

**ORIGINAL**

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM NEWBERRY COUNTY

Eugene C. Griffith, Jr., Circuit Court Judge

**RECEIVED**

JUL 31 2015

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

TIMMY EUGENE RICE, JR.,

APPELLANT

APPELLATE CASE NO. 2014-001753

RECORD ON APPEAL

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1 State of South Carolina )  
2 County of Newberry ) Court of General Sessions  
3 2013-GS-36-0549

4 State of South Carolina )  
5 vs. ) Transcript of Record  
6 Timmy Eugene Rice, Jr. )  
7 DEFENDANT )

8 July 7, 2014  
9 Newberry, South Carolina

10  
11 B E F O R E:

12 Honorable Eugene C. Griffith, Jr., Judge  
13

14  
15 A P P E A R A N C E S:

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17 Taylor Daniel, Assistant Solicitor  
18 Attorney for the State

19 Charles Verner, Public Defender  
20 Attorney for the Defendant  
21

22  
23 Joy E. Holston  
24 Official Court Reporter  
25

I N D E X   O F   W I T N E S S E S

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(DW) - Denotes Defense Witness  
(SW) - Denotes State's Witness

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1 THE COURT: All right, Solicitor.

2 MR. STUMBO: Your Honor, the State would call the  
3 State versus Timmy Eugene Rice, Jr. Judge, this is an  
4 indictment for criminal sexual conduct with a minor, first  
5 degree. Judge, we have the jury coming in tomorrow. We  
6 intend to call this case first for trial. We have a  
7 couple of pretrial motions that we would like to go ahead  
8 and take care of today.

9 THE COURT: What was the indictment number.

10 MR. STUMBO: Judge, it is 2013-GS-36-0549.

11 THE COURT: What are your motions.

12 MR. STUMBO: Judge, we do have a Jackson v. Denno and  
13 a motion involving the forensic interview of the child.  
14 The child victim of this case was six years old. She was  
15 forensically interviewed. We intend to offer the video in  
16 evidence. I believe the statute requires in limine a  
17 consideration by Your Honor on whether it is admissible or  
18 not based on standards laid out in the statute. Judge,  
19 one other thing that I would like to raise before we start  
20 pretrial motions. Mr. Verner and I discussed this at  
21 length this morning. Essentially we extended an offer in  
22 this case to reduce the charge to a criminal sexual  
23 conduct, third degree for a negotiated 15 years. The  
24 defendant, from my understanding and according to Mr.  
25 Verner, is not accepting that plea offer. I just want to



1 put that on the record to ensure Mr. Verner has  
2 communicated that offer to his client. I just want to  
3 verify that.

4 MR. VERNER: Your Honor, my client does plead not  
5 guilty.

6 THE COURT: And y'all have discussed that plea offer.

7 MR. VERNER: Yes, sir. And actually it was made  
8 prior to today. I think the State had extended it for  
9 some period of time. He is aware of the plea offer, he  
10 has maintained that he is not guilty.

11 THE COURT: All right, fair enough. Let's, on the  
12 video, let me hear your motion, let's hear about the video  
13 first.

14 MR. VERNER: In candor, this issue wasn't raised to  
15 me prior to this morning. And I just had a chance a few  
16 minutes ago to read the State's written motion. I would  
17 ask that I would be given the lunch break to research the  
18 law on that and maybe do further research.

19 THE COURT: As I understand the video--

20 MR. VERNER: They have produced the video in ample  
21 time for us to review, it is not a question of receiving  
22 it and the notice of it. I was not aware until this  
23 morning that the State intended to offer that into  
24 evidence in chief.

25 THE COURT: I have go to review it and make an

1 in-camera view of it and make certain it is fair and  
2 truthful and it is not unduly suggestive and those sorts  
3 of things per the statute anyway.

4 MR. VERNER: Yes, sir. I would just ask the Court  
5 to, unless the State wants to make the arguments prior to  
6 the lunch break, just that I would be offered the  
7 opportunity to--

8 MR. STUMBO: Judge, the written motion was filed and  
9 we can let Your Honor review that. Obviously, I don't  
10 think there is any requirement that you review the video  
11 even in the courtroom. I think we can make a, you can  
12 make a preliminary finding in-chambers.

13 MR. VERNER: It says in-camera, Judge. I am taking,  
14 that appears to be the language of the statute but I would  
15 double check that over the lunch break and make sure.

16 THE COURT: The ones I have done in the past have  
17 been done in-chambers. I have been given a CD or a DVD  
18 and observe the video whether it was fifteen minutes or an  
19 hour, watched the whole thing. And then we had subsequent  
20 arguments or suggestions from counsel as to whether it  
21 should be admitted and what they observed and that kind of  
22 thing. I don't think it is appropriate to argue before I  
23 see the video. If you argue it now I am going to say, let  
24 me watch it. So let me watch it and if you want to make a  
25 motion I will hear you later on, at least prior to the

1 jury being sworn.

2 MR. VERNER: Yes, sir. And that begs another  
3 question from me. I have had time to talk to him, but at  
4 some point today I would ask that court will be excused  
5 earlier enough for me to meet with him and everybody  
6 again. At some point I would ask that the Court dismiss  
7 court, enough for me to have a fair chance.

8 MR. STUMBO: We will be glad to do that, Your Honor.  
9 I think we only have a hand full of things.

10 MR. VERNER: They have been good about giving me  
11 advance notice and giving me materials, Your Honor. But I  
12 would still, I have had chances to meet with the family  
13 and the witnesses. But I would still need some period of  
14 time.

15 MR. STUMBO: We will extend that offer through the  
16 end of the day.

17 THE COURT: All right. We will do that. Let's go  
18 ahead and conduct the Jackson v. Denno hearing on the  
19 statement. We will do that now.

20 MR. STUMBO: We will go ahead and proceed on that,  
21 Your Honor. The State would call Chief Jeremiah Sinclair  
22 to the stand.

23 JEREMIAH SINCLAIR, being  
24 first duly sworn, testified as follows:

25 DIRECT EXAMINATION

1 By Mr. Stumbo:

2 Q Chief Sinclair, I take it by that badge and the patch  
3 on your shoulder you are the Chief of the Town of  
4 Whitmire?

5 A Yes, sir.

6 Q And how long have you been the Chief out there?

7 A Ten years.

8 Q Did you have any prior law enforcement experience?

9 A No, sir.

10 Q So you started out with the Town of Whitmire?

11 A I have been there for, since June of 2001.

12 Q Did you go to the academy?

13 A Yes, sir.

14 Q You received your certification from the State Law  
15 Enforcement Academy?

16 A Yes, sir.

17 Q You received any other training since that time?

18 A Yes, sir.

19 Q And since that time have you worked in law  
20 enforcement in Whitmire?

21 A Yes, sir.

22 Q How many cases have you worked on?

23 A I couldn't say, a bunch.

24 Q You have had occasions to interview suspects?

25 A Yes, sir.

1 Q Now, the case we are here for this week involving the  
2 defendant, Timmy Rice, Jr. Did your office receive a  
3 report in this case?

4 A Yes, sir.

5 Q And who made the report to law enforcement to your  
6 office?

7 A It was a Willie Mae Wright.

8 Q What were the nature of the allegations, complaint  
9 Ms. Wright made?

10 A Ms. Wright spoke with Lieutenant Moss and, on the  
11 15th of July, 2013. And stated that she took a job at  
12 Sterilite Clinton Plant about two or three months prior  
13 and she was having babysitting problems. And the subject,  
14 Mr. Timmy Rice, was referred to her for possibly  
15 babysitting. And she said about two or three weeks prior  
16 to this report the child began to act distant and her  
17 behavior was not normal. About a week ago the child had  
18 come to her and described some actions that was not of the  
19 mindset of a seven year old.

20 Q Let me stop you right there, you said a week ago. A  
21 week prior to when she came--

22 A A week prior to her coming in. And that she wanted  
23 to have an investigation as to the situation because the  
24 child had actually also told her that Mr. Timmy Rice had  
25 put his fingers in her.

1 Q So her child alleged that Mr. Rice, the babysitter  
2 had digitally penetrated her daughter?

3 A Yes, sir.

4 Q And how old, did she tell y'all how old her daughter  
5 was?

6 A I think she was six at the time.

7 Q Now, in response to that did you make contact with  
8 the suspect in this case, Mr. Timmy Rice, Jr.?

9 A Lieutenant Moss contacted me and told me about the  
10 report. We both went to contact Mr. Rice and we talked to  
11 him about the incident. And his family brought him down  
12 to the police department for us to interview him. He came  
13 into the police department.

14 Q When he came in, did he come in by himself or was  
15 with his folks?

16 A He came in, he had his parents wait outside.

17 Q You say his parents were with him but how did you say  
18 the parents, how old was Timmy Rice, Jr. when he came in  
19 to see, was he a child or was he an adult?

20 A No, sir. I think he was 24 years old at the time.

21 Q Now, when he came into the police department which is  
22 right there on Main Street of Whitmire, did you talk, were  
23 you there by yourself or were you there with another  
24 officer?

25 A Myself and Lieutenant Moss.

1 Q Lieutenant Moss is in the courtroom here today?

2 A Yes, sir.

3 Q And did you indicate to the defendant what he was  
4 there for?

5 A Yes, sir. He had already kind of knew why he was  
6 there from my understanding.

7 Q Now, at that time did you proceed to read him his  
8 rights?

9 A Yes, sir.

10 Q Did you do that right when you walked in or how did  
11 that happen?

12 A Just after he had come in and his parents were  
13 waiting outside.

14 Q What room in the police department?

15 A In the police department downstairs in my office.

16 Q So you went ahead and read him his rights?

17 A Yes, sir.

18 Q Right off the bat?

19 A Yes, sir.

20 Q How did you read him his rights, Chief?

21 A I read them off of a card I carry on me.

22 Q Do you have that card with you?

23 A Yes, sir.

24 Q Okay. Can you produce it for us. And could you read  
25 the rights off of that card just like you read them to the

1 defendant that day?

2 A Yes, sir. You have the right to remain silent.

3 Anything you say can, anything you say can and will be  
4 used against you in a court of law. You have the right to

5 talk to a lawyer and have him present with you while you  
6 are being questioned. If you cannot afford to hire a

7 lawyer one will be appointed to represent you before any  
8 questioning if you wish. You can decide at any time to

9 exercise these rights and not answer any questions or make  
10 any statements. Do you understand each of these rights

11 that I advised as I have explained them to you. And  
12 having these rights in mind do you wish to talk to us now.

13 Q Did he answer that he understood the rights, appeared  
14 to understand them?

15 A Yes, sir.

16 Q Did he choose to exercise any of those rights?

17 A No, sir.

18 Q Did he choose, did he say he was willing to talk to  
19 you at that time?

20 A Yes, sir.

21 Q And did he indicate he was willing to speak with you  
22 without an attorney, is that correct?

23 A Yes, sir. He actually wanted to go somewhere more  
24 private, his parents were outside so we took him upstairs.

25 Q So he asked for that to go to a different room?



1 A Yes, sir.

2 Q So did you take him upstairs?

3 A Yes, sir.

4 Q That is where you conducted the interview?

5 A Yes, sir.

6 Q Now, when you got upstairs in the room, were you and  
7 the defendant, Rice, was Lieutenant Moss there as well?

8 A Yes, sir.

9 Q And at that time did you give him an opportunity to  
10 give his side of the story?

11 A Yes, sir.

12 Q And did he give a statement about what had happened?

13 A Yes sir, he did.

14 Q Did he give you an oral statement that night?

15 A He gave an oral statement to start with. And then he  
16 gave us a written statement as well.

17 Q Okay. What he said orally to you, did he essentially  
18 reduce it to writing?

19 A Yes, sir.

20 Q And he wrote the statement in the presence of you and  
21 Lieutenant Moss?

22 A Yes, sir.

23 MR. STUMBO: Your Honor, if I can have this marked  
24 for ID.

25 THE COURT: You may. This will be Court's exhibit 1

1 for purposes of this hearing.

2 (Whereupon, Court's Exhibit 1 was marked for  
3 identification only.)

4 MR. VERNER: Your Honor, procedurally, I am not going  
5 to object to the form of the statement. Is this the  
6 original?

7 MR. STUMBO: Yes.

8 MR. VERNER: Okay. I was just going to suggest that  
9 a copy could be offered as the Court's exhibit and then  
10 the original could be offered at trial, two different  
11 exhibits.

12 THE COURT: That's fine.

13 MR. STUMBO: Judge, this is the original. I think we  
14 can mark it for purposes of the hearing today and relabel  
15 tomorrow as a State's exhibit.

16 THE COURT: That is how I have seen it done. Mark it  
17 as a Court's exhibit today and then at the trial it will  
18 be State's exhibit, whatever it comes as.

19 Q I am going to hand you what has been marked as  
20 Court's 1, do you recognize that document?

21 A Yes, sir.

22 Q What is that?

23 A It is a written statement, voluntary statement form  
24 that was given by Timmy Rice.

25 Q Did that come out of your file?

1 A Yes, sir.

2 Q And that is the original of that?

3 A Yes, sir.

4 Q You provided a copy, obviously, to my office?

5 A Yes.

6 Q During the course of this case?

7 A Yes, sir.

8 Q Now, if you could, could you indicate to the Court  
9 what is on the top part of that first page?

10 A On the top part is a blank for a date and time, place  
11 and a blank for the suspects name, how old he is, what his  
12 address is, who he is giving the statement to and also has  
13 the Miranda rights.

14 Q Did you fill in those blanks?

15 A Yes, sir.

16 Q Is that your handwriting, filling in the blanks at  
17 the top?

18 A Yes, sir.

19 Q Of the form?

20 A Yes.

21 Q And it indicates age, what is the date it was given  
22 on?

23 A July 15, 2013.

24 Q What was the time?

25 A 11:58.

1 Q What is the place?

2 A Whitmire Police Department.

3 Q And who gave this statement?

4 A Timmy Eugene Rice, Jr.

5 Q How old is he?

6 A 24 years old.

7 Q And it says he is giving this statement to who?

8 A Jeremiah Sinclair and Michael Moss.

9 Q On this form is your signature on here at the bottom?

10 A Yes, sir.

11 Q And this is also, Lieutenant Moss' signature?

12 A Yes, sir.

13 Q Okay. And again, the rights as on this form, can you  
14 read the Miranda rights just off the form, for the record,  
15 please.

16 A I am giving this statement to Jeremiah Sinclair and  
17 Michael Moss who have identified themselves as police  
18 officers. And he, he has duly warned me that I have the  
19 following rights. That I have the right to remain silent  
20 and not make any statement at all. That any statement  
21 that I make may be used against me at my trial. That any  
22 statement I make may be used against me in court. That I  
23 have a right to have a lawyer present to advise me prior  
24 to and during any questioning. That if I am unable to  
25 employ a lawyer I have the right to have a lawyer

1 appointed to advise me prior to and during any  
2 questioning. And that I have a right to terminate the  
3 interview at any time. Do you want me to read the second  
4 paragraph?

5 Q Yes.

6 A Prior to and during the making of the statement, I  
7 hereby knowingly and intelligently and voluntarily waive  
8 the above explained rights and I do make the following  
9 voluntary statement to the aforementioned person of my own  
10 free will and without any promises or offers of leniency  
11 or favors and without compulsion or persuasion by any  
12 person or persons whomsoever.

13 Q Was that top part read by Mr. Rice or read to him?

14 A Yes, sir.

15 Q Did he appear to understand these rights as they were  
16 given to him again on this voluntary form?

17 A Yes, sir.

18 Q Which is Court's exhibit 1?

19 A Yes, sir.

20 Q Did he ever, at this time, ask for a lawyer?

21 A No, sir.

22 Q Did he say he was willing to talk to y'all?

23 A Yes, sir.

24 Q Did he appear to not understand any of those rights  
25 that as they were read to him?

1 A No, sir.

2 Q Did you put any pressure on him?

3 A No, sir.

4 Q Did you threaten him?

5 A No, sir.

6 Q Coerce him?

7 A No, sir.

8 Q Make him any promises?

9 A No, sir.

10 Q Can you tell me about the room. Is it just a room

11 with a table and chairs?

12 A It is a rectangular table with about eight chairs in

13 it and it has two doors. It is used as a jury room.

14 Q Did you have him restrained at all?

15 A No, sir.

16 Q So he didn't have handcuffs on him or anything like

17 that?

18 A No, sir.

19 Q Now, ultimately, in the statement, did he write these

20 words on these two pages in Court's exhibit 1?

21 A Yes, sir.

22 Q In the main body of it?

23 A Yes, sir.

24 Q Is that his name that he signed at the bottom?

25 A Yes, sir.

1 Q Is his signature the person making a voluntary  
2 statement, Timmy Rice's signature?

3 A Yes, sir.

4 Q If you could, for the record, will you publish  
5 Court's 1?

6 A I started to keep the child around the end of the  
7 school year, 2013. I would play with her a lot, balls,  
8 dolls and such that the little girls play with as with  
9 other children. I tried playing fighting games, tug and  
10 tickling. I later found that the girl was ticklish on her  
11 legs and thigh area. I would try tickling her up and down  
12 her thigh. I had urges that I was not used to coming to  
13 mind constantly. I had tried fighting them but at times  
14 they did get the best of me. I do recall that my hands  
15 had touched the girl in an inappropriate way at times.  
16 However, I did not however show myself or penetrate the  
17 girl at any time. I even protested to my mother about  
18 keeping the child any longer. I had to distance myself  
19 from such things. Her mother approached me about the  
20 incident, indecent acts I had committed. And in front of  
21 her and now later the officers, I told them that, yes, I  
22 did commit some inappropriate act upon the child but that  
23 is also the reason I was also tried to limit the one on  
24 one time I had with the child. I tried although futively  
25 at times to combat such thoughts. Anything I have done is

1 something I can't undo.

2 Q Now, did it appear, just based on your observations  
3 that Mr. Rice, the defendant, tell you his statement, he  
4 wrote it out voluntarily?

5 A Yes, sir.

6 Q You didn't promise him anything to write this out?

7 A No, sir.

8 Q If he had asked for a drink of water or a snack or  
9 something would you have provided that for him?

10 A Yes, sir.

11 Q Did he ever ask for any of those things?

12 A I don't believe so.

13 Q And the entire time that y'all were interviewing him  
14 you were in the room as well as Lieutenant Moss?

15 A Yes, sir.

16 Q So he observed the rights as they were read to the  
17 defendant?

18 A Yes, sir.

19 Q That is all I have.

20 CROSS-EXAMINATION

21 By Mr. Verner:

22 Q Chief, are you aware of whether he had ever met you  
23 before, whether you had ever met Timmy Rice, Jr.?

24 A He lived on the street I lived on before.

25 Q You were somewhat familiar?



1 A I am not familiar if I ever had a conversation with  
2 him or not. I can't recall.

3 Q Do you recall ever arresting him before?

4 A No, sir.

5 Q In fact, it is true that he has never been arrested  
6 before?

7 A That is possible.

8 Q You would have his criminal rap sheet as part of the  
9 case?

10 A Yes, sir.

11 Q So as far as you knew, this is his first time ever  
12 interacting with law enforcement?

13 A As far as I can recall.

14 Q Is there a reason his mother and father were, either  
15 or, were not allowed to sit with him during the interview?

16 A No, sir.

17 Q Did he ask that his parents sit with him?

18 A No, sir.

19 Q Did he appear to be sober, clear minded?

20 A Yes, sir.

21 Q You didn't think he was under the influence of any  
22 substances?

23 A No, sir.

24 Q Did you question him about any specific dates and  
25 time or just kind of in general?

1 A Just of the accusations.

2 Q Did he testify or did he speak about anything that is  
3 not in, basically in his written statement?

4 A He went into a little further detail, I believe, from  
5 what I can recall.

6 Q Well, what do you recall?

7 A Basically, the gist of his statement, what he was  
8 talking about.

9 Q So you believe what he wrote was the sum and  
10 substance, a fair recount of what he told you orally. It  
11 doesn't leave anything out orally?

12 A He did say, he said he would take her to the parks,  
13 outdoor area to play with her.

14 Q Are you referring to your notes?

15 A Yes, sir.

16 Q I assume you took contemporaneous notes?

17 A I am referring to my notes. And basically what I  
18 told you, he wanted to go somewhere more private to talk  
19 about the situation. He did say that it may have been  
20 possible during the tickling or touching where his fingers  
21 would rub against the child's vagina area but he had never  
22 exposed himself or penetrated.

23 Q In discussing it before the written statement was,  
24 that I had tickled her or touched her and could have very  
25 well tickled her or touched her in an inappropriate area?

1 A Yes, sir.

2 Q This statement from him was how long after Ms. Willie  
3 Mae Wright came and spoke with you that you interviewed  
4 Timmy Rice, Jr.?

5 A I think it was just a few hours.

6 Q The same day?

7 A Same day.

8 Q And his parents were good about getting him there?

9 A Yes, sir.

10 Q Did you also interview the child, [REDACTED]

11 A No, sir.

12 Q Did you have any other evidence in this case, I take  
13 it it was within a few hours of meeting with Ms. Willie  
14 Mae?

15 A Yes, sir.

16 Q The only real evidence you had at that time was Ms.  
17 Willie Mae's statement?

18 A Yes, sir.

19 Q Is that the only time you have spoken to Timmy Rice  
20 about this case?

21 A Yes, sir.

22 Q Or law enforcement as far as you know?

23 A Yes, sir.

24 Q How did you describe the charge that he was being  
25 investigated for?

1 A Criminal sexual conduct with a minor.

2 Q Did you characterize that as rape or was just, you  
3 are being investigated for criminal sexual conduct?

4 A As far as talking, explaining it to him?

5 Q Yes, sir. I mean, was it clear, do you believe he  
6 had a clear understanding that he was investigated for a  
7 rape charge of the child or just that he thought he was  
8 being investigated for touching the child improperly?

9 A Improperly touching the child in a sexual manner.

10 Q Thank you.

11 REDIRECT EXAMINATION

12 By Mr. Stumbo:

13 Q Mr. Verner mentioned his parents, would you normally  
14 have parents of an adult come in on an interview?

15 A No, sir.

16 Q Just one other thing. Were there any other drawings  
17 or follow-ups that were done in regards to the statement?

18 A Yes, sir. While we were up there we drew a picture  
19 of a somewhat anatomical picture of a person and he did  
20 indicate to us where he tickled her, touched her.

21 Q You did provide that in your case file?

22 A Yes, sir.

23 Q Okay. The anatomical drawing?

24 A Yes, sir.

25 Q And that was also done in the interview room?

1 A Yes, sir.

2 Q And that was done voluntarily?

3 A Yes, sir.

4 Q And he initialed himself on the anatomical drawing  
5 where he had touched the child?

6 A Yes, sir.

7 Q Was there any private parts or any parts on the body  
8 where he indicated that he touched the child?

9 A He indicated the inner thighs up into the vaginal  
10 area, somewhere close to the vaginal area.

11 MR. STUMBO: Your Honor, I don't intend right now to  
12 mark that and offer it, and we do intend to offer the  
13 drawing. But we do intend to offer the drawing in front  
14 of the jury, just for the record.

15 MR. VERNER: This is the drawing that he would have  
16 made contemporaneously with the statement?

17 MR. STUMBO: That's correct. It was a drawing made  
18 by the officer, he initialed places on the body where he  
19 had touched.

20 MR. VERNER: Subject to the Court's ruling, Judge, I  
21 think that would come in with the statement if the officer  
22 said the drawing was done at the same time of the  
23 statement. So subject to my general possible Jackson v.  
24 Denno hearing, I think the State could offer that  
25 contemporaneously with the statement if they chose to. I

1 understand they are being cautious. In fairness, if the  
2 statement comes in I think any contemporaneous drawing can  
3 come in with it, that explains the statement. I don't  
4 think it has to be separately put in. But obviously not  
5 consenting to it being admitted. But I think the Jackson  
6 v. Denno hearing would cover both.

7 THE COURT: You object to the Denno hearing subject  
8 to the written statement as well as the drawing. The  
9 State doesn't want to put the drawing in, so be it--

10 MR. VERNER: I don't know on what ground I could get  
11 it not put in with the, other than the Jackson v. Denno,  
12 Judge.

13 MR. STUMBO: Just to be candid with the Court, we  
14 intend to put it in.

15 MR. VERNER: I think just go ahead and mark it or  
16 connect it with the exhibit.

17 MR. STUMBO: We can mark this as Court's number 2 for  
18 ID purposes.

19 THE COURT: We can add this to Court's 1.

20 MR. STUMBO: If I can ask Mr. Sinclair a follow-up  
21 question about that.

22 Q What is page 3 on Court's number 1, is that the  
23 drawing you were referring us to?

24 A Yes, the drawing of the body of the anatomical  
25 drawing, was drawn by Lieutenant Moss and the areas that

1 are marked by Mr. Rice is initialed and drew by him.

2 Q And just for the record, this is a copy here,  
3 correct?

4 A Yes, sir.

5 Q The original had notes on the back of it, did it not?

6 A Yes, sir.

7 Q That is why we have a copy?

8 A Yes, sir.

9 Q Thank you.

10 RECROSS-EXAMINATION

11 By Mr. Verner:

12 Q Did you represent that you had any evidence against  
13 him from either the child or Ms. Willie Mae Wright?

14 A No, sir.

15 Q So, it is kind of open?

16 A He was very, very open and forthcoming.

17 Q But you didn't say, we know from this witness that  
18 you are alleged to have done this. You didn't represent  
19 that you had other evidence?

20 A No, sir. As a matter of fact, he pretty much told  
21 the story before we even explained to him, he knew why he  
22 was there and he was forthcoming about it.

23 Q So we are straight, the ginger bread man picture, so  
24 to speak, is made by you?

25 A Lieutenant Moss.

1 Q By law enforcement. And then the marks that have the  
2 TR, are those his initials?

3 A Yes, sir.

4 Q And those are places that he says he touched the  
5 child?

6 A Yes, sir.

7 Q And there was nothing else that was part of this  
8 picture other than your personal notes had been taken out  
9 of it?

10 A Yes, sir.

11 Q Thank you.

12 MR. STUMBO: We call Lieutenant Moss.

13 MICHAEL MOSS, being  
14 first duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 By Mr. Stumbo:

17 Q Lieutenant Moss, you are with the Whitmire Police  
18 Department?

19 A I am.

20 Q And Chief Sinclair is your boss there?

21 A Yes, sir.

22 Q And you had occasion to work this investigation  
23 involving the defendant, Timmy Rice, Jr?

24 A Yes, sir.

25 Q And were you there on July 15th of 2013 when he came



1 into the Whitmire Police Department?

2 A Yes, I was.

3 Q And how long have you been with the police  
4 department?

5 A April would have been nine years.

6 Q Now, when the defendant comes to the police  
7 department are you there with Chief Sinclair at that time?

8 A Yes, sir.

9 Q So just the two there, is there anybody else there at  
10 the police department at the time?

11 A No, sir.

12 Q Lieutenant Moss, were you there when Chief Sinclair  
13 read the defendant his rights?

14 A I was.

15 Q And did he read them off the card just like you heard  
16 today in his testimony?

17 A Yes, sir.

18 Q Did the defendant understand what you were saying?

19 A Yes, sir.

20 Q Did he appear intelligent?

21 A Yes, sir.

22 Q Did you have any concerns that he was under the  
23 influence of any substances or anything?

24 A No, sir.

25 Q And how did he respond when you read him his rights,

1 was he willing to talk?

2 A Yes, sir.

3 Q Did he ever ask for a lawyer?

4 A No, sir.

5 Q Did he appear to understand that anything he said to  
6 y'all could be used against him later?

7 A Yes, sir.

8 Q He never raised any questions as to whether he . .  
9 understood his rights?

10 A No, sir.

11 Q Did you ever threaten him?

12 A No, sir.

13 Q Coerce him in any way?

14 A No, sir.

15 Q Did you ever promise him anything?

16 A No, sir.

17 Q He agreed to speak to you and Chief Sinclair?

18 A Yes, sir.

19 Q Where did you interview him?

20 A We interviewed him upstairs. When he first came in  
21 the Chief read him rights and he requested a more private  
22 area. We took him upstairs to the jury room.

23 Q He requested a more private area?

24 A Yes, sir.

25 Q And at that time did he answer your questions?

1 A Yes.

2 Q Did he give essentially a statement as to his side of  
3 the story?

4 A Yes, he did.

5 Q I am going to show you Court's exhibit number 1. Do  
6 you recognize that document?

7 A I do.

8 Q What is that?

9 A That is the written statement from Timmy Rice, Jr.

10 Q Is that your signature at the bottom?

11 A Yes, sir.

12 Q Were you there when the defendant wrote this  
13 statement?

14 A Yes sir, I was.

15 Q And these are his words and his handwriting?

16 A Yes, sir.

17 Q These places where it is scratched out and it has a  
18 TR written out, is that his initials?

19 A It is, we told him if there was a correction on the  
20 statement to make sure he initialed it.

21 Q In your observation did he appear to give this  
22 statement to y'all voluntarily?

23 A Yes, sir.

24 Q Ever asked for a lawyer?

25 A No, sir.

1 Q Page 3 of Court's exhibit 1 is what appears to be a  
2 drawing. Did you draw that?

3 A I did.

4 Q The other parts of this, where it says TR on it, who  
5 drew this, who did that?

6 A Timmy Rice.

7 Q He indicated parts on the body where he touched this  
8 child?

9 A Yes.

10 Q Did you pressure him to do that?

11 A No, sir.

12 Q Threaten him?

13 A No, sir.

14 Q Promise him anything?

15 A No, sir.

16 Q Did he ask for refreshments or go to the restroom,  
17 would you have done that?

18 A Yes, sir.

19 Q About how long did this process take place?

20 A If I had to guess about an hour.

21 Q No more than an hour?

22 A No.

23 Q And that is the time to walk upstairs to do the  
24 interview until y'all leave?

25 A Yes, sir.

1 Q No further questions.

2 THE COURT: Mr. Verner.

3 CROSS-EXAMINATION

4 By Mr. Verner:

5 Q Officer Moss, is it possible you are the person who  
6 actually read the Miranda rights prior to the interview?

7 A Repeat that for me.

8 Q Is, do you clearly remember that the Chief reading  
9 the Miranda warnings or was it possible you were the one  
10 who actually read them?

11 A The Chief read them.

12 Q To the best of your recollection the Chief was there?

13 A Yes.

14 Q Did you participate in the interview interrogation or  
15 were you there just as a witness?

16 A You mean once we went upstairs?

17 Q Yes, sir.

18 A Yes, I did participate.

19 Q So you were asking questions along with the Chief or  
20 were you primarily--

21 A Primarily, I think the Chief. I was helping him.

22 Q So you were from time to time asking questions?

23 A Yes sir, I was.

24 Q Okay.. The Town of Whitmire Police Department is on  
25 what street in Whitmire?

1 A Main Street.

2 Q And describe the main area when you come in.

3 A When you come in the front door there is basically a  
4 hallway. To the right is CPW and to the left is the  
5 police department.

6 Q And CPW is the Commission of Public Works?

7 A Yes.

8 Q Where people prepare roads. Is that a office where  
9 customers come in and out of too?

10 A It is.

11 Q And then to the left is the Town of Whitmire Police  
12 Department?

13 A It is.

14 Q And how many people are in the main room?

15 A Of the police department?

16 Q Yes, sir.

17 A Normally there is none except the officer on duty.

18 Q So there is not like a secretary or someone who  
19 manages the phone or anything like that?

20 A No. All of our calls go through the CPW and they  
21 radio us.

22 Q When the officers are on patrol the police department  
23 main room would be empty at times? Where would people  
24 walk in to make complaints?

25 A CPW.

1 Q Unless they just happen to find a officer in the  
2 police department there is a sign that says--

3 A Right. They may push on the door but they aren't  
4 going no where, it is locked. And they will know to go  
5 over to CPW and they will radio us.

6 Q Is that how this Willie Mae Wright, the Chief  
7 testified that Ms. Willie Mae Wright notified you in the  
8 beginning?

9 A She did.

10 Q Was that through the CPW?

11 A She walked up there and she said, I need to speak to  
12 an officer. And I was radioed to come to Town Hall to  
13 speak to her.

14 Q Was that the same day that the interview of Timmy  
15 Rice was conducted or was that earlier?

16 A It was.

17 Q Same day?

18 A Same day.

19 Q When Timmy came with his parents, where were his  
20 parents seated?

21 A They stood outside, out front.

22 Q That is outside on the sidewalk of the building?

23 A Yes, sir.

24 Q And then there is a stairway going upstairs?

25 A Yes sir, there is.

1 Q And actually Tim didn't say, I want to go speak to  
2 you upstairs, did he. He just said, do we have a more  
3 private area and there is normally no one upstairs.

4 A He said did we have a more private area and there was  
5 no one upstairs.

6 Q So the location that you went was actually chosen by  
7 you with his request that he wanted a private area?

8 A Right. He requested a more private room and that was  
9 about the most private place we could go so we took him  
10 there.

11 Q And you clearly spoke to Ms. Willie Mae Wright?

12 A Yes, sir.

13 Q Did you speak to anybody else prior to the interview  
14 with Timmy Rice?

15 A No sir, I didn't.

16 Q Did you represent to Timmy that you had spoken to  
17 other people?

18 A No, I didn't.

19 Q Okay. Did you make any, prior to this conversation,  
20 did you make any specific statements to Timmy that you  
21 knew something had happened where you were aware of  
22 certain evidence or was it largely open?

23 A I just told him there had been a complaint.

24 Q But in terms of saying, the child said you did this  
25 or Willie Mae Wright said you did this, you just said



1 there is an allegation made against you and what happened  
2 type?

3 A If I recall, yes sir.

4 Q You don't recall telling him that y'all had any  
5 evidence or more specific proof of anything?

6 A No.

7 Q That is all I have.

8 MR. STUMBO: Nothing further. If I can pass up  
9 Court's 1.

10 MR. VERNER: Your Honor, we are satisfied with the  
11 record as far as the Jackson v. Denno. I do think the  
12 State has the right to put the picture with the statement  
13 as part of the Jackson v. Denno.

14 THE COURT: Based on what has been presented to the  
15 Court and the Jackson v. Denno it appears to me that Mr.  
16 Rice was advised of his rights, in writing and orally and  
17 understood them. He didn't appear to be under the  
18 influence of substances that would cause him to  
19 misunderstand those. And he voluntarily talked to the  
20 police officer without the benefit of a lawyer and did not  
21 ask for a lawyer. And he had the protection afforded of  
22 the Miranda warnings that was waived by him. So this  
23 statement was freely given and will be allowed to  
24 introduce at trial. This is a three page, rights, written  
25 statement and the drawing.

1 MR. STUMBO: Thank you, Your Honor. Before we break  
2 for lunch, I know we had mentioned the written motion. I  
3 would like to provide the Court with a copy of that motion  
4 we have and have provided a copy to Mr. Verner. We have a  
5 copy of the video if Your Honor chooses to review it  
6 in-camera.

7 THE COURT: Mr. Verner, you asked for an opportunity  
8 to review the video and for you to speak with your clients  
9 this afternoon.

10 MR. VERNER: The State has, Your Honor, provided the  
11 video prior to today in the ordinary course. So I am not  
12 objecting to the, it is just a motion in itself to  
13 introduce the video, it wasn't made until today. So I  
14 really want, I am going to re-review the video over the  
15 lunch time too because I did watch it. And at that time I  
16 was not aware that the State intended to offer the video  
17 as evidence in chief. So I do intend to rewatch the video  
18 and look up the current status. The only other pretrial  
19 motion I would raise, Your Honor, I am reserving the right  
20 to challenge the testimony of the child. But my  
21 understanding the State, we would do that tomorrow because  
22 the child won't come here until tomorrow. But I do intend  
23 to object to the child's testimony unless the Court is  
24 satisfied that the child understands.

25 THE COURT: That will be done tomorrow.

1 MR. VERNER: Yes, sir. I would do it probably  
2 in-camera, preliminary, to make sure the child  
3 understands.

4 MR. STUMBO: That is proper, Your Honor, before the  
5 jury comes back.

6 MR. VERNER: That is the only motion I would intend  
7 to raise right now prior to the trial.

8 THE COURT: Okay, we will start this trial at 9:30 in  
9 the morning.

10 (Whereupon, the trial will resume the next day at  
11 9:30 a.m.)

12 JULY 8, 2014

13 THE COURT: Solicitor, call your case.

14 MR. STUMBO: Thank you, Judge, if it please the  
15 Court. The State of South Carolina calls the State versus  
16 Timmy Eugene Rice, Jr. The indictment is 2013-GS-36-0549,  
17 it is an indictment for criminal sexual conduct with a  
18 minor. The indictment is true billed by the Newberry  
19 Grand Jury on November 8th, 2013. The State is ready for  
20 trial, if I may approach.

21 THE COURT: Yes, sir. Thank you, Solicitor. All  
22 right. The State calls Timothy Eugene Rice, Jr., on  
23 indictment number 13-549. Mr. Verner, you are  
24 representing Mr. Rice?

25 MR. VERNER: Yes, sir.

1           THE COURT: If you will stand and introduce yourself  
2 and Mr. Rice.

3           MR. VERNER: My name is Charles Verner, I am a  
4 lawyer, I am the Public Defender in Newberry County. This  
5 is Timmy Rice, Jr. from Whitmire.

6           THE COURT: Ladies and gentlemen of the jury, when I  
7 ask these next questions, I am going to ask very direct  
8 questions and I need yes, no answers because the gist of  
9 it, I would like 13 people on this jury who are good  
10 listeners, have open minds and will be fair and impartial  
11 jurors and don't have much of a connection to anybody,  
12 either side. So, if you know something about this case  
13 and I ask, I don't need to know what you know, just do you  
14 know something. Yes. I am not going to ask you what it  
15 is, I am going to ask you, what would cause you not to be  
16 able to be fair and impartial. I don't want you to tell  
17 everybody what you heard on the street because then  
18 everybody knows. That doesn't help me keep people fair  
19 and impartial. All right. So, understanding the case  
20 called, Mr. Rice seated here in the courtroom. The  
21 allegations include on this indictment, handed up by  
22 Solicitor David Stumbo, read in part that Mr. Rice in  
23 Newberry County between April 13 and June 13 committed an  
24 unlawful act of criminal sexual conduct with a minor in  
25 violation of the appropriate code section, South Carolina

1 Code of Laws. Is there any member of the jury panel heard  
2 about the allegations regarding Mr. Timothy Eugene Rice  
3 and the minor child which occurred last Spring. If so,  
4 please stand. Ma'am, tell me your name.

5 JUROR: Sabrina Martin.

6 THE COURT: Ms. Martin, you have heard something  
7 about this case?

8 JUROR: Yes.

9 THE COURT: Now, does your information come from--

10 JUROR: What I read in the newspaper.

11 THE COURT: What you read in the newspaper. All  
12 right. Now, other than what you read in the newspaper  
13 have you heard anyone talk about this matter?

14 JUROR: No, sir.

15 THE COURT: The fact that you have read an article in  
16 the newspaper last summer, or when was the article?

17 JUROR: Sometime last year.

18 THE COURT: Okay. Would that affect your ability to  
19 be fair and impartial to Mr. Rice and the State of South  
20 Carolina?

21 JUROR: I don't think so.

22 THE COURT: You can be fair and impartial?

23 JUROR: Yes, sir.

24 THE COURT: That article is not going to influence  
25 your decision as to anything involved in this case?

1 JUROR: Correct.

2 THE COURT: Okay. Fair enough. Tell me your name.

3 JUROR: Linda Williams.

4 THE COURT: Tell me your, you have read something  
5 about this case?

6 JUROR: No, I have heard talk.

7 THE COURT: And you have heard talk on the street  
8 about this case?

9 JUROR: Yes.

10 THE COURT: Would that talk that you have heard,  
11 would that affect your ability to be fair and impartial to  
12 both the State and to Mr. Rice?

13 JUROR: No, sir.

14 THE COURT: Now, other than that talk, both of you,  
15 have y'all seen or heard anything else, any other things  
16 on the internet, television, radio, anything like that.

17 JUROR: No, sir. I have not but I am familiar with  
18 the family.

19 THE COURT: You know the Rice family?

20 JUROR: Yes.

21 THE COURT: Now, would that fact that you are, you  
22 know the family make you be fair and impartial to either  
23 the State or Mr. Rice?

24 JUROR: I can be fair.

25 THE COURT: Tell me your name, please, Ma'am.

1 JUROR: Patricia Hawkins. I am friends with Timmy  
2 Rice's father.

3 THE COURT: You are juror number 81. Ms. Williams,  
4 you are friends with Mr. Rice's father?

5 JUROR: Yes, sir.

6 THE COURT: Would that affect your ability to be fair  
7 and impartial to Mr. Rice and the State of South Carolina?

8 JUROR: I feel like it will.

9 THE COURT: I will stand you aside for this case.  
10 Remain with me but you won't be selected. Solicitor, how  
11 about introducing everyone at your table. The next  
12 question will be very similar, does anybody know or close  
13 personal friends, related by blood or marriage to these  
14 people about to be introduced. Solicitor.

15 MR. STUMBO: Thank you, Judge. My name is David  
16 Stumbo, I am your elected Solicitor for Newberry, the  
17 Eighth Judicial Circuit which is Newberry, Laurens,  
18 Greenwood and Abbeville. There are four counties. My  
19 office and myself and my assistant solicitors prosecute  
20 every criminal charge that arise in those four counties.  
21 And we have got a lot of work. To my left is Assistant  
22 Solicitor Taylor Daniels. He is one of my assistant's  
23 that work at the Solicitor's office here in Newberry. And  
24 then Chief Jeremiah Sinclair who is the Chief of Police of  
25 Whitmire. He is one of our witnesses in this case. And

1 then Lieutenant Moss, seated at the table with us, police  
2 officer. Mr. Kenn Wiltshire is one of our staff members  
3 that is a victim's advocate. You will see him in and out  
4 of the courtroom throughout the trial.

5 THE COURT: Ladies and gentlemen of the jury, any  
6 member of the jury panel related by blood or marriage or  
7 close personal friends to anyone introduced at the State's  
8 table by Solicitor Stumbo, please stand.

9 (No response.)

10 THE COURT: No one is standing. Back to the two  
11 lawyers. Any member of this jury panel ever been  
12 represented in any capacity by any of the attorneys who  
13 just introduced themselves. That being Mr. Verner,  
14 Solicitor Stumbo or Mr. Daniels, please stand. Got one.

15 JUROR: William Dunton, juror 53.

16 THE COURT: Mr. Dunton, you have been represented by  
17 which lawyer.

18 JUROR: Mr. Taylor Daniel.

19 THE COURT: And has that representation ended?

20 JUROR: Yes, sir.

21 THE COURT: And would that affect your ability to be  
22 fair and impartial in this matter?

23 JUROR: No, sir.

24 THE COURT: You can be fair?

25 JUROR: Yes, sir.



1 THE COURT: Thank you, sir. Anybody else.

2 (No response.)

3 THE COURT: I am going to read a list of potential  
4 witnesses. It will be the same question. Potential  
5 witnesses to be called, may or may not, out of abundance  
6 of caution we will call all of the potential witnesses.  
7 [REDACTED] Willie Mae Wright, Michael Moss, Jeremiah  
8 Sinclair, y'all have been just introduced to; Wylie  
9 Garrett, Nancy Henderson, Rose Rice, Tim Rice, Sr.,  
10 Savannah Wallace. Any member of the jury panel related by  
11 blood or marriage, or close personal friends with any of  
12 those potential witnesses please stand.

13 (No response.)

14 THE COURT: No one is standing. Any member of the  
15 jury panel ever been a victim or have a close personal  
16 friend, member of your immediate family been a victim of a  
17 sexual abuse or sexual assault case. This is for  
18 information purposes only, I will not ask you the details.  
19 Just want to know any of the jury panel have ever been a  
20 victim of sexual abuse or have a member of your immediate  
21 family been a victim of sexual abuse or assault, please  
22 stand. Ma'am, tell me your name.

23 JUROR: Pamela Farrow, 57.

24 THE COURT: The fact that you stood up with this  
25 question would that affect your being fair and impartial

1 to both the State and to Mr. Rice?

2 JUROR: No.

3 THE COURT: Very well. Any member of the jury panel,  
4 close personal friend of yours ever been affiliated with a  
5 person accused of a sexual assault crime. If so please  
6 stand. This is also information purposes only.

7 (No response.)

8 THE COURT: No one is standing. Got one, tell me  
9 your name, please, sir.

10 JUROR: Michael, 186.

11 THE COURT: Mr. Barnett. The fact that you know  
12 someone or close personal friends that has been accused of  
13 a crime of that type, would that affect your ability to be  
14 fair and impartial for both the State and to the defense?

15 JUROR: No, sir.

16 THE COURT: Any member of the jury panel a member of  
17 any type of organization such as Citizens Against Violent  
18 Crimes or MADD mothers, SADD, those type of groups. Any  
19 member of the jury panel a member of those type of  
20 organizations, Citizens Against Violent Crime, that type  
21 of thing, please stand.

22 (No response.)

23 THE COURT: No one is standing. Any member of the  
24 jury panel know any reason whatsoever that they cannot  
25 give both the State of South Carolina and Mr. Timmy Rice,

1 Jr, a fair trial in this matter, please stand.

2 (No response.)

3 THE COURT: No one is standing. Any further voir  
4 dire, Mr. Stumbo?

5 MR. STUMBO: Nothing from the State, Your Honor.

6 THE COURT: Mr. Verner, anything else that you would  
7 like?

8 MR. VERNER: No, Your Honor.

9 THE COURT: All right. Those are my questions. So  
10 now what will happen, we will stand at ease for a few  
11 minutes. The Clerk will generate a list randomly from  
12 your number and then we will call you up one at a time.  
13 As you do that you will come forward, you will turn and  
14 face the attorneys. And they will exercise those  
15 depending on whether they believe you will be, they want  
16 you on the jury or not. And this is not rocket science.  
17 We will stand at ease for a few minutes.

18 MR. VERNER: Your Honor, I am assuming 5 and 10?

19 THE COURT: Yes, sir.

20 (Whereupon, court will be at ease until the Clerk of  
21 Court generates a list of potential jurors.)

22 (Whereupon, a bench conference was held in the  
23 presence of the jury panel but out of the hearing of  
24 the jury panel.)

25 CLERK OF COURT: Number 112, Lee McCarley. What says

1 the State.

2 MR. STUMBO: Please present Ms. McCarley.

3 CLERK OF COURT: The defense?

4 MR. VERNER: From this case I am going to excuse.

5 CLERK OF COURT: Number 78, Beverly Harp. What says  
6 the State?

7 MR. STUMBO: Please present Ms. Harp.

8 CLERK OF COURT: The defense.

9 MR. VERNER: Seat the juror, Your Honor.

10 CLERK OF COURT: Have a seat, please. 151, Kevin  
11 Sims. What says the State?

12 MR. STUMBO: Please present Mr. Sims.

13 CLERK OF COURT: The defense?

14 MR. VERNER: Please seat Mr. Sims.

15 CLERK OF COURT: Have a seat, please. 171, Linda  
16 Williams. What says the State?

17 MR. STUMBO: Please excuse Ms. Williams.

18 CLERK OF COURT: 42, Peggy Corley. What says the  
19 State?

20 MR. STUMBO: Please present Ms. Corley.

21 CLERK OF COURT: What says the defense?

22 MR. VERNER: Please seat Ms. Corley.

23 CLERK OF COURT: 165, Sandra Wicker. What says the  
24 State?

25 MR. STUMBO: Please present Ms. Wicker.

1 CLERK OF COURT: The defense.

2 MR. VERNER: Please seat Ms. Wicker.

3 CLERK OF COURT: Have a seat, please. 30, James  
4 Byrd. What says the State.

5 MR. STUMBO: Please seat Mr. Byrd.

6 CLERK OF COURT: The defense.

7 MR. VERNER: Please seat Mr. Byrd.

8 CLERK OF COURT: Have a seat, please, sir. 3,  
9 Margaret Adams. What says the State?

10 MR. STUMBO: Please present Mr. Byrd.

11 CLERK OF COURT: The defense.

12 MR. VERNER: From this case I am going to excuse Mr.  
13 Byrd.

14 CLERK OF COURT: 84, Kathy Hill. What says the  
15 State.

16 MR. STUMBO: Please present Ms. Hill.

17 CLERK OF COURT: The defense.

18 MR. VERNER: From this case I am going to excuse Ms.  
19 Hill.

20 CLERK OF COURT: You are excused. 11, Scott Bellows.  
21 What says the State.

22 MR. STUMBO: Please present Mr. Bellows.

23 CLERK OF COURT: The defense.

24 MR. VERNER: From this case I am going to excuse Mr.  
25 Bellows.

1 CLERK OF COURT: You are excused, Mr. Bellows. 53,  
2 William Dunton. What says the State.

3 MR. STUMBO: Please present Mr. Dunton.

4 CLERK OF COURT: The defense.

5 MR. VERNER: From this case I am going to excuse Mr.  
6 Dunton.

7 CLERK OF COURT: You are excused. 159, Julie Stutts.  
8 What says the State.

9 MR. STUMBO: Please present Ms. Stutts.

10 CLERK OF COURT: The defense.

11 MR. VERNER: From this case I am going to excuse Ms.  
12 Stutts.

13 CLERK OF COURT: 162, Jasmine Tucker. What says the  
14 State.

15 MR. STUMBO: Please excuse Ms. Tucker from this  
16 trial.

17 CLERK OF COURT: 97, Janice Lake.

18 MR. STUMBO: Please present Ms. Lake.

19 MR. VERNER: Please seat Ms. Lake.

20 CLERK OF COURT: 51, Lowell Dowd. What says the  
21 State.

22 MR. STUMBO: Please present Mr. Dowd.

23 CLERK OF COURT: The defense.

24 MR. VERNER: From today's case I am going to excuse  
25 Mr. Dowd.

1 CLERK OF COURT: You are excused. 114, Robert  
2 Mccaughrin. What says the State.

3 MR. STUMBO: Please present Mr. Mccaughrin.

4 CLERK OF COURT: The defense.

5 MR. VERNER: Please seat Mr. Mccaughrin.

6 CLERK OF COURT: Have a seat, please. 158, Mary  
7 Helen Stuhr. What says the State.

8 MR. STUMBO: Please present Ms. Stuhr.

9 CLERK OF COURT: The defense.

10 MR. VERNER: From today's case I am going to excuse  
11 Ms. Stuhr.

12 CLERK OF COURT: You are excused. 43, Patti Crooks.  
13 What says the State.

14 MR. STUMBO: Please present Ms. Crooks.

15 CLERK OF COURT: The defense.

16 MR. VERNER: Please seat Ms. Crooks.

17 CLERK OF COURT: Have a seat, please. 10, Nathan  
18 Beck. What says the State.

19 MR. STUMBO: Please present Mr. Beck.

20 CLERK OF COURT: The defense.

21 MR. VERNER: Please seat Mr. Beck.

22 CLERK OF COURT: 76, Tyler Hamilton. What says the  
23 State.

24 MR. STUMBO: Please present Mr. Hamilton.

25 CLERK OF COURT: The defense.

1 MR. VERNER: Please seat Mr. Hamilton.

2 CLERK OF COURT: Have a seat, please. 31, Erica  
3 Caldwell. What says the State.

4 MR. STUMBO: Please present Ms. Caldwell.

5 CLERK OF COURT: The defense.

6 MR. VERNER: Please seat Ms. Caldwell.

7 CLERK OF COURT: Have a seat, please, ma'am. 61,  
8 George Gallman. What says the State.

9 MR. STUMBO: Please excuse Mr. Gallman.

10 CLERK OF COURT: You are excused. 182, Timothy  
11 Workman. What says the State.

12 MR. STUMBO: Please present Mr. Workman.

13 CLERK OF COURT: The defense.

14 MR. VERNER: I am going to excuse Mr. Workman.

15 CLERK OF COURT: You are excused, Mr. Workman. 47,  
16 Vicki Davenport. What says the State.

17 MR. STUMBO: Please present Ms. Davenport.

18 CLERK OF COURT: The defense.

19 MR. VERNER: Please seat Ms. Davenport.

20 CLERK OF COURT: Have a seat, please. We will draw  
21 the alternate, one and two.

22 THE COURT: Yes, ma'am.

23 CLERK OF COURT: 89, Mamie Lynn Johnson. What says  
24 the State.

25 MR. STUMBO: Please present Ms. Johnson.



1 CLERK OF COURT: The defense.

2 MR. VERNER: Please seat Ms. Johnson.

3 CLERK OF COURT: Have a seat, please.

4 THE COURT: All right. Mr. Byrd stepped out, he had  
5 used the restroom for the record. He is not excused, he  
6 will be right back. Now, that being said, are there any  
7 matters of law regarding the selection process employed or  
8 the composition of this jury from the State or the  
9 defense?

10 MR. STUMBO: Not from the State.

11 MR. VERNER: Not from the defense, Your Honor.

12 THE COURT: Very well. All right. Folks, this is  
13 what I want you to do. The thirteen from Ms. Johnson  
14 across, Mr. Byrd included, y'all stay seated. I am going  
15 to let the other jurors leave. Other jurors, do y'all  
16 have your juror card that have the number of the clerk's  
17 office on it. If y'all will call back after 6:00 and  
18 listen to the recording it will tell you one of three  
19 things. Please call back tomorrow at sometime, please  
20 come in tomorrow or the next day or it may say, your  
21 service is complete, thank you for coming. One of those  
22 three things. It says call back, call back. If it says  
23 come in, come in. Otherwise I will be required to send a  
24 ride, for someone to give you a ride down here. If you  
25 will do that I will excuse you for the day. Now,

1 understand this, all Court Houses are set up this way.  
2 Newberry is even the better example. The clerk or deputy  
3 clerk, they are all over here, they will be in the  
4 courtroom helping me with the trial in this building.  
5 That phone number you call rings in that building. The  
6 girls over there will not know whether or not you need to  
7 come in tomorrow or call back. Don't call early because  
8 you will ring that phone off the hook and they don't know  
9 what is going on. Okay. So call back tonight. Thank  
10 you.

11 (Whereupon, the remaining jury panel was excused for  
12 the day.)

13 THE COURT: I want to talk to the lawyers for a  
14 minute, we will move down to the other courtroom. I try  
15 to tell you what is going on, this isn't like TV, this is  
16 real stuff. This is a real case, real facts, real  
17 defendant, this is real stuff. Mr. Byrd was very  
18 appropriate, he needed a break, so I am telling you, once  
19 we are impaneled, if someone needs a break get my  
20 attention and we will take a break. Y'all thirteen will  
21 act as a group, so if one gets a break you all get a  
22 break. If I need a break y'all get a break. So, we will  
23 act in concert. We are going to move down to the other  
24 end of the building. Ms. Caldwell, you are my Foreperson.  
25 The first thing I want you to do is to find out who else

1 in your group who wants to take notes. You don't have to.  
2 Note pads are available if you want to, you are not  
3 required to. I find that it is about fifty/fifty. About  
4 half of the jurors want something in their hand and jot  
5 down notes. That is fine. Your job as a group are going  
6 to be answer questions of fact. And that is, what  
7 happened. I am going to use this as an example, in a  
8 civil case. A car wreck in the middle of a traffic  
9 intersection with a traffic light. Both drivers, the  
10 light was green, I went on through and bang, in the middle  
11 they hit. Both drivers didn't have the green light. The  
12 question of fact is, who had the green light. Y'all will  
13 have to answer some question of fact in this case. The  
14 lawyer's job is to tell you the question to answer at the  
15 end of the trial. So until then you just get to listen.  
16 Now, I am going to tell you some preliminary instructions.  
17 From this point forward y'all are not allowed to discuss  
18 the case in any fashion whatsoever until the very end  
19 because the witnesses to be called may come out of order  
20 because one witness may be coming from Columbia, one may  
21 be coming from Greenville, who knows. I don't know. I  
22 have not heard this case before, it will be my first time  
23 so I will be listening likewise just like you. But for  
24 the purpose of our purposes it wouldn't be fair to either  
25 side to start discussing the case in the first break

1 because y'all haven't heard anything about the case.  
2 Also, you are doing it without the benefit of my  
3 instructions on what the law is. So in order to answer  
4 the question of fact, you need to know these certain  
5 things. I am going to give you those instructions at the  
6 very end. So until then we have got to listen  
7 attentively, can't ask questions, we can't talk about the  
8 case until the very end. But you can take notes if you  
9 would like. Ms. Caldwell, your job is to inventory your  
10 twelve members and see if anybody else wants a note pad  
11 and the bailiffs will help you get those. Now, the  
12 bailiffs, the people in the red blazers, they are your  
13 point of contact coming in the courtroom if you need  
14 something, restroom, drink of water, cup of coffee,  
15 whatever it is. They can help you and their job is to  
16 help you and assist you getting in and out of the Court  
17 House, in and out of the jury room and that sort of thing.  
18 Very few people are able to talk to you unless you are in  
19 the courtroom. Come and to from the Court House, parking  
20 lot, can't talk to you. No one can speak to you. And  
21 that is because no one is required to communicate with  
22 you, they are not being rude, they are not being  
23 standoffish, they just can't do it. The bailiffs are able  
24 to do that. They will greet you, they can talk to you.  
25 So do not take anyone's standoffishness as being rude.

1 They see the badge on your shirt and they are not going to  
2 do that because it wouldn't be fair if one side got you  
3 off to the side and said, look, here is the plan. They  
4 don't do that. You get to hear it as a group, all at the  
5 same time, all in the same room. Now, those are my  
6 instructions, we will move to the other courtroom. We  
7 will see y'all in about fifteen minutes.

8 (Whereupon, the jury is excused for a short break.)

9 MR. VERNER: Judge, the two motions that I  
10 anticipate, are we going to be heard on the State, I don't  
11 know that the State needs to make the motion pretrial,  
12 although it will probably make it more orderly about  
13 whether to introduce the videotape or not.

14 MR. STUMBO: My position on that, it doesn't  
15 necessarily say pretrial. It is important to note  
16 pretrial, I would like to give the jury a roadmap on  
17 opening on what they should expect to hear. We would  
18 prefer to have that now.

19 THE COURT: Mr. Verner, you reviewed the tape  
20 yesterday afternoon.

21 MR. VERNER: And today, Your Honor.

22 THE COURT: I reviewed it twice yesterday afternoon  
23 myself. And so let me hear you on it. I will tell you  
24 now the parts of it that I viewed have several inherent  
25 trustworthiness of not being coached by the child, I can

1 relate to you if you want to hear. But having viewed the  
2 tape, it appears to be a child of seven years of age was  
3 interviewed by a male interviewer which I found to be, the  
4 first time I have seen a male person interview a victim of  
5 a sexual assault. I have seen females do that. But his  
6 mythology of questioning the child was very open-ended and  
7 non-suggestive in my opinion. And toward the end he asked  
8 a particular question about, how did this affect you,  
9 after the events happened. And her answer was quite  
10 telling someone who wasn't coached in my own opinion. I  
11 was expecting an answer of, she cried or it made her sad  
12 and I did not get that. And so that question in  
13 particular had inherent trustworthiness in that response  
14 by her. That was very candid by her, it was surprising to  
15 me. So now I will hear you regarding that.

16 MR. VERNER: I would agree, Your Honor, from the,  
17 couching the phrase, coaching from the forensic  
18 interviewer, I would agree that I don't see what I would  
19 consider coaching from the forensic interviewer. My  
20 problems with it were that one, the child didn't really  
21 narrate any answers. I understand at the very end. But  
22 in the beginning when he is talking about the abuse, they  
23 were all, what I would call leading type questions where  
24 if she stopped he would prompt her and then she would  
25 catch on to his prompt and then complete the answer. But

1 she didn't really narrate the allegations of the abuse.  
2 She responded entirely to questions of stimuli. There was  
3 some things that are probably more towards the weight of  
4 the child's testimony that I thought were unusual, that  
5 appeared the child memorizing things but that would be my  
6 subjective opinion. And in candor, whether the video  
7 comes in, Your Honor, I have seen cases that object to it  
8 coming in before the child testifies. And then I have  
9 seen cases where they object because it was played after  
10 the child testifies.

11 THE COURT: The last time I had a case I tried to  
12 cure that by requiring the State to call the child, play  
13 the video and then have the child resume the stand after  
14 the video is played in case there was some  
15 cross-examination by the defense as to anything in the  
16 video. And that seemed to work.

17 MR. VERNER: The Supreme Court allowed it in both  
18 situations. One of them, when it was played before the  
19 child testified I think they really didn't, but they felt  
20 that the lawyer didn't object to it or raise to specific  
21 claim during the trial so they didn't really get into the  
22 merits of it being played.

23 THE COURT: That did kind of confuse me when I read  
24 it.

25 MR. VERNER: Somebody is going to complain if you

1 play it before the child testifies and I don't think that  
2 the Court of Appeals is really concerned in the order.

3 MR. STUMBO: Judge, just as logistically, this is my  
4 main concern. This is a seven year old child. I don't  
5 want to have her sit there any longer than she has to be.  
6 I would rather not play it while she is up there. Our  
7 intentions is to call her first, have her subject to  
8 cross-examination. We were going to introduce the video  
9 through the forensic interviewer so he can lay the  
10 foundation for it for admissibility purposes to get it in.  
11 And then if, I think last time, I don't know if this was  
12 with Your Honor, Judge, there was an allowance for, if the  
13 defense requested, possibly recall the child if necessary  
14 to cross specifically on things that were said.

15 THE COURT: I am not certain if it was me, where the  
16 child was allowed or was a reserving of cross-examination  
17 immediately after the video was played to recall the child  
18 and the defense could ask questions.

19 MR. VERNER: I don't anticipate, Your Honor, I think  
20 the Court of Appeals has allowed it both before and after.  
21 So that wouldn't be really the order it comes in, grounds  
22 for my objection. Obviously the child would have to  
23 testify if it came in beforehand. I think the reason the  
24 Solicitor is arguing is problematic, if he is arguing that  
25 it is to help the trauma of the child testifying. That is



1 clearly improper reason without the Court making a ruling  
2 based on facts that the child would suffer from in-court  
3 testimony.

4 MR. STUMBO: Well, I think unnecessary harassment of  
5 witnesses. I guess that would be my main point. I think  
6 Mr. Verner is at liberty to cross-examine this child on a  
7 statement she made in the video even before the video is  
8 played. I mean, if he feels like there is a prior  
9 inconsistent statement he can say, well, when you went and  
10 talked to so and so and didn't you say this. I mean, I  
11 can't prevent them from doing that. That is obviously his  
12 right under cross-examination. And then later on after it  
13 is played, there again, for us to continuously call a  
14 seven year old, I think there should be kind of one bite  
15 at the apple for cross-examination unless there is good  
16 cause to call her.

17 MR. VERNER: If the Solicitor argues or is being  
18 offered to supplement or aid the child's testimony that is  
19 improper. The Court has to make findings that the, the  
20 Sixth Amendment right to confrontation issues. It can be  
21 offered as evidence but really there has to be some, it is  
22 not automatically into evidence. But the Solicitor has to  
23 have some need for it that the Court finds because it is  
24 hearsay, it is out of court statement.

25 MR. STUMBO: Which we would say the case law of the

1 Supreme Court has time and time again upheld this statute  
2 and its application and its constitutionality, Judge. So,  
3 we believe the confrontation clause issues have been taken  
4 care of by this line of cases that upholds this statute  
5 quite frankly.

6 MR. VERNER: I just think that they need to make,  
7 even if it is just the child's age alone but the State has  
8 to show why it is they feel it is needed. The statute  
9 doesn't say it automatically comes in. It says if the  
10 Court finds.

11 MR. STUMBO: And, Judge, just for and I know I said  
12 line of cases, the State versus Stormbecker, (phonetic).

13 MR. VERNER: I am not challenging.

14 MR. STUMBO: That is the 2010 Supreme, State Supreme  
15 Court case, 386, SC 209. State v. Hill. That is a Court  
16 of Appeals, State Court of Appeals case, 394 SC 280. The  
17 State v. Bryant talks about proper application of  
18 17-23-175. State v. Bryant is cited 382 SC 505. And that  
19 is a State Court of Appeals case from 2009. Judge, we  
20 just, our position is, it is clear here that the State  
21 Supreme Court and the South Carolina Court of Appeals have  
22 heard many, many constitutional challenges in this  
23 statute. And obviously the defense bar doesn't like it  
24 but the Courts have upheld the application of the statute  
25 time and time again. And basically I heard a few

1 challenges of the confrontation clause.

2 THE COURT: I was under the impression that the  
3 statute speaks for itself, it is under 12, the Court makes  
4 the determination of coherence as well as trustworthiness.  
5 The statement comes in the child testifies. Normally it  
6 wouldn't but the fact that this case of this type, the  
7 child being a victim under 12, trustworthy, inherent,  
8 coherent, comes in. As long as the child is subject to  
9 cross-examination. I find those parameters thus far. And  
10 they are met. And also, when the child is called to  
11 testify the Court has got to make a determination of her  
12 understanding the right from wrong, truth and lies. And  
13 she is able to understand that during the trial. That is  
14 yet to be done. And so in limine to consider the motion,  
15 I will allow it so long as the child qualifies to be heard  
16 and understands right from wrong and understands that she,  
17 the intent of her oath to tell the truth and what she has  
18 got to do during the trial. That would be my preliminary  
19 ruling.

20 MR. STUMBO: Yes, sir.

21 MR. VERNER: The other issue, does the State have any  
22 more pretrial?

23 MR. STUMBO: We do not, Your Honor. We believe we  
24 had the Jackson V. Denno. You ruled on that  
25 preliminarily.

1           MR. VERNER: The issue would be that we are  
2     challenging the child to testify, Judge. I don't know  
3     anything specifically point blank to raise other than her  
4     age would be six to seven at the time this happened. I  
5     understand my position on this side of the aisle. But she  
6     does not appear to narrate answers or facts to the  
7     questioner. She does appear to respond entirely to  
8     pointed questions. A lot of times when she stumbles, you  
9     know, how is the weather outside and she can't answer. He  
10    will say, and this is an example and not an actual thing,  
11    he would say things along the line of, well, the sky is.  
12    And she will say blue. And she answers a lot of questions  
13    in that same vein where he didn't come out and tell her  
14    the answer but when she wouldn't be responsive he would  
15    start off saying the first parts of a, and the child  
16    almost like answered the questions, give the answer.

17           THE COURT: What I understood the suggestive answer  
18    to be is, tell me where he touched you, open-ended. Did  
19    he touch you here or here or somewhere else. I have heard  
20    that question, I think that it is suggestive. That was  
21    not done in this interview. I have heard the tape before.  
22    This happened or that happened or something else.  
23    Everything is tagged with something else. This gentleman  
24    did not have the tag line or something else on answering  
25    the question, just keep them open-ended. He asked

1 questions, like, where did he touch you.

2 MR. STUMBO: Just for the record, Judge, I believe  
3 the initial statement made by the child was in response to  
4 a question of, do you know why you are here today, why are  
5 you here today. That is about as open-ended.

6 MR. VERNER: And I will agree that--

7 MR. STUMBO: And the child was responding immediately  
8 well. I was, because, and she said it very deliberately  
9 said because I was touched in my private spot by, she  
10 referred to the defendant. So that was not prompted  
11 whatsoever by the forensic interviewer. And of course he  
12 follows up with, okay, he touched you. What did he touch  
13 you with. He draws a picture of a hand, circle on here  
14 where he touched you. I don't think in any way, shape or  
15 form that any of the answers were suggestive from this  
16 child.

17 MR. VERNER: Another problem with the child's  
18 testimony was when he asked her about the truth, knowing  
19 about the truth and lies type situation. She failed to, I  
20 think he said, what will happen to you if you lie. And he  
21 let her to just not answer at all.

22 THE COURT: I thought she finally answered that she  
23 would get a whooping or something along those lines.

24 MR. VERNER: No, she answered, she was going, why  
25 didn't you report it to your mother sooner. Because I

1 thought she would give me a whooping for not telling her  
2 when it happened.

3 THE COURT: Right.

4 MR. VERNER: There may be a separate thing, I  
5 specifically remember her saying whooping when why didn't  
6 you tell your mother sooner.

7 THE COURT: I still think that is going to be a  
8 suggestive question of fact, the weight of the evidence  
9 type issue. It will come in, provided the child is  
10 competent today. I mean she has got to make, my earlier  
11 comment is that the child has got to testify today. And  
12 without the benefit of the jury the Court has got to make  
13 the determination of whether she is competent today or  
14 tomorrow, whenever she testifies.

15 MR. STUMBO: That is correct, Judge. We have spent  
16 some time with this little girl. I think she is going to  
17 pass the competency test with flying colors. But  
18 obviously Your Honor has to make that call after asking  
19 her some questions.

20 MR. VERNER: If she doesn't testify that she  
21 understands the consequences for not telling, that there  
22 is punishment, for not telling the truth. I don't think  
23 that is the entire gatekeeper rule, the competency to  
24 testify.

25 THE COURT: You will be heard on that.

1 MR. STUMBO: That's all we have.

2 THE COURT: In limine the video has met mustard on  
3 the statute, get to trial and see if the competency  
4 passes.

5 MR. VERNER: If the State wants to go ahead and move  
6 Court's exhibit 1 into evidence, subject to my objections  
7 yesterday, procedurally I don't mind them going ahead and  
8 marking it in and referring to it if it is going to come  
9 into evidence. But I would preserve my objection that I  
10 argued yesterday that it, about the confession.

11 MR. STUMBO: We don't have a problem with that,  
12 Judge. We can pre-mark it and admit it as State's 1. I  
13 still, I intend to move it in.

14 MR. VERNER: Okay.

15 THE COURT: It will be remarked or marked  
16 additionally, I think is what Ms. Holston does. It will  
17 be remarked, it will be marked additionally as State's  
18 exhibit 1, it was prior Court's exhibit 1.

19 MR. VERNER: The only other issue is--

20 MR. STUMBO: Just to clarify, Judge. I believe Mr.  
21 Verner is saying, he doesn't challenge the foundation. He  
22 is conceding or stipulating.

23 MR. VERNER: The Court has put it into evidence.

24 MR. STUMBO: The foundation can be laid by the  
25 forensic interviewer when he testifies.

1 THE COURT: You are talking about the confession.

2 MR. VERNER: I don't challenge the foundation of the  
3 video.

4 THE COURT: Okay.

5 MR. VERNER: My understanding is that if the forensic  
6 specialists are going to testify they would be limited to  
7 time manner descriptions unless the State has a--

8 THE COURT: I will instruct the attorneys to talk to,  
9 call Mr. Wylie--

10 MR. VERNER: There are two of them, Your Honor.

11 THE COURT: Two of the, they will be called  
12 interviewers. Won't refer to them as forensic  
13 interviewers, just stay away from that word out of an  
14 abundance of caution.

15 MR. VERNER: Just, as long as they are prewarned that  
16 their testimony as the limitation of time and place.

17 THE COURT: Solicitor, you will so instruct them.

18 MR. STUMBO: I will.

19 THE COURT: Very good. See y'all down the hall.

20 MR. VERNER: Your Honor, I would make a motion that  
21 through the trial the defendant would remain on bond  
22 unless the Court--

23 THE COURT: Unless he gives me a reason otherwise he  
24 will be on bond to be here in court.

25 (Whereupon, a short break was taken while moving to



1 another courtroom.)

2 THE COURT: Let's take a break for lunch.

3 MR. STUMBO: Judge, one issue, I will leave this in  
4 the Court's discretion. Competency determination before  
5 Your Honor. I don't know if we swear the jury and then we  
6 have that determination.. For some reason, I don't  
7 anticipate this, that Your Honor finds her not competent  
8 to testify. I didn't know if we need to do that outside  
9 the presence of the jury at some point.

10 THE COURT: We will let the jury go to lunch until  
11 1:30 and do that now.

12 MR. STUMBO: I think that might be better and then we  
13 can swear them and start with opening statements right  
14 after lunch.

15 THE COURT: Ms. Georgia, tell the jury they can be  
16 gone until 1:30.

17 (Whereupon, the jury was excused to go to lunch.)

18 THE COURT: Are we ready.

19 MR. STUMBO: Your Honor, we call [REDACTED] to the  
20 stand.

21 [REDACTED] being  
22 first duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 By Mr. Stumbo:

25 Q Can you say your full name?

State of South Carolina                 )  
                vs.                                 )      Transcript of Record  
                                                       )  
Timmy Eugene Rice, Jr.                     )  
                                DEFENDANT     \_)

B E F O R E:

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

Charles Verner, Public Defender  
Attorney for the Defendant

Joy E. Holston  
Official Court Reporter

I N D E X   O F   W I T N E S S E S

(IC) - Denotes In Camera  
(DW) - Denotes Defense Witness  
(SW) - Denotes State's Witness

(SW) Wiley Garrett

Direct examination by Mr. Sheek: 42

Cross-examination by Mr. Verner: 49

(SW) Willie Mae Wright

Direct examination by Mr. Sheek: 54

Cross-examination by Mr. Verner: 65

Redirect examination by Mr. Sheek: 82

(SW) [REDACTED] (Pretrial)

Direct examination by Mr. Sheek: 84

Cross-examination by Mr. Verner: 96

(SW) Michael Moss

Direct examination by Mr. Daniel: 105

Cross-examination by Mr. Verner: 120

Redirect examination by Mr. Daniel: 129

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| 7  | <u>(DW) Savannah Wallace Farmer</u> |     |
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EXHIBITSState's

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1 THE COURT: Mr. Sheek, are y'all ready to go.

2 MR. SHEEK: We are, Your Honor, the State calls the  
3 case of the State of South Carolina versus Timmy Eugene  
4 Rice, Jr. Indictment number 2013-GS-36-0549, criminal  
5 sexual conduct with a minor.

6 THE COURT: Folks, Mr. Sheek, while you are standing  
7 up will you introduce the people at your table.

8 MR. SHEEK: Good morning, ladies and gentlemen, my  
9 name is Lance Sheek, I am Senior Assistant Solicitor with  
10 the Eighth Judicial Circuit. Seated right here is Taylor  
11 Daniel who is an Assistant Solicitor here in Newberry  
12 County, also with the Eighth Circuit. And to my right is  
13 Wendy Chappell, she is an investigator with our office.

14 THE COURT: All right, folks, what I am going to do  
15 now. We have met some of the parties, we will give Mr.  
16 Verner an opportunity to introduce himself and his client  
17 momentarily. What I am going to do now, I ask general  
18 questions, kind of broad questions, are you eligible to  
19 serve, qualified to serve. Now, the question will be more  
20 focused on the particular case that is going to be called.  
21 And what I am looking for is to have twelve people and an  
22 alternate or two selected to hear the case. And what I  
23 want is good listeners and people who don't know anything  
24 about the case and people who aren't connected to any of  
25 the parties or potential witnesses. So my questions are

1 going to be to this, can you be fair and impartial. That  
2 is what I am looking for. So to that end, Mr. Verner is  
3 going to introduce himself and the parties at his table.  
4 And then I am going to ask you questions, do you know  
5 these people, are you close personal fiends, that type of  
6 thing. So listen carefully so he can introduce his table.  
7 Mr. Verner.

8 MR. VERNER: May it please the Court.

9 THE COURT: Yes, sir.

10 MR. VERNER: My name is Charles Verner, I am an  
11 attorney, I am the Public Defender of Newberry County, I  
12 practice with my father, Jay Verner on the corner of  
13 College and Boyce. This is Tim Rice from Whitmire and his  
14 mother, Rose.

15 THE COURT: All right, regarding the parties just  
16 introduced in the courtroom and when I ask this question  
17 if your answer is affirmative by yes, I know them, don't  
18 tell me the extension that you know them. I want to ask  
19 the questions because what I don't want is, somebody to  
20 say, yes, I know one of the lawyers and he is a lowdown,  
21 no good, dirty rascal. I don't need to hear that. And I  
22 have heard that in court before, not by these lawyers.  
23 Any member of this jury panel related by blood, marriage,  
24 close personal friends to any of the parties introduced  
25 moments ago. If so please stand and I will ask my next



1 question. Tell me your name and I will look up your jury  
2 number.

3 JUROR: My name is Gail Vanlue, I am kin to him.

4 THE COURT: How close to him.

5 JUROR: Maybe like fourth cousin.

6 THE COURT: Fourth cousin. Your grandparents may be  
7 siblings.

8 JUROR: Yes.

9 THE COURT: Would that affect your ability to be fair  
10 and impartial to the State and to the Rice's?

11 JUROR: No, it would not.

12 THE COURT: Okay. What is your name.

13 JUROR: Tammy Brown.

14 THE COURT: Number 19. Which person are you related  
15 by blood or marriage.

16 JUROR: I think I am somewhere along where she is  
17 because we are related also.

18 THE COURT: You are related to Ms. Vanlue?

19 JUROR: Yes.

20 THE COURT: Do you know the degree of kinship you are  
21 to the Rice's. If you don't that is good.

22 JUROR: Well, I know that it is close.

23 THE COURT: Are you closer than first cousins?

24 JUROR: No, we are not first cousins.

25 THE COURT: Now, the fact that you are related to

1 some degree would that affect your ability to be fair and  
2 impartial to both the State and to Mr. Rice?

3 JUROR: I don't know.

4 THE COURT: I am going to excuse you from this trial.  
5 That is fine, be seated. Tell me your name.

6 JUROR: Jamie Broome.

7 THE COURT: Tell me which witness.

8 JUROR: I am kin to him.

9 THE COURT: You are kin to him?

10 JUROR: Close friends. Well, I met him at my  
11 friend's house.

12 THE COURT: I don't need to know that but are you  
13 close enough friends that you feel you can't be fair and  
14 impartial to both the State and to him?

15 JUROR: I could.

16 THE COURT: All I want is fair and impartial. So can  
17 you do it?

18 JUROR: I can do it.

19 THE COURT: Are you sure?

20 JUROR: Yes.

21 THE COURT: Okay, good enough. Mr. Jones, what is  
22 your juror number.

23 JUROR: 78, Michael Jones.

24 THE COURT: Which one are you related to?

25 JUROR: I am not related to any of them but I know

1 Charles and I know you.

2 THE COURT: Okay, I don't count. Regarding Mr.  
3 Verner, has he done any legal work for you in the past?

4 JUROR: No.

5 THE COURT: Are you friends with him?

6 JUROR: Yes.

7 THE COURT: Would you consider your friendship, can  
8 you put aside whatever friendship y'all have and be fair  
9 and impartial to both the State and to Mr. Rice and Mr.  
10 Verner?

11 JUROR: Yes.

12 THE COURT: Very good. Folks, I am going to read the  
13 indictment that Mr. Sheek read moments ago. So y'all  
14 listen carefully. This indictment is an allegation, a  
15 formal allegation presented by the Grand Jury which was  
16 Mr. Slice who came up moments ago. He was presenting the  
17 new indictments that were heard last week. This one was  
18 heard last November. And so it has been on file waiting  
19 to come to court. This indictment reads, it is for  
20 criminal sexual conduct with a minor. It reads, that  
21 Timothy Eugene Rice, Jr. of Newberry County between April  
22 12th of '13 and June 6th of '13 did commit the offense of  
23 criminal sexual conduct with a minor in the first degree  
24 in violation of the code section, 16-3-655. This is an  
25 allegation made by the State against Mr. Rice. It is a

1 mere allegation, the State bears the burden of proving  
2 these allegations beyond a reasonable doubt. Is there any  
3 member of the jury panel who knows anything about the  
4 charges of criminal sexual conduct against Mr. Rice, in  
5 particular this case, if so please stand.

6 (No response.)

7 THE COURT: No one is standing. Now, potential  
8 witnesses for the State and the defense and I can't tell  
9 you in any particular order. Potential witnesses would be  
10 Willie Mae Wright, [REDACTED] Wiley Garrett, Dr. Lyle  
11 Pritchard, Michael Moss, Chief Jeremiah Sinclair, Rose  
12 Rice, Tim Rice, Sr., Tim Rice, Jr., Wayne Rogers, Savannah  
13 Farmer and Mr. Floyd, the Guidance Counselor at Whitmire  
14 Community School and Sandra Cole. Regarding those  
15 potential witnesses, is there any member of the jury panel  
16 related by blood, marriage, close personal friends with  
17 any of those potential witnesses. If so, please stand.  
18 What is your name, please, sir.

19 JUROR: Jaime Salazar, 134.

20 THE COURT: Which witness.

21 JUROR: I work where Ms. Rose works, I am a manager.

22 THE COURT: Would that affect your, do you work  
23 directly with her?

24 JUROR: No, indirectly.

25 THE COURT: Y'all work shift work.

1 JUROR: We do shift work, yes, I work eight hours a  
2 day, she works on a rotating twelve hour shift.

3 THE COURT: Now, do either one of y'all supervise one  
4 another?

5 JUROR: No.

6 THE COURT: Would the fact that you work at the same  
7 place as her employment, would that affect your ability to  
8 be fair and impartial to both the State and to the  
9 defense?

10 JUROR: No.

11 THE COURT: Tell me your name.

12 JUROR: Ken Lindler, juror 90. I work at Whitmire  
13 High School in '98, '99, I do believe I know Jonathan  
14 Floyd.

15 THE COURT: You worked at Newberry Schools for a  
16 while?

17 JUROR: Yes sir, I did.

18 THE COURT: Would that employed relationship affect  
19 your ability to be fair and impartial to Mr. Rice and or  
20 the State?

21 JUROR: No sir, it won't.

22 THE COURT: What is your name.

23 JUROR: Dusty Blackwell, juror 11. I know some of  
24 the witnesses.

25 THE COURT: You know some of the witnesses?

1 JUROR: Yes, sir.

2 THE COURT: You are from the Whitmire area?

3 JUROR: Yes, sir.

4 THE COURT: Now, would that affect your ability to be  
5 fair and impartial to both the State and to the defense?

6 JUROR: Not at all.

7 THE COURT: Any member of the jury panel, member of  
8 your immediate family a member of any organization or  
9 citizens against violent crime organizations such as CAVE,  
10 MADD, SADD, those type of organizations. Those are for  
11 information purpose only. If so, please stand.

12 (No response.)

13 THE COURT: No one is standing. Any member of the  
14 jury panel no know reason whatsoever they cannot give both  
15 the State and the defense a fair trial on this matter.

16 (No response.)

17 THE COURT: No one is standing. Mr. Verner, any more  
18 voir dire?

19 MR. VERNER: No, Your Honor.

20 THE COURT: Mr. Sheek, any more voir dire?

21 MR. SHEEK: Nothing from the State, Your Honor.

22 THE COURT: Folks, those are the questions. So what  
23 we do now, the Clerk of Court and her Deputy will ask the  
24 computer to generate a random list from your number and  
25 then after that she will call them. Y'all just come up

1 front and turn around and the attorneys will excuse you or  
2 accept you. Ms. Bowers.

3 CLERK OF COURT: Number 17, Jamie Broome. What says  
4 the State.

5 MR. SHEEK: Please excuse the juror from the trial of  
6 this case.

7 CLERK OF COURT: Number 67, Britton Havird. What  
8 says the State?

9 MR. SHEEK: Please present the juror.

10 CLERK OF COURT: The defense.

11 MR. VERNER: I am going to excuse Mr. Havird.

12 CLERK OF COURT: You may go back and have a seat.  
13 Number 28, Gregory Cole. What says the State.

14 MR. SHEEK: Please present the juror.

15 CLERK OF COURT: The defense.

16 MR. VERNER: Please have a seat, Mr. Cole.

17 CLERK OF COURT: Have a seat on the front row.  
18 Number 174, Jasserde Wright. What says the State.

19 MR. SHEEK: Please present the juror.

20 CLERK OF COURT: The defense.

21 MR. VERNER: Please have a seat.

22 CLERK OF COURT: Have a seat on the front, please.  
23 85, Brian Larsen. What says the State.

24 MR. SHEEK: Please present the juror.

25 CLERK OF COURT: The defense.

1 MR. VERNER: Please have a seat on the front, please.

2 156, Diane Tolbert. What says the State.

3 MR. SHEEK: Please present the juror.

4 CLERK OF COURT: The defense.

5 MR. VERNER: Please have a seat.

6 CLERK OF COURT: Have a seat. 48, Kevin Fulmer.

7 What says the State.

8 MR. SHEEK: Please present the juror.

9 CLERK OF COURT: The defense.

10 MR. VERNER: Please seat Mr. Fulmer.

11 CLERK OF COURT: Have a seat on the front, please.

12 53, Marguerite Glasgow. What says the State.

13 MR. SHEEK: Please present the juror.

14 CLERK OF COURT: The defense.

15 MR. VERNER: Please seat Ms. Glasgow.

16 CLERK OF COURT: Have a seat, please. 21, Eddie

17 Byrd. What says the State.

18 MR. SHEEK: Please present the juror.

19 CLERK OF COURT: The defense.

20 MR. VERNER: From today's case I am going to excuse  
21 you, Mr. Byrd.

22 CLERK OF COURT: You may return to your seat. Number  
23 146, Bobby Stevens. What says the State.

24 MR. SHEEK: Your Honor, can we approach.

25 THE COURT: Yes.



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

4 THE COURT: We will excuse Mr. Stevens from this  
5 case, number 146.

6 CLERK OF COURT: Number 56, Phyllis Glenn. What says  
7 the State.

8 MR. SHEEK: Please present the juror.

9 CLERK OF COURT: The defense.

10 MR. VERNER: Please seat the juror.

11 CLERK OF COURT: Have a seat, please. Number 169,  
12 Barbara Williams. What says the State.

13 MR. SHEEK: Please present the juror.

14 CLERK OF COURT: The defense.

15 MR. VERNER: Please seat the juror.

16 CLERK OF COURT: Have a seat. 51, Tonya Gallman.  
17 What says the State.

18 MR. SHEEK: Please excuse the juror from the trial of  
19 this case.

20 CLERK OF COURT: You may return to your seat. 129,  
21 Laurie James Ridge. What says the State.

22 MR. SHEEK: Please present the juror.

23 CLERK OF COURT: The defense.

24 MR. VERNER: From this case I am going to excuse you,  
25 Mr. Ridge.

1 CLERK OF COURT: You are excused. 24, John Calhoun.  
2 What says the State.

3 MR. SHEEK: Please excuse the juror from the trial of  
4 this case.

5 CLERK OF COURT: Number 177, James Adams. What says  
6 the State.

7 MR. SHEEK: Please present the juror.

8 CLERK OF COURT: The defense.

9 MR. VERNER: Seat Mr. Adams.

10 CLERK OF COURT: Have a seat. 107, Dorothy Mickle.  
11 What says the State.

12 MR. SHEEK: Please present the juror.

13 CLERK OF COURT: The defense.

14 MR. VERNER: Seat Ms. Mickle.

15 CLERK OF COURT: Have a seat. 144, Charles Sims.  
16 What says the State.

17 MR. SHEEK: Please present the juror.

18 CLERK OF COURT: The defense.

19 MR. VERNER: From today's case I am going to excuse  
20 you.

21 CLERK OF COURT: 23, Shawndrea Caldwell. What says  
22 the State.

23 MR. SHEEK: Please present the juror.

24 CLERK OF COURT: The defense.

25 MR. VERNER: Please have a seat.

1 CLERK OF COURT: 18, Sharonda Brown. What says the  
2 State.

3 MR. SHEEK: Please present the juror.

4 CLERK OF COURT: The defense.

5 MR. VERNER: Seat Ms. Brown.

6 CLERK OF COURT: Have a seat, please. Two  
7 alternates. 82, Trevor Lake. What says the State.

8 MR. SHEEK: Please present the juror.

9 CLERK OF COURT: The defense.

10 MR. VERNER: From today's case I am going to excuse  
11 you.

12 CLERK OF COURT: You are excused. 13, Debra Booker.  
13 What says the State.

14 MR. SHEEK: Please present the juror.

15 CLERK OF COURT: The defense.

16 MR. VERNER: Please seat the alternate.

17 CLERK OF COURT: Have a seat, please. 101, Lillia  
18 Maybin. What says the State.

19 MR. SHEEK: Please present the juror.

20 CLERK OF COURT: The defense.

21 MR. VERNER: From today's case I am going to excuse  
22 you.

23 CLERK OF COURT: You are excused. 88, Steven Lester.  
24 What says the State.

25 MR. SHEEK: Please present the juror.

1 CLERK OF COURT: The defense.

2 MR. VERNER: Have a seat.

3 CLERK OF COURT: Have a seat, please.

4 THE COURT: Folks, are there any issues of law  
5 regarding the selection process employed and or the  
6 composition of this jury from either the State or the  
7 defense?

8 MR. SHEEK: Beg the Court's indulgence one moment.

9 THE COURT: All right.

10 MR. SHEEK: Nothing from the State, Your Honor.

11 THE COURT: Mr. Verner?

12 MR. VERNER: No objection.

13 THE COURT: All right, y'all 14, these instructions  
14 are not for y'all. Everybody else, call in tonight after  
15 6:00 just in case something happens, I never know. A  
16 lawyer may get sick and the case can't go forward and I  
17 have got to call another jury for another case, that  
18 happens, this jury kind of gets on hold. Call tonight  
19 after 6:00, your number is on the jury information card.  
20 This is important, Ms. Bowers is here, Ms. Folk, Ms.  
21 Brehmer, they are generally in the courtroom with me and  
22 unfortunatley because that Court House is under repair,  
23 the courtroom is over here. So if you call early the  
24 ladies over there don't know whether I need you to come in  
25 or not. Wait until after 6:00 to see if you need to come

1 in or call back, listen to the recording. Thank you and  
2 you are excused.

3 (Whereupon, the remaining jury panel was excused from  
4 open court.)

5 THE COURT: It is 11:30, I want to get started, we  
6 will move into the other courtroom, it is going to take  
7 Ms. Holston a little bit to move. Y'all follow Ms.  
8 Wardlaw and she will show you the jury room. Y'all may  
9 want something to drink. Give me about fifteen minutes  
10 and we will get started.

11 (Whereupon, the jury was excused for a break while  
12 the trial is moved to another courtroom.)

13 THE COURT: We have now changed courtrooms and we are  
14 on the record. Do we have any pretrial matters that we  
15 would like to address from the State or the defense.

16 MR. SHEEK: The State has nothing pretrial, Your  
17 Honor.

18 THE COURT: Mr. Verner.

19 MR. VERNER: Your Honor, I had raised issues both as  
20 Jackson V. Denno on the statements of my client as well I  
21 had challenged the competency of the six-year-old, now  
22 eight-year-old child to testify. So I do reraise those  
23 issues. I guess pretrial we had discussed that Your Honor  
24 was presiding court about three weeks ago on those same  
25 motions, same case. So the Court has had the benefit of

1 hearing all of the witnesses produced. But I do raise the  
2 Jackson v. Denno and the competency of the child.

3 THE COURT: All right. I am not sure what date it  
4 was, three weeks ago here in Newberry in this courtroom I  
5 presided over the trial. The Solicitor was here, not Mr.  
6 Sheek, trying the case. Ms. Holston was the Court  
7 Reporter. Your record is protected on both motions. We  
8 had a Jackson v. Denno hearing and I found at that time  
9 that the parameters and protection for your client of the  
10 Jackson v. Denno for the voluntariness of the statement  
11 were met by the Whitmire Police Department, its Chief and  
12 the Lieutenant who testified as to their procedures, their  
13 interview and recording of the written statement from Mr.  
14 Rice. That record can be incorporated herein of that  
15 Jackson v. Denno hearing which was done outside the  
16 presence of the jury as is represented in full. I know of  
17 no issues which would change the procedures they employed  
18 some eleven months ago when they interviewed him and  
19 received that statement. Do you, Mr. Verner?

20 MR. VERNER: No.

21 THE COURT: Nothing has changed as far as I know.

22 MR. VERNER: We had the benefit of the full trial but  
23 as far as the procedures of the interview.

24 THE COURT: So the statement will be allowed as  
25 having met the protections of Jackson v. Denno. Regarding

1 the competency of the young lady. She was found competent  
2 even though of her young age, three weeks ago. I am going  
3 to allow the State, when they call her, to go through the  
4 steps yet again and we will make a determination of her  
5 competency today in the presence of the jury. And if you  
6 doesn't she doesn't. But she was found competent then. I  
7 think it is on a case by case basis. And we have got to  
8 go through that same process of you understanding why you  
9 are here and the truth and lie, all of those same  
10 parameters. And then if the Court finds her competent she  
11 will be allowed to testify to the events that she  
12 recollects.

13 MR. SHEEK: Yes, sir. And then, of course, Your  
14 Honor, we would move to introduce the recorded statement  
15 given to the Children's Advocacy Center pursuant to  
16 section 17-23-175. I know the court has seen it a couple  
17 of times and this time, it was given in the course of the  
18 investigation, it is recorded electronically and we will  
19 be calling the child to testify.

20 THE COURT: And as we did last time, that video was  
21 found to be within the parameters of the statutory  
22 section. There were non-leading and suggestive, no  
23 suggestive questions employed so the video will be allowed  
24 to be played provided the child interviewer is present to  
25 reidentify the exhibit. And we allow Mr. Verner the

1 benefit, which he did not utilize, of recalling the child  
2 for cross-examination after the video was played if he so  
3 chose and he elected to not do so. But he will have that  
4 same benefit today. No matter which order the State calls  
5 its witnesses, after the video is played, if he would like  
6 to recall the child as a witness he will be afforded that  
7 opportunity. Mr. Verner will have that right.

8 MR. VERNER: Thank you, Your Honor. Before the  
9 record, I am objecting to the video and the Court's rules.

10 THE COURT: Okay. And your record is protected and  
11 all of the arguments you made regarding that issue in the  
12 first trial you may reference, if need be.

13 MR. VERNER: Thank you.

14 THE COURT: Anything else?

15 MR. SHEEK: No, sir.

16 THE COURT: Let's get going. Bring me the jury.

17 (Whereupon, the jury came into open court at  
18 approximately 12:02 p.m.)

19 THE COURT: All right, folks, welcome to the Family  
20 Courtroom. What we are going to do, the witness stand is  
21 here, Ms. Folk is here, Ms. Holston is over there in her  
22 box and I also have Ms. Lawrence over there, she is  
23 practicing to become a Court Reporter. So both of them  
24 are taking down the entire record of what is said. Some  
25 preliminary instructions to you, if y'all need a break let



1 me know. Ms. Caldwell, in the very back, I am going to  
2 appoint you Foreperson. Now, during opening statement you  
3 need not take notes but over lunch I want you to do a  
4 polling of your fellow jurors and see who needs a notepad  
5 and pencil. And if someone would like them they can have  
6 them. If they don't care to take notes they don't need  
7 them. It is an option. I let jurors take notes if they  
8 like, if they don't and they want to listen attentively  
9 that is fine with me. So you will be in charge with that.  
10 I will let everybody sit kind of where ever you like as  
11 long as I can find Ms. Caldwell. That is who I will be  
12 talking to because she is going to be the leader of the  
13 pack. She doesn't get paid extra but she does get to  
14 preside over deliberations. Any objection from the other  
15 thirteen of y'all of her being the Foreperson? Look  
16 there, unanimously elected. Here is what you can expect.  
17 The lawyers get to give opening statements. Mr. Daniel  
18 will give an opening summary of the case and what he, what  
19 the State intends to present through its witnesses. Mr.  
20 Verner will then have an opportunity to respond. After  
21 that we will probably take a lunch. After lunch the State  
22 will start calling its witnesses. The State goes first  
23 because it brought the case by virtue of the indictment  
24 which I referenced moments ago when we were in the other  
25 Council Chambers. Now, I tell you again, the indictment

1 is just allegations by the State of charges to anyone, in  
2 this case, Mr. Rice, as to what to be prepared to come to  
3 court to answer. You can't just tell somebody, okay, you  
4 are being accused of something and we will tell you later,  
5 he has got to be told ahead of time, we are accusing you  
6 of thus and so. In this case the accusation is for  
7 criminal sexual conduct first, it is with a minor. He  
8 don't have to prove anything, he doesn't have to say  
9 anything, the constitution affords him those rights. He  
10 is presumed innocent, the State bears the burden of  
11 proving his guilt, he has nothing whatsoever to prove or  
12 disprove. And if he remains silent, one of my last  
13 instructions to you, y'all can't discuss him not  
14 testifying in your deliberations. You have got to  
15 consider and evaluate and make a decision based upon what  
16 is presented to you through the evidence and witnesses you  
17 hear in the courtroom. Now, this is important; I don't  
18 know whether the State will call all of its witnesses,  
19 some of them, most of them, that is for them to decide.  
20 And then it is for Mr. Verner and Mr. Rice to decide which  
21 witnesses they wish to call. And they do this kind of on  
22 the fly, they kind of get a feel for what is being  
23 testified to and so that is their decision, what they  
24 decide. We don't get any input, me as a Judge or you as  
25 jurors, it is presented by the people in the courtroom.

1 Now, this is important, I have got a certain job to do,  
2 rule on the evidence, whether it comes in, whether it  
3 comes out, whether a question is fair or unfair under the  
4 rules. Most of the time I am going to rule rather  
5 rapidly. If somebody jumps up, Judge, I have got to  
6 object, objection, relevance. I may say, overruled,  
7 sustained. They go right on. It is kind of like calling  
8 a baseball game, balls and strikes. They have got to  
9 throw the next pitch regardless. Now, sometimes the  
10 lawyers say, Judge, I have got a matter of law. And that  
11 is a code to me they want to talk about the law in a  
12 little more depth than just one word. And so if they want  
13 to argue the law says this, this and this. And the other  
14 lawyer wants to get his opportunity to respond and say,  
15 that and that and that. That is my job. I am trained to  
16 understand that and make rulings on it. I really don't  
17 need y'all in the courtroom and listen to them argue about  
18 the law and so I generally let y'all take a break and step  
19 in the jury room while I am listening to that because we  
20 make a record of that. When I am doing my job making the  
21 legal rules, I don't really need your help. Just like  
22 when y'all start deliberating in the jury room it will  
23 just be twelve people, no bailiff, no Judge, nobody but  
24 y'all, y'all won't need my help. So, I do my job and let  
25 y'all do y'all's job. Y'all's job is to answer and

1 determine questions of fact. Simple as this, I will give  
2 you a simple case example. This is a civil case, there is  
3 a car accident in the middle of the interchange. Both  
4 drivers get out and say, why did you run the red light.  
5 One of them had the red light and one of them had the  
6 greenlight and both didn't have red or both didn't have  
7 green. That is a question of fact, who had the green  
8 light and who had the red light. That is what jurors do  
9 in car wreck cases. Whoever ran the red light, they are  
10 the ones that are at fault with the wreck. So in this  
11 case the lawyers will tell you which questions of fact  
12 they have for you. They will explain that, y'all will  
13 check on fairly quickly, it is the lawyers job to say,  
14 this is what the question of fact is I want you to answer.  
15 Now, importantly, y'all can't talk about the case until  
16 you have gotten all the testimony and evidence. It is  
17 unfair for the State or Mr. Rice, either or, both of them.  
18 You can't start talking about the case after you hear the  
19 first question or the first witnesses, until you have all  
20 the pieces they want to present you really are not ready  
21 to talk about the case. And you have got to get my  
22 instructions at the very end which tell you, in order to  
23 evaluate somebody's credibility, in order for the State to  
24 prove their case they have got to prove these two things  
25 or these three things. Until you have my instructions you

1 are really not ready to answer those questions either.  
2 So, at every break, whether it is a short break, long  
3 break, lunch break, y'all can't talk about the case until  
4 I say, okay, Ms. Caldwell, y'all can start talking about  
5 the case. Until I say that you can't. So I will remind  
6 you at each break don't begin talking about the case.  
7 Also, what you need to decide this case is here in the  
8 courtroom. While I am in here and while Ms. Holston is in  
9 here and from these lawyers and their witnesses. There is  
10 no need to do any independent research, asking somebody  
11 what they heard on the street corner. Media, computers,  
12 cell phones, smart phones, there is so much information  
13 out there that you can get to what you don't need.  
14 Because it is bad information out there. I don't know if  
15 y'all read the State newspaper. This past Monday there  
16 was a headline, Juror awards a lady, 1.6 million dollars  
17 against mistreatment in the jail, against Richland County  
18 Sheriff. The lawyer will make a motion before Judge  
19 Eugene Griffith, Jr. to reconsider. The front page of the  
20 State, my name, I wasn't the Judge, I wasn't there, I was  
21 in Aiken, I don't know how they got my name. There is bad  
22 information out there and just happened to me last week.  
23 You can't believe what you, I don't want you to read  
24 anything in the paper, I don't want you to read anything  
25 on the internet, I don't want you to listen to anything on

1 TV that is going to impact this case. I want you to keep  
2 an open mind, restrick your communication of the internet.  
3 Y'all have got juror badges, it is real handy, those  
4 stickers. Y'all know people in Newberry, it is a small  
5 county. The lawyers and their witnesses can't talk to  
6 y'all. Your stickers are warnings to parties to say, good  
7 morning, good afternoon, that is the conversation. The  
8 bailiffs, the deputies, they can say good morning. They  
9 are not involved in the case. They are just here to help  
10 y'all. Now, Facebook, social media sites are off limit.  
11 Don't put on Facebook, Myspace, Twitter, I am on the jury.  
12 That is going to invite a comment back. What is the trial  
13 about, who is the Judge, don't do it. You can tell your  
14 family I am on jury duty, the Judge told us not to talk  
15 about the case. Give careful attention to the attorneys.  
16 If you need a break get my attention and we will take a  
17 break. Y'all all stand and we will place you under oath.

18 (WHEREUPON, the jury was sworn at 12:20 p.m.)

19 THE COURT: Mr. Daniel.

20 MR. DANIEL: Thank you, Your Honor, may it please the  
21 Court.

22 THE COURT: Yes, sir.

23 MR. DANIEL: Ladies and gentlemen, it is simply put,  
24 the case today is about an adult that took advantage of a  
25 child, preyed upon the vulnerabilities, took advantage of

1 the situation. And in this case standing before you on  
2 trial is a Timmy Rice, Jr. He is on trial for committing  
3 the offense of criminal sexual conduct with a minor first  
4 degree. Our child victim in this case, [REDACTED] she  
5 was six years old at the time this happened. The  
6 allegations in this case that we intend to prove is, the  
7 State is going to prove in this trial is that Mr. Rice was  
8 babysitting little [REDACTED] who was six years old at  
9 the time. He, the technical term, digital vaginal  
10 penetration. In other words, he took his fingers and  
11 touched her private area, touched her in the vaginal area,  
12 inserted his fingers in her vagina. He did this and we  
13 are going to prove he did this while he was babysitting  
14 [REDACTED] at her home at [REDACTED] in Whitmire. This  
15 occurred in the Spring of last year. The time period we  
16 are dealing with is April to June. [REDACTED] mother, Mae  
17 Wright, was at work when this happened, Timmy was  
18 babysitting [REDACTED] at her house. And you are going to hear  
19 testimony from [REDACTED] herself, you are going to hear a  
20 videotaped interview, in a case of this nature the statute  
21 allows for us to play a videotaped interview of the victim  
22 because of their age. [REDACTED] will be here to testify, that  
23 is a requirement under the constitution. She also gave  
24 this taped interview. You will hear testimony about how  
25 Timmy Rice came to be [REDACTED] babysitter. And basically

1 Timmy Rice's mother, Rose Rice, knew [REDACTED] mom, Mae  
2 Wright. They were friends. [REDACTED] and her mother had  
3 recently moved to Whitmire in February of last year and  
4 they moved down here from North Carolina. [REDACTED] mother  
5 was looking for a better job. Rose Rice was a friend,  
6 [REDACTED] mother said, well, Sterilite might be a good job  
7 opportunity. So, Ms. Mae Wright packs her bags, takes her  
8 daughter down to Whitmire, stays at the Rice's family home  
9 for a few days and gets her own place. Eventually [REDACTED]  
10 mom does get this job at the Sterilite plant in Clinton,  
11 that is where Rose Rice works. But only one problem, she  
12 needs a babysitter to watch [REDACTED] Timmy Rice is  
13 available to babysit, he is not working, he is a  
14 babysitter. Mae Wright has no choice and hired him, she  
15 doesn't really know anybody, she just moved back into  
16 town, he is the babysitter and this is when it occurs. No  
17 one is there to witness it other than Mr. Rice and [REDACTED]  
18 One on one time is when he decided to take advantage, when  
19 Mr. Rice decided to take advantage of a six-year-old  
20 child. You are going to hear testimony of Ms. Mae Wright,  
21 you are going to hear testimony from [REDACTED] you are going  
22 to hear a videotaped interview where she talks about the  
23 allegations where Timmy had touched her. You are going to  
24 hear testimony from the officers that investigated this  
25 case, the Whitmire Police Department, they took a



1 statement from Mr. Timmy Rice basically saying that the  
2 mother reported these allegations, reported the crime. So  
3 you are going to hear testimony from those officers who  
4 got the statement. It is very important on what he says  
5 in the statement. He admitted to touching the child  
6 inappropriately, he admits to indecent acts. He talks  
7 about the urges that he has, it is all captured in this  
8 written statement we plan on introducing. So not only do  
9 you have [REDACTED] telling her mother she was touched  
10 inappropriately, she was fondled or molested. You have  
11 Mae Wright going to the police, the police investigating  
12 and then interviewing Mr. Rice where he essentially  
13 admits, he might not say in explicit terms that he  
14 inserted his finger or penetrated the vaginal area but he  
15 nonetheless in a round about way admits touching [REDACTED]  
16 inappropriately. So you are going to hear all of that,  
17 that is what we plan on presenting as evidence in this  
18 case. Briefly I will touch on the law. Criminal sexual  
19 conduct with a minor first degree requires a sexual  
20 battery to be committed upon a child who is under eleven.  
21 Well, here [REDACTED] was six years old at the time, almost  
22 seven in the Spring of last year. So that covers it. Any  
23 intrusion into someone's genital area into the opening to  
24 someone's body is a sexual battery, the digital  
25 penetration to prove that, I hate to say it, it is a

1     fingering someone is another way to put that. Digital  
2     penetration would be the technical word to put that. And  
3     the burden of proof in any criminal case in this State,  
4     across the country, is the State or the Government has to  
5     prove a defendant is guilty beyond a reasonable doubt.  
6     We, the State, has to prove that Mr. Rice committed these  
7     acts in the Spring of last year on [REDACTED] We have  
8     to leave you firmly convinced that Tim Rice did that.  
9     Now, don't make the burden of proof more than it is, use  
10    your common sense, you determine what is relevant, you try  
11    to figure out what really happened in that Spring time  
12    period when it was just [REDACTED] and Timmy at [REDACTED] home.  
13    So you have to be narrowly focused on what happened. Any  
14    time during this trial, always go back to, is this going  
15    to help me figure out what happened in that Spring time  
16    period. That is the point of the trial. Mr. Verner is  
17    Timmy Rice's defense attorney. His job is to raise a  
18    reasonable doubt, that is his job. And I don't begrudge  
19    Mr. Verner for doing that. Most likely throughout this  
20    trial he is going to mention things to try to divert your  
21    attention. And I ask you don't allow that, keep going  
22    back to, is this line of questioning, is this  
23    subject-matter going to help me figure out whether [REDACTED]  
24    was sexually assaulted back in the Spring of last year.  
25    That is what you always have to ask yourself. Don't miss

1 the forest for the trees. That old saying, you can't see  
2 the forest for the trees. The cases of some well known  
3 trial, O.J. Simpson trial, Casey Anthony trial, people  
4 talk about and then wonder how could the jury acquit or  
5 find the defendant not guilty based on all of that  
6 evidence. Well, it can happen if your attention has  
7 diverted on something that is not relevant. Say for  
8 instance, Mr. Verner's line of questioning would lead you  
9 to believe that [REDACTED] was coached to say these  
10 things, that she was coached to accuse Timmy Rice of  
11 touching her inappropriately. The evidence is not going  
12 to bear that out because would this be some kind of  
13 charade that [REDACTED] would carry on out for over a year.  
14 You have to ask yourself these questions. If Timmy Rice  
15 didn't do anything wrong why would he give the statement  
16 to law enforcement officers back on July 15th of last  
17 year. Would someone who didn't do anything wrong give  
18 this kind of a statement. So keep going back to these  
19 questions. And briefly, my name is Taylor Daniel, I am a  
20 prosecutor here in Newberry County. In South Carolina we  
21 call prosecutors Solicitors, most states call them  
22 District Attorneys, State attorneys but we are Solicitors.  
23 I work here in the Eighth Judicial Circuit, it is  
24 comprised of Newberry, Laurens, Greenwood and Abbeville  
25 counties. I am trying this case with Lance Sheek, the

1 other prosecutor and we work for David Stumbo, he is your  
2 elected prosecutor, elected Solicitor. And we simply  
3 enforce the criminal laws of this State. Law enforcement,  
4 police officers get to wear the badge and the gun, they  
5 initiate a criminal investigation and they make arrest.  
6 That is how a case starts but all of that is meaningless.  
7 Rubber meets the road here at trial. That means nothing  
8 unless we prove it here in trial. We have to leave you  
9 firmly convinced that Mr. Rice is guilty. That is what we  
10 intend to do here. We select you simply because different  
11 walks of life, different occupations, white or black, men  
12 and women, we feel that you can be fair and impartial.  
13 Not only for Mr. Rice who deserves a fair trial on his day  
14 in court but also for the State, also for the State so we  
15 can prove that Mr. Rice violated the law when he touched  
16 [REDACTED] in her private area. So it is an important case for  
17 all parties concerned. At the end of this case we are  
18 going to ask you to reach a verdict of guilty, a verdict  
19 that speaks the truth, tell us what happened. Thank you.

20 THE COURT: Mr. Verner.

21 MR. VERNER: May it please the Court, Your Honor.

22 THE COURT: Yes, sir.

23 MR. VERNER: Madam Forelady, criminal sexual conduct,  
24 this is a rape first degree charge. We are not here on  
25 some kind of academic decision on whether some theory is

1 right or not, this is a criminal case. This is the State  
2 against an individual on a very, you will never serve on a  
3 more serious jury than a first degree rape case of a  
4 minor. And I understand that that is a nasty allegation  
5 to start out the case, we are clear on that. The problem  
6 is the evidence. The State is going to ask for a  
7 conviction on a very weak case, that is not the role of  
8 the jury. I don't know what happened, the State doesn't  
9 know what happened. You are not going to know what  
10 happened. You are going to make your best decision based  
11 on the evidence that the State has and we understand what  
12 happens if there is enough evidence in a case like this.  
13 People think we have got kind of a newer judicial system  
14 than in the past, we don't. You are on a jury system, the  
15 written jury system of a jury of your peers was written in  
16 the 1200's, about a thousand years ago, you are doing  
17 things that people done for a thousand years. A jury  
18 system is basically when the State, the Government puts  
19 the guilt or innocence of punishment of a citizen in the  
20 hands of the citizens in that location, instead of the  
21 Judge deciding punishment and guilt it is when the peers  
22 or the fellow citizens decide. It goes back, it is  
23 written down in the 1200's but even before then in the  
24 Bible, 2000 years ago for Barabbas and Jesus Christ, that  
25 was a jury trial. That was when Pontius Pilate put the

1 faith of a citizen before the peers and it goes back even  
2 further than that, to the ancient Greeks. You are not  
3 doing anything new here, you are just doing what we have  
4 always done, does the State have strong enough evidence to  
5 convict somebody of a first degree rape charge. And I  
6 submit to you they don't. They have got a very serious  
7 allegation of a six-year-old kid at the time who is  
8 saying, Timmy touched me, my babysitter touched me. That  
9 is basically, in my private spot, that is all she said.  
10 The problem is the evidence is going to show you that she  
11 considered her private spot her whole underwear area. She  
12 doesn't say he touched me in the vagina or even penetrated  
13 me at all. She gives a very generalized, he touched me in  
14 my private area. The same day, Timmy has never been  
15 arrested, never been in trouble, never had any dealings  
16 with the police before. The same day, they said we need  
17 to talk to you, Timmy, the same day that the mother brings  
18 this to the police he comes. His confession is that they  
19 were going to try to say, well, he is clearly admitting  
20 that he did it. From the beginning, he says I have been  
21 tickling that child and if I touched her in an  
22 inappropriate way or in an inappropriate place I am sorry.  
23 But he says, if I did it was while I was playing with her  
24 physically, touching her. That is the entire evidence  
25 they have got in the case. They have got a six-year-old

1 child at the time who says he touched me in my private  
2 spots. And they have got a confession where Timmy says,  
3 if I did I was playing with her and I am sorry and I  
4 regret it. And they want to base, that is what they are  
5 trying to hang a first degree rape charge. And I am  
6 sorry, but that is not a, I am not saying the girl is  
7 lying, I am not attacking the little six-year-old girl.  
8 Here is my problem, she is six, she doesn't understand the  
9 consequences of truth and even slight exaggerations. You  
10 can only evaluate her testimony by looking at the people  
11 she surrounds, her mother and the other people around her.  
12 They call that the providence of when the child, when  
13 something happens is anything else going on that might  
14 interfere or affect the story. And here is the problem,  
15 mother moved down because she was in a troubled  
16 relationship, not to find work. She didn't even tell the  
17 Rice family she was moving, she just showed up at their  
18 door with the child and said we need a place to stay.  
19 They let her come in, Ms. Rose who was working at  
20 Sterilite got the mother a job. Things are relatively  
21 fine, the mother needs Tim to babysit for her, he is not  
22 getting paid for it, it is for free because he has been  
23 babysitting other children. They volunteer him to do  
24 this. Here is the problem. Sometime in July and I think  
25 the child probably did come to mother and say, he touched

1 me, he touched me in a private spot. I think she did come  
2 to her mother and say that because the mother comes to the  
3 Rice house and says, well, the child says that Timmy  
4 touched her in a private area. And Tim says, sir the same  
5 thing, well, if I did I was just tickling her or playing  
6 with her and I am sorry. The mother puts it to bed. The  
7 child's own mother doesn't raise it again until at least a  
8 week later Ms. Willie Mae Wright and Ms. Rice get in a  
9 fight. Ms. Willie Mae's boyfriend has moved down from  
10 North Carolina now. She comes to Ms. Rice and says, well,  
11 we need to get him a job at Sterilite too. Ms. Rise says,  
12 I don't know him, I'm not getting him a job, I'm not, if  
13 he doesn't do well it looks badly on me. They stop  
14 talking. They get in a fight because her live-in  
15 boyfriend will not get a job at Sterilite. After that  
16 fight the mother goes to the police and says that her son  
17 touched my daughter. And that is a real problem, where  
18 the mother, someone touches my child, I look into it, I  
19 decide that there is not enough, my own self to determine  
20 whether it is true or not. And then I get angry at the  
21 other side more than a week later and then I go to the  
22 police. There is just a real problem when this allegation  
23 came out. And I don't think the child is doing anything  
24 wrong. If the child knows that mama is angry at the other  
25 side, a six-year-old child is just going to be caught up



1 in that. But you cannot consider this child's testimony  
2 without considering the circumstances that this came  
3 after, after a falling out between the parties. If she  
4 had sincerely thought it was true I guarantee you she  
5 could have found a way to get to the police that same day.  
6 She waited over a week, got into a fight with Ms. Rice,  
7 got vindictive, went to the police but the evidence hasn't  
8 changed. It is still the child's six-year-old testimony,  
9 she touched me in my private area and Tim's statement  
10 saying if I did, I am sorry. I was playing with her, I  
11 was tickling her, I did not touch her in the vagina but if  
12 I touched her any where in her private area I am sorry.  
13 And they want you to hang a first degree rape on that.  
14 You are not going to hear anything else other than that.

15 THE COURT: Thank you, Mr. Verner. All right, folks,  
16 it is 12:35, be back a few minutes to 2:00. Don't talk  
17 about the case. Check on your notepads, if anybody wants  
18 one they can have one. You are not required to take  
19 notes, if you want to, it is your decision. You know  
20 where the jury room is, see you back here in an hour and  
21 fifteen, ten minutes to 2:00.

22 (Whereupon, the jury was excused from open court for  
23 a lunch break.)

24 THE COURT: Mr. Rice, you remember last time, you are  
25 under responsibility to be in your bond, you did good last

1 time, I don't expect that to change. That will be fine.

2 (Whereupon, a lunch break was taken.)

3 THE COURT: I am going to put this on the record. It  
4 was brought to my attention over lunch that Ms. Shawndrea  
5 Caldwell who I appointed Foreperson of this jury, that  
6 over lunch realized that her mother, Erin Caldwell, was my  
7 Foreperson from the trial three weeks ago. For that  
8 reason I am going to excuse Ms. Caldwell from sitting as  
9 the Foreperson and as a juror in this case and substitute  
10 Debra Booker as the first alternate into the original  
11 twelve. Mr. Lester will still remain an alternate. I  
12 informed this to both attorneys. I don't think the Court  
13 had any choice but to substitute an alternate.

14 MR. SHEEK: No objection from the State, obviously.

15 THE COURT: All right, let's bring our jury in.

16 (WHEREUPON, the jury came into open court at  
17 approximately 2:00 p.m.)

18 THE COURT: I had an issue with Ms. Caldwell, the  
19 Foreperson, she was a great Foreperson. She had an issue  
20 come up with her family so I have excused her. She had to  
21 go tend to something else. I have excused her. So, Ms.  
22 Booker, you are now part of the jury. You are one of the  
23 twelve now, you are not an alternate. Mr. Lester is still  
24 an alternate. All right. So, Ms. Williams, you will be  
25 our Foreperson, Madam Forelady. You have got pads and

1 pencils over there, see who wants one. All right. Mr.  
2 Sheek, call your witness.

3 MR. SHEEK: Thank you, Your Honor. The State calls  
4 Wiley Garrett to the stand.

5 WILEY GARRETT, being  
6 first duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. SHEEK:

9 Q. Mr. Garrett, where are you employed?

10 A. I work with the Children's, among several places, the  
11 Children's Advocacy Center in Spartanburg, South Carolina.

12 Q. And what is the Children's Advocacy Center? What is  
13 their purpose?

14 A. Their purpose is to be able to provide services to  
15 children and they provide forensic interviews, therapy to  
16 children who have had an interview who have been  
17 traumatized and also they provide medical exams through  
18 the medical examiner.

19 Q. And what do you do there? What is your role?

20 A. I am primarily a forensic interviewer and I interview  
21 children when I am, as I am assigned.

22 Q. Okay. Tell the jury a little bit about your  
23 educational background to do what you are doing now.

24 A. I'm a clinical social worker in the State of South  
25 Carolina. Have been twenty years now. I've actually been

1 interviewing and assessing children for the last twenty  
2 five years and spent the last half of that, twelve and a  
3 half years, with the Children's Advocacy Center in  
4 Spartanburg interviewing children on a weekly basis. And  
5 in the afternoons, I also do therapy with some children  
6 who are traumatized and who have trouble with trauma  
7 symptoms.

8 Q. Mr. Garrett, tell the jury, if you would, for those  
9 of us that don't know, a forensic interview, what exactly  
10 is that? What are you doing?

11 A. Well, it's an interview and forensic is just a fancy  
12 term that says that you're doing something with the idea  
13 that you may be called to court to talk about what you  
14 did. As in the case today, I'm called to court to talk  
15 about my interview and my experiences and assessments of  
16 this child.

17 Q. How is the general way that a child would come to the  
18 advocacy center to be interviewed? Are they referred?

19 A. Most children, all children are referred. Most  
20 children are referred to either the Department of Social  
21 Services or law enforcement or both and those then come to  
22 the clinical director who sorts them and assigns them to  
23 an interviewer. And so when, basically come in and I  
24 reach out my hand, they give me the file of the person I'm  
25 interviewing today.

1 Q. And what are the age range of children that you may  
2 interview.

3 A. Generally the youngest people I interview are four  
4 and the, actually the oldest range up to, I interviewed a  
5 woman who was forty two years old but developmentally was  
6 on a kindergarten first grade level.

7 Q. Now, when you do a forensic interview, do you do them  
8 for all different types of abuse or traumatic situations  
9 for children?

10 A. Yes sir, we do. It could be any kind of abuse,  
11 whether that be physical abuse, sexual abuse, neglect,  
12 whatever kind of abuse is alleged at that point in time.

13 Q. And did you have an opportunity to conduct a forensic  
14 interview with a [REDACTED].

15 A. Yes sir, I did.

16 Q. And do you recall the date that occurred?

17 A. That was almost a year ago. It was August the 12th,  
18 2013.

19 Q. And do you recall how she came to the Children's  
20 Advocacy? Was she referred?

21 A. She was referred, yes sir.

22 Q. And do you recall by who?

23 A. I, I don't have all the details of -- here in my  
24 report it says Newberry County, Whitmire Police  
25 Department.

1 Q. And would you as a forensic interviewer, have taken  
2 any part in any investigation, criminal investigation, by  
3 the police department or anything of that nature?

4 A. I would not have had any information or discussions  
5 or anything prior to the date that I met the child.

6 Q. Now when you're conducting a forensic interview, in  
7 this case on [REDACTED] tell us a little bit about your  
8 procedures for doing that.

9 A. The first thing I do is when they give me the  
10 information usually it's the referral form that has basic  
11 information about name, age, birthday, parents, where  
12 they're from, the alleged, the allegations that were made,  
13 if there's a incident report from law enforcement, then I  
14 would have that. It's some basic information, not a lot.

15 Q. And, so where is this interview actually conducted?

16 A. It's actually conducted upstairs in the CAC. We have  
17 three rooms, each of which has the equipment in order to  
18 be able to do a recording of the interview. We don't have  
19 any particular things in the room except for furniture.  
20 Usually, we will have a Kleenex box, some markers, some  
21 paper and outside of that, not really other things.

22 Q. Okay. And when you conducted this interview, and in  
23 this case I want to turn particularly to the interview of  
24 [REDACTED] Who was present in the room when that  
25 interview was given?

1 A. Only [REDACTED] and myself were present in the room during  
2 the interview.

3 Q. And you said the room was equipped for recording?

4 A. It is.

5 Q. And is that video as well as audio recording?

6 A. Yes sir, it is.

7 Q. And in this case, was your interview with [REDACTED] video  
8 and audio recorded?

9 A. Yes sir, it was.

10 Q. Was there any part of the, have you had an  
11 opportunity, let me ask you this, have you had an  
12 opportunity to review that videotape?

13 A. Yes sir, I did.

14 Q. Was there any part of your interview that is not  
15 recorded and preserved on that video?

16 A. All the parts of the interview are on the recording.

17 Q. And just for identification purposes, did you  
18 actually bring to us, prior to today, the copy of that  
19 video interview?

20 A. I didn't bring it to you. It was actually sent by  
21 the administrative staff and this is the stamp of the  
22 Children's Advocacy Center and the date and to whom it was  
23 sent.

24 Q. Okay. Thank you, sir.

25 MR. SHEEK: Your Honor, I move to mark and introduce

1 the video. It's State's Exhibit number two.

2 THE COURT: All right. Ladies and Gentlemen of the  
3 jury, we had a little preliminary hearing on this video.  
4 I have to make a determination or statute that it was done  
5 under certain parameters. That's why it's already marked.  
6 I've already made a determination and Mr. Verner's  
7 preserved his issues on that and so subject to the issues  
8 he's presented already, we'll mark it as State's Exhibit  
9 number two and you may publish it.

10 MR. SHEEK: Thank you, Your Honor.

11 (Whereupon, State's Exhibit 2 was admitted into  
12 evidence.)

13 Q. Now when you do a forensic interview in this case, do  
14 you recall how old [REDACTED] was at that time?

15 A. At that time she was seven years old.

16 Q. And do you take certain steps to make sure she  
17 understands the question and the process?

18 A. There's a beginning process and in that, it sounds  
19 very simple, but I begin to ask the child questions that  
20 we, we think that she knows, like her name and other  
21 things. When you interview children, the first thing you  
22 want to make sure is that you can, that, that they speak  
23 English and that you could actually understand what they  
24 are saying. And [REDACTED] did a very good job of speaking  
25 English and of answering simple questions. The next thing



1 is that we go into our memory and really calling upon her  
2 memory for some basic information, usually I'll ask  
3 children what grade are you in, how old are you, what's  
4 your birthday, those sorts of things because again, those  
5 are, those are things I've already talked to the parent,  
6 I've gotten that information, I know the information. So  
7 it's really attuning oneself as an interviewing of  
8 children to make sure that as you ask the question, that  
9 it, it, it seems they hear and understand the question and  
10 that I could hear and understand their answers. We also  
11 go over the rules. The rules are very simple. Tell the  
12 truth. You know, if you don't know then you say you don't  
13 know. Don't guess. Those are the basic rules that we use  
14 and then we go into some basic issues about the difference  
15 between truth and lie. Also asking about date and, and do  
16 they understand month, year, and date, that sort of thing.  
17 And then I usually ask them about their address and also  
18 ask them who lives in their home.

19 Q. And in this case did you go through all those  
20 procedures with Ms. [REDACTED]

21 A. Yes I did.

22 Q. And they're all preserved on this video that we are  
23 getting ready to watch.

24 A. They, they are. They are on the, the video, yes sir.

25 MR. SHEEK: And, Your Honor, with the Court's

1 permission, I will go ahead and publish it.

2 THE COURT: All right.

3 MR. VERNER: No objection.

4 THE COURT: Subject to your objections already  
5 previously noted it'll be published.

6 (Whereupon, a video was played for the jury started  
7 at 2:25 p.m. and ended at 3:03 p.m.)

8 MR. SHEEK: Thank you, Mr. Garrett. Please answer any  
9 questions the defense may have.

10 CROSS-EXAMINATION

11 BY MR. VERNER:

12 Q. Mr. Garret, was the date and time stamp correct on  
13 the film?

14 A. I know that the interview was on August the 12th.

15 Q. And it appeared to be date stamped about eleven in  
16 the morning. Would that be--

17 A. I can't tell you that, that's, I know it was morning  
18 but outside of that, I can't tell you if that clock was  
19 accurate.

20 Q. Is that something that y'all would normally check for  
21 accuracy?

22 A. There, there's people who run that who set that up  
23 and who operate that. I don't operate it.

24 Q. You also do therapy?

25 A. I do.

1 Q. Child therapy?

2 A. I do.

3 Q. Have you seen the child for therapy since that  
4 interview?

5 A. I have, I have not.

6 Q. Have you seen the child at all in a professional way  
7 since that interview?

8 A. I have not.

9 Q. Okay. Would you agree with me, well children, she  
10 had just turned seven within about a month at the time of  
11 your interview?

12 A. That's correct. Her birthday is July the 10th and  
13 she, and I interviewed her on August the 12th and she was  
14 seven years old plus.

15 Q. So she had just recently turned seven?

16 A. Correct.

17 Q. Children at that age are eager to provide answers for  
18 teachers type situation?

19 A. I can't speak to that in school, I mean, you know,  
20 different children are different. So some would be and  
21 some would not.

22 Q. But if their parent or, or a teacher were to ask them  
23 to do it, typically children at that age are positive,  
24 they want to please the parent or the teacher?

25 A. Well I have to say the kids I work with they're all

1 different kinds and some of them are anxious to please and  
2 others are clearly not anxious to please.

3 Q. Is it true that, my observation was in the beginning  
4 when you are talking about whether the child understands  
5 the truth, that, that almost all of the questions is  
6 basically responding to a -- your question, it's important  
7 to tell the blank and then she guesses truth. They  
8 weren't independent answers that she came up with that she  
9 was responding to fairly pointed questions?

10 A. You, you mean when we talked about the rules?

11 Q. Yes, sir.

12 A. The rules are set.

13 Q. Right.

14 A. And so I gave those to her and it's important just to  
15 review to make sure she hears them, understands them and  
16 is clear what the rules are.

17 Q. And she restated them to you in kind of a question  
18 and answer form?

19 A. I asked the question, yes.

20 Q. And where you had already kind of signaled the answer  
21 to her?

22 A. I was very much trying to clarify with her that it is  
23 really important to tell the truth and it's really  
24 important not to guess.

25 Q. Now the illustrations I saw were kind of conflicted

1 or merged just telling something correctly with telling  
2 the truth. The, the examples like if a person said it was  
3 a cat when it was a dog, is a very simplistic answer for  
4 truth. Would you agree with that as a, for an adult  
5 certainly?

6 A. Well, just to clarify, there is a picture of, first  
7 of all a cat in the middle and then. And then, and so  
8 basically asking them, this person is saying that it's a  
9 cat, this person saying this person, that it's a dog. And  
10 so, you know, that's the choice. It's a pictorial  
11 display. Unfortunately I don't have that here.

12 Q. A fairly simplistic?

13 A. Very simple.

14 Q. Indicated that she lived with her mother and father?

15 A. That's what she said, yes sir.

16 Q. Are, are you aware who she actually lived with?

17 A. She just said she lived with her mother and father  
18 and we didn't go into other than that.

19 Q. Did you have independent knowledge of who she lived  
20 with?

21 A. No.

22 Q. Okay. I think she, at, at the time that she  
23 indicated that she had not had breakfast prior to the  
24 interview, was that somewhat unusual for you to observe?

25 A. No I hear that from time to time. Unfortunately, I

1 hear it more often than I'd like to.

2 Q. Well do you recall me asking you that question  
3 before?

4 A. I actually don't remember that question.

5 Q. You don't recall telling me in the past that you  
6 thought that, that was unusual for a child to go that  
7 late?

8 A. Again, all I can tell you is my experience is that,  
9 you know, unfortunately there are kids who do come in and  
10 say they, for whatever reason, they haven't had breakfast.  
11 I just had that happen this last week. Doesn't happen all  
12 the time, you know, again, I'm not, I can't say it happens  
13 a majority of the time, but it does happen.

14 Q. She indicated to you that there was, that, that she  
15 and Mr. Rice would not of had any kind of tickling or  
16 hands on type games?

17 A. That's what she said.

18 Q. Okay. Thank you Mr. Garrett.

19 A. Yes, sir.

20 MR. SHEEK: No redirect, Your Honor.

21 THE COURT: All right.

22 MR. SHEEK: I would ask that Mr. Garrett be allowed to  
23 be excused.

24 THE COURT: You are excused. Let's take a short  
25 break. I promised the jury after that video we would

1 stretch our legs.

2 MR. SHEEK: Yes, sir.

3 THE COURT: All right, folks, let's take a short  
4 break. Step to your jury room, don't talk about the case.

5 (Whereupon, the jury was excused from open court for  
6 a break.)

7 (Whereupon, a short break was taken.)

8 THE COURT: Bring the jury in.

9 (Whereupon, the jury came into open court at  
10 approximately 3:24 p.m.)

11 MR. SHEEK: The state would call Willie Mae Wright to  
12 the stand.

13 WILLIE MAE WRIGHT, being  
14 first duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY MR. SHEEK:

17 Q. State your name, please.

18 A. Willie Mae Wright

19 Q. Ms. Wright, for the Court Reporter, would you mind  
20 spelling your name for us?

21 A. My whole name or?

22 Q. Your whole name, yes ma'am.

23 A. W-I-L-L-I-E, M-A-E, W-R-I-G-H-T.

24 Q. Thank you, ma'am. Ms. Wright, where do you live?

25 A. It used to be [REDACTED] but they changed the

1 numbers. It's [REDACTED] now in Whitmire.

2 Q. Whitmire. And what county is that in?

3 A. Newberry County.

4 Q. And how long have you lived there?

5 A. I have lived there now for a year and a half.

6 Q. Before that, where did you live?

7 A. Before that, I lived in North Carolina. That's where  
8 I'm originally from.

9 Q. Okay. And what brought you to the Whitmire area?

10 A. Well, me and my good friend at the time, we spoke  
11 often. I would always tell her about my job. How it was  
12 adding up to nothing and, you know, we got to talking and  
13 she say, well, you come down, you know, start working at  
14 Sterilite. So I'm like yeah and, you know, she was  
15 telling me how much I can make and I said, okay. Just set  
16 a date and I'll come on down.

17 Q. Okay. And who was that good friend that you're  
18 referring to?

19 A. Rose Rice.

20 Q. And is that Ms. Rice sitting here in the courtroom  
21 today?

22 A. Yes.

23 Q. And does Ms. Rice have any children?

24 A. Yes.

25 Q. And how many children does she have?



1 A. Three.

2 Q. And does she have a son by the name of Timmy Rice?

3 A. Yes.

4 Q. And do you see Timmy Rice sitting in the courtroom  
5 today?

6 A. Yes.

7 Q. Can you point him out to me?

8 A. (The witness pointed to the defendant.)

9 Q. And that's the gentleman sitting here in the black  
10 suit and the light colored shirt beside Mr. Verner?

11 A. Yes.

12 Q. Do you recall when it was you came from North  
13 Carolina to the Whitmire area, approximately.

14 A. Approximately, because I remember receiving my taxes  
15 at the end of February.. So it had to be somewhere after  
16 her birthday. Maybe that week of her birthday, that  
17 weekend.

18 Q. Okay. Whose birthday is hers?

19 A. Rose.

20 Q. Okay. Do you remember when it is, her birthday?

21 A. March 4th.

22 Q. You refer to receiving your taxes. Your tax refund?

23 A. Yes, my tax refund. Yes.

24 Q. Were you using that money to help you in the move?

25 A. Right. Yes.

1 Q. When you came to Whitmire, where did you stay? Did  
2 you immediately move into the [REDACTED] address?

3 A. No.

4 Q. Okay. Where did you stay?

5 A. I stayed with Rose for a few days. About four days.

6 Q. Did anybody come with you?

7 A. My little girl, [REDACTED]

8 Q. Okay. And at that time that you came down here, how  
9 old was [REDACTED]

10 A. She was six getting ready to turn seven.

11 Q. Did you enroll her in school here?

12 A. Yes.

13 Q. And where did you enroll her?

14 A. At Whitmire Community School.

15 Q. All right. Now, you just said that you stayed with  
16 Rose for about four days.

17 A. Right.

18 Q. And did anybody else live in the house with Rose?

19 A. Yes.

20 Q. Who else lived there?

21 A. Her husband and her two sons and her brother.

22 Q. Now, when you say her two sons, was one of those sons  
23 Mr. Rice, the Defendant in this case, Timmy Rice?

24 A. Yes.

25 Q. Okay. So after about four days you, is that when you

1 moved to the [REDACTED] address?

2 A. Yes.

3 Q. Was Ms. Rice's house also in Newberry County?

4 A. Yes.

5 Q. Now, you said at the beginning of your testimony, you  
6 moved down because Ms. Rice had told you about a job  
7 opportunity?

8 A. Right.

9 Q. And where was that opportunity?

10 A. At Sterilite.

11 Q. And did you ever seek employment at Sterilite?

12 A. Yes.

13 Q. And were you able to get a job there?

14 A. Yes.

15 Q. Do you recall when you started working at Sterilite?

16 A. Somewhere around the week of April 12th.

17 Q. And was that 2013?

18 A. 2013.

19 Q. Do you recall what hours you were working?

20 A. Seven in the morning to seven at night.

21 Q. And was that a pretty standard schedule or did you  
22 swing to night shifts at some time?

23 A. No, no night shifts. It was all day shifts. Just  
24 that through the week, it would be a four day week and  
25 then a three day week.

1 Q. And at that time in, in April, May and June of 2013,  
2 did you have anyone else living at the home with you and

3 [REDACTED]

4 A. No.

5 Q. Okay. Did you have any arrangements for daycare for  
6 [REDACTED] while you were at work?

7 A. Yes.

8 Q. And what were those arrangements?

9 A. That I had spoke it over with Rose and she said, well  
10 Timmy's not doing anything, he can watch her. You watched  
11 the kids grow up, you know she in good hands so I went  
12 ahead on, took the job and I let him watch her.

13 Q. And you just said, you, she said you watched the kids  
14 grow up. How long had you known Timmy and Ms. Rice?

15 A. I have known them since '99.

16 Q. So at some point after that, did, did you agree to  
17 allow Timmy to babysit [REDACTED]

18 A. Yes.

19 Q. And was he paid for this?

20 A. Yes.

21 Q. How, how would that work? Would you take [REDACTED] to  
22 Timmy's house or would they go somewhere else, or did he  
23 come to your house? What happened?

24 A. No. He would come to my house.

25 Q. And do you recall what time he'd come over generally?

1 A. He would get there probably about 6:15 cause that  
2 would be the time she would get there to pick me up to go.

3 Q. And that's in the morning?

4 A. Yes.

5 Q. Now you say she got there to pick you up, was that  
6 Ms. Rice?

7 A. Yes, that's Ms. Rice.

8 Q. Did y'all ride to work together?

9 A. Yes, we did.

10 Q. Did you have your own transportation at that time?

11 A. Not at that time.

12 Q. So when he'd get there at 6:15, was [REDACTED] in school?

13 A. Yes, at that time she was.

14 Q. Would he help her get ready and get on the school  
15 bus?

16 A. No. She would already be ready by the time he got  
17 there.

18 Q. Okay. So he would see her on the school bus or would  
19 you do that before you left?

20 A. No. I would have to be at work at 7:00 so her bus  
21 wouldn't get there til about 7:10.

22 Q. Did she ride the bus home from school also?

23 A. Yes.

24 Q. And would she ride it back to the [REDACTED] address in  
25 Whitmire?

1 A. Yes.

2 Q. And would Mr. Rice be there waiting on her at those  
3 times?

4 A. Yes.

5 Q. How long did this continue, this arrangement with Mr.  
6 Rice caring for [REDACTED] while you worked?

7 A. For about two months.

8 Q. And was there a particular reason it stopped?

9 A. Well at that time, well he's my fiancé now, he came  
10 down and so I was like that's fine, that was done.

11 Q. Did he have a job at that time, your fiancé?

12 A. No. Not, not here in South Carolina.

13 Q. And did [REDACTED] already know him?

14 A. Yes.

15 Q. What did she call him?

16 A. Dad.

17 Q. So he started keeping [REDACTED]

18 A. Yes.

19 Q. All right. At some point, did you ever learn of  
20 allegations that Mr. Rice, the Defendant, had been  
21 touching your daughter inappropriately?

22 A. Yes.

23 Q. And how did you learn about that?

24 A. My little girl told me.

25 Q. And do you recall roughly when that was?

1 A. It was in July.

2 Q. Was that of 2013?

3 A. Yes, 2013. Yes.

4 Q. And what did she tell you?

5 A. She told me that Timmy had put his finger in her  
6 vagina.

7 Q. Now at the time she reported this to you in July, how  
8 long had it been since the last time Timmy had kept her?

9 A. Somewhere around the end of June. About the end of  
10 June.

11 Q. When she gave you this information, what did you do?

12 A. I went, I got her, her dad, we all went to Rose's  
13 house.

14 Q. When you got to Rose's house, who was there?

15 A. Rose was there, Timmy was there.

16 Q. Who did you speak to?

17 A. Rose.

18 Q. Did you relay to her what [REDACTED] had told you?

19 A. I let [REDACTED] tell her herself.

20 Q. Okay. So [REDACTED] told Rose herself?

21 A. Yes.

22 Q. And did Rose do anything?

23 A. No. She just went in the house and asked him what  
24 happened and he sit there and he spoke to us and he told  
25 us that he had did it.

1 Q. Okay.

2 A. He openly admitted that he did it, to me and her.

3 Q. And do you recall what exactly he said?

4 A. He was sitting there holding his head. I mean, just  
5 as plain as day, sitting there holding his head and he was  
6 like, I did it, yes I did it.

7 Q. Did y'all have any other conversations at this point?

8 A. She took him into another room to talk to him.

9 Q. Okay. Were you in that other room?

10 A. No.

11 Q. Okay. So you don't know what was or wasn't said  
12 there?

13 A. No.

14 Q. What did you do at that point?

15 A. I asked her what was she going to do about it. She  
16 said I would handle it, I would handle it. But I knew she  
17 wouldn't.

18 Q. Did you leave her house at that point?

19 A. Yes I left her house at that point.

20 Q. Did you ever call the police?

21 A. I didn't call, I went there.

22 Q. Okay. And when did you go to the police station?

23 A. It had to be probably right then thereafter. It was  
24 that evening, sometime that evening.

25 Q. Okay. So the same day that you confronted them at



1 Timmy's house?

2 A. (Witness shakes her head.)

3 Q. And do you recall who you spoke to at the police  
4 department?

5 A. His last name, Moss.

6 Q. At that point, did you turn it over to them to handle  
7 it?

8 A. Yes.

9 Q. Have you had anymore interaction with Timmy Rice  
10 since that day?

11 A. No.

12 Q. What about with his mother, Rose Rice?

13 A. No. After the fact that I had gone to the police, I  
14 was getting text and things from them. Rude stuff saying  
15 ugly things. Driving by my house. Telling other people  
16 that, you know, basically threatening me and whatever.

17 Q. And so do you and Ms. Rice have a friendship any  
18 longer?

19 A. She said, she tells people we're not friends anymore.

20 Q. Prior to the day that you went to Rose's house and  
21 [REDACTED] told Rose what had been going on, had you and Rose  
22 had a falling out or a fight or anything of that nature?

23 A. No. No.

24 Q. At that point, did you still consider her your  
25 friend?

1 A. Yes.

2 Q. Did you ever ask Rose to help Travis, your fiancé,  
3 get a job at Sterilite?

4 A. No.

5 Q. Did y'all ever have a fight over whether or not she  
6 would or could help Travis get a job at Sterilite?

7 A. No.

8 Q. Do you still work at Sterilite?

9 A. No.

10 Q. When did you stop working there?

11 A. When I didn't, when I no longer had a ride with her.  
12 When those papers went through the police, I no longer had  
13 a ride.

14 Q. So you lost your job after that?

15 A. Yes.

16 Q. Thank you Ms. Wright. Please answer anything that  
17 Mr. Verner may have.

18 CROSS-EXAMINATION

19 BY MR. VERNER:

20 Q. Ms. Wright, when did you first move to South  
21 Carolina?

22 A. Like I said, I received money at the end of February.

23 Q. No, no, when, when did you first, when did you first  
24 move the South Carolina.

25 A. What do you mean, in 2013?

1 Q. No ma'am. When you, you, you lived here, you're from  
2 North Carolina.

3 A. Right.

4 Q. But you moved down to Whitmire at some point?

5 A. Right.

6 Q. Before all this happened?

7 A. Right.

8 Q. My question right now is, when did you first move to  
9 Whitmire?

10 A. '99.

11 Q. In '99?

12 A. Yes.

13 Q. And is that when you met Ms. Rice?

14 A. Yes.

15 Q. And what were you doing for a living when you were  
16 living in Whitmire the first time?

17 A. I was, I had a store there, me and my ex-husband at  
18 the time and I also worked at Renfro.

19 Q. Okay. And your ex-husband is Anthony Brown?

20 A. Yes.

21 Q. Okay. And you met Ms. Rice as a customer and  
22 basically became a friend type situation?

23 A. Right.

24 Q. And you kept up with her even when you, when, I guess  
25 my question is when did you move to North Carolina after

1     you had moved to Whitmire? At some point you must've  
2     moved back.

3     A.    Right. In '03.

4     Q.    Okay. The, so you lived in Whitmire for about four  
5     years. Okay. And did you know the members of the family?

6     A.    Yes.

7     Q.    Had a good cordial relationship?

8     A.    Yes.

9     Q.    Okay. About how old was Timmy, Jr. when you knew  
10    him?

11    A.    He was in his teenage years so I would say about  
12    what, twelve, maybe eleven, twelve, somewhere in there.

13    Q.    And you visited with them in their home for about  
14    four years off and on?

15    A.    Yes.

16    Q.    At some point, you and Mr. Brown divorced and you  
17    moved back to North Carolina. Is that correct?

18    A.    Right.

19    Q.    How often did you stay in contact with Ms. Rice?

20    A.    I would stay in contact with her often.

21    Q.    Like by telephone?

22    A.    Yes.

23    Q.    Did you ever come down and visit or was it mostly  
24    just by telephone?

25    A.    Mostly by phone at that time.

1 Q. At some point you, when you lived in Newberry  
2 originally, in Whitmire originally, that, that was before  
3 [REDACTED] was born, right?

4 A. Right.

5 Q. Okay. So [REDACTED] was born in North Carolina after you  
6 had moved back?

7 A. Right.

8 Q. At some point, you got in a relationship with a man  
9 named Travis? What's Travis' last name?

10 A. Sutherland.

11 Q. Sutherland?

12 A. Yes.

13 Q. You began telling Ms. Rose by telephone that you were  
14 in an unhappy relationship and you wanted to move away  
15 from him, is that correct?

16 A. That's not correct.

17 Q. Do you deny telling her that you were in an abusive  
18 relationship and that you were trying to get you and [REDACTED]  
19 away from him?

20 A. I deny that because that's not true.

21 Q. Okay. You didn't say that there were any troubles  
22 and that was the reason for the move?

23 A. No. Never said that.

24 Q. Did you tell Rose that you were planning to move to  
25 Whitmire?

1 A. She knew all about it. When I was coming and  
2 everything. She knew.

3 Q. They were expecting you?

4 A. Yes, they were.

5 Q. Okay. And when do you think that you moved to  
6 Newberry the second time?

7 A. I moved back to Newberry, it had to be after her  
8 birthday, cause that was her weekend off.

9 Q. Is it, is it possible that you could've moved as  
10 early as January?

11 A. No, sir.

12 Q. Did you have a car?

13 A. Not at that time, no.

14 Q. How did you get from, what town were you living in  
15 North Carolina?

16 A. Henderson, North Carolina.

17 Q. Okay. How did you get from Henderson, North Carolina  
18 to Whitmire, South Carolina?

19 A. My sister.

20 Q. Your sister?

21 A. Yes..

22 Q. Okay. Where does your sister live?

23 A. She lives in Henderson, North Carolina.

24 Q. Okay. And it was just you and [REDACTED] who came?

25 A. Yes.

1 Q. You sure it couldn't have been somebody else who  
2 brought you?

3 A. No.

4 Q. What was the reason that your boyfriend didn't come  
5 down with you? Mr. Sutherland.

6 A. He was working at the time.

7 Q. And, and that was the issue that he couldn't move to  
8 South Carolina on?

9 A. No that wasn't a issue. He was working at the time  
10 and of course, yes, he was on probation at that time, but  
11 he was working.

12 Q. He was on Federal Probation that prohibited him from  
13 moving out of the state, correct?

14 A. Okay. Correct.

15 Q. How long had Ms. Rose been working at Sterilite?

16 A. She's probably been out there now about eight years.

17 Q. And she agreed to help you get a job after you did  
18 move down, at Sterilite?

19 A. Yes.

20 Q. And did she help you get that job?

21 A. I had to fill out the paperwork. I don't -- like I  
22 said, I don't know if she helped or not because it was  
23 probably like a month after I filled out for the job that  
24 I got the job.

25 Q. So you don't know now whether she helped you or not?

1 A. I don't.

2 Q. Okay. How did you get to work at Sterilite?

3 A. Through her.

4 Q. She picked you up at your home?

5 A. Yes.

6 Q. But before you could get a job, you had to get  
7 daycare for [REDACTED]

8 A. Correct.

9 Q. You were aware that Tim was babysitting some other  
10 children at that time, is that correct?

11 A. No.

12 Q. And you weren't aware of whether he was babysitting  
13 other children?

14 A. No, he was not that I know of.

15 Q. Did you bring all of your possessions from North  
16 Carolina when you came down?

17 A. No.

18 Q. So you still were leaving the bulk of your stuff up  
19 in North Carolina?

20 A. What do you mean by all of my things?

21 Q. When, when you say your sister brought you down --

22 A. Right.

23 Q. -- did, did you, did you pack up everything you had  
24 and came down or you still left the vast majority of your  
25 stuff up in North Carolina?



1 A. Oh, clothes and things. Yes, I brought clothes.

2 Q. How long are you testifying that you lived with the  
3 Rice's?

4 A. Four days.

5 Q. Okay. What was the sleeping arrangements?

6 A. The sleeping arrangements was in her second bedroom,  
7 me and my baby slept in the bed and her son and her  
8 brother slept on a air mattress on the floor.

9 Q. Do you remember attending the July 4th barbecue at  
10 the Rice's home?

11 A. No.

12 Q. No you don't remember or no you didn't'?

13 A. No, I didn't.

14 Q. Okay. To the best of your recollection, what is the  
15 date [REDACTED] came to you and said that, mommy, Timmy has  
16 touched me?

17 A. To the best of my recollection it had to be somewhere  
18 near the 15th.

19 Q. Okay.

20 A. Had to be.

21 Q. Well we know that the police met with you on July  
22 15th right?

23 A. Right.

24 Q. And your allegation is the same day that [REDACTED] told  
25 you about this allegation, you went and confronted Rose

1 and Tim?

2 MS. SHEEK: Your Honor, for the record, if I could  
3 just ask the witness to actually give a verbal answer  
4 instead of a nod of the head.

5 THE COURT: Okay. I didn't notice that.

6 MS. WRIGHT: Yes

7 THE COURT: I'm sorry.

8 MR. VERNER: Because Ms. Holston writes down answers,  
9 she needs a response.

10 Q. How did you, who rode with you to work at Sterilite?

11 A. Me, Rose and her brother, Wayne.

12 Q. Okay. And for how long of a period of time did the  
13 three of you commute to Sterilite?

14 A. Probably about two months.

15 Q. Okay. Ultimately, your boyfriend Travis did move  
16 down and live with you?

17 A. Right.

18 Q. Do you remember when he was picked up?

19 A. The date, no. Not the exact date.

20 Q. How did he get to South Carolina?

21 A. He came with a friend.

22 Q. Do you know the name of the friend?

23 A. Not off the top of my head, no.

24 Q. Did Tim go and pick him up?

25 A. Yes.

- 1 Q. This Tim?
- 2 A. Yes, he did.
- 3 Q. Is, is that the friend you're referring to or?
- 4 A. No.
- 5 Q. Okay.
- 6 A. No.
- 7 Q. So you remember that Tim did ride with you to see him
- 8 and pick him up at some point?
- 9 A. He took me there.
- 10 Q. Okay.
- 11 A. Yes, he did.
- 12 Q. Do you recall whether that was against the wishes of
- 13 Ms. Rose or with her consent?
- 14 A. Against her wishes. What do you mean?
- 15 Q. She didn't want Tim to go to North Carolina to pick
- 16 up the boyfriend, did she?
- 17 A. Well she didn't say that to me.
- 18 Q. Did the boyfriend ever come around the home of the
- 19 Rice's?
- 20 A. Not that I know of, no.
- 21 Q. Was he, do you know if he was welcome at the home of
- 22 the Rice's?
- 23 A. As far as I knew of, he was welcome.
- 24 Q. And the boyfriend Travis moved down about when?
- 25 A. Round about the end of June.

1 Q. And he is not [REDACTED] father, is that correct?

2 A. Correct.

3 Q. Okay. Do you recall an argument where you went to  
4 Ms. Rose and asked her to get the boyfriend a job at  
5 Sterilite and she refused?

6 A. There was no argument over that.

7 Q. You're denying that ever happened?

8 A. We didn't, we didn't have a argument over that.

9 Q. And that happened about several days before you went  
10 to the police. Is that not true?

11 A. We never had a argument over him.

12 Q. The text messages that you're talking about, that was  
13 after you went to the police?

14 A. Yes.

15 Q. Are they available for us to look at?

16 A. Sure, I have the phone.

17 Q. Okay. Well do you have the text messages where  
18 they're threatening you?

19 A. Yeah; I have the text messages. Yes. On the phone.

20 Q. Okay.

21 A. Yes, I do.

22 Q. Are they in court?

23 A. No they're not in court but I can get them out of the  
24 room.

25 Q. There in the other room?

1 A. Yes, they are.

2 MR. VERNER: Judge, I would like her to, if she's  
3 referring to text messages threatening her, I would like  
4 her to retrieve the phone to let us see.

5 THE COURT: All right. I tell you what, we may have  
6 to do a little in-camera review so we'll take a short  
7 break. Let the jury step in the jury room. Take a break  
8 outside, y'all may. Give me a couple minutes and look  
9 into this and we'll have y'all back in here.

10 (Whereupon, the jury was excused from open court for  
11 a break.)

12 THE COURT: All right, go retrieve your phone and give  
13 it to the Solicitor first.

14 MR. SHEEK: Don't discuss your testimony with anyone.

15 THE COURT: You can go and get it.

16 (Whereupon, witness retrieves phone while a short  
17 break was taken.)

18 THE COURT: What have we got.

19 MR. SHEEK: She has got them here, Judge, and I  
20 welcome to her to read them on the stand.

21 MR. VERNER: All I want to do is corroborate phone  
22 numbers.

23 THE COURT: I want you to see them and Mr. Sheek or  
24 Daniels see them.

25 MR. VERNER: She doesn't recognize phone numbers,

1 Judge, I mean the question has been answered so if she  
2 wants to answer it.

3 THE COURT: She says they are text messages. But my  
4 information from what y'all told me, leave it at that.  
5 She got a text message, she doesn't have to explain her  
6 answer any further. If you want to go into it further, I  
7 just, it seems like hearsay to me, the messages on the  
8 phone. And the 403 value is probably more prejudicial  
9 than they are probative of what we are dealing with here.

10 MR. VERNER: I wouldn't characterize any of them as  
11 threats. The comments more along the lines of don't, I  
12 don't want to see your face anymore or stuff like that.

13 THE COURT: I am just trying to minimize that. I am  
14 going to go back. These seem to be hearsay on their face  
15 and I don't know what the messages are or the phone number  
16 or the origin. It seems to be hearsay, I will probably  
17 disallow it unless y'all both agree they come in.  
18 Additionally, I don't know what the texture, the text of,  
19 the text of the text is or the wording of it. Not knowing  
20 that it may be more prejudicial than probative to the  
21 issue at hand and under 403 I may exclude it.

22 MR. SHEEK: And I agree with you, Your Honor. She  
23 has answered the question.

24 THE COURT: And we can give a curative instruction to  
25 the jury, that the text messages, that they are really not

1 relevant to the issue. And leave it at that, I won't say  
2 anything further than that.

3 MR. VERNER: I would probably be inclined to say that  
4 she has got, she represents that she has got five text  
5 messages all dated July 15th from who she says came from  
6 Ms. Rose. And all of those would be coming from Ms. Rose?

7 MS. WRIGHT: Yes.

8 THE COURT: Okay. Probably just leave it at that. I  
9 want to say that, I was just going to say she has five  
10 text messages that aren't relevant to the issue at hand.

11 MR. VERNER: I would probably be inclined to say that  
12 they came from Ms. Rose. Because I don't want anybody to  
13 think that he has threatened her.

14 THE COURT: I don't think Mr. Sheek will have an  
15 objection to that.

16 MR. SHEEK: I have no objection. I thought that she  
17 had said that but if not I have no objection with it being  
18 clarified.

19 THE COURT: Okay. Bring the jury in.

20 (Whereupon, the jury came into open court at  
21 approximately 4:00 p.m.)

22 THE COURT: All right, ladies and gentlemen, we  
23 retrieved the cell phone and the attorneys looked at it,  
24 there are five messages on there that the witness believes  
25 came from Ms. Rice. Aside to that they are really not

1 relevant to the issue at hand. And so I am going to leave  
2 them at that. Y'all have got a job to do and those text  
3 messages got nothing to do with the issue y'all got to  
4 determine. So, I am not trying to hide anything from you.  
5 It is just I don't think the matter to this issue and  
6 therefore they are not relevant. Mr. Verner, you can  
7 continue.

8 MR. VERNER: Your Honor, I thought we agreed that  
9 they were all dated July 15th.

10 THE COURT: And they were dated July 15th.

11 CONTINUE CROSS-EXAMINATION

12 BY MR. VERNER:

13 Q. What therapy have you taken [REDACTED] to?

14 A. To the Advocacy, the Advocacy Center in Spartanburg.

15 Q. Okay. And that was Mr. Garret that we heard from  
16 earlier?

17 A. Yes.

18 Q. Do you have a family doctor in Whitmire?

19 A. Newberry Pediatrics.

20 Q. Newberry Pediatrics?

21 A. In Newberry, yes.

22 Q. Okay. Who is the doctor that you see?

23 A. Becky White.

24 Q. Did you take [REDACTED] to see the Pediatrician, her  
25 Pediatrician?



1 A. Yes.

2 Q. Okay. Did he, this was, July 15th is the date that  
3 you went to the police?

4 A. Right.

5 Q. When did you go see the Pediatrician, Ms. White?

6 A. We were waiting, I didn't take her then. I took her  
7 to the Advocacy Center to see the medical doctor there.

8 Q. Okay. When is the, have you taken [REDACTED] at all to  
9 see her Pediatrician about these allegations?

10 A. No, cause at the time here, she didn't have one here.

11 Q. Okay. Did she have a Pediatrician at all at that  
12 time?

13 A. No, not here, but at home yes.

14 Q. Okay. And at the Advocacy Center she saw Mr. Garrett  
15 who we heard from earlier?

16 A. Okay.

17 Q. Is that correct?

18 A. Yes.

19 Q. Did she also see a medical doctor?

20 A. Yes.

21 Q. Who was the medical doctor?

22 A. Dr. Nancy.

23 Q. And that was also at the Advocacy Center?

24 A. Yes.

25 Q. And that was where she would be physically examined?

- 1 A. That's where she was physically examined.
- 2 Q. You remember Dr. Nancy's last name?
- 3 A. Not off the top of my head, no.
- 4 Q. And that was around August 12th of last year?
- 5 A. I guess so.
- 6 Q. What therapy have you taken [REDACTED] to since?
- 7 A. None.
- 8 Q. Where are you working now, Ms. Wright?
- 9 A. At Shaw.
- 10 Q. What is, where is Shaw? Clinton?
- 11 A. Yes, Clinton.
- 12 Q. And are you still living in the same home?
- 13 A. Yes.
- 14 Q. Now, my understanding is there are two yellow chairs
- 15 in your living room?
- 16 A. Yes.
- 17 Q. Is, is there an entertainment or a play station type
- 18 game in front of them?
- 19 A. On a stand, yes, with a TV.
- 20 Q. Okay. So that, that is where you would sit to watch
- 21 the games or play games, video games?
- 22 A. Right, unless you bring another chair from out of the
- 23 kitchen.
- 24 Q. And you don't have any other children living with
- 25 you, just you and [REDACTED]

1 A. No. Just [REDACTED]

2 Q. And at some point Travis did come and live with you  
3 full-time?

4 A. Yes.

5 Q. When did he move in with you full-time?

6 A. That would be, you're talking about this year?

7 Q. I'm just, how long has he been there since--

8 A. Cause he would make trips off and on.

9 Q. Okay. When do you consider he moved out full-time I  
10 guess?

11 A. I would say, he still does make trips back and forth  
12 home.

13 Q. [REDACTED] birthday is [REDACTED]

14 A. Yes.

15 Q. Do you recall asking Ms. Rose for a ride to go get  
16 the cake for [REDACTED] back in 2013?

17 A. On her birthday?

18 Q. Yes ma'am, or before.

19 A. No.

20 Q. Okay. Thank you, Ms. Wright.

21 THE COURT: Redirect?

22 MR. SHEEK: Yes, sir.

23 REDIRECT EXAMINATION

24 BY MR. SHEEK:

25 Q. Ms. Wright, just so everybody is clear, I wanna

1 clarify the issue regarding whether a friend drove Travis  
2 down or Timmy went and got him.

3 A. Okay.

4 Q. You said y'all lived in Henderson, North Carolina?

5 A. Yes.

6 Q. I know most of us around here are familiar with  
7 Hendersonville near Asheville. That's not the same as  
8 Henderson is it?

9 A. No.

10 Q. Where is Henderson, North Carolina?

11 A. Fourteen miles before you cross the Virginia line.

12 Q. Okay so Henderson, North Carolina is a good ways off?

13 A. Further.

14 Q. Is it over towards the coast?

15 A. Well,--

16 THE COURT: Rocky Mountain.

17 A. Not, well, that's East. You could say some, towards  
18 Wilmington.

19 Q. Yes, ma'am. Now when Timmy went to pick up Travis,  
20 did he go all the way to Henderson?

21 A. No.

22 Q. Where did he pick him up?

23 A. In Charlotte.

24 Q. And how did Timmy get to Charlotte?

25 A. He drove his mom's truck.

1 MR. SHEEK: Thank you, ma'am. That's all I have.

2 THE COURT: Any recross?

3 MR. VERNER: No, Your Honor.

4 THE COURT: You may step down ma'am.

5 MR. SHEEK: Your Honor, the State will call [REDACTED]

6 Wright.

7 THE COURT: [REDACTED] will you do something for me?

8 [REDACTED] Yes.

9 THE COURT: Ms. Folk wants to ask you something for  
10 her real quick.

11 [REDACTED] being  
12 first duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. SHEEK:

15 Q State your name, [REDACTED]

16 A. [REDACTED] Jolei Wright.

17 THE COURT: [REDACTED] will you do me a favor. I need  
18 you to talk real loud. Ms. Williams is the lady right  
19 there, we have some candy and you give it to her. When I  
20 was trained as a Judge way back when a Judge out West says  
21 I have jurors candy and I found the jurors love it. That  
22 is for y'all's enjoyment. Now, [REDACTED] sit back in that  
23 chair and pull that microphone down just a little bit  
24 because I want the jurors and Ms. Holston to hear you.  
25 Okay.

1 MR. SHEEK: You talk into that microphone for me,  
2 okay.

3 [REDACTED] Okay.

4 Q. Tell this jury, this group of people right here, tell  
5 them your name again.

6 A. [REDACTED] Jolie Wright.

7 Q. [REDACTED] where do you live?

8 A. In Whitmire.

9 Q. And who do you live with?

10 A. My mommy and my daddy.

11 Q. Does anybody else live there with you?

12 A. No.

13 Q. How old are you, [REDACTED]

14 A. Eight.

15 Q. So you're eight years old but are you at school right  
16 now or are you on summer break?

17 A. Summer break.

18 Q. So when you go back to school, do you know when you  
19 have to go back?

20 A. Yes.

21 Q. When do you go back to school?

22 A. The 18th.

23 Q. And what grade will you be in?

24 A. Third grade.

25 Q. You looking forward to going back?

1 A. Yes.

2 Q. You like school?

3 A. Yes.

4 Q. What's your favorite subject in school?

5 A. Reading and math.

6 Q. You like to read?

7 A. Yes.

8 Q. Do you like to read stories or what kind of stuff do  
9 you like to read?

10 A. Stories.

11 Q. Okay. Well, that's good. Do you know why you've  
12 come here to, to this building today?

13 A. Yes.

14 Q. And do you remember coming and talking to me about a  
15 week ago, we talked for a little bit?

16 A. Yes.

17 Q. And you've talked to other people that work with me.  
18 Do you remember Mr. David Stumbo?

19 A. Yes.

20 Q. Okay. You remember this lady here? You remember Ms.  
21 Wendy?

22 A. Yes.

23 Q. We've talked to you about coming in to court and, and  
24 telling us some things that happened. You remember that?

25 A. Yes.

1 Q. Now ████████ when you tell somebody something that's  
2 happened, do you know the difference between telling the  
3 truth and telling a lie?

4 A. Yes.

5 Q. If I said that I lived in the house with you and your  
6 mama, is that the truth or is that a lie?

7 A. A lie.

8 Q. Because I don't really live with you, do I?

9 A. No.

10 Q. Is it okay ever to say something happened that didn't  
11 really happen?

12 A. No.

13 Q. Would it be okay to say something didn't happen if it  
14 really did?

15 A. Yes.

16 Q. You can say something didn't happen if it really did?

17 A. No.

18 Q. No. If we come in to court like we are today and we  
19 tell a lie, is that good or is that bad?

20 A. Bad.

21 Q. What do you think would happen to somebody that came  
22 in here and told a lie?

23 A. You'd get punished.

24 Q. Get punished. Do you get punished if you break rules  
25 at school?



1 A. Yes.

2 Q. Your mama and your daddy have rules at home?

3 A. Yes.

4 Q. You get punished if you break them?

5 A. Yes.

6 Q. So if we tell a lie, we get in trouble?

7 A. Yes.

8 Q. A minute ago, when you talked to this lady right over  
9 here, do you remember when she said you promise to tell  
10 the truth and the whole truth?

11 A. Yes.

12 Q. So when I ask you questions, or if the Judge ask you  
13 questions, or this gentleman over here ask you questions,  
14 is it ever okay to lie about anything we ask you?

15 A. No.

16 Q. Now do you remember when you and I talked and I said  
17 what I wanted you to say in court?

18 A. Yes.

19 Q. And what did I say I wanted you to say?

20 A. You wanted me to tell the truth.

21 Q. And we talked about if we tell the truth, it's always  
22 okay, right?

23 A. Right.

24 Q. I'm going to ask you, [REDACTED] do you know this  
25 gentleman sitting right over here beside Mr. Verner? Do

1     you know this guy?

2     A.    Yes.

3     Q.    What's his name?

4     A.    Junior.

5     Q.    Junior? Is that what you call him?

6     A.    Yes.

7     Q.    Do some people call him Timmy Rice, Jr.?

8     A.    Yes.

9     Q.    And how do you know him?

10    A.    I don't know.

11    Q.    Well, let me ask you this, do you remember when you  
12    and your mama and your daddy lived in North Carolina?

13    A.    Yes.

14    Q.    And do you remember when your mama and you came and  
15    moved to where you live now?

16    A.    Yes.

17    Q.    When y'all first came to South Carolina, did you move  
18    straight into the house you're in now or did you stay with  
19    someone else?

20    A.    Stayed with someone else.

21    Q.    Do you remember who you stayed with?

22    A.    Yes.

23    Q.    Who was that?

24    A.    Junior.

25    Q.    Did anybody else stay there? Any members of Junior's

1 family live there?

2 A. Yes.

3 Q. And you recall, did you live there for days, a couple  
4 of weeks, a couple of months, how long did you live there?

5 A. Four days.

6 Q. And after that, did y'all go to the house that you're  
7 living in now?

8 A. Yes.

9 Q. Do you ever remember a time when your mommy started  
10 working after y'all moved here? She got a job at the same  
11 place that Ms. Rice worked?

12 A. No.

13 Q. No. Do you ever remember your mom being gone and  
14 someone coming to your house to put you on the school bus  
15 or get you when you got home from school?

16 A. I don't know.

17 Q. Well let me ask you this, do you ever remember the  
18 Defendant here, Junior, coming over to your house?

19 A. Yes.

20 Q. Okay. What would he do when he'd come over to the  
21 house?

22 A. I don't know because sometimes I would be asleep.

23 Q. Okay. Well, would he stay there with you when your  
24 mom wasn't there?

25 A. Yes.

1 Q. And did this happen one time or more than one time?

2 A. More than one time.

3 Q. And do you know where your mommy would be while,  
4 while Junior was there at the house with you?

5 A. Yes.

6 Q. Where would she be?

7 A. At work.

8 Q. And would she come home after she got off of work?

9 A. Yes.

10 Q. And did Timmy stay there with you until your mommy  
11 got home?

12 A. Yes.

13 Q. You ever remember a time where Timmy touched you in a  
14 way that you didn't like?

15 A. No.

16 Q. You don't remember him touching you in a way that you  
17 didn't like?

18 A. Oh that's what you mean. Yes.

19 Q. What do you think I'm talking about?

20 A. I thought you were talking about the when.

21 Q. Okay. You thought I was talking about when. Okay.

22 So did Timmy ever touch you in a way that you didn't like?

23 A. Yes.

24 Q. And do you remember going to a place and talking to a  
25 Mr. Garret?

1 A. Yes.

2 Q. A man old like me, talking about what happened?

3 A. Yes.

4 Q. Okay. Tell this jury, this group of people over  
5 here, what Timmy would do, how he would touch you that you  
6 didn't like.

7 A. Put his hand in my private spot.

8 Q. Now when you say private spot, do you remember the  
9 man that you went and talked to showing you that picture?

10 A. Yes.

11 Q. Okay. And this part that is circled here, who  
12 circled that?

13 A. Me.

14 Q. Okay. And is that the area where your private spot  
15 is?

16 A. No.

17 Q. Where is your private spot?

18 A. Right down here.

19 Q. Okay. Well we can't see because of that wood. Is it  
20 down here at your knee?

21 A. No.

22 Q. Is it up here at your belly?

23 A. No.

24 Q. Is it on your back?

25 A. No.

1 Q. Is it between your legs?

2 A. Yes.

3 Q. And then when you say your private spot, would that  
4 be the same spot if you went to the bathroom that you  
5 would pee pee from?

6 A. Yes.

7 Q. Okay.

8 THE COURT: Be careful not to lead her.

9 Q. And when he, you said he touched you, what did he  
10 touch you with?

11 A. Hand.

12 Q. Was this on top of your clothes or under your clothes  
13 or something else?

14 A. Under my clothes.

15 Q. Would he touch you on top of your skin or inside or  
16 something else?

17 THE COURT: Go back and reask the first question  
18 because Ms. Holston didn't get the answer.

19 Q. I apologize. When he touched you with his hand, was  
20 it on top of your clothes, under your clothes or something  
21 else?

22 A. Under clothes.

23 Q. And would this be on your skin?

24 A. Yes.

25 Q. Did he touch you on the outside of your private spot,

1 the inside or something else?

2 A. Inside.

3 Q. Do you remember when you went and talked to that man  
4 about what happened, how he had a kleenex box he got you  
5 to use?

6 A. Yes.

7 Q. Okay. Sit that box right there. Let's say the top  
8 of this box is your private spot, okay.

9 A. Okay.

10 Q. Put that pen where Timmy would put his hand.

11 A. (The witness placed the pen.)

12 Q. All right. Is that what you mean by inside?

13 A. Yes.

14 Q. [REDACTED] do you remember how many times Junior did  
15 this?

16 A. No.

17 Q. Did you ever tell anybody what Junior was doing?

18 A. Yes.

19 Q. Who did you tell?

20 A. My mommy.

21 Q. Did you tell your mommy on the day that Junior did  
22 it?

23 A. No.

24 Q. Did you wait a little while to tell her?

25 A. Yes.

1 Q. Why didn't you tell her right then?

2 A. Thought I was gonna get in trouble for not telling  
3 her the first time.

4 Q. Thank you, ██████████

5 MR. SHEEK: Beg the Court's indulgence for a moment.

6 Q. Okay. ██████████ I'm gonna show you that picture. Do  
7 you recognize that?

8 A. Yes.

9 Q. What, what is that?

10 A. Living room.

11 Q. Is that the living room in your house or somewhere  
12 else?

13 A. My house.

14 MR. SHEEK: Your Honor, we would move to have this  
15 marked and entered as State's, and I don't know what  
16 number it was, one.

17 (Whereupon, State's Exhibit 1 was admitted into  
18 evidence.)

19 Q. ██████████ is that the room where Timmy would touch you  
20 or would it be somewhere else?

21 A. That's where he touched me.

22 Q. And I see two pictures in that chair, was there  
23 anything else in that room, was there a table that you  
24 played on, was there a TV or, or anything like that?

25 A. Yes.



1 Q. What was in there?

2 A. TV, a Wii game, table.

3 Q. Do you recall where you would be when Timmy would  
4 touch you?

5 A. Yes.

6 Q. Would you be standing up, sitting down, laying down  
7 or something else?

8 A. Sitting down.

9 Q. Do you remember where you would be sitting?

10 A. No.

11 Q. But it would happen in this room?

12 A. Yes.

13 Q. And that room is in the house where y'all now live in  
14 Whitmire?

15 A. Yes.

16 Q. Thank you, [REDACTED] Please answer anything this  
17 gentleman over here might want to ask you, okay.

18 CROSS-EXAMINATION

19 BY MR. VERNER:

20 Q. [REDACTED] do, do you recall meeting me before?

21 A. Yes.

22 Q. Okay. Do you know what I do for work or what my roll  
23 is here today?

24 A. No.

25 Q. Okay. Do you know the gentleman who was just asking

1     you the questions over there, do you know what he does for  
2     work or what his role is today?

3     A.    I don't know.

4     Q.    That's fine. The gentleman sitting right next to you  
5     with the black jacket on, have you met him before?

6     A.    Yes.

7     Q.    Do you know what he does for a living or what his  
8     role is?

9     A.    Yes.

10    Q.    What does he do for a living?

11    A.    He judges people.

12    Q.    When is the last time you've talked to your mama  
13    about your testimony today?

14    A.    I don't know.

15    Q.    Well, we know that you met with the prosecutor about  
16    a week ago, right?

17    A.    Yes.

18    Q.    Was your mama there?

19    A.    Yes.

20    Q.    Okay. And do you remember, you remember meeting me  
21    earlier before?

22    A.    Yes.

23    Q.    About how long ago?

24    A.    I forgot.

25    Q.    Okay. Can you guesstimate?

1 A. No.

2 Q. Was it just a matter of days ago, was it a year ago,  
3 was it a few weeks ago?

4 A. I don't know.

5 Q. You don't recall meeting me about three weeks ago?  
6 If you don't, you don't, but just tell us what you  
7 remember.

8 A. No.

9 Q. Have you talked to your mama about your testimony  
10 today? Has she gone over some questions that you would  
11 get from everybody?

12 A. No.

13 Q. Okay. Has anybody suggested that you change answers?

14 A. No.

15 Q. Do you recall why you and your mama moved down to  
16 Whitmire from North Carolina?

17 A. Yes.

18 Q. Do you remember the move?

19 A. Yes.

20 Q. Okay. Did you come down in daytime or nighttime?

21 A. I don't know.

22 Q. Okay. Did your mama drive?

23 A. Yes.

24 Q. Well, why was she moving down to Whitmire? Well, let  
25 me ask you [REDACTED] were your mama and daddy happy in North

1 Carolina together?

2 A. I don't know.

3 Q. Do you ever recall Tim ever playing games with you?

4 A. Yes.

5 Q. Okay. How long did Tim babysit for you?

6 A. I don't know.

7 Q. Was it just a couple times or was it a long period of  
8 time?

9 A. I don't know.

10 Q. Were you in school or was it during the summer?

11 A. I was in school.

12 Q. Okay. And how did you get to school?

13 A. By a bus.

14 Q. Okay. And the bus came early in the morning to pick  
15 you up?

16 A. Yes.

17 Q. Okay. And was Tim there when you got on the bus?

18 A. Yes.

19 Q. Okay. And then when you got let off the bus, was he  
20 at your house to pick you up?

21 A. Yes.

22 Q. Okay. What kind of games would you and Tim play or  
23 did you play, did he play games with you?

24 A. Yes.

25 Q. Okay. What kind of games did you play?

1 A. The Wii.

2 Q. The Wii game?

3 A. Yes.

4 Q. That's a video game?

5 A. Yes.

6 Q. Okay. What were some, what were some of the Wii  
7 games that you played?

8 A. Dancing games.

9 Q. You liked the dancing games?

10 A. Yes.

11 Q. Okay. Did he ever play any other games with you  
12 other than the Wii games?

13 A. No.

14 Q. That's all you played?

15 A. Yes.

16 Q. Well did you eat after you came home? Would you eat  
17 dinner with him or would you wait for your mama to come?

18 A. I don't know.

19 Q. Okay. Do you ever recall Tim taking you to go see,  
20 play with other kids?

21 A. I don't know.

22 Q. Do you, you don't recall him ever taking you to play  
23 games in the park?

24 A. I don't know.

25 Q. Have you ever talked to a policeman?

1 A. I don't know.

2 Q. Well school is over for the year, how well did you,  
3 did you do pretty good in school the past year?

4 A. Yes.

5 Q. Okay. Did you enjoy school?

6 A. Yes.

7 Q. And that was the second grade you finished up?

8 A. Yes.

9 Q. Okay. And do you recall, may I approach, Your Honor?

10 THE COURT: Yes, sir.

11 Q. Do you recall when Mr. Garret drew that picture for  
12 you? You can look at it, ██████████ you can look at it.

13 A. Yes.

14 Q. Who drew the picture of the little gingerbread man?  
15 Did you draw that or did Mr. Garret draw that or somebody  
16 else?

17 A. Mr. Garrett.

18 Q. Okay. And he asked you to show where your private  
19 area is, is that right?

20 A. Yes.

21 Q. Okay. And then you circled your private area, is  
22 that right? You did circle on the page?

23 A. Yes.

24 Q. Okay.

25 MR. VERNER: Your Honor, I would mark what's former

1 State's 3, Your Honor, and introduce it.

2 MR. SHEEK: No objection, Your Honor.

3 MR. VERNER: As Defendant's 1, Your Honor.

4 THE Court: It will be admitted.

5 (Whereupon, Defendant's Exhibit 1 was admitted into  
6 evidence.)

7 Q. Did you and Mr. Tim watch or Junior, did y'all watch  
8 TV together?

9 A. I don't know.

10 Q. You didn't have, you don't recall, y'all didn't have  
11 TV when he first started babysitting for you, did he?

12 A. Yes, we had TV.

13 Q. You did?

14 A. Yes.

15 Q. Do you recall whether he watched cartoons or things  
16 with you?

17 A. I don't know.

18 Q. Okay. Did he ever play any tickle games with you?

19 A. No.

20 Q. Did you ever see him play tickle with other kids that  
21 he was with?

22 A. No.

23 Q. Okay. Did he ever take you to anybody else's house  
24 while he was keeping you?

25 A. I don't know.

1 Q. Do you remember a lady named Ms. Savannah?

2 A. No.

3 Q. Okay. You don't recall ever going to her house and  
4 coloring?

5 A. No.

6 Q. Other than Wii, what games would Junior play with  
7 you?

8 A. That's all.

9 Q. That's the only thing you two did together?

10 A. Yes.

11 Q. Do you recall going to see a doctor, a medical doctor  
12 at the Children's Advocacy Center when you met Mr.  
13 Garrett?

14 A. Yes.

15 Q. You, you also remember a lady doctor?

16 A. Yes.

17 Q. Okay. If Mr. Sheek has anymore questions, ██████████ or  
18 Judge Griffith, you need to answer their questions too,  
19 okay.

20 A. Okay.

21 THE COURT: Anything else, Mr. Sheek?

22 MR. SHEEK: Nothing further, Your Honor.

23 THE COURT: ██████████ you may step down. Folks, we will  
24 break for the day. That is all the witnesses we have for  
25 you today. The State has more, we will start, if you can



1 be here at 9:15 and we will start at 9:30. Put your  
2 notepads in the jury room. Remember, you cannot discuss  
3 the case. Tell your family the Judge says don't discuss  
4 it, just leave it at that. See you first thing in the  
5 morning.

6 (Whereupon, the jury was excused from open court for  
7 the day.)

8 THE COURT: We will see you in the morning.

9 (Whereupon, the trial will resume the next morning at  
10 9:30 a.m.)

11 AUGUST 5, 2014.

12 THE COURT: Are y'all ready?

13 MR. SHEEK: We are, Judge. Just to work out  
14 scheduling purposes. We have got two officers this  
15 morning regarding the statements, some other issues. The  
16 last witness, Dr. Pritchard, she can get here around noon.  
17 She will just testify as an expert regarding whether or  
18 not you would expect to have a physical finding with the  
19 type allegations that we have.

20 THE COURT: Let's bring the jury in.

21 MR. VERNER: Judge, I am assuming, just again, that  
22 the Jackson v. Denno hearing, the Court is incorporating  
23 the testimony from the prior?

24 THE COURT: Yes. The Jackson v. Denno issues that  
25 was done last trial, it is reincorporated.

1 (Whereupon, the jury came into open court at  
2 approximately 9:43 a.m.)

3 THE COURT: We are ready to go. Call your witness.

4 MR. DANIEL: Your Honor, the State calls Michael Moss  
5 to the stand.

6 MICHAEL MOSS, being  
7 first duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MR. DANIEL:

10 Q. Good morning, Mr. Moss.

11 A. Good morning.

12 Q. You're a law enforcement officer of the Whitmire  
13 Police Department?

14 A. Yes, sir.

15 Q. How long have you been an officer with them?

16 A. This past April was nine years.

17 Q. Nine years. July 15th of 2013, were you on duty that  
18 day?

19 A. I was.

20 Q. Did you have an occasion to become involved with a  
21 criminal investigation, the suspect was a Timmy Rice, Jr.?

22 A. I did.

23 Q. What was the nature of that investigation?

24 A. Ms. Willie Mae Wright had came to the Police  
25 Department and stated that her child had been having some

1 unlike behavior and stated that the child had made the  
2 implication that Mr. Rice had touched her.

3 Q. So Mae Wright, the mother of, would that be [REDACTED]  
4 Wright?

5 A. Yeah.

6 Q. She reported that her daughter had, had disclosed  
7 allegations that she had been touched inappropriately by  
8 Timmy Rice?

9 A. Correct.

10 THE COURT: Don't lead.

11 Q. To that effect. Well after you received this  
12 information from Ms. Mae Wright, what did you do next?

13 A. I notified Chief Sinclair.

14 Q. Did you go look for Mr. Rice to question him?

15 A. Once me and Chief Sinclair got together, yes, we went  
16 and looked for Mr. Rice.

17 Q. And where did you go?

18 A. We went to his parent's house.

19 Q. And I assume arrest warrants hadn't been issued at  
20 that point?

21 A. No.

22 Q. Okay. Was Mr. Rice home when you went to his house?

23 A. No, sir.

24 Q. Where was he?

25 A. It was kinda unknown at that time but we was told

1 that he would be notified to come to the Police  
2 Department.

3 Q. And so July 15th, we are still on that date, did you  
4 get to speak with him then?

5 A. We did. He, he came a short time later.

6 Q. So Mr. Rice, he came voluntarily to the Police  
7 Station?

8 A. Yes, sir.

9 Q. About what time did he come?

10 A. After we made initial contact with his parents,  
11 probably, I don't know, at the minimum of 15 minutes. I  
12 mean it was, it was snappy.

13 Q. Was this in the morning?

14 A. Yes sir, if I recall correctly.

15 Q. So Mr. Rice came voluntarily to the Police Station.  
16 Who was present when, at the Police Station when Mr. Rice  
17 came in?

18 A. Me and Chief Sinclair.

19 Q. Now when Mr. Rice came in, did you and Chief Sinclair  
20 provide any details about the nature of the complaint that  
21 you were investigating?

22 A. We had told him what we wanted to talk to him about  
23 and everything and told him there was some allegations  
24 that he may have touched a child.

25 Q. And was, to your knowledge, was Mr. Rice already

1     aware of what you were investigating when he first  
2     arrived?

3     A.    To my knowledge, he just knew we wanted to talk to  
4     him, not in reference to what.

5     Q.    Even though Mr. Rice came voluntarily to the Police  
6     Station, did you read him his Miranda rights for any  
7     reason?

8     A.    I didn't, Chief Sinclair did.

9     Q.    Okay. And you just did this because it's a police  
10    interview type setting? Is it standard?

11    A.    Any, anytime you're gonna interrogate someone you  
12    need to read a Miranda rights.

13    Q.    How was Mr. Rice Mirandized so to speak? How was he  
14    read his rights?

15    A.    Chief Sinclair read from his Miranda rights card.

16    Q.    What does Miranda rights consist of?

17    A.    Basically advising the, whoever you're questioning,  
18    that anything they say can be used against them and as far  
19    as, I can't, I have to read the card right now to tell you  
20    right off the bat. But basically, it's telling them  
21    anything they say or do will be used against them in a  
22    court of law. They have a right to an attorney. If they  
23    can't afford at attorney, that if they wish to stop  
24    answering questions at any time until they get an  
25    attorney, then it gives them that right to, to stop what's

1 going on right then and there and say I'm not going no  
2 further until I have my attorney.

3 Q. Basically what we've see on TV kind of stuff?

4 A. Exactly.

5 Q. Mr. Rice, after you read him his rights, did he waive  
6 those and choose to speak with y'all?

7 A. No, he was cooperative. He immediately began to talk  
8 to us.

9 Q. Okay. So was this kind of a question and answer  
10 session between you and Mr. Rice and Chief Sinclair too?

11 A. Basically, yeah.

12 Q. Did you, what kind of, did you pose detailed  
13 questions or did you just address the allegations and  
14 Timmy Rice started speaking?

15 A. After Chief Sinclair read him his rights, we, we  
16 began to talk about what the allegations were. Mr. Rice  
17 then asked could we go somewhere more private to talk and  
18 we took him upstairs to one of our, to our old jury, jury  
19 room in our old courthouse and he began to go into a  
20 little more depth there.

21 Q. So when Mr. Rice first arrived, y'all were in the  
22 office?

23 A. Yeah, we was, we was in the downstairs office then.

24 Q. And then you went upstairs to the jury room because  
25 it's more, I guess, secluded or private?

1 A. It's more secluded, more private.

2 Q. Okay. What were some of the statements Mr. Rice made  
3 to you? I guess oral, did he, he's making oral statements  
4 at this point?

5 A. He was.

6 Q. And what exactly was Mr. Rice saying?

7 A. Pretty much he noticed, he said he noticed while  
8 playing with the victim, that he would tickle her under  
9 her arms and feet as well as her inner thighs and stated  
10 that while he was tickling her, he would, he would have  
11 urges. When I asked him what kind of urges, he really  
12 didn't go into detail on what kind of urges. He just said  
13 he had urges. He stated that it could've been possible  
14 during the touching and tickling that his finger could  
15 have rubbed against the child's vagina area.

16 Q. So he didn't outright deny that he had touched the  
17 child in the vaginal area?

18 A. No, sir.

19 Q. Did you take that as a more or less an accident,  
20 inadvertent kind of touching?

21 MR. VERNER: Your Honor, I don't know that that's a--

22 THE COURT: That's in leading. Quit leading.

23 Q. Did you, did you consider that to be an admission of  
24 touching?

25 MR. VERNER: Again, I don't know if that's a question

1 of fact. That's asking for his opinion on--

2 THE COURT: That sounds like an opinion to me also.

3 Rephrase the question.

4 Q. He's giving you oral statements, did he mention any  
5 other details to you orally?

6 A. No sir, other than what I just stated, he didn't. I  
7 found it alarming I guess you could say.

8 MR. VERNER: Your Honor, that's, the, the statement is  
9 in evidence, Your Honor. I would just ask that they read  
10 the statement instead of having the officer characterize  
11 it in bits and pieces.

12 MR. DANIEL: The statement is not in evidence, Your  
13 Honor.

14 MR. VERNER: Well it, I assume he has the statement.

15 THE COURT: The statement speaks for itself. I mean,  
16 Mr. Verner, sounds like you were consenting to or agreeing  
17 to its admission.

18 MR. VERNER: Well, Your Honor, I, I think the Court  
19 has already ruled that it comes in. And subject just to  
20 preliminary objections I think earlier, I assume the State  
21 intends to offer it through the officer in evidence. The,  
22 the statement speaks for itself, Your Honor. He wrote it.  
23 I just object to the officer characterizing bits and  
24 pieces of it.

25 THE COURT: I sustain your objection so rephrase your



1 question and move on.

2 Q. Did Mr. Rice provide a written statement to you and  
3 Chief Sinclair while at the Police Station?

4 A. He did.

5 Q. I'm going to hand you what's been marked for ID  
6 purposes, it's State's number 3. Do you recognize this?

7 A. I do.

8 Q. And what is it?

9 A. It's Timmy Rice's statement.

10 Q. It's a written statement by Timmy Rice?

11 A. It is.

12 Q. And Timmy Rice hand wrote that statement himself?

13 A. He did.

14 THE COURT: You're leading.

15 Q. Was that statement written at the behest of Timmy  
16 Rice or did Tim Rice actually write that statement  
17 himself?

18 A. He wrote it himself.

19 MR. DANIEL: Your Honor, permission to publish the  
20 statement.

21 THE COURT: You can put it on the board but I don't  
22 want it handed around.

23 MR. DANIEL: Yes, sir.

24 MR. VERNER: Your Honor, just subject only to my  
25 pretrial issue about the Miranda rights.

1 THE COURT: I understand your objection, it's noted on  
2 the record, reincorporated at this time. He can publish  
3 it.

4 (Whereupon, State's Exhibit 3 was admitted into  
5 evidence.)

6 Q. Tell us, at the top of this statement, what we're  
7 looking at. This top portion right here.

8 A. The date and time the statement was given.

9 Q. And I see Timmy Eugene Rice, Jr.'s name at the top.  
10 Is that correct?

11 A. Correct.

12 Q. And it's stating that Mr. Rice was 20, 24 years old  
13 at the time the statement was given?

14 A. Correct.

15 Q. And below, what is this section right here?

16 A. Stating he had given a statement to Jeremiah Sinclair  
17 and myself who have identified themselves as a police  
18 officer. And basically, it goes through the Miranda  
19 rights again.

20 Q. This is how Timmy Eugene Rice was Mirandized?

21 A. Correct.

22 Q. And there were no threats made or any promises in  
23 exchange for this statement?

24 A. No, sir.

25 Q. Was Mr. Rice in handcuffs at the time?

1 A. No, sir.

2 Q. Now were talking about, I asked you earlier about  
3 oral statements that Mr. Rice made, this is a written  
4 statement.

5 A. Correct.

6 Q. Is this more or less a summary of these oral  
7 statements Timmy Rice gave?

8 A. Yeah, you could say.

9 Q. Okay. But not everything Timmy Rice said, is  
10 everything Timmy Rice said orally encapsulated or in this  
11 written statement?

12 A. No, sir.

13 Q. Okay. If you could, go ahead and read what Mr. Rice,  
14 this is Mr. Rice's handwriting, correct?

15 A. It is.

16 Q. If you could, read this for the jury. I know that  
17 it's a little small.

18 MR. VERNER: Can you enlarge it a little bit more  
19 towards the, so everybody can see.

20 Q. And if you have a copy of this, if you can't see it  
21 or you're having trouble seeing that for whatever reason,  
22 if you could, just read the handwritten portion.

23 A. I started to keep the child around the end of the  
24 school year 2013. I would play with her a lot, balls,  
25 dolls and such that little girls play with. As with the

1 other children, I tried playing fighting games, tag and  
2 tickling. I later found that the girl was ticklish on her  
3 legs and thigh area. I will try tickling her up and down  
4 her thigh. I had urges that I was not used to coming to  
5 mind constantly. I had tried fighting them but at times  
6 they did get the best of me. I do recall that my hands  
7 had touched the girl in an inappropriate way at times. I  
8 did not however show myself or penetrate the girl at any  
9 time. I even protested to my mother about keeping the  
10 child any longer. I had to distance myself from such  
11 things. Her mother approached me about the indecent acts  
12 I had committed in front of her. And now later, officers,  
13 I've told them that, yes, I did commit some inappropriate  
14 acts upon the child but that it all, that, but that is  
15 also the reason I also tried to limit the one-on-one time  
16 that I had with the child. The time I had with the child,  
17 excuse me. I tried, although futively at times to combat  
18 such thoughts. Anything I have done is something I can't  
19 undo.

20 Q. And then I'm seeing here at the bottom, what are we  
21 looking at here? Starting this portion.

22 A. Anytime someone gives a statement, the purpose of the  
23 X is so that they can initial, in that case nothing can be  
24 added or taken away from it.

25 Q. Okay. And whose signature is that right there?

1 A. That's Timmy Rice's.

2 Q. And then?

3 A. That's Chief Sinclair.

4 Q. Chief Sinclair is a notary?

5 A. I think, yeah, that looks like Chief Sinclair's  
6 handwriting.

7 Q. And you did observe Mr. Rice write down this  
8 statement?

9 A. I did.

10 Q. And at any time, did you instruct Mr. Rice on what to  
11 put in this written statement?

12 A. No, sir.

13 Q. You never told him to use certain words or not use  
14 some words?

15 A. No, sir.

16 Q. Were there any other written statements that Mr. Rice  
17 made at that time?

18 A. No, sir.

19 Q. Was there any diagrams drawn?

20 A. Yes sir, I had come, did a diagram kind of like a  
21 gingerbread man and asked him to, to mark and initial  
22 where he had touched the child.

23 Q. And that was your idea to do that diagram drawing?

24 A. Yes, sir.

25 Q. I'm gonna hand you what's been marked for ID

1 purposes, as State's number 4. You recognize that?

2 A. Yes sir, that's the diagram I made.

3 Q. And you said you got Mr. Rice to initial areas?

4 A. To mark and initial where he touched the child.

5 Q. So wherever Mr. Rice marked, that denotes where he  
6 touched the child?

7 A. Correct.

8 Q. Your Honor, I move for State's number 4 to be  
9 admitted.

10 THE COURT: Subject to the prior ruling. It's  
11 submitted.

12 (Whereupon, State's Exhibit 4 was admitted into  
13 evidence.)

14 MR. DANIEL: Permission to publish?

15 THE COURT: Sure.

16 Q. Who drew this diagram?

17 A. I did.

18 Q. Okay. Tell us, kind of describe it for us, what are  
19 we looking at?

20 A. The markings under the arm, the inner thighs and  
21 everything is where Timmy said he would, he was tickling a  
22 child and that's where he initialed and also the bottom of  
23 the feet. You can scoot it up a little bit, they'll see  
24 that too.

25 Q. Okay. All right. So I'm looking at, TR, right here

1 on the armpits.

2 A. Correct.

3 Q. Timmy Rice's initials.

4 A. Correct.

5 Q. And then looks like the inner thigh area close to  
6 the, looks like the crotch.

7 A. Uh-huh.

8 Q. I see initial, TR.

9 A. Correct.

10 Q. Bottom of the feet, I see TR.

11 A. Correct.

12 Q. And Mr. Rice indicated that's where he had touched  
13 the child?

14 A. Correct.

15 THE COURT: You still leading.

16 Q. What do these marks indicate again?

17 A. That is, the initials and the marks indicated where  
18 he was tickling the child.

19 Q. While he was babysitting the child?

20 A. Correct.

21 Q. Based on this interview with Mr. Rice, where had  
22 these touchings taken place?

23 A. From what was reported, the victim's home.

24 Q. Is that in Newberry County?

25 A. It's in the town, yes sir, Newberry County, Town of

1 Whitmire.

2 Q. And what time period did this occur, allegedly occur?

3 A. I wanna say from the time it was reported, probably  
4 two to three months prior.

5 Q. And this occurred at the victim's home in Whitmire?

6 A. Correct. On [REDACTED]

7 Q. Newberry County?

8 A. Correct.

9 Q. How long did this interview last with Mr. Rice?

10 A. If I had to guess, forty-five, fifty minutes,  
11 somewhere along in there.

12 Q. And Mr. Rice was able to, was he able to use the  
13 restroom during this time?

14 A. Yeah.

15 Q. He was free to get up?

16 A. Yes, sir.

17 Q. What point was Mr. Rice taken into custody, placed  
18 under arrest?

19 A. When the interview was over. We felt we had  
20 established enough probable cause to base an arrest on.

21 Q. That's when the decision, who made the charging  
22 decision, what to charge Mr. Rice with?

23 A. Chief Sinclair.

24 Q. And what was the charge?

25 A. Criminal sexual conduct with a minor.



1 Q. Do you know what degree?

2 A. First.

3 Q. And that was, was that due to the age of the victim?

4 A. Basically, yeah.

5 Q. Nothing further. Please answer any questions Mr.

6 Verner has.

7 A. Okay.

8 CROSS-EXAMINATION

9 BY MR. VERNER:

10 Q. What day did Ms. Willie Mae Wright come to you,  
11 Officer Moss? Date.

12 A. July 15th, 2013.

13 Q. And that would be clearly indicated in your notes?

14 A. Yes, sir.

15 Q. Now did you ever speak to the child?

16 A. No, no, I did not.

17 Q. Okay. So all of the information you had about the  
18 allegation came through Ms. Willie Mae Wright?

19 A. Correct.

20 Q. And to your knowledge, did Chief Sinclair speak to  
21 the child directly?

22 A. He did not.

23 Q. Okay. And did Chief Sinclair speak to Ms. Wright  
24 when she first came in and reported this?

25 A. No, Ms. Wright only spoke to me.

1 Q. Okay. So at, at that time, the only information you  
2 had just came secondhand through Ms. Wright?

3 A. Correct.

4 Q. Okay. And that was on July 15th?

5 A. Uh-huh.

6 Q. And pretty much anytime there is a investigation or a  
7 crime or alleged crime of note, you are required to do an  
8 incident report?

9 A. Correct.

10 Q. And that's just a routine part of being a police  
11 officer is make contemporary notes?

12 A. Correct.

13 Q. Do you recall how long ago or how long Ms. Wright  
14 indicated to you that she had been aware of the  
15 allegation? Is it true she said at least a week before  
16 she came in and spoke to the Police?

17 A. Yeah, excuse me, two to three weeks.

18 Q. And then when you went looking for Timmy Rice, they  
19 came in within fifteen minutes?

20 A. Yeah, it was, it was, it was quick.

21 Q. Now did you know Tim Rice, Jr.?

22 A. Yeah.

23 Q. Okay. Had, had you ever interviewed him before?

24 A. No, sir.

25 Q. Okay. Had you ever arrested him before?

1 A. No, sir.

2 Q. So he didn't have any kind of relationship with you  
3 in terms of officer, citizen?

4 A. No.

5 Q. Okay. If, if he knew you, it was kind of a personal  
6 relationship and wouldn't of been an investigation type?

7 A. Yeah, just walk by and say hey, social.

8 Q. Are you aware of whether he had ever been interviewed  
9 by the police before?

10 A. I'm not aware of us interviewing him before.

11 Q. Okay.

12 A. Now if, if another agency had, I'm not aware of it.

13 Q. And he came voluntarily?

14 A. Correct.

15 Q. With his parents to speak, right?

16 A. Correct.

17 Q. But his parents stayed outside?

18 A. Correct.

19 Q. Describe the Whitmire Police Station for us. Just in  
20 general.

21 A. When you walk in, there's a hallway. On the right,  
22 it's the CPW and on the left, it's the Police Department.

23 Q. Okay. CPW with the Public Works Department?

24 A. Correct.

25 Q. Now does that take customers into the CPW?

1 A. They do.

2 Q. And the main room of the Police Station also would be  
3 available for walk-in people to come in?

4 A. No sir, unless we're, unless we're in there. If  
5 we're not in there, the office is locked. They would have  
6 to notify.

7 Q. But if it's open, then the public would be able to  
8 walk in there too?

9 A. Correct. Unless we have somebody in there, then we  
10 tell whoever, if we, put it this way, if we have something  
11 going on we tell somebody to wait and don't come in.

12 Q. Okay. But when the officers are on patrol, then the  
13 door is locked and only the CPW is open to the public?

14 A. Correct.

15 Q. But there are walk through people paying bills, I  
16 suppose?

17 A. Correct.

18 Q. Okay. And so initially when you were speaking to  
19 Tim, you were speaking to him in the main room?

20 A. Correct.

21 Q. Okay. And he asked to speak to you in private,  
22 right?

23 A. He did.

24 Q. Okay. And given the nature of the allegations, is  
25 that unusual to you that he would prefer just that type

1 situation, that he would want to speak to you in private?

2 A. Judging by the, the way he, the way he started  
3 talking all of a sudden he stopped and said can we go  
4 somewhere more private struck me as if he had, he had  
5 something important to say.

6 Q. Well, were there other people walking, do you recall  
7 whether there were other people walking in and out through  
8 the CPW entrance?

9 A. At the, and at that time I was, we was, I wasn't  
10 even, I couldn't tell you.

11 Q. Okay. It's been over a year ago give or take or  
12 almost a year ago?

13 A. Correct.

14 Q. And about the nature of the allegation, what, as best  
15 you recall, what did you tell him you were investigating?

16 A. That there had been allegations that he had touched a  
17 child.

18 Q. Okay. And he said, and the statement is in evidence,  
19 but he said I may have if I was tickling her and playing  
20 with her, that I could have. But, but he said it was, if,  
21 if I did, it was unintentional. Is that a fair  
22 characterization?

23 A. Correct.

24 Q. Okay. And actually, you wanted to be a little bit  
25 more specific so you had, you drew up a diagram and said

1 specifically, Timmy, show me where you touched [REDACTED]

2 A. Correct.

3 Q. Okay. And this is an extra copy, I think it's  
4 State's 4. Your Honor, is, is the diagram State's 4?

5 THE COURT: It is State's 4.

6 Q. Okay. The gingerbread man, so to speak, is your  
7 drawing?

8 A. Correct.

9 Q. And then all the other markings other than, would be  
10 Tim's?

11 A. Correct.

12 Q. Okay. And it's fair to say that Tim said I tickled  
13 her under the feet and he drew those arrows and lines,  
14 right?

15 A. Correct.

16 Q. Okay. And it's fair to say, I've tickled the child  
17 under the arms?

18 A. Correct.

19 Q. And he said, I've tickled the child on thighs and he  
20 drew lines of the areas where he had touched the child?

21 A. Correct.

22 Q. Okay. And he said I may have inappropriately touched  
23 the child tickling her on the inner thighs?

24 A. Correct.

25 Q. Okay. Thank you. And that diagram was made as part

1 of his statement just for completeness, the diagram was  
2 just a part of his statement to show specifically where he  
3 acknowledged touching the child?

4 A. Correct.

5 Q. Okay. And it's clear, the statement goes on in  
6 detail, but it's clear he starts the statement by saying,  
7 if I've touched a child, it was while I was tickling her  
8 and I may have touched her inappropriately and if I did  
9 I'm sorry?

10 A. Say that again, if he, you said when he started the  
11 statement?

12 Q. Well that, that, I'll withdraw the question. The  
13 statement speaks for itself. At some, after the, you met  
14 the mother, Ms. Willie Mae Wright, on July 15th?

15 A. Correct.

16 Q. Now did you know her prior to her coming in?

17 A. No.

18 Q. Okay. And then you met Timmy that same, within an  
19 hour or so of Ms. Wright coming in?

20 A. Correct. It possibly could've been a little bit less  
21 than that.

22 Q. And at some point you would have turned it over to a  
23 different agency or, or what happens to the investigation  
24 after you interviewed Timmy Rice?

25 A. In our department, it's policy anything felony

1 related or serious, we notify the Chief immediately.

2 Q. Okay. But after the Chief and you had interviewed,  
3 well was Timmy arrested that same, right after the  
4 interview, he was arrested at that same point?

5 A. Correct, basically.

6 Q. So he never left the station?

7 A. No.

8 Q. The decision was made by Chief Sinclair that y'all  
9 had enough evidence right then to arrest him?

10 A. Correct.

11 Q. Okay. Have you done any continuing investigation of  
12 the case after the interview?

13 A. Yes, I thought Chief Sinclair had sent, I think, some  
14 statements and some stuff off to, to further the  
15 investigation.

16 Q. Okay.

17 A. Stuff that we're not trained to do.

18 Q. Well at, at, at some point the case gets sent to the  
19 Child, through whoever refers it, but it gets sent to the  
20 Child Advocacy Center.

21 A. Correct.

22 Q. Okay. Have you interviewed any other witnesses other  
23 than Ms. Willie Mae Wright and of course, Tim Rice?

24 A. No, sir.

25 Q. Okay. Have you taken any forensic or physical



1 evidence into custody as, as part of the investigation?

2 A. Whatever, the Child Advocacy Center.

3 Q. Okay. But I'm asking you personally.

4 A. Oh no, no, I'm sorry. No, I did not.

5 Q. So after the allegation and the statement of Tim  
6 Rice, not completely, but largely, the case gets handed to  
7 the Child Advocacy Center for a more in-depth review?

8 A. Correct. More thorough.

9 Q. Of the child?

10 A. Correct.

11 Q. And you haven't interviewed the child since then,  
12 have you?

13 A. No.

14 Q. Have you interviewed Ms. Wright's boyfriend?

15 A. No.

16 Q. Okay. Are you aware of whether Chief Sinclair has  
17 done any?

18 A. To my knowledge, no.

19 Q. Okay. So it, it's fair to say the evidence that you  
20 have is the mother's allegation to you?

21 A. Correct.

22 Q. Timmy Rice's statement?

23 A. Correct.

24 Q. And then the child's subsequent statement to the  
25 Child Advocacy Center?

1 A. Correct.

2 Q. Okay. Thank you, Officer Moss.

3 THE COURT: Any redirect?

4 MR. DANIEL: Briefly, Your Honor.

5 REDIRECT EXAMINATION

6 BY MR. DANIEL:

7 Q. Why was the child, [REDACTED] referred to the  
8 Children's Advocacy Center?

9 A. Put it and put it as plain as I can, we're a small  
10 town department and we don't have the facility and the  
11 expertise in furthering something like that. So we, we  
12 turn it over to somebody who does have the expertise to do  
13 it.

14 Q. So the Whitmire Police Department referred [REDACTED] to  
15 the Children's Advocacy Center?

16 A. Correct.

17 Q. And that was for a followup interview?

18 A. Correct.

19 Q. And that's why, is that why [REDACTED] wasn't interviewed  
20 by--

21 A. Correct.

22 Q. -- You guys with the Whitmire Police Department?

23 A. Yes, sir.

24 Q. Nothing further.

25 MR. VERNER: Nothing further.

1 THE COURT: All right. You may step down, Lieutenant.

2 MR. SHEEK: Your Honor, our next witness is actually  
3 leaving Greenwood in about fifteen minutes, headed this  
4 way. So we've got a delay.

5 THE COURT: Okay. I thought you had two other than  
6 that one.

7 MR. SHEEK: Just one of them.

8 THE COURT: All right. Folks, we've got some  
9 downtime. Greenwood would be an hour.

10 MR. SHEEK: An hour for travel, yes sir.

11 THE COURT: Y'all can take a break and do whatever you  
12 like. You got about forty-five minutes to kill. You  
13 can't talk about the case. You can hang out with each  
14 other, you can sit in the jury room, you can ride wherever  
15 you like, what you got time to do, okay. So y'all are on  
16 downtime for forty-five minutes. That puts you just a few  
17 minutes before the hour of 11:00 for the last witness the  
18 State's going to call. All right. So, sorry about that.  
19 This is the doctor?

20 MR. SHEEK: Yes, sir.

21 THE COURT: Dr. Pritchard. You can drive to Greenwood  
22 fast or as slow as you want to, it still takes fifty  
23 minutes. I've done every which way and it doesn't make a  
24 difference. So, remember you can't discuss the case, you  
25 can't talk about the case at all, you can talk about

1 anything else. So we're down for forty-five.

2 (Whereupon, a break was taken waiting on a witness.)

3 THE COURT: Are we ready?

4 MR. SHEEK: Yes, Your Honor.

5 THE COURT: Let's bring them in.

6 (Whereupon, the jury came into open court at  
7 approximately 11:36 a.m.)

8 MR. SHEEK: Your Honor, the State calls Dr. Lyle  
9 Pritchard to the stand.

10 Dr. Lyle Pritchard, being  
11 first duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. SHEEK:

14 Q. And Dr. Pritchard, can you tell us where you're  
15 employed?

16 A. Self Regional Hospital.

17 Q. And what do you do at Self Regional, what's your area  
18 of practice?

19 A. I'm a Pediatrician.

20 Q. And how long have you been practicing as a  
21 Pediatrician?

22 A. I've been practicing as a Pediatrician for about 23  
23 years.

24 Q. Dr. Pritchard, tell us briefly if you would ma'am  
25 about your educational background to get where you are

1 today, I'm sorry.

2 A. I went to college at William and Mary and I went to  
3 medical school at the Medical University of South  
4 Carolina. After medical school, I did training in  
5 pediatrics, both in, at the Medical University of South  
6 Carolina and in Birmingham, Alabama.

7 Q. And are you also, Doctor, a member of the South  
8 Carolina Children's Advocacy Medical Response System?

9 A. I am.

10 Q. And how long have you been working with that group?

11 A. Since 1998.

12 Q. And what is the purpose of that group? What is their  
13 function?

14 A. It's a group of healthcare providers, primarily  
15 physicians, who have extra training in the exam of  
16 children where there's concern that there may be child  
17 abuse.

18 Q. And what kind of extra training, do you go through or  
19 have you participated in regarding child abuse?

20 A. So, I remain my board certification in pediatrics and  
21 then in addition, to be a member of the South Carolina  
22 Child Abuse Medical Response System, I do extra yearly  
23 education in child abuse.

24 Q. And you testified, I believe you've been with that or  
25 part of that system since 1998?

1 A. That's correct.

2 Q. In that time, do you have a rough estimate of how  
3 many physical examinations you've done regarding  
4 allegations of child abuse?

5 A. I usually examine children, about 60 to 80 children a  
6 year who there have been allegations of abuse. So  
7 approximately 800 children.

8 Q. And when you're examining children of child abuse, do  
9 you examine them regarding issues of physical abuse as  
10 well as sexual abuse?

11 A. Yes.

12 Q. And a percentage of the cases that you've examined  
13 that involve allegations of sexual abuse, do you have an  
14 idea of what percentage that might be?

15 A. That's the majority of children I see, are children  
16 with allegations of sexual abuse, so probably over 80  
17 percent.

18 Q. And have you ever been qualified as an expert in the  
19 Circuit Courts of South Carolina?

20 A. Yes.

21 Q. And in what field have you been qualified as an  
22 expert?

23 A. In child abuse.

24 Q. And that would be in pediatric child abuse medical  
25 examinations?

1 A. Yes.

2 MR. SHEEK: Your Honor, we would offer Dr. Pritchard  
3 as an expert in the, in the field of pediatric child  
4 abuse.

5 THE COURT: Any voir dire, Mr. Verner?

6 MR. VERNER: I accept her qualification.

7 THE COURT: All right. Ms. Williams, Dr. Pritchard's  
8 been qualified and offered as an expert in the field of  
9 child abuse in the pediatric arena, which means that by  
10 her training, experience and continuing training, that she  
11 can offer opinions on that subject-matter. Most witnesses  
12 can only testify of what they see, did, they heard, they  
13 smell. She can give opinions as to her field of  
14 expertise, but only to that. All right, Mr. Sheek.

15 Q. Now ma'am, did you perform a medical examination on

16 [REDACTED]

17 A. No, I did not.

18 Q. Okay. Another doctor is a part of the medical  
19 response team has done that?

20 A. That's correct.

21 Q. And have you had an opportunity to review the report  
22 from that examination?

23 A. I have.

24 Q. And does that report indicate, well, let me ask you  
25 this. Does the report indicate any physical findings of

1 trauma?

2 A. No, the exam was normal.

3 Q. Okay. And as part of your examination, do you  
4 normally look into the type of allegations or what type of  
5 abuse is reported?

6 A. Yes.

7 Q. And in this case do you know what the allegations  
8 were?

9 A. Yes.

10 Q. And what was the allegation?

11 A. The allegation was that there was fondling of the  
12 child's genitals including digital, meaning finger  
13 penetration of her vagina.

14 Q. Now in your expert opinion, is the lack of a physical  
15 finding, that being any type of trauma, tearing, scaring,  
16 is that unusual with that type of allegation?

17 A. No, that's the usual finding with that allegation.

18 Q. Okay. I know commonly on TV, I've seen the  
19 perception that if there is any type of penetration of a  
20 child, that you as a doctor, are gonna find medical  
21 evidence of it. Is it your testimony that that is not the  
22 usual thing?

23 A. Yes, that's correct.

24 Q. And can you tell the jury briefly why that is?

25 A. Well in little girls, the hymen is the tissue that



1 surrounds the opening into the vagina and there's a hole  
2 in the middle of the hymen. You know, little girls are  
3 born with, with that hole in the central area and if  
4 something is put into the vagina, unless the child is  
5 examined immediately after that occurred, if there are any  
6 scratches or irritation that occurs with that, it's  
7 unlikely to be seen. That tissue heals really quickly. I  
8 explain to parents that it's like the tissue surrounding  
9 the inside of your mouth, and it can get scratched or  
10 injured or you can bite it but within a few days it  
11 would've healed right up. And that's the same as the  
12 genital issue and the hymenal tissue.

13 Q. So then, your expert medical opinion, if there were  
14 scratching, irritation or something else from the digital  
15 penetration, you would not expect to see any evidence of  
16 that after a few days?

17 A. That's correct.

18 Q. What about tearing, we, we hear people talk about  
19 tearing of the hymen, those type of things, what causes  
20 that?

21 A. That's unusual finding in a child unless the child,  
22 something is forced, something large is forced into the  
23 hymenal opening. And again, there may be a tear that  
24 could be seen immediately after that occurred but even if  
25 there had been any kind of a tear, that heals quickly.

1 And often if the child is examined later, there's no  
2 evidence of the tear.

3 Q. What if a child of, of the age of [REDACTED] say at six  
4 years old or seven years old, indicated that there was  
5 digital penetration that caused her to hurt and caused her  
6 to walk funny, would that, in your medical opinion mean  
7 that you would expect to then find physical findings?

8 A. No, the child was examined several months after the  
9 allegation. And as I said, you know, if there was any  
10 scratching or an irritation that occurred during the  
11 episode, within a few days that would've healed and  
12 certainly would not be visible on an exam that was done  
13 months later.

14 Q. Then let me ask you this then, Doctor, in your expert  
15 medical opinion, are the physical examination results,  
16 that is a normal examination, inconsistent or consistent  
17 with the allegations the child has made?

18 A. It's consistent.

19 Q. Thank you, doctor. Please answer anything the  
20 defense may have.

21 CROSS-EXAMINATION

22 BY MR. VERNER:

23 Q. The absence of any injury is also inconsistent too,  
24 isn't it?

25 A. I'm sorry?

1 Q. You can't just say I saw no injuries and that is  
2 automatically consistent with vaginal abuse can you?

3 A. The absence of any injuries, any findings of any  
4 injuries when it's done several months after the event  
5 doesn't confirm or rule out sexual abuse.

6 Q. So it's neither consistent nor inconsistent?

7 A. Correct.

8 Q. Okay. Now you are a pediatrician doctor?

9 A. That's correct.

10 Q. Okay. And you work through the Children's Advocacy  
11 Center?

12 A. That's correct.

13 Q. And how long have you been at the Advocacy Center?

14 A. Since 1998.

15 Q. Okay.

16 A. Sixteen years.

17 Q. How is the Advocacy Center funded?

18 A. It's through several different areas. It receives  
19 grants, both Government grants and private grants, it does  
20 it's own fund raising.

21 Q. Does, does the law enforcement agency contribute?

22 A. I don't believe so. They refer patients there.

23 Q. And, and to your best of your knowledge, the, it  
24 receives no funding from law enforcement?

25 A. When, when I see a patient, I can either, either that

1 exam is paid for by the State Office of Victim's  
2 Assistance or through their insurance.

3 Q. Okay. And primarily you're dealing with patients  
4 who've been referred either through the Department of  
5 Social Services or through a law enforcement agency?

6 A. That's correct. Those or their, their pediatrician  
7 if they want an opinion.

8 Q. And you are a pediatrician?

9 A. Yes.

10 Q. And do, are you board certified?

11 A. In pediatrics.

12 Q. In pediatrics. Are you sub-board qualified in any--

13 A. No.

14 Q. Now you are a colleague of Dr. Henderson who did  
15 perform the examination?

16 A. I don't work directly with Dr. Henderson but, as  
17 explained earlier, we're part of the same network so we  
18 attend a lot of the same continuing education classes.

19 Q. Is she, in terms of the hierarchy, basically the same  
20 thing that you, she does the same thing you do?

21 A. She, she pretty much solely does child abuse.

22 Q. Okay.

23 A. I, I do general pediatrics and then I do some child  
24 abuse.

25 Q. Now Dr. Henderson is a pediatrician?

1 A. She is, yes.

2 Q. All right. Are you aware of any of her board  
3 certifications?

4 A. Yes. She's board certified in pediatrics and then  
5 she's also board certified in child abuse pediatrics.

6 Q. Okay. So she, her focus is primarily child abuse  
7 allegations?

8 A. Yes, examining children.

9 Q. With a background in pediatrics but, but a  
10 concentration on child abuse?

11 A. That's correct.

12 Q. So that's a little bit, would you consider that a  
13 little bit more advanced in, in terms of child abuse than  
14 your training?

15 A. It's a little more concentrated. Like I said, that's  
16 all she does.

17 Q. Okay.

18 A. Yeah.

19 Q. And you will do things like common colds?

20 A. Exactly.

21 Q. Everything a pediatrician--

22 A. Take care of children in the hospital, take care of  
23 children outpatient.

24 Q. Now my understanding is she, Dr. Henderson is not  
25 available to testify today?

1 A. That's my understanding as well.

2 Q. But she did issue a report right?

3 A. That's correct.

4 Q. All right. Do you have that report available?

5 A. I do.

6 Q. Can you, I'm sorry, I thought you were going to take  
7 a second or two to find it.

8 A. I got it.

9 Q. On page three of ten, of the clinical history.

10 A. Yes.

11 Q. Is, is it fair to say that when Dr. Henderson  
12 interviewed [REDACTED] that the child made no disclosure of  
13 abuse?

14 A. She did not make any specific complaints..

15 Q. Okay. And, and this was in early September, I guess  
16 two months after the law enforcement had initiated their  
17 investigation?

18 A. It's September 13th and according to the records, the  
19 allegations were, were between April and June.

20 Q. Okay. So Dr. Henderson was aware that the child had  
21 made, in the past at least, a previous allegation of  
22 abuse?

23 A. Yes.

24 Q. But on page eight of the doctor's reports, the, she  
25 indicates that there are no physical injuries identified?

1 A. That's correct.

2 Q. Okay. Now you're not testifying that physical  
3 injuries never occurred, you're just saying that it, it  
4 happens enough where the, where we don't see them, that  
5 you can't read too much into a non-finding?

6 A. I'm saying that there were no injuries identified and  
7 that doesn't, that could be consistent with there having  
8 been abuse or it could be consistent with there not being  
9 abuse.

10 Q. But it, it's the absence of physical indications of  
11 abuse?

12 A. Yeah. She found no injuries on her exam.

13 Q. And she also found no miscellaneous associated  
14 symptoms with the abuse?

15 A. Yes, that's correct.

16 Q. Okay. Now in fairness, this was in early to mid  
17 September of 2013 when she did her interview?

18 A. Yes.

19 Q. And I, I think you were talking to the Solicitor  
20 about the hymen?

21 A. Yes.

22 Q. And you said the hymen protects the genital opening?

23 A. It's the tissue surrounding the opening into the  
24 vagina.

25 Q. Okay. Now, correct me if I'm wrong, but I, my

1 understanding is that at some point, the, the hymen is  
2 just basically a tissue, right?

3 A. Yes.

4 Q. It's not skin and it's not muscle.

5 A. It's similar to skin. It's a special kind of skin.

6 Q. Okay. But it, kinda like the inside of the mouth?

7 A. Exactly.

8 Q. At some point in a girl, the hymen is usually, goes  
9 away or is broken at some point.

10 A. That's really a, that's a bit of a myth.

11 Q. Well, clarify for us.

12 A. Okay. When a, when a child is this young, so before  
13 they've reached puberty, the hymen is a very thin skin  
14 that surrounds the opening into the vagina.

15 Q. Is it like a membrane at all?

16 A. It's a, some people call it a membrane. It's a  
17 little bit thicker than I think what most people think of  
18 as a membrane being, but it, it is a very thin skin. As,  
19 as a women ages and hits puberty and there's changes in  
20 her hormones, the hymen actually becomes much thicker,  
21 softer, more pliable, more stretchy. So even in adult  
22 women who've been sexually active there's not any special  
23 type of break in the hymen, it just becomes more stretchy  
24 and easier to penetrate.

25 Q. Is it, like my hairline, it kinda just recedes?



1 A. Well it, it, becomes softer I would say. It doesn't  
2 really necessarily go away the way you're describing.

3 Q. Unlike hair. Okay. Is it possible, if a child at  
4 six years old was injured in the vagina area, or abused in  
5 the vagina, it is possible though that that would damage  
6 the membrane or the hymen in such a way that it would be  
7 apparent that something has caused a break?

8 A. Yeah. If there is a very serious injury to that  
9 area, it can scar just like any skin on the body can scar.

10 Q. And, and that would be apparent, is there any reason  
11 that a child's normal pediatrician would not be able to  
12 see an injury in that same area?

13 A. Well pediatricians are trained to look in that area.  
14 As I said, as part of our training, we get more training  
15 in how to examine that area. It's obviously not a very  
16 comfortable thing for a little girl to go through so we  
17 get special training in how to examine that area and then  
18 we also can use the colposcope which is something that  
19 makes everything look larger, it enlarges the area,  
20 there's special lighting for it so we can see injuries a  
21 little better.

22 Q. Do you know if Dr. Henderson used, I believe you said  
23 the colposcope?

24 A. Yes. Let me check, I'm pretty, yes she did.

25 Q. Okay. And that, in layman's terms, that's just kind

1 of an advanced microscope type or magnifying glass?

2 A. Magnifier, yes.

3 Q. But if, if there was an allegation of abuse, and you  
4 as a pediatrician and, and a mother had brought her child  
5 in, just any pediatrician should be able to see evidence  
6 of abuse if they were told about it?

7 A. No, no not necessarily, I mean, if there's an injury  
8 to that area, for example, if somebody had some kind of  
9 trauma in that area and you immediately brought it to the  
10 pediatrician, she might see, or he might see bleeding or  
11 scratches in that area. But again, if, if the area was  
12 touched and there was no injury there or if there's been  
13 time enough for that area to heal, the pediatrician  
14 probably wouldn't see any evidence of injury there.

15 Q. But the benefit the, the family pediatrician would  
16 have is, is being able to evaluate the child sooner after  
17 the alleged abuse?

18 A. If the child told someone, I mean, I don't, you know,  
19 very rarely does a child immediately tell someone when  
20 their abused. They usually delay telling anyone. They're  
21 embarrassed or ashamed or afraid they're gonna get in  
22 trouble and so they don't usually immediately tell  
23 someone.

24 Q. Now, and you've interviewed how many children of  
25 abuse, that at least alleged?

1 A. It's an estimate of probably around 800.

2 Q. Okay. And they will, during the physical exam, it's  
3 not just examining the child physically, it's also talking  
4 to the child about irritations or what happened?

5 A. Yes. We don't specifically ask, you know, if  
6 somebody put something in their private areas but we ask  
7 if any of their parts of their body are hurting or have  
8 been hurt. We ask the family about behavioral issues,  
9 have they suddenly started having trouble at school,  
10 trouble sleeping, trouble getting along with other  
11 children, if they had any physical complaints, it hurts  
12 when they walk, it hurts when they urinate. So we ask a  
13 variety of questions that have to do with behavioral and  
14 physical complaints that could be related to abuse.

15 Q. Okay. But do you ask about, as a policy, or just  
16 routinely you don't ask about the abuse itself though?

17 A. Not specifically. We ask if, if any part of their  
18 body has been hurt. But I think actually in this case,  
19 she said something had been hurt but it didn't have  
20 anything to do with her abuse.

21 Q. She had eczema, which is kind of a rash?

22 A. Well I think she said something about she had fallen  
23 on the playground.

24 Q. Okay. And she had hurt her tongue on the playground?

25 A. Yeah. Yeah.

1 Q. But, but those were the only things that she talked  
2 to the doctor about?

3 A. Right.

4 Q. Okay. I beg the Court's indulgence, just to make  
5 sure I got all my, now are you aware of whether there were  
6 any other medical reports submitted to the Advocacy  
7 Center?

8 A. Concerning this child?

9 Q. Yes ma'am.

10 A. No.

11 Q. Okay. And the only person interviewed during this  
12 would be the child and the mother? The child was  
13 accompanied by her mother at that time?

14 A. Yes.

15 Q. Okay. Thank you, doctor.

16 MR. SHEEK: Redirect, Your Honor?

17 THE COURT: Yes sir, go ahead.

18 REDIRECT EXAMINATION

19 BY MR. SHEEK:

20 Q. Dr. Pritchard, do y'all have a standard child  
21 maltreatment protocol that you use across the state in  
22 these cases?

23 A. Yes, we do.

24 Q. And the protocol that was used in this case, is it  
25 the same one that you use?

1 A. It is.

2 Q. And do y'all receive training in how to conduct  
3 these?

4 A. We do.

5 Q. Now, several times in, in Mr. Verner's questions, he  
6 referred to it as an interview. Are you interviewing the  
7 child, examining the child, what would you characterize it  
8 as?

9 A. It's, it's actually a combination of both. I mean,  
10 and, and that's typical of any kind of a medical  
11 evaluation is we go in and talk about what complaints  
12 they're having, what symptoms they're having and they can  
13 describe, you know, anything from problems at school, like  
14 I said, to constipation, or rashes or itching and then we  
15 do the full medical exam.

16 Q. And as a part of that interview, do you ask them, and  
17 I think you may have answered this, but do you ask them,  
18 tell me what the perpetrator's alleged to of done to you?

19 A. Not specifically, no.

20 Q. And if we were turning to page three of ten, that Mr.  
21 Verner asked you about, you see that page?

22 A. Yes.

23 Q. You see the bottom where it says, she did not share  
24 any specific complaints on her body except her tongue  
25 getting cut while on the playground?

1 A. That's right.

2 Q. As part of your protocol, would you followup on that  
3 and say, well tell me about the alleged perpetrator?

4 A. No.

5 Q. Okay. And it says on there, she already had  
6 completed her forensic information and also, was also on  
7 the law enforcement report?

8 A. Yes.

9 Q. Okay. And as part of your protocol then, you would  
10 not followup with any specific questions on the child  
11 regarding the allegations of abuse?

12 A. No.

13 Q. Now, I wanna make sure I'm clear on one thing, would  
14 you, you told us about if there is irritation or  
15 scratching or something of a hymen, it would heal very  
16 quickly. Is that correct?

17 A. Yes.

18 Q. Is it also possible, and correct me if I'm wrong, to  
19 penetrate the hymen, go into that vaginal opening on a  
20 child of this age, without causing scratching, irritation  
21 or cuts?

22 A. Yes.

23 Q. With the type of allegations that were made in this  
24 case, digital penetration, would you expect to have a  
25 physical finding?

1 A. No.

2 Q. Okay. Because the question was posed, it could be  
3 consistent or inconsistent. In those types of  
4 allegations, percentage wise, how many cases would you  
5 expect to find any physical findings?

6 A. Less than one percent.

7 Q. Thank you, doctor. That's all I have.

8 THE COURT: Mr. Verner?

9 RECROSS-EXAMINATION

10 BY MR. VERNER:

11 Q. Now, just to, to clarify, in a case where there's  
12 alleged physical abuse in this situation, if the doctor  
13 would certainly say, well has your pee pee been hurting or  
14 irritated?

15 A. No, I don't specifically ask the child that. No.  
16 What I say is, you know, I'm the doctor who sees children  
17 who have been hurt by somebody or touched in a way that  
18 they shouldn't be touched. I don't know if, if Dr.  
19 Henderson asked in that specific way but we simply give  
20 the child a chance to tell us, have you been hurt.

21 Q. Okay. But commonsense, you would think, is that you  
22 would ask or if, if somebody had an injury to the arm and  
23 the doctor was examining her, and she didn't refer to her  
24 arm right away, you would say, well does, has your arm  
25 been hurting.

1 A. No, we don't specifically say has your pee pee been  
2 hurting.

3 Q. Okay. And just in, in general by temperament, six  
4 year old children, are they eager to please the authority  
5 type people like their parents or teachers type?

6 A. As a physician, it's, there's a big variety. Some  
7 are very eager to please, some are very uncooperative. I,  
8 I think it depends on the personality of the child.

9 Q. Okay. And, and what was the temperament of or, or if  
10 you don't know. I guess you wouldn't.

11 A. Yeah, I don't know. Yeah.

12 Q. Thank you, doctor.

13 MR. SHEEK: I'd ask that the doctor be allowed to be  
14 excused, Your Honor.

15 THE COURT: Okay.

16 MR. SHEEK: Your Honor, the State rests.

17 THE COURT: All right. For clarification purposes, so  
18 I understand it, Dr. Nancy Henderson was the physician  
19 that Mr. Verner was referring to, that examined the child  
20 somewhere in Spartanburg?

21 MR. SHEEK: That's correct.

22 THE COURT: Dr. Pritchard's from Greenwood.

23 MR. SHEEK: That's correct.

24 THE COURT: Okay. So she didn't. The other girl did  
25 and she wasn't available.



1 MR. SHEEK: She's not available, that's correct.  
2 She's out of the country, Your Honor.

3 THE COURT: All right. I just want to make sure I had  
4 that straight. The jury may not of understood that so I  
5 can ask that.

6 MR. SHEEK: Yes.

7 THE COURT: All right. I've got some matters that we  
8 need to do and I'm not going to make y'all wait around on  
9 them. 1:30?

10 MR. VERNER: 1:00 or 1:30, Judge. Whichever.

11 THE COURT: Let's go to 1:30. Y'all be back in the  
12 jury room just before 1:30 and we'll try to get started  
13 then and we're not waiting on any witnesses, which is a  
14 good thing. All right. Y'all cannot begin to discuss the  
15 case. Y'all be back in the jury room before 1:30.

16 (Whereupon, the jury was excused from open court for  
17 a lunch break.)

18 MR. VERNER: Your Honor, I would move for a directed  
19 on the count of CSC with a minor, first degree. Certainly  
20 there is evidence of CSC third degree with a minor. As a  
21 matter of law move for a directed on the greater charge.  
22 And I would ask whether the Court is still inclined to  
23 charge, as in the last trial, CSC one with a minor or CSC  
24 third.

25 THE COURT: Respectfully on your motion for a

1 directed verdict I think there is evidence there, is a  
2 jury question of fact. And because of question of fact  
3 lends the factual question of CSC third, I would also be  
4 very inclined to charge CSC third also which is the  
5 codified lewd act. Any definitions of lewd act with CSC  
6 third will come from the formal lewd act charge.

7 MR. VERNER: That's right, Your Honor.

8 THE COURT: All right, folks. We will take a lunch  
9 break.

10 (Whereupon, a lunch break was taken.)

11 MR. SHEEK: Your Honor, do we need to admonish the  
12 defendant his right to testify. I know it was done last  
13 trial. And also I believe the last time this case was  
14 tried a witness was called by the name of Savannah Farmer  
15 as a character witness. I believe the question was posed  
16 to her or something along the lines of would you trust him  
17 to babysit your children. I think that is an improper  
18 question for a character witness. In limine I would like  
19 to limit the character witness to the issues of character,  
20 truthfulness and voracity and proper questions relating to  
21 that. But whether or not she would trust him to do  
22 anything personally is irrelevant.

23 THE COURT: Well, I am going to let him do it, ask  
24 those questions. I am not going to stop that. I have  
25 given you some latitude of witnesses testimony at this

1 time.

2 MR. VERNER: I think the question is probably, he has  
3 babysat her children in the past, has she trusted him with  
4 her kids.

5 THE COURT: I am going to let you ask it. I  
6 understand your objection. This is a tricky case and it  
7 is not played out exactly the way it went before. I don't  
8 think that that is unduly prejudicial question towards  
9 your case either.

10 MR. SHEEK: Yes, sir. I understand your ruling.

11 THE COURT: Mr. Verner, you and Mr. Rice, do y'all,  
12 have you gone over his right to testify again with him?

13 MR. VERNER: Yes sir, I spoke to him briefly about  
14 testifying or not.

15 THE COURT: Mr. Rice, do you remember my  
16 conversations three weeks ago in July if you testify or  
17 not? It is your decision. Have you had an opportunity to  
18 speak since lunch, yesterday, last trial with Mr. Verner  
19 about that particular issue?

20 MR. RICE: Yes, sir.

21 THE COURT: On that particular issue?

22 MR. RICE: Yes, sir.

23 THE COURT: And you understand that right?

24 MR. RICE: Yes, sir.

25 THE COURT: And so, Mr. Verner is going to present

1 some defense witnesses momentarily and perhaps may or may  
2 not call you. Are you comfortable with the decision you  
3 are going to make as to whether or not you wish to  
4 testify?

5 MR. RICE: Yes, sir.

6 THE COURT: Do you need any more time with him to  
7 discuss it?

8 MR. RICE: No, sir.

9 THE COURT: Do you understand that if you don't  
10 testify, if you do not, the last thing I will tell the  
11 jury is that they are not allowed to discuss your not  
12 testifying at all. They have to reach the issue of guilt  
13 or innocence based upon what is presented to them and not  
14 on your exercising your right to remain silent. You  
15 understand that?

16 MR. RICE: Yes, sir.

17 THE COURT: Okay. All right, Mr. Verner, y'all let  
18 me know.

19 MR. VERNER: Thank you, Your Honor.

20 THE COURT: Are y'all ready?

21 MR. SHEEK: Yes, sir.

22 THE COURT: Let's get them.

23 (Whereupon, the jury came into open court at  
24 approximately 1:34 p.m.)

25 THE COURT: Mr. Verner, call your witness.

1 MR. VERNER: If it please the Court, I call Ms.  
2 Savanah Farmer.

3 SAVANAH FARMER, being  
4 first duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. VERNER:

7 Q. Ms. Farmer, just because we're in a different  
8 courtroom, I'm gonna ask you to speak loudly so everybody  
9 can hear you, okay.

10 A. Okay.

11 Q. Where do you live, Ms. Farmer?

12 A. I live in Whitmire, South Carolina.

13 Q. Are you married?

14 A. Yes.

15 Q. Who is your husband?

16 A. Christopher Farmer.

17 Q. Is, is he employed?

18 A. Yes, sir.

19 Q. Where does he work?

20 A. Gestamp in Union.

21 Q. Gestamp?

22 A. Gestamp.

23 Q. Okay. Is that like a factory type job?

24 A. Yes.

25 Q. All right. Are, are you employed outside the home?

- 1 A. No, I'm not.
- 2 Q. What do you do?
- 3 A. I'm a stay at home mom.
- 4 Q. Okay. How many children do you have?
- 5 A. I have two boys.
- 6 Q. How old are they?
- 7 A. They're four and nine.
- 8 Q. Okay. And I apologize, you said you lived where?
- 9 A. In Whitmire.
- 10 Q. Okay. How long have you lived in Whitmire?
- 11 A. Since I, since I lived in the, moved down here in the
- 12 third grade.
- 13 Q. Since the third grade?
- 14 A. Yeah.
- 15 Q. Okay. Do you know Tim Rice, Jr.?
- 16 A. Yes.
- 17 Q. And do you know the Rice family?
- 18 A. Yes, I do.
- 19 Q. How long have you known Tim Rice?
- 20 A. Pretty much since I've lived down here.
- 21 Q. How would you characterize your relationship with Tim
- 22 Rice?
- 23 A. He's a great friend.
- 24 Q. Good friends?
- 25 A. Uh-huh.

1 Q. With the Rice Family?

2 A. Yes.

3 Q. Okay. Well, I'll ask you on that same note, do you  
4 know Ms. Willie Mae Wright or that family?

5 A. No sir, I do not.

6 Q. Has Tim ever helped you with the children?

7 A. Yes sir, multiple times.

8 Q. How so?

9 A. I had back surgery and if it wouldn't been for him my  
10 husband would of lost his job.

11 Q. When was your back surgery?

12 A. 2013.

13 Q. So he came in to help you babysit the children?

14 A. Yes.

15 Q. Was he doing that before then?

16 A. Yes.

17 Q. Tell me, you said you had a four year old child?

18 A. Yes, I do.

19 Q. And the older one is how old?

20 A. He's nine.

21 Q. Nine?

22 A. Uh-huh.

23 Q. For how long has Tim helped you babysit the children?

24 A. Pretty much since birth if you think about it. Mason  
25 was probably about three whenever Tim started coming in to

1 watch him.

2 Q. You think he's been an attentive sitter of the  
3 children?

4 A. Oh yes, he is a great babysitter for my children.

5 Q. Okay. Have you seen him with the children?

6 A. Yes, I have.

7 Q. What type of person, does he kind of just let them  
8 play?

9 A. No. He is in the backyard with them rolling around  
10 playing basketball, tackling, football, anything. He  
11 don't just sit there and let the kids do whatever, you  
12 know, or tell them they can't do this and that. He's  
13 always active with them.

14 Q. He's kind of a hands on type?

15 A. Yes.

16 Q. Temperament?

17 A. Yes.

18 Q. Have, have you seen him tickle your children?

19 A. Yes.

20 Q. Now you've got two boys right?

21 A. Yes, I do.

22 Q. And I understand they're boys, but have you ever seen  
23 him or, or believe that he's done anything inappropriate  
24 with your children?

25 A. Oh, no.



1 Q. And he's been seeing them for how long?

2 A. Pretty much their whole lives.

3 Q. So he's been helping you for nine years with the  
4 children?

5 A. Pretty much.

6 Q. How is he paid?

7 A. I don't.

8 Q. He, he would just volunteer to help you?

9 A. He just helps me out.

10 Q. Just cause he's friends?

11 A. That's what friends do, they stand behind each other.

12 Q. Okay. Where would he typically babysit your  
13 children?

14 A. At my house.

15 Q. Okay. Was he babysitting your children as of early  
16 2013?

17 A. Yes, he was.

18 Q. Were you aware that he was also babysitting the  
19 child, [REDACTED]

20 A. Yes, I was.

21 Q. How do you know that?

22 A. Because he brought her to my house.

23 Q. How often would he bring [REDACTED] to your house?

24 A. He brought her there a couple times.

25 Q. What's, what's a couple times?

1 A. Three, four, five.

2 Q. Okay. How long, were you at the home when [REDACTED] was  
3 there too?

4 A. Yes, I was.

5 Q. What did the children do when they were at your home?

6 A. My kids play, they're boys, so they're rambunctious  
7 and they like to just go, go, go, go, go. And when she  
8 came, I had my friend's other child, Emma, and you know,  
9 that gave her somebody to play with but she acted like she  
10 didn't know how to play.

11 Q. Emma or [REDACTED]

12 A. [REDACTED]

13 Q. Okay. So, so there was another little girl also at  
14 your home at that time too named Emma?

15 A. Yes.

16 Q. And how old was Emma?

17 A. Five or six at the time.

18 Q. Okay. And [REDACTED] was about how old at that time?

19 A. Five, I, five. She was in school. She had just came  
20 down like, I don't know, I know Emma and her was in the  
21 same class.

22 Q. Okay. I'm sorry, and you were describing [REDACTED]  
23 temperament as a child?

24 A. Yes.

25 Q. What kind of child is she?

1 A. She just, she acted like she didn't know how to play  
2 with other kids. Like she was scared to play with other  
3 kids and you know, usually when you get kids together,  
4 they all go crazy because, you know, they're all together.  
5 So, but she didn't act like that.

6 Q. Well, what would [REDACTED] do?

7 A. She sat at my table and drew and colored.

8 Q. Okay. Every time she visited or did she ever open up  
9 and play with the other kids?

10 A. She just always colored. I still have her drawings  
11 on my refrigerator.

12 Q. So mostly, she just came and colored type?

13 A. Yeah.

14 Q. Did you ever take those kids, including [REDACTED] to  
15 other places like the park or was it always just at your  
16 home?

17 A. I never took them to the park.

18 Q. Do you know if Tim ever took them to the park?

19 A. Yes, he took my kids to the park plenty of times.

20 Q. Was that a fairly common thing to do?

21 A. Yeah.

22 Q. How did Tim bring [REDACTED] to your home?

23 A. He walked, I guess. Sometimes drove.

24 Q. Okay.

25 A. Very rarely.

1 Q. Do you know, when he was walking with [REDACTED] do you  
2 know how he was bringing her over? Was he carrying her on  
3 his shoulders or was he just walking?

4 A. No. They just walked.

5 Q. Okay. Did [REDACTED] ever act funny or, I understand  
6 you're talking about her temperament, but did she ever do  
7 anything or say anything to you?

8 A. No.

9 Q. That would raise a concern?

10 A. No.

11 Q. You said Tim was a hands on type of guy when he was  
12 with the kids?

13 A. Right.

14 Q. Had he ever done anything to lose your trust with  
15 your kids?

16 A. Never and he still hasn't lost my trust with my kids.

17 Q. Hold on just one second. Now have you ever had any  
18 kind of interaction with the Wright's or gone to their  
19 home?

20 A. I've, Ms. Rose and--

21 Q. But I'm talking about Ms. Willie Mae Wright.

22 A. Oh, no.

23 Q. You still don't know anything?

24 A. No.

25 Q. Okay. When's the last time you saw [REDACTED]

1 A. Like outside of here.

2 Q. Thank you, Ms. Farmer. If Mr. Sheek has any  
3 questions.

4 CROSS-EXAMINATION

5 BY MR. SHEEK:

6 Q. Ms. Farmer, you said you're good friends with Mr.  
7 Rice?

8 A. Yes.

9 Q. How long have you known him?

10 A. Pretty much my whole life.

11 Q. Did you go to school with him?

12 A. Yes, I did.

13 Q. Were you in the same grade or were y'all in different  
14 grades?

15 A. He's younger than me.

16 Q. He's younger than you. And you just told this jury  
17 he still hasn't lost the trust, your trust with your kids,  
18 correct?

19 A. Right.

20 Q. Okay. And as a mother, your children's safety is a  
21 paramount concern to you, isn't it?

22 A. Yes, it is.

23 Q. Can you think of anything more important to you as a  
24 mother than your children's safety?

25 A. Do what?

1 Q. Can you think of anything that is more important to  
2 you as a mother?

3 A. No.

4 Q. Than your children's safety?

5 A. No.

6 Q. Okay. Well, with that in mind, I'm sure since you  
7 say he has babysit your children a good bit, correct?

8 A. Correct.

9 Q. And would still babysit your children because he  
10 hadn't lost that trust, correct?

11 A. Correct.

12 Q. Okay. So with that in my mind, the fact that he says  
13 I looked at the six year old girl--

14 MR. VERNER: Your Honor, he's not allowed to pit one  
15 witness' statement against another.

16 Q. If he were to testify that he had sexual urges  
17 regarding a child, would that make a difference?

18 MR. VERNER: Again, that's still pitting testimony as  
19 disguised as a hypothetical but it's still pitting  
20 testimony against testimony.

21 THE COURT: That's pitting witnesses.

22 MR. SHEEK: Can I be heard on that matter, Judge,  
23 outside the presence of the jury?

24 THE COURT: You sure can. All right, Ms. Williams, I  
25 got to, do what I told you, it's my turn to do some work

1 on some legal issues. Y'all step in the jury room. I'll  
2 have you back in here momentarily.

3 (Whereupon, the jury was excused from open court.)

4 THE COURT: All right, proffer your question, let's  
5 hear it.

6 Q. Are you aware that he says in a written statement he  
7 has urges regarding the situation with a six year old  
8 child?

9 A. I am aware.

10 Q. Okay. And that doesn't cause you any concern as a  
11 mother?

12 A. No.

13 Q. Okay.

14 A. Do you want to know why?

15 Q. Why, because you don't believe him?

16 A. I don't believe that that's what he meant. He's a  
17 really smart person and he uses big intellectual words and  
18 everybody just took that and ran with it.

19 Q. Okay. So you think urges is a big intellectual word  
20 that most people don't understand?

21 A. Well depending on how they use it, yeah. Because if  
22 you use it in the sense that y'all make it, this is where  
23 we end up.

24 Q. And he says he tried fighting them but they got the  
25 best of him. You understand that?

1 A. Are you aware that the urges mean tickling the child?

2 Q. Well, so you think that's what he said when he said  
3 he had to distance himself from such things, he had to  
4 distance himself from tickling?

5 A. Yes.

6 THE COURT: All right. Now you're going two or three  
7 statements, you have really gotten good in the statement,  
8 and now that's pitting the witness' statement against this  
9 witness. And so that's what I'm concerned about. Explain  
10 to me how that's not very cumbersome for the Court and the  
11 jury. That's the ultimate, I mean, that's--

12 MR. SHEEK: As, as I understand the rule on pitting,  
13 if I were to say, well if so and so testified to A and now  
14 you're testifying to B, that's clearly pitting. But when  
15 she sits up there and elicits from his own attorney  
16 testimony that I would still trust him then I think I need  
17 to, I can explore if she was aware of the statements he  
18 voluntarily made. It's not a witness, it's a statement  
19 that's in evidence already.

20 THE COURT: I know but then you do the step further  
21 and say, and he said this and so, you're using your  
22 interpretation of what he said and she is and that just  
23 doesn't seem relevant. It seems to be getting far afield  
24 from the question that a jury has to face.

25 MR. VERNER: And my understanding is that pitting is



1 also if somebody makes an out-of-court statement and then  
2 you're asked to comment on what he meant by or, it's not  
3 always limited to important testimony. Although, as Mr.  
4 Sheek is, the most common version as she just testified.  
5 But it's also, my understanding would be out-of-court  
6 statements that he said such and such.

7 MR. SHEEK: And, and of course pitting, as the rule  
8 talks about it is pitting as it relates to harassing. I'm  
9 not doing that, I'm not asking her if she believes or  
10 disbelieves or disputes what he said. I'm asking her if  
11 based on the testimony she's already given, is she aware  
12 of the statements he's made.

13 THE COURT: I'm not going to allow it. I understand  
14 your argument. I'm not going to do it. Do not, we don't  
15 need to go into that. You want to submit it any other  
16 way?

17 MR. SHEEK: As, as I understand it, Your Honor, the  
18 Court's ruling is I cannot ask her about her knowledge of  
19 the Defendant's statement?

20 THE COURT: I think you already have. I mean that's  
21 already there.

22 MR. VERNER: That's a little bit different than what  
23 he was proffering. I think he, would be entitled to see.

24 MR. SHEEK: Then I will limit the question, are you  
25 aware of the written statement the Defendant has given.

1 THE COURT: And I think she said, yes.

2 MR. SHEEK: And based on that knowledge, are you  
3 comfortable as a mother, and I'll handle the rest at  
4 closing. I can comment on my reasonableness for that  
5 testimony at, at a closing argument.

6 THE COURT: I suppose you can.

7 MR. SHEEK: Yes, sir.

8 THE COURT: I think you can ask that.

9 MR. SHEEK: Yes, sir. Okay. That's the way I'll  
10 handle it, Judge.

11 THE COURT: Okay. Fair enough. All right, bring me  
12 the jury back if they're ready.

13 THE COURT: I think that's allowed.

14 (Whereupon, the jury came into open court at  
15 approximately 1:50 p.m.)

16 Q. Now, I believe we talked about the Defendant giving  
17 a written statement in this case. You're aware that he  
18 gave a written statement to the police?

19 A. Yes.

20 Q. And you're aware of what he told the police?

21 A. Yes.

22 Q. And have you had any other conversations with him  
23 about that?

24 A. No. Not about that.

25 Q. Okay. And, and you haven't asked him anything

1 further about the written statement, he hadn't volunteered  
2 anything else to you about it, has he?

3 A. Oh yeah, he's told me everything about that but  
4 nothing for me to lose my trust in him.

5 Q. Okay. He told you everything about what?

6 A. About the statement. Plus I heard it read here the  
7 last time.

8 Q. Okay. And with that knowledge, you're comfortable  
9 with your testimony?

10 A. Yes.

11 Q. Okay.

12 THE COURT: Mr. Verner.

13 MR. VERNER: I don't think he's through yet, Your  
14 Honor.

15 THE COURT: I'm sorry. I thought he was.

16 MR. SHEEK: That's, that's all the questions I have  
17 for this witness, Your Honor.

18 THE COURT: Okay.

19 MR. VERNER: Your Honor, I would ask that she, I don't  
20 have any more questions, I ask that she be excused and I  
21 know she's not feeling well and has children.

22 THE COURT: All right. Ms. Farmer, you're done and if  
23 you want to be excused, you may be.

24 MR. VERNER: Your Honor, I would call Mr. Wayne  
25 Rogers.

1 THE COURT: All right, Mr. Rogers, come forward and be  
2 sworn.

3 WAYNE ROGERS, being  
4 first duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. VERNER:

7 Q. Mr. Rogers, where do you live, sir?

8 A. [REDACTED] in Whitmire.

9 Q. In Whitmire?

10 A. Yeah.

11 Q. Are you employed outside the home?

12 A. No, I'm out for a while.

13 Q. Were you working recently?

14 A. Sterilite.

15 Q. Okay. Do you live with anybody in Whitmire?

16 A. Yes, sir.

17 Q. Who do you stay with?

18 A. I got my own house.

19 Q. Okay. You're related to Tim Rice?

20 A. That's my nephew.

21 Q. Tim Rice, Jr. is your nephew?

22 A. Yeah.

23 Q. What's your relationship to his parents then?

24 A. Huh?

25 Q. What's your relationship to his parents?

1 A. That's my sister. My baby sister.

2 Q. Ms. Rose is your sister?

3 A. That's my brother-in-law and my sister.

4 Q. Okay. In January of 2013 of last year, do you recall  
5 where you were living?

6 A. Yeah, I was living with my sister.

7 Q. Your sister's house, Ms. Rose's house?

8 A. Yeah, I stay at my sister's house then.

9 Q. Who was living in the home at that time?

10 A. My sister, her husband, and her two sons. Then Mae  
11 moved in two weeks before my mama's birthday.

12 Q. Okay. Well, I mean, Tim Rice I assume was one of the  
13 son's?

14 A. Huh?

15 Q. Tim Rice was one of the son's living there?

16 A. Yeah, Timmy, Jr.

17 Q. Who was the other son?

18 A. Chris.

19 Q. Chris?

20 A. Yeah.

21 Q. Just curiosity, how old is he roughly?

22 A. Who, Chris?

23 Q. Yes, sir.

24 A. Twenty-two.

25 Q. Okay. In terms of who slept in what rooms, what was

1 the living arrangement in the home?

2 A. Well, before she moved in, me and Chris was staying  
3 in the same room, Junior was sleeping--

4 THE COURT: Mr. Rogers, I'm having trouble hearing you  
5 myself, so if you pull that microphone down a little bit  
6 and make sure Ms. Holston can hear you. If she can hear  
7 you, they can hear you. So pull that microphone to you a  
8 little closer and let's go a little bit slower. You talk  
9 a little faster than I can write.

10 Q. Again, I was asking Mr. Rogers what was the living  
11 arrangements as far as who was staying in which room.

12 A. Me and Chris was sleeping in the same room before she  
13 moved down here and then Junior was sleeping on the, in  
14 the den on the couch and my sister and her husband sleep  
15 in the same room at first.

16 Q. So there were two bedrooms?

17 A. Yeah, two bedrooms.

18 Q. And you stayed with Chris, the younger son?

19 A. Yeah.

20 Q. And how long do you think you lived with Ms. Rose and  
21 her husband, Tim, Sr.?

22 A. About four years.

23 Q. About four years?

24 A. Yeah, before I moved out.

25 Q. So you, and you were living with them in January of

1 last year?

2 A. Yeah, I was.

3 Q. Do you recall when Ms. Willie Mae Wright came to stay  
4 with you guys?

5 A. Yeah, two weeks before my, my mama's birthday.

6 Q. When was your mama's birthday?

7 A. The 28th.

8 Q. Of what month?

9 A. January.

10 Q. Okay. Do you recall her coming the night that she  
11 came?

12 A. Yeah, I remember when she came cause I'm the one who  
13 unloaded the car.

14 Q. Well, well tell me what happened the day Ms. Willie  
15 Mae Wright came to the house.

16 A. Well, when she came down there her ex-husband brought  
17 her down there, not her sister. And her child left with  
18 them, the same day that she came. I unloaded the whole  
19 car myself.

20 Q. You remember what kind of car it was?

21 A. White car, a small white car.

22 Q. And you're saying her ex-husband brought her down?

23 A. Yeah, ex-husband, not her sister.

24 Q. Okay. What was his name?

25 A. Anthony Brown.

1 Q. Did you know him?

2 A. That's my cousin.

3 Q. Okay. And you remember this being before your mama's

4 birthday in late January?

5 A. Yeah, it was before my mama's birthday.

6 Q. Were you expecting them to come in and stay with you?

7 A. No. I ain't know they were coming down this way.

8 Q. About what time, and who showed up, it was Ms. Willie

9 Mae Wright and who?

10 A. Her and her ex-husband and a child. That was it.

11 Q. The child is [REDACTED]

12 A. Yeah. It was late when they came. It was dark.

13 Q. About what time did they show up?

14 A. About 9:00 o'clock.

15 Q. Okay. And nobody had told you that they were coming

16 over?

17 A. Huh?

18 Q. Nobody, you weren't expecting--

19 A. They, we didn't know they was coming down.

20 Q. Were you, at 9:00 o'clock, are you watching TV or

21 what's going on in the home?

22 A. I was in there watching TV and I heard a car blow.

23 Q. Okay. Well who helped them move in?

24 A. I helped them move the clothes stuff, everything

25 myself.



1 Q. Was there a lot of stuff in the car or just a little?

2 A. A bunch of stuff.

3 Q. Okay. Well where did Ms. Willie Mae--

4 A. Huh?

5 Q. Where did Ms. Willie Mae, which room did she take?

6 A. What, what?

7 Q. What room did Ms. Willie Mae Wright take?

8 A. Oh, she slept in the same room where I slept at.

9 Q. What about the child?

10 A. The child slept in the same room too.

11 Q. On, on the bed or on the floor?

12 A. Well I slept on a air mattress that she bought. My  
13 nephew did sleep with me in the air mattress. It's a  
14 small one. She bought the air mattress and I slept in the  
15 same, on a air mattress on the floor, right down at bottom  
16 of the bed.

17 Q. Okay. And Chris moved out or where did Chris go?

18 A. Huh?

19 Q. Where did Chris go?

20 A. Where what?

21 Q. Where did Chris, the brother, go?

22 A. Her brother?

23 Q. No, the boy who was sharing the room with you, you  
24 said his name was Chris.

25 A. Oh, he, he slept in the living room chair.

- 1 Q. Okay. He moved out to the living room?
- 2 A. Yeah, he was in the living room chair.
- 3 Q. Do you have an estimate of how long Ms. Willie Mae
- 4 Wright and [REDACTED] stayed with y'all?
- 5 A. From January to middle of March.
- 6 Q. Well, how do you remember that time?
- 7 A. Because I helped her move her furniture stuff over
- 8 there to her house, new house.
- 9 Q. Could it have been a little bit less time than that?
- 10 A. Huh?
- 11 Q. How many weeks do you think they stayed with you?
- 12 A. At least about four, four weeks.
- 13 Q. How do you remember that?
- 14 A. Because I remember I kept counting days.
- 15 Q. Did you ever move out to another room?
- 16 A. Yeah, I had to move to another house.
- 17 Q. Do you remember when Ms. Willie Mae Wright--
- 18 A. Huh?
- 19 Q. Do you remember when she moved out of the home?
- 20 A. The middle of March.
- 21 Q. Do you remember that day or you just estimating?
- 22 A. I don't remember the date but I remember it was the
- 23 middle of March.
- 24 Q. Did, did you help her move?
- 25 A. I helped her move. They got new furniture in the

1 house too.

2 Q. Okay. So you're the one who helped her?

3 A. Yeah. Me and my brother helped to get the furniture  
4 and stuff put in the house.

5 Q. All right. Did, did she bring any, a car with her  
6 when she came down to Whitmire?

7 A. All clothes, that's all.

8 Q. Just came with her clothes?

9 A. Yeah.

10 Q. And the child?

11 A. And the child.

12 Q. Did her boyfriend ever come over to the house?

13 A. He come over there after she had got him to come  
14 down.

15 Q. Okay. But initially he didn't come down with her?

16 A. He didn't come right then.

17 Q. All right.

18 A. Cause they were, they were arguing on the phone about  
19 stuff.

20 Q. But did you know the boyfriend prior?

21 A. I don't even know his name.

22 Q. But if, did he ever stay at the house with her?

23 A. Huh?

24 Q. Did he ever stay at the house with Ms. Willie Mae and  
25 the child?

- 1 A. Not over at our house, over at my sister's house.  
2 Stayed at the other house.
- 3 Q. Do you know how she got the apartment she moved into?  
4 A. Huh?
- 5 Q. Do you know how she got the apartment that she moved  
6 into?
- 7 A. She stay in a house.
- 8 Q. The, the new house--
- 9 A. Yeah.
- 10 Q. Do you know how she got the new house?  
11 A. Yeah. A friend of ours, Lee McKey.
- 12 Q. How would you, at that time were you working at  
13 Sterilite?
- 14 A. Yeah. I was working at Sterilite at the time.
- 15 Q. How did you get to work at Sterilite?  
16 A. With my sister.
- 17 Q. Ms. Rose?  
18 A. Yeah.
- 19 Q. Did anybody else ride with y'all to work?  
20 A. She rode after she had got the job with us.
- 21 Q. Ms. Willie Mae at some point got a job at Sterilite?  
22 A. Yeah.
- 23 Q. Do you know how she got the job at Sterilite?  
24 A. My sister.
- 25 Q. Now how long did y'all three commute?

1 A. Huh?

2 Q. How long did y'all commute together to work at  
3 Sterilite?

4 A. How long she what with us?

5 Q. How long do y'all think y'all all rode together to  
6 work?

7 A. I can't recollect how long.

8 Q. Was it just a couple times or was it for--

9 A. It was more than a couple times she rode with us.

10 Q. Did she ride with you every day?

11 A. Huh?

12 Q. Did Ms. Willie Mae ride with y'all every day?

13 A. The days we worked.

14 Q. Okay. And was she, would you characterize her as a  
15 good friend of Ms. Rose?

16 A. She was a good friend a long time ago until they got  
17 to arguing one day.

18 Q. Did, did they have any arguments that you saw of?

19 A. About her man getting a job there, yeah.

20 Q. Well, what was that about?

21 A. Well, see my sister couldn't help him get no job  
22 cause he had federal offense against and see, she didn't  
23 want to mess her name up if he didn't work good there,  
24 they find out about that.

25 MR. SHEEK: Objection to the hearsay, Your Honor,

1 unless he had personal knowledge. I think he's testifying  
2 to what his sister thought and what she wanted to do.

3 THE COURT: Okay.

4 MR. VERNER: I'll start over, Judge.

5 THE COURT: And rephrase the question so we don't get  
6 in any hearsay.

7 Q. Just to make sure we're clear, were you personally  
8 present during any serious argument between Ms. Rose and  
9 Ms. Willie Mae?

10 A. Yeah.

11 Q. Where did that happen?

12 A. That happened the last day before she lost her job.

13 Q. But do you remember what day that was?

14 A. No, I can't remember the day.

15 Q. Was this before the police had gotten involved in any  
16 kind of investigation?

17 A. Yeah. You talking about before the police got  
18 involved?

19 Q. The argument between Ms. Rose and Ms. Willie.

20 A. Yeah, before then.

21 Q. That was before then?

22 A. Yeah.

23 Q. Do you recall how long, how far it was before the,  
24 Ms. Willie Mae went to the police?

25 A. It was a while, it was a while before that happened.

1 Q. Okay. Well what happened at the, were you personally  
2 present for the argument?

3 A. Yeah, I was there when they argued about getting him  
4 a job, but see my sister couldn't get him a job cause had  
5 a federal offense and she didn't want to mess up her name.

6 THE COURT: That's what we can't talk about.

7 MR. VERNER: All right. Well then. Okay.

8 THE COURT: Unless, unless you know about his  
9 background and his work history and anything like that, is  
10 arguing about a job with him because she didn't know him.

11 Q. For whatever reason, Ms. Willie Mae wanted Rose to  
12 get her boyfriend a job?

13 A. Yeah.

14 Q. And Rose refused or couldn't or what?

15 A. Refused to help him. She refused to help him get a  
16 job.

17 Q. Did that cause a serious rift between them?

18 A. Yeah.

19 Q. Did Ms. Willie Mae ever ride with y'all again to  
20 work?

21 A. She rode for a while.

22 Q. She, even after that fight she rode, she rode for a  
23 couple times?

24 A. She stopped riding with us after all this had started  
25 happening.

1 Q. So even after the argument about the boyfriend, they  
2 still rode together to work every day?

3 A. Yeah.

4 Q. And you don't recall how long before these charges  
5 were brought that that fight was?

6 A. No.

7 Q. Okay. Hold on for just one second. Mr. Rogers, if  
8 Mr. Sheek has any questions, you need to answer his  
9 questions.

10 A. All right.

11 MR. SHEEK: May we approach one second, Your Honor?

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

15 CROSS-EXAMINATION

16 BY MR. SHEEK:

17 Q. Now, Sir, how long, remind me how long you lived  
18 there with your sister?

19 A. Almost four years.

20 Q. Okay. And you remember approximately the date you  
21 moved out?

22 A. Huh? The date she moved out?

23 Q. The date you moved out.

24 A. I moved out in December of last year.

25 Q. December of 2013?



- 1 A. Yeah.
- 2 Q. So you were living there in July of 2013?
- 3 A. Yeah.
- 4 Q. Okay. Were you there at the barbecue, the July 4th?
- 5 A. Yeah.
- 6 Q. You were there?
- 7 A. Yeah.
- 8 Q. Did you see the confrontation between Willie Mae
- 9 Wright and your sister?
- 10 A. Yeah.
- 11 Q. Were you present for the conversation?
- 12 A. I was there.
- 13 Q. Okay. What does Ms. Wright say?
- 14 A. Huh? What it started about?
- 15 Q. Well, let me ask you this, did Mr. Rice, Timmy there,
- 16 come into the room and talk to them?
- 17 A. Huh?
- 18 Q. Did Timmy come in and talk to Ms. Wright and your
- 19 sister.
- 20 A. Yeah. Yeah, they were in the, they were in the
- 21 house. I was outdoor.
- 22 Q. What's that?
- 23 A. I was outside when they went inside.
- 24 Q. Okay. So you weren't present for the conversation?
- 25 A. No, I wasn't in there when they had a conversation

1     about that.

2     Q.    You were not or were?

3     A.    I was on the porch.

4     Q.    Okay.  So you didn't hear the conversation?

5     A.    No.

6     Q.    Okay.  You continued to ride to work with your  
7     sister?

8     A.    Huh?

9     Q.    Did you ride to work with your sister at Sterilite?

10    A.    I ride with my sister all the time.

11    Q.    What's that?

12    A.    I ride with my sister, yeah.

13    Q.    Okay.  You did ride with her?

14    A.    Yeah.

15    Q.    And do you recall, Mr. Verner asked you about an  
16    argument that he says Ms. Wright had with your sister.

17    A.    Yeah.

18    Q.    Was that in the car?

19    A.    Yeah.

20    Q.    Was it on the way to work?

21    A.    We had stopped at the store.

22    Q.    You had stopped at the store.

23    A.    Yeah.

24    Q.    Okay.  And how long did this argument last?

25    A.    A good while.

1 Q. And this all happened at the store?

2 A. Yeah.

3 Q. And you say Ms. Wright did not ride with your sister  
4 after that?

5 A. It was a while when she stopped riding with us.

6 Q. It was a while?

7 A. Yeah.

8 Q. Approximately how long? I know you can't tell us the  
9 exact number of days. Was it a couple weeks?

10 A. I couldn't, I couldn't take a guess what day.

11 Q. What's that?

12 A. I couldn't guess what day.

13 Q. Well, was it more than a week?

14 A. Two weeks.

15 Q. About two weeks?

16 A. Uh-huh.

17 Q. And you, and you feel pretty confident about that?

18 A. Huh?

19 Q. You feel pretty confident about that?

20 THE COURT: Wait a minute, wait a minute. He said I  
21 don't know, he said about two weeks and now you're trying  
22 to pin him down to the exact. I mean, he answers a  
23 question and you answer, you ask the question about.  
24 About is about.

25 MR. SHEEK: Okay.

1 Q. So about two weeks. Did Ms. Wright ride with your  
2 sister to work after the police came and talked to Timmy?

3 A. No.

4 Q. Did she continue to ride with your sister up until  
5 that day?

6 A. No.

7 Q. Okay. So she had stopped riding with your sister  
8 before the date that the police came and talked to Tim?

9 A. Yeah.

10 Q. And do you recall about how long prior to the date  
11 the police came and talked to Timmy that she quit riding  
12 with your sister?

13 A. She stopped riding with my sister when the police  
14 talked to my sister.

15 Q. So she did stop riding when the police talked to your  
16 sister?

17 A. Yeah.

18 Q. Okay. Not before that?

19 A. No.

20 Q. All right. I've got no further questions, Your  
21 Honor.

22 THE COURT: Mr. Verner, anything else?

23 MR. VERNER: No, Your Honor. You can step down, Mr.  
24 Rogers.

25 THE COURT: Thank you, Mr. Rogers.

1 MR. VERNER: Your Honor, I'd call Mr. Tim Rice, Sr.

2 THE COURT: Come around and be sworn.

3 TIM RICE, SR., being  
4 first duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. VERNER:

7 Q. Mr. Rice, I'm gonna ask some questions from here just  
8 so everybody can hear, okay?

9 A. Okay.

10 Q. What's your relationship to Tim Rice, Jr.?

11 A. I'm his father.

12 Q. And where do you live?

13 A. Lowry Street, Whitmire.

14 Q. How long have you lived in Whitmire?

15 A. Well just about pretty much all my life.

16 Q. Are you employed?

17 A. Yes.

18 Q. Where do you work?

19 A. At the Country Corner in Newberry.

20 Q. All right. And does your wife work?

21 A. Yes, sir.

22 Q. Where is she working?

23 A. Sterilite.

24 Q. How long have you known Ms. Willie Mae Wright?

25 A. Well, I've known her since her and my wife's been

1 best friends. About thirteen years.

2 Q. Did you know Ms. Willie Mae when she was first living  
3 in Newberry?

4 A. Not really. I didn't know her until my wife met her.

5 Q. Would you characterize yourself as a close friend or  
6 is it primarily just your wife?

7 A. Just my wife.

8 Q. Okay. Can you tell me, do you remember when Ms.  
9 Willie Mae Wright first moved in with you?

10 A. Yes, sir.

11 Q. Roughly, to the best of your knowledge, when would it  
12 have been?

13 A. It was in January. Two weeks, like he said, two  
14 weeks prior to my mother-in-law's birthday.

15 Q. How long do you think they stayed with you?

16 A. I'd say about a couple months.

17 Q. You remember when they moved out?

18 A. No. No, sir.

19 Q. Do you remember when they, when Ms. Willie Mae Wright  
20 and [REDACTED] came to live with you? Do you remember the  
21 exact, the day?

22 A. Not exact day. No.

23 Q. But, I mean, I'm not asking if you know, remember the  
24 date on a calendar. Do you remember?

25 A. Yeah, I remember. Yeah.

- 1 Q. What, what happened?
- 2 A. Came in at, at, at nighttime.
- 3 Q. About what time at nighttime?
- 4 A. Somewhere around 9 or 10, something like that, cause
- 5 we we're asleep, I was in bed asleep when she came. My
- 6 brother-in-law, they were watching TV.
- 7 Q. Were, were you expecting Ms. Willie Mae Wright?
- 8 A. No. No, sir.
- 9 Q. So had Ms. Rose indicated to you that somebody was
- 10 coming?
- 11 A. No, sir.
- 12 Q. Well what happened when she showed up?
- 13 A. Showed up unexpected.
- 14 Q. Do you know who, did you get up when she came?
- 15 A. Yeah, I had to get up when someone coming in my
- 16 house.
- 17 Q. Okay. You remember who brought her?
- 18 A. Her ex-husband.
- 19 Q. What's his name?
- 20 A. Anthony Brown.
- 21 Q. Do you remember what the car was?
- 22 A. It's a small white car. Probably a Chevy, I think.
- 23 Q. Do you know who moved in? I mean, who helped her
- 24 move in the stuff?
- 25 A. Brother-in-law did. I didn't touch nothing.

1 Q. Did the boyfriend move in at the same time?

2 A. No.

3 Q. Well was she with anybody else other than [REDACTED]

4 A. Just her and [REDACTED]

5 Q. Did, did the boyfriend ever come around?

6 A. If he come around, he's comes around to the house,  
7 but he never did come in the house. Not while, not as  
8 long as I was there, he didn't come in the house. He'd  
9 stand outside.

10 Q. Was he welcome to come in?

11 A. He was welcome, yeah. He was welcome all the time.

12 Q. But he just never.

13 A. Never. I didn't associate with him like that.

14 Q. Now are you aware that Tim, Jr. was babysitting?

15 A. Yes, sir. I was against it, but yes, I did.

16 Q. Okay. Now Tim went to school where?

17 A. Whitmire Community. Whitmire High School.

18 Q. Are you aware of how well he did, or how did Tim do  
19 in school?

20 A. Excellent.

21 Q. What do you mean by excellent?

22 A. He was smart.

23 Q. Did you ever see him babysitting [REDACTED]

24 A. No sir, but I know he was babysitting.

25 Q. Do you know how long he babysat?



1 A. I couldn't tell you.

2 Q. Were you, do, do you remember the, the July 4th  
3 barbecue?

4 A. No, I wasn't there.

5 Q. You weren't there at the barbecue?

6 A. No, sir.

7 Q. Were you working or what?

8 A. I was working.

9 Q. So if anything had happened that day--

10 A. I didn't know.

11 Q. All right. If Mr. Sheek has any questions for you.

12 A. Yes, sir.

13 MR. SHEEK: I have no questions, Your Honor.

14 THE COURT: You may step down, Mr. Rice.

15 MR. VERNER: Your Honor, I would call Mr. Tim Rice,  
16 Jr.

17 THE COURT: All right.

18 TIM RICE, JR., being  
19 first duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MR. VERNER:

22 Q. Tim, how old are you?

23 A. I'm twenty-five right now.

24 Q. Okay. And how long have you known Ms. Willie Mae  
25 Wright?

1 A. I've, I knew her when I was young, but I can't  
2 pinpoint when I knew her or what year, but when she came  
3 back to Whitmire is basically when I became reacquainted  
4 with her.

5 Q. Okay. Well let me ask, where did you go to school.  
6 By school, I guess I mean high school.

7 A. Well I went from Whitmire Elementary to Whitmire High  
8 School and then they combined it to Whitmire Community  
9 School and I finished my 11th and 12th grade year there.

10 Q. How, how did you do in school?

11 A. I was a Salutatorian, second in my class.

12 Q. Second highest grade in your graduating class?

13 A. Yes, sir.

14 Q. Did you get any kind of academic scholarships or  
15 anything like that?

16 A. I got one from Clemson for a full ride to Clemson to  
17 study architecture. But I, I went there for about two  
18 years, well, one and a half years to take all my basic  
19 classes but I decided that wasn't what I was getting into.  
20 So I, I went and just started working around and before I  
21 went to Piedmont for nursing.

22 Q. You've been going to school at Piedmont Tech?

23 A. Yes, sir.

24 Q. And what were you trying, what field were you trying  
25 to get in?

1 A. RN. Well, registered nurse. Nursing.

2 Q. Were you going to school back in January of last  
3 year?

4 A. No, sir. I was actually working with Chris Farmer's,  
5 Christopher Farmer and Savannah Farmer's father-in-law on  
6 odd jobs here and there.

7 Q. But your intent was to followup the nursing classes?

8 A. Yes, sir. That August I was actually registered to  
9 go back into the nursing program for practical nursing so  
10 I could slide into the registered nursing program the next  
11 year in the Spring semester.

12 Q. Have you been able to do that since these charges  
13 were filed on you?

14 A. No sir, I have not.

15 Q. Where do you live now?

16 A. I still live with my mother on [REDACTED]

17 Q. In Whitmire?

18 A. Yes, sir.

19 Q. Okay. Who else lives with you at that home?

20 A. Me, my mother and my father.

21 Q. Tell me about how the arrangement was made that you  
22 started babysitting for [REDACTED]

23 A. I don't know how it came around to me babysitting but  
24 I did offer my services after she had notified me that she  
25 didn't have anyone else in Whitmire that she trusted to

1 babysit her child. So after that, she said she would try  
2 to pay me every now and then or whatever she could to let,  
3 allow me to babysit her child.

4 Q. But were you volunteering to babysit [REDACTED]

5 A. Not at first, no sir. I mean, I was still--

6 Q. Was there anybody else that she could've had to  
7 babysit [REDACTED]

8 A. I do not know. I mean, there were random people  
9 around Whitmire who offered babysitting services for  
10 children but none that I could actually refer her to or if  
11 my mother could refer to, I did not know.

12 Q. And the child didn't have any family members in  
13 Whitmire?

14 A. I, I do not know.

15 Q. Okay. Were you babysitting any other children?

16 A. I was babysitting Mason and, well, Savannah's children  
17 at the time too. I mean, I would babysit them late at  
18 night whenever I was done babysitting over at Ms. Wright's  
19 house.

20 Q. Was Ms. Wright aware that you were babysitting the  
21 other children?

22 A. Not that I know of. I mean, I told her that I used  
23 to babysit before, but I didn't tell her that I was  
24 continuing babysitting other children at the time.

25 Q. Were you anticipating doing this long term,

1 babysitting for Ms. Wright?

2 A. No sir, I wasn't. I was expecting her to bring her  
3 boyfriend down because at the time, I didn't, I thought he  
4 didn't have a job or, you know, he didn't, he was coming  
5 down here to try to get a job. So at the time when he  
6 didn't have a job, they was going to allow him to babysit.

7 Q. And then he was going to phase you out?

8 A. Yes, sir.

9 Q. Did she pay you regularly?

10 A. Not on a regular basis. She paid me whatever she  
11 could after her house payments and bills because her check  
12 wasn't that much, I mean, she was working at Sterilite.

13 Q. So some, she would pay you when she could?

14 A. Yes, sir.

15 Q. Just on, on average, how much do you think you--

16 A. If I averaged it out, probably about \$15 to \$20  
17 dollars each time.

18 Q. Each week or each day?

19 A. Each week.

20 Q. How long did you babysit [REDACTED]

21 A. On and off, all together, I would say about a month  
22 and a half, maybe two months.

23 Q. Okay.

24 A. Maybe a little bit less.

25 Q. And where would you babysit the child?

1 A. Well, I would start at her mother's house and then I  
2 would usually take her to the park or over at Sissy's  
3 house to play with the other kids and, but mostly at her  
4 house.

5 Q. When did you first go over to Ms. Wright's home? I'm  
6 not asking what date, I'm just asking about typically what  
7 time of day?

8 A. Around 6:15 in the morning before she went to the,  
9 went to school and then put her on the bus. And then I  
10 came back around 3:30, well, 3:00 o'clock in the afternoon  
11 before she got off at 3:30.

12 Q. [REDACTED] came back by the bus?

13 A. Yes, sir.

14 Q. And then how long would you be with [REDACTED] until mom  
15 came home from work?

16 A. About four, about four hours, more or less, because  
17 the mother got off at 7:00, well, got back to the house at  
18 around 7:20, 7:30.

19 Q. Okay. So, and [REDACTED] typically got off the bus about  
20 what time?

21 A. Around 3:30.

22 Q. Okay. And always the babysitting, did it start at  
23 the mama's house?

24 A. It always started at the mother's house.

25 Q. Did Ms. Wright ever have a car to bring the child to

1     you?

2     A.    No, sir.

3     Q.    How did you get to her home?

4     A.    I usually drove my Mazda.

5     Q.    Okay.  You had a car?

6     A.    Yes, sir.

7     Q.    So in the morning, I assume that's the time your  
8     mother went to go pick her up for work?

9     A.    Yes, sir.

10    Q.    How long were you in the home when you got there  
11    about 6:30 in the morning?

12    A.    Probably about forty-five minutes to like, less, a  
13    little bit less than an hour.  Forty-five to fifty  
14    minutes.

15    Q.    Do you remember when Ms. Wright was living with you  
16    at your mother's home and parent's home?

17    A.    Yes sir, vaguely.  But, yes sir.

18    Q.    How long did they stay with you?

19    A.    About two months.  A little bit less than two months  
20    maybe.

21    Q.    Okay.  Did you get to know them during that two  
22    months or familiar with the child and the mother?

23    A.    Yes sir, I, I played with the child while she was  
24    staying with us.  They got to play with my, well, she got  
25    to play with my dogs out back and took her to the park and

1 took her over to Sissy's house even during that time.

2 Q. Were you ever babysitting for her when she was living  
3 in your home?

4 A. Well, briefly, like whenever, like her mother didn't  
5 have a job at the time, but whenever my mother took her to  
6 go get her hair fixed or took her to the store to buy  
7 things I would have to watch the child if she stayed at  
8 the house, for about an hour or less.

9 Q. Do you remember when Ms. Wright and [REDACTED] moved to  
10 the other home in mid-March?

11 A. Yes, sir.

12 Q. Did you help them move?

13 A. No, sir.

14 Q. Okay. How long after Ms. Wright moved to the new  
15 home did you start babysitting, you think?

16 A. Around the end of May, towards the end of May, like  
17 before the end of the school year.

18 Q. Okay. Just before the end of the child's school  
19 year?

20 A. Yes, sir.

21 Q. And when did your babysitting stop, roughly?

22 A. It stopped the first time around the, around the  
23 first week, I mean the second week or towards the end of  
24 the first week in June. And then it started back after  
25 that week for about two more weeks. And then at the end



1 of June, I brought her boyfriend back around the 28th,  
2 more or less, around that date.

3 Q. Well, I'm gonna ask about the, the boyfriend was not  
4 initially staying with her?

5 A. No, sir.

6 Q. Do you recall whether your mother agreed for you to  
7 go pick up the boyfriend?

8 A. She didn't want me to go but I didn't want, any  
9 animosity between two friends. So I decided to go pick  
10 her up, pick him up.

11 Q. Do you know if that caused a problem between Ms. Rose  
12 and Ms. Willie Mae?

13 A. I can't guess on how my mother felt about it, I mean,  
14 she didn't like me doing it. But, I mean, she didn't say  
15 any, anything bad about me going to get him or not, she  
16 just left it up to me to decide if I wanted to go or not.

17 Q. Okay. Where did you go to pick up the boyfriend?

18 A. A Hess stationed somewhere outside of Charlotte.

19 Q. Okay. And then he came, did you bring him back to  
20 Whitmire?

21 A. Yes, sir.

22 Q. Did you ever babysit after he had come down?

23 A. No, sir.

24 Q. Did he stay down after you first got him?

25 A. No, sir. He stayed there about a week and he left on

1 like a Friday or a Saturday. So he got there early in the  
2 week and then he left about Friday or Saturday.

3 Q. Do you know how he got back?

4 A. I took him back to the Hess station.

5 Q. Do you know if he ever came back? Did you ever pick  
6 him up again or do you know?

7 A. Yes sir, I picked him up again, about two weeks  
8 later, more or less, at the same Hess station.

9 Q. Did you ever take him back again or was that the  
10 final that you know of?

11 A. It was the final time I ever had to bring him back  
12 and forth.

13 Q. Do you remember what month or what the closest date  
14 was to that?

15 A. Yes sir, around June 28th.

16 Q. Is when the boyfriend came down to stay?

17 A. No. Not June 28th. Yeah, yeah, I think it was  
18 around June.

19 Q. Sometime around June 28th?

20 A. Yeah.

21 Q. Did, while you were babysitting [REDACTED] did you ever  
22 have any kind of problems with Ms. Willie Mae Wright?

23 A. Not that I know of, sir.

24 Q. Did you ever have any problems with the boyfriend?

25 A. No. We was pretty amicable.

1 Q. Would you, when you first saw [REDACTED] in the morning,  
2 like the 6:30 time, would you make her breakfast or how  
3 was that?

4 A. If she was hungry I would give her some of the snacks  
5 that her mother had bought, but besides making breakfast  
6 for her early in the morning, no, she would probably eat  
7 breakfast at school.

8 Q. Okay. So she, so basically you just put [REDACTED] on the  
9 bus?

10 A. Yes, sir.

11 Q. What about when, when [REDACTED] came home on the bus, did  
12 you feed her?

13 A. Yes sir, I would fix her something, either pizza or  
14 some ramen or either some of the snacks. If we was going  
15 out that day like to the park, I would just get a couple  
16 of snacks together and then let her do her homework and  
17 then take her to the park.

18 Q. What were some things that you did with [REDACTED] when  
19 you were babysitting, what sort of activities did you do?

20 A. Well, out, outside the house when we went to the  
21 park, we played on the swing sets and running around, they  
22 was chasing me, playing tag. But at the house, we played  
23 the Wii, we would play school, martial, well, not martial  
24 arts but, you know, just like playing fighting, barbie  
25 dolls with the doll house, hide and seek and tickling, you

1 know, I mean, you know, just tickling under her arm and on  
2 the bottom of her feet.

3 Q. What, what kind of, what were her favorite Wii games  
4 that you played?

5 A. Some type of dancing game but I, I think it was  
6 called Dance to Dance but not really sure.

7 Q. Would y'all play that together?

8 A. Yes, sir.

9 Q. And sometimes, you would rough house with her type?

10 A. Well, yes sir.

11 Q. Was, was there anything to do at, when Ms. Wright  
12 first got that home, was there anything to do at that  
13 home, for entertainment?

14 A. Not that I remember besides the Wii.

15 Q. Did they have cable TV?

16 A. Not that I know of. They got Dish like quite soon  
17 after moving.

18 Q. She didn't have a TV when she first moved in?

19 A. It don't, they didn't have a, a analogue TV that  
20 allowed the connection of the Wii game. I, I got them a  
21 TV for that. But, yeah, they had a TV not too long after  
22 they moved in because I got them one.

23 Q. Well was there anything else to do at the home of the  
24 Wright's that y'all did?

25 A. Besides her little toys, no sir.

1 Q. And, and where are some of the places that you would  
2 take [REDACTED] when you did babysit for her?

3 A. I would take her to the park near the church. Well,  
4 First Baptist Church which up the street from Sissy's  
5 house, Savannah's house. And I would take her to the park,  
6 the main park right beside old, the old park street school  
7 that's, I, I forgot it's name, but it's the new park  
8 there.

9 Q. Just out of curiosity, how far away was the Wright's  
10 house that she moved into from where y'all were living?

11 A. I would say a mile, half a, I'm not really sure,  
12 about a mile.

13 Q. Not in the same neighborhood?

14 A. Yeah, not, not in the same neighborhood.

15 Q. But with about a mile?

16 A. Yes, sir.

17 Q. Was, was it within a walking distance?

18 A. Well, I mean, I, I walk everywhere so, it was walking  
19 distance for me. But most normal people wouldn't walk  
20 there, probably not.

21 Q. Okay. Did you babysit any other kids at the time you  
22 were babysitting [REDACTED]

23 A. At the exact same time, no sir.

24 Q. At that same general time, who were you babysitting?

25 A. I was just babysitting [REDACTED] by herself. But I mean,

1 as I told you, I would eventually babysit Mason or  
2 afterwards, afterwards but not at the same time.

3 Q. Do you remember the barbecue you had, your parents  
4 had in 2013, your mother had?

5 A. Yes, sir.

6 Q. Was Ms. Willie Mae Wright there?

7 A. I can't recall. I think she was but I can't say for  
8 sure.

9 Q. Was that the day, was it July 4th that she came when  
10 she brought the child with, to speak to you in private  
11 with your mother?

12 A. No, sir. I would remember that because not only was  
13 I there but my aunts and uncles and my grandmother was  
14 there. That was, that was no time for, I mean--

15 Q. So it wasn't July 4th that she came over?

16 A. No, sir.

17 Q. Do you remember if it was after or before?

18 A. It may have been probably two days after, I think.

19 Q. What happened when Ms. Willie Mae Wright came to your  
20 house with [REDACTED]

21 A. Well, my mother was outside talking to her and then  
22 they came in, my mother said she wanted to speak to me.  
23 And so she brought me into the living room with Mae  
24 sitting in the seat near one of our windows that's close  
25 to the door. And I sat on the couch right beside my

1 mother and my mother told me, asked me, Junior, did you  
2 touch this child? And I was like, mother, I can't say for  
3 sure because while tickling and playing with her, I, it  
4 may have been possible that I may have touched her  
5 inappropriately, but I didn't do anything on purpose or  
6 remember doing anything that was, in any way, touching her  
7 in her, touching her inappropriately.

8 Q. Did Ms. Mae Wright ask you if you had exposed  
9 yourself to her?

10 A. She did and I said no, I didn't. And then she asked  
11 me if I had, well she asked me if I had showed myself or  
12 penetrated her child, and I said no, I did not. I, yeah, I  
13 said no, I didn't.

14 Q. Well, those were her words?

15 A. Those were her words.

16 Q. Okay. How did that, do you ever recall going off to  
17 a private room with your mother to talk about it  
18 privately?

19 A. No, sir.

20 Q. How long do you think Ms. Mae Wright was at your home  
21 that day?

22 A. I, I would say no more than probably twenty to  
23 twenty-five minutes.

24 Q. And when y'all went inside, were, were you outside  
25 when she first came up?

1 A. No sir, I was in the dining room playing on my  
2 computer.

3 Q. And what room in your house did y'all sit together  
4 in?

5 A. The living room.

6 Q. And who was in the living room at that time?

7 A. Me, my mother and Ms. Willie Mae.

8 Q. Nobody else was present?

9 A. No, sir.

10 Q. Well, how did the, that day, that meeting end?

11 A. Well, she brought the child in and I apologized to  
12 the child if I had done anything wrong. And then we sit  
13 then, well they left, I mean, well they went outside and  
14 smoked a cigarette and then they left.

15 Q. Who is they?

16 A. Ms. Willie Mae, her boyfriend and her child.

17 Q. Well, I assume the child didn't smoke the cigarette.

18 A. No. No, sir.

19 Q. But the, but they stayed around and did you have  
20 anymore talk with the boyfriend or anybody else?

21 A. No, sir.

22 Q. And you said that was two days or so after July 4th?

23 A. Yes, sir.

24 Q. Did you, were you babysitting at the time that  
25 happened?



1 A. No, sir.

2 Q. How long after you had stopped babysitting do you  
3 think that that encounter happened?

4 A. Say again?

5 Q. How long after you were through babysitting do you  
6 think that, you said, June 28th is when the boyfriend  
7 moved down, I believe you testified to?

8 A. Yes, sir.

9 Q. Okay. Do you remember meeting with the police  
10 officers in Whitmire?

11 A. Yes, sir.

12 Q. Did you go and speak with them at the police station  
13 in Whitmire?

14 A. Yes, sir.

15 Q. You weren't brought or arrested or anything like  
16 that, you voluntarily went to meet with them?

17 A. Yes sir, I did.

18 Q. Do you know who you went with or remember who you  
19 went with?

20 A. I walked there.

21 Q. Okay. I assume your parents or somebody got a  
22 message to you saying the police were looking for you?

23 A. Yes, sir.

24 Q. Have you ever had an encounter with the police  
25 before?

1 A. Prior to that, no sir.

2 Q. Okay. You ever been arrested before?

3 A. No, sir.

4 Q. Ever given any kind of statement to the police  
5 before?

6 A. No, sir.

7 Q. Did, well did you know who Office Moss and Chief  
8 Sinclair were though?

9 A. I knew Officer Sinclair because he stayed up the  
10 street from me. Officer Moss, I've seen him, spoke to him  
11 a few times when he was at the store or just, you know.

12 Q. But so, you recognized who they were?

13 A. Yes, sir.

14 Q. How did the interview begin? Who was present?

15 A. It was me, Officer Moss and Officer Sinclair. My  
16 parents were outside.

17 Q. Oh, so your parents also came with you?

18 A. Well, they, they were there but they weren't inside  
19 the building.

20 Q. And they just met you there?

21 A. Yeah. Yes, sir.

22 Q. But they didn't come in the police station with you?

23 A. No, sir.

24 Q. Do you remember what officer started, you started  
25 talking with or how the interaction with the police

1 started?

2 A. I remember Officer Moss reading me my Miranda rights  
3 and Sinclair was going through his desk. That's how they  
4 started talking and then they told me about the  
5 allegations.

6 Q. Well, what did they tell you you were there for?

7 A. They told me that it had been reported that there had  
8 been an incident between me inappropriate, I mean, between  
9 and Ms. Mae Wright about her telling them that I  
10 inappropriately touched a child or Ms. Mae reporting that  
11 I inappropriately touched a child.

12 Q. And that's what they told you?

13 A. Yes, sir.

14 Q. In the beginning, you were there for?

15 A. Yes, sir.

16 Q. Did they say anything about exposing yourself to the  
17 child or penetrating the child?

18 A. Not that I know of, sir.

19 Q. Okay. Well, who did, primarily who did you talk to  
20 more, the both of them or Chief Sinclair or Officer Moss?

21 A. Both of them, sir. I have to say because they were  
22 both on and off asking questions.

23 Q. And you remember them reading your Miranda rights?

24 A. Yes, sir.

25 Q. At some point, it was moved upstairs?

1 A. Yes, sir.

2 Q. Why was that?

3 A. Because with the water, well, where you pay your  
4 water at, I just didn't feel comfortable because all the  
5 windows were all around me. So I just asked for a place  
6 where we could speak in private.

7 Q. How long did the meeting last between you and the  
8 police officers?

9 A. I can't say for sure, sir, but it felt like more than  
10 forty-five minutes. Forty-five to an hour.

11 Q. Okay. And it ended, of course, with you being  
12 arrested by the police?

13 A. Yes, sir.

14 Q. How long do you think y'all talked before you gave an  
15 oral statement? I mean, before you gave your written  
16 statement?

17 A. Probably about thirty-five minutes, maybe forty.

18 Q. Were you doing a kind of question and answer form or  
19 they were just basically saying, tell us what happened and  
20 you were narrating and answer?

21 A. It was, it started off question and answer form and  
22 then they asked me a question and I would give more  
23 answers.

24 Q. Did they tell you about any evidence they had or  
25 anything other than just it was an allegation of

1 inappropriate touching?

2 A. Not that I know of, sir, no.

3 Q. Okay. I assume at the end of it, they asked you to  
4 write down what you had told them to summarize?

5 A. Yes, sir.

6 Q. May I approach, Your Honor, the witness?

7 THE COURT: Yes, sir.

8 Q. I'm gonna ask you again to read your statement to the  
9 jury.

10 A. Yes, sir. I started to keep the child around the end  
11 of the school year 2013. I would play with her a lot,  
12 balls, dolls and as such that little girls play with. As  
13 with other children, I tried playing fighting games and  
14 tickling. I later found that the girl was ticklish on her  
15 leg and thigh area. I would try tickling her up and down  
16 her thigh. I had urges that I was not use to coming to  
17 mind constantly and I tried fighting them but at times  
18 they would get the best of me. I do recall that my hands  
19 had touched the girl in a inappropriate way at times. I  
20 did not, however, show myself or penetrate the girl at any  
21 time. I even protested to my mother about keeping the  
22 child any longer. I wanted, I had to distance myself from  
23 such thing. Her mother approached me about the indecent  
24 acts I have committed and in front of her and now later  
25 the officers. I told them that yes, I did commit some

1 inappropriate acts upon the child but that is also the  
2 reason I also tried to limit the one on one time I had  
3 with the child. I tried, although futively times to  
4 combat such thoughts. Anything I have done is something I  
5 cannot undo.

6 Q. When, when you gave that statement, that was July  
7 15th of 2013?

8 A. Yes, sir.

9 Q. And that was the same day the police called you?

10 A. Yes, sir.

11 Q. Had, had you had a chance to speak to an attorney at  
12 that time?

13 A. No, sir.

14 Q. Had you spoken to anybody at that time?

15 A. No, sir.

16 Q. When you went to the police, were you appraised ahead  
17 of time what you were, what they wanted to talk to you  
18 about?

19 A. No, sir.

20 Q. And so that was a statement that you gave more than a  
21 year ago when you first, your first encounter with the  
22 police?

23 A. Yes, sir.

24 Q. Tell me what you meant by urges.

25 A. It felt like that I just wanted to keep tickling her

1 or just keep playing around, just, I really, besides that  
2 description, I can't really describe anything else.

3 Q. Had you ever, I know you babysat the Farmer children  
4 for several years, had you ever babysat a girl before?

5 A. No sir, not long periods of time. No.

6 Q. I think we've talked about before, was there ever a  
7 time when, when the child was bit by ants?

8 A. Yes, sir.

9 Q. Okay. What happened on that incident?

10 A. Well, we were outside playing in my back yard and--

11 Q. Who is we?

12 A. Me and [REDACTED] My brother was there too but we were  
13 outside, we had just went to my house so I could pick up a  
14 few things before I took her to the park. And she was  
15 playing around with my two dogs, my blue pit, Molly and my  
16 mix chow, Diamond. And they were playing in the back yard  
17 and she accidentally stepped in like, we had high grass at  
18 the time, so there were ant piles you couldn't see. She  
19 stepped in them and they had bit up her foot and leg so I  
20 rushed her back to her house just in case she had needed a  
21 shot from her EpiPen in case she was allergic to them.

22 Q. The, the child carried an EpiPen for allergies?

23 A. Well, she had one, she didn't carry it with her but  
24 it was at her house and I took her back to her house so  
25 she could check herself for more ants. So I told her to

1 go in the bathroom and check herself and her clothes for  
2 ants and she might've run some water to cool her feet off  
3 or something, I can't recall anymore than that and then  
4 she walked back through the house with a towel around her  
5 and she walked into her mother and her room. And then, I  
6 thought she was just going in there to put some clothes on  
7 so I waited and when she came back out, she didn't have  
8 the towel around her anymore and she was just there bare.

9 Q. Did that concern you?

10 A. Yes, sir. I, I pointed to her and told her, you  
11 shouldn't do that, go back in the room and put some  
12 clothes on. I, I was pretty loud and almost, well, a  
13 yelling voice.

14 Q. Was that part of the reason that you didn't want to  
15 babysit the girl?

16 A. Yes, sir.

17 Q. So did you, did you have conversations about her  
18 mother that she needed to go ahead and get the boyfriend  
19 to start babysitting?

20 A. Yeah. Yes sir, I did.

21 Q. Your statement starts that if I touched her, that was  
22 while I was playing with her or tickling her?

23 A. Yes, sir.

24 Q. Is, is that the statement that you gave law  
25 enforcement?



1 A. Yes, sir.

2 Q. Well then you go on further and said that if I did  
3 touch her inappropriately, did, did you apologize to her?

4 A. Yes, sir.

5 Q. For what? And to her, I mean, her is Ms. Willie Mae  
6 Wright.

7 A. I, I didn't apologize to Ms. Willie Mae Wright.

8 Q. What did you tell her?

9 A. Well, I told her that I may have done it, that I may  
10 have done it while playing with her or tickling her but if  
11 I did, I'm sorry for it.

12 Q. What do you mean by done it?

13 A. Touching the child inappropriately.

14 Q. Well, what do, what do you mean by touching the child  
15 inappropriately?

16 A. Well, touching the child inappropriately could, well  
17 especially a little girl, could be anything around the leg  
18 area. So inappropriately could just be touching a little  
19 girl's leg or, you know.

20 Q. Were you talking about touching the child inside the  
21 vagina?

22 A. No, sir.

23 Q. Okay. You were talking about touching the child in  
24 the area of the vagina?

25 A. Yes, sir.

1 Q. What was the gist of your written statement to law  
2 enforcement, as you understood it?

3 A. That if I had done anything I am sorry for it. And I  
4 may have had urges at times but I fought and eventually  
5 got, distanced myself from such things because that's the  
6 right thing to do.

7 Q. And what do you mean by urges one more time because  
8 I'm sure you're gonna be asked.

9 A. Like keeping myself close to the child tickling her,  
10 like just being very close or you know, tickling her more,  
11 making her laugh, playing with her.

12 Q. Not touching her in inappropriate locations?

13 A. No, sir.

14 Q. At the same time you gave your written statement, the  
15 officers asked you to do a diagram to show exactly where  
16 you had touched the child inappropriately?

17 A. Yes, sir.

18 Q. Are, are those the mark, the red marks, now are those  
19 where you admitted to touching the children?

20 A. Yes, sir.

21 Q. And this was done at the same time you gave your  
22 written statement to be clear on where you had touched the  
23 child?

24 A. Yes, sir.

25 Q. Where did you feel the problem areas were when you

1     were tickling her or playing with her?

2     A.    The inner thigh.

3     Q.    Have you ridden by their house since you made bond?

4     A.    No, sir.  Not by their house, no.

5     Q.    It'd be fair to say the terms of your bond would  
6     exclude you from going around their home?

7     A.    That is correct, sir.

8     Q.    And, and one more time, just to be clear, I'm gonna  
9     ask you this last time, to read your statement that you  
10    gave law enforcement on July 15th to make sure we're all  
11    clear on what you told the policemen.

12    A.    Yes, sir.  I started to keep the child around the end  
13    of the school year 2013.  I would play with her a lot,  
14    balls, dolls and the such that little girls play with.  As  
15    with other children, I tried playing fighting games, tug  
16    and tickling.  I later found that the girl was ticklish on  
17    her legs and thigh area.  I would try tickling her up and  
18    down her thigh.  I had urges that I was not use to coming  
19    to mind.  I had tried fighting them but at times, they did  
20    not get the best of me.  I do recall that my hands may  
21    have touched the girl in an inappropriate way at times.  I  
22    do not, however, show myself, I do not, I did not however  
23    show myself or penetrate the girl at any time.  I even  
24    protested to my mother about keeping the child any longer.  
25    I had to distance myself from such things.  Her mother

1 approached me about the indecent acts I have committed and  
2 in front of her and now later, the officers. I told them  
3 that yes, I did commit some of the inappropriate acts upon  
4 the child but that is also the reason I also tried to  
5 limit the one on one time I had with the child. I tried,  
6 although futively at times to combat such thoughts.  
7 Anything I have done is something I cannot do, undo.

8 Q. And when you talk about inappropriate, it was the  
9 upper thigh area that you demonstrated?

10 A. Yes, sir.

11 Q. Did you put your fingers in the child's vagina?

12 A. No sir, I did not.

13 Q. Did you remove the child's clothes?

14 A. No, sir.

15 Q. Did you, on top of her clothes, rub her in her, on  
16 her genital area?

17 A. No, sir.

18 Q. Mr. Sheek wants to ask you some questions.

19 CROSS-EXAMINATION

20 BY MR. SHEEK:

21 Q. Mr. Rice, you told us you graduated Salutatorian of  
22 your class?

23 A. Yes, sir.

24 Q. Your full ride that you talked about at Clemson, was  
25 that an academic scholarship?

1 A. Yes, sir.

2 Q. I'm assuming, to get that, you had to make an  
3 application to Clemson University?

4 A. Yes, sir.

5 Q. And they didn't just give it to you solely because  
6 you were Salutatorian in your class, did they?

7 A. I would not think so, sir.

8 Q. What kind of application process did you go through  
9 for that?

10 A. I, I just sent in like, well actually, I don't  
11 recall.

12 Q. You don't recall what you did to get into Clemson?

13 A. No, sir. I mean, it's been such a long time.

14 Q. Okay. Well, let's talk about what you took at  
15 Clemson. What was your major?

16 A. Well, my major at first was architecture or somewhere  
17 in that field of architecture.

18 Q. Did you take the normal prerequisites, literature,  
19 english, things like that?

20 A. Yes, sir.

21 Q. And you wrote papers for those classes?

22 A. Yes sir, for a while and yes, sir.

23 Q. Well, you said you went for two semesters, left for a  
24 while and then went back for a short while, correct?

25 A. Yes, sir.

1 Q. Okay. Did you pass the classes that you did take?

2 A. Most of them I did but, well, I didn't pass the  
3 architecture class. So that's why I decided to drop that  
4 major and switch over to engineering secondary and I  
5 didn't pass that class. So, I tried to finish up my basic  
6 classes but after I lost my girlfriend, everything just  
7 fell apart. I wasn't passing my classes anymore so I had  
8 to leave.

9 Q. Would it be fair to say you can read and write well,  
10 can't you?

11 A. Yes, sir.

12 Q. And you've got a good grasp of the english language?

13 A. Yes, sir.

14 Q. Okay. And the day the police asked you to come talk  
15 to them, you had an idea of why you were going up there,  
16 didn't you?

17 A. No, I didn't.

18 Q. Okay. So let's get this straight. Ms. Mae had come  
19 to your house with [REDACTED] correct?

20 A. Yes, sir.

21 Q. Sometime prior to that, right?

22 A. Yes, sir.

23 Q. -Could it have been maybe just a couple days prior to  
24 that?

25 A. No.

1 Q. Okay. How long prior to that?

2 A. Probably about a week or like a week or two.

3 Q. Okay. And there you had been accused of touching the  
4 child inappropriately, right?

5 A. Yes, sir.

6 Q. And what did you believe that inappropriate touching  
7 to consist, when they said have you touched this child  
8 inappropriately, what did you take that to mean?

9 A. Well sir, you know, the thigh areas, anywhere around  
10 the legs.

11 Q. Well, I'm sure when somebody came and said my child  
12 has said you've touched her inappropriately, you said, oh  
13 my gosh what do, what do you mean? Touched her where?  
14 You surely asked that, didn't you?

15 A. Sir, on a child you should be able to common sense to  
16 know which areas are inappropriate.

17 Q. Okay. So you did not ask for clarification is what  
18 you're telling us?

19 A. I do not recall.

20 Q. You don't recall when you were accused of touching a  
21 six year old child inappropriately, whether or not you  
22 asked for clarification of where the child says you  
23 touched her?

24 A. I do not recall that. No sir, I do not.

25 Q. Is there any reason why you wouldn't of asked that?

1 I mean, surely, well let me ask you this, you, you were  
2 horrified to find out that a six year old child was saying  
3 you were touching her inappropriately, weren't you?

4 A. Yes, sir.

5 Q. Okay. So with that in mind, did you ask for any  
6 details, what did she say I did? My gosh. Touched her  
7 where? Did you ask any of those?

8 A. I can not recall, sir.

9 Q. Because you didn't need to ask it because you already  
10 knew where you had touched her, didn't you?

11 A. No, sir.

12 Q. The question didn't pop into your mind at that point.  
13 You knew what they were talking about when they said it,  
14 didn't you?

15 A. No, sir.

16 Q. You didn't? You didn't know, but didn't come to your  
17 mind to ask, that's what you're telling us?

18 A. No, sir.

19 Q. And then when the police said they want to talk to  
20 you a week or so later, you have no idea why the police  
21 may want to talk to you, do you?

22 A. No, sir.

23 Q. Okay. So you walked to the Police Department.  
24 That's what you told the jury?

25 A. Yes.



1 Q. Your police, your, your parents walked with you,  
2 correct?

3 A. No.

4 Q. They drove and met you there?

5 A. Yes.

6 Q. Okay. Did you call them and say, I gotta go to the  
7 Police Department or they leave from the house and go up  
8 there?

9 A. They left from the house and went up there. They  
10 called me and told me that the police wanted to see me.

11 Q. Okay. So they were already up there when they called  
12 you?

13 A. I don't know if they arrived shortly before I did.

14 Q. And did you say, what the police wanna talk to me  
15 about?

16 A. I didn't talk to them, I went straight into the  
17 police station.

18 Q. And when you got to the police station did the police  
19 tell you what they wanted to talk to you about?

20 A. After Mirandizing me, yes sir.

21 Q. Okay. And so after you'd been given your Miranda  
22 rights, did you understand those Miranda rights?

23 A. I fairly think so, sir. Yes.

24 Q. Okay. And did you tell the please yeah I'll, I'll  
25 talk to you about this?

1 A. Yes, sir.

2 Q. And surely at that point, at the police station, the  
3 police told you, you've been accused of inappropriately  
4 touching this child, correct?

5 A. Yes, sir.

6 Q. So surely at that point, the question has now popped  
7 into your mind, where does the child say I touched her?  
8 Has it? That question popped in your mind yet?

9 A. No, sir. I was terrified at the time.

10 Q. Terrified because of what? I mean, you've done  
11 nothing wrong. The only inappropriate touching you've  
12 talked about is tickling. That can't be bad, can it?

13 A. It depends on who the person is, sir. Some people do  
14 consider it bad, yes.

15 Q. Well you didn't think, oh my gosh, I'm gonna go to  
16 jail for tickling a child; did you?

17 A. No, sir. I didn't think that.

18 Q. Okay. So you had no reason to be terrified because  
19 of tickling, did you?

20 A. No. I was terrified because there was two officers  
21 there. I mean, I, I never had dealings with the police so  
22 being around two police officers and they're calling in to  
23 talk to you would be pretty scary.

24 Q. Okay. So you understood at that point, how very  
25 serious this was, didn't you?

1 A. I, I knew that something serious was going on, yes  
2 sir.

3 Q. Okay. So you're being accused of touching a child  
4 inappropriate and you know how serious it was. And you  
5 tell them, I, okay, I want to go ahead and talk to you  
6 about this, don't you?

7 A. Yes, sir.

8 Q. And then they tell you, well give us a written  
9 statement, is that right?

10 A. Yes, sir.

11 Q. And how did that happen? Tell us in detail, how that  
12 came about. Did they give you the pen and paper, or did  
13 you have it with you, what happened?

14 A. They gave me a pen and paper.

15 Q. Okay. Did they tell you what to write?

16 A. I don't think they're allowed to do that. But, no  
17 sir.

18 Q. Okay. So you were allowed to write what you wanted?

19 A. More or less, yes sir.

20 Q. Okay. And did they limit you and say, well, you can  
21 only write one page or two pages?

22 A. Well, they only handed me two papers but they didn't  
23 say I was limited.

24 Q. Okay. So you're at the police department, you  
25 understand how serious it is, you're a very smart guy.

1 You're given a piece of paper to write your statement, and  
2 you understand you're there to tell the truth, the whole  
3 truth and nothing but the truth, right?

4 A. I would think so.

5 Q. Okay. And you understand that today you've sworn to  
6 tell the truth, the whole truth and nothing but the truth,  
7 right?

8 A. Yes, sir.

9 Q. Okay. I'm gonna ask you something, looking at the  
10 written statement that you gave the police. Just a minute  
11 ago when talking to Mr. Verner, he said tell me the gist  
12 of that written statement. And you said, well the gist  
13 was, I said if I touched the child inappropriately, it  
14 wasn't something I meant to do. Is that what you  
15 testified to?

16 A. Yes, sir.

17 Q. I want you to look at your written statement that you  
18 gave those police officers, with the full understanding of  
19 how important it was and I want you to tell this jury  
20 where the word, if, ever appears in any sentence.

21 A. It doesn't, sir.

22 Q. It doesn't, does it?

23 A. No, sir.

24 Q. You never once wrote down, if this happened, I didn't  
25 mean to do it, did you?

1 A. I, no sir.

2 Q. Now in that statement, you talk about these urges you  
3 have as it relates to the child, right?

4 A. Yes, sir.

5 Q. And you just talked to the jury when Mr. Verner  
6 talked to you about those urges. And you said, well they  
7 were urges to tickle. That's what you said, right?

8 A. That is what I said, sir.

9 Q. Not urges to do anything inappropriate or wrong, was  
10 it?

11 A. No, sir.

12 Q. Okay. And none of the urges that you had that you  
13 were speaking about would be wrong or inappropriate, would  
14 they?

15 A. Not that I can think of, sir. No.

16 Q. But the fact is you have described those urges  
17 yourself as being inappropriate, wrong and just  
18 disgusting, haven't you?

19 A. That's what my statement says, sir.

20 Q. Okay. Well tell the jury then about these urges that  
21 you have that you described as inappropriate, wrong and  
22 just disgusting.

23 A. Well, wanting to tickle a little girl on her thighs  
24 and legs is pretty wrong, sir.

25 Q. And that's wrong, inappropriate and disgusting?

1 A. After looking back on it, yes.

2 THE COURT: If he used the word disgusting, then I  
3 don't recollect that.

4 MR. SHEEK: Your Honor, in, in previous setting, that  
5 is what he has described it as.

6 THE COURT: But it's not in the statement and you  
7 keep--

8 MR. SHEEK: It's not in that written statement.

9 THE COURT -- you keep putting it in this statement.  
10 You've asked him three times, is this, this and  
11 disgusting. And I don't see it in that statement, and I  
12 don't think that's an appropriate characterization of a  
13 question.

14 MR. SHEEK: No, my question is he has described his  
15 urges previously as--

16 THE COURT: You are characterizing your question each  
17 and every time, this statement, you say that your urges  
18 were 1, 2, 3, last one disgusting and so I request you to  
19 stop that.

20 MR. SHEEK: May I, may I then re-characterize my  
21 question?

22 THE COURT: You may, but don't use that word again  
23 because it's not what was said. What's in this statement?  
24 This is not in this statement. Then you say, use these  
25 words and you describe it is disgusting. It is not in

1 there. You're putting it in there with every question.

2 Q. Let me rephrase then if I've been misleading. Not in  
3 this written statement, but previously, in your  
4 description of the urges, not in this written statement.

5 A. Are you talking about the last trial, sir?

6 MR. VERNER: I, I think he's talking about previous  
7 sworn statement, Judge.

8 THE COURT: Let's take a short break. Y'all step in  
9 the jury room please.

10 (Whereupon, the jury was excused from open court.)

11 THE COURT: All right, Mr. Sheek, I'm, I'm going to  
12 tell you why I'm upset, and you know I am, to impeach  
13 somebody with a prior sworn testimony, he's got to deny  
14 it. He hadn't done that. You've been asking him  
15 questions, yes that's what I said, yes that's what I said.  
16 He hadn't said no, I didn't say it was disgusting. Then  
17 you can impeach him. You characterize, I mean, you  
18 brought that in.

19 MR. SHEEK: I'm not trying to impeach him, Your Honor.

20 THE COURT: You, you, I know but you used the word.

21 MR. VERNER: He's using his prior quote from the last  
22 trial. And really, it's an argumentative question, Judge,  
23 and it's really for impeachment purposes.

24 THE COURT: It is for impeachment purposes. You don't  
25 see it, I can tell by your reaction and I'm sorry I'm

1     frustrated with you. I mean, you didn't do it  
2     intentionally, but what you've done is, let's look at your  
3     statement, let's examine it in detail, word for word, and  
4     Charles, Mr. Verner, let him read it three times. I mean,  
5     we've been through the statement and you say, well tell me  
6     about these urges, because you've described them in this  
7     statement, maybe you didn't use that word, but you've  
8     described these urges to Mr. Verner this way, but you've  
9     described these urges in this statement as, and  
10    disgusting.

11           MR. SHEEK: Yes, sir.

12           THE COURT: That's impeachment. That's an impeachment  
13    question. It's not in this statement, it's in his prior  
14    testimony.

15           MR. SHEEK: Yes sir, and I think if he says, yes  
16    that's the words I've used then--

17           THE COURT: And I think he did.

18           MR. SHEEK: Yes, sir.

19           THE COURT: And you kept going.

20           MR. SHEEK: Yes, sir. I mean, since he agrees that's  
21    how he's described them, yes, I was gonna go in that vein.  
22    I mean, how, here's the reason I am, if he characterizes  
23    it in direct testimony as simply an urge to tickle and  
24    that's the only urge I was talking about, I believe then I  
25    could say that you said these urges were inappropriate,



1 wrong and disgusting, and how is tickling that way?

2 MR. VERNER: But in fairness, Your Honor, I think, and  
3 I'm going by memory, but I thought he said, if in the  
4 prior testimony. If, I would like the statement that he's  
5 impeached him from actually proffer because I do think it  
6 was a, it wasn't talking about his statement.

7 THE COURT: I mean, and now we have got the other  
8 thing. I mean, oh you're talking about the prior trial.  
9 Now I got to deal with that. I'm ticked, I'll tell you  
10 that. Make the point one, I don't think you got two on  
11 that.

12 MR. SHEEK: For just clarification, Judge, and not,  
13 not trying to upset the Court any more. I understand,  
14 since he has agreed with that, am I limited in saying that  
15 anymore? He's agreed that that's his description of it,  
16 can I not pursue that? I mean, we're not impeaching. He  
17 is not denying it.

18 THE COURT: He did deny it. But now, I mean, you did  
19 it three times.

20 MR. SHEEK: And I would tell the Court that--

21 THE COURT: And that's why I stopped you, like you  
22 keep saying it like it's in here. All right, you, you got  
23 it in there, I don't really see it really good and why did  
24 you say it that way? Explain to the jury why you said  
25 disgusting and it's not in there.

1 MR. SHEEK: No, sir. I didn't mean to insinuate it's  
2 in there.

3 THE COURT: Oh yeah you did.

4 MR. SHEEK: I did not mean to insinuate that.

5 THE COURT: Oh yeah you did. That was, that was the  
6 whole painting of the picture I saw. And I mean, that's  
7 what I was getting.

8 MR. SHEEK: He talks about urges in there. He doesn't  
9 describe the urges beyond that. He's described in the  
10 testimony as being an urge to tickle. And if he has  
11 previously described those urges as wrong, inappropriate,  
12 disgusting, that is simply where I'm going with it. I  
13 understand his, his desire to paint it as a innocent  
14 tickling now.

15 THE COURT: Now and I have a huge concern over his  
16 mentioning of, oh you mean the prior trial. Y'all didn't  
17 get to see the looks on the faces. Holy smoke. I got a  
18 big look from about three on the front row including the  
19 foreperson, Ms. Williams.

20 MR. VERNER: Your Honor, I think his points is made  
21 and I think he's got a closing argument that he can  
22 possibly develop. You're not allowed to talk about prior  
23 trials, you understand? But I, I think the question has  
24 been asked and answered and that would be my objection,  
25 Your Honor. I guess possibly it is also a 403 prejudicial

1 comment. And again, in candor, I don't want to jump on  
2 him or, or booster it, but I did take it as being attacked  
3 to his original statement that, that he defined his  
4 statements of being disgusted. But I think the proper  
5 thing is just it's, it's asked and answered.

6 THE COURT: Well, I'm trying to figure a way if you  
7 can give a curative instruction about the comment about  
8 the trial. I think that's even more harmful now.

9 MR. VERNER: I think it's been, been referred to, not  
10 quite, I don't think it's been referred to as a prior  
11 trial. But I think it's been referred to that it was a  
12 prior testimony from other witnesses.

13 THE COURT: Yeah, we've gotten by with that but now, I  
14 mean, it's, we've gotten by, gotten by a testimony, a  
15 prior hearing when we talked about it before. This is, in  
16 the first, in the prior trial or which, what did he say,  
17 in the prior trial. All right, let me take a couple of  
18 minutes. I have been waiting for this shoe to drop, and  
19 I'm sorry. I hoped it wasn't going to happen, but there  
20 it is. Let's see if we can get by it.

21 MR. VERNER: I'd like to, as far as the question about  
22 continuing to use the phrase, disgusting, during the  
23 questions, Your Honor, I would argue that it's been asked  
24 and answered and then ask that the Solicitor be directed  
25 to move on.

1 MR. SHEEK: And I think if I were to ask him about  
2 that prior statement again, that's asked and answered.  
3 But I can followup on why would that be disgusting, why  
4 would that, I mean, it's his characterization.

5 THE COURT: No.

6 MR. SHEEK: I can't talk to his characterization?

7 THE COURT: That's exactly, that's just baiting us  
8 back in this same corner.

9 MR. SHEEK: All right, sir.

10 MR. VERNER: And, I, in the prior trial when he talks  
11 about it, Judge, he does talk about as it was being used  
12 earlier. Do you know what page it was on?

13 MR. SHEEK: It starts out when he's talking about the  
14 urges. Regarding the urges, your question was, the  
15 magical question is urges, explain it. In his  
16 explanation, he describes it various ways but ends with  
17 it's just inappropriate, wrong and disgusting.

18 THE COURT: Now why can't you just leave it at that?

19 MR. SHEEK: Well, and I understand that, but I think  
20 I'm told I can't use the word disgusting anymore in the  
21 trial.

22 THE COURT: I know, but you going to say, well, what  
23 do you mean by disgusting, what do you mean by this and  
24 what do you mean by that. I mean, he didn't put it in the  
25 statement.

1 MR. SHEEK: No sir, but it is his statement. It's his  
2 characterization of those urges. I'm not asking anymore  
3 about this written statement, I'll go back later.

4 THE COURT: I know, but you're going to get him to  
5 say, well, disgusting kinda means, well you're an english  
6 major, now I'm getting into nursing.

7 MR. SHEEK: Those urges are a big issue.

8 MR. VERNER: But he's impeaching him with a question  
9 that he's really given him, he is setting up the  
10 impeachment by using his own statement up, up front. He,  
11 he didn't elicit a statement from the Defendant and get  
12 disgusting as an answer. The Solicitor gave him  
13 disgusting.

14 THE COURT: Yes.

15 MR. VERNER: He adopted it and then the Solicitor used  
16 that as the door to get into the impeachment.

17 THE COURT: Yeah. That's probably a better  
18 characterization of how you got there.

19 MR. SHEEK: I mean, all I can say is this was his  
20 description of those urges. I'm just trying to get in the  
21 truth, this is what he said. I'm not putting words in his  
22 mouth.

23 MR. VERNER: Well he did because he said, you said  
24 originally this was disgusting and then the client or the  
25 Defendant said, yes I did.

1 MR. SHEEK: And I think I can accept that answer that  
2 yes, that's my characterization of it and go forward with  
3 that. I'm not saying, well he's lying. I'm saying, okay  
4 that's your description. Then tell us why tickling would  
5 be inappropriate, wrong and disgusting.

6 THE COURT: I'm gonna try to give a curative  
7 instruction to the jury about the comment about the prior  
8 trial/hearing as, more or less, the Jackson v. Denno  
9 hearing. That's how we're going to describe it because  
10 it's statement, statement, it fits and do it that way.

11 MR. VERNER: I wouldn't, Judge, I would ask that the  
12 Court not attribute it a name.

13 THE COURT: All right. I won't.

14 MR. VERNER: Just the Court can say there have been  
15 prior times for testimony prior to today in the courts and  
16 y'all are not concerned about it.

17 THE COURT: Well, I mean, that's when, you renewed  
18 your objection.

19 MR. VERNER: Yes, sir.

20 THE COURT: That kind of thing.

21 MR. VERNER: But I wouldn't mischaracterize it as a  
22 particular hearing, just that there have been prior times  
23 for testimony.

24 THE COURT: And Mr. Sheek, I think you are limited to  
25 questions, just ask and answer on, have you described

1 these urges as disgusting. I think that's been asked and  
2 answered. You said it, yes. I think it stops there.

3 MR. SHEEK: Okay.

4 THE COURT: I don't think you can continue to ask him  
5 to expand on that definition of those words. I don't  
6 think that's fair.

7 MR. SHEEK: All right, sir. In his prior testimony,  
8 he also described these urges as they relate to her being  
9 a female and that she will grow up one day. May I ask him  
10 if he made that statement and what he meant by it?

11 THE COURT: No. I want to stay away from this first  
12 trial.

13 MR. SHEEK: Yes, sir.

14 THE COURT: And the reason being is, I know what  
15 verdict the other jury reached that we didn't publish.  
16 And I think I made a mistake, and that's bothering me. I  
17 don't know that would have happened differently, but it  
18 could have. And so I'm not gonna give you free run at  
19 everything said in the first trial because that's, that's  
20 concerning to me as to how I played out the very end of  
21 that trial. You weren't here but I remember it vividly.  
22 That's only three weeks ago. The verdict was not, the  
23 jury was not brought in after they said they were hung for  
24 the last time. And asked, have you reached either  
25 verdict. They were not asked that question. Had they

1     been asked that question, we would not be doing this  
2     trial. We'd be doing a less, another trial.

3             MR. SHEEK: May I continue to question him on the  
4     written statement?

5             MR. VERNER: His written, the Judge is open for that  
6     one.

7             THE COURT: Sure. Yeah.

8             MR. VERNER: It's just the prior trial testimony.

9             THE COURT: You, you understand where I'm concerned?

10            MR. SHEEK: I understand what you're telling me. Yes,  
11     sir.

12            THE COURT: Okay.

13            MR. SHEEK: Your Honor, while the jury's out, if we  
14     can also address one other matter. On a rebuttal, I had  
15     given you the name of the school counselor, he's actually  
16     tied up. We have the school principal here with the  
17     school records and we'll be calling two witnesses in  
18     rebuttal regarding the dates we talked about earlier.

19            THE COURT: Mr. Verner may not be finished today.

20            MR. SHEEK: I understand.

21            MR. VERNER: I anticipate probably being--

22            THE COURT: I can't believe Mr. Haney got here. It's  
23     registration today.

24            MR. SHEEK: He is here.

25            THE COURT: I bet you couldn't get my wife away from



1 her school today.

2 MR. VERNER: Depending on how long the Solicitor goes  
3 after this witness, Judge, I've got one more witness.

4 THE COURT: Okay. All right. Bring me the jury,  
5 please ma'am.

6 (Whereupon, the jury came into open court at  
7 approximately 3:21 p.m.)

8 THE COURT: All right. Ladies and Gentlemen, I want  
9 to explain, just for clarification purposes. We've had a  
10 couple of hearings regarding the admissibility of the  
11 video, the statement taken by the police and certain  
12 parameters have to be met. We had those hearings before  
13 this trial, it was some time back. Kind of a preliminary  
14 pre-trial work. It makes things flow smoother when you  
15 get to trial. And so, there have been comments made by  
16 different witnesses, when I testified earlier, when I,  
17 when he said we were here before. Those hearings are in  
18 front of me as the Court to determine their admissibility  
19 not because you found ahead of time something can't come  
20 in or shouldn't come in, it changes the complexion of the  
21 whole case. And so that's the gist of the comments made  
22 by each of the witnesses, but in particularly the one by  
23 Mr. Rice about the prior hearing we had. Okay. Mr.  
24 Sheek, you may continue.

25 MR. SHEEK: Thank you.

1 MR. VERNER: Your Honor, I do accept, but I'll be,  
2 elaborate later.

3 THE COURT: All right.

4 Q. Mr. Rice, you said that this is not the first child  
5 you've babysat, correct?

6 A. That's correct, sir.

7 Q. And you said that it was common that when you have  
8 this other child babysitting, that you would do these  
9 tickling things. That was not something new, was it?

10 A. No, sir.

11 Q. Okay. So the tickling like you were doing with [REDACTED]  
12 would not of been unusual?

13 A. I mostly babysit boys.

14 Q. But the tickling wasn't unusual, was it?

15 A. No, sir.

16 Q. But you also said in your written statement, and you  
17 can refer to it if you need to, that you said I, I later  
18 found that the girl was ticklish on her legs and thigh  
19 area. I would try tickling her up and down her thigh, you  
20 remember that?

21 A. Yes, sir.

22 Q. I had urges I was not used to coming to mind, let me  
23 make sure I get this right, coming to mind constantly.  
24 Those were your choice of words, right?

25 A. Yes, sir.

1 Q. Can you explain to the jury the urges that you were  
2 not used to?

3 A. To continuing tickling her, to keep her close at  
4 hand, you know, just run around like tickle her, all that.

5 Q. And so when you say that these were not things you  
6 were not used to, you had urges regarding tickling this  
7 little girl that you didn't have as it related to the  
8 other children?

9 A. Well, I mean, I, I, whenever I play with other  
10 children, I just didn't, like whenever I tickled them, I  
11 would stop after a little while. I mean, you know, you  
12 can't tickle them too much, they'll pee on themselves or  
13 something. But usually I just tickle her just to keep  
14 tickling her to see if she was ticklish on the legs, more  
15 or so, or on her feet. Just wanted to continue tickling  
16 her.

17 Q. And you had those urges constantly, correct?

18 A. Well, can't say constantly because it's not like I  
19 tickled her everyday. But whenever, it says when I was  
20 tickling her.

21 Q. Well, no actually if you could refer to your actual  
22 written statement, what does it actually say?

23 A. I would try tickling her up and down her leg. I had  
24 urges that I was not used to coming to mind constantly.

25 Q. Okay. That's what you said, right?

1 A. Yeah.

2 Q. Okay. And then you say, you had tried fighting them  
3 but at times they got the best of you. Did you say that?

4 A. That's what is written down, sir.

5 Q. Okay. Why did you feel the need to fight these  
6 constant urges to tickle this little girl?

7 A. Because, well, you've already established that I'm  
8 pretty smart. I, I thought about where tickling could  
9 lead. It could lead you down some pretty frightening  
10 avenues.

11 Q. Okay. What avenues, frightening avenues that might  
12 lead you down?

13 A. I can't say for sure, sir.

14 Q. Well I'm assuming if you made that comment, you must  
15 have something in mind you're referring to, don't you?

16 A. Well, you know, tickling in more, more inappropriate  
17 places than the leg or, you know, just trying, just the  
18 thoughts that they would lead to.

19 Q. What kind of thoughts did they lead to for you?

20 A. I say could lead to, didn't say that they lead to. I  
21 said thoughts that they could lead to.

22 Q. Well in your mind, what could it lead to?

23 A. Some pretty horrible thoughts, sir. I would not, I  
24 would rather not describe them.

25 Q. And that's what was in your mind that these urges

1     could lead to?

2     A.    Yes, sir.

3     Q.    And you said, I do recall my hands had touched the  
4     girl in an inappropriate way at times.

5     A.    That is what is written, sir.

6     Q.    Okay. Elaborate on what you meant by that.

7     A.    Well, sir, as I said earlier, touching the leg, I  
8     mean, I wasn't considering my opinion in this place. I  
9     was considering what other people may think is an  
10    inappropriate place for children or for a little girl to  
11    be touched. So inappropriate way would be along the inner  
12    thigh because of, well you know, the genital area and all  
13    that is near there.

14    Q.    Well, if you were just talking about tickling, a  
15    fairly innocent playful activity on the leg area that's  
16    not inappropriate, why did you then need to clarify it  
17    with the next sentence that said, I did not however show  
18    myself or penetrate the girl at any time?

19    A.    Because I had recalled the mother talking to me about  
20    the very same subject and she asked me that question. And  
21    to clarify to the police that it had been brought up  
22    before. So, I mean, I didn't say it had been brought up  
23    before, if I had done or if I had shown myself to the  
24    child or penetrated the child and I said no. I just wanted  
25    to put it out there because I had remembered the

1 conversation with the mother.

2 Q. Well, when you said I did not penetrate her, you  
3 weren't talking about penetrating the thigh, were you?

4 A. No, sir.

5 Q. Where were you talking about penetrating?

6 A. The vaginal area, sir.

7 Q. Okay. So you were clear with what the police were  
8 talking about with inappropriate touching. We were  
9 talking about the vaginal area. That's the reason when  
10 you said, I didn't penetrate her, you were talking about  
11 the vagina, right?

12 A. I, that's where, yeah, eventually it came out that  
13 that's what they was talking about. I mean, that's what I  
14 gathered from what they was asking me and all the  
15 questions.

16 Q. Then the next sentence, I'm curious, the next  
17 sentence did you say or write, I even protested to my  
18 mother about keeping the child any longer?

19 A. Yes, sir.

20 Q. If the activity was just an innocent tickling on the  
21 leg, why did you feel the need to protest about keeping  
22 the child?

23 A. Because, as I mentioned before sir, about where those  
24 thoughts that I was talking about would lead you to. And,  
25 yeah, I didn't want to go, I didn't want to think about

1     that anymore. I just wanted to distance myself from such  
2     things.

3     Q.    Well, when did you protest to your mother?

4     A.    Well it was, it started around the first time her  
5     mother, I mean, her mother's boyfriend came down.

6     Q.    Okay. But you didn't keep the child after the end of  
7     June, did you?

8     A.    No, sir.

9     Q.    Okay. So you were protesting to your mother about  
10    keeping the child prior to the end of June?

11    A.    Yes, sir.

12    Q.    Well before anybody come to you and said, the child  
13    says you've been touching her, right?

14    A.    Yes, sir.

15    Q.    Well, before the police called you or contacted you,  
16    right?

17    A.    Yes, sir.

18    Q.    So at this point, you already felt the need to go to  
19    your mother because you were concerned about where your  
20    thoughts were leading?

21    A.    Yes, sir.

22    Q.    Okay. Well tell the jury then how you could have  
23    concerns about inappropriate thoughts or where those  
24    thoughts would lead as it relates to a six year old child.

25    A.    Say again, sir?

1 Q. You felt the need to protest to your mother about  
2 keeping the child because you were concerned of where your  
3 thoughts would lead, correct?

4 A. That is what I said, sir.

5 Q. Okay. I want you to explain how you could have those  
6 kinds of thoughts or concerns as it relates to a six year  
7 old child?

8 MR. VERNER: Your Honor, that's an argumentative  
9 question.

10 THE COURT: I think it's rhetorical too.

11 MR. SHEEK: May I ask then if he had sexual thoughts  
12 related to this six year old child?

13 THE COURT: That's a different question.

14 MR. VERNER: That's, I don't have an objection to that  
15 question, but the, the prior was just clearly a  
16 rhetorical.

17 THE COURT: Can you tell my why you might of thought  
18 about something that you didn't quite think about, I mean,  
19 that's kind of what you asked and I don't know how you  
20 answer it. So ask your question now.

21 Q. Let me ask it this way, maybe you've answered it. I  
22 can't remember now. You were concerned about where those  
23 thoughts were leading regarding [REDACTED] correct?

24 A. Correct.

25 Q. Okay. And because of that you wrote, I had to



1 distance myself from such things.

2 A. Correct.

3 Q. So that, I'm assuming so that it didn't actually lead  
4 to the act because you had those urges, correct?

5 THE COURT: He's asked and answered that.

6 MR. RICE: Sir?

7 THE COURT: You've asked and answered that question.  
8 Ask the question like you phrased it a moment ago.

9 MR. SHEEK: May I just move on to another matter, Your  
10 Honor.

11 THE COURT: Sure. That's fine too.

12 Q. Read the next sentence, where it starts from mother.  
13 What did you write?

14 A. Hold on. Her mother approached me about the indecent  
15 acts I have committed and in front of her and now later  
16 the officers. I had told them, yes I did commit some  
17 inappropriate acts upon the child but that is also the  
18 reason I also tried to limit the one on one time I had  
19 with the child.

20 THE COURT: Yeah. I didn't catch all that either. I  
21 think you read the last sentence.

22 MR. SHEEK: That is correct.

23 THE COURT: All right. Read the last sentence again,  
24 just a little bit louder for the court reporter.

25 A. Her mother approached me about the indecent acts I

1 have committed and in front of her and now later the  
2 police officers. I told them, that yes I did commit some  
3 inappropriate acts upon the child but that is also the  
4 reason I tried, also tried to limit the one on one time I  
5 had with the child.

6 Q. You're at the police department giving your written  
7 statement, correct?

8 A. Yes, sir.

9 Q. Did you understand how important it was to be  
10 thorough, accurate and detailed?

11 A. I can't be too sure, sir, because, I mean, I have  
12 made quite a few mistakes in this.

13 Q. Well, you didn't write that her mother approached you  
14 about the acts you were accused of committing, you said  
15 the ones that you had committed, correct?

16 A. I was being definite in my statement, sir.

17 Q. And you described the acts that you say you had  
18 committed as indecent, correct?

19 A. That is what is written, sir.

20 Q. And you said again, in front of the officers, you  
21 said that you had committed inappropriate acts upon the  
22 child.

23 A. I didn't say, that is what is written down, sir.

24 Q. Okay. And then the next sentence you said, at times,  
25 you said I tried, although futively, I'm assuming you mean

1 you tried without success, at times to combat such  
2 thoughts, correct?

3 A. That means I, in this way that I use it, I meant I  
4 tried with little success. But, yes sir.

5 Q. Well, you either succeed or not succeed in combating  
6 such indecent thoughts. Which was it?

7 A. You fail sometimes, you succeed sometimes.

8 Q. Well that's fair enough. Sometimes you succeeded,  
9 sometimes you didn't, correct?

10 A. On the thoughts themselves, sir, yes sir.

11 Q. Well you didn't say you, you failed to have the  
12 thoughts, you said you failed to combat the thoughts,  
13 didn't you?

14 A. I said I tried, although futively at times to combat  
15 such thoughts.

16 Q. And then the last thing you said, you didn't say  
17 anything that I mistakenly did, can't be undone. You say,  
18 anything I have done is something I can't undo. That's  
19 how you closed your written statement, isn't it?

20 A. Well, sir, I also have scratched out, it says  
21 anything I may have done, but before that I just scratched  
22 it out and put have above it.

23 Q. Okay. I mean, you originally wrote may have. But  
24 then, you on your own volition scratched out the may, and  
25 said what I have done.

1 A. Yes, I can't think, I don't know, I don't remember  
2 why, but I did. Yes, sir.

3 Q. And so you had every opportunity in that written  
4 statement to say, if I touched her, it was an accident.  
5 But you never wrote that, did you?

6 A. No, sir.

7 Q. That my hand may have slipped when I was just  
8 tickling her leg and I didn't mean to. You never said  
9 that.

10 A. That was a statement, sir. Was you asking a  
11 question?

12 Q. Did you ever say that?

13 A. No, sir.

14 Q. And when you did write may, you scratched out and  
15 put, what I have done.

16 A. That is what is written, yes sir.

17 Q. And each of the words and the phrases you chose in  
18 that written statement were your own choice, weren't they?

19 A. I mean, yes sir, they are. I mean, yes sir.

20 Q. I have no further questions, Your Honor.

21 REDIRECT EXAMINATION

22 BY MR. VERNER:

23 Q. Tim, I just want to clarify, what made you, prior to  
24 babysitting [REDACTED] you had always babysat for boys, right?

25 A. Yes, sir.

1 Q. What made you uncomfortable was babysitting for the  
2 girl?

3 A. Yes, sir.

4 Q. Okay. And the gist of the statement, you still stand  
5 by as being correct, don't you?

6 A. Yes, sir.

7 Q. That if you had touched the child, it was during an  
8 inappropriate play?

9 A. Yes, sir.

10 Q. And the picture, if there was any question about  
11 where you were telling the police you had touched the  
12 child, the picture was the explanation, the picture was  
13 done at the same time the statement was done?

14 A. Yes, sir.

15 Q. Thank you.

16 MR. SHEEK: No recross, Your Honor.

17 THE COURT: All right. You may step down.

18 MR. VERNER: Your Honor, I would call Rose Rice.

19 ROSE RICE, being  
20 first duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. VERNER:

23 Q. Now Ms. Rice, where do you live at?

24 A. I live at [REDACTED]

25 Q. And you are Tim Rice's mother?

- 1 A. Yes, I am.
- 2 Q. And Tim Rice is the gentleman sitting beside me on  
3 the trial bench?
- 4 A. Yes, he is.
- 5 Q. And who is your husband?
- 6 A. Tim Rice, sir.
- 7 Q. Now, what was your maiden name?
- 8 A. My name, my maiden name was a Rogers.
- 9 Q. Okay. Where are you from Ms. Rice?
- 10 A. Whitmire.
- 11 Q. All your life?
- 12 A. All my life.
- 13 Q. Are you currently employed?
- 14 A. Yes, I am.
- 15 Q. Where are you working Ms. Rice?
- 16 A. I work at Sterilite.
- 17 Q. How long have you worked at Sterilite?
- 18 A. Eight years.
- 19 Q. How long have you known Ms. Willie Mae Wright?
- 20 A. Thirteen years.
- 21 Q. Do you remember when you first came to meet her?
- 22 A. Yes, I do.
- 23 Q. Okay. Well how did y'all first get to know each  
24 other?
- 25 A. I, the store that she used to work at.

- 1 Q. What kind of store did she use to work.
- 2 A. A oil, mostly it was oil and stuff. Oil you put on
- 3 your arm and stuff.
- 4 Q. Like, like coco butter type creams for your skin
- 5 type?
- 6 A. Oil in a bottle.
- 7 Q. But for your skin?
- 8 A. No, it just for under your arm and neck.
- 9 Q. Oh okay. It's a like perfume type?
- 10 A. Yeah.
- 11 Q. Okay. And she, was she married at that time?
- 12 A. Yes, she was.
- 13 Q. Who was she married to?
- 14 A. Anthony Brown.
- 15 Q. Is, is he a cousin of yours?
- 16 A. Yes.
- 17 Q. Do you know where Anthony is now?
- 18 A. No, I don't.
- 19 Q. Have you looked for him?
- 20 A. I looked in the book, the phone book but I couldn't
- 21 find his mama's name.
- 22 Q. When were you first, when do you think did you and
- 23 Ms. Wright first meet each other?
- 24 A. It was in the '90's.
- 25 Q. Did she have her child, [REDACTED] then?

- 1 A. No.
- 2 Q. Were you still living at the same place then?
- 3 A. Yeah.
- 4 Q. Well, how would you describe your relationship back  
5 then?
- 6 A. My best friend.
- 7 Q. And, and how long do you think you were best friends  
8 with Ms. Willie Mae Wright?
- 9 A. Thirteen years.
- 10 Q. Did she ever come over to your house?
- 11 A. Yes.
- 12 Q. At some point, she must've moved away back to North  
13 Carolina. Is that correct?
- 14 A. Yes, she did.
- 15 Q. Do you remember when?
- 16 A. I can't remember.
- 17 Q. Do you remember why she moved away?
- 18 A. I don't know why she moved away.
- 19 Q. Was she still with Anthony Brown at the time she  
20 moved away?
- 21 A. No.
- 22 Q. They had separated?
- 23 A. Yes.
- 24 Q. Did you, do you remember how long ago it was that she  
25 moved back to North Carolina?



- 1 A. I don't remember that.
- 2 Q. Was it a few years ago?
- 3 A. Yeah.
- 4 Q. How often did y'all stay in touch after she moved?
- 5 A. About all the time.
- 6 Q. Is that every day?
- 7 A. About every day.
- 8 Q. By telephone?
- 9 A. Yeah.
- 10 Q. Did you ever go up to Hickory to visit her?
- 11 A. One time.
- 12 Q. And did she ever come down to visit with you?
- 13 A. She came after she moved down here, down to South
- 14 Carolina in 2013.
- 15 Q. Okay. But I mean, did she come down like once a year
- 16 or something like that to come visit you?
- 17 A. No.
- 18 Q. Did you know when [REDACTED] was born?
- 19 A. I didn't know but she told me she had a baby.
- 20 Q. But you weren't there?
- 21 A. I wasn't there.
- 22 Q. And you would talk to her about every day?
- 23 A. About every day.
- 24 Q. Did she ever talk to you in 2012, 2013 about moving
- 25 down back to Whitmire?

1 A. She say stuff like that. She was saying stuff like  
2 that but she kept saying it, I didn't believe it but she  
3 kept saying it.

4 Q. But were you recommending that she move back down to  
5 South Carolina?

6 A. I told her they had a job at Sterilite.

7 Q. You would help her find a job at Sterilite if she  
8 moved back down?

9 A. Yeah.

10 Q. Do you know if she was in a relationship at that  
11 point?

12 A. With Travis.

13 Q. Travis was her boyfriend?

14 A. Yes.

15 Q. Did you have a good opinion of Travis?

16 A. I didn't know him that good.

17 Q. Did she talk about, well when she talked about moving  
18 back here to South Carolina, did she talk about moving  
19 with Travis?

20 MR. SHEEK: Object to any hearsay, Your Honor.

21 A. No.

22 MR. VERNER: I'll move on.

23 THE COURT: Y'all have let that go all, with the  
24 witnesses in here. It's been going on with multiple  
25 witnesses. I'll allow that question.

1 Q. Do you recall when, do you have a ballpark idea of  
2 when Ms. Willie Mae Wright moved in with you in 2013?

3 A. It was before my mama's birthday was.

4 Q. When was your mother's birthday?

5 A. January the 28th. She went to the party.

6 Q. Who, who went to the party?

7 A. Willie Mae Wright.

8 Q. Where was your mother's birthday party?

9 A. At her house on 311 Silvertown Road.

10 Q. Did [REDACTED] go with her?

11 A. Yeah.

12 Q. So you, best of your memory was she was down by  
13 January 28th?

14 A. Before January 28th.

15 Q. Well, tell me about the day that Ms. Willie Mae came  
16 to your house. Did you invite her to come live with you?

17 A. I can't remember that.

18 Q. Do you remember the day that she came to your house?

19 A. I remember she came to my house. Yeah.

20 Q. Well, what happened that day?

21 A. I was in the bed and my brother had came in the room  
22 and said, Mae outside. It was nighttime and she came down  
23 with Anthony Brown and he helped her moved in and she been  
24 in the house ever since.

25 Q. Do you remember when she moved out?

1 A. March, in March.

2 Q. Sometime in March?

3 A. Yes.

4 Q. And she got her own house at that point?

5 A. Yes.

6 Q. Who did she come with?

7 A. What?

8 Q. Other than, you said she came with Anthony Brown?

9 A. Anthony Brown.

10 Q. Did she bring [REDACTED] too?

11 A. Yes.

12 Q. Did the boyfriend come too?

13 A. No.

14 Q. Were they welcome and invited to stay with y'all?

15 A. Yes.

16 Q. When do you, you said you helped her get a job or did  
17 you help her get a job at Sterilite?

18 A. Yes, I did.

19 Q. What did you do?

20 A. I talked to Teresa, I don't know what her last name,  
21 but Teresa, and she told me to call her so I went in the  
22 ladies bathroom and called her and told her--

23 MR. SHEEK: Your Honor, I would renew objection to  
24 hearsay. She's talking about what some lady named Teresa  
25 said.

1 MR. VERNER: But she just said she told her to call  
2 her, that's not for the truth of the matter, Judge.

3 THE COURT: I think that's what she's asked to  
4 testified too. And it's not all, what Teresa said, it's  
5 that she said it, not what she said.

6 A. Want me to finish?

7 Q. The, the supervisor told you to call?

8 A. The supervisor told me to call her. And I went in  
9 the bathroom, went in the women's bathroom and called on  
10 my cell phone and told her to come on up here, they gonna  
11 hire her.

12 Q. Okay. And she got a job at Sterilite?

13 A. Yes.

14 Q. You remember when that was?

15 A. I can't remember. I know it somewhere in April,  
16 that's the only thing I remember.

17 Q. Okay. Did Ms. Mae Wright have a car back then?

18 A. No. No.

19 Q. How would she get to the store, and, and her errands?

20 A. Mae, she will walk.

21 Q. Okay. After she got the job at Sterilite, well  
22 before she got the job did she mention anything about that  
23 somebody had to keep [REDACTED] or did that issue come up?

24 A. I can't remember that, it been a year ago. I can't  
25 remember.

1 Q. Do you remember how it came that Tim started  
2 babysitting for [REDACTED]

3 A. I think she asked him, I think.

4 Q. You weren't involved in that?

5 A. I can't remember if she asked me about Tim, but I  
6 remember she--

7 Q. You may have been?

8 A. I might of but I don't know.

9 Q. Had he been babysitting other children at that time?

10 A. Yes, he had.

11 Q. And then you would see her every day to pick her up  
12 for work. Is that correct?

13 A. Yes, I did.

14 Q. And who rode with you to work?

15 A. Me, Wayne and Mae.

16 Q. Okay. And what time would you go pick her up?

17 A. 6:15.

18 Q. And how many days of the week did y'all work?

19 A. We worked four and three. Four one week and three  
20 the next one.

21 Q. Were those twelve hour shifts?

22 A. Yes, they was.

23 Q. And where is the Sterilite plant?

24 A. It's in Clinton.

25 Q. So how long does that take you to get from Whitmire

1 to Sterilite?

2 A. About twenty or thirty minutes.

3 Q. Did Ms. Mae ever talk to you about having her  
4 boyfriend move down?

5 A. She said something about it.

6 Q. Do you recall whether you were in favor of that?

7 A. Not really but she, he came down anyway.

8 Q. Do you recall ever Tim going to pick him up?

9 A. Yes, I did.

10 Q. Did that, was that a problem for you?

11 A. I told him it was up to him.

12 Q. Was, was there a, what I would call, a minor  
13 disagreement about whether Tim should be picking him up?

14 A. Yes, there was.

15 Q. So, you said sometime in late April I think that she  
16 got a job at Sterilite?

17 A. In April. Sometime in April.

18 Q. Did, was there any question in her mind then that you  
19 had helped her at least get the job there?

20 A. No.

21 Q. How long did y'all commute?

22 A. What?

23 Q. How long did y'all commute until y'all stopped  
24 commuting?

25 A. We commuted a long time.

1 Q. Do you remember the date that y'all stopped  
2 commuting?

3 A. When she went, went and got the police.

4 Q. Okay. So July?

5 A. July 15th.

6 Q. July 15th is when y'all last rode together?

7 A. Yes.

8 Q. Do you remember the July 4th Independence Day of last  
9 year?

10 A. Yes, I do.

11 Q. Did, was Ms. Willie Mae Wright, she, was she invited  
12 to come?

13 A. Yes.

14 Q. Had y'all had any kind of serious falling out other  
15 than the issue of Tim picking up the boyfriend prior to  
16 that date?

17 A. I can't remember that.

18 Q. Were y'all still on good terms then?

19 A. Yeah.

20 Q. Had she raised any kind of complaints to you as of  
21 July 4th?

22 A. No, not on July 4th.

23 Q. And was there any kind of problem, did [REDACTED] come to  
24 July 4th?

25 A. Yeah.



1 Q. Did the boyfriend come to July 4th?

2 A. I can't remember him.

3 Q. Okay. Did anything bad or, or eventful happen on  
4 July 4th holiday barbecue?

5 A. I can't remember.

6 Q. Okay. Then at some point, we've heard Ms. Mae came  
7 to your house with [REDACTED]

8 A. Yeah.

9 Q. When was that, that she came over with [REDACTED] to speak  
10 to you?

11 A. It was a week.

12 Q. How, how long--

13 A. A week, a week before the 15th.

14 Q. About a week before the 15th?

15 A. Yeah.

16 Q. What happened on the date that Ms. Mae came to your  
17 house with [REDACTED]

18 A. I was outside, I don't know what I was doing, but I  
19 was outside and she came through the house, came outside  
20 and said [REDACTED] had something to tell me. So I said what  
21 is it? She act, act like she was scared to say something.  
22 And I said, what is it baby? She said Junior  
23 inappropriately touched me, you know, in the private area.  
24 So, I said okay and I went back in the house, talked to  
25 Tim, Mae was in there too. And I asked him, did you touch

1     ██████ And I can't remember what he said though, but I  
2     asked him did he touch her. I can't remember did he say,  
3     did he say yes or no, I don't know. But I can't remember  
4     that cause it been a year ago. I don't know. I think he  
5     said, I don't know what he say, I can't remember off my  
6     hand.

7     Q. Did he ever, did you ever pull, do you remember  
8     pulling Tim to a private room to talk to him in private?

9     A. No. I don't remember that.

10    Q. Who was in the house with you and Ms. Mae and Tim?

11    A. Just us three.

12    Q. Did, did those two talk together? Did Tim and Mae  
13    talk together or did they go through you?

14    A. All three of us was in the same room.

15    Q. Okay. How long did that conversation last?

16    A. It didn't last long.

17    Q. What, what happened at the end of it?

18    A. She left. She went about her business.

19    Q. Did she say anything angry or anything like that on  
20    the way out?

21    A. She just left.

22    Q. Okay. Did you, and you said that was about a week  
23    before July 15th?

24    A. Yes.

25    Q. Did you continue to commute with her?

1 A. Yeah.

2 Q. To work?

3 A. Until the 12th.

4 Q. What happened on the 12th?

5 A. She wanted me to get her boyfriend a job and I  
6 wouldn't get him there.

7 Q. Well, why didn't you want to help her boyfriend?

8 She, she was still a friend of yours at that time, wasn't  
9 she?

10 A. Yes. But I didn't know him like that. I know her  
11 but I didn't know him like that.

12 Q. Where did y'all get into that argument?

13 A. Some store in Clinton.

14 Q. How long did that argument last?

15 A. It was a good while. Until we got ready to leave.

16 Q. Now do you ordinarily keep, like some women keep a  
17 diary or journal?

18 A. Yes, I do.

19 Q. Are you in the habit of keeping one?

20 A. Yes, I do.

21 Q. Some time before today, did you go back through your  
22 diary to look at some dates?

23 A. Yes, I did. Today.

24 Q. Are you sure that the argument with her was on the  
25 12th?

1 A. Yes, I got my journal with me.

2 Q. And you remember the argument?

3 A. Yes, I do.

4 Q. How angry of an argument was it?

5 A. It wasn't good.

6 Q. Was the boyfriend able to get a job at Sterilite at  
7 that time?

8 A. No.

9 Q. Was Ms. Mae angry at you for not helping her  
10 boyfriend?

11 A. Yes.

12 Q. Did y'all continue to commute together?

13 A. Yeah, we did a little communication.

14 Q. Well, I mean, did y'all still ride together even  
15 after the 12th?

16 A. Yes, we did.

17 Q. What happened on the 15th?

18 A. The police came up to my house. Jeremiah came to my  
19 house and he told me, asking where Timmy Eugene Rice, Jr.  
20 was. And I told him I would get him for him.

21 Q. And y'all did?

22 A. I did. I went and got him.

23 Q. And did they tell you, did the police, when they came  
24 over, did they tell you why they were there to talk to  
25 Tim?

1 A. No.

2 Q. Did you think it had anything to do with what Ms. Mae  
3 had talked to y'all about a week before hand?

4 A. Not really, I didn't.

5 Q. It happened so quickly.

6 A. It happened so quickly.

7 Q. Have you been riding by Ms. Mae West, I'm sorry, Ms.  
8 Mae Wright's house?

9 A. I don't even ride on that street.

10 Q. Have you threatened her by text messages or any way  
11 prior to today?

12 A. Well, I can't remember that number but she said I  
13 did.

14 Q. Well, did you recall?

15 A. I can't remember.

16 Q. Sending threatening texts messages to her?

17 A. I can't remember. I even looked and see I can find  
18 that phone and I can't remember. I don't, if I had that  
19 phone, I can't remember. I had so many.

20 Q. It, it's fair to say that y'all have been, after July  
21 15th, did Ms. Wright continue to work at Sterilite?

22 A. Yeah.

23 Q. How long did she work at Sterilite after?

24 A. It wasn't long.

25 Q. Was, did she lose the job at Sterilite?

1 A. Yes.

2 Q. Have you had much, since the police and these  
3 allegations came up, have y'all had any kind of  
4 relationship together?

5 A. No.

6 Q. When Tim was babysitting [REDACTED] did, I assume you  
7 were at work during most of the day?

8 A. Yes. I was at work everyday.

9 Q. Okay. You, because y'all commuted together everyday  
10 that Ms. Wright was at work, you would've been at work on  
11 that same shift?

12 A. Yes.

13 Q. Prior, you said about a week before July 15th, prior  
14 to that date, had Ms. Mae made any kind of concerned  
15 statement toward you about Tim, Jr. and the child?

16 A. No more.

17 Q. Did she say after you had the, that meeting with her,  
18 after July 7th, give or take, had you, did she raise that  
19 issue with you anymore?

20 A. No.

21 Q. Did it come up during the fight on the 12th?

22 A. No.

23 Q. Did she ever ask you to handle it or get somebody to  
24 look into?

25 A. Now, she did tell me to handle it.

1 Q. That was back when she first came to the house?

2 A. Yeah.

3 Q. Well, what did she mean by that or what did you do?

4 A. I don't mean what she mean by it. She just told me  
5 to handle it.

6 Q. And y'all haven't had any kind of interaction since?

7 A. No.

8 Q. I assume the last year has been a stressful time for  
9 you?

10 A. Well. No.

11 MR. SHEEK: Object to the relevance, Your Honor.

12 A. No, it haven't.

13 Q. Mr. Sheek may want to ask you some questions, Ms.  
14 Rice.

15 A. No problem.

16 CROSS-EXAMINATION

17 BY MR. SHEEK:

18 Q. Now ma'am, you say that Mae came to live with you  
19 prior to January 28th, correct?

20 A. Yes. Before January 28th.

21 Q. [REDACTED] came with her?

22 A. Yes, sir.

23 Q. She didn't return to live in Henderson, North  
24 Carolina after that, did she?

25 A. No, sir.

1 Q. And she didn't drive up to, well Henderson's not  
2 somewhere you can drive up to and back in a day anyway, is  
3 it?

4 A. No, sir.

5 Q. Okay. So [REDACTED] wouldn't of been attending school in  
6 Henderson, North Carolina after she came to live with you,  
7 would she?

8 A. No, sir.

9 Q. All right. And the argument that you testified about  
10 was between you and Ms. Wright?

11 A. Yes.

12 Q. It occurred, your testimony, on July the 12th?

13 A. Yes.

14 Q. But Ms. Wright had approached you with [REDACTED] prior to  
15 that date, hadn't she?

16 A. You talking about that day she, about the argument?

17 Q. Yeah.

18 A. No.

19 Q. Prior to that argument, she had come to your house  
20 and said, hey, [REDACTED] says Timmy's been touching her.

21 A. It was a couple days after that.

22 Q. So she came about Timmy touching a couple days--

23 A. We were working that, we were working that day.

24 Q. Okay. Let me make sure I understand. You're saying  
25 that she came to you about Timmy touching [REDACTED] a couple



1 days after the argument?

2 A. Yes.

3 Q. And you know the argument was on July the 12th.

4 THE COURT: That's inconsistent.

5 MR. SHEEK: I understand. I believe it is too.

6 A. It was on the 12th, we was working that day.

7 THE COURT: Go back, I mean, recharacterize your  
8 question because, she answered one way and then you kind  
9 of interrupted her and then she's answered differently.  
10 I'm going to let you recharacterize your question and just  
11 be, step by step.

12 Q. Did Ms. Mae Wright come to you with [REDACTED] about the  
13 allegations that Timmy had touched her child before or  
14 after your argument about getting her boyfriend a job?

15 A. It was afterwards.

16 Q. Okay. And Ms. Mae come to you about the allegations  
17 that Timmy had touched her child, you say now a couple  
18 days after that argument?

19 A. Yeah.

20 Q. And that argument occurred on July the 12th?

21 A. Yeah.

22 Q. And Timmy went to the police on July 15th?

23 A. Yes.

24 Q. And you're sure that that argument didn't occur  
25 previously somewhere, I mean, not the argument, you're

1 sure that she didn't come to you about Timmy touching her  
2 child prior to that argument about her boyfriend getting a  
3 job?

4 A. No, cause we worked that day. That's on, that's on a  
5 Friday and we worked that day..

6 Q. I got no further questions, Judge.

7 A. And I know that.

8 THE COURT: Any redirect Mr. Verner?

9 REDIRECT EXAMINATION

10 BY MR. VERNER:

11 Q. You testified earlier that the incident--

12 MR. SHEEK: Your Honor, I think that's an improper  
13 question. On recross, I mean, redirect, he can bring up,  
14 he can go into anything I brought up on cross that he  
15 didn't go into on direct.

16 MR. VERNER: Well that's what I'm intending to do.

17 THE COURT: Let, let him ask the question because he  
18 didn't quite get there.

19 Q. You told me that Ms. Mae came with [REDACTED] about a week  
20 before July 15th.

21 A. Yeah.

22 MR. SHEEK: Object to the leading, Your Honor.

23 A. Before the 15th, yeah. But we wasn't, we didn't have  
24 the argument until the 12th.

25 Q. You told the Solicitor that the, that she brought the

1 child after the argument on the 12th.

2 A. Cause he had messed up cause it was the 12th when we  
3 had the, when we had the argument. And we, a week after  
4 that.

5 Q. Okay. Well, I'm, I'm just asking you to be clear.

6 A. I'm being clear. A week after that. After the 4th.

7 Q. Was when what happened?

8 A. The, the, about the, about Timmy, Jr.

9 Q. About, that's when Ms. Mae came to your house?

10 A. Yes, she did.

11 Q. With [REDACTED]

12 A. Yes, she did.

13 Q. And that was after July 4th?

14 A. Yes.

15 Q. And the argument at the store was when?

16 A. 12th.

17 Q. And then the police were involved when?

18 A. 15th.

19 Q. Are you sure that she didn't come with [REDACTED] after

20 the argument on July 12th?

21 A. Nope. Cause we was still riding.

22 Q. Okay.

23 THE COURT: All right. Mr. Sheek.

24 RECROSS-EXAMINATION

25 By MR. Sheek:

1 Q. All right. I got you mixed up.

2 A. Now get me straight.

3 Q. How long prior to the argument about her boyfriend  
4 getting a job, prior to the argument--

5 A. A week after the 4th.

6 THE COURT: Let him, let him ask his question first.

7 MS. RICE: Okay. I'm sorry.

8 THE COURT: He was still asking and you answered and  
9 that's probably why we got off track.

10 MS. RICE: Yeah, he got me off track.

11 THE COURT: Let him ask the question and I'm going to  
12 let you answer it.

13 MS. RICE: Okay. Let's go.

14 THE COURT: Go ahead, Mr. Sheek.

15 Q. Timmy, is it your testimony that Ms. Mae came to you  
16 about Timmy touching your child about a week prior--

17 A. Yes.

18 Q. -- to the argument about her boyfriend?

19 A. Yes.

20 Q. Okay. So those allegations are there prior to any  
21 kind of disagreement between you and Mae about getting her  
22 boyfriend a job, weren't there?

23 A. The 12th was when, about the boyfriend.

24 Q. Okay. I understand that but what I'm asking you is,  
25 she already made those allegations.

1 A. Yes.

2 Q. Prior to any argument between the two of y'all,  
3 correct?

4 A. Yes.

5 Q. Okay. And your son had already come to you telling  
6 you that he needed to limit his time with the child,  
7 didn't he?

8 A. Yes he did.

9 Q. Because he was having some thoughts and urges that he  
10 was concerned about, right?

11 A. Now, I don't know about the thoughts and urges now.

12 Q. But did you ask him, hey, why do you need to limit  
13 your time with the child?

14 A. No, I didn't ask him.

15 Q. You weren't concerned about that?

16 A. I don't--

17 Q. Okay. That's fair enough. All right. Thank you.  
18 That's all the questions I have.

19 THE COURT: All right. Now you may step down.

20 MR. VERNER: Your Honor, at this point, I would rest,  
21 the defense.

22 THE COURT: All right. Let's take a couple minutes  
23 break while she gets some water. All right. Y'all step  
24 in the jury room. We'll have you back in a couple  
25 minutes. You can't discuss the case yet.

1 (Whereupon, the jury was excused from open court for  
2 a break.)

3 THE COURT: We've got some motions to do.

4 MR. SHEEK: Motions prior to rebuttal witnesses.

5 MR. VERNER: Yes sir, I'll move for a directed verdict  
6 for the CSC first degree.

7 THE COURT: All right. For the same basis, a factual  
8 question for a jury to resolve. I will respectfully deny  
9 that. Now, rebuttal witnesses.

10 MR. SHEEK: Thank you, Your Honor.

11 THE COURT: All right. Bring them to me.

12 (Whereupon, the jury came into open court at  
13 approximately 4:15 p.m.)

14 THE COURT: All right. Ladies and Gentlemen of the  
15 jury, the Defense has called the witnesses they intend to  
16 call. The State now has an opportunity to call any  
17 rebuttal witnesses they would like. So Mr. Sheek, would  
18 y'all like to call any.

19 MR. SHEEK: Thank you, Your Honor. We would. First  
20 we call Mae Wright to the stand, Your Honor.

21 THE COURT: Ms. Wright, we remind you, you've been  
22 placed under oath and you're still under oath, okay.

23 DIRECT EXAMINATION

24 BY MR. SHEEK:

25 Q. Ms. Wright, in your previous testimony, you told us

1 where you lived. What was that address again?

2 A. Where I live now?

3 Q. Yes ma'am.

4 A. It was [REDACTED]

5 Q. And what is the number now?

6 A. [REDACTED]

7 Q. And is that the same house, they just changed the  
8 street number?

9 A. Yes.

10 Q. All right. And is that the house you moved into when  
11 you left the home of the Rice's?

12 A. Yes.

13 Q. Okay. And when you, did you rent or buy that house?

14 A. Rent.

15 Q. When you arranged to rent that house, did you go and  
16 have utilities put in your name?

17 A. Yes.

18 Q. And where did you go to have that done?

19 A. I went to public works.

20 Q. And is that in Whitmire?

21 A. In Whitmire.

22 Q. And I wanna hand you the document and ask you if you  
23 recognize that?

24 A. Yes.

25 Q. And what is that document?

1 A. This is where I had my water turned on.

2 Q. And was that for the residence that you moved into?

3 A. Yes, for [REDACTED]

4 Q. And what was the date that you had the water put into  
5 your name?

6 A. 3-12-2013.

7 Q. And did you move in on the date you had the water  
8 turned on?

9 A. Yes.

10 Q. Thank you. Your Honor, we offer this as State's  
11 Exhibit 5.

12 MR. VERNER: No objection, Your Honor.

13 (Whereupon, State's Exhibit 5 was admitted into  
14 evidence.)

15 Q. And that's a copy you obtained from public works?

16 A. Yes.

17 Q. Now, ma'am did you also take steps to enroll your  
18 daughter, [REDACTED] into school?

19 A. Yes.

20 Q. And did you enroll her on the same day that you had  
21 your utilities turned on?

22 A. Yes.

23 Q. And what school is that?

24 A. Whitmire Community School.

25 Q. Thank you. I have no further questions, Your Honor.



1 THE COURT: Mr. Verner.

2 CROSS-EXAMINATION

3 BY MR. VERNER:

4 Q. Ms. Wright, do you still maintain that you went to  
5 the police the same day that you had the, do you still  
6 maintain that you went to the police on the same day that  
7 you had the conference with Tim and his mother?

8 A. Yes, I do.

9 Q. Okay. Thank you.

10 MR. SHEEK: No further questions.

11 THE COURT: You may step down.

12 MR. SHEEK: Your Honor, we call Joey Haney to the  
13 stand.

14 THE COURT: Mr. Haney, come around and be sworn.

15 JOEY HANEY, being  
16 first duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. SHEEK:

19 Q. Mr. Haney, where are you employed?

20 A. Newberry County School District and that is Whitmire  
21 Community School.

22 Q. And what is your position with the Community School?

23 A. I am the Principal.

24 Q. And as Principal of Whitmire Community School, is it  
25 your job to oversee and supervise student enrollment,

1 maintenance of records, things of that nature?

2 A. Yes, sir.

3 Q. And have I asked you to check in and bring with you  
4 certain school records of [REDACTED]

5 A. You have.

6 Q. All right, sir. I'm gonna hand you a couple  
7 documents and ask you if you can identify them. Hand you  
8 that first document. You recognize that?

9 A. I do.

10 Q. Hold on one second. Your Honor, we'll have to make a  
11 copy of this before I'd offer it into evidence.

12 MR. VERNER: They've made me a copy, Judge. I can  
13 substitute it if they want.

14 MR. SHEEK: That'll be fine.

15 Q. What is that document that you are holding there?

16 A. This is a printout of what we call our power school  
17 record. Power school is our computer software data  
18 program. And what this shows is [REDACTED] entering our  
19 school on March the 12th, 2013. Now, you do see [REDACTED]  
20 showing right now as grade three because that's present  
21 grade, but at the time of enrollment, that would have been  
22 about grade one.

23 Q. And that was March the what? I'm sorry.

24 A. March the 12th, 2013.

25 Q. And does it indicate where she was in school prior to

1     that?

2     A.    There is a note, comment section, transferred from  
3     Clark Elementary in Henderson, North Carolina.

4           MR. SHEET: Your Honor --

5           MR. VERNER: I don't think I've seen that form, Your  
6     Honor.

7           MR. SHEEK: We'll offer a copy of that.

8           MR. VERNER: I haven't been given this one, Judge.

9     Q.    While he looks at that, there's some handwriting on  
10    the back of that page, is that any part of the school  
11    records?

12    A.    No.

13           THE COURT: You got a copy of that? Mr. Verner's got  
14    a different one.

15           MR. VERNER: I got a different one.

16    A.    I have a clean copy if you would like one.

17           THE COURT: Of the same record?

18    A.    Yes.

19           THE COURT: That's the one we need to mark.

20           MR. SHEEK: Okay.

21           THE COURT: That's the power school printout?

22    A.    It is.

23           MR. VERNER: I don't have a problem with this one,  
24    Judge, if the Solicitor just makes a clean copy of it.

25           THE COURT: All right.

1 MR. VERNER: You can introduce this one then.

2 MR. SHEEK: Okay.

3 THE COURT: Okay. Mr. Sheek, that one comes back to  
4 him. That's his copy.

5 MR. SHEEK: This, this was a copy that he'd previously  
6 given us.

7 THE COURT: Oh okay. I understand. I got you now.

8 MR. SHEEK: That's my writing on the back, Judge.

9 THE COURT: Your file is intact.

10 A. It is.

11 THE COURT: Okay.

12 A. I can get plenty more copies.

13 THE COURT: Okay. I'm good now. I understand. Those  
14 weren't his notes, those were your notes.

15 MR. SHEEK: Yes.

16 THE COURT: I'm with you. Confused me there.

17 Q. And, finally I'm going to hand you another sheet of  
18 paper.

19 A. Okay.

20 Q. Principal, can you, you recognize that?

21 A. This is a typical withdrawal form used by this  
22 district. It's a withdrawal from, from Clark Elementary  
23 showing that [REDACTED] was withdrawn from Clark  
24 Elementary and going to Whitmire Community School.

25 Q. And when was she withdrawn from Clark Elementary in

1 Henderson, North Carolina?

2 THE COURT: Wait a minute. I want to see that. Mr.  
3 Verner, have you seen this one?

4 MR. VERNER: I have, Your Honor, and I'm prepared to,  
5 if he introduces it through the witness, I don't have any  
6 objection.

7 Q. Is this part of your records kept in a normal course  
8 of business, Principal?

9 A. Yes sir, it is.

10 THE COURT: That's a fair question.

11 Q. And who actually prepares that form? Is it somebody  
12 at your school or somebody at Clark Elementary?

13 A. This form will be prepared by Clark Elementary.

14 Q. And does it indicate what day she withdrew from Clark  
15 Elementary School?

16 A. It does, about halfway down, line number eight, March  
17 the 11th, 2013.

18 Q. And does it also have a place on there where it can  
19 indicate the total number of absences she had while she  
20 was attending Clark Middle, sorry, Clark School?

21 A. Yes, sir.

22 Q. And what was that total number of absences?

23 A. Line number nine, eleven days.

24 Q. And is that from the whole school year?

25 A. Yes, sir.

1 Q. Thank you, Your Honor. We offer this into evidence.

2 MR. VERNER: No objection.

3 (Whereupon, State's Exhibit 6 was admitted into  
4 evidence.)

5 MR. SHEEK: Thank you. Principal, please answer any  
6 questions Mr. Verner may have.

7 CROSS-EXAMINATION

8 BY MR. VERNER:

9 Q. I'm sorry, Mr. Haney, what is your position at the  
10 school again?

11 A. I'm the Principal.

12 Q. Of which school in Newberry?

13 A. Whitmire Community School.

14 Q. Okay. [REDACTED] started school on your records on March  
15 12th?

16 A. Yes, sir.

17 Q. Okay. She was, do you have her attendance dates from  
18 Clark Elementary?

19 A. Attendance dates?

20 Q. Yes, sir.

21 A. I could check my permanent record file.

22 Q. But don't you ordinarily for every school that goes,  
23 kid that goes to school in Newberry, you have exact dates  
24 that they were in class, they either get a tardy or they  
25 get a present.

1 A. I do, of my students, yes sir.

2 Q. This report that you testified to just shows that she  
3 was withdrawn from North Carolina schools on March 11th.

4 A. Yes, sir.

5 Q. That is not the date that she last attended school is  
6 it or do, is it or you saying it is?

7 A. Attended at Clark Elementary?

8 Q. Yes, sir.

9 A. Yes, sir.

10 Q. So as you read this, she was in school the day before  
11 she attended March the 12th in Newberry?

12 A. What, can I explain what typically happens? A parent  
13 will arrive at a school when they know they will move and  
14 they'll let the office, Principal, who, who it may be know  
15 and inform them that they want to withdraw their child.

16 Q. Right.

17 A. And, and that's what took place on the 11th.

18 Q. So you're saying that she attended school on March  
19 11th?

20 A. I can't say that she was present. I can say that's  
21 when the parent entered the school to withdraw.

22 Q. Okay. From Clark?

23 A. From Clark.

24 Q. In Newberry there's a policy that once a child hits  
25 ten consecutive days absence they will automatically be

1 withdrawn from the roll?

2 A. In Newberry County.

3 Q. Right.

4 A. I can't answer that's the same policy in North  
5 Carolina.

6 Q. North Carolina, you don't know?

7 A. I don't know.

8 Q. Their policy might be longer or it might be shorter.

9 A. Correct.

10 Q. But the date a child is withdrawn from school does  
11 not necessarily reflect the date that the child attended  
12 school.

13 A. A withdrawal, it could be at 8:00 o'clock in the  
14 morning or 3:00 o'clock at the end of the day after a  
15 child attended.

16 Q. But in Newberry, you will withdraw or the system, the  
17 school district will withdraw a child from school after  
18 that child reaches that tenth consecutive absence,  
19 correct?

20 A. Correct.

21 Q. So, and that child did not appear in school on the  
22 date that she was withdrawn from school?

23 A. Correct.

24 Q. Okay.

25 A. And there's a lot of steps and a process even before



1     you get to ten days.

2     Q.    That's right. And there might be even more absences  
3     than that but the withdrawal is an administrative thing  
4     done by the school?

5     A.    Correct.

6     Q.    And it does not necessarily reflect when the child  
7     last attended that school?

8     A.    No, sir.

9     Q.    Okay. It could be the same day or it could be later.

10    A.    Correct.

11    Q.    How many days are typically in a school year?

12    A.    For our County and State, 180 days.

13    Q.    Is that fairly typical across the country?

14    A.    I, I would think so especially in the Southeastern  
15    area.

16    Q.    Okay. So how many dates, when does typically the  
17    school year start?

18    A.    For us it is always the third Monday in the month of  
19    August.

20    Q.    And is that fairly consistent throughout the country  
21    too?

22    A.    No, sir.

23    Q.    A school can start at later times or earlier?

24    A.    Or earlier.

25    Q.    Okay. Do you know when school starts in North

- 1 Carolina, in Clark?
- 2 A. I do not know.
- 3 Q. But typically school here starts in August, right?
- 4 A. Yes, sir.
- 5 Q. Sometime in August.
- 6 A. Yes, sir. That's a State law for us.
- 7 Q. Right. So that you've got a absence record from the
- 8 school that the child had attended 62 days of school, out
- 9 of a total of 73.
- 10 A. Correct.
- 11 Q. Do you know when that 72 days starts from? Could it,
- 12 could it start as early as January the 1st?
- 13 A. Typically, could day 72 start at January the 1st?
- 14 Q. Yes, sir. Could those 73 days, is the start date
- 15 January the 1st or could it possibly be before then?
- 16 A. If I correlate that to our calendar, that wouldn't
- 17 necessarily be the case because you, you look at about 90
- 18 days per semester.
- 19 Q. All right. There are 180 days for the school year?
- 20 A. For South Carolina, correct.
- 21 Q. But you would need to know when the school system,
- 22 when the school dates started to understand when, which
- 23 days the child missed?
- 24 A. Yes, sir.
- 25 Q. Okay. And we don't have that on the report, do we?

1 A. Not on this document.

2 Q. Okay. All we know is that the child was officially  
3 withdrawn from the rolls in Clark County, North Carolina  
4 on March, the day before she enrolled in school in  
5 Newberry?

6 A. That's correct.

7 Q. On the dates that she was present or attended are not  
8 part of the record you brought today?

9 A. For Clark County?

10 Q. Yes, sir.

11 A. I don't have that on that document.

12 Q. Do you know what day of the week, do you have a  
13 calendar or does your system show what March, I'm just  
14 curious whether March 12th was a Monday, or what day of  
15 the week.

16 A. I could review that document just to see.

17 Q. But you don't know off hand, whether your attendance  
18 report would show whether she enrolled on Monday of the  
19 week?

20 A. Ours pretty much shows actual dates. There are other  
21 reports that produces a Monday through Friday report. I  
22 would, I would need a calendar to pinpoint that day of the  
23 week.

24 MR. VERNER: May I look at that first document.

25 Q. And I don't think even number six, the power school

1 report, doesn't show necessarily what day of the week  
2 March 12th is.

3 A. No, sir.

4 THE COURT: What day of the week?

5 MR. SHEEK: It's a Tuesday, Your Honor. I think the  
6 Court can take judicial notice that March 12th, 2013 was a  
7 Tuesday.

8 THE COURT: All right. Well I, I, as soon as someone  
9 told me, I was going to take judicial notice. The 12th of  
10 March of '13 was a Tuesday. Just so you know. Every  
11 calendar we look it up, the calendar is right.

12 MR. VERNER: I don't, I go by the Solicitor has shown  
13 me some app that shows it on March 12th, Your Honor, as  
14 Tuesday.

15 THE COURT: Well, if you want a moment with your  
16 phone, I know you're handy with it.

17 MR. VERNER: I have used it as evidence before, Judge.

18 THE COURT: It's Tuesday. All right.

19 MR. VERNER: If, if that's when it is, Judge.

20 THE COURT: All right. We got, I've got two  
21 confirmations independent of the lawyers, it is a Tuesday.

22 MR. VERNER: And I understand the Court's allowed to  
23 take judicial notice of dates.

24 THE COURT: I got three confirmations.

25 A. Do we all agree that March 12th was most likely a

1 Tuesday?

2 A. Correct.

3 Q. Okay. The attendance dates don't show the date that  
4 the child last attended Clark County schools?

5 A. It's just a withdrawal date.

6 Q. Okay. And that's administrative and, and may or may  
7 not necessarily be the date that the child last attended?

8 A. Correct. That, that's a parent notification that I'm  
9 gonna withdraw my child from your school.

10 Q. Right. And, or it could be sometimes automatic  
11 administrative based on lack of attendance.

12 A. It could be.

13 Q. Okay. And if we, if she was here by her own  
14 statement, at least four days, she could not have attended  
15 school March 11th?

16 A. Repeat that please.

17 Q. If the child was here in Newberry on March 11th she  
18 very unlikely would have been able to attend school in  
19 Clark County. Do you know how far away Clark County is  
20 away from Newberry County?

21 A. Well Henderson's enough for me to kinda get an  
22 understanding. It's, it's not a commute. You can't leave  
23 there and get to Whitmire on time.

24 Q. Okay. That's not a daytime commute.

25 A. You'd be tardy.

1 Q. Okay. Your testimony is essentially that she started  
2 school here in Newberry County on March 12th? That you  
3 know for a fact because your records show that.

4 A. When we say entry date that means the child is  
5 entering the classroom.

6 Q. Right.

7 A. And we have, we have records and we have enough to  
8 put that child in a appropriate grade, appropriate classes  
9 and they enter the classroom.

10 Q. So, although I doubt you remember whether [REDACTED]  
11 attended, but you can say based on your records, as a  
12 matter of fact, you believe she came physically to  
13 Whitmire school on March the 12th.

14 A. [REDACTED] was at school March the 12th.

15 Q. Okay. When she last attended school in Clark County,  
16 it's, you would have to guess?

17 THE COURT: He's asked that. He said he didn't know.

18 MR. VERNER: Okay. It's asked and answered.

19 THE COURT: He, he said he didn't know. He's asked  
20 and answered that question.

21 MR. VERNER: Okay. Thank you, Mr. Haney.

22 THE COURT: He knows where she was in Newberry on  
23 Tuesday.

24 MR. VERNER: If Mr. Sheek has any questions for you.  
25

1 (Whereupon, State's Exhibit 7 was admitted into  
2 evidence.)

3 REDIRECT EXAMINATION

4 BY MR. SHEEK:

5 Q. Just so I understand, because I might've gotten a  
6 little bit confused, where is State's Exhibit 7?

7 THE COURT: I think it's in that stack.

8 MR. VERNER: I left them both up there.

9 Q. Regardless of when they start their school year on  
10 these records, when she left Clark school does that record  
11 indicate how many days she had had absent that school year  
12 prior to leaving?

13 A. Yes, sir.

14 Q. And how many days is that?

15 A. Eleven.

16 Q. Thank you. That's all the questions I have.

17 RECROSS-EXAMINATION

18 BY MR. VERNER:

19 Q. But you don't know what that start, that date,  
20 starting date from that?

21 A. I can only tell you that she missed eleven days.

22 Q. From whenever they start counting?

23 A. Correct.

24 THE COURT: Mr. Haney, if you had to interpellate 73  
25 days backwards from March 12th, what would that

1 approximately give you as a start date?

2 A. What, what you going to get into is in a school,  
3 typical school, okay, you gonna get into Spring break,  
4 probably a two week Christmas break, Thanksgiving.

5 THE COURT: Let me rephrase, when's the halfway point  
6 of the Newberry County school year, about?

7 A. Second week in January.

8 THE COURT: Okay. That's all I want to know. I got,  
9 that's what I want, a point of reference, so I understood  
10 your testimony.

11 Q. But that's for Newberry County.

12 A. Right. Some, some districts are before Christmas  
13 break.

14 Q. So if their calendar year started from the same as  
15 Newberry does, August, that would mean she withdrew  
16 sometime in January.

17 A. If, if, but--

18 MR. SHEEK: I didn't hear that question.

19 THE COURT: My question was, what was the approximate  
20 halfway point of the school year, he said about the second  
21 week in January and some other districts, sometimes before  
22 Christmas. That's what he said. You can ask a different  
23 question but that's not, that's not responsive to my  
24 question to him. So I understood his testimony.

25 MR. VERNER: I've got no more questions of Mr. Haney.



1 THE COURT: Okay.

2 MR. SHEEK: Thank you, Mr. Haney.

3 A. You're welcome.

4 MR. SHEEK: I'd ask that the witness be excused.

5 THE COURT: He may be.

6 MR. SHEEK: The State rests, Your Honor.

7 THE COURT: All right folks. We're done with the  
8 testimony. I'm gonna send you home. Have you back first  
9 thing in the morning and we'll get done. We will start at  
10 9:00 in the morning. Don't talk about the case. See you  
11 in the morning.

12 (Whereupon, the jury was excused for the day at 4:40  
13 p.m.)

14 THE COURT: We will stand at ease.

15 (Whereupon, the trial will resume the next morning at  
16 9:00 a.m.)

17 August 6, 2014

18 THE COURT: Are we ready?

19 MR. SHEEK: Yes, sir.

20 THE COURT: Bring them in.

21 (Whereupon, the jury came into open court at  
22 approximately 9:08 a.m.)

23 THE COURT: All right, we have heard all the  
24 testimony we are going to hear, it is time for the lawyers  
25 to summarize their respective positions they believe the

1 facts and evidence presented to you would show. Upon the  
2 lawyers finishing I have my instructions prepared, the  
3 lawyer and I have gone over them briefly on what I intend  
4 to instruct to you, as to how they evaluate what you have  
5 heard, what reasonable doubt is and your duties and  
6 responsibilities as jurors. So I will give you those  
7 instructions upon the lawyers finishing. Depending on how  
8 the lawyers talk, I don't generally limit them but they  
9 are aware of what is reasonable and what is unreasonable.  
10 So depending on how long they talk we may take a break  
11 after their summaries are done and then let y'all stretch  
12 your legs for a minute and come back in and get my  
13 instructions. I may just ask you, can y'all sit for  
14 another twenty minutes and listen to my instructions.  
15 That is what I normally do. With those preliminary  
16 instructions being done we are ready to close.

17 MR. SHEEK: The State is ready, Your Honor.

18 THE COURT: Mr. Verner?

19 MR. VERNER: Yes, Your Honor.

20 THE COURT: All right, Mr. Sheek.

21 MR. SHEEK: Madame Forelady and ladies and gentlemen  
22 of the jury, as the Judge just told you, we have come to  
23 the point where we are going to take some time to discuss  
24 the law, the charges and then the evidence that has been  
25 brought to you before you go back to your jury room and

1 deliberate and reach that verdict that everybody keeps  
2 talking about. Verdict literally comes from the word that  
3 means to speak the truth and that is really what we have  
4 been here for this week and that is all we ask, is that  
5 what we do here, the presentation of the evidence and  
6 ultimately the verdict speaks the truth and does justice  
7 because in our communities this is how justice is  
8 administered. Through a jury trial, any defendant,  
9 anybody charged with a crime has the right to ask for a  
10 jury of their peers, their peers means people from  
11 Newberry County. That is what y'all have been chosen for  
12 to sit and listen to the evidence. Now, as we do this  
13 there is some things to remember about the law and I am  
14 going to talk to you about the law very briefly. Mr.  
15 Verner will have a chance to talk to you and then I will  
16 come back and talk to you about the testimony of the  
17 evidence also. The first thing you have got to remember  
18 is the State has the burden of proof, the defendant never  
19 has to prove himself guilty. He actually comes into  
20 court, as the law describes it, cloaked in innocence.  
21 That means that as he walks into the courtroom the first  
22 day of trial, you the jury, should presume he is innocent  
23 until we, the State, prove that he is actually guilty.  
24 And that burden lies with us, we welcome that burden.  
25 This is what we do. Windy and I travel the actual

1 circuit, what is the eighth circuit. The eighth judicial  
2 circuit of South Carolina is made up of four counties,  
3 Newberry, Greenwood, Laurens and Abbeville. Wendy is my  
4 investigator and I travel four counties doing these type  
5 cases. That is what we do day in and day out. So we  
6 welcome the burden because we do seek justice, that is why  
7 we are here. So, the defendant has come into this  
8 courtroom presumed innocent and charged with a crime. The  
9 Judge told you about an indictment which merely means that  
10 he has been charged and formerly accused. What has he  
11 been accused of. He has been accused of criminal sexual  
12 conduct with a minor in the first degree. I will talk to  
13 you briefly about that but I want you to keep in mind that  
14 at the close of all of the arguments, His Honor, who is  
15 the only Judge in the law of this case is going to talk to  
16 you about the law and he is going to charge you the law,  
17 he is going to literally give you the law because  
18 everybody has a little bit different function. There is  
19 really two judges, there is Judge Griffith who is the only  
20 Judge of the law. Which means if I tell you what the law  
21 is and I am wrong, he is going to correct me. You accept  
22 what he says. I can't ever tell him what the law is, he  
23 tells us. But you collectively are the second judge, you  
24 are the judges of the facts. You are going to decide what  
25 happened and that is why you have been chosen and that is

1     what you have been doing here. And when you find the  
2     facts as you believe them to be and no one has the right  
3     to second guess that, just as you accept the law as Judge  
4     Griffith gives it to you then we all accept the facts as  
5     you find them. So, criminal sexual conduct with a minor  
6     in the first degree simply means a person over the age of  
7     18 commits a sexual battery on a person under the age of  
8     11 then that is criminal sexual conduct in the first  
9     degree. What is sexual battery, sexual battery and the  
10    Judge again will read these to you, means sexual  
11    intercourse, cunnilingus, fellatio, anal intercourse or  
12    any intrusion however slight into any part of a person's  
13    body or any object into the genital or anal openings of  
14    another person's body. Then of course it goes on to say  
15    except for medically necessary procedures. That is what  
16    the State has alleged has happened, that is why we brought  
17    the witnesses and evidence to you this week. And that is  
18    what we are going to ask you to consider along with the  
19    facts as you find them at the close of this case. And I  
20    will sit down and Mr. Verner will have a chance to talk to  
21    you about the evidence and we will come back and talk a  
22    little bit later and then His Honor will actually give you  
23    all of that law that you need to apply in these facts.

24           THE COURT: Mr. Verner.

25           MR. VERNER: If it please the Court.

1 THE COURT: Yes, sir.

2 MR. VERNER: The rules of the game are very simple.  
3 The State has the burden of proving any evidence, meaning  
4 testimony or actual physical evidence that you need to  
5 base your decision on. That is the entire rules, if you  
6 don't see enough evidence, even if it is close, the burden  
7 goes against the State because it is not a game, it is  
8 criminal sexual conduct with a minor first degree, rape  
9 first degree. It is profound consequences and that is why  
10 you have got to get it right. I have been a public  
11 defender attorney for 15 years, a lot of times people tell  
12 me, well, there is somebody else at a later day and look  
13 at what we do and fix things. There is nobody, there is  
14 no system to correct a jury verdict. Judge Griffith who  
15 happens to be from Newberry is actually a Circuit Court  
16 Judge, he is not a Newberry County Judge, he just happens  
17 to be here today. This is a circuit case, that is the  
18 highest criminal court. If he makes a ruling on the law  
19 that is a mistake, there are higher Judges that can  
20 correct him. There is nobody after today that can change  
21 the decision that you make. And that is why under oath  
22 you have got to reach a, what you believe is a firmly true  
23 decision. And it ends with you. I have never questioned  
24 a jury's verdict, wrong or good. And I know Mr. Sheek who  
25 is actually an established lawyer. When I first got out

1 of law school, we try a lot of cases, we move a lot of  
2 cases, we accept your verdict however it is today. Y'all  
3 have the burden of doing that and we respect that. I just  
4 want to warn you that there is nothing that we can do, if  
5 you hedge a little bit, I am not really sure but I am  
6 going to give them the benefit of the doubt, that is the  
7 wrong person to give. He is the person to give the  
8 benefit of the doubt if there is any benefit. He is the  
9 only person who got any skin in the game. The standard of  
10 proof the State has to prove is beyond a reasonable doubt  
11 which is hard to find that because there is no concrete of  
12 doing. It just means I am firmly convinced giving Tim  
13 Rice the benefit of any doubt, if it is close I will give  
14 him the benefit of any doubt. If there is a lessor  
15 included charge and there aren't any minor charges in this  
16 case, but if there is a lessor included charge and you are  
17 not sure if it is the greater crime or the lessor crime by  
18 law Tim gets the benefit of the doubt, not the State. The  
19 State has tremendous resources to get witnesses and  
20 evidence into court. And you have to consider that. The  
21 crime is criminal sexual conduct with a minor first  
22 degree. That is basically, the elements basically  
23 penetration of her body, something as what I think of as  
24 regular sex or it can be fingers but there has to be an  
25 actual intrusion into the girl's vagina. In this case she

1 hasn't alleged any other. And I like [REDACTED] I am not  
2 kicking [REDACTED] the little girl. I don't think she has  
3 said anything untruthful. My problem with [REDACTED] I  
4 submit, is that at age six you don't have a profound  
5 knowledge of consequences, the truth is a lot more  
6 relative to right or wrong. And I don't know how you can  
7 consider her testimony without considering, at age six,  
8 those of you who have kids, a six-year-old reflects almost  
9 everything the mother or the father tells them. There is  
10 nothing that the parents says that the child does not  
11 reflect. If the parent has a biased I promise you that  
12 child has a biased. It started, I don't doubt that the  
13 child did raise the allegation, he touched me in my  
14 privates. And she raised it to her mother and it has been  
15 conceded by his family that she came over, well, the child  
16 says you touched him, touched her, I am sorry. Here is  
17 the problem with the case. After the mother had the  
18 meeting with the Rice family and if I say something and  
19 you remember it differently then you go by your own  
20 memory. You also have the authority to have the Court  
21 Reporter read back testimony or play testimony for you if  
22 it is questionable. The officer says she waited a week to  
23 two weeks to three weeks before she came in. She  
24 testified under oath, I came in the same day. She was  
25 adamant, wasn't she adamant about that. We asked her



1 several times, I came in the same day the child made the  
2 allegations to me. The officer who took the report, who  
3 wrote notes when he took the report said, she indicated  
4 she waited two to three weeks. It is in the transcript,  
5 it wouldn't be profoundly important to me whether she did  
6 wait or not. But when you have got a case where the only  
7 evidence, the only evidence is the statement of this  
8 six-year-old girl and her mother is giving inconsistent  
9 and I submit there is some reasons for it and there is  
10 some other inconsistencies and probably from the mother's  
11 testimony. But she waits a fairly lengthy time because  
12 she is not sure of the allegation either. She has  
13 confronted them, when you have got a six-year-old child  
14 and they make a complaint that my brother hit me. And you  
15 look at the child and there are no marks on the child and  
16 there is nothing else to confirm it, wouldn't you take a  
17 second before you punish the other child for hitting her,  
18 when there is absolutely no other evidence to corroborate  
19 it. The child, [REDACTED] seems to be a sweet, happy  
20 six-year-old child at the time. I submit y'all were  
21 probably concerned by it when the Solicitor had her hold  
22 the box and said, put the pen in it and show me what he  
23 did. And she has the little pen and she said it was like  
24 this. I was moved by it, I don't know how you can't be  
25 moved by it, I thought was compelling testimony. The

1 problem I submit with that, is it is testimony that never  
2 came to light until yesterday. And I submit to you that  
3 that is possibly preplanned, prepared or coached, you  
4 don't think the mother, they have been knowing this case  
5 has been coming. You hadn't heard about the pretrial  
6 stuff, she has never said to the police, she never said it  
7 to the doctor, she never said it to Mr. Garrett. I submit  
8 to you, we just happened to have this tissue box and it  
9 was just convenient to show. I submit to you there was a  
10 problem, and where does it go back to. Do you remember  
11 watching the video with Mr. Garrett. You remember him  
12 testing the child to make sure she understood her  
13 pronouns, put the pen beside the box, put the pen on top  
14 of the box. And just conveniently at trial we happened to  
15 have the same box. I submit to you that there is a real  
16 possibility that it could be true. And there is a real  
17 possibility that that is something that was planned, it  
18 was a moving experience. Just, it strikes me coincidental  
19 that it comes from the video of the tape, from Mr.  
20 Garrett. It was just conveniently done. And I am not  
21 asking you not to consider but I am asking you to  
22 compartmentalize that for just a second and consider the  
23 testimony and the corroborating testimony. I can't set it  
24 aside and I submit it would be hard for you to set it  
25 aside. But I would ask you in fairness to Tim Rice

1 assuming that may have been planned or demonstrated prior.  
2 I submit to you that a six-year-old child doesn't, it just  
3 doesn't occur to a six-year-old child to pick up this box  
4 and start demonstrating sexual, she just didn't come up  
5 with doing it on her own. That is preplanned court  
6 demonstration. You have got the testimony of the child,  
7 the real problem with the testimony of the child is that  
8 she just doesn't understand the gravity of what she said.  
9 At the time she was interviewed and today she, or the  
10 other day when she testified she was a lot more clear.  
11 When she made the allegation of abuse, that is where she  
12 said he touched her. That is the entire underwear area of  
13 a child. I mean, those of us who have daughters don't,  
14 that area is off limits to boys and boys know that. But  
15 that is what the child, [REDACTED] indicated was her private  
16 area. And that is just really concerning because if they  
17 were playing, if it was a tickling session and he touched  
18 her across the lines and she cried, in her mind it would  
19 be true, he did touch me here. And that is really what  
20 they are trying to hinge a first degree rape conviction on  
21 that. Well they say, well, we have got the child's  
22 testimony and if the child had said, my brother, Bob, had  
23 punched me and there was no other evidence, do you punish  
24 another child for punching her if the child says I didn't  
25 punch her and she is six. She gave the statement to Mr.

1 Garrett, I find it interesting that the medical doctor who  
2 is Board certified in child abuse found no disclosure of  
3 sexual abuse. She said, well, they are going to argue but  
4 this doesn't mean, this is really kind of putting the  
5 horse just behind the cart, it is weird but they are going  
6 to argue because there is no evidence that comes from the  
7 medical doctor, y'all should somehow take that as evidence  
8 that we can prove our case. The doctor says there is no  
9 physical evidence and the child made no disclosure of  
10 abuse to the Board Certified Pediatrician in child abuse.  
11 And the State is going to argue that that is somehow  
12 strengthening their case. And that is just prosperous.  
13 It is not strengthening their case, maybe it is not  
14 hurting their case as much as they want or we want but it  
15 is certainly not helping your case when you don't have any  
16 medical evidence or disclosure through a medical doctor.  
17 There was no pediatrician, that the mother took the child  
18 to a local pediatrician, that didn't happen. So we have  
19 got no corroboration in any other forensic source and even  
20 the police got all of their information. And the police  
21 got all of their information secondhand through the  
22 mother. I don't why we really wasted our time about when,  
23 it is not really an element of the case, when the mother  
24 moved down from North Carolina to Whitmire. But the  
25 mother said we were only there four days and you have

1 heard, Mr. Wayne Rogers and the family said they were  
2 probably with us about two months. Is it likely and the  
3 child enrolled in school on March the 12th here in  
4 Whitmire. Is it likely that that mother moved with  
5 nothing but her clothes. She is not even honest about who  
6 took her. She says it is my sister while her boyfriend is  
7 sitting with her. And all of the other witnesses there  
8 said, no, it was Anthony Brown, her ex-husband who brought  
9 her. Is that likely the truth, do you think they were  
10 lying about that. The mother doesn't, she doesn't want  
11 that disclosed. And it is hard to understand that they  
12 want a very serious conviction on the hook when the mother  
13 is willing to hedge about just even smaller details, about  
14 even who brought her or how long she was down. You don't  
15 think they were ready for that allegation they are  
16 raising, that the sister couldn't have done to testify.  
17 They knew that we were challenging about how long, he was  
18 charged on July 15th of 2013. They have had until that  
19 date to get prepared for trial. And the best that they  
20 could do is to show that the electricity to the house was  
21 turned on on March 12th and that the child enrolled in  
22 school on March 12th or withdrew from North Carolina  
23 school and enrolled in Whitmire on March 12th. They say,  
24 well if the child only had eleven absences before she was  
25 withdrawn but they don't have attendance dates. And let's

1     assume this is true, let's assume for a second that this  
2     corresponds March 12th is the 70th day of the year. There  
3     had already been 73 school days that this child had  
4     attended in North Carolina. 70 days, well we know there  
5     are only five days a week of school days. Saturday and  
6     Sunday don't count, so it is pretty easy math, 50 school  
7     days since January 1st to March 12. But we know that  
8     there had been 73 school days that the child had either  
9     been present or should have been present at school in  
10    North Carolina. That would mean, even giving them the  
11    holiday, not even counting Christmas holidays, just  
12    counting weekends that would mean that North Carolina  
13    starts their school sometime in mid-December. 50 days  
14    plus 23 days, you would have to just use common sense and  
15    think that kids in North Carolina don't start their school  
16    term until mid-December. And that, you know just in  
17    common sense that is not true. It is very likely they  
18    start school the same time that kids in South Carolina and  
19    every other State starts school, sometime in August.  
20    Presuming that school in North Carolina does start  
21    sometime in August, this is more consistent that the child  
22    was in South Carolina for about two months because we know  
23    that there couldn't be 73 school days in this calendar  
24    year unless school in North Carolina starts sometime in  
25    mid-December. They don't start school until right before

1 Christmas and that is just crazy, preposterous. You know  
2 they expect us to raise that because they brought the  
3 paperwork they thought would challenge that and it  
4 doesn't. And they have had since July 13th. You heard  
5 the testimony from his mother and I understand she is his  
6 mother, did she sound like she was going out of her way to  
7 lie to help him. Very important questions I asked her  
8 that could have helped him. She said, I don't remember,  
9 what he said, I don't remember. He denied it she would  
10 have said, he said he didn't do it. She didn't. Does  
11 she, like she was lying to help her son. And I know she  
12 wants to help him. I think the evidence shows it is very  
13 likely that they did live with the Rice family for about  
14 two months before they moved out. Just common sense will  
15 tell you when the mother moves down with nothing but her  
16 clothes in somebody's car and her kid without her  
17 boyfriend, for whatever reason, and she manages on Tuesday  
18 to secure housing and get the child enrolled in school,  
19 she is just amazingly well prepared or she was here longer  
20 than the weekend. She said I was only here for three or  
21 four days. Well, that would be the weekend that she  
22 managed to get everything moved down, get enrolled in  
23 school and get a new apartment and get moved in and that  
24 is not true. And why that is important to her, I don't  
25 know, but you know it is not true. And they want you to

1 base a rape conviction on testimony that is just hedged.  
2 The boyfriend, she wanted to, who has moved down with her  
3 now. At first did you hear her testimony, well, he didn't  
4 move down with me originally because it was a work issue.  
5 He was working there and couldn't leave his work. And she  
6 came out and said, well, he was actually on Federal  
7 parole. Do you remember that. Do you remember the mother  
8 testifying that she had said that she had wanted to move  
9 away from the boyfriend. Do you think that it was  
10 reasonable that Ms. Rice didn't want him back living with  
11 her, they had been friends for 13 years. The woman says I  
12 want to get away from him, whether it is true or not. And  
13 Ms. Rice says I don't want him here and I will not, I will  
14 help you get a job, I will not help him get a job when he  
15 comes down to live with you. Do you think that is  
16 something that they would fight about. Do you think it is  
17 possible that they had that argument, you heard when they  
18 stopped at the, some running argument all to work at  
19 Sterilite, why won't you help me get a job. I don't know  
20 him like that. You think it is possible they got in a  
21 fight. And then a day or two later the lady who had the  
22 allegations two or three weeks ago then goes to the  
23 police. She is now angry and the child has told me  
24 something, I wasn't really sure myself but now I am going  
25 to the police and report it. That is when the allegation



1 comes to the police, it wasn't when the child made the  
2 allegation to mother. And she swears on the bible that is  
3 true. I went to the police the same day. She swore to  
4 that several times, you know that is not true because the  
5 police officer in his notes said it happened earlier. The  
6 testimony was they had the confrontation at least a week  
7 earlier and that it didn't happen until right after the  
8 argument in Clinton about the boyfriend who Ms. Rice  
9 didn't want moving down and moving in with her anyway.  
10 Evidence wise there are only two, there have been several  
11 witnesses but there is only pieces of evidence, as in  
12 regards to rape, there is only two pieces of evidence that  
13 the State has put in. The child's testimony, the  
14 testimony of a six-year-old child whose mother does, and I  
15 am not saying that child is lying, but if she is mistaken  
16 she is horribly mistaken. They have got a six-year-old  
17 child's testimony. And then they have got what they call  
18 the confession of Tim Rice. They say, well, he confessed  
19 to it. And I submit to you he didn't. You are going to  
20 have the statement back there in the jury room to  
21 consider. You cannot, everything he says he did, they  
22 want you to discount the first part of his confession  
23 where it says, if I was playing with the girl and I  
24 touched her inappropriately I am sorry for it. And then  
25 he says, you know I do have urges, she is a girl, I am a

1 boy. He said he was very sorry, I was playing with the  
2 child, if I touched her inappropriately I am sorry for it.  
3 And the officer said, well, I want to make sure, at the  
4 very same time he made that written statement. It is  
5 basically, if I touched her wrong while I was playing with  
6 her I am sorry for it. I do have urges, she is a little  
7 girl, I am sorry for whatever is done and I apologize for  
8 it. But it happened when I was playing with her. The  
9 officers says, well, I want you to be clear where exactly  
10 you touched her. And at the same time he gave that  
11 written statement where he had touched the child, from the  
12 upper thighs to the, under the arms to the feet. That was  
13 done at the same time, that was before Tim Rice had an  
14 attorney, that was on the same day the police, the guy had  
15 never been arrested. He was Salutatorian of high school,  
16 attended Clemson by scholarship, never been arrested, no  
17 problems ever. His first meeting with the police and they  
18 are talking about rape, he thinks they are talking about  
19 touching a child inappropriately or improper places. He  
20 is a smart guy but I guarantee you, if he was playing  
21 games or being dishonest or being shady that is damn sure  
22 not the statement somebody would write if they were trying  
23 to duke somebody. That is the statement of somebody  
24 trying to be honest. I did have urges, I did touch the  
25 child, I do regret it if I touched her inappropriately.

1 That is not the statement that some crafty Clemson  
2 scholarship guy would write to get out of a crime. It is  
3 because he did give an inarticulate statement that he is  
4 here. If they didn't have a shady statement you think we  
5 would be here right now, we might, we might. I just  
6 submit to you that when you read the statement, I would  
7 just ask you to read it in the context that Tim wrote it  
8 and you know he wrote it with the accompanying document.  
9 The charge is criminal sexual conduct with a minor first  
10 degree. Which means the State has to prove the age of the  
11 child is under 10, that is a given, we know that. Have to  
12 prove that Tim is over 18, at least 24, he might be 25  
13 now. Has to prove without a doubt, the State is going to  
14 say I am arguing fanciful, UFO doubts, I am not, I am  
15 arguing common sense. Could it have possibly happened to  
16 any other, penetration of the child who just has a strange  
17 memory of details. Over a year ago the child says, well,  
18 I don't really remember what I was wearing, what he was  
19 wearing, I do remember we were sitting where we play Wii.  
20 And it happened on the third day. And that is just really  
21 an odd thing for the child to say, the six-year-old child  
22 who doesn't remember what town she lives in but well, it  
23 just happened on the third day when he has babysat her for  
24 over two months. That is just an arbitrary thing to put  
25 out there that, it is just a crystal detail of a

1 six-year-old child who has no other memory for details.  
2 If there is any question about it he is entitled to a  
3 non-guilty verdict and I don't know how you evaluate that  
4 child's testimony but without at least considering the  
5 circumstances around the child, the boyfriend, the mama,  
6 the vendetta.. The Court is also going to submit a lessor  
7 included charge and I submit that we don't deal with minor  
8 charges here but there would be a lessor included charge  
9 which is called criminal sexual conduct with a minor third  
10 degree. And that is, it used to be called the lewd act  
11 statute but they have to prove also and I would ask you to  
12 consider the same, not as a compromise but just consider  
13 each charge individually. But lewd act, they have to  
14 prove as a fact and I am not saying as a scientific fact,  
15 I am just saying as a fact that y'all know without any  
16 hesitation is true. And that is that the adult actor  
17 touches a child in a sexual, it has to be in a sexual  
18 location and it has to be solely for the reason, solely  
19 for the reason of sexual gratification. If it was  
20 accidental it is not a crime. It is hard to punish people  
21 for even reckless behavior if it is not a crime. You  
22 shouldn't have done that but you weren't arousing yourself  
23 sexually then it is not a very serious charge, criminal  
24 sexual conduct with a minor third degree. That is  
25 basically, the only difference between the elements is the

1 rape requires penetration, sexual conduct first degree  
2 carries penetration of the child. Lewd and lascivious  
3 behavior, we don't know that the actual penetration  
4 happened but we do know that there was a touching in a  
5 sexual manner in a sexual location on the child and it was  
6 done solely for lewd lascivious, there is probably going  
7 to be a string of definitions for it, but it is ultimately  
8 just sexual gratification. It was done solely for sexual  
9 gratification. Either of the child or in this case Tim  
10 Rice. And if y'all find as a fact that it was done for  
11 sexual, that it even happened, and it was done for sexual  
12 gratification for Tim Rice then y'all are bound to find a  
13 guilty verdict. But if there is any question that could  
14 have happened, if it happened at all, any other way by  
15 tickling which is what Tim Rice actually said it, that I  
16 may have touched her in an inappropriate location. And I  
17 do want to go back, other details that the child missed.  
18 Well, we didn't play tickling games. Well, we had a  
19 neighbor who is not here today, Ms. Farmer, the lady who  
20 testified and said I saw them playing tickling games. He  
21 would bring the children over with my children and with my  
22 children he was a hands on, do you think it is possible  
23 they play games, physical games other than just, the  
24 child's only testimony was that we only played Wii. Never  
25 went to the park, never went anywhere else. We know that

1 is realistically not true. And we have got a neighbor  
2 that says from time to time he would bring the child to my  
3 house and play with my children just like he would play  
4 with that child except that child was a little bit more  
5 reserved, she didn't play well with the other children. I  
6 submit to you that the proper verdict and I understand it  
7 is serious, I do, I submit to you that it is an extremely  
8 weak case. You have got very serious allegations and you  
9 have got basically the testimony of a child who is six and  
10 I think she was a very strong witness in court. And I  
11 submit to you that there is at least a likelihood that the  
12 child had been prepared to testify for you. There is a  
13 realistic chance for y'all to at least consider that that  
14 was an in-court demonstration. We are not dumb here. I  
15 submit to you that visual demonstrations are effective.  
16 We see what we see and we believe what we see a lot more  
17 than what we hear. In this case I am asking you to  
18 consider first what we heard because I submit to you that  
19 if there was a chance that the mother or others prepared  
20 the child to testify to be effective for you. It will  
21 unfairly prejudice you and he is the one who is going to  
22 be punished. I would ask you to consider just the  
23 testimony you heard, start from the child raising an  
24 allegation that he touched me, the mother going to ask him  
25 and his mother, well, did you touch her. And he said, if

1 I did I am sorry, nothing happens. Two weeks, three  
2 weeks, according to Officer Moss, they get in an argument  
3 about the boyfriend the very next day or within a matter  
4 of days mom goes to the police saying well, she says he  
5 touched her two or three months ago. And that is the  
6 basis of where this allegation comes from. And it might  
7 be true but it comes where there is just an extremely  
8 suspicious circumstance of biased beyond it. And that is  
9 the hook that they want y'all to put Tim Rice on.

10 THE COURT: Mr. Sheek.

11 MR. SHEEK: Madam Forelady and ladies and gentlemen,  
12 there is no mistake, this is not a game, this is not a  
13 game. As an attorney I can intellectually respect a good  
14 job done by defense lawyer in this case, I can respect  
15 that, from an intellectual standpoint. I am going to go  
16 ahead and ask you now to forgive me if I get a little  
17 worked up because sometimes I do. But as I told you a  
18 little while ago this is what I do, day in and day out. I  
19 come from another county with one of these cases, I will  
20 go to another one after this. Until the day I die what  
21 breath remains in my body I will speak for those who can't  
22 stand up for themselves, for little six-year-old girls who  
23 have been victimized. Pontius writing to Timothy about  
24 the early church said, among other things take care of  
25 your widow and your orphans. Paul wasn't saying that

1 widows and orphans were more important than other people,  
2 what Paul was saying is that society widows and orphans  
3 have nobody to stand up for them. So he was telling  
4 Timothy at the new church, take care of these people, they  
5 don't have a voice for themselves. And people like that  
6 man sitting right there, expect that little [REDACTED] doesn't  
7 have a voice for herself. Because make no mistake about  
8 it, how the way a lawyer wants to couch it, either [REDACTED]  
9 comes into this courtroom and lied to you people or that  
10 man is a child molester. It is that simple. We have as  
11 attorneys, we have obligations. As a prosecutor we have  
12 special ones that aren't put on other members of the bar.  
13 It says you have a duty to justice, to seek out justice  
14 where ever it lies and to seek out truth where ever it is.  
15 That is my obligation. We represent the people of South  
16 Carolina who we are here for today for the people of this  
17 community. That is where my obligation lies. Mr. Verner  
18 has an obligation to Timmy Rice and to no one else. He  
19 comes into this courtroom seeking the best result he can  
20 get from his client and that is his job, don't begrudge  
21 him that but it doesn't make me happy. So what have we  
22 got to look at. The State comes in the courtroom and time  
23 and time again, this isn't a new argument, I hear, well,  
24 you know, it could have been something else, is there any  
25 possible way it was something else. The lawyers again and



1 again are going to say that. They know children don't  
2 have a voice for themselves. She didn't have somebody  
3 here to stand up here for her and if she does than all you  
4 have got to say is she is not right, she is very young.  
5 They count on that. And then what happens if someone does  
6 tell, well they can claim to the reasonable doubt, well,  
7 you can't prove anything and it is her word against mine.  
8 You know how many times I hear that. It is her word  
9 against mine, it is her word against mine. And they count  
10 on the fact that it is her word against his and therefore  
11 you are never going to be beyond every doubt because maybe  
12 it was this, it could have been all of that. The Judge is  
13 going to tell you about reasonable doubt, it is that kind  
14 of evidence that leaves you firmly convinced. In other  
15 words, when you hear it you are satisfied, you are  
16 convinced that Timmy did what he did. I will come into  
17 the courtroom in these cases and I will bring my evidence  
18 and it is kind of like that courtroom. And I put it down  
19 there and I say, ladies and gentlemen, there is a quarter  
20 there on the table, you can see it, you can feel it, there  
21 is a quarter there. The quarter is the testimony and  
22 evidence of that what happened to [REDACTED] And then another  
23 lawyer is going to come in and say, wait a second, do they  
24 live here on January 18th. No. She says they came  
25 earlier and they came later. Well, did they have an

1 argument about her boyfriend or not. Wait a second, was  
2 her boyfriend on some kind of Federal probation, who drove  
3 her down here. She says it was her sister, he says it was  
4 her brother. I mean, come on, and those things are like  
5 those cups, they can't move quarters, it is there, they  
6 are stuck with that. But they bring all of these other  
7 issues and they say, look, I want you to look at this cup,  
8 these other things we are talking about, look at that. I  
9 am not sure, I will be honest with you, is that a quarter.  
10 Folks, when you go back in the jury room I want you see  
11 this cup and ask yourselves, are you sure that is a  
12 quarter. How can you be sure. The fact is that quarter,  
13 they simply put something over it that didn't matter  
14 hoping you didn't see it. So what is the evidence in this  
15 case. What do we have to look at. They say the State is  
16 hedging. The State is hedging us. Let's look at what we  
17 can bring you in this case and what we did bring you.  
18 Every time I try these kind of cases and you heard Mr.  
19 Verner, he talks about, well, wait a second, she didn't  
20 remember this or she didn't remember that, these  
21 collateral issues. When you have a problem as a jury and  
22 when you need to wonder is when that child sits up there  
23 and can remember every single detail that didn't really  
24 matter. Why do I say that. If you were to ask me, let's  
25 say March 13th of this year. On March 13th of this year

1 where were you and what did you do. I don't know, I have  
2 no idea. Maybe I can find out but I doubt it. I did a  
3 lot of things and that is just a few months ago. If you  
4 said to me, Mr. Solicitor, where were you on the morning  
5 of September 11th, 2001, 13 years ago. I was at the  
6 office with my law partner that morning. I remember that  
7 morning, Dale Kittles, who is a deputy in Greenwood, a  
8 friend of mine come by the office and said, hey, did you  
9 hear there is a plane just hit the World Trade Center. I  
10 can remember going back to our conference room in the back  
11 and sit down because we had a TV and flipping it on and  
12 watching it on the news. I remember when that second  
13 plane hit because I have got the TV on before it hit.  
14 That morning I went to try a case in Family Court in  
15 Greenwood for a father who was asking for custody. The  
16 late Judge Tunstall was the Judge. He had a TV brought in  
17 by the bailiffs and put in his chambers and we would take  
18 breaks in the trial and go back and see what was  
19 happening. I was sitting back there with Judge Tunstall  
20 when the first tower fell. First, I didn't know what  
21 happened. I saw all of this billowing smoke and dust, I  
22 wasn't sure what happened and I realized one of the  
23 buildings was gone. That was 13 years ago, why do I  
24 remember that. It was an important day, something  
25 happened that I remember and it burned it in my mind. I

1 can tell you where I was in 1982, I am giving my age away.  
2 I was in high school, I was loading a truck at my father's  
3 business to go to a job the next day. When my dad came  
4 out and said the President has been shot. Folks, we are  
5 talking about 35 years ago. But I can't tell you what I  
6 did in March of this year, no reason to remember. [REDACTED]  
7 remembers when a man took his hands and put his fingers in  
8 her private parts. She is six years old, she is making  
9 this up, she has been coached, she is only talking about  
10 the prejudice issues picked up from her mother. The  
11 defense comes in here and they base their case on  
12 disguise, deceit and deception. Why do I say that. It  
13 started from the very getgo. The defense stood up here  
14 and told you, look, we are talking about a jury trial  
15 system that has been around a long time, it is like Jesus  
16 and Barabbas. That was a jury trial, folks, no it wasn't.  
17 Jesus and Barabbas had already been convicted and  
18 sentenced. The Sanhedrins had convicted them and wanted  
19 them executed but they couldn't because Rome actually  
20 ruled at that time. So they took both of them to Pontius  
21 Pilate and said, we want the execution carried out. But  
22 it was the time of the Passover and there was a tradition  
23 honoring the Passover that a convicted person could be set  
24 free, forgiven. So, Pontius Pilate thinking, surely the  
25 people will let Jesus go because he found no fault in him.

1 Went to the people and said, Passover, which one are we  
2 going to set free. And the people were in a frenzy,  
3 wrongfully said given us Barabbas. That is not a jury  
4 trial, people, that is a story of a guilty man going home  
5 because the people lost sight of what mattered, people  
6 lost sight of what was right, the people didn't see  
7 justice because they had been mislead and worked up by  
8 somebody with an agenda. That is what that story is and  
9 that is what we have here today. All they have got is her  
10 testimony of a six-year-old. Well, let's think about  
11 that. One thing my grandfather taught me very early on is  
12 that people don't do things for no reason. There is a  
13 reason. And when you think about that and you have been  
14 told to use your common sense use it, think about it,  
15 there is a reason people do what they do and say what they  
16 say, tell the stories they tell. So what would [REDACTED]  
17 reason had been. I know as a lawyer dealing with these  
18 cases in and out that there are certain things that would  
19 peak your interest. For instance, let's say a mother  
20 comes to me and says this man has touched my child. Well,  
21 guess what, six months they started a fight in family  
22 court over custody and then in the middle of this custody  
23 fight these allegations come out. I am going to stand  
24 back and not say she is lying but I am going to step back  
25 and take a second look at it because there are certainly a

1 motive there. What if I have got a 13 or a 14-year-old  
2 girl saying somebody touched me, my stepfather touched me.  
3 But then I find out a month before these allegations she  
4 got in trouble and she lost her computer, she got put on  
5 restriction. I am going to step back and I am going to  
6 look at that just to make sure. What is the motive in  
7 this case. There is no testimony from anybody that there  
8 was a fight, it was bad blood. The only fight that  
9 anybody wanted to tell you about came from the defense  
10 saying that Mae and Ms. Rice had an argument over the  
11 boyfriend. Now, Mae doesn't say that but that is what the  
12 defense says. But in telling that story, what did they  
13 say. They said that happened on July the 12th. They had  
14 already been confronted about these allegations prior to  
15 that. These allegations weren't made up over any fight.  
16 In other words, what they are telling you is, when these  
17 allegations came up and when Mae and [REDACTED] went over to  
18 Ms. Wright's house there was no bad blood. This was Mae's  
19 good friend, they were riding to work on a daily basis  
20 together. So what was their motive for wanting to do  
21 that. Did Mae put the daughter up to it just to try to  
22 create bad blood between her and a good friend for no  
23 apparent reason, so that she wouldn't have a ride to work  
24 and ultimately lose her job. How did that help Mae, what  
25 did she get out of it, not a custody fight, you are not

1 fighting over alimony, she is not looking for money. All  
2 she did is lost a friend, lost a ride and lost a job. But  
3 she did what was right for her daughter. Think about  
4 that. Everybody admits that this confrontation happened.  
5 Now Ms. Rice and I understand she is Timmy's mom and it is  
6 never easy seeing your child go through trouble like this.  
7 And as Mr. Verner told you, how serious of trouble it is.  
8 She will come in here and tell you, well, I know we had  
9 this argument over the boyfriend because I have a journal  
10 and I wrote that down. What did Timmy say when confronted  
11 about these allegations. Well, I don't really remember.  
12 So you write down in your journal that you and your friend  
13 had an argument but you don't know what your son said or  
14 even remember what he said when confronted about sexually  
15 touching a six-year-old child. You want to talk about  
16 reasonable. I have got a son who is getting ready to turn  
17 20, I can promise you if somebody came to me and said, he  
18 has touched this little girl. I would go to him and I  
19 would remember his answer. It is pretty traumatic, a  
20 whole lot more traumatic than September 11th, I promise  
21 you that. Why can she not remember, well, because  
22 ultimately they have got to deal with this written  
23 statement. We can't get around that, they can't get  
24 around that. But it is interesting how they try to  
25 because how many times in the testimony, in Mr. Verner's

1 questions and then in his argument do you hear today he  
2 said, I want you to read this statement and I want you to  
3 keep in mind it starts, if I touched her it was an  
4 accident and I am sorry. Find I, ladies and gentlemen.  
5 This man and it is important, I dealt with people who  
6 didn't have the opportunity to have education and they  
7 didn't communicate well and express themselves well. That  
8 happens. But we are not talking about that, we are  
9 talking about a man who graduated second in his class and  
10 we are not talking about somebody just passed and made  
11 decent grades, he was in second in his class and got a  
12 full academic scholarship to Clemson. I know I am not the  
13 smartest man around, I don't think I am the dumbest but I  
14 promise you I didn't get any academic scholarships. But  
15 he did and that is great, he is smart. He knows what he  
16 is talking about and he knows what he is saying. He gets  
17 confronted at the house and then goes to the police later.  
18 Folks, you remember the testimony as it was. Mae doesn't  
19 say that she sat on these allegations for two or three  
20 weeks. It was two or three weeks before she went to the  
21 police station when it happened, when it happened. Went  
22 to the police on July 15th, the last time [REDACTED] was over  
23 there was the end of June. That is what happened. She  
24 goes to the police and the day she finds out. The police  
25 calls and they want to talk to Timmy. Now, Timmy has



1 already been confronted at the house about inappropriate  
2 touching, he knows what they are talking about when they  
3 want him at the police department, he is a very smart man,  
4 smarter than I am. And so down there he knows what he is  
5 talking about, the police interview him and then they give  
6 him blank sheets of paper and they let him write a  
7 statement. They don't write it out and ask him to sign  
8 it. He told you, they didn't tell him what to write, they  
9 didn't limit him. Write your statement out. Folks, if I  
10 have been accused of touching that child, I grew up in  
11 Greenville, moved to Greenwood right out of law school. I  
12 have worked with the youth group in my church a lot of  
13 years. If someone came to me and said, Lance, little  
14 Suzie says a few years ago you touched her  
15 inappropriately. There is a couple of things that is  
16 going to happen, I tell you what one very interesting to  
17 me is and I watch for this in these cases, dealt with  
18 this. Is it reasonable that a man is told you touch a  
19 child inappropriately, she says you touched her  
20 inappropriately, what is the first thing an innocent man  
21 is going to do. Touched her inappropriately how, what are  
22 you talking about, touched when--

23 THE COURT: Don't shift the burden.

24 MR. SHEEK: I am not, Your Honor.

25 THE COURT: Be careful.

1           MR. SHEEK: But when given the opportunity to make  
2 this statement, that is not what we have. When he was on  
3 the stand, Timmy was on the stand testifying I asked him  
4 that. Don't you want to know exactly what, never asked  
5 that. Because you know, you don't need to ask that if  
6 your child comes to you and you know what she is talking  
7 about. He writes this statement and supposedly doesn't  
8 even know anything other than touching her  
9 inappropriately. That is what his lawyer just argued.  
10 Doesn't even know. What do you think would happen to that  
11 case. When he writes out the statement, you are going to  
12 have it to read, it is up there on the screen. What does  
13 he write. I have been confronted at the house, now the  
14 police are wanting to talk to me. So what do I say. I  
15 don't write if it happened, I don't write if it happened,  
16 it was an accident, I don't write I am sorry. Because you  
17 have been told over and over again, you write I started to  
18 keep the child around the end of the school year, 2013.  
19 That corroborates exactly what [REDACTED] and Mae said. I  
20 would play with her a lot, ball, dolls and such little  
21 girls play with. Okay. As with other children, as with  
22 other children. I tried playing fighting games, tag and  
23 tickling. I later found out that the girl was ticklish on  
24 her legs and thigh area. I would try tickling her up and  
25 down her thigh. Here is where it gets interesting. I had

1 urges that I was not used to coming to mind constantly.  
2 And I asked him about those urges. I asked him, you know,  
3 you describe those as wrong, inappropriate and disgusting.  
4 He agreed with that. We are talking urges to tickle  
5 somebody, there is nothing wrong or inappropriate or  
6 disgusting about that. I had urges I was not used to.  
7 Now, he has already done these tickling things with other  
8 children because he says that in his written statement, as  
9 with other children I would do these tickling. But I had  
10 urges I was not used to. Coming to mind when, constantly,  
11 urges I was not used to coming to mind constantly. Now,  
12 he wants to say in here, I was talking about an urge to  
13 tickle. Really, well let's go on then. I had tried  
14 fighting them but at times they did get the best of me.  
15 Tickling a child, I tickled children, I tickled my kids,  
16 done that. I don't have to fight that urge. I do recall  
17 that my hands had touched the girl in an inappropriate way  
18 at times. I did not however show myself or penetrate the  
19 girl at any time. He knows exactly what we are talking  
20 about, he is not talking about penetrating a thing, he is  
21 not talking about penetrating under her arms or on the  
22 bottom of the feet. I even protested to my mother about  
23 keeping the child any longer. His mother didn't remember  
24 that, she said he had protested but I never followup on  
25 her to ask why. Why would you need to protest, I don't

1     need to keep this child because of these urges. And the  
2     only urges are tickling, is what urges do with lots of  
3     kids. I had to distance myself from such things, from  
4     tickling her. Her mother approached me, now here is the  
5     interesting part, her mother approached me about what.  
6     Tickling? Her mother approached me about the fact that I  
7     accidentally touched the child or [REDACTED] mistook something,  
8     no. Her mother approached me about the indecent acts I  
9     have committed. his words, ladies and gentlemen, his  
10    choice, he wasn't told to write that, he describes what he  
11    did as the indecent acts he committed based on urges that  
12    he couldn't fight. And in front of her and then later the  
13    officers. Now that was the part because Ms. Rice didn't  
14    remember what he said. He is telling you, just like Mae  
15    said, just like Mae testified from the stand. He said  
16    there he did. Well, his mother couldn't remember that.  
17    In front of her and now later the officers, I told them  
18    yes I did commit some inappropriate acts upon the child  
19    but that is also the reason I tried to limit the one on  
20    one time I had with the child. So I really am not the bad  
21    guy here. See, these guys want to minimize what they have  
22    done, they really want to minimize that. I tried although  
23    futilely, do y'all know what futile means. Futile means  
24    something that is pointless, can't happen, shouldn't  
25    resist it. I tried futilely at times to combat such

1 thoughts. Anything I have done is something that I can't  
2 undo. Now he wants to say it was a mistake. Yet then he  
3 describes it as urges. Indecent acts I have committed.  
4 Folks, if it was an accident and unintentional and maybe  
5 just a brushing that I didn't mean to do because I was  
6 tickling the child, that was where you would see it. Now,  
7 what he didn't have at the time was the help of a lawyer.  
8 Now he does, he comes in this courtroom and says, I really  
9 should have said if I did it, it was a mistake, I didn't  
10 mean to and I am sorry. But when given the opportunity to  
11 write it that is not what he put and he signed it and that  
12 was his statement. He had the opportunity to write all he  
13 wanted to. So, really what does the State have. The  
14 State has, what have you got. What have you got when you  
15 go back into that jury room. You have got the statement  
16 of a six-year-old child who shouldn't know about sticking  
17 fingers in the vagina. And just as Mr. Verner said about  
18 this Kleenex box, now folks, the reason I did it is simply  
19 because Mr. Garrett used that in his forensic interview.  
20 You have got a six-year-old child that makes an accusation  
21 to the mother that no one disputes. They went and  
22 confronted Timmy about those allegations that no one  
23 disputes who went to a forensic interview and made the  
24 same allegations. And now has come into the courtroom and  
25 sat on that stand and made the same allegations.

1 Six-year-old child, if she is making it up what is the  
2 chances she is going to be that consistent time and time  
3 again under the cross-examination of a skilled attorney  
4 even. They will say, well, we have got this doctor and  
5 she didn't make any allegations to the doctor, that is the  
6 reason I asked the doctor who has been part of this South  
7 Carolina Children's Advocacy Medical Response Team since  
8 1998, do y'all have a protocol of standard procedures you  
9 follow. Absolutely. Is that a copy of your protocol that  
10 actually Dr. Henderson used. Yes, it is. Do you ask a  
11 child about allegations. She says, no. That is not their  
12 job, their job is medical. Wiley Garrett is there to talk  
13 about the allegations. That is what he does. It is  
14 important when you are talking to a six-year-old child to  
15 make sure they understand what it is they are saying. Of  
16 course that is important. That is the reason he used the  
17 box and I thought, well, that is an interesting way. I  
18 have never done that before. So that is the reason I used  
19 the exact same type of box and said, okay, this is your  
20 private part, tell me what you mean when you say touched  
21 you inside. Because we want to know. I don't want her to  
22 think what inside the pants means inside, inside the  
23 underwear means inside. We have got to know those things.  
24 So that is your private part. What did he do. I had  
25 never seen that before because it wasn't on the video when

1 she does that. Mr. Verner is right, it is extremely  
2 compelling. So she tells the forensic interviewer, she  
3 tells the police, she comes into the courtroom and she  
4 tells you people he says, you have got to look at that and  
5 say, is it corroborated or is it refuted by the other  
6 competent evidence. Well, it is corroborated by Timmy  
7 Rice. It is corroborated in the statements he gave back  
8 then sitting in the law enforcement office telling them in  
9 writing exactly what happened. And it is not refuted, her  
10 allegations in that written statement anywhere. Dr.  
11 Pritchard, the reason we bring her, why would they bring  
12 in that. If I have a medical examiatnion of a child and I  
13 don't bring the doctor in I promise you what I am going to  
14 hear, and I have heard it before. Where is the doctor,  
15 why didn't they bring them. Well, I want you to  
16 understand about these physical findings. A child says  
17 some important things, okay. She also said it hurt and  
18 made me walk funny. I thought that is interesting, yes,  
19 this is is six-year-old child when she made this  
20 statement, she was turning seven in July of 2013, she just  
21 turned eight now. So back then we are talking about a  
22 six-year-old child. That is the reason I had a question  
23 for the doctor, well, in light of that would you expect to  
24 have any physical findings, no. And that was something  
25 that surprised me when I first started doing these cases

1 and I began to get training in these areas. In less than  
2 one percent in these cases do we expect to find any  
3 physical findings based on a digital finger penetration.  
4 It is going to heal within a couple of days. You know, if  
5 there was entry, if there was scratching and redness, it  
6 may not be then, but if there was it is going to be gone  
7 real quickly. That is the reason Dr. Pritchard came in so  
8 that you can understand as a jury the procedure the State  
9 follows. Allegations are made, the police don't do the  
10 child interview, they take the child to the expert, Mr.  
11 Garrett. He does a forensic interview, that talking to  
12 the child, he doesn't do the medical. That is the medical  
13 response team. And that is what they do. The only thing  
14 in this case the State doesn't have to bring you is a  
15 videotape showing it going on. And I promise you if we  
16 had then Mr. Verner would have said, things they can do  
17 with videos these days, you get on that computer that is  
18 amazing what they can do. How can y'all know that that  
19 video wasn't doctored. I have seen that in child porn  
20 cases. Well, you have the pictures on someone's  
21 computers, well, can you prove that was really, you know,  
22 child pornography and not something that they did on the  
23 computer. I promise you it is never enough. But if you  
24 had of heard this story sitting at the table at the diner,  
25 would you have a doubt about what happened especially



1 after reading this statement. What the State is here  
2 today is asking you to do is to speak justice. [REDACTED] was  
3 six years old when this happened, she is eight years old  
4 now. You saw her walk to that stand, you saw her walk  
5 out. [REDACTED] couldn't protect herself then and there is  
6 nothing she can really do now. But luckily [REDACTED] talked  
7 and as Dr. Pritchard told you most of them delay it  
8 because of various reasons. But when she told the State  
9 followed it up and gave him an opportunity to write  
10 whatever he wanted, then we brought you the evidence of  
11 what happened. Firmly convinced. If you went to the  
12 doctor and he said we need to followup on something and he  
13 gave you the kind of evidence we have got here that you  
14 need to have that procedure. Are you okay with that.  
15 Folks, all I am going to ask you to do is speak the truth.  
16 I am going to ask you to seek justice and speak justice  
17 for Newberry County because, this is where Justice happens.  
18 The police can arrest, Wiley Garrett can interview, the  
19 doctor can examine. And I hear the frustration of people  
20 day in and day out when they talk to me about what I do.  
21 Frustration of these type things, people on our streets  
22 that do these things. Now, I don't know why, what causes  
23 this. But I can tell you, I am very concerned when a  
24 grown man tells me he had sexual urges by looking at a  
25 six-year-old child. He committed indecent acts. Speak

1 justice, speak a verdict for the people. Thank you.

2 THE COURT: All right, ladies and gentlemen, let's  
3 take a break. Don't talk about the case.

4 (Whereupon, the jury was excused from open court for  
5 a break.)

6 (Whereupon, a short break was taken.)

7 THE COURT: Mr. Verner, you wanted to put something  
8 on the record and I want to do it right now about my  
9 curative instruction yesterday.

10 MR. VERNER: Thank you, Your Honor, I took exception  
11 to the, I believe the issue was there was a reference to a  
12 prior trial brought out in response to the Solicitor's  
13 question. The Court believed a curative was necessary and  
14 characterized that to the jury about pretrial hearings and  
15 that matter. And my concern is that that could elicit a  
16 false impression that were pretrial hearings about the  
17 credibility of allegations or that there was some kind of  
18 process before this trial today that bedded evidence. And  
19 that, they are basically getting bedded evidence as  
20 opposed that it was a prior trial but just to characterize  
21 a prior trial as prior pretrial hearing to determine  
22 credibility I think improperly bolsters the State's case.

23 THE COURT: I made an attempt to give a curative  
24 instruction, that was the best way I deemed it appropriate  
25 to cure the comment of the defendant saying, oh, you

1 remember or during the last trial or something along those  
2 lines. That was the way I thought it was proper and I am  
3 not going to go back and give an additional one to  
4 highlight yet again. So your issue is protected and if I  
5 did it wrong I did it wrong. But that was the way I  
6 thought was doing it proper and I think it was  
7 appropriate. So I am not going to undo it or redo it, I  
8 am going to let it be.

9 MR. VERNER: And I would only note, Your Honor, just  
10 that it, in fairness to the defendant, raising it, it was  
11 in direct responses, the Solicitor basically impeaching  
12 him from the prior trial's testimony where he would be  
13 entitled to know where the date and the nature of the  
14 statement. So I don't think it was intentional act with  
15 the client, defendant asked--

16 THE COURT: It was in response to a question and for  
17 which I had concerns about the use of the prior testimony  
18 when we are speaking about a statement that has been  
19 introduced. I have been very concerned about that and we  
20 addressed that yesterday. I don't need to go back through  
21 that again.

22 MR. VERNER: As far as a charge, Your Honor, I would  
23 ask the, at the last trial I didn't believe the Court's  
24 instruction was clear enough that if there was any doubt  
25 between a greater and a lessor included charge that the

1 jury had to give benefit of the doubt to the lower or the  
2 lessor included charge. And I think the Court agreed that  
3 you didn't specifically charge that but felt that it was  
4 in the general gest of the charge about reasonable doubt.  
5 But I would ask that that be specifically charged and I do  
6 believe that it is a correct statement of law and it is  
7 often in other Judge's charges about the jury must give a  
8 benefit of a doubt to a lessor included charge.

9 THE COURT: And I will do that. Mr. Sheek, you have  
10 asked for it but my prior charge included an instructional  
11 657 which is corroboration is not required and I am going  
12 to continue to do that.

13 MR. SHEEK: Yes, sir.

14 THE COURT: Okay. Let's bring the jury.

15 (Whereupon, the jury came into open court at  
16 approximately 10:33 a.m.)

17 THE COURT: I am going to read some of the  
18 instructions to you and I am going to tell some of the  
19 instructions to you. I kind of do both. So if I am  
20 looking down reading I apologize. I generally like to  
21 look at people when I talk to them. Some of the technical  
22 things, the law that I have to instruct, I am going to  
23 make certain I read it correctly so I will be very careful  
24 to do so. Ms. Williams and members of the jury, the State  
25 of South Carolina charges the defendant, Timmy Rice, Jr.

1 with criminal sexual conduct with a minor in the first  
2 degree. You will, of course, bear in mind that he has  
3 plead not guilty to this charge and this plea, which means  
4 he denies all of the charges alleged in the indictment.  
5 You will have in the jury room not the indictment but you  
6 will have a verdict form which I have prepared. The  
7 indictment which I showed you earlier is merely an  
8 accusation by the State or the charges for which he needs  
9 to come to court to answer. Evidence for you to consider  
10 the accusations made by the State is the evidence which  
11 has been received, the testimony from various witnesses  
12 along with such exhibits which have been introduced into  
13 the record of this case during the course of the trial and  
14 including any things that the Court has taken judicial  
15 notice of, particularly the Tuesday, the 12th, I believe,  
16 was a Tuesday back in 2013.

17 I tell you that the defendant comes into this court  
18 clothed with a presumption of innocence and this  
19 presumption continues throughout the case and entitles him  
20 to a verdict of not guilty unless and until it is  
21 dispelled by the evidence satisfying you, the jury, beyond  
22 a reasonable doubt of his guilt. Now, the State must  
23 prove each and every element of the alleged crimes beyond  
24 a reasonable doubt and they must prove each and every  
25 element beyond a reasonable doubt.

1           Now, I remind you during this trial you and I have  
2       certain responsibilities to do, they are distinctly  
3       different. As a trial Judge, it has been my  
4       responsibility to preside over the trial and I also have  
5       the duty to rule on the admissibility of certain evidence  
6       offered during the trial. You are to only consider the  
7       evidence which has been admitted and offered during the  
8       trial which I have admitted through the Court Reporter's  
9       marking. You are only to consider competent evidence. If  
10      there was any testimony ordered stricken you are to  
11      disregard that testimony. You are to only consider the  
12      testimony which has been presented from this witness stand  
13      and the exhibits which have been introduced over here on  
14      the Court Reporter's counter.

15           I have the additional duty to instruct you on the law  
16      which is applicable to this case. As the presiding Judge  
17      I am the sole Judge of the law of this case. And it is  
18      your duty and your oath to accept the law and apply it as  
19      I am now stating it to you. And I believe preliminarily I  
20      asked you that you must disregard any idea you have of  
21      what the law might be or what it should be. So, I tell  
22      you again, if you have an idea as to what the law is or  
23      what the law ought to be and it does not agree with what I  
24      am now telling you you must abandon your idea because you  
25      have sworn to accept the law as I am instructing it to you

1 right now. If I should make an error in this instruction  
2 there is another time and another place in another court  
3 where that error can be considered and, if necessary,  
4 corrected. But for the purpose of this case today you  
5 must accept the law as I am not instructing it to you.

6 Now, in this court and in every case tried before a  
7 jury the jury becomes the sole and exclusive judge of the  
8 facts. As a trial Judge I am not allowed to suggest or  
9 state or comment on to a jury about any facts in the case.  
10 You, the jury, are the sole judges of the facts in this  
11 case, you are not to infer by any rulings that I have made  
12 or any comments I have made during the progress of the  
13 trial in ruling upon the admissibility, or otherwise, or  
14 anything that I have said during the instruction that I  
15 have any opinion whatsoever about the facts in the case.  
16 It is your province and the law does not allow me to have  
17 opinions on the facts. This is a matter solely left for  
18 the jury. As jurors, it is your duty to determine the  
19 effect, value, weight and the truth of the evidence  
20 presented during this trial from this witness stand.

21 Now, as the sole fact finders you should have  
22 listened carefully and I observed y'all doing so to the  
23 evidence which has been presented. You must go to the  
24 jury room and weigh this evidence using your good judgment  
25 and your common sense. Weighing evidence is entirely a

1 mental process. Evidence weighs with you that which  
2 convinces you of its truth. As such, you are the sole  
3 judges of the credibility and believability of the  
4 witnesses who have testified in this case. You may use  
5 anything in your life experiences that you use in an every  
6 day life in evaluating one's credibility. You may use  
7 these such things also which I provide as examples for  
8 measuring credibility. What was the manner and appearance  
9 of the witness who testified. Was the witness  
10 straightforward in answering or was the witness hesitant  
11 in answering. How did the witness come to know the facts  
12 that he or she testified to or what was his or her ability  
13 to know these facts. Also, is there some reason a witness  
14 would want to give testimony which would help or hurt one  
15 side or the other. In other words, was the witness biased  
16 or prejudiced in any way. Was the testimony of a witness  
17 strengthened or weakened by other testimony or other  
18 evidence. You, the jury, may believe as much or as little  
19 of each witness' testimony as you deem appropriate and  
20 proper. You may believe the testimony of a single witness  
21 against many or just the opposite. You may believe part  
22 of a witness' testimony and disbelieve the rest. The fact  
23 that testimony is not disputed does not mean you must  
24 accept it as true and undisputed. You must still gauge  
25 the credibility of the witness who testified and provided



1 that testimony to the Court.

2 Now, in trials such as this there are generally two  
3 types of testimony and evidence. There is direct evidence  
4 and there is circumstantial evidence. Direct evidence is  
5 the testimony of an eyewitness who asserts or claims of  
6 actual knowledge of a fact. An eyewitness can describe  
7 what they saw, smelled, observed, that type of thing.  
8 Circumstantial evidence is proof of a chain of facts and  
9 circumstances indicating the existence of another fact.  
10 Our law makes no distinction between the weight or value  
11 to be given to either direct or circumstantial evidence.  
12 Nor is a greater degree of proof required of  
13 circumstantial evidence than that of direct evidence. My  
14 instruction is that you weigh all the evidence which has  
15 been presented to you. After weighing all the evidence if  
16 you are not convinced of the guilt of the defendant beyond  
17 a reasonable doubt you must find him not guilty.

18 Now, during this trial we had a special witness  
19 qualified as an expert. Our rules of evidence ordinarily  
20 do not permit witnesses to testify as to opinions or  
21 conclusions unless they are qualified as an expert in a  
22 certain field. So I tell you that a witness who by  
23 education, experience has become an expert in an art or  
24 science or profession may be called and provide opinions  
25 as to relevant material matters in which the witness

1 claims to be an expert in and may also state the reasons  
2 they have this opinion. You may consider the testimony of  
3 an expert opinion received in this case, like any other  
4 evidence and give it the weight you deem appropriate. If  
5 you decide that the opinion of the expert witness is not  
6 based upon sufficient education or experience or if you  
7 conclude that the reasons given in support of the opinion  
8 are not sound or that the opinion is outweighed by other  
9 evidence you may disregard the opinion entirely. An  
10 expert witness' testimony is to be given no greater weight  
11 than the regular lay witness who have testified simply  
12 because the witness was an expert. You are not to accept  
13 or you are not required to accept an expert's opinion even  
14 though it is not contradicted.

15 Now, in a criminal prosecution for a crime such as  
16 the case before you this week, the State, that is the  
17 prosecution, has the burden of proving the guilt of the  
18 defendant. The defense has no burden whatsoever as the  
19 defendant is presumed innocent. According to our  
20 constitution the State must prove its case to the standard  
21 of proof called beyond a reasonable doubt before a finding  
22 of guilt may occur. If the State fails to meet this high  
23 burden then the defendant is entitled to an acquittal on  
24 the charges.

25 Now, the term reasonable doubt has been used several

1 times during the trial. What is a reasonable doubt. A  
2 reasonable doubt is the kind of doubt which would cause a  
3 reasonable person to hesitate to act. A reasonable doubt  
4 is a doubt which would make an honest, sincere,  
5 conscientious person in the search of truth hesitate to  
6 act. Proof beyond a reasonable doubt is proof which  
7 leaves you firmly convinced of the defendant's guilt.  
8 Reasonable doubt may arise from evidence which is in this  
9 case or from the lack or absence of evidence in this case.  
10 You, the jury, must make the determination of whether or  
11 not reasonable doubt exists as to the guilt of the  
12 defendant. I tell you that the very fact that you, the  
13 jury, will engage in a full and free discussion on the  
14 issue of guilt and non-guilt in this case does not  
15 automatically mean that a reasonable doubt exists in this  
16 case. If on the other hand you think there is a real  
17 possibility that the defendant is not guilty you must give  
18 the defendant the benefit of that doubt and find him not  
19 guilty.

20 Now, I have allowed some jurors to takes notes in  
21 this case. Please remember that some people are better  
22 note takers than others. Juror notes should be given no  
23 greater weight than the recollection of other jurors who  
24 did not take notes. Recollections of individual jurors  
25 should be considered as reliable as notes taken by other

1 jurors. Now, I tell you if something is discussed in the  
2 jury room about a fact and there is a note versus the  
3 recollection please know this, that you have the  
4 opportunity or availability of the testimony to be  
5 replayed. What we need, if that comes up, Judge, we would  
6 like to hear the testimony of some witness, whichever the  
7 witness may be. Ms. Holston has a recording of the entire  
8 proceeding and she can retrieve that from her electronic  
9 recording device and replay it for you so you can hear it  
10 yet again.

11 Now, as I have already instructed you, the defendant,  
12 Timmy Rice, Jr., is charged with the offense of criminal  
13 sexual conduct with a minor in the first degree. I will  
14 now instruct you on the specifics of those charges  
15 including any lesser included offenses to those which are  
16 applicable. In order to prove, sustain a conviction for  
17 criminal sexual conduct with a minor the State must prove  
18 beyond a reasonable doubt that Mr. Rice engaged in sexual  
19 battery with the victim. And they must also prove that  
20 the victim was less than eleven years old at the time of  
21 the battery. A sexual battery is sexual intercourse or  
22 any intrusion, however slight, of any part of a person's  
23 body or any object into the genital or anal openings of  
24 another person's body except when the intrusion is  
25 accomplished for medically recognized treatment. Consent,

1 willingness, indifference or ignorance on the part of the  
2 minor, if any, as to what was taking place does not in any  
3 way affect the charge of criminal sexual conduct with a  
4 minor because an unmarried woman under the age of fourteen  
5 cannot legally consent to sexual intercourse.

6 Now, if you find the State has failed to prove beyond  
7 a reasonable doubt that the defendant is guilty of  
8 criminal sexual conduct with a minor in the first degree  
9 you may also consider whether the State has proven beyond  
10 a reasonable doubt that the defendant is guilty of  
11 criminal sexual conduct third degree. In order to sustain  
12 a conviction for that offense the State must prove beyond  
13 a reasonable doubt that the victim was less than sixteen  
14 years of age, that the defendant is more than fourteen  
15 years of age. And the State must also prove that the  
16 defendant wilfully, lewdly committed or attempt to commit  
17 a lewd or lascivious act on or upon or with the body or  
18 its parts of a child under the age of sixteen with the  
19 intent to arouse, appeal to or gratify the lust, passions  
20 or sexual desires of the defendant or the child.

21 Willfully means voluntarily, intentionally with the  
22 specific intent to do something the law forbids. Lewd  
23 means obscene, lustful, indecent, lecherous. Lascivious  
24 means tending to incite the lust, lewd or intent or  
25 obscene or tending to deprave the morals in respect to

1 sexual relations. Now, if after weighing the evidence of  
2 these two offenses you have a doubt as to the guilt of the  
3 defendant as to these two offenses you must resolve the  
4 doubt in favor of the defendant to the lesser offense.

5 Now, I instruct you also that under code section  
6 16-3-657 the testimony of a victim need not be  
7 corroborated in prosecutions for criminal sexual conduct  
8 with a minor in the first degree or criminal sexual  
9 conduct with a minor in the third degree. Also, the State  
10 is not required to prove the precise time of the incident,  
11 as time is not a material element of criminal sexual  
12 conduct with a minor in the first degree or criminal  
13 sexual conduct with a minor in the third degree.

14 Criminal intent is a necessary element of each crime  
15 that the State must prove beyond a reasonable doubt,  
16 criminal intent is always a matter that must be determined  
17 by the jury from the circumstances surrounding the  
18 situation. There is no way to prove intent to a  
19 mathematical certainty. There is no way medical science  
20 can dissect a person's brain and determine what he or she  
21 had in mind. So our law states criminal intent may be  
22 inferred from the circumstances shown to have existed  
23 before and after the fact. This is how you, the jury,  
24 make a determination of whether or not the element  
25 requiring intent was present. Criminal intent is a state

1 of mind that operates jointly with an act or an omission  
2 in the commission of a crime. Criminal intent is a mental  
3 state of conscious wrongdoing. It is up to you, the jury,  
4 to determine what the defendant intended to do based upon  
5 the circumstances shown to have existed. I tell you that  
6 the State must prove criminal intent also beyond a  
7 reasonable doubt just as the State must prove all elements  
8 of each of the crimes beyond a reasonable doubt in order  
9 to sustain a conviction.

10 Ladies and gentlemen of the jury, as y'all begin, as  
11 y'all retire to begin deliberations I wish to express the  
12 hope that each of you will be mindful of the  
13 responsibility that y'all have in a case when you are  
14 called to serve as jurors. You are not called very often  
15 to serve as jurors. You are not required to be called  
16 more than every three years. Y'all observed, as presiding  
17 officer, I have been addressed as Your Honor. The reason  
18 for that is the Court is instructed with the honor of the  
19 community, to honor the State and this Country in seeing  
20 that every person tried here receives fair and impartial  
21 justice. You, the jury, also must take that same  
22 responsibility to preserve the honor of this community. I  
23 am not telling you on how to decide, which verdict to  
24 reach. But what I do want you to emphasize is that you  
25 can find your verdict to the law I have instructed to you,

1 the evidence which has been presented, the exhibits which  
2 have been received, evaluating, weighing the evidence  
3 without the benefit or influence of anything outside the  
4 jury room. You have got no friends to reward, no enemies  
5 to punish. Your job is to find the truth. So you have no  
6 support to anyone or sympathy to anyone. I am of the  
7 confirmed opinion you will find a verdict which would  
8 represent the truth and justice for all the parties that  
9 are involved. And I emphasize that your verdict must be  
10 unanimous.

11 Now, I will show you the verdict form. Count one  
12 shows criminal sexual conduct with a minor first. Guilty  
13 or not guilty. You consider that. If you don't reach a  
14 verdict on that consider the second charge which is  
15 criminal sexual conduct in the third degree which is a  
16 lesser included of criminal sexual conduct first. Do you  
17 understand?

18 MADAM FOREPERSON: I understand.

19 THE COURT: All right. Now, I am going to hold this,  
20 I also allowed, not allowed to, the lawyers are allowed  
21 to, to make comments, suggestions, as to completeness or  
22 sufficiency, an omission of my instructions to y'all. So  
23 I have got to ask them on the record as to, did I leave  
24 something out more or less, did I add too much. They get  
25 to make comments to me as to those issues. So I am going



1 to let y'all step in the jury room. If they believe I  
2 have given a complete or sufficient instruction then I am  
3 going to send the verdict form and the evidence which has  
4 been introduced to you and it is in your hand, you can  
5 start deliberating. Now, it is a few minutes to 11:00.  
6 Once you start deliberating you are on your time. You can  
7 hear testimony again, I just need a note which testimony  
8 you want to hear. You can see the video again. Let me  
9 know. Now, I believe there is a computer in this court  
10 house that we can provide to one of the jurors who can  
11 operate a computer. Most can, some can't, generally there  
12 is somebody that is computer friendly. Simply as hitting  
13 play and it plays. It is not difficult. But y'all can  
14 see the video in the jury room if you like. If you have a  
15 question about my instructions, that Judge really talked  
16 fast, he gave kind of a clouded instruction and I don't  
17 remember what he said. I can reinstruct you on certain  
18 parts. And I need to know, Judge, you need to define what  
19 the offenses are again. I need to know the elements of  
20 the two crimes, whatever, I can reinstruct you on. You  
21 can take a break, if y'all want to take a break y'all  
22 don't have to call and ask. You decide, does anybody need  
23 a break. If someone needs a break and step outside to do  
24 whatever you stop talking about the case. The twelve of  
25 you are in there you talk all you like. Now, the next few

1 minutes y'all start going through this and realize in the  
2 next fifteen or twenty minutes that y'all are going to  
3 talk about it sufficiently, if you want lunch let me know,  
4 Ms. Georgia or one of the bailiffs will come to Ms. Folk  
5 and she generally can round up lunch and get y'all some  
6 ice tea or whatever you want to drink. If you want some  
7 lunch we can bring it to you. If y'all want to go eat  
8 your lunch you have got to stop deliberating and go eat  
9 lunch and come back. I would like to know what you want  
10 to do on that, I would like to hear that before y'all take  
11 off because I would like to kind of know where you are.  
12 Step in the jury room and you can't start deliberations  
13 until I say okay.

14 (Whereupon, the jury was excused from open court at  
15 approximately 10:53 a.m.)

16 THE COURT: Do y'all have any comments?

17 MR. VERNER: Judge, the comments I don't have any  
18 objection to. I would only ask that three and four of the  
19 defendant's statement and the picture were originally  
20 contacted by stapler and removed, I guess, during the  
21 trial. I would ask that they all be submitted as one.

22 THE COURT: During the last trial they were 3a and b  
23 or something like that but it came in separate.

24 MR. VERNER: But they were all initially, when the  
25 officers had them--

1 THE COURT: I don't mind you stapling them and leave  
2 them marked separate. Just leave them marked separately  
3 but you want to clip them together.

4 MR. VERNER: Yes.

5 THE COURT: That won't affect Joy's record.

6 MR. VERNER: Just because they came in originally.

7 THE COURT: Mr. Sheek, you have any comments?

8 MR. SHEEK: No exceptions, no comments, Your Honor.

9 THE COURT: All right, good deal.

10 (Whereupon, the jury started deliberations at  
11 approximately 10:55 a.m.)

12 (Whereupon, the alternate was excused from the trial  
13 of the case.)

14 THE COURT: The jury had a note at approximately  
15 11:05 a.m.

16 MR. VERNER: What was the question, Judge?

17 THE COURT: Georgia has got it right here. Basically  
18 the elements of two offenses.

19 MR. VERNER: I know that the Judge did it  
20 intentionally because the facts were alleged. My  
21 preference would have been to list all of the elements of  
22 what a sexual battery is so, I just think it helps them  
23 understand the comparison. But I think, it is list like  
24 the cunnilingus, the fellatio.

25 THE COURT: I stumble over all of those words.

1 MR. VERNER: I took the Court's reason as being that  
2 there was no evidence of the oral sex.

3 THE COURT: It is exactly what I read last time.

4 MR. VERNER: The last time the Court read the full  
5 list. I thought at the last trial, the Court didn't.

6 THE COURT: I may had but I printed up the same  
7 thing.

8 MR. SHEEK: My typical preference, if there is no  
9 evidence of it then why do they need to consider it.

10 MR. VERNER: My argument would be, I would ask the  
11 Court to include the full list so the jury understands the  
12 type of behavior.

13 THE COURT: Okay. I didn't charge it originally so I  
14 don't think I am going to charge it now. I am going to  
15 place it like that. This is Court's exhibit 2. Here is  
16 the record. The jury sent a note out, which is Court's  
17 exhibit 1 regarding the elements of the offense and the  
18 lessor included. I have printed out what I read to them  
19 in the instructions and now is marked as Court's exhibit 2  
20 and provide to the foreperson.

21 (Whereupon, Court's Exhibit 1 and 2 were marked for  
22 identification only.)

23 MR. VERNER: I respectfully, I object to the Court  
24 not including the full definition of criminal sexual  
25 conduct, all the different, such as the cunnilingus and

1 the, there are like four or five definitions that are  
2 specifically included in it. I think that helps the jury  
3 understand what the charge is and I would except to the  
4 Court, e-x-c-e-p-t, to the Court not including this.

5 (Whereupon, a portion of the jury charge was sent to  
6 the jury for them to read.)

7 (Whereupon, a break was taken awaiting verdict.)

8 THE COURT: We have a note from the jury. Bring in  
9 the Foreperson.

10 (Whereupon, the Forelady, Ms. Williams, come into the  
11 courtroom.)

12 THE COURT: Ms. Williams, come on up here. What I am  
13 telling you I want to put on the record. Now, this is the  
14 computer, you know how to load the CD, DVD?

15 MADAM FOREPERSON: Yes.

16 THE COURT: It is on a Windows Media Player. It will  
17 come up when you plug the CD in like most computers and  
18 you hit play, stop and watch the video. That is the only  
19 thing you can use that computer for. You are not allowed  
20 nor is anyone allowed to do anything other than watch that  
21 video. If someone does and I find out that person is  
22 going to be in trouble along with you for letting them.  
23 Okay.

24 MADAM FOREPERSON: Okay.

25 THE COURT: I don't know if that computer can get on

1 the internet, it may, I don't know if you can pick up on a  
2 wireless signal. I don't want to hear about, I want to  
3 make certain it is for video playing only.

4 MADAM FOREPERSON: Yes, sir.

5 (Whereupon, the jury requested to watch the video in  
6 the jury room. A computer and the video was sent to  
7 the jury room for the jury to watch.)

8 (Whereupon, Court's Exhibit 3 was marked for  
9 identification purposes only.)

10 (Whereupon, a lunch break was taken from 12:30 p.m.  
11 to 1:30 p.m.)

12 THE COURT: We are back on the record for indictment  
13 13-36-549. I had several conversations with the  
14 prosecutors and defense lawyer about the first trial that  
15 occurred in July and my communications with the jury after  
16 we declared a mistrial. I had walked back to the jury  
17 room and spoke to them at length about the trial, the  
18 facts, the different things. The jurors in that case  
19 reported to me that they reached a unanimous verdict  
20 immediately on the offense of CSC first. That wasn't  
21 published, it wasn't brought into the courtroom, the jury  
22 was in the back room when they told me that. And I had  
23 already declared a mistrial on the record but I failed, I  
24 believe the Solicitor requested or perhaps the public  
25 defendant requested to do that. And I made comments

1 during this trial, that is really weighing heavily on me.  
2 I don't think everyone in this trial was involved in the  
3 first trial realized what I was talking about. Based upon  
4 the facts which were presented in this trial and my  
5 understanding the facts the jury is evaluating  
6 considering, I am reconsidering my motion, the motion made  
7 by Mr. Verner for directed verdict for CSC first. And I  
8 am going to grant that motion and remove consideration of  
9 the CSC first offense from the jury's consideration at  
10 this time. That will leave the issue of guilt or not  
11 guilt for the offense of CSC third. I am telling you,  
12 this is weighing on me heavily and I think, I am confident  
13 that that is the right decision considering on what I know  
14 here. And that is what I am going to do.

15 MR. SHEEK: You note our exception to that, Your  
16 Honor.

17 THE COURT: Absolutely, I understand. If you want to  
18 make a record of it, please do.

19 MR. SHEEK: And I will go ahead and put on the  
20 record, Your Honor, I believe it is a different situation  
21 when a jury has a lesser included offense as opposed to  
22 two offenses charged where they can actually reach a  
23 verdict and sign the verdict form on one but haven't been  
24 able to reach a verdict on the other. I believe in this  
25 case, you know, the jury may indicate, we talked about it

1 and we all agreed but we didn't have a final vote, we  
2 didn't have a verdict on that or even know what  
3 discussions they have had. They were obviously still  
4 considering a lessor included and it may be a situation  
5 where through their talks somebody was dead set on the  
6 first. But at any rate we do object to that. I believe  
7 that a mistrial is a mistrial both, well, he wasn't  
8 indicted for two offense. A mistrial on the indictment is  
9 a mistrial therefore we had the right to proceed.

10 THE COURT: I want to bring the jury in and instruct  
11 them as to what I have done and amend the verdict form so  
12 they can consider the offense to which is left.

13 MR. VERNER: We did move at the final hearing, both  
14 the Solicitor and I, to have the jury polled.

15 THE COURT: And I recollect being standing about  
16 where the deputy is right now when y'all said that and I  
17 declined to do that. Standing in the back of the  
18 courtroom.

19 MR. VERNER: And my understanding is that, my  
20 understanding was that the jury reported that they had  
21 reached a verdict on the charge of not guilty and that  
22 they were hung on the lessor included charge.

23 THE COURT: Bring in the jury, please.

24 (Whereupon, the jury came into open court at  
25 approximately 1:45 p.m.)



1       THE COURT: Ms. Williams, ladies and gentlemen of the  
2 jury, y'all have been deliberating on count one, the  
3 lessor included of count two. I brought y'all back in  
4 here because I have been eating lunch and waiting on  
5 y'all's deliberation. I have reconsidered a motion that  
6 was made earlier as to count one. As a matter of law that  
7 count, criminal sexual conduct in the first is no longer  
8 an offense for which you can reach a verdict. The offense  
9 is criminal sexual conduct third with a minor that you are  
10 to consider. I have amended the verdict form, strike out  
11 count one. What is left is the lessor included, criminal  
12 sexual conduct third with a minor. Do you understand?

13       MS. WILLIAMS: Yes, sir.

14       THE COURT: Return to the jury room and resume your  
15 deliberations.

16       (Whereupon, the jury continues deliberations at  
17 approximately 1:47 p.m.)

18       (Whereupon, a break was taken awaiting on verdict.)

19       THE COURT: The jury has a note to rehear the  
20 testimony of Timmy Rice, Jr. Let's get them in here.

21       (Whereupon, the jury came into open court at  
22 approximately 2:30 p.m.)

23       THE COURT: We will play the testimony for you of Mr.  
24 Rice.

25

1 (Whereupon, Court's Exhibit 4 was marked for  
2 identification only.)

3 (Whereupon, testimony of Timmy Rice, Jr. was played  
4 for the jury starting at 2:35 p.m. and ended at 3:10  
5 p.m.)

6 THE COURT: Is that all you want to hear?

7 MS. WILLIAMS: Yes.

8 THE COURT: If y'all want to hear more we can let you  
9 hear this.

10 (Whereupon, a break was taken awaiting the jury's  
11 verdict.)

12 THE COURT: I have a note from the jury. Bring the  
13 jury in.

14 (Whereupon, Court's Exhibit 5 was marked for  
15 identification only.)

16 (Whereupon, the jury came into open court at  
17 approximately 3:37 p.m.)

18 THE COURT: Ladies and gentlemen, I understand the  
19 jury is deadlocked right now, Ms. Williams, is that  
20 correct?

21 MS. WILLIAMS: Correct.

22 THE COURT: All right. Now, what I want to explain  
23 to you is this. Y'all twelve were selected, y'all are a  
24 wonderful combination. Black, white, male, female,  
25 Newberry County citizens. Y'all have listened good, some

1 of you took notes, some of the others didn't, everybody  
2 listened, y'all were very attentive, y'all have asked good  
3 questions. I know y'all were cued into the entire trial  
4 with what everybody presented here. You listened to my  
5 instructions. I want you to try to reach a unanimous  
6 verdict. Y'all twelve citizens here are just as good and  
7 perhaps best qualified of any twelve to decide this case.  
8 I can't get twelve any better, it was a fair selection.  
9 fair process, everybody participated and y'all listened.  
10 My request to you is this, is to go back and deliberate a  
11 little bit longer and see if you can resolve and listen  
12 openly to the opinions of what someone disagrees with  
13 someone else. I don't want anyone to try to beat someone  
14 down to change their mind because of something they don't  
15 believe in. But openly and consciously listen to one  
16 another and see if you can resolve those issues. If you  
17 can do so. If you can't resolve the questions of fact,  
18 unanimously, then what I will have to do is declare a  
19 mistrial. And then another time, another day, just like  
20 y'all twelve will be compiled, selected, just like we did  
21 you. That is why I am asking y'all to do it, we have to  
22 go through this again. And so with that in mind are you  
23 willing to go back and deliberate a little bit longer and  
24 listen openly to one another. And then if you can't reach  
25 a decision let me know then.

1 MS. WILLIAMS: Okay.

2 (Whereupon, the jury was excused to continue  
3 deliberations at approximately 3:41 p.m.)

4 THE COURT: Any exceptions to what I call my Allen  
5 instructions. I think it is consistent with the other  
6 charges.

7 MR. SHEEK: Nothing from the State, Your Honor.

8 MR. VERNER: No, Your Honor.

9 (Whereupon, a break was taken awaiting on a verdict.)

10 THE COURT: Bring the jury in.

11 (Whereupon, the jury came into open court with the  
12 verdict at approximately 4:15 p.m.)

13 THE COURT: All right, Ms. Williams, have y'all  
14 reached a verdict?

15 MS. WILLIAMS: Your Honor, we have.

16 THE COURT: And was it unanimous?

17 MS. WILLIAMS: No, sir.

18 THE COURT: Not unanimous?

19 MS. WILLIAMS: No, yes it was.

20 THE COURT: That is fine, but it was unanimous?

21 MS. WILLIAMS: Yes.

22 THE COURT: It appears to be proper.

23 CLERK OF COURT: Indictment 2013-GS-36-549. The  
24 State of South Carolina versus Timmy Eugene Rice, Jr., we  
25 find the lessor included third degree criminal sexual

1     conduct with a minor, we find him, the defendant, Timmy  
2     Eugene Rice, Jr., guilty.. Signed, Barbara Williams,  
3     Foreperson. Ladies and gentlemen of the jury, if this is  
4     your verdict please indicate by raising your right hands.

5             (Whereupon, the jurors raised their hand.)

6             THE COURT: Any issues for the jury, Mr. Sheek or Mr.  
7     Verner?

8             MR. SHEEK: Nothing from the State, Your Honor.

9             MR. VERNER: Your Honor, because of the initial  
10     answer, I am going to ask the jury to be polled just to  
11     make sure.

12            THE COURT: I understand. Ms. Folk, go ahead.

13            THE CLERK: Gregory Cole. Is this your verdict and  
14     is it still your verdict?

15            JUROR: Yes.

16            THE CLERK: Jasserde Wright, is this your verdict and  
17     is it still your verdict?

18            JUROR: Yes.

19            THE CLERK: Brian Larsen, is this your verdict and is  
20     it still your verdict?

21            JUROR: Yes.

22            THE CLERK: Diane Tolbert, is this your verdict and  
23     is it still your verdict?

24            JUROR: Yes.

25            THE CLERK: Kevin Fuller, is this your verdict and is

1     it still your verdict?

2             JUROR:   Yes.

3             THE CLERK:  Marguerite Glasgow, is this your verdict  
4     and is it still your verdict?

5             Juror:   Yes.

6             THE CLERK:  Phyllis Glenn, is this your verdict and  
7     is it still your verdict?

8             JUROR:   Yes.

9             THE CLERK:  Barbara Williams, is this your verdict  
10    and is it still your verdict?

11            JUROR:   Yes.

12            THE CLERK:  James Adams, is this your verdict and is  
13    it still your verdict?

14            JUROR:   Yes.

15            THE CLERK:  Dorothy Mickle, is this your verdict and  
16    is it still your verdict?

17            JUROR:   Yes.

18            THE CLERK:  Sharonda Brown, is this your verdict and  
19    is it still your verdict?

20            JUROR:   Yes.

21            THE CLERK:  Debra Booker, is this your verdict and is  
22    it still your verdict?

23            JUROR:   Yes.

24            THE COURT:  Anything else, Mr. Verner?

25            MR. VERNER:  No, Your Honor, thank you.

1 THE COURT: All right. Y'all's responsibilities are  
2 now complete. I thank you and I would like to step in the  
3 jury room and talk to you a minute. Step back, please.

4 (Whereupon, the jury was excused from open court at  
5 approximately 4:30 p.m.)

6 (Whereupon, a short break was taken before  
7 sentencing.)

8 THE COURT: All right, I will hear from the State  
9 first and Ms. Willie Mae Wright. Let me hear from her, I  
10 know the prior record, there is no prior record.

11 MR. SHEEK: No prior record.

12 THE COURT: Ms. Wright, let's hear from you first.

13 MS. WRIGHT: I just want to thank the Court for  
14 listening to us. I have appreciated so much, it has been  
15 a long road, stressful. And I just want to thank  
16 everybody for listening to us. I am sorry we had to be  
17 here for this. I would have never believed this would  
18 have happened. I just want to prevent this from happening  
19 to any other children. That is my main concern. This  
20 shouldn't happen to anybody else's child.

21 THE COURT: Mr. Sheek.

22 MR. SHEEK: Briefly, Your Honor. I know the Court  
23 deals with these more than I do. In a case like this,  
24 Judge, you have a 24-year-old man, you know, if it had  
25 been a 14-year-old child, still unlawful, still deserving

1 punishment but in my mind just a different situation.  
2 This child was a 6-year-old child which to me is certainly  
3 indicative of not, I made a mistake with a girl I was  
4 having a relationship with but pedophilia, that really  
5 concerns me. So for the protection of the community I  
6 think a sentence that speaks to that aspect would be  
7 justified. That is all I have to say, Your Honor.

8 THE COURT: Okay. Mr. Verner.

9 MR. VERNER: Your Honor, may it please the Court. I  
10 will be brief too because the Court has heard this case in  
11 depth. Tim is 25 years old, never been arrested in his  
12 life. The Court heard, he is from Whitmire, Salutatorian.  
13 He had a chance, got the academic scholarship, had a  
14 chance. He came voluntarily, gave a statement  
15 voluntarily. In candor and I understand we are here now,  
16 Judge, it is a case from our end, we did try to resolve  
17 prior to trial quite probably in the same setting that we  
18 are actually in today. But that was the State's decision  
19 to have that as an opportunity. I understand Mr. Sheek's  
20 concerns for that but in my opinion a very hard offer that  
21 we wanted to try to resolve prior to trial. Likely would  
22 have been the same setting. He was in jail five days  
23 before his family, of course has met his mother and  
24 father, two uncles who have been here who think the world  
25 of him. I know he is apologetic, he was helpful and



1 friendly to the police and has been a good client. Did a  
2 bad thing, has been convicted obviously of doing a very  
3 bad thing. I had explained to him the crime requires him  
4 to, the lifetime registry or the sex offense registry and  
5 the registration of his address on a regular basis with  
6 the sheriffs. Just, he is a good fellow, Judge, he has  
7 been convicted of a nasty thing. Unlike, every other  
8 client I have had he has come at an older age of really an  
9 unblemished and I do, I think his statement speaks a lot  
10 about what happened, Judge. He tried to do right things  
11 and was just in a bad opportunity to do it. I would ask  
12 the Court if he entertains anything Tim would say but we  
13 are asking for a moderate, because of his age, the lack of  
14 any history and really his cooperation we are asking for a  
15 moderate sentence.

16 THE COURT: Mr. Rice, anything that you would like to  
17 say?

18 MR. RICE: Anything I have done, sir, I know I am the  
19 only one to blame and I, thank you for the fair trial.  
20 And whenever I get home I would try to do better with my  
21 life. I have tried to be a good person up to now. And I  
22 will try to even harder to be a better person when I get  
23 back home.

24 MR. VERNER: Y'all want to say anything, you don't  
25 have to but you want to you can. Judge, his family, they

1 have been here to support him and I think the Court is  
2 aware that they have been faithfully supportive of him.

3 THE COURT: All right, having heard the trial twice,  
4 the facts, the background, everything. I think I have a  
5 really good idea of an appropriate sentence. The sentence  
6 of the Court is that Mr. Rice be confined to the  
7 Department of Corrections for a determinate term of 12  
8 years. That is suspended upon the service of 6. Cost and  
9 assessments imposed, probation for 48 months, give him  
10 credit for the 5 days he has done. I am going to impose  
11 200 hours of public service when he makes probation and  
12 post the public offenders assessment. Good luck to you.

13 MR. SHEEK: Thank you, Judge.

14 MR. VERNER: Thank you, Your Honor.

15 \*\*\* END OF REQUESTED TRANSCRIPT OF RECORD \*\*\*  
16  
17  
18  
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24  
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1 CERTIFICATE OF REPORTER  
2  
34 State of South Carolina )  
5 County of Newberry )  
6  
78 I, Joy E. Holston, Official Court Reporter for the  
9 Eighth Judicial Circuit of the State of South Carolina, do  
10 hereby certify that the foregoing is a true, accurate and  
11 complete transcript of record of the proceedings had and  
12 evidence introduced in the trial of the captioned case,  
13 relative to appeal, in the County of Newberry, South  
14 Carolina on the 4th day of August, 2014.15 I do further certify that I am neither of kin,  
16 counsel nor interest to any party hereto.  
1718 November 14, 2014  
1920 *s/Joy E. Holston*  
21

22 Joy E. Holston, Court Reporter

23 My Commission expires: March 13, 2016  
24  
25

**WITNESSES**

Jeremiah Sinclair  
Whitmire Police Department

**WARRANT NUMBER**

2013A3620400031

**TRUE BILL**

  
Foreman of the Grand Jury  
Date: 11-8-13

**VERDICT**

CSC w/ minor 3<sup>rd</sup> 0  
Barbara Williams  
Foreman 8-6-14

**THE STATE OF SOUTH CAROLINA**

COUNTY OF NEWBERRY

**COURT OF GENERAL SESSIONS**

November Term, 2013

Indictment # 13GS36-1549

**THE STATE**

vs.

Timmy Eugene Rice Jr.

**INDICTMENT FOR**

Criminal Sexual Conduct with a Minor  
§16-03-0655

CDR: 0385

**THE STATE OF SOUTH CAROLINA**

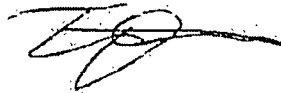
COUNTY OF NEWBERRY

**INDICTMENT FOR****Criminal Sexual Conduct with a Minor  
§16-03-0655**

At a Court of General Sessions, convened on the 8th day of November, 2013, the Grand Jurors of Newberry County present upon their oath:

That Timmy Eugene Rice Jr., did in Newberry County, on or about April 12, 2013 through June 6, 2013 being older than the victim, willfully and unlawfully commit criminal sexual conduct with a minor in the first degree, to wit: that the said defendant did engage in sexual battery upon a person under the age of eleven (11) years, to wit: one S.W., D.O.B.-7/10/2006, in violation of Section 16-3-655(A) (1) of the South Carolina Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such cases made and provided.



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Assistant Solicitor

## 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 31st, 2015

  
Tiffany L. Butler  
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 Newberry County

Eugene C. Griffith, Jr., Circuit Court Judge

**RECEIVED**

JUL 31 2015

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

TIMMY EUGENE RICE, JR.,

APPELLANT

APPELLATE CASE NO. 2014-001753

CERTIFICATE OF SERVICE

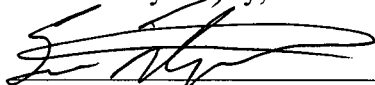
I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Susannah R. Cole, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 this 31st day of July, 2015.

*Bailey Walpe for*

Cruise Mitchell

Administrative Specialist

SUBSCRIBED AND SWORN TO before me  
this 31st day of July, 2015.



(L.S.)

Notary Public for South Carolina

My Commission Expires: October 30, 2022.