

STATE OF SOUTH CAROLINA

In The Court of Appeals

ORIGINAL

APPEAL FROM MARION COUNTY

ORIGINAL

William H. Seals, Jr., Circuit Court Judge

THE STATE,

RESPONDENT

V.

JIMMY TURNER,

APPELLANT

RECEIVED
JUL 22 2015
SC Court of Appeals

APPELLATE CASE NO. 2013-000335

RECORD ON APPEAL

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THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:

STATE'S EXHIBIT 12 (DVD OF FORENSIC INTERVIEW)

STATE OF SOUTH CAROLINA)
COUNTY OF MARION) GENERAL SESSIONS COURT

STATE OF SOUTH CAROLINA)

STATE,)

v.)

TRANSCRIPT OF RECORD
12-GS-33-194

JIMMY TURNER,)

DEFENDANT.)

August 7, 2012
Marion, South Carolina

B E F O R E :

THE HONORABLE THOMAS A. RUSSO, JUDGE;
AND JURY

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

FITZLEE H. MCEACHIN, ESQ.
Assistant Solicitor

MARCUS WOODSON, ESQ.
Attorney for Defendant

FRANCES BAKIS-RAY, RPR
Circuit Court Reporter

1 (Clerk goes to jury room, then approaches Bench).

2 THE COURT: Let me get the lawyers to step
3 up here real quick.

4 (WHEREUPON, counsel approached the Bench
5 for an off-the-record discussion.)

6 THE COURT: Let's bring the jury out.

7 (WHEREUPON, the jury was returned to the
8 courtroom at approximately 2:31 p.m., and
9 the following proceedings commenced in
10 open court.)

11 THE COURT: All right. I have received
12 your note. Mr. Brown says, Your Honor, we have
13 reached an impasse, we are a hung jury. And I
14 appreciate that note. I'm gonna share some thoughts
15 with you and share a charge with you and ask that
16 you please give me your attention as I read this to
17 you. Ladies and gentlemen, you have stated that you
18 have been unable to agree on a unanimous verdict in
19 this case. As I instructed you earlier, the verdict
20 of the jury must be unanimous. When a matter is in
21 dispute it isn't always easy for even two people to
22 agree, so when twelve people must agree it becomes
23 even a more difficult task. In most cases absolute
24 certainty cannot be reached, nor is it expected.
25 However, you have a duty to make every reasonable

1 effort to reach a unanimous verdict. In doing this,
2 you should consult with one another, express your
3 own views and listen to the opinions of your fellow
4 jurors. Tell each other how you feel and why you
5 feel that way. Discuss your differences and do it
6 with an open mind. Although the verdict of the jury
7 must be unanimous, every one of you has the right to
8 your own opinion. The verdict that you agree to
9 must be your verdict, the result of your own
10 convictions, and you should not give up your firmly
11 held beliefs merely to just be in agreement with
12 your fellow jurors. The majority should listen to
13 the minority's position, and the minority should
14 consider the majority's position. You should
15 carefully consider and respect the opinions of each
16 other and at the same time re-evaluate your position
17 for reasonableness, correctness, and impartiality.
18 You must lay aside all outside matters and
19 re-examine questions before you based on the law and
20 the evidence in this case.

21 If you do not agree on a verdict in this
22 case then I must declare a mistrial. In that case
23 it does not mean that anybody wins. It just means
24 that at some point in the future I will try this
25 case with another jury who is sitting exactly where

1 you sit right now, the same participants will come,
2 the same lawyers will ask basically the same
3 questions and get basically the same answers, and we
4 will go through the whole process again. You were
5 selected in this -- excuse me, you were selected in
6 the same manner and from the same source as any
7 future jury would be selected, and there is no
8 reason for me to suppose that the case will ever be
9 submitted to twelve more intelligent, impartial,
10 conscientious, and competent jurors than you, or
11 that more or clearer evidence will be produced on
12 one side or the other. Keeping all this stuff in
13 mind, I'm going to ask if you would return to your
14 jury room, return to your deliberations, and try and
15 arrive at a unanimous decision.

16 Mr. Foreman, I ask that the panel make
17 that effort taking into consideration the things
18 that I've said; and if you do arrive at a verdict,
19 obviously we will receive that verdict. If you
20 maintain or believe that the jury is hopelessly
21 deadlocked, then you'll need to just let me know
22 that, okay, but I would ask that you please step
23 back into your jury room and give it another effort
24 based on the things that I've shared with you just
25 now, okay.

1 (WHEREUPON, the jury was removed from the
2 courtroom at 2:37 p.m., and the following
3 proceedings commenced in open court.)

4 THE COURT: Are there any objections or
5 exceptions to the Court's charge to the jury?

6 MR. MCEACHIN: None, Your Honor, the State
7 would like an opportunity to review the note done by
8 the jury if that's all right.

9 THE COURT: All right, it's right here.

10 Anything from the Defense?

11 MR. WOODSON: No, Your Honor.

12 THE COURT: And when you're done if you'd
13 pass it to Frances so she can make it a court
14 exhibit.

15 (Attorneys review the note from the jury.)

16 (Court's Exhibit Number 2 was

17 marked and made a part of the record.)

18 THE COURT: Let me get Mr. Woodson and
19 Mr. McEachin to step up here.

20 (WHEREUPON, counsel approached the Bench
21 for an off-the-record discussion.)

22 (Court's Exhibit Number 3, note from jury,
23 was marked and made a part of the record.)

24 (WHEREUPON, counsel approached the Bench
25 for an off-the-record discussion.)

1 THE COURT: Please, if you would bring the
2 jury out.

3 (WHEREUPON, the jury was returned to the
4 courtroom at approximately 3:18 p.m., and
5 the following proceedings commenced in
6 open court.)

7 THE COURT: All right, ladies and
8 gentlemen, I did receive your note and made it part
9 of the record and I want to thank you for your
10 service. This is, this is not unusual. I'll say
11 it's not a typical result but it happens, and I
12 understand that, so I want to thank you for your
13 hard work. As you understood from my charge
14 earlier, that doesn't -- this doesn't mean anyone
15 wins or loses. Basically what will happen now is
16 the case will just be called for another term of
17 court and it'll be tried again. So it happens. The
18 reason I gave you the charge I gave you, send it to
19 you back there, is because sometimes, you know,
20 folks, they tend not to listen to everybody.
21 Sometimes we get opinions and we get thoughts in our
22 head, and we think, well, I have a reasonable doubt
23 so I can't vote guilty or I don't have any
24 reasonable doubt, that's why I'm voting guilty.
25 Whether it be a guilty or not guilty thought, but

1 the jury deliberation process is just that. It's a
2 process of deliberation. It's a listening to each
3 other and to re-examine your position for
4 correctness and for reasonableness; but then you've
5 done that. But I did want to give you that charge
6 and send you back in with the hopes that you would
7 have been able to arrive at a unanimous verdict, but
8 that seems to not be the case and I got the
9 impression. Am I correct, Mr. Brown, that you
10 believe that the jury is hopelessly deadlocked?

11 THE FOREMAN: Yes, sir.

12 THE COURT: Okay. Well, I'm gonna
13 certainly receive that opinion and respect that.
14 That concludes your service for the week obviously.
15 I want everyone to remain seated in the courtroom
16 other than the jury panel and you are free to go.
17 Thank you very much.

18 (WHEREUPON, the jury was removed from the
19 courtroom at 3:22 p.m., and the following
20 proceedings commenced in open court.)

21 THE COURT: All right, that's all the
22 jurors. If Mr. Woodson, you and Mr. Turner would
23 come around. My understanding, who was on the bond
24 or?

25 MR. MCEACHIN: No one, Your Honor.

STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF MARION	)	2012-GS-33-194
	)	
	)	
State of South Carolina	)	)
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
Jimmy Turner	)	)
<u>DEFENDANT</u>	)	February 5-7, 2013
		Marion, South Carolina

B E F O R E:

THE HONORABLE WILLIAM H. SEALS, JR., JUDGE.

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

FITZLEE H. MCEACHIN, ASSISTANT SOLICITOR
Attorney for the State

MARCUS WOODSON, ESQ.
Attorney for the Defendant

KESHIA REED
Official Court Reporter

I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
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1 two o'clock and we'll start at that time, that's very very
2 important. You're excused until two. Everybody else
3 remain seated as the jury leaves.

4 (WHEREUPON, jury excused for lunch.)

5 THE COURT: Anything we need to take up before
6 the trial of this case from the State?

7 MR. MCEACHIN: A couple of brief motions, Your
8 Honor. At this time, I would like for this just to let
9 the Court know I have a copy of the video from the Care
10 House in this case. The State will be moving to admit it
11 pursuant to 17-23-175. I'm going to give it to Your
12 Honor. It is somewhat lengthy. I think about 45 minutes
13 to an hour. If Your Honor wants to review it, we don't
14 anticipate -- we want introduce it until tomorrow, Judge.
15 So it's not something necessarily needs to be looked at
16 over lunch, but if the Court would like to see it.

17 THE COURT: Give me the statute number if you
18 would again.

19 MR. MCEACHIN: Certainly, Judge, it's 17-23-175.

20 THE COURT: Any objections from the defense?

21 MR. WOODSON: Any objections to you watching it?

22 THE COURT: To it being introduced?

23 MR. WOODSON: We actually have to have a hearing
24 at some point the statute requires though right?

25 MR. MCEACHIN: We do, Your Honor. I think we

1 have to lay the proper foundation, so it can be admitted.

2 THE COURT: I just figured you all had that
3 worked out.

4 MR. MCEACHIN: Not with Mr. Woodson, Judge.
5 He's fighting me tooth and nail on everything.

6 THE COURT: Anything else?

7 MR. MCEACHIN: A couple more things, Your Honor.
8 The State would make a motion to sequester all witnesses
9 in this case.

10 THE COURT: Any objection?

11 MR. MCEACHIN: Yes, Your Honor. Your Honor,
12 this case was tried back in August. I think the point of
13 sequestration is to prevent contamination of testimony. I
14 think the witnesses are pretty much locked into their
15 testimony. They know what everybody else is going to say.
16 I would object to sequestering the witness.

17 THE COURT: I'm going to grant your motion any
18 way out of an abundance of precaution.

19 MR. MCEACHIN: Thank you, Your Honor. Your
20 Honor, the State would simply make a continuing motion for
21 any reciprocal Rule 5 that the defense may have. They
22 hadn't produced yet simply continuing motion as far as
23 that's concern.

24 THE COURT: Anything in that regard?

25 MR. WOODSON: Your Honor, there's some pictures

1 that I don't think I'm going to use them and show them to
2 him. I discussed that with him yesterday. And I would
3 ask for the same thing, Your Honor. I have some witnesses
4 that are going to testify. I don't think I have NCIC's
5 on them, so I would ask for the same thing too.

6 MR. MCEACHIN: We can get those, Your Honor, not
7 a problem. And then finally, Your Honor, this was a
8 motion I made at the last trial. I preface it by saying
9 this we anticipate our order of witnesses Ms. Pearlene
10 Commission will be testifying prior to Minor Ms.
11 Commission is the child's mother, assuming that
12 Mr. Woodson is not in position to allow her to be relieved
13 from her subpoena after her testimony. We would ask that
14 the Court to grant her permission to stay for the child's
15 testimony in the courtroom.

16 THE COURT: Any objection?

17 MR. WOODSON: Your Honor, I would object during
18 the -- or if she's allowed to stay in that she not be in
19 the direct line of the child because what happened the
20 last time is she would nod her head and make certain
21 things. I just don't want that to happen. I want the
22 child to testify from what the child knows and not because
23 the mom is nodding her head one way or the other.

24 THE COURT: Why don't you talk to her about
25 that.

1 MR. MCEACHIN: That's fine, Your Honor. And I
2 would like to put on the record, I take exception to that.
3 Mr. Woodson never brought that up in the prior trial never
4 indicated to anything like that occurred.

5 THE COURT: We will keep a look out for it
6 because it would be improper. Keep an eye on her as well.

7 MR. WOODSON: Thank you, Your Honor.

8 THE COURT: Anything else?

9 MR. MCEACHIN: I believe that's it from the
10 State at this time, Your Honor. We're ready to proceed
11 as soon as we get back from lunch.

12 THE COURT: How about you, Mr. Woodson?

13 MR. WOODSON: I would like to bring to the
14 Court's attention my client is charged with committing a
15 lewd act under 16-15-140, that statute has been repealed.
16 I brought this issue up at the last trial. In all candor,
17 there is a savings clause I believe, but we went to trial
18 there is a hung jury. And I will just need to dismiss
19 that particular indictment.

20 MR. MCEACHIN: Your Honor, the particular charge
21 was valid at the time of arrest. And there is in fact a
22 savings clause in the new criminal sexual conduct statute
23 that allows for us to still proceed under the old statute.

24 THE COURT: That motion is denied. Anything
25 further?

1 MR. WOODSON: No, Your Honor.

2 THE COURT: Two o'clock.

3 MR. MCEACHIN: Thank you, Judge.

4 (WHEREUPON, a lunch break was taken.)

5 THE COURT: The State ready to proceed?

6 MR. MCEACHIN: We're ready to proceed, Your
7 Honor.

8 THE COURT: Defense ready to proceed?

9 MR. WOODSON: Yes, Your Honor.

10 THE COURT: Go ahead and bring out the jury.

11 (WHEREUPON, the jury came into open court.)

12 THE CLERK: Ms. Johnson, I'm going to appoint
13 you the forelady of the jury.

14 You can go ahead and swear them in.

15 (WHEREUPON, jury sworn.)

16 THE COURT: Members of the jury, we're getting
17 ready to start the case, but before the lawyers give you
18 their opening statements, I just want to go over a few
19 things with you ahead of time. First thing I want to
20 explain to you is that in this case, the State of South
21 Carolina has the burden of proof. They have to prove the
22 defendant guilty beyond a reasonable doubt. Furthermore,
23 I want to explain to you that your job is to be the judge
24 of the facts. I am the judge of the law. You may ask
25 yourselves what's the difference. The difference is you

1 determine what the facts of this case are and how do you
2 do that. You do that by looking at the evidence. The
3 evidence is made up of two things: One is the witnesses
4 that come over here and is sworn in and they testify. And
5 it's made up of any documents submitted into the record
6 as evidence that could be pictures of photographs, reports
7 objects whatever. All right, in regard to these
8 witnesses, I want to go a little bit further and explain
9 to you that you will be the ones that judge their
10 credibility and their believability in order to determine
11 what the facts of this case are. Ask yourselves how do
12 you do that, you just use your good common sense. I want
13 you to understand that you can listen to these witnesses.
14 And if you would like, you can believe everything they
15 tell you or you can believe nothing they tell you. You
16 can believe part of what they tell you. You can believe
17 one witness against many or many against one, but that is
18 your job. And your job is to determine what the facts in
19 the case are.

20 Now, as the judge of the law at the end of this
21 case, I will read the law to you in great detail. And I
22 want you to understand that you have to accept the law as
23 I give it to you. If you have any preconceived ideas as
24 to what you think the law is or what it ought to be and it
25 doesn't agree with what I tell you it is, you have to

1 abandon those preconceptions and accept the law as I give
2 it to you. And then only when I tell you to start your
3 deliberations will you take the facts as you find them,
4 the law as I give it to you, put the two together and make
5 a decision therefrom.

6 Now, that carries with it one more thing,
7 whenever we take a break in this trial and you go back
8 into the jury room, use the restroom or get something to
9 eat, anybody needs a smoke break just let me know or if we
10 go home at night and you have to come back in the morning
11 at no point in time in this case whether you're in this
12 courtroom or outside of this courtroom, do you need to
13 discuss this case at all. Do not discuss the case at all.
14 It's not proper to start deliberating before you heard
15 everything. You need to hear from the State. If the
16 defendant decides to testify, you need to hear from the
17 defendant in their case. Then you need to hear the law
18 from me. When I know that you have everything you need, I
19 will specifically tell you at that time to begin your
20 deliberations and only then will you start discussing the
21 case.

22 Now, in the meantime, you can talk about the
23 weather. You can talk sports. You can introduce
24 yourselves. You can talk about anything else you want but
25 not this case on the break or when we go home or any point

1 in time until I tell you to. Okay.

2 All right. Another thing I want you to do is
3 when you leave this courtroom or even at this courtroom,
4 do not investigate this case outside of this building.
5 You'll get everything you need right there in those seats.
6 As I told you this morning, don't go on the computer
7 Google anybody's name, don't Google the case, don't look
8 up anything about the case. Don't go out to the scene if
9 there is a scene. Don't talk to people on the street
10 nothing. You will get everything you need right here in
11 this courtroom. Everybody clear on that. Let's just
12 relax and I'll call on the State to give your opening
13 statement.

14 MR. MCEACHIN: Thank you very much, Your Honor.
15 May it please the Court. Mr. Woodson. Madam forelady and
16 ladies and gentlemen of the jury, in November of 2011 not
17 very far from this courthouse right here, a little girl
18 was taken into a house. She was taken into the back of
19 that house and she was raped and she was sodomized and she
20 was forced to perform oral sex. That's what this case is
21 about. And the case is about determining which individual
22 did that.

23 The defendant, Jimmy Turner, as we have already
24 stated a couple times today, is charged with two crimes.
25 He's charged with criminal sexual conduct with a minor in

1 the first degree. And the reason it's first degree is
2 because the victim was six years old, six-year-old little
3 girl, that's why it's first degree. He's also charged
4 with committing a lewd act on a minor. Now, I'm not going
5 to spend a good bit of time right now explaining to you
6 what those two charges are because the judge is going to
7 do that again at the trial. But what I am going to tell
8 you is that my job is to prosecute this case. It's to
9 prove the case to you and to prove to you beyond a
10 reasonable doubt that Jimmy Turner who's seated right over
11 there committed the crimes that he's been accused of. And
12 I'm sure some of you have seen on TV or maybe some Law and
13 Order or what have you about this reasonable doubt and
14 concept of reasonable doubt. Well, I can fairly simply
15 summarize that for you and reasonable doubt is simply
16 this: If after you hear the evidence in this case, you're
17 firmly convinced that Jimmy Turner raped Minor and
18 you're firmly convinced that Jimmy Turner committed a lewd
19 act on Minor , then you find him guilty. Doesn't
20 mean I have to prove the case beyond any and all doubt,
21 no. Very few things in life we can know with absolute
22 certainty, but if once you hear the evidence, you're
23 firmly convinced that he's done what he's accused of
24 doing, the judge will tell you that your obligation to
25 find him guilty of those crimes.

1 Now, how do I prove my case beyond a reasonable
2 doubt, the judge already talked about this too. I do it
3 through evidence. And there's two forms of evidence
4 you're going to have in this case. You're going to have
5 exhibits, which are I call it tangible evidence. It's the
6 things you can see, you can touch and can feel. And then
7 you're going to also have testimony from this witness
8 stand right here. And I know the judge went through a ton
9 of witnesses with you this morning. He ask anybody knew
10 any of the witnesses. Well, not all those witnesses will
11 be called in this case. As a matter of fact, the State
12 intends on calling about five or six witnesses.

13 But I submit to you that the most important
14 witness you're going to hear from is little Minor
15 When this happen to her, she was six years old. She's
16 eight years old now. She doesn't look six. She about
17 that tall, but you all will see her and hopefully get a
18 chance to hear from her this afternoon. But I want you
19 all to listen very carefully to the little girl who's
20 going to come in here and have to relive in front of you
21 14 strangers one of the most horrific experiences of her
22 young life. And I want you to pay attention to what she
23 has to say and listen carefully and ask yourselves does it
24 make sense what she's saying. And after you hear from
25 Minor and other witnesses, the State is going to

1 present in this case, the case may come to a conclusion.
2 And if it does, there's only one thing I ask you to do and
3 that's if each and every one of you is firmly convinced
4 that Jimmy Turner raped, sodomized and forced that little
5 six-year-old little girl to perform oral sex on him, I ask
6 that you please find him guilty of the crime that he's
7 been charged with. Thank you.

8 THE COURT: Thank you.

9 Mr. Woodson.

10 MR. WOODSON: Thank you, Your Honor. May it
11 please the Court. Mr. McEachin. Madam forelady and
12 members of the jury, I introduced myself to you earlier.
13 I'm Marcus Woodson. I practice law here in Marion County.
14 I represent Mr. Jimmy Turner who has been seated beside me
15 throughout the jury drawing and this whole thing. And I
16 want to start off by saying thank you. I thank each and
17 every one of you for your serving on this jury.

18 When a person pleads not guilty and the State
19 wants to prove them guilty, we need you. You decide the
20 facts as the judge says. You're going to decide what
21 happened in November of 2011, that is your job. He will
22 explain the law, the C.S.C. and the lewd act to you and
23 define that. And it's your job to take the law as he
24 gives it as he said and apply what you determine to be the
25 facts.

1 What I want to caution you in these sort of
2 cases, they can be very sensitive. When we were drawing a
3 jury and not just this jury, but I done other cases that
4 had some sensitive issues in it. But sometimes people
5 groan and, you know, make faces and things of that nature
6 and they kind of -- you know you shouldn't be prejudice,
7 but you kind of have these preconceived notions. And I
8 want to say that our law says a person's innocent until
9 proven guilty.

10 As a matter of fact, it's presumed that my
11 client wears a robe of righteousness as they say and it's
12 the State's job to take that robe off of him and prove him
13 guilty beyond a reasonable doubt. And a reasonable doubt
14 is a doubt that would cause you to hesitate to act. If
15 you go in that jury room and there's some hesitation,
16 there's some doubt, there's some issues, then that would
17 be reasonable doubt. The incident that we're here for
18 allegedly happened in November of 2011.

19 In December, December 2nd of 2011, a little girl
20 went to her school. She was in class and she told the
21 teacher that something happen to her. The teacher took
22 her to the office. The police were actually called. DSS
23 was called. The mother was called. The little girl
24 alleged that she was assaulted sexually. The little girl
25 alleged that someone other than my client assaulted her

1 sexually. She maintained her story to her teacher.

2 The evidence will show to members in the office,
3 to the police officer to everyone until her mother
4 arrived. When her mother arrived, I believe the evidence
5 will show she didn't believe her daughter. She says it
6 didn't happen. My boyfriend didn't touch her. She was
7 very angry that her daughter was alleging that her
8 boyfriend touched her. They go home together in the car,
9 an angry mother and a young lady who has alleged that she
10 had been abused. Hours later that the next day, the story
11 changes and it's not her boyfriend any more, it's my
12 client.

13 The Solicitor said there two types of evidence
14 circumstantial and physical evidence. I will submit to
15 you that you're not going to get any DNA. There's not
16 going to be a SLED report or any DNA of my client on this
17 little girl. The majority of this evidence is this little
18 girl's testimony. And that's why it's very important that
19 you listen carefully to everything that's said from the
20 stand.

21 I believe the evidence will show you will hear
22 from a doctor who will tell you that this little girl is
23 still a virgin. The Solicitor use some very strong words
24 that she was raped and sodomize. Those are very strong
25 words. This little girl had no physical signs of abuse at

1 all. So there's some very debated issues in this case.
2 And it's your job to listen to the testimony and determine
3 who's telling the truth. When the judge uses that word
4 credibility, that means believability, who's believable
5 what's believable, can the State prove these strong
6 allegations this child was as they say raped and
7 sodomized. Is there physical evidence of that?

8 I thank each and every one of you. This is my
9 client's day in court. We probably be here for a couple
10 of days. And I thank you and I ask you to give him and
11 the evidence your full attention. Thank you.

12 THE COURT: Call your first witness?

13 MR. MCEACHIN: Thank you, Your Honor. The State
14 would call Ms. Annette Wardy to the stand.

15 THE CLERK: Do you swear to tell the truth, the
16 whole truth, and nothing but the truth so help you God?

17 THE WITNESS: I do.

18 WHEREUPON,

19 Annette Wardy,
20 after first having been duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. MCEACHIN:

23 Q Good afternoon, Ms. Wardy.

24 A Good afternoon.

25 Q If you don't mind, would you please state your full

1 name for the record?

2 A My name is Annette Wardy.

3 Q And, Ms. Wardy, what do you do for a living?

4 A I work for Florence School District One as a,
5 behavioral specialist.

6 Q Okay. What's a behavioral specialist?

7 A A behavioral specialist is a person that works -- I
8 work with an E.D. class with kids that have behavioral
9 problems.

10 Q Okay. And you said you work in the E.D. class, what
11 exactly does E.D. stand for?

12 A Emotional disturbed, most of the kids are emotionally
13 disturbed that's in the class room, so we have a teacher
14 and I'm behavioral.

15 Q Okay. And what is your -- so you have a teacher who
16 helps teaching the class and you're in the class as well?

17 A I'm in class as well as the teacher.

18 Q Okay. And what do you do as far as your role as a
19 behavior specialist in the class room?

20 A I watch the kids as the teacher's teaching and
21 whatever incidents that occurs that cause them to escalate
22 and I help them deescalate sometimes. We end up in the
23 time-out room because the behavior is beyond -- you know,
24 just handling, so we have deescalating at times.

25 Q Okay. And as a behavioral specialist, if you don't

1 mind, Ms. Wardy, would you tell the jury about what type
2 of educational background you have?

3 A I have a bachelor's in social work and I have a
4 master's in counseling.

5 Q Okay. And you said you work for Florence School
6 District One; is that correct?

7 A I do.

8 Q And do you work for all the schools or is there a
9 particular school that you work for?

10 A I'm just stationed at one school. I have two E.D.
11 classes at one school.

12 Q And what school is that?

13 A

14 Q Okay. And in your role or in your capacity what age
15 group children do you typically deal with in your E.D.
16 classes?

17 A Basically from four years to about ten because we
18 have kindergarten up to fourth grades.

19 Q So from about four years old up to ten years old
20 that's typically the group you're dealing with?

21 A That's the group, yes.

22 Q And, Ms. Wardy, the reason we're here today is you
23 may know and understand is because of an incident that
24 occurred. Do you know Minor ?

25 A I do.

1 Q And how do you know Minor ?

2 A Minor is a student in a class room that I work
3 in?

4 Q Okay. And how long have you known Minor for?

5 A Minor came about three years cause she came to us in
6 kindergarten.

7 Q And in these E.D. classes are they taught the same
8 way, I mean do the teachers teach the same subjects and
9 they just have you in there watching out for the children
10 to make sure they're behaving pretty much?

11 A They're taught the same way in the same subjects, but
12 most the subjects are a little lower because a lot of
13 times the frustration is brought on by academics and it's
14 kind of gauged where the child is academic standard.

15 Q So if the child maybe gets frustrated that they can't
16 do math or something along those lines, they may show out
17 a little bit?

18 A Yeah, they have melt downs.

19 Q Okay. And that's when you come in and you try to --
20 I think you use the term deescalation; is that right?

21 A That's what I do.

22 Q And that's calm them down and get them kind of back
23 on a level point?

24 A Get them back on track, so they can pick up where
25 they left off.

1 Q And you said you known Minor since
2 kindergarten?

3 A Kindergarten, when Minor was in kindergarten.

4 Q And the past three years, so that would have been
5 school year of 2010 fall of 2010 when you first met her?

6 A When I first met Minor , she cam in a little
7 later because she was in a regular kindergarten class, so
8 she came in at the end just before the new year started.

9 Q Okay. And I assume she was with you through the full
10 -- I guess, I'm talking in school years now from fall of
11 2010 to spring of 2011 for that full school year and what
12 about the fall of 2011 was she also with you that year?

13 A She was with me that year.

14 Q Okay. So you had her that first year in kindergarten
15 and then the beginning of the second year that fall?

16 A Uh-huh.

17 Q Okay. And I want to focus on that semester, the fall
18 semester. Can you tell the jury how Minor was
19 behaving starting in, I guess, right around August,
20 September when school started going up until may be the
21 later part of October and November?

22 A Well, Minor was having struggles with keeping
23 herself contain. She would have outburst a lot. Because
24 we had got -- the end of the last school year we kind of
25 work through a lot of incidents and she was able to

1 maintain, but it's kind of like when we started back, she
2 started going back regressing back to her old behavior.

3 Q Okay. How about November of 2011, how did her
4 demeanor and attitude change in November of 2011?

5 A Well, her demeanor kind of went back to where she was
6 when she came to us being aggressive, defiant and not
7 wanting to follow directions.

8 Q So it got worse in November of 2011?

9 A Kind of like when she came to us she went back?

10 Q Okay. And was there a point where it got so bad that
11 you had to kind of sit down with her, I think you said
12 earlier that sometimes it gets real bad you take a student
13 into student timeout. Was there ever a point where you
14 had to take Minor into timeout?

15 A Yeah, there was times.

16 Q Do you remember if there was a time toward the latter
17 part of November first part of December that you did that?

18 A Yes, I do.

19 Q Okay. And do you remember speaking to Minor
20 in -- maybe just explain to the jury timeout is that in
21 the same room, is it in a different room or how is it set
22 up?

23 A Timeout is a little room that's off the class room.
24 It's within the class room, but it's a space that's
25 separated from the class. And we have a door and when the

1 kids have melt downs, they might have a melt down. And
2 for her safety and safety of the other students, we have
3 to remove them from the class room with the other
4 students, so I had to remove her in the timeout room.
5 Lots of times we just let them deescalate themselves. And
6 when they are ready to talk or they want to process, then
7 I'll go in and we'll process and we'll go through the
8 changes or what happened, what took place and what cause
9 the melt down and at that time Minor had a melt
10 down.

11 Q Okay. And this was right there at the first part, I
12 guess, first part of December 2011?

13 A Uh-huh.

14 Q And she went into the timeout room and she, I guess,
15 calmed down a little bit. And did you get an opportunity
16 to speak with her?

17 A Well, whenever she's ready, she'll knock on the door
18 and she'll say I need to talk or I'm ready. So we went in
19 and she was still kind of shaky, so we sat on the floor.
20 I had to, you know, come down to where she was at we were
21 on the floor talking and she was just sobbing. And then
22 finally she quiet down a little. And when she got
23 composure of herself, I knew that it was a bad one. And I
24 really didn't know why, so we just talked about what had
25 happened and why and how, you know, she wasn't following

1 directions. And she finally said that she need to tell me
2 something.

3 Q Okay. And based on what she told you, what did you
4 do after that conversation?

5 A What she told me was a little alarming, so I had to
6 go to the authorities. I went to the administration and
7 informed them. Really, I went to the teacher of the class
8 room because she had the class at lunch. And Minor
9 and I were the only two in the time-out room. We were the
10 only ones left in the class. And after about an hour, the
11 teacher and the students were in the lunchroom, so Minor
12 Minor and I walked down to the lunchroom and I inform
13 the teacher, you know, what was said.

14 Q Okay. And you can't tell me what Minor said,
15 but what was it in reference to?

16 A It was in reference to somebody bothering her
17 sexually.

18 Q Okay. And you said you told the teacher in the class
19 first?

20 A Yes.

21 Q Did you or the teacher notify anybody else of what
22 had transpired?

23 A The teacher had to notify the system assistant
24 principal and the assistant principal had to notify
25 somebody, so outside authorities came in.

1 Q Do you know which outside authorities were notified?

2 A The social service department was notified along with
3 the law enforcement.

4 Q Okay. And did you actually do that notification or
5 did somebody with the administration of the school do
6 that notification?

7 A The school administrators have to do that.

8 Q Okay. And once you made that report, did you stay
9 with Minor kind of throughout the course of when
10 these -- did department of social services and law
11 enforcement come to the school?

12 A When they came to the school, I stayed with Minor
13 Minor until they came. And when they came, I turned it
14 over to them, social service and the assistant principle
15 and law enforcement. I didn't go into the meeting or
16 whatever was taking place.

17 Q Okay. So once law enforcement and social services
18 got there and the administration, you handed the case over
19 to them and that was your primary involvement with
20 particular -- I call it a disclosure?

21 A Right.

22 Q All right. And since that disclosure back in
23 December of 2011 is Minor still in your classes?

24 A Yes, she's still there.

25 Q And how has her behavior changed, if at all, since

1 December of 2011?

2 A Well, since we been back in school this fall and
3 coming up Minor has made tremendous progress. She
4 really is on a good track. She's being -- she goes out
5 rather than staying in class the whole time. She goes out
6 for specials.

7 Q Okay. So in your opinion, she's made some progress?

8 A She's grown a lot. She's matured a lot. She's made
9 a lot of progress.

10 Q Okay. And that's all been since December of 2011
11 she's made this transition?

12 A When we started school back -- when we started in
13 August, she was a bright bubbly little girl. She was
14 making progress.

15 Q Okay.

16 MR. MCEACHIN: Ms. Wardy, thank you so much for
17 being here today. Please answer any questions Mr. Woodson
18 may have for you.

19 CROSS-EXAMINATION

20 BY MR. WOODSON:

21 Q Ms. Wardy, at does it start at kindergarten or
22 does it have a 3-K, 4-K program?

23 A No, we don't have a 4-K program any more. We have
24 kindergarten through fourth grade.

25 Q Okay. So since Minor has been at your school

1 she's been in the E.D. class the whole time?

2 A Pretty much because she started in kindergarten, but
3 she ended up in E.D.

4 Q At some point during her kindergarten year?

5 A During her kindergarten year, yes, sir.

6 Q Okay. Would it have been 2010, 2011?

7 A Yes.

8 Q Okay. Now, you said that you were in the class. Was
9 there a teacher in the class every day?

10 A Every day.

11 Q Okay. All right. And so you had contact with Minor
12 Minor the entire time she's been at that school?

13 A Yes, pretty much.

14 Q Okay. Now, you said that there was a disclosure made
15 and you didn't necessarily say what Minor said, but
16 Minor did not name my client, correct?

17 A No, she didn't.

18 Q Okay. Now, when Minor first told you, I think
19 your testimony was that you went to the teacher in the
20 cafeteria; is that correct?

21 A Right.

22 Q When you got in the cafeteria, did Minor tell the
23 story again or did you relay the information?

24 A No, Minor had to tell the story again. I
25 didn't relay any information. We went to the nurse that's

1 the next procedure that we have, we have to go to the
2 nurse. The teacher took Minor to the nurse and
3 that's when Minor relay the story to the teacher
4 and the nurse.

5 Q And were you present during that?

6 A Yeah, I was.

7 Q And was the story that Minor told to the
8 teacher and the nurse consistent with the story she told
9 you?

10 A It was.

11 Q Okay. And my client was not mentioned?

12 A No, he wasn't.

13 Q All right. When you left the nurse and the teacher,
14 where did you go next to the assistance principal?

15 A The teacher went to the assistant principal.

16 Q And were you present?

17 A When the phone call was made?

18 Q Okay. Did Minor tell the assistant principal
19 the story?

20 A No, we didn't tell it again. We waited for the
21 authorities to come.

22 Q Okay. When the authorities came, that will be DSS
23 and law enforcement; is that correct?

24 A DSS and law enforcement.

25 Q Were you present when they were there?

1 A I was there, but I didn't wait. They took her in, I
2 didn't stay I went back to class.

3 Q Okay. And at any point, did you talk to Minor
4 Minor mom?

5 A No, I didn't.

6 Q All right. Had you had any contact with her mom
7 throughout the time that Minor been at your
8 school? I mean, was she a parent that participated in
9 Minor education?

10 MR. MCEACHIN: I'm going to object to relevancy
11 at this time, Your Honor. I don't know how that's
12 relevant.

13 THE COURT: Mr. Woodson.

14 MR. WOODSON: I just want to know if she had any
15 contact prior to this incident, Your Honor.

16 THE COURT: I'll overrule it.

17 BY MR. WOODSON:

18 Q Have you had contact with her mom prior to the
19 allegation?

20 A She was.

21 Q Pretty frequent?

22 THE COURT: You have to say yes or no.

23 A Okay, I'm sorry. I apologize. Yes.

24 MR. WOODSON: Okay. Beg the Court's indulgence.

25 (WHEREUPON, a pause in the proceedings.)

1 MR. WOODSON: Your Honor, I don't have any other
2 questions at this time.

3 THE COURT: Redirect.

4 MR. MCEACHIN: Just one follow-up question, Your
5 Honor.

6 REDIRECT EXAMINATION

7 BY MR. MCEACHIN:

8 Q Ms. Wardy, Mr. Woodson asked you a number of times
9 about Minor story while she was there at school that day.
10 What was Minor demeanor at this time, was she
11 upset?

12 A After she had disclose the information?

13 Q Right.

14 A She was calm. She had calm down a considerable
15 amount.

16 Q But prior to that was she?

17 A Prior to that right, she was upset.

18 Q Okay. And are you aware or have you been made privy
19 to any of the information that came out after that day at
20 school?

21 A No.

22 MR. MCEACHIN: Thank you no further questions.

23 THE COURT: Anything further?

24 MR. WOODSON: No, Your Honor.

25 THE COURT: You may step down.

1 MR. MCEACHIN: Your Honor, I believe Mr. Woodson
2 may have subpoenaed her as well, but I ask that she be
3 relieved from the State's subpoena.

4 THE COURT: Any objection?

5 MR. WOODSON: Your Honor, I want to recall her
6 at some point.

7 THE COURT: You do?

8 MR. MCEACHIN: Yes, Your Honor.

9 THE COURT: Today?

10 MR. WOODSON: If the State rest today, yes, sir.

11 THE COURT: If you will just be on telephone
12 standpoint.

13 (WHEREUPON, the witness leaves the witness
14 stand.)

15 THE COURT: Call your next witness.

16 MR. MCEACHIN: Your Honor, the State would call
17 Pearlene Commissiong.

18 THE CLERK: Do you swear to tell the truth, the
19 whole truth, and nothing but the truth, so help you God?

20 THE WITNESS: Yes, ma'am.

21 THE CLERK: Thank you. You may have a seat on
22 the witness stand.

23 WHEREUPON,

24 Pearlene Commissiong,

25 after first having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. MCEACHIN:

Q Good afternoon, Pearlene.

A Good afternoon.

Q Now, Pearlene, I'm going to go ahead and tell you this, this courtroom has terrible acoustics and it's important that everybody on this jury including these two people sitting back here be able to hear what you're saying. I know you're very soft spoken, but I need you to speak up so everybody can hear you, okay?

A Yes, sir.

Q Thank you. If you don't mind, would you state your full name for the record?

A Pearlene Commissiong.

Q And can you spell your last name for the court Reporter?

A C-O-M-M-I-S-S-I-O-N-G.

Q Okay, Pearlene. Beg the Court's indulgence. Pearlene, where are you working right now?

A I work at Palmetto Youth Academy.

Q Okay. And how long have you been working at Palmetto Youth Academy?

A For the last two months?

Q Okay. Prior to working at Palmetto Youth Academy where did you work?

1 A McLeod Regional Medical Center.

2 Q Okay. And how long had you worked at McLeod for?

3 A Five years.

4 Q Right. And so back in the fall of 2011, you had been

5 working at McLeod?

6 A Yes, sir.

7 Q And if you don't mind, where do you currently live?

8 A In Florence.

9 Q Over across the river?

10 A Yes.

11 Q Before you -- are you originally from Florence?

12 A No, I'm originally from New York.

13 Q Okay. When did you move down to South Carolina?

14 A November of 2006.

15 Q Okay. So when you move down from New York, you move

16 to Florence?

17 A No, I was living in Marion with my aunt.

18 Q Okay. And who's your aunt?

19 A Janie Mae Thompson.

20 Q All right. And at some point, you move to Florence?

21 A Yes, sir.

22 Q And how long ago was that?

23 A That was in 2008. I want to say 2008.

24 Q So in 2011 you were living in Florence?

25 A I was living in Florence.

1 Q And who were you living with over in Florence in the
2 fall of 2011?

3 A Me and my daughter Minor

4 Q And Minor what's Minor last name?

5 A Minor

6 Q All right. And how hold is Minor now?

7 A She's eight years old.

8 Q Okay. And back in the fall of 2011 how old would she
9 have been?

10 A She was six.

11 Q And I don't mean to put you on the spot, but what's
12 Minor birthday?

13 A

14 Q Okay. You're better with dates than I am. Is Minor
15 Minor currently in school?

16 A Yes, she is.

17 Q Okay. And where is she in school?

18 A She goes to

19 Q How long has she been going to ?

20 A She was going to since she was in
21 kindergarten.

22 Q Okay. So how many years now you think -- how many
23 years has she been going?

24 A Three.

25 Q Okay. She's in her third year there?

1 A She's in second grade, but it start at kindergarten,
2 then first grade, second grade.

3 Q Okay. And back in 2011, you said you and Minor
4 Minor were living together, was anybody else living with
5 you all at that time?

6 A No, sir.

7 Q Just the two of you?

8 A Yes.

9 Q Okay. And going back to your job in 2011, you said
10 you worked for McLeod Hospital?

11 A Yes.

12 Q In Florence?

13 A Yes.

14 Q Okay. And what was your job with McLeod at the time?

15 A Unit secretary.

16 Q And as a unit secretary, what of kind hours did you
17 work?

18 A Monday through Friday, I work three to 11 at night.
19 And during the weekends, I work 12-hour shifts 7:00 a to
20 7:00 p.

21 Q So on the weekends you work 12-hour shifts?

22 A Yes.

23 Q And were you going by that schedule in the fall of
24 2011?

25 A Yes.

1 Q And back when you were working on the weekends, where
2 would Minor be on the weekends when you were
3 working?

4 A She would come to Marion.

5 Q Okay. And who -- would you bring her over here?

6 A Yes.

7 Q Okay. And who would you bring her over here to see
8 or stay with?

9 A She stayed with my Aunt Janie Mae and my Cousin Faye.

10 Q Okay. And Jane Mae and Faye they have a last name?

11 A Thompson.

12 Q Okay. And where did Janie Mae and Faye live?

13 A On

14 Q That's here in Marion.

15 A Yes.

16 Q All right. And how many times during the fall of
17 2011 would you say or -- strike that. How many times
18 would you say that Minor has come over and stayed
19 with your Aunt Janie Mae and your Cousin Faye?

20 A A lot because I worked -- like I said I worked Monday
21 through Friday and when the holidays came, I worked the
22 holidays too and the weekends also.

23 Q All right. So -- and I think you said on the
24 weekends and the holidays that's when she came and stayed
25 with Faye and Janie Mae?

1 A That's correct.

2 Q Why did you bring her over to Marion?

3 A That's my only family was my family in Marion. I
4 didn't have anybody to watch her for me on the weekends,
5 on the weekends at all or the holidays. She went to
6 daycare, she had after-school program, but holidays and
7 weekends they're closed, so that's why she was in Marion.

8 Q So on the week nights she had somewhere to stay, but
9 it was during the week days -- I mean, excuse me the
10 weekends that she came over to stay with Janie Mae and
11 Faye?

12 A Yes, sir, and the holiday time.

13 Q And the holidays I apologize. Back in fall of 2011,
14 during this period of time -- how frequently would you
15 work on the weekends, was it every weekend, every other
16 weekend how frequently was it?

17 A Every other weekend and then sometime for overtime, I
18 would work weekends back to back.

19 Q Okay. And every time you worked on the weekends Minor
20 Minor came over to Marion?

21 A That is correct.

22 Q All right. And you say she came over to stay with
23 your Aunt Janie Mae and Faye. Was anybody else living
24 with Faye and Janie Mae at the time?

25 A My Uncle J.W. and Faye's boyfriend.

1 Q Okay. And who was Faye's boyfriend?

2 A We call him bear.

3 Q Okay.. Do you know what bear's real name is?

4 A Jimmy Turner.

5 Q Okay. And do you see Jimmy Turner here in the
6 courtroom today?

7 A Yes, sir.

8 Q Where is he?

9 A Seated over there.

10 Q What's he wearing?

11 A Black shirt.

12 MR. MCEACHIN: Please have the record reflect,
13 Your Honor, that the witness has identified the defendant.

14 THE COURT: Record will reflect that.

15 MR. MCEACHIN: Thank you, Judge.

16 BY MR. MCEACHIN:

17 Q Now, so your Uncle J.W., Aunt Janie Mae, Faye, and
18 Jimmy they were all over on ?

19 A Yes, sir.

20 Q All right. And during the fall of 2011, at any point
21 in time during that fall, did you start to see a change in
22 Minor behavior?

23 A Yes, sir.

24 Q And when did you see that change take place?

25 A You want the exact date?

1 Q No, no, no, I don't need an exact date but just
2 thereabouts.

3 A Well, I had started seeing a change prior to that,
4 but I just knocked it up to me just working a lot. So,
5 you know, missing her mother. So, you know, kids act up.
6 Probably, I want to say maybe February, March.

7 Q Okay. And that was of the year 2011 the first part
8 of 2011?

9 A Yes, sir.

10 Q All right. And I want to go past that spring
11 semester. I want to go to the fall semester of 2011.
12 That's what we're talking about now. In the fall of 2011,
13 when did you start to see a change in Minor ?

14 A Probably about maybe May around May, August?

15 Q Okay. Now, Pearlene, if you don't mind, during the
16 fall semester which runs from September to, I guess,
17 December in the school year, at any point in time of the
18 fall of 2011, did you get a call from the school?

19 A Yes, sir, I did.

20 Q Okay. And do you recall about when that was?

21 A That had to be in December. It was in December.

22 Q And I'm sorry to ask you about all these dates. I
23 know they run together, but I'm just trying to make sure
24 we have a clear picture and the jury has a clear picture
25 of everything that happened, okay.

1 A Yes, sir.

2 Q All right. And can you relay without saying what was
3 said to you on the phone, can you relay the facts and
4 circumstances surrounding that phone call?

5 A The school had tried to get in contact with me. I
6 was in school myself, so my signal is kind of botched when
7 I'm on campus. So they couldn't get me, so they called
8 McLeod thinking I was already at work and they left a
9 message with director on my floor. They didn't tell her
10 anything. They just told her as soon as possible for me
11 to call the school. They -- she ask was everything okay
12 because she know my daughter goes there. And they said,
13 yes, that she was fine, so when I got to work, she ask me
14 was everything, okay. And I didn't know what she was
15 talking about, so I being funny I said, why, something
16 wrong with my face. She said, no, the school call. And
17 so I said to her what happened. She said I don't know
18 just call the school.

19 Q Okay. And did you call the school?

20 A I call school.

21 Q And without telling me what the school said to you as
22 result of that phone call, what did you do?

23 A I had to leave work.

24 Q Okay. Where did you go?

25 A To .

1 Q All right. And when you got to the school, who was
2 the first person that you spoke with?

3 A I guess, the resource officer.

4 Q Okay. And I'm not going to ask you to remember
5 anybody's name, but you spoke with the resource officer?

6 A Yes, sir.

7 Q All right. And that was a uniformed law enforcement
8 officer?

9 A Yes, sir.

10 Q All right. And once you spoke with him, what was the
11 next thing you did?

12 A They took me to one of the -- Ms. Baggett's office.
13 She's one of the teachers, head teachers there at the
14 school.

15 Q Okay. And while you were in Ms. Baggett's office,
16 who, if anybody, did you speak with?

17 A Ms. Baggett's was there. A Ms. Harrison she came in
18 later, but Minor was also in the office also.

19 Q Okay. And during that periods of time, how long do
20 you think it was between when you got to the office or
21 when Ms. Harrison came in?

22 A About maybe five, ten minutes, it wasn't long.

23 Q And when you first went into Ms. Baggett's office,
24 did you have an opportunity to speak with Minor Minor ?

25 A Yeah, I spoke her cause she hug me.

1 Q But you didn't necessarily talk about anything that
2 happened?

3 A No, we didn't talk about anything?

4 Q Just a regular parent greeting a child?

5 A Right.

6 Q Okay. And who else did you speak with at that
7 particular time anybody else?

8 A The resource officer spoke to him.

9 Q Okay. And Ms. Harrison came in you said?

10 A Ms. Harrison came in, yes.

11 Q Okay. And how long do you think this total meeting
12 with all these people lasted?

13 A About an hour and a half.

14 Q And once the meeting had finished up, did Minor go
15 back to class or what happened?

16 A No, I took her home.

17 Q Okay. So she was allowed to go home with you?

18 A She was allowed to go home with me.

19 Q Okay. You all left pretty much after all that stuff
20 happened?

21 A Yes, sir.

22 Q All right. While all that was happening, were any
23 other interviews or anything like that set up for you or
24 for Minor ?

25 A For the next day, we had to go to the Care House.

1 Q Okay. And before we get too far into this, Pearlene,
2 let me ask you this, who is Vincent Brunson?

3 A That's my friend.

4 Q Okay. And how long have you known Vincent?

5 A Let's say about five years.

6 Q Okay. And did Vincent ever live with you?

7 A No, sir.

8 Q Okay. Did he ever stay with you?

9 A Yes, sir.

10 Q Okay. And during the times that he stayed with you
11 where was Minor ?

12 A Majority of the time that we stayed Minor
13 would be at my aunt and my cousin's house?

14 Q Okay. So she typically wasn't there with Vincent?

15 A Typically, yes.

16 Q Okay. And when Vincent was there, were you always
17 there with Minor ?

18 A Correct.

19 Q Okay. And going back to school that day, you said
20 you all got to leave right after the meeting with all
21 these folks took place; is that correct?

22 A Yes, sir.

23 Q And you said Minor left with you?

24 A Yes, sir.

25 Q And did you all go home that afternoon?

- 1 A We did.
- 2 Q All right. And the next morning you said you all had
3 an interview with the Care House?
- 4 A Yes, sir.
- 5 Q And did you take Minor up with the Care House?
- 6 A I did.
- 7 Q When you all got to the Care House, who did you meet
8 with?
- 9 A Ms. Sally and Ms. Harrison was there also.
- 10 Q Okay. Ms. Harrison, which is the woman from DSS?
- 11 A Yes, sir.
- 12 Q All right. And did Ms. Sally I think you called her
13 is she an employee of the Care House?
- 14 A Yes, sir.
- 15 Q And did she meet with Minor ?
- 16 A Yes, sir, she did.
- 17 Q And you remember about how long that meeting lasted?
- 18 A We were there for about two hours.
- 19 Q Okay. And did you also get to speak with Ms. Sally?
- 20 A I did.
- 21 Q All right. And after you and Minor got
22 through with the Care House interview, did you all leave
23 that day?
- 24 A Yes, sir, we did.
- 25 Q And did Minor get to go home with you that day?

1 A Yes, sir.

2 Q All right. At any point in time, Pearlene, from when
3 you got the phone call from the school up until today's
4 date, have you ever told Minor to tell anybody anything?

5 A No, sir.

6 Q With regard to this case?

7 A No, sir.

8 Q Have you ever told her to change any story?

9 A No, sir.

10 Q Nothing along those lines?

11 A No, sir.

12 MR. MCEACHIN: I appreciate you being here
13 today. Please answer any questions Mr. Woodson may have
14 for you.

15 THE COURT: Mr. Woodson.

16 MR. WOODSON: Thank you, Your Honor.

17 CROSS-EXAMINATION

18 BY MR. WOODSON:

19 Q When you would drop Minor off to the
20 address here in Marion, who would you drop her off to?

21 A My aunt or my cousin Faye Thompson.

22 Q Okay. And is it fair to say that every time you
23 dropped her off, you dropped her off at one of those two
24 people?

25 A That's correct.

1 Q Okay. Can you recall a time when you dropped her off
2 with just Jimmy Turner?

3 A No, sir.

4 Q Okay. You testified that you noticed a change in
5 your daughters behavior in 2011; is that correct?

6 A That is correct.

7 Q After the allegation, do you recall going to Dr.
8 Patrice Minter's office?

9 A After, yes, sir.

10 Q Okay. Did you speak with her, did she do kind of, I
11 guess, an interview with you prior to examining Minor ?

12 A She was doing an interview with me because she was
13 the one that had to do the physical examination of Minor .

14 Q Right. And do you recall telling Dr. Minter that you
15 noticed no behavioral changes in Minor ?

16 A No, I don't recall that.

17 Q When you first -- well, let me ask this way, who is
18 the first person to tell you of the allegations?

19 A The officer he mentioned when I got to the school he
20 mentioned it first.

21 Q Okay. And did you have any discussion with him about
22 it? And don't say what he said, but did you all have a
23 conversation or did he just tell you and you kept going?

24 A No, I mean, we talked about it.

25 Q All right. And the allegation was not against Jimmy

1 Turner; is that correct?

2 A That's correct.

3 Q Okay. And the allegation was against Vincent, I
4 think, you said Brunson; is that correct?

5 A That's correct.

6 Q Okay. And you didn't believe your daughter; is that
7 correct?

8 A I was very upset at the time with everything that was
9 going on. I mean, kind of hit me all of a sudden, so I
10 was very upset.

11 Q Right. And so you said it couldn't have happened.
12 He couldn't have done it; is that correct?

13 A I said that to -- I'm not understanding your
14 question.

15 Q You said at the school that Vincent couldn't have
16 done it?

17 A I said I was upset at the school. I'm not
18 understanding what your -- I'm not understanding your
19 question.

20 Q When you were told that your daughter was accusing
21 your boyfriend of abuse, you said that could not have
22 happened?

23 A When I found out that Minor was touched, I was very
24 upset. I said how -- I was in disbelief that it happened
25 period, that's what I was upset about.

1 Q Okay. And did you comfort your daughter?

2 A Yes, sir, I did.

3 Q And you were at the school an hour and a half?

4 A About an hour and a half, yes, sir.

5 Q Okay. So is it your testimony today that when she
6 made an allegation against Vincent that you believed her.
7 I'm not sure if you answered my previous question. So did
8 you believe ---

9 A I was upset about everything that was going on. I
10 believe she was touched, yes. No child would come up and
11 make that up, yes, I believe she was touched.

12 Q But you don't believe it was by Vincent?

13 A When the allegations came out, no I didn't believe it
14 was Vincent. I was very upset though.

15 Q Okay. And your daughter knew you were upset?

16 A Yes, she was upset also, sir, at the time when I saw
17 her.

18 Q And were you -- did you cry in her presence or
19 admitted in her presence when she was saying it was
20 Vincent?

21 A Was I argumentative with her when she said it was
22 Vincent?

23 Q No, with the staff when they were saying what was
24 said?

25 A No, I wasn't argumentative. I mean, I was upset. I

1 mean, I was hurt. I was very upset at the time.

2 Q Okay. And during this hour and a half period, who
3 all were you talking to?

4 A Ms. Harrison was in the room. Ms. Baggett was in the
5 room. Minor wasn't in the room. The left Minor out the
6 room I think.

7 Q Okay. So during this hour and a half, she wasn't
8 with you the whole time?

9 A She was standing -- she was on the outside somebody
10 else was watching. I think the resource officer was
11 watching her at the time.

12 Q Okay. When you left the school, were you crying in
13 the car?

14 A Yes, I was. Like I said, I was very upset. I was
15 emotional about the situation.

16 Q Okay. And were you questioning Minor about
17 why she was accusing Vincent?

18 A No, sir. Ms. Harrison had directed me before we left
19 the school to don't mention anything ---

20 THE COURT: Hold on one second.

21 Q Don't say what she said.

22 MR. MCEACHIN: I object, Your Honor. He ask the
23 question. She can answer. He can't object to his own
24 question.

25 MR. WOODSON: My question had to do with did she

1 discuss with Minor . I didn't ask anything about Ms.
2 Harrison, she interjected that.

3 MR. MCEACHIN: He ask the question, Judge. I
4 think she's entitled to answer it.

5 THE COURT: Go ahead ask the question.

6 BY MR. WOODSON:

7 Q Did you discuss the situation with Minor in the car?

8 A No, sir.

9 Q At all?

10 A No, sir, not at all.

11 Q Okay. So you were leaving -- but there was no verbal
12 conversation going on?

13 A I was directed -- I'm gone say Ms. Harrison's name
14 again now, so I don't know ---

15 Q That's all right, go ahead.

16 A Ms. Harrison directed me before we left the school
17 she said to don't question Minor , to just leave her if she
18 wants to talk about it, but don't push her for no
19 information. If she brings up anything, then it's okay
20 and that's what I did. I didn't talk to her about
21 anything.

22 Q And at any point that afternoon or that evening, did
23 you pick up the phone and call your boyfriend and let him
24 know that he was being accused of certain things?

25 A No, sir.

1 Q You didn't think that was important?

2 A No, sir, because Ms. Harrison had already gave me in
3 the school -- in the school she gave a list -- ask me
4 people that Minor was around as in men. And I had to
5 mention him also, so I was to have no contact with anybody
6 at that time until we went to the Care House.

7 Q Okay. Now, you said that Vincent did not live with
8 you, but there were times that he spent the night at your
9 house; is that correct?

10 A Yes, sir.

11 Q And during those times, you allege that Minor
12 was somewhere else?

13 A Yes, sir, she would be in Marion?

14 Q Okay. Did you ever spend the night at Vincent's
15 house?

16 A Yes, sir, I did.

17 Q Did Minor ever spend the night at Vincent's house?

18 A No, sir.

19 Q Okay. Vincent has a daughter?

20 A Yes, sir.

21 Q And did his daughter interact with your daughter?

22 A Yes, she did.

23 Q Do you recall a time when you were speaking to either
24 Ms. Thompson, Faye Thompson or Janie Mae and telling them
25 you were at a grocery store and Minor was home

1 alone with Vincent?

2 A No, sir.

3 Q So it's your testimony Vincent never been alone with
4 this child at all?

5 A That's correct.

6 Q That's not possible?

7 A That's not possible.

8 Q They were alone at some point?

9 A No, sir.

10 MR. WOODSON: Court's indulgence. Nothing
11 further, Your Honor.

12 THE COURT: Redirect..

13 MR. MCEACHIN: Yes, sir, Your Honor.

14 REDIRECT EXAMINATION

15 BY MR. MCEACHIN:

16 Q Pearlene, Mr. Woodson asked you I think three or four
17 times about you were upset about the fact that your
18 daughter mentioned Vincent's name?

19 A Yes.

20 Q You heard those questions; is that correct?

21 A Yes, sir.

22 Q Is that what you were upset about?

23 A No, I was upset about the situation that my daughter
24 had said that someone had touched her. And then at that
25 time everything just started flashing into my head why she

1 was acting up in school and why she was crying so much
2 when she had to go to Marion. All of that started to come
3 together at that point. It started to click what was
4 going on.

5 Q That's interesting. You said she use to cry when she
6 found out she had to come to Marion?

7 A Yes.

8 Q Okay. And you said that you were upset about the
9 situation. By that you mean you were upset about the fact
10 that you had found out your child may have been raped?

11 A Yes, sir.

12 Q That's what you're upset about?

13 A Yes, sir.

14 Q Not the fact that your daughter had mentioned
15 Vincent?

16 A No.

17 Q Okay. And I just wanted to clarify that, okay.

18 A Yes, sir.

19 Q Mr. Woodson asked you about the ride back to -- I
20 guess, from the school to your house on the day of the
21 disclosure?

22 A Yes, sir.

23 Q And he asked you if you ask Minor any
24 questions. At any point in time, did Minor say
25 anything in the vehicle?

1 A Yes, sir, she did.

2 Q And what was that?

3 MR. WOODSON: Objection, at this point it would
4 be hearsay.

5 THE COURT: Any response to that?

6 MR. MCEACHIN: Yes, Your Honor. Beg the Court's
7 indulgence for just a moment.

8 (WHEREUPON, a pause in the proceedings.)

9 MR. MCEACHIN: I actually need to rephrase the
10 question. I apologize, Your Honor.

11 BY MR. MCEACHIN:

12 Q In what Minor said to you in the vehicle, did
13 she tell you where the alleged rape occurred?

14 A Yes, sir.

15 Q Where did she say it occurred?

16 A In Marion.

17 Q Does Vincent live in Marion?

18 A No, sir.

19 Q Where does Vincent live?

20 A In Florence.

21 Q Okay. And did you ask Minor -- was that story
22 consistent with what she said at school?

23 A No, sir.

24 Q And did you ask Minor why?

25 A Yes, sir.

1 Q Did she tell you why?

2 A Yes, sir.

3 Q And why was that?

4 MR. WOODSON: Objection hearsay.

5 THE COURT: Response.

6 MR. MCEACHIN: Your Honor, I think she can talk
7 as far as time and place pursuant to Rule 801(D)(1)(B)
8 consistent with declarant's testimony. Plus, Your Honor,
9 Mr. Woodson open the door by asking the question earlier
10 on direct examination. I think she can answer that
11 question.

12 THE COURT: Any response to that, Mr. Woodson?

13 MR. WOODSON: One second. Your Honor, I did not
14 open the door for any -- anything of that nature. I asked
15 her during cross was there any -- did she say anything to
16 Minor . I believe my question was -- I am trying
17 to...

18 THE COURT: What was your question again,
19 Solicitor?

20 MR. MCEACHIN: Your Honor, my question was
21 simply did she give another explanation for why the story
22 had changed, that's not even necessarily calling for
23 hearsay, Judge.

24 MR. WOODSON: Your Honor, I think the rule is
25 clear the declarant hadn't -- the child hadn't testified,

1 so I think at this point it would be hearsay.

2 MR. MCEACHIN: Judge, it's not asking for a
3 hearsay response. I'm simply asking did she give a reason
4 for why the story had changed.

5 THE COURT: Overrule, continue.

6 MR. MCEACHIN: Thank you.

7 BY MR. MCEACHIN:

8 Q Did she give a reason to why she had said what she
9 said to you in the car?

10 A Yes, sir.

11 Q Okay. And did you ask her any questions about
12 anything else that took place?

13 A No, sir.

14 Q And why didn't you do that?

15 A Because Ms. Harrison had directed me at the school
16 not to press her for any information.

17 Q Okay. When was the next time Minor talked
18 about any of this stuff?

19 A Prior to talking about it in the car?

20 Q No, no, after that after that when was the next time
21 she talked to anybody?

22 A It was Friday the next day.

23 Q Okay. And that was at the Care House?

24 A Yes, sir.

25 Q Okay. And did you ever tell her what to tell anybody

1 at the Care House?

2 A No, sir.

3 Q Okay. And you never said that Minor you need
4 to say this or you need to say that?

5 A No, sir.

6 Q Did you ever tell Minor to say it was not Vincent
7 Brunson?

8 A No, sir, I did not.

9 Q Okay. Based on the conversation you had with Minor
10 did she indicate in the car ride home that it was Vincent
11 Brunson who did it?

12 A No, sir, she didn't.

13 MR. MCEACHIN: Thank you. No further questions,
14 Your Honor.

15 RECROSS-EXAMINATION

16 BY MR. WOODSON:

17 Q You testified just now that Minor would cry when on
18 the way to Marion, but you've never told anybody that
19 prior to today, have you?

20 A Even when she was in Marion, she would act out in
21 Marion also.

22 Q Well, but she would act out in Florence also, right?

23 A She would act out in Florence because we had to go to
24 Marion. Yeah, she would actually act out in school, but I
25 did not know why at the time.

1 Q And she been acting out since 2010; is that correct?

2 A And Bear was around in 2010, sir.

3 Q Okay. You've never -- my question was you never told
4 anybody prior to today that she was crying coming to
5 Marion, no police officer, no DSS worker. It's in no
6 paperwork. Would you agree with that?

7 MR. MCEACHIN: Objection, Your Honor. I
8 think -- she's not going to know what's in DSS paperwork
9 all this.

10 THE COURT: Overrule.

11 MR. WOODSON: I'll rephrase it.

12 BY MR. WOODSON:

13 Q Have you told anybody that prior to today?

14 A Anybody as in who? Anybody dealing with the case you
15 mean?

16 Q Yes, anybody in this case even Ms. Janie Mae or Faye?

17 A I don't speak to them. I have no contact with them.

18 Q Well, but you were speaking to them in 2011 and
19 you're saying that your daughter was crying going over to
20 their house.

21 A Yes, and they knew she would be upset when she had to
22 come to Marion because when sometime when she would get
23 over there, she would still be crying in front of them,
24 but I had to go to work, yes, sir. I had to work.

25 Q All right.

1 MR. WOODSON: I don't have anything else, Your
2 Honor.

3 THE COURT: Anything else?

4 MR. MCEACHIN: Thank you, Your Honor. I ask
5 that she be relieved from her subpoena.

6 MR. WOODSON: No objection.

7 THE COURT: She is excused.

8 Call your next witness.

9 (WHEREUPON, the witness leaves the witness
10 stand.)

11 MR. MCEACHIN: Your Honor, may we approach?

12 THE COURT: Yes, sir.

13 (WHEREUPON, a bench conference was held in the
14 presence of the jury, but out of the hearing of the
15 jury.)

16 THE COURT: Members of the jury, we're going to
17 take about a ten minute break to do a few things to
18 prepare for the rest of the afternoon. If you would go
19 into the jury room, but as I said before, do not discuss
20 the case at all. All right. If you will go in the jury
21 room.

22 (WHEREUPON, the jury retire to the jury room.)

23 (WHEREUPON, a break was taken.)

24 (WHEREUPON, the jury came into open court.)

25 THE COURT: Call your next witness.

1 MR. MCEACHIN: Your Honor, the State would call
2 Captain Cindy Barr to the stand.

3 THE CLERK: Do you swear to tell the truth, the
4 whole truth, and nothing but the truth so help you God?

5 THE WITNESS: I do.

6 WHEREUPON,

7 Cindy Barr,
8 after first having been duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. MCEACHIN:

11 Q Good afternoon, Captain Barr.

12 A Good afternoon.

13 Q How are you doing this afternoon?

14 A I'm blessed. Thank you.

15 Q Good, good. If you don't mind, would please state
16 your full name and rank for the record?

17 A My name is Cindy Rania Barr and I'm the captain of
18 Marion Police Department.

19 Q And as the captain of the Marion Police Department,
20 what is it the captain do exactly?

21 A Serve and protect our community and enforce the law
22 through various crimes, investigate, investigate various
23 crimes and manage staff.

24 Q Okay. So kind of you wear a number of hats in that
25 position?

1 A Yes.

2 Q Okay. And how long have you been a captain with the
3 Marion Police Department?

4 A I been captain with Marion Police Department since
5 2011.

6 Q And prior to becoming a captain in 2011, what did you
7 do?

8 A I work in school from March 2000 until May 2011 as a
9 school resource officer Jonathan Middle School.

10 Q Okay. So that's what almost 11 years; is that right?

11 A About..

12 Q Okay. And prior to being a school resource officer
13 at Jonathan Middle School and that's here in Marion?

14 A That's here in Marion.

15 Q What did you do before that?

16 A Prior to the Marion Police Department and Jonathan
17 Middle School, I work with the sheriff department and I
18 work in the drug enforcement.

19 Q Okay. How many total years of law enforcement
20 experience do you have?

21 A About 18.

22 Q Okay. And in those 18 years long law enforcement
23 experience, is there any type of specialize training that
24 you gone through or that you done as far as investigation
25 is concern?

1 A Yes, I have. I went to some seminars for advance
2 sexual assault and I also got my degree in Bachelor of
3 Science Criminal Justice.

4 Q Okay. And with regard to your training and your 18
5 years of experience what I want to focus on now is back in
6 December of 2011, were you a captain at that time?

7 A Yes, I was.

8 Q Okay. And were there any specific type of cases you
9 were handling at that time?

10 A Various cases. A few CSC's, CDV's criminal domestic
11 violence, larceny, forgeries, identification thefts and
12 assault and battery.

13 Q And the first thing you said was CSC. What does CSC
14 stand for?

15 A Criminal sexual conduct.

16 Q Okay. And back in December of 2011, did you have
17 occasion to become involved in an investigation of
18 criminal sexual conduct allegation that occurred here in
19 Marion?

20 A Yes, I did.

21 Q And how did you become involved in that particular
22 case?

23 A I had received a call from Jennifer Harrison with DSS
24 in Florence.

25 Q Okay. And that was what initially got you involved

1 in the case?

2 A Yes.

3 Q And based on the conversation you had not saying what
4 Ms. Harrison told you, but based on the conversation you
5 had, what did you do?

6 A I initiated the investigation and I had called the
7 victim's mother.

8 Q Okay. And after speaking with the victim's mother,
9 what was the next thing you did?

10 A I had called the Care House and talked with Ms. Sally
11 Williamson.

12 Q Okay. And at this point in time had the Care House
13 already completed their forensic interview of the child?

14 A Yes, they had finished talking to the victim in this
15 case.

16 Q Okay. And who was the victim in this case?

17 A The victim is Minor .

18 Q Okay. And after speaking with Pearlene and after
19 speaking with Sally at the Care House, what, if
20 anything -- did you receive anything from the Care House?

21 A Yes, I received a hard copy of the interview that
22 they did on Minor about this incident.

23 Q Okay. And that's something prepared by the Care
24 House?

25 A Yes, it was.

1 Q And once you received this information and you
2 started your investigation, what was the next thing you
3 did?

4 A The next thing I did after I read through the report
5 of what the victim disclosed to the Care House, I secured
6 a search warrant of the home that the incident occurred
7 at, which was here in Marion, South
8 Carolina. And I also secured an arrest warrant.

9 Q Okay. And let's talk with the jury a little bit
10 about this search warrant. You say you secured a search
11 warrant. And what is search warrant exactly?

12 A A search warrant is the information that we're going
13 to look for at the home.

14 Q Okay. And you said you got a search warrant. Once
15 you got it, did you execute the search warrant?

16 A Yes, I did.

17 Q Okay. And just so the jury understands what is the
18 execution of a search warrant?

19 A We went to the house and served a search warrant.

20 Q Okay. And there were certain items you were looking
21 for in that search warrant; is that correct?

22 A Yes, it was.

23 Q And were you able to recover any items?

24 A Yes, I did recover some items at that time the victim
25 disclosed of.

1 Q Okay. And in addition to recovering items, did you
2 do anything else to take photographs for example?

3 A Yes, I also took some photographs of some of the
4 items that the victim described as being what she seen in
5 the house concerning this incident.

6 MR. MCEACHIN: Your Honor, may I approach the
7 witness?

8 THE COURT: Sure.

9 BY MR. MCEACHIN:

10 Q Okay. Now, Captain Barr, I don't want you to show
11 these to the jury yet. I'm handing you what's been marked
12 as State's Exhibit 1, 2, and 3 for identification purposes
13 only. Do you recognize State's Exhibits 1, 2 and 3?

14 A Yes.

15 Q And who took those photographs?

16 A I had taken the photographs.

17 Q You took those photographs?

18 A Yes.

19 Q And where did you take those photographs?

20 A I took these photographs at where
21 the incident had occurred at.

22 Q Okay. And you personally took them?

23 A Yes, I did.

24 MR. MCEACHIN: Your Honor, at this time I move
25 one, two and three into evidence.

1 THE COURT: Any objection?

2 MR. WOODSON: No, Your Honor.

3 THE COURT: State's Exhibit 1, 2 and 3 are into
4 evidence without objection?

5 MR. MCEACHIN: Thank you, Your Honor.

6 (WHEREUPON, State's Exhibits Nos. 1, 2 and 3
7 were admitted into evidence.)

8 BY MR. MCEACHIN:

9 Q Now, if you don't mind, Captain Barr, looking at
10 State's Exhibit Number 1, can you kind of hold that up
11 maybe back behind you right there and explain to the jury
12 what State's Exhibit Number 1 is?

13 A I had -- I took a picture of this because the item
14 which is the sheet with flowers in it, the victim
15 described as what she was laying on.

16 MR. MCEACHIN: And, Your Honor, may I publish as
17 she goes through these.

18 THE COURT: Yes, sir.

19 BY MR. MCEACHIN:

20 Q And with regard State's Exhibit Number 2 kind of hold
21 that up so the jury could see. What is State's Exhibit
22 Number 2?

23 A This is the address of the house where the incident
24 had occurred at. And before I did my search warrant, I
25 went and took pictures to make sure I had the right

1 address.

2 Q And then finally what is State's Exhibit Number 3?

3 A This is the bedroom in which the victim had said that
4 the incidence had occurred in at in
5 Marion, South Carolina?

6 Q And, Captain Barr, you said all these pictures were
7 taken at ; is that correct?

8 A Yes, that's correct.

9 Q Now, in addition to taking photographs, Captain, did
10 you obtain any physical evidence pursuant to your search
11 warrant?

12 A Yes, I did.

13 Q Okay. And I'm going to do this as quickly as
14 possible. I'm first going to hand you what's been marked
15 as State's Exhibit Number 6. If you don't mind, Captain,
16 don't pull it out. But if you would just open that bag
17 and tell me if you recognize for identification purposes
18 what's inside State's Exhibit Number 6.

19 A Yes, it appears to be the sheet that was hanging on
20 the clothes line.

21 MR. MCEACHIN: Your Honor, at this time I'd move

22 ---

23 BY MR. MCEACHIN:

24 Q Did you collect State's Exhibit Number 6?

25 A Yes.

1 MR. MCEACHIN: Your Honor, at this time I would
2 move State's Exhibit Number 6 six into evidence.

3 THE COURT: Any objection?

4 MR. WOODSON: Your Honor, at this time, there's
5 no testimony as to how that's relevant to the case, so I
6 would object.

7 THE COURT: If you would just lay a little bit
8 of ground work.

9 MR. MCEACHIN: Certainly, Your Honor.

10 BY MR. MCEACHIN:

11 Q We've already admitted State's Exhibit Number 1 into
12 evidence that had the photograph of the sheet on it; is
13 that correct?

14 A Correct.

15 Q Okay. And you say that this is the actual sheet
16 that's in State's Exhibit Number 1?

17 A Correct.

18 MR. MCEACHIN: Move to admit it, Your Honor?

19 THE COURT: Any objection?

20 MR. WOODSON: No, Your Honor.

21 THE COURT: State's Exhibit Number 6 is in
22 evidence without objection.

23 (WHEREUPON, State's Exhibit No. 6 was admitted
24 into evidence.)

25 MR. MCEACHIN: Your Honor, may I partially

1 publish this to the jury?

2 THE COURT: You may.

3 BY MR. MCEACHIN:

4 Q Captain Barr, I'm going to show you what's been
5 marked as State's Exhibit Number 7. I'm going to ask you
6 to look inside and see if you can identify this particular
7 item?

8 A Yes.

9 Q Okay. Just look real quick I'm going to go ahead and
10 show you these other exhibits as well. Ask you to look
11 inside of State's Exhibit Number 8 for identification and
12 tell me if you can identify what's in there?

13 A Yes, you want me to tell you what it is?

14 Q No. But you can identify what's in there?

15 A Yes, I can.

16 Q Okay. And in State's 7 and 8 are you the one who
17 collected these items?

18 A Yes, I am.

19 Q Okay. And how about State's Exhibit Number 9 would
20 you please look in there for me?

21 A I could.

22 Q And you collected State's Exhibit 9 as well?

23 A Yes, I did.

24 Q And then State's Exhibit Number 10 can you identify
25 that for me?

1 A Yes.

2 Q And did you collect State's Exhibit Number 10?

3 A Yes, I did.

4 Q And finally, Captain, I'm going to show you what's
5 been marked as State's Exhibit Number 11. Can you
6 identify State's Exhibit Number 11?

7 A Yes.

8 Q Did you collect this as well?

9 A Yes, I did.

10 Q All right. Captain Barr, why did you all collect
11 these particular items?

12 A I collected those items because after reading the
13 interview from the Care House that the victim disclosed
14 of, I went and got the items that she described in the
15 interview.

16 Q And where were all of these items collected from?

17 A They were collected from

18 MR. MCEACHIN: Your Honor, at this time I would
19 move State's 6 through 11 into evidence.

20 THE COURT: So you've already got six into
21 evidence, got seven, eight, nine, ten and 11; is that
22 right.

23 MR. MCEACHIN: That's correct, Your Honor, I
24 apologize.

25 THE COURT: Any objection, Mr. Woodson?

1 MR. WOODSON: Your Honor, I think it's premature
2 because the victim hadn't testified to lay the foundation
3 of how these things are relevant.

4 THE COURT: She's layed the foundation.

5 MR. WOODSON: Also, I specifically object to
6 number nine because it's not -- I mean, it's a common
7 household item.

8 THE COURT: I'm going to overrule. State's
9 Exhibit 7, 8, 9, 10 and 11 are into evidence.

10 MR. MCEACHIN: Thank you, Your Honor.

11 (WHEREUPON, State's Exhibits Nos. 7, 8, 9, 10
12 and 11 were admitted into evidence.)

13 BY MR. MCEACHIN:

14 Q Now, Captain Barr, so the jury knows can you please
15 tell the jury what is contained in State's Exhibit Number
16 6? And you can pull it out.

17 A It's another sheet that she described as being an
18 item that was on the bed where the incident occurred.

19 Q Okay. And how about State's Exhibit Number 7?

20 A It's another sheet because I didn't know which one
21 that she was talking about, so I just got all the items
22 that were described in the report. The interview that she
23 had at the Care House in Florence.

24 Q And, Captain Barr, how about State's Exhibit Number 8
25 and can you please tell the jury -- and you can pull those

1 out one at a time. Explain to the jury what those are?

2 A The victim also disclosed some items that were used
3 during the incident on her, which was African Best hair
4 grease, petroleum jelly, and then some Vaseline. These
5 were the items that she was describing that were used on
6 her during the incident.

7 Q You can stick those in.

8 MR. WOODSON: I would object to hearsay at this
9 point.

10 THE COURT: Sustained.

11 BY MR. MCEACHIN:

12 Q In State's Exhibit 9, 10 and 11, those were also
13 items that you recovered from the residence?

14 A Yes, it is.

15 Q Okay. And I'll have you look in there one more time.
16 That's also an item you recovered from the residence? You
17 don't have to pull it out just look at it.

18 A Yes, this is deep penetrating lotion that she
19 described that was something that was used?

20 MR. WOODSON: Objection.

21 THE COURT: Sustained.

22 BY MR. MCEACHIN:

23 Q You can't say what she described, okay?

24 A Okay.

25 Q You can say what it is, but you can't say what

1 anybody said or described, okay. Then State's Exhibit 10
2 is a?

3 A It's another sheet that she -- it's another sheet.

4 Q And then State's Exhibit Number 11?

5 A It's a blanket.

6 Q And you said in addition to the search warrant, you
7 also got an arrest warrant in the case; is that correct?

8 A Yes, I did.

9 Q And who was arrested in this case?

10 A Jimmy Turner was arrested.

11 Q And do you see Jimmy Turner here in the courtroom
12 today?

13 A Yes, sir.

14 Q And where is he?

15 A Seated over there.

16 Q What's he wearing?

17 A Black.

18 Q Okay.

19 MR. MCEACHIN: Your Honor, please have the
20 record reflect the witness also identified the defendant
21 in this case.

22 THE COURT: Record will reflect.

23 BY MR. MCEACHIN:

24 Q And when you have an arrest warrant or you do an
25 arrest warrant, do you have to know a little or something

1 about the defendant such as his physical demeanor or
2 physical and things of that nature?

3 A Yes.

4 Q And at the time of arrest, what was the defendant's
5 height?

6 A About 6 feet.

7 Q Okay. How about weight wise?

8 A He was about 260 at the time.

9 Q All right. How old was the defendant at the time of
10 arrest?

11 A He was 43.

12 Q Okay. And after you made the arrest of the defendant
13 in this case, did you have any other involvement with the
14 particular case up until coming to court today?

15 A No.

16 Q Okay. And that's other than collecting this evidence
17 and making the arrest, that's all the involvement you had?

18 A That's it.

19 MR. MCEACHIN: Thank you. Please answer any
20 questions Mr. Woodson may have for you.

21 CROSS-EXAMINATION

22 BY MR. WOODSON:

23 Q Captain Barr, you said that typically you investigate
24 cases. And my understanding of your testimony is the
25 extent of your investigation was you called the mom. I

1 think you said you spoke to somebody from DSS; is that
2 correct?

3 A Yes.

4 Q And you watched the video?

5 A When I ---

6 Q And you got some sort of report from the Care House?

7 A Yes.

8 Q Now, you were aware that other people were supposedly
9 in the house during the time of these alleged events; is
10 that correct?

11 A I was focused on the name that was given.

12 Q Okay. But my question is is it your understanding
13 that at the time of the allegations the incident dates or
14 date other people were in the house?

15 A Yes.

16 Q Okay. And did you make any attempt to interview the
17 aunt, Ms. Faye Thompson, the great aunt?

18 A No, I didn't.

19 Q Did you make any attempt to -- I'm sorry she would be
20 the cousin and Ms. Janie Mae Thompson did you interview
21 her?

22 A No, I didn't.

23 Q Okay. So basically you interviewed the mom and the
24 DSS worker?

25 A Correct.

1 Q Okay. Now, there was a report from the Sheriff's
2 Office in Florence County another office where the initial
3 report was made and they showed up at the school. You had
4 opportunity to read that police officer's report?

5 A No, I didn't.

6 Q Okay. And so I assume you didn't talk to that police
7 officer that evening; is that correct?

8 A No.

9 Q Okay. Were you aware that there was an allegation
10 against somebody else prior to Mr. Turner?

11 A No, I was focused on this jurisdiction here.

12 Q Okay. All right. You went through some things with
13 the Solicitor about a search warrant. Now, is it your
14 understanding that the allegations were first disclose at
15 school on December 2nd of 2011?

16 A Yes, it was after.

17 Q In looking at your search warrant is from
18 December 15th; is that correct?

19 A Correct.

20 Q So 13 days after the allegation you executed a search
21 warrant?

22 A Yes.

23 Q Okay. All right. Now, there were several bags
24 introduced, which rooms did you get these items. Do you
25 recall where everything was? I know you had some pictures

1 of a clothes line, but where everything was? And I can go
2 through them one by one if that would help. Would that
3 help you?

4 A I believe when we walked into the house it was the
5 left -- one of the rooms on the left-hand side because I
6 ask Ms. Thompson, who was there during the search warrant,
7 I asked her where Faye -- well, where Jimmy Turner had
8 slept at and that's the room she had told me that they
9 slept in.

10 Q Okay. Let me show you -- it's State's Exhibit 11.
11 Do you recall what room is that State's Exhibit 11 from?

12 A Yes, I do.

13 Q What room?

14 A That was in the back room where the clothes were at?

15 Q Okay. And they were a pile clothes?

16 A It was a pile of clothes, yes.

17 Q And so this not in Faye's room?

18 A No, it was not. It was -- look like they just
19 watched it and it was in that back room.

20 Q You said looks like they just watched it?

21 A It was folded up. I don't know if it was washed or
22 not.

23 Q Okay. And it's not in that picture. It's not in the
24 picture of the clothes line; is that correct?

25 A No, that is not.

1 Q I mean, you can literally see hair on this blanket.

2 I mean, do you see the hair?

3 A I did not look at it that hard.

4 Q Okay. This is a piece of evidence that you testified
5 that the young lady identified as being on the bed?

6 A Yes.

7 Q Okay. Did you send it to SLED?

8 A No, I did not.

9 Q And just so the jury know if you send something to
10 SLED, they can test the DNA and things of that nature; is
11 that correct?

12 A They can.

13 Q Okay. And you didn't think that was important in
14 this case?

15 A No, because I assume since it was in the back room
16 and everything was folded up, she was washing clothes,
17 just assumed it was washed.

18 Q Okay. And you didn't think to test some of the hair
19 on the blanket or anything of that nature?

20 A No, I didn't.

21 Q Okay. And you assumed it was washed. Did you ask
22 her was it washed?

23 A No, I didn't ask her.

24 Q So can you identify which items you got from Faye's
25 room or which items you got from the back. Do you want to

1 go through them? For example, these sheets?

2 A I cannot recall all of it.

3 Q You can't recall?

4 A Uh-uh. I just know I got it at
5 in Marion.

6 Q Okay. One of the things I think it was nine -- here
7 it is. There was some lotion. Do you recall where you
8 got the lotion from deep penetrating skin lotion?

9 A No, I can't recall. I know I got it from
10

11 Q Well, I mean, you're saying you got these items it
12 was things the young lady described, but you're saying you
13 don't know which room you got it out of and things of that
14 nature?

15 A No, I don't recall.

16 Q Okay. How many rooms were in this house do you
17 recall?

18 A Let me see when I went in their room which was
19 Jimmy's and Faye's I assume, then it was another room I
20 think that the disabled guy was on oxygen tank or
21 something like that.

22 Q And was he in the house -- I hate to interrupt you,
23 but was he in the house when you executed a search
24 warrant?

25 A I believe he was. I'm not sure.

1 Q Okay. Go ahead.

2 A And then the kitchen and then there's the back room
3 and then, I think, it's another room. It's very vague, I
4 can't really remember.

5 Q Okay. After you executed the search warrant was that
6 the extent of your investigation you done?

7 A Yes.

8 Q Okay. So basically you were involved -- I think your
9 report says you started your first call to the mother was
10 on December the 6th; is that correct?

11 A To the mother -- I don't know.

12 Q At approximately two o'clock?

13 A I called the mother?

14 Q I'm sorry she called you. That's when you got
15 involved around the sixth?

16 A Yes.

17 Q So from the six about the 15th about was that nine
18 days you were involved in this case?

19 A Correct.

20 MR. WOODSON: I don't have any other questions,
21 Your Honor.

22 THE COURT: Redirect.

23 REDIRECT EXAMINATION

24 BY MR. MCEACHIN:

25 Q Captain Barr, Mr. Woodson asked you about why you

1 didn't send that blanket to SLED. You indicated it had
2 already been washed; is that correct?

3 A I seen it was washed.

4 Q Because it was folded up with clean clothes?

5 A Yes.

6 Q Okay. And typically if somethings washed, does it
7 loose evidentiary value?

8 A Yes.

9 Q And that's the reason you didn't send it off to SLED?

10 A Correct.

11 Q And also once you have suspect, do you -- is it as
12 necessary to send items to determine identity of
13 individuals?

14 A It's a plus you can, but I didn't because it was
15 washed already.

16 Q Okay. And Mr. Woodson also made a point to say that
17 you were only in the case for nine days. Was there any
18 need for you to be on it any longer?

19 A No, it was not.

20 Q And as a law enforcement officer typically once an
21 arrest is made, you all close the case; is that correct?

22 A Correct.

23 Q Okay. And in this case, you all had a suspect when
24 you made an arrest; is that correct?

25 A Correct.

1 MR. MCEACHIN: Thank you. No further questions.

2 THE COURT: Anything further?

3 MR. WOODSON: No, Your Honor.

4 THE COURT: You ready to call your next witness?

5 MR. MCEACHIN: Your Honor, the State would call

6 Minor to the stand. It may take me a second,

7 let me run downstairs and get her.

8 (WHEREUPON, a pause in the proceedings.)

9 MR. MCEACHIN: Your Honor, may I stand up here
10 with Minor ?

11 THE COURT: Yes.

12 THE CLERK: Do you swear to tell the truth, the
13 whole truth, and nothing but the truth so help you God?

14 THE WITNESS: I do.

15 WHEREUPON,

16 Minor

17 after first having been duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MR. MCEACHIN:

20 Q Hi, how are you doing today. Okay, one thing I'm
21 going to tell you okay everybody out here has to hear what
22 you have to say, okay, even this young lady way back here.
23 All right. So I need you to talk up. You can use your
24 outside voice in here, okay. It's fine to do that. You
25 want to practice for me is that, okay. A little bit

1 louder. Can you be a little bit louder?

2 A Okay.

3 Q That's much better much better, okay. Much better.

4 Minor , what's your full name? You got to be a little bit
5 louder, Minor , cause you got to make sure everybody can
6 hear you, okay.

7 A Minor .

8 Q Minor . That's good, that's very good. And,

9 Minor , you know we're here testifying today, right? Right.
10 You got to say yes or no.

11 A Yes.

12 Q Okay. And Ms. Sherry came and had you promise to
13 tell truth; is that right?

14 A Yes.

15 Q And do you promise to tell the truth today? .

16 A Yes.

17 Q Okay. Minor , how old are you?

18 A Eight.

19 Q Eight years old?

20 A Yes..

21 Q And are you in school?

22 A Yes.

23 Q Where are you in school?

24 A .

25 Q . And is that in Florence?

1 A Yes.

2 Q Okay. What grade are you in?

3 A

4 Q grade?

5 A Yes.

6 Q You got to speak up just a little bit more, pretend
7 like you're talking to that fellow in the very back over
8 there, okay. Can you do that for me?

9 A Yes.

10 Q Even though I'm asking you the question pretend like
11 you're answering him, all right?

12 A Yes.

13 Q All right, thank you. Minor who do you live with
14 your momma?

15 A My mom.

16 Q What's your momma's name?

17 A Pearlene.

18 Q Okay. Just a little bit louder for me, okay? Can
19 you be a little bit louder?

20 THE COURT: They can't hear. The gentleman in
21 the back row said they can't.

22 A Okay.

23 Q They can't hear you. You got to talk up. Can you be
24 louder?

25 A Okay.

1 Q I'm going to stand a little bit further away, okay.
2 You can be louder, it's okay. It's fine if you're louder,
3 okay.
4 A Okay.
5 Q A little bit louder.
6 A Okay.
7 Q You said you lived with your momma?
8 A Yes.
9 Q And what's her name?
10 A Pearlene.
11 Q Pearlene. And in addition to Mrs. Pearlene, do you
12 have any cousins that live over here in Marion?
13 A Yes.
14 Q Who are your cousins?
15 A Robin and Faye.
16 Q You got to speak up. You got to talk louder, okay.
17 THE COURT: Act like you're yelling at your
18 brother if you got one.
19 BY MR. MCEACHIN:
20 Q Try to talk as loud as I'm talking, okay.
21 A Yes.
22 Q Who are your cousins?
23 A Robin, Major and Faye.
24 Q Robin, Major and Faye. How about an aunt, you have
25 an aunt who live's over here?

1 A Yes.

2 Q Who's your aunt?

3 A Aunt Janie Mae.

4 Q Aunt Janie Mae?

5 A Yes.

6 Q And they live here over here in Marion; is that
7 correct?

8 A Yes.

9 Q And who lives with your Cousin Faye?

10 A Bear.

11 Q Bear. And who is Bear? You know what Bear's real
12 name is?

13 A Jimmy.

14 Q It's Jimmy. Okay. And, Minor, if you don't mind, I
15 need you to look around the courtroom real quick for me,
16 okay. Do you see Bear in the courtroom today? Ma'am.

17 A Yes.

18 Q Okay. And where is he right over there in the black
19 shirt?

20 A Yes.

21 MR. MCEACHIN: Your Honor, please have the
22 record reflect that the witness identified the defendant.

23 THE COURT: It will so reflect.

24 BY MR. MCEACHIN:

25 Q Minor, you say that Bear lived with Faye and Janie

1 Mae; is that right?

2 A Yes.

3 Q And did you ever go over to visit your Cousin Faye
4 over here in Marion?

5 A Yes.

6 Q And at the time when you visited was Bear staying
7 with Faye, was he living there?

8 A Yes.

9 Q And when you visited your Cousin Faye what would you
10 do when you came over and visited?

11 A Play.

12 Q You play. Who would you play with?

13 A The kids that live across the street.

14 Q The kids that live across the street?

15 A Yes.

16 THE COURT: Let me know if you can't hear, I'll
17 let you be my cue. If you can hear, I'll assume everybody
18 else can hear. If you can't, just raise your hand.

19 BY MR. MCEACHIN:

20 Q All right. So you said you use to play with the kids
21 across the street when you came to Marion?

22 A Yes.

23 Q Now, Minor , when you went over to your
24 Cousin's Faye house, did anybody ever bother you?

25 A Yes.

1 Q And who bothered you?

2 A Bear.

3 Q Bear bothered you?

4 A Yes.

5 Q And, Minor , I need you to tell the jury how he
6 bothered you. Can you do that for me?

7 A Yes.

8 Q Okay. And let me take a step back before I ask you
9 that. Did this happen back on November of 2011?

10 A Yes.

11 Q That's when he bothered you?

12 A Yes.

13 Q Okay.. Let's talk with the jury a little bit about
14 how he bothered you, okay?

15 A Okay.

16 Q What did he do to you? It's okay you can tell me.
17 What did he do to you? Did he touch you?

18 A Yes.

19 MR. WOODSON: Objection, Your Honor, to the
20 leading.

21 MR. MCEACHIN: Your Honor ---

22 THE COURT: Sustained, we'll give you a little
23 bit of leeway.

24 MR. MCEACHIN: Actually, Your Honor, may I
25 approach? I got some precedent here.

1 (WHEREUPON, a bench conference was held in the
2 presence of the jury, but out of the hearing of the
3 jury.)

4 BY MR. MCEACHIN:

5 Q Remember, you need to talk up kind of loud, okay, so
6 everybody can hear you. Did Bear touch you?

7 MR. WOODSON: Objection again.

8 THE COURT: Overruled.

9 BY MR. MCEACHIN:

10 Q Where did he touch you?

11 A In my private parts.

12 Q In your private parts. Which private parts did he
13 touch? You can tell me. What private parts did he touch
14 on you?

15 A Between the legs.

16 Q Between your legs. Okay. Minor , in addition to
17 touching your private parts, did he make you touch his
18 private parts?

19 A Yes.

20 Q How did he make you do that?

21 A By ---

22 Q You got to speak up a little bit, okay. Go ahead.

23 A He put my private part with his private part.

24 Q You got to say that a little bit louder, so everybody
25 can hear you, okay.

1 A Okay.

2 Q All right, say it one more time for me.

3 A He put my private part with his private part.

4 Q He put your private part with his private part.

5 Okay. And what private part did he put in your private
6 part? You can tell us, it's fine.

7 MR. MCEACHIN: I tell you what I withdraw that
8 particular question, Your Honor.

9 BY MR. MCEACHIN:

10 Q Minor , did he ever make you put his private part in
11 your mouth?

12 A Yes.

13 Q He did make you do that. Did he ever put his private
14 part in your private part between your legs?

15 A Yes.

16 Q What about in your bottom, did he do that too?

17 A Yes.

18 Q Okay. When he put his private part in the private
19 part between your legs and in your body, did he ever put
20 anything on you?

21 A Grease.

22 Q He put grease on you?

23 A Yes.

24 Q Was that before he did anything to you? Is that
25 before he put his private part in your private parts?

1 A Yes.

2 Q Okay. And after he put the grease on you, what did
3 he do?

4 A I don't remember.

5 Q You don't remember, that's okay, that's okay. Minor
6 Minor , after all this stuff happened, did you ever tell
7 anybody what happened to you?

8 A Yes.

9 Q And who did you tell it?

10 A Ms. Wardy.

11 Q Okay. And when you told Ms. Wardy, did you say that
12 Bear did it or did you say somebody else did it?

13 A Somebody else did.

14 Q Okay. And who did you tell Ms. Wardy did it?

15 A Vincent.

16 Q You told her Vincent did it?

17 A Yes.

18 Q And why did you tell her Vincent did it?

19 A I was scared.

20 Q What were you scared of?

21 A Bear.

22 Q You were scared of Bear?

23 A Yes.

24 Q And why were you scared of Bear?

25 A Because Bear said if I didn't say it was Vincent, he

1 would kill me.

2 Q All right. You got to speak up a little bit.

3 Everybody needs to hear this, okay. Why were you scared
4 of Bear? What did he say to you?

5 A Because he said if you don't say it was Vincent, he
6 would kill.

7 Q He said if you didn't say it was Vincent he would
8 kill you?

9 A Yes.

10 Q Is that why you told Ms. Wardy it was Vincent?

11 A Yes.

12 Q Okay. And did you eventually tell somebody that it
13 wasn't Vincent?

14 A Yes.

15 Q Who did you tell first? Do you remember? Did you
16 talk to your mom about it in the car on the ride home?

17 A Yes.

18 Q Okay. And did you tell her?

19 A Yes.

20 Q Okay. And after you told your momma on the ride home
21 from school that day, did you go to the Care House the
22 next day?

23 A Yes.

24 Q Okay. And who did you meet with at the Care House?

25 A Ms. Sally.

1 Q Ms. Sally?

2 A Yes.

3 Q And did you tell Ms. Sally what had happened to you?

4 A Yes.

5 Q And who did you tell Ms. Sally had bothered you?

6 A Bear.

7 Q Bear had bothered you?

8 A Yes.

9 Q Okay. Minor, is Bear the one who hurt you?

10 A Yes.

11 MR. MCEACHIN: Okay. Thank you so much for
12 being here today. I want you to answer any questions that
13 Mr. Woodson has for you, okay. Make sure you keep talking
14 loud already. Okay. All right.

15 CROSS-EXAMINATION

16 BY MR. WOODSON:

17 Q How you doing, Minor?

18 A Good.

19 Q My name is Marcus, okay.

20 A Okay.

21 Q I'm going to ask you some question too. You were
22 nice enough to answer some questions for Mr. Fitzlee.
23 Will you answer some questions for me too?

24 A Yes.

25 Q Okay. Now, one rule if you don't understand, just

1 tell me you don't understand, okay.

2 A Okay.

3 Q I'm not trying to trick you, okay.

4 A Okay.

5 Q All right. Now, when you were at school, that's the
6 first time you told somebody what happened?

7 A Yes.

8 Q And when you told -- and that was Ms. Wardy?

9 A Yes.

10 Q Okay. And you told Ms. Wardy that it happened at
11 Vincent's house?

12 A No.

13 Q Where did you tell Ms. Wardy it happened?

14 A I told her it happen at my house.

15 Q Okay, at your house. At a sleep over?

16 A Yes.

17 Q Okay. And I think you told Ms. Wardy at the sleep
18 over that Vincent's daughter was there?

19 A No.

20 Q You didn't tell Ms. Wardy that?

21 A No.

22 Q You said -- who was at the sleep over?

23 A Me, and some of my other friends.

24 Q You and some of your friends. Did Vincent sleep over
25 sometimes?

- 1 A No.
- 2 Q Okay. All right. And after you told Ms. Wardy you
3 told your teacher too?
- 4 A No.
- 5 Q You didn't tell your teacher. Did you tell anybody
6 else at the school that day what happened?
- 7 A No.
- 8 Q Okay. When you were going home that after -- well,
9 after school your mom took you home?
- 10 A Yes.
- 11 Q Was she crying in the car?
- 12 A Yes.
- 13 Q And did you all talk about what you talked about at
14 school?
- 15 A Yes.
- 16 Q Okay. And what did you talk about in the car?
- 17 A That it wasn't Vincent that it was Bear.
- 18 Q Okay. And did you talk about it later that night
19 with your mom too?
- 20 A Yes.
- 21 Q Okay. What did you all talk about that night?
- 22 A The same thing.
- 23 Q Okay. And what did she tell you?
- 24 A I don't remember.
- 25 Q Okay. Do you remember when you met with Ms. Sally

1 you told her that your mom had talked the night before you
2 talk to Ms. Sally. You don't remember that?

3 A I don't remember.

4 Q All right. Tell me a little bit about Vincent. I
5 mean, did you spend time with Vincent ever?

6 A No.

7 Q Okay. When did you see him?

8 A When he come picks up my mom?

9 Q Did he pick you up too?

10 A No.

11 Q If he pick up your mom, where would you go?

12 A I be going to the daycare.

13 Q To daycare, okay. You go to daycare in Florence?

14 A Yes.

15 Q Okay. Did you ever -- what's Vincent's daughter's
16 name?

17 A N.B.

18 Q Did you ever play with N.B.?

19 A Yes.

20 Q When? Let me ask it this way, did N.B. come to your
21 house?

22 A Yes.

23 Q You ever go to N.B. house?

24 A No.

25 Q Okay. And what kind of things would you and N.B. do?

1 A Play outside.

2 Q Play outside. All right. When you came to Marion,
3 you would go to your Aunt Janie Mae's house?

4 A Yes.

5 Q And when go to your Aunt Janie Mae's house, would you
6 always -- would she be in the house with you?

7 A Yes.

8 Q And sometimes you all would sit out on the porch or
9 she would sit out on the porch and watch you play with the
10 other kids?

11 A Yes.

12 Q Okay. And I think you said you played with other
13 kids, didn't you?

14 A Yes.

15 Q Okay. That's good. Would Faye be there too?

16 A Yes.

17 Q Okay. Now, when you said this happened, your Aunt
18 Janie Mae was in the house?

19 A Yes.

20 Q And your Cousin Faye?

21 A Yes.

22 Q Okay. And what room do you say this happened in?

23 A The back room.

24 Q The back room?

25 A Yes.

- 1 Q And not Faye's room?
- 2 A It happened in the back room and in Faye's room.
- 3 Q Okay. And where would Faye where would she be?
- 4 A She be in the taking a bath or either helping Aunt
- 5 Janie Mae cook dinner.
- 6 Q All right. And so when this was going on were you
- 7 making any sort of noise, like did you yell or make any
- 8 kind of sound? What would you say?
- 9 A Help me.
- 10 Q You would say help me. Would you say it loud?
- 11 A Yes.
- 12 Q And nobody would come help you?
- 13 A No.
- 14 Q Okay. All right. After what you said happened, did
- 15 you come out of the room and say anything to anybody?
- 16 A No.
- 17 Q Would you come out of the room crying?
- 18 A No.
- 19 Q Just nothing was ever said?
- 20 A Yes.
- 21 Q To Ms. Janie Mae?
- 22 A No.
- 23 Q What about to Faye?
- 24 A No.
- 25 Q Okay. All right. And you say you think this

1 happened around November 2011?

2 A Yes.

3 Q Okay. All right. Now, I think you said that he put

4 -- I think you told Mr. Fitzlee that he put his thing in

5 your thing. Is that what you said?

6 A Yes.

7 Q Inside?

8 A Yes.

9 Q Okay. Did you ever bleed or anything like that?

10 A No.

11 Q All right. Minor , have you ever seen this bed spread

12 before? Can you see it?

13 A Yes.

14 Q Have you seen it before?

15 A Yes.

16 Q Tell me where you saw it?

17 A In the back room.

18 Q In the back room. All right. And was it folded up?

19 A Yes.

20 Q On the bed?

21 A Yes.

22 Q Okay. Now, one of the times if I understand what you

23 said one of the times you said that this happened when

24 Faye told you to go get something?

25 A Yes.

1 Q Where did you say Ms. Faye told you to go get?

2 A I don't remember.

3 Q You don't remember, that's fine. One of the times
4 did you say Jimmy told you to go get something?

5 A Yes.

6 Q What did he tell you to go get?

7 A He told me to go get a cup.

8 Q A cup. And where did you go and get the cup from?

9 A In the kitchen.

10 Q Okay. And he was in what room when he told you that?

11 A In his room.

12 Q Okay. All right.

13 MR. WOODSON: Court's indulgence. Don't have
14 any other questions at this time.

15 THE COURT: Any redirect?

16 MR. MCEACHIN: No, sir, Your Honor. I ask that
17 she be relieved from her subpoena.

18 THE COURT: Any objections?

19 MR. WOODSON: No, Your Honor.

20 THE COURT: You may leave. Thank you.

21 (WHEREUPON, the witness leaves the witness
22 stand.)

23 THE COURT: You have another short witness or do
24 you want to resume in the morning?

25 MR. MCEACHIN: Your Honor, I believe the State's

1 remaining witnesses will be here in the morning.

2 THE COURT: Okay. All right. Members of the
3 jury panel, I'm going to excuse you for the day. Don't
4 forget what I told you before when you go home I guarantee
5 you your spouses and family going to ask you what
6 happened, what are you doing, what kind of case you got.
7 Tell them you're under a court order, it's illegal to talk
8 about it at this point in time. When it's over, you can
9 do whatever you want. Don't talk about it with anybody
10 and do not investigate the case at all. We'll see you
11 back at ten in the morning. All right. You are excused.
12 Everybody else remain seated.

13 (WHEREUPON, the jury is excused for the day.)

14 THE COURT: We'll resume at ten in the morning.
15 Do either of the parties have any objection to me watching
16 the video before I come?

17 MR. WOODSON: I have no objection, Your Honor.

18 MR. MCEACHIN: I think it probably save a lot of
19 time, Your Honor.

20 THE COURT: I'll do that in the morning, see you
21 all at ten.

22 (WHEREUPON, the proceedings were concluded for
23 the day to be reconvened on February 6, 2013.)

24 THE COURT: State ready to proceed?

25 MR. MCEACHIN: State's ready to proceed, Your

1 Honor.

2 THE COURT: And defendant ready to proceed?

3 MR. WOODSON: Yes, sir.

4 THE COURT: Anything we need to take up the disk
5 that you all need?

6 MR. WOODSON: Your Honor, my understanding is
7 the next witness is Ms. Sally Williamson. She is the
8 forensic interviewer. The issue in this case, one of the
9 two main issues are coaching whether this child's been
10 coached and that there's an issue as to her story having
11 changed. My concern with Ms. Williamson is at the last
12 trial when I was cross-examining her, I would say this was
13 said and then this was said and it was different. And she
14 would interject things like, well, that's normal for a
15 child, that's not unusual for a child. And, Your Honor, I
16 would object to that.

17 The case law is pretty clear as far as the
18 forensic interviewer vouching for the credibility of the
19 child. And if she gets on that stand and said anything
20 like that's normal for a child to change their story or a
21 thing like, that's vouching for the child's credibility.
22 I would point -- and as far as coaching, I would point to
23 State vs. Neal 394 SC 280 715 Southeast Second 368. It's
24 a 211 case. In that case, they do discuss asking whether
25 the child's been coached. I don't want that question

1 asked, it would violate the case law whether it's her
2 vouching for the child's credibility. I would also point
3 to State vs. Whitner. It's a 2012 case and ---

4 THE COURT: Let me back up one second. You
5 don't want the Solicitor asking her if the child had been
6 coached?

7 MR. WOODSON: Right. I don't think that's
8 proper and I think State vs. Hill speaks against that.
9 And in State vs. Hill, I think they found that that
10 particular question was not asked, but they addressed it
11 and say from my reading of it it would be improper for the
12 forensic investigator or interviewer if the child's been
13 coached. In State vs. Whitner, which is a 2012 case, one
14 of the things the Court said is that a forensic
15 interviewer's testimony should be limited for the purposes
16 of laying a foundation. This I promise you if she gone
17 try to get into evidence that what happened was normal and
18 fine and that's just beyond the scope of what she's
19 allowed to do. There's a case I don't have it with me,
20 Your Honor, was decided like on January 23rd. I read the
21 case and took some notes.

22 MR. MCEACHIN: State vs. Kromah.

23 MR. WOODSON: Kromah. Yes, Your Honor, it's
24 from last month I think January 23rd. The Court of
25 Appeals actually outlined some things that should be

1 avoided by forensic interviewer and some things that are
2 acceptable. The things that should be avoided was that
3 she told the child to be truthful, to give a direct
4 opinion as to child's veracity or tendency to tell the
5 truth. A statement that indirectly vouches for the
6 child's credibility or believability such as stating the
7 interview was made -- I'm sorry the interviewee made a
8 compelling finding of abuse -- interviewer I'm sorry. The
9 statement to indicate to a jury the interviewer believes
10 the child's allegation in the current manner or an opinion
11 that the child's behavior indicated the child was telling
12 the truth, so I have some concerns about this witness.
13 She did it in the last trial. I would ask that she be
14 warned. If I ask her a question about an inconsistent
15 statement, I don't want her to say, well, that's not
16 unusual and things like that because she's vouching for
17 the child's credibility.

18 MR. MCEACHIN: Marcus can't ask the question and
19 then tell the witness what the answer is, Judge, as far as
20 that's concern. He's going to ask a question she can
21 answer it any way she sees fit. I don't think the Court
22 has the ability to direct a witness how to answer a
23 question of the defense attorney's.

24 With regard to some of the other cases
25 specifically Kromah, which is the most recent case that

1 has been decided. Your Honor, that case dealt
2 specifically with a individual who was admitted as an
3 expert witness as I believe a forensic interviewer in the
4 case. Mr. Woodson is correct on the certain things that
5 the Court said they should not address. However, just
6 like last trial, we don't intend on admitting Ms.
7 Williamson as an expert in forensic interviewing, that's
8 not what we're going to admit her as an expert in, that's
9 not her expertise. She has other expertise. That being
10 said, I have not read the case or State vs. Hill, if I can
11 have about two minutes to read it, Your Honor, that may
12 help shed some light on that. But also in the Kromah
13 case, Your Honor, the Court made certain to point out the
14 fact that the witness, the child witness or the child
15 victim never took the stand on that case. That's not the
16 same situations you have here.

17 In our case, our victim did take the stand. The
18 jury had an opportunity to view her, an opportunity to
19 view her testimony and they have an opportunity to weigh
20 her credibility. In that case, they didn't have the
21 opportunity to weigh the victim's credibility because they
22 didn't have the victim before them. It's separate and
23 distinct from our case here, Your Honor. And if
24 Mr. Woodson has a copy, I could look at it real quick.

25 THE COURT: I like to look at it as well if you

1 have a copy.

2 MR. WOODSON: Your Honor, regardless if what he
3 tries to proffer, I think she can't vouch for the
4 credibility of the child. She can't get -- she can't say
5 if this child's telling the truth or this type of behavior
6 is normal, that's the issue that's in the province of the
7 jury. And I just think that if she gets up there and says
8 this child was not coached. You know, this child is
9 exhibiting behavior that is normal -- either she's a
10 forensic interviewer or she's not. And my understanding
11 is that she's going to be admitted as a forensic
12 interviewer and they way beyond the scope. And they're
13 going to try to say as an expert quote unquote that she's
14 going to say this child was telling the truth and this is
15 all normal behavior. And it happens all the time and
16 things of that nature and that is -- I don't know how she
17 could be qualified to tell ---

18 THE COURT: Is she going to be introduced as an
19 expert?

20 MR. MCEACHIN: She is, Your Honor.

21 THE COURT: In what?

22 MR. MCEACHIN: In the field of child sexual
23 abuse assessment and treatment pursuant to State vs.
24 Shumpert, that's appropriate, Your Honor.

25 MR. WOODSON: And I don't think she presents

1 that ---

2 MR. MCEACHIN: As far as Mr. Woodson is
3 concerned about me asking a question do you believe the
4 child is truthful. I can ask that question. I certainly
5 recognize I can ask the question because that would be
6 improperly asking a witness to vouch about the credibility
7 of a child, which she is train and she's an expert in this
8 field, Your Honor. And she can certainly be asked about
9 the things that individual experts and otherwise go into
10 when they make assessments about children when they
11 determine a treatment plan for these children. I mean
12 that's -- I agree with Mr. Woodson, I can't ask her
13 directly do you think the child was telling the truth. I
14 can't ask the question, that would be totally improper.
15 But these other things he's concerned those are certainly
16 within the purview of her expertise should the Court
17 qualify her as an expert and certainly I believe they are
18 appropriate in this case.

19 THE COURT: And certainly I charge the jury that
20 she just because she's expert doesn't mean they have to
21 believe her over anybody else or judge her credibility and
22 believability like they would any other witness that
23 testifies at trial.

24 MR. WOODSON: But in that case that was decided
25 two weeks ago or less that Kromah case, Your Honor, the

1 Court also recognize that when somebody is qualified as an
2 expert, there is some additional weight given to what they
3 say. So she gets up there and says these things we may be
4 trying this case again.

5 THE COURT: You not going to ask her was the
6 child telling the truth?

7 MR. MCEACHIN: No, absolutely.

8 THE COURT: That's off limits and that's not
9 going to happen.

10 MR. WOODSON: Is he going to ask the child --
11 the witness whether the child was coached.

12 MR. MCEACHIN: I'm going to ask her about
13 coaching. I want necessarily ask specifically about the
14 child, but I'll ask her what factors they look at in
15 determining whether or not the child has been coached or
16 not.

17 MR. WOODSON: And that's improper, Your Honor.

18 MR. MCEACHIN: No, it is not improper under the
19 case law, Judge. And that goes back to the Kromah case,
20 that case the victim did not testify. And it dealt
21 specifically with forensic interviewer and not somebody
22 who is qualified as an expert in child sexual abuse
23 assessment and treatment.

24 MR. WOODSON: So then she says on the tape that
25 she's -- I mean, she holds herself out as a forensic

1 interviewer. She did the videotape. This is labeled as a
2 forensic interviewer. Now, she's gone say, well, I'm
3 really not a forensic interviewer, I'm a child sexual
4 expert.

5 MR. MCEACHIN: No, she's going to say forensic
6 interviewer as part of what she does, but that's only a
7 small portion. Forensic interviewing and child abuse
8 assessment are two totally separate and distinct things.
9 Somebody's who's a child abuse assessment treatment expert
10 has more training than a forensic interviewer does. A
11 forensic interviewer is somebody who sits down and talks
12 to a child. This individual has been gone through
13 training and seminars and certifications in order to
14 counsel and treat children. It was what she was qualified
15 as last trial.

16 MR. WOODSON: Can you give us a second to read,
17 Your Honor.

18 THE COURT: Sure, go ahead.

19 (WHEREUPON, a pause in the proceedings.)

20 MR. MCEACHIN: And, Your Honor, if I may, the
21 case of Hill -- the case of State vs. Douglas, which is
22 380 South Carolina 499, it's a 2009 South Carolina Supreme
23 Court case. And specifically Douglas case deals with the
24 coaching issue. In that particular case, the Court held
25 that in the case at hand as in Douglas, a forensic

1 interviewer never addressed the veracity of the victim.
2 He testified only that he saw the types of details and the
3 victim's interview that he would look for in determining
4 whether a child had been coached. He gave no opinion on
5 whether the victim was being truthful or even the victim
6 had not in fact been coached. Accordingly, we find no
7 reversible error in admission of the testimony.

8 MR. WOODSON: Right. There's no reversible
9 error in that particular case because the person did not
10 get on the stand and say they were coached. If that
11 happens in this case, if she gets up there and say the
12 child was not coached ---

13 THE COURT: Well, I think in that case right
14 there what she said is that it appeared based on the
15 factors that she was not coached. Isn't that what you
16 just read? Read it again to me one more time. She didn't
17 actually say she was not coached, some of the factors were
18 not there whatever.

19 MR. MCEACHIN: And, Your Honor, I like to just
20 hand it up to the Court.

21 THE COURT: It said he testified only that he
22 saw types of details in the victim's interview that he
23 would look for to determine whether a child had been
24 coached. He gave no opinion of whether the victim was
25 being truthful or even that the victim had not in fact

1 been coached. So in other words, she's not giving her
2 opinion as to whether or not they were coached just
3 details that they look for in that regard. And it's up to
4 the jury to figure out the truthfulness and whether or not
5 coaching took place.

6 MR. WOODSON: And is he going to follow if she
7 says that is the follow-up question going to be were those
8 factors present in this case because then in essence he's
9 getting it in anyway.

10 THE COURT: You know how to ask those questions.

11 MR. MCEACHIN: Yes, sir, Your Honor.

12 THE COURT: We can stop if it comes up and you
13 object if it's improperly done.

14 MR. WOODSON: Your Honor, I guess my other basis
15 is that the probative -- I'm sorry the prejudicial -- the
16 probative value is outweighed by the prejudicial value.
17 That is part of the case, Your Honor, is was she coached
18 and why did she change her sorry. And they want to try to
19 get an expert to answer that question since for the jury.
20 I think is more prejudicial, I think we should just let
21 her get the tape in, if you deem that appropriate. And
22 let the jury decide those issues rather than her get on
23 the stand and say this is how it is and she wasn't
24 coached. It's normal for her to change her story. I
25 don't think we addressed that part. She's going to say,

1 hey, it's fine that she changed her story. I have a
2 problem with that too.

3 MR. MCEACHIN: If he asked a question, she can
4 answer it however she wants to answer that, Judge. I
5 mean, if he don't want her to say that, then you don't
6 need to ask the question.

7 THE COURT: She has a right to testify and to
8 give her opinions as an expert, taking into account the
9 things we just discussed and go from there. I mean, he
10 has a right to call her. It's his witness, but he's got
11 to abide by the rulings we just talked about.

12 MR. WOODSON: Your Honor, before the jury comes
13 out, can I question her about some of the issues because
14 if she's going to say that that's normal, I want to know
15 what book she's read or where she got that from. I mean,
16 is that some theory she's aware of or is it just her
17 personal feeling. I think I have a right to know that
18 outside the presence of the jury. She's going to get up
19 and say that's normal, I mean based on what.

20 THE COURT: I'm sure she's going to say her
21 education and studies and all that kind of stuff. You
22 have any problem with him asking her ahead time?

23 MR. MCEACHIN: I don't have a problem with that,
24 Judge. You want to do it out in the hall or do you want
25 to it over here on the stand?

1 MR. WOODSON: Do it on the stand just to set up
2 a record.

3 MR. MCEACHIN: If we're going to do that, I
4 think we can ask her once I get through my voir dire
5 before you admit her as an expert. I can ask her on the
6 stand how she comes over there based on her expertise.

7 THE COURT: I think so to save us a little bit
8 of time. If you don't think she's expert, we can send the
9 jury out and you can ask her questions and we go from
10 there.

11 MR. WOODSON: Your Honor, can I talk to her
12 right quick with the Solicitor present, Your Honor.

13 MR. MCEACHIN: That's fine.

14 (WHEREUPON, a break was taken.)

15 MR. MCEACHIN: Unless, Mr. Woodson has anything
16 else we are ready to proceed.

17 THE COURT: You ready?

18 MR. WOODSON: Yes, Your Honor.

19 THE COURT: If you go ahead and bring out the
20 jury.

21 (WHEREUPON, the jury came into open court.)

22 THE COURT: Good morning. Solicitor, if you
23 call your next witness.

24 MR. MCEACHIN: The State of South Carolina would
25 call Sally Williamson to the stand.

1 THE CLERK: Do you swear or affirm to tell the
2 truth, nothing but the truth, so help you God?

3 THE WITNESS: I do.

4 WHEREUPON,

5 Sally Williamson,
6 after first having been duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. MCEACHIN:

9 Q Good morning, Sally. How are you this morning?

10 A Good morning. I'm good thank you.

11 Q I'm sorry the acoustics are kind of bad in the court
12 room, so if you could just make sure you speak up loud
13 enough so everybody on the jury can hear you, okay.

14 A Okay.

15 Q Sally, if you don't mind, would you state your full
16 name for the record?

17 A My name is Sally Williamson.

18 Q And, Sally, what is your current occupation?

19 A I'm a forensic interviewer.

20 Q And who do you do that with?

21 A I work with the Care House of the Pee Dee in
22 Florence.

23 Q Okay. And in addition to being a forensic
24 interviewer, do you also have other job functions?

25 A I do. I'm also a therapist as well.

1 Q Okay. And prior to you working with the Care House
2 of the Pee Dee or over in Florence, what did you do?

3 A Prior to that, I worked with the Department of
4 Social Services as a child protective services assessment
5 worker and treatment worker in foster care, worked for
6 over six years.

7 Q And going back to what you said your job functions
8 were, you're a forensic interviewer as well as a
9 therapist, are those two separate and distinct things?

10 A They are, yes.

11 Q Okay. And do they require different types of
12 training?

13 A They do. Yes, they do.

14 Q All right. If you don't mind, would you tell the
15 jury a little bit about your educational background?

16 A I have a master's degree in counseling from Webster
17 University as well as a Bachelor's Degree in Psychology
18 from Western Carolina University.

19 Q Okay. And if you don't mind, also tell the jury may
20 be about any clinical or otherwise training or courses
21 that you participated in that are geared toward's child
22 abuse and sexual assault cases?

23 A I completed several different training courses, of
24 course, as a forensic interviewer, I am require3d to
25 complete a 40-hour training course call Child First of

1 South Carolina which, of course, training people to
2 conduct forensic interviews as well as an advanced
3 forensic interviewing course through the Children's Law
4 Center as well. And I also completed a three-week
5 training course as a child protective services worker on
6 child welfare and abuse review and also hold a license as
7 a professional counselor as well.

8 Q Okay. So you actually hold a license as a
9 professional counselor?

10 A I do. It's considered an L.P.C.I. License
11 Professional Counseling Intern.

12 Q And do all forensic interviewers have that?

13 A No, they don't.

14 Q Have you trained other individuals?

15 A I have conducted in-service trainings. I haven't
16 trained other forensic interviewers, but I have trained
17 other individuals in child abuse assessment or mandatory
18 reporting.

19 Q Okay. And what about any professional organizations,
20 you remember any professional organizations?

21 A I'm a member of the American Counseling Association,
22 as well as the South Carolina Net Work of Children's
23 Advocacy Center. I serve on their board of directors for
24 the state level.

25 Q And, Sally, when it comes to the sexual assault or

1 sexual abuse cases, I guess the best way to ask this
2 question is how many years of experience do you have
3 dealing with these particular type cases?

4 A I have 15 years of experience in abuse cases. The
5 most eight of which are specializing in child abuse
6 assessment and two years in my current role as a forensic
7 interviewer.

8 Q All right. And over those past 15 years and maybe
9 even more currently in the past eight years, how many
10 victims have you had occasion to deal with?

11 A I would estimate nearly \$5,000 victim's total.

12 Q And specifically over the past two years as a
13 counselor, how many victims have you dealt with in that
14 capacity?

15 A Approximately 50 in the counseling capacity.

16 Q And do you in your position with the Care House
17 participate in any type of peer review?

18 A I do. Peer reviewed is considered standard and best
19 practice for a forensic interviewers and regularly I have
20 my interviews critiqued by other trained professionals as
21 part of a peer review process. We try to do that on a
22 monthly basis some times it's every other month.

23 Q Okay. And that's pretty frequently?

24 A It is frequent, yes.

25 Q Okay. Have you ever been qualified as an expert

1 witness in any court in this particular state?

2 A I have, yes.

3 Q On how many occasions?

4 A I would estimate in this capacity approximately ten
5 to 15 times.

6 Q Okay. And specifically how many times have you been
7 qualified as an expert in child sexual abuse assessment
8 and treatment?

9 A I would estimate approximately five times.

10 MR. WOODSON: Okay. Your Honor, at this time I
11 move to qualify to Ms. Williamson as an expert in child
12 sexual abuse assessment and treatment?

13 THE COURT: Any objections?

14 MR. WOODSON: Yeah, can I ask her some
15 questions?

16 THE COURT: Sure.

17 EXAMINATION

18 BY MR. WOODSON:

19 Q Ms. Williamson, I understand you have a master's
20 degree in counseling where Webster; is that what you said?

21 A I do, yes.

22 Q And I did not hear you you said you had a psychology
23 degree from Western Carolina; is that a masters or B.A.?

24 A That's a bachelors, that's a B.S.

25 Q B.S. All right. And do you do counseling you have

1 your own office or do counseling?

2 A I have provide counseling through the Care House and
3 I also provide counseling for a practice practice as well.

4 Q Okay. Separate and distinct from being a forensic
5 interviewer?

6 A Yes.

7 Q In this particular case, the work that you did did
8 you do it as a forensic interviewer or did you do it as a
9 counselor?

10 A I conducted a forensic interview with this child.

11 Q Okay. And you said that you been qualified 10 to 15
12 times by the Court as an expert?

13 A Yes.

14 Q A majority of those times has been as a forensic
15 interviewer?

16 A I would say, yes.

17 Q Okay. Because I think you said five times is a --
18 well, 10 to 15 times you been qualified. And out of those
19 15 times or so five times as the term as the sexual
20 abuse --

21 MR. WOODSON: What was the term?

22 MR. MCEACHIN: Child abuse sexual assessment and
23 treatment.

24 BY MR. WOODSON:

25 Q Right, so five times out of the 15 is for child

1 abuse?

2 A Yes.

3 Q Okay. And you are a licensed professional counselor?

4 A Yes.

5 Q All right. When you were working for the Department
6 of Social Services you were basically your caseworker; is
7 that correct?

8 A I was, yes.

9 Q You provided counseling services at that time?

10 A That's correct.

11 Q Okay. Counseling services were more recent?

12 A Well, actually let me clarify that. I did provide
13 some counseling services not through the Department of
14 Social Services, but I was obtaining my graduate degree,
15 my master's degree while still employed at the Department
16 of Social Services, so technically I started internship in
17 that capacity as well.

18 Q Okay.

19 MR. WOODSON: Your Honor, I have no objection to
20 her being qualified as a forensic interviewer. Her
21 testimony is that she provided no counseling or any other
22 services other than forensic interviewing in this case and
23 majority of the times she's been qualified as an expert
24 has been as a forensic interviewer. I would ask that the
25 Court qualify her as a forensic interviewer.

1 THE COURT: Any response to that?

2 MR. MCEACHIN: Your Honor, if I could ask her
3 one follow-up, I think it will address that.

4 DIRECT EXAMINATION CONTINUED

5 BY MR. MCEACHIN:

6 Q Sally, in your capacity as a forensic interviewer at
7 the Care House, do you also use your training and
8 education that you learned as far as a counselor when you
9 conduct those forensic interviews?

10 A Absolutely.

11 Q Okay.

12 MR. MCEACHIN: Your Honor, I think the State
13 stands on its qualification.

14 MR. WOODSON: Your Honor, answer to my question
15 she said that she provided no counseling or any other
16 services. She did for forensic interview in this case and
17 I ask that she simply be qualified as a forensic
18 interviewer based on what she said.

19 THE COURT: I think she's qualified to be an
20 expert as the Solicitor has indicated based on her
21 education, her training, her expertise, her experience and
22 the multitude of times she's been qualified in court as an
23 expert. I'm going to grant your motion.

24 MR. MCEACHIN: Thank you, very much, Your Honor.

25

1 BY MR. MCEACHIN:

2 Q Now, Ms. Williamson, among child abuse professionals
3 in talking with them about the cases that you all handle,
4 can you please explain to the jury what the concept of
5 delayed disclosure is?

6 A A delayed disclosure in a field of forensic
7 interviewing, we consider disclosures as more of a process
8 than an event. And disclosures are often categorized on a
9 continuum and a delayed disclosure falls on that
10 continuum. So on one end of the continuum you might have
11 an active disclosure, that is very clear and concise. And
12 on the other end, you might have a partial or a on delayed
13 disclosure where a piece of information is disclosed by
14 the child about abuse but not all of the facts in their
15 entirety.

16 Q Okay. And in your experience, how common are these
17 delayed disclosures with children victim's of sexual
18 abuse?

19 A Most sexual abuse is not disclosed at all, many
20 victim's report in their adult years and it's very very
21 common for disclosures to be delayed anywhere from weeks
22 to months to years after the abuse occurred.

23 Q What are some of the factors that you would look for
24 in determining would play a role in delayed disclosure?

25 A The relationship of the child to the perpetrator is

1 certainly relevant in a delayed closure the closer the
2 relationship. For example, a family member or a person
3 connected to the family in some way increases the
4 likelihood of delayed disclosure. Certainly fear plays a
5 factor, so if the alleged perpetrator threatens the child
6 in any way, that would play a part in a delayed
7 disclosure. Concerns for, of course, their own safety or
8 their family members safety it is relevant in a child's
9 delayed disclosure, as well as a child's fear that the
10 family might be torn apart or that they have in some part
11 been to blame for the abuse that they have experienced.
12 There's a lot of dynamics that are involved in delayed
13 disclosures.

14 Q And one of those factors you looked at you said that
15 if the child were in fear for their own safety or family
16 members safety. If a child is threatened by an abuser,
17 can that play a role in determining how the child decides
18 to disclose?

19 A Absolutely.

20 Q And you also briefly told the jury on one end you
21 have what's known as an active disclosure and the other
22 one you have a partial disclosure. Can you explain the
23 concept of partial disclosure a little more clearly?

24 A Sure. Different examples might be that a child
25 discloses abuse but says it happened to a friend. So

1 they're disclosing some piece of the abuse, but they
2 distance themselves from the abuse by saying it happened
3 to a friend. So it's enough to cause alarm to the parent
4 or the caretaker but not the entire disclosure. A partial
5 disclosure might be a child says that something happened
6 that they dreamt it and so it happened in a dream when in
7 reality it perhaps took place real life. They might say
8 that another example would be that a person tried to do
9 something to them, but didn't actually succeed. So those
10 are examples of different types of partial disclosures
11 that children might give or they might say that it
12 happened one time when in fact it happened ten times?

13 Q So those would be examples of partial disclosure and
14 an active disclosure on the other hand -- could you give
15 an example of what an active disclosure would be?

16 A An active disclosure is a -- there has been no part
17 of inconsistency or no inconsistent piece in the
18 disclosure. The child has been clear and concise in their
19 disclosure and has not strayed from the original
20 disclosure in any way?

21 Q Okay. And you say both partial disclosures and
22 active disclosures are fairly common in your line of work?

23 A Yes, they are.

24 Q Now, Ms. Williams on ---

25 MR. WOODSON: And I object to that last

1 question, Your Honor.

2 THE COURT: On what grounds?

3 MR. WOODSON: On the grounds that we discussed
4 prior -- my motion prior to the jury coming out.

5 THE COURT: I'm going to overrule it.

6 MR. MCEACHIN: Thank you, Your Honor.

7 BY MR. MCEACHIN:

8 Q Ms. Williamson, you were working at the Care House
9 back in December of 2011; is that correct?

10 A Yes, I was.

11 Q And during December of 2011, did you have occasion to
12 conduct an interview with Minor ?

13 A Yes, I did.

14 Q And do you recall what date and time you conducted
15 the interview with Minor ?

16 A It was on December 2nd 2011 approximately 10:30 a.m.

17 Q Okay. And prior to interviewing her, did you find
18 out when she made the initial -- her initial disclosure of
19 abuse?

20 A I believe it was the day before or shortly before the
21 interview itself.

22 Q Okay. So in your line of work, is it fairly common
23 that once a disclosure is made whatever reporting agency
24 is gets the children to you all as quick as possible?

25 A Yes, time is of the essence.

1 Q And do you remember what person or agency referred
2 Minor to you?

3 A Jennifer Harrison at Florence County Department of
4 Social Services initially referred the child.

5 Q Okay. And if you don't mind, could you tell the jury
6 -- well, strike that a minute. You conducted an interview
7 with Minor on December the 2nd; is that correct?

8 A That's correct.

9 Q And during that interview, did Minor disclose that she
10 had been abused?

11 A Yes, she did.

12 Q All right. And where did she say that the abuse
13 occurred?

14 A She stated that it occurred at a cousin's home. I
15 believe, a cousin to her mother at their residence.

16 Q Okay. And did she tell you when it occurred?

17 A She stated that it was ongoing beginning
18 approximately the beginning of her school year.

19 Q Okay. And we're talking about 2011?

20 A Yes.

21 Q Okay. Now, did she also discuss the facts and
22 circumstances surrounding the alleged assault with you?

23 A Yes, she did.

24 Q Ms. Williamson, was this interview documented?

25 A It was, yes.

1 Q And how was it documented?

2 A In the form of a written report that I produced once
3 the interview has been conducted.

4 Q Okay. And in addition to the written report, is
5 there any other type of documentation?

6 A We also have a recorded video as well.

7 Q Okay.

8 MR. MCEACHIN: Your Honor, may I approach the
9 witness?

10 THE COURT: Sure.

11 BY MR. MCEACHIN:

12 Q Ms. Williamson, I'm going to hand you what's been
13 marked as State's Exhibit Number 12 for identification
14 purposes. Can you identify State's Exhibit 12?

15 A This is the C.D.R. recording of the interview of Minor
16 Minor dated 12-2-2011 from the Care House.

17 MR. MCEACHIN: Thank you very much.

18 Your Honor, I believe there's something we need
19 to take up outside the presence of the jury.

20 THE COURT: Members of the jury, if you please
21 step into the jury room. Do not discuss the case. We
22 will be with you in just a minute.

23 (WHEREUPON, the jury retire to the jury room.)

24 MR. MCEACHIN: May it please the Court, at this
25 time the State would move to admit the video interview of

1 Minor pursuant to section 17-23-175. Your Honor,
2 in looking at that, there's certain factors the Court must
3 look at to determine if in fact it's appropriate for the
4 video to be published to the jury in this case. I believe
5 that the State has met the elements of the statute and we
6 would ask at this time if the video be admitted into
7 evidence.

8 THE COURT: Any objections?

9 MR. WOODSON: Well, yes, Your Honor. But before
10 I start on that, I want to clarify on the record what my
11 objection was earlier. She's testified that these -- as I
12 said before that these things are normal. And she's
13 testified about giving some statistics that this is a
14 typical type of behavior. And I object to that because I
15 believe that she's trying to bolster the child's story.
16 In addition to this video, there's five factors that the
17 Court has to look at to determine whether it's admissible.
18 One of them is whether the statement was elicited by a
19 leading question. At the beginning of the video, I think
20 you watched, Your Honor. She asked the child about
21 telling the truth. And before the child -- the child says
22 that -- she uses the word story. She says truth is the
23 opposite of story something of that nature. But then she
24 ask again about what the truth is and she volunteers her
25 definition of what the truth is, so I feel that is

1 somewhat leading. Also at the end of the video, she ask
2 the child did Vincent do this -- do anything to her. The
3 child initially said no. And then there's a statement on
4 the video where she says, well, it's okay, you know,
5 sometimes people get confused and change their story. I
6 had somewhat leading and that's injected in her opinion as
7 to why the story may have changed.

8 THE COURT: All right. Well, just for the
9 record, this morning I did watch the video in detail. I
10 took my time, it was quiet, nobody was in my office. I
11 had a cup of coffee. And I watched it carefully and I
12 tried to take notes pursuant to South Carolina Code
13 Section 17-23-175. And in this regard, my notes reflected
14 that at the beginning of the video the child was asked to
15 tell the truth. The interviewer and the child went over
16 this in some detail. And it appeared to this court that
17 the child understood that she was to tell the truth only
18 and not to make up any stories.

19 Furthermore, overall I find that the questions
20 asked by the interviewer were done in a non-leading way
21 overall considering that we had, I guess, at the time a
22 six-year-old child, may have been a little minor leading,
23 which is allowed according to the law in some of the
24 circumstances. To me, the child appeared to understand
25 that this was a serious matter, but did not appear

1 pressured or manipulated by the questions or interview as
2 a whole to me. The interviewer appeared well trained and
3 professional. It appeared to this court and she was
4 obviously experienced in these types of interviews
5 involving their young children.

6 To this Court, the interview was orderly and
7 logical in it's progression. The child gave detailed
8 accounts as to the time and place of the events. The
9 child also gave a vary detailed account describing the
10 events that are the subject of this trial. In this
11 regard, the child described her clothes, if you remember
12 them. His and her body parts, how it happened. And she
13 described it in pretty good detail before, during and
14 after. And did so in a way that I find it hard to believe
15 that she was coached in any way or that she was
16 manipulated by the interview process itself coming up with
17 the story. The recording itself was a good quality. It
18 was visually sound. I could hear everything very well.
19 It was continuous. It was not chopped off or cut off and.
20 People left the room and came back it was pretty much
21 continuous the whole time until the very end when it
22 appeared that the interview was over and the child was
23 upset.. And I think they left the room and she came back
24 briefly, but no substantial questions were asked after
25 that. Plus, based on these factors and the totality of

1 the circumstances surrounding the making of the statement,
2 I find that the statement is trustworthy and in my opinion
3 admissible. I'm going to allow it.

4 MR. WOODSON: Your Honor, during the last trial
5 we ended the video ---

6 MR. MCEACHIN: I'm going to object to anything
7 he brings up about the last trial.

8 MR. WOODSON: Well, then let me say it this way.
9 At one point of the video as Your Honor just mentioned,
10 the interviewee walks out. And at that point, I would ask
11 that the video end because there's no -- I don't believe
12 anything admissible after the point that she walks out.

13 MR. MCEACHIN: I don't have an objection.

14 MR. WOODSON: I was going to say that we ended
15 the video before ---

16 MR. MCEACHIN: And I'm sorry I didn't know where
17 Mr. Woodson was going with that. The State doesn't have
18 an objection.

19 THE COURT: Sounds good. All right. Anything
20 further?

21 MR. MCEACHIN: Your Honor, just for the sake of
22 maybe ease, if I could go ahead and have Keith set up
23 everything and then I'll just move on the record to admit
24 State's Exhibit 12 in publishing the jury once they come
25 back out.

1 MR. WOODSON: Your Honor ---

2 THE COURT: Okay.

3 MR. MCEACHIN: Your Honor, we may if it's all
4 right with the Court just basing it on Keith setting up,
5 we may need to move the two alternates over here if that's
6 all right.

7 THE COURT: If you go ahead to move their
8 chairs.

9 MR. WOODSON: Your Honor, one final thing. Once
10 we start the video, can we lock the doors because I had an
11 objection -- I don't want to keep saying last time but
12 with some issues.

13 MR. MCEACHIN: No objection to locking the door.

14 THE COURT: We can go ahead and lock it right
15 now.

16 MR. MCEACHIN: I think that's fine. Let me make
17 sure my victim's advocate is not coming back. Let me --
18 one second, Your Honor.

19 THE COURT: Go ahead.

20 (WHEREUPON, a pause in the proceedings.)

21 (WHEREUPON, the jury came into open court.)

22 THE COURT: All right.

23 MR. MCEACHIN: Thank you, Your Honor. At this
24 time, the State would move State's Exhibit Number 12 into
25 evidence.

1 THE COURT: Any objection as to what been
2 stated?

3 MR. WOODSON: No, Your Honor.

4 THE COURT: All right.

5 MR. MCEACHIN: Your Honor, we ask permission to
6 publish to the jury. We ask to cut the overhead lights
7 out. It's kind of hard to see.

8 THE COURT: State's Number 12 is into evidence.

9 MR. MCEACHIN: Thank you, Your Honor.

10 THE COURT: If anybody on the jury or the
11 alternates cannot see, let me know immediately and we'll
12 correct it.

13 (WHEREUPON, State's Exhibit No. 12 was admitted
14 into evidence.)

15 (WHEREUPON, State's Exhibit No. 12 a DVD played
16 for the jury.)

17 DIRECT EXAMINATION CONTINUED

18 BY MR. MCEACHIN:

19 Q Okay. Now, Sally, I notice toward the beginning of
20 the video you had some drawings that you did with Minor
21 anatomical type drawings; is that correct?

22 A Yes, that's correct.

23 MR. MCEACHIN: Your Honor, may I approach the
24 witness?

25 THE COURT: Yes, sir.

1 BY MR. MCEACHIN:

2 Q I'm going to hand you what's been marked as State's
3 Exhibits 4 and 5 for identification purposes only. Do you
4 recognize State's Exhibits 4 and 5?

5 A Yes, I do.

6 Q And what are those?

7 A Those are the anatomical drawings that I went over
8 with Minor and parts that she labeled as I went through the
9 interview.

10 Q Okay. And did you actually write that -- write the
11 label parts or did she?

12 A I did, that's my writing.

13 Q Okay. And those are the actual drawings you all did
14 the day of this?

15 A Yes, those are the actual drawings.

16 Q I guess a photo copy of this?

17 A Yes.

18 MR. MCEACHIN: All right. Your Honor, at this
19 time. I move State's Exhibits 4 and 5 into evidence.

20 THE COURT: Any objections?

21 MR. WOODSON: No, Your Honor.

22 THE COURT: State's 4 and 5 into evidence
23 without objection.

24 (WHEREUPON, State's Exhibits Nos. 4 and 5 were
25 admitted into evidence.)

1 MR. MCEACHIN: May I publish to the jury, Judge?

2 THE COURT: Yes.

3 BY MR. MCEACHIN:

4 Q Okay. Now, Sally, as an expert in the field of child
5 abuse assessment and treatment, do you look to see if a
6 victim has been coached or influenced by any sort of third
7 party?

8 MR. WOODSON: And, Your Honor, I renew my
9 objection at this time.

10 THE COURT: I'm going to overrule those
11 objections.

12 BY MR. MCEACHIN:

13 Q Do you look to see if a victim has been coached or
14 has some sort of influence by a third party before
15 speaking to you?

16 A We do throughout interview.

17 Q What do you look for?

18 A We look for a few different pieces. We look for what
19 we call congruents in child's behavior, which is basically
20 does their behavior in some way go along with pieces of
21 information that their disclosing through the interview.
22 And we also look for any inconsistencies that might arise
23 through the interview in the victim's disclosure of what
24 happened.

25 Q And when you say any inconsistencies we saw the video

1 is that why you'll sometimes revert back and ask a same
2 question again a little bit further in the interview to
3 see if you get an consistent answer?

4 A Yes, that's correct and sometimes why I rephrase the
5 question as well.

6 Q All right. And if you could explain to the jury the
7 concept of peripheral facts. I think you talked about
8 congruency but could you go a step further there?

9 A Peripheral facts are other pieces of information that
10 we look to obtain during a victim's statement such as do
11 you remember where you were, do you remember what the room
12 look like, what were you wearing, what did -- were there
13 descriptors like the bed spread for example, what did the
14 bed spread look like, what time of day was it. So
15 basically helps us to build a picture of what occurred and
16 when and where it occurred.

17 Q Okay. After that interview, you had with Minor on
18 December 2nd did, you have any other contact with her
19 after that time period?

20 A No, I did not.

21 Q And as a result Minor disclosure that she had been
22 assaulted, what if any recommendations, did you make?

23 A I made a recommendation of therapy as I always do
24 when a child discloses any form of abuse and typically
25 that's trauma focused therapy of some sort, it's evidence

1 based and also no contact with the alleged perpetrator.

2 MR. WOODSON: Your Honor, I would object to that
3 last question same grounds.

4 THE COURT: Overruled.

5 BY MR. MCEACHIN:

6 Q So in essence you recommend therapy for her?

7 A I did, yes.

8 MR. MCEACHIN: Please answer any questions
9 Mr. Woodson may have.

10 THE COURT: Let me ask you all real quick, do
11 you all need a break before we go into cross-examination
12 to use the restroom or anything or you want to keep going?

13 MR. WOODSON: Your Honor, I need to be heard
14 outside their presence.

15 THE COURT: We'll take a short break. If you
16 would step into the jury room, we will be with you in a
17 moment.

18 (WHEREUPON, the jury retire to the jury room.)

19 THE COURT: Mr. Woodson.

20 MR. WOODSON: Your Honor, that last question
21 about the recommendation, I think bolsters the child's
22 credibility because if she's testifying that there need to
23 be a recommendation, she's basically telling the jury I
24 found something, then this child's credible. Therefore,
25 this child's needs some counseling and I think that

1 bolsters the child's credibility and I would ask for a
2 mistrial.

3 THE COURT: All right. Let me hear from you,
4 Solicitor.

5 MR. MCEACHIN: Your Honor, I think Mr. Woodson
6 makes a leap there. I simply ask her in the course what
7 she does did she make a recommendations in the case. She
8 simply said therapy. And I specifically, Your Honor, you
9 may know I never asked her would you believe the child --
10 do you think the child was being truthful anything along
11 those lines. I manage to steer clear of all that. I
12 didn't ask -- after I asked her about the coaching, I
13 didn't ask what do you think Minor was coaching. I steered
14 clear of that. I simply asked her expertise did you make
15 a recommendation and she said for therapy. Now, the
16 jury's the one that open the terms of credibility.
17 They're the ones that do that. They had an opportunity to
18 see the witness and determine it. And I don't see that as
19 bolstering at all, Judge.

20 THE COURT: All right.

21 MR. WOODSON: Your Honor, and she is implying
22 and saying that she has made some sort of finding and this
23 child needs counseling. There's no way you can say a
24 child needs counseling unless you believe the allegations
25 are true.

1 THE COURT: She did not give her opinion as to
2 any of that stuff as to truthfulness or coaching. She
3 just made a recommendation and that's it.

4 MR. WOODSON: But I'm not going to ask her this
5 question -- well, maybe I should ask her off the record,
6 but I don't see how you can need counseling if the
7 allegations are false.

8 THE COURT: In her expert opinion, if she
9 believes that she needs counseling, she can recommend
10 counseling. It doesn't mean that anybody did anything and
11 you're good lawyer. I'm sure you're ready to
12 cross-examine her in that regard.

13 MR. WOODSON: I'm not going to ask her that in
14 front of the jury, Your Honor. I mean, you can't need
15 counseling unless she's basically telling the jury I found
16 something this child needs counseling, that's basically
17 saying that this child was abused and she has bolstered
18 the testimony. She says in this case she acted as a
19 forensic interviewer but as a forensic interviewer she's
20 recommending counseling.

21 THE COURT: She didn't state any opinions at
22 all. She just said I recommended counseling. I'm going
23 to overrule it.

24 Go ahead and bring out the jury and we will
25 continue.

1 (WHEREUPON, the jury came into open court.)

2 THE COURT: Cross-examination.

3 MR. WOODSON: Thank you, Your Honor.

4 CROSS-EXAMINATION

5 BY MR. WOODSON:

6 Q Prior to that video, who did you speak with?

7 A I spoke with the social services case worker, Ms.
8 Jennifer Harrison, as well as the mother of the minor
9 child?

10 Q Anyone else?

11 A Not to my recollection, no.

12 Q What documents do you review before you typically do
13 these sorts of interviews?

14 A I don't necessarily review any documents.

15 Q Okay. So you wouldn't have had access to any police
16 reports or anything of that nature in this particular
17 case?

18 A Sometimes we do have access to police reports ahead
19 of time. I believe in this particular situation the
20 police report wasn't produced until after the report was
21 made to the appropriate jurisdiction.

22 Q Okay. How long did you speak with the mother prior
23 to speaking with Minor ?

24 A I would estimate under an hour.

25 Q At least 30 minute or so?

1 A I'm not sure exactly how long I spoke with her
2 mother.

3 Q All right. During the interview Minor indicated she
4 says I know you're gone ask me this and, yes, my mother
5 and I discussed this. Do you recall that question?

6 A I do.

7 Q Her stating that -- volunteering that?

8 A I do recall her saying that.

9 Q And you choose not to ask her what her and her mom
10 talked about?

11 A At that moment since she was mid disclosure, I did
12 choose not to ask her at that very moment, yes.

13 MR. MCEACHIN: Your Honor, I'm going to object.
14 We need to approach.

15 THE COURT: All right.

16 (WHEREUPON, a bench conference was held in the
17 presence of the jury, but out of the hearing of the
18 jury.)

19 BY MR. WOODSON:

20 Q Also as far as Vincent is concerned, you ask did
21 Vincent live with them; is that correct? Do you recall
22 that? Let me ask it this way. You said who lives with
23 you and she said her mom?

24 A That's correct.

25 Q And you choose not to ask her any further questions

1 about Vincent as far as spending the night things of that
2 nature?

3 A I don't believe I did ask any further questions of
4 that nature.

5 Q Okay. And after you do these interviews, do you have
6 any sort of contact with the child or do any additional
7 investigation?

8 A No.

9 MR. WOODSON: I don't have any other questions,
10 Your Honor.

11 THE COURT: Any redirect?

12 MR. MCEACHIN: No redirect, Your Honor. We ask
13 that she be relieved from her subpoena?

14 THE COURT: Any objections?

15 MR. WOODSON: No, Your Honor.

16 THE COURT: You excused. Thank you.

17 (WHEREUPON, the witness leaves the witness
18 stand.)

19 THE COURT: Call your next witness.

20 MR. MCEACHIN: Your Honor, the State rest.

21 THE COURT: Thank you very much.

22 Members of the jury, if you would step into the
23 jury room for just a moment. We have to take up some
24 matters. We'll be back with you in just a moment. Do not
25 discuss the case.

1 (WHEREUPON, the jury retire to the jury room.)

2 THE COURT: Any motions from the defense?

3 MR. WOODSON: Your Honor, again I would renew my
4 motion for a mistrial and I would ask for a directed
5 verdict. I feel the State has failed to prove their
6 burden in this case. This child has named somebody else,
7 that child basically said on the video that she didn't
8 but, everybody knows that she did. There were things that
9 were admitted into evidence that haven't been tested. All
10 we have at this time is an allegation from a child and
11 that allegation has shifted at certain points. So I would
12 renew all my motions that I made prior including my motion
13 for a mistrial and ask for a directed verdict.

14 THE COURT: I'm going to deny the motion for a
15 mistrial and I think there's certainly it's a factual
16 question for the jury to decide. The directed verdict
17 motion is denied as well.

18 Anything from the Solicitor?

19 MR. MCEACHIN: Your Honor, if we may have about
20 five minutes?

21 THE COURT: Let me ask you how many witnesses do
22 you have?

23 MR. WOODSON: Your Honor, I have five witnesses
24 two of which I don't think are coming until two. It's a
25 Dr. Patrice Minter. I thought she was going to be here

1 this morning.

2 MR. MCEACHIN: She said she suppose to be here
3 this afternoon is when she was under the impression she
4 was suppose to be here.

5 MR. WOODSON: I think she's coming at two, Your
6 Honor, have a police officer that's coming in around two,
7 and two other people that were in the house.

8 THE COURT: Can we do maybe one or two before
9 one maybe?

10 MR. WOODSON: Yes, Your Honor. One of my
11 witnesses I -- right before these allegations came out,
12 Your Honor, there was an argument between the parties. I
13 want to introduce some testimony regarding that, but the
14 Solicitor has told me that he's going to rebut that
15 testimony and try to bring up my client's criminal record.
16 He's going to say that the argument was about my client's
17 past history and she found out right before this -- right
18 around the end of November his status. And that is not
19 true based on the reports where she said she knew about
20 this as early as June his past.

21 THE COURT: Did she -- you're talking about ---

22 MR. WOODSON: The mother. The mother knew about
23 his past. I'm trying not to talk too loud because I
24 actually can hear the jury and I don't want them to hear
25 me, so that's why I'm not talking quite as loud. But the

1 mother disclosed that she knew his status as an offender
2 as early as June. I want to put up testimony to say what
3 they say the argument was about.

4 The State's going to try to rebut that and get
5 that evidence in which case law is clear that I believe
6 it's inadmissible. So I want to get a ruling on that at
7 this point. And if I bring that up, is that going to be
8 an issue or is she going to get up and say, well, no the
9 argument was about his status as an offender, which is
10 clear and I can hand up -- give me a second I can quote
11 unquote where she disclose she knew about it months before
12 that.

13 THE COURT: Who do you want to bring that out
14 with? What witness are you talking about?

15 MR. WOODSON: Faye Thompson is the witness, Your
16 Honor. What we allege is that she -- she would drop the
17 child off for days at a time, the mom, and would not come
18 get her. And they took the child like you need to get
19 your daughter. And Faye's going to testify that she was
20 with them. And they were calling her saying get your
21 child and she was giving different stories. And finally,
22 they called her at home and say take your daughter
23 basically. And it was a big argument and that was the
24 last time that they've had contact that specific. And
25 then two or three days later these allegations come out.

1 I want to get that into evidence, but then he's going to
2 try to get in some evidence that the argument was about
3 ---

4 THE COURT: You want to get into what argument
5 was about or just that they had an argument two days
6 prior to?

7 MR. MCEACHIN: And, Your Honor, I maybe able to
8 clarify this. I think initially at the trial, of course,
9 if my mother says that the argument was about the fact
10 that she found that out and he puts it up, I think she can
11 get up there on reply and say that that's what the
12 argument was about. I don't think you can hamstring and
13 he can cross-examine her about anything he wants to. But
14 they get up and try to say that the argument was about
15 something else, then I certainly have a right to reply.

16 In all actuality, Your Honor, I don't think we
17 get to that point. I think the fact that there was an
18 argument is irrelevant. I think they're trying to attack
19 the credibility of my witness, which is the mother and my
20 victim. And because they're trying to attack it with a
21 specific instance conduct, that's inappropriate under the
22 rules of evidence. I think the argument comes in the
23 first place.

24 MR. WOODSON: Well, I'm just saying that they
25 had an argument, Your Honor. I think it's totally

1 admissible because it shows that that's kind of what
2 precipitated, could have been a lot of this argument. And
3 if she's going to get up there and try to get something
4 inadmissible and on rebuttal, this clearly contrary to
5 what she told the police. I mean, I definitely could
6 cross-examine her, but if she gets up there and say no
7 that's not what it's about ---

8 THE COURT: What did they argue about her not
9 picking up the child?

10 MR. WOODSON: Right. And she was lying and
11 saying I was at the hospital and all this. And they were
12 calling saying the hospital saying, oh, what's wrong with
13 her, what room are you in, are you in the emergency room.
14 She's like I can't get my child because I'm in the
15 hospital. And she was not at the hospital she was home.
16 And they went to the house and were waiting and this is
17 what the testimony is going to be. And they beat on the
18 door and she comes to the door very angry that they're
19 beating on the door saying why are you all beating on my
20 door. And they were like you were lying to us -- I mean,
21 I don't have to necessary get into every single detail,
22 but I do want to get into the fact there was a
23 disagreement about her not picking up Minor . And if she
24 wants to say it was about something different, then that's
25 absolutely going to be contrary to what she's told other

1 people.. And, I mean, I want to address that because I
2 want to bring it up, I think it's relevant. But if
3 they're going to try to get in inadmissible testimony
4 regarding his past, which is not going to be to my quest.

5 THE COURT: You're talking about his criminal
6 record? Is that what you're talking about?

7 MR. WOODSON: That he's a registered offender,
8 Your Honor.

9 MR. MCEACHIN: Your Honor, if I may reply
10 briefly to that, that's their position on what the
11 argument was about. My understanding what the argument
12 about is obviously what Mr. Woodson's already indicated it
13 was. It was the fact ---

14 MR. WOODSON: And it's contrary to what she
15 said, Your Honor. The harm is I can definitely
16 cross-examine but say you knew six months earlier and you
17 said that you knew and that everybody agreed that he would
18 never been alone with the child is clearly what she said,
19 so how can six months later she say I didn't know. And we
20 were arguing because I just find out he was an offender.
21 That's the rug. I mean, I want it in evidence, but then
22 they're going to try to get in. I can cross-examine her
23 and make her look like a liar and say look you knew about
24 this and this what you told you said...

25 THE COURT: What rule do you say that that does

1 not open the door? What rule do you have for me?

2 MR. WOODSON: Your Honor, I have case law that
3 says that his prior record is inadmissible, but as far as
4 the rule you know I think the case law is clear that
5 involving anything -- any prior ---

6 MR. MCEACHIN: Your Honor, be under 404(B).

7 MR. WOODSON: I'm not asking her a character
8 question. I'm just trying to get into evidence that there
9 was an argument. I think that's important for the jury to
10 know right before -- days before this allegation came out
11 that there was a big argument and the child never went
12 back after that. They didn't take the child back not
13 because of the allegations because the argument.

14 THE COURT: What's your position on it?

15 MR. MCEACHIN: Your Honor, my position is it's
16 kind of like when Mr. Woodson argued earlier that he could
17 ask the witness a question but wanted the Court to direct
18 the witness how to answer the question. That's like
19 saying, well, I get to put my whole side without getting
20 any -- having any reply to that. I mean, his side I
21 understand what their position is they argued it last
22 time. But we clearly say that the reason that there was
23 an argument is for a totally separate and distinct. If he
24 wants to cross-examine her and say, well, you knew about
25 it before. He's got a right to do that but not allowing

1 her to say it -- if he brings up the argument ---

2 THE COURT: I think you're opening the door if
3 you go down that road.

4 MR. WOODSON: The damage is done though once I
5 do that I can cross-examine her because she knew six
6 months before as I said earlier.

7 THE COURT: I'm saying you're opening the door
8 if you do that, unless I'm missing something.

9 MR. WOODSON: Well ---

10 THE COURT: I mean, you want to ask the question
11 and you want to get a little piece of it and not
12 everything else. Unless, you all can agree on how to do
13 it in a way that suits the two of you all. I don't know
14 what she's going to say.

15 MR. WOODSON: Well, I know what she should say,
16 she should say what she said before that she knew six
17 months before hand they had arrangements never to leave
18 him alone with the child.

19 THE COURT: What you think she should says in
20 trial are two different things?

21 MR. WOODSON: I think she told the forensic
22 interviewer that, but I didn't, of course, because I don't
23 want to go down that road. I just want to ask was there
24 an argument and was it about her not picking up Minor .

25 MR. MCEACHIN: If he goes into the details of

1 the argument, I'm going call her back in reply.

2 MR. WOODSON: She's going to be lying.

3 THE COURT: This is where leaning at it seems to
4 me you all can clearly ask if there was an argument was
5 there an argument a couple days before. Yes. And you all
6 probably ought to stop there. We start to get into what
7 the argument was about and then to allow you just to lay
8 the ground work for what's favorable to you and then shut
9 the door to the Solicitor isn't right. If we open the
10 door, it's about to what it is about and we need to go
11 down that road.

12 MR. WOODSON: So, Your Honor, let me know if
13 this complies cause in my mind I would ask -- the last
14 time you all had Minor, the mom didn't pick up the child
15 and you all were trying to get the child back to Minor --
16 I'm sorry back to her mom. Minor back to her mom and the
17 argument ensued.

18 THE COURT: I think that's where it ought to
19 stop. I think keep it straight up. If we get into the
20 details, it's not all right shut the door. Am I missing
21 something?

22 MR. MCEACHIN: That's the Court ruling, Your
23 Honor, I think the State agrees with that. The State does
24 agree with that, Your Honor. But if he ask one question
25 beyond that, I think he opens the door.

1 THE COURT: Who knows what her answer is going
2 to be?

3 MR. WOODSON: Well, like I said, Your Honor, I
4 know what it should be, but I think the danger is ---

5 THE COURT: It's dangerous, period, when you
6 head down that road.

7 MR. WOODSON: Yes, Your Honor, I'll comply.

8 THE COURT: See what I'm saying?

9 MR. WOODSON: Yes, sir. I'm going to need to
10 talk -- I think what I would do since it's -- if I can
11 talk to Faye right quick, I may call her first. I had
12 intended to call her next to last, but I will go ahead and
13 call her first. I need to explain to her what you just
14 said, so we want mess up.

15 THE COURT: Is she here?

16 MR. WOODSON: Yes, she's downstairs, Your
17 Honor.

18 THE COURT: How long will she take? Is she a
19 long witness?

20 MR. MCEACHIN: Last time I think she took less
21 than 30 minutes.

22 THE COURT: Okay, that will be good one to have
23 before lunch.

24 MR. WOODSON: Can we take like a ten minute
25 break? I need to call my police officer and tell him to

1 be her at two.

2 THE COURT: How about 2:30 I have something I
3 have to go to at my son's school.

4 MR. WOODSON: 2:30. Do you know what time Dr.
5 Minter's coming?

6 MR. MCEACHIN: I think she said two. I didn't
7 ask her. Well, last time I spoke with her it was two
8 o'clock.

9 MR. WOODSON: Well, I made to make a call and
10 I'm going to run downstairs. I can do that.

11 THE COURT: Sure, just let me know.

12 (WHEREUPON, a break was taken.)

13 THE COURT: Mr. McEachin, Mr. Woodson, anything
14 else we need to put on the record?

15 MR. MCEACHIN: Your Honor, going back on the
16 record on the discussion we had right before we took the
17 recess with regard to Mr. Woodson's potential line
18 questioning of witness Faye Thompson, he indicated to the
19 Court he wanted to get into a colloquy with the witness
20 pertaining specifically to an argument that occurred
21 between I believe that witness and my client's mother
22 Pearlene Commissiong.

23 Your Honor, the State understanding the rule
24 behind opening the door in this case would agree that
25 Mr. Woodson's not opening the door by simply asking the

1 question was there an argument and a simple response in,
2 yes, there was an argument. But if he does go just
3 anything past that or if the witness goes anywhere beyond
4 that, I think the door is open and then we have the
5 ability to recall Ms. Commissiong if we need to.

6 THE COURT: I agree.

7 Anything you need to put on the record, Mr.
8 Woodson?

9 MR. WOODSON: Your Honor, my understanding was I
10 would be allowed to ask questions and I wouldn't go
11 beyond that. But my intention was to ask questions
12 leading up to that argument for example that they tried to
13 have the mother pick up the child and then the mother
14 wouldn't pick up the child, which has nothing to do with
15 the argument. And my understanding of your previous
16 ruling is that I could do it that way that I could ask
17 questions up to that point saying then was there an
18 subsequent argument and stop.

19 THE COURT: Technically, I think if you ask if
20 there was an argument, the door is open, both doors are
21 slung open. The Solicitor's being gracious enough to say
22 he will let you ask that question long as it's was there
23 an argument prior to the allegations. And if she just
24 says yes and that's all you ask, he's agreeing to let you
25 do that even though I think it technically opens the door.

1 MR. WOODSON: And I will stop at that point,
2 Your Honor. But I guess ---

3 THE COURT: And you need to make sure your
4 witness knows.

5 MR. WOODSON: I have explain that to her. But,
6 I guess, what I'm not understanding or trying to get
7 clarification for the record is that I want to ask
8 questions ---

9 THE COURT: Leading up to the argument
10 explaining how the argument happened.

11 MR. WOODSON: Well, not explaining how the
12 argument happened but that there was some events that
13 happened and then there was an argument that happened and
14 stopped.

15 THE COURT: That's usually how arguments happen.

16 MR. MCEACHIN: This goes back to my original
17 argument, Judge. I don't even see how that's relevant as
18 to whether or not a little girl was sexually assaulted or
19 not.

20 THE COURT: Well, it could certainly be
21 relevant, but you open the door I'm going ---

22 MR. MCEACHIN: Right, and he asked all the
23 questions leading up and then finally says was there an
24 argument. All the lead-up questions are what we're trying
25 to avoid in the first place here. So he asked all those

1 questions, then it's open.

2 MR. WOODSON: And I can offer not to even ask
3 their argument and just go into the -- what happened up
4 until that point.

5 THE COURT: Once it's open, the Solicitor can go
6 down it.

7 MR. MCEACHIN: Your Honor, the word argument is
8 in the triggering point here.

9 MR. WOODSON: Okay, so I want use the word
10 argument, I'll just say on the last night you had Minor
11 the mom wouldn't come get her. The mom said she was in
12 the E.R. or lead them to believe that. And then they had
13 to go over there and basically make her take the child
14 back and stop, no questions about an argument.

15 MR. MCEACHIN: That's asking every question, but
16 did you have an argument.

17 THE COURT: All the doors are open though.
18 That's my ruling and I think everybody understands the
19 risk associated with it.

20 MR. MCEACHIN: Thank you, Your Honor.

21 MR. WOODSON: I would just ask that this issue
22 be reserved, Your Honor. I understand and I will abide by
23 whatever the Court says, but I think that's an important
24 issue.

25 THE COURT: It is very important to both of you.

1 MR. MCEACHIN: And, Your Honor, I certainly
2 understand Mr. Woodson asking to reserve -- he's reserving
3 it after he ask the question to the witness.

4 MR. WOODSON: No.

5 MR. MCEACHIN: We understand how the Court's
6 going to rule on this.

7 MR. WOODSON: I'm just saying preserve the
8 record, Your Honor.

9 THE COURT: The court reporter's taking
10 everything down that we have said. I've given my ruling.
11 The Solicitor has been gracious enough to allow you to go
12 a little bit and he says he's not going to walk down that
13 path as long as you stick to that, but that's up to him.
14 If the door opens, we are going to walk through it.
15 That's only fair, fair to both of you. It wouldn't be
16 proper to allow him to do that and cut you off not let you
17 cross-examine, so that's where we are. All right. You
18 want to start back at 2:30 or you want to squeak one it?

19 MR. WOODSON: Your Honor, I would ask that we
20 start back at two 2:30.

21 THE COURT: All right, 2:30.

22 (WHEREUPON, the jury came into open court.)

23 THE COURT: Members of the jury, I just want to
24 let you know from time to time we have to discuss matters
25 of law outside your presence, that's why we send you back

1 there. Don't want you to think we out here taking naps or
2 just goofing of, we're actually working. We're going to
3 take a lunch break now and start back at 2:30 and we're
4 going to take up some more matters while you're gone and
5 try to keep it streamlined and try to keep it going. So
6 you're excused until 2:30, but as I told you before among
7 yourselves or with anybody. Do not discuss this case.
8 Don't research it, don't investigate it nothing, just go
9 have lunch, relax be back at 2:30. All right. Jury's
10 excused everybody else remain seated.

11 (WHEREUPON, the jury excused for lunch.)

12 THE COURT: Go ahead.

13 MR. WOODSON: As, Your Honor, said I'm going to
14 think about this over the lunch break, but I have one more
15 question. If I do open that door but limit the testimony
16 to that there was an argument, would his -- if he put his
17 witness back on the stand, will her testimony be limited
18 to the fact that that's not what the argument was about or
19 will she be able -- if we don't get into what it was
20 about, will they be able to go and say what the argument
21 was about or will they be limited to saying, no, that's
22 just not what it was about?

23 THE COURT: Technically, I think that door would
24 be open, but the Solicitor has said that you just ask was
25 there an argument she says, yes. He says he's not going

1 to go down that road, but that's his call.

2 MR. MCEACHIN: That's correct, Your Honor. I
3 just want to make sure that Mr. Woodson understands if he
4 asks all these questions about not picking up the daughter
5 and all this and that.

6 THE COURT: Anything pertaining to their
7 argument before, during or after, the door is open.

8 MR. MCEACHIN: That's right. That's right.

9 THE COURT: All right.

10 MR. MCEACHIN: Thank you, Your Honor.

11 THE COURT: We will see you all at 2:30.

12 (WHEREUPON, a lunch break was taken.)

13 THE COURT: Okay.

14 MR. WOODSON: Me and the Solicitor talked about
15 Dr. Minter's testimony. Basically, we going to ask her
16 about her exam. We're not going to get into any -- the
17 diagnosis section of the exam and the reason for that,
18 Your Honor, is she never got a clear history from the
19 child. She said that's not protocol. And I asked her why
20 does it say sexual abuse under diagnosis, she said that's
21 kind of standard if they make allegations somewhere else,
22 but I don't think that's admissible in this trial and
23 Mr. McEachin is in agreement, so we're going to stick to
24 the exam itself and not going into any diagnosis or any
25 conclusory statements unless on the last page of her

1 report; is that correct?

2 MR. MCEACHIN: That's correct.

3 THE COURT: Go ahead and bring them out.

4 (WHEREUPON, the jury came into open court.)

5 THE COURT: That's good. Go ahead call your
6 first witness.

7 MR. WOODSON: Your Honor, I call Dr. Patrice
8 Minter to the stand.

9 THE CLERK: Ma'am, come around let me swear you.
10 Do you solemnly swear to tell the truth, the whole truth,
11 and nothing but the truth so help you God?

12 THE WITNESS: I do.

13 THE CLERK: Please be seated and state your full
14 name for the record.

15 THE WITNESS: Patrice Minter.

16 WHEREUPON,

17 Patrice Minter,

18 after first having been duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. MCEACHIN:

21 Q Okay. Could you state your name for the record?

22 A Ella Patrice Turbeville Minter.

23 Q Okay. And for the court reporter your last name
24 could you spell that?

25 A M-I-N-T-E-R.

1 Q All right. And what is your profession?

2 A I'm a pediatrician.

3 Q How long have you been a pediatrician?

4 A Since 1996.

5 Q Okay. Tell the jury about your educational
6 background?

7 A I'm board certified in pediatrics, which means I
8 just take care of children and I have extra training in
9 development and behavior. I also have extra training in
10 child abuse.

11 Q Okay. And did you happen to come in contact -- well,
12 do you have a patient name Minor ?

13 A I do.

14 Q And how long has she been a patient?

15 A She's been a patient of mine for the last several
16 years actually.

17 Q Okay. Now, there was a -- was there an occasion
18 where she came to you regarding an allegation of abuse?

19 A There was.

20 Q Okay. And were you her doctor prior to that
21 allegation?

22 A I was. I was her doctor prior to that.

23 Q Okay. Did you perform any physical exam on Minor ?

24 A I did.

25 Q Okay. And as a part of what you do, do you actually

1 ask the child about the allegations?

2 A I do not.

3 Q Okay. I want -- do you have your report with you
4 today?

5 A I do.

6 Q I have couple of questions regarding your exam on her
7 and let me back up. You're a pediatrician. Were you
8 dealing with children that had these allegations of abuse
9 on a regular basis at one point?

10 A I have done -- I have done child sexual abuse and
11 physical abuse off and on since '96. I have additional
12 training in that, but I do not do it solely. I also do
13 general pediatrics.

14 Q Okay. And at this point were you doing both?

15 A I was doing both at this point.

16 Q Okay. And at this point what are you doing, are you
17 still doing both?

18 A I'm sorry.

19 Q As of the date of this trial, are you still doing
20 both or...

21 A No, I have -- due to health reasons, I have stopped
22 doing sexual and physical abuse.

23 Q Okay. All right. If you can flip to page two of
24 your report. I would ask you some questions, but during
25 this exam does the child take off their clothes?

1 A They do, they put own a gown.

2 Q Okay. And was -- did you look for -- strike that
3 question. Can you flip to page five of your report?

4 A I'm sorry, I'm hard of hearing.

5 Q Could you flip to page five of your report. I'm
6 sorry. Were you given any history of prior injuries?

7 A No.

8 Q All right. And you were asked about the child's
9 conduct. I'm sorry emotional different syndromes that the
10 child may have had such as A.D.D. and things of that
11 nature?

12 A At this visit, I was not.

13 Q Okay. If you can flip to page six of your report.
14 Were you at -- did you ask anyone if any behavioral
15 changes had occurred in the child?

16 A I asked mom and mom described the child as silly, but
17 mom also states that the child is often hyper and silly,
18 so mom did not see that as a big difference.

19 Q Okay. So you marked no behavioral changes in the
20 child?

21 A Correct.

22 Q Okay. All right. If you can flip to the next page
23 page seven.

24 MR. MCEACHIN: Your Honor, I have no objection
25 if Mr. Woodson wants to introduce the exhibit into

1 evidence. If he's going to keep stating she can flip to a
2 particular page, I ask that it be admitted into evidence.

3 MR. WOODSON: Well, Your Honor, I'm just doing
4 that for ease of my questioning. I would prefer just to
5 ask it.

6 THE COURT: Go ahead and ask her.

7 And then you can cross-examine.

8 BY MR. WOODSON:

9 Q Okay. You examine various parts of Minor body?

10 A I did.

11 Q All right. And there's -- W.N.L. and A.B.N. can you
12 explain what that is?

13 A W.N.L. means within normal limits and ABNL means
14 abnormal.

15 Q All right. And you tested her eyes, nose, throat and
16 things of that nature and lungs?

17 A I did.

18 Q Okay. You also tested her anus?

19 A I did.

20 Q Was that within normal limits?

21 A It was.

22 Q And do you have any notes regarding the within normal
23 limits of the anus?

24 A I can't hear, I'm sorry.

25 Q I'm sorry. When you put within normal limits of the

1 anus, you have some note beside that?

2 A I do.

3 Q What do those notes mean and can you tell the jury
4 what that says?

5 A It says normal wink and no evidence of injury.

6 Q That's to the anus; is that correct?

7 A Correct.

8 Q All right. On the next page, you discussed the
9 vaginal area; is that correct?

10 A I do.

11 Q All right. Was the vagina within normal limits?

12 A It was.

13 Q And you make a comment regarding her hyman what is
14 that?

15 A Normal slightly redundant hyman.

16 Q And what does slightly redundant mean?

17 A It means it has little folds in it means it's
18 estrogenize. She's starting to grow up a little bit and
19 it's starting to be more adult like.

20 Q Okay. During this exam, did you notice any injuries
21 on the child?

22 A I did not.

23 Q Also as a part of this exam -- strike that. When you
24 look for injuries -- basically these are the external
25 injuries to her body; is that correct? You're looking for

1 external injuries or abnormalities on the child's body; is
2 that correct?

3 A Correct.

4 Q And you didn't find any?

5 A I did not.

6 MR. WOODSON: Thank you.

7 THE COURT: Mr. McEachin.

8 MR. MCEACHIN: Thank you, Your Honor.

9 CROSS-EXAMINATION

10 BY MR. MCEACHIN:

11 Q Dr. Minter, thank you for being here this afternoon.
12 Just a quick, a couple of quick follow-up questions for
13 you with regard to the questions Mr. Woodson asked you.
14 How many years did you say you been in the practice of
15 dealing with children in a sexual abuse type nature?

16 A Since 1996.

17 Q Okay. And during that period of time, how many
18 different children do you think you've seen regarding
19 those type allegations?

20 A Hundreds.

21 Q Okay. And if you could give us -- I don't know that
22 Mr. Woodson asked you this. What's your educational
23 background?

24 A I have -- well, first you have four years of college.
25 Then you have four years of medical school. Then you have

1 four years of residency. And then additional special
2 training in the specialty of child sexual abuse.

3 Q Okay. And you had that specialize training?

4 A Yes, sir.

5 MR. MCEACHIN: Your Honor, at this time I'd ask
6 that we admit her as an expert in pediatrics.

7 THE COURT: Any objections?

8 MR. WOODSON: No, Your Honor.

9 THE COURT: All right, go ahead.

10 MR. MCEACHIN: Thank you.

11 BY MR. MCEACHIN:

12 Q Now, Dr. Minter, Mr. Woodson ask you about a number
13 of items that were in your report there specifically about
14 whether things were abnormal or within normal limits I
15 think was the correct medical termination for it. Based
16 on your report, you state there was no evidence of any
17 abnormality in the vaginal area; is that correct?

18 A Correct.

19 Q And you also stated that in the anus or in the anal
20 area; is that correct?

21 A Correct.

22 Q All right. And just because there is no, I guess,
23 physical evidence of trauma, does that indicate one way or
24 another whether trauma has occurred?

25 A No, sir.

1 Q Okay. So it could very well be that just because
2 there's no physical evidence of trauma, that doesn't
3 necessarily mean nothing happened?

4 A Correct.

5 Q Okay. And, Dr. Minter, isn't it true that in a
6 number these sexual assault cases there may very well be
7 no evidence of trauma?

8 A Correct.

9 Q And normally if there's an allegation of oral sex,
10 does oral sex -- is there normally any evidence of trauma
11 in oral sex case?

12 A No.

13 Q And how about -- let me ask just specifically about
14 anal penetration. Isn't it true Dr. Minter that when it
15 comes to anal penetration there's typically no evidence of
16 that; is that correct?

17 A Typically.

18 Q And can you tell the jury why that is?

19 A That tissue is very stretchy and gives very easily
20 and so it doesn't typical leave any mark or trauma. It's
21 very elastic and so it gives very easily.

22 Q And let me ask you this as well, Dr. Minter. If the
23 child has had some sort of lubricant placed on them prior
24 to intercourse, would that make it more or less likely to
25 -- for trauma to occur?

1 A Less likely.

2 Q So if something like grease or lotion or even spit or
3 saliva was placed on the child prior to any type of
4 intercourse, would that make it more or less likely for
5 you to find trauma?

6 A Less likely.

7 MR. MCEACHIN: Thank you no further questions.

8 THE COURT: Any redirect?

9 MR. WOODSON: Beg the Court's indulgence.

10 (WHEREUPON, a pause in the proceedings.)

11 REDIRECT EXAMINATION

12 BY MR. WOODSON:

13 Q Dr. Minter, if there was penal penetration of a
14 child's vagina by a grown man, is it your testimony there
15 would be no evidence of injury?

16 A It's very possible there could be no evidence.

17 Q Or anal penetration there would be no evidence of
18 injury at all?

19 A It's very possible there could be no evidence.

20 Q And it's very possible that they could be; is that
21 correct?

22 A It's very possible that there could be no evidence
23 there.

24 Q But I'm saying is it also possible that there could
25 be no evidence?

1 A There could be evidence, but there could also not be
2 either way one way or the other it's yes or no?

3 MR. WOODSON: No further questions, Your Honor.

4 THE COURT: Anything further?

5 MR. MCEACHIN: Nothing further.

6 THE COURT: Have a good day.

7 (WHEREUPON, the witness leaves the witness
8 stand.)

9 THE COURT: Call your next witness.

10 MR. WOODSON: Your Honor, I'd call Ms. Annette
11 Wardy to the stand.

12 THE CLERK: Ms. Wardy, if you will come around
13 please, ma'am. If you will raise your right hand and put
14 the left on the Bible. Do you solemnly swear to tell the
15 truth, the whole truth, and nothing but the truth so help
16 you God?

17 THE WITNESS: Yes, ma'am.

18 THE CLERK: Thank you, ma'am. Please be seated
19 and state your full name for the record.

20 THE WITNESS: Annette Wardy.

21 WHEREUPON,

22 Annette Wardy,
23 after first having been duly sworn, testified as follows:

24 DIRECT EXAMINATION

25

1 BY MR. WOODSON:

2 Q Ms. Wardy, state your name for the record again?

3 A My name is Annette Wardy.

4 Q Ms. Wardy, when you testified yesterday, we didn't
5 get into any names of anybody that Minor had stated to you?

6 MR. MCEACHIN: Your Honor, at this time I
7 believe there's a matter law that we need to take up.

8 THE COURT: All right. You all be so kind as to
9 step back into the jury room for just a moment. Do not
10 discuss the case.

11 (WHEREUPON, the jury retire to the jury room.)

12 THE COURT: All right.

13 MR. MCEACHIN: Your Honor, based on how Mr.
14 Woodson started off that question, I believe he's about to
15 try to elicit some testimony from both this witness and I
16 believe his next witness that would be in violation of the
17 hearsay rule particularly Rule 801(D) any evidence uttered
18 by an -- out of court statement uttered by somebody who
19 has testified in trial. Rule 801(D) governs those
20 statements. And if he's going to elicit anything from Ms.
21 Wardy other than the time and place of the alleged sexual
22 assault, that be in violation of hearsay. And I direct
23 the Court's attention specifically to Rule 801(D) (1) (D) as
24 far as that's concern, Your Honor.

25 Again, I ask that we take it up outside the

1 presence of the jury. I can make a continuing objection
2 each time he brings it up, but I would let the Court know
3 that and I think it is in violation of hearsay rule.

4 THE COURT: Where are you headed to with it,
5 Mr. Woodson?

6 MR. WOODSON: Your Honor, she's testified it's
7 clear in the record that this child has named Vincent
8 Brunson. It's on the video. The child testified. I'm
9 simply asking her about what the child told her.

10 THE COURT: Still hearsay unless it's pertaining
11 to time and place pursuant 801(D).

12 MR. WOODSON: Your Honor, I would say it falls
13 under the hearsay exception, which would be either excited
14 utterance or primarily excited utterance, Your Honor.
15 Also, it would be prior inconsistent statement with which
16 she's saying now, Your Honor.

17 THE COURT: I don't think it's an excited
18 utterance in any form or fashion. And then you think in
19 801(D) -- what was your other...

20 MR. WOODSON: Say it again, Judge, I'm sorry.

21 THE COURT: You said excited utterance. What
22 was the second step ---

23 MR. WOODSON: Prior inconsistent statement.
24 That's right prior inconsistent.

25 THE COURT: Talking about inconsistent with her

1 testimony?

2 MR. WOODSON: Inconsistent with the subsequent
3 statement she made.

4 THE COURT: This witness? You talking about
5 her?

6 MR. WOODSON: No, the child's statement.

7 THE COURT: The child's not on the stand. The
8 declarant testifies after trial or hearing and is subject
9 to cross-examination concerning the statement and the
10 statement is inconsistent with the declarant's testimony.

11 MR. MCEACHIN: I don't see it as having been
12 being inconsistent. I mean, it certainly wasn't this
13 witness, Your Honor. I don't see it being inconsistent
14 with -- I don't know that that rule applies.

15 THE COURT: I don't think it does either not for
16 this witness.

17 MR. WOODSON: Under C identification of a person
18 made 801(D)(1)(C) identification of a person made after
19 perceiving the person.

20 THE COURT: But you're talking about the child's
21 identification and not this witnesses identification.
22 801(D) says the statement is not hearsay if prior
23 statement by the witness. The declarant testifies at
24 trial and is subject to cross-examination. We got Annette
25 Wardy on the stand right now.

1 MR. WOODSON: Basically, if I can't ask her who
2 the child identified in her presence -- I mean, that's
3 also going to limit me on cross-examining -- but not
4 cross-examining but calling the police officer because he
5 actually took the child's statement also.

6 THE COURT: Well, if it's hearsay, it's hearsay.
7 I don't know about the police officer yet as far as this
8 lady goes.

9 MR. WOODSON: Because that's my point I have the
10 police officer her and gone testify that...

11 THE COURT: As to what he did and what he saw,
12 et cetera et cetera as far as his investigation goes.

13 MR. WOODSON: But not as to what...

14 THE COURT: Somebody else said.

15 MR. WOODSON: The child said to him in the
16 course of the investigation.

17 MR. MCEACHIN: Unless, it deals with time and
18 place, Judge.

19 THE COURT: That would be hearsay. You all
20 ready to roll?

21 MR. WOODSON: Your Honor, as far as time and
22 place, the story that this child told her was a little
23 different as far as the time and place is that out -- is
24 your ruling also that I can't ask her about that? I think
25 that would fall into the...

1 THE COURT: Yeah, if the child said it happened
2 here at noon, that would be not hearsay, outside of that
3 it's hearsay, unless it falls within exception and I don't
4 see it at this time.

5 MR. WOODSON: So no questions about the name,
6 but I can question her about the story?

7 THE COURT: So long as it doesn't involve
8 hearsay and what the child says regarding time and place.
9 Yeah, that's admissible.

10 All right. Go ahead and bring in the jury.

11 (WHEREUPON, the jury came into open court.)

12 DIRECT EXAMINATION CONTINUED.

13 BY MR. WOODSON:

14 Q Ms. Wardy, when you were talking to Minor you said
15 that you were in a separate room with her; is that
16 correct?

17 A Yes, sir.

18 Q All right. And she disclose some things to you; is
19 that correct?

20 A Yes, sir.

21 Q Where did she say that the incident happened?

22 A At home at her house.

23 Q At her house. Did she give you time frame as to when
24 it happened?

25 A Basically, she said it was -- she was in her bed

1 sleeping and it was at night..

2 Q Okay. And do you recall what she alleged happened at
3 her house?

4 MR. MCEACHIN: Your Honor, I object hearsay.

5 THE COURT: Sustained.

6 BY MR. WOODSON:

7 Q Did she say who was at home when this allegedly
8 happened?

9 MR. MCEACHIN: Objection hearsay.

10 THE COURT: Sustained.

11 BY MR. MCEACHIN:

12 Q Do you have any personal knowledge as to who was at
13 the home when this allegedly happened?

14 A Not personally, no more than what was disclose to me
15 about who was there. I know she was there, her mom was
16 there.

17 Q Okay. When you were talking to Minor and her mom --
18 well, let me back up. Were you there when Minor mom came
19 to the came to the school?

20 A I was there, but I never spoke to Minor mom when she
21 came in. She came in administration and law enforcement
22 talk to Minor mom. I never talk to her mom during that
23 time..

24 Q Okay. You didn't talk to Minor mom any that day?

25 A None that day, no, I didn't.

1 Q Did you see her that day?

2 A I saw when she came in.

3 Q And you had no conversation with her?

4 A No conversation with her at all.

5 Q And again as far as the time frame, did she give you
6 a time frame like did it happen the day before or as far
7 as you can recall?

8 MR. MCEACHIN: Objection, Your Honor, asked and
9 answer.

10 THE COURT: I will let you ask it one more time.
11 BY MR. WOODSON:

12 Q Did she give you a time frame as to whether it happen
13 the day before couple days before?

14 A She never really said what night it happened. She
15 never disclosed what night it happen. She just said she
16 was in her bed when it happened.

17 Q Okay. And was ---

18 MR. WOODSON: No further questions.

19 THE COURT: Anything further?

20 MR. MCEACHIN: Nothing from the State, Your
21 Honor.

22 THE COURT: Have a good day.

23 (WHEREUPON, the witness leaves the witness
24 stand.)

25 THE COURT: Call your next witness.

1 MR. WOODSON: I call Officer Vincent Hanna to
2 the stand.

3 THE CLERK: Do you solemnly swear to tell the
4 truth, the whole truth, and nothing but the truth so help
5 you God?

6 THE WITNESS: I do.

7 THE CLERK: Have a seat in the witness box.

8 WHEREUPON,

9 Vincent Hanna,
10 after first having been duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MR. WOODSON:

13 Q Would you state your name?

14 A Vincent Hanna.

15 Q And, Mr. Hanna, where are you employed?

16 A Florence County Sheriff's Office.

17 Q How long have you worked there?

18 A Nineteen years.

19 Q All right. Do you recall going to

20 School back in December of 2011?

21 A Yes, sir.

22 Q Okay. And did you arrive alone or did you have some
23 other people with you?

24 A It was me and D.S.S. Jennifer Harrison.

25 Q And who did you speak with once you arrived at the

1 school?

2 A The assistant principal and the -- Minor

3 Q Okay. And what was your understanding as to why you
4 were at the school?

5 A Sexual abuse case.

6 Q Okay. And did you actually talk with Minor?

7 A Yes, sir.

8 Q All right. And did she allege that Jimmy Turner ---

9 MR. MCEACHIN: Objection, Your Honor, that's
10 leading.

11 THE COURT: Sustained.

12 BY MR. WOODSON:

13 Q Who did she allege sexually abuse her?

14 MR. MCEACHIN: Your Honor, I'm going to object
15 again. It's repetitive hearsay questions here.

16 THE COURT: Come on up.

17 (WHEREUPON, a bench conference was held in the
18 presence of the jury, but out of the hearing of the
19 jury.)

20 BY MR. WOODSON:

21 Q Okay. Sergeant Hanna, where did Minor allege that the
22 incident happened?

23 A She told us at her mother's house in Florence.

24 Q I'm sorry?

25 A In Florence County at her momma house.

1 Q And did she allege that anything was going on that
2 night any sort of party?

3 MR. MCEACHIN: Objection, Your Honor, hearsay.

4 THE COURT: Sustained.

5 BY MR. WOODSON:

6 Q Did she gave you a time frame as to when it happened?

7 A She said at night that's the only time frame. She
8 didn't give a specific time.

9 Q Did she give a specific date or...

10 A No, she didn't give a specific date.

11 Q Okay. What was her demeanor?

12 A She was pretty much upset when she started, you know,
13 telling the counselor and then they called us. It was
14 normal behavior for somebody that's saying they were
15 sexually assaulted and telling it for the first time. She
16 was -- she cried a little bit while she was telling it.

17 Q All right. Did her mom -- when her mome came to the
18 school, what was her demeanor?

19 A The mom she was probably be like any mother getting a
20 call saying come out to the school to meet with the police
21 and D.S.S. about your daughter, which we told her that she
22 was fine, but she was more concern about what was going on
23 with her daughter because she didn't know. We didn't tell
24 her over the phone why we wanted to talk to her.

25 Q Did she dispute what her daughter was saying?

1 MR. MCEACHIN: Objection, Your Honor, hearsay.

2 THE COURT: Sustain.

3 MR. WOODSON: Your Honor, if I may, I'm not
4 going to ask him what was said. I'm just asking him did
5 she dispute in his presence what was said.

6 MR. MCEACHIN: That's hearsay, Judge.

7 THE COURT: I agree. Sustained.

8 BY MR. WOODSON:

9 Q Okay. How long were you at the school that day?

10 A Probably about two to -- two or three hours.

11 Q All right. When you were getting information, you
12 got information on the child; is that correct?

13 A Yes.

14 Q Her address and phone number and date of birth?

15 A Yes.

16 Q You got the mom's name?

17 A Yes.

18 Q Did you get anybody else that was alleged to have
19 done anything at that address?

20 MR. MCEACHIN: Objection, I think it calls for
21 hearsay, Judge.

22 THE COURT: Sustained.

23 BY MR. WOODSON:

24 Q Okay. Were you given any other names and address?

25 MR. MCEACHIN: Your Honor, same objection.

1 THE COURT: Sustained.

2 BY MR. WOODSON:

3 Q How many names did you get?

4 MR. MCEACHIN: Your Honor, may we approach?

5 THE COURT: Yes.

6 (WHEREUPON, a bench conference was held in the
7 presence of the jury, but out of the hearing of the
8 jury.)

9 BY MR. WOODSON:

10 Q Okay. Sergeant Hanna, who did you investigate?

11 A Who did I investigate?

12 Q Yes.

13 A No one. I did the initial report.

14 Q Did you do anything after the initial report?

15 A No, sir.

16 Q If somebody had done an investigation after you,
17 would that be attached to your report or added to your
18 report?

19 A In my report, I did notify Investigator Jennifer
20 Floyd.

21 Q Okay. As far as you know, did she do any subsequent
22 investigation?

23 A I couldn't answer that question. I don't know.

24 Q Typically when somebody does a follow-up, do they
25 attach it and put it in the computer system that they did

1 a follow-up?

2 A Yes, sir.

3 Q And that didn't happen in this case?

4 A Well, I'm not sure if she did one or not. I can't
5 answer that question. I mean, typically when we call them
6 out to the scene, they do an investigation, but I don't
7 check with them to see how far. I can't answer.

8 Q When you pull the report out of the computer prior to
9 coming here, did you see any other reports related to this
10 case?

11 A No, sir.

12 MR. WOODSON: I don't have any other questions,
13 Your Honor.

14 THE COURT: Any cross?

15 MR. MCEACHIN: Just one, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. MCEACHIN:

18 Q Sergeant Hanna, right?

19 A Right.

20 Q Sergeant Hanna, other than you being called out to
21 the school that day to take the initial report, did you
22 have any other involvement in this case?

23 A No, sir.

24 Q Were you ever apprised of what happened at the Care
25 House the next day?

1 A No, sir.

2 Q And were you ever apprised of anything that has
3 transpired since that period of time?

4 A No, sir.

5 Q Did you ever work hand in hand with the Marion Police
6 Department who investigated this case?

7 A No.

8 Q Your only involvement in this case was going to the
9 school that day and taking the initial report?

10 A That's correct.

11 MR. MCEACHIN: No further questions, Your Honor.

12 THE COURT: Anything further?

13 MR. WOODSON: No, Your Honor.

14 THE COURT: Have a good day.

15 (WHEREUPON, the witness leaves the witness
16 stand.)

17 THE COURT: Call your next witness.

18 MR. WOODSON: Faye Thompson.

19 MR. MCEACHIN: Your Honor, may we approach?

20 (WHEREUPON, a bench conference was held in the
21 presence of the jury, but out of the hearing of the
22 jury.)

23 THE CLERK: Do you solemnly swear to tell the
24 truth, the whole truth, and nothing but the truth so help
25 you God?

1 THE WITNESS: Yes, I do.

2 WHEREUPON,

3 Faye Thompson,

4 after first having been duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. WOODSON:

7 Q Can you state your name?

8 A Faye Felder Thompson.

9 Q Okay. And how old are you?

10 A I'm 25.

11 Q Okay.

12 A I mean 35, I'm sorry excuse me.

13 Q Trying to take time off of it, I understand. Are you
14 related to Minor ?

15 A Yes, that is my cousin.

16 Q And do you know Jimmy Turner?

17 A Yes.

18 Q Okay. And how long have you known Jimmy?

19 A Going on six or seven years now I think.

20 Q Okay. All right. And at some point, were you and
21 Jimmy Turner living together?

22 A Yes.

23 Q Who else lived in the house?

24 A It was me and him my mother and my father.

25 Q Okay. And this was at ?

1 A Yes, that's correct.

2 Q How many bedrooms are in that house?

3 A Four.

4 Q Okay.

5 A Three bedrooms and like a dining area.

6 Q Okay. And did Minor come and stay with you all
7 sometimes?

8 A Yes.

9 Q All right. How often?

10 A Every weekend and sometimes when school wasn't in she
11 stayed with us also then.

12 Q Okay. When Minor was at your house, did her mom ever
13 drop her off with Jimmy?

14 A No. I was there and my mother was there.

15 Q Okay. When she was there, who primarily looked after
16 her?

17 A My mother.

18 Q Do you recall any time where Jimmy looked after her
19 by himself?

20 A Never.

21 Q Okay. Did Jimmy work?

22 A Yes, he worked at at a point in time and
23 on a paper route.

24 Q And was he working at at the time in
25 November of 2011? Do you remember?

1 A Can't recall. I don't remember. I think so, I think
2 right after that he left that job.

3 Q Okay. At some point -- but he was still doing the
4 paper route; is that fair to say?

5 A Yes, he was doing the paper route.

6 Q Who would go with him or would anybody go with him
7 when he was on the paper route?

8 A I went with him every day on the paper route.

9 Q About what time would you all go?

10 A We left out about 3:30, four o'clock that morning.

11 Q Okay. Now, whether Minor was with you all or not,
12 what was the typical day, would you all stay at home all
13 day?

14 A No, we always would go. He always would take me
15 places. We would never be at home.

16 Q Okay. That's during the day?

17 A During the day.

18 Q Okay. And who would be with Minor during the day?

19 A My mother.

20 Q Okay. And, of course, you all would come home in the
21 evening?

22 A Come home in the evenings eat, wash and we go on to
23 bed.

24 Q Okay. And who would wash Minor ?

25 A My mother would wash Minor .

1 Q Okay. Was there ever any time that you can recall
2 that you sent Minor into your room to get anything for you?

3 A I never sent Minor in my room to get anything for me.

4 Q Okay. Was there ever a situation where you recall
5 being in the house and hearing Minor screaming for help?

6 A No.

7 Q Did Minor ever act fearful while she was around Jimmy?

8 A No.

9 Q Okay. Did she ever let you know anything or say
10 anything was wrong?

11 A She never did.

12 Q Okay. Now, let's talk a little bit about your house.
13 There was a picture introduced into evidence of the house
14 State's Exhibit Number 2. Is this a picture of the house?

15 A Yes.

16 Q All right. And fairly small house?

17 A Yeah, fairly small.

18 Q Okay. When you walk in the front door, what's the
19 first room that you're in?

20 A The living.

21 Q Okay. And where is your bedroom located -- if you
22 sitting -- if you're standing in the living room, where
23 would your bedroom be located?

24 A On the left.

25 Q Okay. So if I'm walking in the house, I'm in the

1 living room and the bedroom is right there on the left?

2 A Yes.

3 Q Is there a television in the living room?

4 A Yes. There two TV's in the living room.

5 Q Okay. And if you were watching TV, which direction
6 would you be facing?

7 A This way.

8 Q And would that be towards the bedroom?

9 A No, that's toward the -- like the front, the door
10 window.

11 Q Okay. So if you're watching television, would you be
12 able to see the door to your bedroom?

13 A Yes.

14 Q Okay. Did Minor spend a lot of time in your room?

15 A No, she basically stayed in the room with my mom, in
16 the room with my mom.

17 Q Okay. Do you ever recall a time when Minor went into
18 a close room with Jimmy?

19 A No.

20 Q The three bedrooms, where's the next bedroom? You
21 said there's three bedrooms.

22 A Right beside my room.

23 Q Okay. And whose bedroom is right beside your room?

24 A That's my mother room.

25 Q Okay. And when Minor would spend the night, which

1 room would she spend the night in?

2 A She would sleep in my mother's room.

3 Q Okay. And is there a separate bed for Minor?

4 A Yes.

5 Q Okay. And where's the third bedroom located?

6 A Right off the kitchen.

7 Q Okay. And who was in that room?

8 A No one.

9 Q Okay. Your father was in the room with your mom?

10 A Yes.

11 Q Okay. I want to ask you a question. This is State's
12 Exhibit Number 11 have you seen this spread before?

13 A Yes.

14 Q Do you recall what room that would have been in?

15 A That was in the bedroom from the kitchen.

16 Q And when you say the bedroom from the kitchen, is
17 that the room that you testified that no one was in?

18 A No one was in.

19 Q Okay.

20 MR. WOODSON: I don't have any other questions,
21 Your Honor.

22 THE COURT: Cross.

23 MR. MCEACHIN: Certainly, Your Honor.

24 CROSS-EXAMINATION

25

1 BY MR. MCEACHIN:

2 Q Good afternoon.

3 A Good afternoon.

4 Q I'm just going to ask you a couple of questions
5 today, all right.

6 A All right.

7 Q Mr. Woodson asked you how long you had known the
8 defendant, Jimmy Turner. I think you said going on six or
9 seven years?

10 A Six or seven years.

11 Q And are you dating the defendant?

12 A Yes.

13 Q Okay. And how long have you all been dating?

14 A About maybe five out of the six.

15 Q Okay. So about five out of six years you been dating
16 the defendant. And out of those six years, you said you
17 all lived together. How long did you all live together?

18 A Maybe about four.

19 Q Okay. Did he live with you at ?

20 A Yes..

21 Q All right. Now, during that period of time that you
22 and Jimmy were living together, that's the time that Minor
23 would come over and stay with you; is that right?

24 A Yes.

25 Q And how often could she come over and stay with you?

1 A Every weekend basically.

2 Q So a bunch?

3 A A bunch of times.

4 Q Okay. More than ten times you think?

5 A You talking out of a month or...

6 Q Just as long as you can recall?

7 A A lot, a lot.

8 Q Okay. And when Minor came over sometimes, she would
9 go across the street and play with the little girl, I
10 think her name was K. ; wasn't it?

11 A Yes.

12 Q Okay. When she was over there playing with K. ,
13 sometimes you all wouldn't keep an eye on her, would you?

14 A Yes, because I would either be out the door or either
15 my mother.

16 Q Now, isn't it true that sometimes she went in K. 's
17 house?

18 A No, they would always play in the yard.

19 Q Okay.

20 MR. WOODSON: Your Honor, can we approach?

21 THE COURT: Yes.

22 (WHEREUPON, a bench conference was held in the
23 presence of the jury, but out of the hearing of the
24 jury.)

25 THE COURT: Members of the jury, if you step

1 back in there for about 60 seconds. We will be right back
2 with you.

3 (WHEREUPON, the jury retire to the jury room.)

4 THE COURT: Mr. Woodson.

5 MR. WOODSON: Your Honor, the Solicitor's going
6 to try to cross-examine my client with a transcript from
7 the previous trial that was not given to me in discovery.
8 I would object to him referring to it because I haven't
9 had a chance to look at it. If that's something that he's
10 gone say is from the trial, it's not sealed. You don't
11 have a copy that is sealed. I'm just gone have to object
12 to it, Your Honor.

13 THE COURT: You want to respond.

14 MR. MCEACHIN: Sure, Your Honor. If you look at
15 Rule 5 and Brady vs. Maryland, it certainly doesn't
16 encompass it, the transcript from the prior trial.
17 Mr. Woodson has just as much ability to get a copy of this
18 transcript as we did, simply had to call the court
19 reporter from the prior trial. It's not encompassed
20 within any type of discovery document. He had the ability
21 to get it. He may have not have chosen to do so, Your
22 Honor, but the State did. And we plan on cross-examining
23 the witnesses based on the prior sworn testimony.

24 MR. WOODSON: According to my discovery motions,
25 if there any inconsistent statements, I want a copy of it

1 say. So if he's going to say that this is an inconsistent
2 statement, I can show you my discovery motion, then I
3 should have been given a copy of it.

4 THE COURT: I'm going to overrule it. It's
5 admissible.

6 MR. MCEACHIN: Thank you, Your Honor.

7 THE COURT: Why don't we go ahead and go over
8 his Fifth Amendment Rights right now since they're out. I
9 don't want to have to send them back out.

10 If you would come on up and place your left hand
11 on the Bible and raise your right hand..

12 THE CLERK: Do you solemnly swear or affirm to
13 tell the truth, the whole truth, and nothing but the truth
14 so help you God?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: All right, Mr. Turner, I just want
17 to go over certain rights that you have. I wanted to let
18 you know that you have the right to come over here and be
19 sworn in like all these other witnesses. And you have the
20 right to get on the stand and testify if you would like.
21 You understand that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: You can testify. You can tell your
24 side of the story in any way that you and your lawyer see
25 fit. Do you understand that?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: However, do you understand that if
3 you do testify, you may be cross-examined on any and all
4 relevant issues in connection with your case. Do you
5 understand that?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Furthermore, if you had a criminal
8 record crime and it involves crimes, that involve
9 dishonesty or false statements or you have a criminal
10 record that involves crimes that carry a punishment of
11 more than one year and the Court determines that the
12 probative value admitting the same outweighs its
13 prejudicial affect, then your criminal record shall be
14 introduced to attack your credibility. Do you understand
15 that?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Do you understand the risk
18 associated with testifying in this trial?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: All right. Do you understand also
21 however that you do have the Constitutional Right to
22 remain silent. You understand that?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: You do not have to testify and
25 nobody can make you testify. And in fact if you choose to

1 exercise that right and not take the stand and testify, I
2 want you to understand that I would tell that jury they
3 cannot use that against you in anyway whatsoever. I will
4 tell the jury the fact that you did not testify is to
5 absolutely have no prejudice against you. I would even
6 tell the jury they cannot discuss that fact in the jury
7 room. Do you understand your right to remain silent?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Have you talked this over with your
10 lawyer about whether or not you would like to testify in
11 this trial? Have you all discussed it?

12 THE DEFENDANT: We had a conversation.

13 THE COURT: You talked about it?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Do you understand these rights that
16 I have gone over with you?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Do you have any questions for me or
19 your lawyer about those rights?

20 THE DEFENDANT: No, sir.

21 THE COURT: All right. Do you plan to testify
22 in this trial or not?

23 THE DEFENDANT: No, sir.

24 THE COURT: Thank you very much. For the
25 record, I find that the defendant made that decision

1 freely and intelligently with the advice of competent
2 counsel. All right. You go ahead and bring out the jury.

3 (WHEREUPON, the jury came into open court.)

4 MR. MCEACHIN: Thank you, Your Honor.

5 CROSS-EXAMINATION CONTINUED

6 BY MR. MCEACHIN:

7 Q Ms. Thompson, before the jury stepped out, we had
8 been talking about Minor when she comes over to the house
9 and what she does. And you had indicated that sometimes
10 she goes across the street and plays with K. . Isn't it
11 true sometimes she went into K. 's house where you all
12 couldn't see her?

13 A She went in there, but other people would be in there
14 grown parents, other grown people went in there and
15 they're with her as well.

16 Q You went in there with her as well?

17 A I say they was in there with her as well. I never
18 went to their house.

19 Q Okay. And let me ask you this, you said normally
20 your mother was the one who would watch Minor ; isn't that
21 correct?

22 A Yes, sir.

23 Q And, I guess, at some times when your mother was
24 watching her, you wouldn't be watching her; is that fair
25 to say?

1 A I basically be gone.

2 Q Okay. And you don't always know if your mother had
3 her eyes on her or not, do you?

4 A Yeah, she always stay foot to foot with my mother.

5 Q Okay. Well, if you weren't there, how did you know
6 that?

7 A I'm saying when I was there. And when I wasn't
8 there, she still would be around her. She would always be
9 around my mother.

10 Q Is it fair to say that you all didn't always see
11 Minor ?

12 A We always saw Minor .

13 Q Every time she ever came to the house?

14 A Always saw Minor .

15 Q Okay. And this was over multiple multiple times?

16 A Multiple multiple times.

17 Q Why was it so important that you always kept your eye
18 on her?

19 A We just always did that. I was raise to always keep
20 my child. My eyes on the child no matter what.

21 Q Okay. And there were times when she would come over
22 to your house and strike that for just a moment, for just
23 a moment. Ms. Thompson, you indicated to the jury earlier
24 that you and Jimmy Turner had been dating for about five
25 years?

1 A Uh-huh.

2 Q Excuse me -- going on six years?

3 A Yes.

4 Q And do you love?

5 A Yes, I do.

6 Q All right. And you care about him?

7 A Yes, I do.

8 Q And he's very important to you?

9 A Yes, he is.

10 Q And you don't want to see him in any trouble?

11 A No.

12 Q Okay. And you do anything you can to get -- make
13 sure he doesn't get in any trouble; is that right?

14 A No, I would not.

15 MR. MCEACHIN: Okay. Ms. Thompson, I appreciate
16 you being here today and thank you so much.

17 THE WITNESS: Thank you.

18 THE COURT: Mr. Woodson.

19 REDIRECT EXAMINATION

20 BY MR. WOODSON:

21 Q Ms. Thompson, follow-up to his last question. You
22 love Minor too; is that correct?

23 A I also love Minor very dearly.

24 Q And would you lie for Jimmy to protect Minor?

25 A No.

1 MR. WOODSON: Thank you, ma'am.

2 THE COURT: Thank you. You may step down.

3 (WHEREUPON, the witness leaves the witness
4 stand.)

5 THE COURT: If you will call your next witness.

6 MR. WOODSON: Janie Mae Thomspon.

7 THE CLERK: Ms. Thompson, come around here
8 please, ma'am, let me swear you in. If you place your
9 left hand on the Bible and raise your right. Do you
10 solemnly swear to tell the truth, the whole truth, and
11 nothing but the truth so help you God?

12 THE WITNESS: I do.

13 THE CLERK: Thank you, ma'am. Please have a
14 seat in the witness box.

15 WHEREUPON,

16 Janie Mae Thompson,
17 after first having been duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MR. WOODSON:

20 Q Can you state your name?

21 A Janie Mae Thompson.

22 Q All right. I need you to speak loud enough for
23 everybody to hear, okay.

24 A Janie Mae Thompson.

25 Q Yes, ma'am. Do you live in Marion?

1 A Yes, sir.

2 Q Where do you live?

3 A .

4 Q Okay. And were you living there in December of 2011?

5 A Yeah.

6 Q And in December of I'm sorry -- and in November of

7 2011 as well?

8 A Yes, sir.

9 Q Okay. Who was living in the house with you at that

10 time?

11 A Jimmy Turner, Faye Thompson, and J.W. Thompson and

12 sometime my little great niece.

13 Q Okay. And your great niece is Minor ?

14 A That's right.

15 Q Okay. And, of course, her mom would be your niece?

16 A Yes.

17 Q Okay. At some point did her mom live with you?

18 A Well, when she had first came down from New York she

19 did, but I was living on ?

20 Q Okay. And she live with you for how long?

21 A She was a year old going on two years old when she

22 came down here. And she stayed with me and she went to

23 school from my house until she was five going on for that

24 pre-school stuff. And then after then, her mother she got

25 a job in Florence. She would leave her with me weeks

1 after weeks.

2 Q Okay. Now, let's back up when you were on

3 , did Jimmy Turner live there with you?

4 A No, sir.

5 Q Okay. Jimmy Turner only lived at the house that

6 you're in now?

7 A I'm living with Jimmy Turner in his house, that's not
8 my house. I'm not renting.

9 Q Okay. And you said Minor would stay with you a good
10 bit of time?

11 A Yeah. She was staying with me after she was about
12 four years old. She stay with me so much until I would
13 beg her mother to come get her and she wouldn't. And
14 welfare had to get into it and make her come get her and
15 take her home.

16 Q All right.

17 MR. MCEACHIN: Your Honor, I'm going to object
18 to the last answer and move to strike.

19 THE COURT: Sustain. You will disregard that
20 last statement.

21 BY MR. WOODSON:

22 Q All right. Was there ever a time where Minor was
23 dropped off and you weren't there?

24 A No, sir.

25 Q Okay.

1 A I always be home when she be dropped.

2 Q And who would watch after Minor when she was at your
3 house at the house on ?

4 A Who watch her. Well, me and my daughter Faye.

5 Q Okay. Can you think of time where she was ever alone
6 with Jimmy Turner?

7 A Never alone with him.

8 Q Okay. Would Faye and Jimmy be home during the day?

9 A Most of the time, they would be out. He would be
10 trying to find some work because he didn't have a job. He
11 be out looking for work and they never get home before it
12 was dark. Then he would go by the kitchen get him some
13 food and go straight in his room and lock his door. If I
14 wanted to go in, I had to knock.

15 Q Okay. And did he ever lock his door and Minor was in
16 there with him?

17 A Never, no, sir.

18 Q Did they ever leave early in the morning and go out
19 and do anything that you can recall?

20 A Well, when they picked him up, he had just got a
21 newspaper route?

22 Q Okay. So he was doing a newspaper route?

23 A Uh-huh.

24 Q Did Faye go with him?

25 A Faye would go with him. Faye be everywhere with him.

1 Q Okay. They were together pretty much ---

2 A All the time.

3 Q All right. Did you ever take care of any other kids?

4 A I was a foster parent and I run a day care.

5 Q Okay. All right. Did any other relatives stay in
6 your house throughout your life? Did you raise anybody
7 else's kids?

8 A I adopted three kids.

9 Q Okay. All right. So you use to kids being in your
10 home?

11 A Yeah, all the time.

12 Q All right. Now, when Minor would come over, would she
13 sometimes play with other kids in the neighborhood?

14 A Yeah, it was a little girl across the street where we
15 at now. She play with that little girl.

16 Q Okay.

17 A But she was a big girl to Minor really.

18 Q Okay. All right. Now, do you recall an incident
19 back in December of 2011 when the police came to your
20 house?

21 A Yeah, early in the morning.

22 Q Okay. And did they show you any paperwork that you
23 can recall?

24 A No paperwork.

25 Q Okay. And did you know why they were there?

1 A Not really. Since, my neighbors are so nosey, I
2 thought that somebody had call welfare again about the
3 little girl, but other than that, I don't really thought
4 about it.

5 Q All right. Did they take any items from your home?

6 A Yeah.

7 Q I want to go through a couple of items. Well, first
8 of all, I want to show you State's Exhibit Number 1. Do
9 you recognize that?

10 A Yeah, that's the sheet that was on my husband bed and
11 I wash it because he chew tobacco and he had tobacco juice
12 all over it, so I washed it. But I trying to think this
13 orange stuff. I know I got an orange towel and maybe I
14 did have a shirt on the line or something, but I know
15 that's the sheet I wash that morning, early that morning
16 because he had waste tobacco juice all over it.

17 Q Okay. And in looking at that picture, did you see
18 Plaintiff's Exhibit Number 11 in that picture? Did you
19 wash that?

20 A That dirty spread, no, because throw all -- all the
21 clothes I had I threw it on that bed and that spread
22 hadn't been washed for about two years because I was
23 just -- when I go on the clothes line, I would just take
24 the clothes and throw them on the bed until I get time to
25 fold them.

1 Q So is it your testimony that this spread was not
2 washed?

3 A It was not washed.

4 Q Okay. So only the thing you can recall being washed
5 are those items on the line?

6 A Yeah.

7 Q All right. Is that how you dried your clothes?

8 A Out on the clothes line.

9 Q All right. I also want to show you Plaintiff's
10 Exhibit Number 3. Do you recognize that?

11 A Yeah.

12 Q What room is that?

13 A That's Faye and Jimmy's room.

14 Q Okay. And the police took that picture that day? Do
15 you recall who took that picture? Did the police take
16 that picture?

17 A That's the day they arrest him, they took this
18 picture.

19 Q Okay. All right. Show you Plaintiff's Exhibit
20 Number 8. You can look in that bag and tell me what you
21 see in that bag in?

22 A That's my hair grease I grease my hair with.

23 Q Okay. And where did you keep your grease?

24 A In the restroom.

25 Q I'm sorry. Where you keep it?

1 A In the bathroom. I call it the restroom.

2 Q Okay. So those items were in the bathroom?

3 A Uh-huh.

4 Q All right. And I'm going to show you Plaintiff
5 Exhibit Number 9?

6 A That's my lotion.

7 Q Lotion. Where did you keep your lotion?

8 A In the bathroom.

9 Q Okay. Do you recall any time where Minor or Jimmy
10 went in -- let me ask it this way, do you recall any time
11 when Faye asked Minor to get anything out of the bedroom
12 like lotion or anything like that?

13 A No, not really because Minor always wanted to go in
14 her room, but they wouldn't let her go in. They never let
15 her go in the room.

16 Q Have you ever heard of Vincent, a gentleman name
17 Vincent?

18 A Yeah.

19 Q Have you ever met him?

20 A Yeah, about three or four times.

21 Q And where did you meet him under what circumstances?

22 A When she was bringing Minor over sometimes, he would
23 ride with them to come over to Marion. And like we have
24 something like a dinner or something sometime they would
25 come.

1 Q Okay. As far as you know has Minor ever been alone
2 with Vincent?

3 A Yeah.

4 Q Okay.

5 A She been alone with him because we would call -- I
6 would call when Minor wasn't over to my house to always
7 check on her to see what she was doing.

8 MR. MCEACHIN: Object to anything anybody said
9 on the other end of that phone line.

10 THE COURT: Sustain.

11 BY MR. WOODSON:

12 Q Okay. But as far as you know, Minor hasn't been alone
13 with Vincent?

14 A She been alone with him.

15 Q Okay. Did you notice any unusual behavior was like
16 Minor afraid to be around Jimmy?

17 A She never was.

18 Q Were you ever at home and in the kitchen and heard
19 Minor screaming for help?

20 A No.

21 Q Anywhere in your house and heard Minor screaming for
22 help?

23 A No, sir.

24 Q If Minor has -- the pictures showed at your house is
25 not -- kind of a small house. If Minor had screamed, would

1 you heard it?

2 A I would have heard.

3 Q And would you have done something?

4 A I went running to see about it her.

5 Q You love Minor ?

6 A I love Minor . . It just hurt me to my heart, I can't
7 see her now.

8 MR. WOODSON: I don't have any other questions
9 at this time.

10 THE COURT: Any cross?

11 CROSS-EXAMINATION

12 BY MR. MCEACHIN:

13 Q I'm going to give her just a minute. Ms. Thompson,
14 just let me know when you're ready, you take your time,
15 okay.

16 A Okay.

17 Q I just got a couple questions for you, all right.
18 How long have you known the defendant, Jimmy Turner?

19 A What you say now?

20 Q How long have you known the defendant, Jimmy Turner?

21 A About three years going into four.

22 Q Three years going into four?

23 A Yes.

24 Q And you know him because he and your daughter, Faye,
25 date one another?

1 A Yes, sir.

2 Q Okay. And how long have they been dating?

3 A Well, I guess, when I learn around three or ---

4 Q About the same amount of time?

5 A Uh-huh.

6 Q All right. And how long had Jimmy and Faye been

7 living together?

8 A Probably about as far as I can recall about three

9 years.

10 Q About three years. Okay. And when Jimmy and Faye

11 were living together, I think you mentioned to Mr. Woodson

12 earlier you had a house over on

13 A Yeah, my house is on

14 Q Okay. So you still have a house over on ?

15 A I got a house on

16 Q Okay. And when Jimmy was living with Faye, were you

17 living over on ?

18 A Yes, part of the time. I left my house and the house

19 right behind, they lived in there. And I lived with them

20 because my husband sick and I had to have somebody to be

21 with him all the time, so we just stayed with them. So

22 when I get ready to go pay bills, that somebody would be

23 with my husband.

24 Q Okay. And those were the folks right behind you on

25 ?

1 A Behind my house, yeah.

2 Q Okay. And during that period of time you were living
3 over on , Faye and Jimmy Turner were living over on
4 ; is that right?

5 A Well, they was living on . They move
6 there behind my house. And then I started staying there
7 with them a little while.

8 Q Okay. And, Ms. Thompson, you said there was never a
9 time when Minor would come over that you wouldn't with be
10 at ; is that correct?

11 A She would be over at .?

12 Q Yes, ma'am.

13 A She would go over there with Faye sometime.

14 Q And when she was over there with Faye, would you
15 always be over there with them or would Faye be with them?

16 A Now, I see I be over on all the time
17 because I live there at that time, you know, I got a
18 house. But I would go over to about every
19 day see about Faye when he would go to work.

20 Q Oh, so you stay with Faye when he went to work?

21 A I stay with Faye and Minor .

22 Q Okay. So there be sometimes though when Jimmy maybe
23 wasn't at work, that you were at that Minor
24 would go over and stay with her cousin Faye?

25 A They would go out for a ride in the car, I don't know

1 did they go to the house or not by me not being -- and I
2 never really thought about it, you know. They would bring
3 her back.

4 Q Okay. So there were times when she go off with him,
5 but they bring her back to you?

6 A As far as I know.

7 Q Okay. And how often would that happen you remember?

8 A It be too many times. How many times, you know,
9 keep up with what time somebody leave your house or what
10 time they come back. I try not to be in young people
11 business.

12 Q Yes, ma'am. I certainly understand that.

13 MR. MCEACHIN: Well, thank you for being here
14 today.

15 THE COURT: Any redirect?

16 REDIRECT EXAMINATION

17 BY MR. WOODSON:

18 Q I just want to clarify something. You testified that
19 sometimes Jimmy and Faye and Minor would ride around out
20 different places?

21 A Can I say something add on?

22 Q You can explain your answer.

23 A Yeah, because if Faye hadn't take her like to see the
24 parade something like that, her mother never had time. So
25 being more I would go to the parade things like that, but

1 sometimes, you know, they would take Minor to the movies
2 because her mother say I didn't have time, I got to work.
3 You know, but Jimmy always -- Faye would always be with
4 Jimmy.

5 Q Okay. He didn't ride out ---

6 A He never ride out with her. He be going to the
7 store, she be want to go. He say, no, stay with cousin
8 and your stay with your Aunt Janie Mae cause I don't take
9 no little children nowhere with me. He would never take
10 her no way with him.

11 Q I want to ask you something else you said to the
12 Solicitor about the Street situation.
13 Was there a time on when it was just Jimmy
14 and Faye or when it was just Jimmy, Faye and Minor or were
15 you there when Minor was there?

16 A No, not all the time because Faye couldn't take her
17 over there.

18 Q I'm sorry.

19 A I say sometimes just like they be going to the movies
20 or something or go by there to the house, they don't go by
21 there they house. But Faye and Jimmy would go into the
22 house further as I know that Minor and Faye would be in the
23 car? I couldn't just say definitely cause I wouldn't be
24 with them all the time. But as far as I know, he didn't
25 take her nowhere without me or Faye.

1 Q All right. And did Minor ever spend the night at
2 Street without you? Were you there when Minor when
3 she spent the night? And let's limit it to November?

4 A In November.

5 Q Right, November 2011.

6 A On Street?

7 Q Yes.

8 A Minor spent the night with me.

9 Q Right.

10 A Minor slept in my room behind my back because I had to
11 put up another bed by my husband being in there, so I
12 wouldn't put her in the bed with me and my husband. I put
13 up a little bed in there for me and her.

14 Q Okay. Who would bathe Minor ?

15 A Huh?

16 Q Who would bathe Minor ?

17 A Bathe Minor , me.

18 Q Okay. She ever -- strike that.

19 MR. WOODSON: No further question.

20 MR. MCEACHIN: Nothing further, Your Honor.

21 THE COURT: You may step down. Thank you.

22 (WHEREUPON, the witness leaves the witness
23 stand.)

24 THE COURT: Call your next witness.

25 MR. WOODSON: Can we approach?

1 (WHEREUPON, a bench conference was held in the
2 presence of the jury, but out of the hearing of the
3 jury.)

4 THE COURT: Call your next witness.

5 MR. WOODSON: Your Honor, the defense rest.

6 THE COURT: Thank you very much. Members of the
7 jury, I'm going to excuse you for the day. If you would
8 be back ten in the morning, we going to move forward with
9 closing arguments at that time and the charge. And if
10 everything goes well, we'll turn it over to you at that
11 time. When you go home tonight, do not discuss the case
12 with your family, among yourselves or with your friends.
13 And do not research the case, just forget it completely,
14 be back at ten in the morning. Everybody else remain
15 seated. And you are excused.

16 (WHEREUPON, the jury excused for the day.)

17 THE COURT: Any motions?

18 MR. MCEACHIN: None from the State, Your Honor.

19 MR. WOODSON: Your Honor, I would renew my
20 previous motion at this time and specifically all of them.

21 THE COURT: I'm going to deny those motions.
22 You all be ready to argue and charge ten o'clock.

23 MR. WOODSON: Thank you, Your Honor.

24 MR. MCEACHIN: Thank you, Your Honor.

25 THE COURT: See you in the morning.

1 (WHEREUPON, the proceedings were concluded for
2 the day to be reconvened on February 6, 2013.)

3 THE COURT: Mr. Woodson, have you had an
4 opportunity to review the charge?

5 MR. WOODSON: I was still looking at it, Your
6 Honor. I can finish it later.

7 THE COURT: Go ahead. And that way we can come
8 back and we'll have you do your closing, Mr. McEachin and
9 then I will charge the law.

10 (WHEREUPON, a pause in the proceedings.)

11 THE COURT: Okay. Have you reviewed the charge
12 and the verdict form?

13 MR. MCEACHIN: The State has had the ability to
14 review both the charge and the verdict form and we have no
15 objection to either.

16 THE COURT: How about you, Mr. Woodson, have you
17 had an opportunity to review the charge and the verdict
18 form?

19 MR. WOODSON: I have, Your Honor and I have no
20 objection.

21 THE COURT: Everybody ready?

22 MR. WOODSON: Your Honor, I have two issues I
23 like to put on the record.

24 THE COURT: Sure.

25 MR. WOODSON: The first issue is when I walked

1 into the courtroom this morning, my client was in
2 handcuffs. He's indicated he was here since about 9:30.
3 And that when I walked in the door, I heard one of the
4 bailiff's say that there were 13 people back there. I
5 think they were waiting on one other alternate or one
6 other person, but 13 people paraded through here. And he
7 says that at least six of them saw him in handcuffs. I
8 think that's improper. It's highly prejudicial to my
9 client and I would move for a mistrial on that basis.

10 THE COURT: All right. Mr. McEachin.

11 MR. MCEACHIN: Your Honor, I can simply state to
12 the Court what I saw when I came in here. I was in here
13 with the defendant for a good ten to maybe 15 minutes
14 before we actually began. He was sitting there with his
15 hands like this. And, Your Honor, I can honestly say I
16 didn't even realize he had handcuffs on. Obviously, I
17 would have told them to take them off. They were hidden
18 under the sleeves of his shirt. And, Your Honor, really I
19 think the only way to find out if it prejudice the jury is
20 to poll them. And then I doubt Mr. Woodson would want to
21 do that, but we can, obviously, do that if he would like
22 to. I don't see how it was any prejudice based on they
23 way he was sitting and based on the fact that they were
24 actually hidden. It's not a situation we have where the
25 defendant in shackles and an orange jump suit that the

1 jail taken precautions to make sure that the handcuffs
2 were actually hidden, Your Honor.

3 THE COURT: All right.

4 MR. WOODSON: Your Honor, my client says that
5 they were not hidden when those jurors walked through and
6 they actually looked at him. I have taken great
7 precautions to make sure that the jury did not see him in
8 a jump suit or handcuffs. Every time he's left this
9 courthouse, I walked downstairs and walked him out the
10 door. And I have looked around for jurors and I indicated
11 to law enforcement that I really didn't want anyone to see
12 him in that condition because it would cloud their mind to
13 say, well, if he's already in handcuffs, then he must be
14 guilty. And I have taken great precautions along those
15 lines and they have not done this prior to today. We're
16 on Thursday, this case started on Tuesday. Actually --
17 well, it started on Tuesday. He was up here Monday. And
18 so we're here on Thursday and he's here in handcuffs. I
19 don't know what has changed since Tuesday these three days
20 but ---

21 THE COURT: Was your client sitting in that
22 chair when he was cuffed? Is that where he was sitting?

23 MR. WOODSON: Yes, he says his hands were up at
24 times.

25 Can you demonstrate how your hands were?

1 THE COURT: I tell you what based on what I'm
2 seeing if they saw that, he must have intended to show it
3 to them because it would be real hard I would think for a
4 juror to come in that door, come right here take a right
5 and go into the jury room. They would have to stop and
6 actually look back and try to find those handcuffs in my
7 opinion. And furthermore, in the charge, I specifically
8 say the presumption of innocence is very important. You
9 need to understand that this presumption accompanies a
10 defendant from the time of his arrest and appearance in
11 this court and continues with the defendant even after you
12 retire to the jury room. So I'm going to carefully and
13 slowly go over that and let them know that he is innocent.
14 He remains innocent only until the State meets its burden,
15 if the State meets its burden and they find him guilty
16 beyond a reasonable doubt. I don't see any need to grant
17 a mistrial.

18 The defendant right there when we come in here
19 this morning and he wanted to put them under the table.
20 He had every opportunity to do that as well. I don't see
21 any need for a mistrial or miss try it over the chance
22 that somebody may have seen him in handcuffs. There's a
23 high likelihood that nobody saw him in cuffs and he's not
24 in an orange jump suit. His feet are not shackled and
25 he's dressed nicely. So we'll go ahead and continue.

1 MR. WOODSON: Your Honor, my second -- go ahead.

2 THE COURT: Anything you need to add to that?

3 MR. MCEACHIN: No, sir, Your Honor.

4 MR. WOODSON: My second issue -- well, first of
5 all, I like to renew all my objections and motions at this
6 time. And in addition, there were a couple of times that
7 during the presentation of the defense's side that we took
8 some side bar and I just want to put on the record that
9 there were two times during the testimony of the police
10 officer and during the testimony of Ms. Annette Wardy
11 where the Court -- we had a side bar and the Court
12 suppress certain -- well, I wouldn't say suppress, but did
13 allow me to ask certain questions, some of those
14 objections were put on the record. But I would just want
15 that to be on the record that I felt that testimony was
16 important.

17 THE COURT: Those were hearsay objections?

18 MR. WOODSON: Yes, Your Honor.

19 THE COURT: I think you made those objections in
20 the trial. If I remember correctly, the issue kept coming
21 up and coming up and coming up. We were just discussing
22 what it was and was not proper. Anything you need to add
23 to that, Mr. McEachin?

24 MR. MCEACHIN: No, sir, Your Honor.

25 THE COURT: All right. If you will go ahead and

1 bring out the jury.

2 MR. MCEACHIN: Your Honor, one thing, I would
3 like to put the record that the State will waive it's
4 opening on the law.

5 THE COURT: All right. Go ahead.

6 (WHEREUPON, the jury came into open court.)

7 THE COURT: Good morning.

8 All right. Mr. Woodson, you recognize for your
9 closing statement.

10 MR. WOODSON: May it please the Court, Your
11 Honor.

12 THE COURT: Yes, sir.

13 MR. WOODSON: Mr. McEachin. Good morning,
14 ladies and gentlemen. I started off this trial by
15 thanking you for your service and I'm going to end the
16 trial the same way. I want to thank each and every one of
17 you for being here and serving as jurors. You been very
18 attentive, nobody fell asleep, everybody listen to the
19 evidence and I appreciate that and my client appreciates
20 that. I'm sure the Solicitor also appreciates that.

21 When you took your oath -- well, before you took
22 your oath, you say that you didn't know Jimmy Turner. You
23 know nothing about this case. You can be fair and
24 impartial and we believe that you will be and that you are
25 the judge of the facts. We appreciate that.

1 What I want to do is kind of briefly go through
2 the trial, the final arguments closing arguments as
3 they're called is a summary of the evidence that's been
4 presented. I'm going to stand here and give it from my
5 client's perspective. The Solicitor is going to stand
6 here and give it from the State's perspective. Once I
7 finish my argument, I have to sit down and he's going to
8 come back. I'm not allowed to rebut anything he says
9 after this closing argument. And when he's up here, he
10 may say some things that I strongly disagree with. And
11 because I don't stand back up and give an additional
12 argument, I don't want you to assume that I agree with
13 him, I don't. We don't agree on the facts the issue in
14 this case and this is my last opportunity to talk to you.
15 Closing arguments are not evidence. They our perspective.
16 I never intend to mislead a jury during a closing argument
17 ever, so if I say anything and you don't recall it
18 correctly, then go with your memory, charge it -- as they
19 say charge it to my head not to my heart. I'm not trying
20 to intentionally say anything that's not in the record.
21 We have a record set. The court reporter is taking down
22 everything that is said. She's typing it, it's recorded.
23 Also, you have evidence that you'll be able to look at and
24 take with you if you want to and you will make those
25 decisions. So the factual issues are for you to decide in

1 that jury room based on what's been presented from the
2 stand.

3 When I did my opening argument, I told you two
4 thing. I told you that this case is primarily based on a
5 child's story. And the Solicitor has introduce several
6 bags, which he's labeled as evidence. But when you boil
7 it down, these are common household items. They're
8 sheets, they're bedspreads and things of that nature. All
9 of us have sheets and bedspreads and lotion and hair
10 grease in our house. So as I told you, this case revolves
11 around Minor testimony.

12 The other thing I told you in my opening
13 argument is that she was a virgin. The doctor testified
14 on this stand. I ask about specific findings, about
15 specific injuries. The doctor took the stand and said
16 that Minor hyman was intact. And not only was it intact,
17 it was redundant and redundant is somebody says or does
18 something repeatedly, that's saying something is
19 redundant. So for her to have a redundant hyman -- I
20 asked what that means she said it has folds and that's
21 because she's maturing and estrogen is in her body. But
22 she has redundant -- a at least double thick hyman.

23 MR. MCEACHIN: Objection, Your Honor, it's
24 medical testimony that was never brought out.

25 THE COURT: Members of the jury, I told you in

1 the beginning what the lawyers say is not evidence. They
2 are simply advocates and spokesperson's for their clients.
3 Mr. Woodson in his closing is give his client's
4 perspective of the case. Sustained.

5 If you will continue, stick to the facts.

6 MR. WOODSON: Her hyman is intact and that is
7 what the doctor testified to. On December 1st of 2011,
8 Minor went to her school. She told her teacher --
9 well, she told the behavioral therapist about something
10 that happen to her. Behavioral therapist as you heard
11 went to the teacher. The child told the exact same story.
12 The police came, the child was taken to the office. DSS
13 workers came, the child told the exact same story. The
14 mother came to the school she was told what her daughter
15 said. I asked the mother clearly several times did you
16 believe your daughter. She didn't understand the question
17 did you believe what your daughter was saying. Several
18 times I ask her that and she finally -- she didn't believe
19 her daughter. She take the child to the car. The child
20 changes the story, she sees her mother crying and she
21 changes her story in the car.

22 The mother doesn't take the child back into the
23 school. The mother doesn't go back to the police. The
24 mother doesn't call the boyfriend that's being accused of
25 this and say my daughter just said this, no discussion.

1 She takes Minor home and the next morning they go to see
2 the forensic interviewer Sally Williamson. Ms. Williamson
3 talks to the mother prior to talking to the child and then
4 she interviews the child.

5 The video is very interesting because -- well,
6 let me back up. The mother testified she told you that I
7 was told not to talk to Minor about this. I was told don't
8 talk her about it. In the video, what you view Minor said
9 I know you going to ask me this did I talk to my mother
10 and I didn't. Minor volunteered that unprompted. The
11 interviewer was very careful to say do you understand what
12 the truth is and can you tell the truth and all those
13 sorts things of that nature. And then closer to the end
14 of the interview, she says, now, Minor, have you ever
15 accused anybody else. And Minor at that point puts her
16 head down and says no. And she says, Minor, it's okay if
17 you have because sometimes kids get confused. Did you
18 accuse anybody else? Minor says no. And she said are you
19 telling me the truth and Minor says yes. And it wasn't
20 until the interviewer said what about Vincent that Minor
21 would even talk about Vincent.

22 You heard the police testify. The police
23 officer from the Florence County Sheriff's Department. I
24 ask him did he investigate anybody else. The only thing
25 he knew on December 1st of 2011 is that Victor -- Vincent

1 Brunson I'm sorry was accused. He left that school and
2 did nothing. Nothing was attach to his report that
3 anything else had been done. It seems the most protective
4 person in this case is Mr. Vincent Brunson.

5 On the video when they're talking about Vincent
6 Brunson -- well, let me back up to the first part of the
7 video. They talk about good touches and bad touches and
8 she says you get kisses and she says yes. And do you get
9 hugs and she says yes. And she says who hugs you and she
10 said my aunt, my cousin, my grandmother and she name six
11 people that hug her. Closer to the end of the video when
12 she asked about Vincent and has anybody else touch you --
13 touched her private parts. She says I've touched my
14 private parts, my momma's touched my private parts and
15 Vincent touch ---

16 MR. MCEACHIN: Objection, Your Honor, that's
17 absolutely not in the record.

18 THE COURT: Sustained.

19 MR. WOODSON: Your Honor, if I may?

20 THE COURT: Come on up here.

21 (WHEREUPON, a bench conference was held in the
22 presence of the jury, but out of the hearing of the
23 jury.)

24 THE COURT: Continue.

25 MR. WOODSON: Minor said that when she's hugged

1 Vincent -- her private parts are touched by Vincent. The
2 forensic interviewer did not explore that at all.

3 As I explained earlier, my client is presumed
4 innocent. And if you think about it, it's a little scary
5 what's happen in a sense that we have all these things
6 that are labeled as evidence. And as I said, they're
7 common household items. Nothing was ever done. The
8 police never did a full investigation because they rushed
9 to judgment. They had a young lady that was making an
10 allegation. Captain Barr here went into a house and
11 started gathering things. She's not sure what room she
12 got what from. And she got a blanket or a comforter
13 that's listed as State's Exhibit Number 11. And this is
14 allegedly the blanket that the incident happened on. When
15 this young lady says that she was penetrated, it
16 supposedly happened on this blanket, a comforter or
17 whatever you want to call it. I asked the State why was
18 it never tested. It might have been washed. I said did
19 you ask anybody was it washed. No. They didn't do their
20 job. Florence County didn't do an investigation. Marion
21 County didn't do an investigation. Minor has always said
22 that at the time of the incident, the aunt, the great aunt
23 who loves her and the cousin were in the house. Never, no
24 testimony from either side that I recall that Jimmy's ever
25 alone with Minor. Minor never said that.

1 You have to look at the credibility of each
2 person. What does somebody have to gain, what does
3 somebody have to hide. Why did the story change, when did
4 it change. The mother looked you in the eye and said this
5 could not have happened. This couldn't have happened.
6 Vincent was never alone with Minor. Witnesses in the house
7 are saying the exact same thing. They're saying it
8 couldn't have happened. Minor was never alone with Jimmy.
9 So you have to render a verdict and you're stuck between a
10 mother and an unknown boyfriend who never been questioned
11 in believing her version or people that were actually in
12 the house who love this child and say they would not
13 testify of anything that they felt that they weren't
14 correct and that's where you go to credibility and
15 believability and what does each person have to gain and
16 she's obviously protecting her boyfriend. Ladies and
17 gentlemen, the State has not met their burden of proof.
18 And I would ask that you return a verdict of not guilty.
19 Thank you.

20 THE COURT: Mr. McEachin.

21 MR. MCEACHIN: Thank you, Your Honor. May it
22 please the Court. Mr. Woodson. Madam forelady and ladies
23 and gentlemen of the jury, there certain types of people
24 in this world who have to be protected by others. It's
25 built within all our human psyche that as adults we have

1 an obligation and duty to protect our children. It's
2 part of human nature. And the reason we have to protect
3 children is quite often they're not old enough or strong
4 enough to protect themselves.

5 Minor was not old enough and not strong
6 enough to protect herself in November of 2011. And on
7 that day in November of 2011 when she was taken into the
8 back room of . . . There was nobody there
9 to protect Minor . And when her clothes were pulled
10 from her body and the defendant put grease and lotion and
11 spit on her body, there was nobody there to protect Minor
12 Minor . And when the defendant got through having his
13 way with that little girl, when he threatened her,
14 threaten to kill her right after he raped her, he
15 threatened to kill her if she didn't say it was her
16 momma's boyfriend that did this to her, there was nobody
17 there to protect Minor .

18 Now, this case is just about over. Mr. Woodson
19 told you what he had to say. I'm about to finish telling
20 you what I have to say. Then after the judge talks to you
21 the case is going to be in your hands. And you all
22 ultimately have the final say in this case. Mr. Woodson's
23 case and the defendant's case is all geared toward Vincent
24 Brunson, that's their case. It's not complex. It's not
25 complicated. It's simple. Vincent Brunson had to do

1 this. The problem with that, ladies and gentlemen, is
2 that the evidence including the testimony you heard from
3 this witness stand does not match up with that conclusion.

4 MR. WOODSON: Objection, Your Honor, he's burden
5 shifting. We don't have to prove anything.

6 THE COURT: I'm going to overrule the objection.
7 Continue.

8 MR. MCEACHIN: Thank you, Your Honor. What the
9 evidence in this case will show is that it was not Vincent
10 Brunson as the defense suggest, but it was Jimmy Turner
11 who did this. So let's talk a little bit about the
12 evidence in this case. Let's start with the initial
13 story. Minor at school disclose Vincent Brunson did this.
14 She had to tell a number of people this story, a number of
15 strangers she have to tell this story to. As I can very
16 well imagine, it's a very traumatizing time for a little
17 girl who's six years old to have to tell some complete
18 strangers that she had been raped. She finishes telling
19 the story. And if Jimmy Turner had been there, he would
20 have proud of her. He been proud of her because she did
21 exactly what he told her to do and what he threatened her
22 he do. He told those people, yeah, it was my momma's
23 boyfriend. It was Vincent Brunson who did that. It
24 wasn't until Minor got into the car with her mother, the
25 person who's the most significant person in her life that

1 she broke down again and made the disclosure that Jimmy
2 Turner did it. And why did Minor say that it was Vincent
3 to start with because that man right there threatened to
4 kill a little girl that he had just raped and he didn't
5 say it was Vincent Brunson.

6 Mr. Woodson doesn't want you to believe Minor
7 Minor . If I were defending, Mr. Turner I wouldn't want
8 you to believe her either. He doesn't want you to believe
9 Sally Williamson. He doesn't want to believe any of the
10 State's case. Because if you believe the State's case,
11 Jimmy Turner is guilty of the crimes that he's been
12 charged with.

13 Going back to Sally Williamson, you all saw
14 Sally she was up here yesterday morning she's the woman
15 that works up at the Care House. Sally's the who conduct
16 the forensic interview with Minor on that particular
17 morning. You all got to watch that video, that video
18 speaks for itself. I don't need to go through it again.
19 You all got to see it. But after Sally got through
20 testifying about the video, I asked her some specific
21 questions after the video. You all may remember this. I
22 asked her about the coaching and about third-party
23 influence and what she looks for to determine if that has
24 occurred. And if you remember she use the worm -- term
25 coaches. And I actually asked her a little -- a couple

1 more questions about that. I said, well, explain to me
2 what this concept of peripheral facts is. She says
3 whenever we interview children, we ask them a number
4 questions. And we ask them over and over again. We ask
5 them about peripheral facts. What are peripheral facts?
6 Well, they're the facts that don't deal specifically with
7 the conduct or specifically with the incident of rape
8 itself, but the outline facts. The other things that may
9 be involved such as what the room look like or where it
10 occurred or what time of day it occurred or anything like
11 that. We look for those things in these type cases to
12 determine if any coaching had occurred.

13 Well, I ask you all to think back to the video.
14 Where there any peripheral facts in that case? Where
15 there any peripheral facts that little Minor the
16 day after her disclosure brought up and brought to Ms.
17 Williamson's attention and I submit to you there were.

18 Sally Williamson asked Minor what were you on
19 when you were raped. And if your memory is just like
20 mine, I ask you to watch the video again, but she said a
21 bedspread with flowers on it. A bedspread with flowers on
22 it. Mr. Woodson wants to tell you well DNA should have
23 been tested. DNA should have been tested. Well, it was
24 pulled out of Jimmy Turner's house, so I don't think we're
25 going to have any issue with knowing if it came from Jimmy

1 Turner's house or anyone else's house. We know little
2 Minor was clearly in that house. Is that a
3 peripheral fact is that have anything to do with the
4 actual act itself or is that an outline fact that only
5 somebody would that actually happen to would know about.
6 Were there any other peripheral facts?

7 When Minor told you what happened to her, she
8 told you a number of things. Minor what did he do, he put
9 grease on me. Minor, there's another time what did he do
10 to you? He went out of the room and he came back he put
11 lotion on my butt. Mr. Woodson says to you that these are
12 household items. They're household items right up to the
13 point where they use to rape a child.

14 Now, the important thing I want all of you all
15 you to understand about this is Minor gave her statement
16 and it was two weeks later when Captain Barr went to that
17 house and the items in that statement well guess what,
18 they were in that house. This wasn't a situation where
19 they brought this stuff to Minor and said, oh, was this
20 what you were raped on. Were these the items that were
21 used on your body to rape you? These were items that they
22 told -- that she told them about that they would found at
23 the house is that corroborating evidence? Is that
24 corroborate what the little girl told you in that video
25 and from that witness stand? You bet it does. You bet it

1 does. And that's why Mr. Woodson doesn't want you to
2 believe what she had to say. He want you to throw out the
3 window this little girl was raped by that man, want you to
4 throw it out the window.

5 The defense also put up some witnesses in this
6 case. They put up Dr. Minter and we all heard
7 Dr. Minter's testimony. She couldn't tell us one way or
8 the other whether or not the child had been raped. As a
9 matter of fact, what Dr. Minter told us is that quite
10 frequently when children or small adults are raped, there
11 is no evidence. There is no evidence of sexual trauma.
12 If you might remember, I specifically asked her what is
13 some type of lubricants you used like one of these items
14 or spit. It's even less likely to see any trauma in that
15 case. But the two witnesses that the defense put up that
16 I thought were most interesting were Faye Thompson and
17 Janie Mae Thompson. And the most interesting part about
18 their testimony taken as a whole is this you all might
19 remember yesterday afternoon Faye Thompson told you all
20 that, yeah, Minor came over to the house, but normally it
21 was my mom looked after Minor. My mom looked after Minor a
22 majority of the time. Well, it was very within probably
23 20 minutes that Janie Mae Thompson took the stand after
24 that and what did she tell you. I use to let Jimmy and
25 Faye come pick Minor up all the time. That is a

1 contradiction that is a huge inconsistency in the case
2 where a child is alleging that she's been raped.

3 If they had their eyes on this child the whole
4 time that they said, they said they never took eyes off
5 this child, never took them off the child at all but that
6 begs two questions. The first why were you so concerned
7 about the child you had to keep your eyes on her all the
8 time. And the second is who had their eyes on Jimmy
9 Turner. I don't fault Ms. Thompson -- Ms. Faye Thompson
10 or Ms. Janie Mae Thompson for testifying they way they
11 did. Both of them indicated that they love Jimmy. They
12 care about Jimmy. Jimmy was Faye's boyfriend. I can't
13 fault them for testifying to you 12 individuals the way
14 they did. They care about him and I understand that. But
15 their stories were inconsistent. They were not
16 consistent. And that's something I ask you all to take
17 into account when you all determine the credibility of
18 witnesses. Mr. Woodson says the State's case has holes in
19 it. He says the State's case doesn't make sense it. It
20 can't make sense. Well, ladies and gentlemen, here's the
21 thing about that, Mr. Woodson is a grown man. I'm a grown
22 man and you all are grown adults. Minor is a
23 six-year-old little girl. And maybe some of the stuff
24 doesn't make sense to us because we're adults and we lived
25 as long as we have. But maybe it does make sense to that

1 little girl. Who got up in front of you 12 strangers and
2 to had tell her story again to 12 people she has never met
3 before, might never meet again, had to tell that story
4 about what happened to her over at , so
5 remember that when you go back in the jury room as well,
6 remember that when you go back there as well.

7 The State of South Carolina didn't pick Minor
8 Minor as a victim in this case, we didn't. Jimmy Turner
9 did. He picked her as the victim and the witness where he
10 took into that back bedroom at . He
11 picked her. He took her clothes off and he held her down
12 by her chest and smeared grease and lotion and spit on her
13 little body and he raped her. He picked her knowing that
14 she might tell he picked her when he threatened that if
15 she did tell, she better say it was her momma's boyfriend.
16 Because if you don't, I'm going to kill you. I can't even
17 begin to fathom what a little girl who's just been raped
18 and then told she's going to be killed if she doesn't say
19 something. That's when Jimmy Turner picked her. The only
20 thing that doesn't make sense in this case is why that
21 40-something-year-old six-foot-260-pound man raped and
22 sodomized a little four-foot 60-pound six-year-old little
23 girl.

24 Ladies and gentlemen, this case is going to you.
25 It's not a simple job that you have, but I ask and I beg

1 you to look at the evidence in this case, look at it
2 carefully to see if Minor story is corroborated by this
3 other evidence, to see if her story makes sense based on
4 stuff that was found pursuant to a search warrant two
5 weeks after she had told the story. And if her story
6 makes sense to you, then there's only one answer that you
7 12 people can come up with. And that's that Jimmy Turner
8 is guilty for the crimes that he's committed.

9 And on my behalf and on the County of Marion's
10 behalf and on Minor behalf, that's what I ask
11 that you do. I ask that you return a verdict of guilty
12 against the defendant in this case. Thank you for your
13 time and effort and all the consideration that you give in
14 this matter.

15 THE COURT: Thank you, Mr. McEachin.

16 Members of the jury, it is now my duty as the
17 trial judge to instruct you on the law applicable to this
18 case. And in that regard, it is your duty as jurors to
19 accept and apply the law as I now state it to you.
20 Furthermore, it is your exclusive duty to decide all the
21 issues of fact in this case and to determine the affect,
22 the value, the weight and the truth of the evidence
23 presented. Both the State of South Carolina and this
24 defendant have the right to expect that you would
25 carefully consider and evaluate the evidence and apply the

1 law of this case to it so that in the end both the State
2 of South Carolina and this defendant will have received a
3 fair and impartial trial.

4 Furthermore, I want you to understand that when
5 I use the word defendant, I refer to Mr. Jimmy Turner.
6 Also, it is important to understand that the State of
7 South Carolina charges the defendant with the offenses
8 known as first degree criminal sexual conduct with a minor
9 and lewd act on a minor child. To these charges, the
10 defendant has entered a plea of not guilty. This plea of
11 not guilty places the burden of proof on the State to
12 prove the guilt of the defendant to you beyond a
13 reasonable doubt. It is vital to understand that the
14 defendant is presumed under the law to be innocent of
15 these charges. It is a fundamental rule of our law that a
16 defendant regardless of the seriousness of the charges
17 against him, it is always presumed innocent of the crimes
18 for which he is charged unless and until his guilt has
19 been proved by evidence that satisfies you beyond a
20 reasonable doubt. The presumption of innocence is not a
21 mere legal theory or legal phrase. The presumption of
22 innocence is very important. And you need to understand
23 that this presumption accompanies the defendant from the
24 time of his arrest and appearance in this court and
25 continues with the defendant even after you retire to the

1 jury room to deliberate. In other words, the defendant
2 receives the benefit of the presumption of innocence until
3 the very end of this trial.

4 When you deliberate upon the evidence and decide
5 whether the State has proved his guilt beyond a reasonable
6 doubt. Proof beyond a reasonable doubt is proof that
7 leaves you firmly convinced of the defendant's guilt.
8 There are few things in this world that we know with
9 absolute certainty. So even in criminal cases, the law
10 does not require proof that overcomes every possible
11 doubt.

12 However, if based on your consideration of the
13 evidence you are firmly convinced that the defendant is
14 guilty of the crimes charged, you must find him guilty.
15 If on the other hand you think there is a real possibility
16 that he is not guilty, you must give him the benefit of
17 the doubt and find him not guilty. Please understand that
18 reasonable doubt may arise from the evidence which has
19 been presented in this case or from the lack of evidence
20 in this case. It is your responsibility to determine
21 whether or not reasonable doubt exist as to the guilt of
22 this defendant. I charge you that the defendant is
23 entitled to every reasonable doubt arising in the whole
24 case. If upon any issues of fact essential to conviction
25 and a verdict of guilty you have a reasonable doubt as to

1 how that issue should be resolved, it would be your duty
2 to resolve that reasonable doubt in favor of the
3 defendant.

4 Thus in summary, it's important to understand
5 that a defendant is not required to prove his innocence.
6 Instead, the State is required by law to prove every
7 essential element of the offenses charged against the
8 defendant by evidence which satisfies you of his guilt
9 beyond a reasonable doubt only then can you convict the
10 defendant and find him guilty.

11 Furthermore, evidence may be direct or
12 circumstantial. Direct evidence is testimony by a witness
13 about what the witness personally saw or heard or did.
14 Circumstantial evidence is indirect evidence. In other
15 words, it is proof of one or more facts from which one can
16 find another fact. You may consider both direct and
17 circumstantial evidence equally.

18 During this trial, you and I have separate
19 duties to perform. As the judge, it is my responsibility
20 to reside over this trial. Furthermore, I have a duty to
21 rule upon the admissibility of the evidence offered during
22 the trial. In this regard, you are to consider only the
23 evidence before you. Thus, you are to consider only the
24 testimony which has been presented from this witness stand
25 together with any exhibits admitted into the record of

1 this case. Also, I have the additional duty to the charge
2 you on the law applicable to this case. And in that
3 regard, it is your duty to accept and apply the law as I
4 now state it to you. If you have any preconceived ideas
5 as to what you think the law is or what the law ought to
6 be and it does not agree with what I tell you the law is,
7 then you are obligated under your oath as jurors to
8 abandon these preconceptions and accept the law as I now
9 state it to you.

10 In this trial, you are the sole and exclusive
11 judge of the facts and I am the judge of the law. Do not
12 infer that I have any opinion about the facts in this case
13 from anything I have said during the course of this trial.
14 In this regard, the law simply does not permit me to have
15 an opinion about the facts. As jurors, it is your duty
16 alone to determine the effect and the value, the weight
17 and the truth of the evidence presented during the course
18 of this trial.

19 Furthermore, it is your job as jurors to
20 determine the credibility and believability of the
21 witnesses who have testified in this case. In determining
22 the believability of witnesses who have testified in this
23 trial, you may believe one witness over many or many over
24 one. You may believe a part of the testimony of a witness
25 and reject the remaining part. You may believe the

1 testimony of a witness in its entirety or rejected it in
2 full. You may consider whether the witness has an
3 interest in the result of the trial, whether the witness
4 is prejudice toward either party, the opportunity for the
5 witness to have seen the matters and things about which
6 the witness may testify and the way the witness acts on
7 the witness stand.

8 I further instruct you the fact that the
9 defendant in this trial did not testify on his own behalf
10 is not a factor to be considered by you in any way in your
11 deliberations and in your consideration on the question of
12 the guilt or innocence.

13 In this regard, the defendant has the
14 Constitutional Right to remain silent. And the exercise
15 of this right must not be considered by you in your
16 deliberations. The fact that the defendant did not
17 testify should not even be discussed in the jury room.
18 The burden of proof as I have stated to you is on the
19 State. The defendant has no obligation to prove his
20 innocence. The burden of proof remains with the State to
21 prove the defendant's guilt beyond a reasonable doubt and
22 the fact that the defendant did not testify is not a
23 factor to be considered by you in deciding the guilt or
24 innocence of the defendant. When you consider the whole
25 case if you have a reasonable doubt as to the guilt or the

1 innocence of the defendant, then he is entitled to that
2 reasonable doubt and would be entitled to a verdict of not
3 guilty. However, if upon considering the whole case, you
4 find that the State has proved by evidence which satisfies
5 you of the guilt of the defendant beyond a reasonable
6 doubt and then in such circumstance it would equally be
7 your duty to convict the defendant and find him guilty.

8 Also please understand that the testimony of a
9 police officer is not entitled to more weight than that of
10 any other witness. You are the sole judges of the
11 credibility of a witness and you are not to give more
12 weight to a police officer's testimony solely because he
13 or she is a police officer. Rather, you should judge an
14 officer's testimony by the same standards that you apply
15 to all other witnesses. Furthermore, the rules of
16 evidence ordinarily do not permit witnesses to testify
17 regarding opinions or conclusions. An exception to this
18 rule exist for witnesses we call expert witnesses. A
19 witness who by education and experience has become an
20 expert in some art, science or profession may give an
21 opinion as to the subject the witness claims to be an
22 expert in and may also give the reasons for the opinion.
23 You should consider any expert opinion given by a witness
24 and like any other evidence give it the weight you think
25 it deserves. If you decide that an expert witness'

1 opinion is not based on sufficient education and
2 experience or if you decide that the reasons given in
3 support of the opinion are not sound or that the opinion
4 is outweighed by other evidence, you may disregard the
5 opinion entirely. An expert witness' testimony is to be
6 given no greater weight than that of any other witness
7 simply because the witness is an expert. And you do not
8 have to accept an expert's opinion even though it is
9 uncontradicted.

10 In exercising your mental processes in
11 attempting to decide the truth, the law simply requires
12 that you exercise your good judgment, your common sense,
13 your sense of logic and reason and your experiences in
14 life. Then you apply these attributes to the evidence and
15 apply the law as I now state it to you and thus arrive at
16 a verdict.

17 The defendant in this case is charged with two
18 offenses, each offense charges a separate and distinct
19 crime. You must decide each offense separately on the
20 evidence and the law applicable to it uninfluenced by your
21 decision as to any other offense. The defendant may be
22 convicted or acquitted on any or all of the offenses
23 charged. You will be asked to write a separate verdict
24 guilty or not guilty for each offense. I will now define
25 each of offense for you.

1 The defendant is charged with first degree
2 criminal sexual conduct with a minor. The State must
3 prove beyond a reasonable doubt that the defendant engaged
4 in a sexual battery with the victim. A sexual battery is
5 sexual intercourse, cunnilingus, fellatio, anal
6 intercourse or any intrusion however slight of any part of
7 a person's body or of any object into the genital or anal
8 openings of another person's body except when the
9 intrusion is accomplished for medically recognized
10 treatment or diagnostic purposes.

11 The State must then prove beyond a reasonable
12 doubt that the victim was less than 11 years at the time
13 of the sexual battery. Consent, willingness, indifference
14 or ignorance on the part of the minor, if any, as to what
15 was taking place does not in any way affect the charge of
16 criminal sexual conduct with a minor because an unmarried
17 woman under the age of 14 cannot legally consent to sexual
18 intercourse.

19 The defendant is also charged with committing a
20 lewd act on a minor. A minor is a person under the age of
21 18. The State must first prove beyond a reasonable doubt
22 that the defendant was over the age of 14. Next, the
23 State must prove that the defendant willfully and lewdly
24 committed or attempted a lewd or lascivious act on or with
25 the body or its parts of a child under the age of 16 years

1 with the intent to arouse, appeal to or gratify the lust,
2 passions or sexual desires of the defendant or the child.
3 Willfully means voluntarily and intentionally with the
4 specific intent to do something the law forbids. Lewd
5 means obscene, lustful, indecent and lecherous.
6 Lascivious means tending to incite lust, lewd, indecent,
7 obscene or tending to pray the morals in respect to sex
8 relations.

9 Ladies and gentlemen, I'm now drawing near the
10 end of my charge and I want you to clearly understand that
11 you are not partisans or advocates for the State or this
12 defendant. You do not serve as jurors to reward your
13 friends or punish your enemies. In this regard, you have
14 been selected by both the State and this defendant to be
15 fair and impartial jurors. It is your duty by your joint
16 deliberations to determine the truth in this case giving
17 to this defendant the benefit of every reasonable doubt of
18 each and every issue. Then to the facts which you
19 determine to be true, you should take and apply the law
20 which has been given to you by this court and thus arrive
21 at a verdict which speaks the truth in this case.

22 In fact, the word verdict which has a Latin
23 derivative means a true saying. Thus, when you have
24 accomplished these responsibilities, you will have
25 satisfied your oath as jurors and you will have discharged

1 your duty to this court.

2 Mr. Bailiff, hand that to the forelady please.

3 Now, Ms. Forelady, I have handed you the verdict form.

4 When you arrive at a verdict in this case, you will write
5 your verdict on the form. For each charge if the State
6 has failed to prove the guilt of this defendant beyond a
7 reasonable doubt, your verdict for that charge will be to
8 two words not guilty. However, should the State have
9 proved their case against the defendant beyond a
10 reasonable doubt for that charge, then your verdict will
11 be one word guilty. Should the jury unanimously find the
12 defendant guilty, you must then make a determination
13 whether the conduct that constituted the sexual battery
14 involved sexual or anal intercourse by a person or
15 intrusion by an object.

16 Ms. Forelady, once a decision regarding each
17 charge has been made just check whichever choice is your
18 verdict. Also please understand that the verdict that you
19 render in this case must be a verdict of each and every
20 juror. It must be your unanimous verdict. All 12 jurors
21 must agree on the verdict which you authorize the forelady
22 to write for the jury. Ms. Forelady and members of the
23 jury, I want you to further understand that the order in
24 which the choices a verdict appear on the verdict form are
25 not suggestive of any verdict on the part of this court.

1 The verdict in this case is to be determined by you and
2 not the Court.

3 Furthermore, ladies and gentlemen, please
4 understand that even though I have given the verdict forms
5 to the forelady it is not her verdict alone. It is the
6 verdict of all 12 of you and I emphasis again it must be
7 unanimous. In a moment, you will retire to the jury room.
8 However, I would ask that you do not begin your
9 deliberations until you are told to do so. The law
10 requires that I now consult with the attorneys about this
11 charge. After I have done so, the bailiff will bring in
12 the items of evidence and instruct you to begin your
13 deliberations.

14 Also, should you have any questions during your
15 deliberations, you must put them in writing and send them
16 to me by way of the bailiff. The court bailiff will be
17 placed immediately outside the jury room door to provide
18 security and assistance for you during your deliberations.
19 Once you have reached your verdict, please knock on the
20 jury room door and ask the bailiff to advise the Court
21 that you have reached a verdict. And we will return you
22 to the courtroom as promptly as possible thereafter.
23 Thank you. You may retire to the jury room, but again do
24 not begin your deliberations until you are told to do so.
25 Thank you. You can retire to the jury room.

1 (WHEREUPON, the jury retire to the jury room
2 11:38.)

3 THE COURT: Okay. Any objections to the charge
4 as given from the State?

5 MR. MCEACHIN: None from the State, Your Honor.

6 THE COURT: How about the defense?

7 MR. WOODSON: None regarding the charge, Your
8 Honor.

9 THE COURT: All right. You all want to take a
10 look at the items of evidence. We will send them in and
11 bring out the alternates.

12 MR. WOODSON: Your Honor, I do object to certain
13 portion of his closing more so than talking about the
14 evidence. He was using words I think were intending to
15 inflame the jury, so I would object to that.

16 THE COURT: All right.

17 MR. MCEACHIN: Your Honor, I was not intending
18 to inflame the jury. And, Your Honor, I think if it suits
19 the Court and Mr. Woodson, we will send back some gloves
20 for the jury in case they want to pull anything out.

21 THE COURT: Is that fine with you, Mr. Woodson?

22 MR. WOODSON: That's fine.

23 MR. MCEACHIN: Your Honor, we'll keep State's
24 Exhibit 12 out here if that suits the Court?

25 THE COURT: Is that okay with you, Mr. Woodson?

1 MR. WOODSON: Yes, Your Honor.

2 THE COURT: Everything in order from the State?

3 MR. MCEACHIN: Yes, Your Honor.

4 THE COURT: Everything in order by the defense?

5 MR. WOODSON: Yes, Your Honor.

6 THE COURT: Mr. Bailiff, if you will take those
7 items into the jury room, tell them to begin and bring out
8 the two alternates.

9 (WHEREUPON, the jury began deliberations at
10 11:42 a.m.)

11 THE COURT: The two alternates I want to tell
12 you I appreciate you being here. I appreciate you
13 working. You were our second strings. If somebody gets
14 sick, call out or have problems, we need 12. And I would
15 have had to put you in their position to fulfill that.
16 You are dismissed for the week. I appreciate you being
17 here, appreciate your willingness to serve. I hope you
18 have a good day, leave your jury tags behind.

19 (WHEREUPON, alternate jurors were dismissed.)

20 (WHEREUPON, court at ease.)

21 THE COURT: Okay. We got a question. For
22 clarification purposes, can we have transcripts and watch
23 the child's interview on DVD again in the jury room?

24 MR. MCEACHIN: I don't know that we have the
25 capability to play in there.

1 THE COURT: We can bring them out here let them
2 see it.

3 MR. MCEACHIN: Transcripts, I mean we don't have
4 transcripts.

5 MR. WOODSON: If they have a specific part,
6 maybe it can be read or played back. We have the ability
7 to be played back..

8 THE COURT: You got it set up and ready to go?

9 MR. MCEACHIN: I need to call Keith real quick,
10 Judge. I can have him in just a second.

11 (WHEREUPON, a short break was taken.)

12 THE COURT: Go ahead and bring out the jury.

13 (WHEREUPON, Court's Exhibit No. 1 was admitted
14 into evidence.)

15 (WHEREUPON, the jury came into open court at
16 approximately 12:06 pm to watch DVD.)

17 THE COURT: All right. Ms. Forelady, we going
18 to go ahead and play the video again. We don't have the
19 capability with the technology to move it into the jury
20 room like you want it. So we're just going to play it out
21 here for you.

22 And the jury wanted to know if they can take
23 notes. Does the Solicitor or the defense attorney have
24 any objections to that?

25 MR. MCEACHIN: None, Your Honor.

1 MR. WOODSON: Your Honor, can we approach?

2 THE COURT: Yes, sir.

3 (WHEREUPON, a bench conference was held in the
4 presence of the jury, but out of the hearing of the
5 jury.)

6 THE COURT: Members of the jury, you don't need
7 to take notes just sit back, relax and listen, use your
8 common sense go forward from there.

9 All right, Solicitor, if you will go ahead and
10 start the video.

11 MR. MCEACHIN: Thank you, Your Honor.

12 (WHEREUPON, DVD being played for the jury.)

13 THE COURT: You can go back into the jury room
14 and continue.

15 MR. WOODSON: Your Honor, Your Honor, I think
16 there were two parts to the question.

17 THE COURT: There is no transcript of this that
18 I know of.

19 MR. WOODSON: Well, my understanding they might
20 have wanted to hear some testimony. Can you inquire or
21 have them write a note as to there was a portion of the
22 testimony that they wanted to hear.

23 THE COURT: Ms. Forelady, is this what the jury
24 wanted to see or is there anything else that you would
25 like to see as well?

1 FORELADY: That's it.

2 THE COURT: That's it?

3 FORELADY: That's it.

4 THE COURT: All right.

5 MR. WOODSON: Thank you, Your Honor.

6 JUROR: I can't understand what she is saying,
7 like to hear it in the last little section.

8 MR. MCEACHIN: Your Honor, will one minute be
9 sufficient.

10 JUROR: That's it.

11 THE COURT: If you go ahead and play it from
12 there. Turn off the lights.

13 (WHEREUPON, last few minutes of DVD being played
14 for the jury.)

15 THE COURT: If you go back into the jury room
16 and continue.

17 (WHEREUPON, the jury retire to the jury room
18 12:50 p.m. to continue deliberations.)

19 THE COURT: We will be at ease until something
20 else happens.

21 (WHEREUPON, court at ease.)

22 THE COURT: It's my understanding that we have a
23 verdict, but before we bring the jury in here to receive
24 the verdict, I want everybody in the courtroom to know
25 that when this verdict is read, we're going to have peace.

1 And we're going to have order. You understand me. That
2 goes for the defendant, that goes to the family members
3 and any spectators, any and everybody in this courtroom.
4 If anybody claps or says yah or they're happy or they're
5 upset and they start screaming or something like that.
6 I'm going to lock you up for ten days automatically today.
7 You understand me. All right. If anybody cannot comply
8 with this order, you need to leave now. If anybody does
9 not understand what I just said, you need to ask me now.
10 Anybody want to leave? All right. You understand it.

11 Go ahead and bring the jury in.

12 (WHEREUPON, the jury came into open court with a
13 verdict at 2:21 p.m.)

14 THE COURT: Ms. Forelady, has the jury reached a
15 verdict?

16 FORELADY: Yes, we have.

17 THE COURT: Would you please hand it to the
18 bailiff. I find that the verdict form is in order. Mrs.
19 Clerk, if you will publish the verdict please.

20 THE CLERK: Thank you, sir. State of South
21 Carolina County of Marion, in the Court of General
22 Sessions Twelfth Judicial Circuit indictment number
23 2012-GS-33-194, the State of South Carolina vs. Jimmy
24 Turner, defendant, verdict, as to the charge of first
25 degree sexual conduct with a minor: We, the jury,

1 unanimously find the defendant, Jimmy Turner, guilty. If
2 verdict is guilty please answer question number two. If
3 your verdict to question one was guilty was the sexual
4 battery -- sexual intercourse by a person or an object
5 they have sexual intercourse checked and person checked.
6 And are anal intercourse by a person checked. As to the
7 charge of lewd act on a minor: We, the jury, unanimously
8 find the defendant, Jimmy Turner, guilty. Dated 12-07-13
9 (sic) Makesia Johnson forelady. Is this your verdict say
10 you one say you all? Thank you.

11 (WHEREUPON, all jurors' agreed in the
12 affirmative.)

13 THE COURT: Is there any further polling from
14 the State?

15 MR. MCEACHIN: None from the State, Your Honor.

16 THE COURT: From the defense?

17 MR. WOODSON: No, Your Honor.

18 THE COURT: All right. Thank you very much.
19 Members of the jury, I want to thank you for your service,
20 your efforts, your attention and your time. And you are
21 hereby dismissed for the week. You are excuse for the
22 week. You've earned a three-year exemption by being here.
23 So if you get called up here next week, next year or the
24 next year, the next year, you don't have to serve if you
25 don't want to. You will be paid. I promise you you will

1 not pay off your house with a check. Don't blame me I
2 didn't sign it or write it. It's a token of our
3 appreciation for your efforts. Hope you have a good week
4 and you are excused everybody else remain seated while the
5 jury is excused.

6 (WHEREUPON, the jury is dismissed.)

7 THE COURT: Mr. McEachin, you need to get
8 everything ready?

9 MR. MCEACHIN: I'm prepared to proceed, Your
10 Honor.

11 MR. WOODSON: Your Honor, just for the record, I
12 need to make a couple motions for new trial and ask that
13 you set aside the jury verdict. I also renew the motions
14 and objections that I made throughout this trial.

15 THE COURT: Thank you. I deny those motions.
16 If you will come forward.

17 MR. MCEACHIN: Beg the Court's indulgence for
18 just a moment, Your Honor.

19 THE COURT: Sure.

20 (WHEREUPON, a short break was taken.)

21 MR. MCEACHIN: May it please the Court.

22 THE COURT: Yes, sir.

23 MR. MCEACHIN: Standing before you is Jimmy
24 Turner, Your Honor, and today's date February the 7th,
25 2013. The defendant was convicted by a jury of his peers

1 of both criminal sexual conduct with a minor in the first
2 degree and also lewd act on a minor. Your Honor, handing
3 you the sentencing sheets indicating both the charges and
4 convictions of both.

5 THE COURT: What kind of record does he have?

6 MR. MCEACHIN: Your Honor, the defendant's prior
7 criminal record consists of a burglary second degree grand
8 larceny charge in 1986, a false firearm application in
9 1991, an unlaw pistol charge in 1994, a forgery in 1997,
10 three separate counts of lewd act or committing a lewd act
11 on a minor in 1998 for which the defendant received a 15
12 year sentence. Possession of crack cocaine in 2006,
13 failure to register as a sex offender in 2006, another
14 failure to register in '07 and a subsequent failure to
15 register in 2007, Your Honor, and that would be the
16 defendant's record.

17 THE COURT: How about the victims would they
18 like to say anything?

19 MR. MCEACHIN: No, Your Honor, they were here at
20 the trial in the case. They indicated they did not wish
21 to be back, but they did want our office to let them know
22 whatever happen at trial.

23 THE COURT: Mr. Woodson.

24 MR. WOODSON: Beg the Court's indulgence, Your
25 Honor.

1 THE COURT: Sure.

2 (WHEREUPON, a pause in the proceedings.)

3 MR. WOODSON: Okay. Your Honor, looking at the
4 statutory mitigating factors, my client has no significant
5 history. He has a criminal history, it's not involving
6 the use of violence against another person. He is a
7 resident of this community and has been so for quite
8 sometime. Your Honor, has heard the facts of the case.
9 This was a heavily disputed case. I know that the jury
10 has spoken. I would ask that any sentence that you impose
11 be closer to the minimum sentence, Your Honor. The people
12 that were in the house with him are here. I don't know if
13 they want to say anything. If you can allow them to come
14 up, Your Honor.

15 THE COURT: Sure.

16 MR. WOODSON: This is Ms. Janie Mae Thompson.
17 She testified at trial, Your Honor.

18 THE COURT: All right.

19 JANIE MAE THOMPSON: On behalf on this stuff
20 what's going on here today, my little niece she not a
21 little girl that really would tell the truth. And if
22 somebody would say something, you know, like put something
23 in her head, she could remember it. I mean, she got a
24 good memory. She told me before she had went home during
25 the Thanksgiving, she told me she said Aunt Janie Mae mom.

1 She call me Aunt Janie Mae mom, she said if I would tell
2 my mother what went on, she would be mad with me. And I
3 say, well, what been going on. She said that Vincent
4 Brunson had been bothering with her. But if she had tell
5 her mother that, she said my momma be mad with me and beat
6 me. So I told her I say, I don't care who it is, if you
7 go to school on Monday or whenever you go back to school,
8 tell the lady you go to and talk to her. So that's what
9 she did, she went and told Vincent did it. She told me
10 that Vincent did it, but her mother love Vincent so good
11 until she would put it on anybody else. She would even
12 put it on me because love that man. I mean, I been around
13 my niece. And she love Vincent. Vincent had a wife and
14 the wife and her was fighting over Vincent and the little
15 girl say, you know why they was fighting don't you. I say
16 no. She said because my momma is going with the woman
17 husband. The girl little as she. I say six years old and
18 you know all of that.

19 And for telling lies about Faye, I wouldn't
20 trust on that because I been sitting there in the living
21 room with her. And she would get up beside me and go to
22 Mr. Jimmy Turner bedroom door and lay down on the floor
23 and put her ear to the door. And I say what you doing
24 that for. She say you know what they doing in there. And
25 I say all I know they in there watching TV, you know like

1 that. But I mean, I don't trust her on -- I see it on the
2 tape there earlier. The lady almost push words into the
3 little girl mouth. She almost did it. She kind of
4 coached her along I could see that. But I want y'all
5 y'all please have mercy on Jimmy Turner because he didn't
6 do that. I was there at all times. And when I wasn't in
7 my bedroom where they say he did it, it's joining my room
8 and I could hear everything going on because his father
9 use to sleep around there in that room. And I be laying
10 in my bed listening at him talking to his daughter, you
11 know. And I could hear every word even if I was sitting
12 in the room living room and she had holler. If anybody
13 been around there, they would tell you I would almost
14 break my neck to see about her. I love that little girl.
15 I love that little girl.

16 THE COURT: Thank you very much.

17 MR. WOODSON: Your Honor, can I say a couple
18 more things. As you heard in the testimony, Jimmy was
19 working. His last -- according to what I have just read,
20 his last charge was in around 2007. And since 2007, Your
21 Honor, he had been very active in his church. I know that
22 his pastor has been here throughout the trial. I think he
23 had to go step out and go run and errand, but he's been a
24 cook at his church. They say he didn't even smoke or do
25 anything. Jimmy had really changed, hadn't had any

1 charges between 2007. And in the 2007 charge was actually
2 a misunderstanding, but he had been registering all before
3 and skipped that one particular registration and got a
4 charge based on it. Never tried to run, never tried to
5 flee, Your Honor. He did miss a registration, so that's a
6 2007 charge, but for years Jimmy hadn't had any incident.
7 I would ask that you take that into consideration when you
8 sentence.

9 THE COURT: The only thing that concerns me is
10 he has three counts of lewd act on a minor in the past,
11 three counts of failure to register in the past. And then
12 here we are at trial again where C.S.C. with a minor child
13 who is six years old, comes a time when it has to stop.

14 All right, sir. In reference to the criminal
15 sexual conduct with a minor, the sentence of the Court is
16 that the defendant is committed to the state department of
17 corrections for life. In reference to the lewd act,
18 sentence of the Court is that the defendant is committed
19 to the state department of corrections for 15 years, both
20 of these will run concurrent. And hopefully this will end
21 this type behavior.

22 MR. MCEACHIN: Thank you, Your Honor.

23 END OF REQUESTED TRANSCRIPT
24
25

WITNESSES

CINDY BARR Marion Police Department

DOCKET NO. 2012-GS-33-00194

The State of South Carolina

County of

MARION

COURT OF GENERAL SESSIONS

MAY TERM 2012

THE STATE

vs.

JIMMY TURNER

Fitzlee H McEachin

ARREST WARRANT NUMBER

1057303 1057305

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury

Date:

Indictment for

**CRIMINAL SEXUAL CONDUCT WITH A
MINOR-1ST DEGREE;
LEWD ACT**

STATE OF SOUTH CAROLINA)

INDICTMENT FOR

COUNTY OF MARION)

CRIMINAL SEXUAL CONDUCT WITH A MINOR-1ST
DEGREE
LEWD ACT

At a Court of General Sessions, convened on MAY 10, 2012 the Grand Jurors of MARION County present upon their oath:

COUNT ONE- CRIMINAL SEXUAL CONDUCT WITH A MINOR-1ST DEGREE

That JIMMY TURNER did in Marion County, State of South Carolina, between the dates of November 4, 2011 and November 27, 2011, willfully and unlawfully commit the crime of Criminal Sexual Conduct with a Minor in the First Degree by engaging in sexual battery with a minor who is less than eleven (11) years of age, to wit: a six year old female, by forcing the child to perform oral sex and by having sexual intercourse with the child, in violation of Section 16-3-655, S. C. Code of Laws, 1976, as amended.

COUNT TWO- LEWD ACT

That JIMMY TURNER, being over fourteen years of age, did in Marion County between November 4, 2011 and November 27, 2011, willfully and lewdly commit a lewd or lascivious act upon or with the body of a child, less than sixteen (16) years of age, to wit: a six year old victim, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of said defendant or of the victim, including but not limited to: touching the victim in and around her genitalia, in violation of Section 16-15-0140, S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



E.L. Clements, III
TWELFTH CIRCUIT SOLICITOR

STATE OF SOUTH CAROLINA

(25 yrs - LIFE)

IN THE COURT OF GENERAL SESSIONS

273✓

COUNTY OF Marion
 STATE VS.
Jimmy Turner

AKA: _____
 Race: _____ Sex: M Age: _____
 DOB: _____ SS#: _____

Address: _____
 City, State, Zip: _____

DL#: _____ SID#: _____

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
 TO: Sex / Criminal sexual conduct with minor - victim under 11 yrs of age - First degree

in violation of § 16-03-0655(A)(1) of the S.C. Code of Laws, bearing CDR Code # 0385
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☒ Mandatory GPS(CSC ☐ §17-25-45
 w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: [Signature] 75437
McEachin, Pitzlee H SC Bar# _____ Defendant Attorney for Defendant SC Bar# _____

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 120 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: today
☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
 by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-15.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____
 Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____
☐ Set by SCDPPPS _____
 Recipient: _____
 *Fine: _____
 § 14-1-206 (Assessments 107.5 %) \$ _____
 § 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100⁰⁰
 § 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____
 § 56-5-2995 (DUI Assessment) \$12 \$ _____
 § 56-1-286 (DUI Breath Test) \$25 \$ _____
 Proviso 47.9 (Public Def/Prob) \$500 \$ _____
 § 14-1-212 (Law Enforce. Funding) \$25 \$ 25⁰⁰
 § 14-1-213 (Drug Court Surcharge) \$150 \$ _____
 § 50-21-114 (BUI Breath Test Fee) \$50 \$ _____
 § 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____
 Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5⁰⁰
 3% to County (if paid in installments) \$ 3⁹⁰
 TOTAL \$ 133.90

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
 § 47.12 requires \$500 be paid to Clerk
 during probation.

Clerk of Court/ Deputy Clerk [Signature]
 Court Reporter: Keeshia T Reed
 SCCA/217 (03/2011)

Presiding Judge [Signature]
 Judge Code: 2157
 Sentence Date: 2-7-2013

ORIGINAL FILED IN THIS OFFICE
 PAGE 1

STATE OF SOUTH CAROLINA

(0-15.45)

IN THE COURT OF GENERAL SESSIONS

COUNTY OF
STATE

Marion

VS.

Jimmy Turner

AKA:

Race: Sex: M Age:

DOB: SS#:

Address:

City, State, Zip:

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Sex / Lewd Act, committing or attempting lewd act upon child under 16 (June 4, 1996)

INDICTMENT/CASE#: 2012-GS-33-00194

A/W#: 1057305

Date of Offense: 11/4/2011

S.C. Code § : 16-15-0140

CDR Code #: 2468

SENTENCE SHEET

in violation of § 16-15-0140 of the S.C. Code of Laws, bearing CDR Code # 2468

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☒ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: *[Signature]*

75437

McEachin, Fizzle H

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: today☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-33

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-23 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

Proviso 47.9 (Public Def/Prob)

§ 14-1-212 (Law Enforce. Funding)

§ 14-1-213 (Drug Court Surcharge)

§ 50-21-114(BUI Breath Test Fee)

§ 56-5-2942(J) (Vehicle Assessment)

Proviso 90.5 (SCCJA Surcharge)

3% to County (if paid in installments)

TOTAL

	\$
\$	\$
\$100	\$ 100 ^w
\$100	\$
\$12	\$
\$25	\$
\$500	\$
\$25	\$ 25 ^w
\$150	\$
\$50	\$
\$40/ea	\$
\$5	\$ 5 ^w
\$	\$ 3.90
\$	\$ 133.90

PTUP _____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

ORIGINAL FILED IN THIS OFFICE

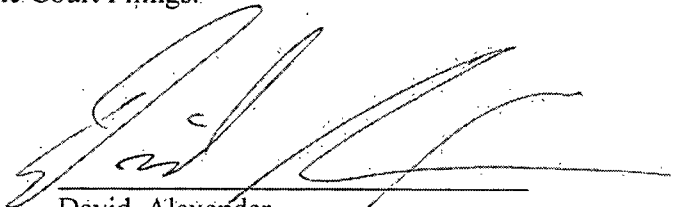
BOOK PAGE

FILED
CLERK OF COURT, MARION COUNTY
SOUTH CAROLINA
2-7-2013

CERTIFICATE OF COUNSEL FOR APPELLANT

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

July 22nd, 2015



David Alexander
Appellate Defender

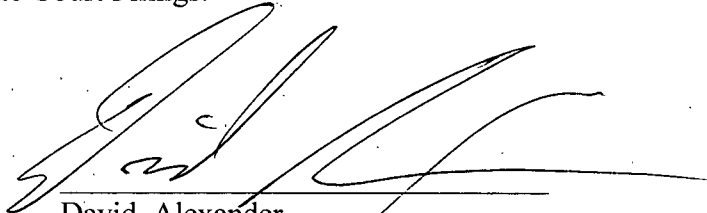
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

CERTIFICATE OF COUNSEL FOR APPELLANT

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July 22nd, 2015

A handwritten signature in dark ink, appearing to read 'David Alexander', is written over a horizontal line.

David Alexander
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

 ORIGINAL

Appeal from Marion County

William H. Seals, Jr., Circuit Court Judge

THE STATE,

RESPONDENT, JUL 22 2015

SC Court of Appeals

V.

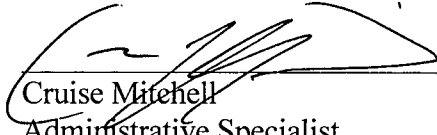
JIMMY TURNER,

APPELLANT

APPELLATE CASE NO. 2013-000335

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon J. Benjamin Aplin, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 this 22nd day of July, 2015.


Cruise Mitchell
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 22nd day of July, 2015.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: July 3, 2023.