

VOL II OF II

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Charleston County

G. Thomas Cooper, Circuit Court Judge

RECEIVED

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S.C. Supreme Court

JEREMIAH TURNER,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-000127

APPENDIX

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1 Q OKAY. AND THIS WAS -- YOU HAD A BAR ROOM
2 ATMOSPHERE AND THIS IS HOW HE'S WRITING A STATEMENT?

3 A THAT'S HOW HE STARTED IT. THAT'S PRETTY MUCH
4 WHEN I KNEW HE COULD WRITE, SO I -- I LEFT.

5 Q YOU KNOW, WE'RE NOT SAYING HE CAN'T WRITE, I'M
6 JUST SAYING THAT COULD BE SOME KIND OF POLICE LANGUAGE IN
7 HERE --

8 A I WOULDN'T USE 'HEREBY'.

9 Q BUT YOU WOULD USE "ACCEPT RESPONSIBILITY"?

10 A I DON'T KNOW. I'VE NEVER WRITTEN A STATEMENT
11 LIKE THAT.

12 Q YOU'VE NEVER -- NEVER MIND.

13 A YEAH. I'VE NEVER BEEN ON THAT SIDE OF THE
14 TABLE.

15 MR. GRIMES: ONE MOMENT PLEASE, YOUR HONOR.

16 THE COURT: YES, SIR.

17 MR. GRIMES: THANK YOU, YOUR HONOR. I HAVE NO
18 FURTHER QUESTIONS.

19 THE COURT: OKAY. THANK YOU VERY MUCH. ANY
20 REDIRECT?

21 MR. DURANT: YES, YOUR HONOR. THANK YOU.

22 REDIRECT EXAMINATION BY MR. DURANT:

23 Q BUT YOU KNOW "HEREBY" IS A WORD, RIGHT?

24 A IT IS A WORD.

25 Q IT'S AN ENGLISH WORD?

1 A YES.

2 Q ARE YOU FAMILIAR THAT THERE'S PROBABLY A LOT OF
3 PEOPLE WHO DO KNOW THAT WORD?

4 A CORRECT.

5 Q ALL RIGHT. NOW -- AND YOU'VE TESTIFIED THAT
6 YOU'VE GONE TO SCHOOL FOR INTERVIEWING PEOPLE?

7 A YES.

8 Q BECAUSE IT'S SOMETHING THAT YOU LEARN, RIGHT?

9 A CORRECT.

10 Q I MEAN, BEING A POLICE OFFICER, LEARNING HOW TO
11 INTERVIEW SOMETHING -- SOMEBODY IS A LITTLE BIT DIFFERENT
12 THAN JUST A LAY PERSON GOING IN TO INTERVIEW SOMEBODY?

13 A VERY MUCH DIFFERENT.

14 Q AND, YOU KNOW, ONE OF THE THINGS THAT YOU LEARN
15 IS, YOU NEED TO BUILD RAPPORT?

16 A ABSOLUTELY.

17 Q IS THAT RIGHT -- AND IS THAT WHAT YOU WERE DOING
18 HERE?

19 A ABSOLUTELY. YOU HAVE TO DO THAT -- I MEAN --
20 I'M NOT SAYING YOU HAVE TO, YOU CAN GO TO ALL THE
21 INTERVIEW SCHOOLS IN THE WORLD, IF YOU WALK IN AND YOU
22 COME ACROSS LIKE A JERK, YOU'RE NOT GOING TO GET THE SAME
23 RESULT. YOU'RE JUST NOT.

24 Q NOW, WERE YOU TRYING TO TRICK MR. TURNER?

25 A NO.

1 Q YOU JUST WANTED TO TALK TO HIM AND BUILD
2 RAPPORT?

3 A CORRECT.

4 Q TO SEE WHAT HE HAD TO SAY?

5 A YES.

6 Q ALL RIGHT. NOW, IN REGARD TO THIS -- THIS
7 HORMONES COMMENT?

8 A CORRECT.

9 Q YOU KNOW, WE'RE BOTH MEN -- YOU SAID SOMETHING
10 WE'RE BOTH MEN, WE HAVE HORMONES --

11 A SOMETHING ALONG THOSE LINES, CORRECT, YES.

12 Q AND YOU REFERRED TO WOMEN, WE'RE BOTH MEN, YOU
13 KNOW, AND WE LIKE WOMEN?

14 A CORRECT.

15 Q AND, AGAIN, "WOMEN" WAS THE OPERATIVE WORD,
16 RIGHT?

17 A THE ADULT VERSION.

18 Q HE WASN'T A CHILD. YOU WEREN'T RELATING TO HIM
19 ON A CHILD LEVEL. AND YOU USED THE CALCULUS EXAMPLE?

20 A CORRECT.

21 Q AND LET ME JUST SEE IF CAN CLARIFY -- YOU SAID
22 THAT -- YOU ASKED HIM IF HE COULD TELL YOU ABOUT A
23 CALCULUS EXAMPLE WITHOUT HAVING CALCULUS?

24 A CORRECT. IT'S ALONG THOSE LINES, YES.

25 Q AND HE CAN PROBABLY TELL YOU THAT, YES, THERE IS

1 SUCH A THING AS CALCULUS, I MEAN, MAYBE IT'S SPELLED -- IT
2 STARTS OUT C-A-L?

3 A RIGHT.

4 Q AND THE SAME THING WITH THIS $E = MC^2$ -- YOU
5 KNOW WHAT THAT IS, RIGHT, I MEAN IT'S THE THEORY OF
6 RELATIVITY?

7 A CORRECT.

8 Q AND EINSTEIN EITHER CAME UP WITH IT OR
9 DISCOVERED IT?

10 A CORRECT.

11 Q BUT COULD YOU REALLY DISSECT THAT, I MEAN, COULD
12 YOU REALLY TELL US WHY THAT IS WHAT THAT IS?

13 A NO DETAILS. I WOULDN'T BE ABLE TO GIVE YOU
14 DETAILS.

15 Q YOU WOULDN'T BE ABLE TO GIVE ME DETAILS?

16 A NO.

17 Q SO, SOMEBODY WHO HAD TO -- YOU KNOW, IN ORDER TO
18 GIVE DETAILS, YOU HAD TO LEARN DETAILS TO SOME DEGREE?

19 A CORRECT.

20 Q SO, IF Minor WERE TO GIVE DETAILS, SHE'D HAVE
21 TO LEARN --

22 MR. GRIMES: OBJECTION. LEADING.

23 THE COURT: WHAT'S THE LEGAL OBJECTION?

24 MR. GRIMES: LEADING.

25 THE COURT: I'LL SUSTAIN THE OBJECTION.

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1 MR. DURANT: I'LL REPHRASE. THANK YOU, YOUR HONOR.

2 BY MR. DURANT:

3 Q BUT THE CALCULUS WAS AN EXAMPLE THAT YOU GAVE
4 HIM, RIGHT --

5 A CORRECT --

6 MR. GRIMES: LEADING, YOUR HONOR.

7 THE COURT: HE HASN'T EVEN GOTTEN THE QUESTION OUT
8 YET. ASK THE QUESTION AND MAKE THE OBJECTION.

9 BY MR. DURANT:

10 Q AND SO YOU ASKED HIM ABOUT THE CALCULUS EXAMPLE?

11 A I --

12 THE COURT: HOLD ON. HAVE WE GOT AN OBJECTION?

13 MR. GRIMES: NO, SIR.

14 THE COURT: THANK YOU VERY MUCH.

15 MR. DURANT: THANK YOU, YOUR HONOR.

16 BY MR. DURANT:

17 Q LET ME ASK YOU ABOUT THE 27TH, WHEN YOU
18 RESPONDED TO THE CATHEDRAL OF HOLY PRAISE. AND YOU SAID
19 THAT MR. TURNER WAS REPORTING THIS INJURY WITH Sister 2 ?

20 A IT -- IT WASN'T SO MUCH REPORTING AN INJURY, IT
21 WAS A COMMENT. I MEAN, HE EVEN SUPPORTED THE PUSH DOWN OR
22 WHATEVER, STORY ABOUT THE COLLAR BONE.

23 Q BUT HE WAS -- HE WAS RELAYING TO YOU --

24 A CONCERNS.

25 Q HIS CONCERNS. DID YOU FIND IT A LITTLE ODD THAT

1 SOMEONE INSIDE THAT FAMILY WAS REPORTING PROBLEMS FROM IN
2 THAT FAMILY; IS THAT A LITTLE ODD?

3 A I'M NOT SURE I -- DO YOU --

4 Q LIKE THE CONDITION OF THE HOME --

5 A CONSIDERING HE LIVED THERE?

6 Q -- SOMEONE WHO LIVED THERE.

7 A I HONESTLY, WHAT I THOUGHT BY THE END OF IT, WAS
8 THAT HIM AND MRS. JONES HAD SOMETHING GOING ON AND THEY
9 WERE TRYING TO CREATE SOME SORT OF NEGATIVE IMAGE OF MOM.
10 THE WHOLE THING THE HOUSE WASN'T -- I MEAN, I DIDN'T -- I
11 DIDN'T FULLY BELIEVE THAT HE WAS WHOLEHEARTEDLY FULL FAITH
12 ON MAJOR CONCERNS. HE TOLD ME HE WASN'T WORKING, HE'S
13 HOME ALL DAY. CLEAN THE HOUSE.

14 Q RIGHT. AND THIS IS SOMEBODY WHO IS AT THAT
15 HOME?

16 A RIGHT.

17 Q NOW, THIS IS THE CARETAKER --

18 A CORRECT.

19 Q -- OF THAT HOME REPORTING OF THE DIRTY
20 CONDITIONS OF THAT HOME?

21 A CORRECT.

22 Q BUT, YOU KNOW, IF -- WE DON'T KNOW HOW Sister 2
23 BROKE HER COLLAR BONE, DO WE?

24 A NO, WE DON'T.

25 Q WE DON'T KNOW IF IT WAS MR. TURNER?

1 A WE DON'T.

2 Q WE DON'T KNOW IF IT WAS Minor ?

3 A CORRECT.

4 Q BUT YOU DID INITIATE AN INVESTIGATION IN
5 RESPONSE TO THOSE CONCERNS?

6 A THROUGH DSS, CORRECT.

7 Q THROUGH DSS. NOW, IN REGARD TO THE STATEMENT,
8 AGAIN, THE TIME YOU ADVISED HIM OF HIS RIGHTS WAS?

9 A 3:45 IN THE AFTERNOON.

10 Q AND WHEN YOU STARTED -- WHEN THE STATEMENT BEGAN
11 TO BE REDUCED TO WRITING, IT WAS?

12 A 4:15 IN THE AFTERNOON.

13 Q ABOUT 30 MINUTES LATER AFTER YOU ADVISED HIM OF
14 HIS RIGHTS?

15 A YES.

16 Q AND WHEN DETECTIVE BURNEM OBTAINED THE NEXT
17 STATEMENT, WHAT TIME DID THAT ONE BEGIN?

18 A ON -- HER STATEMENT?

19 Q RIGHT.

20 A I DON'T THINK I -- YEAH, I HAD LEFT THE ROOM
21 WHEN SHE CAME IN. IT HAD TO HAVE BEEN SHORTLY AFTER MINE
22 ENDED. SHE BEGAN HER STATEMENT AT 17:50 -- THE WRITTEN
23 PORTION AT 17:50 HOURS, SO 5:50 IN THE EVENING --
24 AFTERNOON, HE BEGAN TO WRITE IT -- OR SHE BEGAN TO WRITE
25 IT.

1 Q AND WHEN MR. TURNER BEGAN HIS STATEMENT AT 4:15,
2 ABOUT WHAT TIME DID IT END -- DID YOU STOP AFTER IT WAS
3 SIGNED, EVERYTHING DONE?

4 A WHEN I WAS COMPLETELY DONE WITH HIM, I -- I
5 DON'T KNOW THAT I CAN RECALL. I -- I DON'T KNOW.

6 Q DO YOU KNOW ABOUT HOW LONG IT TOOK?

7 A FOR HIM TO WRITE EVERYTHING, FOR ME TO DO THE Q
8 AND A -- A HALF HOUR TO AN HOUR.

9 Q WELL, DO YOU KNOW IF IT WAS BEFORE 5:50 WHEN HE
10 BEGAN TO WRITE HIS STATEMENT?

11 A YES.

12 Q IN HIS STATEMENT, MR. TURNER TOLD YOU ABOUT --
13 OR HE AT LEAST BROKE DOWN WHEN AND WHERE SEXUAL ASSAULTS
14 OCCURRED?

15 A CORRECT.

16 Q AND I BELIEVE HE SAYS IN HIS STATEMENT THAT IT
17 HAPPENED ONCE OR TWICE, BUT SOMETIMES THREE TIMES A WEEK?

18 A CORRECT.

19 Q WOULD YOU EXPECT HIM TO HAVE MORE DETAIL THAN A
20 SIX YEAR OLD ABOUT WHEN THESE EVENTS MAY HAVE OCCURRED?

21 A I WOULD.

22 Q DUE TO HIS AGE?

23 A DUE TO HIS AGE, YES.

24 Q AND WHEN IT STARTED?

25 A CORRECT. HE SAID IT STARTED IN JUNE.

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1 Q AND WHEN AND WHERE IT WAS?

2 A CORRECT. HE GAVE THE ADDRESS AND WHERE HE --

3 THE HOUSE -- WHERE HE SAID IN HIS BEDROOM, BUT.

4 MR. DURANT: THANK YOU, SIR.

5 THE COURT: RECROSS?

6 MR. GRIMES: YES, SIR.

7 RECROSS EXAMINATION BY MR. GRIMES:

8 Q MR. DURANT WAS ASKING YOU ABOUT DETAILS AND
9 CERTAINLY TRYING TO IMPLY THAT YOU KNEW HOW TO DO THIS TO
10 GET YOURSELF DETAILS, IS THAT YOUR UNDERSTANDING OF THE
11 QUESTION?

12 COURT REPORTER: WOULD YOU REPEAT THAT PLEASE?

13 THE WITNESS: THANKS.

14 BY MR. GRIMES:

15 Q MR. DURANT ASKED YOU A QUESTION ABOUT DETAILS OF
16 -- OF THE INCIDENT OF MR. TURNER'S STATEMENT?

17 A UH-HUH.

18 Q I TOOK IT AS HIM TRYING TO IMPLY THAT MR. TURNER
19 MUST HAVE DONE THIS OR HE WOULDN'T BE ABLE TO GIVE THESE
20 TYPES OF DETAILS?

21 A OH, CORRECT. YEAH. I DON'T KNOW ANY OF THE
22 DETAILS.

23 Q BUT YOU CAN -- IF YOU'RE MAKING UP A STORY, YOU
24 CAN BE VERY DETAILED MAKING UP A STORY, CORRECT?

25 A I -- I GUESS. UH-HUH.

1 Q I MEAN -- ANYONE WHO TOOK HIGH SCHOOL LITERATURE
2 OR READ SHAKESPEARE WOULD KNOW ABOUT DETAILS AND MAKE UP
3 STORIES THERE?

4 A CORRECT.

5 Q IF YOU WATCH SOME OF THE POPULAR FILMS TODAY,
6 THEY'RE A LOT OF MADE UP STORIES AND VERY DETAILED?

7 A CORRECT.

8 MR. GRIMES: THANK YOU.

9 THE COURT: YOU MAY STEP DOWN. THANK YOU VERY
10 MUCH.

11 THE WITNESS: THANK YOU.

12 THE COURT: DO YOU WANT TO RELEASE HIM FROM
13 SUBPOENA OR DO YOU WANT TO KEEP HIM?

14 MR. GRIMES: MAYBE ON STAND-BY FOR TOMORROW
15 MORNING.

16 THE COURT: OKAY.

17 MR. GRIMES: AFTER OUR WITNESSES.

18 THE COURT: DETECTIVE RAMSEY, I DON'T IF YOU'D BE
19 AVAILABLE TOMORROW MORNING.

20 THE WITNESS: OKAY.

21 THE COURT: ALL RIGHT. THANK YOU VERY MUCH.
22 YOU'RE WELCOME TO STAY, I'M NOT TRYING TO RUN YOU OFF.
23 OKAY.

24 THE WITNESS: I'LL JUST SIT DOWN HERE.

25 (WITNESS STEPPED DOWN.)

1 THE COURT: CALL YOUR NEXT WITNESS.

2 MS. HERRING-LASH: YOUR HONOR, THE STATE WOULD REST
3 AT THIS POINT.

4 THE COURT: ALL RIGHT. MADAM FORELADY AND LADIES
5 AND GENTLEMEN OF THE JURY, I HAVE TO TAKE UP CERTAIN
6 MOTIONS WITH THE PARTIES AT THIS TIME. I FORGET ABOUT
7 WHAT TIME WE STARTED, I THINK WE STARTED A LITTLE AFTER
8 TWO. WE'VE BEEN ABOUT AN HOUR AND TEN OR FIFTEEN MINUTES.
9 SO, WE'LL JUST TAKE OUR AFTERNOON BREAK BECAUSE IT'S GOING
10 TO TAKE ME TEN OR FIFTEEN MINUTES TO DO THIS. SO, TAKE
11 YOUR SMOKE BREAK AND WE'LL GET YOU BACK JUST AS SOON AS WE
12 TAKE A SHORT BREAK OURSELVES. PLEASE DON'T DISCUSS THE
13 CASE AMONGST YOURSELVES. THANK YOU.

14 (WHEREUPON, THE JURY LEFT THE COURTROOM AT 3:23
15 P.M.)

16 THE COURT: ANY MOTIONS FROM THE STATE?

17 MS. HERRING-LASH: NO, YOUR HONOR.

18 THE COURT: ANY MOTIONS FROM THE DEFENDANT?

19 MR. GRIMES: YES, SIR. WE WOULD MOVE FOR A
20 DIRECTED VERDICT. LET ME GRAB THE RIGHT NUMBERS.

21 THE COURT: YES, SIR. DO YOU WANT ME TO CALL THE
22 NUMBERS OUT TO YOU? I MEAN, THEY'RE ALL BASICALLY THE
23 SAME THING.

24 MR. GRIMES: YES, SIR.

25 THE COURT: THERE'S FOUR OF THEM AND THEN YOU'VE

1 GOT THE LEWD ACT. WHAT'S YOUR --

2 MR. GRIMES: ON THE 2009-GS-10-2423 ALLEGES SEXUAL
3 INTERCOURSE, WE WOULD MOVE FOR DIRECTED VERDICT ON THAT
4 CHARGE. THE CHILD, ITSELF, TESTIFIED YESTERDAY THAT THERE
5 WAS NO SEXUAL INTERCOURSE.

6 WE'D ALSO MOVE FOR A MISTRIAL ON THAT COUNT OR --
7 EXCUSE ME -- MOVE TO DISMISS THE INDICTMENT BECAUSE
8 JONATHAN BURNEM HAD NOTHING TO DO WITH THE CASE AND HE'S
9 THE ONE WHO TESTIFIED AT GRAND JURY. IT WOULD BE IMPROPER
10 FOR SOMEONE WHO HAD NOTHING TO DO WITH THE CASE TO TESTIFY
11 AT GRAND JURY. AND THAT MAKES -- THAT MAKES THE
12 INDICTMENT VOID AB INITIO AND THEREFORE SHOULD BE
13 DISMISSED.

14 THE COURT: ON THE GROUNDS ABOUT THE DETECTIVE THAT
15 TESTIFIED, THAT'S DENIED ON THAT GROUNDS. AS FAR AS THE
16 SEXUAL INTERCOURSE, I BELIEVE IN HER VIDEO THAT WAS
17 PRESENTED TO THE JURY, SHE DID IN THAT VIDEO SAY THERE WAS
18 SEXUAL INTERCOURSE, SO YOUR MOTION IS DENIED ON THAT
19 INDICTMENT. I UNDERSTAND AT THE TRIAL SHE DID NOT. BUT
20 THAT VIDEO CAME IN AND IT GOES TO THE CASE -- THE CASE IN
21 CHIEF, NOT JUST IN THIS.

22 MR. GRIMES: OKAY. YOUR HONOR, ON THE REMAINING
23 INDICTMENTS, WE'D ALSO MOVE FOR MISTRIAL BECAUSE THERE IS
24 NO WITNESS LISTED --

25 THE COURT: WHICH -- WHICH -- WELL, THAT'S THE NEXT

1 THREE. IT JUST LIST THE NORTH CHARLESTON POLICE
2 DEPARTMENT ON ALL THREE INDICTMENTS, THAT'S DENIED ON THAT
3 BASIS. ANY OTHER BASIS ON THE OTHER THREE INDICTMENTS?
4 DO YOU WANT ME TO CALL THE NUMBERS OUT FOR YOU?

5 MR. GRIMES: NO, SIR. I WAS --

6 THE COURT: OKAY.

7 MR. GRIMES: I WAS THINKING OF A JURISDICTIONAL
8 ISSUE, BUT I THINK WITH HIS STATEMENT, THAT RULES IT OUT.

9 WE JUST MOVE FOR A DIRECTED VERDICT BASED UPON THE
10 -- I BELIEVE THE STATE HAS NOT PRESENTED SUFFICIENT
11 EVIDENCE TO -- TO PROVE THESE ALLEGATIONS.

12 THE COURT: ON THE THREE INDICTMENTS ON CSC FIRST?
13 ARE THOSE IN THAT?

14 MR. GRIMES: YES, SIR.

15 THE COURT: THE MOTION IS DENIED.

16 MR. GRIMES: AND LEWD ACT.

17 THE COURT: LET ME HEAR YOU ABOUT ON THE LEWD ACT.

18 MR. GRIMES: ON THE LEWD ACT, THERE WAS SOME
19 EVIDENCE THAT HE ATTEMPTED TO HAVE ORAL -- TO GET ORAL SEX
20 FROM HER AND THEN SHE TURNED HER HEAD. SO, WE DON'T
21 BELIEVE THAT IS -- WOULD BE SUFFICIENT -- CAN I HAVE
22 MOMENT TO DISCUSS THIS WITH MS. EHRlich?

23 THE COURT: YES, SIR.

24 MR. GRIMES: YOUR HONOR, WE'RE NOT GOING TO MAKE A
25 MOTION ON THE LEWD ACT APART FROM --

1 **THE COURT:** Y'ALL HAVE WHAT?

2 **MR. GRIMES:** APART FROM THE NO OFFICER TESTIFYING,
3 WE'RE NOT GOING TO MAKE A MOTION ON THE LEWD ACT.

4 **THE COURT:** SO, YOU DON'T HAVE A MOTION, OTHER THAN
5 THE FACT THAT THE INDICTMENT ITSELF SAYS THE WITNESS IS
6 THE NORTH CHARLESTON POLICE DEPARTMENT?

7 **MR. GRIMES:** YES, SIR.

8 **THE COURT:** ALL RIGHT. THANK YOU VERY MUCH.
9 ANYTHING ELSE?

10 **MR. GRIMES:** YOU MAY NEED TO ADVISE MR. TURNER OF
11 HIS RIGHT TO TESTIFY, GO OVER HIS RIGHT, WHETHER HE WANTS
12 TO TESTIFY OR NOT. WE BELIEVE HE WILL TESTIFY.

13 **THE COURT:** OKAY. ALL RIGHT. MR. TURNER, IF
14 YOU'LL STAND AND RAISE YOUR RIGHT HAND.

15 JEREMIAH TURNER, HAVING BEEN FIRST
16 DULY SWORN, TESTIFIED AS FOLLOWS:

17 **THE COURT:** ALL RIGHT. MR. TURNER, SPEAK UP SO I
18 CAN HEAR YOU AND THE COURT REPORTER CAN HEAR YOU. OKAY.
19 DO YOU FEEL MORE COMFORTABLE STANDING OR SITTING?

20 **MR. TURNER:** I DON'T MIND.

21 **THE COURT:** PARDON?

22 **MR. TURNER:** I DON'T MIND.

23 **THE COURT:** DO YOU WANT TO STAND OR DO YOU WANT TO
24 SIT? IT'S YOUR CHOICE.

25 **MR. TURNER:** I'LL SIT.

1 **THE COURT:** ALL RIGHT. SIT DOWN AND PULL THE
2 MICROPHONE BY YOU. OKAY. LEAN INTO THE MICROPHONE SO
3 EVERYBODY CAN HEAR YOU. ALL RIGHT. I'M GOING TO EXPLAIN
4 TO YOU YOUR 5TH AMENDMENT RIGHT TO REMAIN SILENT. OKAY?

5 **MR. TURNER:** YES, SIR.

6 **THE COURT:** UNDER THE 5TH AND 6TH AMENDMENT OF THE
7 CONSTITUTION, YOU HAVE THE RIGHT TO REMAIN SILENT -- UNDER
8 THE 5TH AMENDMENT, EXCUSE ME -- I SAID AND THE 6TH, THAT'S
9 NOT CORRECT. IN A CRIMINAL CASE, NO PERSON SHALL BE
10 COMPELLED TO BE A WITNESS AGAINST THEMSELF. THAT MEANS,
11 YOU CAN -- THE STATE CANNOT FORCE YOU TO TESTIFY AGAINST
12 YOURSELF. YOU HAVE THE RIGHT TO REMAIN SILENT. AND WHEN
13 YOU EXERCISE THAT RIGHT, IT'S THE STATE'S BURDEN TO PROVE
14 YOU GUILTY BEYOND A REASONABLE DOUBT; DO YOU UNDERSTAND?
15 YOU HAVE NO BURDEN TO PROVE YOURSELF INNOCENT; DO YOU
16 UNDERSTAND?

17 **MR. TURNER:** YES, SIR.

18 **THE COURT:** THAT'S A PERSONAL PRIVILEGE THAT YOU
19 HAVE. NO ONE ELSE HAS THAT PRIVILEGE BUT YOU. YOU HAVE
20 TO WAIVE THAT PRIVILEGE AND ONLY YOU CAN WAIVE THE
21 PRIVILEGE; DO YOU UNDERSTAND?

22 **MR. TURNER:** YES, SIR.

23 **THE COURT:** IF YOU ELECT NOT TO TESTIFY, THEN I
24 WILL INSTRUCT THE JURY THAT THEY CANNOT USE THAT AGAINST
25 YOU IN ANY MATTER. THERE IS NO INFERENCE OF GUILT. YOUR

1 FAILURE TO TESTIFY CANNOT BE CONSIDERED BY THE JURY DURING
2 THEIR DELIBERATIONS; DO YOU UNDERSTAND?

3 MR. TURNER: YES, SIR.

4 THE COURT: ALL RIGHT. IF YOU ELECT TO TESTIFY,
5 THEN YOU WILL ASSUME THE ROLE AS A WITNESS. AND WHEN YOU
6 TAKE THE WITNESS STAND, IF THE QUESTION IS RELEVANT AND
7 IT'S A PROPER QUESTION UNDER THE RULES OF EVIDENCE, YOU
8 WILL HAVE TO ANSWER IT; DO YOU UNDERSTAND?

9 MR. TURNER: YES, SIR.

10 THE COURT: IT'S NOT LIKE ON TELEVISION WHERE THEY
11 TAKE THE WITNESS STAND AND THEY TAKE THE 5TH ON ONE
12 QUESTION AND THEY ANSWER THE NEXT QUESTION. YOU EITHER
13 TAKE THE 5TH AND DON'T TESTIFY, OR YOU TAKE THE WITNESS
14 STAND AND ANSWER THE QUESTIONS; DO YOU UNDERSTAND?

15 MR. TURNER: YES, SIR.

16 THE COURT: DO YOU UNDERSTAND THE DIFFERENCE?

17 MR. TURNER: YES, SIR.

18 THE COURT: YOUR DECISION TO TESTIFY OR NOT TESTIFY
19 MUST BE FREELY, VOLUNTARILY AND INTELLIGENTLY MADE. I'M
20 GOING TO ASK YOU A FEW QUESTIONS. HOW FAR DID YOU GO IN
21 SCHOOL?

22 MR. TURNER: I WENT THROUGH 12TH GRADE, SIR.

23 THE COURT: THE 12TH GRADE. DID YOU COMPLETE THE
24 12TH GRADE?

25 MR. TURNER: YES, SIR.

1 THE COURT: HAVE YOU WORKED ANYWHERE?

2 MR. TURNER: SIR?

3 THE COURT: WHERE ALL -- HAVE YOU BEEN EMPLOYED
4 ANYWHERE?

5 MR. TURNER: I'VE BEEN EMPLOYED AT SUNOCO AND
6 SHONEYS.

7 THE COURT: ALL RIGHT. WHAT DID YOU DO AT SUNOCO?

8 MR. TURNER: AT SUNOCO, IT WAS 2000 --

9 THE COURT: WHAT TYPE OF WORK HAVE YOU DONE?

10 MR. TURNER: CUSTOMER SERVICE MAINLY, SIR.

11 THE COURT: OKAY. YOU'VE BEEN -- TODAY'S
12 WEDNESDAY. YOU'VE BEEN SITTING IN THE COURT NOW FOR TWO
13 AND A HALF DAYS. HAVE YOU UNDERSTOOD THE PROCEEDINGS THAT
14 ARE GOING ON?

15 MR. TURNER: YES, SIR.

16 THE COURT: HAVE YOU HAD AMPLE OPPORTUNITY TO TALK
17 TO YOUR ATTORNEY ABOUT YOUR DECISION TO TESTIFY?

18 MR. TURNER: YES, SIR.

19 THE COURT: DO YOU NEED ANY ADDITIONAL TIME TO TALK
20 TO YOUR ATTORNEY ABOUT WHETHER YOU WANT TO TESTIFY OR NOT
21 TESTIFY? BECAUSE IF YOU NEED SOME ADDITIONAL TIME, I WILL
22 GIVE IT TO YOU.

23 MR. TURNER: I UNDERSTAND.

24 THE COURT: DO YOU WANT SOME ADDITIONAL TIME?

25 MR. TURNER: YES, SIR.

1 **THE COURT:** OKAY. HOW MUCH TIME DO YOU THINK YOU
2 WILL NEED TO TALK TO YOUR ATTORNEY ABOUT TESTIFYING? JUST
3 GIVE ME AN APPROXIMATION. I'M NOT GOING TO HOLD YOU TO
4 IT.

5 **MR. TURNER:** ABOUT -- ABOUT 30 MINUTES.

6 **THE COURT:** PARDON?

7 **MR. TURNER:** ABOUT 30 MINUTES, SIR.

8 **THE COURT:** OKAY. I WILL LET YOU TALK TO YOUR
9 ATTORNEY AND THEN I WILL CONTINUE ASKING YOU QUESTIONS
10 ABOUT YOUR 5TH AMENDMENT RIGHT. SO, WE'LL TAKE A BREAK.
11 AND WHEN Y'ALL HAVE FINISHED WITH YOUR CONSULT, TAKE A
12 SHORT BREAK YOURSELF, AND LET ME KNOW WHEN YOU'RE READY TO
13 PROCEED WITH THE 5TH AMENDMENT ADVISEMENT. OKAY.

14 **MR. GRIMES:** THANK YOU, YOUR HONOR.

15 **THE COURT:** ALL RIGHT. ALL RIGHT. WE'LL TAKE A
16 SHORT BREAK.

17 (WHEREUPON, THE COURT RECESSED AT 3:36 P.M.)

18 (WHEREUPON, THE COURT RECONVENED AT 4:07 P.M.)

19 **THE COURT:** OKAY. MR. TURNER, YOU'VE HAD AN
20 OPPORTUNITY TO TALK TO YOUR ATTORNEYS. I BELIEVE YOU'VE
21 BEEN TALKING TO THEM FOR -- ACCORDING TO MY WATCH -- I
22 DON'T KNOW. I'VE BEEN OUT OF THE COURTROOM FOR ABOUT 25
23 MINUTES. YOU SAID YOU NEEDED 30 MINUTES. HAVE YOU HAD AN
24 AMPLE OPPORTUNITY TO TALK TO YOUR ATTORNEY ABOUT YOUR
25 RIGHT TO TESTIFY?

1 MR. TURNER: YES, SIR.

2 THE COURT: DID YOU UNDERSTAND THE CONVERSATION YOU
3 HAD WITH YOUR ATTORNEY?

4 MR. TURNER: YES, SIR.

5 THE COURT: ALL RIGHT. HAVE YOU UNDERSTOOD WHAT I
6 HAVE EXPLAINED TO YOU?

7 MR. TURNER: YES, SIR.

8 THE COURT: DO YOU HAVE ANY QUESTIONS AT ALL ABOUT
9 WHAT I'VE EXPLAINED TO YOU OR WHAT YOUR ATTORNEYS HAVE
10 EXPLAINED TO YOU?

11 MR. TURNER: NO, SIR.

12 THE COURT: ALL RIGHT. DO YOU WISH TO TESTIFY?

13 MR. TURNER: YES, SIR.

14 THE COURT: OKAY. THANK YOU SO VERY MUCH. LET ME
15 SEE THE ATTORNEYS UP HERE JUST A SECOND.

16 (WHEREUPON, THERE WAS A BENCH CONFERENCE BETWEEN
17 THE COURT AND COUNSEL.)

18 THE COURT: ALL RIGHT. ANYTHING ELSE BEFORE WE
19 BRING THE JURY? ANYTHING FROM THE STATE BEFORE WE BRING
20 THE JURY?

21 MS. HERRING-LASH: NO, YOUR HONOR.

22 THE COURT: ANYTHING FROM THE DEFENDANT?

23 MR. GRIMES: NO, SIR.

24 THE COURT: OKAY. BRING US THE JURY PLEASE.

25 (WHEREUPON, THE JURY ENTERED THE COURTROOM AT 4:20

1 P.M.)

2 THE COURT: ALL RIGHT. MR. GRIMES, IF YOU'LL --
3 YOU'LL CALL YOUR FIRST WITNESS PLEASE.

4 MR. GRIMES: THANK YOU, YOUR HONOR. WE CALL MS.
5 CHARLENE PENDERGAST.

6 (WITNESS FORWARD)

7 CHARLENE PENDERGAST, HAVING BEEN
8 FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

9 THE CLERK: IF YOU'LL STATE YOUR FULL NAME FOR THE
10 COURT AND SPELL IT.

11 THE WITNESS: CHARLENE MARIE PENDERGAST. CHARLENE
12 C-H-A-R-L-E-N-E. PENDERGAST P-E-N-D-E-R-G-A-S-T.

13 DIRECT EXAMINATION BY MR. GRIMES:

14 Q GOOD AFTERNOON, MS. PENDERGAST. IS IT ALL RIGHT
15 IF I CALL YOU CHARLENE?

16 A YEAH. PLEASE.

17 Q I'M GOING TO ASK YOU A FEW QUESTIONS ABOUT YOUR
18 BACKGROUND. OKAY?

19 A UH-HUH.

20 Q WHERE ARE YOU FROM?

21 A ORIGINALLY FROM -- BORN IN PENNSYLVANIA.

22 Q AND HOW LONG HAVE YOU LIVED IN THE CHARLESTON
23 AREA?

24 A THIRTY-TWO YEARS.

25 Q WHAT BROUGHT YOU DOWN TO CHARLESTON?

1 A ACTUALLY I WAS WANTING TO GO JUST SOMEWHERE
2 DIFFERENT, I WAS WANTING TO GO TO CALIFORNIA, BUT I ENDED
3 UP IN THE SOUTH.

4 Q ALL RIGHT. ARE YOU MARRIED?

5 A YES, SIR.

6 Q WHO ARE YOU MARRIED TO?

7 A CHARLES PENDERGAST.

8 Q THAT'S THE GENTLEMAN IN THE BACK?

9 A UH-HUH. YES, SIR.

10 Q AND ARE YOU WORKING NOW?

11 A YES, SIR.

12 Q WHERE ARE YOU WORKING AT?

13 A I WORK AT CATHEDRAL OF PRAISE CHURCH ON ASHLEY
14 PHOSPHATE ROAD IN NORTH CHARLESTON.

15 Q ALL RIGHT. HOW LONG HAVE YOU WORKED THERE?

16 A GOING ON SEVEN YEARS.

17 Q WHAT ARE YOUR DUTIES AT CATHEDRAL OF PRAISE?

18 A FOR THE MOST PART, I'M THE SECRETARY SLASH
19 RECEPTIONIST.

20 Q AND WHAT DID YOU DO BEFORE YOU WORKED AT
21 CATHEDRAL OF PRAISE?

22 A MY BACKGROUND IS MEDICAL OFFICES --
23 OPHTHALMOLOGY, CARDIOLOGY, GENERAL SURGERY AND OBGYN.

24 Q OKAY. DO YOU KNOW JEREMIAH TURNER?

25 A I DO REMEMBER MEETING HIM.

1 Q DO YOU RECALL WHEN YOU MET HIM?
2 A IT WILL BE TWO YEARS AGO THIS SUMMER.
3 Q MAYBE AUGUST OF 2008?
4 A YES, SIR.
5 Q DID YOU KNOW HIM BEFORE YOU MET HIM --
6 A NO --
7 Q -- BEFORE AUGUST 2008?
8 A NO, SIR.
9 Q HAVE YOU MET WITH HIM AFTER?
10 A NO, SIR.
11 Q I WANT TO DIRECT YOUR ATTENTION TO THE DAY YOU
12 MET HIM. CAN YOU TELL THE JURY A LITTLE BIT OF HOW YOU
13 CAME TO MET HIM -- MEET HIM?
14 A YES, SIR. HE AND A YOUNG WOMAN CAME INTO
15 CATHEDRAL WITH TWO YOUNG CHILDREN.
16 Q OKAY. AND DO YOU RECALL THE WOMAN'S NAME?
17 A ONLY THE FIRST NAME, PAM, I THINK.
18 Q OKAY. AND WHEN JEREMIAH CAME INTO CATHEDRAL OF
19 PRAISE, DID YOU -- DID YOU TALK TO THEM INITIALLY OR --
20 A I DID.
21 Q WHAT DID JEREMIAH ASK FOR --
22 MS. HERRING-LASH: YOUR HONOR, I WOULD OBJECT TO
23 HEARSAY.
24 THE COURT: WHAT'S YOUR LEGAL OBJECTION -- I CAN'T
25 SEE YOU.

1 MS. HERRING-LASH: HEARSAY.

2 THE COURT: I'LL SUSTAIN THE OBJECTION. REPHRASE
3 YOUR QUESTION.

4 BY MR. GRIMES:

5 Q DO YOU KNOW WHY JEREMIAH CAME IN TO TALK TO YOU?

6 A WHEN THEY CAME IN, THEY ASKED ME IF WE HAD A --

7 MS. HERRING-LASH: YOUR HONOR, I WOULD OBJECT TO
8 HEARSAY.

9 THE COURT: I'M SORRY.

10 MS. HERRING-LASH: HEARSAY.

11 THE COURT: REPHRASE -- WELL, WHAT WAS THE
12 QUESTION? THE LAW CLERK WAS TALKING TO ME. I'M SORRY. I
13 DIDN'T HEAR IT.

14 MR. GRIMES: I BELIEVE I ASKED IF SHE KNEW WHY
15 JEREMIAH CAME INTO CATHEDRAL AND SHE WAS SAYING HE CAME IN
16 AND ASKED THEM FOR --

17 THE COURT: AND YOUR OBJECTION IS HEARSAY?

18 MS. HERRING-LASH: YES, YOUR HONOR.

19 THE COURT: I OVERRULE THE OBJECTION.

20 THE WITNESS: LET ME SAY THIS, WHEN THEY CAME IN, I
21 ASKED THEM WHAT ARE YOU HERE FOR AS I DO WHEN FOLKS COME
22 IN THE FRONT DOOR.

23 BY MR. GRIMES:

24 Q AND WHAT DID JEREMIAH TELL YOU?

25 A THAT HE WAS LOOKING FOR A UM -- ANGER MANAGEMENT

1 CLASS FOR A CHILD.

2 Q OKAY. AND WHEN HE TOLD YOU THAT, WHAT WAS YOUR
3 REACTION?

4 A I SAID WE DID HAVE ANGER MANAGEMENT CLASSES, BUT
5 FOR ADULTS, NOT FOR CHILDREN.

6 Q DID YOU FIND IT ODD THAT HE WANTED AN ANGER
7 MANAGEMENT CLASS FOR A CHILD?

8 A YES, SIR. ABSOLUTELY.

9 Q NOW, WITHOUT ME GOING INTO TOO MUCH WHAT THEY
10 SAID, PAM AND JEREMIAH, HOW LONG DID THAT CONVERSATION
11 LAST ABOUT THAT ANGER MANAGEMENT CLASS?

12 A I -- I ASKED THEM TO GO INTO AN AREA THAT'S OFF
13 FROM THE DESK THAT I SIT AT BECAUSE OF PRIVACY -- WANTING
14 PRIVACY. AND THAT BEGAN A LENGTHY CONVERSATION, BUT YEAH
15 IT STARTED OUT -- I SAW THE LITTLE GIRL THAT WAS -- THE
16 THREE YEAR OLD LITTLE GIRL WITH THE SLING ON. AND I ASKED
17 WHAT HAPPENED..

18 Q AND WHO DID YOU ASK THAT TO?

19 A BOTH OF THEM.

20 Q AND WITHOUT GOING INTO WHAT PAM SAID, WHAT DID
21 JEREMIAH SAY?

22 A THAT IT HAD -- IT WAS A RESULT OF AN OLDER
23 SIBLING.

24 Q DID YOU HAVE A CHANCE TO TALK TO THE CHILD WITH
25 HER ARM IN A SLING?

1 A I ASKED HER -- I THINK I INITIALLY ASKED HER IF
2 IT HURT.

3 Q AND BASED UPON WHAT YOU SAID, DID YOU GET HER
4 ANY MEDICAL ATTENTION OR --

5 A I -- I DID ASK IF SHE WAS ATTENDED TO BY A
6 PHYSICIAN.

7 Q AND BASED UPON THEIR ANSWERS, WERE YOU SATISFIED
8 THAT SHE HAD BEEN TAKEN TO A DOCTOR?

9 A YES.

10 Q AND WHAT -- ONCE YOU WENT INTO -- I THINK YOU
11 DESCRIBED IT AS A LIVING ROOM?

12 A THAT'S WE CALL IT, THE LIVING ROOM, UH-HUH.

13 Q HOW LONG WERE YOU IN THERE FOR WITH JEREMIAH?

14 A IT WAS AT LEAST TWO OR THREE HOURS.

15 Q OKAY. AND DID YOU -- DID YOU TAKE ANY ACTIONS
16 BASED UPON WHAT THEY TOLD YOU?

17 A I DID.

18 Q WHAT WERE THOSE ACTIONS THAT YOU TOOK?

19 A I WENT TO ONE OF OUR PASTORS AND TOLD HIM I WAS
20 CONCERNED ABOUT AN ISSUE WITH THE CHILD AND I KNEW WHAT I
21 HAD TO DO WAS CALL THE POLICE.

22 Q OKAY. AND DID YOU CALL THE POLICE?

23 A YES. THE POLICE WERE CALLED.

24 Q AND DID THE POLICE COME?

25 A YES.

1 Q AND DO YOU KNOW HOW MANY OFFICERS CAME?

2 A FIRST, INITIALLY THERE WAS AN OLDER GENTLEMAN.
3 AND THEN WITHIN -- I WANT TO SAY WITHIN 30 MINUTES OR SO,
4 THEN THE GENTLEMAN THAT WAS UP HERE TESTIFYING WAS THE
5 SECOND GENTLEMAN THAT CAME IN.

6 Q AND THAT GENTLEMAN THAT WAS UP HERE TESTIFYING,
7 DID YOU TALK TO HIM?

8 A I DIDN'T HAVE A LONG CONVERSATION WITH HIM. I
9 INTRODUCED MYSELF TO HIM. AND I WAS -- I LEFT THE ROOM
10 SHORTLY AFTER HE CAME, FOR PRIVACY.

11 Q NOW, BEFORE YOU CALLED THE POLICE, DID YOU HAVE
12 AN OPPORTUNITY TO OBSERVE JEREMIAH WITH THE CHILDREN?

13 A YES, SIR, I DID.

14 Q AND WHAT WAS HIS DEMEANOR LIKE WITH THEM?

15 A JEREMIAH WAS VERY ATTENTIVE TO THE CHILDREN. I
16 WATCHED THEM VERY CLOSELY BECAUSE OF THE CONCERN I HAD
17 WITH THE ONE CHILD IN THE SLING. I WATCHED THEM -- THEM
18 ENGAGE. AND THERE WAS NEVER ANY FEAR. I WATCHED THEM --
19 BOTH OF THEM VERY CLOSELY. THERE WAS -- HE WAS LIKE A
20 FATHER TO THEM.

21 Q OKAY. AND PAMELA AND -- OR PAM AND JEREMIAH,
22 WHO SEEMED TO BE THE MORE DOMINANT PERSONALITY?

23 A PAMELA.

24 Q AND WHY -- WHY DO YOU SAY THAT?

25 A SHE DID MOST OF THE TALKING. SHE DID MOST OF

1 THE TALKING. AND EVEN HER DEMEANOR, EVERYTHING WAS MORE
2 -- SHE WAS -- HE WAS QUIETER.

3 Q THAT'S WHAT I WAS GOING TO ASK YOU -- HOW WOULD
4 YOU DESCRIBE HIM IN YOUR INTERACTIONS WITH HIM?

5 A UM, INTERACTIONS -- HE WAS QUIET, SHY. I HAD
6 ASKED QUESTIONS DURING THE TIME THAT WE WERE IN THERE
7 BECAUSE I REALLY WANTED TO GET A BETTER PICTURE OF WHAT
8 MIGHT BEEN GOING ON. HE WAS SHY.

9 Q OKAY.

10 A HE WAS FEARFUL.

11 Q DID HE -- WHY DID HE SEEM TO BE FEARFUL?

12 A DURING THE COURSE OF THE CONVERSATION, THE TWO
13 OF THEM HAD TALKED ABOUT THE MOTHER OF THE CHILD. AND
14 THEY TALKED ABOUT HER ANGER ISSUES, MOOD SWINGS AND SUCH.
15 AND BOTH OF THEM SEEMED -- EVEN AS -- AS DOMINATING AS THE
16 FEMALE SEEMED, THEY BOTH SEEMED FEARFUL OF THIS MOTHER OF
17 THE CHILDREN.

18 Q DID JEREMIAH WANT HER TO KNOW THAT HE HAD COME
19 TO THE CHURCH SEEKING COUNSELLING?

20 A NO.

21 Q DID HE SAY WHY?

22 A BOTH OF THEM STATED THAT THEY WERE AFRAID OF
23 WHAT SHE MAY DO.

24 Q NOW, LET ME GO BACK TO WHEN YOU MADE THE
25 DECISION TO CALL THE POLICE OR ASKED THEM -- DID JEREMIAH

1 KNOW THAT YOU WERE GOING TO CALL THE POLICE?

2 A I -- I INFORMED THEM.

3 Q AND WHAT WAS HIS REACTION WHEN YOU INFORMED HIM
4 THAT THE POLICE WERE GOING TO BE CALLED IN?

5 A BOTH OF THEM WERE VERY ANXIOUS. I REMEMBER
6 SAYING TO THEM THAT BECAUSE THEY DID THE RIGHT THING BY
7 COMING IN THERE WANTING TO HELP THE CHILDREN OR CHILD,
8 THAT I HAD TO MAKE THE RIGHT DECISION. AND, YEAH, THEY
9 WERE ANXIOUS. THEY WERE AFRAID.

10 Q DID THEY SEEM TO BE AFRAID OF THE POLICE COMING
11 OR OF SOMETHING ELSE?

12 A I ACTUALLY ASKED THEM, WHY ARE YOU AFRAID? ARE
13 YOU AFRAID OF THE POLICE OFFICERS OR WHAT THEY MIGHT FIND
14 OF SEE? AND THEY WERE AFRAID OF HER.

15 Q OKAY. AT ANY TIME, DID JEREMIAH TRY TO LEAVE
16 BEFORE THE POLICE GOT THERE?

17 A NO. NEITHER ONE.

18 Q AND HOW LONG INTO THIS MEETING WAS IT BEFORE YOU
19 CALLED THE POLICE -- CALLED THE POLICE DEPARTMENT?

20 A GOSH, MAYBE TWO-THIRDS OF THE TIME FRAME.

21 Q AND YOU TESTIFIED EARLIER --

22 COURT REPORTER: REPEAT PLEASE.

23 Q -- DID YOU SAY YOU MET WITH THEM FOR THREE OR
24 FOUR HOURS?

25 A IT WAS A GOOD PORTION OF THE MORNING. MY

1 GUESS -- MY BEST GUESS IS ABOUT THREE HOURS.

2 Q AND AFTER THE OFFICER GOT THERE, WHAT HAPPENED
3 THEN?

4 A WHEN THE FIRST OFFICER GOT IN THERE -- WELL,
5 WHEN HE CAME TO THE FRONT -- I MET HIM AT THE FRONT DESK.
6 AND WE WENT INSIDE AND HE BEGAN TO QUESTION BOTH ADULTS
7 AND THE -- THE CHILDREN.

8 Q AND WERE YOU -- WERE YOU INVOLVED IN THAT
9 QUESTION PROCESS OR DID YOU OVERHEAR ANY QUESTIONS?

10 A I WAS NOT DIRECTLY INVOLVED. I ACTUALLY SAT
11 AWAY FROM THEM. AND I REALLY STAYED IN THE ROOM FOR A
12 LITTLE WHILE TO HELP WITH THE CHILDREN IF NEEDED.

13 Q OFFICER RAMSEY -- OR DETECTIVE RAMSEY GOT THERE,
14 THE PERSON WHO TESTIFIED, WERE YOU INVOLVED WITH HIM IN
15 ANY WAY?

16 A I WAS NOT. I LEFT THE ROOM SHORTLY AFTER --
17 AGAIN, AFTER HE STARTED ASKING QUESTIONS.

18 Q ALL RIGHT. NOW, I'M GOING TO ASK YOU A FEW
19 QUESTIONS ABOUT THE CHILDREN. DID -- DID THEY SEEM TO BE
20 WELL TAKEN CARE OR --

21 A NO, SIR, NOT AT ALL.

22 Q DID YOU INQUIRE AS TO WHY THEY WEREN'T WELL
23 TAKEN CARE OF?

24 A YES. I -- I REMEMBER CHANGING THE BABY'S DIAPER
25 ONE TIME AND THE BABY HAD DIARRHEA. AND JEREMIAH HAD SAID

1 THAT THE BABY HAD HAD DIARRHEA FOR A LONG TIME. AND THE
2 GIRL SAID ABOUT TWO OR THREE MONTHS. AND I SAID -- I MADE
3 A STATEMENT THAT THAT WAS NOT NORMAL FOR AN INFANT TO HAVE
4 DIARRHEA THAT LONG. THEY BOTH, YOU KNOW, THEY SMELLED.
5 AND, YEAH, IT WAS SAD.

6 Q DO YOU NOTICE IF THE CHILDREN HAD LICE?

7 A THE FEMALE, PAM, SHE TOLD ME THAT THEY -- I
8 DON'T SEE THEM. LICE ARE KIND OF HARD TO SEE --

9 Q WITHOUT SAYING WHAT PAM TOLD YOU, DID YOU SEE
10 ANY LICE?

11 A I SAW A CRUSTY HEAD. YEAH. I LOOKED AT HER.
12 YES. YEAH. LICE ARE HARD TO SEE.

13 Q DID YOU ASK JEREMIAH WHY HE WASN'T TAKING BETTER
14 CARE OF THE CHILDREN IF HE WAS WITH THEM A LOT?

15 A I REMEMBER ASKING JEREMIAH IF HE WORKED. AND HE
16 SAID HE TOOK CARE OF THE KIDS AND THE HOUSE OR TRAILER OR
17 WHATEVER THEY LIVED IN.

18 Q DID HE SAY ANYTHING WHY HE COULDN'T TAKE CARE OF
19 THE CHILDREN BETTER OR IF THERE WAS SOMETHING STOPPING
20 HIM?

21 A I DON'T REMEMBER THAT -- I REMEMBER ASKING WHY
22 HE DIDN'T -- WASN'T WORKING. HE WAS PRETTY MUCH LIKE A
23 FREE BABYSITTER.

24 Q I'M GOING TO WRAP IT UP IN A LITTLE BIT -- DID
25 -- DID YOU SEE ANYTHING UNUSUAL -- THE CHILDREN'S REACTION

1 WITH JEREMIAH THAT LED YOU BELIEVE THEY WERE SCARED OF
2 HIM?

3 A NOT AT ALL.

4 Q FEARFUL OF HIM?

5 A NO, SIR.

6 Q DID YOU SEE ANYTHING IN THEIR REACTION THAT MAY
7 HAVE LED YOU TO BELIEVE THAT HE ABUSED THEM?

8 A NOTHING.

9 MR. GRIMES: ONE MOMENT, PLEASE. (PAUSE.)
10 CHARLENE, THANK YOU. PLEASE ANSWER ANY QUESTIONS MS. LASH
11 MAY HAVE FOR YOU.

12 THE COURT: CROSS EXAMINATION.

13 MS. HERRING-LASH: YES, YOUR HONOR. THANK YOU.

14 CROSS EXAMINATION BY MS. HERRING-LASH:

15 Q MS. PENDERGAST, YOU SAID YOU FOUND IT ODD OR
16 UNUSUAL FOR SOMEONE TO WANT ANGER MANAGEMENT FOR A CHILD?

17 A UH-HUH.

18 Q WHY IS THAT?

19 A TYPICALLY, IN MY ALMOST SEVEN YEARS THAT I'VE
20 BEEN THERE, ANGER MANAGEMENT IS USUALLY FOR -- IN WHAT I
21 HAVE SEEN, IT'S FOR ADULTS, NOT FOR CHILDREN SO MUCH. I'M
22 NOT SAYING THAT I'VE NEVER SEEN ANY KIDS THAT DIDN'T NEED
23 -- OR HAVE ISSUES WITH BEHAVIOR, BEHAVIOR PROBLEMS.

24 Q BUT IT IS AN ADULT -- ANGER MANAGEMENT IS
25 USUALLY AN ADULT ISSUE BECAUSE THAT'S WHAT THE CLASSES ARE

1 FOR?

2 A THAT'S CORRECT.

3 Q AND SOMEONE WANTING ANGER MANAGEMENT FOR A
4 CHILD, THEIR PERCEPTION OF THE LINE BETWEEN THE CHILD'S
5 BEHAVIOR AND THE ADULT'S BEHAVIOR WOULD BE A LITTLE BIT
6 SKEWED, WOULDN'T IT?

7 A I'M NOT SURE WHAT YOU'RE ASKING ME.

8 Q IF YOU LOOK TO A CHILD AS TO HAVE THE SAME
9 BEHAVIOR AS AN ADULT, THAT WOULD BE A LITTLE OFF?

10 A SURE. YES.

11 Q AND YOU SAID THAT YOU TALKED TO MR. TURNER FOR
12 SOME TIME?

13 A YES.

14 Q ABOUT Sister 2 1'S CONDITION, THE LITTLE THREE YEAR
15 OLD?

16 A WE TALKED ABOUT Sister 2 1'S CONDITION. AND WE
17 TALKED ABOUT THE MOTHER.

18 Q DID HE TELL YOU THAT HE HIT HER, KNOCKED HER
19 DOWN, LEFT A BRUISE ON HER, JERKED HER UP BY THE ARM AND
20 HIT HER FOUR MORE TIMES --

21 A NO, MA'AM --

22 Q -- PRIOR TO THE BREAKING OF HER COLLAR BONE?

23 A NO, MA'AM.

24 Q HE LEFT THAT OUT. DID HE SEEM -- YOU SAID HE
25 SEEMED FEARFUL OF MAKING THIS REPORT?

1 A NO, I DIDN'T SAY THAT.

2 Q HE SEEMED -- THAT HE AND PAM BOTH SEEMED ANXIOUS
3 OR FEARFUL ABOUT MAKING THE COMPLAINT?

4 A NO. THEY WERE FEARFUL AND ANXIOUS THAT I WAS
5 CALLING THE POLICE --

6 Q CALLING THE POLICE.

7 A THEY FEAR WAS THAT THE MOTHER WOULD DO
8 SOMETHING.

9 Q AND YOU'VE NEVER MET THE MOTHER?

10 A NO, MA'AM, I HAVE NOT.

11 Q AND YOU FOUND OUT DURING THIS THAT THE -- THAT
12 JEREMIAH TURNER WAS ACTUALLY THE CARETAKER OF THESE
13 CHILDREN THAT HE BROUGHT THERE, COMPLAINING ABOUT THE
14 FILTH?

15 A THAT HE -- HE BROUGHT THEM COMPLAINING ABOUT THE
16 FILTH -- I'M SORRY?

17 Q THE FILTH, THEIR LICE?

18 A OH, OKAY.

19 Q HE WAS COMPLAINING ABOUT THAT?

20 A I DIDN'T -- I DON'T REMEMBER SAYING THAT, NO.
21 THE WHOLE THING -- THE WHOLE THING WAS THAT THEY HAD
22 INITIALLY COME IN BECAUSE OF ANGER --

23 Q WHOSE ANGER?

24 A THEY ASKED IF WE HAD A CLASS FOR ANGER
25 MANAGEMENT FOR CHILDREN.

1 Q BUT YOU DID FIND OUT THAT HE WAS THE CARETAKER?

2 A I FOUND OUT THAT HE WAS ONE OF THE -- YES, ONE
3 OF THE ADULTS THAT WAS TAKING CARE OF THE CHILDREN.

4 Q AND I THINK YOU SAID ON YOUR DIRECT, THAT YOU
5 FOUND OUT HE WAS THE CARETAKER -- THAT HE WAS A FREE
6 BABYSITTER?

7 A THAT WAS MY TAKE ON IT.

8 Q DID HE TELL YOU THAT THE MOTHER WAS WORKING TWO
9 JOBS TO SUPPORT HIM AND THE KIDS?

10 A HE TOLD ME THAT HE -- I THINK BOTH OF THEM HAD
11 TOLD ME THAT THE MOTHER WAS WORKING. SHE HAD JUST EITHER
12 -- A PART TIME JOB AT A RESTAURANT. AND THE OTHER ONE, I
13 THOUGHT, IRONICALLY WAS AT A DAYCARE CENTER.

14 MS. HERRING-LASH: THOSE ARE ALL THE QUESTIONS I
15 HAVE.

16 THE COURT: REDIRECT?

17 MR. GRIMES: NO QUESTIONS, YOUR HONOR.

18 THE COURT: ANY OBJECTION TO MS. PENDERGAST BEING
19 EXCUSED?

20 MR. GRIMES: NO, SIR.

21 MS. HERRING-LASH: NO, SIR.

22 THE COURT: MS. PENDERGAST, YOU MAY STEP DOWN. YOU
23 ARE EXCUSED. YOU'RE WELCOME TO STAY IF YOU WANT TO STAY.
24 CALL YOUR NEXT WITNESS, PLEASE.

25 (WITNESS STEPPED DOWN.)

C. PENDERGAST -- CROSS BY MS. HERRING-LASH

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1 MS. EHRLICH: THE DEFENSE CALLS JEREMIAH TURNER.

2 (WITNESS FORWARD.)

3 THE CLERK: IF YOU WOULD, PLEASE PUT YOUR LEFT HAND
4 ON THE BIBLE AND RAISE YOUR RIGHT HAND.

5 JEREMIAH TURNER, HAVING BEEN
6 FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

7 THE CLERK: PLEASE BE SEATED. SIR, FOR THE RECORD,
8 PLEASE STATE YOUR FULL NAME FOR THE COURT AND SPELL IT AS
9 WELL.

10 THE WITNESS: JEREMIAH TURNER. J-E-R-E-M-I-A-H.
11 TURNER T-U-R-N-E-R.

12 DIRECT EXAMINATION BY MS. EHRLICH:

13 Q JEREMIAH, I'M JUST GOING TO CALL YOU JEREMIAH
14 AND NOT MR. TURNER, OKAY?

15 A OKAY.

16 Q DID YOU SEXUALLY ABUSE Minor ?

17 A NO, MA'AM.

18 Q DID YOU HAVE ANY TYPE OF SEXUAL CONTACT WITH
19 HER?

20 A NO.

21 Q AND YOU'VE HEARD ALL THE THINGS THAT THE STATE
22 HAS ACCUSED YOU OF DOING?

23 A YES.

24 Q DID YOU DO ANY OF THOSE THINGS?

25 A NO.

1 Q AND LET'S -- JUST TALK A LITTLE BIT ABOUT
2 YOURSELF NOW.

3 A YES, MA'AM, I AM.

4 Q CAN YOU EXPLAIN THAT TO THE JURY A LITTLE BIT?

5 A I REALLY HAVE TROUBLE SPEAKING IN FRONT OF A
6 LARGE GROUP. AND I REALLY KEEP TO MYSELF, YOU KNOW.

7 Q DO YOU CONSIDER YOURSELF TO BE SHY?

8 A YES.

9 Q AND WITH THIS WHOLE SITUATION, IS THIS THE FIRST
10 TIME YOU'VE EVER HAD TO TESTIFY IN COURT?

11 A YES.

12 Q WHERE DID YOU GROW UP, JEREMIAH?

13 A I GREW UP HERE IN CHARLESTON.

14 Q WHERE DID YOU GO TO SCHOOL?

15 A I MAINLY WENT TO SCHOOL -- MOSTLY IN MT.
16 PLEASANT.

17 Q WHO DID YOU LIVE WITH?

18 A MY MOTHER.

19 Q WAS SHE THE PERSON WHO RAISED YOU?

20 A YES.

21 Q DESCRIBE HER TO US.

22 A SHE -- SHE WAS A STRICT CHRISTIAN WOMAN.

23 Q WOULD YOU SAY THAT YOU HAD A GOOD CHILDHOOD?

24 A YES.

25 Q AND WHY IS THAT?

JEREMIAH TURNER -- DIRECT BY MS. EHRLICH

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1 A BECAUSE I -- I PRETTY MUCH HAD A GOOD BACKGROUND
2 WITH HER.

3 Q LET'S -- LET'S TALK A LITTLE BIT ABOUT YOUR --
4 YOUR FAMILY FRIENDS.

5 A OKAY.

6 Q OKAY. IN SEPTEMBER OF 2008, BACK WHEN YOU GOT
7 ARRESTED?

8 A YES.

9 Q WHO -- WHO WERE YOU CLOSE TO DURING THAT TIME?

10 A AROUND THAT TIME, I WAS CLOSE TO PAM AND AARON.

11 Q AND EVERYBODY'S HEARD A LOT ABOUT PAM, WHO IS
12 PAM?

13 A PAM -- PAM WAS MY ROOMMATE AT THE -- THE ADDRESS
14

15 Q HOW LONG HAD YOU KNOWN HER?

16 A I'VE KNOWN HER FOR ALMOST FOUR YEARS.

17 Q WHERE DID YOU MEET HER?

18 A THROUGH WORK AT SHONEYS.

19 Q OKAY. AND THEN WHO'S ARRON?

20 A ARRON WAS HER -- HER HUSBAND.

21 Q AND DID YOU GET ALONG WITH HIM?

22 A WE GOT ALONG PRETTY WELL.

23 Q OKAY. IS IT -- IS IT SAFE FOR ME TO SAY THAT AT
24 THAT TIME IN THEIR LIFE, THEY WERE LIKE A FAMILY?

25 A YES.

1 Q WHAT ABOUT Minor 'S MOTHER, WERE YOU CLOSE TO
2 HER?

3 A AT -- AT THAT TIME, WE WERE IN A RELATIONSHIP.

4 Q OKAY. AND EVERYBODY'S BEEN REFERRING TO HER AS
5 MS. DAVISON, WHAT DID YOU CALL HER?

6 A DEBBIE.

7 Q WOULD IT BE EASIER FOR ME WHEN I QUESTION YOU TO
8 CALL HER DEBBIE?

9 A YES.

10 Q OKAY. HOW -- HOW WOULD YOU DESCRIBE YOURSELF AS
11 A PERSON?

12 A I WOULD SAY QUIET, LAID BACK.

13 Q OKAY. WOULD YOU CONSIDER YOURSELF TO BE A GOOD
14 FRIEND?

15 A YES.

16 Q GIVEN -- GIVE US AN EXPLANATION AS TO WHY YOU
17 CONSIDER YOURSELF A GOOD FRIEND?

18 A I WOULD DO -- I WOULD DO ANYTHING FOR MY
19 FRIENDS. IF -- IF THEY NEED IT, I -- I WOULD GIVE THEM
20 MONEY. I WOULD GIVE AWAY MY WHOLE PAYCHECK IF I HAVE TO.

21 Q TO HELP A FRIEND?

22 A YEAH.

23 Q AND I THINK THAT WE TALKED BEFORE ABOUT YOU
24 LIKING SPORTS?

25 A YES.

1 Q WHAT WAS YOUR FAVORITE SPORT?

2 A BASKETBALL.

3 Q AND I KNOW WE TALKED A LITTLE BIT ABOUT THE
4 TOURNAMENT?

5 A YES.

6 Q WERE YOU HAPPY WITH THE RESULTS?

7 A NO.

8 Q OKAY. AND WHY IS THAT?

9 A NORTH CAROLINA DIDN'T WIN.

10 Q OKAY. WHEN YOU GOT ARRESTED, WERE YOU EMPLOYED
11 AT THAT TIME?

12 A NO. NOT AT THAT TIME.

13 Q HAVE YOU WORKED PREVIOUSLY?

14 A YES.

15 Q WHAT KIND OF WORK HAD YOU DONE PREVIOUSLY?

16 A I WAS WORKING -- BEFORE I GOT ARRESTED, I WAS
17 WORKING AT SHONEYS. I WAS DOING A LITTLE BIT OF DISH
18 WASHING.

19 Q OKAY. AND HOW FAR DID YOU GO IN SCHOOL?

20 A I WENT THROUGH THE 12TH GRADE.

21 Q AND DID YOU DO -- DO ANYTHING AFTER HIGH SCHOOL?

22 A YES.

23 Q WHAT WAS THAT?

24 A I WENT -- I TOOK ABOUT A SEMESTER IN TRIDENT
25 TECH FOR GRAPHIC DESIGNER.

1 Q IS GRAPHIC DESIGN SOMETHING THAT YOU HOPE TO DO
2 SOME DAY?

3 A YEAH. THAT WAS PROBABLY THE FIELD THAT I HAD
4 KIND OF WANTED TO GO IN.

5 Q NOW, LET'S GO BACK TO DEBBIE. HOW DID YOU MEET
6 DEBBIE?

7 A IT WAS THROUGH WORK.

8 Q WORK WHERE?

9 A AT SHONEYS.

10 Q WHAT WERE YOU DOING AGAIN AT SHONEYS?

11 A I WAS THE DISHWASHER.

12 Q AND WHAT WAS SHE DOING THERE?

13 A SHE WAS A SERVER.

14 Q SHE WAS A SERVER?

15 A YEAH.

16 Q AND WHEN DID YOU MEET HER?

17 A I WOULD SAY IT WAS BACK IN 2007.

18 Q DO YOU REMEMBER WHEN IN 2007?

19 A NO, NOT EXACTLY.

20 Q BUT IT WAS AT SHONEYS?

21 A YES.

22 Q AND WHAT WAS YOUR FIRST REACTION TO HER?

23 A SHE WAS VERY TALKATIVE.

24 Q WOULD YOU DESCRIBE HER AS BEING SIMILAR TO YOU
25 OR DIFFERENT?

1 A THE COMPLETE OPPOSITE.

2 Q AND HOW SO?

3 A SHE'S -- SHE'S MORE OPEN, TALKATIVE.. ME, I'M
4 MORE QUIET, LAID BACK.

5 Q AND WHEN YOU FIRST MET HER, DESCRIBE YOUR
6 RELATIONSHIP; WAS IT A FRIENDSHIP OR SOMETHING DIFFERENT?

7 A WHEN WE FIRST -- WHEN WE FIRST MET, IT WAS MORE
8 LIKE CO-WORKER/CO-WORKER.

9 Q DID THAT EVER CHANGE?

10 A ABOUT A YEAR OR SO LATER.

11 Q AND HOW DID -- HOW DID IT CHANGE?

12 A BACK IN EARLY -- I WOULD SAY EARLY TWO THOUSAND
13 -- 2008, WE STARTED HANGING OUT AND GOING TO A BAR AFTER
14 WORK.

15 Q OKAY. AND AT ANY POINT, DID IT BECOME MORE THAN
16 JUST CO-WORKERS?

17 A YES, IT DID.

18 Q WAS IT A ROMANTIC RELATIONSHIP?

19 A WE WERE INTIMATE.

20 Q YOU WERE INTIMATE?

21 A YEAH.

22 Q AND AT ANY POINT, DID THE CHILDREN -- DEBBIE'S
23 CHILDREN SEE YOU BEING INTIMATE?

24 A I WOULDN'T REALLY BE SURE BECAUSE MAINLY WE'D GO
25 TO THE BAR, LATE NIGHT, COME -- WELL, GO TO HER -- GO TO

1 HER PLACE LATE NIGHT. IT WOULD BE LIKE 2:00 IN THE
2 MORNING AND I'D SPEND THE NIGHT THERE.

3 Q OKAY. AND IF YOU COULD JUST EXPLAIN TO US KIND
4 OF WHAT YOUR RELATIONSHIP WAS LIKE WITH DEBBIE?

5 A IT WAS -- IT WASN'T THE BEST RELATIONSHIP I
6 WOULD SAY.

7 Q WHAT -- WHAT DO YOU MEAN BY THAT?

8 A IT WAS -- WE WERE LIKE ON TWO DIFFERENT -- WE
9 JUST HAD TWO DIFFERENT -- TWO DIFFERENT BACKGROUNDS AND
10 OUR UPBRINGING WAS DIFFERENT.

11 Q HOW WAS YOUR UPBRINGING DIFFERENT?

12 A I'M MORE -- I'M MORE CLEANLINESS. SHE -- HER
13 UPBRINGING WAS NOT -- PRETTY MUCH -- MINE WAS MORE
14 RELIGIOUS. I HAD MORE OF A RELIGIOUS BACKGROUND. HERS,
15 SHE DIDN'T REALLY HAD ANY RELIGIOUS BELIEF.

16 Q DID THAT CAUSE ANY CONFLICT?

17 A IN A WAY IT DID.

18 Q OKAY. HOW WOULD YOU DESCRIBE DEBBIE AS A
19 MOTHER?

20 A SHE WASN'T THE BEST MOTHER.

21 Q I NEED YOU TO BE --

22 A UM --

23 Q YOU SAID SHE'S NOT THE BEST MOTHER?

24 A NO.

25 Q DID YOU HAVE ANY PROBLEMS WITH HOW SHE WAS WITH

1 THE CHILDREN?

2 A YES.

3 Q WHAT PROBLEMS DID YOU HAVE WITH HER AS A MOTHER?

4 A THE WAY -- THE WAY SHE WAS ARGUMENTATIVE WITH
5 HER CHILDREN. SHE PAID MORE -- MORE -- SHE PAID MORE
6 ATTENTION TO WHAT'S GOING ON BETWEEN ME AND HER INSTEAD OF
7 TAKING CARE OF HER CHILDREN.

8 Q DID YOU DO ANYTHING ABOUT IT?

9 A I -- WE -- WE HAD DISCUSSIONS ABOUT IT. I MEAN
10 WE ARGUED.

11 Q DID ANYTHING CHANGE?

12 A THERE -- IT'S -- AT TIMES IT SEEMED LIKE IT
13 WOULD CHANGE. AND THEN IT JUST GO RIGHT BACK AND START
14 RIGHT BACK WHERE IT STARTED OFF FROM.

15 Q AND WHAT DID YOU THINK ABOUT HOW SHE CARED FOR
16 THE CHILDREN?

17 A I DIDN'T -- I SAID IT WASN'T REALLY -- IT WAS
18 MORE -- IT WAS -- SHE WOULDN'T REALLY SPEND TIME WITH HER
19 KIDS, BUT SHE'LL GET -- SHE'LL BUY CLOTHES FOR THEM, BUT
20 IT WAS NOT ABOUT -- ABOUT HER BUYING CLOTHES.

21 Q WHAT ABOUT MEDICAL TREATMENT?

22 A SHE WOULDN'T TAKE CARE OF THEM.

23 Q AND WERE YOU ABLE TO TAKE THEM TO THE DOCTOR AT
24 ALL?

25 A NO, UH-UH.

1 Q WHY NOT?

2 A BECAUSE I WASN'T THEIR LEGAL GUARDIAN.

3 Q AND WE HEARD FROM -- FROM THE LAST WITNESS THAT
4 AT SOME POINT YOU WENT TO A CHURCH?

5 A YES, I DID.

6 Q AND AS A RESULT, WAS THERE A DSS CALL MADE?

7 A YES.

8 Q DID YOU TELL MS. -- DID YOU TELL DEBBIE ABOUT
9 DSS BEING CALLED?

10 A APPARENTLY IT -- SHE HAD FOUND OUT WHEN THEY
11 CAME OVER AT THE HOUSE ONE DAY, AND I HANDED HER A CARD,
12 SO SHE EVENTUALLY KNEW.

13 Q DID YOU TELL HER?

14 A NO. NOT BY WORD OF MOUTH.

15 Q WHY DIDN'T YOU TELL HER THAT YOU -- THAT YOU HAD
16 GONE TO THE CHURCH?

17 A I -- I REALLY -- I REALLY DIDN'T WANT TO GET IN
18 AN ARGUMENT WITH HER.

19 Q NOW, WHEN YOU FIRST MET DEBBIE, WHERE WERE
20 LIVING?

21 A I WAS LIVING OFF OF

22 Q WHO WERE YOU LIVING WITH? WERE YOU LIVING BY
23 YOURSELF?

24 A IT WAS ME AND -- ALONG WITH ME, PAM AND ARRON.

25 WE HAD -- WE WERE LIVING OFF OF FOR A YEAR OR

1 SO BY THEN.

2 Q OKAY. DID THAT EVER CHANGE? DID YOU MOVE OUT
3 AT ALL?

4 A INITIALLY I -- I DIDN'T FULLY MOVED OUT, I JUST
5 -- I STILL HAD MY -- I HAD STILL MOST OF MY STUFF OVER AT
6 THAT ADDRESS, BUT I WAS GOING OVER -- I WAS LIVING AT --
7 THERE WITH DEBBIE FOR A SHORT TIME.

8 Q AND WHEN -- WHEN DID YOU MOVE IN WITH DEBBIE?

9 A IT WAS ABOUT MID JUNE.

10 Q CAN YOU DESCRIBE HOW THE HOUSE WAS SET UP, THE
11 ROOMS?

12 A THERE WAS -- THERE WAS A MASTER BEDROOM. YOU
13 WALK IN THE LIVING ROOM, THEN THERE WAS A KITCHEN. THEN
14 YOU HAD TWO BEDROOMS TO THE -- TO THE SIDE AND THE
15 BATHROOM.

16 Q AND WHERE DID YOU SLEEP?

17 A I SLEPT IN THE MASTER BEDROOM.

18 Q AND DID YOU NOTICE ANYTHING IN PARTICULAR ABOUT
19 THE CONDITION OF THE HOUSE?

20 A WHEN I FIRST STARTED GOING OVER THERE, I
21 REALIZED THAT THE HOUSE WAS REALLY -- REALLY UNKEPT. IT
22 WAS FILTHY.

23 Q DID YOU TRY TO CLEAN IT?

24 A AT TIMES THAT I WAS THERE, I'D TRY MY BEST.

25 Q WHAT WOULD HAPPEN AFTER YOU TRIED TO CLEAN IT?

1 A WELL, IT JUST GET BACK FILTHY AGAIN.

2 Q WHEN YOU WERE LIVING IN THE HOUSE, WHO LIVED IN
3 -- WHO LIVED THERE WITH YOU?

4 A IT WAS -- IT WAS ME, DEBBIE, HER KIDS, Minor A,
5 Sister 2 AND Sister 1 .

6 Q AND DID YOU GET ALONG WITH THE KIDS?

7 A I -- I'D SAY I GOT ALONG WITH THEM PRETTY WELL
8 AS A FATHER FIGURE.

9 Q DID YOU HELP TAKE CARE OF THEM IN ANY WAY?

10 A YEAH. WELL, YOU KNOW, I FED THEM, BATHED THEM.
11 THINGS ALONG THAT LINE.

12 Q AND AT THAT TIME, WERE YOU WORKING?

13 A AT THAT TIME, NO. I WAS, YOU KNOW, -- I WAS IN
14 THE PROCESS OF JOB SEARCHING.

15 Q WHEN DID YOU -- LEAVE YOUR JOB AT SHONEYS?

16 A I LEFT MY JOB AT SHONEYS AT THE END OF MAY.

17 Q HOW DID YOU GET ALONG WITH Minor

18 A I -- IT WAS KIND OF -- KIND OF LIKE A -- IT WAS
19 ALL RIGHT. IT WAS -- THE FACT THAT SHE DIDN'T -- THE FACT
20 THAT I WASN'T HER BIOLOGICAL FATHER, BUT I WOULD -- WOULD
21 DO THINGS TO TRY TO HELP -- HELP HER OUT, LIKE WOULD HELP
22 HER WITH HER HOMEWORK AND STUFF LIKE THAT.

23 Q DID YOU EVER DISCIPLINE HER?

24 A YEP. YES.

25 Q HOW? HOW DID YOU DISCIPLINE HER?

1 A I WOULD PUT HER IN TIME OUT. BUT IF TIME OUT
2 DIDN'T WORK, I WOULD ATTEMPT TO HIT HER WITH MY BELT.

3 Q DID SHE APPRECIATE THAT?

4 A NO.

5 Q NOW, WHEN YOU MOVED IN, YOU MOVED IN DID YOU SAY
6 IN JUNE?

7 A YES.

8 Q WAS THERE EVER A TIME -- AND WHEN YOU MOVED IN
9 IN JUNE, THE KIDS WERE ALREADY THERE?

10 A YES.

11 Q WAS THERE EVER A TIME THAT THE CHILDREN DID NOT
12 LIVE IN THE HOUSE?

13 A MAINLY WHEN I MOVED IN IN JUNE, THE KIDS --
14 MAINLY WE WOULD HAVE THE KIDS OVER AT THE TRAILER BECAUSE
15 PAM WAS PREGNANT AT THE TIME AND THEY DIDN'T HAVE -- PAM
16 DIDN'T HAVE TRANSPORTATION AND DEBBIE WAS MAINLY HER
17 TRANSPORTATION AT THAT TIME JUST IN CASE.

18 Q AND WHEN YOU SAID THE TRAILER, THAT PAM'S
19 TRAILER?

20 A YES. THE ADDRESS I WAS AT.

21 Q DID YOU EVER -- DID YOU AND DEBBIE EVER TAKE THE
22 CHILDREN OUT OF THE STATE?

23 A YES. AFTER PAM HAD HER -- HAD HER CHILD, WE
24 WENT DOWN WITH THEM TO FLORIDA.

25 Q WHEN YOU SAY YOU WENT DOWN TO FLORIDA, DID YOU

1 GO THERE TO STAY IN FLORIDA OR WHAT WERE YOU DOING?

2 A NO. WE WENT DOWN TO FLORIDA TO DROP OFF THE
3 KIDS TO THEIR GRANDPARENTS. BECAUSE AT THAT TIME, WE BOTH
4 DIDN'T HAVE NO JOB. AND ME -- DEBBIE THOUGHT IT WOULD
5 HAVE BEST FOR THEM TO STAY DOWN THERE FOR A WHILE UNTIL WE
6 GOT JOBS AND GOT OURSELVES STABLE.

7 Q DO YOU REMEMBER WHAT -- WHAT MONTH THAT WAS OR
8 WHAT DATES THAT WAS?

9 A IT WAS -- IT WAS JULY, I WOULD SAY ABOUT -- MID
10 JULY -- ABOUT AROUND THE 13TH.

11 Q AND YOU SAID THAT YOU AND DEBBIE DROVE THE KIDS
12 DOWN TO THE GRANDPARENTS?

13 A YES.

14 Q AND YOU LEFT THEM THERE?

15 A YES.

16 Q AND AT ANY POINT, DID THEY COME BACK TO
17 CHARLESTON?

18 A THEY CAME BACK ABOUT THREE -- ABOUT THREE WEEKS
19 LATER BEFORE SCHOOL STARTED.

20 Q AND WE HEARD A LOT OF TESTIMONY ABOUT
21 BABYSITTING FOR DEBBIE?

22 A YES.

23 Q WERE YOU BABYSITTING?

24 A I WAS -- I WAS BABYSITTING FOR A SHORT PERIOD OF
25 TIME, BUT IT WAS LIKE WHEN SHE GOES -- LIKE WHEN SHE GO

1 OUT TO THE STORE, I'D WATCH THE KIDS AND WHAT NOT FOR A
2 LITTLE BIT.

3 Q WOULD THAT BE DURING THE DAY TIME?

4 A YES.

5 Q DID YOU EVER BABYSIT AT NIGHT?

6 A AT NIGHT? IT WAS ONLY ONCE OR TWICE WHEN I
7 BABYSAT THEM ALONE.

8 Q WHAT ABOUT WHEN DEBBIE GOT HER JOB AT DENNY'S?

9 A WHEN SHE FIRST STARTED WORKING AT DENNY'S, THAT
10 WAS -- THAT WAS THE ONLY TIME THAT I ACTUALLY BABYSAT THEM
11 AT NIGHT.

12 Q DO YOU REMEMBER WHAT TIME OF YEAR THAT WAS?

13 A THAT WAS ABOUT THE END OF -- THE END OF AUGUST.

14 Q LET'S -- LET'S -- LET'S GO BACK TO THE DAY THAT
15 YOU ACTUALLY WERE ARRESTED; DO YOU REMEMBER THAT DAY?

16 A YES.

17 Q WHAT -- WHAT DID YOU DO THAT DAY?

18 A I -- THE DAY I GOT ARRESTED, I WOKE UP. I WENT
19 OUTSIDE TO SMOKE A CIGARETTE. BEFORE THAT, LIKE I MADE --
20 I MADE ME, Sister 2 AND Sister 1 SOMETHING TO EAT. I MADE
21 PEANUT BUTTER AND JELLY SANDWICHES.

22 Q DID YOU DO ANYTHING ELSE THAT DAY PRIOR TO THE
23 POLICE ARRIVING?

24 A I -- OTHER THAN GOING OUTSIDE AND SMOKING A
25 CIGARETTE AND WAITING -- WAITING ON ARRON TO GET OUT THE

1 SHOWER, SO I CAN TAKE ONE, NO.

2 Q AND AT THIS POINT, WHERE WERE YOU LIVING AT?

3 A I WAS LIVING AT THE TRAILER.

4 Q WITH WHO?

5 A I WAS -- LIKE I SAID, IT WAS ME, PAM, ARRON,
6 DEBBIE AND HER -- AND HER KIDS. ALL OF US WERE LIVING IN
7 THE TRAILER.

8 Q DO YOU REMEMBER WHAT YOU WERE WEARING THAT DAY?

9 A I HAD ON A WHITE -- WHITE WIND BREAKER. AND
10 SOME -- A LITTLE BLUE -- BLUE LITTLE SLEEVELESS TOP THAT I
11 SLEPT IN.

12 Q OKAY. AND WHEN DID YOU FIRST BECOME AWARE THAT
13 SOMETHING WAS GOING ON?

14 A INITIALLY WHEN -- WHEN SHE -- PAM RECEIVED A
15 PHONE CALL FROM DEBBIE. AND THEN PAM DIDN'T WANT TO
16 ANSWER IT, SO SHE HANDED ME THE PHONE AND I ANSWERED IT.
17 DEBBIE WANTED TO SPEAK WITH PAM.

18 Q AFTER PAM SPOKE WITH DEBBIE, WHAT HAPPENED NEXT?

19 A I GOT -- AFTER THAT, I -- I WAS WONDERING WHY --
20 I -- AFTER THAT, I DIDN'T REALLY -- I WAITED -- I WAITED
21 INSIDE THE HOUSE FOR A MINUTE AND I ASKED PAM WHAT WAS
22 GOING ON AND SHE DIDN'T TELL ME EXACTLY, BUT SHE TOLD ME
23 THAT DEBBIE WAS ON HER WAY.

24 Q AND DID DEBBIE COME TO THE HOUSE?

25 A A LITTLE WHILE -- SHORTLY AFTER THAT, SHE -- SHE

1 ARRIVED.

2 Q DID THE POLICE COME TO THE HOUSE?

3 A RIGHT -- LIKE RIGHT AFTER HER. THEY WERE LIKE
4 RIGHT BEHIND HER.

5 Q AT THAT POINT, DID YOU KNOW WHAT YOU WERE
6 ACCUSED OF?

7 A NO.

8 Q HOW DID YOU FIND OUT WHAT -- WHAT YOU WERE BEING
9 ACCUSED OF DOING?

10 A WHEN SHE -- WHEN DEBBIE POPPED OUT THE CAR AND
11 SHE SAID, HOW CAN YOU DO THIS TO MY CHILDREN.

12 Q AND WHEN YOU HEARD DEBBIE -- WAS SHE SCREAMING
13 AT YOU OR WAS IT -- WHAT KIND OF VOICE?

14 A SHE WAS -- SHE WAS SCREAMING AT ME.

15 Q AND AT THAT POINT, DID YOU KNOW WHAT SHE WAS
16 TALKING ABOUT?

17 A NO. I STILL DIDN'T KNOW WHAT REALLY WAS GOING
18 ON.

19 Q AND WITHOUT TELLING ME WHAT SOMEBODY SAID, WHO
20 WAS THE FIRST PERSON WHO TOLD YOU WHAT YOU WERE BEING
21 ACCUSED OF?

22 A IT WAS -- IT WAS THE OFFICER.

23 Q DO YOU REMEMBER WHICH OFFICER?

24 A IT WAS -- WAS DETECTIVE RAMSEY.

25 Q WHEN YOU HEARD THAT, WHAT WAS GOING ON IN YOUR

1 HEAD?

2 A I COULDN'T -- COULDN'T BELIEVE IT. IT -- IT
3 REALLY STUNNED ME.

4 Q IT STUNNED YOU WHY?

5 A BECAUSE I -- I NEVER -- NEVER BEEN CHARGED WITH
6 ANYTHING. I DON'T KNOW WHERE -- WHERE, WHY OR -- WHY SHE
7 WOULD SAY SOMETHING LIKE THAT FOR.

8 Q AND YOU SAID IT WAS DETECTIVE RAMSEY WHO FIRST
9 TOLD YOU WHAT WAS GOING ON?

10 A YES.

11 Q NOW, LET'S GO BACK NOW TO THE FIRST TIME THAT
12 YOU MET DETECTIVE RAMSEY. WHEN -- WHEN WAS THAT?

13 A IT WAS ABOUT A -- ABOUT A WEEK AND A HALF BEFORE
14 THAT.

15 Q AND WHERE DID YOU MEET HIM FOR THE FIRST TIME?

16 A IT WAS AT THE CHURCH.

17 Q NOW, LET'S GO BACK TO THAT DAY AND DESCRIBE TO
18 US WHAT HAPPENED THAT DAY?

19 A THE DAY THAT -- THAT DAY THAT I WENT TO THE
20 CHURCH, PAM -- ME AND PAM -- PAM DECIDED THAT THAT -- JUST
21 GO TO THAT CHURCH. I -- THAT WAS MY FIRST TIME ACTUALLY
22 GOING TO THAT CHURCH.

23 Q DO YOU REMEMBER SPEAKING TO THE LADY WHO
24 TESTIFIED BEFORE YOU?

25 A YES.

1 Q AND WHO -- YOU SAID THAT PAM WAS WITH YOU?

2 A YES.

3 Q WHO ELSE WAS WITH YOU?

4 A Sister 2 AND Sister 1

5 Q AND WHY WERE YOU THERE?

6 A WE WERE -- IT WAS MORE OR LESS WE WAS -- WE WAS
7 SEEKING -- TRYING TO SEEK COUNSELING.

8 Q WHY DID YOU NEED COUNSELING OR WHO NEEDED
9 COUNSELLING?

10 A TRYING TO SEEK COUNSELLING FOR Minor AND MAYBE
11 TRYING TO GET THE CHILDREN INSIDE A YOUTH PROGRAM OR
12 SOMETHING.

13 Q AND WHY WOULD YOU WANT THAT?

14 A I BELIEVE THE CHILDREN NEEDED STRUCTURE. THE
15 FACT THAT I -- THAT -- THE FACT THAT Minor , SHE WAS
16 REALLY ACTING OUT OF CHARACTER AND I -- I JUST -- AND, YOU
17 KNOW, THE STUFF THAT WAS GOING ON WITH ME -- YOU KNOW,
18 WITH ME AND THE MOTHER.

19 Q WHAT STUFF?

20 A THE FACT THAT SHE -- SHE WASN'T TAKING CARE OF
21 -- TAKING CARE OF THE BILLS. SHE WAS ABOUT TO GET
22 EVICTED. WE HAD -- WE -- SHE COULDN'T -- SHE COULDN'T
23 FIND ANOTHER PLACE TO STAY, SO WE HAD TO PRETTY MUCH -- I
24 HAD -- MOVING BACK INTO THE TRAILER.

25 Q DID YOU HAVE ANY PROBLEMS WITH THE CONDITIONS OF

1 THE HOUSE?

2 A YES.

3 Q WHAT WERE -- WHAT WAS WRONG WITH THE HOUSE?

4 A THE HOUSE WAS JUST -- JUST FILTHY AND ROACH
5 INFESTED.

6 Q WHAT WAS GOING ON WITH THE KITCHEN?

7 A THE KITCHEN WAS JUST A MESS. IT HAD LAUNDRY ALL
8 OVER THE PLACE. THE DISHES WERE -- WEREN'T BEING KEPT UP.

9 Q AND ARE YOU SAYING THAT YOU WENT TO THE CHURCH
10 FOR HELP?

11 A YES.

12 Q AND, SPECIFICALLY, WERE YOU TRYING TO GET HELP
13 FOR Minor ?

14 A YES.

15 Q WHAT -- WHAT RESULTED FROM YOU GOING TO THE
16 CHURCH?

17 A OTHER THAN -- OTHER THAN THE REPORT FROM DSS,
18 NOTHING REALLY.

19 Q WELL, DID THE POLICE EVER SHOW UP?

20 A YEAH -- AT THE CHURCH?

21 Q YES.

22 A YES.

23 Q WHO -- WHO SHOWED UP AT THE CHURCH FROM THE
24 POLICE DEPARTMENT?

25 A IT WAS AN OLDER -- OLDER OFFICER AND OFFICER

1 RAMSEY.

2 Q AND DID YOU -- DID YOU TALK TO DETECTIVE RAMSEY?

3 A IN THAT SHORT TIME, YEAH, I DID TALK TO HIM.

4 Q DID YOU TELL HIM WHAT WAS GOING ON IN THE HOUSE?

5 A YES.

6 Q AS A RESULT, DID HE, TO YOUR KNOWLEDGE,

7 INTERVIEW Minor ?

8 A NO.

9 Q DID HE INTERVIEW THE MOTHER?

10 A NO.

11 Q DID HE GO WITH YOU TO THE HOUSE TO CHECK ON THE

12 CONDITION?

13 A NO.

14 Q DID YOU FEEL LIKE HE WAS REALLY HELPING YOU?

15 A NO.

16 Q WHAT -- WHAT DID YOU FEEL?

17 A I THOUGHT -- I FELT I HAD JUST -- LIKE IN A WAY

18 -- I CAN'T REALLY EXPLAIN HOW I FELT.

19 Q DID HE SEEM -- DID YOU TAKE IT THAT HE WAS

20 CONCERNED ABOUT THE FAMILY?

21 A IT -- IT SEEMED LIKE HE WAS JUST TAKING DOWN HIS

22 REGULAR -- HIS REGULAR POLICE WORK. JUST DO A LITTLE

23 PAPER WORK AND THEN FAX IT. THAT'S THE WAY IT SEEMED.

24 Q DID HE BRING UP ANYTHING ABOUT YOU AND PAM?

25 A YEAH. HE ASKED IF ME AND PAM HAD SOMETHING

1 GOING ON.

2 Q DID YOU -- WHAT DID YOU TELL HIM?

3 A WE BOTH SAID NO.

4 Q AND WAS THAT THE TRUTH?

5 A YES.

6 Q SO, AT THAT POINT, WHAT WAS YOUR IMPRESSION OF
7 DETECTIVE RAMSEY?

8 A I -- I JUST -- I JUST -- MY IMPRESSION OF HIM
9 WAS THAT -- HE WAS ANOTHER -- ANOTHER POLICE OFFICER.

10 Q DID YOU -- DID YOU FIND -- DID YOU FEEL LIKE HE
11 WAS TAKING YOU SERIOUSLY?

12 A NO, NOT REALLY.

13 Q SO, AFTER THAT PREVIOUS EXPERIENCE WITH HIM,
14 WHAT WERE YOU THINKING WHEN HE SHOWED UP AT YOUR HOUSE?

15 A I HAD -- I HAD KNOWN HIM FROM BEFORE, BUT I
16 DIDN'T REALLY -- I REALLY DIDN'T SEE HIM AS, YOU KNOW, AS
17 HIM HELPING ME IN A WAY.

18 Q WHEN HE GOT THERE, WHAT DID HE TELL YOU HE
19 WANTED YOU TO DO?

20 A HE ASKED ME TO COME DOWN TO THE STATION WITH
21 HIM.

22 Q WHEN HE ASKED YOU THAT, DID -- HOW DID YOU TAKE
23 IT? DID YOU TAKE IT LIKE YOU HAD A CHOICE?

24 A I SAW IT AS -- I TOOK IT AS I DIDN'T REALLY HAD
25 A CHOICE. I DIDN'T KNOW IF I COULD -- I COULD SAY NO OR

1 NOT.

2 Q DID HE TELL YOU WHY HE WANTED YOU TO GO TO THE
3 STATION?

4 A AT THAT TIME, NO.

5 Q YOU KNEW, AT THAT POINT, THOUGH THAT THERE WAS
6 AN ALLEGATION OF ABUSE?

7 A YEAH.

8 Q HOW DID YOU GET TO THE STATION?

9 A I -- I -- WE -- I DROVE WITH OFFICER RAMSEY. I
10 WAS IN THE FRONT SEAT. HE DROVE.

11 Q DID Y'ALL TALK ANY IN THE CAR?

12 A OTHER THAN -- OTHER THAN, YOU KNOW, HE ASKED HOW
13 I WAS DOING. AND I THINK WHEN WE GOT AT THE LIGHT, SAW
14 LIKE A -- HE SAW A FEMALE AT THE GAS STATION. HE -- HE
15 MADE COMMENT ABOUT HER AND THEN I COMMENT BACK.

16 Q WHAT TYPE OF COMMENT?

17 A LIKE, HEY, SEE THAT BLOND OVER THERE, SHE LOOKS
18 PRETTY NICE. AND I'M, LIKE, YEAH.

19 Q AND DID YOU RECOGNIZE HIM AT THAT POINT? DID
20 YOU ALREADY REMEMBER HIM?

21 A YEAH. I REMEMBERED HIM FROM -- FROM THE MEETING
22 AT THE CHURCH.

23 Q DID HE REMEMBER YOU?

24 A I -- I TOOK IT AS HE DID.

25 Q ONCE YOU WERE IN HIS CAR, WHERE DID YOU GO?

1 A WE WENT -- WE WENT STRAIGHT TO THE STATION.

2 Q AND AT THAT POINT, DID YOU FEEL LIKE YOU HAD A
3 CHOICE OF WHETHER OR NOT YOU WENT INSIDE OR DID NOT GO
4 INSIDE THE STATION?

5 A NO. I -- I THOUGHT I REALLY DIDN'T HAD A
6 CHOICE.

7 Q DID YOU BELIEVE THAT YOU WERE FREE TO LEAVE?

8 A NO. I'VE -- I NEVER BEEN -- I NEVER BEEN
9 THROUGH ANYTHING LIKE THAT, SO I REALLY DON'T KNOW HOW THE
10 PROCEDURE WORKED.

11 Q HAD YOU EVER BEEN TO THE POLICE STATION BEFORE?

12 A NO.

13 Q HAD YOU EVER BEEN A SUSPECT IN A CRIME BEFORE?

14 A NO.

15 Q AND WHAT HAPPENED ONCE YOU GOT INSIDE THE
16 STATION, WHERE DID YOU GO?

17 A WHEN I -- WENT TO THIS SMALL LITTLE ROOM.

18 Q WHAT WAS THE ROOM LIKE?

19 A IT WAS VERY COMPACT. IT WAS SMALL. IT WASN'T
20 MUCH SPACE. IT HAD A LITTLE -- TINY LITTLE BROWN DESK.

21 Q HOW MANY CHAIRS WERE IN THERE?

22 A I BELIEVE IT WAS TWO.

23 Q AT THAT POINT, DID YOU THINK THAT YOU COULD GET
24 UP AND WALK OUT?

25 A NO.

1 Q HOW DID IT FEEL BEING IN THAT ROOM?

2 A I FELT NUMB -- I FELT VERY UNCOMFORTABLE.

3 Q WHY WERE YOU UNCOMFORTABLE?

4 A I -- IT WAS A SMALL COMPACT ROOM AND IT WAS
5 INSIDE THE POLICE STATION.

6 Q WAS IT COMFORTABLE IN THERE?

7 A NO.

8 Q DID YOU KNOW WHY YOU WERE IN THE ROOM?

9 A WELL, I KNOW HE -- I KNOW THAT HE WAS ABOUT TO
10 ASK ME QUESTIONS.

11 Q WHAT WAS GOING THROUGH YOUR MIND?

12 A I WAS IN DISBELIEF.

13 Q WHY WERE YOU IN DISBELIEF?

14 A I COULDN'T BELIEVE THAT I WAS IN A POLICE
15 STATION.

16 Q WHAT WAS YOUR REACTION TO KNOWING WHAT YOU WERE
17 ACCUSED OF?

18 A I -- IT -- IT REALLY MADE ME SICK TO MY STOMACH.

19 Q WHY?

20 A BECAUSE I COULDN'T -- I COULDN'T BELIEVE THAT I
21 WAS BEING ACCUSED OF SOMETHING LIKE THAT.

22 Q WHY COULDN'T YOU BELIEVE IT?

23 A I -- I CAN'T -- I COULDN'T REALLY -- IT JUST --
24 I REALLY FEEL UNEASY ABOUT THINGS LIKE THAT ESPECIALLY
25 DEALING WITH A CHILD.

1 Q DID YOU THINK THAT DETECTIVE RAMSEY WAS GOING TO
2 MAKE YOU SAY SOMETHING YOU DIDN'T WANT TO SAY?

3 A I DIDN'T -- I DIDN'T THINK THAT HE WOULD MAKE ME
4 SAY SOMETHING I DIDN'T WANT TO SAY. IT'S JUST -- I DIDN'T
5 -- I DIDN'T FEEL -- I DIDN'T -- AT THAT POINT IN TIME, I
6 JUST FELT LIKE EVERYTHING WAS JUST CRASHING DOWN.

7 Q CRASHING DOWN BECAUSE YOU HAD MOLESTED HER?

8 A NO. THE -- THE FACT THAT -- THE FACT THAT I WAS
9 BEING ACCUSED OF IT. AND EVERY -- EVERYTHING -- THE
10 SITUATION WITH ME AND HER MOTHER. AND NOW MY JOB CAREER
11 SITUATION. JUST EVERYTHING JUST WAS COMING AT ME ALL AT
12 ONCE. IT WAS A WHIRLWIND.

13 Q DO YOU REMEMBER SIGNING THE RIGHTS FORM?

14 A YES, I REMEMBER IT.

15 Q DID YOU -- DID DETECTIVE RAMSEY READ THOSE
16 RIGHTS TO YOU OUT LOUD?

17 A THE ONLY PART THAT HE READ WAS, I HAD THE
18 ABSOLUTE RIGHT AND I REPEATED IT AFTER HIM.

19 Q OKAY. DID HE THEN -- WHAT DID HE DO WITH THE
20 FORM AFTER THAT?

21 A HE ASKED ME TO -- TO READ ALONG THE LINES AND
22 THEN PUT MY INITIALS AFTER I -- AFTER I READ THEM.

23 Q DID YOU READ THEM?

24 A I -- I SCANNED THROUGH THEM.

25 Q WHY WERE YOU JUST SCANNING THROUGH IT? YOU --

1 YOU KNEW, IT WAS A SERIOUS SITUATION, RIGHT?

2 A YEAH.

3 Q WHY WOULD YOU JUST SCAN THROUGH SUCH AN
4 IMPORTANT FORM?

5 A AT -- AT THAT TIME, I -- I WOULD SAY I WAS -- I
6 WAS JUST NERVOUS. I -- I WASN'T COMFORTABLE LIKE. AND --

7 Q LET'S -- LET'S TALK A LITTLE BIT ABOUT YOU AND
8 DETECTIVE RAMSEY. DESCRIBE THE TYPE OF CONVERSATION YOU
9 WERE HAVING WITH HIM?

10 A WELL, HE CAME OFF LIKE SOMEBODY -- SOMEBODY I
11 WOULD MEET AT A BAR OR SOMETHING.

12 Q LIKE HOW THOUGH?

13 A LIKE -- LIKE, IF I WAS SITTING AT A BAR, AND
14 SOMEBODY COME BY AND LIKE HEY, HOW -- YOU KNOW, WHAT'S
15 THAT SCORE LIKE ON THE GAME AND WHAT NOT.

16 Q DID YOU TALK ABOUT FEMALES AT ALL?

17 A YEAH. HE KIND -- HE KIND OF STARTED, YOU KNOW,
18 LIKE WELL -- HE STARTED OFF, LIKE, YOU KNOW -- YOU KNOW
19 WE'RE BOTH GUYS. YOU KNOW, IF I SEE SOMEBODY, YOU KNOW,
20 ATTRACTIVE FEMALE AND WHAT NOT, I GET AROUSED, YOU KNOW,
21 OR WHAT NOT.

22 Q WHO STARTED TO TALK ABOUT GETTING AROUSED BY
23 FEMALES?

24 A IT WAS DETECTIVE RAMSEY. I JUST -- I JUST
25 PRETTY -- PRETTY MUCH JUST SAT THERE AND LISTENED TO WHAT

1 HE SAID.

2 Q WHEN YOU FIRST GOT IN THE ROOM, DID HE ASK YOU
3 IF YOU HAD SEXUALLY ABUSED Minor ?

4 A HE -- HE ASKED -- HE HAD ASKED ME AT FIRST AND I
5 DENIED EVERYTHING.

6 Q DO YOU REMEMBER YOUR WORDS SPECIFICALLY?

7 A I -- I REMEMBER FIRST SAYING WELL -- AFTER HE --
8 I REMEMBER FIRST SAYING THAT I DIDN'T HAVE ANY IDEA WHAT
9 WAS GOING ON AT FIRST. BUT AFTER HE -- AFTER HE -- HE WAS
10 LIKE -- WELL, DO YOU KNOW WHAT -- WHAT YOU'RE IN HERE FOR?
11 I SAID THAT I WOULD NEVER DO ANYTHING LIKE THAT. I
12 COULDN'T SEE MYSELF DOING SOMETHING LIKE THAT.

13 Q DID THAT END THE CONVERSATION ABOUT Minor ?

14 A HE -- THAT'S WHEN HE KIND OF -- AFTER I DENIED
15 IT -- KEPT ON DENYING IT, HE KIND OF WENT -- THAT'S WHEN
16 HE WENT ON TO THAT BAR ROOM TYPE CONVERSATION.

17 Q WHEN YOU DENIED IT, DID HE GIVE YOU A STATEMENT
18 FORM TO WRITE DOWN THAT YOU DIDN'T DO IT?

19 A NO.

20 Q WHY NOT? DO YOU KNOW WHY?

21 A NO. I DON'T KNOW -- I DON'T KNOW WHY.

22 Q YOU SAID RAMSEY WAS DOING THE BAR ROOM TALK
23 ABOUT FEMALES?

24 A YES.

25 Q DID HE SAY ANYTHING ELSE TO YOU TO MAKE YOU

1 CHANGE YOUR STORY?

2 A OTHER THAN THE BAR ROOM TALK ABOUT FEMALES AND

3 -- NOT -- NO.

4 Q DID HE MAKE ANY PROMISES TO TALK TO ANYBODY
5 ABOUT THE CASE?

6 A NO.

7 Q AT SOME POINT, DID YOU GIVE A WRITTEN STATEMENT?

8 A YES. AFTER A WHILE.

9 Q AND IN YOUR MIND, HOW LONG HAD YOU BEEN IN
10 THERE? I'M NOT TALKING ABOUT THE CLOCK, HOW LONG DID IT
11 FEEL LIKE TO YOU?

12 A IT FELT -- I WOULD SAY ABOUT -- MAYBE ABOUT 30
13 MINUTES. IT FELT -- IT FELT A LITTLE LONGER THAN THAT
14 THOUGH.

15 Q HOW LONG DID IT TAKE YOU TO WRITE THIS
16 STATEMENT?

17 A IT -- IT TOOK ME A MINUTE.

18 Q WHAT'S A MINUTE? I KNOW WHAT YOU MEAN WHEN YOU
19 SAY A MINUTE.

20 A I'D SAY -- I'D SAY ABOUT 10 TO 15.

21 Q YOU HEARD DETECTIVE RAMSEY READ THE STATEMENT?

22 A YES.

23 Q IS IT A TRUE STATEMENT?

24 A NO.

25 Q IS IT FALSE?

1 A YES.

2 Q WHY WOULD YOU GIVE THAT KIND OF STATEMENT?

3 A I JUST -- AT THAT TIME, I WASN'T REALLY IN MY
4 RIGHT -- I FELT I WAS REALLY IN MY RIGHT MIND.

5 Q WHY?

6 A I DIDN'T SEE -- I DIDN'T SEE ANYTHING GOING ON
7 WITH MY LIFE.

8 Q WHY -- WHY DID -- WHY WERE NOT SEEING ANYTHING
9 GOING ON WITH YOUR LIFE? YOU'VE GOT TO BE SPECIFIC SO
10 PEOPLE CAN UNDERSTAND.

11 A THE FACT THAT BEFORE -- A COUPLE OF YEARS BEFORE
12 THAT, MY -- MY MOTHER PASSED AWAY. AND -- AND EVERYTHING
13 WAS -- AT THIS POINT DOWN HILL. AND THEN I'VE BEEN IN AND
14 OUT OF RELATIONSHIPS. I HAD -- I HAD A MESSED UP JOB.
15 AND THE NEXT THING YOU KNOW, I -- I GOT INTO A BAD EVEN --
16 A BAD RELATIONSHIP WITH DEBBIE. AND -- AND THIS SITUATION
17 OF THE LIVING CONDITIONS, I DIDN'T REALLY LIKE THE FACT
18 THAT WE WERE ALL CRAMMED UP IN THAT TRAILER. I JUST --
19 AND THE NEXT THING YOU KNOW, I GET HIT WITH THIS CHARGE.
20 AND THAT WAS THE ICING ON THE CAKE.

21 Q THE CHARGE, WAS IT TRUE?

22 A NO.

23 Q WAS THE STATEMENT TRUE?

24 A THE STATEMENT WAS JUST A STORY I JUST MADE UP.

25 Q WHY WOULD YOU MAKE UP SUCH A CRAZY STORY?

1 A I -- I REALLY -- I JUST -- I MEAN, I SAW THAT --
2 I DON'T KNOW. I --

3 Q WELL, DID Minor EVER COME ON TO YOU?

4 A NO. SHE NEVER CAME ON TO ME.

5 Q DID SHE EVER PRANCE AROUND IN A BATHING SUIT?

6 A NO.

7 Q SPRAY PERFUME ON HER?

8 A NO.

9 Q TALK TO YOU ABOUT KNOWING THE SEXUAL POSITIONS?

10 A NO.

11 Q WHAT ABOUT THE STUFF ABOUT THE BOYFRIEND?

12 A NO.

13 Q THE BLOW JOBS?

14 A ALL THAT I JUST -- I JUST MADE UP.

15 Q AND WHAT ABOUT YOUR ANSWERS TO DETECTIVE
16 RAMSEY'S QUESTIONS, WERE THOSE -- WAS THAT THE TRUTH?

17 A NO.

18 Q YOU SAID THAT THINGS WERE NOT GOING WELL FOR
19 YOU?

20 A NO, IT REALLY WASN'T.

21 Q AND YOU SAID THAT YOUR MOTHER HAD DIED AND THAT
22 KIND OF STARTED THINGS OFF BADLY?

23 A YEAH.

24 Q HOW DID YOUR MOTHER DIE?

25 A SHE -- SHE PASSED AWAY FROM -- I BELIEVE THEY

1 SAID CARDIAC ARREST. I -- I WAS THE ONE WHO WALKED IN AND
2 FOUND HER LYING ON THE FLOOR.

3 Q DID YOU EVER GET ANY COUNSELLING FOR THAT?

4 A NO.

5 Q AT THAT MOMENT WHEN YOU WERE IN THAT ROOM WITH
6 DETECTIVE RAMSEY, DID IT MATTER TO YOU IF YOU WENT TO
7 JAIL?

8 A AT -- AT THAT TIME, I JUST -- I DIDN'T CARE.

9 Q YOU DIDN'T CARE BECAUSE YOU WERE GUILTY?

10 A NO.

11 Q WHY DIDN'T YOU CARE?

12 A I DIDN'T -- I DIDN'T CARE WHAT HAPPENED, EITHER
13 IF I WENT TO JAIL OR NOT. I JUST SAW IT AS A -- IT WAS AN
14 OUTLET TO GET AWAY.

15 MS. EHRLICH: THE COURT'S INDULGENCE.

16 BY MS. EHRLICH:

17 Q YOUR RELATIONSHIP WITH YOUR MOTHER WAS
18 IMPORTANT?

19 A YES. IT WAS -- IT WAS A PRETTY CLOSE
20 RELATIONSHIP.

21 Q GROWING UP, WHAT WAS YOUR RELATIONSHIP LIKE WITH
22 YOUR FATHER?

23 A I -- FOR THE MOST PART, HE WAS -- HE WAS IN AND
24 OUT MY LIFE.

25 Q IS -- IS -- WHAT IS YOUR RELATIONSHIP LIKE WITH

1 HIM NOW?

2 A IT'S PRETTY DISTANT I WOULD SAY.

3 Q IS -- HAS HE COME TO COURT FOR YOU?

4 A YEAH.

5 Q DOES THAT -- DOES THAT CHANGE YOUR OPINION OF
6 YOUR LIFE?

7 A YEAH.

8 MS. EHRLICH: THE COURT'S INDULGENCE. (PAUSE.)
9 OKAY. JEREMIAH, IF YOU COULD ANSWER ANY QUESTIONS FROM
10 THE STATE.

11 THE WITNESS: OKAY.

12 THE COURT: LET ME SEE THE ATTORNEYS UP HERE.

13 (WHEREUPON, THERE WAS A BENCH CONFERENCE BETWEEN
14 THE COURT AND COUNSEL IN THE PRESENCE OF THE JURY, BUT
15 OUTSIDE THE PRESENCE OF THE JURY.)

16 THE COURT: ALL RIGHT. MADAM FORELADY AND LADIES
17 AND GENTLEMEN OF THE JURY, WE'RE GOING TO STOP AT THIS
18 POINT IN TIME AND RECONVENE IN THE MORNING AT 9:30.
19 PLEASE DON'T DISCUSS THE CASE WITH ANYONE OR AMONGST
20 YOURSELVES. AS I'VE TOLD YOU SEVERAL TIMES THIS WEEK, I
21 WANT YOU TO MAKE A DECISION ON WHAT YOU HEAR IN THE
22 COURTROOM, NOT WHAT SOMEONE ELSE TELLS YOU THAT HASN'T
23 HEARD THE TESTIMONY. IF YOU SEE ANYTHING ON TV OR IN THE
24 PAPER, DON'T READ IT.

25 I'LL SEE YOU IN THE MORNING AT 9:30. HAVE A GOOD

1 EVENING.

2 (WHEREUPON, THE JURY LEFT THE COURTROOM AT 5:34

3 P.M.)

4 THE COURT: ALL RIGHT. WE'LL ADJOURN UNTIL 9:30 IN
5 THE MORNING.

6 (WHEREUPON, THE HEARING ADJOURNED AT 5:37 P.M.)

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P R O C E E D I N G S

(APRIL 8, 2010)

(DAY FOUR OF TRIAL)

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4 THE COURT: ALL RIGHT. IS THE STATE READY FOR
5 CROSS?

6 MS. HERRING-LASH: YES, SIR.

7 MR. DURANT: YES, SIR.

8 THE COURT: ANY FURTHER QUESTIONS FROM THE --

9 MR. DURANT: WE'RE READY.

10 THE COURT: DO Y'ALL HAVE ANY FURTHER QUESTIONS?

11 MR. GRIMES: NO, SIR.

12 THE COURT: ALL RIGHT. MR. TURNER, IF YOU'LL COME
13 UP AND HAVE A SEAT ON THE WITNESS STAND PLEASE.

14 (WITNESS FORWARD.)

15 THE COURT: ALL RIGHT. BRING US THE JURY PLEASE.

16 (WHEREUPON, THE JURY ENTERED THE COURTROOM AT (9:59
17 A.M.)

18 THE BAILIFF: THE JURY IS ALL SEATED.

19 THE COURT: OKAY. THANK YOU VERY MUCH. CROSS
20 EXAMINATION.

21 MR. DURANT: THANK YOU, YOUR HONOR. MAY IT PLEASE
22 THE COURT.

23 CROSS EXAMINATION BY MR. DURANT:

24 Q ALL RIGHT, MR. TURNER. LET'S GO OVER IT. OKAY?
25 IS THAT ALL RIGHT WITH YOU?

1 A YES, SIR.

2 Q ALL RIGHT. FIRST UP IS STATE'S 7; DO YOU
3 RECOGNIZE THAT?

4 A YES, SIR, I DO.

5 Q BECAUSE THAT'S THE ADVICE OF RIGHTS YOU WERE
6 GIVEN, ISN'T THAT RIGHT?

7 A YES. THAT'S RIGHT.

8 Q AND YOUR NAME APPEARS AT THE TOP OF IT?

9 A YES, SIR.

10 Q DO YOU REMEMBER GOING OVER THIS WITH DETECTIVE
11 RAMSEY?

12 A YES, SIR, I DO REMEMBER.

13 Q DO YOU REMEMBER SIGNING YOUR NAME ON THIS?

14 A YES.

15 Q YOU CAN READ, RIGHT?

16 A YES, I CAN.

17 Q WILL YOU PLEASE READ THIS FIRST LINE RIGHT HERE?

18 A "I HAVE THE ABSOLUTE RIGHT".

19 Q WILL YOU KEEP GOING?

20 A "TO REMAIN SILENT. I DO NOT HAVE TO ANSWER ANY
21 QUESTIONS OR GIVE ANY STATEMENT AND THIS FACT CANNOT BE
22 USED AGAINST ME."

23 Q YOU HAD NO PROBLEM READING THAT, DID YOU?

24 A NO, SIR.

25 Q IN FACT, YOU'VE READ THAT BEFORE, HAVEN'T YOU?

1 A I -- I HAVE WHEN WE ...

2 COURT REPORTER: I DIDN'T UNDERSTAND THAT.

3 A I HAVE WHEN WE WENT OVER IT BEFORE, SIR.

4 BY MR. DURANT:

5 Q THAT'S RIGHT. AND YOU PUT YOUR INITIALS BESIDE
6 IT AS WELL, RIGHT?

7 A YES.

8 Q AND THERE'S FOUR MORE RIGHTS ON THIS FORM AS
9 WELL, ISN'T THERE?

10 A YES.

11 Q AND YOU PUT YOUR INITIALS BESIDE THOSE AS WELL?

12 A YES.

13 Q AND YOU READ THOSE?

14 A I GLANCED OVER IT. I DIDN'T EXACTLY READ IT.

15 Q SO, YOUR TESTIMONY IS YOU JUST GLANCED OVER
16 THEM?

17 A I DON'T RECALL. I CAN'T REMEMBER ALL THE
18 STATEMENTS.

19 Q YOU CAN'T REMEMBER?

20 A I DON'T REMEMBER. I DON'T REMEMBER OFF THE TOP
21 OF MY HEAD HOW I READ THEM.

22 Q BUT YOU DID INITIAL BESIDE EACH RIGHT, ISN'T
23 THAT RIGHT?

24 A YES, I DID.

25 Q THERE'S NO QUESTION ABOUT THAT?

1 A YEAH. THOSE ARE MY INITIALS.

2 Q AND YOU WROTE THEM?

3 A YES.

4 Q AND YOU ALSO SIGNED YOUR NAME BELOW WHERE IT
5 SAYS "I FULLY UNDERSTAND EACH OF THESE RIGHTS EXPLAINED TO
6 ME", ISN'T THAT RIGHT?

7 A YES.

8 Q AND WHEN YOU MOVED ON, THIS WAS READ OUT LOUD TO
9 YOU, WASN'T IT? READ RIGHT HERE, WHAT DOES THAT SAY?

10 A "I HAVE THESE RIGHTS AND I WISH TO WAIVE THESE
11 RIGHTS AND ANSWER QUESTIONS CONCERNING CSC OF A MINOR
12 FIRST DEGREE. NO THREATS, FORCE OR PROMISES OF ANY KIND
13 HAVE BEEN MADE TO ME BY ANYONE TO CAUSE ME TO WAIVE THESE
14 RIGHTS OR ANSWER THESE QUESTIONS."

15 Q AND YOU SIGNED YOUR NAME BELOW THAT, DIDN'T YOU?

16 A YES.

17 Q AND THEN YOU SPOKE WITH DETECTIVE RAMSEY?

18 A YES, SIR.

19 Q AND YOU HAD -- YOU'RE AN EDUCATED PERSON, AREN'T
20 YOU?

21 A YES, SIR.

22 Q YOU'VE GONE THROUGH THE 12TH GRADE?

23 A YES, SIR.

24 Q YOU'VE HAD SOME COLLEGE?

25 A YES, SIR.

- 1 Q HOW MUCH COLLEGE?
- 2 A JUST A SEMESTER AT TRIDENT TECH.
- 3 Q JUST A SEMESTER AT TRIDENT TECH?
- 4 A YES, SIR.
- 5 Q IN GRAPHIC DESIGN?
- 6 A YES, SIR.
- 7 Q YOU WANTED TO BE A GRAPHIC DESIGNER?
- 8 A THAT WAS THE FIELD THAT I WANTED TO GET INTO.
- 9 Q BUT YOU DIDN'T EVER ACTUALLY WORK IN THAT FIELD,
- 10 DID YOU?
- 11 A NO.
- 12 Q AND YOU REMEMBER THIS, RIGHT? THIS IS STATE'S
- 13 8?
- 14 A YES.
- 15 Q AND YOU WROTE THAT?
- 16 A YES.
- 17 Q IN YOUR HANDWRITING?
- 18 A YES.
- 19 Q DETECTIVE RAMSEY GAVE YOU THE PIECES OF PAPER?
- 20 A YES.
- 21 Q PROVIDED YOU WITH A PEN?
- 22 A YES.
- 23 Q HE DIDN'T THREATEN YOU IN ANY WAY?
- 24 A HE DIDN'T HAVE TO THREATEN ME?
- 25 Q HE DIDN'T HAVE TO THREATEN YOU?

1 A HE DIDN'T THREATEN ME IN ANY WAY.

2 Q AND HE DIDN'T TELL YOU WHAT TO SAY, DID HE?

3 A HE DIDN'T.

4 Q HE DIDN'T? HE DIDN'T TELL YOU WHAT TO SAY?

5 A I JUST WENT OVER WHAT HE SAID.

6 Q DID HE TELL YOU WHAT TO SAY?

7 A NO, SIR.

8 Q SO, WHAT YOU WROTE DOWN IS WHAT YOU SAID?

9 A I DIDN'T SAY ANYTHING. I JUST WROTE IT DOWN.

10 Q AND WHAT YOU WROTE WAS WHAT YOU WROTE -- NOBODY
11 TOLD YOU WHAT TO WRITE -- WRITE, IS THAT CORRECT?

12 A YES, SIR.

13 Q AND AT THE TOP OF THAT FORM, YOU ACTUALLY TOLD
14 HIM THAT YOUR OCCUPATION WAS A GRAPHIC DESIGNER, DIDN'T
15 YOU?

16 A NO, HE DIDN'T. HE JUST ASKED ME AND JUST PUT IT
17 DOWN. I SAID I WENT TO SCHOOL FOR GRAPHIC DESIGN.

18 Q AND HE WROTE THAT DOWN AS YOUR OCCUPATION?

19 A YES.

20 Q AND THIS -- THIS STATEMENT IS THREE PAGES LONG,
21 ISN'T IT?

22 A YES, SIR.

23 Q AND YOU SIGNED YOUR NAME AT THE BOTTOM OF EACH
24 OF THESE PAGES, DIDN'T YOU?

25 A YES, SIR.

1 Q AND YOU TOLD DETECTIVE RAMSEY THAT THIS WAS THE
2 TRUTH THAT DAY, DIDN'T YOU?

3 A I DIDN'T TOLD HIM IT WAS THE TRUTH.

4 Q YOU DIDN'T?

5 A I -- ALL I DID WAS WROTE THE STATEMENT DOWN. I
6 DIDN'T TOLD HIM IT WAS TRUE.

7 Q DID YOU TELL HIM THIS WAS A LIE THAT YOU WERE
8 GIVING HIM?

9 A I DIDN'T TELL HIM THAT EITHER.

10 Q WELL, YOU DID WRITE THESE WORDS, DIDN'T YOU?

11 A YES.

12 Q AND YOU DID SIGN YOUR NAME THAT THIS WAS YOUR
13 STATEMENT, DIDN'T YOU?

14 A YES.

15 Q AND AFTER YOU WROTE THAT STATEMENT, YOU SAT DOWN
16 WITH DETECTIVE BURNEM AND GAVE HER ANOTHER STATEMENT,
17 DIDN'T YOU?

18 A YES.

19 Q AND THIS IS STATE'S NO. 9. AND YOU RECOGNIZE
20 THAT AS WELL, DON'T YOU?

21 A YES, SIR.

22 Q BECAUSE YOU WROTE THAT AS WELL?

23 A YES, SIR.

24 Q IN YOUR OWN HANDWRITING?

25 A YES, SIR.

1 Q AND NO ONE TOLD YOU WHAT TO SAY?

2 A NO.

3 Q NO ONE THREATENED YOU?

4 A NO.

5 Q IS WHAT YOU WROTE DOWN IN STATE'S NO. 9 THE
6 TRUTH?

7 A YES, SIR, IT IS.

8 Q SO, YOU'RE SAYING THAT WHAT YOU WROTE DOWN IN
9 YOUR FIRST STATEMENT WAS NOT THE TRUTH?

10 A IT WAS A STORY THAT I JUST MADE UP.

11 Q YOU JUST MADE IT UP?

12 A YES, SIR.

13 Q AND WHAT YOU WROTE DOWN IN STATE'S NO. 9 WAS THE
14 TRUTH?

15 A YES, SIR.

16 Q YOU DIDN'T MAKE THAT UP?

17 A NO, SIR.

18 Q NOW, LET'S TALK ABOUT THE FIRST STATEMENT.

19 OKAY. YOU CONFESSED TO SEXUALLY ASSAULTING Minor
20 , DIDN'T YOU?

21 A IN THE STATEMENT?

22 Q IN THE STATEMENT.

23 A (NO RESPONSE.)

24 Q DID YOU?

25 A NO, SIR.

1 Q YOU DIDN'T. DID YOU WRITE DOWN, ON THE SECOND
2 PAGE, LOOK FOUR LINES DOWN ON YOUR SECOND PAGE. OKAY.

3 MS. EHRLICH: OBJECTION. IMPROPER IMPEACHMENT.

4 THE COURT: WHAT'S THE LEGAL OBJECTION?

5 MS. EHRLICH: HE'S ALREADY ADMITTED TO WRITING THE
6 STATEMENT.

7 THE COURT: OVERRULED.

8 MR. DURANT: THANK YOU, YOUR HONOR.

9 BY MR. DURANT:

10 Q READ THE -- FOUR LINES DOWN ON YOUR STATEMENT.

11 OKAY. DO YOU SEE WHERE IT SAYS "THE MIDDLE OF THE NIGHT"?

12 A YES, SIR.

13 Q WHAT'S THE NEXT SENTENCE. PLEASE READ IT OUT
14 LOUD.

15 A "THIS WAS DURING THE TIME THAT THERE WAS ACTUAL
16 PENETRATION."

17 Q WHAT ARE YOU TALKING ABOUT THERE?

18 A WHAT I'M TALKING ABOUT?

19 Q YOU WROTE THAT, RIGHT?

20 A YES, SIR.

21 Q WELL, WHEN YOU WROTE IT, WHAT WERE YOU TALKING
22 ABOUT?

23 A I WASN'T TALKING ABOUT ANYTHING.

24 Q NOTHING? THOSE WORDS DON'T MEAN ANYTHING TO
25 YOU?

1 A NO, IT DOESN'T.

2 Q WELL, THOSE WORDS ACTUALLY DO SAY SOMETHING,
3 THOUGH, DON'T THEY? THEY TALK ABOUT A PENETRATION, DON'T
4 THEY?

5 A (NO RESPONSE.)

6 Q I'M ASKING YOU A QUESTION.

7 A SIR?

8 Q THEY TALK ABOUT A PENETRATION, DON'T THEY?

9 A THAT'S WHAT IT'S TALKING ABOUT.

10 Q THAT'S WHAT YOU WROTE ABOUT?

11 A IN THIS FALSE STATEMENT THAT I WROTE, YES.

12 Q IN -- IN THIS LIE, RIGHT. IN THIS LIE THAT YOU
13 WROTE, THIS IS WHAT YOU WROTE THOUGH, ISN'T IT?

14 A YES.

15 Q YOU TALKED ABOUT A PENETRATION?

16 A (NO RESPONSE.)

17 Q DIDN'T YOU?

18 A YES, SIR.

19 Q AND WHY DID YOU WRITE ABOUT A PENETRATION?

20 A WHY?

21 Q WHY?

22 A IT WAS PART OF THE STORY.

23 Q PART OF A LIE?

24 A YES.

25 Q AND IT WAS ALL A LIE?

1 A YES, SIR.

2 Q BUT YOU DID WRITE THIS STORY?

3 A YES.

4 Q LET'S TALK ABOUT WHY THIS STORY -- THAT YOU
5 DIDN'T JUST SAY, YES, I SEXUALLY ASSAULTED Minor , DID
6 YOU? YOU DIDN'T -- YOU DIDN'T LEAVE IT AT THAT, DID YOU?

7 A SIR?

8 Q YOUR STATEMENT WASN'T JUST ONE LITTLE RESPONSE
9 TO DETECTIVE RAMSEY, YES, I SEXUALLY ASSAULTED Minor AND
10 THAT'S IT. IT WASN'T A SHORT LITTLE STATEMENT, WAS IT?

11 A NO, SIR. IT WAS A FABRICATED STORY.

12 Q YEAH. IT WAS A KIND OF LONG, IN YOUR WORDS,
13 FABRICATED STORY, WASN'T IT?

14 A YES, SIR.

15 Q AND YOU WROTE FOR ONE AND A HALF PAGES ON YOUR
16 SO-CALLED FABRICATED STORY, DIDN'T YOU?

17 A YES, SIR.

18 Q AND AS PART OF WHAT YOU CALL A LIE, YOUR STORY
19 WAS THAT Minor DID THESE THINGS TO YOU, RIGHT?

20 A YES, SIR.

21 Q I MEAN, IT'S LIKE THIS IS HER FAULT, RIGHT?

22 A (NO RESPONSE.)

23 Q YOU ESSENTIALLY SAID THIS IS HER FAULT IN THE
24 LIE?

25 A SIR?

1 Q WELL, LET ME PUT IT TO YOU LIKE THIS. YOU SAY
2 THIS WAS A LIE, RIGHT?

3 A YES, SIR.

4 Q AND YOU SAY YOU DIDN'T SEXUALLY ASSAULT Minor
5 THAT'S WHAT YOU SAY, RIGHT?

6 A YES, SIR.

7 Q BUT WHEN YOU LIED OR WHEN YOU SAY YOU LIED, YOU
8 LIED AND BLAMED A SEXUAL ASSAULT ON A SIX YEAR OLD GIRL,
9 DON'T YOU?

10 A YES -- IF YOU PHRASE IT THAT WAY.

11 Q ALL RIGHT. WELL, LET'S JUST TALK ABOUT WHAT YOU
12 ACTUALLY WROTE. WILL YOU READ THE FIRST LINE THAT YOU
13 WROTE? JUST THE FIRST LINE.

14 A "I HEREBY STATE THAT THE FIRST INCIDENT HAPPENED
15 IN JUNE OF THIS YEAR."

16 Q OKAY. NOW READ THE SECOND LINE.

17 A "THE FIRST TIME THIS HAPPENED WAS WHEN I WAS
18 RESTING ON THE FLOOR."

19 Q KEEP GOING.

20 A "I FELT Minor TOUCH MY PENIS WHEN I WAS HALF
21 ASLEEP."

22 Q SO THAT WAS HER FAULT?

23 A (NO RESPONSE.)

24 Q SHE TOUCHED YOUR PENIS? THAT'S WHAT YOU WROTE?

25 A THAT'S WHAT I WROTE.

1 Q YOU BLAMED HER BECAUSE THIS WAS HER FAULT, SHE
2 TOUCHED YOU, ISN'T THAT RIGHT?

3 A NO.

4 Q WELL, TELL ME HOW IT'S NOT RIGHT?

5 A BECAUSE IT'S NOT TRUE.

6 Q WELL, THEN, WHY DID YOU WRITE IT?

7 A BECAUSE I -- BECAUSE I DIDN'T -- I DIDN'T EVEN
8 CARE. I DIDN'T -- I JUST DID IT.

9 Q YOU JUST DIDN'T CARE?

10 A NOT AT THAT TIME.

11 Q BUT YOU DID WRITE IT?

12 A YES.

13 Q WHAT'S THE NEXT SENTENCE? PLEASE READ IT.

14 A "SHE THEN WENT ON TO TAKING HER SKIRT OFF".

15 Q AGAIN, THAT'S HER FAULT? THAT'S HER FAULT,
16 RIGHT, SHE TOOK HER SKIRT OFF? YOU DIDN'T SAY YOU TOOK
17 HER SKIRT OFF, IS THAT RIGHT?

18 A IT'S A STORY.

19 Q IT'S YOUR STORY, BUT YOU BLAMED HER. WHAT'S THE
20 NEXT SENTENCE?

21 A "SHE WENT TO THE BATHROOM AND PUT ON PERFUME.
22 AND ON HER RETURN, WITH ONLY HER BATHING SUIT ON."

23 Q THOSE ARE SOME PRETTY GOOD DETAILS, AREN'T THEY?
24 I MEAN, THAT'S A PRETTY DETAILED SENTENCE, ISN'T IT?
25 ISN'T IT?

1 A YES, IT IS.

2 Q AND YOU'RE NOT SAYING ANYTHING ABOUT WHAT YOU'RE
3 DOING RIGHT NOW, ARE YOU? YOU'RE NOT SAYING ANYTHING
4 ABOUT WHAT YOU'RE DOING, ARE YOU?

5 A NO.

6 Q YOU'RE TALKING ABOUT WHAT Minor IS DOING?

7 A IN THE STORY, YES.

8 Q IN THE STORY. WHAT'S THE NEXT SENTENCE?

9 A "SHE HESITATED TO MAKE SURE MY EYES WERE CLOSED
10 BEFORE SHE COULD RESUME WHAT SHE WAS DOING."

11 Q AGAIN, YOU'RE TELLING US WHAT SHE WAS DOING,
12 RIGHT?

13 A IN THE STORY, YES.

14 Q THAT'S WHAT I'M ASKING YOU, AND YOU'RE NOT
15 TELLING US WHAT YOU'RE DOING, ARE YOU?

16 A HOW CAN I TELL YOU WHAT I'M DOING BECAUSE I
17 HAVEN'T DONE ANYTHING.

18 Q I'M ASKING YOU WHAT YOU WROTE IN YOUR STATEMENT,
19 OKAY?

20 A I KNOW THAT, SIR.

21 Q AND LET'S KEEP GOING --

22 MS. EHRLICH: JUDGE, OBJECTION.

23 THE COURT: WHAT'S YOUR LEGAL OBJECTION?

24 MS. EHRLICH: HE'S BADGERING THE WITNESS.

25 THE COURT: DON'T ARGUE WITH THE WITNESS. JUST ASK

1 HIM QUESTIONS. IF HE'S NOT BEING RESPONSIVE, THEN I'LL
2 DEAL WITH THAT. OKAY.

3 MR. DURANT: THANK YOU, YOUR HONOR.

4 BY MR. DURANT:

5 Q WHAT'S YOUR NEXT SENTENCE?

6 A "SHE STARTED TO USE HER HANDS TO MASTURBATE ME."

7 Q AGAIN, THAT'S SOMETHING THAT SHE'S DOING, ISN'T
8 THAT RIGHT?

9 A RIGHT.

10 Q IN YOUR STATEMENT?

11 A IN THE STORY, YES.

12 Q IN THE STORY. AND YOU WROTE THAT?

13 A YES.

14 Q WHAT'S THE NEXT SENTENCE?

15 A "SHE WENT ON TO GET ON TOP OF ME AS SHE WAS
16 READY TO DO SOMETHING."

17 Q WHO WAS READY TO DO SOMETHING? ACCORDING TO
18 YOUR STORY, WHO WAS READY TO DO SOMETHING?

19 A BASED ON THE STORY, IT JUST SAYS Minor .

20 Q AND WHEN YOU WROTE "SHE", WHO WERE YOU TALKING
21 ABOUT?

22 A I WASN'T TALKING ABOUT ANYBODY.

23 Q NOBODY. YOU WEREN'T TALKING ABOUT ANYBODY, NO
24 REFERENCE POINT?

25 A JUST SHE.

1 Q JUST AN UNKNOWN SHE?

2 A YES, SIR.

3 Q OKAY. I THINK WE'RE PRETTY CLEAR HERE. READ
4 YOUR NEXT SENTENCE.

5 A "SHE WOULD STOP WHEN I WOULD MAKE ANY MOVEMENT
6 OF ME WAKING UP."

7 Q SO, ACCORDING TO YOUR STORY, YOU'RE ASLEEP?

8 A THAT'S HOW THE STORY WENT.

9 Q WHEN THIS UNKNOWN "SHE" WOULD STOP -- THIS
10 UNKNOWN PERSON, SHE WOULD JUST STOP?

11 A YES, SIR.

12 Q DO YOU WRITE STORIES A LOT?

13 A I DID -- I DID SOME WRITING.

14 Q ARE YOU A FICTION WRITER?

15 A I WROTE SOME WHEN I WAS YOUNGER.

16 Q DO YOU WRITE BOOKS OR ANYTHING?

17 A I USED TO WRITE BOOKS WHEN I WAS YOUNGER.

18 Q BOOKS ABOUT STUFF LIKE THIS?

19 A NO.

20 Q HAVE YOU EVER WRITTEN ABOUT THIS STUFF BEFORE?

21 A NO.

22 Q THIS WAS THE FIRST TIME?

23 A YES.

24 Q READ THAT NEXT SENTENCE.

25 A "THAT WAS THE FIRST TIME SHE HAS EVER DONE

1 ANYTHING TO ME LIKE THAT."

2 Q THAT'S A DETAIL, ISN'T IT?

3 A YES.

4 Q YOU TALK ABOUT THE FIRST TIME, RIGHT?

5 A THAT'S CORRECT.

6 Q AND YOU'RE TALKING ABOUT THE FIRST TIME THAT

7 YOU'VE HAD A SEXUAL ENCOUNTER WITH Minor

8 A NO.

9 Q NO? THE WHOLE BEGINNING OF THAT FIRST PART OF
10 YOUR STATEMENT IS ABOUT Minor , RIGHT?

11 A NO.

12 Q WHO'S IT ABOUT?

13 A LIKE I TOLD YOU, IT WAS ABOUT A "SHE".

14 Q A "SHE". ALL RIGHT. I WANT YOU TO GO BACK UP

15 TO YOUR SECOND SENTENCE AND I WANT YOU TO READ THAT.

16 OKAY.

17 A "I FELT Minor TOUCH MY PENIS WHEN I WAS HALF
18 ASLEEP."

19 Q OKAY. SO, HOW MANY PEOPLE ARE WE TALKING ABOUT
20 HERE IN THIS STORY?

21 A JUST ONE.

22 Q AND WHO IS THAT?

23 A SHE.

24 Q ALL RIGHT. AND THE PERSON IN THIS STORY, SHE,

25 SHE'S DOING ALL THE ACTION, RIGHT?

1 A YES.

2 Q SHE'S MAKING ALL THE MOVES, CORRECT?

3 A THAT'S RIGHT.

4 Q SHE'S THE ONE PUTTING ON THE PERFUME, RIGHT?

5 A RIGHT.

6 Q SHE'S THE ONE PUTTING ON THE BATHING SUIT?

7 A THAT'S RIGHT.

8 Q SHE'S THE ONE WHO GOT ON TOP OF YOU?

9 A THAT'S RIGHT.

10 Q SHE'S THE ONE -- IS Minor ?

11 A NO. LIKE I SAID BEFORE, SHE IS SHE. IT'S A
12 STORY.

13 Q AT THE BEGINNING OF THAT STORY, THOUGH, YOU TOLD
14 US THAT Minor TOUCHED YOUR PENIS, DIDN'T YOU?

15 A THAT'S WHAT IT SAYS.

16 Q THAT'S WHAT YOU WROTE?

17 A YES. THAT'S WHAT I WROTE.

18 Q LET'S KEEP GOING. WHAT'S THE NEXT SENTENCE?

19 A "THE SECOND TIME, THIS TIME SHE WENT ON TO GIVE
20 ME A BLOW JOB."

21 Q "SHE" APPEARS AGAIN, DOESN'T SHE?

22 A YES.

23 Q AND WHAT'S SHE DOING IN YOUR STORY?

24 A WHAT'S SHE DOING?

25 Q WHAT'S SHE DOING?

1 A WHAT EXACTLY DO YOU MEAN BY THAT?

2 Q IN YOUR STORY, WHAT IS SHE DOING?

3 A AT THIS POINT IN TIME?

4 Q AT THIS POINT IN TIME, IN YOUR STORY, WHAT IS
5 SHE DOING?

6 A DO YOU WANT ME TO READ -- READ -- READ THE
7 SENTENCE OR SOMETHING?

8 Q IF YOU NEED TO OR YOU CAN JUST TELL ME.

9 A AGAIN.

10 Q WHAT'S THAT?

11 A HOW CAN I TELL YOU?

12 Q WE'RE JUST TALKING ABOUT WHAT YOU WROTE. WHAT
13 IS SHE DOING IN YOUR STORY?

14 A IN THIS PART OF THE STORY, AS THE SENTENCE SAYS,
15 SHE IS GIVING ME A BLOW JOB.

16 Q AND, AGAIN, THAT IS HER DOING SOMETHING, ISN'T
17 IT?

18 A THAT'S -- THAT'S HOW THE STORY GOES.

19 Q YES, IT IS. READ THE NEXT SENTENCE.

20 A "THIS ONLY OCCURS WHEN HER MOTHER IS NOT AROUND
21 AND HER SISTER IS ASLEEP."

22 Q AND THESE ARE THE DETAILS ON WHEN THIS BLOW JOB
23 WAS GIVEN, ISN'T IT?

24 A IF YOU PUT IT THAT WAY.

25 Q WHEN HER MOTHER IS NOT AROUND, WHEN HER SISTERS

1 ARE ASLEEP, THAT'S WHAT YOU WROTE?

2 A YES.

3 Q WHEN HER MOTHER IS NOT AROUND, WHEN HER SISTERS
4 ARE ASLEEP, THIS IS WHEN THIS SIX YEAR OLD SPRINGS INTO
5 ACTION ACCORDING TO YOUR STORY?

6 A (NO RESPONSE.)

7 Q ACCORDING TO YOUR STORY, RIGHT?

8 A THAT'S CORRECT.

9 Q AND WHAT'S THE NEXT THING THAT HAPPENS IN YOUR
10 STORY?

11 A "SHE WOULD ALWAYS TRY TO MAKE SURE THAT I'M HALF
12 ASLEEP OR IN A RESTING STATE."

13 Q SO, AGAIN, SHE IS THE ONE WHO IS TRYING HERE,
14 RIGHT?

15 A RIGHT.

16 Q AND YOU'RE TELLING YOUR STORY THAT SHE'S TRYING
17 TO MAKE SURE THAT YOU'RE ASLEEP WHEN THIS HAPPENS, WHEN
18 THIS KIND OF CONDUCT HAPPENS?

19 A IN THE STORY, YEAH.

20 Q IN THE STORY. READ THE NEXT SENTENCE.

21 A "IF I AM FULLY AWAKE, SHE WILL NOT TRY ANYTHING
22 SEXUALLY IN THAT NATURE."

23 Q SO, YOU SAY THAT IN YOUR STORY, SHE WOULDN'T DO
24 THESE THINGS WHEN YOU WERE AWAKE?

25 A IN THIS STORY, YEAH.

1 Q AND DO YOU EVER INDICATE IN YOUR STORY THAT YOU
2 DIDN'T LIKE THESE THINGS?

3 A IF I RECALL, I DON'T REMEMBER WRITING ANYTHING
4 LIKE THAT DOWN.

5 Q BUT SHE -- I MEAN, THERE'S NO QUESTION IN YOUR
6 STORY, SHE'S THE ONE WHO'S DOING THIS STUFF TO YOU,
7 CORRECT?

8 A THAT'S HOW THE STORY GOES.

9 Q I MEAN, IT'S LIKE YOU'RE THE VICTIM HERE, SHE'S
10 DOING THIS TO YOU IN THIS STORY, RIGHT?

11 A THAT'S HOW THE STORY GOES.

12 Q I MEAN, IT'S LIKE SHE'S THE ONE WHO SHOULD BE UP
13 THERE BEING PROSECUTED ACCORDING TO YOUR STORY?

14 MS. EHRLICH: OBJECTION, YOUR HONOR. IT CALLS FOR
15 A LEGAL CONCLUSION.

16 THE COURT: OVERRULED.

17 MR. DURANT: THANK YOU, YOUR HONOR.

18 BY MR. DURANT:

19 Q WHAT'S YOUR NEXT SENTENCE?

20 A "AND AS IT STARTED TO OCCUR MORE OFTEN, MY
21 CURIOSITY AND MY SPITE FOR HER MOTHER...

22 COURT REPORTER: I'M NOT UNDERSTANDING, YOUR HONOR.

23 THE COURT: SPEAK UP A LITTLE BIT BETTER, IF YOU
24 WOULD, MR. TURNER, PLEASE.

25 THE WITNESS: I'M SORRY. "AS IT STARTED TO OCCUR

1 MORE OFTEN, MY CURIOSITY AND MY SPITE FOR HER MOTHER MADE
2 ME WONDER HOW MUCH SHE KNEW ABOUT SEX."

3 BY MR. DURANT:

4 Q NOW, WE KIND OF HAVE WHY -- WHY THIS IS GOING
5 ON, CORRECT? NOW, WE'RE TALKING ABOUT SOMETHING TO DO
6 WITH YOUR CURIOSITY ACCORDING TO YOUR STORY?

7 A ACCORDING TO THE STORY.

8 Q ACCORDING TO THE STORY. YOUR CURIOSITY AND YOUR
9 SPITE FOR HER MOTHER. THESE TWO THINGS MADE YOU WONDER
10 HOW MUCH SHE KNEW ABOUT SEX, ACCORDING TO THE STORY?

11 A ACCORDING TO THE STORY.

12 Q I'M SORRY. I DIDN'T HEAR WHAT YOU SAID.

13 A ACCORDING TO THE STORY.

14 Q THAT'S RIGHT. ACCORDING TO THE STORY. AND, SO,
15 ACCORDING TO YOUR STORY, WHAT DID -- DID YOU WRITE NEXT?

16 A "I ASKED HER AND SHE TOLD ME ON MANY TIMES THAT
17 SHE HAD A BOYFRIEND AND WE HAVE SEX."

18 Q SO, ACCORDING TO THE STORY, YOU'RE NOW TALKING
19 TO HER AND YOU'RE AWAKE, ACCORDING TO THE STORY?

20 A YEAH.

21 Q AND YOU'RE TALKING TO HER ABOUT SEX ACCORDING TO
22 THE STORY?

23 A ACCORDING TO THE STORY.

24 Q AND WHAT WAS THE NEXT THING THAT YOU WROTE IN
25 THE STORY?

1 A "WHEN THE LAST INCIDENT OCCURRED, SHE WAITED
2 UNTIL THE MIDDLE OF THE NIGHT."

3 Q KEEP GOING.

4 A "THIS WAS THE ONLY TIME THERE WAS ACTUAL
5 PENETRATION."

6 Q SO, NOW WE HAVE A TIME, IN THE MIDDLE OF THE
7 NIGHT, IS THAT CORRECT?

8 A ACCORDING TO THE STORY, YES.

9 Q ACCORDING TO THE STORY. AND NOW WE HAVE THAT IT
10 WAS "SHE" WHO WAS DOING THE WAITING UNTIL THE MIDDLE OF
11 THE NIGHT, CORRECT, IT WAS SHE?

12 A IN THE STORY.

13 Q IN THE STORY, "SHE" WAITED UNTIL THE MIDDLE OF
14 THE NIGHT. AND WHAT HAPPENED, ACCORDING TO THE STORY,
15 WHEN SHE WAITED UNTIL THE MIDDLE OF THE NIGHT? READ THE
16 NEXT SENTENCE.

17 A "THIS WAS THE ONLY TIME THERE WAS ACTUAL
18 PENETRATION."

19 Q THERE WAS ACTUAL PENETRATION IN THE MIDDLE OF
20 THE NIGHT AND SHE WAITED ACCORDING TO THE STORY?

21 A ACCORDING TO THE STORY.

22 Q AGAIN, THE STORY BLAMES HER, DOESN'T IT?

23 A (NO RESPONSE.)

24 Q YOU BLAME THE SIX YEAR OLD IN WHAT YOU CALL JUST
25 THIS MADE UP STORY -- YOU BLAMED THE SIX YEAR OLD, DIDN'T

1 YOU?

2 A I DON'T BLAME THE SIX YEAR OLD, I BLAME THE
3 "SHE".

4 Q YOU BLAME THE "SHE" FOR THE PENETRATION THAT
5 OCCURRED IN THE MIDDLE OF THE NIGHT, YOU BLAME THE "SHE"
6 WHO HAPPENED TO BE A SIX YEAR OLD FOR PENETRATION IN YOUR
7 MADE-UP STORY, ISN'T THAT RIGHT?

8 A THERE WAS NO AGE LIMIT IN THE STORY.

9 Q THERE WASN'T?

10 A NO.

11 Q BECAUSE WE DON'T KNOW WHO "SHE" IS ACCORDING TO
12 THE STORY, IS THAT RIGHT?

13 A THAT'S RIGHT.

14 Q WHAT DID YOU WRITE NEXT?

15 A "SHE WAS VERY KNOWLEDGEABLE ON WHAT POSITION SHE
16 WANTED TO DO IT IN."

17 Q OKAY. KEEP GOING.

18 A "IT SHOCKED ME. BUT WHEN IT WAS ALL DONE, OR
19 THE FACT THAT SHE COULDN'T GET ME UP TO GET OFF, SHE WOULD
20 GO BACK TO SLEEP".

21 Q KEEP GOING.

22 A "THOSE ARE THE ONLY TIMES WHEN I REMEMBER WHEN I
23 HAD SOMEWHAT OF A FULL AWARENESS OF WHAT WAS GOING ON. I
24 FIND IT VERY HARD TO TALK ABOUT IT EVEN AS I WRITE THIS
25 STATEMENT. I FEEL LIKE ALL OF THIS COULD HAVE BEEN

1 PREVENTED. I FEEL VERY UPSET ABOUT -- AT MYSELF FOR
2 LETTING IT HAPPEN. THIS IS MY STATEMENT FOR BEING ACCUSED
3 AND I AM READY TO TAKE ANY RESPONSIBILITY TO THE ACTIONS
4 THAT OCCURRED."

5 Q IT WAS HARD TO WRITE THAT STATEMENT, WASN'T IT?

6 A WAS IT HARD?

7 Q IT WAS HARD TO WRITE THAT, WASN'T IT?

8 A IT WASN'T HARD TO FABRICATE A LIE.

9 Q IT WAS PRETTY EASY TO WRITE THAT STATEMENT?

10 A (NO RESPONSE.)

11 Q WAS IT EASY OR WAS IT HARD?

12 A AT THAT POINT IN TIME, IT WAS NOT HARD.

13 Q IT WASN'T HARD. IT WAS PRETTY EASY TO SIT DOWN
14 AND WRITE THIS STORY, WASN'T IT?

15 A YES. BECAUSE THAT'S WHAT IT IS, A STORY.

16 Q THAT'S WHAT YOU SAY IT IS, ISN'T THAT RIGHT?

17 A THAT'S WHAT I KNOW IT IS.

18 Q YOU SAID IN THE STORY, YOU FOUND IT HARD TO
19 WRITE, DIDN'T YOU?

20 A IT'S CALLED A CLOSING SENTENCE.

21 Q I THINK IT IS, YES. AND THEN AFTER YOU WROTE
22 THIS DOWN, THERE WAS A QUESTION AND ANSWER SESSION THAT
23 YOU HAD WITH DETECTIVE RAMSEY, RIGHT?

24 A THAT'S RIGHT.

25 Q AND Y'ALL FOLLOWED UP WITH SOME OF THIS STORY,

1 RIGHT?

2 A RIGHT.

3 Q AND YOU TOLD HIM THINGS LIKE THIS WOULD HAPPEN
4 ONCE OR TWICE A WEEK, SOMETIMES THREE TIMES A WEEK, RIGHT?

5 A THAT'S RIGHT.

6 Q BUT THIS WAS ALL STILL JUST A BIG MADE UP STORY,
7 RIGHT?

8 A YES.

9 Q AND YOU TOLD DETECTIVE RAMSEY ABOUT THE
10 DIFFERENT POSITIONS THAT YOU WOULD EVEN HAVE SEX WITH THIS
11 -- WITH THIS PERSON IN YOUR STORY, DIDN'T YOU?

12 A THAT'S WHAT HE ASKED.

13 Q YOU TOLD HIM THAT YOU HAD SEX MISSIONARY STYLE,
14 DOGGIE STYLE, RIGHT?

15 A THAT'S RIGHT.

16 Q HE EVEN ASKED YOU IF SHE APPEARED TO ENJOY IT?
17 HE ASKED YOU THAT, RIGHT?

18 A HE DID.

19 Q AND ACCORDING TO YOUR STORY, YOU SAID, YEAH,
20 BECAUSE OF THE EXPRESSIONS ON HER FACE, ISN'T THAT RIGHT?

21 A THAT'S RIGHT.

22 Q I THINK EXACTLY -- "BY THE EMOTIONS IN HER FACE
23 AND THE WAY SHE WOULD PULL ME CLOSER TO HER.", RIGHT?

24 A THAT'S WHAT IT SAYS.

25 Q THAT'S WHAT YOU SIGNED, ACCORDING TO YOUR STORY,

1 RIGHT?

2 A THAT'S RIGHT.

3 Q THEN YOU WERE ASKED WHERE ALL THIS TOOK PLACE?

4 A RIGHT.

5 Q IN YOUR STORY, WHEN YOU SAID IT OCCURRED AT THE

6 HOUSE IN THE BEDROOM -- MY BEDROOM?

7 A THAT'S -- THAT'S WHAT IT SAYS.

8 Q THAT'S WHAT YOU SIGNED?

9 A YES.

10 Q YOU SAID YOU WROTE THIS STATEMENT BECAUSE YOU

11 WERE DEPRESSED?

12 A YES.

13 Q AND YOU WANTED TO FEEL BETTER, DIDN'T YOU?

14 A NO.

15 Q YOU WANTED TO STAY DEPRESSED?

16 A I WANTED AN OUTLET.

17 Q YOU WANTED AN OUTLET?

18 A I SAW THAT I HAD NOTHING TO LOSE.

19 Q YOU SAW THAT YOU HAD NOTHING TO LOSE AND THAT'S

20 WHY YOU WROTE THIS -- THIS LIE, ACCORDING TO YOU?

21 A EXACTLY.

22 Q AND IF I REMEMBER CORRECTLY ON DIRECT

23 EXAMINATION, YOU SAID THE THINGS THAT YOU WERE DEPRESSED

24 ABOUT WERE THAT YOU DIDN'T HAVE A JOB, RIGHT?

25 A RIGHT.

1 Q YOU DIDN'T HAVE A JOB SINCE THE END OF MAY?

2 A THE BEGINNING OF JUNE.

3 Q THE BEGINNING OF JUNE. AND THAT'S WHEN YOU HAD
4 MOVED IN WITH MS. DAVISON AND HER CHILDREN, ISN'T THAT
5 RIGHT?

6 A IT WAS THE MIDDLE OF JUNE.

7 Q THE MIDDLE OF JUNE WHEN YOU MOVED IN WITH THEM?

8 A I DIDN'T FULLY MOVE IN WITH THEM. IT WAS AROUND
9 THAT TIME.

10 Q SO, YOU'RE BACKING AWAY FROM MOVING IN WITH
11 THEM, NOW YOU'RE JUST -- YOU DIDN'T FULLY MOVE IN, IS THAT
12 WHAT YOU'RE SAYING?

13 A (NO RESPONSE.)

14 Q IS THAT WHAT YOU'RE SAYING? I'M JUST TRYING TO
15 UNDERSTAND.

16 A I'M NOT SAYING THAT I HAD -- HAD MOVED IN WITH
17 THEM.

18 Q WELL, WHERE WERE YOU LIVING?

19 A MY ADDRESS WAS . . . AND
20 DRIVE WAS HER ADDRESS.

21 Q WHO DID YOU LIVE WITH AT ?

22 A I LIVED WITH PAM AND ARRON.

23 Q BUT YOU STILL MADE CONTACT -- MAINTAINED CONTACT
24 WITH PAM AND ARRON?

25 A NOT AS MUCH.

1 Q DO YOU KNOW THEY ARE?

2 A NOT AT THIS TIME.

3 Q DID YOU EVER GET ANOTHER JOB AFTER -- AFTER
4 JUNE?

5 A JUNE? NO. I WAS JOB SEARCHING, BUT...

6 Q WELL, YOU SAID THAT ONE OF THE THINGS THAT YOU
7 WERE DEPRESSED ABOUT WERE THE DIRTY CONDITIONS THAT DEBBIE
8 LIVED IN, RIGHT?

9 A YES.

10 Q YOU DIDN'T LIKE THAT, RIGHT?

11 A YES.

12 Q AND DEBBIE DID HAVE JOBS, ISN'T THAT RIGHT?

13 A NOT UNTIL LATE AUGUST.

14 Q NOT UNTIL LATE AUGUST?

15 A YES.

16 Q I'M JUST TRYING TO MAKE SURE I HEARD CORRECT,
17 OKAY. BUT SHE DID GET JOBS, THOUGH, RIGHT?

18 A YES.

19 Q AND YOU TOOK CARE OF THE KIDS, AT LEAST SOME
20 TIMES, ACCORDING TO YOU, RIGHT?

21 A YEAH.

22 Q WHEN YOU STAYED AT DEBBIE'S HOUSE?

23 A NO. WHENEVER I TOOK CARE OF THE KIDS, I WAS
24 MAINLY AT -- MAINLY AT MY ADDRESS.

25 Q MAINLY WHERE?

1 A .I WAS MAINLY AT MY ADDRESS.

2 Q AT ?

3 A YES.

4 Q I THOUGHT YOU SAID ON DIRECT EXAMINATION THAT
5 YOU DID TAKE CARE OF THE KIDS SOMETIMES, JUST YOU?

6 A THE ONLY TIME THAT I WAS THERE -- THE ONLY TIME
7 I TOOK CARE OF THE KIDS AT -- WAS PROBABLY ONCE OR TWICE
8 WHEN I WAS ALONE AT THAT ADDRESS.

9 Q YOU -- YOU SAID YOU MET DEBBIE AROUND FEBRUARY,
10 2008?

11 A YEAH. WELL, WE STARTED DATING AROUND FEBRUARY.

12 Q AND IT BECAME A SEXUAL RELATIONSHIP, DIDN'T IT?

13 A YES.

14 Q AND IT WAS DEFINITELY SEXUAL OR ROMANTIC BY --
15 BY JUNE, RIGHT?

16 A BY JUNE, YES.

17 Q AND YOU'RE SAYING YOU HARDLY EVER LIVED THERE
18 WITH HER AT HER HOUSE?

19 A HARDLY.

20 Q WELL, DIDN'T YOU SAY ON DIRECT EXAMINATION THAT
21 ONE OF THE THINGS THAT YOU WERE DEPRESSED ABOUT WERE THE
22 DIRTY CONDITIONS THAT SHE KEPT HER HOUSE IN?

23 A WHEN I WAS OVER THERE, YES.

24 Q BUT YOU DON'T STAY THERE, THOUGH?

25 A NO.

1 Q WELL, LET'S FAST FORWARD JUST A LITTLE BIT NOW.
2 AUGUST 27TH, DO YOU REMEMBER GOING TO THE CATHEDRAL OF
3 HOLY PRAISE?

4 A YES.

5 Q WITH PAM, RIGHT?

6 A THAT'S CORRECT.

7 Q AND Minor -- NOT Minor -- Sister 2 AND Sister 1
8 WERE WITH YOU, RIGHT?

9 A THAT'S CORRECT.

10 Q NOW, Y'ALL WERE GOING THERE FOR WHAT REASON?
11 WOULD YOU TELL ME THAT AGAIN?

12 A I WAS LOOKING FOR SOME COUNSELLING.

13 Q FOR WHO?

14 A MAINLY FOR Minor .

15 Q AND WHY WAS THAT?

16 A JUST THE FACT -- THE FACT -- THE WAY THAT SHE
17 WAS ACTING TOWARDS HER -- HER SIBLINGS.

18 Q I THINK YOU SAID THAT SHE WAS ACTING OUT OF
19 CHARACTER ON DIRECT EXAMINATION, DO YOU REMEMBER SAYING
20 THAT?

21 A THAT WOULD BE IT.

22 Q SO, IN ORDER TO KNOW IF SHE WAS ACTING OUT OF
23 CHARACTER, YOU HAD TO KNOW SOMETHING OF HER CHARACTER
24 BEFORE SHE STARTED ACTING SOMEWHAT DIFFERENT, RIGHT?

25 A IF YOU PUT IT THAT WAY.

1 Q I'M JUST ASKING YOU. I'M NOT TRYING TO PUT
2 WORDS IN YOUR MOUTH.

3 A WHAT I MEAN EXACTLY BY ACTING OUT OF CHARACTER
4 --

5 Q YOU THOUGHT SHE WAS ACTING OUT OF CHARACTER --

6 A SHE -- THE WAY A NORMAL SIX YEAR OLD WOULD
7 BEHAVE AROUND SIBLINGS.

8 Q AND SHE WAS ACTING DIFFERENT THAN YOU THOUGHT
9 SHE SHOULD BE BEHAVING?

10 A YES.

11 Q AND THAT'S THE -- THAT'S THE ONLY REASON YOU
12 WENT TO THE CATHEDRAL OF PRAISE?

13 A I -- I WAS TRYING TO PUT THE CHILDREN IN SOME
14 KIND OF YOUTH PROGRAM.

15 Q AND Sister 2 HAD A SLING ON HER ARM AT THE TIME?

16 A YES.

17 Q AND Sister 2 WAS THREE, RIGHT?

18 A AROUND THAT TIME, YES.

19 Q AND MS. DAVISON WASN'T WITH YOU WHEN YOU WENT
20 THERE, RIGHT?

21 A NO.

22 Q AND TELL ME WHO WAS MORE CONCERNED, DOING MOST
23 OF THE TALKING, WAS IT YOU OR WAS IT PAM?

24 A PAM WAS.

25 Q PAM WAS DOING MOST OF THE TALKING. AND YOU WERE

1 KIND OF ALONG FOR THE RIDE?

2 A YES.

3 Q IT WAS PAM'S IDEA TO GO THERE?

4 A YES.

5 Q NOT YOURS?

6 A NO.

7 Q AND THAT'S THE FIRST DAY YOU MET DETECTIVE
8 RAMSEY, RIGHT?

9 A YES, IT WAS.

10 Q HE CAME UP THERE, RIGHT?

11 A HE DID.

12 Q AND HE TALKED TO YOU?

13 A YES.

14 Q AND HE TALKED TO Sister 2 ?

15 A YES.

16 Q AND HE WAS INTERESTED IN MORGAN'S -- WHY -- WHY
17 THIS SLING WAS ON Sister 2 'S ARM, WASN'T HE?

18 A YES.

19 Q AND YOU TALKED TO HIM THAT DAY, RIGHT?

20 A YES.

21 Q AND WHAT DID YOU TELL HIM?

22 A I TOLD HIM ABOUT -- I TOLD HIM WHAT I HEARD,
23 WHAT WAS DONE.

24 Q OKAY. AND THAT WAS -- THAT WAS WHAT?

25 A THAT Minor CONFESSED TO THE BROKEN -- PUSHING

1 DOWN AND BREAKING HER SISTER'S COLLAR BONE.

2 Q NOW, DID YOU TELL DETECTIVE RAMSEY AT THAT TIME
3 ANYTHING ABOUT YOU SPANKING Sister 2 OR BATHING Sister 2 OR
4 ANYTHING LIKE THAT?

5 A NO. I DON'T KNOW HOW THAT CAME ABOUT.

6 Q YOU'RE -- YOU'RE NOT SURE WHAT -- HOW WHAT CAME
7 ABOUT?

8 A THAT. WHAT YOU JUST SAID.

9 Q WELL, YOU KNOW, WHEN WE FIRST STARTED TALKING
10 JUST NOW, YOU SAID THAT YOUR SECOND STATEMENT WAS THE
11 TRUTH, RIGHT, THE ONE THAT YOU GAVE TO DETECTIVE BURNEM?

12 A YEAH.

13 Q AND YOU SAID THAT THE FIRST ONE, YOU JUST MADE
14 THAT ONE UP, RIGHT, THAT WAS JUST FICTIONAL?

15 A YEAH.

16 Q THE ONE WHERE YOU BLAMED Minor FOR COMING ON TO
17 YOU IN THIS PURELY FICTIONAL ACCOUNT, RIGHT, THAT WAS MADE
18 UP, RIGHT?

19 A YES.

20 Q BUT THE SECOND ONE WAS THE TRUTH, RIGHT?

21 A YES.

22 Q IN THE SECOND ONE, YOU TALK ABOUT BEING THERE
23 WITH -- YOU SAY ON THURSDAY NIGHT I MADE DINNER FOR Minor
24 AND Sister 2 BECAUSE THEIR MOTHER WENT TO WORK WITHOUT
25 MAKING THEM DINNER, SO I MADE THEM DINNER SO THEY COULD

1 WASH UP FOR BED. AND YOU TALK ABOUT Sister 2 MAKING A MESS
2 WITH SOME FOOD. AND YOU SAY, I SPANKED HER ON HER BOTTOM
3 AND SHE LOST HER FOOTING, RIGHT?

4 A THAT'S RIGHT.

5 Q BECAUSE YOU'VE SPANKED Sister 2 BEFORE, RIGHT.

6 A YES.

7 Q IN FACT, YOU'VE SPANKED HER SO HARD IT LEFT A
8 BRUISE BEFORE, HAVEN'T YOU?

9 A THAT WAS THE -- THAT WAS THE ONLY TIME.

10 Q WELL, YOU SAY THAT WAS THE ONLY TIME I SPANKED
11 HER AND LEFT A BRUISE ON HER BOTTOM, YOU DIDN'T TELL
12 DETECTIVE RAMSEY ABOUT THAT, THOUGH, DID YOU?

13 A NO. BECAUSE I WASN'T BEING ACCUSED OF BREAKING
14 HER COLLAR BONE AT THAT TIME.

15 Q WELL, THERE IS ALSO, YOU KNOW, THE QUESTION AND
16 ANSWER SECTION THAT CAME ABOUT ON THIS SECOND STATEMENT AS
17 WELL, AND YOU WERE ASKED, HAVE YOU SPANKED HER WITH
18 ANYTHING OTHER THAN YOUR HAND, AND YOU ANSWERED, I USED A
19 BELT ONCE, RIGHT?

20 A RIGHT.

21 Q YOU USED A BELT ON WHO?

22 A I USED IT WHEN I DISCIPLINED THE CHILDREN,
23 Minor OR Sister 2 . EITHER I PUT THEM IN TIME OUT OR I USED
24 THE BELT.

25 Q BECAUSE YOU WERE AROUND THEM A GOOD AMOUNT,

1 RIGHT?

2 A THE TIME THAT I WAS AROUND THEM, YES.

3 Q AND YOU WERE AROUND THEM SO MUCH THAT YOU WERE
4 ACTUALLY DISCIPLINING THEM, RIGHT?

5 A I GOT PERMISSION TO DISCIPLINE THEM, YEAH.

6 Q AND YOU DID DISCIPLINE THEM?

7 A YES.

8 Q YOU SPANKED THEM WITH YOUR HAND?

9 A YES.

10 Q YOU SPANKED THEM WITH A BELT?

11 A YES.

12 MR. DURANT: THANK YOU. I HAVE NO MORE QUESTIONS.

13 THE COURT: REDIRECT?

14 REDIRECT EXAMINATION BY MS. EHRLICH:

15 Q JEREMIAH, WHEN YOU WERE TALKING ABOUT DETECTIVE
16 RAMSEY INTERVIEWING YOU -- DO YOU REMEMBER THAT WITH MR.
17 DURANT?

18 A YES.

19 Q AND YOU SAID SOMETHING ABOUT GOING OFF WHAT
20 DETECTIVE RAMSEY SAID WHEN YOU WERE WRITING YOUR
21 STATEMENT; CAN YOU EXPLAIN THAT?

22 A WHEN -- WHEN HE WAS -- WHEN WE WERE TALKING
23 ABOUT -- WHAT HE STARTED, LIKE, THE CONVERSATION ABOUT
24 FEMALES.

25 Q DID YOU GET -- IS THAT HOW YOU GOT THE IDEA ON

1 HOW TO START YOUR STORY, YOUR STATEMENT?

2 A YES.

3 Q YOU ALSO SAID, WHEN HE ASKED YOU WHY DID YOU
4 WRITE THIS STATEMENT, YOU SAID YOU DIDN'T CARE; WHAT DOES
5 THAT MEAN?

6 A AT -- AT THAT TIME, I DIDN'T -- IT ISN'T -- I
7 DIDN'T SEE -- HAVE ANYTHING GOING.

8 Q WHAT DO YOU MEAN, YOU DIDN'T HAVE ANYTHING
9 GOING?

10 A I -- I -- I DIDN'T REALLY SEE -- SEE MY LIFE IN
11 -- NOTHING WAS JUST GOING RIGHT FOR ME AT THAT TIME.

12 Q I THINK THAT YOU MENTIONED EARLIER YOUR
13 RELATIONSHIP WITH DEBBIE WASN'T GOING RIGHT. WHY WASN'T
14 YOUR RELATIONSHIP WITH HER GOING RIGHT?

15 A BECAUSE THE FACT THAT WE -- THE WAY SHE TREATED
16 HER CHILDREN AND WE WERE ALWAYS ARGUING.

17 Q WERE YOUR ARGUMENTS EVER PHYSICAL?

18 A IT WOULD LEAN ON PHYSICAL.

19 Q WHO WAS PHYSICAL?

20 A SHE WAS MORE PHYSICAL THAN I WAS.

21 Q HOW DID YOU RESPOND?

22 A I WOULD TRY TO RESTRAIN HER.

23 Q WHAT ELSE DID YOU SAY WASN'T GOING RIGHT FOR
24 YOU?

25 A LIKE I COULDN'T FIND A JOB AT THAT TIME.

1 Q WERE YOU TRYING TO FIND A JOB?

2 A YES.

3 Q BUT YOU WEREN'T ABLE TO FIND ONE?

4 A NOT AT THAT TIME.

5 Q HOW DID THAT MAKE YOU FEEL NOT BEING ABLE TO

6 WORK?

7 A I FELT LIKE A BUM.

8 Q YOU FELT LIKE A BUM?

9 A YEAH.

10 Q AND WHEN DEBBIE WAS FIGHTING WITH YOU, HOW DID

11 YOU FEEL?

12 A DEFENSELESS REALLY.

13 Q DEFENSELESS. WHEN YOU WERE AT THE STATION BEING

14 ACCUSED OF MOLESTING Minor , HOW DID YOU FEEL?

15 A DEFENSELESS.

16 Q WHEN MR. DURANT WAS ASKING YOU TO READ THE

17 STATEMENT, HOW DID YOU FEEL?

18 A A LITTLE NERVOUS.

19 Q WHY WERE YOU NERVOUS?

20 A THAT IS -- THAT -- REALIZING WHAT I WROTE.

21 Q IN READING WHAT YOU WROTE, DID IT MAKE YOU FEEL

22 UNEASY?

23 A IN A WAY.

24 Q DID YOU FEEL LIKE YOU WERE BEING TRICKED IN SOME

25 WAY?

1 A NO.

2 Q DID -- LET'S JUST BE CLEAR, IS THE STATEMENT
3 TRUE?

4 A NO.

5 Q WHEN YOU WENT TO THE CHURCH, YOU SAID THAT IT
6 WAS PAM'S IDEA?

7 A YES.

8 Q DID YOU AGREE WITH HER?

9 A YES.

10 Q WHY?

11 A WELL, I THOUGHT IT WAS GOOD TO GO TO THE CHURCH.

12 Q WOULD YOU HAVE GONE WITH HER IF YOU DIDN'T AGREE
13 WITH HER IDEA?

14 A I PROBABLY STILL WOULD.

15 Q OKAY. BUT YOU DID THINK IT WAS A GOOD IDEA?

16 A YES.

17 Q AND YOU ALSO SAID THAT YOU WANTED Minor TO GET
18 COUNSELLING?

19 A YES.

20 Q IF YOU WERE ABUSING Minor , WOULD YOU WANT HER
21 TALKING TO COUNSELORS?

22 A NO.

23 Q WOULD YOU WANT HER TO TALK TO THE POLICE?

24 A NO.

25 Q WOULD YOU WANT HER TO TALK TO DSS?

1 A NO.

2 MS. EHRLICH: THE COURT'S INDULGENCE. (PAUSE.) I
3 DON'T HAVE ANY OTHER QUESTIONS.

4 THE COURT: RECROSS?

5 MR. DURANT: NO, YOUR HONOR. THANK YOU.

6 THE COURT: ALL RIGHT. PLEASE STEP DOWN. CALL
7 YOUR NEXT WITNESS.

8 MR. GRIMES: THE DEFENSE WOULD REST AT THIS TIME,
9 YOUR HONOR.

10 THE COURT: OKAY. MADAM FORELADY AND LADIES AND
11 GENTLEMEN OF THE JURY, I'M GOING TO HAVE TO TAKE UP SOME
12 MOTIONS WITH THE ATTORNEYS AT THIS TIME. IF YOU'LL GO TO
13 THE JURY ROOM, WE'LL TAKE A SHORT BREAK. PLEASE DON'T
14 DISCUSS THE CASE AMONGST YOURSELVES.

15 (WHEREUPON, THE JURY LEFT THE COURTROOM AT 10:58
16 A.M.)

17 THE COURT: ANY MOTIONS FROM THE STATE?

18 MS. HERRING-LASH: NO, YOUR HONOR.

19 THE COURT: ANY MOTIONS FROM THE DEFENDANT?

20 MR. GRIMES: WE WOULD RENEW OUR PREVIOUS MOTIONS
21 AFTER THE -- THE STATE RESTED.

22 THE COURT: THOSE -- THOSE MOTIONS ARE DENIED.

23 MR. GRIMES: THANK YOU, YOUR HONOR.

24 THE COURT: DOES THE STATE HAVE ANY REPLY
25 TESTIMONY?

1 MS. HERRING-LASH: NO, YOUR HONOR.

2 THE COURT: ALL RIGHT. HOW MUCH TIME DO Y'ALL

3 NEED? ARE YOU GOING TO MAKE OPENING AND CLOSING, OR HAVE

4 Y'ALL TALKED ABOUT IT?

5 MS. HERRING-LASH: I'LL WAIVE OPENING.

6 THE COURT: ANY PROBLEM WITH THAT, SIR?

7 MR. GRIMES: NO, SIR.

8 THE COURT: OKAY. ALL RIGHT. MUCH TIME ARE YOU

9 GOING TO NEED FOR CLOSING? HOW MUCH TIME TO GET READY?

10 MR. GRIMES: WE'RE READY.

11 THE COURT: YOU'RE READY.

12 MS. HERRING-LASH: I WOULD JUST LIKE A MOMENT TO GO

13 TO THE RESTROOM.

14 THE COURT: ALL RIGHT. HOW MUCH TIME DO YOU NEED?

15 MR. GRIMES: ABOUT TEN MINUTES.

16 THE COURT: I MEAN ON YOUR ARGUMENTS?

17 MR. GRIMES: PROBABLY ABOUT 40 MINUTES.

18 THE COURT: FORTY MINUTES.

19 MS. HERRING-LASH: I THINK MINE WILL BE 35 MINUTES.

20 THE COURT: OKAY.

21 MS. HERRING-LASH: BUT I SAID IT WAS 30, I MAY ADD

22 SOME.

23 THE COURT: ALL RIGHT. WE'LL TAKE ABOUT A

24 TEN MINUTE BREAK AND GIVE Y'ALL A CHANCE TO GET READY.

25 (WHEREUPON, AFTER A RECESS, COURT RECONVENED.)

1 **THE COURT:** ALL RIGHT. ANYTHING FROM THE STATE OR
2 THE DEFENDANT BEFORE WE GET STARTED?

3 **MS. HERRING-LASH:** NOT FROM THE STATE, YOUR HONOR.

4 **THE COURT:** ANYTHING FROM THE DEFENDANT?

5 **MR. GRIMES:** NO, SIR.

6 **THE COURT:** DO WE HAVE -- THE DEFENDANT'S ON THE
7 WAY?

8 **MR. GRIMES:** HE'S HERE.

9 **THE COURT:** BRING US THE JURY PLEASE.

10 (WHEREUPON, THE JURY ENTERED THE COURTROOM AT 11:17
11 A.M.)

12 **THE BAILIFF:** THE JURY'S ALL PRESENT, JUDGE.

13 **THE COURT:** OKAY. THANK YOU VERY MUCH. MR.
14 GRIMES.

15 **MR. GRIMES:** THANK YOU, YOUR HONOR. MAY IT PLEASE
16 THE COURT?

17 **THE COURT:** YES, SIR.

18 **MR. GRIMES:** GOOD MORNING, LADIES AND GENTLEMEN OF
19 THE JURY. DID EVERYONE HAVE A GOOD NIGHT'S SLEEP? YOU'VE
20 BEEN HERE FOR ALMOST A WHOLE WEEK. YOU'VE HAD A HARD JOB.

21 WE'RE HERE TODAY BECAUSE JEREMIAH WANTED HIS DAY IN
22 COURT. THE REASON HE WANTED HIS DAY IN COURT IS BECAUSE
23 HE'S INNOCENT OF THE CHARGE THAT HE SEXUALLY ABUSED
24 Minor .

25 AND HOW DO WE KNOW HE'S INNOCENT? BECAUSE MS.

1 DAVISON PSYCHOLOGICALLY VICTIMIZED Minor . SHE MANAGED TO
2 CONVINCED Minor THAT JEREMIAH ABUSED HER FOR HER OWN END.
3 AND WE KNOW THAT BECAUSE SHE'S A VETERAN WITH DSS, WHETHER
4 IN FLORIDA OR SOUTH CAROLINA.

5 WE KNOW SHE KNEW DSS WAS INVESTIGATING HER. WE
6 KNOW THAT ON AUGUST 27TH, Sister 2 WAS AT THE CHURCH.
7 Sister 2 WAS THERE WHEN THE POLICE CAME. SHE OBVIOUSLY IS
8 CLOSE TO HER DAUGHTER. HER DAUGHTER IS, WHILE NOT OLD
9 ENOUGH TO BE A WITNESS IN THE CASE, BUT COULD TELL HER,
10 MOMMIE, THE POLICE CAME TODAY. THAT WOULD PUT HER ON
11 NOTICE. AND WHO WOULD HAVE BROUGHT Sister 2 TO THE CHURCH,
12 TO THE POLICE, THE ONLY LOGICAL PERSON WHO COULD HAVE DONE
13 THAT WOULD BE JEREMIAH.

14 SO, THEN -- AT LEAST BY AUGUST 28TH, SHE PROBABLY
15 SHOULD HAVE KNOWN THAT SOMETHING WAS UP. AND THEN ON
16 SEPTEMBER 3RD, I BELIEVE, SHE GETS A CARD. FROM WHO,
17 JEREMIAH.

18 AND WHAT'S ON THIS CARD, A NAME, THE DEPARTMENT OF
19 SOCIAL SERVICES. WELL, SHE'S BEEN THROUGH DSS BEFORE.
20 SHE KNOWS HOW TO WORK THE SYSTEM. SHE KNOWS HOW TO GET
21 OUT OF IT. WHAT'S THE BEST WAY TO GET OUT OF SOMETHING
22 LIKE THIS, TO CRY SEXUAL ASSAULT. AND SHE HAD PLENTY OF
23 TIME BEFORE SEPTEMBER 8TH, TO TALK TO Minor , THAT IF
24 ANYONE COMES TO YOUR SCHOOL OR ANYONE COMES TO TALK TO
25 YOU, HERE'S WHAT YOU NEED TO SAY. AND WHO KNOWS HOW SHE

1 WENT ABOUT DOING THIS.

2 AND WE KNOW SHE CAN DO THAT BECAUSE LOOK WHAT
3 HAPPENED TO Sister 2 . HER ARM IS BROKE. I BELIEVE THE
4 EVIDENCE SHOWS THAT SHE HAD Sister 2 TELL THE HOSPITAL
5 PEOPLE THAT SHE FELL OFF THE BED. WELL, WE'VE GOT ALL
6 SORTS OF EVIDENCE NOW HOW THAT ARM WAS BROKEN. IT MAY
7 HAVE BEEN Minor . IT MAY HAVE BEEN JEREMIAH OR SHE MAY
8 HAVE JUST FELL.

9 THE POLICE WERE NEVER ABLE TO REALLY INVESTIGATE
10 THAT BECAUSE MS. DAVISON FLED AND WENT TO FLORIDA. SHE
11 KNOWS HOW TO GET OUT OF DSS MATTERS. IN FLORIDA, SHE GOT
12 OUT OF PLENTY OF THEM. YOU'VE HEARD -- SHE'S BEEN
13 ALLEGED, AT LEAST, OF PULLING Minor 'S RIGHT ARM SO HARD.
14 IT ALMOST CAME OUT OF HER SOCKET. SHE GOT Minor OUT OF
15 THE HOUSEHOLD AND THE CASE WAS UNFOUNDED.

16 AND SHE KEEPS VICTIMIZING Minor RATHER THAN IF
17 SOMETHING LIKE THIS REALLY HAPPENED, DON'T YOU THINK SHE
18 WOULD HAVE KEPT HER APPOINTMENTS AT LCC. DO YOU THINK,
19 ONCE SHE GOT TO FLORIDA, SHE WOULD HAVE WENT TO CHILD
20 PROTECTIVE TEAM SERVICES. WHAT DID SHE DO, SHE MEETS
21 HECTER. HOOKS UP WITH HECTER. AND THEN EVENTUALLY AFTER
22 THEY TRACK HER DOWN, SHE GOES TO CHILD PROTECTIVE
23 SERVICES.

24 AND WHAT IS SO HARD TO UNDERSTAND, WE'VE ALL SEEN
25 Minor TESTIFY. AND, YOU KNOW, WATCHED HER PAUSE, SORT OF

1 CRY, GOING THROUGH WHAT HAPPENED. IT APPEARS THAT SHE
2 BELIEVES IT HAD REALLY HAPPENED, JUST LIKE SHE BELIEVES IN
3 SANTA.

4 WE'VE PROBABLY ALL HAD OUR OWN PERSONAL EXPERIENCES WITH
5 FALSE MEMORIES. I KNOW ONE THAT HAPPENED A LOT WHEN I WAS
6 IN COLUMBIA, WITH MY FRIENDS FROM LAW SCHOOL. WE ALWAYS
7 HAD THIS ARGUMENT ABOUT WHO WON. AND I KEEP SAYING WE
8 WON, BECAUSE I DID THIS. AND HE SAYS NO, WE WON BECAUSE I
9 DID THIS TO YOU. MAYBE IT'S A MATTER OF GUY'S EGOS OR
10 SOMETHING, BUT WE'RE BOTH FIRMLY CONVINCED, BEYOND ANY
11 DOUBT, THAT WE BOTH WON. OBVIOUSLY ONE OF US IS WRONG.

12 BUT THERE ARE FALSE MEMORIES. IF YOU LOOK IN YOUR
13 OWN PERSONAL EXPERIENCES, YOU MAY HAVE HAD SOME YOURSELF,
14 OR SOMETHING YOU THINK YOU'RE REALLY SURE OF. AND THEN
15 MAYBE ONCE YOU GOOGLE IT, YOU SAY, WELL, NO, I WASN'T
16 RIGHT.

17 THE THREE STRONGEST PIECES OF EVIDENCE THAT SHOWS
18 JEREMIAH IS INNOCENT, THE FIRST ONE IS HIS ACTUAL
19 STATEMENT TO DETECTIVE RAMSEY. THE SECOND IS HIS
20 TESTIMONY FROM YESTERDAY AND TODAY. AND THE THIRD IS MS.
21 DAVISON.

22 AS I'VE STATED BEFORE, YOU'VE HAD A HARD JOB THIS
23 WEEK. YOU KNOW, AND YOU HEARD THE CHARGE WHEN YOU WERE
24 FIRST BROUGHT IN HERE. I THINK EVERYONE PROBABLY HAD A
25 TOUGH REACTION. NO ONE IN THIS COURTROOM -- I MEAN, NO

1 ONE IN THIS COURTROOM WANTS TO LISTEN TO ALLEGATIONS OF A
2 SIX YEAR OLD BEING ABUSED. THEY DON'T WANT TO HEAR ABOUT
3 HOW HER MOM MISTREATS HER. AND NO ONE WANTS TO LISTEN TO
4 THAT STATEMENT.

5 AND YOU'VE DONE YOUR JOB VERY WELL THIS WEEK.
6 YOU'VE BEEN PAYING ATTENTION. DURING THE IMPORTANT PARTS
7 OF THE TESTIMONY, YOU WOULD SORT OF LEAN IN AND WATCH.
8 AND THE OTHER PARTS, YOU KNOW, MAYBE SOME OF THE
9 WITNESSES, WHO WERE -- MAYBE A LITTLE BIT UNIMPORTANT --
10 OFFIER HEIS, WHO RESPONDED AND WENT BACK TO THE APARTMENT.

11 WE'VE HAD A COUPLE OF LIGHT MOMENTS DURING THE
12 TRIAL. DETECTIVE RAMSEY TALKED A LITTLE BIT ABOUT HIS
13 POLITICS AND SOME OTHER MATTERS. SO, EVERYONE WAS
14 LISTENING CAREFULLY.

15 AND YOUR JOB IS ALMOST OVER. YOU'RE GOING TO HEAR
16 MY CLOSING ARGUMENTS, MS. LASH'S CLOSING ARGUMENTS, JUDGE
17 NICHOLSON'S INSTRUCTIONS. AND THEN THE HARDEST PART OF
18 YOUR JOB WILL BEGIN. YOU HAVE TO GO BACK IN THE JURY ROOM
19 AND THE TWELVE OF YOU HAVE TO REACH A DECISION. IT'S A
20 VERY IMPORTANT DECISION.

21 AND IF YOU FOLLOW YOUR OATH, TO WELL AND TRULY TRY
22 THIS CASE, WE BELIEVE THAT DECISION WILL BE NOT GUILTY.
23 BECAUSE THE STATE IS BASICALLY RESTING A LOT OF THEIR CASE
24 ON EMOTION. THAT'S WHY MR. DURANT TOOK SO LONG GOING
25 THROUGH THAT STATEMENT. BECAUSE IT IS VERY DISTURBING.

1 ANYONE WHO HEARS IT, GETS UPSET.

2 NOW, I SAID THE STATEMENT WAS ONE OF OUR STRONGEST
3 PIECES OF EVIDENCE OF INNOCENCE. (PAUSE.) LET ME SEE IF
4 I CAN GET THIS RIGHT: IT'S A QUOTE FROM A HISTORY MAJOR,
5 I WAS LOOKING THIS UP LAST NIGHT. YOU CAN READ IT FOR
6 YOURSELVES. DOES ANY ONE KNOW WHO SAID THAT? I -- WE
7 KNOW WHAT HAPPENED IN HIS COUNTRY WHEN PEOPLE BELIEVED HIS
8 LIES. AND THIS IS WHAT THIS IS, IT'S A BIG LIE. NOT A
9 BIG LIE, IT'S A HUGE, CRAZY LIE. AND DETECTIVE RAMSEY
10 CAME UP WITH A NICE STORY TO TRY AND EXPLAIN IT AWAY. HE
11 SAID, WELL, IT'S KIND OF LIKE MR. TURNER, JEREMIAH, WAS
12 TRYING TO BLAME THE VICTIM AND MINIMIZE HIS CONDUCT,
13 THAT'S WHAT HAPPENS A LOT IN THIS TYPE OF CASE.

14 WELL, WHEN I ASKED HIM SOME OTHER QUESTIONS ABOUT,
15 YOU KNOW, MENTAL HEALTH ISSUES, WITH JEREMIAH SUFFERING
16 FROM DEPRESSION, HE WAS LIKE, UM, HE GOT A LITTLE
17 WHISHY-WASHY. AND HE SAID, WELL, THAT'S NOT MY PROBLEM.
18 I'M NOT AN EXPERT IN THAT AREA. THAT'S MAYBE A HIGHER UP,
19 SOMEONE ELSE HAD TO LOOK AT IT.

20 WELL, ASK YOURSELVES, WHY IS HE AN EXPERT ON THE
21 AREA THAT HELPS HIS CASE, AND NOT AN EXPERT IN AN AREA
22 THAT HURTS HIS CASE? I MEAN, YOU HEARD ALL THE TRAINING
23 HE WENT TO, TO THE READS SCHOOL OF INTERROGATION, A CLASS
24 IN FLORIDA AND SEVERAL OTHER SEMINARS ON INTERROGATION.

25 AND YOU WANT TO ASK YOURSELF HOW COME THIS

1 CONFESSION OR STATEMENT WASN'T VIDEOTAPED OR AUDIOTAPED.
2 AND THEY MAY NOT HAVE THE EQUIPMENT TO DO THE VIDEOTAPE,
3 BUT CERTAINLY IT DOESN'T TAKE MUCH EQUIPMENT TO GET A
4 CASSETTE IN THERE AND RECORD, AND YOU CAN HEAR FOR
5 YOURSELF EXACTLY WHAT WENT ON IN THAT INTERROGATION. I
6 MEAN, THIS HIGHLY TRAINED INTERROGATOR.

7 YOU SAW MR. TURNER. HE MAY HAVE GRADUATED HIGH
8 SCHOOL, BUT HE'S VERY MILD AND MEEK, A SHY YOUNG MAN.
9 HE'S CONFRONTED HIM WHEN HIS LIFE IS GOING TO HELL IN A
10 HAND BASKET.

11 NOW, THERE'S REALLY NO DISPUTE THAT JEREMIAH HAD AN
12 OPPORTUNITY TO READ HIS RIGHTS. AND WHETHER HE ACTUALLY
13 READ THEM OR GLANCED OVER THEM, IT'S HARD TO SAY. A LOT
14 OF TIMES -- I WAS UPDATING SOMETHING ON MY COMPUTER LAST
15 NIGHT, IT SAYS LICENCING AGREEMENT. AND IT GOES ON AND ON
16 AND ON. AND IT SAYS CLICK IF YOU AGREE OR IF YOU
17 DISAGREE. WELL, I DIDN'T READ THAT. I JUST CLICKED.

18 AND IT PROBABLY IS AN IMPORTANT THING TO READ. I'M
19 A LAWYER, I SHOULD KNOW BETTER. AND IT CERTAINLY IS A LOT
20 LONGER THAN MIRANDA RIGHTS, BUT PEOPLE DO GLANCE OVER
21 IMPORTANT MATTERS.

22 AND WE'RE NOT UP HERE SAYING THAT DETECTIVE RAMSEY
23 BEAT HIM UP, OR THREATENED HIM IN ANY WAY. IT'S NOT LIKE
24 THE TVS SHOWS, LIKE TWENTY-FOUR OR ANYTHING LIKE THAT, OR
25 HE PROMISED HIM SOME DEAL LIKE WE'LL GET YOU A P.R. BOND,

1 YOU KNOW, WE'LL GET YOU A REDUCED CHARGE. JEREMIAH IS NOT
2 SAYING THAT. HE COULD GET UP THERE AND IT'S EASY TO SAY
3 THAT IF HE WANTED TO. IT'S JUST HIS WORD AGAINST
4 DETECTIVE RAMSEY'S WORD. NO AUDIO EQUIPMENT OR ANYTHING.
5 AND THAT'S, YOU KNOW, THAT'S NOT -- DEALS ARE NOT UNHEARD
6 OF.

7 BUT WHAT WAS KIND OF CURIOUS TO ME WAS THE
8 TESTIMONY ABOUT THESE BUDDY-BUDDY COMMENTS, KIND OF LOCKER
9 ROOM TALK ABOUT FEMALES BEING -- THE BLOND AT THE GAS
10 STATION, HARMONES. YOU KNOW, WE'RE BOTH MEN. WHAT I
11 FOUND KIND OF CURIOUS ABOUT THAT IS WHEN MR. DURANT WAS
12 QUESTIONING OFFICER -- OR DETECTIVE RAMSEY, HE DIDN'T
13 MENTION ANY OF THAT AT ALL.

14 AND THEN WHEN I STARTED QUESTIONING, HE STARTED,
15 YOU KNOW, DRIBBLING OUT SOME -- IT SLOWLY CAME OUT. AND
16 DETECTIVE RAMSEY SAID SOMETHING, WELL, MAYBE I DIDN'T
17 UNDERSTAND MR. DURANT'S QUESTION. I DIDN'T KNOW I WAS
18 SUPPOSED TO SAY ALL THAT. NOW COME ON. HE'S BEEN WITH
19 NORTH CHARLESTON FOR NINE AND A HALF YEARS. HE'S BEEN TO
20 ALL THESE CLASSES. HE'S KNOW -- HE KNOWS IF YOU ASK WHAT
21 DID YOU SAY DURING THE INTERROGATION, THEN THIS IS WHAT
22 THE ANSWER IS. JUST TELL HIM WHAT YOU SAID. DON'T SAY,
23 OH, AS SOON AS I TOLD HIM THIS, I KNOW BETTER. I KNOW
24 IT'S AGAINST THE LAW. WELL, WE KNOW THAT DIDN'T HAPPEN
25 THAT WAY BECAUSE EVEN ALL HIS TESTIMONY SHOWS IT DIDN'T

1 HAPPEN THAT WAY. THERE WAS A LOT OF TALK ABOUT STUFF
2 GOING ON, MAN-TO-MAN TYPE TALK.

3 COURT REPORTER: I'M SORRY?

4 MR. GRIMES: MAN-TO-MAN TYPE TALK. AND I ASKED
5 HIM, YOU KNOW, WERE YOU GIVING HIM A WAY OUT. AND HE SAID
6 YES. HE'S TRYING TO MAYBE MINIMIZE HIS -- HIS CONDUCT.

7 AND THAT'S SOMETHING FOR YOU TO DETERMINE. IF YOU
8 LOOK AT MR. TURNER'S STATEMENT, YOU'VE GOT TO DECIDE
9 WHETHER IT WAS VOLUNTARILY GIVEN. LOOK AT ALL THE
10 FACTORS. HIS AGE, HE'S 23. HE'S NOT THE YOUNGEST PERSON.
11 CERTAINLY NOT THE OLDEST HAVING BEEN AROUND. HIS
12 EDUCATION. HE'S GONE TO HIGH SCHOOL, GRADUATED HIGH
13 SCHOOL.

14 ONE FACTOR YOU WANT TO LOOK AT IS EXPERIENCE WITH
15 THE POLICE. HE'S HAD NONE. HE'S NEVER BEEN ARRESTED FOR
16 ANYTHING. THE ONLY EXPERIENCE HE HAS, ABOUT TEN DAYS
17 BEFORE, RAMSEY -- DETECTIVE RAMSEY BASICALLY ACCUSED HIM
18 OF SLEEPING WITH PAMELA. AND THEY DIDN'T BELIEVE HIM --
19 JUST KIND OF WROTE IT OFF AS A LIFESTYLE MATTER.

20 AND ONE OTHER IMPORTANT PART ABOUT DETECTIVE
21 RAMSEY'S TESTIMONY, IS HE ACKNOWLEDGED THAT ALL FALSE
22 CONFESSIONS, AND WE TALKED SOME GENERAL REASONS HOW THAT
23 HAPPENS -- ONE WAS POLICEMAN'S CONDUCT, HOW THEY, YOU
24 KNOW, BEATING PEOPLE UP. WE'RE NOT SAYING THAT HAPPENED,
25 BUT THERE'S SOMETHING -- IT DOES HAPPEN AT FALSE

1 CONFESSIONS. THERE WAS SOMETHING THAT TRIGGERED JEREMIAH
2 TO GIVE THIS -- TO MAKE THIS FALSE STATEMENT. WE DON'T
3 KNOW WHAT IT IS BECAUSE IT WASN'T IMPORTANT. IT'S THE
4 STATE'S BURDEN TO CONVINCE YOU THAT THAT STATEMENT WAS
5 VOLUNTARILY GIVEN. AND HOW ARE THEY GOING TO DO THAT, IF
6 THEY DON'T EVEN RECORD WHAT'S GOING ON. WHEN DETECTIVES
7 DON'T PUT IN THE INCIDENT REPORT EVERYTHING THAT WENT ON.
8 WHEN ON DIRECT, HE DOESN'T TESTIFY TO EVERYTHING THAT WENT
9 ON. ASK YOURSELVES WHY WAS THE PROSECUTION TRYING TO HIDE
10 ANYTHING.

11 THE NEXT BIG PIECE OF EVIDENCE WE HAVE THAT SHOWS
12 JEREMIAH'S INNOCENCE IS HIS OWN TESTIMONY. AND IT KIND OF
13 REMINDS ME OF ONE OF MY CTD CLASSES. THERE THE TEACHER
14 ASKED US, YOU KNOW, WHAT'S THE SADDEST THING WE EVER SAW.
15 ONE STUDENT SAID A BIRD THAT CAN'T FLY. SOMEONE ELSE SAID
16 A DEER THAT CAN'T WALK. AND THE TEACHER SAID A PERSON
17 WITHOUT HOPE.

18 NOW, YOU'VE HAD A CHANCE TO EVALUATE JEREMIAH'S
19 TESTIMONY. DOES HE COME ACROSS AS A PERSON WITH THAT
20 HOPE. DO YOU THINK HE WAS FAKING ALL THAT. DO YOU THINK
21 HE WAS EVEN CAPABLE OF FAKING HIS DEemeanOR UP THERE, OR IS
22 HE SOMEONE WHO IS VERY EASILY INTIMIDATED BY AUTHORITY
23 FIGURES.

24 YOU KNOW, LOOK AT THE AUTHORITY FIGURES IN HIS
25 LIFE, MS. DAVISON. WELL, WE HEARD ALLEGATIONS THAT SHE

1 WOULD BE MORE PHYSICAL THAN HIM. AND IT CAN BE
2 CORROBORATED BY THE TESTIMONY OF THE OFFICERS WHO
3 RESPONDED TO THE HOUSE. AND I THINK EVEN SHE SAID SHE
4 WENT IN THERE AND DRAGGED HIM OUT.

5 NOW, JEREMIAH, HE'S TALLER THAN ME AND A LITTLE BIT
6 BIGGER. MS. DAVISON IS NOT A LITTLE WOMAN. BUT, YOU
7 KNOW, SHE SEEMED TO BE THE MORE DOMINATE PERSONALITY.
8 YOU'VE SEEN BOTH THEIR TESTIMONIES. AND THEY TALKED ABOUT
9 HOW THEY MET. IT'S KIND OF LIKE OPPOSITES ATTRACT. SHE
10 WAS VERY TALKATIVE AND OUTGOING. HE'S VERY QUIET, SHY AND
11 WITHDRAWN.

12 YOU KNOW, YOU HEARD HIS MOTHER PASSED AWAY. SHE
13 HAD RAISED HIM IN A GOOD, CHRISTIAN HOME. AND YET HE
14 FOUND HER -- HE'S THE ONE WHO FOUND HER AFTER SHE SUFFERED
15 CARDIAC ARREST. MR. TURNER'S FATHER IS IN THE BACK OF THE
16 COURTROOM, BUT THEY'VE NEVER HAD A GREAT RELATIONSHIP, NOT
17 MUCH GOING ON THERE.

18 HE DIDN'T HAVE A JOB. HE TESTIFIED HE FELT LIKE A
19 BUM. I DON'T THINK HE REALLY HOLDS IT AGAINST HIM FOR NOT
20 HAVING A JOB. YOU KNOW, THE ECONOMY HAS BEEN GOING DOWN
21 FOR THE PAST COUPLE OF YEARS. IT'S BEEN DOWN AND SORT OF
22 STAYED DOWN. AND ON PAPER, I'M SURE HE PROBABLY HAS A
23 GREAT RESUME. BUT IF YOU BRING HIM IN FOR A JOB
24 INTERVIEW, HOW DO YOU THINK HE COMES ACROSS. IS THAT
25 SOMEONE YOU'RE GOING TO HIRE AS A MANAGER, WHOSE GOING TO

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1 BE AN AUTHORITY FIGURE, AND BE ABLE TO BOSS PEOPLE AROUND
2 AND MAKE SURE THEY DO STUFF, OR IS HE GOING TO BE A
3 DISHWASHER AND THERE'S PROBABLY TONS OF PEOPLE OUT THERE
4 LOOKING FOR DISH WASHING JOBS. PEOPLE WHO DON'T HAVE HIGH
5 SCHOOL DEGREES.

6 AND I'LL BE -- I'LL BE VERY HONEST, I WAS A LITTLE
7 CONFUSED BY PART OF HIS TESTIMONY. I DON'T KNOW IF HE'S
8 ACTUALLY -- INITIALLY I THOUGHT HE WAS LIVING THERE WITH
9 MS. DAVISON. IT SOUNDED LIKE HE WAS GOING BACK AND FORTH.
10 BUT HE CERTAINLY SPENT SOME TIME AT MS. DAVISON'S HOUSE,
11 WHICH I THINK IT'S UNCONTRADICTED, IT'S PRETTY MUCH A
12 ROACH INFESTED DUMP.

13 AND TO BE FAIR, HE NEEDS TO SHARE SOME
14 RESPONSIBILITY FOR THAT. IF HE'S NOT WORKING AND HE SAYS
15 HE'S A CLEAN PERSON, THEN HE NEEDS TO GET IN THERE AND GET
16 THAT THING CLEANED UP.

17 FOR WHATEVER REASON, IT SOUNDED LIKE HE WENT TO
18 ARRON AND PAM'S MORE AND HE JUST DIDN'T WANT TO GET IT
19 CLEANED UP, MAYBE IT WAS TOO OVERWHELMING. FOR WHATEVER
20 REASON, HE SPENT MORE TIME THERE AND WE HAVEN'T HEARD ANY
21 TESTIMONY ABOUT THEIR PLACE BEING A DUMP.

22 WHEN YOU TAKE THAT BACKGROUND, AND HE'S ACCUSED OF
23 PROBABLY THE MOST SERIOUS CHILD SEX ABUSE CASE THAT YOU
24 CAN BE CHARGED WITH, CSC WITH A MINOR FIRST DEGREE.

25 AND THE OFFICER DOESN'T BELIEVE HIM, KEEPS

1 QUESTIONING HIM. AND HE THINKS HE HAS NOTHING TO LOSE, SO
2 HE MAKES UP THIS STORY. NO WONDER HE TESTIFIED HE WASN'T
3 IN HIS KIND OF RIGHT FRAME OF MIND.

4 AND YOU HAVE TO USE YOUR COMMON SENSE TO DETERMINE
5 HIS CREDIBILITY. I MEAN, HE DIDN'T -- EVEN ANSWERING
6 QUESTIONS FROM MS. EHRLICH, HE HAD SOME PAUSES THERE. BUT
7 THE ONE THING THAT KIND OF STOOD OUT FROM YESTERDAY, WAS I
8 THINK SHE SAID, DID YOU BREAK DOWN BECAUSE YOU HAD
9 MOLESTED HER OR DID YOU -- UM -- FEEL -- I THINK SOMETHING
10 SIMILAR TO THAT -- I DON'T KNOW THE EXACT LANGUAGE -- AND
11 HE RAISED HIS VOICE AND HE WAS ADAMANT, NO. NO PAUSE.
12 NO. AND I THINK YOU'VE SEEN THAT TODAY TOO.

13 AND YOU CAN TELL HE'S UNCOMFORTABLE TALKING ABOUT
14 IT. I THINK MOST PEOPLE -- EVEN THE LAWYERS -- ARE
15 UNCOMFORTABLE TALKING ABOUT THESE TYPES OF ALLEGATIONS. I
16 MEAN, THAT'S PROBABLY WHY HE'S TRYING TO DISTANCE HIMSELF
17 FROM HIM, TALKING ABOUT THE "SHE". I MEAN, THIS IS
18 "ACCORDING TO THE STORY, ACCORDING TO THE STORY".. THE
19 STORY IS THIS. THE "SHE" DID ALL THIS. IF I -- I THINK
20 ANYONE WOULD WANT TO DISTANCE THEMSELVES FROM THAT
21 STATEMENT. I CAN'T BLAME THEM FOR THAT.

22 AND ANOTHER PART THAT CORROBORATES HIS MILDNESS AND
23 MEEKNESS IS CHARLENE PENDERGAST'S TESTIMONY. SHE REALLY
24 HAS NO DOG IN THIS FIGHT. SHE DIDN'T KNOW HIM BEFORE
25 AUGUST 27TH. SHE HAS NOT KEPT UP WITH HIM AFTER AUGUST

CLOSING ARGUMENTS BY MR. GRIMES

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1 27TH. SHE SAW HIM FOR ABOUT THREE HOURS. YOU HEARD HER
2 BACKGROUND. SHE HAS A MEDICAL BACKGROUND, OBGYN. SHE WAS
3 OBVIOUSLY CONCERNED ABOUT Sister 2 .

4 SHE TALKED TO HER PASTOR. SHE CALLED THE POLICE.
5 SHE DID EVERYTHING THAT SHE SHOULD HAVE DONE. AND HOW DID
6 SHE DESCRIBE JEREMIAH, MEEK, MILD. THOSE ARE QUALITIES,
7 NURTURING TOWARD THE CHILDREN. IT SEEMED LIKE SHE
8 GRASPING AT STRAWS, TRYING TO DO THE RIGHT THING. AND YOU
9 HEARD THAT PAM WAS THE MORE DOMINANT PERSON THERE.

10 AND GOING BACK TO JEREMIAH'S CREDIBILITY, OBVIOUSLY
11 HE'S NOT THE MOST ARTICULATE MAN IN THE COURTROOM. HE HAS
12 NOT BEEN TO COLLEGE. HE'S NEVER BEEN IN COURT BEFORE.
13 NEVER BEEN QUESTIONED. NEVER BEEN CROSSED EXAMINED BY AN
14 EXPERIENCED SOLICITOR. HE'S NEVER HAD TO BE IN FRONT OF
15 12 PEOPLE. IMAGINE HOW THAT MADE HIM FEEL.

16 I'M SURE MS. LASH IS GOING TO MAKE THE SAME
17 ARGUMENT ABOUT Minor A. AND WE'VE SEEN SOME INCONSISTENT
18 STATEMENTS ON HER BEHALF. WATCHED THE VIDEO. SHE SAYS
19 SOME THINGS THERE. AND SHE TESTIFIED, SHE -- SHE IS
20 DIFFERENT.

21 THE VIDEO DEMEANOR SEEMS MUCH DIFFERENT THAN IT WAS
22 HERE TODAY -- OR EXCUSE ME -- MONDAY AND TUESDAY. WELL,
23 AGAIN, SHE'S VERY UNCOMFORTABLE HAVING TO TESTIFY IN FRONT
24 OF 12 PEOPLE, A JUDGE, COURT REPORTER, EVERYONE IN THE
25 COURTROOM.

1 AND HER MOM DIDN'T HELP HER ANY. SHE SAID --
2 TALKING ABOUT ME BEING A MEAN MAN. I IMAGINE DR. ABEL
3 PROBABLY AGREES WITH THAT. AND IF IT WAS IN MY -- MY
4 POWER I WOULD BE A MEAN MAN TOWARDS MS. DAVISON. SHE HAS
5 NO BUSINESS HAVING KIDS. IF YOU DON'T TAKE THE KIDS AWAY,
6 YOU'VE GOT TO HAVE SOME STRICT SUPERVISION WITH HER.
7 WEEKLY DSS VISITS OR SOMETHING. BECAUSE SHE DOESN'T -- I
8 MEAN, QUITE FRANKLY, A NO GOOD WOMAN.

9 AND SPEAKING OF MS. DAVISON, SHE'D GO OUT THERE AND
10 TRY -- I THINK SOMEONE TOLD ME WHAT A TANGLE WEB SHE
11 WEAVED WHEN SHE TRIED TO DECEIVE. AND IN HER DECEPTION,
12 SHE IS RUINING TWO INNOCENT LIVES, Minor 'S AND
13 JEREMIAH'S. EVEN IF HE WAS FOUND NOT GUILTY, HE'S STILL
14 GOING TO HAVE THAT STAIN OF BEING ACCUSED OF A CRIME.

15 NOW, I DON'T KNOW HOW SHE CONVINCED Minor THAT JEREMIAH
16 DID THIS. YOU KNOW, SHE'S HAD MORE THAN AMPLE OPPORTUNITY
17 TO BE WITH Minor ALONE. AS I STATED AT THE BEGINNING,
18 SHE HAS COACHED PEOPLE BEFORE, Sister 2 . SHE'S A VETERAN AT
19 DSS. SHE KNOWS WHAT GOES ON OVER THERE.

20 WE KNOW -- WE KNOW THAT BECAUSE ON THE VIDEO, IT
21 SHOWS Minor HAD BEEN AT DSS BEFORE. I DON'T THINK IT WAS
22 CLEAR WHAT SHE WAS THERE FOR. KEEP THAT IN MIND.

23 AND I'M QUITE SURE MS. DAVISON NEVER DID THINK IT
24 WOULD GET THIS FAR. SHE PROBABLY FIGURED, YOU KNOW, WE'D
25 ACCUSE HIM OF THIS ACT. AND WE'D GO TO FLORIDA AND THEY

CLOSING ARGUMENTS BY MR. GRIMES

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1 WOULD LEAVE US ALONE, AND IT WOULD BE UNFOUNDED JUST LIKE
2 EVERYTHING ELSE IN THE PAST. AND EVENTUALLY THE CHARGE
3 WOULD BE DROPPED. BUT THE STATE HAS GONE AFTER JEREMIAH
4 BECAUSE THESE ARE VERY SERIOUS ALLEGATIONS. AND IF
5 THEY'RE TRUE, THEY NEED TO KNOW.

6 NOW, I THINK SHE TESTIFIED ON DIRECT SHE WOULD KIND
7 OF DO ANYTHING SHE COULD FOR HER CHILD. NOW, IF SHE
8 REALLY BELIEVED THIS HAPPENED, DON'T YOU THINK SHE WOULD
9 BE HERE TODAY? I KNOW SHE LIVES IN FLORIDA. SHE MAY HAVE
10 TO BE BACK THERE FOR WORK OR SOMETHING, BUT IF YOUR SIX OR
11 SEVEN YEAR OLD CHILD -- SIX YEAR OLD CHILD WENT THROUGH
12 THIS, YOU DON'T KNOW WHAT'S GOING TO HAPPEN WITH THE REST
13 OF THE CASE. THEY MIGHT NEED HER AS A WITNESS FOR
14 REBUTTAL. SOMETHING UNEXPECTED ALMOST ALWAYS HAPPENS IN A
15 TRIAL. BUT SHE'S GONE.

16 NOW, I UNDERSTAND WHY SOME OF THE OTHER WITNESSES
17 AREN'T HERE BECAUSE THEY WORK OUT OF STATE AND THEY'VE GOT
18 NEW JOBS. BUT, YOU KNOW, THINK ABOUT THAT AND ASK
19 YOURSELVES WHY ISN'T SHE HERE.

20 NOW, I WANT TO TOUCH ON SOME OTHER MATTERS IN THE
21 CASE THAT MAY -- I DON'T KNOW IF IT EXACTLY SHOWS
22 INNOCENCE, BUT IT CERTAINLY CREATES A REASONABLE DOUBT.
23 AND ONE IS, FORENSICS OR LACK OF FORENSICS. IF YOU
24 BELIEVE MR. TURNER'S STATEMENT, THERE'S -- HE'S HAVING
25 SEXUAL ACTIVITY WITH Minor TWO OR THREE TIMES A WEEK.

1 AND YOU HAVE DR. ABEL'S TESTIMONY AND SHE SUFFERS FROM
2 LINCEN SCLEROSIS, IT MAKES THE TISSUE DOWN THERE VERY
3 SENSITIVE AND EASILY BLEED. DON'T YOU THINK THERE WOULD
4 HAVE BEEN SOME TYPE OF PHYSICAL TRAUMA FOUND? IF HE HAD
5 SEXUAL INTERCOURSE WITH HER AND INSERTED HIS PENIS IN HER
6 VAGINA, DON'T YOU THINK THERE WOULD BE SOMETHING OR SIGNS
7 OF HEALING, ESPECIALLY WITH THAT CONDITION.

8 NOW, IF WE'RE TALKING ABOUT NORMAL ADULT WOMEN,
9 PROBABLY NOT. BUT WE'RE NOT TALKING ABOUT NORMAL ADULT
10 WOMEN. WE'RE NOT TALKING ABOUT WOMEN WHOSE HAD CHILDREN.
11 WE'RE TALKING ABOUT A SIX YEAR OLD CHILD WITH A MEDICAL
12 CONDITION THAT MAKES HER SUSCEPTIBLE TO BLEED AND BRUISE
13 AND TRAUMA.

14 HENCE, WE -- THERE WAS SOME MENTION OF DNA. WE
15 NEVER ARGUED THEY SHOULD PLUCK DNA FROM Minor . AND ANY
16 ARGUMENT OF THAT WOULD BE AN UNREASONABLE DOUBT. IT WOULD
17 INSULT YOUR INTELLIGENCE. BUT WHAT ABOUT THE CLOTHES?
18 DID ANYONE CHECK HER PANTIES FOR BLOOD? I MEAN, SHE MAY
19 NOT KNOW SHE WAS BLEEDING, BUT THERE MIGHT HAVE BEEN SMALL
20 AMOUNTS OF BLOOD.

21 DID ANYONE CHECK HER SHEETS FOR JEREMIAH'S DNA, OR
22 HE'S OVER -- YOU KNOW, IF HE'S OVER THERE AND TUCKING THEM
23 IN, HIS DNA MAYBE -- REGARDLESS, WE'LL NEVER KNOW. IF IT
24 HAPPENED IN HIS ROOM, OBVIOUSLY, HIS DNA IS GOING TO BE IN
25 HIS ROOM.

CLOSING ARGUMENTS BY MR. GRIMES

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1 WHAT ABOUT HER CLOTHES, DID ANYONE CHECK HER
2 CLOTHES? DID THEY EVEN ATTEMPT? THEY SAID THEY HAD A 72
3 HOUR PROTOCOL. AND SOMEONE LIKE DET. RAMSEY SAID THE DNA
4 MUST EVAPORATE AFTER 72 HOURS. USE YOUR COMMON SENSE ON
5 THAT.

6 AND THEN WE HAD A WITNESS FROM FLORIDA, SHE WENT BY
7 JACKIE. SHE GAVE A LONG SPILL ABOUT CHILD SEXUAL ABUSE.
8 WE PROBABLY AGREE THAT -- CURRENT EVENTS SHOW THAT THERE
9 ARE DELAYED DISCLOSURES. NO ONE ARGUES THAT.

10 **THE COURT:** MR. GRIMES, IT'S BEEN 30 MINUTES.

11 **MR. GRIMES:** THANK YOU, YOUR HONOR. AND, YOU KNOW,
12 YOU TALK ABOUT DISCLOSURE BEING A PROBLEM. YOU THINK THE
13 VERY INITIAL DISCLOSURE WILL BE A LITTLE BIT, AND THEN
14 IT'S GETS MORE DETAILED AND MORE DETAILED. IN THIS CASE,
15 WE DON'T KNOW IF IT WAS A DELAYED REPORT OR NOT. LIKE
16 Minor SAID, IT WAS INITIAL REPORTING AND HER MOM DIDN'T
17 BELIEVE HER. MOM DENIED ANY INITIAL REPORTING. WELL, WE
18 KNOW WHY MOM DENIES IT.

19 WHEN THEY SPOKE TO DSS, SHE REPORTED APPARENTLY TO
20 THE POLICE. SO, IT DOESN'T REALLY SEEM TO BE A BIG DEAL
21 ABOUT DELAYED REPORTING. AND IF DISCLOSURE IS A PROCESS,
22 WHY WAS SHE SORT OF BACKTRACKING.

23 AND I WAS ASKING, WELL, WERE THERE ANY FOLLOW-UP
24 INTERVIEWS TO SEE HOW THIS PROCESS WAS GOING? AND,
25 OBVIOUSLY, ON THAT BASIS THE STATE IS IN A CATCH 22. IF

1 THEY INTERVIEW HER TOO MUCH, THEN WE'LL PROBABLY COME IN
2 AND SAY, WELL, YOU PUT WORDS IN HER MOUTH. WELL, THAT'S
3 WHY IT'S RECORDED SO PEOPLE CAN'T SAY THAT.

4 AND THEN IF WE DON'T DO IT, WE DON'T -- MAYBE THERE
5 ARE OTHER ACTS. MAYBE SOMETHING HAPPENED IN FLORIDA.
6 MAYBE SOMETHING HAPPENED TO A FRIEND OF HERS IN FLORIDA.
7 THAT'S WHY THEY SHOULD HAVE KEPT GOING.

8 THEY TALKED ABOUT COUNSELLING. WELL, SHE SAID
9 THERE WERE THREE INTERVIEWS. WELL, IS COUNSELLING AN
10 INTERVIEW OR NOT. HOW MANY TIMES OF COUNSELLING WITH HER.
11 AND SHE DIDN'T HAVE ANY RECORDS. WHO KNOWS IF THE MOTHER
12 EVEN BROUGHT HER TO COUNSELLING. AND IF SHE DIDN'T NEED
13 COUNSELLING, MAYBE THERE'S NOTHING TO COUNSEL ABOUT.

14 THIS -- YOU KNOW, USE YOUR COMMON SENSE WHEN YOU
15 EVALUATE THE CASE. YOU KNOW, THERE WAS NO TESTIMONY ABOUT
16 JEREMIAH SORT OF GROOMING THE CHILD, I MEAN, GIVING HER
17 CANDY OR PLAYING WITH HER, TAKING HER SOMEWHERE. TAKING
18 HER TO THE BEACH. BUYING HER CLOTHES. TRYING TO GAIN HER
19 TRUST.

20 THERE'S NO ALLEGATION THAT -- INITIAL ALLEGATION
21 THAT HE THREATENED HER IN ANY WAY TO KEEP HER QUIET. I
22 THINK INITIALLY Minor SAID -- TESTIFIED THAT HE DID, BUT
23 THAT'S AFTER HER MOM HAD OVER -- OVER A YEAR TO TALK TO
24 HER.

25 AND THE STATEMENT, IT'S JUST -- IT'S JUST OVER THE

CLOSING ARGUMENTS BY MR. GRIMES

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1 TOP. I MEAN, IF SOMEONE IS GOING TO ADMIT TO SOMETHING
2 LIKE THIS, THEY'RE PROBABLY MORE LIKELY TO SAY, I WAS
3 DRUNK. I MAY HAVE ACCIDENTALLY TOUCHED HER. OR WHEN I
4 WAS GIVING HER A BATH AND WASHING HER, I MAY HAVE DONE
5 SOMETHING AND SHE THOUGHT THAT. OR WHEN I WAS TUCKING HER
6 IN, SOMETHING LIKE THIS HAPPENED. OR IT WAS A ONE TIME
7 THING, THAT'S MUCH MORE LIKELY TYPE OF DISCLOSURE COMING
8 FROM SOMEONE GIVING A STATEMENT.

9 AND EVEN MORE AMAZING IS WHY HE WOULD TAKE HER TO
10 THE CHURCH. THAT'S ALMOST LIKE A GOVERNMENT CONTRACTOR
11 WHO HAS OVER BILLED THE GOVERNMENT, ASKING THE GOVERNMENT
12 TO COME IN AND DO AN AUDIT BECAUSE THEY HAVE A DISPUTE
13 WITH THIS SUBCONTRACTOR. IT MAKES NO SENSE.

14 I TOUCHED UPON THE LITTLE BIT OF INCONSISTENCIES --

15 COURT REPORTER: I'M SORRY, WHAT?

16 MR. GRIMES: INCONSISTENCIES IN THE CHILD'S
17 TESTIMONY OR Minor A'S TESTIMONY, TALKING ABOUT WHY THAT
18 HAPPENS -- IT HAPPENS. AND WHETHER IT'S AN INNOCENT
19 MISTAKE OR WHETHER IT'S DELIBERATE, AND WHETHER HER MOM'S
20 CONVINCED HER OF THIS, THAT'S YOUR DECISION.

21 NOW, FINALLY, I WANT TO TALK TO YOU A LITTLE BIT
22 ABOUT THE LAW IN THE CASE. IT'S THE PROSECUTOR'S JOB TO
23 CONVINC EACH AND EVERY ONE OF YOU BEYOND A REASONABLE
24 DOUBT THAT JEREMIAH COMMITTED A SEXUAL BATTERY UPON
25 Minor . JUDGE NICHOLSON WILL CHARGE YOU WHAT A REASONABLE

1 DOUBT IS. AND I BELIEVE HE'LL GIVE YOU A COPY OF HIS
2 INSTRUCTIONS. AND THERE'S PROBABLY A FULL PAGE ON THAT.
3 SIMPLY PUT, A REASONABLE DOUBT THAT WOULD CAUSE A
4 REASONABLE PERSON TO HESITATE TO ACT.

5 WHAT ARE SOME EXAMPLES OF HESITATION TO ACT. THIS
6 LATEST MARCH MADNESS TOURNAMENT, WHO WOULD HAVE EVER
7 PICKED BUTLER TO BE IN THE FINAL GAME. I WOULDN'T,
8 ALTHOUGH THEY WERE RANKED IN THE TOP TEN, I WOULD HAVE
9 CERTAINLY NEVER PUT THEM THAT FAR, BUT IT'S POSSIBLE.

10 A MORE CONCRETE EXAMPLE WOULD BE DECISIONS THAT WE
11 MAKE WITH OUR PARENTS OR A LOVED ONES, SAY IF SOMEONE IS
12 IN A BAD ACCIDENT AND ON LIFE SUPPORT. THE DOCTOR SAYS,
13 WELL, THEY MAY BE -- THEY'RE GOING TO BE A VEGETABLE. I
14 MEAN, WHAT DO YOU DO? DO YOU SAY, WELL, KEEP ON LIFE
15 SUPPORT OR NO, PULL THE PLUG.

16 I THINK THE TYPE OF INFORMATION YOU WOULD WANT TO
17 KNOW TO MAKE THAT DECISION, THAT'S KIND OF EQUIVALENT ON
18 THE DECISION YOU -- YOU NEED TO MAKE HERE TODAY -- ON THE
19 INFORMATION YOU NEED TO MAKE HERE TODAY AND HOW CERTAIN
20 YOU NEED TO BE.

21 NOW, AS I SAID BEFORE, I'M NOT GOING TO INSULT YOUR
22 INTELLIGENCE. JEREMIAH CERTAINLY HAS HIS FAULTS. HE
23 CERTAINLY LIVED IN A DIRTY HOUSE. HE PROBABLY PUNISHED OR
24 DISCIPLINED THE CHILDREN INAPPROPRIATELY. HE'S CERTAINLY
25 GUILTY OF MAKING THE WRONG CHOICES WITH WOMEN. HE'S

1 CERTAINLY GUILTY OF BEING VERY SHY, MILD AND SUBMISSIVE.
2 DOES THAT MAKE HIM A CHILD ABUSER, THE ANSWER IS NO.

3 NOW, YOU'VE HEARD SOME TESTIMONY ABOUT WHETHER
4 THERE'S PENETRATION OR NOT. IF YOU HAVE SOME DOUBT ABOUT
5 WHETHER THERE'S PENETRATION, BUT MAYBE BELIEVE HE DID
6 SOMETHING ELSE, THE JUDGE WILL CHARGE YOU WITH WHAT HE
7 CALLS LEWD ACT UPON A MINOR. THAT'S A SEPARATE CHARGE.
8 AND THAT IS SOMETHING YOU WILL HAVE TO CONSIDER.

9 THE JUDGE IS ALSO GOING TO CHARGE YOU ON ANOTHER
10 SERIOUS CHARGE CALLED ASSAULT AND BATTERY OF A HIGH AND
11 AGGRAVATED NATURE, WITH EVIDENCE TO SUPPORT THAT IN THIS
12 CASE. IT MAY BE ASSAULT AND BATTERY IF HE SPANKED HER AND
13 PUNISHED HER. BUT THERE'S SIMPLY NO EVIDENCE HE HAD
14 INAPPROPRIATE SEXUAL RELATIONS WITH HER.

15 THIS IS MY LAST -- CLOSE ENOUGH. I DON'T KNOW IF I
16 CAN GET THIS TO WORK. THE JUDGE IS GOING TO CHARGE YOU
17 THAT A PERSON'S GOOD CHARACTER IN AND OF ITSELF COULD
18 CREATE A REASONABLE DOUBT. AND THAT DEFENSE HAS REACHED
19 ANCIENT TIMES. AND IN A QUOTE I WAS GOING TO SHOW YOU IS,
20 "I WOULD PLEAD THE WHOLE RECORD OF MY LIFE IN COURT TO MY
21 DEFENSE". JOB THIRTY ONE SEVEN.

22 YOU'VE HEARD ABOUT JEREMIAH'S LIFE. HE'S NEVER
23 BEEN IN TROUBLE BEFORE. HE'S A KIND, GENEROUS PERSON. HE
24 WOULD DO ANYTHING HE COULD FOR HIS FRIENDS. THAT HE TOOK
25 THE CHILDREN TO THE CHURCH TO GET COUNSELLING, TO GET THEM

1 STRUCTURE, AND HE VIEWED THEM, KIND OF AS HIS CHILDREN.
2 HE WAS LIKE A FATHER FIGURE TO THEM. THAT AT THIS POINT
3 IN HIS LIFE, HE FELT HE HAD NOTHING TO LOSE AND MADE UP A
4 STORY.

5 NOW HE'S MADE ONE MISTAKE IN HIS LIFE, PERHAPS TWO,
6 MEETING MS. DAVISON AND GIVING THIS STATEMENT. AND THE
7 JUDGE WILL ALSO CHARGE YOU THAT THE STATE HAS TO
8 CORROBORATE THAT STATEMENT. THE ONLY EVIDENCE OF
9 CORROBORATION THEY HAVE IS Minor 'S TESTIMONY. THERE'S NO
10 PHYSICAL EVIDENCE OR ANY OTHER EVIDENCE THAT CORROBORATES
11 IT.

12 THERE WAS A BATHING SUIT, WHERE -- THEY DIDN'T EVEN
13 LOOK FOR A BATHING SUIT. THAT'S JUST -- YOU KNOW, HOW
14 SILLY THE STATEMENT IS. THE POLICE KNEW IT WAS SILLY AND
15 THAT'S WHY THEY DIDN'T INVESTIGATE IT.

16 AND BASED UPON EVERYTHING I'VE TOLD YOU AND ALL THE
17 EVIDENCE YOU'VE HEARD IN THIS CASE, JEREMIAH'S DEemeanor,
18 CREDIBILITY AND CHARACTER, I'M CONFIDENT THAT YOU WILL
19 FIND HIM NOT GUILTY OF THIS CHARGE. THANK YOU.

20 THE COURT: SOLICITOR.

21 MS. HERRING-LASH: CHILD SEXUAL ASSAULT IS NOT LIKE
22 OTHER CRIMES FOR MANY REASONS. IT'S NOT LIKE A ROBBERY
23 WHERE THERE IS -- LAW ENFORCEMENT CAN GO OUT AND FIND
24 SOMETHING THAT IS STOLEN AND RECOVER IT. WHAT IS STOLEN
25 IS THE INNOCENCE OF A CHILD AND THAT CANNOT BE RECOVERED.

1 IT'S NOT LIKE A DUI WHERE IT'S COMMITTED ON THE
2 STREET AND THERE CAN BE OTHER PEOPLE TO SEE. IT'S MOST
3 OFTEN IN THE PRIVACY OF THE HOME, WITH THE ONLY OTHER
4 WITNESSES BEING YOUNGER CHILDREN.

5 IT'S NOT LIKE AN ASSAULT WHERE BONES ARE BROKEN OR
6 BODIES ARE BLOODIED. MOST OFTEN, THE CHILD DOES NOT TELL.
7 THERE'S NO PHYSICAL EVIDENCE. THERE'S NOT EVEN EVIDENCE
8 -- FORENSIC EVIDENCE BECAUSE THEY'VE WAITED TOO LONG TO
9 TELL. BUT MOST IMPORTANTLY, PERHAPS, FROM YOUR
10 PERCEPTIVE, THE MAIN WITNESS YOU HAVE IS A VERY YOUNG
11 CHILD. A PERSON, A CHILD IS NOT ABLE TO -- DOESN'T HAVE
12 THE SAVVY OF BEING ABLE TO KNOW WHAT IS IMPORTANT IN A
13 COURTROOM. THE INFORMATION MAY BE THERE. THE DETAILS MAY
14 BE THERE. BUT UNLESS THE EXACT QUESTION IS ASKED, THEY
15 DON'T KNOW WHAT IS IMPORTANT.

16 THEY ARE -- IN THIS CASE, YOU SAW A CHILD OF THE
17 AGE WHERE CONCRETE THINKING IS THE LEVEL THAT THEY'RE AT,
18 WHICH MEANS THERE'S NO TIME. THERE'S NO ABILITY TO
19 SEQUENCE EVENTS. THOSE THINGS MAKE IT A LOT HARDER TO GO
20 TO COURT WHEN YOU HAVE A CHILD, WHEN IT IS A CRIMINAL
21 SEXUAL ASSAULT ON A CHILD. BUT THAT DOESN'T MEAN THAT WE
22 DON'T TRY. AND IT DOESN'T MEAN THAT IT'S NOT IMPORTANT.
23 THE DATES AND TIMES AND SEQUENCES, THINGS YOU MAY LOOK
24 FOR, JUST AREN'T -- SHE IS NOT CAPABLE OF THAT.

25 YOU, AS JURORS, ARE THE JUDGES OF THE FACTS IN THIS

1 CASE. TO DO THAT, YOU CAN LOOK AT THE CREDIBILITY OF THE
2 WITNESSES. THE MOTIVE THAT PEOPLE MAY HAVE TO DO OR SAY
3 WHAT THEY'VE DONE, OR THE DETAILS THAT THEY'RE ABLE TO
4 GIVE.

5 VERY OFTEN, YOU'RE TOLD WHEN YOU'RE GOING TO JUDGE
6 THE CREDIBILITY OF A WITNESS, WHAT YOU DO IS USE YOUR
7 COMMON SENSE BECAUSE YOU DO IT EVERY DAY. SOMEBODY TELLS
8 YOU SOMETHING AND YOU DECIDE, WELL, YOU KNOW, ARE THEY
9 TELLING ME THE TRUTH AND YOU USE YOUR COMMON SENSE TO
10 FIGURE IT OUT. BUT I OFTEN REALLY WONDER IF COMMON SENSE
11 HELPS MUCH IN A CASE LIKE THIS. ARE WE PREPARED TO JUDGE
12 A SEXUAL ASSAULT ON A CHILD.

13 AND SOME OF THAT IS BECAUSE, LIKE I'VE ALREADY KIND
14 OF STATED, WHAT WE DO WHEN WE JUDGE SOMEBODY'S
15 CREDIBILITY, IS WE SAY, WELL, CAN THEY TELL ME EVERYTHING
16 THAT HAPPENED. DO THEY HAVE A GOOD CONCEPT OF ALL THE
17 PERIPHERAL DETAILS. CAN THEY TELL ME WHY THEY'RE SAYING
18 THIS. CAN THEY TELL ME WHEN IT HAPPENED. CAN THEY TELL
19 ME HOW IT HAPPENED. ALL THAT IS WHAT YOU USE AND THAT'S
20 WHAT A SIX YEAR OLD JUST CAN'T TELL YOU. SO THE COMMON
21 SENSE YOU USE ISN'T AS HELPFUL. THAT DOESN'T MEAN YOU
22 LEAVE IT OUT OF THE EQUATION, BUT IT'S NOT AS HELPFUL.
23 THE SENSORY PERCEPTIONS SHE COULDN'T GIVE, THOSE KINDS OF
24 THINGS.

25 BUT WHEN YOU THINK BACK ON Minor 'S TESTIMONY, IT

1 WAS A LONG TIME AGO. IT SEEMS LIKE FOREVER. IT'S SUNDAY
2 AFTERNOON -- EXCUSE ME -- MONDAY AFTERNOON, TUESDAY
3 MORNING. SHE WAS ABLE TO GIVE YOU SOME DETAIL.

4 THE POSITIONS SHE TALKED ABOUT WHEN HE PUT HIS
5 PRIVATE IN HER MOUTH. HE HELD HIS PRIVATES IN HIS HANDS
6 AND STOOD BY HER BED. SHE TALKED ABOUT WHEN HE HAD SEXUAL
7 INTERCOURSE WITH HER, THAT HE GOT ON TOP OF HER, STRADDLED
8 WITH ONE LEG ON EITHER SIDE. NOW, HERE IN THE COURTROOM,
9 SHE DID NOT TALK ABOUT THE -- HIS PRIVATE GOING INTO HER
10 PRIVATE. THAT TESTIMONY CAME FROM THE VIDEO TAPE. SO, IT
11 IS IN EVIDENCE FOR YOU TO CONSIDER.

12 AND YOU CAN REMEMBER, WHEN SHE WAS QUESTIONED ABOUT
13 HER PRIVATE FRONT, THAT IS WHEN SHE STARTED CRYING AND WE
14 HAD TO TAKE A BREAK. YOU HAVE TO MAKE A DECISION WHETHER
15 THAT IS SOMETHING THAT SHE WAS JUST TOO SHY, OR TOO AFRAID
16 TO TALK ABOUT HERE IN THE COURTROOM OR IF IT DIDN'T
17 HAPPEN. YOU HAVE HER TELLING ABOUT IT, AND HOW HE PUT ONE
18 LEG ON EITHER SIDE IN THE VIDEO TAPE.

19 SHE TALKED ABOUT WHEN HE PUT HIS TONGUE ON HER
20 PRIVATE. HE KNELT DOWN. SHE TRIED TO USE THE DOLL HERE
21 IN THE COURTROOM AND SHE COULDN'T GET THE LEGS TO BEND.
22 BUT IN THE TAPE, SHE HAD THAT COUCH THERE IF YOU REMEMBER
23 SO THAT SHE CAN GO OVER THERE AND SHOW ON THE COUCH HOW
24 THE KNEELING OCCURRED.

25 SHE TRIED TO EXPLAIN TO YOU HOW HE WAS ON -- FROM

1 HER TESTIMONY, HE WAS ON ONE HAND WHEN HE PUT HIS FINGER
2 INSIDE OF HER. YOU CAN SEE ON THE TAPE, SHE DESCRIBED HOW
3 HE IS LEANING LIKE THIS (INDICATING). IT WAS MUCH MORE
4 OBVIOUS WHEN SHE HAD THE -- THE COUCH THERE.

5 SHE ALSO GAVE YOU DETAILS ABOUT HER CLOTHING. THE
6 FIRST TIME SHE TALKED ABOUT THAT HE TOOK HER UNDERWEAR OFF
7 AND SCOOTED HER -- SCOOTED HER PANTIES. SHE SAID THE
8 EXACT SAME THING ON THE TAPE. WHEN I ASKED HER, WELL,
9 WHAT DOES SCOOTED MEAN, SHE SAID DOWN TO HER ANKLE.

10 SHE SAID THAT ALSO ANOTHER TIME, SHE HAD ON HER
11 POLAR BEAR PAJAMAS. AND THAT HE TOOK THEM OFF AND LAID
12 THEM ON THE BED -- ON THE FLOOR BESIDE THE BED.

13 NOW, WHEN SHE WAS BEING QUESTIONED IN THE TAPE, IT
14 WAS OBVIOUS THAT THE LADY WAS TRYING TO GET HER TO TELL ME
15 ABOUT THE FIRST TIME, THE SECOND TIME, THE THIRD TIME, BUT
16 SHE WAS NOT SEQUENCING THAT. BECAUSE AT ONE POINT SHE
17 SAID IT WAS EITHER THE PRINCESS PAJAMAS OR THE POLAR BEAR
18 PAJAMAS. SHE WAS TALKING -- SHE -- SHE WAS NOT TELLING
19 ABOUT ONE TIME.

20 BUT MS. GONSEN ALSO SAID THAT WHEN MANY EVENTS HAVE
21 HAPPENED, THEY MERGE. NOT ONLY WITH YOUNG CHILDREN, BUT
22 WHEN IT HAPPENS A LOT, HE SAID, MAYBE THREE TIMES A WEEK,
23 SURELY SHE -- SHE MAY NOT BE ABLE TO REMEMBER EXACTLY THE
24 DETAILS OF EACH SPECIFIC EVENT.

25 THE OTHER DETAIL THAT SHE GAVE YOU IS ONE TIME HE

1 TRIED TO PUT HIS PRIVATE IN HER MOUTH AND SHE JERKED HER
2 HEAD. AND HE SAID A VERY BAD WORD. SHE CALLED IT M.F. I
3 WON'T SAY IT HERE, BUT THAT IS A DETAIL -- A SPECIFIC
4 DETAIL.

5 ANOTHER MAYBE MINOR, BUT HOW HER ROOM WAS MESSY AND
6 THERE WERE SOME TOYS ON THE FLOOR. AND ONE TIME HE WAS
7 LEAVING, HE SAID "OUCH" BECAUSE HE STEPPED ON A TOY THAT
8 HURT. SHE ALWAYS SAID THAT IT WAS AT THE GREEN HOUSE IN
9 THE BEDROOM, WHILE HER MOM WAS AT WORK AND HER SISTERS
10 WERE ASLEEP.

11 AT ONE POINT IN THE TAPE, SHE TALKED ABOUT, WELL,
12 THAT WAS A LONG TIME AGO. MAYBE I WAS IN FLORIDA. WELL,
13 HE WENT TO FLORIDA WITH THEM, IF YOU REMEMBER, FROM THE
14 TESTIMONY.

15 THE OTHER THING YOU CAN LOOK AT IS MOTIVE. WHAT
16 POSSIBLE MOTIVE COULD Minor HAVE HAD TO MAKE THIS UP.
17 WHAT POSSIBLE MOTIVE COULD Minor HAVE TO TELL ABOUT THIS
18 EXCEPT TO MAKE IT STOP. AND IT'S NOT LIKE SHE SOUGHT
19 SOMEONE OUT TO TELL. SHE WOULD HAVE NEVER TOLD ANYONE IF
20 DELILAH COVERDALE HAD NOT GONE TO THE SCHOOL AND ASKED IF
21 ANYONE HAD TOUCHED HER INAPPROPRIATELY.

22 AT THAT POINT IN TIME, Minor WAS JUST ANSWERING
23 THE QUESTIONS. SHE DIDN'T KNOW IT WAS A CRIME. NOW SHE
24 KNOWS NOW BECAUSE SHE SAW THE POLICE COME TO HER HOUSE AND
25 SHE -- SHE SAW HIM BE TAKEN AWAY. AND SHE KNOWS NOW THAT

1 WHAT HE DID WAS AGAINST THE LAW.

2 AT THE TIME, SHE REALLY DIDN'T KNOW THAT. THERE IS
3 NO WAY THAT A SIX YEAR OLD CAN JUST CONJURE UP THESE KINDS
4 OF SEXUAL DETAILS AND THIS KIND OF SEXUAL BEHAVIOR.

5 AND SHE WAS ALSO ASKED ON CROSS EXAMINATION A LOT
6 ABOUT WHOSE TALKED TO YOU, YOU KNOW, WHOSE TALKED TO YOU.
7 WELL, I SUBMIT TO YOU HER MOTHER SHOULD HAVE TALKED TO HER
8 MORE. THE LADY PROBABLY DIDN'T TALK TO HER A LOT. AND --
9 BUT -- AND ONE EXAMPLE OF THAT IS IN THE TAPE, WHEN THE
10 LADY ASKED, OH, DO YOU KNOW WHY YOU CAME HERE. AND SHE
11 SAYS, WELL, YEAH, BECAUSE SHE TOLD ME WE WERE COMING HERE
12 WHEN WE WERE STANDING OUTSIDE AND SHE AND HECTOR WERE
13 SMOKING A CIGARETTE BY THE -- BY THE THING. THE CHILD
14 DIDN'T KNOW WHERE SHE WAS GOING UNTIL THEY GOT THERE IN
15 THE PARKING LOT.

16 BUT WHEN SHE WAS ASKED ABOUT, WELL, DID YOU SPEAK
17 TO MS. LASH, Minor DISTINGUISHED THAT FROM -- THAT THAT
18 WAS PRACTICE TO TESTIFY. SHE WAS VERY CLEAR. NO, I JUST
19 -- MOM, I JUST TALKED. IT WAS PRACTICE WITH ME. THAT WAS
20 HOW SHE DISTINGUISHED THAT.

21 AND LET'S TALK ABOUT DEBBERA DAVISON, WHO IS THE
22 ELEPHANT IN THIS ROOM. I THINK WE CAN ALL AGREE THAT SHE
23 IS A BAD MOTHER. I THINK WE CAN ALL AGREE THAT SHE WAS
24 NOT PROTECTIVE. BUT SHE DID NOT HOLD JEREMIAH TURNER
25 CAPTIVE IN THAT HOME. HE COULD HAVE LEFT ANY TIME HE

1 WANTED TO, BUT HE DIDN'T WANT TO LEAVE BECAUSE SHE WAS
2 LEAVING HIM THERE WITH WHO HE REALLY WANTED TO BE THERE
3 WITH, WHICH WAS Minor .

4 IT WAS VERY CONFUSING WHEN Minor WAS TRYING TO
5 EXPLAIN HOW SHE -- WHO SHE TOLD FIRST. THAT GOT VERY
6 CONFUSING BECAUSE IT WAS -- I TOLD MY MOM FIRST. BUT IT
7 WAS -- AND THEN ALSO STARTED TALKING ABOUT THAT IT WAS
8 WHEN PAM WAS THERE AND THE POLICE WAS THERE. SHE DOESN'T
9 REALLY REMEMBER TALKING AT THE SCHOOL UNLESS SHE WAS
10 SPECIFICALLY ASKED DO YOU REMEMBER THE LADY AT THE SCHOOL.
11 IT WAS CONFUSING THAT DAY, I'M SURE, WITH THE POLICE BEING
12 THERE AND HER -- THERE WAS NO PLAN TO TELL. IT JUST KIND
13 OF CAME ABOUT.

14 AND THERE'S ALSO ANOTHER VERY GOOD REASON WHY -- OR
15 PERHAPS ANOTHER GOOD REASON WHY THAT SEEMED CONFUSING,
16 BECAUSE SHE HAD TOLD HER MOTHER BEFORE. SHE HAD TOLD HER
17 MOTHER BEFORE AND HER MOTHER HAD CAUGHT HIM, AND SHE JUST
18 DID NOTHING. THAT MAKES HER A HORRIBLE PERSON, BUT THAT
19 DOES NOT FOR ONE MOMENT EXCUSE WHAT HE DID.

20 IF SHE WAS A GOOD MOMMA, HE WOULDN'T HAVE BEEN --
21 HE WOULDN'T HAVE BEEN SPENDING ALL THE NIGHTS WHILE SHE
22 WAS WORKING AT TWO JOBS, ONE OF THEM A GRAVEYARD SHIFT AT
23 DENNYS. IF SHE WERE A GOOD MOMMA, HE WOULDN'T HAVE HAD
24 THE ACCESS HE DID. BUT SHE WASN'T AND HE DID.

25 AND AS FAR AS HER COACHING THIS CHILD, WHY WOULD

1 SHE WANT TO DO THAT? THE TIMING, FIRST OF ALL, LET'S LOOK
2 AT THAT. THE DEFENSE IS THAT SHE COACHED THE CHILD
3 BECAUSE HE REPORTED IT TO DSS. WELL, DELILAH COVERDALE
4 EXPLAINED TO YOU THAT DSS HAD MADE NO CONTACT WITH THIS
5 WOMAN WHEN SHE WENT TO THE SCHOOL.

6 SHE WENT TO THE HOUSE THE FIRST TIME, NOBODY WAS
7 THERE. SHE WENT THE SECOND TIME, HE WAS THERE ASLEEP AND
8 LITTLE Sister 2 AND Minor WERE THERE. THEY PEEKED THROUGH
9 THE SCREEN. SHE GOT THEM FINALLY TO GET HIM TO COME TO
10 THE DOOR. SHE -- HE HAS A CARD WITH A NAME AND A PHONE
11 NUMBER, THAT IS IT. IF DSS WOULD HAVE TALKED TO HER, THEY
12 WOULD HAVE NEVER TOLD HER WHO MADE A REPORT. THEY'RE NOT
13 ALLOWED TO. IT'S AGAINST THE STATUTE FOR THEM TO TELL.

14 BUT THEY DIDN'T -- BUT THEY DIDN'T HAVE THE
15 OPPORTUNITY TO TALK TO HER ABOUT THIS. WHEN DELILAH
16 COVERDALE COULD NOT GET -- COULD NOT FIND HER, SHE WENT TO
17 THE SCHOOL, AS SHE TOLD YOU THEY'RE ALLOWED TO DO, AND
18 TALKED TO Minor . THAT IS HOW THIS CAME ABOUT.

19 AND IF YOU'RE GOING TO GO TO THE TROUBLE OF
20 COACHING SOMEONE, THEN WHY DO YOU RUN? SHE DIDN'T
21 COOPERATE WITH THIS AT ALL. SHE DIDN'T TALK TO THE
22 POLICE. SHE DIDN'T TAKE THE CHILD TO BE INTERVIEWED. SHE
23 LEFT. AND HER BEING A VETERAN OF DSS, AS MR. GRIMES SAYS,
24 IT'S ALL THE MORE REASON SHE KNOWS NOT TO EVER HAVE A
25 CHILD SAY THIS. BECAUSE IF YOU THINK A DIRTY HOUSE IS

CLOSING ARGUMENTS BY MS. HERRING-LASH

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1 GOING TO GET DSS TO COME IN ON YOU, TRY -- TRY HAVING THEM
2 FIND OUT YOUR CHILD HAS BEEN SEXUALLY ABUSED. SHE KNOWS
3 ENOUGH TO KNOW NOT TO EVER HAVE ANY ONE OF HER CHILDREN
4 SAY THAT. SHE WOULD HAVE NEVER TRIED TO MAKE THAT UP.

5 NOT TO MENTION HOW DIFFICULT AND IMPOSSIBLE IT
6 COULD BE TO COACH A SIX YEAR OLD TO SAY THESE KINDS OF
7 THINGS. THE BALLOON BOY COULDN'T EVEN KEEP THAT LITTLE
8 STORY TOGETHER FOR A DAY AND THINK OF ALL THIS STUFF
9 Minor HAD. IT'S VERY DIFFICULT.

10 AND IF SHE WANTED TO GET HIM IN TROUBLE, MS.
11 DAVISON, ALL SHE HAD TO DO WAS SAY, I SAW IT. I WALKED IN
12 AND CAUGHT HIM. THAT'S ALL SHE HAD TO DO. BUT INSTEAD,
13 SHE SAYS, NO, I DON'T THINK -- I DIDN'T THINK HE DID
14 THIS. I DIDN'T KNOW ANYTHING ABOUT THIS.

15 AND FROM -- WELL, AND THE OTHER THING, SHE DIDN'T
16 COACH THE DEFENDANT. SHE WASN'T THERE AT THE POLICE
17 STATION TELLING HIM WHAT TO SAY. HE TOLD YOU HE DID IT.

18 MOM'S HISTORY WITH DSS, MR. GRIMES ASKED HER ABOUT
19 THE ALLEGATIONS. BUT IF YOU CAN REMEMBER, WHEN I WENT
20 BACK, THOSE WERE ALL UNFOUNDED EXCEPT FOR THE
21 ENVIRONMENTAL HAZARD BECAUSE AT THAT TIME THEY WERE LIVING
22 IN HER PARENT'S HOME, THAT WASN'T A GOOD PLACE. YOU KNOW,
23 MS. DAVISON WAS NOT A GOOD MOM, BUT SHE ALSO DIDN'T COME
24 FROM A GOOD HOME. SHE NEVER REALLY, IT SEEMS, HAD A
25 CHANCE TO LEARN HOW TO BE A MOM HERSELF.

1 IT'S NOT AN EXCUSE. A LOT OF PEOPLE DON'T HAVE
2 GOOD HOMES AND THEY GO ON TO BE GOOD PARENTS. SHE DIDN'T.
3 BUT IT'S NOT HER CHILD'S FAULT THAT SHE BROUGHT THIS MAN
4 INTO HER HOME.

5 MR. TURNER WAS LEFT TO CARE FOR THESE KIDS. HE WAS
6 THEIR CARETAKER. SHE ALLOWED THAT AND THAT WAS WRONG.

7 DELILAH COVERDALE JUST EXPLAINED TO YOU HOW THEY
8 GOT INVOLVED AND WHAT THE CHILD SAID TO HER. THE LADY
9 FROM FLORIDA TALKED TO YOU ABOUT -- SO YOU CAN SEE THE
10 INTERVIEW, THE COMMON REACTION FOR CHILDREN, THAT THEY
11 DON'T ALWAYS TELL. THAT SOMETIMES THEY TAKE PART BACK AND
12 SAY IT. THAT INFORMATION WAS TO HELP YOU, AS A LAY
13 PERSON. YOU MAY VERY WELL THINK, WELL, IF THIS HAPPENED
14 TO A CHILD, THE FIRST THING THEY WOULD DO WOULD BE TO TELL
15 SOMEBODY. MAYBE FIGHT AND THEN TELL SOMEBODY, EVEN CALL
16 911. THAT'S NOT TRUE. THAT'S NOT HOW IT WORKS. THEY
17 DON'T TELL.

18 IT WOULD BE UNFAIR TO YOU, AS FACT FINDERS, TO LET YOU
19 JUDGE Minor 'S REACTIONS WITHOUT THE KNOWLEDGE OF HOW
20 CHILDREN COMMONLY REACT. AND IT WOULD BE UNFAIR TO Minor
21 FOR YOU TO JUDGE HER WITHOUT THE KNOWLEDGE OF HOW CHILDREN
22 COMMONLY REACT. I THINK AS DETECTIVE BURNEM SAID WHEN SHE
23 TALKED TO HER, THERE WAS NO HYSTERIA. IT WAS LIKE -- ALL
24 THE CHILDREN SHE ASKED ABOUT THIS, VERY CALM, MATTER OF
25 FACT, JUST LIKE Minor DOES.

1 HEIS HAD A VERY SMALL PART, BUT HE DID SAY THAT THE
2 MOM SHOWED UP IN DISBELIEF. SHE DIDN'T BELIVE IT. WHEN
3 SHE BELIEVED IT LATER IS WHEN MS. -- THE DETECTIVE GOT
4 THAT PHONE CALL THAT HE HAD CONFESSED.

5 DETECTIVE BURNEM TOOK HIS STATEMENT. AND THE
6 STATEMENT THAT HE GAVE DETECTIVE BURNEM ABOUT HITTING AND
7 ALL THE THINGS THAT HE DID TO Sister 2 , THAT CORROBORATES
8 Minor 'S STATEMENT ABOUT HIM HITTING THEM, SPANKING THEM,
9 HURTING THEM. SO, HE CORROBORATES HER.

10 DETECTIVE BURNEM ALSO EXPLAINED TO YOU THAT, NO,
11 THEY DIDN'T GO TO THE HOUSE THAT THE PEOPLE DIDN'T EVEN
12 LIVE IN ANYMORE AND HADN'T LIVED THERE FOR A WHILE. I
13 MEAN, TO LOOK FOR WHAT? THE DEFENSE SUGGESTS THAT THEY
14 SHOULD HAVE GONE THERE TO LOOK FOR CLOTHES, WHICH YOU
15 HEARD STAYED IN A BIG OLD DIRTY HEAP ON THE KITCHEN FLOOR,
16 OR TO -- FOR SHEETS, WHICH THEY DIDN'T LIVE THERE.

17 EVEN IF THEY HAD, THIS LONG OUT, IT WOULD HAVE BEEN
18 HARD. BUT WHEN THE PEOPLE HAVE MOVED AND NO LONGER HAD
19 THEIR BELONGINGS, IT WOULD BE REALLY HARD TO KIND OF GO
20 AND FIND THEM.

21 DR. ABEL TALKED TO YOU ABOUT THE MEDICAL EXAM. IT
22 WAS A NORMAL EXAM. WHAT DOES THAT MEAN. FIRST OF ALL,
23 SHE SAID THAT IT COULD MEAN THAT THERE WAS NEVER ANY
24 TRAUMA. THAT THERE'S VERY SELDOM TRAUMA WITH A FINGER.
25 THAT IT DOESN'T CAUSE ANY DAMAGE. AND ORAL, LICKING,

1 WITHOUT CAUSE DAMAGE. PUTTING HIS PENIS IN HER MOUTH
2 WOULD NOT -- WOULD NOT CAUSE DAMAGE.

3 AND THE PENIS INTO THE GENITAL OPENING WOULD NOT
4 NECESSARILY CAUSE DAMAGE IF IT WAS DONE IN A GENTLE WAY.
5 HE SAYS HE GOT SOFT. BUT SHE ALSO SAID THAT THERE COULD
6 HAVE BEEN SOME TRAUMA, BUT THE FACT THAT SHE EXAMINED THE
7 CHILD 14 DAYS LATER, IF THERE WERE ANY TRAUMA THERE, IT
8 COULD HAVE RESOLVED BY THAT TIME. SHE SAID THAT AREA OF
9 THE BODY HEALS VERY QUICKLY.

10 SHE KNEW ABOUT THE CONDITION THAT THE CHILD HAD.
11 SHE SAID IT WAS NOT RELATED TO THE SEXUAL ASSAULT. SHE
12 DIDN'T KNOW IF SHE HAD IT 14 DAYS EARLIER. AND DR. ABEL
13 KNOWS ABOUT THAT. AND WHAT SHE SAID AT THE END, WAS THAT
14 THERE WAS ABSOLUTELY NOTHING ABOUT HER EXAM THAT WAS
15 INCONSISTENT WITH THE HISTORY.

16 IN OTHER WORDS, WHEN SHE EXAMINED Minor THERE WAS
17 NOTHING ABOUT THAT EXAM THAT MADE HER THINK THAT Minor S
18 HISTORY -- AND THE HISTORY THAT DR. ABEL HAD, IF YOU
19 REMEMBER, WAS VAGINAL, DIGITAL AND ANAL. THERE'S NOTHING
20 ABOUT THAT EXAM THAT WOULD TELL HER OR CAUSE HER TO
21 QUESTION -- TO NOT BELIEVE THAT. NOW, Minor DID NOT TALK
22 IN HERE ABOUT THE ANAL PENETRATION, SO HE IS NOT CHARGED
23 WITH THAT BECAUSE SHE DID NOT TALK ABOUT IT IN THE
24 INTERVIEW EITHER.

25 DETECTIVE RAMSEY TALKED TO THE DEFENDANT FOR A VERY

1 SHORT TIME. I THINK DETECTIVE BURNEM SAID THAT HE LEFT
2 WITH THE DEFENDANT WITHIN 20 TO 30 MINUTES. THEY GOT A
3 CALL BACK AT THE RESIDENCE THAT HE HAD CONFESSED. THAT'S
4 A SHORT TIME FOR SOMEBODY TO CONFESS.

5 AND BEFORE HE WAS ADMITTING THAT HE DID SOMETHING,
6 HE DIDN'T SAY, I DIDN'T DO THAT. HE SAID, I CAN'T SEE
7 MYSELF DOING SOMETHING LIKE THAT, WHICH DETECTIVE RAMSEY
8 SAID THAT WAS A BIG FLAG TO HIM.

9 AND LOOK AT HIS STATEMENT, HE WROTE THAT IT
10 HAPPENED STARTING IN JUNE. SO, THAT'S WHEN HE MOVED.
11 DETECTIVE RAMSEY DIDN'T KNOW WHEN HE MOVED IN.

12 HE DESCRIBED THE SAME SEXUAL ACTIVITIES THAT Minor
13 DESCRIBED. HE DID MINIMIZE AND BLAME Minor. HE SAID --
14 BECAUSE HE HAD HER COMING INTO HIS ROOM. SHE SAID IT
15 HAPPENS IN HER ROOM. IT DOESN'T REALLY MATTER WHICH ROOM.

16 THE CHURCH DOES SHOW SOMETHING ABOUT HIS VIEW OF
17 WHEN. SHE'S WORKING TWO JOBS. HE'S HOME AND HE'S
18 COMPLAINING THAT IT'S A DIRTY HOUSE. HE SAID, WELL, I DO
19 CLEAN IT, BUT IT JUST GETS DIRTY. WELL, THAT'S HOW HOUSES
20 ARE.

21 AND YOU KNOW HIS VIEW OF GIRLS FROM WHAT HE'S DONE
22 TO Minor A. HER CHARACTER CHANGED. SHE BECAME ANGRY. SHE
23 HAD OUTBURSTS. YEAH. I THINK WE CAN GUESS WHY.

24 THE DEFENDANT, FIRST OF ALL, HE RECEIVED HIS
25 RIGHTS. HE SIGNED HIS STATEMENT. HE HAS MORE THAN A HIGH

1 SCHOOL EDUCATION. IT WAS A SHORT PERIOD OF TIME. HE
2 WROTE HIS OWN STATEMENT IN HIS OWN WORDS. THERE WERE NO
3 THREATS. THERE WERE NO PROMISES. THERE WAS NO COERCION.
4 HE WAS NOT UNDER THE INFLUENCE OF ANY DRUGS OR ALCOHOL.
5 HE CAME FROM A GOOD BACKGROUND. THOSE ARE ALL THE THINGS
6 YOU LOOK AT IN DECIDING WHETHER YOU BELIEVE HIS STATEMENT
7 WAS VOLUNTARY.

8 I SUBMIT TO YOU WHEN HE WAS WIELDING THAT BELT AND
9 KNOCKING THOSE KIDS AROUND, HE DIDN'T LOOK LIKE THIS
10 QUIET, SHY MAN THAT HE TRIED TO PULL OFF IN THIS
11 COURTROOM. AND WHEN THAT BIG MAN CRAWLED ON TOP OF THAT
12 LITTLE GIRL, HE DIDN'T LOOK LIKE SOME CONCERNED PITIFUL
13 PERSON THAT HE TRIED TO PORTRAY IN HERE. YOU CAN'T DRESS
14 HIM UP FOR THIS.

15 THE DEFENDANT -- WHY DID HE DECIDE TO TELL THE
16 TRUTH? WHO KNOWS. MAYBE -- HE TESTIFIED -- HE THOUGHT
17 THAT DETECTIVE RAMSEY WAS SLACK AND DIDN'T FOLLOW THROUGH.
18 HE MAY HAVE JUST THOUGHT, WELL, I'LL JUST TELL HIM
19 SOMETHING AND HE'LL THINK NOTHING OF IT. MAYBE HE WAS
20 CONCERN. MAYBE HE WAS SORRY FOR WHAT HE HAD DONE. HE
21 WANTED TO GET IT OFF HIS CHEST.

22 THE DEFENSE ASKED ABOUT DETECTIVE RAMSEY. THEY
23 ASKED ABOUT DIDN'T YOU THINK -- AND KIND OF ALLUDED TO,
24 THIS STORY IS JUST TOO SICK AND TOO CRAZY TO BE TRUE. IT
25 COULDN'T BE TRUE, OR TOO DELUSIONAL. WELL, I SUBMIT TO

1 YOU THAT I THINK IT WAS DELUSIONAL, AND NOT IN THE CRAZY
2 SENSE. BUT WHEN A PERSON GETS SEXUALLY AROUSED BY
3 CHILDREN, THE KIND OF PEOPLE THAT ARE TURNED ON AND HAVE
4 SEXUAL GRATIFICATION FROM CHILDREN, THAT KIND OF PERSON
5 WOULD INTERPRET A SIX YEAR OLD IN A BATHING SUIT, SITTING
6 ON THEIR LAP, GIVING THEM A HUG AS A SEXUAL COME-ON.

7 THAT KIND OF PERSON WOULD TAKE NORMAL CHILDHOOD
8 AFFECTION AS SEXUAL. DOES THAT EXCUSE IT? NO. THAT
9 MAKES IT WORSE BECAUSE THAT MAKES HIM MUCH MORE DANGEROUS.

10 I WANT TO JUST TAKE A MOMENT TO THANK YOU ALL.
11 THIS HAS BEEN A LONG WEEK AND YOU'VE BEEN VERY ATTENTIVE
12 AND THIS IS IMPORTANT TO ALL OF US.

13 I WILL SPEAK VERY BRIEFLY WITH YOU ABOUT THE LAW.
14 HE IS CHARGED WITH CRIMINAL SEXUAL CONDUCT WITH A MINOR,
15 WHICH MEANS -- IN THE FIRST DEGREE, IF THE ACTOR ENGAGES
16 IN SEXUAL BATTERY WITH A VICTIM, WHO IS LESS THAN A
17 ELEVEN -- NO FORCE, NO COERCION, NONE OF THAT, JUST SEXUAL
18 BATTERY OCCURS AND THE VICTIM IS LESS THAN ELEVEN.

19 SEXUAL BATTERY IS SEXUAL INTERCOURSE, CUNNILINGUS
20 -- CUNNILINGUS IS THE TONGUE TO THE GENITAL AREA.
21 FELLATIO, THE PENIS IN THE MOUTH. ANAL INTERCOURSE, OR
22 ANY INTRUSION, HOWEVER SLIGHT, OF ANY PART OF THE PERSON'S
23 BODY OR ANY OBJECT INTO THE GENITAL OR ANAL OPENINGS OF
24 ANOTHER PERSON'S BODY. THE DIGITAL PENETRATION -- AND THE
25 GENITAL OPENING, IF YOU REMEMBER, IT'S JUST THE INSIDE OF

1 THE LIPS. NOT ALL THE WAY END TO THE INTROITUS.

2 LEWD ACT UPON A MINOR, FOR A PERSON OVER THE AGE OF
3 14 TO WILFULLY AND LEWDLY COMMIT OR ATTEMPT A LEWD OR
4 LASCIVIOUS ACT WITH OR UPON THE BODY OR OF ITS PARTS OF A
5 CHILD UNDER THE AGE OF 16. THIS IS WHAT YOU WOULD
6 NORMALLY THINK OF AS CHILD MOLESTATION, FONDLING.

7 YOU WILL ALSO, WITH EACH OF THE SEXUAL BATTERIES,
8 BE GIVEN AN ALTERNATIVE, LESSER INCLUDED OF ASSAULT AND
9 BATTERY OF A HIGH AND AGGRAVATED NATURE. BUT YOU LOOK AT
10 THE CRIMINAL SEXUAL BATTERY FIRST. IF YOU -- BEFORE YOU
11 GO TO THE ASSAULT AND BATTERY, YOU HAVE TO DETERMINE THAT
12 YOU BELIEVE NO SEXUAL BATTERY OCCURRED. THAT HE
13 ABSOLUTELY DID NOT PUT HIS PENIS IN HER MOUTH BEFORE YOU
14 GO DOWN. HE ABSOLUTELY DID NOT PUT HIS TONGUE ON HER
15 PRIVATE BEFORE YOU GO DOWN. HE ABSOLUTELY DID NOT PUT HIS
16 FINGER IN HER. YOU LOOK AT THE SEXUAL BATTERY FIRST. AND
17 YOU HAVE THE EVIDENCE THAT HE DID ALL OF THOSE THINGS.

18 REASONABLE DOUBT. A REASONABLE DOUBT IS NOT A
19 DOUBT, NOT BEYOND EVERYTHING. A DOUBT THAT A REASONABLE
20 JUROR SEEKING THE TRUTH WOULD HESITATE TO ACT. THERE ARE
21 FEW THINGS IN THIS WORLD, IF ANY, THAT YOU WILL EVER KNOW
22 WITH ABSOLUTE CERTAINTY. IF ABSOLUTE CERTAINTY WERE THE
23 STANDARD, WE WOULD NOT BE ABLE TO GO FORWARD WITH ANY OF
24 THESE CASES.

25 IF YOU KNEW WITH ABSOLUTE CERTAINTY THAT THIS.

1 HAPPENED, YOU WOULD HAVE BEEN A WITNESS. THE STANDARD IS
2 IF YOU'RE FIRMLY CONVINCED OF A DEFENDANT'S GUILT, THAT HE
3 DID THIS.

4 NOW, THIS MAN FOUND THE PERFECT FAMILY FOR HIM,
5 DYSFUNCTIONAL, BUT PERFECT FOR HIM. A WOMAN THAT WOULD
6 LEAVE, GO WORK TWO JOBS AND LET HIM HAVE HIS WAY WITH THE
7 CHILDREN. WE ONLY FOUND OUT ABOUT IT BY LUCK BY SOMEBODY
8 ASKING. HE'S GUILTY AND NOW IS THE TIME TO FIND HIM
9 GUILTY AND FOR YOU TO ACT ON THE INFORMATION THAT YOU
10 HAVE. THANK YOU.

11 **THE COURT:** LADIES AND GENTLEMEN OF THE JURY, THE
12 DEFENDANT, AS I SAID AT THE START OF THE TRIAL, IS CHARGED
13 WITH FOUR COUNTS OF CRIMINAL SEXUAL CONDUCT WITH THE MINOR
14 IN THE FIRST DEGREE AND I'LL GO OVER THE INDICTMENTS WITH
15 YOU, AND THE VERDICT FORM SHEET AFTER -- AT THE END OF THE
16 CHARGES, AS WELL AS LEWD ACT.

17 NOW, I WILL GIVE YOU A COPY OF THESE INSTRUCTIONS
18 IN WRITTEN FORM. DURING YOUR DELIBERATIONS, YOU MAY REFER
19 TO THE INSTRUCTIONS TO GUIDE YOUR DECISION MAKING. YOU
20 MUST CONSIDER THE INSTRUCTIONS AS A WHOLE, NOT FOLLOW SOME
21 AND IGNORE OTHERS. PLEASE RETURN THE INSTRUCTIONS TO THE
22 COURT AFTER YOU HAVE REACHED A VERDICT.

23 NOW, THE DEFENDANT HAS ENTERED A PLEA OF NOT GUILTY,
24 WHICH PLACES UPON THE STATE THE BURDEN OF PROVING THE
25 DEFENDANT GUILTY. A PERSON CHARGED WITH COMMITTING A

1 CRIMINAL OFFENSE IN SOUTH CAROLINA, IS NEVER REQUIRED TO
2 PROVE HIMSELF INNOCENT. I CHARGE YOU THAT IT IS A VITAL
3 IMPORTANT RULE OF LAW OF EVIDENCE THAT A DEFENDANT IN A
4 CRIMINAL TRIAL, NO MATTER HOW GREAT OR SERIOUS MAY BE AN
5 OFFENSE WITH WHICH HE IS CHARGED, WILL ALWAYS BE PRESUMED
6 INNOCENT UNTIL HIS GUILT HAS BEEN PROVEN BEYOND A
7 REASONABLE DOUBT.

8 HIS PRESUMPTION OF INNOCENCE REMAINS WITH THE
9 DEFENDANT AT ALL TIMES. FROM THE MOMENT OF HIS APPEARANCE
10 IN THIS COURT, THROUGHOUT THE TRIAL UNTIL YOU, THE JURY,
11 HAVE UPON THE TESTIMONY AND EVIDENCE PRESENTED, REACHED A
12 VERDICT OF GUILTY BEYOND A REASONABLE DOUBT.

13 IT'S A SOLEMN DUTY OF THE JURY, IF NOT CLEARLY
14 CONVINCED OF HIS GUILT BEYOND A REASONABLE DOUBT, TO
15 ACQUIT THE DEFENDANT. SO, THE BURDEN OF PROOF IS UPON THE
16 STATE TO ESTABLISH BY EVIDENCE, TO YOUR SATISFACTION, THE
17 GUILT BEYOND A REASONABLE DOUBT.

18 NOW, WHAT IS REASONABLE DOUBT. REASONABLE DOUBT IS
19 THE KIND OF DOUBT THAT WOULD CAUSE A REASONABLE PERSON TO
20 HESITATE TO ACT. IF YOU HAVE SUCH A DOUBT AS TO THE GUILT
21 OF THE DEFENDANT, HE WOULD BE ENTITLED TO A VERDICT OF NOT
22 GUILTY. A REASONABLE DOUBT MAY ARISE FROM THE EVIDENCE IN
23 THE CASE OR FROM THE ABSENCE OR LACK OF EVIDENCE IN THE
24 CASE. YOU, ALONE, MUST MAKE THE DETERMINATION OF WHETHER
25 OR NOT REASONABLE DOUBT EXISTS AS TO THE GUILT OF THE

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1 DEFENDANT.

2 THE TERM REASONABLE DOUBT SHOULD BE GIVEN ITS
3 EVERYDAY, PLAIN AND ORDINARY MEANING. PROOF BEYOND A
4 REASONABLE DOUBT, IT'S PROOF THAT LEAVES YOU FIRMLY
5 CONVINCED OF THE DEFENDANT'S GUILT. THERE ARE VERY THINGS
6 IN THIS WORLD THAT WE KNOW WITH ABSOLUTE CERTAINTY. AND
7 IN CRIMINAL CASES, THE LAW DOES NOT REQUIRE PROOF THAT
8 OVERCOMES EVERY POSSIBLE DOUBT. IF, BASED ON YOUR
9 CONSIDERATION OF THE EVIDENCE, YOU ARE FIRMLY CONVINCED
10 THAT THE DEFENDANT IS GUILTY OF THE CRIME CHARGED, YOU
11 MUST FIND HIM GUILTY. IF, ON THE OTHER HAND, YOU ARE NOT
12 FIRMLY CONVINCED THAT THE DEFENDANT IS GUILTY, YOU MUST
13 FIND HIM NOT GUILTY.

14 THE EVIDENCE FROM WHICH YOU ARE TO DECIDE THE FACTS
15 CONSISTS OF THE SWORN TESTIMONY OF THE WITNESSES, BOTH ON
16 DIRECT AND CROSS EXAMINATION, REGARDLESS OF WHO CALLS THE
17 WITNESS. THE EXHIBITS THAT HAVE BEEN RECEIVED INTO
18 EVIDENCE. ANY FACTS WHICH THE LAWYERS AGREE TO STIPULATE.

19 CERTAIN THINGS ARE NOT EVIDENCE. YOU MAY NOT
20 CONSIDER THEM IN DECIDING WHAT THE FACTS ARE. I WILL LIST
21 THEM FOR YOU: ARGUMENTS AND STATEMENTS BY LAWYERS ARE NOT
22 EVIDENCE. THE LAWYERS ARE NOT WITNESSES. WHAT THEY SAID
23 IN THEIR OPENING STATEMENTS, CLOSING ARGUMENTS AND AT
24 OTHER TIMES, IS INTENDED TO HELP YOU INTERPRET THE
25 EVIDENCE. THAT IS NOT EVIDENCE.

1 IF THE FACTS AS YOU REMEMBER THEM, DIFFER FROM THE
2 WAY THE LAWYERS HAVE STATED THEM, YOUR MEMORY CONTROLS.
3 QUESTIONS AND OBJECTIONS BY LAWYERS ARE NOT EVIDENCE.
4 ATTORNEYS HAVE A DUTY TO THEIR CLIENTS TO OBJECT WHEN THEY
5 BELIEVE A QUESTION IS IMPROPER UNDER THE RULES OF
6 EVIDENCE. YOU SHOULD NOT BE INFLUENCED BY THE OBJECTION
7 OR BY THE COURT'S RULING ON THE OBJECTION.

8 TESTIMONY THAT HAS BEEN EXCLUDED OR STRICKEN OR
9 THAT YOU'VE BEEN INSTRUCTED TO DISREGARD, IS NOT EVIDENCE
10 AND MUST NOT BE CONSIDERED.

11 ANYTHING YOU HAVE SEEN ON TELEVISION, OR READ IN
12 THE PAPER OR HEARD FROM OTHERS WHEN THE COURT WAS NOT IN
13 SESSION, IS NOT EVIDENCE. YOU ARE TO DECIDE A CASE SOLELY
14 ON THE EVIDENCE RECEIVED AT TRIAL.

15 THERE ARE TWO TYPES OF EVIDENCE WHICH ARE GENERALLY
16 PRESENTED DURING A TRIAL, DIRECT EVIDENCE AND
17 CIRCUMSTANTIAL EVIDENCE. DIRECT EVIDENCE IS THE TESTIMONY
18 OF A PERSON WHO ASSERTS OR CLAIMS TO HAVE ACTUAL KNOWLEDGE
19 OF A FACT SUCH AS AN EYE WITNESS.

20 CIRCUMSTANTIAL EVIDENCE IS PROOF OF A CHAIN OF
21 FACTS AND CIRCUMSTANCES INDICATING THE EXISTENCE OF A
22 FACT. THE LAW MAKES ABSOLUTELY NO DISTINCTION BETWEEN THE
23 WEIGHT OR VALUE TO BE GIVEN TO EITHER DIRECT OR
24 CIRCUMSTANTIAL EVIDENCE, OR IS A GREATER DEGREE OF
25 CERTAINTY REQUIRED OF CIRCUMSTANTIAL THAN DIRECT EVIDENCE.

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1 YOU SHOULD WEIGH ALL THE EVIDENCE IN THE CASE ON A
2 CONTESTED FACTUAL ISSUE. YOU MAY HAVE SOME DIRECT AND
3 SOME CIRCUMSTANTIAL.

4 TO DETERMINE THE FACTS IN THE CASE, YOU WILL HAVE
5 TO EVALUATE THE CREDIBILITY, WHICH MEANS THE BELIEVABILITY
6 OF THE WITNESSES. UNDER OUR CONSTITUTION AND CODE OF
7 LAWS, ONLY YOU, THE JURY, MAY MAKE THE FINDINGS OF FACTS
8 IN THIS CASE. I'M NOT PERMITTED TO INDICATE TO YOU HOW I
9 MAY FEEL ABOUT THE TESTIMONY AND EVIDENCE THAT'S BEEN
10 PRESENTED. BECAUSE AT THIS TRIAL, IT'S BEEN MY INTENTION
11 TO BE FAIR AND IMPARTIAL TOWARDS EACH OF THE PARTIES
12 INVOLVED.

13 TO DETERMINE THE FACTS IN THIS CASE, YOU WILL HAVE
14 TO EVALUATE THE CREDIBILITY WHICH MEANS THE BELIEVABILITY
15 OF EACH WITNESS. SOME OF THE THINGS YOU MAY CONSIDER, AS
16 YOU DECIDE WHETHER OR NOT TO BELIEVE A WITNESS' TESTIMONY
17 ABOUT A PARTICULAR MATTER INCLUDE, WHAT WAS THE MANNER OF
18 APPEARANCE OF THE WITNESS WHO TESTIFIED, WAS HE OR SHE
19 STRAIGHT FORWARD, OR HESITANT TO ANSWER. WAS THE
20 TESTIMONY OF A WITNESS CONSISTENT OR INCONSISTENT. HOW
21 DID THE WITNESS COME TO KNOW THE FACTS HE OR SHE TESTIFIED
22 TO. WAS THE PERSON PRESENT DURING THE INCIDENT OR DID IT
23 HAPPEN ON THE SCENE AFTER IT OCCURRED. IS THERE SOME
24 REASON THE WITNESS WANTED TO GIVE TESTIMONY WHICH WILL
25 HELP OR HURT ONE SIDE OR THE OTHER. IN OTHER WORDS, WAS

1 THE WITNESS BIASED OR PREJUDICED.. WAS THE TESTIMONY OF
2 THE WITNESS STRENGTHENED OR WEAKENED BY OTHER TESTIMONY
3 AND EVIDENCE.

4 YOU CAN BELIEVE AS MUCH OR AS LITTLE OF EACH
5 WITNESS' TESTIMONY YOU THINK PROPER. YOU MAY BELIEVE THE
6 TESTIMONY AGAINST A SINGLE WITNESS AGAINST THAT OF MANY
7 WITNESSES OR JUST THE OPPOSITE. YOU DON'T DETERMINE THE
8 TRUTH BY MERELY COUNTING THE NUMBER OF WITNESSES PRESENTED
9 BY EACH SIDE.

10 THE SAME CONSTITUTIONAL LAWS WHICH DOES MAKE YOU
11 THE FINDERS OF THE FACT, AS I JUST EXPLAINED, ALSO MAKE ME
12 THE SOLE INSTRUCTOR OF THE LAW. YOU SHOULD ACCEPT THE
13 STATEMENTS OF LAW AS I GIVE THEM TO YOU. THE ATTORNEYS
14 ARE NOT THE INSTRUCTORS OF THE LAW. PLEASE BASE YOUR
15 DECISION MAKING ON WHAT THE LAW IS AND NOT WHAT YOU THINK
16 THE LAW SHOULD BE.

17 IN THIS CASE, THERE HAS BEEN AN EXPERT WITNESS.
18 THE RULES OF EVIDENCE -- THE RULES OF EVIDENCE ORDINARILY
19 DO NOT PERMIT WITNESSES TO TESTIFY TO OPINIONS OR
20 CONCLUSIONS. AN EXCEPTION TO THIS RULE EXISTS TO
21 WITNESSES WE CALL EXPERT WITNESSES.

22 A WITNESS, WHO BY EDUCATION AND EXPERIENCE, BECOMES
23 AN EXPERT IN SOME ART, SCIENCE OR PROFESSION, THEY GIVE AN
24 OPINION AS TO THE SUBJECT THE WITNESS CLAIMS TO BE AN
25 EXPERT IN, MAY ALSO GIVE THE REASONS FOR THE OPINION. YOU

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1 SHOULD CONSIDER ANY EXPERT OPINION GIVEN BY THE WITNESS,
2 AND LIKE ANY OTHER EVIDENCE, GIVE IT THE WEIGHT YOU THINK
3 IT DESERVES. IF YOU DECIDE THAT AN EXPERT WITNESS'
4 OPINION IS NOT SUFFICIENT, OR SUFFICIENT EDUCATION AND
5 EXPERIENCE, OR IF YOU DECIDE THAT THE REASONS GIVEN IN
6 SUPPORT OF THE OPINION ARE NOT SOUND, OR IF THE OPINION IS
7 OUTWEIGHED BY OTHER EVIDENCE, YOU MAY DISREGARD THE
8 OPINION ENTIRELY.

9 NOW, WHILE THE COURT GENERALLY DETERMINES THE
10 ADMISSIBILITY OF EVIDENCE, I INSTRUCT YOU AS REGARDING THE
11 ALLEGED STATEMENT BY THE DEFENDANT THAT YOU LADIES AND
12 GENTLEMAN OF THE JURY WILL MAKE THE ULTIMATE DETERMINATION
13 OF WHETHER OR NOT THE DEFENDANT MADE SUCH A STATEMENT. IF
14 HE DID MAKE IT, WHETHER HE WAS WARNED OF HIS
15 CONSTITUTIONAL RIGHTS AND WHETHER HE KNOWINGLY,
16 INTELLIGENTLY WAIVED HIS CONSTITUTIONAL RIGHTS, AND
17 WHETHER IT WAS MADE BY THE DEFENDANT VOLUNTARILY OF HIS
18 OWN FREE WILL AND FIND JUST WHAT WEIGHT, IF ANY, YOU
19 SHOULD GIVE TO THE STATEMENT.

20 I CHARGE YOU THAT YOU MUST DETERMINE IF THE ALLEGED
21 STATEMENT WAS A PRODUCT OF AN ESSENTIAL FREE AND
22 UNCONSTRAINED CHOICE BY ITS MAKER. IF YOU DETERMINE IT
23 WAS, THEN THE BURDEN IS UPON THE STATE TO PROVE THIS FACT
24 AND ALL THE OTHER FACTS BEYOND A REASONABLE DOUBT, AND YOU
25 MAY GIVE IT FURTHER CONSIDERATION AS YOU DEEM PROPER.

1 IF YOU DETERMINE THE ALLEGED STATEMENT WAS NOT THE
2 FREE AND VOLUNTARY WILL, EXPRESSION OF THE DEFENDANT, THEN
3 YOU SHOULD NOT CONSIDER IT AT ALL. IN DETERMINING WHETHER
4 THE DEFENDANT'S WILL WAS OVERCOME OR OBTAINED IN THE
5 STATEMENT, YOU SHOULD CONSIDER BOTH THE CHARACTERISTICS
6 OF THE ACCUSED AND THE DETAILS OF THE INTERROGATION WHICH
7 WERE OFTEN REFERRED TO, AS THE TOTALITY OF THE
8 CIRCUMSTANCES.

9 SOME OF THE FACTORS YOU MAY CONSIDER ARE: THE AGE
10 AND YOUTH OF THE ACCUSED; HIS EDUCATION OR LACK OF
11 EDUCATION; HIS MENTAL ABILITY OR CAPACITY, HIS I.Q. OR
12 INTELLIGENCE; HIS BACKGROUND AND ENVIRONMENT; HIS
13 EXPERIENCE WITH THE CRIMINAL JUSTICE SYSTEM; THE ADVICE OR
14 LACK THERE OF TO THE ACCUSED OF HIS CONSTITUTIONAL RIGHTS,
15 INCLUDED BUT NOT LIMITED TO THE PROCEDURAL SAFEGUARD KNOWN
16 AS MIRANDA WARNINGS, CONCERNING THE RIGHT TO REMAIN
17 SILENT. HIS STATEMENT COULD BE USED AGAINST HIM IN A
18 COURT OF LAW. THE RIGHT TO HAVE A LAWYER PRESENT. IN THE
19 EVENT, THAT IS, HE COULD NOT AFFORD A LAWYER, THEN A
20 LAWYER WOULD BE APPOINTED TO REPRESENT HIM AND HE COULD
21 NOT -- HE COULD STOP THE STATEMENT ANY TIME.

22 OTHER FACTORS TO CONSIDER, ARE THE PLACE AND LENGTH
23 OF DETENTION AND NATURE OF THE QUESTIONS. YOU, THE JURY,
24 MUST CAREFULLY SCRUTINIZE ALL THE SURROUNDING
25 CIRCUMSTANCES. BEFORE YOU GIVE ANY WEIGHT TO THE ALLEGED

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1 STATEMENT, YOU MUST BE SATISFIED BEYOND A REASONABLE DOUBT
2 THAT IT WAS MADE BY THE ACCUSED, UNINFLUENCED BY PROMISE
3 OF REWARD, THREAT OF INJURY, OR DIMINUTION OF HIS RIGHTS.

4 LADIES AND GENTLEMEN OF THE JURY, A STATEMENT BY
5 THE DEFENDANT HAS BEEN ADMITTED INTO EVIDENCE. THE
6 STATEMENT ALONE BY DEFENDANT IS NOT SUFFICIENT TO SUSTAIN
7 A CONVICTION. STATEMENTS THAT CAN AMOUNT TO A CONFESSION,
8 MUST BE CORROBORATED WITH OTHER EVIDENCE, EITHER
9 CIRCUMSTANTIAL OR DIRECT AND MUST PROVE THE DEFENDANT'S
10 GUILT BEYOND A REASONABLE DOUBT. CORROBORATE MEANS TO
11 STRENGTHEN OR TO MAKE CERTAIN. CORROBORATING EVIDENCE
12 MEANS EVIDENCE THAT WHILE STRENGTHENS OR ENFORCES OTHER
13 EVIDENCE.

14 FIRST DEGREE CRIMINAL SEXUAL CONDUCT WITH A MINOR.
15 THE DEFENDANT HAS BEEN CHARGED WITH FOUR COUNTS OF FIRST
16 DEGREE CRIMINAL SEXUAL CONDUCT WITH A MINOR. A PERSON IS
17 GUILTY OF CRIMINAL SEXUAL CONDUCT WITH A MINOR IN THE
18 FIRST DEGREE, IF THAT PERSONS ENGAGES IN SEXUAL BATTERY
19 WITH A VICTIM WHO IS LESS THAN ELEVEN YEARS OF AGE. THE
20 STATE MUST PROVE BEYOND A REASONABLE DOUBT THAT THE
21 DEFENDANT ENGAGED IN THIS SEXUAL BATTERY WITH THE VICTIM
22 AND THE VICTIM WAS LESS THAN ELEVEN YEARS OLD AT THE TIME
23 OF THE SEXUAL BATTERY.

24 SEXUAL BATTERY IN THIS CONTEXT MEANS SEXUAL
25 INTERCOURSE, ORAL SEX, ANAL INTERCOURSE, OR ANY INTRUSION,

1 HOWEVER SLIGHT, OF ANY PART OF THE PERSON'S BODY OR ANY
2 OBJECT INTO THE GENITAL OR ANAL OPENINGS OF ANOTHER
3 PERSON'S BODY, EXCEPT WHEN SUCH INTRUSION IS ACCOMPLISHED
4 FOR MEDICALLY RECOGNIZED TREATMENT OR DIAGNOSTIC PURPOSES.
5 ANY CONSENT, WILLINGNESS, INDIFFERENCE OR IGNORANCE ON THE
6 PART OF THE ALLEGED VICTIM IS NOT AN ISSUE IN A CASE SUCH
7 AS THIS AND SHOULD NOT BE CONSIDERED IN YOUR
8 DELIBERATIONS.

9 WITH THE CHARGE OF CRIMINAL SEXUAL CONDUCT, THE
10 TESTIMONY OF THE VICTIM NEED NOT BE CORROBORATED IN
11 PROSECUTIONS.

12 NOW, LADIES AND GENTLEMEN, IF YOU FIND THAT THE
13 STATE HAS FAILED TO PROVE BEYOND A REASONABLE DOUBT THAT
14 THE DEFENDANT COMMITTED CRIMINAL SEXUAL CONDUCT WITH A
15 MINOR IN THE FIRST DEGREE, YOU MAY CONSIDER WHETHER THE
16 STATE HAS PROVEN BEYOND A REASONABLE DOUBT THAT THE
17 DEFENDANT COMMITTED ASSAULT AND BATTERY OF A HIGH AND
18 AGGRAVATED NATURE. INCLUDED WITHIN THE OFFENSE OF
19 CRIMINAL SEXUAL CONDUCT FIRST, IS THE LESSER OFFENSE OF
20 ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE.

21 NOW, LET ME TELL YOU ABOUT ASSAULT AND BATTERY OF A
22 HIGH AND AGGRAVATED NATURE. ASSAULT AND BATTERY OF A HIGH
23 AND AGGRAVATED NATURE IS DEFINED AS THE UNLAWFUL AND
24 INTENTIONAL INFLECTION OF A VIOLENT INJURY ON THE PERSON
25 OF ANOTHER ACCOMPANIED BY CIRCUMSTANCES OF AGGRAVATION,

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1 SUCH AS THE USE OF A DEADLY WEAPON OR THE INFLICTION OF
2 SERIOUS BODILY HARM, THE INTENT TO COMMIT A FELONY, A
3 GREAT DISPARITY BETWEEN THE AGES OF PHYSICAL CONDITION OF
4 THE PARTIES, A DIFFERENCE OF THE SEXES, INDECENT LIBERTIES
5 OR FAMILIARITIES WITH A FEMALE ACCOMPLISHED BY FORCE, OR
6 THE PURPOSEFUL INFLICTION OF SHAME OR DISGRACE, RESISTENT
7 TO LAW AUTHORITIES AND OTHERS.

8 ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE
9 MAY BE WITH A DANGEROUS WEAPON OR INSTRUMENTALITY. IT IS
10 COMMITTED IN A SPIRIT OF WANTONNESS OR WITH A WRECKLESS
11 REGARD FOR THE RIGHTS AND SAFETY OF OTHERS. EVERY ASSAULT
12 AND BATTERY, HOWEVER SLIGHT, UPON A MEMBER OF THE OPPOSITE
13 SEX DOES NOT BECOME AN ASSAULT AND BATTERY OF A HIGH AND
14 AGGRAVATED NATURE BECAUSE OF THE VERY FACT THE ATTACK WAS
15 UPON ONE OF THE OPPOSITE SEX. A DIFFERENCE IN GENDER IS A
16 FACTOR TO BE CONSIDERED TOGETHER WITH THE OTHER
17 CIRCUMSTANCES, IF THE ATTACK WAS DETERMINED, THE GRAVITY
18 OF ASSAULT AND BATTERY UPON THE PERSON.

19 NEITHER SERIOUS BODILY HARM NOR THE USE OF A DEADLY
20 WEAPON IS THE ESSENTIAL ELEMENT OF ASSAULT AND BATTERY OF
21 A HIGH AND AGGRAVATED NATURE, BUT CIRCUMSTANCES OF
22 AGGRAVATION. MALICE IS NOT A REQUIRED ELEMENT OF ASSAULT
23 AND BATTERY OF A HIGH AND AGGRAVATED NATURE. HOWEVER, THE
24 PRESENCE OF MALICE DOES NOT PREVENT AN ASSAULT AND BATTERY
25 FROM BEING CLASSIFIED AS AGGRAVATED, BECAUSE THE

1 CIRCUMSTANCES THAT MAKE AN ASSAULT AND BATTERY AGGRAVATED
2 CAN ALSO GIVE RISE TO AN INFERENCE OF MALICE. IN OTHER
3 WORDS, THE PRESENCE OR ABSENCE OF MALICE ALONE CANNOT
4 DETERMINE WHETHER THE DEFENDANT IS GUILTY OF ASSAULT AND
5 BATTERY OF A HIGH AND AGGRAVATED NATURE.

6 LEWD ACT ON A MINOR. THE DEFENDANT IS CHARGED WITH
7 ATTEMPTING TO COMMIT OR COMMITTING A LEWD ACT ON A MINOR.
8 A MINOR IS A PERSON UNDER THE AGE OF 18. THE STATE MUST
9 FIRST PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT
10 WAS OVER -- OVER THE AGE OF 14. NEXT THE STATE MUST PROVE
11 THE DEFENDANT WILLFULLY AND LEWDLY COMMITTED OR ATTEMPTED
12 A LEWD OR LASCIVIOUS ACT ON OR WITH THE BODY OR ITS PARTS
13 OF A CHILD UNDER THE AGE OF 16, WITH THE INTENT TO AROUSE,
14 APPEAL TO OR GRATIFY THE LUST, PASSIONS AND SEXUAL DESIRES
15 OF THE DEFENDANT OR THE CHILD.

16 WILLFULLY MEANS VOLUNTARY AND INTENTIONAL WITH THE
17 SPECIFIC INTENT TO DO SOMETHING THE LAW FORBIDS. LEWD
18 MEANS OBSCENE, LUSTFUL, INDECENT AND LECHEROUS.
19 LASCIVIOUS MEANS TENDING TO INSIGHT LUST, LEWD, INDECENT
20 OR OBSCENE BEHAVIOR, OR TENDING TO DEPRIVE THE MORALES AND
21 RESPECT OF SEXUAL RELATIONS.

22 AN ATTEMPT IS AN EFFORT TO ACCOMPLISH THIS CRIME
23 WHICH DOES NOT SUCCEED. AT ATTEMPT INCLUDES THE SPECIFIC
24 INTENT TO DO A PARTICULAR CRIMINAL ACT, ALONG WITH AN ACT
25 FOLLOWING SHORT OF THE ACT INTENDING. THE STATE MUST SHOW

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1 MORE THAN MERE PREPARATION AND ATTEMPT, THERE MUST BE SOME
2 OVERT ACT COMMITTED IN THE EFFORT TO COMMIT THE CRIME.
3 INTENT MEANS INTENDED RESULTS WHICH ACTUALLY OCCURS NOT
4 ACCIDENTALLY OR INVOLUNTARILY. INTENT MAY BE SHOWN BY
5 ACTS AND CONDUCT OF THE DEFENDANT AND OTHER CIRCUMSTANCES
6 THAT YOU MAY NATURALLY AND REASONABLY INFER INTENT.

7 LADIES AND GENTLEMEN OF THE JURY, THE DEFENDANT HAS
8 OFFERED EVIDENCE OF A GOOD CHARACTER. I CHARGE THAT
9 EVIDENCE OF GOOD CHARACTER AND A GOOD REPUTATION MAY BE,
10 IN AND OF ITSELF, A DOUBT AS TO THE GUILT AND SHOULD BE
11 CONSIDERED BY THE JURY, ALONG WITH ALL OTHER EVIDENCE IN
12 DETERMINING THE GUILT OR INNOCENCE OF THE DEFENDANT.

13 NOW, YOU HAVE BEEN SELECTED AS FAIR AND IMPARTIAL
14 JURORS, SWORN TO IMPARTIALITY, TO TRY AND DETERMINE THE
15 FACTS IN THIS CASE. AND WHEN YOU COMPLY WITH YOUR OATH,
16 NO ONE WOULD HAVE THE RIGHT TO CRITICIZE YOUR VERDICT.
17 YOU HAVE FULLY DISCHARGED YOUR DUTIES AS JURORS.

18 DECIDE THIS CASE ACCORDING TO TESTIMONY THAT YOU'VE
19 HEARD FROM THE SWORN WITNESSES, ALONG WITH OTHER EVIDENCE
20 INTRODUCED. I CHARGE YOU, AS JURORS YOU MUST DECIDE THE
21 ISSUES IN THIS PROCEEDING WITHOUT BIAS, WITHOUT PREJUDICE
22 TO ANY PARTY. YOU CANNOT ALLOW YOURSELF TO BE GOVERNED BY
23 SYMPATHY, BY PREJUDICE OR PASSION, BY PUBLIC OPINION OR
24 ANY OTHER ARBITRARY FACTOR.

25 THE STATE AND THE DEFENDANT HAVE THE RIGHT TO

1 EXPECT THAT EACH OF YOU WILL CAREFULLY AND PARTIALLY
2 CONSIDER ALL THE EVIDENCE IN THE CASE, YOU WILL FOLLOW THE
3 LAW AS I'VE EXPLAINED IT TO YOU. AND NOTHING THAT I MAY
4 HAVE DONE OR SAID DURING THE COURSE OF THIS TRIAL HAS BEEN
5 IN ANY WAY INTENDED TO EXPRESS OR SUGGEST MY VIEW OF THE
6 CASE OR MY OPINION AS TO THE FACTS, THE WEIGHT OF THE
7 EVIDENCE OR THE CREDIBILITY OF THE WITNESSES. IF ANY OF
8 MY ACTIONS OR WORDS SEEM TO SO INDICATE, YOU DISREGARD
9 SUCH AND FORM YOUR OWN OPINIONS TO THESE MATTERS.

10 MADAM FORELADY, LADIES AND GENTLEMEN OF THE JURY, I
11 HAVE PREPARED TWO VERDICT FORMS. ON THE FIRST VERDICT
12 FORM, IT CONSISTS OF TWO PAGES. AND EACH VERDICT FORM, AS
13 TO -- AS TO THE INDICTMENT NUMBER, AND OUT BESIDE IT IN
14 PARENTHESIS, IS THE SEXUAL ACT THE STATE IS ALLEGING THAT
15 THE DEFENDANT PERFORMED.

16 AND IT SAYS, WE, THE JURY, BY UNANIMOUS CONSENT,
17 FIND THE DEFENDANT GUILTY OF CRIMINAL SEXUAL CONDUCT WITH
18 A MINOR FIRST DEGREE. OR AS TO THE LESSER INCLUDED
19 OFFENSE, GUILTY OF ASSAULT AND BATTERY OF HIGH AND
20 AGGRAVATED NATURE AND NOT GUILTY.

21 NOW, YOU CAN'T FIND HIM GUILTY OF BOTH. YOU'VE GOT
22 TO FIRST OF CONSIDER THE CSC WITH A MINOR 1ST DEGREE. AND
23 IF THE JURY DETERMINES, HE IS NOT GUILTY OF THAT, THEN YOU
24 GO TO THE ASSAULT AND BATTERY OF HIGH AND AGGRAVATED, AND
25 MAKE A DETERMINATION OF HIS INNOCENCE OR GUILT ON THE

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1 ASSAULT AND BATTERY OF HIGH AND AGGRAVATED.

2 AS I SAID, THERE ARE FOUR INDICTMENTS. AND AT THE
3 SIDE, IT LISTS THE SEXUAL ACT THE DEFENDANT IS ACCUSED OF
4 COMMITTING.

5 NOW, THE SECOND PAGE -- SHEET IS THE LEWD ACT. WE,
6 THE JURY, BY UNANIMOUS CONSENT, FIND THE DEFENDANT GUILTY
7 OF LEWD ACT UPON A MINOR, OR NOT GUILTY. I ASK THE
8 FORELADY TO SIGN AND DATE.

9 THE VERDICT HAS TO BE UNANIMOUS. ALL 12 OF YOU
10 HAVE TO AGREE. I WOULD TELL YOU IT'S A COLLECTIVE
11 REASONING PROCESS ON YOUR PART. PLEASE RESPECT EACH
12 OTHER'S OPINIONS AND LISTEN TO EACH OTHER'S OPINIONS.
13 DISCUSS THE CASE AND ARRIVE AT A VERDICT.

14 AND I SAID BEFORE, IT HAS TO BE UNANIMOUS AND IT IS
15 A COLLECTIVE -- A COLLECTIVE DECISION ON ALL 12 OF YOUR
16 PARTS.

17 NOW, I'M GOING TO ASK YOU TO GO TO THE JURY ROOM,
18 MADAM FORELADY AND MEMBERS OF THE JURY. HOWEVER, BEFORE
19 YOU BEGIN YOUR DELIBERATIONS, I HAVE TO TAKE UP MY CHARGE
20 WITH THE JURY (SIC) AND I MAY HAVE TO BRING YOU BACK AND
21 TAKE SOMETHING OUT OR ADD SOMETHING. I DON'T WANT YOU TO
22 BEGIN YOUR DELIBERATIONS UNTIL THE BAILIFF BRINGS ALL THE
23 EXHIBITS, PLUS THE VERDICT FORM, AND CHARGE, WHICH I JUST
24 READ TO YOU. AND AT THAT TIME, YOU CAN BEGIN YOUR
25 DELIBERATIONS.

1 AFTER YOU HAVE REACHED A VERDICT, LET THE BAILIFF
2 KNOW AND I'LL RECEIVE YOU BACK IN THE COURTROOM JUST AS
3 SOON AS I CAN AFTER THAT

4 MR. BLAKE AND MR. SMOAK, THE TWO ALTERNATES, IF
5 YOU'LL JUST KEEP YOUR SEAT WHILE THE REST OF THE JURY
6 RETIRES TO THE JURY ROOM.

7 (WHEREUPON, THE JURY LEFT THE COURTROOM AT 12:48
8 P.M.)

9 THE COURT: ANY EXCEPTIONS TO THE CHARGE FROM THE
10 STATE?

11 MS. HERRING-LASH: NO, YOUR HONOR.

12 THE COURT: ANY FROM THE DEFENDANT?

13 MR. GRIMES: NO, YOUR HONOR.

14 THE COURT: PARDON?

15 MR. GRIMES: NO, SIR.

16 THE COURT: NO, SIR? OKAY. ALL RIGHT. THANK YOU
17 VERY MUCH. I APPRECIATE IT. ALL RIGHT. IF THE LAWYERS
18 WILL COME UP AND LOOK AT THE EXHIBITS, PUT ON THE RECORD
19 THAT ALL OF THE EXHIBITS ARE PRESENT, AND WE'LL LET THE
20 JURY BEGIN THEIR DELIBERATIONS. MR. BAILIFF, IF YOU COULD
21 COME TAKE THE VERDICTS FORMS AND THE CHARGE BOOKS AND THE
22 EXHIBITS AFTER THEY HAVE GONE THROUGH THEM. NO. NO.
23 LEAVE THOSE ALONE.

24 (FORMS, EXHIBITS SENT TO THE JURY AT 12:49 P.M.)

25 (WHEREUPON, THE COURT RECESSED).

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1 (WHEREUPON, THE COURT RECONVENED AT 2:01 P.M.)

2 (WHEREUPON, THE JURY ENTERED THE COURTROOM AT 2:04
3 P.M.)

4 THE BAILIFF: THE JURY'S ALL PRESENT, YOUR HONOR.

5 THE COURT: THANK YOU VERY MUCH. MADAM FORELADY, I
6 UNDERSTAND YOU'VE REACHED AN AGREEMENT, IS THAT CORRECT?

7 MADAM FORELADY: YES, ISR.

8 THE COURT: WOULD YOU HAND THE VERDICT FORMS TO THE
9 BAILIFF PLEASE? THANK YOU. WHAT IS TODAY, THE 8TH? IS
10 TODAY THE 8TH.

11 MADAM FORELADY, I HAVE FILLED OUT THE JURY VERDICT
12 FORM ON THE INDICTMENTS AND I'M GOING TO GIVE IT TO THE
13 CLERK AND I'M GOING TO GET YOU TO SIGN IT REAL QUICK AND
14 THEN WE'LL PUBLISH THE VERDICT AFTER THAT. AND, ALSO, I'M
15 GOING TO GET YOU TO SIGN THIS FIRST SHEET OF THIS VERDICT
16 FORM. OKAY. AND HE'LL BRING IT TO YOU RIGHT NOW.

17 (PAUSE.)

18 THE COURT: YEAH. IF YOU'LL PUBLISH THEM PLEASE.

19 THE CLERK: THE DEFENDANT, PLEASE STAND. IN THE
20 MATTER OF STATE OF SOUTH CAROLINA, VERSUS JEREMIAH TURNER,
21 THAT'S INDICTMENT 2009-GS-10-2423, SEXUAL INTERCOURSE, WE
22 THE JURY, BY UNANIMOUS CONSENT, FIND THE DEFENDANT GUILTY
23 OF CRIMINAL SEXUAL CONDUCT WITH A MINOR, FIRST DEGREE.
24 LADIES AND GENTLEMEN OF THE JURY, IF THIS IS YOUR VERDICT,
25 PLEASE REPLY BY RAISING YOUR RIGHT HAND. (JURY COMPLIED)

1 THANK YOU. LET THE RECORD REFLECT, ALL 12 JURORS HAVE
2 RAISED THEIR RIGHT HAND.

3 AS TO INDICTMENT 2009-GS-10-2424, FOR FELLATIO, WE
4 THE JURY, BY UNANIMOUS CONSENT, FIND THE DEFENDANT GUILTY
5 OF CRIMINAL SEXUAL CONDUCT WITH A MINOR, FIRST DEGREE.
6 LADIES AND GENTLEMEN OF THE JURY, AGAIN, IF THIS IS YOUR
7 VERDICT, PLEASE REPLY BY RAISING YOUR RIGHT HAND. (JURY
8 COMPLIED) THANK YOU. LET THE RECORD REFLECT, THAT ALL 12
9 JURORS HAVE RAISED THEIR RIGHT HAND.

10 AS TO INDICTMENT 2009-GS-1-2428 FOR DIGITAL
11 PENETRATION, WE THE JURY, BY UNANIMOUS CONSENT, FIND THE
12 DEFENDANT GUILTY OF CRIMINAL SEXUAL CONDUCT WITH A MINOR
13 FIRST DEGREE. LADIES AND GENTLEMEN OF THE JURY, IF THIS
14 IS YOUR VERDICT, PLEASE REPLY BY RAISING YOUR RIGHT HAND.
15 (JURY COMPLIED) THANK YOU. LET THE RECORD REFLECT, ALL 12
16 JURORS HAVE RAISED THEIR RIGHT HAND.

17 AS TO INDICTMENT 2009-GS-10-2432, FOR CUNNILINGUS,
18 WE THE JURY, BY UNANIMOUS CONSENT, FIND THE DEFENDANT
19 GUILTY OF CRIMINAL SEXUAL CONDUCT WITH A MINOR FIRST
20 DEGREE. SIGNED BY THE FOREPERSON, DATED APRIL 8, 2010.
21 LADIES AND GENTLEMEN OF THE JURY, IF THIS IS YOUR VERDICT,
22 PLEASE REPLY BY RAISING YOUR RIGHT HAND. (JURY COMPLIED.)
23 THANK YOU. YOU MAY PUT IT DOWN.

24 AS TO INDICTMENT 2009-GS-10-2435, WE THE JURY, BY
25 UNANIMOUS CONSENT, FIND THE DEFENDANT GUILTY OF LEWD ACT

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1 UPON A MINOR. SIGNED BY FOREPERSON. DATED APRIL 8, 2010.
2 AGAIN, LADIES AND GENTLEMEN OF THE JURY, IF THIS IS YOUR
3 VERDICT, PLEASE REPLY BY RAISING YOUR RIGHT HAND. (JURY
4 COMPLIED.) THANK YOU. LET THE RECORD REFLECT THAT ALL
5 12 JURORS HAVE RAISED THEIR RIGHT HAND.

6 THE COURT: OKAY. THANK YOU VERY MUCH. ANY
7 MOTIONS AS -- OF THE JURY?

8 MR. GRIMES: NO, SIR.

9 THE COURT: PARDON?

10 MR. GRIMES: NO, SIR.

11 THE COURT: NO -- NO MOTIONS FOR THE JURY. OKAY.
12 DO YOU HAVE THE SENTENCING SHEETS?

13 MS. HERRING-LASH: I'LL HAVE TO GET THEM.

14 THE COURT: PARDON?

15 MS. HERRING-LASH: I'LL HAVE TO GO GET THEM.

16 THE COURT: WHERE DO YOU HAVE TO GO TO GET THEM?

17 MS. HERRING-LASH: HE JUST HAD TO RUN THERE.

18 (PAUSE.)

19 THE COURT: ALL RIGHT. DO Y'ALL WANT TO COME
20 AROUND, IF YOU WOULD, I'LL BE GLAD TO HEAR YOU CONCERNING
21 SENTENCING.

22 MR. GRIMES: THANK YOU, YOUR HONOR. MAY IT PLEASE
23 THE COURT, YOUR HONOR?

24 THE COURT: YES, SIR.

25 MR. GRIMES: NOW, YOU'VE HEARD A LOT ABOUT MR.

1 TURNER'S BACKGROUND DURING THE COURSE OF THE TRIAL --

2 THE COURT: I DON'T RECALL HIS AGE. WHAT IS HIS
3 AGE NOW?

4 MR. GRIMES: TWENTY-FIVE.

5 THE COURT: TWENTY-FIVE?

6 MR. GRIMES: YES, SIR. HE WAS BORN AND RAISED IN
7 CHARLESTON. HE WAS BORN AT ST. FRANCIS. HE WENT TO HIGH
8 SCHOOL AT NORTH CHARLESTON, WHERE HE GRADUATED FROM THERE
9 WITH A'S AND B'S.

10 AND AS YOU HEARD IN THE PRETRIAL MOTIONS, OR DURING
11 A NON-JURY MATTER, HE'S WORKED AT SUNOCO. HE'S WORKED AT
12 SHONEYS. LEFT THERE IN MAY 31, 2008. HE ALSO LEFT SCHOOL
13 BECAUSE OF EXPENSES AND WORK ISSUES, CONFLICT OF
14 SCHEDULING.

15 AS YOU HEARD HIM TESTIFY, HIS MOTHER PASSED AWAY OF
16 A HEART ATTACK. HE WALKED IN AND FOUND HER -- FOUND HER.
17 AS HE SAID, HE WAS DEVASTATED BY THAT. ALSO, A SIMILAR
18 INCIDENT HAPPENED WITH MY AUNT, MY UNCLE PASSED AWAY ABOUT
19 SIX MONTHS AGO AND THE POLICE WOULD JUST NOT LET HER UP
20 THERE BECAUSE IT WOULD BE SO DEVASTATING. AND
21 UNFORTUNATELY, HE'S NEVER GOTTEN OVER AND HE'S NEVER HAD
22 COUNSELLING. HE THOUGHT HE COULD HANDLE HIMSELF AND HE
23 NEVER DID.

24 YOU HEARD THE STATEMENT. THE STATEMENT SOUNDS VERY
25 HORRIBLE. THERE'S NO DISPUTE ABOUT THAT. BUT, I -- YOU

1 KNOW, SINCE I MET MR. TURNER AT THE JAIL, HE HAS ALWAYS
2 BEEN SOFT SPOKEN, QUIET, MILD. I GUARANTEE YOU THAT'S NOT
3 AN ACT. I'VE SPENT A LOT OF TIME GOING OVER TESTIMONY,
4 PRACTICING AND PREPARING FOR TRIAL. AND IT WOULD TAKE
5 LITERALLY HOURS, EVEN -- TO ANSWER SIMPLE QUESTIONS AT
6 TIMES. I GUARANTEE YOU, IT WAS NOT AN ACT, HIS DEMEANOR
7 UP THERE.

8 YOU ALSO HEARD FROM CHARLENE PENDERGAST. I TALKED
9 TO HER LAST NIGHT AFTER COURT. AND SHE SAID, YOU KNOW,
10 SHE WAS VERY SINCERE, SHE DIDN'T SEE ANY PROBLEMS WITH
11 HIM. HE WAS CARING TOWARD THE OTHER TWO CHILDREN. AND HE
12 WENT THERE TO GET HELP FOR THE TWO CHILDREN AND MAYBE
13 ADDRESS HOUSEHOLD ISSUES. SHE SAID SHE WOULD BE PRAYING
14 FOR HIM. THAT SHE -- THERE'S NOTHING IN HER CHARACTER
15 THAT WOULD MAKE HER BIAS ONE WAY OR ANOTHER FOR HIM OR
16 AGAINST HIM.

17 SHE -- YOU KNOW, I GAVE HER THE CONFESSION. SHE
18 KNEW OF IT. SHE SAID SHE JUST COULDN'T BELIEVE, FROM WHAT
19 SHE KNEW OF MR. TURNER, THAT HE WOULD DO SOMETHING LIKE
20 THAT.

21 I TALKED TO DR. GIBBS, OUR CONSULTANT. THERE MIGHT
22 HAVE BEEN PENETRATION -- VAGINAL PENETRATION, BUT SLIGHT,
23 IT CERTAINLY WASN'T AS IN HIS STATEMENT. OTHERWISE, THERE
24 PROBABLY WOULD HAVE BEEN SOME TRAUMA.

25 OBVIOUSLY THE JURY HAS SPOKEN, I BELIEVE RATHER

1 QUICKLY ON THE CASE. AND THEY ACCEPTED THE STATE'S
2 VERSION. SO I WON'T BE ARGUING ANYTHING WITH THAT. HE'S
3 BEEN IN JAIL 575 DAYS.

4 THE COURT: HOW MANY DAYS?

5 MR. GRIMES: FIVE HUNDRED SEVENTY-FIVE.

6 THE COURT: FIVE HUNDRED SEVENTY-FIVE DAYS? OKAY.

7 MR. GRIMES: YES, SIR.

8 THE COURT: NOW, THE STATUTE WAS AMENDED, IT USED
9 TO BE UP TO 30 YEARS, RIGHT?

10 MR. GRIMES: YES, SIR. I BELIEVE. AND --

11 THE COURT: AND MANDATORY MINIMUM OF 25 -- 25
12 MINIMUM TO LIFE NOW?

13 MR. GRIMES: YES, SIR.

14 THE COURT: WHEN DID -- THIS OCCURRED IN FEBRUARY
15 -- ALLEGEDLY FEBRUARY OF '08?

16 MR. GRIMES: YES, SIR.

17 THE COURT: WHEN DID THE 25 TO LIFE COME INTO
18 EFFECT, SOLICITOR?

19 MS. HERRING-LASH: JULY OF '06.

20 THE COURT: JULY '06?

21 MS. HERRING-LASH: YES.

22 THE COURT: OKAY. ALL RIGHT.

23 MR. GRIMES: WE HAD LOOKED INTO THAT, THOSE ISSUES.
24 AND THERE ARE NONE. HONESTLY, YOU HAVE A WIDE RANGE IN
25 SENTENCING HIM. AS YOU KNOW, ONCE HE'S FOUND GUILTY OF

1 THIS TYPE OF OFFENSE, IF HE WAS TO RECEIVE A MINIMUM
2 SENTENCE AND NOT LIFE, HE'S GOING TO BE REVIEWED BY THE --
3 UNDER THE SEXUAL VIOLENT PREDICTORS ACT. AND I'VE NOT HAD
4 HIM EVALUATED BECAUSE HE'S ALWAYS SAID HE'S NOT GUILTY..
5 WE NEVER DID A DR. BURKE EVALUATION OR ANYTHING.

6 THE COURT: YOU SAY YOU DID GET DR. BURKE TO
7 EVALUATE HIM?

8 MR. GRIMES: NO, SIR. HE ALWAYS SAID HE WAS NOT
9 GUILTY --

10 THE COURT: WELL, THEN, DR. BURKE WOULDN'T EVALUATE
11 HIM.

12 MR. GRIMES: YES, SIR. YOU KNOW, AND THIS IS A NOT
13 A CASE WHERE WE'RE HAVING PLEA DISCUSSIONS BACK AND FORTH
14 ON THE NUMBERS OR SOMETHING. THE STATE DID MAKE AN OFFER,
15 I THINK, JUST TO AVOID THE EXPENSE OF TRIAL, AVOID HAVING
16 THE CHILD GO THROUGH IT AND BRING EVERYONE UP FROM
17 FLORIDA, AND IT WAS A REASONABLE OFFER AND HE TURNED IT
18 DOWN LIKE THAT (INDICATING). HE WAS ADAMANT THE FIRST
19 TIME I MET HIM HE WANTED A TRIAL. HE'S ALWAYS SAID HE'S
20 NOT GUILTY OF THIS CHARGE. OBVIOUSLY, IT WAS AGAINST MY
21 ADVICE GOING TO TRIAL, BUT IT -- IT WAS HIS DECISION AND
22 HE HAS DONE THAT.

23 AND -- AND HE MAY HAVE DONE SOMETHING OUT THERE,
24 BUT I DON'T THINK IT WAS ANY DEGREE NEAR WHAT -- TO WHAT
25 IS IN HIS STATEMENT. WE JUST ASK THE COURT TO CONSIDER

1 IMPOSING THE MINIMUM SENTENCE. I THINK MR. TURNER AND HIS
2 FATHER WOULD LIKE TO ADDRESS THE COURT.

3 THE COURT: I'LL BE GLAD TO HEAR FROM YOU, MR.
4 TURNER. MR. TURNER, I'LL BE GLAD TO HEAR FROM YOU.

5 MR. TURNER (DAD): WELL, I TRY AND RAISE HIM UP THE
6 RIGHT WAY. HIS MOTHER MOSTLY RAISED HIM MORE THAN I DID.
7 I WENT AWAY. I CAME BACK AT THE END --

8 COURT REPORTER: I CAN'T HEAR HIM, YOUR HONOR.

9 THE COURT: YOU HAVE TO SPEAK UP SO SHE CAN HEAR
10 YOU. OKAY.

11 MR. TURNER (DAD): HE WENT TO PICK UP SOME CLASSES
12 AT TRIDENT AND HE COULD WRITE GOOD AND HE COULD READ
13 PRETTY GOOD, YOU KNOW. AND I TRY TO TEACH HIM THE RIGHT
14 WAY WHEN I BE AROUND HIM. I TAUGHT HIM RIGHT.

15 I DON'T KNOW WHAT HAPPENED AFTER HIS MOTHER PASSED
16 AWAY. HE JUST COULDN'T COPE. AND I WAS AWAY BECAUSE I
17 TRAVEL WITH MY WORK. I DO CONSTRUCTION WORK AND I BE ALL
18 OVER.

19 WHEN I DO COME BACK, WE GET TOGETHER, TALK AND
20 SOCIALIZE. HE LIKED TO PLAY BASKETBALL AND HE LIKED TO,
21 YOU KNOW, DO A LITTLE RUNNING. AND WE BE TOGETHER AS THEY
22 COME OUT. REMEMBER WHEN I USED TO RUN WITH YOU. WE USED
23 TO DO THE SAME THING.

24 I'M SORRY THIS HAPPENED. I DON'T KNOW HOW IT
25 OCCURRED. I HEARD A LOT OF THINGS THIS WEEK I NEVER

1 THOUGHT WOULD HAPPEN IN HIS LIFE. AND I WOULD LIKE TO
2 THANK Y'ALL -- I'M GETTING EMOTIONAL.

3 THE COURT: THANK YOU, MR. TURNER.

4 MR. TURNER (DAD): THANK YOU.

5 THE COURT: MR. JEREMIAH TURNER, IS THERE ANYTHING
6 YOU WOULD LIKE TO SAY? ANYTHING YOU WOULD LIKE TO TELL
7 THE COURT?

8 MR. TURNER: NO, SIR.

9 THE COURT: PARDON?

10 MR. TURNER: NO, SIR.

11 THE COURT: OKAY. SOLICITOR, I'LL BE GLAD TO HEAR
12 FROM THE STATE ON SENTENCING? DID YOU GET THE SENTENCING
13 SHEETS, ARE THEY HERE YET?

14 MS. HERRING-LASH: I JUST HAVE ONE MORE TO SIGN.

15 THE COURT: OKAY. ALL RIGHT. GO AHEAD. GET MR.
16 GRIMES TO SIGN IT, TOO, IF YOU WOULD PLEASE.

17 MS. HERRING-LASH: YOUR HONOR, I WON'T GO INTO A
18 LOT BECAUSE YOU'VE HEARD THE FACTS OF THIS CASE. THE ONLY
19 COMMENT I WOULD MAKE AS FAR AS THE SENTENCE, THIS CHILD
20 WAS ON THE VERY YOUNGEST OF THE CRIMINAL SEXUAL CONDUCT OF
21 MINORS FIRST DEGREE STATUTE. AND IN -- BECAUSE OF THAT, I
22 THINK THAT IT DESERVES JUST A MANDATORY MINIMUM.

23 THE COURT: THE CHILD IS HOW OLD NOW?

24 MS. HERRING-LASH: SHE'S NOW EIGHT.

25 THE COURT: EIGHT.

1 MS. HERRING-LASH: SIX WHEN IT OCCURRED.

2 THE COURT: THANK YOU. OKAY. MR. TURNER,
3 INDICTMENT NUMBER 2432, CRIMINAL SEXUAL CONDUCT WITH A
4 MINOR, I SENTENCE YOU TO THE STATE DEPARTMENT OF
5 CORRECTIONS FOR A PERIOD OF 30 YEARS. THAT'S CONCURRENT
6 WITH THE OTHER INDICTMENTS, WHICH MEANS IT RUNS TOGETHER.
7 I'LL GIVE YOU CREDIT FOR 575 DAYS.

8 INDICTMENT NUMBER 2423, SENTENCE TO STATE
9 DEPARTMENT FOR A PERIOD OF 30 YEARS, RUN IT CONCURRENT,
10 GIVE YOU CREDIT FOR 575 DAYS.

11 INDICTMENT NUMBER 2424, SENTENCE STATE DEPARTMENT
12 OF CORRECTIONS FOR A PERIOD OF 30 YEARS. THAT'S
13 CONCURRENT. I'LL GIVE YOU CREDIT FOR 575 DAYS.

14 INDICTMENT NUMBER 2428, CRIMINAL SEXUAL CONDUCT,
15 SENTENCE STATE DEPARTMENT OF CORRECTIONS FOR A PERIOD OF
16 30 YEARS, CONCURRENT. GIVE YOU CREDIT FOR 575 DAYS.

17 INDICTMENT NUMBER 2435, LEWD ACT, SENTENCE STATE
18 DEPARTMENT OF CORRECTIONS FOR A PERIOD 15 YEARS, GIVE YOU
19 CREDIT FOR 575 DAYS. AND RUN THAT CONCURRENT.

20 YOU'VE GOT 30 YEARS. YOU'LL HAVE TO SERVE 85
21 PERCENT OF IT. THANK YOU VERY MUCH. GOOD LUCK TO YOU.

22 LADIES AND GENTLEMEN OF THE JURY, I WANT TO THANK
23 Y'ALL FOR YOUR SERVICES THIS WEEK. AND WE COULDN'T
24 FUNCTION WITHOUT YOU AND WITHOUT YOUR ASSISTANCE AND
25 WITHOUT YOUR HELP. YOU'RE A VITAL PART. I DON'T KNOW IF

1 YOU LEARNED ANYTHING OR IF YOU'RE -- HOW YOU FELT ABOUT IT
2 THIS WEEK, BUT I DID ENJOY WORKING WITH YOU. AND Y'ALL
3 ARE FREE TO GO. THANK YOU VERY MUCH.

4 (WHEREUPON, THE JURY LEFT THE COURTROOM AT 2:25
5 P.M.)

6 THE COURT: ALL RIGHT.

7 (WHEREUPON, THE HEARING ADJOURNED.)

8

9

* * * END OF TRANSCRIPT * * *

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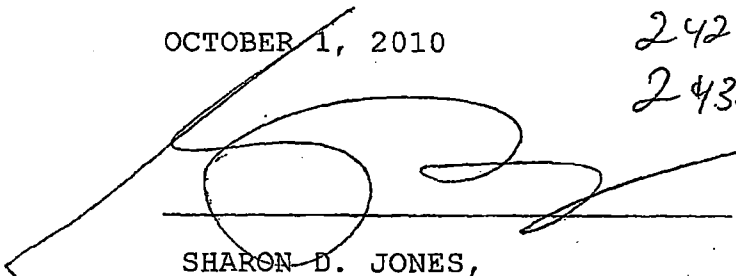
CERTIFICATE OF REPORTER

I, SHARON D. JONES, OFFICIAL COURT REPORTER FOR THE 9TH JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF THE PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE TRIAL OF THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE COURT OF GENERAL SESSIONS FOR CHARLESTON COUNTY, SOUTH CAROLINA, ON THE 5TH, 6TH, 7TH AND 8TH DAY OF APRIL, 2010.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL NOR INTEREST TO ANY PARTY HERETO.

State v. Turner 09-65-10-2423,
OCTOBER 1, 2010 2424, 2428

2432, 2435



SHARON D. JONES,

OFFICIAL COURT REPORTER

COMMISSION EXPIRES: 3/20/12

Adg

FORM 5

STATE OF SOUTH CAROLINA

COUNTY OF Charleston

Jeremiah Turner 340197
Full name and prison number (if any) of Applicant.

v.

State of South Carolina

2013-CP-10-4151

IN THE COURT OF COMMON PLEAS

FILED
2013 JUL 16 AM 11:17
JULIE J. BRISTONG
CLERK OF COURT

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and veified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make car to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exeise care to assure that all answers are true and correct.

If the application is taken in forma pauperis it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay threes and costs of the proceedings. When the application is completed the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Charleston County
2. Name and location of Court which imposed sentence Charleston
3. Name(s) of co-defendant(s) (if any) _____
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed: 2009GS1002423 2008040260 K351126
 (a) DIRIND0502 2009GS1002424 2009GS1002428
 (b) DIRIND0503 2009GS1002432 DIRIND0504
 (c) 2009GS1002435 DIRIND0505
5. The date upon which sentence was imposed and the terms of the sentence:
 (a) April 8, 2010 30 yrs no parole
 (b) _____

- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty trial _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
yes _____
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. Charleston County _____
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Appeal Dismissed _____
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. Submitted June 1, 2012 Filed June 13, 2012 _____
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) _____
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) ineffective assistance of council
- (b) _____
- (c) _____

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) My knowledge of the law. I'm educated but not in the law.
- (b) In my appeal they over looked the
- (c) fact that no evidence was found ~~in my~~
I did not want to appeal the fact that the state me

12. Prior to this application have you filed with respect to this conviction: is voluntary or not

- (a) any petition in a State Court under South Carolina Law? yes
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? _____
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? _____
- (d) any other petitions, motions or applications in this or any other Court? _____

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

- (a) the specific nature thereof:
- i. appeal
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. Charleston County
- ii. _____
- iii. _____
- iv. _____
- (c) the disposition thereof:
- i. Appeal dismissed
- ii. _____
- iii. _____

11.) With my knowledge of the law, with the time frame I am educated but not in the law. I did not choose to pursue my appeal on the grounds of my statement being voluntary or involuntary although that was the basis in my trial that was not the only issue that I could appeal on. The fact that there was no evidence found or not type of medical examinations done until the next year. The alleged crime happened in 2008. The ~~victim~~ victim was examined in January of 2009 after months after the alleged or incident happened after the victim and the ~~victim~~ victim's family moved from South Carolina to Florida. If this is the case why haven't the victim's been taken from the home and examined on September 8, 2008. The indictments there is no evidence backing up the indictments, or my statement matter of factly. I see that the Charleston County got a statement but no evidence backs the statement that I made.

iv. _____

(d) the date of each such disposition:

i. June 1, 2012 Filed June 13, 2012

ii. _____

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

no

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. _____

ii. _____

iii. _____

(b) the proceedings in which each ground was raised:

i. _____

ii. _____

iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) _____

(b) _____

(c) _____

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? _____
- (b) your trial, if any? yes
- (c) your sentencing? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? yes
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? yes
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
- i. Andrew Grimes public defender Charlotte
- ii. Appellate Defender Tristan M. Shaffer of Columbia
- iii. _____
- (b) the proceedings at which each such attorney represented you:
- i. Trial
- ii. Appeal
- iii. _____
19. State clearly the relief you seek in filing this application:
Original Plea, Time cut, Chance for parole, that is the relief I'm seeking
20. Are you now under sentence from any other court that you have not challenged?
no

STATE OF SOUTH CAROLINA)

VERIFICATION

County of)

I, _____, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

SWORN to and subscribed before me this 23
day of may, 2013.

[Signature] (L.S.)
Notary Public

My Commission Expires: 12/16/2019

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, _____, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

SWORN or affirmed to and subscribed before me this
23 day of may, 2013.

Notary Public

My Commission Expires:

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS

2013-CP-10-4151

Jeremiah Turner,

Applicant,

v.

State of South Carolina,

Respondent.

RETURN

FILED
2013 DEC 17 AM 8:55
JULIE J. ARMSTRONG
CLERK OF COURT

The Respondent, making its Return to the application for post-conviction relief (PCR) filed July 16, 2013, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. The Applicant was indicted at the March 2009 term of the Charleston County Grand Jury for four (4) counts of criminal sexual conduct with a minor- first degree (2009-GS-10-2423, -2424, -2428, -2435) and lewd act on a minor under 16 (2009-GS-10-2435). the Applicant was represented by Andrew Grimes Esquire.

The Applicant proceeded to trial and was found guilty by a jury. The Applicant was sentenced by the Honorable J.C. Nicholson to confinement for a period of thirty (30) years on all criminal sexual conduct charges and fifteen (15) years for the lewd act charge.

The Applicant filed a timely Notice of Appeal. His appeal was perfected by Tristan Shaffer, Esquire, of the Office of Appellate Defense. The Applicant's convictions and sentences

were affirmed by the Court of Appeals. State v. Turner, No. 2012-UP-302 (S.C. Ct. App. filed June 13, 2012). The Remittitur was issued June 29, 2012.

Attached herewith and incorporated herein are the records of the Charleston County Clerk of Court regarding the subject convictions, the Applicant's records from the South Carolina Department of Corrections, and the appellate records. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

In his Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel.

III.

In this application, the Applicant alleges ineffective assistance of counsel. In a post-conviction relief action, the Applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Each and every allegation contained within the application not herein before either expressly admitted, qualified or explained is hereby denied.

V.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held.

[Signature on the following page.]

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

ASHLEIGH R. WILSON
Assistant Attorney General

By: ALAN WILSON

ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

Dec. 5, 2013.

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS

2013-CP-10-4151

JEREMIAH TURNER, #340197

Applicant,

vs

STATE OF SOUTH CAROLINA,
Respondent.

AFFIDAVIT OF SERVICE BY MAIL

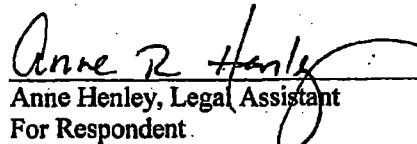
2013 DEC 17 AM 8:55
JULIE J. ARMSTRONG
CLERK OF COURT

FILED

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Return in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

James K. Falk, Esquire
3 Broad Street, Suite 450
Charleston, SC 29401

DATED this 6th day of December, 2013


Anne Henley, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

JEREMIAH TURNER)

Applicant)

vs.)

STATE OF SOUTH CAROLINA)

Defendant)

THE COURT OF COMMON PLEAS

DOCKET NO. 2013-CP-10-4151

TRANSCRIPT OF RECORD

September 10, 2014

Charleston, South Carolina

B E F O R E:

THE HONORABLE G. THOMAS COOPER, JR., JUDGE

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

JAMES K. FALK, ESQ.
Attorney for the ApplicantASHLEIGH R. WILSON, ESQ.
Attorney for the StateJOYCE C. RUEGER, CVR-M
Circuit Court Reporter

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No exhibits were introduced

Jeremiah Turner v State of S.C.
Proceedings
September 10, 2014

PROCEEDINGS

THE COURT: All right, Ms. Wilson, whenever you're ready.

MS. WILSON: Thank you, Your Honor. May it please the court, Your Honor? This is Ashleigh Wilson from the State of South Carolina. This is Jeremiah Turner v the State of South Carolina docket number 2013-CP-10-4151. Mr. Turner was indicted in March 2009 for four counts of Criminal Sexual Conduct with a Minor First Degree. They were indictment numbers 2009-GS-10-2423, 2424, 2428, and 2432. He was also indicted for Lewd Act on a minor under 16.

He was -- he proceeded to trial before Judge Nicholson. He was represented at trial by Andrew Grimes and Megan Ehrlich. He was convicted and found guilty by the jury. He received a 30 year sentence -- he received four concurrent 30 year sentences on the Criminal Sexual Conduct with a Minor First Degree and he also -- he received a 15 year sentence on his Lewd Act with a Minor. He appealed this application -- I mean, he appealed his conviction which was dismissed on June 13, 2012 pursuant to an Ander's Brief. He was represented on appeal by Mr. Tristan Shaffer. The remittiter on that was issued on June 29, 2012, he filed his application for post conviction relief and he's here today represented by Mr.

Jeremiah Turner v State of S.C.
Proceedings
September 10, 2014

1 Jim Falk and we just ask -- in his application he alleges
2 generally ineffective assistance of counsel. So, we just
3 ask that Mr. Falk enumerate the allegation he's going to
4 pursue today.

5 THE COURT: Is there an amended application?

6 MS. WILSON: No, Your Honor.

7 THE COURT: All right. This says allegation
8 primarily against his trial counsel or his appellate
9 counsel?

10 MR. FALK: Both Your Honor.

11 THE COURT: Both?

12 MR. FALK: Yes, sir.

13 THE COURT: All right. Okay. All right Mr. Falk,
14 you may proceed.

15 MS. WILSON: And Your Honor, if he can say what his
16 ineffective assistance of counsel claims are because he
17 doesn't raise that in his application.

18 THE COURT: Yes, sir.

19 MR. FALK: Your Honor, regarding the appellate
20 counsel, we believe that he had filed an Ander's Brief.
21 We think that the real legitimate issues should have been
22 raised with more forceful approach than with an Ander's
23 Brief and additionally my client asks that he raise the
24 issue of factual innocence which appellate counsel did
25 not do. So, that's my issues with appellate counsel.

Jeremiah Turner v State of S.C.
Proceedings
September 10, 2014

1 And trial counsel, I think that we would like to focus on
2 two issues or two possible arguments that were -- that
3 trial counsel did not use in order to keep the DVD of the
4 forensic interview out. I think there were -- I think
5 that the admission of the forensic interview by the child
6 victim was certainly extremely compelling evidence that
7 led to the ---

8 THE COURT: --- did anybody say it was compelling?
9 In other words, did the forensic interviewer testify that
10 it was compelling?

11 MR. FALK: I mean, they played the tape for the
12 court and that certainly was the issue that the ---

13 THE COURT: --- so it's your opinion it was
14 compelling?

15 MR. FALK: Yes, Your Honor.

16 THE COURT: Okay. That's all --

17 MR. FALK: --- and again, I think it's also ---

18 THE COURT: --- that's all I wanted to know.

19 MR. FALK: It's also followed by the Solicitor's
20 opinion as he certainly hit that bell in the closing
21 arguments.

22 THE COURT: Okay. In closing arguments?

23 MR. FALK: Yes.

24 THE COURT: Okay. Go ahead.

25 MR. FALK: We would like to call Mr. Grimes to the

Jeremiah Turner v State of S.C.
Proceedings
September 10, 2014

1 stand.

2 THE COURT: Come around Mr. Grimes.

3 [Whereupon, Mr. Grimes comes forward]

4 [Whereupon, the witness is duly sworn by the Clerk
5 of Court]

6 MR. FALK: Your Honor, would you prefer I go from
7 the podium? I'd prefer to ---

8 THE COURT: --- whatever, it makes no difference.

9 CLERK OF COURT: If you'll state your full name and
10 spell your last name for the record.

11 THE WITNESS: Andrew David Grimes. G-R-I-M-E-S.
12

Jeremiah Turner v State of S.C
Andrew D. Grimes-Direct Examination by Mr. Falk
September 10, 2014

1 ANDREW D. GRIMES,
2 Having been first duly sworn,
3 Was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. FALK:

6 Q. Mr. Grimes, can you tell me how you became Mr.
7 Turner's attorney in this case?

8 A. I was appointed to represent him.

9 Q. So, that begs the question, you work with the Public
10 Defender's Office?

11 A. Yes, sir.

12 Q. How long have you been with the Public Defender's
13 Office?

14 A. In Charleston, I think since the end of 2006.

15 Q. Okay. So, at the time of this trial, how long had
16 you been there?

17 A. The trial -- refresh me on what the trial date was.
18 I'd say about three and a half years, I'd say.

19 Q. Okay. At that time had you tried many CSC cases?

20 A. Probably not a lot of CSC with a Minor cases.

21 Q. Have you since had the opportunity to try, other
22 than Mr. Turner's case, CSC with a Minor cases?

23 A. Yes, sir. I actually tried one last week.

24 Q. Okay. With your experience now, do you appreciate
25 that there are some issues with CSC with a Minor cases.

Jeremiah Turner v State of S.C
Andrew D. Grimes-Direct Examination by Mr. Falk
September 10, 2014

1 that are not present in CSC with an adult?

2 A. Yes, sir.

3 Q. All right. Some of those issues relate to the
4 testimony that would come from the victim?

5 A. Yes, sir.

6 Q. I noticed that in the trial of this case, the
7 Solicitor's Office retained a child abuse assessment
8 expert, is that correct? Doctor -- I can't exactly
9 remember the pronunciation of her last name.

10 A. Doctor Able or Doctor Elsey?

11 Q. No, I'm sorry. Sandra Gonson [phonetic]. She was
12 admitted to testify as an expert in this case as -- on
13 the basis of an expert in child -- to give expert
14 testimony on the basis of child abuse assessments.

15 A. I don't recall off hand but that's consistent with
16 how they try cases. They usually have someone like that
17 testify.

18 Q. Did you make your decision whether or not the Public
19 Defender's Office would retain a child abuse -- an expert
20 to rebut this testimony?

21 A. We consulted with one, Doctor Betsy Gibbs
22 [phonetic], about the video whether it was leading or
23 whether the child appeared to be coached...

24 Q. And what was the result of that?

25 A. She thought the video was fine, that it was done

Jeremiah Turner v State of S.C
Andrew D. Grimes-Direct Examination by Mr. Falk
September 10, 2014

1 according to protocol.

2 Q. I beg your pardon?

3 A. That it was done according to the protocols.

4 Q. Thank you. Now do you recall, when I'm looking at
5 the transcript in this case, it's clear that at some
6 point the victim and the mother were no longer at the
7 trial?

8 A. I can't say with any certainty, but I wouldn't be
9 surprised because they'd come up from Florida, I think
10 that weekend. They probably had to go back down there
11 for work.

12 Q. At one point, the Judge suggested that you would no
13 longer be able to -- when the issue came up about the
14 admissibility of the forensic interview that was done, in
15 Florida, the Judge commented to you that, well you're not
16 going to be able to cross-examine her anymore.

17 She's not available for cross-examination any
18 further. And then in your closing argument you talked
19 about the fact that the mother was no longer there, so is
20 it safe to say that they were not there at this part of
21 the trial?

22 A. Yes, sir.

23 Q. And had you subpoenaed them for the trial?

24 A. No, sir.

25 Q. Okay. Did -- and when I look through the

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1 transcript, and I can't find this, it was never asked
2 whether or not the witness was excused. But, was the
3 court, did the court ever ask whether or not you were
4 okay with them leaving the courtroom?

5 A. I wouldn't know anything -- my recollection is not
6 in the transcript, I don't think I would have a
7 recollection of it.

8 Q. Do you recall making an objection to the fact
9 that...

10 A. No, sir ---

11 Q. --- they were not present because I could not find
12 that objection in the transcript.

13 A. No, sir. No, given it being a child witness, I
14 probably wouldn't have objected to her leaving -- I
15 probably -- I doubt I would want to call her.

16 Q. Okay. Now at the trial, prior to the admission of
17 this tape, the child victim had already testified, is
18 that correct?

19 A. I would assume so. I think the child has to testify
20 before the case --

21 Q. And not only did she testify corroborating the fact
22 that the interview was taken, but she actually testified
23 as to the substance of the charges is that correct?

24 A. Yes, sir.

25 Q. I -- specifically about whether or not there was a

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1 search by -- I think the testimony in the transcript
2 whether his private parts went in her private parts. She
3 testified to that part at the trial whether or not his
4 private parts were clothed, whether or not her private
5 parts were clothed.

6 A. Again, like I said, I haven't reviewed the
7 transcript, I would imagine so.

8 Q. Okay. So, now when it came around to this disk
9 being admitted into evidence, you objected?

10 A. Yes, sir.

11 Q. Do you recall what the basis for your objection was?

12 A. It's was confrontation clause.

13 THE COURT REPORTER: I'm sorry?

14 THE WITNESS: Confrontation clause.

15 Q. [Mr. Falk] I think if I look at the transcript,
16 your objection was that -- maybe if I could refresh your
17 memory a bit -- in the case, she made a statement in the
18 -- on the disk in which she said that ---

19 MS. WILSON: --- objection Your Honor. You can
20 just present a copy of the transcript to refresh his
21 recollection until your summation.

22 MR. FALK: May I approach?

23 THE WITNESS: I have a copy of the transcript ---

24 THE COURT: --- he's got the transcript ---

25 MR. FALK: --- Okay.

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1 A. Let me know what pages ---

2 Q. [Mr. Falk] --- well, if you look at pages 252 and
3 250, well I guess it's transcripts page 253 and 254.

4 A. Okay.

5 [Whereupon, the witness reviews document]

6 Q. And especially if you look at the transcript page
7 254, there's a -- lines three through twelve, it looks
8 like Solicitor Herring-Lash was trying to fix a prior
9 inconsistent statement does it not?

10 A. About where he put his private part?

11 Q. Yes.

12 THE COURT: 250 what?

13 MR. FALK: 254 lines three through eleven.

14 A. I think that might be a fair accusation or it might
15 be trying to refresh our memories because we said I don't
16 remember. I'm not sure that would technically qualify as
17 a prior inconsistent statement.

18 Q. [Mr. Falk] So, then if you could go to -- on your
19 transcript, it's transcript page 313, starting with line
20 25 on page 313 and carrying over. I think that if you
21 have a chance to read that, does that maybe give you a
22 better recollection of what the grounds for your
23 objection was?

24 [Whereupon, the witness reviews document]

25 Q. I know there's confusion with knowing what page

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1 we're talking about, but it's the big number 313 on my
2 record of appeal.

3 A. I think I found it.

4 Q. Okay. I think it's the actual trial transcript page
5 312 and I'm talking about starting with line 25 where
6 you're asked do you have any objection.

7 A. Yeah, it appears I did speak and it doesn't look
8 like I raised the confrontation clause. I asked him more
9 of kind of evidentiary argument that parts of the video
10 were inconsistent with her testimony and therefore that
11 part should be taken out.

12 Q. If you read, if you continue through that, is it
13 safe to say that you -- to summarize your objection is
14 that you were trying to argue that the Solicitor didn't
15 raise a proper foundation for getting the testimony in as
16 a prior inconsistent statement?

17 A. I really hadn't thought that way about it, but maybe
18 that's arguable.

19 Q. No. I mean I think that's ---

20 A. --- I don't think I'd use those -- I don't think I
21 made that precise argument.

22 Q. Okay.

23 A. At least the way I read it.

24 Q. Did you consider whether or not, until you actually
25 raised the objection, whether or not there was a

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1 confrontation clause issue, problem here, with admitting
2 the video?

3 A. I think I probably discussed it with Ms. Herring-
4 Lash, I believe South Carolina Supreme Court has come out
5 with some case law, I forget the names of the cases,
6 upholding the admissibility of the statute - pardon me;
7 the tapes pursuant to the statute if it was done in a
8 certain manner.

9 That's why we retained Ms. Gibbs to see if it was
10 done in that manner. And given that case law -- I don't
11 know probably would have I should've raised it in case
12 the law changed, but I didn't have any other argument to
13 make that hadn't been previously objected by the Supreme
14 Court.

15 Q. Do you recall whether or not any of those cases were
16 decided by South Carolina Supreme Court prior or after to
17 when the United States Supreme Court came down with its
18 decision in Crawford?

19 A. It would have been done after Crawford, I believe.

20 THE COURT: I didn't hear you.

21 THE WITNESS: I think it would be done after
22 Crawford which I think was a 2006 case, if I recall
23 right.

24 Q. [Mr. Falk] I know. But the cases that you were
25 relying on as far as the admissibility of the statement

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1 that it wasn't a confrontation clause.

2 A. I believe it came after Crawford although I
3 should've -- if it wasn't the case law would show that.

4 Q. Even though that the statute exists, on the
5 admissibility, is it still not subject to an argument
6 about whether or not it would meet the criteria under
7 South Carolina rules of evidence 402 and 403 as far as
8 whether or not its probative value was to be outweighed
9 by its prejudicial value?

10 A. I imagine it would, yes, sir.

11 Q. Did you consider maybe arguing that since the victim
12 had already in effect testified to the -- not only to
13 having made the statement, but actually to the conduct
14 there was alleged to have occurred that the admission of
15 the video was merely cumulative evidence?

16 A. I don't recall researching that issue or making that
17 argument. I might have made it in other cases ---

18 THE COURT: --- cumulative or bolstering?

19 MR. FALK: I beg your pardon?

20 THE COURT: I said cumulative or bolstering? What
21 are you ---

22 MR. FALK: --- well, I mean my point would be in
23 some of the law I found is that if the victim has already
24 in effect testified that it all happened and then if you
25 bring in additional testimony which is in effect

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1 repetitive of what had just been said, this is the
2 victim's own words so I'm not sure if it was bolstering
3 is the right argument or not but maybe it is. But I
4 thought that certainly if you look at the weighing of
5 prejudice versus probative value on the admission of
6 testimony that had already been admitted ---

7 THE COURT: --- I see, that would be -- right?

8 Q. [Mr. Falk] I asked you whether or not you considered
9 raising that argument and you said no.

10 A. I can't, I don't remember make -- I don't remember
11 considering that argument.

12 Q. Can you think of anything that you would have done
13 differently now in hindsight as to represent Mr. Turner?

14 A. I had some concerns about his mental health.
15 Probably in hindsight maybe had him evaluated. I know if
16 he had -- if we would have been looking for a plea I
17 definitely would have had him evaluated him for
18 medication purposes.

19 I could have told Judge Nicholson given the posture
20 of the case we could have done essentially a Doctor Burke
21 examination for example where you try to see if they
22 might re-offend sexually again.

23 And as far as tracking down the witnesses, I think
24 the State had trouble tracking down they were in Florida
25 so I don't know if I could have done anything on that

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1 side. We did find his character witness and investigate
2 that. You know, researched pretty hard on trying to get
3 the statement out. That seemed to be sort of a nail in
4 the coffin, a pretty egregious statement I think turned
5 off a lot of people.

6 And we tried to work with his demeanor, like you
7 know, me, Mr. Erhlich and quite a few times had Ms. Mary
8 Ford and Cody Groeber who weren't involved in the case
9 trying to prep him for testifying.

10 I think he just had a lot of trouble testifying. On
11 cross he didn't do real well. I probably could have
12 prepped him more but I don't know.

13 I remember telling him one -- for example they're
14 going to ask you this one specific question and we went
15 over that a good number of times how to answer it and
16 when he got on the stand and answered the question he
17 just totally messed up on it.

18 I think it made him look bad in front of the jury.
19 So that may have been where some mental health issues
20 might have come into play.

21 Q. I appreciate that the decision whether or not for
22 him testify is, of course, his, but did you recommend
23 that he not testify?

24 A. I think, in my opinion, in these types of cases you
25 probably kind of have to testify to get your side out and

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1 deny and tell the jury that you're not guilty of this.
2 And we had to explain his confession; you know why he
3 would do this because they, Detective Ramsey basically
4 testified they were in there 20-30 minutes before he
5 started -- before he gave a confession.

6 It wasn't something that lasted you know, like five
7 hours and we had other issues to work with like you can
8 really use in Jackson v Denno. You know we didn't just
9 really have a lot to work with in Jackson v Denno.

10 I tried, you know, my best on that, but once that
11 statement came in and I think she testified I think quite
12 honestly is all the jury needed to hear.

13 Q. I just have a couple more questions. Do you believe
14 that the admission of the video tape was damaging to Mr.
15 Turner's case?

16 A. I'm sure it was damaging, but it wasn't make-or-
17 break. I mean his confession and her -- the girl's
18 testimony were the two big factors in the case.

19 Q. But wasn't her testimony that was elicited through
20 the tape also part of that factor?

21 A. It was, but I mean having -- in my opinion, like I
22 said, is her testimony on live is going to be more
23 powerful than on a video. Video certainly plays a role,
24 but if you take her testimony along with his statements
25 it was just an uphill battle.

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1 MR. FALK: No further questions.
2 THE COURT: Ms. Wilson?
3 MS. WILSON: Thank you, Your Honor.
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Jeremiah Turner v State of S.C
Andrew D. Grimes-Cross-Examination by Ms. Wilson
September 10, 2014

1 CROSS-EXAMINATION

2 BY MS. WILSON:

3 Q. Mr. Grimes, do you know how or either a
4 guesstimation of how far before trial you started
5 representing Mr. Turner?

6 A. I'm sure it was probably shortly after his arrest.
7 It was like -- I assume, I'll check what's in my file. I
8 sent him a letter on November 7th talking about his
9 preliminary hearing that we had on November 3, 2008 and
10 he -- and usually those are held in the month of his
11 arrest.

12 Q. And do you have any recollection about how
13 frequently you met with him? Was it pretty frequently if
14 you don't know an exact number?

15 A. I don't know an exact number, but certainly as we
16 got closer to trial we met a good bit and kind of went
17 over testimony and strategies and trying to figure a way
18 to explain the statements that would make sense to a
19 jury.

20 Q. And did you file Brady and Rule 5 motions on his
21 behalf?

22 A. Yes, ma'am.

23 Q. And the materials that you received from the State,
24 did you review it with him?

25 A. Yes, ma'am.

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1 Q. When you talked, did you talk to him about potential
2 defenses you could raise at trial?

3 A. Yes, ma'am. I think, you know, we certainly talked
4 about the statement trying to figure out why he gave that
5 statement and any motivations about why the girl would be
6 making these allegations up. The girl's mom had some
7 issues and we talked about that.

8 It was kind of an odd case because like, his
9 character witness, you know, showed that he was trying to
10 take care of the girl, bringing her in for help, yet
11 according to their allegations the same time as abusing
12 her. You know -- something was just odd about that.

13 Q. And can you just kind of go through, ultimately, the
14 trial strategy that you decided on in this case?

15 A. I think we basically I know Ms. Ehrlich did the
16 cross and really tried to show maybe she was, you know,
17 had been talked to a lot or...

18 And then for his testimony basically I tried to show
19 that he just made up his whole confession. It was
20 fantasy, like he said; you know he was writing a book or
21 a story. I know that's probably not the best answer, but
22 ---

23 Q. --- that's okay ---

24 A. --- it's kind of what we were working with.

25 Q. And, can you kind of briefly describe the evidence

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1 that the State had against Mr. Turner that you were kind
2 of faced with at trial?

3 A. Well, he had given a statement describing how the
4 girl came on to him and I guess initiated sexual acts
5 with him. And we had the girl's testimony.

6 The mom, you know we got some jury questionnaires
7 back on her and I don't think the jury liked her and we
8 had a couple of things from Facebook on her. And I
9 think, you know obviously she was a bad mom. But I don't
10 know how much that really helped.

11 And there's the medical evidence I think that the
12 girl had a certain condition in her vagina that might
13 have made it very painful to have intercourse, so we
14 explored that I think. I know Doctor Abel [phonetic] was
15 one of their main witnesses in these cases. Probably
16 went through that with her to see just to make sure there
17 were signs of physical injury whatever they were or
18 weren't given the allegations.

19 And, I think, we used character defense to try and
20 show he thought that person could do this and then, you
21 know, it didn't really make sense for him to do it, he's
22 you know, bringing her in for help and trying to -- he
23 wouldn't risk exposing himself to a stranger.

24 Q. Okay, we also talked about this forensic video. Did
25 you review the video with Mr. Turner before your trial?

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1 A. I don't recall. We may have reviewed it or we may
2 have just, you know, talked about her testimony in
3 general.

4 Q. And you testified that you presented it to an expert
5 to review before trial. Can you talk a little more about
6 that? You said you presented it to Doctor Betsy ---

7 A. --- Gibbs.

8 Q. Gibbs, okay. And based off of her review was it
9 something that you wanted her testimony, did you want to
10 present that at trial?

11 A. No, she -- I guess she's kind of -- to do this type
12 of work and I think worked for L-C-C. And she watched
13 the video and said, you know, everything seemed to be
14 fine and no one was asking overly leading questions or
15 violating any protocols or anything like that.

16 Q. So, going into trial, what kind of plan did you have
17 to challenge the admissibility of the video?

18 A. I don't think -- I assumed the video was coming in,
19 I don't think I really saw a plan or hopes to keep the
20 video out.

21 Q. And, had you done any research or anything about the
22 admissibility of the video and that kind of -- that was a
23 result of your expectations about thinking it was coming
24 in?

25 A. I could just read advance sheets and the case law

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1 and saw that. Initially when they passed the statute I
2 assumed it would violate Crawford and you know it was
3 litigated and found that it did violate Crawford, so
4 during -- push that issue --

5 Q. -- and ---

6 A. --- that was -- as a part to the case.

7 Q. I'm sorry. And you have a copy of the transcript up
8 there, is that correct?

9 A. Yes, ma'am.

10 Q. Can you turn to page 323 of the transcript in the
11 big letters, the big numbers?

12 [Whereupon, the witness reviews document].

13 A. Yes, ma'am.

14 Q. And I would just also like to point you to lines 17
15 through 19 and just review that.

16 A. Yes, ma'am.

17 Q. And based on that, you did try to argue that it was
18 in violation of the confrontation clause during trial, is
19 that correct?

20 A. Yes, ma'am. It was a pretty cursory argument, but I
21 guess it might be enough to be preserved for an appeal.

22 Q. Okay.

23 MS. WILSON: Beg the court's indulgence. Nothing
24 further.

25 THE COURT: Redirect?

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1 REDIRECT EXAMINATION

2 BY MR. FALK:

3 Q. Presumably the statute that we're talking about is
4 17-23-175 and that statute is entitled the admissibility
5 of out-of-court statement of a child under twelve;
6 determination of trustworthiness; notice to adverse
7 party. Does that sound like the statute that we're
8 talking about?

9 A. Yes, sir.

10 Q. Okay. And one of the factors that the court can
11 consider in determining whether or not the statement is
12 admissible is whether or not the child is subject to
13 cross-examination?

14 A. Yes, sir.

15 Q. All right. So, that would seem to be an initial
16 Crawford question or satisfy -- or would seem to satisfy
17 Crawford because the child would be available for cross-
18 examination.

19 A. I think as to argument, yes, sir.

20 Q. But in this case, when the tape was played, you did
21 not have the opportunity to cross-examine the child
22 because she was no longer there, is that correct? And
23 again, I call your attention to page 314 and the big
24 numbers 315 lines 10 through 15.

25 A. I'm sorry, what page was that again?

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1 Q. If we're looking at big numbers, it's 315 and lines
2 10 through 15.

3 [Whereupon, the witness reviews document]

4 A. It does appear she wasn't there at this point in the
5 trial.

6 Q. Okay. And do you recall why she wasn't there?

7 A. No, sir.

8 Q. Knowing that the tape was going to -- possibly the
9 tape would be an issue here did you think it would be
10 important to keep her available for subsequent cross-
11 examination if the tape was admitted?

12 A. I would say not since I didn't object to her leaving
13 or ask the court to keep her under subpoena.

14 MR. FALK: No further questions.

15 THE COURT: Anything further?

16 MS. WILSON: Nothing further from the State.

17 THE COURT: All right. You may come down.

18 THE WITNESS: Thank you, Your Honor.

19 [Whereupon, the witness is excused and exits the
20 witness stand]

21 THE COURT: Next witness?

22 MR. FALK: We would like to call Tristan Shaffer.

23 THE COURT: Come around, Mr. Shaffer.

24 [Whereupon, Mr. Shaffer comes forward]

25 [Whereupon, the witness is duly sworn by the Clerk]

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1 of Court]

2 CLERK OF COURT: If you'll state your full name and
3 spell your last name.

4 THE WITNESS: Tristan Shaffer. It's S-H-A-F-F-E-R.

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Jeremiah Turner v State of S.C
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1 TRISTAN SHAFFER,

2 Having been first duly sworn,

3 Was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. FALK:

6 Q. Mr. Shaffer, can you tell me how you became involved
7 in this case?

8 A. I worked at Appellate Defense and it got assigned to
9 me once the transcript was prepared.

10 Q. Okay.

11 A. So, I was appointed.

12 Q. And did you prepare an appellate brief?

13 A. I did. Initially I believe I actually talked to Mr.
14 Grimes about this and he had alerted me that there were
15 several arguments to raise and eventually I read the
16 transcript and briefed an issue. I actually filed an
17 Ander's Brief on it then.

18 Q. And I'm sure everybody here is, knows what that
19 means, but could you explain what an Ander's Brief is?

20 A. Basically it's a brief where essentially I found no
21 meritorious argument in the case. So, I briefed
22 something with questionable merit that was not wholly
23 frivolous, I guess and submitted it to the court. I
24 guess what I'm saying is, I submitted a brief that was on
25 an issue that I didn't think actually had merit.

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1 Q. Okay.

2 A. And at that point, the court would review the whole
3 transcript and the whole -- well, the whole record and my
4 brief. Give the appellant at that point a chance to
5 submit a pro se brief and either appoint me back or deny
6 my motion to be relieved or grant my motion to be
7 relieved.

8 Q. And what was your motion?

9 A. That's part of the Ander's Brief, at the end of it
10 you're actually moving to be relieved as counsel in the
11 case. And they'll either dismiss the appeal, or they'll
12 send it back to you and say brief a certain issue.

13 Q. I guess that was what my question was, did it get
14 sent back to you?

15 A. No, it did not.

16 Q. Okay, in that you didn't think that the issue was
17 meritorious, did you sort of put your heart into this
18 one?

19 A. Well, I think that I worked on this and the only
20 reason I remember it is one of the few appeals out of
21 Charleston County I got, I knew Mr. Grimes.

22 I used to clerk in the Public Defender's Office here
23 when I was in law school and based off of that, I guess
24 every case from Charleston was a little bit special to
25 me. I worked a little bit harder when that case came out

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1 of the Public Defender's Office. But I would say I
2 probably did more work on it than I would do on a normal
3 Ander's Brief. But, Ander's Briefs generally take less
4 time than merits briefs do.

5 Q. What conversations did you have with Mr. Turner?

6 A. Honestly, I don't remember any. I'm not saying I
7 didn't have them, I probably did. I don't recall off the
8 top of my head and I don't have my file with me. This is
9 a file for a different case. So, I can't say how many
10 times I spoke with him.

11 They -- inmates were allowed to call in collect to
12 Appellate Defense, so I might have spoken to him over the
13 phone, or I might have written him letters. I know that
14 the office itself sends out form letters at certain
15 points just to notify the client of the process and
16 what's going on with their case. But, I can't recall
17 actually speaking with Mr. Turner.

18 Q. Do you recall any communication from Mr. Turner
19 whether it be phone message, letter, whatever that he
20 wanted to assert a claim of factual innocence?

21 A. I'm not saying it didn't happen. He might have.
22 Honestly I did, I worked at Appellate Defense for a year,
23 or about a year and I had submitted over 70 briefs. I'm
24 not exactly sure how many I did, but certain things run
25 together because it was about three years ago now.

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1 Q. Do you have a copy of your brief?

2 A. I've reviewed it. I don't have a copy with me. I
3 got an electronic copy emailed to me.

4 Q. Do you think it was the best -- do you think you
5 were representing your client when one of your arguments
6 you raised that Ramsey's -- one of your headings was
7 Ramsey's tactics were designed to be coercive to
8 pedophiles?

9 A. I think I tried to put some sort of disclaimer on
10 that. Looking back at it, it's probably not the best
11 language. I think it was cohesive with the actual
12 argument that I was raising at the time.

13 You know, what I did in an Ander's Brief a lot of
14 times I would just identify if I couldn't find an issue
15 of merit that would make any difference, I would
16 basically find something that might make a difference.

17 I would try to attack something that might make a
18 difference. I thought that that was a pretty important
19 thing to attack; his statement. I think it actually
20 supports my argument, the way I wrote it.

21 I didn't assert -- I think one of the footnotes
22 actually says that this argument is not to speak to
23 whether or not he is or is not a pedophile. But
24 basically what the investigator did was sort of text book
25 police interrogation for pedophiles. And, what I was

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1 trying to say is essentially if it is a mental disease,
2 which it is, they're basically attacking the mental
3 disease and they've actually formulated ideas on how to
4 attack the mental disease and how to coerce confessions
5 out of pedophiles and get them to speak when they don't
6 want to.

7 I think I cited some sort of journal article or
8 maybe some book or something like that in there. That
9 being said, you know, I'm certainly not asserting or I
10 did not assert did not intend to assert that Mr. Turner
11 is, in fact, a pedophile. I just thought it actually
12 supported the argument for suppression.

13 Q. Because you're not a psychiatrist?

14 A. Exactly. And I never met Mr. Turner face-to-face.
15 I might have had phone conversations with him, like I
16 said. I might have written him letters. To be honest
17 with you, I don't really recall.

18 But, I certainly couldn't diagnose him and my brief;
19 I tried my best to explain that even though I was making
20 that argument it was not necessarily to say that he was a
21 pedophile.

22 Q. And the only basis for telling the Court of Appeals
23 that Mr. Turner was a pedophile was the conviction out of
24 the court?

25 A. Well, I think that that was the only basis for

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1 saying that he was a pedophile. I didn't think that
2 there was anything else that says that he could be a
3 pedophile. I'm just saying that the tactics used by the
4 police in this case are the tactics taught to how to
5 basically coerce pedophiles and make pedophiles feel
6 comfortable.

7 Q. Do you think that argument in that it was couched as
8 an Ander's Brief, do you think that argument would have
9 been any more persuasive than Mr. Turner's argument of
10 just factual innocence?

11 A. Honestly, I don't think that any of them would have
12 had merit. I can't really raise the factual innocence
13 claim I could have made a directed verdict argument, but
14 I didn't think that that had any merit at all.

15 Sometimes with Ander's Briefs you're just sort of --
16 it's sort of like a Hail Mary pass, I guess. You're
17 just sort of just trying to make whatever; throwing
18 something up there and hope it sticks.

19 You know, looking back over it and hearing the
20 testimony of Mr. Grimes, maybe I should've briefed the
21 other issue involving the Crawford issue but, you know,
22 perhaps that would have been a better choice. I thought
23 both things were very harmful to him. I thought that
24 essentially the child's testimony that was corroborated
25 by the videotape and his statement are the two things

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1 that got him convicted.

2 Q. So, in preparing this brief, preparing the Ander's
3 Brief, you obviously reviewed all the testimony, is that
4 correct?

5 A. That's correct. I would've reviewed -- my standard
6 practice was to review all of the closing argument first,
7 then I would've gone back and trying to -- closing
8 argument and the jury charges first and then I would've
9 gone back and read the rest of it. But, I've reviewed
10 the entire thing. I read every single transcript I had
11 at Appellate Defense.

12 Q. Would you agree -- and then you would agree that the
13 admission of the corroborating video, forensic interview
14 was damaging evidence?

15 A. It was very damaging or in my opinion it was very
16 damaging. Those were the two things that I could have
17 attacked, that I thought were worth attacking.

18 You know, if I was doing an Ander's, like I said,
19 most of the time I don't do an Ander's on something that
20 is a preserved issue but isn't going anywhere that
21 wouldn't have made any difference.

22 Most of the time I would have done an Ander's on an
23 unpreserved issue or maybe a preserved issue that
24 questionably had merit, like this case, that involves a
25 key piece of evidence for the State. Basically, I tried

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1 to chip away key pieces of evidence in Ander's Briefs.

2 Q. Is it your testimony today that you didn't brief or
3 raise the Crawford issue because it wasn't preserved or
4 because...

5 A. To be honest with you and I'm not sure if it was 223
6 or 323 in the transcript -- 323

7 [Whereupon, the witness reviews document]

8 A. 322, 17 through 19.

9 MS. WILSON: It's on 323 in the big numbers and it's
10 17 through 19 on the line.

11 Q. [Mr. Falk] So, did you feel that the issue was
12 preserved?

13 A. It is preserved, and honestly I think that it
14 probably was preserved. The reason that I didn't raise
15 it and I might be mistaken about this, but I know
16 especially at that time period I was under the impression
17 that any time you have the right to cross-examine you
18 can't raise a Crawford issue after that.

19 That was my understanding at the time. Basically if
20 you had a right to cross-examine at the trial and
21 something came up later, you couldn't raise a Crawford
22 issue because of it. You could still make a hearsay
23 objection, but not a Crawford objection. That was my
24 understanding at the time. Honestly, I might be wrong
25 and I honestly don't know I haven't done the research in,

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1 you know, three years and I wouldn't have done the
2 research in this case. That was something that I
3 considered doing in a brief sometime around February of
4 2011. I know that just because I was at a conference and
5 I bounced it off somebody else who told me that there was
6 nothing -- that that wasn't an issue.

7 Q. That it was or was not?

8 A. That it was not an issue.

9 Q. Okay.

10 A. But, that was around February of 2011. Now, I might
11 very well be wrong about that. Like I said, I haven't
12 done the research in over three years so, I can't recall
13 if that's actually correct or not.

14 Q. If an objection had been made on 402, 403 grounds --
15 403 grounds as that it was cumulative testimony and
16 therefore its probative value would have been outweighed
17 by the prejudice since it was cumulative and very
18 damaging testimony. If that issue had been raised and
19 preserved, would you have filed it in a brief?

20 A. I'll say this, I probably wouldn't have, but I might
21 have been wrong for not doing it, okay?

22 Q. Fair enough.

23 A. I don't think I would have. I tried my best to
24 steer clear of anything with abusive discretion standard
25 of review. So, I was like really, really hesitant to

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1 raise purely evidentiary issues, you know, that are
2 purely a matter of state law and government or abusive
3 discretion. That's what I steered clear of, state law
4 with abusive discretion issues.

5 Q. In your ---

6 A. --- but, I might have been wrong for not doing it to
7 be honest with you.

8 Q. In your tenure at the Appellate Defender's Office,
9 were you aware that cases had been returned out of
10 abusive discretion?

11 A. Oh yeah, yeah. It certainly could have happened.
12 You know, that's why I'm saying I probably would have
13 been wrong for it, but I probably wouldn't have done it
14 to be 100 percent honest with you and I might have been
15 wrong for that, but I probably wouldn't have done it.

16 MR. FALK: No further questions, Your Honor.

17 THE COURT: Cross-examination?

18 MS. WILSON: Thank you, Your Honor.

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1 CROSS-EXAMINATION

2 BY MS. WILSON:

3 Q. Okay now, Mr. Shaffer you said that kind of like
4 your appellate process that you go through when you were
5 at appellate defense and you got a case is that you
6 review the record to find issues that you could raise, is
7 that correct?

8 A. That's correct. I would've reviewed the end of the
9 record first; closing arguments and jury charges and then
10 I would've started from the beginning looking for
11 anything that's preserved.

12 I would've written down everything that's preserved
13 unless it and if it was something that's preserved like
14 leading or something like that, I wasn't going to brief
15 an issue on leading questions or something like that.
16 But, if there was anything that might actually make a
17 difference in the trial, I would've briefed that.

18 Q. And at the time you thought that you raised -- you
19 raised in this brief what you thought to be the most
20 meritorious issue, is that correct?

21 A. Yeah, I think that that was -- well, I think that
22 that was probably maybe not the most meritorious issue it
23 was I didn't think there were any real meritorious issues
24 and I think that I chose the one that I had some basis
25 for saying that it would have made a difference. But, I

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1 think that the confrontation issue probably is another
2 thing that would have made a difference. By saying that,
3 I mean, if I would have raised the other issue maybe that
4 would have made a difference in the outcome of the trial.
5 If I was able to succeed at it, but I didn't think it had
6 any merit.

7 Q. Okay. And you presented an Ander's Brief on Mr..
8 Turner's behalf and can you -- are you aware that an
9 Ander's Brief the court reviews the entire record for
10 issues that could possibly be presented on appeal?

11 A. I'm aware that the proper Ander's procedure involves
12 the court reviewing the entire record on appeal, and all
13 of the issues that are raised both in the pro-se brief
14 and in the attorney's brief.

15 That being said, I'm not saying the Ander's process
16 is flawless, so I actually take issue sometimes that it's
17 probably not flawless.

18 But, I will say this is that the court probably --
19 somebody at the court read that entire record, that's for
20 sure. Somebody at the court read the entire record.

21 Q. And you agree that the court -- have you reviewed a
22 copy of the order from the court in this case?

23 A. No, I have not.

24 Q. Okay.

25 MS. WILSON: Your Honor, may I approach the witness?

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1 THE COURT: What are you referring to?

2 MS. WILSON: It's just the order and remittiter from
3 the ---

4 THE COURT: --- oh, the remittiter?

5 MS. WILSON: It's -- the order is attached to the
6 back of it.

7 [Whereupon, the witness is shown document]

8 Q. [Ms. Wilson] Can you just, state for the record what
9 the court's finding was?

10 A. And the court found Jeremiah Turner appeals his
11 conviction of four counts of First Degree Criminal Sexual
12 Conduct with a Minor and one count of Lewd Act upon a
13 Minor arguing the trial court erred in finding Turner's
14 statement to the police was voluntary.

15 After a thorough review of the record and counsel's
16 brief pursuant to Anders v California, and it gives the
17 site, and State v Williams, and it gives the site we
18 dismiss the appeal and grant counsel's motion to be
19 relieved. And I agree with you that the court would have
20 reviewed the entire thing. The only issue that I would
21 say is that, you know, essentially no one is flawless and
22 somebody at the court might have reviewed it and might
23 have missed something.

24 Q. So, just to be clear, it's your testimony today that
25 you raised the issue that you thought was the most

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1 meritorious and that you could have raised the Crawford
2 issue, but after today you didn't think that any of those
3 issues would have been meritorious?

4 A. No. I know at the time I didn't think that those
5 issues would have been meritorious. Honestly, if it came
6 up to me today, if that issue came before me today I
7 would do the research on it because I don't know if the
8 law changed, I don't know -- I can't really recall what I
9 was basing that off of other than somebody telling me.
10 But, I know I did the research as well, but I can't
11 recall the case that says that.

12 Q. Thank you.

13 THE COURT: Anything further?

14 MR. FALK: No, Your Honor.

15 THE COURT: All right, you may come down.

16 THE WITNESS: Thank you, Your Honor.

17 [Whereupon, the witness is excused and exits the
18 witness stand]

19 THE COURT: Next witness?

20 MR. FALK: Your Honor, we have no other witnesses.
21 I talked with my client and he says he doesn't want to
22 testify, I don't know if you want to go on the record
23 with some kind of question and answer on that?

24 THE COURT: Did he testify at trial?

25 MR. FALK: Yes he did.

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1 FIFTH AMENDMENT RIGHTS

2 THE COURT: Mr. Turner, your attorney tells me that
3 you do not wish to testify at this hearing, is that
4 correct?

5 MR. TURNER: Yes, sir.

6 THE COURT: You know then that the only evidence
7 that I have to consider is what's already been testified
8 to and a copy of the transcript of your trial. Do you
9 understand that?

10 MR. TURNER: Yes, sir.

11 THE COURT: So, if I haven't heard from you, I'll
12 just have to take what I find in the transcript and
13 testimony I've already heard and make a decision based on
14 that. Do you understand?

15 MR. TURNER: Yes, sir.

16 THE COURT: I want you to understand you have a
17 right to testify, now. And, it's not like a trial,
18 exactly because in a trial, the Judge can tell the jury
19 that they couldn't consider the fact that you didn't
20 testify -- couldn't hold that against you.

21 And I will tell you that I'm not going to hold it
22 against you either, but it just leaves me with only the
23 transcript and the testimony I've heard so far, I just
24 want you to understand that. You understand you have the
25 right to testify if you want to. Do you understand that?

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1 MR. TURNER: Yes, sir.

2 THE COURT: Okay. And you choose -- has your
3 lawyer told you that you don't -- should not testify it's
4 not like a trial situation where the Judge, I mean the
5 lawyer might advise you not to testify. Has he advised
6 you not to testify?

7 MR. TURNER: No, sir.

8 THE COURT: It's your own personal decision?

9 MR. TURNER: Yes, sir.

10 THE COURT: Nobody has coerced you or threatened
11 you in any way?

12 MR. TURNER: No, sir.

13 THE COURT: Good. You're not on any drugs of any
14 kind?

15 MR. TURNER: No, sir.

16 THE COURT: Okay. It's your voluntary desire not
17 to testify, is that correct?

18 MR. TURNER: Yes, sir.

19 THE COURT: Okay. Anything from the State?

20 MS. WILSON: Nothing from the State, Your Honor.

21 THE COURT: No witnesses?

22 MS. WILSON: No witnesses, Your Honor.

23 THE COURT: All right. Anything further?

24 MR. FALK: Other than a summation?

25 THE COURT: Yeah.

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1 MR. FALK: Now?

2 THE COURT: Yes; unless you want to take a break.

3 MR. FALK: No, Your Honor, different Judges have
4 different procedures.

5 THE COURT: No, I'm fine. Go ahead.

6 MR. FALK: Okay.

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Jeremiah Turner v State of S.C
Closing Argument by Mr. Falk
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CLOSING ARGUMENT

BY MR. FALK:

Your Honor, we believe, it's our contention that there was ineffective assistance of counsel at the trial level. I think there's been testimony here that the corroborating forensic disk was evidence that was damaging to my client. And that I think there's been testimony here to show that there were arguments that could have been made to have kept that disk away from the jury. And ---

THE COURT: --- wasn't there some discussion about redaction also?

MR. FALK: There was a discussion about redaction and that was -- if you read through Mr. Grimes' argument at that point, I think his initial contention was that all right we'll let this -- it's okay for the statement to come in, but just no inconsistent portions of it. And that's just why and I believe paraphrasing what he said, he wanted to redact the inconsistencies.

And then I think that led to a further discussion about whether or not under Copeland whether or not that -- first of all whether or not it was a prior inconsistent statement that there was a proper foundation for it and then whether or not that statement could come in as substantive evidence. And I think -- I think from

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1 my look at the transcript other than the one notation on
2 the one page, there really wasn't a confrontation clause
3 argument made and I think a confrontation clause argument
4 made -- could have been made in this case because
5 certainly the Judge, you know, asked Mr. Grimes well you
6 -- advised Mr. Grimes now that she's gone you're not
7 going to be able to cross-examine her about the
8 inconsistencies of her statement.

9 And I think the fact that the reason why the statute
10 the 17-23-175 if it does pass the Crawford test is
11 because there is the opportunity for cross -- there's
12 always the opportunity for cross-examination by the
13 victim. And that was lost, for whatever reason that was
14 lost in this case whether or not the opportunity to
15 cross-examine the victim on the inconsistencies was lost
16 because the victim was allowed to leave. And whether or
17 not the admission of that statement under these
18 circumstances became a Crawford issue, you know, I
19 believe that issue was there.

20 And then furthermore I think that not in every case,
21 or you can have this same fact situation where the victim
22 goes on testifies to in detail the facts and then the
23 statement comes in which then corroborates the facts.
24 Whether or not it's bolstering her prior opinion or
25 whether or not it's repetitive, I still think if you look

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1 at balancing a 402 versus 403 its probative value is
2 certainly outweighed by the prejudice by having very
3 inflammatory statement coming in that the jury hears. So
4 I think that the failure ---

5 THE COURT: --- what was the inconsistency, if
6 there was one?

7 MR. FALK: Very important inconsistencies because
8 in the statement she alleged ---

9 THE COURT: --- in the video?

10 MR. FALK: In the video statement she said there
11 wasn't -- its whether or not there was insertion of ---

12 THE COURT: --- penetration ---

13 MR. FALK: --- penetration by the private parts or
14 the finger. And on the stand she said there wasn't.

15 THE COURT: She said there was not?

16 MR. FALK: There was not. And so, that was the
17 inconsistency ---

18 THE COURT: --- in the video she said there was.

19 MR. FALK: Yes and so, in that other section that
20 I showed the court where Ms. Herring-Lash tried to show
21 that it was a prior inconsistent statement, she did make
22 it before, she was confronted with it, that's why it came
23 in. It was a very significant inconsistency. And I
24 don't want to be -- if I miscast something that the
25 prosecutor in that case said, who is standing right there

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1 I don't mean to do that. That's just my reading of the
2 transcript. So, if there was a failure in this case I
3 do think there was a failure on not putting up a better
4 fight, certainly whether or not Mr. Shaffer would have
5 picked up the mantle on it and raised the issue on
6 appeal.

7 Well, first of all we don't know what the trial
8 Judge would have said because he was never presented with
9 whether or not this was cumulative evidence. And whether
10 or not even though Mr. Grimes made the argument about the
11 confrontation clause, I'm not sure whether the court ever
12 ruled that there was not a confrontation clause violation
13 so ---

14 THE COURT: --- well, he said you've had all the
15 confrontation you want.

16 MR. FALK: Okay. All right, so ---

17 THE COURT: --- that's what he said.

18 MR. FALK: If there was going to be enough to
19 preserve it, then whether the problem is that ---

20 THE COURT: --- confrontation was not based on the
21 testimony on the video; it was based on the fact that he
22 had the right -- he had the opportunity to confront the
23 witness when she testified. Not ---

24 MR. FALK: --- yeah, but I mean if that's ---

25 THE COURT: --- confront her about the

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1 inconsistencies.

2 MR. FALK: But certainly that's a difficult
3 argument. You need to be in effect cross-examining
4 before the direct comes on because he would have had to
5 be cross-examining her on something he doesn't know
6 whether or not she was going to have said. I think the
7 reason why you're allowed -- that he would have been
8 allowed once to redirect is because then he could have
9 cross-examined her on that.

10 And the fact that he cross-examined first and
11 whether or not the trial court was right -- possibly
12 that's something that Mr. Shaffer should have brought up
13 to the Court of Appeals and that's why I think between
14 Mr. Grimes and Mr. Shaffer it's an argument that could
15 have been raised with the Court of Appeals on my
16 defensive merit. And then again, well I guess that's it.

17 So, I think there are two issues that could have
18 been raised and whether or not appellate counsel would
19 have raised them. I mean, I still I have questions about
20 whether or not it made sense to call your client a
21 pedophile; I mean I understand his argument there. I'm
22 not sure that when I'm arguing for the Court of Appeals
23 it's the best argument to say well my client is a
24 pedophile and the police were mean to him.

25 THE COURT: It didn't impress them.

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1 MR. FALK: Thank you, Your Honor.

2 THE COURT: Your Honor, there are two cases that I
3 -- and I could submit them. I know one of the cases is
4 State v S-T-A-H-L-N-E-C-K-E-R. And I can't -- I just
5 don't have the cite with me ---

6 THE COURT: --- all right ---

7 MR. FALK: --- there are two cases that have been
8 decided since this statute the 17-23 where the Court of
9 Appeals said had these issues been raised, they would
10 have been before -- the issues were never raised at
11 trial; the confrontation issue and the repetitive nature
12 of the testimony. So I mean, I do think those are issues
13 that have come up since the statute was passed that they
14 still possibly are confrontation clause issues. The
15 Court of Appeals sort of in the back they were saying we
16 haven't had an opportunity to hear that because it wasn't
17 properly preserved. So, I do think there is some -- and
18 if the court would permit me then I would ---

19 THE COURT: --- yes, sir ---

20 MR. FALK: --- provide a memorandum with ---

21 THE COURT: --- no ---

22 MR. FALK: --- cases on that.

23 THE COURT: I'm going to ask for that.

24 MR. FALK: Thank you.

25 THE COURT: What's the State's position?

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CLOSING ARGUMENT

BY MS. WILSON:

Just briefly, Your Honor. With regard to the claim of ineffective assistance of counsel, the State would just argue that you should just dismiss this claim. Mr. Shaffer testified that he raised on appeal what he thought to be the most meritorious issue. And as the appellate attorney, he doesn't have -- he's not required to raise every non-frivolous issue that's preserved in the record.

And also, he exercises his discretion and he also testified that he didn't think that any of the issues at trial would have been meritorious on appeal and that even if he thought that the Crawford issue was meritorious, he still chose to raise what he thought was the most meritorious which was the issue with regard to his statement.

And also, Your Honor, with regard to his claim ineffective assistance of appellate counsel, in order to be successful in that you have to provide some proof that he would have prevailed on appeal. And we haven't -- Mr. Turner hasn't provided any evidence to the court that the court -- that the Appellate Court would have accepted his argument. And also, Your Honor, his brief was submitted pursuant to Ander's so the court reviewed the record and

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September 10, 2014

1 looked for issues that could have been -- that were
2 properly preserved that they could have wanted to
3 address.

4 With regard to this ineffective assistance of trial
5 counsel, it's the State's position that with regard to
6 his Crawford issue and this forensic video, Mr. Grimes
7 objected to the forensic video, he objected to it on the
8 basis of Crawford as Mr. Turner seems to argue today, I
9 think he should have.

10 He made the argument after doing research before
11 trial. He consulted with an expert on the forensic video
12 to determine if there were any issues with it that would
13 make it objectionable at trial. And he made one argument
14 he think he -- he thought he should have made -- he
15 thought that he could have made at trial, but he didn't
16 think going into it that it would be of any success. And
17 also, Your Honor it's the State's ---

18 THE COURT: --- it wasn't based at all on the
19 Ander's Brief.

20 MS. WILSON: What did you say, I'm sorry?

21 THE COURT: It wasn't based at all on the Ander's
22 Brief.

23 MS. WILSON: Right, Your Honor, we have Mr.
24 Shaffer's testimony about that. But, for -- and also
25 with regard to, this is for the ineffective assistance of

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1 trial counsel; even without this forensic video they
2 still would have had the victim's testimony at trial.
3 And, it's the State's position that Mister -- that the
4 State presented overwhelming evidence of Mr. Turner's
5 guilt at trial despite having -- aside from the forensic
6 video.

7 They had testimony from the victim; this was
8 reflected on page 212, that the defendant put his finger
9 in her private part. She said that twice, she said that
10 she put something in her mouth; he put it in her back
11 side. The defendant put her tongue on her privates, I
12 mean, so there was damning testimony from the victim that
13 despite even if he had been successful in his arguments
14 with regards to the forensic video still would have had
15 that. They also had Mr. Turner's statement to police
16 where he talked about ---

17 THE COURT: --- that's not part of this record.

18 MS. WILSON: It's in the trial transcript. These
19 portions I'm referring to now.

20 THE COURT: I'm talking about the statement.

21 MS. WILSON: It was read to the jury. It's in the
22 transcript. It's on ---

23 THE COURT: --- read to the jury?

24 MS. WILSON: Yes, Your Honor.

25 THE COURT: Where is that?

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1 MS. WILSON: It's on page 467.

2 [Whereupon, the court reviews documents]

3 MS. WILSON: And he talks about starting on -- well,
4 it goes from 467 to 468. He basically talks about how
5 ---

6 THE COURT: --- okay. I see it.

7 MS. WILSON: Okay. Thank you, Your Honor. And
8 also, Your Honor, it's the State's position that Mr.
9 Turner's confrontation clause wasn't violated because the
10 victim was present. And we have Mr. Grimes today he
11 testified that he didn't need to recall the victim after
12 the video was played and that if he thought he needed her
13 then he would have objected to the court releasing her.
14 So, it's just the ---

15 THE COURT: --- he would have?

16 MS. WILSON: He would have. And it's the State's
17 position just today that this application for post
18 conviction relief be dismissed with prejudice.

19 THE COURT: All right. Anything further?

20 MR. FALK: No, Your Honor.

21 THE COURT: All right. Proposed orders in 30 days
22 and Mr. Falk the cases that you wish to submit in terms
23 of the brief, just make it in the form of an order.

24 MR. FALK: I beg your pardon? In the order?

25 THE COURT: Just make it in the form of an order

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1 instead of a separate memorandum. All right?

2 MS. WILSON: Thank you, Your Honor.

3 MR. FALK: Thank you.

4 THE COURT: Thank you very much. Thirty days.

5 *****END OF TRANSCRIPT OF RECORD*****
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Jeremiah Turner v State of S.C
Certificate of Court Reporter
September 10, 2014

C E R T I F I C A T E

I, the undersigned, Joyce C. Rueger, Official Circuit Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Charleston County, South Carolina on the 10th day of September, 2014.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

March 8, 2015



Joyce C. Rueger, CVR-M

Court Reporter

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

Jeremiah Turner, #340197,)

Applicant,)

v.)

State of South Carolina,)

Respondent.)

IN THE COURT OF COMMON PLEAS

2013-CP-10-4151

ORDER OF DISMISSAL

FILED
2014 DEC 15 PM 4:54
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

Presiding Judge:

Applicant's Attorney:

Respondent's Attorney:

Trial Counsel:

Appellate Counsel:

Date of Hearing:

Court Reporter:

The Honorable G. Thomas Cooper

James Falk, Esquire

Ashleigh R. Wilson, Esquire

Andrew Grimes, Esquire

Tristan Shaffer, Esquire

September 10, 2014

Joyce C. Rueger

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed July 16, 2013. The Respondent made its Return on December 5, 2013. An evidentiary hearing on the matter was convened on September 10, 2014 at the Charleston County Courthouse. The Applicant was present at the hearing and represented by James Falk, Esquire. Ashleigh R. Wilson, Esquire of the South Carolina Office of the Attorney General represented the Respondent.

Also present and testifying were Andrew Grimes, Esquire, and Tristan Shaffer, Esquire. This Court had before it the trial transcript, the Charleston County Clerk of Court records, the Applicant's records from the South Carolina Department of Corrections, the Applicant's application, the Respondent's Return, and the Applicant's appellate records.

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PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Charleston County Clerk of Court. The Applicant was indicted at the March 2009 term of the Charleston County Grand Jury for four counts of criminal sexual conduct with a minor- first degree (2009-GS-10-2423, -2424, -2428, -2432) and lewd act on a minor under 16 (2009-GS-10-2435). He was represented by Andrew Grimes, Esquire, and Megan Ehrlich, Esquire.

The Applicant proceeded to trial and was found guilty by a jury. On April 8, 2010, the Applicant was sentenced by the Honorable J.C. Nicholson to confinement for thirty (30) years for each count of criminal sexual conduct with a minor- first degree and for fifteen (15) years for lewd act on a minor under 16. The sentences are to be served concurrently.

A Notice of Appeal was filed on the Applicant's behalf at the South Carolina Court of Appeals. Tristan Shaffer, Esquire formerly of the South Carolina Office of the Appellate Defense perfected the appeal. Counsel filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967). The South Carolina Court of Appeals affirmed the Applicant's convictions and sentences. State v. Turner, Op. No. 2012-UP-362 (S.C. Ct. App. June 13, 2012).

ALLEGATIONS

In his application, the Applicant alleges he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel.

At the hearing, Applicant proceeding solely on the following allegations:

1. Ineffective assistance of trial counsel.
 - a. Counsel failed to challenge the forensic video presented at trial.
2. Ineffective assistance of appellate counsel.
 - a. Counsel failed to raise the issue of factual innocence on appeal.

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b. Counsel filed a brief pursuant to Anders.

This Court finds the Applicant abandoned any and all claims not pursued during his evidentiary hearing or addressed in this order.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. Sec. 17-27-80 (2003).

Summary of the Testimony

Andrew Grimes, Esquire, was present and testified he was appointed to represent the Applicant. He testified he has been a public defender since 2006 and has experience trying criminal sexual conduct with a minor cases. Counsel testified he began representing the Applicant shortly after his arrest. He testified he filed a Brady motion on the Applicant's behalf and reviewed the discovery materials with the Applicant. Counsel testified the State's evidence against the Applicant included the Applicant's statement that the child victim initiated sex with him, the victim's testimony, and evidence of the victim's medical condition which would have made intercourse very painful. Counsel testified their trial strategy was to show through the Applicant's testimony that his confession was just a fantasy and to present character witnesses.

Counsel testified he consulted Dr. Betsy Gibbs prior to trial to review the video of the victim's forensic interview. He testified Dr. Gibbs concluded the forensic interview was done according to the appropriate protocol. He testified he did not want to present Dr. Gibbs' testimony at trial. Counsel testified prior to trial he reviewed the case law on the admissibility of

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the forensic interview video. He testified that based on his review of the case law he believed the video of the forensic interview would be admissible at trial.

Counsel testified he objected to the admissibility of the video at trial on the basis that there were inconsistencies in the video and the victim's live testimony. Counsel testified he also objected to the admissibility of the video on the basis that it violated the confrontation clause. He testified he did not have any other arguments to make to the court based on his review of the case law at the time. Counsel testified the video of the forensic interview was damaging, but did not make or break the Applicant's case. He testified the victim's live testimony was more damaging than the video of the victim's forensic interview.

Tristan Shaffer, Esquire, was present and testified he prepared the appellate brief submitted in the Applicant's appeal. Counsel testified when he received the Applicant's case on appeal he reviewed the record to find any appellate issues that were preserved for appeal. Counsel testified he spoke with trial counsel about the appeal and was alerted of some potential issues to raise on appeal. Counsel testified he did not find any meritorious issues to argue on appeal; therefore, he filed an Anders brief. He testified the Applicant was given the chance to submit a *pro se* brief to the Court. He testified pursuant to Anders the Court reviewed the entire appellate record for meritorious issues that were preserved in the lower court. Counsel testified he did not think the Applicant had any issues that would be meritorious on appeal.¹

Ineffective Assistance of Trial Counsel

The Applicant alleges trial counsel was ineffective for failing to challenge the admissibility of a video of the victim's forensic interview at trial. This Court finds the Applicant has failed to carry his burden of proving trial counsel provided ineffective assistance of counsel.

¹ The Applicant was present and voluntarily waived his right to testify at his post-conviction relief hearing.

In a PCR action, "the burden of proof is on the applicant to prove his allegation by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002).

For the Applicant to be granted PCR as a result of ineffective assistance of counsel, he must show both: (1) that his counsel failed to render reasonably effective assistance under prevailing professional norms, and (2) that he was prejudiced by his counsel's ineffective performance. See Strickland v. Washington, 466 U.S. 668 (1984); Porter v. State, 368 S.C. 378, 383, 629 S.E.2d 353, 356 (2006). In order to prove prejudice, an applicant must show "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry v. State, 300 S.C. 115, 117-118, 386 S.E.2d 624, 625 (1989). "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland v. Washington, 466 U.S. 668).

Regarding the Applicant's claims of ineffective assistance of counsel, this Court finds the Applicant has failed to meet his burden of proof. This Court finds that Applicant's attorney presented credible testimony and demonstrated the normal degree of skill, knowledge, professional judgment, and representation that are expected of an attorney who practices criminal law in South Carolina. State v. Pendergrass, 270 S.C. 1, 239 S.E.2d 750 (1977); Strickland, 466 U.S. at 668; Butler, 286 S.C. 441, 334 S.E.2d 813. This Court further finds counsel adequately conferred with the Applicant and provided thorough representation. This Court finds that counsel's representation did not fall below an objective standard of reasonableness.

This Court finds the Applicant's claim that trial counsel was ineffective for failing to challenge the admissibility of the victim's forensic interview video is without merit. This Court finds and the record reflects counsel objected to the admissibility of the forensic interview video

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on two basis at trial. First, counsel objected to the admissibility of portions of the video on the basis that the victim made statements on the video which were inconsistent with the victim's testimony at trial. (Tr. 313:25-314:8, 315:16-21). Second, counsel objected to the admissibility of the video on the basis that it violated the Confrontation Clause. (Tr. 323:17-19). The trial court denied both of counsel's objections to the admissibility of the video. (Tr. 323:9-23). This Court finds counsel adequately challenged the admissibility of the forensic interview video at trial.

This Court also finds counsel provided credible testimony that he had an expert review the video prior to trial and that he researched case law on the admissibility of the video prior to trial. This Court finds counsel's performance was not deficient and did not affect the outcome of the Applicant's trial. This Court also finds overwhelming evidence of the Applicant's guilt precludes a finding of prejudice by this Court. Concluding reasonable probability of a different result does not exist when there is overwhelming evidence of guilt. Geter v. State, 305 S.C. 365, 367, 409 S.E.2d 344, 346 (1991). At trial, the State presented the child victim who testified the Applicant put his finger and tongue on her privates and the Applicant put his privates in her mouth and backside. (Tr. 210-220). The State also presented the Applicant's statement to police in which he admitted engaging in masturbation, oral sex, and anal sex with the child victim who he claimed initiated the sexual acts. (Tr. 467-468). This Court finds the Applicant has failed to carry his burden of proving trial counsel's performance was deficient. This Court also finds the Applicant has failed to carry his burden of proving trial counsel's performance affected the outcome of his trial proceeding.

Ineffective Assistance of Appellate Counsel

The Applicant claims appellate counsel was ineffective for filing an Anders brief and failing to raise factual innocence as an issue on appeal. This Court finds the Applicant has failed to carry his burden of proving ineffective assistance of appellate counsel.

A defendant is entitled to effective assistance of appellate counsel. Southerland v. State, 337 S.C. 610, 615, 524 S.E.2d 833, 836 (1999). Although appellate counsel is required to provide effective assistance of counsel, "appellate counsel is *not* required to raise every non-frivolous issue that is presented by the record." Thrift v. State, 302 S.C. 535, 539, 397 S.E.2d 523, 526 (1990) citing Jones v. Barnes, 463 U.S. 745, 103 S.Ct. 3308, 77 L.Ed.2d 987 (1983). "For judges to second-guess reasonable professional judgments and impose on ... counsel a duty to raise every 'colorable' claim suggested by a client would disserve the very goal of vigorous and effective advocacy..." Id. at 754, 103 S.Ct. 3308.

Generally, in analyzing a claim of ineffective assistance of appellate counsel, the Court applies the Strickland test just as it would when analyzing a claim of ineffective assistance of trial counsel. See Southerland v. State, 337 S.C. 610, 616, 524 S.E.2d 833, 836 (1999). Thus, in this case, we ask 1) whether appellate counsel's performance was deficient, and 2) whether Respondent was prejudiced by appellate counsel's deficient performance. Bennett v. State, 383 S.C. 303, 309, 680 S.E.2d 273, 276 (2009). To prove prejudice, the applicant must show that, but for counsel's errors, there is a reasonable probability he would have prevailed on appeal. Anderson v. State, 354 S.C. 431, 434, 581 S.E.2d 834, 835 (2003).

In Anders v. California, the United States Supreme Court announced the procedure an appointed attorney should follow if the attorney believes the client's appeal is frivolous and

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without merit. 386 U.S. 738, 87 S.Ct. 1396 (1967). The U.S. Supreme Court held the attorney could petition for permission to withdraw from the case, but that the petition for withdrawal must be accompanied by a brief "referring to anything in the record that might arguably support the appeal. Id. at 744. Under Anders, the defendant must be given time to respond and raise any additional points after his attorney submits the Anders brief. Id. The Court then is obligated to conduct a "full examination" of the record to determine whether the appeal is "wholly frivolous". Id. According to Anders, if the reviewing court finds the appeal is frivolous, "it may grant counsel's request to withdraw and dismiss the appeal insofar as federal requirements are concerned, or proceed to a decision on the merits, if state law so requires." Id. at 744. It is clear from a reading of Anders that the decision to file, or not file, a no-merit brief rests solely with appellate counsel. Poston v. State, 303 S.C. 167, 168, 399 S.E.2d 592 (1989).

This Court finds appellate counsel was not ineffective for filing an Anders brief in the Applicant's appeal. This Court finds appellate counsel appropriately exercised his discretion to file an Anders brief in the Applicant's appeal and provided effective assistance of counsel.

This Court finds counsel was not ineffective for failing to raise factual innocence on appeal. This Court finds the Court of Appeals reviewed all preserved issues in the record and dismissed the Applicant's appeal. This Court finds the Applicant was not prejudiced by counsel's failure to raise the issue of factual innocence on appeal since the Applicant could have raised the claim himself in a *pro se* response to counsel's Anders brief.² This Court finds further the Applicant has also failed to show that he would have prevailed on the issue of factual innocence on appeal. This Court finds the Applicant's success on the issue of factual innocence is particularly unlikely in light of the Applicant's lengthy statement to police in which he admitted

² The unpublished opinion from the Court of Appeals indicates the Applicant did not file a *pro se* response to appellate counsel's Anders brief for the Court to review.

committing sexual acts with the child victim. (Tr. 467-468). This Court finds the Applicant has failed to carry his burden of proving appellate counsel was ineffective for failing to raise factual innocence on appeal. This Court also finds the Applicant has failed to show that but for counsel's performance he would have prevailed on appeal.

All Other Allegations

As to any and all allegations that were raised in the application in this matter and not specifically addressed in this Order, this Court finds Applicant failed to present any evidence or testimony regarding such allegations. Accordingly, this Court finds the Applicant waived such allegations. Therefore, they are hereby denied and dismissed.

CONCLUSION

Based on all the forgoing, this Court finds and concludes the Applicant has not established any constitutional violations or deprivations before or during his trial, sentencing, and appellate proceedings. Trial and appellate counsel were not deficient and the Applicant was not prejudiced by trial or appellate counsel's representation. Therefore, this PCR application must be denied and dismissed with prejudice.

This Court advises the Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of this Order if he wants to secure appropriate appellate review. His attention is directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely filed.

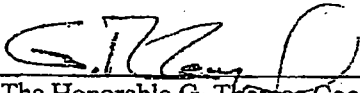


[Signature on the following page.]

IT IS THEREFORE ORDERED:

1. That the application for post-conviction relief be denied and dismissed with prejudice;
and
2. That the Applicant be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 10 day of December, 2014


The Honorable G. Thomas Cooper
Presiding Judge
9th Judicial Circuit

Columbia, South Carolina.

STATE OF SOUTH CAROLINA

COUNTY OF
STATECharleston
VS.

JEREMIAH TURNER

AKA:

Race: B Sex: M Age: 25

DOB: SS#:

Address:

City, State, Zip: NORTH CHARLESTON, SC 294050000

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Criminal Sexual Conduct w/ Minor 1st Degree

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2009GS1002424

A/W#: DIRIND0502

Date of Offense: 2/1/2008

S.C. Code § : 16-03-0655(A)(1)

CDR Code #: 0385

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0655(A)(1) of the S.C. Code of Laws, bearing CDR Code # 0385

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☒ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: Deborah Lash 15083
Herring-Lash, Deborah SC Bar#

Defendant

Attorney for Defendant

8743
SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections. 575 days☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fines:

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2993 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

§ 47.12 (Public Def/Prob)

§ 14-1-212 (Law Enforce. Funding)

§ 14-1-213 (Drug Court Surcharge)

§ 50-21-114 (BUI Breath Test Fee)

§ 56-5-2942(I) (Vehicle Assessment)

§ 90.7 (SCCA Surcharge)

3% to County (if paid in installments)

TOTAL

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (11/2009)

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Presiding Judge

Judge Code:

Sentence Date:

STATE OF SOUTH CAROLINA)
 COUNTY OF CHARLESTON)

STATE OF SOUTH CAROLINA)

VS.)

JEREMIAH TURNER,
 Defendant.)

IN THE COURT OF GENERAL SESSIONS
 OF THE NINTH JUDICIAL CIRCUIT

INDICTMENT NOS.: 2009-GS-10-02423

2009-GS-10-02424

2009-GS-10-02428

2009-GS-10-02432

VERDICT FORM

AS TO INDICTMENT NO.: 2009-GS-10-02423: (Sexual Intercourse)

We, the jury, by unanimous consent find the Defendant:

☒ Guilty of Criminal Sexual Conduct with a Minor, 1st Degree

OR AS TO THE LESSER INCLUDED OFFENSE:

☐ Guilty of Assault and Battery of a High and Aggravated Nature.

☐ Not Guilty.

AS TO INDICTMENT NO.: 2009-GS-10-02424: (Fellatio)

We, the jury, by unanimous consent find the Defendant:

☒ Guilty of Criminal Sexual Conduct with a Minor, 1st Degree

OR AS TO THE LESSER INCLUDED OFFENSE:

☐ Guilty of Assault and Battery of a High and Aggravated Nature.

☐ Not Guilty.

4/8/10 Michelle C. Weir

AS TO INDICTMENT NO.: 2009-GS-10-02428: (Digital Penetration)

We, the jury, by unanimous consent find the Defendant:

☒ Guilty of Criminal Sexual Conduct with a Minor, 1st Degree

OR AS TO THE LESSER INCLUDED OFFENSE:

☐ Guilty of Assault and Battery of a High and Aggravated Nature.

☐ Not Guilty.

AS TO INDICTMENT NO.: 2009-GS-10-02432: (Cunnilingus)

We, the jury, by unanimous consent find the Defendant:

☒ Guilty of Criminal Sexual Conduct with a Minor, 1st Degree

OR AS TO THE LESSER INCLUDED OFFENSE:

☐ Guilty of Assault and Battery of a High and Aggravated Nature.

☐ Not Guilty.

Please sign and date.

Michelle Weir

Foreperson

April 8, 2010

Please let the bailiffs know when you have finished your deliberations.

STATE OF SOUTH CAROLINA

COUNTY OF Charleston
STATE VS.

JEREMIAH TURNER

AKA:

Race: B Sex: M Age: 25DOB: SS#:

Address:

City, State, Zip: NORTH CHARLESTON, SC 294050000DL#: SID#:*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Lewd Act on a Minor <16

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2009GS1002435A/W#: DIRIND0505Date of Offense: 2/1/2008S.C. Code § : 16-15-0140CDR Code #: 2468

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSin violation of § 16-15-0140 of the S.C. Code of Laws, bearing CDR Code # 2468☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury, (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Herring-Lash, DeborahSC Bar#

Defendant

Andrew Brunier

Attorney for Defendant

8743

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

§ 47.12 (Public Def/Prob)

§ 14-1-212 (Law Enforce. Funding)

§ 14-1-213 (Drug Court Surcharge)

§ 50-21-114(BUI Breath Test Fee)

§ 56-5-2942(I) (Vehicle Assessment)

§ 90.7 (SCCJA Surcharge)

3% to County (if paid in installments)

TOTAL

Clerk of Court/ Deputy Clerk

Court Reporter: V. C. Foss

SCCA/217 (1/1/2009)

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,

§ 47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code: 2112Sentence Date: 4/8/10

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

STATE OF SOUTH CAROLINA)

VS.)

JEREMIAH TURNER,)
Defendant.)

IN THE COURT OF GENERAL SESSIONS
OF THE NINTH JUDICIAL CIRCUIT
INDICTMENT NO.: 2009-GS-10-02435

VERDICT FORM

AS TO INDICTMENT NO.: 2009-GS-10-02435:

We, the jury, by unanimous consent find the Defendant:

☒ Guilty of Lewd Act Upon a Minor.

☐ Not Guilty.

Please sign and date.

Michelle C. Wern

Foreperson

April 8, 2010

Please let the bailiffs know when you have finished your deliberations.

STATE OF SOUTH CAROLINA

COUNTY OF Charleston
 STATE VS.
JEREMIAH TURNER

AKA:

Race: B Sex: M Age: 25DOB: SS#:

Address:

City, State, Zip: NORTH CHARLESTON, SC 294050000DL#: SID#:*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Criminal Sexual Conduct w/ Minor 1st Degree

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2009GS1002432A/W#: DIRIND0504Date of Offense: 2/1/2008S.C. Code § : 16-03-0655(A)(1)CDR Code #: 0385

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSin violation of § 16-03-0655(A)(1) of the S.C. Code of Laws, bearing CDR Code # 0385
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☒ Mandatory GPS(CSC ☐ §17-25-45
 w/minor 1st or Lewd Act)
The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
 ATTEST: Deborah Lash 15DB3 Andrew Barnes 8743
Herring-Lash, Deborah SC Bar# Defendant Attorney for Defendant SC Bar#

 WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
§ 47.12 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$100	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(I) (Vehicle Assessment)	\$40/ea	\$
§ 90.7 (SCCJA Surcharge)	\$5	\$ <u>5.00</u>
3% to County (if paid in installments)	\$	\$ <u>3.90</u>
TOTAL	\$	\$ <u>133.90</u>

Clerk of Court/ Deputy Clerk: [Signature]Court Reporter: V. C. 1655

SCCA/217 (11/2009)

PTUP _____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
 § 47.12 requires \$500 be paid to Clerk
 during probation.
Presiding Judge: [Signature]Judge Code: 2009/10Sentence Date: 2/1/08

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

STATE OF SOUTH CAROLINA)

VS.)

JEREMIAH TURNER,)
Defendant.)

IN THE COURT OF GENERAL SESSIONS
OF THE NINTH JUDICIAL CIRCUIT

INDICTMENT NOS.: 2009-GS-10-02423

2009-GS-10-02424

2009-GS-10-02428

2009-GS-10-02432

VERDICT FORM

AS TO INDICTMENT NO.: 2009-GS-10-02423: (Sexual Intercourse)

We, the jury, by unanimous consent find the Defendant:

☒ Guilty of Criminal Sexual Conduct with a Minor, 1st Degree

OR AS TO THE LESSER INCLUDED OFFENSE:

☐ Guilty of Assault and Battery of a High and Aggravated Nature.

☐ Not Guilty.

AS TO INDICTMENT NO.: 2009-GS-10-02424: (Fellatio)

We, the jury, by unanimous consent find the Defendant:

☒ Guilty of Criminal Sexual Conduct with a Minor, 1st Degree

OR AS TO THE LESSER INCLUDED OFFENSE:

☐ Guilty of Assault and Battery of a High and Aggravated Nature.

☐ Not Guilty.

4/8/10 Michelle C. Weir

AS TO INDICTMENT NO.: 2009-GS-10-02428: (Digital Penetration)

We, the jury, by unanimous consent find the Defendant:

☒ Guilty of Criminal Sexual Conduct with a Minor, 1st Degree

OR AS TO THE LESSER INCLUDED OFFENSE:

☐ Guilty of Assault and Battery of a High and Aggravated Nature.

☐ Not Guilty.

AS TO INDICTMENT NO.: 2009-GS-10-02432: (Cunnilingus)

We, the jury, by unanimous consent find the Defendant:

☒ Guilty of Criminal Sexual Conduct with a Minor, 1st Degree

OR AS TO THE LESSER INCLUDED OFFENSE:

☐ Guilty of Assault and Battery of a High and Aggravated Nature.

☐ Not Guilty.

Please sign and date.

Michelle Weir

Foreperson

April 8, 2010

Please let the bailiffs know when you have finished your deliberations.

STATE OF SOUTH CAROLINA

COUNTY OF Charleston
STATE VS.JEREMIAH TURNER

AKA:

Race: B Sex: M Age: 25DOB: SS#:

Address:

City, State, Zip: NORTH CHARLESTON, SC 294050000DL#: SID#:*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Criminal Sexual Conduct w/ Minor 1st Degree

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2009GS1002428A/W#: DIRIND0503Date of Offense: 2/1/2008S.C. Code §: 16-03-0655(A)(1)CDR Code #: 0385

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSin violation of § 16-03-0655(A)(1) of the S.C. Code of Laws, bearing CDR Code # 0385
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☒ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: Herring-Lash, Deborah KDEB SC Bar# Defendant Andrew Grimes 8743
SC Bar# Attorney for Defendant SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections. 575 days☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
§ 47.12 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$100	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
§ 90.7 (SCCA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)	\$	\$ 3.90
TOTAL	\$	\$ 133.90

Clerk of Court/ Deputy Clerk

Court Reporter: V. C. Cross

SCCA/217 (11/2009)

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.Presiding Judge: [Signature]Judge Code: 217Sentence Date: 2/1/10

STATE OF SOUTH CAROLINA)
 COUNTY OF CHARLESTON)

STATE OF SOUTH CAROLINA)

VS.)

JEREMIAH TURNER,
 Defendant.)

IN THE COURT OF GENERAL SESSIONS
 OF THE NINTH JUDICIAL CIRCUIT

INDICTMENT NOS.: 2009-GS-10-02423

2009-GS-10-02424

2009-GS-10-02428

2009-GS-10-02432

VERDICT FORM

AS TO INDICTMENT NO.: 2009-GS-10-02423: (Sexual Intercourse)

We, the jury, by unanimous consent find the Defendant:

☒ Guilty of Criminal Sexual Conduct with a Minor, 1st Degree

OR AS TO THE LESSER INCLUDED OFFENSE:

☐ Guilty of Assault and Battery of a High and Aggravated Nature.

☐ Not Guilty.

AS TO INDICTMENT NO.: 2009-GS-10-02424: (Fellatio)

We, the jury, by unanimous consent find the Defendant:

☒ Guilty of Criminal Sexual Conduct with a Minor, 1st Degree

OR AS TO THE LESSER INCLUDED OFFENSE:

☐ Guilty of Assault and Battery of a High and Aggravated Nature.

☐ Not Guilty.

4/8/10 Michelle C. Wern

AS TO INDICTMENT NO.: 2009-GS-10-02428: (Digital Penetration)

We, the jury, by unanimous consent find the Defendant:

☒ Guilty of Criminal Sexual Conduct with a Minor, 1st Degree

OR AS TO THE LESSER INCLUDED OFFENSE:

☐ Guilty of Assault and Battery of a High and Aggravated Nature.

☐ Not Guilty.

AS TO INDICTMENT NO.: 2009-GS-10-02432: (Cunnilingus)

We, the jury, by unanimous consent find the Defendant:

☒ Guilty of Criminal Sexual Conduct with a Minor, 1st Degree

OR AS TO THE LESSER INCLUDED OFFENSE:

☐ Guilty of Assault and Battery of a High and Aggravated Nature.

☐ Not Guilty.

Please sign and date.

Michelle Wern

Foreperson

April 9, 2010

Please let the bailiffs know when you have finished your deliberations.

HER20080905447

WITNESSES

JONATHAN BURNEM

North Charleston Police Department

AGENCY CASE NUMBER

2008040260

ARREST WARRANT NUMBER

K351126

DATE OF ARREST

September 8, 2008

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date:

MAR 03 2009

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2009GS1002423

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

March Term 2009

THE STATE

68-5601(01)

VS.

JEREMIAH TURNER

DOB:

B/M

Indictment for

Criminal Sexual Conduct with a Minor, 1st
Degree

FILED

2009 MAR 23 AM 9:42

JULIE J. ARMSTRONG
CLERK OF COURT

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

INDICTMENT

At a Court of General Sessions, convened on March 2, 2009 the Grand Jurors of Charleston County present upon their oath:

Criminal Sexual Conduct with a Minor, 1st Degree

That JEREMIAH TURNER, DOB 11-10-1984, did in Charleston County between February 2008 and September 2008, engage in sexual battery upon Minor , DOB , to wit: sexual intercourse. This is in violation of §16-3-655 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 case made and provided.


DEBORAH HERRING-LASH
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Charleston
STATE VS.

JEREMIAH TURNER

AKA:

Race: B Sex: M Age: 25DOB: SS#:

Address:

City, State, Zip: NORTH CHARLES, SC 294050000DL#: SID#:*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Criminal Sexual Conduct w/ Minor 1st Degree

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2009GS1002423A/W#: K351126Date of Offense: 6/1/2008 - 9/4/2008S.C. Code §: 16-03-0655(A)(1)CDR Code #: 0385

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSIn violation of § 16-03-0655(A)(1) of the S.C. Code of Laws, bearing CDR Code # 0385
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☒ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury, (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: Deborah Herring-Lash 15003 Andrew Bromie 8743
Herring-Lash, Deborah SC Bar# Defendant Attorney for Defendant SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections. 575 days☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$

§ 56-5-2995 (DUI Assessment) \$12 \$

§ 56-1-286 (DUI Breath Test) \$25 \$

§ 47.12 (Public Def Prob) \$500 \$

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$100 \$

§ 50-21-114 (DUI Breath Test Fee) \$50 \$

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$

§ 90.7 (SCCJA Surcharge) \$5 \$ 5.003% to County (if paid in installments) \$ 3.90TOTAL \$ 133.90Clerk of Court/ Deputy Clerk V. CrossCourt Reporter: V. Cross

SCCA/217 (11/2009)

PTUP _____

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.Presiding Judge [Signature]Judge Code: 2117Sentence Date: 4/8/10

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

STATE OF SOUTH CAROLINA)

VS.)

JEREMIAH TURNER,
Defendant.)

IN THE COURT OF GENERAL SESSIONS
OF THE NINTH JUDICIAL CIRCUIT

INDICTMENT NOS.: 2009-GS-10-02423

2009-GS-10-02424

2009-GS-10-02428

2009-GS-10-02432

VERDICT FORM

AS TO INDICTMENT NO.: 2009-GS-10-02423: (Sexual Intercourse)

We, the jury, by unanimous consent find the Defendant:

☒ Guilty of Criminal Sexual Conduct with a Minor, 1st Degree

OR AS TO THE LESSER INCLUDED OFFENSE:

☐ Guilty of Assault and Battery of a High and Aggravated Nature.

☐ Not Guilty.

AS TO INDICTMENT NO.: 2009-GS-10-02424: (Fellatio)

We, the jury, by unanimous consent find the Defendant:

☒ Guilty of Criminal Sexual Conduct with a Minor, 1st Degree

OR AS TO THE LESSER INCLUDED OFFENSE:

☐ Guilty of Assault and Battery of a High and Aggravated Nature.

☐ Not Guilty.

4/8/10 Michelle C. Wern

AS TO INDICTMENT NO.: 2009-GS-10-02428: (Digital Penetration)

We, the jury, by unanimous consent find the Defendant:

☒ Guilty of Criminal Sexual Conduct with a Minor, 1st Degree

OR AS TO THE LESSER INCLUDED OFFENSE:

☐ Guilty of Assault and Battery of a High and Aggravated Nature.

☐ Not Guilty.

AS TO INDICTMENT NO.: 2009-GS-10-02432: (Cunnilingus)

We, the jury, by unanimous consent find the Defendant:

☒ Guilty of Criminal Sexual Conduct with a Minor, 1st Degree

OR AS TO THE LESSER INCLUDED OFFENSE:

☐ Guilty of Assault and Battery of a High and Aggravated Nature.

☐ Not Guilty.

Please sign and date.

Michelle Wern

Foreperson

April 8, 2010

Please let the bailiffs know when you have finished your deliberations.

ARREST WARRANT
K- 351126
 STATE OF SOUTH CAROLINA
☒ County ☐ Municipality of
CHARLESTON

THE STATE
 against

JEREMIAH TURNER

Address: **4926 SOUTH RHETT #5**
NORTH CHARLESTON, SC 29405

Phone: _____ SSN: _____
 Sex: **M** Race: **B** Height: **63** Weight: **160**

DL State: _____ DL# _____

DOB: _____ Agency OR# _____

Prosecuting Agency: **NCJD**

Prosecuting Officer: **BURNEM**

Offense: **CRIMINAL SEXUAL CONDUCT**

WITH A MINOR 1st DEGREE

Code/Ordinance Sec: **16-3-633 (1)**

This Warrant is **CERTIFIED FOR SERVICE** in the
☐ County ☐ Municipality of _____

The accused
 is to be arrested and brought before me to be
 dealt with according to law.

Signature of Judge _____ (L.S.)

Date: _____

RETURN

A copy of this arrest warrant was delivered to
 defendant _____
 on _____

Signature of Constable/Law Enforcement Officer _____

RETURN WARRANT TO:

STATE OF SOUTH CAROLINA)
☐ County ☒ Municipality of
CHARLESTON

AFFIDAVIT

Form Approved by
 E.C. Attorney General
 April 21, 2003
 SCCA 919

Personally appeared before me the affiant **R.E. STONE** who
 being duly sworn deposes and says that defendant **JEREMIAH TURNER**
 did within this county and state on **Sept 6-08 9-4-08** violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County ☐ Municipality of **CHARLESTON**)
 in the following particulars:
CRIMINAL SEXUAL CONDUCT WITH MINOR 1ST
16-3-633 (1)

I further state that there is probable cause to believe that the defendant named above did commit
 the crime set forth and that probable cause is based on the following facts:

SEE ATTACHED AFFIDAVIT

Signature of Affiant

STATE OF SOUTH CAROLINA)
☐ County ☒ Municipality of
CHARLESTON

Affiant's Address: **4900 LACROSS RD**

NORTH CHARLESTON, SC 29405

Affiant's Telephone: **843-334-5700**

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that
 on **Sept 6-08 9-4-08** defendant **JEREMIAH TURNER**

did violate the criminal laws of the State of South Carolina (or ordinance of
☐ County ☒ Municipality of **CHARLESTON**) as set forth below:

DESCRIPTION OF OFFENSE:

CRIMINAL SEXUAL CONDUCT WITH A MINOR 1ST

16-3-633 (1)

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said
 defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to
 the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me _____

on **September 9, 2008** _____

Signature of Issuing Judge _____ (L.S.)

Signature of Issuing Judge _____

Judge Code: **7001SL/AEC**

ORIGINAL

Judge's Address: **3870 LEEBS AVENUE, SUITE 106**

N. CHARLESTON, SC 29403

Judge's Telephone: **843-746-9822**

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON
CITY OF NORTH CHARLESTON

AFFIDAVIT

OCA#
INV.2008040260
Det. K BurnemPersonally appeared before me, a magistrate of this County, one
who first being duly sworn, deposes and says that*RESTON*

Jeremiah Turner

did within this County and State between June 2008 and September 4, 2008
violate the criminal laws of the State of South Carolina in the following particulars:DESCRIPTION OF OFFENSE
CRIMINAL SEXUAL CONDUCT WITH A MINOR, FIRST DEGREE
VIOLATION OF SECTION 16-3-655 (1)The affiant states there is probable cause to believe that the defendant named above did commit the crime(s) set forth,
and that such probable cause is based on the following facts:That between June 2008 and September 4, 2008, while at Dr. which is located in the City of North
Charleston, County of Charleston, State of South Carolina, the defendant Jeremiah Turner, did commit the offense of
Criminal Sexual Conduct with a minor, First Degree in violation of Section 16-3-655 (1) of the South Carolina Code of
Laws of 1976, as amended. In that the defendant did willfully, unlawfully and feloniously commit a sexual battery upon a
child victim Minor who is under eleven years of age. To wit: Sexual Intercourse.Facts to establish the aforesaid are that the victim, who is six (6) years old, disclosed to members of the Department
of Social Services and North Charleston Police Department, that the defendant, who is 23 years old, had been sexually
assaulting her over the past few months. The defendant admitted, after being advised of his constitutional rights and waiving
them, to the sexual assaults.This information is based upon the investigation of Det. K. Burnem of The North Charleston Police
Department. The victim, Delilah Coverdale (DSS), are witnesses to prove the same in such case which is made
against the peace and dignity of the State.Sworn to and Subscribed before me
this _____ day of SEP 09 2008
2008.*RESTON*

AFFIANT

Signature of Judge

Address: 4900 Lacross Rd.

North Charleston, S.C.

Phone: 554-5700