 18 Q Are ^{Minor 1} and ^{Minor 2} good friends?
- 19 A Yes, I think so.
- 20 Q They have been friends since they were very young?
- 21 A Yes.
- 22 Q Have they spent a lot of time together?
- 23 A As much as possible.
- 24 Q Richard Ratliff, how long have you known him?
- 25 A I met him when I first moved to Columbia back in

1 1986, I think is when I met him. Then we lost
2 touch with each other and I ran into him again, and
3 we started, you know, being friends again, talking.

4 Q In the early period when you knew him, did y'all
5 ever date at all?

6 A Yes.

7 Q How long did you date?

8 A Just a couple of weeks, a couple of months maybe.

9 Q And was this before or after ^{Minor 2} was born?

10 A Way before. She wasn't even thought of.

11 Q When was she born?

12 A In [REDACTED].

13 Q You said you lost contact with Richard for awhile
14 and regained contact with him. What was the
15 relationship like with him after you regained
16 contact with him?

17 A We were just friends. I treated him as if he was
18 part of my family, sort of like a stepfather or a
19 brother. I would do things for him because he was
20 disabled and can't walk really good and he's old.
21 I felt sorry for him.

22 Q Did you trust him?

23 A Yes.

24 Q After ^{Minor 2} was born, what was the relationship
25 between ^{Minor 2} and Richard Ratliff? Did she go

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1 over to his house?

2 A Yes. She would be with me and we would go over and
3 visit with him. He always treated her like that
4 was his granddaughter. He cared for her. She was
5 mine.

6 Q Did ^{Minor 2} have a relationship at all -- did she
7 know her father?

8 A No.

9 Q What was your desire for the kind of relationship
10 ^{Minor 2} was to have with Richard Ratliff?

11 A Well, I didn't have a father growing up, and I know
12 how it is now. I didn't want ^{Minor 2} to grow up
13 that way without a father figure, a man, you know,
14 what a man thinks compared to the way a woman
15 thinks. I said, Well, he is treating her nice and
16 good to her. All right. He was older.

17 Q Did ^{Minor 2} spend much time with Richard at his
18 house?

19 A Yes.

20 Q And what were you doing during this time?

21 A Working.

22 Q What kind of job did you work at that time?

23 A At first I worked for the Department of Revenue,
24 and then I quit that job because I was going to
25 move out of state and then everything fell apart,

1 and now I am working in retail, so my hours are
2 crazy.

3 Q At this time when you were on [REDACTED] where
4 did Richard live?

5 A I think it's called Moore Mobile Home Park.

6 Q Where is Moore Mobile Home Park?

7 A Across from the hospital, down the frontage road.
8 I don't know the name of the street. It runs
9 parallel to the highway.

10 Q The hospital down 378?

11 A Lexington Hospital, yes.

12 Q Did ^{Minor 2} spend any time at his trailer in Moore
13 Mobile Manor?

14 A Yes.

15 Q A lot of time?

16 A Not a lot but enough, too much I think.

17 Q Was this typically when you were working or when
18 you were out?

19 A Normally when I was working.

20 Q So that would have been during the day or the
21 night?

22 A Most of the time it was during the day. Then when
23 he moved again then she would start being there at
24 night because I had to switch jobs.

25 Q When you were at [REDACTED] did Richard ever

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1 come over there to stay?

2 A He would come over, but he wouldn't like stay the
3 night or anything like that. He would just stay
4 during the day. They would play games on the
5 computer, Uno, card games. I would cook.

6 Q Were you always there during those times or were
7 you gone?

8 A Most of the time. I think maybe there was a couple
9 of times like I had to run to the store or I was
10 working, and it was like a school -- a day off from
11 school, like President's Day or something like
12 that, and I had to work. Then if he wanted to stay
13 and watch her at my house, that was fine because
14 his house had lots of roaches and stuff. I didn't
15 feel like going over there.

16 Q This is his house in Moore Mobile Manor that you
17 are referring to?

18 A Yes.

19 Q Did ^{Minor 2} ever have ^{Minor 1} over on the weekend
20 during this time?

21 A Once in a while but not very much.

22 Q Did ^{Minor 2} ever go over to ^{Minor 1} house at that
23 time?

24 A When I lived on [REDACTED] yes.

25 Q Where did ^{Minor 1} live during that time?

- 1 A She lived on [REDACTED] for a little while, and
2 then they moved to another mobile home, her mother
3 and her.
- 4 Q Another mobile home park, not Moore Mobile Manor?
- 5 A No.
- 6 Q Another one.
- 7 A I can't think of the name of the other one, where
8 they live now. I think it's in Gaston.
- 9 Q The Gaston area?
- 10 A Uh-huh. (Indicating affirmative response). Pine
11 Ridge.
- 12 Q [REDACTED] Did Minor 2 and Minor 1 ever go with
13 Richard in the car anywhere?
- 14 A Yes, he would take them shopping to Wal-Mart,
15 Family Dollar, Dollar General, Walgreen's.
16 Sometimes they went to the grocery store so I could
17 be cooking dinner.
- 18 Q Did he ever take them out to eat?
- 19 A He would stop at like Zaxby's and get them
20 something because growing children are always
21 hungry.
- 22 Q How about Minor 3 when did she become friends
23 with your daughter?
- 24 A I would say about three or four years ago.
- 25 Q And did Minor 3 -- where did they meet?

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- 1 A In school.
- 2 Q What school were they attending at the time?
- 3 A I think it was -- I am trying to think.
- 4 Q Was it a middle school or elementary school?
- 5 A Middle school.
- 6 Q What middle school did ^{Minor 2} go to?
- 7 A Northside.
- 8 Q Does she still attend Northside?
- 9 A Yes.
- 10 Q Did ^{Minor 3} spend any time over at your house on
- 11 [REDACTED]
- 12 A Oh, yes, lots.
- 13 Q That was during that school year?
- 14 A Uh-huh. (Indicating affirmative response). Yes.
- 15 Q And do you ever remember any time where Richard was
- 16 over at the house when ^{Minor 3} was there?
- 17 A There was just a couple of times that he would be
- 18 there when ^{Minor 3} was there. Because most of the
- 19 time when ^{Minor 3} was over, they were busy playing.
- 20 Q But you do remember a couple of times?
- 21 A Yes.
- 22 Q Where did you move to from [REDACTED]
- 23 A To Hammond Avenue, my boyfriend at the time,
- 24 because I was getting ready to leave town.
- 25 Q Where were y'all going?

- 1 A To Arizona.
- 2 Q Did you ever go to Arizona?
- 3 A Yeah, I have been there before, but we never made
4 it yet. I am going to though.
- 5 Q And did you ever take -- let me back up just a
6 second. Hammond Street, was that a house or stick
7 built house type or trailer?
- 8 A No, it was a trailer.
- 9 Q A mobile home?
- 10 A Uh-huh. (Indicating affirmative response).
- 11 Q How about [REDACTED]
- 12 A That was a brick house.
- 13 Q A brick house?
- 14 A No, a vinyl siding house, a regular house.
- 15 Q So you moved from the vinyl siding house on [REDACTED]
16 [REDACTED] to the mobile home park?
- 17 A The trailer, right.
- 18 Q And you said your boyfriend lived with you at that
19 point?
- 20 A Yes.
- 21 Q Did you ever go to Virginia to Richard Ratliff's
22 house in Virginia?
- 23 A Yes.
- 24 Q Who lived at that house up in Virginia?
- 25 A His mother and his brother Eddie.

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1 Q And do you remember when you went to that house?

2 An approximation will be fine.

3 A Thanksgiving, I believe, because he wanted me to
4 meet his mother.

5 Q Was it during this same year that we are talking
6 about?

7 A No, it was the year before.

8 Q And when you went to that house, did ^{Minor 2} go
9 too?

10 A Yes.

11 MR. STUMBO: Beg the Court's indulgence. May
12 I approach the witness, Your Honor?

13 THE COURT: Yes, sir.

14 BY MR. STUMBO:

15 Q I will show you what has been marked into evidence
16 as State's Exhibit 14. Do you recognize that?

17 A Yes, this is Richard's mother's house.

18 Q In Virginia?

19 A Yes.

20 Q You said it was around Thanksgiving. What happened
21 the next year? You said about this time you moved
22 to Hammond Street. Did ^{Minor 2} ever come tell you
23 anything about anything that happened with Richard?

24 THE COURT: Solicitor, let me make sure I am
25 correct. Is State's 14 in evidence?

1 COURT REPORTER: No, sir, not according to my
2 records.

3 MR. STUMBO: Your Honor, we move to put that
4 into evidence.

5 MR. WILLIAMS: We have no objection to the
6 introduction of this Exhibit.

7 THE COURT: State's 14 is in evidence without
8 objection.

9 MR. STUMBO: Thank you, Your Honor.

10 (State's Exhibit Number 14 is received into
11 evidence).

12 BY MR. STUMBO:

13 Q Ms. Smotzer, at what point did your opinion of
14 Richard as a nice older gentleman change?

15 A As soon as Minor 2 told me what happened, and then
16 Minor 1 mother called me and told me --

17 MR. WILLIAMS: Objection to hearsay, Your
18 Honor.

19 THE COURT: That is not being offered for the
20 truth of the matter asserted. It's being offered as to
21 why her -- when her opinion changed. Do not go into any
22 details about that.

23 MR. STUMBO: Thank you, Your Honor.

24 BY MR. STUMBO:

25 Q Ms. Smotzer, about when did Minor 2 tell you what

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1 had happened? Were you living at [REDACTED] at
2 the time or had you moved?

3 A No, we were on Hammond Street because we were
4 getting ready to pack up the U-Haul and move to
5 Arizona.

6 Q Do you remember what month of the year that was in
7 when she told you what had happened?

8 A July.

9 Q Of what year?

10 A I'm thinking 2007.

11 MR. STUMBO: Permission to approach, Your
12 Honor?

13 THE COURT: Yes, sir.

14 BY MR. STUMBO:

15 Q I will show you, Ms. Smotzer, what is in evidence
16 as State's Exhibit Number 3. Do you recognize
17 State's 3?

18 A Yes.

19 Q And what is State's 3?

20 A It's a letter to me from my daughter on the
21 internet.

22 Q You say it's a letter on the internet. Is it safe
23 to say it's an e-mail?

24 A Yes, I'm sorry.

25 Q And what's the date she sent that to you?

1 A July 25, 2007.

2 Q Do you remember that day when you got that letter
3 or that e-mail?

4 A Yes.

5 Q How did that make you feel when you read that?

6 A I was in shock. I didn't know what to do. And
7 then shortly after I got this is when Ms. ^{Minor 1} --
8 Ms. Sharpe now -- called me and told me --

9 MR. WILLIAMS: Objection to hearsay, Your
10 Honor.

11 THE COURT: Don't go into what she said,
12 Ms. Smotzer. That would be hearsay.

13 You may ask your next question, Solicitor.

14 BY MR. STUMBO:

15 Q So you got a follow-up call after you got this
16 e-mail from ^{Minor 1} mother?

17 A Yes.

18 MR. STUMBO: Permission to publish State's 3
19 to the jury via the witness, Your Honor.

20 THE COURT: It's in evidence, State's 3?

21 MR. STUMBO: It is.

22 THE COURT: All right. Yes, sir.

23 You may read the letter, Ms. Smotzer out loud.

24 A Hey momma, I am really sorry but Richard has tried
25 to touch me and stuff, and I am really scared

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1 because when me and Minor 1 were at his trailer, me
2 and her had found porn and be stuff. He saw that
3 we were going through his stuff because he told us
4 to, and when we found it, he started to expose
5 himself to us.

6 Minor 1 had told her mom yesterday and I was
7 freaking out, but I am really sorry that I haven't
8 told you sooner. I am really, really sorry, and
9 that was the reason why I didn't want to go to
10 Virginia with him he started to jack off in
11 front --

12 THE COURT: Please do not correct anything.
13 Read it exactly as it is.

14 A He started to jake, J-A-K-E, off in front of us and
15 stuff, but I feel like it is my fault and I feel
16 really bad. I am really sorry. I love you very
17 much. I am really sorry. We can call the cops and
18 stuff, and he can go to jail. I think I bet I love
19 you lots. Call me when you get this, and you can
20 be mad at me but I am very sorry.

21 Q You can hand that back, Ms. Smotzer. Thank you.

22 A (Witness complies).

23 Q After you read this e-mail and received a call from
24 Minor 1 mother, what did you determine to do at
25 that point? What was your decision?

- 1 A To go to the police.
- 2 Q Did you make that call?
- 3 A We met up there.
- 4 Q Where?
- 5 A At the Sheriff's Department in Lexington.
- 6 Q Did you ever meet with any other deputies before
- 7 you came to the Sheriff's Department?
- 8 A I am trying to think of his name.
- 9 Q Did he have a uniform on?
- 10 A Yes.
- 11 Q Did you meet him somewhere other than the Sheriff's
- 12 Department?
- 13 A He came to the house to get a statement, and I
- 14 think this was before we went to the police
- 15 station.
- 16 Q You talked to a man in uniform?
- 17 A Yes.
- 18 Q And gave him information?
- 19 A Yes.
- 20 Q Did you give him the e-mail that ^{Minor 2} had sent
- 21 you?
- 22 A I don't remember if I gave it to him or not.
- 23 Q But were you the one who printed that e-mail out?
- 24 A Yes.
- 25 Q You do remember giving it to the police?

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1 A Yes.

2 Q Just a couple more questions, Ms. Smotzer, and we
3 will be done. Did you ever see Mr. Ratliff with
4 any kind of camera?

5 A Yes, he had those disposable cameras taking
6 pictures all the time.

7 Q When you say disposable camera, do you mean the
8 kind you get developed or like a Polaroid?

9 A The Polaroid ones that you can buy like at Family
10 Dollar or Dollar General that only take like 20
11 pictures or something. You have to take those to
12 get those developed, don't you, yes.

13 Q Let me ask you one more question. Directly before
14 Minor 2 sent you State's Exhibit 3, this e-mail,
15 did Richard come down from the time that he had
16 moved back to Virginia?

17 A Uh-huh. (Indicating affirmative response). A
18 couple of times.

19 Q Where would he stay when he would come down from
20 Virginia?

21 A One time it was at a hotel that's off of 378. I
22 don't remember the name of it, but there was a
23 Burger King right near it and a Waffle House, and
24 then another time it was the one -- there was a
25 hotel by the airport, Knights Inn, I think.

- 1 Q You say the Knights Inn by the airport?
- 2 A Uh-huh. (Indicating affirmative response).
- 3 Q Did you ever see Richard over there at that hotel?
- 4 A Which one.
- 5 Q The Knights Inn.
- 6 A Yes.
- 7 Q Did ^{Minor 2} ever go over there to the hotel?
- 8 A Yes.
- 9 Q Was she with him, just ^{Minor 2} and Mr. Ratliff?
- 10 A Yes, during the day because they would go swimming.
- 11 Q Did you ever go swimming?
- 12 A Yes, once.
- 13 Q One more question, Ms. Smotzer. After Mr. Ratliff,
- 14 the Defendant, had moved back to Virginia, was
- 15 there ever any plans for ^{Minor 2} to go there, too,
- 16 go back with him?
- 17 A To go see his mother, but then she kept telling me
- 18 she didn't want to go. I told her, Okay, you don't
- 19 have to go. Then that's when all this started
- 20 happening, and then I realized why she didn't want
- 21 to go. I didn't know.
- 22 Q All of this was around the same time?
- 23 A Uh-huh. (Indicating affirmative response).
- 24 Q The same week?
- 25 MR. WILLIAMS: Objection to leading, Your

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1 Honor.

2 A I'm not sure.

3 THE COURT: She doesn't know the answer. You
4 may ask your next question, Solicitor.

5 BY MR. STUMBO:

6 Q Your testimony before was that it was around the
7 same time period she was to go to Virginia?

8 A Yes, before we moved to Arizona.

9 Q And approximately how long after that, all that was
10 going on, did you get this e-mail from ^{Minor 2}

11 A I would say maybe a week.

12 MR. STUMBO: That's all I have from this
13 witness at this time, Your Honor.

14 THE COURT: Thank you. Thank you, Solicitor:
15 Mr. Williams.

16 MR. WILLIAMS: May it please the Court.

17 CROSS EXAMINATION

18 BY MR. WILLIAMS:

19 Q Ma'am, you were asked by the solicitor about going
20 to, I guess, Knights Inn and swimming and that your
21 daughter went to the Knights Inn and went swimming.
22 The last time that both you and your daughter went
23 to the Knights Inn to go swimming, do you remember
24 that event?

25 A Yes.

1 Q All right. And on that particular event, you came
2 with your boyfriend?

3 A No, I came and then I went back and got my
4 boyfriend and his friend so that we could all go
5 swimming. It was really hot that day.

6 Q At that time your boyfriend was living with you;
7 isn't that right?

8 A Yes.

9 Q So you went back and got your boyfriend and his
10 friend. Was he also living with you?

11 A Yes.

12 Q And you got a cooler with a bunch of beer; is that
13 right?

14 A Yes.

15 Q Y'all came back and when you came back, there was
16 your daughter and Richard?

17 A Uh-huh. (Indicating affirmative response).

18 Q And all of y'all went swimming?

19 A Uh-huh. (Indicating affirmative response).

20 Q And then you left?

21 A Right.

22 Q So you had left, she had been staying there with
23 Richard, swimming with Richard, you came back,
24 y'all went swimming, and then all of you left?

25 A Right.

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1 Q So she went back in swimming with you with your
2 boyfriend and with this other guy after you came
3 back with this cooler of beer?

4 A Right. The cooler of beer was in the hotel room.

5 Q But you came back?

6 A Yeah.

7 Q And she didn't say anything was wrong?

8 A (Witness shakes head). (Indicating negative
9 response).

10 THE COURT: You need to answer out loud for
11 me.

12 THE WITNESS: I'm sorry, no.

13 BY MR. WILLIAMS:

14 Q She didn't say anything was wrong, right?

15 A Right.

16 Q She didn't act like anything was wrong?

17 A She just said she wanted to go home. She was
18 tired.

19 Q Was she tired after she got through swimming the
20 second time or was she tired when you came back
21 with your boyfriend and your friend?

22 A After I came back and we went swimming some more,
23 then we got out the pool. She said, Momma, can we
24 go home now because I'm tired. I said, Yeah, I am
25 sure we can. Let's go. The guys were ready to go,

1 so we left.

2 Q But she didn't act in any way like she wanted to go
3 home when you and your boyfriend got there and
4 y'all went swimming?

5 A No.

6 Q And that was the last time that either you or your
7 daughter was with Richard Ratliff?

8 A Yes.

9 Q And the first indication that you had that there
10 was any problem with Richard Ratliff and your
11 daughter was when you received this e-mail?

12 A Yes.

13 Q And the only problems that you had or indication
14 that there was any discomfort or not wanting to go
15 to Virginia was your daughter said she just didn't
16 want to go to Virginia, and you told her she didn't
17 have to; right?

18 A Yes.

19 Q Did she know that she didn't have to go to
20 Virginia?

21 A Yes, because I told her that she didn't have to go.

22 Q Who is Seth?

23 A That was ^{Minor 2} boyfriend at the time.

24 Q That was her boyfriend?

25 A (Witness nods). (Indicating affirmative response).

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- 1 Q Not just a male friend, it was a boyfriend?
- 2 A Yes.
- 3 Q And was there a concern as far as she was talking
- 4 about whether or not if she went to Virginia, she
- 5 would be back in time to see Seth that Friday?
- 6 A No.
- 7 Q Did you talk to her about it?
- 8 A No.
- 9 Q You didn't talk to her about it?
- 10 A About her seeing Seth?
- 11 Q Right.
- 12 A No.
- 13 Q But there's no question but that this was a
- 14 boyfriend that she had?
- 15 A Right.
- 16 Q Not just a friend?
- 17 A No, it was a boyfriend.
- 18 Q You received this e-mail. Where were you when you
- 19 received the e-mail?
- 20 A At my house.
- 21 Q Where was she?
- 22 A At ^{Minor 1} house spending the weekend.
- 23 Q So she and ^{Minor 1} were together?
- 24 A Yeah.
- 25 Q And there were no plans for her to go to Virginia

1 at that time; is that correct?

2 A No, we were making the plans with his mother, with
3 Richard's mother.

4 Q To go to --

5 A Yeah, when would be a good time because I had to
6 drive her there.

7 Q You had to drive her to Virginia?

8 A Yes, or else he would meet me halfway.

9 Q So there was no plans for Richard to drive her up
10 there by himself?

11 A No, we were going to meet halfway.

12 Q And this e-mail you got was on the 25th; is that
13 correct?

14 A Yes.

15 Q When did you first talk to the police?

16 A Oh, 26th, 27th. I'm not really sure.

17 Q The 26th or 27th. Which police officer did you
18 talk to on the 26th or 27th?

19 A First, it was -- I can't think of his name,
20 Mr. Grooms, Deputy Grooms. Then we went to the
21 police station, and I met Ms. Sharpe at the
22 Lexington County Police Department. We talked to
23 Mr. Presti or Detective Presti and Detective
24 Beaver.

25 Q So you've got Presti, you've got Beaver, and you

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1 said something about Sharpe?

2 A Yes, Deputy Sharpe came to the house.

3 Q Did they come to the house before you went to the
4 Sheriff's Department?

5 A Yeah.

6 Q When did you go to the Sheriff's Department?

7 A I'm thinking it was the day after.

8 Q So you would have gone there on the 26th?

9 A I'm thinking it was about that time, yes.

10 Q Okay. So you got this -- got the e-mail on the
11 25th. You went to the Sheriff's Department on the
12 26th. Let me show you what has been marked as
13 State's Exhibit Number 32. Can you tell me if you
14 can identify that. It has been placed into
15 evidence as State's Exhibit Number 32. Have you
16 ever seen that before?

17 A Yes, but I don't remember the details of it.

18 Q Is that your signature on it?

19 A Yes.

20 Q So you signed it?

21 A Yes.

22 Q You don't remember when it was written?

23 A (Witness shakes head). (Indicating negative
24 response). We were signing so many things. I
25 don't remember everything.

- 1 Q Do you remember where it was signed?
- 2 A At the police department.
- 3 Q And what is the date on that?
- 4 A July 30th.
- 5 Q So that was actually done four days later than the
- 6 date which you got the e-mail; isn't that correct?
- 7 A Yes, sir.
- 8 Q Whose handwriting is on that exhibit?
- 9 A It looks like ^{Minor 2} writing.
- 10 Q And who signed it?
- 11 A Me. I'm not sure why I signed it.
- 12 Q Turn to the last page. Tell me if you see
- 13 something which is scratched out on the last page.
- 14 A A bunch of words.
- 15 Q Whose handwriting is that?
- 16 A The scratching out, I don't know, but it's my
- 17 signature.
- 18 Q Is there anybody's signature on the last page
- 19 besides yours or ^{Minor 2}
- 20 A No.
- 21 Q Anything written on the last page would be yours or
- 22 ^{Minor 2} is that correct?
- 23 A And on the last page, there is Glenn Davis'
- 24 signature.
- 25 Q Anybody else?

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- 1 A And mine and somebody's initials that I can't make
2 out whose they are. I don't know whose writing
3 this is.
- 4 Q You don't know whose writing is written on the last
5 page? It has a line marked through it.
- 6 A Huh-uh. (Indicating negative response). It might
7 be ^{Minor 3} handwriting, you know, like to check
8 over ^{Minor 3} homework. I don't know how she
9 writes, but it could be ^{Minor 3}
- 10 Q Did you watch her write on that page?
- 11 A I don't remember, sir. I'm sorry.
- 12 Q Well your signature is on the bottom of the page,
13 right?
- 14 A Uh-huh. (Indicating affirmative response).
- 15 Q So she would have to have been in front of you
16 signing that for you to have signed that?
- 17 A Yes.
- 18 Q But you don't remember that?
- 19 A Huh-uh. (Indicating negative response). Sorry.
- 20 Q The officer that you were in front of on this
21 statement was who?
- 22 A Glenn Davis.
- 23 Q How many people were down there when y'all were
24 giving the statement?
- 25 A I am thinking seven, seven.

1 Q It was the three girls and the three mothers and
2 who else?

3 A Glenn Davis, Presti, and Beaver. So it's nine.

4 Q And the girls were in the same room as you were in
5 when the statement was being taken?

6 A Not the whole time.

7 Q Well, they were for part of the time when the
8 statement was being given?

9 A Right.

10 Q Because how else could one of the other girl's
11 statement be included with your daughter's
12 statement, right?

13 A Right.

14 Q Where do you work?

15 A Right now I work at Dollar General.

16 Q Again, the only evidence that you have that Richard
17 Ratliff could have possibly done anything wrong to
18 your daughter was this e-mail that you received
19 from your daughter?

20 A Right.

21 MR. WILLIAMS: That's all the questions I
22 have, Your Honor.

23 THE COURT: Thank you, Mr. Williams.
24 Solicitor, anything in redirect?

25 MR. STUMBO: Briefly, Your Honor.

REDIRECT EXAMINATION

BY MR. STUMBO:

Q Mr. Williams just said the only evidence you have that Mr. Ratliff did anything to your daughter is contained completely in this e-mail.

A Not only.

Q What other evidence have you got from her?

A Her talking to me, crying, and that's pretty much it, her telling me everything.

Q What has ^{Minor 2} emotional state been like since all this came out?

A She's lost a lot of weight at first. She has headaches. Her school grades dropped. She was an honor roll student. Now she is down to C.s and D.s. She's just not her normal self. She doesn't trust people anymore. I don't trust anybody, not like I used to.

Q So that is more evidence than just what she wrote to you on July 25 in the e-mail?

A Yes, I'm sorry.

Q You said, as Mr. Williams was asking about several of these statements and the signatures and who you talked to at the Sheriff's Department, I think he said you had said that Ms. Sharpe, you met at the Sheriff's Department; right? Ms. Sharpe, who is

TRACEY SMOTZER -- REDIRECT -- MR. STUMBO

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- 1 that?
- 2 A Minor 1 mom.
- 3 Q I think he asked you about a deputy and someone
- 4 said Deputy Sharpe.
- 5 A No, Deputy Sharpe, no.
- 6 Q You had said Grooms on direct.
- 7 A Grooms, yes, Grooms.
- 8 Q You misspoke with Mr. Williams?
- 9 MR. WILLIAMS: Objection to the leading.
- 10 THE COURT: Yes, you may rephrase the
- 11 question.
- 12 BY MR. STUMBO:
- 13 Q Was there a Deputy Sharpe?
- 14 A No, it was Deputy Grooms.
- 15 Q Who was the Sharpe you were referring to?
- 16 A Ms. Sharpe, Minor 1 mother.
- 17 Q Was she at the sheriff's department that day with
- 18 you?
- 19 A She met me up there.
- 20 Q This statement that has your signature at the
- 21 bottom, I believe Mr. Williams referred this to
- 22 you, State's Exhibit 32. Do you remember who had
- 23 you sign your statement, your name to this
- 24 statement?
- 25 A Probably Mr. Davis told me to go ahead and sign it.

1 Q Was that because you had written the statement?

2 A No, because I had read it.

3 Q Who wrote this statement, State's 32? Whose
4 handwriting is this on the front?

5 A That is ^{Minor 2}

6 Q On page 2 of State's Exhibit 32, whose handwriting
7 is that?

8 A ^{Minor 2}

9 Q And page 3, down to this line I am pointing to,
10 whose handwriting is that?

11 A ^{Minor 2}

12 Q This writing that is crossed out after that, is
13 that ^{Minor 2} writing?

14 A No. I am thinking it might be ^{Minor 3} but I
15 can't be for sure.

16 Q You were there with ^{Minor 2} when she wrote this
17 statement?

18 A Yes.

19 MR. STUMBO: That's all I have, Your Honor.

20 MR. WILLIAMS: A couple of questions.

21 **RECROSS EXAMINATION**

22 BY MR. WILLIAMS:

23 Q Ma'am, when your daughter started losing this
24 weight, did you take her to the doctor?

25 A No.

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1 Q Did you have her examined?

2 A The police took care of all that.

3 Q The police took care of all that?

4 A She had go to doctor for a physical and an
5 emotional like interview.

6 Q Like a test?

7 A Yeah.

8 Q But she wasn't taken to the doctor because she was
9 having some sort or ailment?

10 A No, she was still eating. She just starting losing
11 weight.

12 Q And you haven't taken her to a doctor to have her
13 checked out to see if she has some sort of physical
14 problem?

15 A No.

16 Q And you haven't taken her to any kind of counselor
17 to have her treated for some sort of emotional
18 problem, have you?

19 A We have been to --

20 MR. STUMBO: Your Honor, I will object to the
21 relevance.

22 THE COURT: Overruled.

23 A We have taken her to counseling. I don't remember
24 the name of the place, but Glenn Davis and all of
25 them -- the A.R.C. That was part of it.

1 Q That was for the forensic evaluation test done at
2 the request of the police, wasn't it?

3 A Right.

4 Q So you haven't taken her for any counseling, have
5 you?

6 A Right, because I have no money.

7 Q And you haven't tried to see if there were any
8 programs that could be useful to pay for any
9 counseling if she needed it, have you?

10 A No, because I'm not aware of it.

11 Q And you haven't checked into that either?

12 A No, I haven't had time. I am working all the time.
13 I work crazy hours.

14 MR. WILLIAMS: I don't have any further
15 questions, Your Honor.

16 THE COURT: Thank you. Thank you very much,
17 Ms. Smotzer. You may step down.

18 (Witness leaves the witness stand).

19 THE COURT: Solicitor, you may call your next
20 witness.

21 MR. STUMBO: Your Honor may we approach?

22 THE COURT: Yes, sir.

23 (Whereupon there was a bench conference off
24 the record in the presence of the jury but out of the
25 hearing of the jury).

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1 THE COURT: Mr. Foreman, and ladies and
2 gentlemen of the jury, I have one matter to take up
3 before the next witness appears before you. I will see
4 how long it will take. If I see it will be an extended
5 period of time, I will send you on to lunch, but right
6 now if you would step to the jury room. Do not discuss
7 the case among yourselves during this brief recess.

8 (The jury retires to the jury room).

9 THE COURT: Solicitor, you may call your next
10 witness.

11 MR. STUMBO: The State would call Mr. Robert
12 Shaw to the witness stand.

13 ROBERT SHAW, being
14 first duly sworn, testifies as follows:

15 CLERK: State your full name.

16 THE WITNESS: Robert Shaw, S-H-A-W.

17 THE COURT: Solicitor.

18 IN CAMERA EXAMINATION

19 BY MR. STUMBO:

20 Q Good morning, Mr. Shaw. I will ask you a few brief
21 background questions here. Where do you currently
22 live?

23 A I live at [REDACTED] in Moore Mobile Manor.

24 Q Moore Mobile Manor?

25 A A mobile home park.

ROBERT SHAW -- IN CAMERA -- MR. STUMBO

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- 1 Q How long have you lived there?
- 2 A Approximately three years.
- 3 Q You moved there in 2006?
- 4 A Yes.
- 5 Q How do you know Richard Ratliff, the Defendant?
- 6 A At the time that I moved there, he was my landlord.
- 7 Q And did you ever have any interaction with him as
- 8 him being your landlord?
- 9 A No, sir, just paid my rent.
- 10 Q How would you pay your rent?
- 11 A I would carry it to his house and pay him, and he
- 12 would give me a receipt.
- 13 Q Did you go knock on his door then?
- 14 A Yes, sir.
- 15 Q How close did he live to where you lived?
- 16 A Probably maybe 200-yards.
- 17 Q Now, at the time he lived there in Moore Mobile
- 18 Manor as your neighbor, did he ever have any young
- 19 females at the house with him?
- 20 A Yes, sir, he did.
- 21 Q Did you see that female outside the house or in the
- 22 car with him? Where did you see her?
- 23 A Yes, sir, outside the home and in his vehicle.
- 24 Q Is the girl that you saw with him on a regular
- 25 basis in the courtroom today?

1 A Yes, sir.

2 Q And where is she? If you could point her out for
3 the record.

4 A The young lady with the green sweater on.

5 Q Now, Mr. Shaw, is there anything that happened at
6 Moore Mobile Manor, any incident concerning
7 Richard, that alarmed you or concerned you?

8 A Yes, there was an incident -- this was after I
9 became his landlord that I was over in the office
10 adjacent to his home, and I heard a young girl
11 screaming. A young lady said, Leave me alone. Get
12 off of me.

13 I walked across the street, and I knocked on
14 the side of the trailer. Mr. Ratliff came to the
15 door and I said, Is everything okay? He said, This
16 is none of your damn business. This is my
17 granddaughter, and I can discipline her in any way
18 I want to.

19 Q What did he do after he said that to you?

20 A He closed the door.

21 Q Did you have any reason to believe this was not his
22 granddaughter?

23 A No, sir, he had introduced me to her as his
24 granddaughter when I went to pay my rent one
25 afternoon.

ROBERT SHAW -- IN CAMERA -- MR. WILLIAMS

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1 Q Did you see a young lady in the house when you went
2 to the door?

3 A No, sir, I didn't.

4 Q Had he introduced the young lady that you pointed
5 out for the record earlier as his granddaughter at
6 any other point when you moved there?

7 A Yes. I went to pay my rent one day, and she came
8 to the door and opened the door. He grabbed her
9 and slung her back away from the door and over
10 toward a couch. Then I kind of raised my eyebrow
11 at him because of the behavior, and he said, That's
12 my granddaughter. I said really? He said, Yes,
13 this is ^{Minor 2} my granddaughter.

14 MR. STUMBO: That's all we have, Your Honor.

15 THE COURT: Thank you, Solicitor.

16 Mr. Williams.

17 IN CAMERA EXAMINATION

18 BY MR. WILLIAMS:

19 Q Did I understand you, Mr. Shaw, to say that there
20 are actually two events that you are describing in
21 reference to ^{Minor 2}, the young girl? There
22 are actually two events that you actually came to
23 the trailer, and you saw her there and has some
24 strange feeling with Mr. Ratliff?

25 A Yes.

- 1 Q One you said was when you were paying rent, and
2 that was essentially you said he pushed her to the
3 couch?
- 4 A Yes, sir.
- 5 Q And the other occasion was when you were the
6 landlord?
- 7 A Yes, sir.
- 8 Q Meaning who was the manager at that time?
- 9 A I was the manager at that time.
- 10 Q So you were the manager?
- 11 A On the second incident.
- 12 Q So you were the manager and landlord at that time?
- 13 A Yes, sir.
- 14 Q And you went over there and is that the time when
15 you said that you heard something?
- 16 A Yes, sir.
- 17 Q Did you report this to the police in any way?
- 18 A No, sir, I didn't.
- 19 Q When was that?
- 20 A That was in February.
- 21 Q February of what?
- 22 A Of 2007.
- 23 Q When did you become manager of the park?
- 24 A December of 2006.
- 25 Q And when did Mr. Ratliff leave the park?

ROBERT SHAW -- IN CAMERA -- MR. WILLIAMS

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1 A He was evicted by myself in May of 2007.

2 Q And why was he evicted?

3 A For nonpayment of rent.

4 Q Does the same person own both mobile home parks?

5 A At that time.

6 THE COURT: What are both mobile home parks?

7 MR. WILLIAMS: I am having a hard time with
8 it, something manor mobile home park.

9 THE WITNESS: Moore Mobile Manor.

10 BY MR. WILLIAMS:

11 Q Moore Mobile Manor?

12 A That was in West Columbia.

13 Q And they owned what other trailer park?

14 A And they owned [REDACTED] Mobile Home Park in
15 Gaston.

16 Q Are you the manager of both of those parks?

17 A Not anymore I'm not.

18 Q But you were?

19 A I was at that time under that ownership.

20 Q Up until when?

21 A Up until December of this year, of last year.

22 Q Were you aware of any arrangements with the owners
23 and Mr. Ratliff in reference to whether or not he
24 was required to pay rent in 2007? February, March,
25 April of 2007?

1 A I was not under those impressions, no.

2 Q Did you know that he had another trailer in Moore
3 Mobile Manor?

4 A He had two trailers in Moore Mobile Manor. One he
5 sold and one he was living in.

6 Q And it's your testimony that you never had any
7 problems with Mr. Ratliff, other than the fact you
8 say that he didn't pay his rent, and that's why he
9 was evicted?

10 A He was evicted for not paying rent. I didn't say I
11 didn't have more problems with him.

12 Q What kind of problems did you have with him?

13 A More or less attitude problems.

14 Q Attitude problems?

15 A There was some animosity between him and I because
16 we had reversed roles.

17 Q Did you have any problems about you bought maybe a
18 lawn mower from him for \$250?

19 A Yes.

20 THE COURT: Let me stop you. How is this
21 relevant to my decision of whether or not -- it may be
22 relevant as far as cross examination --

23 MR. WILLIAMS: It's not.

24 THE COURT: -- if I allow the testimony. How
25 is it relevant as far as my decision to determine

1 whether or not this evidence is admissible.

2 MR. WILLIAMS: It absolutely is not, Your
3 Honor, and I will sit down.

4 THE COURT: Do you want to ask anything else
5 concerning the direct testimony?

6 MR. WILLIAMS: No, sir.

7 THE COURT: Do you want to ask anything on
8 redirect, Solicitor, concerning the incidents?

9 MR. STUMBO: No, Your Honor.

10 THE COURT: Let me make sure I am tracking
11 this right. First, Mr. Shaw there's two incidents.

12 THE WITNESS: Yes, sir.

13 THE COURT: That you testified to on direct.
14 The first time you went to pay the rent, you went to his
15 trailer.

16 THE WITNESS: Yes, sir.

17 THE COURT: And he was the manager?

18 THE WITNESS: Yes.

19 THE COURT: When was that time?

20 THE WITNESS: I don't remember. All I know it
21 was in 2006.

22 THE COURT: That's the incident you talked
23 about, grabbing her, pushed her back towards the couch,
24 raised your eyebrows, and, This is my granddaughter,

25 Minor 2

1 THE WITNESS: Yes, sir.

2 THE COURT: And you would see her out there
3 from time to time?

4 THE WITNESS: Yes, sir, I would see her in the
5 yard.

6 THE COURT: I believe you said and in his
7 vehicle?

8 THE WITNESS: In his car.

9 THE COURT: Then the second time you testified
10 to today was the incident where you were in the office
11 adjacent to his house and some screaming got your
12 attention?

13 THE WITNESS: Yes, sir.

14 THE COURT: You walked over and knocked on his
15 door?

16 THE WITNESS: Uh-huh. (Indicating affirmative
17 response).

18 THE COURT: You heard this statement, Leave me
19 alone. Get off of me?

20 THE WITNESS: Yes, sir.

21 THE COURT: That was February of '07.

22 THE WITNESS: Yes.

23 THE COURT: You knock on the door. Is
24 everything okay? His statement is, None of your damn
25 business. It's my granddaughter. I will discipline her

1 anyway I want to. Is that correct?

2 THE WITNESS: Yes, sir.

3 THE COURT: All right. Thank you. Thank you
4 very much. You may step down, Mr. Shaw.

5 (Witness leaves the witness stand).

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

8 MR. STUMBO: Thank you, Judge. I think as to
9 both instances he testified to, both of them -- and as
10 to all the times he saw the young lady he pointed out in
11 court here, which is ^{Minor 2} over at his trailer in
12 Moore Mobile Manor, saw her outside playing --

13 THE COURT: I think he can testify to that.
14 There is no question about that, but get to the issue on
15 the substance of the conduct he observed the first time
16 and the second time.

17 MR. STUMBO: Your Honor, obviously the first
18 time would just corroborate ^{Minor 2} testimony as to
19 the fact she was there a lot and her testimony that he
20 called her his granddaughter. That was one incident
21 where Mr. Shaw approached the house, and he referred to
22 ^{Minor 2} as his granddaughter. That corroborates her
23 testimony.

24 THE COURT: I will allow him to testify that
25 he went to the house to pay the rent, that ^{Minor 2} was

1 there, and he identified ^{Minor 2} as his granddaughter.

2 I don't have any problem with that.

3 MR. STUMBO: The incident where he says -- I
4 can instruct him not to say that he saw him sling her
5 back. I understand that. We will keep that limited.

6 THE COURT: All right. Do you have any
7 objections to my ruling as to the first incident,
8 Mr. Williams?

9 MR. WILLIAMS: No, I do not, Your Honor.

10 THE COURT: As to the second incident,
11 Solicitor?

12 MR. STUMBO: The second incident, Your Honor,
13 we believe is relevant as well. He hears a young female
14 voice. Although he doesn't see ^{Minor 2} face,
15 Mr. Ratliff again refers and says, I will discipline my
16 granddaughter any way I want.

17 So the inference is his granddaughter he has
18 referred to before as ^{Minor 2} is the one in the house,
19 and the one who was excitedly telling him to get away
20 from her.

21 I think it's relevant as to the incidents she
22 has talked about. She said she resisted him on a number
23 of occasions. She didn't testify as to specifically
24 words that she said during those times where she
25 resisted him.

1 THE COURT: Well, isn't the second incident,
2 as is the first -- but I have already ruled on the
3 first -- aren't you attempting to have it admitted under
4 404 (b)?

5 MR. STUMBO: Yes, sir, and under the res
6 gestae argument, I believe it's part of the course of
7 conduct.

8 THE COURT: It has got to meet 404 (b) first.
9 It's an unindicted other bad act, other bad crime, wrong
10 or act. That's what both the first and second incident
11 is. We will focus on the second one because that's the
12 one I haven't ruled on.

13 Irrespective of hearsay or res gestae, there
14 are several standards that the State has to meet. First
15 off, it has got to be shown by clear and convincing
16 evidence.

17 Second off, it can't be admissible to show a
18 person's character. It may be admissible to show
19 motive, identity, existence of a common plan or scheme,
20 the absence of mistake or accident or intent. So you
21 have got to have proof, clear and convincing proof,
22 showing one of those requirements under 404 (b). Which
23 one? What are you relying on?

24 MR. STUMBO: I believe two of them apply, Your
25 Honor. One, identity. It's our burden to prove

1 identity of both the Defendant and of the victim here.
2 He had identified her as, My granddaughter.

3 THE COURT: I think you can -- I have already
4 said I think Mr. Shaw can testify -- he can testify he
5 went over there February of '07 to the Ratliff
6 residence.

7 Ratliff was there, the Defendant, and ^{Minor 2}
8 was there in the Moore Mobile Manor. I think he can
9 testify to that. I don't think that's a wrong. I think
10 he can testify to that. I am concerned about the
11 conduct itself, Solicitor.

12 MR. STUMBO: Yes, sir. I believe two others
13 apply. Common scheme or plan would be one, and that
14 would apply to the fact that this occurred over a long
15 period of time.

16 Our testimony we have already heard in court
17 is it happened repeatedly. This would be an incident
18 between the dates that it started and the date that it
19 ended. Our witnesses have said it happened numerous
20 times in between.

21 My argument would be it would go to common
22 scheme and plan. Secondly, Your Honor, I think it goes
23 to lack of accident or mistake. It goes to lack of
24 mistaken identity in one sense, Mr. Shaw's identity of
25 the Defendant.

1 It goes to lack of accident or mistake, if
2 there is any defense that -- and of course, they haven't
3 put a defense up yet. I don't know what the defense is
4 going to be. But if the cross examination is geared
5 towards, Yeah, I wrestled around with them, but I never
6 intended to sexually do anything with them.

7 THE COURT: I don't think it's admissible. I
8 will deny it. I think it's admissible as to dates when
9 Mr. Shaw goes over there. Common plan and scheme, I
10 think in my cursory study of it, has been tightened up a
11 great deal as far as the similarities are concerned
12 between the conduct and the indicted offense.

13 You don't have the victim testifying to this
14 event. I'm not sure right now it meets the clear and
15 convincing standard either. I think Mr. Shaw can
16 testify as to times he goes over there.

17 I think he can testify to the identity of
18 Minor 2 that Minor 2 has been identified by
19 Mr. Ratliff as his granddaughter, that he has seen her
20 there outside the home.

21 He has seen her in the home, and he has seen
22 her in the vehicle. I do not and will not allow you to
23 go into the substance of the conduct on the first nor
24 the second incident at Moore Mobile Manor.

25 Additionally in the beginning of Mr. Shaw's

1 testimony, the words were used plurally. He saw young
2 females. It was pluralized. If that's true, that's
3 fine. Then we just talked about ^{Minor 2} If it's more
4 than one, that's fine, whatever the answer is, but I
5 want to make sure you get that clear before he gets on
6 the stand.

7 MR. STUMBO: Yes, sir.

8 THE COURT: And he doesn't pluralize it. Do
9 y'all want to take this up before we break for lunch?

10 MR. STUMBO: I think we can.

11 MR. WILLIAMS: I think we can now, Judge.

12 THE COURT: Madame Bailiff, if you would bring
13 the jury, please.

14 (The jury returns to the courtroom).

15 THE COURT: Solicitor, you may call your next
16 witness.

17 We will try to take one more witness before
18 your luncheon recess.

19 MR. STUMBO: The State would call Robert Shaw
20 to the stand.

21 ROBERT SHAW, being
22 first duly sworn, testifies as follows:

23 CLERK: State your full name and spell your
24 last name.

25 THE WITNESS: Robert Shaw, S-H-A-W.

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1 DIRECT EXAMINATION

2 BY MR. STUMBO:

3 Q Good morning, Mr. Shaw. Can you tell us where you
4 currently reside?5 A [REDACTED] in West Columbia, Moore Mobile
6 Manor Mobile Home Park.

7 Q How long have you lived in Moore Mobile Manor?

8 A About three years.

9 Q Are you retired now?

10 A Yes, sir.

11 Q Where did you work before you retired?

12 A I worked for the South Carolina Department of
13 Corrections.

14 Q How long did you work there?

15 A Eighteen years.

16 Q And since then, since you have been retired, have
17 you been involved with other business ventures?18 A Yes, sir. I have managed Moore Mobile Manor for a
19 year, and then I managed [REDACTED] Mobile Home
20 Park for almost two years, and I'm now working with
21 a management company that manages mobile home
22 parks.23 Q Was this during the same time frame that you
24 managed both Moore Mobile Manor and [REDACTED]

25 A Yes, sir.

1 Q And when you moved to Moore Mobile Manor, did you
2 immediately become the manager of the place?

3 A No, sir.

4 Q Who was the manager of the Moore Mobile Manor Park
5 when you first moved there?

6 A Richard Ratliff.

7 Q That's the Defendant sitting over here?

8 A Yes, sir.

9 Q What kind of interaction did you have with him when
10 he was the manager?

11 MR. WILLIAMS: Objection to that, Your Honor.

12 THE COURT: I will allow it.

13 BY MR. STUMBO:

14 Q What's the first time you had any interaction with
15 Mr. Ratliff?

16 A When I would go pay my rent to him.

17 Q Any of those times when you went to pay your rent
18 to him, did you see any other individuals in the
19 house with him?

20 A Yes, he had a female child in the home with him.
21 He introduced her to me as his granddaughter.

22 Q Was this same child, was that the only time you saw
23 her or did you see her at other times?

24 A No, I saw her fairly often around the house and in
25 his car.

ROBERT SHAW -- DIRECT -- MR. STUMBO

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1 Q You say this time you went to the door to pay your
2 rent, this young child was in there, and he
3 identified her as his granddaughter?

4 A Yes, she came to the door and he introduced her as
5 his granddaughter.

6 Q Is this girl in the courtroom today?

7 A Yes, sir.

8 Q Where is she in the courtroom?

9 A The young lady here with the green sweater on.

10 Q You saw her often at the mobile home park?

11 A Yes, sir.

12 Q Were there any other times when you interacted with
13 Richard where he referred to his granddaughter
14 being in the house?

15 A Yes, sir.

16 Q And at that time did you come to the door, and he
17 mentioned his granddaughter was home?

18 A Right, yes.

19 MR. STUMBO: That's all I have, Your Honor.

20 MR. WILLIAMS: No questions, Your Honor.

21 THE COURT: Thank you very much. Thank you,
22 Mr. Shaw. You may step down.

23 (Witness leaves the witness stand).

24 THE COURT: Anything for the jury before we
25 take our luncheon recess, Solicitor?

1 MR. STUMBO: Nothing at this time, Your Honor.

2 THE COURT: Mr. Williams?

3 MR. WILLIAMS: Nothing from the Defendant,
4 Your Honor.

5 THE COURT: Thank you very much. Mr. Foreman,
6 and ladies and gentlemen of the jury, we are now going
7 to take our luncheon recess. I will remind you during
8 the recess, do not discuss the case with anyone,
9 including your fellow jurors, your lunch mates, family,
10 friends or anyone else.

11 If anyone tries to talk with you about the
12 case, please let me know immediately. Remember do not
13 begin your deliberations and keep an open mind until I
14 advise you to begin your deliberations.

15 With that being said you are now excused for
16 lunch. I'd ask you to please be back in your jury room
17 at 2:30. Please be back at 2:30. If you will leave
18 your notes up there, the clerk will secure them during
19 the luncheon recess. Thank you very much.

20 (The jury is excused for lunch at 1:07 p.m.)

21 THE COURT: Anything further, Solicitor?

22 MR. STUMBO: Nothing at this time, Your Honor.

23 THE COURT: Mr. Williams?

24 MR. WILLIAMS: Nothing.

25 THE COURT: As far as this case, we will be in

1 recess until 2:30.

2 (Whereupon there was a luncheon recess).

3 THE COURT: Solicitor, anything before we
4 bring in our jury?

5 MR. STUMBO: Yes, sir, I do have one issue,
6 Your Honor.

7 THE COURT: All right.

8 MR. STUMBO: I know you asked us yesterday
9 what version of the criminal sexual conduct of a minor
10 statute was in effect at the time of this incident.

11 THE COURT: I think I found it but go ahead.

12 MR. STUMBO: Yes, sir. After reviewing our
13 indictments, I realized a scrivener's error that we have
14 in there. It's my fault completely. What we have is
15 this, Your Honor.

16 In 2006 the statute was changed under
17 Jessica's Law. They reclassified the statute. It used
18 to be 16-3-655 of the Code of Laws. It was classified
19 in subsections (1), (2), and (3).

20 Number one section was first degree C.S.C.
21 with a minor, two was second degree C.S.C. with a minor,
22 and three was also C.S.C. with a minor second degree but
23 a different set of elements based on the age of the
24 victim.

25 Former Subsection (2) was sexual battery with

1 a victim who was between the ages of 11 and 14. Your
2 Honor, when the statute was changed over, what was
3 formerly Subsection (2) of that statute became
4 Subsection (b) (1). It changed to (b) (1) and (2).

5 The language didn't change. They just
6 reclassified where it was in the statute. I realized in
7 my indictments, Your Honor, we went with the old
8 Subsection, which is 655, Subsection (2).

9 These crimes occurred after the statute had
10 changed. So it should be 655 (b) (1). We don't believe
11 that there is any due process or sufficiency issue, Your
12 Honor, and none was obviously raised by Mr. Williams
13 before the trial.

14 However, we would ask the Court at this point,
15 just for the sake of having the correct label on the
16 language that is there, to alter or amend our
17 indictments from Subsection (2) to Subsection (b) (1).

18 THE COURT: Mr. Williams.

19 MR. WILLIAMS: Your Honor, obviously we would
20 object to that. We think a proper procedure, since he
21 was -- I guess he wasn't properly indicted -- would be
22 that perhaps they nol-pros without prejudice and try
23 those three indictments at another time. Because he
24 certainly -- that would not prevent him from trying
25 those indictments at another time.

1 MR. STUMBO: Your Honor, I do have some case
2 law at the proper time if you want that or to put that
3 on the record.

4 THE COURT: Yes, sir.

5 MR. STUMBO: Your Honor, I've got State versus
6 Gentry. The case cite on that is 363 S.C. 93. It's a
7 Supreme Court case, State Supreme Court from 2005. Your
8 Honor, I'm sure you are well aware of the Gentry case.

9 It was a case where the Supreme Court settled
10 fairly conclusively that indictment issues do not -- any
11 sufficiency in the indictment doesn't have to do with
12 the subject matter jurisdiction of the Court but only as
13 to notice and due process to the Defendant.

14 In that case they established that if there
15 was any defect in an indictment, it didn't deprive the
16 Court of jurisdiction. It simply was an issue of
17 notice, whether it was proper notice given to the
18 Defendant.

19 We believe under State v. Gentry, proper
20 notice, as our indictment stands now, was given to the
21 Defendant. We don't believe it destroys the Court's
22 jurisdiction over these indictments.

23 Furthermore, Your Honor, I do have -- and just
24 to cite the Gentry case as to what I said before, the
25 Supreme Court said in Gentry that an indictment, if it's

1 challenged as insufficient or deficient, that has to be
2 done by motion of the defense before the jury is sworn,
3 not afterwards is what the Court decided there.

4 That wasn't done by Mr. Williams. So, Your
5 Honor, I guess to make things short, our motion here is
6 not based on the fact that we don't think it's
7 sufficient as it is.

8 We are raising the motion to make it -- just
9 to straighten things out at this point. We don't think
10 it's a deficient indictment. We do believe it was a
11 scrivener's error based on, like I said, oversight on my
12 part, Your Honor. I should have caught that before it
13 went to the grand jury. I didn't.

14 THE COURT: Well, it clearly doesn't go to the
15 issue of subject matter jurisdiction. For purposes of
16 the record, is there anything else you would like to
17 say, Mr. Williams?

18 MR. WILLIAMS: No, sir.

19 THE COURT: For purposes of the record, it's
20 three indictments, 2007-GS-32-2884, 2885, and 2886, all
21 of which have been true billed by the grand jury.
22 Number 2884 is an indictment for criminal sexual conduct
23 with a minor second. That's on the face on the
24 indictment and on the upper left.

25 It alleges that the Defendant did, on or about

1 July 23, '07, commit a sexual battery upon a minor who
2 was 14 years of age or less but who was at least 11
3 years of age, to wit, the Defendant did digitally
4 penetrate the anus and vagina of Minor 2 age
5 11, in violation of 16-3-655 (2) of the South Carolina
6 Code of Laws, 1976 as amended.

7 That's why I asked the question. It would be
8 16-3-655 (b) (1). I would find that that is a
9 scrivener's error in that regard. It does not entail
10 the jurisdiction of this Court.

11 Indictment 2885 is basically the same, except
12 it alleges the same victim, alleges cunnilingus,
13 criminal sexual conduct with a minor second on the face
14 of the indictment, on the upper right and body of the
15 indictment. The number is wrong. I would again state
16 that it does not involve lack of this Court's
17 jurisdiction.

18 Finally 2886 reads, On or about June 25, '07,
19 a sexual battery with and upon the body of Minor 3
20 age 13, performing cunnilingus. Again, I would say it
21 does not involve the subject matter jurisdiction of the
22 Court.

23 It is a notice document, the indictments are.
24 It's clear what the Defendant is required to answer.
25 It's further clear what the Court would be able to

1 impose as far as a maximum sentence should the jury
2 return a verdict of guilty on those charges.

3 So I would grant your motion to amend the
4 indictment to 16-3-655 (b) (1), the three indictments,
5 and deny your motion to dismiss. Anything further,
6 Solicitor?

7 MR. STUMBO: Nothing further, Your Honor.

8 MR. WILLIAMS: Nothing from the Defendant,
9 Your Honor.

10 THE COURT: Since we are on this issue, what
11 about the 2007-GS-32-2888 indictment, Solicitor? It's
12 the indictment for committing or attempting a lewd act
13 upon a minor.

14 MR. STUMBO: Your Honor, I believe the
15 statutes referenced there are correct and on the face of
16 the indictment --

17 THE COURT: I believe it's correct, too. I
18 believe you have two different victims listed in the
19 body of the indictment.

20 MR. STUMBO: Yes, sir.

21 THE COURT: That's why I didn't misread it. I
22 read it the way it was.

23 MR. STUMBO: That is correct, Your Honor. We
24 would ask that one be altered or amended. That is
25 something I should have caught before it went to the

1 grand jury.

2 THE COURT: What am I supposed to alter or
3 amend?

4 MR. STUMBO: Your Honor, this is involving
5 Minor 3 who is age 13. It should have had her name
6 the first place where it says Minor 1 So in
7 other words, the first reference in this case was to
8 Minor 1 the intent, and then the references in
9 the to wit part, Minor 3 It should have said
10 Minor 3 in both places.

11 MR. WILLIAMS: Now, that's a horse of a
12 different color because now how is the Defendant
13 supposed to know which one he was going after at the
14 beginning of the case?

15 He goes in thinking it could be either one, I
16 guess, and now he is amending it in the middle of the
17 State's case to pick one. We would object to that
18 amendment at this time, Your Honor.

19 THE COURT: I will take it under advisement,
20 Solicitor. I think you need to do a little research on
21 that issue.

22 MR. STUMBO: Yes, sir, I will.

23 THE COURT: Because, for example, let's say he
24 was putting up an alibi defense. We wouldn't know -- he
25 would have to fight on two fronts. Just do some

1 research. I don't know the answer to that.

2 MR. STUMBO: Yes, sir.

3 THE COURT: I think I know the answer. I
4 would be glad to look at some more law.

5 MR. STUMBO: We will get some case law on
6 that.

7 THE COURT: Anything further? Mr. Williams,
8 anything?

9 MR. WILLIAMS: Nothing at this time, Your
10 Honor.

11 THE COURT: Thank you. Madame Bailiff.

12 (The jury returns to the courtroom at
13 2:51 p.m.)

14 THE COURT: Welcome back, ladies and gentlemen
15 of the jury. I hope you had a pleasant lunch. We are
16 continuing with the trial of the case by the
17 presentation of testimony by the State.

18 Solicitor, you may call your next witness.

19 MR. STUMBO: Thank you, Your Honor. The State
20 would call Deputy Jonathan Grooms to the stand.

21 THE COURT: Deputy Grooms, if you would come
22 around, please.

23 JONATHAN HORTON GROOMS, being
24 first duly sworn, testifies as follows:

25 CLERK: State your full name and spell your

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1 last name.

2 THE WITNESS: Jonathan Horton Grooms.

3 DIRECT EXAMINATION

4 BY MR. STUMBO:

5 Q Deputy Grooms, good afternoon. How are you doing?

6 A Fine.

7 Q Thank you for being here. I take it by the
8 uniform you are wearing you work for the Sheriff's
9 Department here?

10 A That is correct.

11 Q And what is your primary role right now with the
12 Sheriff's Department?

13 A Right now I serve as the school resource officer
14 for Batesburg Leesville High School.

15 Q S.R.O. of Batesburg Leesville?

16 A Yes, sir.

17 Q And how long have you been doing that?

18 A Approximately a year now.

19 Q Before you went over to Batesburg Leesville High
20 School to be the S.R.O., what did you do at the
21 Sheriff's Department?

22 A I was a road deputy.

23 Q And as a road deputy, what were your duties?

24 A To answer calls for service and minor traffic.

25 Q You say calls for service, does that come from a

1 dispatcher?

2 A Yes, sir.

3 Q You would go out and take reports?

4 A Yes.

5 Q Did you take any reports in the case involving the
6 Defendant, Richard Ratliff?

7 A Yes.

8 Q And what dates did you take your reports on this
9 case?

10 A I took the first initial report on July 25th of
11 2007, and then I took another report on July the
12 26th, 2007.

13 Q The first report on July 25, 2007, what was that in
14 regards to?

15 A It was in regards to indecent exposure.

16 Q Do you know who you met with when you took that
17 report?

18 A The complainant was Shirley Sharpe and her
19 daughter, Minor 1

20 Q Did you meet with Ms. Sharpe and Ms. Minor 1

21 A Yes.

22 Q How in depth do you get on the front end with these
23 sort of cases? Do you want to find out everything
24 or how much do you want to find out?

25 A Basically we just get the initial report, basically

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1 just the surface of what is going on.

2 Q The 26th you say -- on the 25th you met with
3 Ms. Sharpe and Ms. ^{Minor 1} who did you meet with in
4 regards to your report on the 26th?

5 A I met with Tracey Smotzer and her daughter ^{Minor 2}
6 [REDACTED].

7 Q Deputy Grooms, after you met with them, did you
8 document everything in your reports?

9 A Yes.

10 Q And at that time where did you refer those reports
11 to?

12 A Those reports are turned into our reporting system
13 at the Sheriff's Department, and then they are
14 assigned to investigators.

15 Q So you don't do the follow-up investigation?

16 A No.

17 Q And was this case referred to investigators?

18 A Yes.

19 Q Who were these cases referred to, do you know?

20 A They were referred to Deputy Eddie -- I can't
21 pronounce his last name.

22 Q Prestigiacomo?

23 A Yes.

24 Q This guy right here?

25 A And also Glenn Davis.

1 Q Did you collect anything from them at that time?

2 A The only evidence I got was a letter that ^{Minor 1}
3 wrote to her mother about the incident.

4 MR. STUMBO: Permission to approach, Your
5 Honor.

6 THE COURT: Yes, sir.

7 BY MR. STUMBO:

8 Q I will hand you State's Exhibit 2. Does that look
9 like that letter, Deputy Grooms?

10 A Yes.

11 Q Who did you give this letter to after you took it?

12 A It was turned in with the reports to my supervisor
13 at that time.

14 Q To stay with your case file?

15 A Yes.

16 MR. STUMBO: No further questions from this
17 witness, Your Honor.

18 THE COURT: Thank you, Solicitor.
19 Mr. Williams?

20 CROSS EXAMINATION

21 BY MR. WILLIAMS:

22 Q Officers Grooms, I think you said your first
23 meeting with anybody was on the 25th?

24 A Yes.

25 Q July 25?

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- 1 A Yes.
- 2 Q Of what year?
- 3 A 2007.
- 4 Q Who was that meeting with?
- 5 A That was with Ms. Shirley Sharpe and her daughter
- 6 Minor 1
- 7 Q Where did you meet them at?
- 8 A At the trailer park on [REDACTED]
- 9 Q And where was your meeting on July 26th?
- 10 A I met them -- they called in and they actually met
- 11 me at the Sheriff's Office, the subdivision on Lynn
- 12 Creek Drive.
- 13 Q So you met with Tracey and Minor 2 -- how do you
- 14 pronounce their last name?
- 15 A Smotzer.
- 16 Q Smotzer. On the 26th at the Sheriff's Department,
- 17 right?
- 18 A Yes.
- 19 Q When you met with either groups of persons, did you
- 20 ask anybody to do any type of statement?
- 21 A No.
- 22 Q And as I understand your testimony, you don't want
- 23 to know a lot about the case, you just want to have
- 24 a general understanding about the case?
- 25 A No, that's not necessarily true. Basically my job

1 at that time is to just get the surface of the
2 case.

3 Q So you don't try to find out any facts about the
4 case?

5 A When you say facts, what do you mean?

6 Q Dates, times, who is involved, what happened, when
7 it happened, where it happened.

8 A I got that in my report. Basically what I was told
9 was between June and July of '06 is when it
10 happened, and it was at the [REDACTED] Minor 1 house
11 where they were staying at the time, which was in
12 [REDACTED] Mobile Home Park.

13 Q So you got the information about where everything
14 happened, and it was between the dates of June and
15 July of 2006?

16 A Based on what they were telling me. They didn't
17 tell me everything that happened, but they told me
18 about a certain incident that I took the report on.

19 Q And any other dates and times you didn't have?

20 A No.

21 Q So they didn't mention any other dates and times to
22 you?

23 A They just mentioned this one incident to me.

24 Q And that would be both groups of parents?

25 A Yes.

1 Q Or both groups, I should say. Parents, you have a
2 child and a mother, right?

3 A Both groups.

4 Q So it wasn't because you weren't interested in
5 other events because you would certainly want to
6 know if there was another event which was another
7 criminal act; wouldn't you?

8 A Yes.

9 Q And this was the only one they mentioned to you?

10 A Yes.

11 MR. WILLIAMS: That's all the questions I
12 have, Your Honor.

13 THE COURT: Redirect, Solicitor?

14 MR. STUMBO: Briefly, Your Honor.

15 REDIRECT EXAMINATION

16 BY MR. STUMBO:

17 Q Deputy Grooms, based on information you received at
18 that time from the victims, did you feel like it
19 was sufficient to go to investigations at that
20 point for follow up?

21 A Yes, sir.

22 MR. STUMBO: That's all I have, Your Honor.

23 THE COURT: Recross?

24 MR. WILLIAMS: No, Your Honor.

25 THE COURT: Thank you very much for being with

1 us today, Deputy Grooms.

2 (Witness leaves the witness stand).

3 THE COURT: Solicitor, you may call your next
4 witness.

5 MR. STUMBO: Your Honor, may Deputy Grooms be
6 released?

7 THE COURT: Yes, sir. Any objection,
8 Mr. Williams?

9 MR. WILLIAMS: No, Your Honor.

10 THE COURT: Thank you very much for being with
11 us.

12 MR. STUMBO: The State would call First
13 Sergeant John Thompson to the stand.

14 JOHN PATRICK THOMPSON, being
15 first duly sworn, testifies as follows:

16 CLERK: State your full name and spell your
17 last name.

18 THE WITNESS: Full name is John Patrick
19 Thompson.

20 DIRECT EXAMINATION

21 BY MR. STUMBO:

22 Q Good afternoon, Sergeant Thompson. How are you
23 today?

24 A Fine. Thank you.

25 Q Have you been here for the past three days?

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- 1 A Yes, sir, I have.
- 2 Q And where did you come to Lexington from?
- 3 A Wythe County, Virginia.
- 4 Q How long have you lived in Wythe County, Virginia?
- 5 A Almost 43 years.
- 6 Q Your whole life?
- 7 A Yes, sir.
- 8 Q Are you in law enforcement up there?
- 9 A Yes, sir.
- 10 Q What agency do you work for?
- 11 A The Wythe County, Virginia, Sheriff's Office.
- 12 Q How long have you been with the Sheriff's
- 13 Department up there?
- 14 A A little over 17 years.
- 15 Q In your 17 years with the Wythe County Sheriff's
- 16 Department, what have your duties been since you
- 17 started there?
- 18 A I'm assigned to the patrol division. We do traffic
- 19 cases, criminal cases. We most time take the
- 20 initial reports and then we turn those over to
- 21 investigators.
- 22 Q What major municipalities are in your county, in
- 23 Wythe County, what other towns?
- 24 A Wytheville, Virginia.
- 25 Q Any other towns?

- 1 A No, sir.
- 2 Q How about Max Meadows, Virginia, where is that?
- 3 A It's a small area in Wythe County, Virginia.
- 4 Q You wouldn't classify that as a town?
- 5 A No, sir, I would not.
- 6 Q Have they got a post office there?
- 7 A Yes, sir.
- 8 Q What part of Virginia is this in? Is this in the
- 9 mountains?
- 10 A It's considered southwest Virginia. Yes, it is in
- 11 mountains.
- 12 Q Any interstates running through there?
- 13 A Two.
- 14 Q Which are those?
- 15 A I-81 and I-77.
- 16 Q If you go south on 77, what city do you end up in
- 17 in North Carolina?
- 18 A You come to Charlotte, I reckon would be the first
- 19 big city.
- 20 Q So if we were to go to Columbia through Wytheville,
- 21 Virginia, we would go through Charlotte on 77?
- 22 A Yes, sir.
- 23 Q Did you have any involvement in your duties with
- 24 Wythe County Sheriff's Department with the
- 25 investigation of the Defendant, Richard Ratliff?

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- 1 A Yes, sir.
- 2 Q And what date was that that you got involved with
3 this case?
- 4 A August the 1st, 2007.
- 5 Q What was that, you said August 1st?
- 6 A August 1st, yes, sir.
- 7 Q And what was the first thing you needed to do? Did
8 you talk to somebody in South Carolina that related
9 information about this case to you?
- 10 A Yes, sir.
- 11 Q Who was that?
- 12 A Detective Eddie Prestigiacomo (phonetic).
- 13 Q Prestigiacomo?
- 14 A Prestigiacomo.
- 15 Q Don't worry, you are not the first person to
16 mispronounce it. After talking to Detective
17 Prestigiacomo, where did you go?
- 18 A I talked to him at approximately 5:39 p.m. on the
19 1st of August. I got tied up on a couple of calls,
20 and later that evening approximately around
21 8:45 p.m. I went to [REDACTED] in Max
22 Meadows.
- 23 Q Who lives at [REDACTED] in Max Meadows?
- 24 A Eddie Ratliff and his mother.
- 25 Q What was your visit there? What was it in relation

- 1 to? Was it involving something Eddie was involved
2 in or his mother?
- 3 A No, sir.
- 4 Q Who was the person involved with this?
- 5 A Richard Ratliff.
- 6 Q The Defendant?
- 7 A Yes, sir.
- 8 Q I will show you what is already in evidence as
9 State's Exhibit 14. What is in that photo,
10 Sergeant Thompson?
- 11 A This is the residence at [REDACTED] in Max
12 Meadows.
- 13 Q Is that the house you went to on August 1st?
- 14 A Yes, sir. I went to the back door, not the front
15 door.
- 16 Q When you came and knocked on the door, who is the
17 first person you talked to?
- 18 A Eddie Ratliff.
- 19 Q Who did Eddie Ratliff identify himself as in
20 relation to the Defendant?
- 21 A Brother to the Defendant.
- 22 Q Who else was in the house besides Eddie?
- 23 A His mother.
- 24 Q The mother to both Eddie and the Defendant?
- 25 A To the best of my knowledge.

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1 Q And what time of day was this?

2 A Approximately 8:45 p.m.

3 Q It was after dark at that time?

4 A It was close to dark at that time.

5 Q Where was Eddie's mother in the house? Where was
6 she located?

7 A She was in a bed in what I would consider to be the
8 living room area.

9 Q There was a bed in the living room area?

10 A It looked like a living room. There was a
11 television in there. I considered that to be the
12 living room area.

13 Q You could see that from your standing outside the
14 door?

15 A I was in the doorway, yes.

16 Q Did you tell Eddie why you were there?

17 A I explained to him briefly why I was there, what
18 information I had at that point.

19 Q Did he know it involved his brother?

20 MR. WILLIAMS: Objection to that, Your Honor,
21 speculation.

22 THE COURT: I would sustain the objection.

23 BY MR. STUMBO:

24 Q Did you indicate to him who this involved?

25 A Yes, sir, I did.

1 Q Now, after you entered the house -- did you have a
2 search warrant at that time?

3 A No, sir, I did not.

4 Q Did you feel like you needed a search warrant?

5 A No, sir, I do not.

6 Q Why is that?

7 A Because we was not investigating a crime in Wythe
8 County at this point.

9 Q Why did you enter the house? Did you force your
10 way in?

11 A No, sir, I did not.

12 Q Did they let you in?

13 A Yes, sir.

14 Q Did you threaten them in any way to let you in?

15 A No, sir, I did not.

16 Q Did you coerce them in any way to let you in?

17 A No, sir, I did not.

18 Q Did you have authority to go in all areas of that
19 house?

20 A I was given consent --

21 MR. WILLIAMS: Objection, Your Honor.

22 THE COURT: He can't go into any hearsay. I
23 sustain the objection.

24 MR. STUMBO: Your Honor, can we be heard on
25 that issue?

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1 THE COURT: Yes, sir, certainly.

2 Mr. Foreman, and ladies and gentlemen, if you
3 would step momentarily to your jury room. Do not
4 discuss the case during this brief recess.

5 (The jury retires to the jury room).

6 THE COURT: Yes, sir, Solicitor.

7 MR. STUMBO: Your Honor, I believe the
8 statements we are eliciting here, although they are from
9 Eddie Ratliff and the mother, in my mind under the
10 hearsay rules, they are not being offered for the truth
11 of the matter asserted.

12 We are offering them for the effect on
13 Sergeant Thompson. I believe he has the right to
14 explain why he did what he did, which was go in that
15 house. I think it's an effect on the listener here,
16 which would by definition make it non-hearsay under the
17 rules.

18 THE COURT: Tell me what rule you are
19 referring to?

20 MR. STUMBO: Your Honor, it would be 801, Rule
21 801, which defines hearsay as statements -- out-of-court
22 statements offered for the truth of the matter, to prove
23 the truth of the matter asserted.

24 I don't believe we are offering it for that
25 purpose. We are offering it to show why Sergeant

1 Thompson reacted the way he did. Why he goes in the
2 house is completely dependent on what they told him.

3 I think we have already gone through the
4 issues of whether he had consent for admissibility
5 purposes, but that's not why we are offering it
6 ultimately here.

7 MR. WILLIAMS: Your Honor, those are two
8 different issues. When you entertained that motion
9 dealing with -- and I objected about the hearsay about
10 the witnesses not being down here.

11 You specifically stated that one of the
12 functions of the Court was to make a determination as to
13 whether or not the search was proper, whether or not
14 they had apparent authority and whether or not the items
15 would come in.

16 We are on a different venue now. Because what
17 he is trying to do is he is trying to introduce hearsay
18 testimony because he is trying to get the testimony in
19 that these two individuals said, It's okay. You can go
20 in the house.

21 It's hearsay for this purpose because he is
22 offering their testimony in regards to what they would
23 have said if they were present today, which they are
24 not.

25 THE COURT: Why is it even relevant to this

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1 jury?

2 MR. STUMBO: Your Honor, I can imagine there's
3 going to be some questions asked by the defense, Did you
4 have authority to go in the house?

5 THE COURT: If he asks that question --

6 MR. WILLIAMS: I have screwed up.

7 THE COURT: If he asks that question, if
8 Mr. Williams said, Did you have authority to go in the
9 house? I think Sergeant Thompson knows how to answer
10 that question. I think he knows the answer to that
11 question. My question is this. The issue of consent is
12 not an issue for this jury.

13 MR. STUMBO: Yes, sir.

14 THE COURT: It's a judicial issue, and I have
15 ruled it's admissible.

16 MR. STUMBO: I think it can go to his
17 credibility. These people have watched a lot of stuff
18 outside of court, and I know Your Honor is going to
19 instruct them not to consider any of that or bring that
20 in here.

21 But I think it goes to his credibility as a
22 police officer on whether he took proper steps to go
23 into that house. So therefore that's why we are
24 offering it. We are offering it simply as to why he
25 reacted the way he did to go into that house. I don't

1 mean to beat a dead horse on that, Judge.

2 MR. WILLIAMS: He is trying to get the
3 statements out, Your Honor, is what he is trying to get.

4 MR. STUMBO: We don't need it for our proof
5 in the case. I concede that. I have to present
6 credible witnesses to this jury so they believe my case
7 in chief.

8 If Mr. Williams is going to object here and
9 then ask him or argue in his closing argument why the
10 Virginia officers didn't -- I don't know what he is
11 going to do, Judge, but at that point it's too late. I
12 can't rehabilitate my witness.

13 MR. WILLIAMS: From my prospective --

14 MR. STUMBO: I would maintain, Your Honor,
15 from our prospective and it's our position that because
16 we are not offering it for the truth of the matter
17 asserted but the effect on Sergeant Thompson, it's not
18 hearsay and it would be admissible. I respect Your
19 Honor's ruling, whatever you decide on it, but that's
20 our position for the record.

21 THE COURT: Yes, sir. Mr. Williams.

22 MR. WILLIAMS: I don't have anything else to
23 say to that, Your Honor. I think he is trying to get
24 out the statements for the purpose of hearsay. He is
25 trying to get out what these witnesses would say if they

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1 were here, and they are not here.

2 It really doesn't matter. I don't know why he
3 is asking it. Once you introduce the stuff, the damage
4 is done. It seems like we are arguing about nothing
5 actually.

6 MR. STUMBO: I can move on, Your Honor. But
7 if Mr. Williams starts asking my witness, you know,
8 talking about why he went in that house and under what
9 authority, he did so --

10 MR. WILLIAMS: I think he can answer it.

11 MR. STUMBO: I think what we are arguing about
12 now is a moot point.

13 MR. WILLIAMS: I agree. If I ask that, I
14 think he can answer it. I would expect him to answer my
15 questions.

16 THE COURT: So, Solicitor, your position is
17 that the statement made by Eddie Ratliff or the
18 statements made by Eddie Ratliff's mother that Sergeant
19 Thompson heard or overheard are admissible as not being
20 hearsay because they are not offered for the truth of
21 the matter asserted, i.e., they are not offered to show
22 that consent was given, they are offered to show why the
23 officer was searching? I am kind of missing that
24 connection.

25 MR. STUMBO: Right. I think what Your Honor

1 has stated is correct. We are beyond the consent issue.
2 That was handled pretrial. That's not really what we
3 are after.

4 We are after to show why he behaved the way he
5 did. The issue of consent is not really before the
6 jury. I agree with that. It goes to his credibility as
7 a witness.

8 THE COURT: It's being offered then to show
9 why the officer conducted himself in the manner in which
10 he conducted himself in the home on Grove Street?

11 MR. STUMBO: Yes, sir, absolutely. I don't
12 think we have to prove to this jury that they had
13 consent or didn't have consent. It simply goes to his
14 competency as a law enforcement officer and his
15 credibility as a witness here today.

16 THE COURT: The testimony is not hearsay. It
17 is not offered for the truth of the matter asserted. It
18 is being offered to show why the officer conducted
19 himself in the manner in which he did in the home on
20 Grove Street in Max Meadows.

21 MR. STUMBO: Yes, sir, that's our position.

22 THE COURT: That would be the conversation
23 with Eddie Ratliff at the door and then the conversation
24 that Sergeant Thompson overhears between Eddie Ratliff
25 and his mother?

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1 MR. STUMBO: That is correct, Your Honor. I
2 think under the same principle, and while we are on the
3 topic, when he goes to the bedroom as to why he looks in
4 the drawer for the pictures, I think if the jury --

5 THE COURT: What is his response to that
6 question, Why did you look in the drawers?

7 MR. STUMBO: We can proffer that.

8 IN CAMERA EXAMINATION

9 BY MR. STUMBO:

10 Q Why did you look in the drawer in Mr. Ratliff's
11 bedroom at that house?

12 A Because Eddie Ratliff told me he had put some
13 pictures in a drawer.

14 Q Would you have gone in the drawer otherwise?

15 A Yes, sir.

16 Q You would have gone in the drawer if he hadn't
17 directed you there?

18 A Yes, sir, I was given consent to search the entire
19 room.

20 THE COURT: I think that testimony is more
21 akin to State versus Wiggins, which I guess now some of
22 you may call it an older case. It's a case where the
23 Defendant's wife identified an item to the police during
24 the course of the search as being an item belonging to
25 the Defendant.

1 I don't think you can go into that. I think
2 you can go into -- I will give them a limiting
3 instruction on what I just read. The officer had
4 consent to search. He did not exceed, as I recall, the
5 in camera hearing, the scope of that consent to search.

6 He had unfettered consent to search in that
7 room upstairs. You can say, As a result of a
8 conversation you had and overheard, what area of the
9 home did you go to?

10 I went to the upstairs bedroom, and then the
11 condition of that upstairs bedroom. And what, if
12 anything, did you locate in there? What did you do?
13 But I don't think you could have the testimony of the
14 brother pointing out, I put this here or I put that
15 there.

16 Do you understand my ruling? I want to make
17 sure I am clear.

18 MR. STUMBO: Yes, sir. He can testify as to
19 the fact because he overheard -- and Eddie specifically
20 gave him unfettered access to the house, including the
21 bedroom. That's what he did and that's where he went.

22 THE COURT: That is correct.

23 MR. WILLIAMS: As I understand what you told
24 the solicitor though, and it was kind of phrased a
25 little differently, what you said is that essentially

1 that the prosecutor can ask him, And what did you do at
2 the house?

3 I searched this, this, and this.

4 How were you able to do that?

5 I had consent to search.

6 THE COURT: Yes.

7 MR. WILLIAMS: And that's as far as it goes.
8 In terms of directing what one person may have told him,
9 wouldn't that be hearsay?

10 THE COURT: I think that is hearsay if you go
11 to specific items. I think going to, What area of the
12 house did you go to? I went to -- look, you are going
13 to end up at the same place.

14 As a result of your conversation with brother
15 Eddie and mother, what location inside the residence on
16 Grove Street did you go to?

17 Well, I went to the upstairs bedroom.

18 Everybody in the courtroom is going to either
19 know or reasonably infer he went there because somebody
20 told him that was where Mr. Ratliff was staying or
21 living, whichever term we use, when he was there.

22 MR. WILLIAMS: We couldn't object to it.

23 THE COURT: No, because there is no hearsay
24 there.

25 MR. STUMBO: I thought that's what he was

1 objecting to because it would call for hearsay. If I
2 was to ask him --

3 MR. WILLIAMS: No.

4 MR. STUMBO: -- based on the conversations,
5 what did you do?

6 THE COURT: If I leave y'all out here long
7 enough, we don't even know what we are arguing about.

8 MR. WILLIAMS: That's true with any criminal
9 trial with any police officer. As a result of your
10 conversation, what did you do? And then you go to
11 whatever you did.

12 THE COURT: Exactly.

13 MR. STUMBO: Yes, sir, I understand.

14 THE COURT: Do you want to be heard anymore?

15 MR. STUMBO: I'm done.

16 THE COURT: Thank you.

17 (The jury returns to the courtroom).

18 THE COURT: Our jury is back. Thank you.
19 Thank you very much, ladies and gentlemen, for your
20 patience.

21 Part of this section we are going into
22 momentarily, the testimony is not hearsay because it's
23 not being offered for the truth of the matter asserted.
24 It is being offered to show why the officer conducted
25 himself in the manner in which he did at the home on

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1 [REDACTED] in Max Meadows, Virginia, on 1 August of
2 '07.

3 Now, whether or not any of that occurred is
4 for you the jury to determine. You are the fact finders
5 in the case. You determine the credibility and
6 believability of the witnesses in this case.

7 So by my comment in the limited instruction,
8 do not take from that that I have any opinion about the
9 facts, what the facts are or if these are actual facts
10 that did occur.

11 Solicitor, you may proceed.

12 MR. STUMBO: Thank you, Your Honor.

13 DIRECT EXAMINATION

14 BY MR. STUMBO:

15 Q Sergeant Thompson, you said at the door you talked
16 to Eddie Ratliff. You talked to him?

17 A Yes, sir, I did.

18 Q Did you have a cordial conversation with him?

19 A Yes, sir I did.

20 Q Before you went in that house, did Eddie talk to
21 anybody else?

22 A Yes, sir.

23 Q Who did he talk to?

24 A His mother.

25 Q Did you overhear that conversation?

1 A Yes, sir, I did.

2 Q Based on your conversation with Eddie and
3 overhearing conversation between Eddie and the
4 mother, who is there in the living room, what did
5 you do next?

6 A I got a consent search on the upstairs bedroom on
7 the left side of the house.

8 Q The upstairs bedroom on the left side of the house,
9 whose bedroom was that?

10 A That was where Richard Ratliff had stayed.

11 MR. WILLIAMS: Objection, Your Honor.

12 THE COURT: I will allow it.

13 BY MR. STUMBO:

14 Q And, Sergeant Thompson, in Richard Ratliff's
15 bedroom, what did you find?

16 A There was photographs of an older male with a, I
17 would call, a middle-aged woman. They were sexual
18 pictures in nature.

19 Q About how many pictures did you find in that room?

20 A There was probably ten or twelve there in a brown
21 folder. There was also some Polaroids in a plastic
22 bag. They were not -- they were young girl
23 pictures.

24 Q When you say young girl pictures, a young girl who
25 was clothed. You said the other ones were of

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1 sexual nature --

2 A Yes, sir.

3 Q -- the young girls, what were they of?

4 A They were just pictures of this young girl in a
5 car, just normal pictures. No sexual content in
6 those pictures at all.

7 Q Based on the conversation you had with Detective
8 Prestigiacomo, were those items of interest at that
9 time?

10 A Yes, sir, they were.

11 Q What else did you find in that bedroom?

12 A There was a handgun, Smith and Wesson .32-caliber
13 handgun. There was a plastic bag with some sex
14 toys, some K.Y. jelly. Then there was some panties
15 in that plastic bag.

16 Q Like a woman's panties or a girl's panties?

17 A I would consider for a younger girl.

18 Q You said sex toys. What kind of sex toys? I don't
19 need you to get too crass, I guess, with us, but
20 what were they shaped like? What did they look
21 like?

22 A We refer to them as dildos, a male penis,
23 artificial male penis.

24 Q And did you find any movies or anything of that
25 nature?

- 1 A There was couple of D.V.D.s in the room.
- 2 Q What were the nature of the D.V.D.s you saw in that
- 3 room?
- 4 A I cannot recall that. I didn't really look at them
- 5 that close, but there was a couple of case D.V.D.s.
- 6 Q At that time, Sergeant Thompson, did you take any
- 7 of that evidence?
- 8 A No, sir, I did not.
- 9 Q What did you do with that evidence?
- 10 A I left it in the room.
- 11 Q Did you document it in any way?
- 12 A All I done is I called Detective Prestigiacomo back
- 13 and let him know what I found, and I also advised
- 14 our investigator, Richard Vaughan, of what I had
- 15 found in that room.
- 16 Q You told Sheriff Vaughn now? Is he the sheriff
- 17 now?
- 18 A He is the sheriff now, yes, sir.
- 19 Q And Richard Vaughan took the information you gave
- 20 and acted on that?
- 21 A Yes, sir.
- 22 Q And did he take the investigation from that point?
- 23 A Yes, sir, he did.
- 24 MR. STUMBO: That's all the questions I have
- 25 for Sergeant Thompson, Your Honor.

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1 THE COURT: Thank you, Solicitor.

2 Mr. Williams.

3 MR. WILLIAMS: A couple of questions.

4 CROSS EXAMINATION

5 BY MR. WILLIAMS:

6 Q Sergeant, it's my understanding that any of the
7 items which you saw in this room that you did not
8 seize; correct?

9 A No, sir, I did not.

10 Q There was nothing illegal about these items being
11 in a room in Max Meadows, Virginia; is that
12 correct?

13 A That's correct, sir.

14 Q And in terms of the photographs which you observed
15 of a male and a female, these were adult men and
16 women?

17 A Yes, sir.

18 Q An adult man and an adult woman?

19 A Yes, sir.

20 Q And actually there was no evidence that the gun
21 that was in there was anything other than a pistol,
22 was there?

23 A No, sir.

24 Q So you left everything there?

25 A Yes, sir, I did.

1 Q Then you called South Carolina, Lexington County,
2 and talked to Prestigiacomo; is that correct?

3 A Yes, sir.

4 Q And did Prestigiacomo -- and don't tell me what he
5 said -- but did Prestigiacomo give you any
6 instructions about what you needed to do?

7 A Not that I recall, sir.

8 Q And you had a conversation with your supervisor or
9 your superior; is that correct?

10 A I wouldn't consider him my superior, a colleague
11 that I worked with.

12 Q He is sheriff now. Maybe at the time y'all were
13 the same?

14 A He was an investigator. I was a patrol officer.
15 We were both deputy sheriffs.

16 Q Why did you talk to him I guess is what I am
17 asking?

18 A Because they investigate most crimes. We do
19 preliminary. We go and see what it is and we let
20 them know.

21 Q Okay. So he was not your superior, he just did a
22 different job?

23 A That is correct, sir.

24 Q You talked to him. Did he ask you to do anything
25 else, without saying what he asked you?

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1 A No, sir.

2 MR. WILLIAMS: That's all the questions I
3 have, Your Honor.

4 THE COURT: Thank you, Mr. Williams.
5 Redirect, Solicitor?

6 MR. STUMBO: Nothing on redirect, Your Honor.

7 THE COURT: Thank you very much, Sergeant.

8 MR. STUMBO: Your Honor, I know that Sergeant
9 Thompson would be happy to hear this. We ask Your Honor
10 to excuse him at this time if there is no objection.

11 MR. WILLIAMS: Without objection, Your Honor.

12 THE COURT: Thank you. Thank you very much,
13 Sergeant. Have a safe trip.

14 THE WITNESS: Thank you.

15 (Witness leaves the witness stand).

16 THE COURT: Solicitor, you may call your next
17 witness.

18 MR. STUMBO: Your Honor, the State would call
19 Sheriff Richard Vaughan to the stand.

20 RICHARD VAUGHAN, being
21 first duly sworn, testifies as follows:

22 CLERK: State your full name and spell your
23 last name.

24 THE WITNESS: Richard Vaughan. Vaughan
25 V-A-U-G-H-A-N.

1 DIRECT EXAMINATION

2 BY MR. STUMBO:

3 Q Good afternoon, Sheriff Vaughn.

4 A Good afternoon.

5 Q And where are you the sheriff, elected sheriff at
6 this point?

7 A Grayson County Virginia.

8 Q And Grayson County, Virginia, what part of Virginia
9 is that in?10 A It's southwest. It borders Wythe County to the
11 south and Carroll County to the west. It's about
12 an hour from Blacksburg.

13 Q Does I-77 run up through Wytheville?

14 A Yes, we are west of I-77.

15 Q Have you been here the last three days with First
16 Sergeant Thompson?

17 A Yes, sir.

18 Q Sheriff Vaughan, at what point were you elected
19 Sheriff of Grayson County?20 A January the 1st, 2008, is when I took office, but I
21 was elected in November of 2007.22 Q Back in August of 2007, where were you employed at
23 that time?24 A I was a sergeant of investigations with the Wythe
25 County Sheriff's Office.

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1 Q Did you work with First Sergeant Thompson at that
2 time?

3 A Yes.

4 Q And how long have you been in law enforcement,
5 Sheriff Vaughn?

6 A Fifteen years.

7 Q During the course of that time, about how many
8 cases do you reckon you have investigated?

9 A I would say between 2 and 300 cases.

10 Q Did one of those investigations involve the
11 Defendant, Richard Ratliff?

12 A Yes.

13 Q And what instigated the Wythe County investigation
14 of Mr. Ratliff?

15 A I was contacted by Detective Tracy Barr from
16 Lexington County, South Carolina, Sheriff's Office.
17 She informed me that a Richard Ratliff --

18 MR. WILLIAMS: Objection to hearsay, Your
19 Honor.

20 THE COURT: Yes, Solicitor, if you would
21 rephrase your question. As a result of that
22 conversation...

23 MR. STUMBO: Yes, sir.

24 BY MR. STUMBO:

25 Q You said you had a conversation with Detective

1 Barr?

2 A Yes, I did.

3 Q In Lexington County. Had Sergeant Thompson done
4 anything on this case at this point to your
5 knowledge?

6 A Yes.

7 Q What was his role?

8 A I spoke with him on the morning of August the 2nd,
9 and he said he had been down to the Ratliff
10 residence and said he had obtained consent to
11 search the residence. He told me in an upstairs
12 bedroom he had saw some panties, some sexual toys,
13 some photographs, and a handgun.

14 Q And in your conversations with Detective Barr on
15 the 2nd, were you able to gather some information
16 about what this case was about?

17 A Yes.

18 Q Based on that conversation, your conversation with
19 First Sergeant Thompson, what did you do on
20 August 2nd?

21 A We went to the Ratliff residence located at
22 [REDACTED] Max Meadows, in Wythe County.
23 Myself and an investigator, Doug Carner. We got to
24 the residence. We spoke to Eddie Ratliff, who
25 lived there with his mother, and then we also spoke

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1 to his mother, Ms. Ratliff, and they both gave us
2 consent.

3 MR. WILLIAMS: Objection to hearsay, Your
4 Honor.

5 THE COURT: Overruled. Ladies and gentlemen
6 of the jury, I would sustain the objection. That's the
7 same limiting instruction I gave earlier. It's not
8 being offered for the truth of the matter asserted.
9 It's being offered to show why this officer, Sheriff
10 Vaughan, took the action he took on 2 August '07 at that
11 residence.

12 Thank you, Solicitor. You may ask your next
13 question.

14 MR. STUMBO: Thank you, Your Honor.

15 BY MR. STUMBO:

16 Q When you went to the house, let me show you -- if I
17 may approach, Your Honor?

18 THE COURT: Yes, sir.

19 BY MR. STUMBO:

20 Q I will show you what is already in evidence as
21 State's 14 and what has been marked for I.D.
22 purposes as State's 15.

23 MR. STUMBO: Your Honor, we would offer
24 State's 15 in evidence.

25 MR. WILLIAMS: Without objection, Your Honor.

1 THE COURT: Fifteen is in evidence without
2 objection.

3 (State's Exhibit Number 15 is received into
4 evidence).

5 BY MR. STUMBO:

6 Q State's 14 and 15, Sheriff Vaughan, what is in
7 those pictures?

8 A That's the residence at [REDACTED] in Wythe
9 County where Eddie Ratliff and his mother reside.

10 Q Is this the house you went to on August 2nd?

11 A Yes.

12 Q Now, when you approached the house, Sheriff
13 Vaughan, who did you speak with first?

14 A We spoke to Eddie Ratliff first.

15 Q Did you speak with anybody else at the house?

16 A Yes, we spoke to his mother, Ms. Ratliff.

17 Q Was there anybody else home?

18 A No.

19 Q And after speaking with Eddie Ratliff and Eddie
20 Ratliff's mother, did you believe that they were
21 residents of that house at that point?

22 A Yes.

23 Q And after speaking with them did you go into the
24 house?

25 A Yes, we did.

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1 Q Did you go into that house before you talked to
2 them?

3 A I was standing in the doorway when I talked to
4 them.

5 Q Would you have gone in that house before speaking
6 with them first?

7 A No.

8 Q Did you ever threaten them in any way to make them
9 let you in?

10 A No, sir.

11 Q Did you ever coerce them?

12 A No.

13 Q Did you promise them anything if they let you in
14 the house to look around?

15 A No, sir.

16 Q How would you describe your conversation with them?

17 A Just a casual conversation. I spoke with them.
18 They already knew --

19 MR. WILLIAMS: Objection, Your Honor.

20 THE WITNESS: I'm sorry.

21 MR. WILLIAMS: Speculation at this time.

22 MR. STUMBO: I can follow it up with another
23 question.

24 BY MR. STUMBO:

25 Q Sheriff Vaughan, at that point did you inform them

1 why you were there?

2 A Yes, I did.

3 Q Did you tell them it was involving Eddie's brother,
4 Richard?

5 A Yes, sir.

6 Q Based on your conversations with First Sheriff
7 Thompson and the residents of that house, where did
8 you go in that house?

9 A We went up to the upstairs bedroom.

10 Q And to your knowledge whose bedroom was that?

11 A They said --

12 MR. WILLIAMS: Objection, Your Honor, hearsay.

13 THE COURT: Yes, sir, I would sustain the
14 objection.

15 BY MR. STUMBO:

16 Q Was this Eddie's room?

17 MR. WILLIAMS: Objection, leading.

18 THE COURT: And that's a hearsay question
19 also.

20 BY MR. STUMBO:

21 Q Who room was it, Sheriff Vaughn?

22 THE COURT: Again, he would have no personal
23 knowledge of that. He can testify where he went in the
24 house and what he did in the house, Solicitor.

25 MR. STUMBO: Yes, sir.

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1 BY MR. STUMBO:

2 Q In this bedroom, Sheriff Vaughan, what did you
3 find? You can take your time and refer to whatever
4 you need to refer to.

5 A We found three pair of small G. string panties on
6 top of a chest of drawers and one pair on top of a
7 nightstand. We found a D.V.D. labeled Blond and
8 Anal.

9 Q Let me stop you right there, Sheriff Vaughan. I
10 will show you what has been marked for I.D.
11 purposes as State's Exhibit 4. Can you identify
12 that for the jury?

13 A Yes, this is the D.V.D., Blond and Anal, that we
14 found in the bedroom.

15 Q Did you seize this from the house?

16 A Yes, we did.

17 Q What did you do with it?

18 A We photographed all the items that we collected,
19 and we placed that into evidence.

20 Q And how did it get down here? Did you bring it?

21 A Yes, we signed it out of evidence and transported
22 it here to South Carolina.

23 Q Does it appear to be in the same condition it was
24 in when you found it in the bedroom?

25 A Yes.

1 Q Altered or changed in any way?

2 A No, sir.

3 MR. STUMBO: Your Honor, at this time the
4 State would offer State's Exhibit 4 into evidence.

5 MR. WILLIAMS: Your Honor, I would object
6 underneath the basis that we have already argued
7 regarding pretrial and an additional objection at this
8 point in time in regards to relevance.

9 THE COURT: Mr. Foreman, ladies and gentlemen,
10 if you would step out for me momentarily. Do not
11 discuss the case during this brief recess.

12 (The jury retires to the jury room).

13 THE COURT: As to my pretrial rulings in
14 camera, I would reaffirm all those, Mr. Williams.

15 As to the issue of relevancy, Solicitor?

16 MR. STUMBO: Yes, sir, Your Honor. ^{Minor 2}
17 testified in this courtroom that she was shown State's
18 Exhibit 4 because it was marked for I.D. at that time by
19 Solicitor Howard and was identified as the D.V.D. she
20 saw in Richard's trailer in Moore Mobile Manor, the very
21 same one.

22 We documented that in our notes anyway. I
23 haven't seen the court reporter's transcript, but I know
24 in our notes to my recollection hearing her on the
25 stand, she identified that particular item. She saw it

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1 on top of the T.V., I believe, in Richard's trailer in
2 Moore Mobile Manor.

3 THE COURT: All right. I understand. You are
4 not saying -- let me make sure I am clear, Solicitor.
5 You are not saying that she saw it as far as the
6 Defendant showing her that D.V.D.?

7 MR. STUMBO: Not the contents of the D.V.D.
8 She saw the same D.V.D. cover case on top -- he left it
9 laying on top of his T.V., and she said she saw it on
10 numerous occasions at his trailer.

11 THE COURT: Now, I guess my question is
12 relevant evidence means evidence that has any tendency
13 to make the existence of any fact that is of consequence
14 to the determination of the actions more probable or
15 less probable than it would be without the evidence,
16 citing State versus Alexander, State versus Smith.

17 How does State's Exhibit 4 have any tendency
18 to make the existence of any fact that is of consequence
19 to the determination of whether or not the Defendant
20 committed criminal sexual conduct in the second degree
21 with the various victims or lewd act or criminal
22 solicitation more probable or less probable than it
23 would be without the evidence?

24 MR. STUMBO: Your Honor, I believe it goes
25 directly to corroborate ^{Minor 2} testimony as to the

1 criminal solicitation of minor indictments. These
2 indictments involved him masturbating in front of her at
3 his trailer in Moore Mobile Manor.

4 Minor 1 testified to the same fact, that
5 although she didn't identify this D.V.D., Minor 2 and
6 Minor 1 had numerous times where he was showing them or
7 leaving -- making available to them pornographic
8 materials and naked pictures.

9 So it corroborates their testimony and, Your
10 Honor, their testimony in a case like this is the case.
11 Minor 2 testimony of the things that happened to her,
12 it is the case against Mr. Ratliff.

13 The D.V.D. and the fact it was found, the same
14 D.V.D. she saw in his house, is the same D.V.D. they
15 found in this house where he was staying up in Virginia
16 corroborates her testimony to a tee.

17 We have the burden to proof that the things
18 she is saying are indeed true. Under that theory, Your
19 Honor, I believe it makes more or less probable her
20 testimony as to the things that happened inside of that
21 trailer because it gives sensory detail.

22 It proves that outside of the fact we have a
23 D.V.D. in his possession that she saw, a jury could come
24 away with the impression, Well, maybe she didn't see it,
25 a pornographic D.V.D. in the house.

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1 We have got the D.V.D. So it goes directly to
2 her testimony, Your Honor, which makes it extremely
3 relevant because her testimony is the case on the
4 solicitation charge.

5 THE COURT: Mr. Williams?

6 MR. WILLIAMS: I want to argue the
7 gobbledygook argument because that doesn't make a bit of
8 sense. If what the solicitor is saying is true, then
9 any time there is any bit of evidence which someone
10 sees, it would be relevant to be placed in evidence.

11 If I'm over at some woman's -- or if I'm a
12 little girl and I'm over at some guy's house and I see,
13 I don't know, a sofa that is brown. Then I see the same
14 sofa that is brown in another location, that is not
15 relevant in regards to the charge itself.

16 An additional ground is this is that the
17 prejudicial value strongly outweighs the probative value
18 when you are referencing a D.V.D. which there is no
19 argument that any victim has looked at.

20 MR. STUMBO: Your Honor, Mr. Williams and I
21 have both tried cases of this nature before, and he is
22 very aware that this type of thing, where someone is
23 leaving pornography out for a child, is grooming to
24 actually do the acts on them.

25 THE COURT: You can read State versus Nelson.

1 When you read State versus Nelson, there's all kind of
2 characteristics of how pedophiles groom children, and a
3 lot of that was not admissible once it got to the
4 Supreme Court.

5 I am familiar with that line of cases;
6 however, I think it is relevant at this point. She did
7 testify she saw it in his residence at Moore Mobile
8 Manor.

9 It is now found in a bedroom at [REDACTED]
10 [REDACTED], Max Meadows. So even if nothing else, it makes
11 it more probable that, in fact, it is his bedroom. So I
12 think it is relevant.

13 He has now made another argument about
14 Rule 403 that its probative value is substantially
15 outweighed by the danger of unfair prejudice. Because
16 as you pointed out, it's not -- it was not shown to
17 Minor 2

18 What about that, Solicitor? What about the
19 403 argument?

20 MR. STUMBO: Your Honor, I believe it is
21 indeed prejudicial precisely because it's so probative.
22 It's so probative because it goes to support her
23 testimony as a whole.

24 The fact that she saw an item of pornography
25 in his house, a specific item, goes so strongly to her

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1 credibility in this case, Your Honor. I think
2 credibility has a lot to do with a witness' ability to
3 observe sensory detail and specific things.

4 That's exactly what ^{Minor 2} did on this
5 witness stand. She observed specific items, this D.V.D.
6 being one of those items, which makes that probative,
7 Your Honor.

8 It's so probative because -- it's prejudicial
9 because it's so probative. So Mr. Williams, I think, is
10 making my argument for me. The prejudicial value has to
11 far exceed the probative value.

12 I don't think it does here, Your Honor,
13 because it goes directly to her credibility, which is an
14 item really we have to prove here to prove our case.

15 MR. WILLIAMS: Your Honor, they don't have to
16 prove credibility, they have to prove facts.

17 MR. STUMBO: And credibility doesn't have
18 anything to do with facts. Your Honor, credibility of
19 this witness in a case of this nature is the case, as
20 Mr. Williams well knows, and I am sure he will argue to
21 the jury.

22 So if it's my burden to prove this witness'
23 facts as she tells them from the witness stand are
24 accurate and did happen, then every piece of sensory
25 detail related to the case -- showing her pornography is

1 certainly related to the incidents where he masturbated
2 in front of them. They say there was a connection
3 between those things. That's why it's so probative.

4 MR. WILLIAMS: Then the argument is is that
5 anything pornographic which is found in the room.

6 THE COURT: You are making a connection that
7 anybody that has pornography masturbates in front of
8 young victims.

9 MR. STUMBO: I didn't say that, Your Honor.

10 THE COURT: That's where that argument goes,
11 Solicitor.

12 MR. STUMBO: My argument is that they saw a
13 number of items of pornography which he left laying
14 around the house. When that conversation started, he
15 ultimately would masturbate in front of them. They said
16 it became after they looked at these items, naked
17 pictures, pornography, and they drew --

18 THE COURT: We are not talking about naked
19 pictures. We are talking about State's Exhibit
20 Number 4. That's all I'm ruling on right now, State's
21 Exhibit Number 4. I don't know about the naked pictures
22 right now. I am just ruling on State's 4.

23 MR. STUMBO: Yes, sir. My recollection of
24 Minor 1 testimony -- not Minor 1 excuse me, Your
25 Honor -- Minor 2 testimony was as follows: That

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1 there was pornography they saw in the house, there was
2 naked pictures, and there was this D.V.D.

3 It was all part of that testimony about the
4 sexual -- items of a sexual nature that she saw in his
5 house, and this was ultimately how this chain of events
6 started. Her seeing the D.V.D. on the T.V., I believe
7 is related with those other items, and that's the way
8 the testimony was presented Your Honor.

9 MR. WILLIAMS: Your Honor, should I just stand
10 up and argue a long time so that I will win this motion?

11 THE COURT: I hope that's not how you think I
12 rule.

13 MR. WILLIAMS: No, but it seems like the
14 solicitor has determined --

15 MR. STUMBO: Your Honor, I would ask
16 Mr. Williams --

17 THE COURT: Court will be in recess 15
18 minutes. I would ask y'all all, while we are on the
19 break, go read Rule 501, Cannon 3 (b) (3) and decide
20 what y'all are going to do about courtroom decorum and
21 me controlling the courtroom.

22 MR. STUMBO: Yes, sir.

23 THE COURT: Don't debate with each other.
24 Court will be in recess 15 minutes.

25 MR. STUMBO: Yes, sir.

1 (Whereupon there is a recess).

2 THE COURT: Anything further, Solicitor, on
3 State's Exhibit 4?

4 MR. STUMBO: Nothing on that issue. I would
5 apologize to the Court for any offhand comments and
6 inappropriate behavior.

7 THE COURT: Mr. Williams.

8 MR. WILLIAMS: Your Honor, on behalf of
9 myself, certainly not the Defendant, because this was
10 entirely my doing, I apologize for being overzealous in
11 making sure that my point, I guess, was heard.

12 THE COURT: Thank you. I will hear your point
13 and the solicitor's point, Mr. Williams. Thank you very
14 much.

15 I have reviewed during the break State versus
16 Nelson, which is 501 S.E.2d 716, a 1998 case. I think
17 it was tried in Lexington before Judge Baggett. I find
18 the testimony is very different in this case than what
19 was presented in Nelson.

20 This testimony is not -- this exhibit is not
21 presented for purposes of attacking the Defendant's
22 character or characteristics of pedophile or anything of
23 that nature.

24 I think it is relevant. I think it's
25 admissible under 401. The 403 analysis, in looking back

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1 at State versus Alexander, I find that it is highly
2 probative. The probative value substantially outweighs
3 the danger of unfair prejudice.

4 I think given the fact that there was
5 testimony from one of the victims and three of the
6 indictments charged, State's 4 was at the residence of
7 the Defendant, then Moore Mobile Manor, and then
8 2 August of '07, it was located in the bedroom residence
9 at [REDACTED], whatever the number is on [REDACTED]
10 in Max Meadows.

11 There is a very high degree of probability.
12 It goes to the issue of corroboration and credibility of
13 the victim in this matter, ^{Minor 2}. State's 4 is in
14 evidence, subject to pretrial 401 and 403.

15 Anything further before we bring in our jury,
16 Solicitor?

17 MR. STUMBO: Nothing further, Your Honor.

18 THE COURT: Mr. Williams?

19 MR. WILLIAMS: Nothing from the Defendant.

20 THE COURT: Are there going to be any others
21 of this same argument that came out of the house at
22 [REDACTED]? If there are, I would like to take them
23 up now.

24 MR. WILLIAMS: I don't know. I guess he will
25 have to...

1 MR. STUMBO: Yes, Your Honor.

2 THE COURT: I don't want to have to go through
3 sending the jury in and out.

4 MR. STUMBO: Your Honor, the way we intend to
5 present -- this is the only physical item we were going
6 to put in. Our intent was to put in the photos taken by
7 Sheriff Vaughan of the items.

8 We do have the original evidence in boxes, but
9 the photos show a number of the items laid out where
10 they were. They are documented in that manner. It's
11 for issues really more of judicial economy than anything
12 else.

13 THE COURT: I don't care about the form in
14 which you offer them, but Mr. Williams needs to be able
15 to identify what those are and what objections, if any,
16 he has --

17 MR. STUMBO: Yes, sir.

18 THE COURT: -- to those items. There may be
19 some he does not have objections to, except for his
20 pretrial objections.

21 MR. WILLIAMS: The other item, Your Honor, is
22 obviously chain of custody. Because I assume that he
23 would take us through the chain of custody with these
24 items.

25 THE COURT: I was trying to rule on any 403 --

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1 any 401 or 403 objections, Mr. Williams. If there's a
2 chain of custody to come up, we can take that up.

3 MR. STUMBO: Your Honor, all these that he is
4 looking at now have been marked for I.D. purposes, so we
5 have numbers to them. I can refer to them by number.

6 MR. WILLIAMS: Could I observe the original
7 exhibits to see that the pictures are a reflection of
8 the exhibits?

9 THE COURT: Yes, sir.

10 MR. STUMBO: Certainly.

11 (Pause).

12 MR. WILLIAMS: Your Honor, I am okay with the
13 format in which it is being introduced, meaning the
14 photographs versus the objects themselves. Arguably,
15 Your Honor, and it's kind of hard to do it, I guess,
16 unless you can look at each one, I'm not sure which
17 items specifically each victim pointed out as having
18 seen before, and I don't think that they have identified
19 all of these items as being seen before.

20 MR. STUMBO: We have kept a chart of
21 everything, and we would be glad to give the notes we
22 have taken to Mr. Williams.

23 MR. WILLIAMS: Are they every one?

24 MR. STUMBO: We essentially have got a flow
25 sheet where we have marked each exhibit by the victims

1 and what they saw in each exhibit. Like I say, we would
2 be glad to provide that to Mr. Williams.

3 THE COURT: This is what, State's Numbers 5,
4 6, 7, 8, 9, 10?

5 MR. STUMBO: Yes, sir. We have got 5, 6, 7,
6 8, 9, 13, 16, and 17. I'm not talking about Number 10
7 and Number 18 at this point.

8 (State's Exhibit Number 10 and 18 are marked
9 for identification).

10 MR. WILLIAMS: Your Honor, in reference to at
11 least one of these specific items, which is Exhibit 6,
12 which is a picture of a gun, again, besides what the
13 Court has ruled on pretrial, we would argue that the
14 prejudicial value outweighs the probative value of this
15 gun.

16 I think that's the point. No one has talked
17 about anyone using a gun to threaten anybody or anything
18 like that. It's obviously meant to indicate, I guess,
19 he is a criminal of some kind to have a gun.

20 THE COURT: What is the relevancy of State's
21 6?

22 MR. STUMBO: Your Honor, it would be
23 essentially the same argument as the D.V.D. It
24 corroborates Minor 2 Minor 1 and Minor 3 testimony.
25 They said they had seen the firearm in his house.

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1 I do acknowledge Mr. Williams' argument that
2 it is less probative maybe than this D.V.D. that we
3 argued before, State's 4, but it is relevant. We
4 believe it's probative as to the element of credibility
5 of our victims.

6 THE COURT: I will exclude State's 6.

7 MR. STUMBO: Thank you, Judge.

8 (State's Exhibit Number 6 is marked for
9 identification).

10 THE COURT: What is 5? What about the others,
11 Mr. Williams 5, 7, 8, 9, 13, 16, 17?

12 MR. WILLIAMS: Your Honor, it's my
13 understanding from the Solicitor's Office that at least
14 one of the victims has identified the photos as being at
15 either the residence of Mr. Ratliff or in the car of
16 Mr. Ratliff at least on some occasion.

17 If it is in accordance with the Court's second
18 ruling, meaning that if the Court rules that because
19 they have seen the items, that it lends credibility to
20 the witnesses' testimony, then it should be even -- it's
21 relevant and the probative value outweighs the
22 prejudicial value.

23 Whether they saw it because they found it or
24 they saw it because Mr. Ratliff showed it to them, then
25 it wouldn't make any difference if you follow what I'm

1 saying, Your Honor.

2 If the Court's ruling is that as long as this
3 evidence tends to substantiate the fact that they had
4 seen it, and therefore it was found in a residence in
5 Virginia which indicates that Mr. Ratliff had been in
6 the residence in Virginia, then that would be -- it
7 could come in underneath the Court's second ruling.

8 THE COURT: Show me those items, Solicitor.

9 MR. STUMBO: Yes, sir. What I am passing up
10 to the Court is State's 5, State's 7, State's 8, State's
11 9, State's 13, State's 16, and State's 17 for I.D.
12 purposes.

13 (Hands to Court).

14 MR. STUMBO: Your Honor, in terms of what we
15 are talking about maybe to simplify, ^{Minor 2} has
16 testified that she saw all of these items on her direct
17 exam. I believe ^{Minor 1} and ^{Minor 3} had seen some of the
18 items in these pictures, while not all.

19 We have documented what they saw and what they
20 didn't see. But at least as to ^{Minor 2} she saw all
21 the items that we passed up to the Court or are
22 contained in the photos we passed up.

23 THE COURT: Based on my notes, although I
24 don't think each of the three victims testified they saw
25 all of these items, I do recall at least one of the

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1 victims testified she did see all of the items
2 was ^{Minor 2} . Ms. ^{Minor 1} and ^{Minor 3} have testified
3 to seeing various of these items, either at Moore Mobile
4 Manor or in the automobile.

5 I find they are relevant. They are subject to
6 a 403 analysis. The probative value substantially
7 outweighs the prejudicial effect, particularly given the
8 manner in which they are being offered, rather than the
9 actual items.

10 There obviously is some prejudice involved in
11 any evidence that is offered. It's prejudicial to one
12 party or favorable to one or the other. I think the
13 format tends to negate the prejudicial value, and I do
14 think the probative value outweighs the prejudicial
15 value. That would be as to 5, 7, 8, 9, 13, 16, and 17
16 and further subject to my previous pretrial rulings.

17 Anything further, Solicitor?

18 MR. STUMBO: Nothing further, Your Honor.

19 THE COURT: Mr. Williams?

20 MR. WILLIAMS: Nothing further, Your Honor.

21 THE COURT: If you would bring us our jury,
22 please.

23 (The jury returns to the courtroom).

24 THE COURT: Thank you very much, ladies and
25 gentlemen, for your patience this afternoon and your

1 hard work. We are continuing to press on.

2 Solicitor, you may proceed.

3 MR. STUMBO: Thank you, Judge.

4 DIRECT EXAMINATION

5 BY MR. STUMBO:

6 Q Sheriff Vaughan, I believe where we ended, I showed
7 you what has been introduced as State's Exhibit 4.

8 MR. STUMBO: The State had moved to put that
9 into evidence. Your Honor, am I correct in saying that
10 it is in evidence?

11 THE COURT: State's 4 is in evidence subject
12 to previous objections, pretrial, 401 and 403.

13 MR. STUMBO: Thank you, Your Honor.

14 (State's Exhibit Number 4 is received into
15 evidence).

16 BY MR. STUMBO:

17 Q Sheriff Vaughan, if you could hold that up for the
18 jury just briefly.

19 A (Witness complies).

20 Q Thank you.

21 MR. STUMBO: The State would note for the
22 record State's 4 was identified in earlier testimony by
23 Minor 2

24 MR. WILLIAMS: Your Honor, I would object to
25 that.

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1 THE COURT: Yes, sir, that is not appropriate,
2 Solicitor.

3 Ladies and gentlemen of the jury, you would
4 strike that comment. This is question and answer. The
5 facts will be as you remember the facts, not as what any
6 party may say the facts are.

7 It is you, the individual collective memory of
8 the jury, by your memory, by your notes, whatever format
9 you use. Thank you. Thank you very much.

10 Solicitor, you may ask the next question.

11 MR. STUMBO: Yes, sir. If I may approach the
12 witness, Your Honor?

13 THE COURT: Yes, sir.

14 BY MR. STUMBO:

15 Q Sheriff Vaughan, I will show you what has been
16 marked for I.D. purposes as State's Exhibits 5, 7,
17 8, 9, 13, 16, and 17 and ask you to take a look at
18 those and tell me if you can identify those for the
19 jury.

20 A Yes, I can.

21 Q Are these pictures that were taken by you?

22 A Yes.

23 Q And where did you take these photos?

24 A I took some of the photos at the residence of [REDACTED]
25 [REDACTED] and then some of them is where they are

1 laid out on the table at the Sheriff's Department
2 and photographed.

3 Q Where did you find the items in these exhibits?

4 A It was in the upstairs bedroom at [REDACTED]

5 Q Do the items in all of those pictures fairly and
6 accurately represent things you found in that
7 bedroom at [REDACTED] on August 2nd?

8 A Yes.

9 Q And have they been altered or manipulated in any
10 way?

11 A No, sir.

12 Q The items in those pictures, did you seize those
13 items for evidence?

14 A Yes, we seized the pictures and the items, yes.

15 Q Are those items in the custody of the Wythe County
16 Sheriff's Office?

17 A Yes, we have them with us here today.

18 MR. STUMBO: Your Honor, at this time the
19 State would offer State's 5, 7, 8, 9, 13, 16, and 17
20 into evidence.

21 MR. WILLIAMS: Subject to prior objections,
22 Your Honor.

23 THE COURT: All right. State's 5, 7, 8, 9,
24 13, 16, and 17 are in evidence subject to pretrial
25 rulings, 401 and 403.

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1 (State's Exhibits Number 5, 7, 8, 9, 13, 16,
2 and 17 are received into evidence).

3 BY MR. STUMBO:

4 Q Sheriff Vaughan, if you could just one at a time --
5 permission to publish these exhibits to the jury,
6 Your Honor, via the witness.

7 THE COURT: Certainly.

8 A Exhibit 5 is a picture of Mr. Richard Ratliff,
9 several Polaroid photographs of him, nude exposing
10 his anus and his genital areas and also photographs
11 of a middled-age female exposing her genital areas.
12 Exhibit 7 is, again, a middled-age female and
13 Mr. Richard Ratliff performing oral sex on a
14 female.

15 Exhibit 8 is Mr. Richard Ratliff nude
16 masturbating. Exhibit 9 is a strap-on dildo with
17 photographs of several children. One of the
18 Polaroid photographs is ^{Minor 2} That's Exhibit
19 9. Exhibit 13 is a picture, Polaroid photograph,
20 of ^{Minor 2} on the back of a car.

21 Exhibit 16 is a plastic bag that we located in
22 the upstairs bedroom beside the bed. In this bag
23 were small G. string panties, several photographs
24 of ^{Minor 2} and other children, K.Y. lubricant,
25 dildos, and sexual toys. Exhibit 17 is a second

1 photograph of those sexual toys, young girls
2 panties, K.J. jelly lubricant.

3 Q Thank you, Sheriff Vaughan. I will keep with you
4 State's 16 and 17 and refer you specifically to 16
5 to start with. You described that as a bag with
6 sex toys and pictures in it?

7 A Yes.

8 Q Is that how you found that bag or how did you find
9 that bag?

10 A Yes, the bag was closed up beside the bed near the
11 nightstand.

12 Q The picture that was laid out on the bed that you
13 identified as ^{Minor 2} on the back of a car, was
14 that in that bag of stuff?

15 A Yes, it was.

16 Q I will refer you to State's 17 again. What color
17 are the girl's panties in that, State's 17?

18 A There's a white pair of panties with some blue trim
19 and appears to be a light blue or greenish color,
20 and then underneath there is another bluish colored
21 panties.

22 Q Thank you, Sheriff Vaughn.

23 A Yes, sir.

24 Q Where did you find all these items?

25 A In the upstairs bedroom at [REDACTED] the

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1 Ratliff residence.

2 Q Is that house in State's 14?

3 A Yes, it is.

4 Q Did you forward this information to Lexington
5 County?

6 A Yes, I did.

7 Q And who did you send it to?

8 A I sent it to Detective Eddie Prestigiacomo.

9 Q This guy sitting over here?

10 A Yes.

11 MR. STUMBO: No further questions at this
12 time, Your Honor.

13 MR. WILLIAMS: May it please the Court.

14 THE COURT: Mr. Williams.

15 CROSS EXAMINATION

16 BY MR. WILLIAMS:

17 Q Sheriff, in regards to these exhibits, and you
18 carefully went through every exhibit -- I'm sorry,
19 you went through every item that you found there,
20 correct, when you took the pictures of them?

21 A Yes.

22 Q Now, the pictures in State's Exhibit Number 9 are
23 laid out by someone; aren't they? You didn't find
24 them in that manner, did you?

25 A No, sir.

1 Q So someone laid those pictures out in that
2 arrangement; is that correct?

3 A Yes, sir, I did.

4 Q Was there any particular reason why you took those
5 pictures and laid those pictures out with the item
6 which you found next to them?

7 A No, sir, that was just the items that was in that
8 plastic bag. I just laid them out and filled the
9 frame and took a photo and they would lay more
10 pictures out, fill the frame, and take a photo.

11 Q Were there any other items in the bag?

12 A Yes.

13 Q So you had a bag with several items in the bag, and
14 you took out five photos, put them on the bed, and
15 took a picture of those five items with an object?

16 A Yes. Then I put those items to the side, laid out
17 the other items, and took a photograph of those.

18 Q And you took those out of the bag also?

19 A Yes.

20 Q Could you stand down here and publish those items
21 to the jury, please, sir.

22 THE COURT: You may do so, Sheriff. You may
23 step down.

24 (Witness leaves the witness stand).

25 THE COURT: If Mr. Williams asks you any

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1 question while you are away from the stand, if you will
2 just keep your voice up for us, Sheriff.

3 THE WITNESS: Okay.

4 THE COURT: Thank you.

5 BY MR. WILLIAMS:

6 Q By publish, I mean show them.

7 A (Witness complies).

8 Q Thank you, Sheriff.

9 A (Witness resumes the witness stand).

10 Q So the pictures -- and I want to reiterate this one
11 more time -- there were several other items, but
12 you secured those five picture and took this one
13 item, laid it on the bed and took a picture of it;
14 correct?

15 A Yes.

16 Q Now, the pictures which you have just showed the
17 jury, are there any naked women in those pictures?

18 A Not in these pictures, no.

19 Q They are pictures of what?

20 A These are pictures of children, Mr. Richard
21 Ratliff.

22 Q And how are the children dressed?

23 A The children in these photographs are clothed.

24 Q And you put them next to a sex toy, is that
25 correct, when you took a picture of it?

1 A Yes, that's how they was when I found them,
2 together in the bag.

3 Q Along with other items in the bag?

4 A Yes.

5 Q Was there a discerning reason why you took the sex
6 toy out and put it with the pictures or was there
7 something else you could have put with the
8 pictures?

9 A I just emptied the contents of the bag and filled
10 the frame and took a photograph. I didn't put them
11 in any order.

12 Q Now, here is a picture, isn't it, on State's
13 Exhibit Number 13?

14 A Yes.

15 Q Now, do you see that picture on State's Exhibit
16 Number 9?

17 A Yes.

18 Q So is there more than one picture that is
19 identical? Is there one picture or are there two
20 pictures?

21 A Are you referring to the picture of ^{Minor 2} on the
22 car?

23 Q Yes.

24 A No, there is just one picture of ^{Minor 2} laying on
25 the back of the car.

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1 Q Will you step down here, please, sir, and show that
2 exhibit, along with the other exhibit.

3 A (Witness leaves the witness stand and complies).

4 Q Thank you, Sheriff.

5 A (Witness resumes the witness stand).

6 Q So actually what you did is you took a picture of
7 Minor 2 and you took a picture of -- you just
8 took a picture of her in that picture on the bed,
9 which is State's Exhibit Number 13, right? Is that
10 correct?

11 A Yes.

12 Q And then you took that same picture and you
13 combined it with the other pictures of children and
14 a dildo, didn't you?

15 A I think I actually took the first picture first.
16 This (indicating) is what we call a midrange
17 photograph, and this (indicating) is what we call a
18 close-up photograph. When we collect evidence and
19 it's an item of enter which displays our victim,
20 then we take a close-up photograph and collect
21 that.

22 Q You would agree, would you not, that the other
23 pictures of the girl are not reflected on State's
24 Exhibit Number 13; wouldn't you? There is only one
25 picture in that exhibit, right?

1 A Of Minor 2

2 Q Right.

3 A In Exhibit 9?

4 Q Thirteen.

5 A It's just a Polaroid picture of Minor 2

6 Q Now, did the Wythe County, Virginia, Police
7 Department or Sheriff's Department arrest my client
8 and charge him with possession of any type of
9 pornographic material?

10 A No, sir.

11 Q Did you find that the material which was in that
12 room in Wytheville, Virginia, to be against the law
13 in Wytheville, Virginia?

14 A No, sir.

15 MR. WILLIAMS: That's all I have, Your Honor.

16 THE COURT: Thank you, Mr. Williams.

17 Redirect, Solicitor?

18 MR. STUMBO: Briefly, Your Honor.

19 REDIRECT EXAMINATION

20 BY MR. STUMBO:

21 Q Sheriff Vaughan, I believe Mr. Williams referred
22 you to State's 13 and 9. The one that's the
23 close-up picture, what was the reason why you took
24 the close-up picture?

25 A Because I had determined that that was the victim

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1 in the Lexington County, South Carolina, case, and
2 I wanted a close-up picture to be able to identify
3 her from the photograph.

4 Q What is the relevance, if any, of the car in that
5 photograph to your investigation?

6 A Well, the car has a South Carolina tag displayed on
7 the vehicle.

8 Q Could you read the tag when the picture was smaller
9 in State's, I believe, 9?

10 A Yes, I can read it on it also.

11 Q Is it larger on State's 13?

12 A Yes.

13 Q The pictures and the information you gathered, how
14 did you send that to Detective Prestigiacomo?

15 A I e-mailed the photographs and then First Sergeant
16 John Thompson and myself from Wythe County carried
17 those items with us to court today.

18 MR. STUMBO: That's all I have, Your Honor.

19 MR. WILLIAMS: Nothing further, Your Honor.

20 THE COURT: Thank you. Thank you very much,
21 Sheriff, you may step down.

22 (Witness leaves the witness stand).

23 MR. STUMBO: Your Honor, as with First
24 Sergeant Thompson, we would ask that Sheriff Vaughan be
25 excused to go back to Virginia.

1 MR. WILLIAMS: No objection.

2 THE COURT: Thank you for being with us,
3 Sheriff. You may be excused.

4 Solicitor, you may call your next witness.

5 MS. HOWARD: Your Honor, the State calls
6 Detective Glenn Davis.

7 GLENN DAVIS, being
8 first duly sworn, testifies as follows:

9 CLERK: State your full name and spell your
10 last name.

11 THE WITNESS: My name is Glenn Davis,
12 D-A-V-I-S.

13 DIRECT EXAMINATION

14 BY MS. HOWARD:

15 Q Good afternoon, Detective Davis.

16 A Good afternoon.

17 Q Where are you employed, Detective Davis?

18 A With the Lexington County Sheriff's Department.

19 Q How long have you been with the Sheriff's
20 Department?

21 A About four and a half years.

22 Q And before that do you have a background in law
23 enforcement?

24 A Yes, I do. I worked with the State for the
25 Department of Natural Resources in law enforcement

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1 and under S.L.E.D., for approximately 23 years
2 total.

3 Q At the Sheriff's Department now, what is your
4 official capacity?

5 A I'm a detective, victim's advocate.

6 Q Can you explain to the jury a little bit more,
7 elaborate a little bit more, on what a victim's
8 advocate for the Sheriff's Department does?

9 A Sure. Any report that comes into the Sheriff's
10 Office that has a victim's issue, myself and four
11 others make contact with the victims. It could be
12 anything from a property crime up to a murder,
13 shooting, stabbing.

14 These victims may need assistance, counseling
15 with understanding court proceedings or help with
16 medical bills, which the State does offer to help,
17 and we assist them in filling out the paperwork,
18 the forms, and getting that kind of help.

19 Q How did you become involved in the case of Richard
20 Ratliff?

21 A Yes, the original report that came in -- and may I
22 refer to my notes which are the incident report on
23 file?

24 Q Yes.

25 A I actually received the first incident report,

1 which was written on July 25, '07, I received it
2 the next day and attempted or did make contact with
3 the mother, Ms. Sharpe, and the victim was ^{Minor 1}

4 [REDACTED]

5 Q Which officer did you receive that report from?

6 A It came from Officer Grooms. In my notes at that
7 time I called and left a voicemail telling them
8 that Detective Collins, who was a part-time Cayce
9 detective with us would be contacting them and
10 wanted to talk to them about counseling.

11 Q Did you receive another report from Officer Grooms?

12 A Yes, I did. This report was written on the 26th.

13 Q What month and year was that?

14 A I'm sorry, that's July 26, '07, the victim being

15 ^{Minor 2}

 In my notes on July 27, '07, at
16 11:25 a.m. I called the victim's mother and advised
17 her that Detective Collins would be doing an
18 investigation, and we also talked about the options
19 for counseling, and I would be back in touch.

20 Q Was Detective Collins actually assigned to this
21 case?

22 A Well, he was assigned to the first case and he came
23 in in the evenings and did your smaller stuff,
24 which this was titled -- the first report is an
25 indecent exposure. So he would be doing the

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1 follow-up on that.

2 When I saw that the names were close to the
3 same on the suspect list or the subject list on the
4 reports, one was spelled a little different, same
5 first name, I did some checking and found out
6 actually it was the same individual.

7 After talking to both mothers, I got them to
8 all come in just a few days later to bring the
9 girls in so I could talk to them about the
10 counseling and talk to the mothers of the options
11 of counseling, get them to fill out the paperwork
12 through the State Office of Victim's Assistance,
13 which if you can't afford to pay or you don't have
14 insurance, we will assist you in paying for the
15 counseling.

16 Q Detective Davis, to your knowledge did Mr. Collins
17 ever talk to any of the mothers or daughters in
18 this case?

19 A I think they were playing phone tag at the time
20 during this time.

21 Q So as far as you know, after Officer Grooms made
22 initial contact with Sherry Sharpe and Minor 1
23 and Minor 2 and Tracey Smotzer, were you
24 the next officer to speak with these victims?

25 A Yes, I was.

1 Q Did they all come into the Sheriff's Department
2 together?

3 A Yes, they did.

4 Q Was anyone else with them?

5 A The other girl -- and I don't have that report, a
6 friend of theirs. It was three girls that came in
7 together and two mothers.

8 Q Do you remember what day they came into the
9 Sheriff's Department?

10 A I don't have my other paperwork in front of me. I
11 take that back. On July 30, '07, I met with them
12 in an interview room.

13 Q Detective Davis, did you meet with all of them in
14 the same room?

15 A I did initially, yes.

16 Q Did you have any of the victims or their mothers
17 write you statements as to what had happened to
18 them?

19 A Yes. Due to the fact that Detective Collins, who
20 was, I think, going to end up with the second
21 report also, it was titled actually sexual exposure
22 or lewd act towards a minor, I got her to complete
23 a statement, got the minor victim to complete a
24 statement at that time.

25 Q Do you remember which minor victim that was?

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1 A That was ^{Minor 2}

2 Q So to your knowledge the first detailed
3 conversation about these incidents took place --

4 MR. WILLIAMS: Objection to speculation, Your
5 Honor.

6 THE COURT: Rephrase the question, Solicitor.
7 BY MS. HOWARD:

8 Q Aside from you and Officer Grooms, had any of these
9 girls had any conversations or meetings with any
10 other representative from the Sheriff's Department?

11 A They had not at this time.

12 Q The statements that the girls gave, did you read
13 those?

14 A Yes, I did. They completed -- I think the mothers
15 completed the S.O.V.A. applications, the other
16 statements were completed, and once I started
17 reading it, I knew we had something more than just
18 what would be assigned to the part-time detective.

19 Q Do you remember what statements you read that led
20 you to that conclusion?

21 A I don't have the statement in front of me at this
22 time, but I believe it was ^{Minor 2} It
23 was more than just an indecent exposure or indecent
24 liberty and knew it needed at this time to get
25 assigned to a major crime detective.

1 Q At that point what did you do?

2 A At that point I got the reports and the statements
3 and went to the sergeant, one of the sergeants in
4 the investigative major crimes, and we got it
5 assigned immediately to Detective Prestigiaco. From there on,
6 from that time on, he was the lead
7 detective in the case and followed up on both
8 reports at that time.

9 Q When you went to see the sergeant and the case was,
10 as you said, immediately assigned to Prestigiaco,
11 were these victims and their mothers still at the
12 Sheriff's Department?

13 A Yes, they were.

14 Q So can you give me a time frame of how long it took
15 from the case to go to Detective Collins to
16 Detective Prestigiaco?

17 A Once I read the statement and the probably 15
18 minutes it took to deliver it to the sergeant and
19 explained what was going on, it was immediately
20 assigned. In fact, I think I took everything to
21 Detective Prestigiaco there who is near this
22 cubicle and explained it to him and another
23 detective.

24 MS. HOWARD: Permission to approach the
25 witness, Your Honor?

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1 THE COURT: Yes, ma'am.

2 BY MS. HOWARD:

3 Q State's Exhibit 32 in evidence, does that look
4 familiar?

5 A Yes, it does. It's the statement that day that
6 Minor 2 completed, and I signed off on as
7 a witness.

8 Q Can you tell me what other signature is at the
9 bottom of that statement?

10 A The mother's signature. She signed it due to the
11 victim being a minor child.

12 Q Is that the normal practice at the Sheriff's
13 Department?

14 A Yes. That's what I got her to do. Some will get
15 both to sign, but at that time I think she was 11.
16 So I let the mother sign for the daughter.

17 Q Both minor and guardian?

18 A Yes.

19 Q You chose to just have the mother Tracey sign?

20 A Yes, mother or guardian.

21 Q After that statement Detective Prestigiacomo took
22 other statements from other victims?

23 MR. WILLIAMS: Objection to leading.

24 THE COURT: Rephrase, if he has personal
25 knowledge.

1 BY MS. HOWARD:

2 Q Did you take any other statements from the mothers
3 or victims that day?

4 A I know he and Detective Beaver did meet with the
5 victims all separately. At this time I was kind of
6 on the back burner, but they took the case and ran
7 with it. I know from seeing the case file and
8 talking to them after everybody left, they did get
9 other statements.

10 Q Detective Davis, what was your next involvement in
11 this case, if any?

12 A Actually everything went pretty quick that
13 afternoon. They ended up getting some warrants.
14 We found out that the Defendant, Mr. Ratliff, was
15 in the area. I went with Detective Prestigiacomo
16 and Detective Beaver to serve the arrest warrant on
17 him where he was located in a motel in the Cayce
18 area.

19 Q After that have you had any other involvement in
20 this case?

21 A Yes, I have had follow up in talking to the mothers
22 or guardians about counseling. In a lot of cases
23 we can get counseling paid for. We get them hooked
24 up with different counselors.

25 At this time I tried to get them hooked up, I

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1 think, with the Dickerson Center who specializes in
2 child sexual abuse or child abuse cases. They have
3 specialized counselors that are great. They have
4 trained people that are great in talking to young
5 kids.

6 Q Detective Davis, why would you have recommended
7 counseling for these girls?

8 A Due to the reports and the statements, what was in
9 the statements of what they had been through, what
10 they said they had been through. From what I
11 heard, I knew that was the best place for them to
12 go to get help.

13 Q Was your hurry to get this case reassigned to
14 another investigator due to what the victims told
15 you that day?

16 MR. WILLIAMS: Objection, leading.

17 THE COURT: Yes, ma'am. You can rephrase it.

18 BY MS. HOWARD:

19 Q Why did you feel a sense of urgency in this case?

20 A These were young children and they can't a lot of
21 times make decisions on their own. Due to the fact
22 of what they were alleging was done to them, I
23 figured there was a an urgency in this to get it
24 investigated and get something done.

25 Q Please answer any questions Mr. Williams may have.

1 THE COURT: Thank you, Solicitor.

2 Mr. Williams.

3 MR. WILLIAMS: Thank you, Your Honor.

4 CROSS EXAMINATION

5 BY MR. WILLIAMS:

6 Q I'm sorry, what is your rank, please, sir?

7 A I'm a detective victim's advocate.

8 Q When you say you are a detective victim's advocate,
9 is that a separate rank in the Sheriff's
10 Department?

11 A I hold the rank of detective. My main function is
12 to act as a victim's advocate. But being a
13 commissioned law enforcement officer, I do respond
14 to the scenes. I do take witnesses statements and
15 do assist the lead case detectives in anything they
16 may need to help in wrapping up the case.

17 Q And how long have you done that?

18 A Approximately two years, two, two and a half years.

19 Q What did you do before those two years with them?

20 A I was a road deputy assigned to the north region.

21 Q How many years were you a road deputy?

22 A Two years.

23 Q And before that?

24 A I was a Department of Natural Resources law
25 enforcement officer for 17 years.

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1 Q Seventeen years?

2 A Yes, sir.

3 Q And in your training, in your law enforcement
4 training, were you taught how to take statements?

5 A Yes, sir, I was.

6 Q And on the particular day in which I think you said
7 all three of the girls and their mothers came to
8 the Sheriff's Department, they all came in at the
9 same time; is that correct?

10 A They did.

11 Q The Sheriff's Department has videotaping capability
12 in the interview room, doesn't it?

13 A Not that I'm aware of, no.

14 Q In the first interview room on the left when you go
15 into the Sheriff's Department, it does not have
16 videotaping capabilities?

17 A No.

18 Q To your knowledge has it ever had videotaping
19 capability?

20 A Not to my knowledge.

21 Q When you had the interview with, I guess, ^{Minor 2}
22 did you bring a tape recorder in there to
23 record her statements about what occurred to her?

24 A No, I did not.

25 Q So there was no oral testimony taken from any of

1 the victims that was preserved on any type of
2 taping device?

3 A No, there was not.

4 Q Now, I believe you in answer to the prosecutor, you
5 said that you did not have ^{Minor 2} sign
6 her name because she was a minor?

7 A That's correct.

8 Q Did you have -- did you take a written statement
9 from either of the other two girls?

10 A No, I did not.

11 Q Would you look at what has been marked as State's
12 Exhibit Number 32 and tell me whose handwriting is
13 on the third page of that statement?

14 A That's my signature as being a witness. I signed
15 it as a witness.

16 Q Is anyone else's handwriting revealed on the third
17 page of State's Exhibit Number 32?

18 A There is blue handwriting that says, Continuation
19 of statement with Detectives Beaver and
20 Prestigiacomo.

21 Q Whose handwriting is that?

22 A I'm not really positive. It's all crossed out, and
23 there is a an initial by it.

24 Q Whose handwriting is that?

25 A I'm not sure on that part.

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1 Q Is there another line on the third page of State's
2 Exhibit Number 32 prepared by another individual
3 which has been marked through?

4 A There's three different lines. All of them were
5 marked through and initialed by someone to delete
6 them from that statement.

7 Q And who signed those items?

8 A Are you talking about the initials?

9 Q The blue writing which was marked through and was
10 initialed?

11 A I'm not sure of the initials on that.

12 Q Do you know who signed it, whether you know who the
13 initials are or not?

14 A No, I don't.

15 Q As I understand the purpose of being a witness on a
16 statement is so that you can come at another time
17 to court and verify that you observed the writing
18 of the document?

19 A That's correct.

20 Q And is it your testimony that you cannot identify
21 the writing on the document?

22 A The statement that was completed with the black
23 writing, I can attest to and I signed. The blue
24 writing on there that has been marked through and
25 initialed that it was marked off the statement, I'm

1 not sure whose initials that is.

2 Q Who else was in the room? Who was the person who
3 wrote the statement out?

4 A Minor 2 the juvenile.

5 Q Who else was in the room who would have the ability
6 to sign on her statement?

7 A Nobody signed her statement when I was in the room
8 but her mother.

9 Q But her mother?

10 A Yeah, but her mother.

11 Q How did you explain the fact that there is other
12 writing on her original statement?

13 A Once the statements were taken, everything was
14 turned over to Detective Prestigiacomo and
15 Detective Beaver.

16 Q Are you saying when you signed it, that was not on
17 the statement?

18 A That was not on the statement at the time, no, sir.

19 Q So you are saying that this original document has
20 been tampered with?

21 A Nothing has been changed from what the victim
22 wrote. There was some additions that had been
23 crossed out and were initialed that they were
24 crossed out, but I wouldn't call that tampering.

25 Q But it's your testimony that you weren't present

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1 when that was done, and at the time you turned the
2 case over to another police officer, it was not on
3 that document; is that correct?

4 A That's correct.

5 Q Now, when you were learning how to take statements
6 in your law enforcement career, did you learn
7 whether or not it was proper upon a witness giving
8 a statement to provide a copy of that statement to
9 the person giving the statement?

10 A Yes.

11 Q And did you do that in this case?

12 A Yes, I did.

13 Q So would it be your testimony that ^{Minor 2}
14 would have a copy of the statement which you have
15 just testified to which would not have the marks or
16 the additions on the statement that you just
17 testified to?

18 A I would say this particular typed statement has a
19 back to it, like a memo graph type sheet. I always
20 try and give the victim the copy at that moment,
21 and whether I did it right then, because they had
22 not left and did not leave quite a while after that
23 or whether it was given to them by Detective
24 Prestigiaco, I can't answer that.

25 Q Did you maintain a copy of the statement which you

1 witnessed and secured for your own records?

2 A No, I did not. Everything was turned over to the
3 lead case detective.

4 Q It's my understanding that in your role as a
5 victim's advocate, you explained to all three
6 mothers of the victims about counseling for all
7 three of their children; is that correct?

8 A That's correct.

9 Q To your knowledge did any of the three children
10 that we have referenced or that you are aware of
11 have any counseling?

12 A They have had, I think, some counseling.

13 Q And where did they have the counseling at?

14 A I think Ms. ^{Minor 2} had gone to Dickerson Center
15 for a while. I know I had talked to them about
16 going to mental health where they have adolescent
17 counseling there.

18 My job is to make the arrangements, get it
19 paid for if you can't afford to. Worse case
20 scenario is if somebody didn't have transportation,
21 I could probably help them out with that.

22 Q In your job as a victim's advocate, did you secure
23 financing and/or transportation and assist the
24 victims to receive counseling?

25 A I did as far as getting counseling paid for. It

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1 would have been paid by the State Office of
2 Victim's Assistance.

3 Q Do you know whether or not they went?

4 A I do not. I know they went to some at the
5 Dickerson Center. They offer the counseling for
6 free, and I know I talked to one of the mothers
7 about going to the Department of Mental Health just
8 probably in the last year at some time.

9 Q Now, the Dickerson Center is located on Highway
10 Number 1; is that correct?

11 A That's correct.

12 Q Going towards Triangle City on the right-hand side?

13 A Yes.

14 Q Right next to attorney Wayne Floyd's office; is
15 that right?

16 A I think so, right in there.

17 Q That particular location is a location where
18 forensic evaluations are done; is that correct?

19 A They are done there, too, yes.

20 Q What is it called when forensics evaluations are
21 done there? Is it called A.R.C. or is there a
22 different name for when they do forensic
23 evaluations?

24 A I think the A.R.C. and the Dickerson Center, I
25 understand, are two different places.

1 Q They are two different places?

2 A But at the Dickerson Center, they do everything.
3 They do interviews, they do forensics, they do
4 medical, and they can do counseling.

5 Q Did you talk to any counselors at the Dickerson
6 Center to determine whether or not they had
7 counseled any of the victims that you are talking
8 about?

9 A Initially I talked to the lady who does the intake,
10 get them the paperwork, and they handle everything
11 from then on.

12 Q So, again, you can't testify as to whether or not
13 they ever went to the Dickerson Center?

14 A No. Just from talking to the mother, they had
15 mentioned they had gone some, and this was -- this
16 has been quite a long time ago.

17 Q Do you have any records?

18 A I do not.

19 Q What is the difference between a forensic
20 evaluation and a counseling session?

21 A In one you are obtaining information, what had
22 occurred, and the other you are trying to give the
23 individual the help to help them recover from the
24 incident.

25 Q Is it your testimony that you secured counseling

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1 for the victims or that you secured a forensic
2 evaluation of the victims?

3 A Counseling.

4 Q So you had nothing to do with the forensic
5 evaluation?

6 A No.

7 MR. WILLIAMS: That's all the questions I
8 have, Your Honor.

9 THE COURT: Thank you, Mr. Williams.
10 Solicitor, anything in redirect?

11 MS. HOWARD: Very briefly, Your Honor.

12 REDIRECT EXAMINATION

13 BY MS. HOWARD:

14 Q Detective Davis, were you with Detective
15 Prestigiacomo and Beaver when they went to the
16 Knights Inn to arrest Richard Ratliff?

17 A Yes, I was.

18 MR. WILLIAMS: Objection, Your Honor, that is
19 not proper in that it was not part of --

20 THE COURT: I overrule the objection under
21 601. You may proceed, Solicitor.

22 BY MS. HOWARD:

23 Q And, finally, this statement by ^{Minor 2}
24 that you signed, were you sitting in the room the
25 entire time she wrote that statement?

1 A Yes, I was.

2 Q How many pages is that statement?

3 A Three pages.

4 Q But for one to two lines of that statement, is the
5 rest of it in ^{Minor 2} handwriting as you
6 saw it that day?

7 A Yes. Yes, it is.

8 Q Thank you, Detective. No further questions.

9 THE COURT: Recross?

10 MR. WILLIAMS: No recross, Your Honor.

11 THE COURT: Thank you. Thank you, Detective
12 Davis. You can step down.

13 THE WITNESS: Thank you.

14 (Witness leaves the witness stand).

15 THE COURT: Solicitor, how long will your next
16 witness be?

17 MR. STUMBO: Anywhere between 30 and 45
18 minutes.

19 THE COURT: Is that all right? Are y'all up
20 for one more? If you call your next witness, please,
21 Solicitor.

22 MR. STUMBO: Thank you, Your Honor. The State
23 would call Detective Ed Prestigiaco to the stand.

24 ED PRESTIGIACOMO, being
25 first duly sworn, testifies as follows:

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1 CLERK: State your full name and spell it
2 slowly.

3 THE WITNESS: Yes, Ed Prestigiacomo,
4 P-R-E-S-T-I-G-I-A-C-O-M-O.

5 DIRECT EXAMINATION

6 BY MR. STUMBO:

7 Q Good evening, Detective Prestigiacomo.

8 A Hello.

9 Q I take it by that star on your jacket lapel, you
10 work for the Sheriff's Department?

11 A Yes, sir.

12 Q What is your role there at the Sheriff's
13 Department?

14 A I'm a major crimes detective.

15 Q And that's here in Lexington County?

16 A Yes, sir.

17 Q And how long have you been in major crime
18 investigations?

19 A Approximately five years.

20 Q And during that time about how many cases do you
21 think you have investigated, a rough estimate?

22 A Several hundred.

23 Q What kind of cases have you investigated?

24 A We primarily get, starting from worse to least
25 worse, homicides, rapes, home invasions armed

- 1 robberies, and child rapes.
- 2 Q And do you have any other law enforcement
- 3 experience before coming to Lexington County?
- 4 A Yes, sir, I have been with Lexington approximately
- 5 14 years. There was a break in between. I was in
- 6 Kosovo for a year in 2001 as an international
- 7 police officer. Prior to that I worked for the
- 8 Columbia City Police for several years and N.Y.P.D.
- 9 for several years.
- 10 Q When were you with N.Y.P.D.?
- 11 A 1989 to '92. Then I started at Lexington, Town of
- 12 Lexington Police Department.
- 13 Q Is that where you started, the New York Police
- 14 Department?
- 15 A Yes, sir.
- 16 Q Now, Detective Prestigiacomo, one of these several
- 17 hundred investigations, did they involve the
- 18 Defendant, Richard Ratliff?
- 19 A Yes, they did.
- 20 Q And at what point, what date, was it that you got
- 21 involved with the investigation?
- 22 A It was July 30, 2007.
- 23 Q And how was this case referred to you, Detective?
- 24 A I was approached by Detective Glenn Davis, Sergeant
- 25 Ken Correll. We were apprised of a situation,

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- 1 myself -- referring to myself and Detective
2 Beaver -- that we had a suspected child molestation
3 and possible rape or penetration of several little
4 girls and that this particular suspect was in town
5 and planning a rendezvous with one of the victims.
- 6 Q That day where Detective Davis called you into the
7 case, you were here for his testimony a few minutes
8 ago?
- 9 A Yes, sir.
- 10 Q Who else was involved other than you and Detective
11 Davis?
- 12 A Myself and Detective Roger Beaver conducted the
13 interviews.
- 14 Q Detective Beaver, was he your partner?
- 15 A He was my partner.
- 16 Q Is he still with the Sheriff's Department?
- 17 A No, sir, he moved to the license and labor board
18 for the State.
- 19 Q The steps you took during the investigation, were
20 they done hand in hand with Detective Beaver or did
21 y'all do things separately?
- 22 A Side by side, yes.
- 23 Q I believe you testified this was on July 30 you
24 came in with Detective Davis?
- 25 A Yes, sir.

1 Q And who was there with Detective Davis at that
2 time?

3 A We were escorted into an interview room. The three
4 victims were there, Minor 2 Minor 3

5 Minor 1 Ms. Minor 1 was there and Minor 2
6 mother, Ms. Smotzer, along with Glenn Davis.

7 Q Were you able to interview those individuals?

8 A At that point in time -- not that I directed
9 anybody, including Detective Davis, but I wanted
10 nobody else to speak about the matter. We were
11 going to separate each victim and interview each
12 one individually to get the details that we needed
13 to get on the case. We started out with Minor 3
14 [REDACTED], was the first girl that we talked to.

15 Q Ultimately did you talk to all three?

16 A Yes.

17 Q Do you have that documented what times you talked
18 to them?

19 A Yes. We talked, myself and Roger Beaver, talked
20 with Minor 3 around 3:10 p.m. on 7/30/07.

21 Q How about the next victim? Who did you talk to
22 next?

23 A We spoke with Minor 2 at approximately 4:15 p.m.

24 Q And then who after that?

25 A Then it was Minor 1 was about 4:50 p.m.

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1 Q Did you get written statements from the girls at
2 that time?

3 A We did. I was handed over the statements from
4 Minor 2 and --

5 Q I will stop you right there.

6 MR. STUMBO: If I could approach the witness,
7 Your Honor?

8 THE COURT: Yes, sir.

9 BY MR. STUMBO:

10 Q I will show you what is in evidence as State's
11 Exhibit 32. If you could review State's 32
12 briefly. Do you recognize that document?

13 A Yes.

14 Q Is that the statement you just referred to that you
15 had looked at before you interviewed her the second
16 time?

17 A Yes, it is.

18 Q On that last page, page 3, the information that we
19 have heard about that is scratched out, what color
20 is that writing in?

21 A That's blue.

22 Q Is that the same handwriting as the person who had
23 written the first three pages of that statement?

24 A No, it is not. It's mine.

25 Q Why did you start to write something and scratch it

1 out?

2 A When I got this statement, I was deciding whether
3 to continue exactly on that page. I decided to use
4 a fresh sheet of statement form. So I initially
5 wrote, Continuation of interview by Detective
6 Beaver and myself. I decided to start with a new
7 form, a fresh new page. I crossed it out and I
8 initialed it.

9 Q What you just described that you did, was that
10 after Detective Davis had signed the bottom?

11 A I believe so. I believe it was.

12 Q So what he attested to, if he signed that before
13 you wrote the blue on there, was not what you wrote
14 and scratch out; correct?

15 A I'm sorry?

16 Q What he attested to with his signature, was that
17 the stuff you scratched out or was it the three
18 pages of information given by ^{Minor 2}

19 A It was the stuff that was lined out, yes.

20 Q After you took these statements from the three
21 girls, did you also get statements from the
22 mothers?

23 A We did verbally to somewhat corroborate the time
24 frames and the specific incidents that I was
25 planning to get. The three incidents that stood

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1 out in my mind were the ones I was going to get
2 warrants on that particular day because of the
3 urgency, and we did verbally, yes.

4 Q And did you ultimately obtain those warrants?

5 A Yes, sir.

6 Q And on what charges at that time?

7 A Based on State law with criminal sexual conduct, if
8 there is an indication of penetration with no
9 corroboration, there was three incidents that stood
10 out at the beginning of this investigation that was
11 reported to us. It was for criminal sexual conduct
12 in the second degree, three counts, based on the
13 statements.

14 Q The statements by the three girls?

15 A Yes, sir.

16 Q And those particular three charges that you made,
17 were they as to the three girls or were to one of
18 the girls or all three or two? Can you explain
19 that to us?

20 A Sure. I believe two were for ^{Minor 2} and maybe
21 one was for the other victim. It's going to be
22 that two of the charges were for criminal sexual
23 conduct for the two penetrations that occurred at
24 the hotels for ^{Minor 2} and the other one was the
25 penetration that occurred on ^{Minor 3} in [REDACTED].

1 ██████████ Mobile Home Park.

2 Q These three charges were based on the statements
3 you received from the victims?

4 A Yes.

5 Q That very night that you got those statements and
6 got the arrest warrants, were you able to serve
7 those warrants on the Defendant?

8 A Yes.

9 Q Where was he?

10 A We, during the course of the interviews with the
11 three girls, I learned early on -- well, prior to
12 me even talking to girls, I learned from
13 Ms. Smotzer that Mr. Ratliff was in town to meet
14 with them. He requested to come down and was
15 staying at a hotel.

16 During getting these statements, we also
17 learned a phone call was made to, I believe it was
18 Minor 2 cell phone, giving us the room number
19 and him waiting for her to come to meet him at this
20 room.

21 So this is what caused the urgency for us to
22 get these warrants, which we got one of the judges
23 to stay late. We got the warrants and we made our
24 way to the Knights Inn on Airport Boulevard,
25 Highway 302.

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1 Q What room number were you -- did you believe him to
2 be in?

3 A One-0-three was the room number.

4 Q I will show what has been marked for I.D. purposes
5 as State's 41, 42, and 43. Excuse me, I will first
6 show you what has been marked for I.D. purposes as
7 State's 41. Can you identify that for the Court?

8 A Yes, that is a picture that I took with my digital
9 camera of Room 103, showing the Room 103.

10 Q Did you take that picture that night at the room?

11 A Yes.

12 Q Who was in that room?

13 A Mr. Ratliff.

14 Q Does it fairly and accurately depict the room as it
15 was that night?

16 A Yes.

17 MR. STUMBO: Your Honor, at this time the
18 State would offer State's Number 41 into evidence.

19 MR. WILLIAMS: Without objection.

20 THE COURT: Forty-one is in evidence without
21 objection.

22 (State's Exhibit Number 41 is received into
23 evidence).

24 BY MR. STUMBO:

25 Q When you approached Room 103 of the Knights Inn,

1 what did you do?

2 A We wound up -- we initially approached the hotel
3 and in the parking lot was a vehicle with the
4 Virginia tag in front of 103, which gave us more
5 information he was in there.

6 Myself, Detective Beaver, and Detective Davis
7 knocked on the door. Mr. Ratliff answered the
8 door. I told him he was under arrest for three
9 counts of criminal sexual conduct.

10 He stumbled back into the room and was limping
11 around and said that he was hurt. We wound up
12 handcuffing him initially in the back. He said he
13 was hurt, his arm was hurt. I put a transport belt
14 on and put them in front. Do you want to go into
15 what was seen in the room when we went inside?

16 Q So after you put him in handcuffs and let him know
17 he was under arrest, did you do anything in the
18 room at that point?

19 A When he was arrested, we immediately or I
20 immediately saw items in the room to include a
21 dildo, strap-on dildo, panties, which turned out to
22 be thongs later on for a little girl, K.Y. jelly,
23 and some other items.

24 Q Where did you see those particular items, Detective
25 Prestigiacomo?

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1 A The best I can recall was everything that you are
2 about to show, except for the box of condoms, was
3 on the bed. Everything was on the floor right next
4 to the bed.

5 MR. STUMBO: Permission to have the witness
6 step down, Your Honor.

7 THE COURT: Yes, sir. You may step down.
8 Keep your voice up for us, please.

9 (Witness leaves the witness stand).

10 BY MR. STUMBO:

11 Q Detective Prestigiacomo, if you could turn this way
12 where the jury can see these items. I will show
13 you what has been marked for I.D. purposes --

14 MR. WILLIAMS: Your Honor, I would object to
15 the publication of these items until after they are
16 placed in evidence.

17 THE COURT: That is correct. They can't be
18 published until they are in evidence.

19 BY MR. STUMBO:

20 Q Detective Prestigiacomo, I will show what has been
21 marked for I.D. purposes as State 36, 37, and 38.
22 Do you recognize these items?

23 A Yes, I do.

24 Q What are these? Tell me first, where did you find
25 them?

1 A They were in a bag next to the bed in the hotel.

2 Q And did you take these items as evidence?

3 A Yes.

4 Q And what did you do with them after you took them
5 into evidence?

6 A I photographed them and placed them into evidence.

7 Q At the Sheriff's Department?

8 A Yes.

9 Q Did you bring them to court today?

10 A Yes, I did.

11 Q And State's 36, 37, and 38, do they appear to be in
12 the same condition inside of these bags obviously
13 as they were when you found them at the hotel that
14 night?

15 A Yes.

16 Q Have they been altered or manipulated in any way?

17 A No.

18 MR. STUMBO: Your Honor, the State would offer
19 State's 36, 37, and 38 into evidence at this time.

20 MR. WILLIAMS: Objection to foundation, Your
21 Honor.

22 THE COURT: Come up one moment.

23 (Whereupon there was a bench conference off
24 the record in the presence of the jury but out of the
25 hearing of the jury).

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1 THE COURT: Thirty-six, 37, and 38 are in
2 evidence subject to objections.

3 (State's Exhibits Number 36-38 are received
4 into evidence)..

5 BY MR. STUMBO:

6 Q Detective Prestigiacomo, if you could, could you
7 identify these items for the jury.

8 A I can. These are the three thongs that we found,
9 size five. To me they appear to be little girl's
10 thongs because of the size.

11 Q Where in the room did you find these?

12 A They were, the best I can recall, there was a
13 plastic bag that looked like some were thrown on
14 top where the bag was collapsed. The rest you
15 could see inside the bag. There was a Wal-Mart --
16 one of those cheap plastic Wal-Mart bags, along
17 those lines, the best I can recall.

18 Q You think it was in a plastic Wal-Mart bag?

19 A Yes, sir.

20 Q I will show you -- beg the Court's indulgence, Your
21 Honor.

22 (Pause).

23 Q Detective Prestigiacomo, I will show you what has
24 been marked for I.D. purposes as 44 and 45. Can
25 you tell me if you recognize those items?

1 A I do. The K.Y. jelly was --

2 Q You can just tell me if you recognize them first.

3 A Yes, I do.

4 Q Where did you find those items?

5 A The best I can recall, the condoms were on the bed,
6 and this was strewn around that same bag in plain
7 view beside the bed.

8 Q Where in proximity to the girl's panties that we
9 just looked at?

10 A Within a two foot by two foot area. Everything was
11 -- they were laid out. Some were on top of the bag
12 as if, you know, looking at them and putting them
13 back down where they were.

14 Q Do State's 44 and 45 appear to be in the same
15 condition they were in the night you found them in
16 the hotel room?

17 A Yes.

18 Q Have they been changed or altered in any way?

19 A No.

20 MR. STUMBO: Your Honor, the State would offer
21 44 and 45 into evidence.

22 MR. WILLIAMS: Objection as to relevance.

23 MR. STUMBO: If I can be heard on that, Your
24 Honor.

25 THE COURT: Forty-four and 45 are in evidence

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1 subject to objection.

2 (State's Exhibits Number 44-45 are received
3 into evidence).

4 BY MR. STUMBO:

5 Q Detective, I show you now what has been marked as
6 State's Exhibit 39 and tell me if you can recognize
7 that.

8 A Yes.

9 Q What is that?

10 A A dildo.

11 Q Where did you find that item?

12 A That was in the same area with the other items,
13 next to the bed.

14 Q The items that we just looked at, the panties and
15 the K.Y. jelly?

16 A Yes.

17 Q Did you seize this item --

18 A I did.

19 Q -- into evidence. Have you had it in the custody
20 of the Sheriff's Department since that time?

21 A Yes.

22 Q Did you bring it to court today?

23 A I did.

24 Q Does it appear to be in the same condition that it
25 was in when you found in Room 103 that night?

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1 A Yes, in the package, still in the package.

2 Q Did you ever remove it from the package?

3 A No.

4 MR. STUMBO: Your Honor, the State would offer
5 State's 39 into evidence.

6 MR. WILLIAMS: Objection as to relevance, Your
7 Honor.

8 THE COURT: I will allow 39 in evidence
9 subject to the objection.

10 MR. STUMBO: Thank you, Judge.

11 (State's Exhibit Number 39 is received into
12 evidence).

13 BY MR. STUMBO:

14 Q Detective, I will show you what has been marked for
15 I.D. purposes as State's Exhibit 35. Do you
16 recognize that item?

17 A Yes, I do.

18 Q And where did you find State's 35?

19 A It was next to the bed laying on the floor next to
20 these items.

21 Q And did you take this item as evidence?

22 A I did.

23 Q And does it appear to be in the same condition as
24 it was in the night you took it?

25 A Yes.

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1 Q Has it been altered or manipulated in any way?

2 A No.

3 Q And did you bring it here to court today?

4 A I did.

5 MR. WILLIAMS: I have no objection to the
6 introduction of State's Exhibit Number 35.

7 THE COURT: State's 35 is in evidence without
8 objection.

9 (State's Exhibit Number 35 is received into
10 evidence).

11 BY MR. STUMBO:

12 Q Detective Prestigiacomo, on State's 35, could you
13 explain to the jury or publish that to the jury.
14 What is this?

15 A Yes, sir. Do you want me to describe it?

16 Q That's fine.

17 A What I seized on this day was a Wal-Mart receipt
18 for 7/30/07 at 4:30 p.m. It is the purchase -- it
19 indicates it is an itemized list of purchases to
20 include one, two, three, panties, condoms, and K.Y.
21 jelly.

22 Q Detective, again, what was the date and time on
23 that receipt?

24 A 7/30/07 at 4:32 p.m.

25 Q When did you go to the Knights Inn to serve these

1 arrest warrants on the Defendant?

2 A I have got the exact time. I will have to refer to
3 my note here.

4 Q That's fine.

5 A It was approximately 8:00 p.m.

6 Q How did you know he was going to be there at the
7 Knights Inn, Detective?

8 A Based on information I learned from Ms. Smotzer
9 that he was coming into town --

10 MR. WILLIAMS: Objection to hearsay, Your
11 Honor.

12 THE COURT: He has answered the question,
13 based on information from Ms. Smotzer.

14 BY MR. WILLIAMS:

15 Q Based on information from Ms. Smotzer?

16 A Based on information from Ms. Smotzer --

17 MR. WILLIAMS: Objection, again, Your Honor.

18 THE COURT: Don't go into what anyone said.

19 BY MR. STUMBO:

20 Q I will show you what has been marked lastly as
21 State's Exhibit 40 for I.D. purposes. Do you
22 recognize that item?

23 A I do.

24 Q And where did you find this?

25 A The best I can recall this item may have been a

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1 little separate from the others. I believe it was
2 sitting on the night table which was next to the
3 bed. If this is the bed here (indicating), as we
4 entered in here (indicating), the other items were
5 here (indicating). Right here (indicating) was the
6 little night table, and it was sitting on the night
7 table.

8 Q Did you take this item as evidence?

9 A I did.

10 Q And have you had it in the custody of the Sheriff's
11 Department ever since that day?

12 A Yes, sir.

13 Q Did you bring it to court today?

14 A I did.

15 Q Is it in the same condition it was in when you
16 found it that night?

17 A Yes.

18 MR. STUMBO: The State would offer State's 40
19 into evidence.

20 MR. WILLIAMS: Objection as to relevance, Your
21 Honor.

22 THE COURT: I don't even know what it is.
23 What number is that?

24 MR. STUMBO: State's 40.

25 THE COURT: It's in evidence subject to the

1 relevancy objection.

2 (State's Exhibit Number 40 is received into
3 evidence).

4 BY MR. STUMBO:

5 Q Detective, after you found these items in the
6 hotel, is there anywhere else you looked for
7 evidence that night?

8 A At that point in time as per Mr. Ratliff's request,
9 he wanted me to search his personal bags for his
10 medication. So I did that on his request, and we
11 got -- we retrieved his medications.

12 Q How did Mr. Ratliff get to the hotel? Did he have
13 any kind of transportation?

14 A He drove his vehicle.

15 Q Did you look in the car?

16 A We did. We approached Mr. Ratliff and asked him
17 for consent, and he agreed to sign one and we did,
18 and we looked through his vehicle.

19 Q I show you what has been marked as State's 1.

20 MR. WILLIAMS: I have no objection to the
21 introduction of this document.

22 (State's Exhibit Number 1 is received into
23 evidence).

24 BY MR. STUMBO:

25 Q Is this written consent form that you obtained from

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1 the Defendant that night?

2 A Yes, it is.

3 Q Is that his signature at the bottom?

4 A Yes, sir.

5 Q Did he sign it in your presence?

6 A He did.

7 Q Pursuant to State's Exhibit 1, did you proceed to
8 look in the car?

9 A We did.

10 Q Let me show you what has been marked as State's 11.

11 MR. WILLIAMS: Your Honor, again, I would
12 object. May we approach, Your Honor?

13 THE COURT: Yes, sir.

14 (Whereupon there is a bench conference off the
15 record in the presence of the jury but out of the
16 hearing of the jury).

17 BY MR. STUMBO:

18 Q Detective, if you could return to the witness stand
19 for me.

20 A (Witness resumes the witness stand).

21 Q Thank you, sir. I will show you what has been
22 marked for I.D. purpose as State's 11, State's 12,
23 and State's 26. Detective, could you tell me if
24 you recognize those items?

25 A Yes, I can. State's Exhibit 11 --

1 Q Don't tell me what it is yet, just tell me if you
2 recognize it.

3 A I do recognize it.

4 Q Do you recognize all three of them?

5 A Yes, I do.

6 Q State's 11, is that a photograph?

7 A It is.

8 Q Did you take that photograph?

9 A I did.

10 Q And does it fairly and accurately represent the
11 contents therein from when you took the photograph?

12 A Yes, sir.

13 Q Has it been altered or manipulated in any way?

14 A No.

15 MR. STUMBO: Your Honor, the State would offer
16 State's Number 11 into evidence and permission to
17 publish.

18 MR. WILLIAMS: Can I see it.

19 (Pause).

20 MR. WILLIAMS: We have no objection.

21 THE COURT: State's 11 is in evidence without
22 objection.

23 (State's Exhibit Number 11 is received into
24 evidence).

25 BY MR. STUMBO:

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- 1 Q Detective if you could, tell us what is in that
2 photo and show to it the jury for us, please.
- 3 A This is a picture of a green vehicle displaying a
4 Virginia tag that was driven to the Knights Inn by
5 Mr. Ratliff.
- 6 Q Is this the vehicle that you searched that night?
- 7 A Yes, it is.
- 8 Q If you can hand me that one back.
- 9 A (Witness complies).
- 10 Q Thank you, sir. Could you tell me what State's
11 12 -- or tell me, you said you recognized State's
12 12?
- 13 A Yes, sir.
- 14 Q Where did you find State's 12?
- 15 A That was halfway visible in plain view once I
16 looked in the vehicle on top of the middle console
17 of the vehicle under several receipts, but it was
18 partially visible.
- 19 Q Of this vehicle in State's 11?
- 20 A Yes.
- 21 Q And did you seize that as evidence, State's 12?
- 22 A I did, yes.
- 23 Q And did you put it into evidence at the Sheriff's
24 Department?
- 25 A Yes.

1 Q Has it been altered or manipulated in any way to
2 your observation since it was seized -- from the
3 time you seized it in the car that night?

4 A No, sir.

5 Q Is it in the same condition that you found it when
6 you saw it on the center console?

7 A Yes.

8 Q Thank you, sir.

9 MR. STUMBO: We would offer State's 12.

10 MR. WILLIAMS: Objection as to relevance, Your
11 Honor.

12 THE COURT: State's 12 is in evidence subject
13 to the 403 objection.

14 MR. STUMBO: Yes, sir.

15 (State's Exhibit Number 12 is received into
16 evidence).

17 BY MR. STUMBO:

18 Q If you could, Detective, tell us what is in State's
19 12.

20 A It's a picture of a man holding his penis, and I
21 believe it's Mr. Ratliff.

22 Q You found this in the center console of his car?

23 A Yes.

24 Q You can hand it back to me, sir.

25 A (Witness complies).

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1 Q Thank you. You said you recognize State's 26 which
2 is before you. Where did you find State's 26?

3 A This was in the back behind, the best I can recall,
4 the driver or the passenger's seat.

5 Q Did you find it inside the car?

6 A Yes.

7 Q And did you seize that as an item of evidence?

8 A I did.

9 Q And has it remained in the custody of the Sheriff's
10 Department since then?

11 A Yes.

12 Q You brought it to court today?

13 A Yes.

14 Q And does it appear to have been altered or
15 manipulated in any way since you seized it on
16 July 30, 2007?

17 A No.

18 MR. STUMBO: At this time, Your Honor, the
19 State would offer State's 26 into evidence and
20 permission to the publish.

21 (Attorneys confer).

22 MR. WILLIAMS: No objection, Your Honor, on
23 that one.

24 THE COURT: State's 26 in evidence without
25 objection.

1 (State's Exhibit Number 26 is received into
2 evidence).

3 BY MR. STUMBO:

4 Q Detective Prestigiacomo, could you please tell the
5 jury what State's 26 is.

6 A This is a label package for a three-pack of lace
7 thongs for a teenager.

8 Q And you found that in the Defendant's car?

9 A Yes.

10 Q Thank you. You can hand that back to me, sir.

11 A (Witness complies).

12 Q Detective, were there any other items of note that
13 you put into evidence in this case? Excuse me, let
14 me back up briefly for a second. I will show you
15 what has been marked as State's 43.

16 MR. WILLIAMS: We have no objection to the
17 introduction of State's Exhibit Number 43.

18 THE COURT: State's 43 is in evidence without
19 objection.

20 (State's Exhibit Number 43 is received into
21 evidence).

22 BY MR. STUMBO:

23 Q I will show you State's 43. Could you tell us who
24 that is a picture of?

25 A Yes, sir.

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1 Q Who is that?

2 A Mr. Ratliff.

3 Q Did you take this picture? Where did you take this
4 picture of him?

5 A This was at the time of his arrest.

6 Q Where was that?

7 A Inside the hotel.

8 Q That's a picture of him inside that room at the
9 Knights Inn? Is that what you are telling me?

10 A Yes.

11 Q You can hand that back.

12 A (Witness complies).

13 Q Detective, after that night at any point during
14 your investigation, did you gather anymore
15 evidence? What were the next steps of your
16 investigation?

17 A I will look through my report so I don't skip any
18 steps.

19 Q Absolutely.

20 A Mr. Ratliff was transported. The next day myself
21 and Detective Beaver had information from another
22 witness by the name of Tracey Chandler.

23 Q Detective, maybe I should ask you this way instead
24 of you going through step by step. In terms of the
25 girls, you had already interviewed the girls and

1 taken statements. Did you feel like any of the
2 girls needed any further interview done to them?

3 A Yes. Typically with something like this, things
4 evolve. With female victims of that age, they will
5 report the most recent traumatic events, and it
6 takes time for the other stuff to come in. So to
7 appropriately charge the Defendant, we decided to
8 have the girls professionally interviewed by the
9 A.R.C. Center in Columbia.

10 Q And were those interviews conducted?

11 A Yes, they were. They were conducted in the format
12 of a forensic interview and a medical, which is
13 also a physical of their body from head to toe.

14 Q Which girl was this conducted upon?

15 A Minor 2

16 Q Were you able to review the results of the
17 interview and the medical report?

18 A Yes.

19 Q Was there any other evidence ever brought to you in
20 this case?

21 A Based on information that I received from another
22 witness who came forward indicating --

23 MR. WILLIAMS: Your Honor, I will object.

24 THE COURT: Yes, sir. I don't even know where
25 this is going, Solicitor.

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1 MR. STUMBO: I can narrow it down, Your Honor.

2 BY MR. STUMBO:

3 Q Who is Rick Ratliff?

4 A Michael Ratliff?

5 Q Michael --

6 THE COURT: The question is who is Rick
7 Ratliff.

8 BY MR. STUMBO:

9 Q Who is Rick Ratliff?

10 A That name, I must have a different name. I don't
11 recall that name.

12 Q How about Mike Ratliff?

13 A Mike Ratliff is the son of Mr. Ratliff.

14 Q To your knowledge did he have any other children
15 that live in the area?

16 A I think he has another son that lives close by as
17 well.

18 Q Now, Detective, after you spoke to some of the
19 other witnesses, you said you did review the A.R.C.
20 interview of ^{Minor 2} and you reviewed the medical
21 record reports?

22 A Yes.

23 Q Did you determine to file any other charges in this
24 case?

25 MR. WILLIAMS: Objection to that, Your Honor.

1 THE COURT: Yes, I would sustain the
2 objection.

3 BY MR. STUMBO:

4 Q You charged him with the three counts of criminal
5 sexual conduct with a minor. Were there any other
6 incidents of note based on your investigation that
7 warranted follow-up investigation?

8 A Yes, there were many others.

9 Q Okay. And did you -- were there any charges, other
10 than C.S.C.s, which you felt like needed to be
11 brought in this case?

12 A Yes, sir.

13 Q Concerning what actions, alleged actions, of the
14 Defendant?

15 A Correct, other lewd acts, criminal solicitation
16 and --

17 Q Criminal solicitations, what were those for?

18 MR. WILLIAMS: Objection to that, Your Honor,
19 hearsay.

20 THE COURT: That would be hearsay, Solicitor.
21 I would sustain the objection.

22 BY MR. STUMBO:

23 Q Actions by the Defendant, other than the sexual
24 battery, there were further actions that you took
25 on this case based on that information?

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1 A Yes.

2 Q Okay. How about the hotels? You said you went to
3 Knights Inn and seized this evidence. How about,
4 did you go to any other hotels in the area?

5 A I did. I went to, I believe it was, America's Best
6 and obtained the receipts where Mr. Ratliff had
7 checked into that hotel, and I spoke with the clerk
8 there.

9 Q You mentioned a receipt. I will show you State's
10 33, what is in evidence as State's 33. Is this the
11 receipt you are referring to from America's Best?

12 A Yes, it is.

13 Q What date does it indicate on there that the guest
14 stayed?

15 A 7/9/07, Room 1207.

16 Q What, if any, relevance did those dates have with
17 decisions that you were making in your case?

18 MR. WILLIAMS: Objection hearsay.

19 THE COURT: Yes, sir, I would sustain the
20 objection.

21 BY MR. STUMBO:

22 Q State's 23 and 22 in evidence, is that the Knights
23 Inn?

24 A Yes.

25 Q I will show you what has been marked as I.D.

1 purposes only at this point as State's 19, 20, and
2 21. If you could briefly look at those.

3 A (Witness complies).

4 Q What is in those pictures?

5 A The first picture is a picture of America's Best.

6 Do you want me to go ahead?

7 Q Do you recognize these pictures?

8 A I do.

9 Q Nineteen, 20, and 21.

10 MR. WILLIAMS: We have no objection to State's
11 Exhibit Number 19 and Number 20.

12 THE COURT: All right.

13 (State's Exhibit Number 19-20 are received
14 into evidence).

15 (Attorneys confer).

16 MR. WILLIAMS: As to 21, we would object
17 unless there is a proper foundation laid.

18 BY MR. STUMBO:

19 Q Detective Prestigiacomo, I believe 19 and 20 are in
20 evidence without objection. State's 19 and 20, are
21 you familiar with the location?

22 A Yes.

23 Q Where is that?

24 A Highway 378.

25 Q What is that in the picture?

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1 A America's Best, the front entrance to America's
2 Best hotel.

3 Q What is State's 20?

4 A The back end of it showing the pool area.

5 Q Have you been to that hotel?

6 A Yes, I have.

7 Q Did you go there in connection with your
8 investigation in this case?

9 A Yes.

10 Q And do you recognize the scene that is depicted in
11 State's 21?

12 A Yes.

13 Q And what proximity is what you see in State's 21 to
14 the America's Best hotel on 378?

15 A This is the vantage point from the parking lot
16 because the girls gave me landmarks to indicate
17 where the hotel was at, not knowing the name, and
18 that's what I took the picture of.

19 Q What were the landmarks that you had to go by?

20 A Waffle House and Burger King.

21 Q Does State's 21 accurately depict --

22 MR. WILLIAMS: We have no objection to the
23 introduction of that document.

24 THE COURT: State's 21 is in evidence without
25 objection.

1 (State's Exhibit Number 21 is received into
2 evidence).

3 BY MR. STUMBO:

4 Q Did you go to America's Best and interview
5 witnesses there?

6 A I did.

7 Q Was that information that you obtained there
8 relevant to your investigation?

9 A Yes, it was.

10 Q Just a couple more questions. I know you have been
11 up here a while, Detective. That America's Best on
12 378, is that in Lexington County?

13 A Yes, it is.

14 Q That Knights Inn that I showed you the picture of,
15 is that in Lexington County?

16 A Yes.

17 Q What part of Lexington County is the Knights Inn?

18 A The Knights Inn is near Cayce, the Airport
19 Boulevard area near the interstate.

20 Q And were you able to follow up on these mobile home
21 parks at all where the other alleged incidents
22 occurred?

23 MR. WILLIAMS: Objection to hearsay, Your
24 Honor.

25 THE COURT: It's not hearsay. It's a park.

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1 BY MR. STUMBO:

2 Q You have been in here for the testimony of the
3 victims the last couple of days?

4 A Yes, I have.

5 Q They referred to a couple of mobile home parks, do
6 you remember that?

7 A Yes.

8 Q Were you able to follow up on the location of these
9 mobile home parks?

10 A Yes.

11 Q Where was Moore Mobile Manor?

12 A Moore Mobile Manor runs off Gas Lamp Road, which is
13 parallel to 378, just opposite of Lexington Medical
14 Center.

15 Q Is that mobile home park in Lexington County in its
16 entirety?

17 A Yes, it is.

18 Q Where is [REDACTED] Mobile Home Park?

19 A [REDACTED] is on Fish Hatchery Road just below the
20 town limits of [REDACTED]

21 Q Are you familiar with that mobile home park, that
22 area?

23 A Yes, I am.

24 Q Is that entire mobile home park inside of Lexington
25 County?

1 A Yes.

2 Q How about [REDACTED] [REDACTED] Were you able to
3 follow up on that location? Are you familiar with

4 [REDACTED]

5 A You got me on that one.

6 Q Okay.

7 A I want to say it's in West Columbia. The best I
8 can recall it is in Lexington County.

9 Q Is there any part of West Columbia that is not in
10 Lexington County to your knowledge?

11 A Well, there's city limits and Lexington County
12 spills into the city limits. But sometimes
13 jurisdictional things that take place, we will not
14 investigate certain instances in West Columbia.

15 Q I guess my question to you was: Is there any part
16 of West Columbia that is not in Lexington County to
17 your knowledge?

18 A No, sir.

19 Q How about [REDACTED], this other address that
20 was referred to by the witness ^{Minor 2} are you
21 familiar with [REDACTED]?

22 A Yes.

23 Q And where is [REDACTED]?

24 A It is within Lexington County.

25 Q Is that in West Columbia as well?