

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Richland County

J. Ernest Kinard, Jr., Circuit Court Judge

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S.C. Supreme Court

REGINALD SPELLMAN,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-000525

APPENDIX

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1 STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS

2 COUNTY OF RICHLAND

3
4
5 STATE OF SOUTH CAROLINA)

6 -vs-)

TRANSCRIPT OF RECORD

7 REGINALD BRYAN SPELLMAN,)

10-GS-40-7590

8 Defendant.)
9

10
11 January 9-13, 2012
Columbia, South Carolina
12
13
14

15 B E F O R E:

16 HONORABLE G. THOMAS COOPER, JR., Judge; and a jury.
17

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

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Circuit Court Reporter
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1 (The following proceedings are reported on
2 January 9, 2012.)

3 THE COURT: All right. Solicitor, call your
4 case.

5 MS. BODMAN: Your Honor, the State calls
6 2010-GS-40-7590, the State of South Carolina versus
7 Reginald Brian Spellman, for assault with intent to
8 commit CSC with a minor in the first degree.

9 THE COURT: All right. Is the State ready to
10 proceed?

11 MS. BODMAN: We are, Your Honor.

12 THE COURT: Is the defense ready to proceed?

13 MR. BLANKENSHIP: Yes, we are, Your Honor.

14 THE COURT: Well, I'm not. Stand at ease a
15 second. The clerk has lost my voir dire.

16 (Pause.)

17 THE COURT: Mr. Blankenship, any objection to
18 the State's voir dire, proposed voir dire?

19 MS. BODMAN: That's what I handed you in
20 chambers.

21 MR. BLANKENSHIP: No objection.

22 THE COURT: Does the State have any objection
23 to the defendant's voir dire?

24 MS. BODMAN: Your Honor, on page 3, I think
25 some of the questions are a little redundant about, you

1 know, we have the burden beyond a reasonable doubt. Do
2 they understand that and can they hold us to that?

3 Then the other is just, I think, the list of
4 witnesses that they have on page 2, are already on our
5 witness list with the exception of [REDACTED] and H.
6 Shawn Bennett.

7 Shawn Bennett is the individual who is
8 involved in, I guess, to their theory as the person that
9 they want to introduce with the second incident that
10 occurred to the victim. And [REDACTED] I just don't know of
11 any relevance.

12 THE COURT: Well, at this stage I'll just ask
13 the question -- right -- identify the witnesses,
14 potential witnesses? Anything else?

15 MS. BODMAN: Your Honor, I did notice that I
16 left off one witness or potential witness. The name is
17 Nicole Williams. She is also at the Assessment Resource
18 Center.

19 THE COURT: All right. Are you ready for the
20 jury?

21 MS. BODMAN: Yes, sir.

22 MR. BLANKENSHIP: Yes.

23 THE COURT: All right. Bring the jury,
24 please.

25 Ten and five?

1 MS. BODMAN: Yes, sir.

2 MR. BLANKENSHIP: Yes, sir.

3 (Whereupon the jury panel is brought into the
4 courtroom.)

5 THE BAILIFF: Your Honor, the jury is present.

6 THE COURT: Thank you very much. Good
7 afternoon, ladies and gentlemen. Welcome to the Court
8 of General Sessions. This is the criminal division of
9 our court system, which we call the Court of General
10 Sessions.

11 The civil division is called the Court of
12 Common Pleas. So those of you who are selected on this
13 jury this afternoon will be sitting on a criminal jury,
14 a criminal case.

15 I'm going to tell you a little bit about it in
16 just a minute, but before I do I want to introduce the
17 participants to you so you'll be familiar with them.
18 I'm going to have to ask you some questions about
19 whether you know anything about this case or know any of
20 the individuals involved.

21 So if you respond, I'm going to ask you to
22 respond with your jury number. I'll call you by your
23 jury number. If you respond, respond with your jury
24 number.

25 We have found, particularly in criminal cases,

1 the jurors prefer to be semi-anonymous, and we only need
2 to know them by their jury number. So if you'll do that
3 for me, I would appreciate it. We don't need your name.
4 We know who you are. If we've got your number, we know
5 who you are.

6 Now, in any criminal case, as you know or I'm
7 sure you know, the prosecuting entity is what we call
8 the State Solicitor's Office here in South Carolina. In
9 some places it's the district attorney; some places it's
10 the state's attorney.

11 It's the same thing here in South Carolina.
12 Our prosecuting entity is the State Solicitor's Office.
13 As you probably know, your elected State Solicitor is
14 Mr. Dan Johnson.

15 Mr. Johnson is not going to actively
16 participate in the trial today, but I do need to know if
17 any member of the jury panel is related by blood,
18 connected by marriage, employment, or close personal
19 acquaintance of Dan Johnson, the Solicitor for the Fifth
20 Judicial Circuit? Does anybody have any connection with
21 the Solicitor?

22 (There is no response.)

23 THE COURT: Two members of Solicitor Johnson's
24 staff, Ms. Margaret Bodman and Craig Pisarik, will be
25 prosecuting the case and handling the case for the State

1 today.

2 Is any member of the jury panel related by
3 blood, connected by marriage, or a close personal
4 acquaintance of Ms. Margaret -- formerly Fent -- Bodman
5 or Mr. Craig Pisarik? Anybody know either of these two
6 attorneys?

7 (There is no response.)

8 THE COURT: All right. Thank you very much,
9 Counsel.

10 Now, because the State Solicitor's Office
11 works closely with law enforcement, I need to know if
12 any member of the jury panel or any member of your
13 family is involved in law enforcement.

14 That could be anything from the Richland
15 County Sheriff's Department, the State Highway Patrol,
16 SLED, any law enforcement agency. It could be Military
17 Police at Fort Jackson, Forest Acres Police Department,
18 City of Columbia Police Department.

19 Is there any member of the jury panel who has
20 a family member -- either you or a family member or a
21 close personal acquaintance who are involved in law
22 enforcement?

23 (Juror stands.)

24 THE COURT: All right. Your number, please?

25 PROSPECTIVE JUROR: 145.

1 THE COURT: All right. Let me find you on our
2 list. I have you, Mr. 145. What's the connection?

3 PROSPECTIVE JUROR: I'm actually a security
4 officer and I'm licensed by SLED as a Level I, II, III
5 instructor.

6 THE COURT: You work at?

7 PROSPECTIVE JUROR: I have different clients;
8 so I do run across law enforcement quite a bit.

9 THE COURT: Okay. Well, let me ask you,
10 Mr. 145. Would that fact in any way interfere with your
11 ability to give both the State and the defendant a fair
12 and impartial trial in this case?

13 PROSPECTIVE JUROR: I think that it would,
14 sir.

15 THE COURT: All right, sir.

16 Ms. Bodman, is this a county case or a city
17 case?

18 MS. BODMAN: Richland County Sheriff's
19 Department.

20 THE COURT: Richland County Sheriff's
21 Department is involved in the investigation of this
22 case. Do you think that would make a difference to you?

23 PROSPECTIVE JUROR: I do, sir, because I deal
24 very closely with law enforcement.

25 THE COURT: All right. Thank you very much,

1 Mr. 145. Anybody else? I thought I saw some hands up.
2 Just stand, please.

3 (Jurors stand.)

4 PROSPECTIVE JUROR: 153.

5 THE COURT: What? 123?

6 PROSPECTIVE JUROR: 153.

7 THE COURT: Oh, 153. I thought you said 123.

8 Yes, ma'am.

9 PROSPECTIVE JUROR: I'm not associated with
10 law enforcement. My son, however, is with the Irmo
11 Police Department and has been for five years.

12 THE COURT: Your son is with Irmo?

13 PROSPECTIVE JUROR: Law enforcement and my
14 father is a required master sergeant.

15 THE COURT: Well, you're associated with them,
16 not directly. All right. Ms. 153, would that fact in
17 any way interfere with your ability to give both the
18 State and the defendant a fair and impartial trial in
19 this case?

20 PROSPECTIVE JUROR: No.

21 THE COURT: Thank you very much. The
22 gentleman next to you.

23 PROSPECTIVE JUROR: 185.

24 THE COURT: Just go ahead and stand up if you
25 will. I'll just go around the room. 185?

1 PROSPECTIVE JUROR: 185.

2 THE COURT: Yes, sir.

3 PROSPECTIVE JUROR: I have a close personal
4 friend who is a Richland detective.

5 THE COURT: Same question. Would that fact in
6 any way interfere with your ability to give both the
7 State and the defendant a fair and impartial trial?

8 PROSPECTIVE JUROR: No, sir.

9 THE COURT: Thank you very much, Mr. 185.

10 Yes, sir, next.

11 PROSPECTIVE JUROR: 181. Your Honor, I know
12 people in law enforcement. None of them are my close
13 friends but in an effort to disclose, and I can be fair
14 and impartial.

15 THE COURT: All right. Thank you very much,
16 Mr. 181.

17 PROSPECTIVE JUROR: Number 279.

18 THE COURT: 279.

19 PROSPECTIVE JUROR: Yeah, I have --

20 THE COURT: Hold on. Let me find you on the
21 list.

22 PROSPECTIVE JUROR: Okay.

23 THE COURT: I've got you. Tell me.

24 PROSPECTIVE JUROR: I've just got a couple of
25 cousins married to law enforcement officers, not in the

1 Columbia area.

2 THE COURT: All right. Would that fact in any
3 way interfere with your ability to give both the State
4 and the defendant a fair and impartial trial?

5 PROSPECTIVE JUROR: No.

6 THE COURT: Thank you very much, Mr. 279.

7 PROSPECTIVE JUROR: 52. I don't know if you
8 would consider a correctional officer?

9 THE COURT: Yes, ma'am.

10 PROSPECTIVE JUROR: Okay. Well, I have a
11 nephew.

12 THE COURT: At what institution?

13 PROSPECTIVE JUROR: Broad River, I think.

14 THE COURT: Okay. Would that fact in any way
15 interfere with your ability to give the State and the
16 defendant a fair and impartial trial?

17 PROSPECTIVE JUROR: (Indicating in the
18 negative.)

19 THE COURT: Thank you very much. Anybody
20 else? Stand up?

21 (Jurors stand.)

22 PROSPECTIVE JUROR: My grandson just graduated
23 from the police academy.

24 THE COURT: Wait a minute. I need to know
25 your number.

1 PROSPECTIVE JUROR: Oh, 121. I'm sorry.

2 THE COURT: That's all right. You don't get a
3 star by your name unless you tell me your number.

4 PROSPECTIVE JUROR: Okay. 121.

5 THE COURT: Yes, ma'am. He just graduated
6 from what?

7 PROSPECTIVE JUROR: The police academy in
8 Jacksonville, Florida.

9 THE COURT: Would that fact in any way
10 interfere with your ability to give both the State and
11 the defendant a fair and impartial trial?

12 PROSPECTIVE JUROR: No.

13 THE COURT: Thank you very much, Ms. 121.

14 PROSPECTIVE JUROR: 299.

15 THE COURT: Yes, ma'am.

16 PROSPECTIVE JUROR: My mother was the first
17 statewide Pretrial Intervention Director.

18 THE COURT: Is that right? In Columbia?

19 PROSPECTIVE JUROR: Yes, sir.

20 THE COURT: Is she still with us?

21 PROSPECTIVE JUROR: No, sir.

22 THE COURT: Well, I'm sorry I missed meeting
23 her. Would that fact in any way interfere with your
24 ability --

25 PROSPECTIVE JUROR: No, sir.

1 THE COURT: Same question.

2 PROSPECTIVE JUROR: No, sir.

3 THE COURT: All right. Thank you very much,
4 Ms. 299. Anybody else?

5 (There is no response.)

6 THE COURT: We'll go one step further and kind
7 of expand that a little bit. I'll ask if any member of
8 the jury panel is a supporter of, either financially or
9 as a volunteer, of any of the groups that have as their
10 primary function the support of law enforcement?

11 For example, the Sheriffs' Association or the
12 Troopers' Association or any group which works --
13 Mothers Against Drunk Driving or Citizens Against
14 Violence, people that are -- I forget the full name of
15 that group -- but any of those groups, even to the point
16 of groups like Sistercare or Alston Wilkes or anybody
17 that deals with law enforcement and perhaps victims of
18 crime or people who are -- maybe have been sentenced,
19 like I say, Alston Wilkes, have been sentenced and are
20 now returning to society. Any of these groups that you
21 support financially or with your time?

22 (Jurors stand.)

23 PROSPECTIVE JUROR: 115.

24 THE COURT: 115.

25 PROSPECTIVE JUROR: My daughter is on the

1 board for Sistercare, and we support that organization
2 financially.

3 THE COURT: Thank you very much, sir. I don't
4 need the other question on this one.

5 PROSPECTIVE JUROR: 181, Your Honor. I've
6 given money to Sistercare.

7 THE COURT: Sistercare?

8 PROSPECTIVE JUROR: Yes, sir.

9 THE COURT: All right. Yes, sir.

10 PROSPECTIVE JUROR: 305. I support the State
11 Troopers' Association and give them money.

12 THE COURT: 305. All right. Mr. 305, let me
13 ask you a question. I don't mean to get too personal,
14 but do you get a sticker put on the back of your car
15 when your support them?

16 PROSPECTIVE JUROR: I don't have one on the
17 back of my car.

18 THE COURT: But you got one; didn't you?

19 PROSPECTIVE JUROR: I believe so. My wife you
20 know handles all that.

21 THE COURT: And it's on her car?

22 PROSPECTIVE JUROR: No, sir, there's nothing
23 on the cars.

24 THE COURT: Have you ever been stopped for a
25 ticket ---

1 PROSPECTIVE JUROR: We give on a regular basis
2 to charity.

3 THE COURT: Have you ever been stopped for a
4 traffic ticket?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: Put it on your car.

7 PROSPECTIVE JUROR: Good thinking.

8 THE COURT: Yes, sir.

9 PROSPECTIVE JUROR: Number 154.

10 THE COURT: 154. Yes, sir.

11 PROSPECTIVE JUROR: I've donated to Richland
12 County Sheriff's Department or the State Sheriffs'
13 Department and probably the State Highway Patrol also.

14 THE COURT: Well, you're covered.

15 PROSPECTIVE JUROR: I try to keep all my bases
16 covered.

17 THE COURT: Thank you very much, Mr. 154.

18 Yes, sir, on the front row.

19 PROSPECTIVE JUROR: 44. I served on the Board
20 of Sistercare many years ago.

21 THE COURT: All right. Thank you very much,
22 Mr. 44.

23 PROSPECTIVE JUROR: Number 36. I'm an active
24 member of Epsilon Sigma Alpha. We do lots of things for
25 Sistercare. I volunteer and make donations.

1 THE COURT: All right. Thank you very much,
2 Ms. 36. Anybody else?

3 (There is no response.)

4 THE COURT: Now, the defendant in this matter
5 today is Mr. Reginald Bryan Spellman.

6 Mr. Spellman, will you stand and face the
7 jury, please.

8 (The defendant stands.)

9 THE COURT: Is any member of the jury panel
10 related by blood, connected by marriage or employment or
11 a close personal acquaintance of Mr. Reginald Bryan
12 Spellman? Does anybody know Mr. Spellman?

13 (There is no response.)

14 THE COURT: All right, sir. Thank you very
15 much. Mr. Spellman is represented in this matter by
16 three attorneys with the Masella law firm: First,
17 Mr. Reynolds Blankenship, Ms. Prentice Counts Shealey,
18 and Ms. Dana Wilkes.

19 Is any member of the jury panel related by
20 blood or connected by marriage or employment or close
21 personal acquaintance of any one of these three
22 attorneys?

23 (There is no response.)

24 THE COURT: All right. Has any member of the
25 jury panel ever been represented by either of these

1 attorneys or by any of the other attorneys in the firm
2 of the Masella law firm?

3 (There is no response.)

4 THE COURT: Now, ladies and gentlemen, what I
5 hold in my hand is what's known as an indictment. This
6 is simply the document by which the case is brought into
7 court. It's not evidence of anything.

8 When I tell you what the charge against
9 Mr. Spellman is, you're not to assume or presume
10 anything about his guilt or innocence from me telling
11 you what this document says.

12 Because under our system of justice in this
13 country, any individual is presumed innocent of the
14 charges brought against him or her by the State until
15 proven guilty to a jury of their peers or a jury of 12
16 people here in South Carolina.

17 So when I tell you what he's charged with, as
18 I say, you are not to assume anything from the
19 indictment. It is just the document by which the case
20 is brought into court.

21 The indictment charges Mr. Spellman with
22 assault with intent to commit criminal sexual conduct
23 with a minor in the first degree. Our statute defines
24 the charge of assault with intent to commit criminal
25 sexual conduct with a minor in the first degree to be

1 with a minor who was less than 11 years old at the time
2 of the charge of the unlawful act.

3 The alleged victim in this case is [REDACTED]

4 [REDACTED] Is Ms. [REDACTED] here?

5 MS. BODMAN: Yes, Your Honor.

6 THE COURT: All right. Ladies and gentlemen,
7 to your left is Ms. [REDACTED] I need to know if
8 any member of the jury panel is related by blood,
9 connected by marriage or in any way knows Ms. [REDACTED]

10 [REDACTED]

11 (There is no response.)

12 THE COURT: Thank you very much, ma'am.

13 I want you to think about this charge for a
14 few minutes because in a few minutes what I'm going to
15 do is ask you to fill out a short questionnaire about
16 the nature of this charge because it is a sensitive
17 charge, and it is a sensitive charge for jurors to have
18 to deal with. We'll get to that in a minute.

19 The first thing I need to know is: This
20 indictment charges the defendant with this crime on or
21 between some time in the period between December 31,
22 2004, and September of 2006. So there's about a
23 two-year span in there where this alleged conduct took
24 place.

25 I need to know if any member of the jury panel

1 knows anything about this case, has heard anything about
2 this case, saw anything in the press? I doubt there was
3 anything in the press, but there could have been. I
4 never know what is in the press, particularly something
5 that happened five years -- you know, alleged to have
6 happened five years ago.

7 Does any member of the jury know anything
8 about this case?

9 (There is no response.)

10 THE COURT: All right. Let me ask you some
11 other questions that may be relevant to the attorneys in
12 terms of selecting a jury.

13 Has any member of the jury panel worked at or
14 have children who attend or who have attended Polo Road
15 Elementary School? Polo Road Elementary School? Forest
16 Heights -- oh wait a minute. Hold it.

17 (Juror stands.)

18 THE COURT: Yes, ma'am, your number, please?

19 PROSPECTIVE JUROR: 268.

20 THE COURT: 268. Ma'am, do you have children
21 there now?

22 PROSPECTIVE JUROR: And did you say worked at
23 Polo Road?

24 THE COURT: Worked at or have children who
25 were there.

1 PROSPECTIVE JUROR: I was a substitute teacher
2 at Polo Road, and that was one of my school assignments.

3 THE COURT: And when were you there?

4 PROSPECTIVE JUROR: It would have been last
5 year.

6 THE COURT: 2011?

7 PROSPECTIVE JUROR: Uh-huh.

8 THE COURT: 2010 maybe?

9 PROSPECTIVE JUROR: Uh-huh.

10 THE COURT: Okay. Does this case in any
11 way --

12 PROSPECTIVE JUROR: No.

13 THE COURT: -- strike a bell with you?

14 PROSPECTIVE JUROR: No.

15 THE COURT: Okay. Thank you very much,
16 Ms. 268.

17 Anybody else?

18 (There is no response.)

19 THE COURT: How about Forest Heights
20 Elementary School? Worked at or children who have
21 attended or presently attend?

22 (There is no response.)

23 THE COURT: Alcorn Middle School?

24 (Juror stands.)

25 THE COURT: Your number, please?

1 PROSPECTIVE JUROR: 247.

2 THE COURT: 247. Yes, ma'am.

3 PROSPECTIVE JUROR: I have a child.

4 THE COURT: Who is there now?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: Okay. Thank you very much,

7 Ms. 247.

8 Is there any member of the jury panel who
9 presently has children between the age of five and six?
10 Presently.

11 (Jurors stand.)

12 THE COURT: Yes, sir.

13 PROSPECTIVE JUROR: 199.

14 THE COURT: 199.

15 PROSPECTIVE JUROR: I have a five year old.

16 THE COURT: Did you say 190?

17 PROSPECTIVE JUROR: 199.

18 THE COURT: Okay. You have a five year old?

19 PROSPECTIVE JUROR: Uh-huh.

20 THE COURT: Thank you very much.

21 PROSPECTIVE JUROR: 215.

22 THE COURT: Yes, sir.

23 PROSPECTIVE JUROR: I have a five year old.

24 THE COURT: All right. Thank you very much,

25 Mr. 215.

1 Yes, sir.

2 PROSPECTIVE JUROR: Number 279. I have a six
3 year old.

4 THE COURT: 279 has a six year old.

5 All right. Anybody with children between the
6 ages of 10 and 12?

7 (Juror stands.)

8 THE COURT: Yes, sir.

9 PROSPECTIVE JUROR: Judge, I'm sorry. I left
10 my billfold in the jury waiting room. Could I be
11 excused one minute?

12 THE COURT: Well, talk to the bailiff right
13 there. They'll go get it for you. Does it have any
14 money?

15 PROSPECTIVE JUROR: Unfortunately.

16 THE COURT: Just stay with me.

17 PROSPECTIVE JUROR: Okay.

18 THE COURT: Stay with us. Send him back in.
19 He's not to go.

20 THE BAILIFF: I know.

21 THE COURT: They can go get it. They can go
22 get it. I told him to stay with us. It could be all
23 day.

24 (Pause.)

25 THE COURT: All right. Ten and 12, children,

1 10 and 12?

2 (Juror stands.)

3 PROSPECTIVE JUROR: Number 188.

4 THE COURT: How old is the child?

5 PROSPECTIVE JUROR: Ten years old.

6 THE COURT: Ma'am?

7 PROSPECTIVE JUROR: Ten years old.

8 THE COURT: Ten?

9 PROSPECTIVE JUROR: Ten.

10 THE COURT: Thank you, Ms. 188.

11 Yes, ma'am.

12 PROSPECTIVE JUROR: 299. I have a
13 granddaughter that's 11.

14 THE COURT: Okay.

15 (Juror stands.)

16 PROSPECTIVE JUROR: Are we doing
17 grandchildren?

18 THE COURT: I guess we should.

19 PROSPECTIVE JUROR: I have custody of my
20 grandchildren. My daughter-in-law and son passed away
21 three years ago, and I'm raising her children.

22 THE COURT: All right. Thank you very much,
23 Ms. 299. I will ask that question next.

24 PROSPECTIVE JUROR: 181. I have an
25 11-year-old son.

1 THE COURT: Yes, sir.

2 PROSPECTIVE JUROR: 305. I have a 12-year-old
3 daughter and nine-year-old twins, a boy and a girl.

4 THE COURT: Thank you, Mr. 305.

5 Yes, ma'am.

6 PROSPECTIVE JUROR: 247. A 12 year old.

7 THE COURT: A boy or girl?

8 PROSPECTIVE JUROR: Boy.

9 THE COURT: Yes, sir.

10 PROSPECTIVE JUROR: 199. A ten-year-old
11 daughter.

12 THE COURT: Does any member of the jury panel
13 believe or hesitate to believe -- think about this for a
14 minute -- does any member of the jury panel believe or
15 hesitate to believe that a witness who will appear in
16 this trial, because of their religious beliefs, will not
17 swear on the Bible to tell the truth, that you would be
18 less likely to believe them, even if this person, this
19 witness, makes an affirmation that they will tell the
20 truth?

21 In other words, they affirm that they will
22 tell the truth instead of swearing that they will tell
23 the truth. This happens frequently. Would this make
24 any difference to any member of the jury panel? Or
25 would you be less likely to believe that person if they

1 only affirmed that they were telling the truth as
2 opposed to swearing that they were telling the truth.
3 Is everybody comfortable with that?

4 (There is no response.)

5 THE COURT: Any member of the jury panel or
6 any member of your family ever worked as a counselor, a
7 therapist, psychologist, psychiatrist, or guidance
8 counselor?

9 (Jurors stand.)

10 THE COURT: All right. Let me just start back
11 there. Sooner or later I will remember the numbers.
12 I'm not quite there yet.

13 PROSPECTIVE JUROR: 181.

14 THE COURT: 181.

15 PROSPECTIVE JUROR: Yes, Your Honor. My
16 father was briefly a vocational guidance counselor after
17 requiring from the military.

18 THE COURT: Okay.

19 Yes, ma'am.

20 PROSPECTIVE JUROR: 229.

21 THE COURT: Yes, ma'am.

22 PROSPECTIVE JUROR: My sister, she was a
23 psychologist with the Department of Mental Health, and
24 she is retired.

25 THE COURT: Thank you very much, Ms. 229.

1 Yes, ma'am.

2 PROSPECTIVE JUROR: Juror 163.

3 THE COURT: Yes, ma'am.

4 PROSPECTIVE JUROR: My mother-in-law is a
5 retired high school guidance counselor.

6 THE COURT: All right. Thank you very much,
7 Ms. 163.

8 Yes, ma'am.

9 PROSPECTIVE JUROR: 110. My father is a
10 psychologist and my mother is a licensed social worker
11 and has a homeless shelter.

12 THE COURT: Okay. Are they both here in
13 Columbia?

14 PROSPECTIVE JUROR: Are they both here, did
15 you say?

16 THE COURT: Are they in Columbia?

17 PROSPECTIVE JUROR: No, no. They're in
18 Florida.

19 THE COURT: Oh, they work in Florida.

20 PROSPECTIVE JUROR: Uh-huh.

21 THE COURT: Thank you very much, Ms. 110.

22 Yes, sir, again.

23 PROSPECTIVE JUROR: Number 279. My
24 mother-in-law is a psychiatrist with the State of South
25 Carolina.

1 THE COURT: With the State of South Carolina?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: All right. Thank you very much,
4 Mr. 279.

5 The lady on the front row.

6 PROSPECTIVE JUROR: Number 34. My cousin
7 works at the juvenile detention center on Broad River
8 Road.

9 THE COURT: I didn't quite hear you. The
10 juvenile detention center on Broad River Road?

11 PROSPECTIVE JUROR: Uh-huh.

12 THE COURT: Is that what you said?

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: Thank you very much, Ms. 34.
15 Yes, sir.

16 PROSPECTIVE JUROR: 254. My mother is a
17 clinical psychologist.

18 THE COURT: In Columbia?

19 PROSPECTIVE JUROR: In Pennsylvania.

20 THE COURT: All right. Thank you very much,
21 Mr. 254.

22 PROSPECTIVE JUROR: 132.

23 THE COURT: 132.

24 PROSPECTIVE JUROR: My daughter is currently a
25 counselor in the DMH deaf services.

1 THE COURT: In what?

2 PROSPECTIVE JUROR: The Department of Mental
3 Health in deaf services.

4 THE COURT: Death?

5 PROSPECTIVE JUROR: Deaf.

6 THE COURT: I'm sorry. I thought you said
7 death.

8 Yes, ma'am.

9 PROSPECTIVE JUROR: Number 13. I'm not a
10 professional counselor in mental health, but I work for
11 a nonprofit agency which is an advocacy group for
12 disabled people.

13 THE COURT: All right. Thank you very much,
14 Ms. 13. Anybody else?

15 (There is no response.)

16 THE COURT: Has any member of your family ever
17 worked -- I guess this is back to the earlier
18 question -- worked for a prosecutor, such as a solicitor
19 or a district attorney? Any member of your family ever
20 worked for one?

21 (Jurors stand.)

22 THE COURT: Now, it's 181; right?

23 PROSPECTIVE JUROR: Yes, sir. You are hitting
24 me on every question, Your Honor.

25 THE COURT: Why don't you just stay standing.

1 PROSPECTIVE JUROR: I worked as a law clerk
2 for the State Grand Jury.

3 THE COURT: Thank you, Mr. 181.
4 In the blue shirt.

5 PROSPECTIVE JUROR: 129.

6 THE COURT: Yes, sir.

7 PROSPECTIVE JUROR: My son just graduated last
8 year from law school. He is doing his clerkship and
9 passed the bar. He's in Colorado.

10 THE COURT: He's in Colorado?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: All right. Thank you very much.
13 Yes, ma'am.

14 PROSPECTIVE JUROR: Juror 299.

15 THE COURT: Yes, ma'am.

16 PROSPECTIVE JUROR: My mother was the
17 Statewide Director for Pretrial Intervention.

18 THE COURT: All right. Thank you very much,
19 Ms. 299.

20 Does any member of the jury panel have any
21 problem with the concept under our law that the State
22 must prove a defendant guilty beyond a reasonable doubt
23 in order to convict that defendant?

24 In other words, it's not just a suspicion.
25 It's not just, I think he has done it or they have done

1 it, that sort of thing. But if the State fails to meet
2 that burden of proof, then your responsibility would be
3 to vote not guilty.

4 Does any member of the jury panel have any
5 problem with that concept? Because I will talk to you
6 about it now; and those of you who are selected on the
7 jury, I'll talk to you more about that.

8 But just the concept in and of itself: That
9 the State has the burden in all criminal cases to prove
10 the guilt of the defendant beyond a reasonable doubt.

11 (There is no response.)

12 THE COURT: All right. Now, ladies and
13 gentlemen, I'm going to call out the names of some
14 potential jurors (sic). Those jurors who are present, I
15 will ask you to please stand so the jury can identify
16 you. Chances are most of these witnesses are not
17 present right now but may be called as witnesses during
18 the course of the trial.

19 Alyiah Ansaar? This is Ms. Ansaar. Does
20 anybody know Ms. Ansaar?

21 (There is no response.)

22 THE COURT: Thank you very much.

23

24 THE WITNESS: He's at the bathroom.

25 THE COURT: Okay.

1 Derek Morgan?

2 (There is no response.)

3 THE COURT: Now, ladies and gentlemen, in
4 order to prevent you from getting cricks in your neck,
5 I'll tell you when one stands up.

6 Derek Morgan is not here. Susan Luberoff with
7 the Assessment Resource Center.

8 PROSPECTIVE JUROR: Your Honor?

9 THE COURT: 181.

10 PROSPECTIVE JUROR: Yes, Your Honor. She was
11 a neighbor of mine.

12 THE COURT: Would that fact --

13 PROSPECTIVE JUROR: If her maiden name was
14 Breeden, she was a neighbor of mine.

15 MS. BODMAN: Yes, Your Honor.

16 THE COURT: Apparently so. Would the fact
17 that she was your neighbor -- and I assume you had some
18 contact with her -- would that fact in any way interfere
19 with your ability to give both the State and the
20 defendant a fair and impartial trial?

21 PROSPECTIVE JUROR: I can be fair, Your Honor.

22 THE COURT: All right. She is a doctor; is
23 that correct?

24 MS. BODMAN: Correct.

25 PROSPECTIVE JUROR: She would come over and

1 tell my wife what to do with our kids when they were
2 young.

3 THE COURT: I'm sure you're not -- you might
4 not be unbiased. I'm sure you are, Mr. 181.

5 Heather Smith, also with the Assessment
6 Resource Center.

7 (There is no response.)

8 THE COURT: Ray Olszewski, also with the
9 Resource Center.

10 (There is no response.)

11 THE COURT: Amy Phipps.

12 (There is no response.)

13 THE COURT: Melissa Satterfield, Richland
14 County Sheriff's Department.

15 (There is no response.)

16 THE COURT: Richard Carter, Richland County
17 Sheriff's Department.

18 (There is no response.)

19 THE COURT: Nicole Williams. This is
20 Ms. Williams.

21 I've got two lists here. Is that both of
22 them? Is that everybody on both of them,
23 Mr. Blankenship?

24 MR. BLANKENSHIP: Yes, sir.

25 THE COURT: Did you hear what I said?

1 MR. BLANKENSHIP: No, I apologize.

2 THE COURT: I said I listed all the State's
3 witnesses. I was told that theirs are the same as your
4 list of witnesses. Is there anybody that I left out?

5 MR. BLANKENSHIP: I don't think so, Your
6 Honor.

7 THE COURT: Okay.

8 MR. BLANKENSHIP: I think some of them might
9 have come into the room.

10 THE COURT: All right. Now, based on the
11 facts I told you -- I say facts -- allegations of the
12 indictment and the various questions that I've asked,
13 does any member of the jury panel know of any reason why
14 he or she could not sit and fairly decide the issues in
15 this case? You feel you could not do it?

16 (There is no response.)

17 THE COURT: All right. Ladies and gentlemen,
18 at this time I'm going to pass out a short
19 questionnaire. I'm going to ask each of you to -- and
20 you can do it any way you want to -- fill it out.

21 Then once that's over, once I've given you
22 enough time to do that, I'm going to ask each of you to
23 meet me individually in the jury room right outside this
24 door.

25 I'm going to ask you if any of the

1 questions -- and you don't have to fill it out for that
2 matter -- if any of the questions on the questionnaire
3 apply to you. I think you will understand when you see
4 the questions what I'm asking for.

5 Because of the sensitive nature of the charges
6 in this case, I think it's important that we know a
7 little bit more about you than I've asked so far.

8 So, Mr. Bailiff, if you will pass those out
9 and let's see, the gentleman -- Mr. 145, let me just
10 make sure. Approach the bench.

11 Not you, Counsel.

12 (Whereupon there is a bench conference with
13 the juror off the record.)

14 THE COURT: Mr. 145, you're excused.

15 All right, Counsel. Let's go to the jury
16 room.

17 (The following proceedings are reported in the
18 jury room.)

19 THE COURT: The first one. Have a seat, right
20 there. Ms. 52, I gave you the questionnaire. Have you
21 had a chance to look at it?

22 PROSPECTIVE JUROR: Yes, I did.

23 THE COURT: All right. You answered no to all
24 the questions on the sheet. Thank you very much.
25 That's easy.

1 PROSPECTIVE JUROR: I thought maybe I won
2 something. Thank you.

3 (The juror leaves the jury room, and an
4 in camera hearing with the next juror is reported as
5 follows.)

6 THE CLERK: Number 13.

7 PROSPECTIVE JUROR: Everything is fine.

8 THE COURT: Come in here. The lawyers want to
9 hear what you have to say. This is Ms. 13.

10 PROSPECTIVE JUROR: I was going to say,
11 everything, you know, I don't have any...

12 THE COURT: Problems with the first three?

13 PROSPECTIVE JUROR: Nothing. You know, I had
14 a friend who had an experience as a child; and that
15 person's personality was very affected. That was when I
16 was a teenager. So, you know, I was impressed by that.
17 However, I know that all -- that everyone knows that it
18 affects the person who is harmed.

19 THE COURT: Sure.

20 PROSPECTIVE JUROR: That's a fact. So I don't
21 think that would -- you know, I consider that that's a
22 known fact.

23 THE COURT: Okay.

24 PROSPECTIVE JUROR: You know, that's a long
25 time ago. I don't feel as I did.

1 THE COURT: I guess the ultimate question is:
2 Do you still feel -- now that you've thought about it --
3 that you could be fair and impartial to both parties?

4 PROSPECTIVE JUROR: Uh-huh.

5 THE COURT: The State and the defendant?

6 PROSPECTIVE JUROR: Uh-huh, I do.

7 THE COURT: That's all. Thank you very much,
8 Ms. 13. All the way down the hall.

9 PROSPECTIVE JUROR: Okay.

10 (The juror leaves the jury room, and an
11 in camera hearing with the next juror is reported as
12 follows.)

13 THE CLERK: Number 7 is coming.

14 THE COURT: Number 7. Come on in and have a
15 seat.

16 PROSPECTIVE JUROR: No, on the first three.

17 THE COURT: All right. Have a seat.

18 PROSPECTIVE JUROR: Number four will take a
19 lot of convincing. I've spent 20 years in the Navy.
20 I've seen sexual harassment charges. I still work for
21 the Navy Department. I know that a sexual harassment
22 charge is a very easy way to get out of work, just as
23 domestic violence charges are a very good way --

24 THE COURT: That's just the Navy. What was
25 your number again?

1 PROSPECTIVE JUROR: 7.

2 THE COURT: So your answer is no to the first
3 three?

4 PROSPECTIVE JUROR: Yes, no to the first
5 three.

6 THE COURT: And you do have beliefs --

7 PROSPECTIVE JUROR: I have beliefs, yes.

8 THE COURT: -- about these kind of charges?
9 That's what we need to know.

10 PROSPECTIVE JUROR: Circumstances.

11 THE COURT: One other question.

12 PROSPECTIVE JUROR: Certainly.

13 THE COURT: Do you still think you could be
14 fair and impartial to both parties?

15 PROSPECTIVE JUROR: Sure.

16 THE COURT: Okay. Thank you very much.

17 (The juror leaves the jury room, and an
18 in camera hearing with the next juror is reported as
19 follows.)

20 MS. SHEALEY: 102 is coming.

21 THE COURT: Okay. Hello, 102. How are you?
22 Nice to have you. Come on in. How did you do with the
23 questionnaire? Have a seat.

24 PROSPECTIVE JUROR: I did okay with it.

25 THE COURT: Okay.

1 PROSPECTIVE JUROR: The only -- when my
2 youngest daughter was 15, she and one of her girlfriends
3 went out with some boys; and the boy was 18 at the time,
4 and he molested her that night.

5 THE COURT: Your daughter?

6 PROSPECTIVE JUROR: Yes, sir.

7 THE COURT: Okay.

8 PROSPECTIVE JUROR: Anyway, we tried to deal
9 with it the best we could. She refused to get any kind
10 of help. She is 21 now but...

11 THE COURT: How is she doing?

12 PROSPECTIVE JUROR: She has some issues. She
13 has a lot of relationship-type issues because of it.
14 She sees a therapist and she is on medication.

15 THE COURT: Okay.

16 PROSPECTIVE JUROR: But I know it's just -- I
17 do understand it's hard to, you know, when it's a --
18 they're out there by themselves, you know.

19 THE COURT: I understand.

20 PROSPECTIVE JUROR: There is a trust issue
21 with that.

22 THE COURT: I understand.

23 PROSPECTIVE JUROR: I do believe that in all
24 fairness to both sides, I could be.

25 THE COURT: You could be fair and impartial?

1 PROSPECTIVE JUROR: Yes, sir.

2 THE COURT: To judge this case on its merits?

3 PROSPECTIVE JUROR: Yes, sir. Yes, sir.

4 THE COURT: And it's Ms. 102; right?

5 PROSPECTIVE JUROR: Yes, sir.

6 THE COURT: All right. Thank you very much,
7 Ms. 102.

8 (The juror leaves the jury room, and an
9 in camera hearing with the next juror is reported as
10 follows.)

11 THE CLERK: 44 is coming.

12

13 THE COURT: 44, Sistercare.

14 44, how are you? Come on in.

15 PROSPECTIVE JUROR: Yes, sir.

16 THE COURT: Just have a seat. Have a seat.

17 Okay. All no's. Any problem with being fair and

18 impartial in this case?

19 PROSPECTIVE JUROR: No, no.

20 THE COURT: Okay. Thank you very much,

21 Mr. 44.

22 PROSPECTIVE JUROR: Does that mean I can

23 leave?

24 THE COURT: For the time being.

25 PROSPECTIVE JUROR: Okay.

1 (The juror leaves the jury room, and an
2 in camera hearing with the next juror is reported as
3 follows.)

4 THE COURT: Number what?

5 PROSPECTIVE JUROR: 34.

6 THE COURT: Okay. Ms. 34, I see you've had
7 some experience --

8 PROSPECTIVE JUROR: Uh-huh.

9 THE COURT: -- in this regard.

10 PROSPECTIVE JUROR: Uh-huh.

11 THE COURT: Are these personal experiences? I
12 mean, for you or a member of your family?

13 PROSPECTIVE JUROR: My family.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR: And one personally for me
16 also.

17 THE COURT: How long ago?

18 PROSPECTIVE JUROR: Let's see. Since I was
19 the age of 12.

20 THE COURT: Okay. And now you're 22?

21 PROSPECTIVE JUROR: Fifty.

22 THE COURT: Ten years ago. It's been awhile.
23 In other words, it's been awhile.

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: Would that experience that you

1 had, unpleasant as it must have been, do you feel you
2 could be fair and impartial in a case like this?

3 PROSPECTIVE JUROR: Yes.

4 THE COURT: You can listen to both sides and
5 be fair and impartial?

6 PROSPECTIVE JUROR: Right.

7 THE COURT: Okay. Thank you very much,
8 Ms. 34. Thank you very much.

9 PROSPECTIVE JUROR: Uh-huh.

10 (The juror leaves the jury room.)

11 THE COURT: One, two, and three she answered
12 yes, all three of them.

13 THE CLERK: 101.

14 THE COURT: One, two, three, she answered yes.
15 No on four. What did she say, 101?

16 THE COURT REPORTER: 101 is the next one, yes.

17 (An in camera hearing with the next juror is
18 reported as follows.)

19 THE COURT: Ms. 101, how are you?

20 PROSPECTIVE JUROR: I couldn't answer the last
21 one.

22 THE COURT: Come on in. Just have a seat.

23 PROSPECTIVE JUROR: Okay.

24 THE COURT: No to the first three, and what do
25 you think your concerns are about number four?

1 PROSPECTIVE JUROR: It was really hard for me
2 to say yes or no, because to me how I was brought up,
3 there's three sides to every story: Side A, side B, and
4 the truth.

5 When you told me the charges of today's trial,
6 I felt like my body was on fire. I do have a son who is
7 four. My niece is six. I just put: Can I imagine my
8 child and my niece in that situation? So that's why I
9 really can't answer that.

10 THE COURT: Because you're the mother of a
11 young child?

12 PROSPECTIVE JUROR: I am.

13 THE COURT: I understand.

14 PROSPECTIVE JUROR: I do watch a lot of Law
15 and Order and CSI. Those are my shows; I love them.
16 When those types of trials on TV are on, I have to get
17 away from my husband because I get not only into it, but
18 I feel like I'm going to -- I just want to jump in there
19 and say, I know you did this. I don't know.

20 THE COURT: Well, I guess then the question
21 becomes: If you were chosen on this jury, do you think
22 you could be fair and impartial?

23 PROSPECTIVE JUROR: I still can't answer. I
24 really don't know.

25 THE COURT: Okay.

1 PROSPECTIVE JUROR: I mean, I don't know them.
2 I really don't know the whole situation.

3 THE COURT: Well, there are a lot of facts in
4 every case.

5 PROSPECTIVE JUROR: Uh-huh.

6 THE COURT: It's a question of -- as a juror,
7 it's sort of filtering those facts and then trying to
8 make a decision about guilt or innocence.

9 PROSPECTIVE JUROR: Yes, sir.

10 THE COURT: But if you feel you would be a
11 little hesitant, I understand that.

12 PROSPECTIVE JUROR: I will be a little
13 hesitant. I'm just being honest.

14 THE COURT: No, I want you to be honest.
15 Don't feel guilty about it. Everybody feels differently
16 about this situation. Thank you very much, Ms. 101.

17 PROSPECTIVE JUROR: Thank you.

18 (The juror leaves the jury room.)

19 THE COURT: I'm going to set that one aside.

20 (An in camera hearing with the next juror is
21 reported as follows.)

22 THE COURT: Oh, hello. Your number, please?

23 PROSPECTIVE JUROR: 132.

24 THE COURT: Have a seat, Ms. 132. You
25 answered number three with a yes?

1 PROSPECTIVE JUROR: Yes..

2 THE COURT: All right..

3 PROSPECTIVE JUROR: Actually, the first one is
4 not my immediate family.

5 THE COURT: That's okay.

6 PROSPECTIVE JUROR: But my cousin's
7 12-year-old son about three years ago was charged and
8 convicted. He is about 16 now. This was in Charleston.

9 THE COURT: Charleston. Well, that's good to
10 know.

11 PROSPECTIVE JUROR: I don't know any of the
12 ramifications about any of them.

13 THE COURT: And how about number three?

14 PROSPECTIVE JUROR: It's not reported. It
15 wasn't anything serious. It would not affect my idea,
16 my feelings, my -- I feel like I could give very
17 impartial...

18 THE COURT: Fair and impartial to both
19 parties?

20 PROSPECTIVE JUROR: To both parties, yes.

21 THE COURT: But number three, was that you
22 personally?

23 PROSPECTIVE JUROR: Yes, yes.

24 THE COURT: Can you tell me how long ago?

25 PROSPECTIVE JUROR: Oh, when I was a child.

1 THE COURT: Okay.

2 PROSPECTIVE JUROR: I'm a grown up now.

3 THE COURT: That was only ten years ago?

4 PROSPECTIVE JUROR: Right.

5 THE COURT: Thank you very much. I'm sorry.

6 I missed your number.

7 PROSPECTIVE JUROR: 132.

8 THE COURT: Thank you, Ms. 132.

9 PROSPECTIVE JUROR: Yes, sir.

10 THE COURT: I appreciate your candor.

11 PROSPECTIVE JUROR: Yes, sir.

12 (The juror leaves the jury room.)

13 THE COURT: She answered yes to number three.

14 (An in camera hearing with the next juror is
15 reported as follows.)

16 THE CLERK: Next is 16.

17 PROSPECTIVE JUROR: Hello.

18 THE COURT: Come on in. Have a seat for just
19 a minute. You answered no to all questions. Can you --
20 do you still think you could be fair and impartial to
21 both parties?

22 PROSPECTIVE JUROR: Yes, sir.

23 THE COURT: Okay. No problem with this kind
24 of an issue?

25 PROSPECTIVE JUROR: Nope.

1 THE COURT: All right. Thank you very much,
2 Ms. 16. You're free to go.

3 PROSPECTIVE JUROR: Okay.

4 (The juror leaves the jury room, and an
5 in camera hearing with the next juror is reported as
6 follows.)

7 THE CLERK: 36.

8 THE COURT: Hello.

9 PROSPECTIVE JUROR: Hi.

10 THE COURT: Hello, Ms. 36. How are you?

11 PROSPECTIVE JUROR: Good.

12 THE COURT: Sit down just real quick. One,
13 two, no, number three -- can you tell me about number
14 three.

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: Is that personal to you or a
17 member of your family?

18 PROSPECTIVE JUROR: My sister was raped in
19 October.

20 THE COURT: In October?

21 PROSPECTIVE JUROR: The 20th.

22 THE COURT: Where was she?

23 PROSPECTIVE JUROR: In Charlotte, North
24 Carolina.

25 THE COURT: That case is not over yet; is it?

1 PROSPECTIVE JUROR: No.

2 THE COURT: And you answered number four --

3 PROSPECTIVE JUROR: Just because of the
4 emotions in her situation, I don't think I could be fair
5 and impartial.

6 THE COURT: Fair and impartial to both
7 parties?

8 PROSPECTIVE JUROR: Yes, sir.

9 THE COURT: That would give you a problem.
10 And what was your number again?

11 PROSPECTIVE JUROR: 36.

12 THE COURT: All right. Thank you, Ms. 36.

13 PROSPECTIVE JUROR: Uh-huh.

14 THE COURT: I appreciate your candor.

15 (The juror leaves the jury room, and an
16 in camera hearing with the next juror is reported as
17 follows.)

18 THE CLERK: Number 5.

19 THE COURT: 5. Hello. How are you?

20 PROSPECTIVE JUROR: Good.

21 THE COURT: Come on in. Have a seat. Ms. 5,
22 just briefly, you answered no to one and two and yes to
23 number three. Can you tell me, did it involve you or a
24 member of your family?

25 PROSPECTIVE JUROR: It was my sister.

1 THE COURT: Your sister?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: How long ago?

4 PROSPECTIVE JUROR: It was 24 years ago.

5 THE COURT: Okay. And was it here?

6 PROSPECTIVE JUROR: It was actually while she
7 was in the military and stationed overseas in Germany.

8 THE COURT: Would that fact in any way -- do
9 you think that fact would keep you from being fair and
10 impartial in this case?

11 PROSPECTIVE JUROR: No, I don't think so.

12 THE COURT: All right. Thank you very much,
13 Ms. 5.

14 PROSPECTIVE JUROR: Thank you.

15 (The juror leaves the jury room, and an
16 in camera hearing with the next juror is reported as
17 follows.)

18 THE CLERK: Number 1.

19 THE COURT: Number 1. We're moving right
20 along. How are you?

21 PROSPECTIVE JUROR: Fine. How are you?

22 THE COURT: Have a seat. I see you have
23 answered no to all questions on the questionnaire.

24 PROSPECTIVE JUROR: Yes, sir.

25 THE COURT: Do you have any questions to me

1 about this case or anything?

2 PROSPECTIVE JUROR: No, sir.

3 THE COURT: Do you think you could be fair and
4 impartial?

5 PROSPECTIVE JUROR: Absolutely.

6 THE COURT: Thank you very much, Ms. 1.

7 (The juror leaves the jury room, and an
8 in camera hearing with the next juror is reported as
9 follows.)

10 THE CLERK: 106.

11 THE COURT: Hello, Ms. 106.

12 PROSPECTIVE JUROR: Hi.

13 THE COURT: How are you? Come on in. Have a
14 seat. Let me see your questionnaire. You didn't fill
15 it out.

16 PROSPECTIVE JUROR: No. Everything is no.

17 THE COURT: Everything is no?

18 PROSPECTIVE JUROR: Uh-huh.

19 THE COURT: Okay. I'll do it for you.

20 PROSPECTIVE JUROR: Thank you.

21 THE COURT: It's 106?

22 PROSPECTIVE JUROR: 106.

23 THE COURT: All right. Is there any reason
24 because of -- you can sort of speak frankly in here.
25 Any reason you feel you could not be fair and impartial

1 to both parties in this case?

2 PROSPECTIVE JUROR: There's no reason.

3 THE COURT: Okay. You feel comfortable?

4 PROSPECTIVE JUROR: Uh-huh.

5 THE COURT: Okay. Thank you, Ms. 106. Thank
6 you very much.

7 PROSPECTIVE JUROR: You're welcome.

8 (The juror leaves the jury room, and an
9 in camera hearing with the next juror is reported as
10 follows.)

11 THE CLERK: 154.

12 PROSPECTIVE JUROR: Hello.

13 THE COURT: Mr. 154, how are you? Have a
14 seat. Just briefly, you answered no to all questions.
15 Do you think you could be fair and impartial in a case
16 like this?

17 PROSPECTIVE JUROR: Yes, sir.

18 THE COURT: Okay. No problem?

19 PROSPECTIVE JUROR: No, sir.

20 THE COURT: Thank you very much.

21 (The juror leaves the jury room, and an
22 in camera hearing with the next juror is reported as
23 follows.)

24 THE CLERK: 206.

25 THE COURT: Hello.

1 PROSPECTIVE JUROR: Hi.

2 THE COURT: How are you, Ms. 206? You can
3 have a seat. You left out number one.

4 PROSPECTIVE JUROR: I didn't know the
5 difference between one and two.

6 THE COURT: Oh. Well, okay. I understand.
7 You answered yes to two and three.

8 PROSPECTIVE JUROR: Uh-huh.

9 THE COURT: Are these incidents involving
10 you --

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: -- or a member of your family?

13 PROSPECTIVE JUROR: Me.

14 THE COURT: How long ago?

15 PROSPECTIVE JUROR: I was in high school.

16 THE COURT: Okay.

17 PROSPECTIVE JUROR: That was over --

18 THE COURT: Two or three years ago?

19 PROSPECTIVE JUROR: No, I wish. I'm 44.

20 THE COURT: I forgot. What did you say your
21 number was?

22 PROSPECTIVE JUROR: 206.

23 THE COURT: Given that fact and your memory,
24 do you think you could be fair and impartial to both the
25 State and the defendant in this case?

1 PROSPECTIVE JUROR: Yes, sir.

2 THE COURT: You're kind of putting that behind
3 you?

4 PROSPECTIVE JUROR: It's the past.

5 THE COURT: All right. Thank you very much,
6 Ms. 206.

7 PROSPECTIVE JUROR: Uh-huh.

8 (The juror leaves the jury room.)

9 THE COURT: Okay. I see. She answered yes to
10 two and three.

11 THE CLERK: Are you ready?

12 THE COURT: Yes, please.

13 (An in camera hearing with the next juror is
14 reported as follows.)

15 THE CLERK: 199.

16 THE COURT: Okay. 199. How are you doing?

17 PROSPECTIVE JUROR: Fine. Yourself?

18 THE COURT: Good. Have a seat. All right.

19 No to all questions?

20 PROSPECTIVE JUROR: Correct.

21 THE COURT: Okay. 99 or 199?

22 PROSPECTIVE JUROR: 199.

23 THE COURT: Any reason you feel you couldn't
24 be fair and impartial to both the State and the
25 defendant?

1 PROSPECTIVE JUROR: I would say no.

2 THE COURT: You could listen to the
3 evidence --

4 PROSPECTIVE JUROR: Yeah.

5 THE COURT: -- and decide for yourself? Okay.
6 Thank you, Mr. 199.

7 (The juror leaves the jury room, and an
8 in camera hearing with the next juror is reported as
9 follows.)

10 THE CLERK: 117.

11 THE COURT: How are you?

12 PROSPECTIVE JUROR: Fine. How are you?

13 THE COURT: No to all questions?

14 PROSPECTIVE JUROR: Yes, sir.

15 THE COURT: Is there anything about this case
16 that you feel that you couldn't sit and decide this case
17 for one side or the other?

18 PROSPECTIVE JUROR: No, sir.

19 THE COURT: You feel comfortable?

20 PROSPECTIVE JUROR: It's just a little bit --
21 not all the way.

22 THE COURT: Okay. Well, I mean, it's
23 something you don't do every day.

24 PROSPECTIVE JUROR: Uh-huh.

25 THE COURT: But you feel you could be fair and

1 impartial?

2 PROSPECTIVE JUROR: Yes, sir.

3 THE COURT: It's 117?

4 PROSPECTIVE JUROR: Uh-huh.

5 THE COURT: All right. Thank you very much,
6 ma'am.

7 (The juror leaves the jury room, and an
8 in camera hearing with the next juror is reported as
9 follows.)

10 THE CLERK: 121.

11 THE COURT: Hello.

12 PROSPECTIVE JUROR: How are you?

13 THE COURT: I'm good today. Have a seat just
14 for a minute. 121. All right. Let's see. You
15 answered yes to number three, yes to number four. Can
16 you tell me briefly about it?

17 PROSPECTIVE JUROR: I was molested as a child
18 by my grandfather.

19 THE COURT: How long ago? Well, never mind.

20 PROSPECTIVE JUROR: I was raped.

21 THE COURT: Okay. So you have strong feelings
22 about something like this?

23 PROSPECTIVE JUROR: I wish I could be fair. I
24 don't think...

25 THE COURT: Okay. That's fine. Don't worry

1 about it. Go sit down. Thank you, ma'am.

2 (The juror leaves the jury room, and an
3 in camera hearing with the next juror is reported as
4 follows.)

5 THE COURT: How are you doing? Have a seat.

6 PROSPECTIVE JUROR: I didn't feel like on the
7 first one because I have a close family member -- no, I
8 won't say family but someone that knew my family since
9 my oldest sister was young. So they knew me and I knew
10 them for a long time. It was kind of in a similar case
11 like this, but he's incarcerated right now.

12 THE COURT: So your sister was involved?

13 PROSPECTIVE JUROR: No. My family, my oldest
14 sister, they grew up together.

15 THE COURT: Oh, they grew up together.

16 PROSPECTIVE JUROR: Yeah. He knew me since I
17 was young, but he's incarcerated.

18 THE COURT: For something like this?

19 PROSPECTIVE JUROR: Yeah.

20 THE COURT: And what was your number again?

21 PROSPECTIVE JUROR: 83.

22 THE COURT: Okay. Do you think that would
23 influence your judgment in a case like this?

24 PROSPECTIVE JUROR: No.

25 THE COURT: Do you think you could listen to

1 the facts of the case and be fair to both parties?

2 PROSPECTIVE JUROR: Yes, sir.

3 THE COURT: Okay. Thank you, Mr. 83.

4 (The juror leaves the jury room.)

5 THE COURT: His sister knows somebody that's
6 incarcerated.

7 (An in camera hearing with the next juror is
8 reported as follows.)

9 THE CLERK: 149.

10 PROSPECTIVE JUROR: 149. Hello. How are you?

11 THE COURT: Good. How are you? Have a seat,
12 Mr. 149.

13 PROSPECTIVE JUROR: Yes, sir.

14 THE COURT: I see you answered number three
15 with a yes.

16 PROSPECTIVE JUROR: Yes, Your Honor.

17 THE COURT: Can you tell me about it just
18 briefly?

19 PROSPECTIVE JUROR: Yes, Your Honor. My
20 little cousin was involved in a case of sexual assault
21 in Kalamazoo, Michigan, five years ago.

22 THE COURT: Five years ago. How old is she?

23 PROSPECTIVE JUROR: She is 15 now.

24 THE COURT: So she was ten?

25 PROSPECTIVE JUROR: Yes, she was ten.

1 THE COURT: And you answered number four with
2 a yes?

3 PROSPECTIVE JUROR: Yes, unfortunately, yes.

4 THE COURT: Well, that's all right. Tell me
5 about it. How do you feel about cases like this?

6 PROSPECTIVE JUROR: I unfortunately just do
7 not feel that I could keep a level head and make a
8 decision regarding the case, given the close personal
9 nature.

10 THE COURT: I understand.

11 PROSPECTIVE JUROR: We still have some pretty
12 deep-seated issues.

13 THE COURT: Was the person convicted?

14 PROSPECTIVE JUROR: Yes, sir, he was
15 convicted. I mean, he is in jail. But still when you
16 read the indictment, I have to admit it's a little bit
17 of a pain, yes, sir.

18 THE COURT: And that was your cousin?

19 PROSPECTIVE JUROR: Yes, sir.

20 THE COURT: Okay. And what was your number
21 again?

22 PROSPECTIVE JUROR: 149, sir.

23 THE COURT: Okay. Thank you very much.

24 (The juror leaves the jury room, and an
25 in camera hearing with the next juror is reported as

1 follows.)

2 THE CLERK: 158.

3 THE COURT: How are you doing?

4 PROSPECTIVE JUROR: How are you doing?

5 THE COURT: Come on in and have a seat. You
6 said or you answered number three with a yes. Can you
7 tell me just a little bit about this. Did it involve
8 you or a member of your family?

9 PROSPECTIVE JUROR: Well, one of my nieces and
10 my girlfriend that I have now, she was -- when she first
11 got out of jail, we got a three-year-old little girl
12 now. So she was --

13 THE COURT: She was molested as a child?

14 PROSPECTIVE JUROR: No, let me see. My
15 niece -- I think she was 17 years old. I think she was.
16 Then my girlfriend I have got now, when she got out of
17 jail, she was raped.

18 THE COURT: Okay.

19 PROSPECTIVE JUROR: And we kept the baby. She
20 is three years old.

21 THE COURT: So you still -- how would you feel
22 about sitting on this jury?

23 PROSPECTIVE JUROR: I probably wouldn't feel
24 good about it because of things like that. I don't even
25 watch things like that on TV.

1 THE COURT: Okay.

2 PROSPECTIVE JUROR: So in my mind, he's
3 already guilty. I'm like that.

4 THE COURT: Okay.

5 PROSPECTIVE JUROR: I'm strongly against that,
6 yes.

7 THE COURT: That's fine. I understand. What
8 was your number again?

9 PROSPECTIVE JUROR: 158.

10 THE COURT: All right. Thank you, Ms. 158. I
11 appreciate your candor.

12 (The juror leaves the jury room, and an
13 in camera hearing with the next juror is reported as
14 follows.)

15 THE CLERK: 215.

16 THE COURT: Good afternoon. How are you
17 doing?

18 PROSPECTIVE JUROR: Good.

19 THE COURT: Do you have your questionnaire
20 with you?

21 PROSPECTIVE JUROR: Yes, sir.

22 THE COURT: Okay. Have a seat. You answered
23 no to all questions; correct?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: Is there any reason why you might

1 feel you could not sit on this jury and be fair and
2 impartial?

3 PROSPECTIVE JUROR: No, sir.

4 THE COURT: You could do it?

5 PROSPECTIVE JUROR: Yes, sir.

6 THE COURT: All right. Thank you very much.

7 (The juror leaves the jury room, and an
8 in camera hearing with the next juror is reported as
9 follows.)

10 THE CLERK: 254.

11 THE COURT: Hello. How are you?

12 PROSPECTIVE JUROR: Hello.

13 THE COURT: Have a seat. You answered no to
14 all questions. Any reason why you feel you couldn't be
15 fair and impartial?

16 PROSPECTIVE JUROR: No, sir.

17 THE COURT: Just because of the nature of the
18 case?

19 PROSPECTIVE JUROR: I'd be fine.

20 THE COURT: Okay. That was 254?

21 PROSPECTIVE JUROR: Correct.

22 THE COURT: Okay. Thank you very much.

23 PROSPECTIVE JUROR: Yes, sir.

24 (The juror leaves the jury room, and an
25 in camera hearing with the next juror is reported as

1 follows.)

2 THE CLERK: 237.

3 THE COURT: Hey, how are you doing? Have a
4 seat. Let me see your card. Let's see. You answered
5 number one and two with no, and number three you
6 answered yes. Can you tell me briefly about that? Was
7 it you or a member of your family or what.

8 PROSPECTIVE JUROR: Two of them were the
9 mother of my first child and then the mother of my
10 second one and then my --

11 THE COURT: Both of them were assaulted?

12 PROSPECTIVE JUROR: Yeah.

13 THE COURT: Or molested?

14 PROSPECTIVE JUROR: Yes, sir.

15 THE COURT: As children?

16 PROSPECTIVE JUROR: (Indicating in the
17 affirmative.)

18 THE COURT: Okay.

19 PROSPECTIVE JUROR: Then I caught this dude
20 trying to take my little cousin in the bathroom.

21 THE COURT: Okay. Do you think those kind of
22 experiences, that you could be fair and impartial to
23 both parties in this case?

24 PROSPECTIVE JUROR: (Indicating in the
25 negative.)

1 THE COURT: You don't think so?

2 PROSPECTIVE JUROR: (Indicating in the
3 negative.)

4 THE COURT: Okay. Thank you very much,
5 Mr. 237.

6 (The juror leaves the jury room, and an
7 in camera hearing with the next juror is reported as
8 follows.)

9 THE CLERK: 80.

10 THE COURT: Hello.

11 PROSPECTIVE JUROR: Hello.

12 THE COURT: Have a seat, number 80. How are
13 you doing?

14 PROSPECTIVE JUROR: All right.

15 THE COURT: You answered no to all questions.
16 Is there anything about this case that you think would
17 keep you from being fair and impartial?

18 PROSPECTIVE JUROR: No, I don't think so.

19 THE COURT: You could sit and decide the facts
20 one way or the other?

21 PROSPECTIVE JUROR: Yes, sir.

22 THE COURT: All right. Thank you very much,
23 Ms. 80.

24 (The juror leaves the jury room, and an
25 in camera hearing with the next juror is reported as

1 follows.)

2 THE CLERK: 25.

3 THE COURT: How are you?

4 PROSPECTIVE JUROR: Good.

5 THE COURT: Have a seat. Do you have that
6 little questionnaire I gave you?

7 PROSPECTIVE JUROR: I do.

8 THE COURT: All right. No to all questions?

9 PROSPECTIVE JUROR: No to all the questions.

10 THE COURT: Okay. Good. Is there anything
11 about this case that would keep you from being fair and
12 impartial?

13 PROSPECTIVE JUROR: Not at all.

14 THE COURT: Okay. You can make a decision.
15 That's number 25? What's your jury number?

16 PROSPECTIVE JUROR: 25.

17 THE COURT: I thought it was. Thank you very
18 much. You may return to the courtroom.

19 PROSPECTIVE JUROR: Thank you.

20 (The juror leaves the jury room, and an
21 in camera hearing with the next juror is reported as
22 follows.)

23 THE CLERK: 185.

24 THE COURT: 185. Have a seat. You answered
25 no to all questions?

1 PROSPECTIVE JUROR: I did.

2 THE COURT: All right. Any reason why you
3 feel you could not be fair and impartial?

4 PROSPECTIVE JUROR: Absolutely not.

5 THE COURT: All right, 185. Thank you very
6 much. You can return to the courtroom.

7 PROSPECTIVE JUROR: Sure.

8 (The juror leaves the jury room, and an
9 in camera hearing with the next juror is reported as
10 follows.)

11 THE CLERK: 153.

12 THE COURT: Hello.

13 PROSPECTIVE JUROR: Is this information kept
14 confidential?

15 THE COURT: Yes, ma'am.

16 PROSPECTIVE JUROR: Okay.

17 THE COURT: Have a seat. You answered yes to
18 one and three. Can you tell me about that?

19 PROSPECTIVE JUROR: Yeah.

20 THE COURT: Did this involve you or a member
21 of your family?

22 PROSPECTIVE JUROR: One involves me; one
23 involves my son.

24 THE COURT: Okay. How long ago?

25 PROSPECTIVE JUROR: A year and a half.

1 THE COURT: For?

2 PROSPECTIVE JUROR: My son.

3 THE COURT: For your son?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: How about yourself?

6 PROSPECTIVE JUROR: Thirty years.

7 THE COURT: Thirty years.

8 PROSPECTIVE JUROR: Or almost 30.

9 THE COURT: Based on that experience that
10 you've had, do you think you could still be fair and
11 impartial in a case like this?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: Are you sure?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: Okay. That's all I want to know.

16 Thank you very much, Ms. 153.

17 PROSPECTIVE JUROR: Thank you.

18 THE COURT: You can return to the courtroom.

19 PROSPECTIVE JUROR: And nothing will ever be
20 said about my son?

21 THE COURT: No, ma'am.

22 PROSPECTIVE JUROR: Okay. Cool. Thank you.

23 (The juror leaves the jury room, and an
24 in camera hearing with the next juror is reported as
25 follows.)

1 THE CLERK: 188.

2 THE COURT: You answered no to all questions?

3 PROSPECTIVE JUROR: Yes, sir.

4 THE COURT: Is there anything about this case
5 about why you could not be fair and impartial?

6 PROSPECTIVE JUROR: Yes, sir.

7 THE COURT: You think you could sit and be
8 fair and impartial and make a decision?

9 PROSPECTIVE JUROR: Yes, sir.

10 THE COURT: All right. You can return to the
11 courtroom.

12 (The juror leaves the jury room, and an
13 in camera hearing with the next juror is reported as
14 follows.)

15 THE CLERK: 110.

16 THE COURT: Hello. How are you?

17 PROSPECTIVE JUROR: I'm fine. How are you?

18 THE COURT: Have a seat. All right. You
19 answered one, two, no; three, yes. Can you tell me
20 whether we're talking about a member of your family or
21 yourself?

22 PROSPECTIVE JUROR: Myself.

23 THE COURT: How long ago?

24 PROSPECTIVE JUROR: It's been since actually I
25 was six.

1 THE COURT: Okay. Does that fact, that
2 history that you've had, do you think it would influence
3 your judgment one way or the other in a case like this?

4 PROSPECTIVE JUROR: Honestly, no. It affected
5 me more when you said we're going to have to come back
6 and talk to you. I was like, Oh God, we're going to
7 have to talk about it.

8 THE COURT: I don't want to know anymore than
9 you have already told me. All I really need to know is
10 based on that life experience, if that would influence
11 your judgment one way or the other?

12 PROSPECTIVE JUROR: I don't think so. I don't
13 think so.

14 THE COURT: You could be fair and impartial?

15 PROSPECTIVE JUROR: What?

16 THE COURT: You could be fair and impartial?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: After you hear the evidence?

19 PROSPECTIVE JUROR: Well, that's my job as a
20 juror, and 2012 is my year of forgiveness; and I forgive
21 myself and the people that did it to me. There is an
22 open case.

23 THE COURT: How long ago was this?

24 PROSPECTIVE JUROR: 1981.

25 THE COURT: Twenty years ago?

1 PROSPECTIVE JUROR: Thirty.

2 THE COURT: Thirty years ago. All right.

3 Again, you're 110?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: All right. Thank you, Ms. 110.

6 (The juror leaves the jury room.)

7 THE COURT: I'm not going to take her out.

8 She said she is -- well, she is a peremptory.

9 (An in camera hearing with the next juror is
10 reported as follows.)

11 THE CLERK: 163.

12 THE COURT: Come in. How are you?

13 PROSPECTIVE JUROR: Good.

14 THE COURT: 163, did she say?

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: You answered no to all questions?

17 PROSPECTIVE JUROR: That's correct.

18 THE COURT: Anything about this case that
19 would make you feel uncomfortable or make you feel you
20 could not decide it one way or the other?

21 PROSPECTIVE JUROR: No.

22 THE COURT: Okay. You're comfortable with
23 that?

24 PROSPECTIVE JUROR: I am comfortable with
25 that.

1 THE COURT: All right. Thank you, Ms. 163.

2 PROSPECTIVE JUROR: Thank you.

3 THE COURT: Return to the courtroom.

4 (The juror leaves the jury room, and an
5 in camera hearing with the next juror is reported as
6 follows.)

7 THE CLERK: 293.

8 THE COURT: Hello.

9 PROSPECTIVE JUROR: Hi.

10 THE COURT: How are you?

11 PROSPECTIVE JUROR: Good.

12 THE COURT: Have a seat. Here is the
13 questionnaire. You answered one, two, three, no. You
14 didn't answer four?

15 PROSPECTIVE JUROR: Yeah, I do have strong
16 beliefs, but it wouldn't prevent me from being fair; so
17 I guess I could check that no.

18 THE COURT: Well, strong beliefs, how would
19 you characterize your strong beliefs?

20 PROSPECTIVE JUROR: I don't think it's a good
21 thing.

22 THE COURT: I understand. If someone is
23 convicted, I understand that.

24 PROSPECTIVE JUROR: Right.

25 THE COURT: The question is: Do you think you

1 could sit and make that decision?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: Okay. All right. And your number
4 is 293?

5 PROSPECTIVE JUROR: 293, yes.

6 THE COURT: Thank you, Ms. 293. Return to the
7 courtroom.

8 (The juror leaves the jury room, and an
9 in camera hearing with the next juror is reported as
10 follows.)

11 THE CLERK: 267.

12 THE COURT: How are you?

13 PROSPECTIVE JUROR: Fine, sir.

14 THE COURT: Good. Come on in and have a seat.
15 All right. You answered one and two, no; three, yes;
16 four, no. Can you tell me what number three involved,
17 you or a member of your family?

18 PROSPECTIVE JUROR: A member of my family, a
19 niece. She was a college student that got raped and
20 contracted AIDS and passed away.

21 THE COURT: Where was this?

22 PROSPECTIVE JUROR: State Augustine in
23 Raleigh.

24 THE COURT: In Raleigh?

25 PROSPECTIVE JUROR: Yes, sir.

1 THE COURT: That's a tragedy. Do you think
2 you could sit on this case and be fair and impartial to
3 both parties?

4 PROSPECTIVE JUROR: I hope so.

5 THE COURT: Do you believe so?

6 PROSPECTIVE JUROR: I believe so.

7 THE COURT: I told you a little about the
8 case. I told you a little about it. Is there anything
9 about this case that would upset you or keep you from
10 making your decision?

11 PROSPECTIVE JUROR: I don't think so.

12 THE COURT: Are you okay?

13 PROSPECTIVE JUROR: (Indicating in the
14 affirmative.)

15 THE COURT: All right. You're number 293?

16 PROSPECTIVE JUROR: (Indicating in the
17 affirmative.)

18 THE COURT: All right. Thank you very much.
19 Return to the courtroom.

20 (The juror leaves the jury room.)

21 THE COURT: Strong feelings.

22 (An in camera hearing with the next juror is
23 reported as follows.)

24 THE CLERK: 268.

25 THE COURT: Hello.

1 PROSPECTIVE JUROR: Hey, Judge.

2 THE COURT: How are you?

3 PROSPECTIVE JUROR: Good. How are you?

4 THE COURT: Good. Have a seat. Let me see
5 your notes.

6 PROSPECTIVE JUROR: I forgot about that.

7 THE COURT: No to all four?

8 PROSPECTIVE JUROR: No to all four.

9 THE COURT: Okay. Anything about this case
10 that would make you feel uncomfortable that you couldn't
11 sit and fairly decide this case?

12 PROSPECTIVE JUROR: No.

13 THE COURT: You would feel comfortable?

14 PROSPECTIVE JUROR: I do.

15 THE COURT: Thank you, Ms. 268. You're free
16 to go --

17 PROSPECTIVE JUROR: Thank you.

18 THE COURT: -- back to the courtroom.

19 (The juror leaves the jury room, and an
20 in camera hearing with the next juror is reported as
21 follows.)

22 THE CLERK: 247.

23 THE COURT: Hello, how are you?

24 PROSPECTIVE JUROR: Good.

25 THE COURT: Come on in and have a seat. Can I

1 see your questionnaire, please?

2 PROSPECTIVE JUROR: I've got it all balled up.

3 THE COURT: You've got it what?

4 PROSPECTIVE JUROR: I've got it all balled up.

5 THE COURT: That's all right. I can still

6 read it. Ms. 247, you answered no to all the questions;
7 correct?

8 PROSPECTIVE JUROR: Uh-huh.

9 THE COURT: No problem with this case?

10 PROSPECTIVE JUROR: No.

11 THE COURT: All right. Thank you very much,
12 Ms. 268 [sic].

13 PROSPECTIVE JUROR: No, 247.

14 THE COURT: Oh, I'm sorry. I'm glad you
15 corrected me. Thank you very much, Ms. 247.

16 (The juror leaves the jury room, and an
17 in camera hearing with the next juror is reported as
18 follows.)

19 THE CLERK: 200.

20 THE COURT: How are you doing?

21 PROSPECTIVE JUROR: How are you doing, sir?

22 THE COURT: Good. Have a seat.

23 PROSPECTIVE JUROR: I didn't fill out all of
24 them though.

25 THE COURT: You didn't fill out any of them?

1 PROSPECTIVE JUROR: You said I didn't have to.

2 THE COURT: Tell me why you felt you didn't
3 want to.

4 PROSPECTIVE JUROR: Because they're all no
5 after I read them.

6 THE COURT: All no?

7 PROSPECTIVE JUROR: Right.

8 THE COURT: So if I check all no's, that's
9 fine?

10 PROSPECTIVE JUROR: That's fine.

11 THE COURT: Anything about this case that you
12 think you could not sit and fairly hear this case? Do
13 you think you could be fair to both parties?

14 PROSPECTIVE JUROR: Yeah.

15 THE COURT: Okay. Return to the courtroom.
16 Thank you very much, Mr. 200.

17 (The juror leaves the jury room, and an
18 in camera hearing with the next juror is reported as
19 follows.)

20 THE CLERK: 275.

21 THE COURT: Here. Have a seat.

22 PROSPECTIVE JUROR: Hi.

23 THE COURT: How are you?

24 PROSPECTIVE JUROR: Yes, sir.

25 THE COURT: You answered no to all the

1 questions. Is there anything about this case that would
2 make you feel uncomfortable?

3 PROSPECTIVE JUROR: I don't think so.

4 THE COURT: Okay. You think you could sit and
5 fairly decide the case?

6 PROSPECTIVE JUROR: Yes, sir.

7 THE COURT: Thank you very much, Ms. 275.

8 PROSPECTIVE JUROR: Thank you.

9 (The juror leaves the jury room, and an
10 in camera hearing with the next juror is reported as
11 follows.)

12 THE CLERK: 229.

13 THE COURT: Well, hello again. How are you?

14 PROSPECTIVE JUROR: I'm fine.

15 THE COURT: Feeling okay?

16 PROSPECTIVE JUROR: Yes, sir, I'm fine.

17 THE COURT: You answered no to all questions?

18 PROSPECTIVE JUROR: Yes, sir.

19 THE COURT: Is there anything about this case
20 that would make you feel you couldn't sit and fairly
21 decide it?

22 PROSPECTIVE JUROR: No, sir.

23 THE COURT: You feel okay?

24 PROSPECTIVE JUROR: I feel fine.

25 THE COURT: All right, Ms. 229. Thank you

1 very much. You can return to the courtroom.

2 PROSPECTIVE JUROR: Thank you.

3 (The juror leaves the jury room, and an
4 in camera hearing with the next juror is reported as
5 follows.)

6 THE CLERK: 272.

7 THE COURT: Hello.

8 PROSPECTIVE JUROR: Hello.

9 THE COURT: How are you?

10 PROSPECTIVE JUROR: I'm fine. How are you?

11 THE COURT: I'm fine. Come on in. Let me see
12 your questionnaire. No to all questions; is that
13 correct?

14 PROSPECTIVE JUROR: Yes, sir.

15 THE COURT: Is there anything about this case
16 that you feel you couldn't sit and be fair to all
17 parties?

18 PROSPECTIVE JUROR: No.

19 THE COURT: All right. That's 272; right?

20 PROSPECTIVE JUROR: Uh-huh.

21 THE COURT: All right. Return to the
22 courtroom. Thank you very much.

23 (The juror leaves the jury room, and an
24 in camera hearing with the next juror is reported as
25 follows.)

1 THE CLERK: 299.

2 PROSPECTIVE JUROR: Hi.

3 THE COURT: Hello.

4 PROSPECTIVE JUROR: Hi. How are you?

5 THE COURT: First Director of --

6 PROSPECTIVE JUROR: -- Pretrial Intervention.

7 THE COURT: -- Pretrial Intervention.

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: Which has been a big success.

10 PROSPECTIVE JUROR: Her and Don Holland got
11 that going.

12 THE COURT: My senator?

13 PROSPECTIVE JUROR: Uh-huh.

14 THE COURT: Really?

15 PROSPECTIVE JUROR: Uh-huh.

16 THE COURT: Well, good. You didn't answer any
17 of my questions.

18 PROSPECTIVE JUROR: You said we didn't need
19 to. They're all no.

20 THE COURT: They are all no. Okay. I'm going
21 to check all no. You are 272?

22 PROSPECTIVE JUROR: No, sir, 299.

23 THE COURT: Is there anything about this case
24 that you feel you couldn't sit and fairly decide it?

25 PROSPECTIVE JUROR: No, sir.

1 THE COURT: You would be fair to both parties?

2 PROSPECTIVE JUROR: Yes, sir.

3 THE COURT: Okay. Return to the courtroom.

4 Thank you very much.

5 PROSPECTIVE JUROR: You're welcome.

6 THE COURT: He was my senator, too.

7 PROSPECTIVE JUROR: I know.

8 (The juror leaves the jury room, and an
9 in camera hearing with the next juror is reported as
10 follows.)

11 THE CLERK: 282.

12 THE COURT: Come in.

13 PROSPECTIVE JUROR: Hello.

14 THE COURT: How are you? Have a seat,
15 Ms. 282. You answered no to all questions. Is there
16 anything about this case that would make you feel
17 uncomfortable? You could be fair and impartial to both
18 parties?

19 PROSPECTIVE JUROR: Uh-huh.

20 THE COURT: You could do it?

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: Thank you very much, Ms. 282.

23 PROSPECTIVE JUROR: You're welcome.

24 THE COURT: Return to the courtroom.

25 (The juror leaves the jury room, and an

1 in camera hearing with the next juror is reported as
2 follows.)

3 THE CLERK: 202.

4 THE COURT: Good morning -- afternoon.

5 PROSPECTIVE JUROR: Afternoon, sir. How are
6 you?

7 THE COURT: Afternoon. How are you? Your
8 number is?

9 PROSPECTIVE JUROR: 202.

10 THE COURT: 202. You answered no to all
11 questions. Is there any reason that you think you
12 couldn't sit and be fair and impartial to both parties
13 in this case?

14 PROSPECTIVE JUROR: No reason, Your Honor.

15 THE COURT: All right. Thank you very much.
16 You may return to the courtroom.

17 PROSPECTIVE JUROR: Thank you, sir.

18 (The juror leaves the jury room, and an
19 in camera hearing with the next juror is reported as
20 follows.)

21 THE CLERK: 308.

22 THE COURT: 308.

23 PROSPECTIVE JUROR: How are you doing, sir?

24 THE COURT: It's 308?

25 PROSPECTIVE JUROR: Yes, sir.

1 THE COURT: Mr. 308, you answered no to all
2 questions?

3 PROSPECTIVE JUROR: Yes, sir.

4 THE COURT: Any reason you feel you couldn't
5 be fair and impartial to both parties in this case?

6 PROSPECTIVE JUROR: I believe so. One
7 question. I'm not sure how long these type of trials
8 take. I am leaving the country next week. If it takes
9 a week, I'm leaving next Wednesday.

10 THE COURT: You will be fine. Where are you
11 going?

12 PROSPECTIVE JUROR: I'm leaving to go to
13 Africa for a year.

14 THE COURT: Good for you.

15 PROSPECTIVE JUROR: Just traveling.

16 THE COURT: You'll be on the plane.

17 PROSPECTIVE JUROR: Sounds good.

18 THE COURT: Thank you very much.

19 (The juror leaves the jury room, and an
20 in camera hearing with the next juror is reported as
21 follows.)

22 THE CLERK: 305.

23 PROSPECTIVE JUROR: Hello.

24 THE COURT: How are you, Mr. 305?

25 PROSPECTIVE JUROR: Nice to meet you.

1 THE COURT: Nice to see you. Have a seat. No
2 to all questions. Any reason you feel that you might
3 not -- that you could not be fair and impartial to both
4 parties in this case?

5 PROSPECTIVE JUROR: No, sir.

6 THE COURT: You feel comfortable?

7 PROSPECTIVE JUROR: Uh-huh.

8 THE COURT: All right. Thank you very much.

9 PROSPECTIVE JUROR: Thank you.

10 THE COURT: You may return to the courtroom.

11 (The juror leaves the jury room, and an
12 in camera hearing with the next juror is reported as
13 follows.)

14 THE CLERK: 129.

15 THE COURT: How are you?

16 PROSPECTIVE JUROR: Wonderful. How are you?

17 THE COURT: Nice to see you. Come on in.

18 Have a seat. You answered no to all questions, number
19 129. Any reason you might feel you could not be fair
20 and impartial to both parties in this case?

21 PROSPECTIVE JUROR: No.

22 THE COURT: Now, you had a little -- what did
23 you tell me when you stood up?

24 PROSPECTIVE JUROR: My son is an attorney.

25 THE COURT: That's right, in Colorado.

1 PROSPECTIVE JUROR: He's actually doing a
2 judgeship clerkship out there for the first year.

3 THE COURT: Which means he is skiing on
4 weekends.

5 PROSPECTIVE JUROR: Absolutely. He skied this
6 past weekend.

7 THE COURT: Okay. Well, at least they have
8 snow.

9 PROSPECTIVE JUROR: Yes.

10 THE COURT: All right. Thank you. Is there
11 any reason you feel you couldn't be fair and impartial
12 in a case like this?

13 PROSPECTIVE JUROR: No.

14 THE COURT: Thank you very much.

15 (The juror leaves the jury room, and an
16 in camera hearing with the next juror is reported as
17 follows.)

18 THE CLERK: 181.

19 THE COURT: Come on in, Mr. 181. I ought to
20 keep you here just for being so "rascalous."

21 PROSPECTIVE JUROR: You just hit me with
22 everything. I know Bob. Bob and I were in high school
23 together. We knew everybody.

24 THE COURT: Where is your questionnaire?

25 PROSPECTIVE JUROR: What?

1 THE COURT: Your questionnaire?

2 PROSPECTIVE JUROR: Oh.

3 THE COURT: I want to keep a record of it
4 anyway. All no's. Any reason why you feel you couldn't
5 be fair and impartial to any of the parties?

6 PROSPECTIVE JUROR: I could be fair and
7 impartial.

8 THE COURT: Thank you, Mr. McCue. Return to
9 the courtroom.

10 PROSPECTIVE JUROR: You've two more behind me.

11 THE COURT: Good.

12 (The juror leaves the jury room, and an
13 in camera hearing with the next juror is reported as
14 follows.)

15 THE CLERK: 115.

16 PROSPECTIVE JUROR: Hey, Judge, how are you,
17 sir?

18 THE COURT: Good to see you.

19 PROSPECTIVE JUROR: Good seeing you, sir.

20 THE COURT: You answered no to all questions.
21 Mr. 115. Any reason why you think you couldn't be fair
22 and impartial to both parties in this case?

23 PROSPECTIVE JUROR: No, sir.

24 THE COURT: Thank you very much. Return to
25 the courtroom.

1 (The juror leaves the jury room, and an
2 in camera hearing with the next juror is reported as
3 follows.)

4 THE CLERK: 279.

5 THE COURT: 279. How are you?

6 PROSPECTIVE JUROR: Good.

7 THE COURT: Have a seat. It will only be a
8 minute. You answered no to all questions. Any reason
9 why you feel you could not be fair and impartial to all
10 the parties in this case?

11 PROSPECTIVE JUROR: No.

12 THE COURT: You feel comfortable?

13 PROSPECTIVE JUROR: Uh-huh.

14 THE COURT: All right. Thank you very much.
15 You may return to the courtroom.

16 PROSPECTIVE JUROR: All right.

17 (The in camera hearings are concluded, and the
18 following is reported in the jury room.)

19 THE COURT: Well, the record is here. This is
20 what I've got. You know, a lot of them may have reasons
21 for striking, but number 237 said he could not be fair
22 and impartial. Agreed?

23 MR. BLANKENSHIP: He did say that, yes.

24 THE COURT: What?

25 MR. BLANKENSHIP: Yes.

1 THE COURT: Number 158 said he could not be
2 fair and impartial. I don't remember if he was a he or
3 a she.

4 MS. BODMAN: 158 is a female. There was a 149
5 before 158.

6 THE COURT: Well, wait a minute. Number 158
7 says not fair and impartial; correct?

8 MS. BODMAN: Yes.

9 THE COURT: Everybody agree?

10 MR. BLANKENSHIP: Yes.

11 THE COURT: Strike for cause. I'm just going
12 down my list.

13 MS. BODMAN: Okay.

14 THE COURT: 149. He is the one with the
15 cousin in Michigan and said he could not be fair and
16 impartial. Agree?

17 MR. BLANKENSHIP: Yes.

18 MS. BODMAN: Yes.

19 THE COURT: Milo Klos. Old South Carolina
20 name. Number 36 said...

21 MS. BODMAN: What I have written down is she
22 said she could not be fair.

23 THE COURT: I lost my numbers, could not find
24 it. Page 2.

25 MS. BODMAN: It was on the first one. It's

1 one, two, three, four, five, six, seven, eight, nine,
2 like ten down.

3 THE COURT: No, that's 158. 36.

4 MS. BODMAN: 16 was just before 5.

5 THE COURT: It's 37 on the list on the second
6 page. Agreed?

7 MS. BODMAN: I'm sorry, yes.

8 MR. BLANKENSHIP: 36 was...

9 THE COURT: Number 37 is juror number 36.

10 MS. BODMAN: Ms. Brooks. It was Chrishaun
11 Brooks.

12 MR. BLANKENSHIP: Right. Her sister was raped
13 in October.

14 THE COURT: Right. Strike for cause. Now,
15 the only other one I have is 101 who said she would be
16 hesitant, and I always worry about those people.

17 MS. BODMAN: Which one? I'm sorry, Your
18 Honor.

19 THE COURT: 101, the little black girl sitting
20 on the front row.

21 MS. SHEALEY: No, that was 34. I think 101 is
22 the one with the glasses.

23 MS. BODMAN: I have white female for 101.

24 THE COURT: Okay.

25 MS. BODMAN: Daughter was 15 when she and a

1 girlfriend went out. They got molested by an
2 18-year-old boy. She refused any help. She is now 21,
3 seeing a therapist and on medication, but said she could
4 be fair to both sides.

5 THE COURT: She said she was hesitant.

6 MS. SHEALEY: Yeah, I thinking we are talking
7 about two different people. I think 101 was younger.

8 THE COURT: I don't have my big list.

9 MR. PISARIK: 101, she watches CSI and Law and
10 Order.

11 MR. BLANKENSHIP: Said there's three sides to
12 every story.

13 THE COURT: That's right. She has young
14 children.

15 MS. BODMAN: Brittney Greene.

16 THE COURT: That's right, said she was very
17 hesitant.

18 MS. BODMAN: Yeah, she couldn't answer that
19 question or whatever. I have no objection to striking
20 her.

21 THE COURT: Strike her. All right. One, two,
22 three, four, five. All right. Now, any other
23 challenges for cause?

24 MS. SHEALEY: I think we do have some, Your
25 Honor.

1 MR. BLANKENSHIP: 110, she said I don't think
2 so, but then said she probably could be fair.

3 THE COURT: Yes.

4 MR. BLANKENSHIP: 2012 is her year of
5 forgiveness.

6 THE COURT: Wait a minute, 101?

7 MR. BLANKENSHIP: 110.

8 MS. SHEALEY: She was a victim when she was
9 six, the same age as the...

10 THE COURT: Right. Yeah, and she said she put
11 it behind her.

12 MR. BLANKENSHIP: She started by saying I
13 don't think so, and then she changed it to I put it
14 behind me. I think I could be fair.

15 THE COURT: Well, chances -- you know, she is
16 the last one on the list. Chances are we're not going
17 to get to her.

18 MS. BODMAN: Well, I think if she says she can
19 be fair and impartial, she has a right to sit on this
20 jury.

21 THE COURT: I've got only 34 used up with 12
22 jurors, two alternates, ten strikes for the defendant,
23 five strikes for the State, and five challenges for
24 cause -- excused for excuse.

25 MS. BODMAN: Judge, I also have written down

1 237. It was Pete Rodriquez. He was the --

2 THE COURT: I've already done that.

3 MS. BODMAN: We did him? Why did I not strike
4 him off? I'm sorry.

5 THE COURT: He's already struck. Anybody
6 else?

7 MR. BLANKENSHIP: No, sir...

8 THE COURT: Are you okay?

9 MR. BLANKENSHIP: Yes, sir.

10 THE COURT: Are you okay? The State is okay?

11 MS. BODMAN: We are.

12 THE COURT: Good. Let's go do it.

13 MR. BLANKENSHIP: Your Honor, we would move to
14 strike the victims of abuse. Number 34 said she was a
15 victim of abuse at 12.

16 THE COURT: She said she could be fair and
17 impartial.

18 MR. BLANKENSHIP: Right.

19 THE COURT: So you're moving for all
20 victims...

21 MR. BLANKENSHIP: And I can just give you the
22 list of them.

23 MS. SHEALEY: We can just give you the
24 numbers.

25 THE COURT: Go ahead.

1 MR. BLANKENSHIP: 34, 132, 206, 121, 153, 110,
2 and 267.

3 THE COURT: All said they had some abuse in
4 their background but could be fair and impartial.

5 MR. BLANKENSHIP: Right.

6 THE COURT: All right. Denied. Anything
7 else?

8 MR. BLANKENSHIP: Nothing from the defendant.

9 THE COURT: Let's go do it.

10 MS. BODMAN: Actually, on 121, we both do have
11 a note. At one point said can be fair but then said
12 can't be fair.

13 MR. BLANKENSHIP: Can't be fair. Was it a he
14 or a she?

15 MR. PISARIK: It's a she.

16 MS. BODMAN: She was the victim of sexual
17 abuse. She said she was molested by her grandfather.

18 MR. BLANKENSHIP: Oh, yeah.

19 THE COURT: Wait a minute.

20 MR. BLANKENSHIP: That's right.

21 MS. BODMAN: 121, Deloris Howard.

22 MR. BLANKENSHIP: Right. She was the --

23 THE COURT: -- older lady.

24 MS. BODMAN: Yes.

25 THE COURT: Started crying?

1 MS. BODMAN: She started crying.

2 THE COURT: 121?

3 MS. BODMAN: Uh-huh.

4 THE COURT: I don't know why I didn't pull
5 that out. No, she left here crying. I wouldn't put her
6 in. Is that what you both remember?

7 MS. BODMAN: That's right. That's what we
8 both have written down.

9 THE COURT: An older lady with glasses?

10 MS. BODMAN: Uh-huh, a 60-year-old white
11 female, yes.

12 THE COURT: 121.

13 MR. BLANKENSHIP: That --

14 THE COURT: All right. If that's what you
15 both remember. Yes, I want to strike her. I just
16 didn't write it down. Is that it?

17 MS. BODMAN: I believe so.

18 THE COURT: You would have never gotten those
19 answers from your voir dire.

20 MR. BLANKENSHIP: No.

21 THE COURT: Ready to roll?

22 MS. BODMAN: Yes, sir.

23 THE COURT: Let's get a jury.

24 (The hearing is concluded in the jury room,
25 and the following is reported in open court.)

1 THE COURT: As I say, I appreciate your
2 patience and your candor because that was probably a
3 difficult exercise for some of you.

4 Is the State ready to proceed?

5 MS. SHEALEY: We are, Your Honor.

6 THE COURT: Is the defense ready to proceed?

7 MR. BLANKENSHIP: Yes, sir.

8 THE COURT: All right. Madam Clerk, give us a
9 jury, please.

10 THE CLERK: Ladies and gentlemen of the jury
11 panel, when I call your number, come down to this
12 microphone. State your juror number again and your
13 occupation, please. Bring your personal belongings with
14 you.

15 Number 153.

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

17 PROSPECTIVE JUROR: 153, I prepare income
18 taxes. I also work at Ryan's as a part-time job.

19 THE CLERK: What says the State?

20 MS. BODMAN: Please present the juror.

21 THE CLERK: What says the defense?

22 MR. BLANKENSHIP: Please excuse the juror.

23 THE CLERK: Have a seat in the back of the
24 courtroom.

25 200.

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

2 PROSPECTIVE JUROR: 200, quality control
3 technician.

4 THE CLERK: What says the State?

5 MS. BODMAN: Please excuse the juror.

6 THE CLERK: Have a seat in the back of the
7 courtroom.

8 188.

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

10 PROSPECTIVE JUROR: 188, paralegal.

11 THE CLERK: What says the State?

12 MS. BODMAN: Please present the juror.

13 THE CLERK: What says the defense?

14 MR. BLANKENSHIP: Please seat the juror.

15 THE CLERK: Have a seat in the jury box.

16 185.

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

18 PROSPECTIVE JUROR: 185. I'm a business

19 owner.

20 THE CLERK: What says the State?

21 MS. BODMAN: Please present the juror.

22 THE CLERK: What says the defense?

23 MR. BLANKENSHIP: Please present the juror.

24 THE CLERK: Have a seat in the jury box.

25 34.

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

2 PROSPECTIVE JUROR: Mary Elizabeth Briggs. I
3 work at the Holiday Inn as a housekeeper.

4 THE CLERK: What says the State?

5 MS. BODMAN: Please present the juror.

6 THE CLERK: What says the defense?

7 MR. BLANKENSHIP: Please excuse the juror.

8 THE CLERK: Have a seat in the back of the
9 courtroom.

10 102.

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

12 PROSPECTIVE JUROR: Juror 102, Admin
13 Resolution Specialist, South Carolina Student Loan
14 Corporation.

15 THE CLERK: What says the State?

16 MS. BODMAN: Please present the juror.

17 THE CLERK: What says the defense?

18 MR. BLANKENSHIP: Please excuse the juror.

19 THE CLERK: Have a seat in the back of the
20 courtroom.

21 293.

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

23 PROSPECTIVE JUROR: 293. I'm an admin
24 assistant for Lexington Baptist Church.

25 THE CLERK: What says the State?

1 MS. BODMAN: Please present the juror.

2 THE CLERK: What says the defense?

3 MR. BLANKENSHIP: Please excuse the juror.

4 THE CLERK: Have a seat in the back of the
5 courtroom.

6 215.

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

8 PROSPECTIVE JUROR: 215. I'm a retail
9 technician with NCR Corporation.

10 THE COURT: What says the State?

11 MS. BODMAN: Please present the juror.

12 THE CLERK: What says the defense?

13 MR. BLANKENSHIP: Please seat the juror.

14 THE CLERK: Have a seat in the jury box.

15 52.

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

17 PROSPECTIVE JUROR: 52, account rep.

18 THE CLERK: What says the State?

19 MS. BODMAN: Please present the juror.

20 THE CLERK: What says the defense?

21 MR. BLANKENSHIP: Please seat the juror.

22 THE CLERK: Have a seat in the jury box.

23 115.

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

25 PROSPECTIVE JUROR: 115, Chief Executive

1 Officer of a mechanical contracting business.

2 THE CLERK: What says the State?

3 MS. BODMAN: Please present the juror.

4 THE CLERK: What says the defense?

5 MR. BLANKENSHIP: Please excuse the juror.

6 THE CLERK: Have a seat in the back of the
7 courtroom.

8 132.

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

10 MR. BLANKENSHIP: What was the number? I'm
11 sorry.

12 THE CLERK: 132.

13 MR. BLANKENSHIP: Thanks.

14 PROSPECTIVE JUROR: 132, registered nurse.

15 THE CLERK: What says the State?

16 MS. BODMAN: Please present the juror.

17 THE CLERK: What says the defense?

18 MR. BLANKENSHIP: Please seat the juror.

19 THE CLERK: Have a seat in the jury box.

20 206.

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

22 PROSPECTIVE JUROR: 206, Corporate Director of
23 Clinical Applications.

24 THE CLERK: What says the State?

25 MS. BODMAN: Please present the juror.

1 THE CLERK: What says the defense?

2 MR. BLANKENSHIP: Please excuse the juror.

3 THE CLERK: Have a seat in the back of the
4 courtroom. Thank you.

5 308.

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

7 PROSPECTIVE JUROR: 308, unemployed.

8 THE CLERK: What says the State?

9 MS. BODMAN: Please excuse the juror.

10 THE CLERK: Have a seat in the back of the
11 courtroom. Thank you.

12 247.

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

14 PROSPECTIVE JUROR: 247, delivery service.

15 THE CLERK: What says the State?

16 MS. BODMAN: Please excuse the juror.

17 THE CLERK: Have a seat in the back of the
18 courtroom.

19 7.

20 MS. BODMAN: Can you say that number again?

21 I'm sorry.

22 THE CLERK: 7.

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

24 PROSPECTIVE JUROR: Number 7, merchant marine
25 officer, civilian employee, Department of the Navy.

1 THE CLERK: What says the State?

2 MS. BODMAN: Please excuse the juror.

3 THE CLERK: Have a seat in the back of the
4 courtroom.

5 16.

6 PROSPECTIVE JUROR: 16. I'm an office
7 manager.

8 THE CLERK: What says the State?

9 MS. BODMAN: Please present the juror.

10 THE CLERK: What says the defense?

11 MR. BLANKENSHIP: Please seat the juror.

12 THE CLERK: Have a seat in the jury box.

13 (Pause.)

14 THE CLERK: Allow me to review your strikes.

15 For the State, four; for the defense, six.

16 13.

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

18 PROSPECTIVE JUROR: Number 13, a nonprofit
19 administrator, freelance writer.

20 THE CLERK: What says the State?

21 MS. BODMAN: Please present the juror.

22 THE CLERK: What says the defense?

23 MR. BLANKENSHIP: Please excuse the juror.

24 THE CLERK: Have a seat in the back of the
25 courtroom.

1 83.

2 (The juror, a black male, comes forward.)

3 PROSPECTIVE JUROR: I'm number 83, fast food
4 restaurant employee.

5 THE CLERK: What says the State?

6 MS. BODMAN: Please excuse the juror.

7 THE CLERK: Have a seat in the back of the
8 courtroom.

9 305.

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

11 PROSPECTIVE JUROR: 305, medical sales.

12 THE CLERK: Does the State challenge for
13 cause?

14 MS. BODMAN: No.

15 THE CLERK: What says the defense?

16 MR. BLANKENSHIP: Please seat the juror.

17 THE CLERK: Have a seat in the jury box.

18 44.

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

20 PROSPECTIVE JUROR: President of Medical
21 Mission, a nonprofit organization.

22 THE CLERK: Does the State challenge for
23 cause?

24 MS. BODMAN: No.

25 THE CLERK: What says the defense?

1 MR. BLANKENSHIP: Please excuse the juror.

2 THE CLERK: Have a seat in the back of the
3 courtroom.

4 279.

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

6 PROSPECTIVE JUROR: 279, engineering manager.

7 THE CLERK: Does the State challenge for
8 cause?

9 MS. BODMAN: No.

10 THE CLERK: What says the defense?

11 MR. BLANKENSHIP: Please seat the juror.

12 THE CLERK: Have a seat in the jury box.

13 299.

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

15 PROSPECTIVE JUROR: 299, registered nurse.

16 THE CLERK: Does the State challenge for
17 cause?

18 MS. BODMAN: No.

19 THE CLERK: What says the defense?

20 MR. BLANKENSHIP: Please seat the juror.

21 THE CLERK: Have a seat in the jury box.

22 254.

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

24 PROSPECTIVE JUROR: 254. I'm a pilot.

25 THE CLERK: Does the State challenge for

1 cause?

2 MS. BODMAN: No.

3 THE CLERK: What says the defense?

4 MR. BLANKENSHIP: Please seat the juror.

5 THE CLERK: Have a seat in the jury box.

6 229.

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

8 PROSPECTIVE JUROR: I work for Morris Village
9 as a food service provider.

10 THE CLERK: Does the State challenge for
11 cause?

12 MS. BODMAN: No.

13 THE CLERK: What says the defense?

14 MR. BLANKENSHIP: Please seat the juror.

15 THE CLERK: Have a seat in the jury box,
16 please.

17 Number 1.

18 PROSPECTIVE JUROR: Number one, self-employed,
19 concessions business.

20 THE CLERK: Does the State challenge for
21 cause?

22 MS. BODMAN: No.

23 THE CLERK: What says the defense?

24 MR. BLANKENSHIP: Please seat the juror.

25 THE CLERK: Have a seat in the jury box.

1 How many alternates?

2 THE COURT: Two.

3 THE CLERK: Two alternates.

4 THE COURT: Two and one on the strikes or one

5 and two.

6 THE CLERK: 106.

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

8 PROSPECTIVE JUROR: 106. I'm a health mission
9 conservator.

10 THE CLERK: What says the State?

11 MS. BODMAN: Please excuse the juror.

12 THE CLERK: Have a seat in the back of the
13 courtroom.

14 181.

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

16 PROSPECTIVE JUROR: 181, attorney.

17 THE COURT: Does the State challenge for
18 cause?

19 MS. BODMAN: No.

20 THE CLERK: What says the defense?

21 MR. BLANKENSHIP: Please seat the juror.

22 THE CLERK: Have a seat in the jury box.

23 Thank you.

24 80.

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

1 PROSPECTIVE JUROR: 80, lab technologist.

2 THE CLERK: What says the State?

3 MS. BODMAN: Please present the juror.

4 THE CLERK: What says the defense?

5 MR. BLANKENSHIP: Please excuse the juror.

6 THE CLERK: Have a seat in the back of the
7 courtroom.

8 154.

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

10 PROSPECTIVE JUROR: 154, small business owner.

11 THE CLERK: What says the State?

12 MS. BODMAN: Please present the juror.

13 THE CLERK: What says the defense?

14 MR. BLANKENSHIP: Please seat the juror.

15 THE CLERK: Have a seat in the jury box.

16 (The jury is impaneled at 4:31 p.m.)

17 THE COURT: All right. Counsel, any objection
18 to the jury selection process from the State?

19 MS. SHEALEY: No, Your Honor.

20 THE CLERK: From the defense?

21 MR. BLANKENSHIP: The defense has an issue.

22 THE COURT: Approach the bench.

23 (Whereupon there is a bench conference off the
24 record.)

25 THE COURT: All right. Ladies and gentlemen

1 that were not selected on this jury, let me thank you
2 for coming. Let me thank you for participating in the
3 process. As I spoke to you this morning, this system
4 doesn't operate without you.

5 You're such an important part of the jury
6 system of this county and this state and this nation
7 that your role was written into the Constitution of the
8 United States. It's a vital role to our system of
9 justice, and you do your county a service by being here
10 and being willing to serve.

11 Now, unfortunately, I can't dismiss you
12 entirely. I'm going to ask you to return to the jury
13 assembly room for further instructions. There may be
14 other cases -- I don't think there will be another case
15 in this courtroom -- but there may be other cases,
16 similar cases. I'm not sure what else is pending still
17 so you're now excused to return to the jury assembly
18 room. Thank you very much.

19 (The jury panel is excused.)

20 THE COURT: All right. Well, ladies and
21 gentlemen, now you've been selected to serve on this
22 jury. We're not going to start it right now. We're
23 going to start at 9:30 in the morning.

24 We've been here all day, and there are a
25 number of matters that I need to take up with the

1 attorneys before we get started. So hopefully it will
2 expedite the process and make the process go a lot
3 smoother once we get started.

4 Now, I'm going to dismiss you for the evening.
5 I'm going to give you some basic instructions. First,
6 I'm going to ask that you not talk to anybody about this
7 case.

8 I know it's tempting to talk to your family
9 about what you're involved in; but it's so easy,
10 particularly in these kind of cases, for somebody to
11 tell you that they think you ought to do this or they
12 think you ought to do that.

13 I'm not saying it would prejudice you one way
14 or the other, but the best policy is just don't talk
15 about it. You can say you're on a jury, but the
16 judge -- blame it on me -- the judge told you not to
17 talk about it, either to your family or friends over the
18 evening hours.

19 Another thing that has gotten to be somewhat
20 of a problem with prior juries is in these days of the
21 internet and social media, people may have a tendency to
22 want to find out about a case. They may have a tendency
23 to want to Google the parties or try to do a little
24 independent research.

25 That is strictly forbidden. Our Supreme Court

1 has issued an order that all trial judges are to
2 instruct jurors that they are not to do any independent
3 research about a case.

4 You're going to hear all the facts here in
5 this courtroom. It's just like not reading the
6 newspaper when a reporter reports what happened in the
7 courtroom.

8 We don't have any press -- I don't think we
9 do -- here that is probably going to report on this
10 trial, but I always tell jurors, that's the reporter's
11 version of what he saw or she saw in the courtroom.

12 But you're the judges. You're the judges of
13 the facts in this case, not some reporter or not
14 somebody on the internet or on Facebook or on tweet -- I
15 don't tweet -- but any of the social media where you
16 might be tempted. I'm not saying that you would, but
17 you might be tempted to try to do some research. I'm
18 going to ask you not to do so.

19 I'm probably going to ask you in the morning
20 if anybody has looked it up. I've had jurors, honest to
21 goodness, during jury deliberations go look something
22 up, found something on the internet, came back, and told
23 all the jurors about it.

24 That was in Lexington. I had to find that
25 juror in contempt because she had been given clear

1 instructions not to do it. Then she came back and told
2 her fellow jurors, which made it even worse; and I fined
3 her the cost of producing the trial.

4 In other words, I got the clerk to figure up
5 how much it cost Lexington County to run that trial, and
6 I fined her that amount; and I made her spend a few
7 hours down at the Lexington County Detention Center. I
8 don't think she'll do it again, and I think the judges
9 over there will tell the jurors that something happened
10 last year and use it as an example.

11 That's not to be threatening in any way. It's
12 just a fact of life that -- or a fact of our system that
13 what you hear in the courtroom is what you make your
14 decision based on.

15 I'm going to ask you to return to the jury
16 room at 9:30 in the morning. I'm going to ask you not
17 to discuss the case among yourselves when you return to
18 the jury room.

19 You haven't heard any of the facts. Frankly,
20 I don't know any more about it than you do at this
21 point. I just read the indictment, and I read that to
22 you. So it would be improper to start talking about it
23 when you return to the jury room.

24 The bailiffs are going to take you to your
25 jury room. That will be your sort of home away from

1 home. It's not comfortable, but we'll try to make it as
2 comfortable for you as we can. The county is
3 refurbishing one of the jury rooms right now. As soon
4 as they finish that one, they'll do the one that you're
5 going to be working from.

6 When you return to the jury room in the
7 morning, we'll probably have some coffee for you; is
8 that right, Frank?

9 THE BAILIFF: Yes, sir, we'll have coffee for
10 them.

11 THE COURT: If anybody needs anything else,
12 let the bailiffs know. They'll accommodate you as best
13 they can. I'm going to ask you to do one other thing --
14 two other things.

15 When you return in the morning, elect one of
16 your members -- and it cannot be either of the last two
17 gentlemen who were chosen because they're going to be
18 our alternates in case somebody gets sick or can't
19 attend.

20 I need for the 12 of you to select one of your
21 members to be the foreperson of the jury. That person
22 will actually write the verdict if that becomes
23 necessary at the end of the trial and preside in the
24 jury room during the course of the trial.

25 That person will take the seat where the first

1 lady chosen -- in the black dress -- will take that seat
2 throughout the trial. The rest of the seats don't have
3 any names on them, numbers on them. Sit where you're
4 most comfortable.

5 If you have a hard time hearing, you may want
6 to sit closer to the front. The witnesses are going to
7 be testifying from this stand right here. Most all of
8 the activity will be right here in front of you. But if
9 you do have a hearing problem or something, let me know.
10 Other than that I'm going to ask you to have a pleasant
11 evening.

12 We'll see you at 9:30 in the morning. When
13 you return to the jury room, come back up here to the
14 third floor. If you go back down to the jury assembly
15 room, I'll have to come get you.

16 (Whereupon the jury is excused for the day at
17 4:44 p.m.)

18 THE COURT: Maybe I'll tell them 10:00.
19 Frank, go with Mr. Addison. Tell them I changed my
20 mind. Tell them to be here in the morning -- it's 5:00
21 o'clock now. Are these motions going to take a while?

22 MS. BODMAN: Well, there were a couple of
23 witnesses that Mr. Blankenship --

24 THE COURT: Tell them 10:30. Tell them I
25 changed my mind and sleep late. Be here at 10:30.

1 MR. BLANKENSHIP: It will take a good bit of
2 time, Your Honor. Maybe not, but it could potentially.

3 THE COURT: All right. You've had a -- go
4 ahead and put your Batson motion on the record,
5 Mr. Blankenship.

6 MR. BLANKENSHIP: It was based simply on the
7 five strikes that the State used were four out of five
8 males, and we believe that was gender based.

9 THE COURT: All right.

10 MR. BLANKENSHIP: After Batson there is case
11 law saying gender is a protected class for the same
12 purposes as race as it is in Batson.

13 THE COURT: All right. Gender neutral
14 strikes, Ms. Bodman, for number 200.

15 MS. BODMAN: That individual was -- when he
16 came back to the jury room to answer the questions or
17 talk to us about the questionnaire, he had not filled
18 out his questionnaire.

19 Your Honor, just inquired why didn't he fill
20 it out, and he responded -- basically kind of threw
21 himself back and kind of laughed and said, Because you
22 said I didn't have to.

23 So we didn't -- just his general attitude and
24 Your Honor had called it as maybe jokingly, but Your
25 Honor called him a smart ass after he left. I wrote it

1 down. That's kind of exactly what my impression was at
2 his response to your inquiries.

3 THE COURT: Do you have that?

4 THE COURT REPORTER: I don't recall that.

5 THE COURT: I didn't put that on the record.

6 Mr. Blankenship, any challenge to the gender
7 neutral strike on behalf of the State?

8 MR. BLANKENSHIP: There were other jurors who
9 said the same thing. I think one was seated but I'm not
10 sure. I'm trying to figure out who exactly it was. It
11 was a female. It might have been after Ms. Bodman had
12 already used her strikes. I was trying to figure that
13 out.

14 THE COURT: All right.

15 MS. BODMAN: It wasn't the fact that he didn't
16 fill it out. It was just the manner in which and the
17 tone in which he responded about why he had not filled
18 it out because there were other jurors that didn't fill
19 it out.

20 THE COURT: Number 308.

21 MS. BODMAN: This gentleman is young,
22 unemployed, said he was going to leave next week to go
23 to Africa. Just basically -- I think Your Honor asked
24 him what he was going to do. He just said travel
25 around.

1 So I just felt that he did not have a
2 sufficient maybe feeling of a tie to the community or an
3 investment in what his decision would be and how that
4 would -- how it would impact our community because he's
5 just kind of unemployed, hanging around, you know, going
6 around to travel, and really no investment in our
7 community.

8 THE COURT: Number 7.

9 MS. BODMAN: This is the gentleman that's in
10 the military and basically indicated that it would take
11 a lot of convincing for him to -- as I took it to mean
12 -- for him to return a guilty verdict because he had
13 seen a lot of false allegations.

14 So our feeling is just he would bring forth
15 his own personal experiences to automatically disbelieve
16 or makes us prove the case even more than beyond a
17 reasonable doubt.

18 THE COURT: Number 83.

19 MS. BODMAN: This gentleman has a pending drug
20 case in our office with Carter Potts.

21 THE COURT: All right.

22 MS. BODMAN: And as I noted it, I just kind of
23 saw it as he was coming up to the microphone. So I
24 probably could have attempted to get him struck for
25 cause, but I went ahead and used my strike on him.

1 THE COURT: All right. Mr. Blankenship, any
2 comment with 308?

3 MR. BLANKENSHIP: On 308 I think that
4 explanation would knock out most young rich males in the
5 community who have time to travel. As to the other two,
6 no, I don't.

7 MS. BODMAN: Or rich females who have the
8 money to go travel; so it's gender neutral.

9 THE COURT: All right. I find that the
10 State's strikes were gender neutral. I deny your
11 motion.

12 Now, let's get to the matters at hand. Any
13 motions from the defense?

14 MR. BLANKENSHIP: Yes, Your Honor. We have
15 a -- I apologize, Your Honor. Mr. Spellman has asked if
16 we could take a few minutes to speak about a few issues.

17 THE COURT: Sure.

18 MR. BLANKENSHIP: If you don't mind. Maybe
19 five, ten minutes.

20 THE COURT: That's fine. All right. Let's
21 take about ten minutes.

22 MR. BLANKENSHIP: Thank you.

23 (Whereupon there is a recess.)

24 THE COURT: Motions?

25 MR. BLANKENSHIP: Yes, Your Honor. We have

1 written motions. If I may approach?

2 THE COURT: Sure.

3 (Hands to Court.)

4 THE COURT: Have you served them on the State?

5 MR. BLANKENSHIP: Yes, I've handed them to
6 them.

7 THE COURT: All right. You may proceed.

8 MR. BLANKENSHIP: Thank you, Your Honor. May
9 it please the Court. Our first motion is we would like
10 to renew our Brady motion and Rule 5 discovery requests
11 just to make sure that everything is up to date. I have
12 submitted it before but just renewing those motions.

13 THE COURT: State? Well, the first one is a
14 motion to dismiss.

15 MR. BLANKENSHIP: Yes, we're not moving on
16 that. I apologize.

17 THE COURT: All right. You are just going to
18 number two?

19 MR. BLANKENSHIP: Yes, sir.

20 THE COURT: All right. How about it,
21 Ms. Bodman? Have you complied with Rule 5?

22 MS. BODMAN: Yes, we have complied with Rule
23 5. We have supplied everything that we have that we
24 know of.

25 MR. BLANKENSHIP: Today for the first name I

1 heard the name Nicole Williams at ARC. If she has a
2 file or anything, we don't know about it.

3 MS. BODMAN: There is nothing impeachable or
4 exculpatory about Nicole Williams. She is a victim
5 advocate at the ARC.

6 THE COURT: Does she plan to testify?

7 MS. BODMAN: It depends on what issues come up
8 during the victim's testimony or in her cross
9 examination.

10 THE COURT: All right. What is the defense's
11 position?

12 MR. BLANKENSHIP: Well, if she has a file on
13 the accused, we think we would be entitled to it under
14 Rule 5.

15 MS. BODMAN: She does not have any files on
16 the accused.

17 THE COURT: Okay.

18 MR. BLANKENSHIP: As long as we have
19 everything, then that's satisfactory.

20 THE COURT: All right.

21 MR. BLANKENSHIP: Number one is our motion to
22 dismiss. We requested the ARC videos after the minor
23 here disclosed to her teacher about a month-and-a-half
24 later.

25 ARC was involved. A forensic interview was

1 taken of her, during which she stated specifically that
2 on one occasion of the alleged abuse, her older brother,
3 [REDACTED] walked in and "caught him" -- Mr. Spellman -- in
4 the act.

5 She said unequivocally, He caught him in the
6 act. Then the other thing that is in the video is that
7 she has never spoken to anybody, including her brother,
8 about these incidents.

9 THE COURT: In the same video?

10 MR. BLANKENSHIP: I'm sorry?

11 THE COURT: In the same video?

12 MR. BLANKENSHIP: Yes, sir, during the
13 June 2010 ARC forensic interview related to the alleged
14 incidents here.

15 The older brother, [REDACTED] was also interviewed
16 by ARC in a forensic interview. And when specifically
17 asked if he had ever witnessed any of the alleged abuse,
18 he unequivocally said no.

19 THE COURT: How do you know that?

20 MR. BLANKENSHIP: It's in a report from the
21 interviewer that was provided by ARC.

22 THE COURT: How do you know?

23 MR. BLANKENSHIP: I actually don't know. I
24 definitely don't know from what is on the video. I just
25 know it was in the report.

1 Also, the report says that when asked if he
2 was ever told by the accuser about the incident, he said
3 he had, in fact, spoken to the accuser and that was
4 nothing to do with sexual stuff. So there are two
5 contradictory statements. It's a he said; she said
6 case.

7 THE COURT: What's is his name?

8 MR. BLANKENSHIP: MINOR 1 The last
9 name is Ansaar. He is the older brother.

10 THE COURT: All right.

11 MR. BLANKENSHIP: And that is the only --
12 obviously the brother's testimony conflicts to some
13 degree with, I think, two crucial points with the minor
14 accuser, his sister.

15 Now, there's no other evidence as far as I'm
16 aware of, testimonial or otherwise, that provides a
17 basis to impeach directly the minor accuser. Certainly,
18 there are a bunch of things that we can look at to
19 impeach her but nothing directly other than his
20 testimony.

21 If he gets on the stand and testifies all of
22 sudden he remembers catching them in the act, and he
23 testifies consistently with what she says in her
24 interview, then we cannot adequately impeach him.

25 We can put up the interviewer to say, Yes,

1 this young man did tell me that he did not catch her --
2 catch Mr. Spellman in the act -- and that he did tell me
3 that his sister came to him and disclosed things.

4 That's not nearly as impactable [sic] as the
5 video. The jury is going to sit there and look at the
6 video of the minor accuser presumably if Ms. Bodman is
7 introducing it; and I'm presuming she will try to.

8 If we're going to impeach, we can't impeach
9 with the video. It's not equivalent by any means. So
10 the standard of Brady is exculpatory or impeachment
11 value, clear impeachment value; and it's the only direct
12 contradiction of the minor accuser that we have, and
13 they just happened to lose it.

14 When I sent a subpoena to ARC asking, What are
15 your protocols for keeping these kind of videos? I
16 think it was about ten questions, and they responded, We
17 don't have any protocols. We just lost it.

18 That was the best and only piece of actual
19 evidence that we have or that we should have had.

20 THE COURT: Was any other record made of
21 the -- was a record made, other than in the video?

22 MR. BLANKENSHIP: There was a paragraph-long
23 summary report.

24 THE COURT: Summary?

25 MR. BLANKENSHIP: Yes, no transcript. These

1 reports of these interviews, which are an hour long -- I
2 don't know exactly how long his was -- but the minor
3 accuser's, her interview is 50 minutes to an hour and
4 the summary.

5 We're not getting much detail out of these
6 reports. The real meat of it is watching the video. We
7 can't do that with the brother. We believe a dismissal
8 is the appropriate remedy.

9 But at least in the alternative, if we don't
10 have access to the brother's video, then they should not
11 be allowed to introduce the minor accuser's video. For
12 them to say, Well, you can just get someone to come
13 testify, well definitely the minor accuser can testify.

14 I don't understand why -- either one is coming
15 in and they both came come; but we can't put those
16 things in because we don't have them.

17 THE COURT: All right. The State's position?

18 MS. BODMAN: Well, there's two separate
19 arguments. One is he is saying if ours doesn't come in,
20 if [REDACTED] interview doesn't come in, that tape doesn't
21 come in, then [REDACTED] shouldn't.

22 (A), there is a statute that provides for the
23 admissibility of the victim's statement. If we meet the
24 factors of: How old she was at the time of the
25 interview, the interviewer used the techniques. There

1 is a specific statute allowing the admissibility of that
2 interview.

3 [REDACTED], even if the tape was in existence,
4 even if the DVD was still there, it is not admissible.
5 It's a witness so it doesn't fall under the statute.
6 The statute says the victim.

7 They have to be under the age of 12 at the
8 time of the interview. He was older than that. So
9 there are just basic, you know, facts that would keep
10 that tape out.

11 It would only potentially be admissible for
12 impeachment purposes, if he said something different
13 than what he said during that interview. There is no
14 requirement under the law that the ARC even videotape
15 any of their interviews.

16 The victims [sic] themselves, they could
17 decide tomorrow: You know what? We're not going to
18 videotape these interviews anymore. There is no legal
19 requirement they do it.

20 We do it so we can hopefully get it in under
21 the statute, and we have an admissible and then
22 additional piece of evidence, but there is no legal
23 requirement.

24 There was no maliciousness involved in this.
25 There is, in fact -- they say that, you know, there was

1 a Brady violation. Well, it's disclosed because we
2 disclosed it to them that [REDACTED] interview, through
3 this report, providing a copy of this report by the
4 interviewer, by Ray Olszewski, that this is what [REDACTED]
5 said in his interview.

6 THE COURT: Was he there?

7 MS. BODMAN: Ray Olszewski, yeah. They were
8 sitting in a room across from each other.

9 THE COURT: With [REDACTED]

10 MS. BODMAN: With [REDACTED] It's Ray Olszewski.

11 THE COURT: And he plans to testify?

12 MS. BODMAN: He is available to testify. I'm
13 not calling him because it's hearsay.

14 THE COURT: Yes.

15 MS. BODMAN: Ray Olszewski's testimony is
16 hearsay, but he is available if [REDACTED] says something
17 different than what Ray Olszewski documented, the
18 exculpatory information that we provided, if [REDACTED]
19 something different than that, they can set [REDACTED]

20 Do you remember being interviewed? Did you
21 say something different? If he says, Yes, I did, then
22 that's the end of the inquiry. If he denies making the
23 statement to Ray Olszewski, then Ray Olszewski is
24 available to come and testify.

25 This evidence, you know, has not been

1 destroyed, gotten rid of. Ray Olszewski exists. He is
2 here available to come and testify. He is the person
3 that actually asked these questions and spoke with

4 [REDACTED]

5 The fact that he said it's not nearly as
6 impactful is not the standard for which there is a
7 violation. The evidence exists in the form of live
8 testimony of the person who actually spoke with [REDACTED]

9 I just got these motions, but I could provide
10 for Your Honor a copy -- also, there is a case that --
11 and I can't remember the name of it -- but essentially
12 talks about discovery when evidence has been destroyed
13 and that it is not a violation if it was not an
14 intentional destruction; for example, like drugs that
15 were destroyed.

16 THE COURT: It might be Cheeseboro where they
17 lost the gun.

18 MS. BODMAN: Maybe. I don't know the name of
19 the case off the top of my head, but that's all, Your
20 Honor.

21 THE COURT: All right. Well, I have the
22 defendant's motion to dismiss. I'm going to read that
23 over the evening hours. I'll let you know in the
24 morning.

25 If you want to furnish me with anything else

1 to look at, I'll be glad to look at it. But Cheeseboro
2 -- well, I had one in Kershaw where they lost the
3 bullets. That was another one, but it wasn't reported.

4 All right. The next motion?

5 MR. BLANKENSHIP: Thank you, Your Honor. We
6 do have a motion to sequester witnesses.

7 THE COURT: Any objection?

8 MS. BODMAN: Just to make sure, the
9 investigator?

10 THE COURT: Yes.

11 MS. BODMAN: The victim, [REDACTED] and since
12 she is a minor, her mother, Alyiah.

13 THE COURT: That's all.

14 MS. BODMAN: And I believe -- well, her father
15 is not on the witness list.

16 THE COURT: That's all. Granted.

17 MR. BLANKENSHIP: Thank you.

18 THE COURT: With the exception of the victim,
19 the mother, and the investigator.

20 MR. BLANKENSHIP: Sure. We have no problem
21 with that.

22 THE COURT: Next motion?

23 MR. BLANKENSHIP: It's number four on the
24 list, Your Honor. It's the motion regarding the
25 forensic interview of the minor accuser. I'm not sure

1 exactly what the State plans to do as far as introducing
2 the accuser's live testimony versus the video.

3 We move that the State should be required to
4 introduce the child to testify live and be cross
5 examined prior to the introduction of this interview
6 tape.

7 First, the plain language of the statute, the
8 child hearsay statute, which is 17-23-175, sets forth
9 grammatically how this thing -- how this tape is
10 supposed to be introduced.

11 Grammatically, I believe it's clear that the
12 child must testify before the introduction of the
13 videotape. It's in the written motion, but the statute
14 reads that basically the child's hearsay statement may
15 be introduced, which is 17-23-175(a).

16 In a general sessions court proceeding or a
17 delinquency proceeding in family court, an out-of-court
18 statement of a child is admissible "if." It says if and
19 then it lists four conditions.

20 First, the statement was given in response to
21 during an investigative interview. We're not disputing
22 that. Audio recording, we are not disputing that there
23 was a recording of the minor accuser's video. Three,
24 the child testifies at the proceeding and is subject to
25 cross examination on the elements.

1 Well, grammatically, if the child is not
2 testifying at the proceeding, then that condition is not
3 satisfied.

4 THE COURT: Any problem?

5 MS. BODMAN: Yes, Your Honor. My reading of
6 it -- and I need to pull it up -- is the child is
7 expected to testify. There is absolutely nothing in the
8 statute that says that we have to call the child prior
9 to the tape.

10 MR. BLANKENSHIP: I think the grammar, the
11 language of the statute, does set that forth.
12 Further --

13 THE COURT: Well, does it say prior to?

14 MR. BLANKENSHIP: It says if.

15 THE COURT: It says what?

16 MR. BLANKENSHIP: It says the testimony or the
17 tape is admissible if one, two, three, four happen.

18 THE COURT: Right.

19 MR. BLANKENSHIP: Well, until three happens,
20 the child testifies at trial, then it is not satisfied.

21 Further, we also take the position that
22 introducing it first would violate due process
23 connotations because if this videotape is played for the
24 jury before we're allowed to see her live testimony,
25 this is implanted in their heads.

1 It's a friendly environment, no mean defense
2 attorney asking questions. It's a friendly environment
3 with a friendly interviewer, and that's what the jury
4 sees first. Then only after that is the live testimony
5 with cross examination given. We take the position
6 that --

7 THE COURT: All right. What is the State's
8 intention, Ms. Bodman? In other words I mean, there is
9 a confrontation issue here; right?

10 MS. BODMAN: It says if. I mean, I think that
11 is proof -- I don't think there is a confrontation
12 issue. I've tried many CSCs where I've done, you know,
13 the video before or after, as long as they are both put
14 in evidence. They have the tape. They have the
15 interview.

16 THE COURT: That's not --

17 MS. BODMAN: But when she testifies, they have
18 that information at their disposal to cross examine her
19 about it. Whether she testifies before it's admitted or
20 after, they can cross examine her about what is said on
21 that tape. There is no confrontation issue.

22 THE COURT: Well, that wasn't actually my
23 question. But nevertheless can you tell me what the
24 State's plan is?

25 MS. BODMAN: At this point we are planning on

1 putting up [REDACTED] prior to the tape.

2 THE COURT: All right. Let's leave it at that
3 at this stage of the proceeding.

4 Next?

5 MR. BLANKENSHIP: I think the rest of the
6 motion is incorporated into the Brady motion.

7 THE COURT: Right.

8 MR. BLANKENSHIP: So I apologize. We have --
9 and since we're on the video, where is it? We have a
10 motion to redact. I don't see it on the list.

11 There is a mention in the video where the
12 accuser and the interviewer reference the defendant
13 going to jail for child support, and we have a motion to
14 redact those statements.

15 THE COURT: Any problem with that?

16 MS. BODMAN: No. We had actually already
17 started on the motion doing that this weekend. I just
18 need to check with the person that was going to do that.

19 THE COURT: All right. Well, I grant it.

20 MR. BLANKENSHIP: Thank you.

21 THE COURT: Obviously, I don't know what the
22 times on the video are. I'm assuming they are as you
23 say they are.

24 MR. BLANKENSHIP: Yes, sir. We have a motion
25 to preclude the State from referring to South Carolina

1 Code 16-3-657, which provides the testimony of the
2 victim need not be corroborated in prosecutions under
3 cases like this.

4 We believe for that statement to be given is
5 sort of a comment on the facts and improper. Every
6 witness is going to -- the Court will instruct the jury
7 that every witness's credibility will be gauged by the
8 jury.

9 THE COURT: So would you also request a
10 similar jury instruction or object to it if the State --

11 MR. BLANKENSHIP: Yes, sir.

12 THE COURT: -- offers such a jury instruction?

13 MR. BLANKENSHIP: Yes, sir.

14 THE COURT: You object to it?

15 MR. BLANKENSHIP: Yes.

16 THE COURT: Even though the statute says what
17 it says?

18 MR. BLANKENSHIP: It's a statute that doesn't
19 mean it's appropriate for a jury charge or a reference
20 in front of the jury.

21 THE COURT: How about that, Ms. Bodman?

22 MS. BODMAN: Well, according to the State
23 versus Juan Orozco that was decided March 2nd of 2011,
24 it is completely proper for Your Honor to give that
25 charge.

1 And at this -- the law does state or the case
2 does state, that it is up to Your Honor. It's not a
3 mandatory charge. It's up to Your Honor. It is not a
4 comment on the evidence.

5 It is a law that we have that is proper; but
6 even if Your Honor said, I'm not going to put it in the
7 charge, it still would be completely proper for us to
8 argue in closing arguments.

9 So (A), we would be asking for that charge;
10 and (B), even if you denied it, we can still discuss it
11 with the jury.

12 THE COURT: Well, I've given it before in the
13 face of the defendant's objections. So I would be
14 inclined to give it again.

15 MR. BLANKENSHIP: A jury charge, Your Honor?

16 THE COURT: Yes.

17 MR. BLANKENSHIP: What about the prosecution's
18 reference to it during the trial?

19 THE COURT: Well, I don't see any difference.

20 MR. BLANKENSHIP: Okay. Number seven is a
21 motion on the victim terminology. We would move to
22 preclude the State from referring to the accuser as the
23 victim; and any reference to her should be either her
24 name, accuser, the plaintiff or alleged victim. She is
25 not a victim until the jury says she is.

1 THE COURT: How about that?

2 MS. BODMAN: Well, according to Section
3 16-3-651, the criminal sexual conduct definitions, the
4 definition of victim is a person alleging to have been
5 subjected to a CSC. So that is, in fact, our law is
6 that definition of victim is the person alleging to have
7 been subjected to a CSC.

8 THE COURT: All right. Motion denied.
9 Number eight?

10 MR. BLANKENSHIP: Motion to limit
11 corroborating testimony to the time and place of the
12 alleged misconduct by any witness other than the minor
13 accuser unless they put forth a witness who now says
14 that they saw it happen or heard it happen.

15 But as far as I know, the only witnesses they
16 have other than the accuser will testify to nothing but
17 what they've been told by the accuser. We move to make
18 sure that -- whether they're a fact witness or there's
19 an expert involved, they need to be limited to only time
20 and place, no details.

21 THE COURT: Any problem with that?

22 MS. BODMAN: Well, I guess in terms of how he
23 states it, corroborating testimony, obviously, yeah, we
24 can't bring in corroborating testimony. But, for
25 example, there might be witnesses that there are other

1 exception that it fits under.

2 Time and place doesn't eliminate all other
3 hearsay exceptions. So, for example, Dr. Luberoff can
4 say: This is the type of penetration that I knew of
5 that was reported. When I was examining her, I was
6 looking for whether injuries were consistent with the
7 type of act that happened, you know, to the child.

8 So as long as it -- I totally understand the
9 time and place. As long as it doesn't fit under another
10 hearsay exception, then this just allows us another way
11 to get in information regarding a sexual assault. We
12 would certainly comply unless there was another
13 exception we could put it under.

14 THE COURT: All right. Well, that's a
15 qualified granting.

16 MR. BLANKENSHIP: Thank you. A similar
17 motion, a motion to preclude the State's witnesses from
18 vouching or commenting upon the accuser's veracity. I
19 don't believe that, for example, State v. Jennings which
20 just came out, the ARC interviewer cannot use the word
21 that the interview was compelling, can't in any way
22 comment that it was --

23 THE COURT: How about that?

24 MS. BODMAN: I agree. I don't ask the
25 interviewer about whether it was compelling.

1 THE COURT: Used to.

2 MS. BODMAN: Other people may have. I never
3 have done that.

4 THE COURT: All right.

5 MS. BODMAN: I think other jurisdictions still
6 do, too.

7 THE COURT: Next question.

8 MR. BLANKENSHIP: Another similar motion,
9 motion to exclude mental health trauma testimony.

10 THE COURT: How about flight? Fugitive?

11 MR. BLANKENSHIP: I have mine reorganized. I
12 apologize.

13 THE COURT: Number ten.

14 MR. BLANKENSHIP: The motion to preclude the
15 State from referring to the defendant as a fugitive or
16 flight risk, there was something in the initial
17 discovery when he was in North Carolina. He denied that
18 he did it and didn't want to be extradited.

19 THE COURT: Well, you know the rule. I can't
20 instruct on it, but they can talk about it.

21 MR. BLANKENSHIP: Sorry?

22 THE COURT: I said the rule is I cannot
23 instruct on flight, but they can argue flight as some
24 inference of guilt.

25 MR. BLANKENSHIP: That's right.

1 THE COURT: Right.

2 MR. BLANKENSHIP: I guess that's more of
3 whether it was in the evidence.

4 THE COURT: Okay. Eleven.

5 MR. BLANKENSHIP: Yeah, that's the mental
6 health trauma testimony.

7 THE COURT: I don't know what you're talking
8 about.

9 MR. BLANKENSHIP: Whether, for example, the
10 therapist who was seeing the accuser wants to testify
11 that based on the treatment she has, this is consistent
12 with having been raped to prove an element of the
13 offense. That would not be improper.

14 THE COURT: Is there any proposed testimony in
15 that regard?

16 MS. BODMAN: Whether or not we're going to
17 call her therapist is just going to depend on -- again,
18 on the victim's direct examination and cross and what
19 kind of attacks are made of her. But I mean, there is
20 case law, State v. Schumpert, that Rape Trauma Syndrome
21 is admissible.

22 THE COURT: Well, you've got a ways to go to
23 get there.

24 MR. BLANKENSHIP: Yes, sir.

25 THE COURT: Right.

1 MS. BODMAN: In terms of?

2 THE COURT: Your expert.

3 MS. BODMAN: Yeah. I mean, my expert would
4 testify, she was in -- you know, had her in therapy for
5 a year.

6 THE COURT: That's fine.

7 MS. BODMAN: And the things she observed and
8 did.

9 THE COURT: Well, she can talk about that. I
10 think the objection is for the expert to identify Rape
11 Trauma Syndrome is what the objection is.

12 MS. BODMAN: Well, that's what State v.
13 Schumpert talks about is that the expert can say that
14 the behavioral symptoms were typical for a victim of
15 sexual abuse; that it is consistent.

16 The behavioral symptoms they observed in this
17 person, this child, is consistent with behavioral
18 symptoms of children of sexual abuse or victims of
19 sexual abuse.

20 MR. BLANKENSHIP: Your Honor, I think
21 Schumpert was a little different. I think we'll have to
22 see what the evidence is.

23 THE COURT: Twelve.

24 MR. BLANKENSHIP: Twelve is regarding the
25 subsequent abuse, and Ms. Shealey is going to argue

1 that.

2 THE COURT: All right.

3 MS. SHEALEY: Your Honor, this is also in
4 response to the State's motion in limine for compliance
5 with the rape shield law. This is about the subsequent
6 pregnancy of the alleged victim, and they are trying to
7 keep that out of evidence.

8 THE COURT: What's the relevance?

9 MS. SHEALEY: I'm sorry?

10 THE COURT: Let's just start at evidence 101.
11 What's the relevance?

12 MS. SHEALEY: Well, Your Honor, the child
13 disclosed in April 2010 that Mr. Spellman allegedly
14 touched her in 2006, four years earlier. Seven months
15 later, she becomes pregnant.

16 THE COURT: She becomes pregnant?

17 MR. BLANKENSHIP: She becomes pregnant.

18 THE COURT: Seven months later.

19 MR. BLANKENSHIP: They think it's sometime
20 around December of 2010. So it is so close in time to
21 the disclosure that we feel like that's something that
22 needed to be investigated. It raises a reasonable
23 inference of doubt.

24 It raises -- this is not just conjecture.
25 We're not talking about bare suspicious here. There is

1 a fetus at SLED that conclusively proves that this child
2 was abused subsequently while our client was in jail.

3 THE COURT: Well, I grant you that. I go
4 back. What's the relevance to this case?

5 MS. SHEALEY: Well, I think it goes to our
6 right to present a full and complete defense. I mean,
7 the fact that within the timeline, the child could have
8 been sexually active, maybe not actually sexual
9 intercourse, but sexually active at the time of the
10 disclosure.

11 Someone else could have been abusing her, but
12 we don't know and can't get into third-party guilt
13 because they didn't investigate it. They haven't
14 arrested anyone.

15 This happened almost over a year ago, and they
16 have done nothing to investigate this case to even try
17 to find out if there could somehow be a connection. We
18 can't -- we have to -- in arguing third-party guilt, you
19 have to be able to point to somebody.

20 Because they haven't even tested the fetus
21 with the names that were given -- originally they find
22 out she is pregnant after she tells a counselor that
23 the -- her friend, [REDACTED] could have been abused.

24 So both of them are brought in. There is a
25 forensic interview. [REDACTED] says that Uncle Shawn

1 touched [REDACTED] [REDACTED] says that she -- [REDACTED] goes back
2 and forth, but she says that Uncle Shawn could have
3 touched the child, [REDACTED] as well. They're both
4 looked at by Dr. Luberoff. It comes back the child
5 is -- the victim is pregnant. She then tells the ARC --

6 THE COURT: Well, wait a minute.

7 MS. SHEALEY: -- the same people, that she was
8 not having sex.

9 THE COURT: All right. What's the State's
10 position?

11 MS. BODMAN: We feel --

12 THE COURT: I still don't see the relevance.
13 I still don't see the relevance under 401.

14 MS. BODMAN: The rape shield statute protects
15 her, that this is evidence of specific incidents of
16 sexual activity by this victim with other persons than
17 the defendant.

18 The only time that other sexual acts with this
19 victim and other people are going to be involved is that
20 (A), she made a false allegation, and that is determined
21 to be a false allegation.

22 It's not just that a victim has previously
23 alleged sexual assault and maybe there is no probable
24 cause to proceed, insufficient evidence to proceed; but
25 there, in fact, is a false allegation.

1 We don't have that. We have an underage girl
2 who is pregnant. So we know that somebody else has
3 sexually -- has committed a crime against her. The next
4 thing would be potentially credibility.

5 When you look at the case law, they talk about
6 victims who are on the stand who are asked on direct
7 examination, Are you homosexual? Then the defense has
8 evidence that -- the victim says no, and the defense has
9 evidence to call them out. So it's next to credibility.

10 This is the timeframe. You're talking about
11 five years between the two incidents. In 2005/2006 is
12 when she is being abused by her mom's husband. He is
13 out of the picture, zero contact, physical contact with
14 him. After September of '06 when he goes to jail, she
15 has zero physical contact with him.

16 THE COURT: I mean, look at the statute. What
17 is the offer of proof that the defendant plans to make?

18 MS. SHEALEY: Your Honor, what specifically do
19 we want to get into or why are we offering it under
20 the --

21 THE COURT: Well, what does the statute say?

22 MS. SHEALEY: You mean the statute of what we
23 can get into?

24 THE COURT: What you're talking about, what's
25 the statute?

1 MS. SHEALEY: Well, it requires an offer of
2 proof.

3 THE COURT: Right. Which offer of proof?

4 MS. SHEALEY: Well, Your Honor, our argument
5 under State v. Groverstein, which I have a copy of that
6 case I can hand up, that case basically goes back to
7 Findley, which says if there is a reason you're offering
8 it that is not to attack the victim's morality, then it
9 can come in.

10 In that case the victims had themselves been
11 accused of doing similar acts. These cases -- one of
12 the reasons the jury believes this child is because ten
13 year olds shouldn't know or have this sexual knowledge.
14 It could show that if she -- at the time of the
15 disclosure, she could have been doing this with someone
16 else.

17 THE COURT: Well.

18 MS. SHEALEY: It's too close in time. It
19 could also show bias.

20 THE COURT: What is your offer of proof?

21 MS. SHEALEY: Our offer of proof to?

22 THE COURT: That's what it says: Defendant
23 prior to presenting it shall file a written motion and
24 offer of proof.

25 MS. SHEALEY: We want to do a proffer of the

1 witnesses to show the what they would be testifying to.

2 THE COURT: Which witnesses?

3 MS. SHEALEY: Well, we definitely want to do

4 **VICTIM** We want to do the investigating officer,
5 possibly the therapist. She was in therapy talking to
6 her therapist about being abused while she was having
7 sex and being abused. The times overlap.

8 MS. BODMAN: They do not overlap.

9 THE COURT: I thought you said there were
10 seven months between them.

11 MS. SHEALEY: The times overlap with that --
12 and what I mean by that is while the child is in
13 therapy, she is having sex and becomes pregnant.

14 THE COURT: Okay.

15 MS. SHEALEY: So we want to be able to ask the
16 therapist.

17 THE COURT: What does that have to do with
18 this case?

19 MS. SHEALEY: Well, we don't know that she was
20 having sex in April of 2010 and wasn't being abused in
21 2006, and she is just protecting someone, like she was
22 when she became pregnant. That's a question for the
23 jury to be able to decide if they think there is a
24 connection.

25 THE COURT: If they think there is a

1 connection?

2 MS. SHEALEY: Would they -- I mean, the jury
3 can believe the child or the jury cannot believe the
4 child. But the fact that she becomes pregnant seven
5 months later, we need to be able to attack the
6 credibility of this investigation under Kyle v. Whitley
7 where the investigators have done nothing.

8 They say, Well, we don't know who the dad is,
9 ten months later. They act like that is out of their
10 hands. There is a fetus there. They have got names.
11 They haven't run them through CODIS yet. There could be
12 someone in the child's life still.

13 THE COURT: Could be, could be.

14 MS. SHEALEY: Could be. Well, you're never
15 going to be able to conclusively prove that.

16 THE COURT: No, I still want to get back to
17 the relevance issue. What does that fact make more
18 probable or less probable, the fact that he is in trial?

19 MS. SHEALEY: Well, what I think it makes more
20 probable or less probable, it goes to the bias. It
21 could go to the bias of the witnesses.

22 THE COURT: That's not what it says. It
23 doesn't talk about bias. We're talking about the
24 relevant evidence. I mean, I'm reading 401.

25 MS. SHEALEY: Yes.

1 THE COURT: You're staring at me, and I'm
2 having a hard time figuring out how this is relevant
3 to --

4 MS. SHEALEY: Your Honor, I also think that
5 it --

6 THE COURT: -- the charges in this case.

7 MS. SHEALEY: It could also show that if she
8 was having sex in December, she could have been having
9 sex -- well, in these cases, the jury looks at a ten
10 year old who isn't supposed to have that sexual
11 knowledge; and this would show that she has sexual
12 knowledge from somewhere else, that it's not this
13 defendant.

14 THE COURT: Ms. Bodman.

15 MS. BODMAN: I think what's interesting is she
16 says, she could; but everything we provided to them
17 about -- it wasn't if she was pregnant in December. She
18 was pregnant. I mean, she was having sex. She got
19 pregnant; so sex happened.

20 Everything that we provided to them was that
21 it started happening in that fall, November. She says
22 in their therapy records, it was around November she
23 started having sex. So she disclosed in June -- no, she
24 disclosed in -- well, she disclosed in May to her
25 teacher.

1 Then she had her interview June 18th, 2010;
2 and then it's not until November -- we believe that she
3 got pregnant around the end of December from being able
4 to save the fetus.

5 So there is no -- there is zero information
6 from any source that sex was happening around the time
7 of the disclosure, zero information. It's a pregnancy
8 that we can date to the end of December or the beginning
9 of January. She gives three names of some friends of
10 her brothers that are like 14 and 13 years old.

11 What Grovenstein also says -- and I'm sorry to
12 switch thought processes -- but Grovenstein doesn't say
13 this comes in. Grovenstein just said under that theory
14 they let it in, but the Court also has to weigh
15 probative versus prejudicial before.

16 These are two totally separate incidents.
17 We're talking about when she was five and six years old,
18 had zero contact with this perpetrator -- again, ever --
19 until today. Then you're talking about two totally
20 separate individuals in a different house even, living
21 arrangement, that she suffered subsequent sexual abuse.

22 It's just absolutely confusing. If she
23 says -- she wants to throw it up there for the jury to
24 decide if there is a connection. No, there needs to be
25 an affirmative connection in order for that -- for Your

1 Honor to say that this kind of stuff is going to be
2 thrown at this victim.

3 They really want the jury to judge her, you
4 know, to say what kind of person is she, what kind of
5 family is she in, and just to get confused by all the
6 other stuff that is happening to this young lady five
7 years later.

8 MS. SHEALEY: Your Honor, I mean, we are not
9 talking about -- she says the abuse happened five years
10 ago. We're talking about the closeness in time is from
11 disclosure to sex, when she starts having sex.

12 THE COURT: Well...

13 MS. SHEALEY: And we don't...

14 THE COURT: Go ahead. Disclosure is in May;
15 right?

16 MS. SHEALEY: Yes, sir.

17 THE COURT: And they dated the pregnancy to
18 some seven months later; is that correct?

19 MS. BODMAN: It's November or December.

20 MS. SHEALEY: Five months later.

21 THE COURT: Five months, six months later. So
22 you want the jury to jump over that five months?

23 MS. SHEALEY: I mean, she is being abused by
24 someone else. The fact that --

25 THE COURT: Five months later?

1 MS. SHEALEY: Five months later. We don't
2 know that she wasn't being abused at the time of
3 disclosure, and she was just protecting someone else.

4 I mean, it's just close in time that -- we
5 need to be able to attack the credibility of the
6 investigation that they didn't eventually consider that
7 this has -- this shows our client did not do this.

8 THE COURT: Well, it doesn't. It couldn't
9 possibly show that.

10 MS. SHEALEY: Well, in these CSC with a minor
11 cases, you're never going to be able to conclusively
12 prove that somebody didn't do it. Then you've got two
13 people that are abusing her. I mean, it's just the
14 nature of the crime.

15 THE COURT: Well, why do you think the
16 legislature enacted this statute?

17 MS. SHEALEY: It's my understanding the
18 legislature enacted the statutes to protect the child
19 from having bad inferences -- not even the child -- but
20 adults if they could consent to sexual activity, there
21 could be an inference of looseness of the morals; but
22 this child can't consent. Even if she wanted to, she
23 can't consent.

24 THE COURT: I understand.

25 MS. SHEALEY: I mean, as the defense, we don't

1 want to be attacking the victim's sexual proclivity.
2 That's not what the defense attorney wants to do in
3 front of a jury. We just need to be able to show that
4 she knows this from somewhere else.

5 MS. BODMAN: She is a ten year old. She
6 probably does know, from school, from TV. I mean, this
7 isn't a four year old or a five year old who is in a
8 forensic interview that you're saying, Oh, my gosh, how
9 else would this four or five year old know it?

10 You're talking about a ten year old who
11 probably has had classes in school or whatever or sees
12 stuff on TV. She probably does have some other sources
13 of knowledge for what happened to her.

14 THE COURT: Do you have a written motion?

15 MS. SHEALEY: We have one that we prepared.

16 THE COURT: What's the citation on
17 Blankenship?

18 MS. SHEALEY: You mean Grovenstein?

19 THE COURT: I mean, Grovenstein.

20 MS. SHEALEY: 530 S.E.2d 406.

21 THE COURT: What's the South Carolina?

22 MS. SHEALEY: I'm sorry?

23 THE COURT: What's South Carolina?

24 MS. SHEALEY: 340 SC 210.

25 THE COURT: Okay.

1 MS. BODMAN: I find one of the things also
2 interesting that they were arguing also in chambers
3 earlier today, and then I see it here on their motion is
4 the alleged victim became pregnant while the defendant
5 was in jail just eight months after the initial
6 disclosure that he abused her.

7 We have never, ever, ever, ever said that he
8 is the father of this child. They had no contact. This
9 is not a five-year-long pregnancy. We are not at all --
10 the pregnancy is not at all an issue in terms of him
11 proving that he is not the abuser or the abuser. We
12 never tried to tie him to this pregnancy.

13 THE COURT: I understand that. All right.
14 I'll look at it. I'll let you know in the morning.
15 What's next?

16 MR. BLANKENSHIP: We have a motion to preclude
17 the State from introducing evidence of the defendant's
18 convictions and bad acts.

19 THE COURT: Prior convictions?

20 MR. BLANKENSHIP: Yes.

21 THE COURT: Okay. What are they?

22 MR. BLANKENSHIP: He has a breach of trust.

23 THE COURT: When?

24 MR. BLANKENSHIP: That was in 2006.

25 THE COURT: Is that it?

1 MR. BLANKENSHIP: Yes, I think that should be.

2 THE COURT: Is that it?

3 MR. BLANKENSHIP: Yes, Your Honor.

4 THE COURT: State's position?

5 MS. BODMAN: Well, actually off the sentencing
6 sheet, the breach of trust, he actually pled to
7 attempting to obtain property under false pretenses; and
8 he pled to that on --

9 THE COURT: It's a crime of dishonesty.

10 MS. BODMAN: Yes, a crime of dishonesty. That
11 was October 27, 2006, and a grand larceny, \$5,000 or
12 more, February 6th of 2007. So theft, a crime of
13 dishonesty.

14 THE COURT: I think it comes in.

15 MR. BLANKENSHIP: Thank you. We have one more
16 motion on excluding expert testimony. We didn't file a
17 Brady motion; so it would be unless and until the State
18 puts one forth.

19 THE COURT: All right.

20 MR. BLANKENSHIP: We'll hold off on that.

21 THE COURT: Well, you can challenge the
22 expert.

23 MR. BLANKENSHIP: Yes, sir.

24 THE COURT: All right. Anything further?

25 MR. BLANKENSHIP: Not from the defense.

1 THE COURT: All right. From the State?

2 MS. BODMAN: Your Honor, we have filed a
3 motion and are seeking the admission of the videotaped
4 interview of [REDACTED]

5 THE COURT: Granted, with redactions.

6 MS. BODMAN: Before we start.

7 THE COURT: Start what?

8 MS. BODMAN: Before we start the trial, I
9 think I just need the Court to make the findings in
10 17-23-175.

11 THE COURT: All right. Let's do that in the
12 morning.

13 MS. BODMAN: Okay.

14 MR. BLANKENSHIP: Your Honor, we will have an
15 objection. I know you have already granted the motion
16 to introduce it, but we would object to the introduction
17 of it.

18 THE COURT: On what grounds?

19 MR. BLANKENSHIP: It's cumulative, prejudicial
20 more than relevant. If she is going to testify, we
21 think the statute itself creates a constitutional
22 violation of due process of the confrontation clause.

23 Regardless of whether she is going to testify
24 and we cross examine, there is no need for this
25 uncrossed interview which does nothing but pile on.

1 It's cumulative and prejudicial. I understand the
2 statute says what it says.

3 THE COURT: I think I'm going to allow it.
4 All right. At 9:30 I'll give you my ruling.

5 MR. BLANKENSHIP: Thank you.

6 (Whereupon the proceedings are concluded for
7 January 9, 2012.)

8 (The following proceedings are reported on
9 January 10, 2012.)

10 THE COURT: All right. With regard to the
11 rape shield evidence, the statute says the Court shall
12 order an camera hearing to determine whether the
13 proposed evidence is admissible under Section (1).

14 Is the State prepared to go forward?

15 MS. BODMAN: Well, although it wasn't in
16 camera, I thought we did have a hearing yesterday in
17 terms of taking in their arguments.

18 THE COURT: Well, I understand the argument,
19 but I thought they wanted to proffer some victim's
20 testimony or something.

21 MS. SHEALEY: We do want to proffer testimony.
22 I mean, at the very least for appeal, to preserve an
23 appeal.

24 THE COURT: All right.

25 MS. BODMAN: Proffer can just come by what

1 they expect to -- what evidence they want to come out.
2 It doesn't have to be in terms of a sworn -- a proffer
3 could be them saying this is what we want to ask. This
4 is the evidence we want to introduce.

5 THE COURT: Well, I don't know the answers.

6 MS. BODMAN: Well, they do by all the therapy
7 records and everything that they have been given. We
8 know exactly when she was pregnant, when this happened.
9 We know the individuals that she said she had sex with.

10 THE COURT: Do we know when she said she had
11 sex with them?

12 MS. BODMAN: Starting in November of 2010.

13 THE COURT: Do me a favor and give me a
14 timeline.

15 MS. BODMAN: Absolutely.

16 THE COURT: Because you know the facts of this
17 better than I do.

18 MS. SHEALEY: Your Honor, she originally --

19 THE COURT: Well, either one of you.

20 MS. SHEALEY: You just want it from them?

21 THE COURT: I just want a timeline, an agreed
22 upon timeline.

23 (Pause.)

24 MS. BODMAN: Essentially what I wrote out --
25 do you want to mark it as a Court's Exhibit so we will

1 have it?

2 THE COURT: Let them look at it.

3 MS. BODMAN: Okay.

4 (Pause.)

5 MS. BODMAN: The defense had a chance to look
6 at it. Mr. Blankenship says they agree to what I've
7 written down here. I'll hand it up to the Court. But
8 essentially it's April the 22nd and 23rd, she discloses
9 at the school. She names the defendant -- of 2010.

10 June 18th of 2010, she is interviewed at the
11 ARC about that. July -- it's July or August of 2010
12 that she begins therapy at the ARC. In November
13 of 2010 -- well, she later indicates then the
14 subsequent -- regarding the pregnancy -- the sex started
15 in November of 2010.

16 It's at the end of December of 2010 that we
17 can date the pregnancy, right around the end of the
18 year, beginning of January. March of 2011, she
19 discloses to her guidance counselor that inappropriate
20 things are happening to her friend, [REDACTED]

21 April 21, 2010, she is interviewed at the ARC
22 about that, and she has in 2011 -- did I say that
23 right -- she has an interview at the ARC about that and
24 she has a medical exam where they do a pregnancy test,
25 and that is subsequently discovered and the results come

1 back.

2 THE COURT: That's when?

3 MS. BODMAN: April 21, 2011, is the interview
4 about [REDACTED] and the medical exam. Then between May and
5 June of 2011, she discloses the names of the people that
6 she had been having sex with.

7 That's when she provides the timeline that it
8 started happening in November. So that essentially we
9 have April 22, 2010, she discloses at school about
10 Reggie.

11 The sex that resulted in the pregnancy doesn't
12 happen until starting in November 2010, so about seven
13 months later. Would you like me to mark it as a Court's
14 Exhibit?

15 THE COURT: Any objection?

16 MS. SHEALEY: No objection.

17 THE COURT: All right.

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

20 THE COURT: All right. Now, Ms. Shealey, with
21 this timeline, which I assume is supported by documents
22 that are in the file, what do you propose in terms of an
23 in camera hearing?

24 MS. SHEALEY: Well, Your Honor, I think at the
25 very least we want to be able to proffer their testimony

1 for appeal.

2 THE COURT: Whose?

3 MS. SHEALEY: The victim's testimony, the
4 investigator's testimony, and possibly the therapist's
5 testimony. The child was in therapy for the first
6 alleged --

7 THE COURT: What's the issue?

8 MS. SHEALEY: Well, I think there's a lot of
9 issues. We have to figure out if the child had sexual
10 knowledge from someone else.

11 We have to figure out if someone else was
12 abusing her at the time she was making these
13 disclosures. We have to be able to ask her those
14 questions. It could be for impeachment. It could be
15 for bias.

16 THE COURT: Okay. Beyond the child?

17 MS. SHEALEY: I think we want to be able to
18 talk to the investigators, be able to, under Kyle v.
19 Whitley, attack the credibility of the investigation
20 itself.

21 THE COURT: Why do you need to do that in
22 camera?

23 MS. SHEALEY: Well, Your Honor, first I was
24 just thinking about the proffer for the appeal.

25 THE COURT: I'm not going to try this case for

1 an appeal. I don't want to try it twice. I don't see
2 why you need any more than the child's testimony so you
3 can cross examine her as to her sexual activity. Beyond
4 that...

5 MS. SHEALEY: Well, we'd at least be able
6 to -- we'd like to be able to proffer the testimony as
7 they're testifying at trial. Because we don't know what
8 they're going to say on direct to be able to cross
9 examine them. That would also preserve the right.

10 THE COURT: What do you mean proffer?

11 MS. SHEALEY: Well, have them testify and then
12 at the conclusion of testimony, be able to proffer what
13 we would have been able to get into had this evidence
14 been admitted so that the Court of Appeals has it to be
15 able to review.

16 THE COURT: So the child testifies as to
17 what's in the indictment or what's in the warrants and
18 what's on her video. You then want to stop the trial,
19 send the jury out, and ask her another series of
20 questions. Is that what you're proposing?

21 MS. SHEALEY: That is what I was proposing. I
22 don't -- I do want to be able to proffer it and to be
23 able to proffer it now. I don't know what the child is
24 going to say on direct.

25 THE COURT: Well, you know what you want to

1 find out?

2 MS. SHEALEY: I do.

3 THE COURT: Don't you?

4 MS. SHEALEY: Yes. Yes, Your Honor.

5 THE COURT: I still don't see why you can't do
6 it now. If she says something different in her direct,
7 you can impeach her with this testimony from the
8 proffer. Then you can say, In a prior hearing, such and
9 such.

10 MS. SHEALEY: So are you proposing to go ahead
11 and proffer the child right now?

12 THE COURT: This is your motion.

13 MS. SHEALEY: Okay. Well, I mean, that's --
14 I'm just trying to make sure I understood what you had
15 just said.

16 THE COURT: Yeah. I don't see -- what's the
17 State's position? The State's position is it's all in
18 the record.

19 MS. BODMAN: My position is --

20 THE COURT: I don't know if that satisfies it
21 or not.

22 MS. BODMAN: Well, my position is, one, she
23 has admitted she wants to examine this child as a
24 fishing expedition. She says she doesn't know what
25 information she could possibly use in cross examining

1 this child on.

2 THE COURT: If the child says, Yes, I was
3 having sex for the last ten years, that's admissible.
4 If she says no, you stop right there.

5 If this extra sexual activity started in the
6 fall of 2010, then the inquiry is over because then --
7 the question is whether there is any prior sexual
8 activity that would have led -- prior to the
9 accusation -- that would have led the child to
10 understand and speak about sexual matters.

11 Now, isn't that the issue? Isn't that
12 Grovenstein?

13 MS. BODMAN: Well, they argued a lot of
14 different things. Essentially what she said yesterday
15 is we want to third party. We want to come up with
16 somebody else.

17 THE COURT: Well, they haven't done it.

18 MS. BODMAN: Well, this is what she said. We
19 want to third party. And because we don't know who the
20 actual father is, we don't have more information about
21 this fetus, we can't third party. Well, they shouldn't
22 be able to, even if we knew the identity of who
23 impregnated her.

24 THE COURT: It doesn't matter.

25 MS. BODMAN: It doesn't matter because she

1 could have been --- at the time she was five or six --
2 she could have been molested by somebody else at the
3 same time as the defendant.

4 THE COURT: Sure, sure.

5 MS. SHEALEY: It does not make, identifying
6 who she was impregnated by --

7 THE COURT: The question is whether she was
8 sexually active at the time of the disclosure, and
9 that's it.

10 MS. BODMAN: Right. All the information in
11 independent therapy, her revelations are that she was
12 not.

13 THE COURT: Okay.

14 MS. BODMAN: And then I think this rape shield
15 statute is meant to keep her from being subjected on
16 this witness stand about her sexual activities. There
17 is no information.

18 They want to just put her up there and hope
19 she may say something different and subject her to
20 embarrassing her about this very traumatic incident that
21 happened to her, getting pregnant, and having an
22 abortion.

23 I mean, that -- she was crying when she left
24 here yesterday after hearing us. That is what rape
25 shield is about.

1 THE COURT: I understand that.

2 MS. SHEALEY: Your Honor, I --

3 THE COURT: You probably should have had her
4 sequestered at that time.

5 MS. SHEALEY: Your Honor, I understand the
6 rape shield is there to protect the victim. But, I
7 mean, the Sixth and Fourteenth amendment are there to
8 protect the defendant to be able to have a full and
9 complete defense.

10 The jury is not going to be there so it's not
11 going to prejudice her towards -- or embarrassing her in
12 front of the jury. She will have to say it in front of
13 a group of people, but that preserves his constitutional
14 right.

15 THE COURT: Why can't you --

16 MS. SHEALEY: No one has asked her.

17 THE COURT: Let me finish.

18 MS. SHEALEY: Sorry.

19 THE COURT: Why can't you ask her while she is
20 on the stand in trial what you're seeking, what you're
21 trying to do -- what you're trying to find out, I should
22 say.

23 I mean, the statute -- I'm just trying to
24 comply with the statute. Whether it comes in now or
25 during the course of the trial, we can deal with it.

1 You know, maybe the rape shield statute doesn't protect
2 her if she gets up during her testimony and you cross
3 examine her about her sexual activity prior to
4 April 22nd, 2010.

5 MS. SHEALEY: I thought Your Honor was ruling
6 that I wouldn't be able to ask her about any sexual
7 activity, the subsequent sexual activity, just the 2006
8 allegations.

9 THE COURT: The question is, as I see it,
10 whether she was sexual active on April 22, 2010, not in
11 September, not in October. I mean, that's a whole
12 different case. You've got a gap there. If she is
13 sexually active on April 22, 2010, then she is not
14 protected.

15 MS. BODMAN: Well, she would not be protected
16 from anything that happened prior to that date, but she
17 still would be protected from a subsequent pregnancy.

18 THE COURT: I understand. Well, that's not
19 going to come in.

20 MS. SHEALEY: And, Your Honor, I would just
21 like to be able to proffer that testimony from her for
22 the appeal because we argue that it is admissible. It
23 should come in.

24 THE COURT: Well, maybe I'll do it your way
25 after her testimony. You're going to have to lay a heck

1 of a foundation to get that testimony in the record,
2 even though it's not in front of the jury. It won't be
3 in front of the jury.

4 MS. SHEALEY: Your Honor, I just wanted to
5 make sure for the record that I preserved all arguments
6 from yesterday. Do you mind if I reiterate those to
7 you?

8 THE COURT: Are there any other unresolved
9 issues at this point?

10 MS. SHEALEY: Pursuant to your ruling, I don't
11 think there are.

12 THE COURT: How about the -- did we resolve
13 the issue about the mental health trauma testimony?

14 MS. SHEALEY: Oh, I'm sorry. We also -- to go
15 back -- we were focusing on the victim. I also want to
16 be able to proffer from the investigating officer under
17 Kyle v. Whitley to be able to attack the credibility of
18 the investigation.

19 THE COURT: That's all right. That's fine. I
20 don't even know if there's going to be mental trauma
21 testimony. I don't know.

22 MS. SHEALEY: I mean, if she testifies about
23 any of the -- any mental health trauma observations.

24 THE COURT: Well, who is she?

25 MS. SHEALEY: I'm sorry?

1 THE COURT: Who is she?

2 MS. SHEALEY: Amy Phillips, the therapist.

3 THE COURT: Okay.

4 MS. SHEALEY: I mean, the time of the
5 disclosure and while she was in therapy and while she
6 was having sex, all of that overlaps. If she is going
7 to testify that she feels like it is consistent, you
8 know, with rape trauma, that's when she is actually
9 admittedly having sex with somebody else.

10 THE COURT: I agree.

11 MS. BODMAN: I thought about that. That's why
12 I said with Amy Phipps, I'm not sure I'm going to bring
13 in the rape trauma. I didn't know what the Court's
14 ruling was going to be about all this subsequent. My
15 decision to call Amy to the stand is going to be based
16 on what happens in cross examination.

17 THE COURT: I would sustain the defense's
18 objection to any testimony about rape trauma if she is
19 involved in sexual activity prior to the disclosure.

20 MS. BODMAN: Right.

21 THE COURT: Apart from the charges in this
22 case.

23 MS. BODMAN: Right.

24 THE COURT: Basically if it falls the way it
25 sounds like it's going to fall, I'm going to sustain

1 your objection.

2 MS. SHEALEY: Thank you.

3 THE COURT: Go ahead.

4 MS. SHEALEY: Just briefly for the record, we
5 feel the evidence should come in.

6 THE COURT: What evidence?

7 MS. SHEALEY: The subsequent pregnancy, that
8 realm of evidence, so we can do a full and complete
9 defense for our client under the Sixth and Fourteenth
10 Amendment. We have the right to call witnesses.

11 We also want to be able to attack the
12 integrity of the investigation under Kyle v. Whitley. I
13 think when this case finishes and they actually start
14 investigating the other case, I feel they're setting up
15 for PCR for after-discovered evidence if they find
16 anything exculpatory.

17 As I stated before, we feel like it's an
18 exception to the rape shield because we're doing it for
19 a reason other than to attack the morality of the
20 alleged victim; and we feel it should be a question for
21 the jury.

22 THE COURT: All right. Anything further prior
23 to the jury?

24 MS. BODMAN: I'm assuming that the very first
25 motion they had about the motion to dismiss because of

1 the videotape, police videotape, Your Honor said you
2 were going to read over their motion and rule on it
3 today. I assume by asking if there is anything else,
4 the motion is denied.

5 THE COURT: That what?

6 MS. BODMAN: I would assume that their motion
7 is denied, but I don't think you had ruled on it.

8 THE COURT: Which one?

9 MS. BODMAN: The motion to dismiss because the
10 videotape [REDACTED] was lost.

11 THE COURT: Oh, was lost. Well, I thought I
12 indicated that yesterday; but that motion to dismiss is
13 denied. It does present proof problems for the defense,
14 but I can't solve them.

15 MR. BLANKENSHIP: We also move to exclude the
16 video of the accuser.

17 THE COURT: Denied: I think I did --

18 MR. BLANKENSHIP: You indicated that on the
19 defendant.

20 THE COURT: Now, is everybody satisfied that
21 it was properly redacted?

22 MS. BODMAN: I have not shown them the
23 redacted version. I have it right here so we can take a
24 look at it. We'll certainly show it to them before we
25 offer it into evidence so we're all on the same page.

1 We're not going to be admitting it for a while.

2 THE COURT: Do you have the equipment to do
3 it?

4 MS. BODMAN: Yeah, we'll bring the laptop in
5 and the projector. We can show it prior to admitting
6 it.

7 MR. BLANKENSHIP: We also moved regarding the
8 sequence of the accuser's testimony prior to the
9 introduction of the video. We feel that she should
10 testify live, and we can cross examination her.

11 THE COURT: I'm not going to limit them in the
12 terms of the way or their order of proof. I'm going to
13 let them do it the way they want to do it.

14 MR. BLANKENSHIP: Okay.

15 THE COURT: Anything else?

16 MS. BODMAN: If the Court has had an
17 opportunity now to watch [REDACTED] videotape, we just ask
18 the Court to make the findings under 17-23-175.

19 THE COURT: All right. Pursuant to 17-23-175,
20 the Court has reviewed the video of the child at the
21 Assessment Resource Center. I find that the statements
22 were given in response to questioning and conducted
23 during an investigative interview of the child.

24 An audiovisual recording of the statement was
25 preserved on film or videotape or another electronic

1 means and that the child will testify in this proceeding
2 and will be subject to cross examination on the elements
3 of defense and on the making of the out-of-court
4 statement.

5 I find as a result of this hearing that the
6 totality of the circumstances surrounding the making of
7 the statement provides particularized guarantees of
8 trustworthiness. I therefore will admit it pursuant to
9 the statute.

10 MR. BLANKENSHIP: Your Honor, just for the
11 record, I understand your finding is in effect a denial
12 of our motion to exclude because we argued that it
13 lacked coherence or the guarantees of trustworthiness.

14 THE COURT: Correct.

15 MR. BLANKENSHIP: Thank you.

16 THE COURT: All right. I'll give you five
17 minutes to -- who is going to do the openings?
18 Mr. Pisarik?

19 MR. PISARIK: Yes, Your Honor.

20 THE COURT: And Mr. Blankenship?

21 MR. BLANKENSHIP: Yes, sir.

22 THE COURT: All right. Take five minutes.

23 (Whereupon there is a recess.)

24 THE COURT: Are we ready for the jury?

25 MR. PISARIK: Your Honor, just one more

1 matter. The State does intend to introduce two
2 photographs of the victim at ages five and six when this
3 alleged abuse took place in our case in chief. We were
4 also intending to use those in our opening statement.
5 My understanding is the defense counsel has an
6 objection.

7 THE COURT: What's the objection?

8 MR. BLANKENSHIP: They're not authenticated.
9 Until they are authenticated, I don't believe they
10 should be used.

11 MS. BODMAN: Your Honor, again, we could
12 either put the witness up or we do have a good basis
13 that the photos will come in through the mother, Your
14 Honor.

15 THE COURT: What do you mean authenticated? I
16 mean, is there a question, a serious question, about
17 what the photographs are?

18 MR. BLANKENSHIP: I don't know that it's a
19 serious question, Your Honor.

20 THE COURT: All right.

21 MR. BLANKENSHIP: Without proper
22 authentication I can't consent.

23 THE COURT: You don't have to consent.
24 Overruled.

25 MR. PISARIK: Thank you, Your Honor.

1 THE COURT: Bring the jury, please.

2 MR. BLANKENSHIP: Can we get Mr. Spellman
3 first?

4 THE COURT: Oh, I'm sorry, your client is not
5 here. While we are waiting, juror 305 is the foreperson
6 of the jury.

7 (State's Exhibits Number 1-3 are marked for
8 identification.)

9 (The defendant enters the courtroom.)

10 THE COURT: All right. Is the State ready for
11 the jury?

12 MS. BODMAN: Yes, Your Honor.

13 THE COURT: Defense ready?

14 MR. BLANKENSHIP: Yes, sir.

15 THE COURT: Bring the jury.

16 THE BAILIFF: Yes, sir.

17 (The jury returns to the courtroom at
18 10:58 a.m.)

19 THE BAILIFF: The jury is seated, Your Honor.

20 THE COURT: All right. Good morning, ladies
21 and gentlemen. We appreciate your patience. We're now
22 ready to begin the trial.

23 Madam Clerk, if you'll swear the jury, please.

24 (The jury is duly sworn.)

25 THE CLERK: Thank you. You may take your

1 seat.

2 THE COURT: First of all, Mr. 305, I
3 appreciate your service as foreperson of the jury.

4 Ladies and gentlemen, I want to talk to you
5 for just a few minutes before the attorneys make their
6 opening statements. I want to tell you that this trial
7 may be different from what you might expect.

8 Many people do not have a chance to attend
9 actual court sessions as you're now doing. They may
10 think from watching television or reading books or
11 watching movies that trials are always full of a lot of
12 drama and action and riveting circumstances.

13 While all of these things may be true at
14 times, this trial is not for entertainment. It's a
15 fundamental part of our democracy. It's a search for
16 the truth to make sure that justice is done between the
17 parties before the Court.

18 Searching for the truth and making sure that
19 justice is done is often a slow, deliberate, repetitive
20 process, the opposite of what you may have seen on
21 television or books.

22 This courtroom is a place of honor dedicated
23 to the preservation and protection of citizen's rights
24 which many have called the greatest system ever
25 devised.

1 The attorneys appearing before you are
2 advocates for the parties they represent; but first and
3 foremost, they are officers of this court, sworn to
4 uphold the integrity and fairness of our judicial system
5 and to help you in a search for the truth.

6 You should expect them to be professional,
7 competent, and ethical in the representation of their
8 client's interest. Remember that you have taken an oath
9 to try this case and reach a fair and just verdict. You
10 are also expected to be professional, reasonable, and
11 ethical.

12 As you know, the defendant is charged in this
13 indictment with assault with intent to commit criminal
14 sexual conduct with a minor in the first degree. This
15 indictment, as I stated earlier to the full jury panel,
16 is simply the charge by which the case is brought into
17 court. It is not in any sense any evidence of the
18 allegations it contains.

19 The defendant has pled not guilty to this
20 indictment. The State, therefore, has the burden of
21 proving each of the elements of this indictment beyond a
22 reasonable doubt.

23 It will be your duty, ladies and gentlemen, to
24 decide whether the State has met that burden. You are
25 to determine the facts from the testimony you hear and

1 any other evidence that may be presented during the
2 course of the trial.

3 It is especially important that you perform
4 your duty diligently and conscientiously because
5 ordinarily there is no way to correct an erroneous
6 determination of the facts by a jury.

7 When you comply with your oath to impartially
8 determine the facts of this case, you will have
9 fulfilled your duty as jurors; and no one will have the
10 right to criticize your verdict.

11 On the other hand and with equal emphasis, the
12 same law that makes you the judge of the facts makes me
13 the judge of the law. I cannot tell you what the facts
14 are. You should not disagree with me about what the law
15 is or what the law should be.

16 It is your job to take the law as I explain it
17 to you and apply it to the facts as you find them from
18 the testimony of the witnesses and any other evidence.
19 After doing that, you will render your verdict, a true
20 and just verdict, under the solemn oath you just took as
21 jurors.

22 Now, the procedure that we will follow is
23 basically the State will present its evidence first in
24 the form of witnesses' testimony or exhibits that will
25 be made a part of this record.

1 The defendant will then have the opportunity
2 to present his defense, bearing in mind, however, there
3 is no -- absolutely no -- burden on the defendant to
4 present any evidence at all.

5 Following that, the attorneys will be allowed
6 to sum up their case, and I will instruct you on the law
7 of this case, the law of South Carolina, as it applies
8 to this case. After that the case will be turned over
9 to you for a decision.

10 Now, let me remind you of two legal principles
11 that we will be dealing with. First is the legal
12 yardstick you will use in judging or measuring the
13 evidence in this case.

14 That legal yardstick is known as the burden of
15 proof or the responsibility for proving the case. In a
16 criminal case, the burden of proof is on the State of
17 South Carolina to prove guilt beyond a reasonable doubt.
18 Should the State fail to meet that burden of proof, it
19 would be your duty to find the defendant not guilty.

20 There is absolutely no burden whatsoever on
21 the defendant to prove or disprove anything. There is
22 no burden on the defendant to testify or present any
23 evidence in this case, because as I said, the burden is
24 and remains on the State to prove guilt beyond a
25 reasonable doubt.

1 Secondly, I'm going to ask you to recall my
2 earlier comment to the entire jury panel concerning the
3 presumption of innocence. This is a cardinal and
4 fundamental rule of law that a defendant will always be
5 presumed innocent of the crime or crimes for which he is
6 indicted.

7 Presumption of innocence is not just a simple
8 legal theory or a legal phrase. It is a substantial
9 right to which any accused, including this defendant, is
10 entitled.

11 Until I advise you to begin your
12 deliberations, please do not discuss this case with
13 anyone, including your fellow jurors, friends, family
14 members, or anyone else involved.

15 I will remind you at the end of each day about
16 that caution. After the case is submitted to you, you
17 must discuss it only in the jury room with your fellow
18 jurors.

19 It's important that you keep an open mind and
20 not decide any issue in this case until all the evidence
21 has been presented, the parties have made their closing
22 arguments, and I've instructed you on the law of South
23 Carolina as it applies to this case.

24 Now, in just a moment, the attorney for the
25 State will make what is called an opening statement.

1 The attorney will explain to you what the issues are or
2 at least what the attorney thinks the issues in the case
3 are and what the evidence will reveal.

4 The attorney for the defendant will also make
5 an opening statement. What the attorneys tell you
6 during their opening statements is not evidence. It's
7 only their contention as to what the evidence will show
8 and what the issues are.

9 Evidence in the case will be presented to you
10 by the testimony of sworn witnesses from this witness
11 stand and any other exhibits that may be introduced
12 during the course of the trial.

13 Now, from time to time during the course of
14 the trial, you may hear one of the attorneys say
15 something like, Your Honor, I believe we have a question
16 of law or a matter of law to discuss with you or may we
17 approach the bench or sometimes I myself might find it
18 necessary to excuse you from the courtroom for a short
19 period of time so the attorneys and I can discuss some
20 matter of law.

21 The reason for this is because you are the
22 judge of the facts in this case and sometimes when I am
23 discussing matters of law with the attorneys, it may be
24 necessary for me to make some comment as to the facts in
25 connection with a ruling and whether some particular law

1 applies or does not apply.

2 The reason for excusing you from the courtroom
3 is all of that conversation has to be done on this
4 permanent record that is made of every trial. I'm not
5 supposed to tell you what I think the facts are; so I'll
6 just excuse you from the courtroom for a brief period of
7 time while these discussions take place so you won't be
8 influenced in any way by anything that I might say or do
9 in connection with the facts.

10 In determining what the true facts are, you
11 must decide whether or not the testimony of the
12 witnesses is believable. In deciding whether to believe
13 a witness, you have a right to consider whether the
14 witness has an interest in the result of the trial,
15 whether the witness is prejudiced towards either the
16 State or the defendant, and the opportunity for the
17 witness to have seen the matters and things about which
18 the witness may testify, and the way the witness acts on
19 the witness stand.

20 Now, ladies and gentlemen, you and I don't ask
21 questions. You and I don't offer any exhibits. This is
22 not CSI. Your duty is to listen openly and honestly to
23 the evidence.

24 Keep an open mind. Do not form any judgments
25 or conclusions until you have received and considered

1 all the evidence and the final arguments of the
2 attorneys, and as I said, my final instruction to you on
3 the law.

4 It is your duty to pay close attention to
5 these witnesses, observe the witnesses, pay close
6 attention to the attorneys and to the Court. Try not to
7 let your thoughts wander but pay attention to the
8 testimony.

9 So at the end of the trial, you will be able
10 to determine what the true facts are, apply the law to
11 those facts, and render a just verdict. It will be your
12 added duty, Mr. Foreperson, to preside in the jury room
13 and be the jury's spokesperson here in the courtroom.

14 Now, if you cannot hear a particular witness
15 or myself or one of these attorneys, please let us know
16 so that we all can speak up more clearly. If you are
17 unable to see a particular exhibit, please let us know.
18 We'll correct that.

19 If you need to bring something to my attention
20 during the course of the trial, please notify one of the
21 bailiffs. If you do need to contact me, it may be
22 necessary for the bailiff to ask you to put that request
23 in writing so that we can make a record of whatever the
24 question made be.

25 I'll respond to you as quickly as I can, as

1 the law permits me to do so. I've furnished you with
2 pencils and pads. You can take notes or not take notes.
3 It's your option to do so.

4 I will caution you that at the end of the
5 trial, if you have taken notes during the course of the
6 trial, those notes are not to be used to try to
7 influence a fellow juror about what you wrote down that
8 they might not have written down, to try to convince a
9 juror that your notes were better than them or something
10 to that effect. They are for your benefit and your
11 benefit only for the purposes of recall since the case
12 is probably going to last at least through tomorrow.

13 All right. Ladies and gentlemen, I thank you
14 for your kind attention. I trust you'll give the same
15 kind and undivided attention to the attorneys and the
16 parties in this case. We'll now begin with the opening
17 statements.

18 MR. PISARIK: Thank you, Your Honor.

19 THE COURT: Solicitor.

20 **OPENING STATEMENT**

21 MR. PISARIK: Picture in your mind a
22 six-year-old child, a child in the first grade still
23 learning how to read, still learning how to write. A
24 child still putting teeth under the pillow for the tooth
25 fairy, still afraid of thunderstorms, still afraid of

1 the dark.

2 A child who is vulnerable, innocent, and
3 completely reliant on adults for everything: Reliant on
4 adults for food, reliant on adults for shelter, and
5 reliant on adults for protection. This, ladies and
6 gentlemen, is the victim in this case, [REDACTED]
7 at the age of five and at the age of six.

8 One of the people that she should have been
9 able to rely on, one of those adults is that defendant,
10 her stepfather, Reginald Spellman. But at the same time
11 that he should have been caring for her and protecting
12 her and shielding her from harm, that defendant was
13 violating her in a horrific way.

14 You see, when [REDACTED] would be asleep at night
15 tucked into her bed in what should have been the safest
16 place in her whole world, her own bedroom -- a room that
17 she filled with Barbie dolls, stuffed animals, even a
18 toy castle -- that defendant would come in in the middle
19 of the night, take off all her clothes, take off his own
20 pants, get on top of her and attempt to rape
21 six-year-old [REDACTED]

22 [REDACTED] would wake up with the defendant on
23 top of her. She would tell him no, but that defendant
24 would try to perform oral sex on [REDACTED] He would try
25 to force [REDACTED] to perform oral sex on him, and he

1 would repeatedly try to have sexual intercourse with
2 six-year-old [REDACTED] something that you are going to
3 hear, ladies and gentlemen, hear her describe what is
4 not only disgusting but painful.

5 When he should have been caring for her,
6 instead he was violating her. In doing so, ladies and
7 gentlemen, he was also breaking the law. I hold in my
8 hands the indictment in this case signed by the
9 foreperson of the Richland County Grand Jury, having
10 found probable cause to charge that defendant, Reginald
11 Spellman, that he did on or between December 31, 2004,
12 and September 28, 2006, willfully and unlawfully commit
13 an assault with intent to commit a sexual battery upon a
14 victim, a minor less than 11 years of age, in this case,
15 six-year-old [REDACTED]

16 We're going to talk a little bit more about
17 the law and what it is that the law says as far as this
18 crime and what it is that you're going to hear
19 throughout this trial that's going to leave you firmly
20 convinced that that defendant did, in fact, commit this
21 crime.

22 Before we get into that, let me again
23 introduce myself. My name is Craig Pisarik. Along with
24 me is co-counsel, Margaret Bodman. Together we
25 represent not only the State of South Carolina, we also

1 represent the citizens of Richland County.

2 It's going to be our job throughout this trial
3 to prove to you the three elements that make up this
4 crime: Assault with intent to commit criminal sexual
5 conduct on a minor in the first degree.

6 While it may have a lengthy title, the statute
7 itself is not overly difficult. There are three
8 elements that we must prove to you ladies and gentlemen:
9 That that defendant committed an assault. We're going
10 to talk a little bit about what it means to commit an
11 assault.

12 What is an assault? That he did so with the
13 intent to commit a sexual battery. We're going to tell
14 you how the law defines what a sexual battery is. Last,
15 that he did so on a victim less than 11 years of age.

16 Let's talk a little bit about assault. What
17 do we mean when we talk about assault? I have a
18 definition here. It's a lengthy definition. It simply
19 means whether or not that defendant attempted or offered
20 to commit some sort of battery, in this case a sexual
21 battery, on the victim.

22 Maybe an easier way to think about this is to
23 think of it in context of a punch. In that case when
24 someone draws back their fist, before the actual punch
25 has been thrown, that is the assault. That is putting

1 that victim in the fear that that bodily harm is going
2 to come.

3 The punch itself is the actual battery, the
4 touching. So when we're referring to the assault,
5 that's what we mean. It's the offer or the attempt. In
6 this case instead of a punch when we refer to a battery,
7 what we're talking about is a sexual battery. Well, did
8 he commit that assault with the intent to commit a
9 sexual battery?

10 Well, what is a sexual battery? The law says
11 it can be either oral sex performed by that defendant on
12 the victim or forcing the victim to perform oral sex on
13 him or any type of sexual intercourse, any penetration
14 of any part of the defendant, however slight, in any
15 part of the genitals of the victim.

16 Now, ladies and gentlemen, throughout this
17 trial you may hear evidence from this witness stand that
18 leads you to believe that that defendant did, in fact,
19 commit a sexual battery, that he was actually successful
20 in committing that sexual battery; but you don't even
21 have to go that far.

22 You don't even have to find he actually did,
23 in fact, commit that sexual battery, as long as he
24 committed the assault with the intent to commit that
25 sexual battery.

1 You don't even have to find that he actually
2 did. Like I said, you make your evidence in this trial
3 that leads you to believe that he did, in fact, commit a
4 sexual battery.

5 You heard me mention a minute ago the term
6 firmly convinced. What is going to leave you firmly
7 convinced of that defendant's guilt? I'm sure at some
8 point all of you have heard the term reasonable doubt.

9 If you've ever watched any type of TV, you've
10 heard the term reasonable doubt. That's the standard
11 that we have in a criminal case. Another way to put
12 reasonable doubt, another way to think about it, is are
13 you firmly convinced that that defendant committed the
14 crime?

15 Well, as important as what reasonable doubt is
16 is what reasonable doubt is not. It does not mean that
17 the State has to prove its case beyond any and all
18 doubts that may be out there.

19 In fact, ladies and gentlemen, the only way
20 for you to know 100 percent what took place is if you
21 were actually there seeing it happen. Then you would be
22 a witness. You wouldn't be allowed to be a juror in
23 this case. The question is: Are you firmly convinced
24 that that defendant committed this crime?

25 Well, what is it that you're going to hear

1 throughout this trial? What are you going to hear that
2 is going to leave you firmly convinced? Well, ladies
3 and gentlemen, you are going to get to hear from a now
4 12-year-old victim [REDACTED] from this witness stand.

5 You are going to get to watch a then
6 ten-year-old victim [REDACTED] on video as she is
7 interviewed by Heather Smith of the Assessment Resource
8 Center, what we call the ARC for short.

9 You're going to hear in detail how this
10 defendant repeatedly tried to violate her. You're going
11 to hear about one specific instance, one afternoon when
12 the victim's mother was at work.

13 You're going to hear from the victim's mother,
14 Alyiah Ansaar, in this trial; and you are going to hear
15 how she was working two jobs at a time. She would have
16 to leave for long periods of time and leave the kids in
17 the care of the defendant.

18 On one of those occasions, one afternoon,
19 [REDACTED] was in her mother's room watching TV. She fell
20 asleep. When she woke up, her pants were off. Her legs
21 were in the air, and the defendant was standing over her
22 with his pants off.

23 You're going to hear her describe how that
24 defendant rubbed what she termed his private part
25 between her legs; that when he was finished, white stuff

1 came out of his private part and went onto the floor,
2 white stuff that he would quickly clean up before anyone
3 would see.

4 After this repeated abuse of this victim, that
5 defendant would threaten her and tell her not to tell
6 anyone what happened, trapping that deep, dark secret of
7 abuse inside of her like a cancer, a cancer that would
8 remain inside of her until she was eventually able to
9 tell an adult over three-and-a-half years later, a
10 teacher that she was close to at school, Derek Morgan.

11 You're going to hear from Mr. Morgan during
12 this trial, and you are going to hear how he relayed
13 that information that he received onto the school
14 resource officer, Melissa Satterfield, who in turn sent
15 that information along to Richland County Sheriff's
16 investigator, Richard Carter.

17 You're going to hear from all of these
18 witnesses on the stand. You're also going to hear from
19 the victim's brother, [REDACTED] and you're going to hear
20 from Dr. Susan Luberoff, who examined the victim some
21 three and a half years later.

22 You're going to hear how there was an
23 expectedly normal physical exam at that time, after that
24 amount of time, three and a half years later or over
25 three years later.

1 Ladies and gentlemen, what this trial is about
2 is the fact that that deep, dark secret of abuse is no
3 longer a deep, dark secret. Throughout this trial you
4 are going to have the opportunity to shine the bright
5 light of justice on what took place to Victim

6 We ask that you pay close attention during
7 this trial. Please listen. It will not be easy and it
8 will not be pleasant and it will not be fun to hear what
9 this defendant did. We ask that you pay close
10 attention; that you listen.

11 At the end of this trial, my co-counsel is
12 going to stand up here before you. She is going to ask
13 you for a verdict that speaks the truth. She is going
14 to ask you to find that defendant guilty of assault with
15 intent to commit criminal sexual conduct on a minor in
16 the first degree. She is going to ask you to find that
17 defendant guilty for what he did to six-year-old Victim

18 Thank you.

19 THE COURT: Mr. Blankenship.

20 OPENING STATEMENT

21 MR. BLANKENSHIP: Thank you. May it please
22 the Court. Ladies and gentlemen of the jury, I'm
23 Reynolds Blankenship. I, along with Prentiss Shealey
24 and Dana Wilkes, represent Reginal Spellman, the
25 defendant in this case.

1 Dana Wilkes is a new attorney with the bar.
2 She is here more for observation and experience in case
3 you are wondering why she doesn't get up and present
4 anything to you. I just wanted to introduce us.

5 I think we can all agree that a child
6 molester, a person who touches a child inappropriately,
7 is about as vile and disgusting a person in our society
8 as it gets.

9 The State wants you to believe that Reginald
10 Spellman is a child molester. We are here to tell you
11 that he is not a child molester. He is prepared to get
12 on the stand himself and will tell you the very same
13 thing.

14 Before he has an opportunity to do that, the
15 State is going to present -- I don't know how many --
16 witnesses to stand before you and say I'm not exactly
17 sure what.

18 The facts of this case are Mr. Spellman was
19 married to the accuser's mother in 2003. They had a
20 rocky relationship. He was in and out of the household
21 for about three years. He even fathered a child with
22 another woman in Georgia.

23 In September of 2006, he left the home, had no
24 contact with the mother, the minor accuser until early
25 2010. Ms. Ansaar, the mother, and he started talking

1 about whether they were going to reconcile or not.

2 Ultimately in March of 2010, Mr. Spellman
3 called and said, This isn't working. Let's get a
4 divorce. That's what he thought they were going to do.
5 All of a sudden in April 2010, these accusations were
6 made.

7 They had never been made to anyone before. He
8 had been out of the home for approximately four years,
9 three and a half years, before anything was ever said.
10 He was not there as a present threat to anyone.

11 So there was -- if this disclosure needed to
12 be made while he was out of the house, there was ample
13 time for that to happen. We're just going to ask you to
14 listen to the evidence as presented to you very
15 carefully.

16 We propose that the only evidence in this case
17 is the inconsistent accusation by this child. That's
18 it. The State is going to put up numerous witnesses to
19 make it appear that there is more evidence and there is
20 not.

21 There is no witness to any of these incidents,
22 alleged incidents. There is no physical evidence
23 whatsoever. All they have is the inconsistent
24 accusation by this child that was made, for who knows
25 what reason, four or five years after it allegedly

1 happened.

2 We don't know why she decided to point to
3 Mr. Spellman. We can't explain. We're not here to say
4 it's because he and mom had a rocky relationship. We
5 really don't know why.

6 These are the only facts that we're aware of.
7 They had this relationship. It ended. Four years later
8 he is accused of molesting or trying to molest a child.
9 He is going to get on the stand and tell you that it's
10 absolutely not true.

11 So for each witness that gets on the stand and
12 speaks to you, we're asking that you listen very
13 carefully. Are they actually offering any information
14 in addition to this child's accusation?

15 What are they telling you? What are they
16 telling you that helps prove the State's case beyond a
17 reasonable doubt? I believe that you'll find the only
18 witness who has anything to tell you is this child, and
19 she'll get on the stand and testify and tell you her
20 side of the facts.

21 Listen very carefully to each witness, and we
22 trust that you'll find that those people have nothing to
23 offer you, other than to make the appearance that there
24 is all of this evidence that Mr. Spellman is a child
25 molester, when, in fact, he is not.

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1 We appreciate your time here. We know it will
2 be a couple of days. We thank you. We trust that you
3 will do your task and do it well. Thank you.

4 THE COURT: All right. Solicitor, call your
5 first witness.

6 MR. PISARIK: Thank you, Your Honor. The
7 State calls Derek Morgan to the stand.

8 (The witness comes forward.)

9 DEREK MORGAN, being
10 first duly sworn, testifies as follows:

11 THE CLERK: Have a seat in the witness box.
12 State your name for the record and spell your first
13 name, please.

14 THE WITNESS: Derek Morgan, D-E-R-E-K.

15 DIRECT EXAMINATION

16 BY MR. PISARIK:

17 Q Mr. Morgan, do you know the victim, Victim

18 A Yes, I do.

19 Q How is it that you know Victim

20 A Victim was in my fourth grade class during the
21 2009/2010 school year.

22 Q And where do you teach? Where did you teach
23 children in fourth grade?

24 A Forest Heights Elementary in Richland School
25 District I.

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1 (Cell phone goes off.)

2 BY MR. PISARIK:

3 Q Go ahead and tell us again. Where was it that you
4 taught fourth grade?

5 A I taught at Richland School District I, Forest
6 Heights Elementary.

7 Q How long had you been a teacher at Forest Heights
8 Elementary?

9 A Eleven years.

10 Q Okay. Did you teach anywhere before you were at
11 Forest Heights?

12 A I taught at Denny Terrace, which was closed down to
13 open up Forest Heights; and I taught back in Jasper
14 County at Ridgeland Elementary.

15 Q Okay. Did you do anything other than your teaching
16 experience in school?

17 A I did two years of youth ministry in between Denny
18 Terrace and Forest Heights.

19 Q Okay. What education did you receive to become a
20 teacher?

21 A I have a Bachelor's in early childhood elementary.

22 Q Have you only taught grade four?

23 A I did two years of second grade, a year of second
24 grade at Ridgeland Elementary, a year of second
25 grade at Denny Terrace, and the rest of my career

1 has been in fourth grade.

2 Q Tell me: What was your relationship like with
3 [REDACTED] when you taught at Forest Heights?

4 A [REDACTED] came into my room during the first
5 nine-week period. I had her brother and we needed
6 to swap the two students. They took her brother
7 out of my room and put [REDACTED] in my room.

8 [REDACTED] has what's called an IEP, an
9 individualized educational plan. So she had a lot
10 of accommodations which required me to spend a lot
11 of time with her. She had preferential seating.
12 She required shorter assignments, longer time to do
13 her assignments.

14 Her IEP stated that she should receive peer
15 instruction, tutoring. So when she came into my
16 room, she was a student that got a lot of my
17 attention because I had to meet the requirements of
18 her accommodations for her IEP.

19 Q Would you consider you had a close relationship
20 with her?

21 A We did. I had [REDACTED] older brother and I had
22 her other brother for a short period of time. So
23 when I got [REDACTED] I was pretty familiar with
24 their family, knew their mom and knew the brothers.

25 So we would talk a lot of times about family

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1 and how things were going, how she was doing, how
2 her brother was doing, what was going on in the
3 neighborhood. Since I had been at Forest Heights
4 so long, I kind of knew the area she lived in and
5 other students.

6 Q Now, did she come to you to discuss personal
7 things, family life, that type of thing?

8 A She did. She would come quite often and tell me --
9 a lot of it was general: My brother is in trouble.
10 My brother had a D on his report card or last night
11 we had this for dinner.

12 We would talk about community things, mosque.
13 She would ask questions and talk about the
14 difference between going to church and going to
15 mosque. So, yeah, we talked quite a bit.

16 Q Now, tell me specifically: Did you speak with
17 [REDACTED] back on April 22, 2010?

18 A Yes, I did.

19 Q Okay. What prompted you to have a conversation
20 with her?

21 A The marking period prior to this discussion, her
22 behavior had changed. Like I said, she would
23 talk to me quite often about things that were going
24 on.

25 But if there was ever anything that she

1 thought or anything she wanted to talk about, she
2 would either start a conversation or stop. So her
3 behavior had changed. I knew that there was
4 something.

5 So I would ask, you know, are you all right?
6 She would sometimes say yes, sometimes say no. I
7 was concerned about her behavior. On April 22nd we
8 had a conversation about some things that had been
9 going on with her.

10 Q And tell me: Where was it that you spoke with her
11 on April 22nd?

12 A We were in the cafeteria at the school tutorial,
13 preparing for after-school tutorial.

14 Q Now, tell me -- without disclosing anything as far
15 as specifics of what might have been said -- did
16 [REDACTED] disclose that something of a sexual
17 nature had happened to her?

18 A She did.

19 Q Okay. Now, just as to -- just referring to the
20 time when that took place, did she tell you when
21 that took place?

22 A She said she was six or seven.

23 Q Okay. And do you remember where it was that she
24 said it took place?

25 A At her old house.

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1 Q Okay. After you spoke with [REDACTED] VICTIM what was it
2 that you did at that point?

3 A I immediately sent her to a small group session. I
4 went back to my room, and I documented our
5 conversation.

6 Q Okay. Did you forward any information on to anyone
7 else?

8 A Yeah, I followed our school policy. At that
9 particular time, the resource officer wasn't
10 present and the guidance counselor wasn't present.
11 That very next morning, I ran into the guidance
12 counselor first. I made the guidance counselor
13 aware of what was going on so she could forward the
14 information to our school resource officer.

15 Q Right. Did you record any type of notes of what
16 took place?

17 A I did.

18 Q Okay.

19 MR. PISARIK: Beg the Court's indulgence.

20 THE COURT: Yes, sir.

21 (Pause.)

22 MR. PISARIK: Your Honor, may I approach?

23 THE COURT: Yes, sir.

24 MR. PISARIK: Mark this as State's Exhibit 4,
25 I guess.

1 (State's Exhibit Number 4 is marked for
2 identification.)

3 BY MR. PISARIK:

4 Q Take a look at what's been premarked State's
5 Exhibit 4. Do you recognize that?

6 A Yes, I do.

7 Q Okay. Specifically for purposes of identification,
8 did you create that?

9 A Yes, I did. I wrote this document.

10 Q Okay.

11 MR. PISARIK: Nothing further, Your Honor.

12 THE COURT: Cross examination.

13 MR. BLANKENSHIP: Thank you, Your Honor.

14 CROSS EXAMINATION

15 BY MR. BLANKENSHIP:

16 Q Mr. Morgan, how are you?

17 A Good.

18 Q My name is Reynolds Blankenship. I'm not sure if
19 you were in the courtroom a moment ago.

20 A No.

21 Q I represent Reginald Spellman, who is the defendant
22 in this case. On April 22, 2010, that's when you
23 met with [REDACTED] about something that had happened
24 to her?

25 A Yes, it was.

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1 Q Okay. Was this based on your perception that
2 something -- her behavior had changed?

3 A Yes, it was.

4 Q And how long had her behavior been changed?

5 A She had had some -- it had changed from the
6 previous marking period, which was about nine to
7 twelve weeks.

8 Q Would that be sometime around Christmas?

9 A This was coming out of the -- our marking period
10 ended during the Christmas holidays. This was
11 coming back after Christmas, starting like in
12 January, February.

13 Q Okay. And, in fact, you had a conversation on
14 December 1, 2009, with Ms. [REDACTED] didn't you?

15 A Yes, I did.

16 Q And what did that concern?

17 A That was concerning something that happened at
18 home.

19 Q What was that?

20 A She was upset that morning with her stepfather at
21 the time.

22 Q Okay.

23 (Attorneys confer.)

24 MR. PISARIK: No objection, Your Honor.

25 MR. BLANKENSHIP: May I approach the witness?

1 THE COURT: Yes, sir.

2 BY MR. BLANKENSHIP:

3 Q Mr. Morgan, do you recognize this document?

4 A Yes, I do.

5 Q Do you know what that is? Can you tell the Court
6 what that is?

7 A This is a handwritten conversation that I had with
8 [REDACTED] back on December 1, 2009.

9 Q And is this an accurate reflection of the
10 conversation you had?

11 A Yes, it is.

12 Q Okay.

13 MR. BLANKENSHIP: At this time, Your Honor,
14 we'd like to mark this for identification, please.

15 THE COURT: Identification. Go ahead.

16 MR. PISARIK: Without objection.

17 (Defendant's Exhibit Number 1 is marked for
18 identification.)

19 BY MR. BLANKENSHIP:

20 Q I'll hand you back what's now identified and marked
21 as Defendant's Exhibit 1. Can you give some detail
22 as to what that conversation you had with
23 Ms. [REDACTED] concerned?

24 A In this conversation she was upset with her
25 stepfather at the time. He had "clucked" her

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- 1 upside the head concerning some homework or some
2 grades she had gotten or some things that she said
3 at home that she used improper grammar.
- 4 Q And who is the stepfather?
- 5 A The stepfather at the time was Dan.
- 6 Q The stepfather was named Dan?
- 7 A Yes.
- 8 Q Okay. And he was living -- to your knowledge was
9 he living in the home?
- 10 A At that time to my knowledge, he was.
- 11 Q Okay. When had he -- you said clucked her?
- 12 A Yes, that's what she said, that she used.
- 13 Q Do you know when that had happened?
- 14 A No, she didn't say when. She didn't give a date as
15 to when that happened.
- 16 Q Did you perceive it to be a recent event?
- 17 A Yes, I did.
- 18 Q And that was on December 1, 2009?
- 19 A December 1, 2009.
- 20 Q Is that approximately close to when you noticed a
21 change in the behavior of Ms. [REDACTED]
- 22 A No.
- 23 Q It's not?
- 24 A No.
- 25 Q When did you notice that change in behavior?

1 A As I stated before, I noticed the change in
2 behavior after the winter holidays, which would
3 have been mid to late January.

4 MR. BLANKENSHIP: We would move to admit this
5 document.

6 MR. PISARIK: No objection.

7 THE COURT: Without objection.

8 MR. BLANKENSHIP: Thank you.

9 (Defendant's Exhibit Number 1 is received into
10 evidence.)

11 MR. BLANKENSHIP: No further questions.

12 THE COURT: Redirect?

13 MR. PISARIK: Briefly, Your Honor. May I
14 approach?

15 THE COURT: Yes, sir.

16 REDIRECT EXAMINATION

17 BY MR. PISARIK:

18 Q Mr. Morgan, I'd have you take a look at that
19 conversation.

20 A Yes, sir.

21 Q Did she indicate in that conversation that anything
22 of a sexual nature had taken place?

23 A No, she did not.

24 Q And you said you noticed a behavior change after
25 this took place?

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1 A Yes, sir.

2 Q And your conversation was in April of that year?

3 A April of 2010.

4 Q Okay.

5 MR. PISARIK: No further questions.

6 THE COURT: Anything further?

7 MR. BLANKENSHIP: Nothing further, Your Honor.

8 THE COURT: All right. You may come down.

9 May this witness be excused?

10 Without objection you're free to go. Thank
11 you very much.

12 (The witness leaves the witness stand and is
13 excused.)

14 THE COURT: Next witness.

15 MR. PISARIK: The State calls Richland County
16 Sheriff's Department Deputy Melissa Satterfield.

17 (The witness comes forward.)

18 MELISSA SATTERFIELD, being
19 first duly sworn, testifies as follows:

20 THE CLERK: Have a seat in the witness box.
21 State your name for the record, please.

22 THE WITNESS: Melissa Satterfield.

23 DIRECT EXAMINATION

24 BY MR. PISARIK:

25 Q Go ahead. And spell that for the record, Ms.

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1 Satterfield?

2 A M-E-L-I-S-S-A, S-A-T-T-E-R-F-I-E-L-D.

3 Q Deputy Satterfield, do you know the victim, [REDACTED]

4 [REDACTED]

5 A I do.

6 Q How is it that you know [REDACTED]

7 A I was the SRO at Forest Heights when she went to
8 Forest Heights Elementary School.

9 Q And what exactly is an SRO?

10 A The school resource officer.

11 Q Okay. On April 23, 2010, did you speak with

12 [REDACTED]

13 A I did.

14 Q Okay. Before we get into that, why don't you go
15 ahead and tell me where it is that you work first.

16 A Like I said, I'm a school resource officer for the
17 Richland County Sheriff's Department.

18 Q Okay. And how long have you been a school resource
19 officer?

20 A Approximately four years.

21 Q Okay. What exactly does a school resource officer
22 do?

23 A It's a triad concept and basically that means that
24 we are, first and foremost, a law enforcement
25 officer. We take care of any law enforcement

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1 incidents that happen in the school or deal with
2 students.

3 Also, we are a law enforcement counselor if
4 people -- the students or staff at the school need
5 guidance on law-related issues, when to make a
6 report. If they need to do a report, we can help
7 out with that.

8 I do safety classes there, which is drug
9 abuse, drug education and training. Then we have
10 the Grape class, which is the gang training. Then
11 there are other well-related classes: Safety
12 classes, stranger danger, things of that nature.

13 Q Okay. What type of training have you undergone
14 that helps you carry out your duties?

15 A I am SRO certified. We had to go through a basic
16 SRO class that teaches you everything that you're
17 supposed to do. Every summer we have an SRO DARE
18 conference where we go and get updates on legal
19 issues and things that relate to the school
20 resource officer position. I've had SRO training
21 within the department. We have a three-day
22 training every year that we have to attend.

23 Q Tell me: What education have you received that
24 helps you carry out your duties?

25 A I have a Bachelor's degree in criminal justice from

1 USC. I graduated there in 2007. Then I have a
2 Master's degree in forensic science from the
3 University of Florida, and I graduated there
4 in 2009.

5 Q Okay. Tell us about this conversation you had on
6 April 23, 2010. First of all, what prompted you to
7 talk to [REDACTED] that day?

8 A I was notified by Derek Morgan, her teacher, and
9 the guidance counselor, Ms. Ruff, that she had made
10 an allegation that I needed to look into.

11 Q Where was it that you spoke with [REDACTED]?

12 A In my office at the school.

13 Q Okay. Why is it that you would have spoken with
14 her? What were you trying to accomplish in
15 speaking with [REDACTED]?

16 A In cases of the type of allegation, the sexual
17 allegation, that was brought up, as well as if
18 there were any physical abuse allegations, we have
19 to talk with the child to make sure that we're not
20 sending them home to the perpetrator.

21 I needed to make sure that she was not going
22 to go home to the person that was allegedly abusing
23 her and hurting her. If that were -- had that been
24 the case, I would have EPCed her, which is
25 emergency protective custody, or I could have

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1 placed her with DSS at that time, just to make sure
2 that she was safe. It turned out that she was not
3 going to go home to the subject; so that was not
4 needed at the time.

5 Q Okay. At the beginning of your conversation, what
6 types of questions did you ask?

7 A I asked her who lived in her home, just small
8 little chitchat to kind of get her comfortable. I
9 asked her what she liked to do for fun, and we
10 talked about the fact that her dad's daughter has
11 the same birthday as her mom, and that kind of --
12 you know, she was smiling and kind of giggly about
13 that.

14 Q Okay. Now, without telling me about the actual
15 details themselves, did [REDACTED] at some point
16 disclose that something of a sexual nature happened
17 to you?

18 A Yes.

19 Q Okay. Just as to where that took place, did she
20 indicate where?

21 A She indicated that it was at -- in her bed at her
22 previous house, not the house she lived in while
23 she was at Forest Heights. She came to Forest
24 Heights in November of 2006, which was right before
25 she turned seven; so it took place at the previous

1 address.

2 Q Okay. And did she indicate when it took place?

3 A It was over a period of time prior to her coming to
4 us in 2006.

5 Q Okay. When she made that disclosure to you, what
6 was her demeanor like at that point?

7 A At that point she wouldn't make eye contact with
8 me. She was fumbling with her fingers, playing
9 with a string, wringing her hands, and she began to
10 cry.

11 Q After you spoke with [REDACTED] what did you do at
12 that point?

13 A I called my supervisor, who told me to call
14 Investigator Carter. I called him, let him know
15 what we had; and he advised me on what to do
16 further.

17 MR. PISARIK: Beg the Court's indulgence.

18 (Pause.)

19 BY MR. PISARIK:

20 Q Just to clarify, when was it that you said [REDACTED]
21 came to Forest Heights?

22 A November of 2006.

23 MR. PISARIK: Okay. No further questions.

24 THE COURT: Cross?

25 MR. BLANKENSHIP: Thank you, Your Honor.

MELISSA SATTERFIELD -- CROSS -- MR. BLANKENSHIP 209

CROSS EXAMINATION

1
2 BY MR. BLANKENSHIP:

3 Q Ms. Satterfield, I'm Reynolds Blankenship. I
4 represent the defendant. Other than this
5 conversation on April 23, 2010, did you conduct any
6 investigation regarding this matter?

7 A No, sir.

8 Q Okay. Did you speak with anyone, other than
9 another officer at the Sheriff's Department?

10 A I did speak with her mother.

11 Q Okay. What has your role been since speaking with
12 her mother and reporting it to another member of
13 the Sheriff's Department?

14 A Once it comes -- the initial report comes through,
15 the responding officer's investigation takes over,
16 and he'll investigate further the allegation.

17 Q Were you involved in that investigation?

18 A No, sir.

19 MR. BLANKENSHIP: No further questions.

20 THE COURT: Anything further?

21 MR. PISARIK: No redirect, Your Honor.

22 THE COURT: All right. You may come down,
23 ma'am. Thank you very much.

24 May this witness be excused? Without
25 objection.

1 (The witness leaves the witness stand and is
2 excused.)

3 THE COURT: Next witness.

4 MR. PISARIK: The State calls Alyiah Ansaar.

5 MS. BODMAN: Your Honor, she will affirm.

6 ALYIAH ANSAAR, being
7 first duly affirmed to tell the truth, testifies as
8 follows:

9 THE CLERK: Have a seat in the witness box.
10 State your name for the record, and spell your name,
11 please.

12 THE WITNESS: Alyiah Ansaar, A-L-I-Y-A-H,
13 A-N-S-A-A-R.

14 DIRECT EXAMINATION

15 BY MR. PISARIK:

16 Q Ms. Ansaar, how are you related to the victim,

17 [REDACTED]

18 A That's my daughter.

19 Q Okay. Before we get into what's going on, first go
20 ahead and tell me a little bit about yourself. Are
21 you currently employed?

22 A Yes, I am.

23 Q Where are you employed?

24 A I work for Lutheran Homes at the nursing facility.

25 Q Okay. What do you do at Lutheran Homes?

ALYIAH ANSAAR -- DIRECT -- MR. PISARIK

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1 A I take care of elderly people.

2 Q Okay. Did you go to school, high school, in South
3 Carolina?

4 A Yes.

5 Q Where?

6 A I went to Richland Northeast High School.

7 Q Okay. Did you go on to any type of college?

8 A Yes, I did two years at Midlands Tech College.

9 Q Okay. Tell me, Ms. Ansaar: Do you know the
10 defendant, Reginald Spellman?

11 A Yes, I do.

12 Q How is it that you -- first of all, is Mr. Spellman
13 present in the courtroom today?

14 A Yes, he is.

15 Q Can you go ahead and just point him out for the
16 jury.

17 A Over there (indicating).

18 Q Okay.

19 MR. PISARIK: Let the record reflect that she
20 is pointing to the defendant, Reginald Spellman.

21 THE COURT: The record so reflects.

22 BY MR. PISARIK:

23 Q Now, tell me: When was it that you and the
24 defendant started having a relationship together?

25 A Around 2003/2004.

1 Q And do you remember when it was that you would have
2 started living together?

3 A Immediately. Soon after we met, he moved in with
4 me.

5 Q Okay. And where were you living at the time?

6 A I was living on [REDACTED].

7 Q Okay. Do you remember what the address was?

8 A [REDACTED].

9 Q Is that address in [REDACTED]?

10 A Yes, it is.

11 MR. PISARIK: Your Honor, I'll go ahead and
12 ask to approach.

13 THE COURT: Yes, sir.

14 BY MR. PISARIK:

15 Q Tell me: Do you recognize what's in this exhibit?

16 A Yes, that's my old --

17 Q Without telling me what it is, do you recognize
18 what it is?

19 A Yes, sir.

20 Q Does the subject matter of that, is it fairly and
21 accurately represented in that exhibit?

22 A Yes.

23 Q Okay. Does there appear to be any alterations or
24 deletions or anything to that exhibit?

25 A No.

ALYIAH ANSAAR -- DIRECT -- MR. PISARIK

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1 Q Okay.

2 MR. PISARIK: Your Honor, we would seek to
3 admit State's Exhibit 3 as a group.

4 THE COURT: Any objection?

5 MR. BLANKENSHIP: No objection, Your Honor.

6 THE COURT: Without objection.

7 (State's Exhibit Number 3 is received into
8 evidence.)

9 MR. PISARIK: Permission to publish, Your
10 Honor.

11 THE COURT: Go ahead.

12 BY MR. PISARIK:

13 Q Can you tell me what this is? What are we looking
14 at?

15 A This is my old address. This is the trailer I used
16 to live in with my children, with [REDACTED]

17 Q Okay. And, again, that was [REDACTED]?

18 A Yes, sir.

19 Q Was that the home you lived in with the defendant?

20 A Yes.

21 Q Did you ever get married at any point to the
22 defendant?

23 A Yes, we did.

24 Q When was it that you got married?

25 A We got married April of 2005.

- 1 Q Okay. Are you still living with the defendant
2 today?
- 3 A No.
- 4 Q When was it that you stopped living with the
5 defendant?
- 6 A Around November, October of 2006.
- 7 Q Okay. And do you remember, was the defendant
8 living with you from the time that he moved in
9 until the time that he moved out? Again, was
10 that -- you said the time that he moved out, was
11 that September, October? When was that?
- 12 A 2006.
- 13 Q Okay. In September 2006?
- 14 A Yes.
- 15 Q Okay. Was he living with you during that period of
16 time?
- 17 A Yes.
- 18 Q Okay. Have you seen him since 2006?
- 19 A No.
- 20 Q Has [REDACTED] seen him since 2006?
- 21 A No.
- 22 Q Okay. When the defendant was living with you, were
23 you working at the time?
- 24 A Yes.
- 25 Q Tell me: Where were you working?

ALYIAH ANSAAR -- DIRECT -- MR. PISARIK

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1 A I was working two jobs at that time. At one time
2 it was three, but that was only a short period of
3 time.

4 Q And what were those jobs? Where was it you were
5 working?

6 A I worked at a daycare, and I worked two nursing
7 home jobs.

8 Q Okay. What did your schedule look like during that
9 time when you were working two and three jobs?

10 A During the day I was gone from 7:00 to 3:00, and
11 then 3:00 to 6:00 I would go -- from 3:00 to 6:00,
12 I would go from my nursing home job to the daycare
13 until 6:30 at night. Then on the weekends, I'd go
14 and do like doubles at the nursing home. So I was
15 working most of my years.

16 Q So did you have -- you obviously did not have much
17 time off during that period?

18 A No, just every other weekend.

19 Q And at the times when you were at work, who was it
20 that would be watching [REDACTED]

21 A Reggie, Reginald.

22 Q When you and Reggie were together, did you guys
23 ever have any fights?

24 A Yes, we did.

25 Q Okay. What would be the main thing that you guys

1 would fight about?

2 A Our main argument was about sex.

3 Q And what exactly?

4 A How I wouldn't have sex with him more often.

5 Basically that was our main issue.

6 Q Ms. Ansaar, did you have any idea at any point that
7 there was something that was going on with Reggie
8 and [REDACTED]?

9 A No, I did not. No, I did not.

10 Q When was it that you came to find out that
11 something had taken place?

12 A When the school officer called me in 2010 in April.

13 Q Do you still live at [REDACTED]?

14 A No, I do not.

15 Q Do you remember when it is that you moved?

16 A I moved in November 2006.

17 Q Okay.

18 MR. PISARIK: Permission to approach, Your
19 Honor?

20 THE COURT: Yes, sir.

21 BY MR. PISARIK:

22 Q Ms. Ansaar, I'm going to show you what's marked as
23 State's Exhibit 1 and 2. Do you recognize that
24 exhibit?

25 A Yes.

ALYIAH ANSAAR -- DIRECT -- MR. PISARIK

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1 Q Does that exhibit fairly and accurately show the
2 subject matter on the date and time in question?

3 A Yes.

4 Q Okay. Are there any alterations or deletions to
5 that?

6 A No.

7 MR. PISARIK: The State would seek to admit
8 State's 1 and 2.

9 MR. BLANKENSHIP: No objection, Your Honor.

10 THE COURT: Without objection.

11 (State's Exhibits Number 1-2 are received into
12 evidence.)

13 MR. PISARIK: Permission to publish.

14 THE COURT: Yes, sir.

15 BY MR. PISARIK:

16 Q Can you just go ahead and tell me what it is --

17 I'll hold this for you. What is this exhibit of?

18 A That's a picture of [REDACTED] back when she was five.

19 Q Okay. Can you tell me what that is -- what that
20 exhibit is? This is Exhibit 1.

21 A A picture of [REDACTED] when she was six.

22 Q Ms. Ansaar, after you found out, after you were
23 contacted by Richland County Sheriff's Deputy
24 Melissa Satterfield, at that point did you take
25 your daughter at any point to the Assessment

1 Resource Center?

2 A Yes, I did.

3 MR. PISARIK: Beg the Court's indulgence.

4 (Pause.)

5 MR. PISARIK: No further questions, Your
6 Honor.

7 THE COURT: Cross examination?

8 MR. BLANKENSHIP: Thank you, Your Honor.

9 CROSS EXAMINATION

10 BY MR. BLANKENSHIP:

11 Q Ms. Ansaar, my name is Reynolds Blankenship. I
12 represent Mr. Spellman. I just have a few
13 questions for you. When did you meet Mr. Spellman?

14 A Around 2003/2002. It was early in 2000.

15 Q You said you moved in right away?

16 A Yes, we did.

17 Q You were dating, I believe, initially?

18 A Yes.

19 Q When did you get married?

20 A 2005 of April.

21 Q Are you sure it wasn't 2003?

22 A When we got married?

23 Q Yes.

24 A No, April 2005.

25 Q In 2005 after you say you got married, who was

ALYIAH ANSAAR -- CROSS -- MR. BLANKENSHIP

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1 living in your household?

2 A Reginald Spellman and my three kids.

3 Q And who are your three kids?

4 A Victim [REDACTED] MINOR 1 and MINOR 3

5 Q No one else was living in the house?

6 A No.

7 Q What about in the spring of 2006? Who all was
8 living in the house then?

9 A No one was living with me at that time.

10 Q Okay. Who is Shawn Bennett?

11 A He is a close friend of the family.

12 Q Is he a relative?

13 A No, he's not blood related.

14 Q Was he residing in the house in spring 2006?

15 A He would come by and spend the night, but he didn't
16 live there with us.

17 Q How -- did he spend a lot of nights?

18 A He would come by often, but he was staying with his
19 parents at their home.

20 Q But he often spent the night at the house?

21 A Yes, sir.

22 Q What about -- do you have a mother who is alive?

23 A Yes.

24 Q And does she come around a lot when you were with
25 Reginald Spellman?

- 1 A Yes, me and my mother used to work together at the
2 daycare.
- 3 Q Right. Did she ever live with you guys?
- 4 A No.
- 5 Q Did she ever take any responsibility for the
6 babysitting or caring of her kids?
- 7 A Sometimes she would. They would go spend the night
8 with my mother.
- 9 Q I think you testified that you and Mr. Spellman
10 were frequently fighting about having -- about
11 sexual relationships between the two of you?
- 12 A Yes.
- 13 Q And he was mad that you weren't having sex with him
14 enough?
- 15 A Yes.
- 16 Q And were you aware that he was having sexual
17 affairs with at least one other adult woman at the
18 time?
- 19 A Yes.
- 20 Q When did you become aware of that?
- 21 A It might have been -- it was after we got
22 married in 2005 when I was aware of it.
- 23 Q And, Mr. Spellman, the last you saw of him was
24 September 2006?
- 25 A Yes.

ALYIAH ANSAAR -- CROSS -- MR. BLANKENSHIP

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- 1 Q And did [REDACTED] ever report anything to you prior
2 to April 2010?
- 3 A No.
- 4 Q She never reported anything about abuse, sexual or
5 otherwise, by Reggie?
- 6 A No.
- 7 Q Any problem at all with Reggie prior to your
8 learning in April 2010 of this disclosure?
- 9 A No.
- 10 Q After Reggie left the house in September 2006, did
11 anyone else ever move into the house?
- 12 A No, because I moved out. I moved from that
13 location.
- 14 Q When did you do that?
- 15 A November.
- 16 Q And --
- 17 A So it was like two months. It was about two months
18 after he left the home that I moved out of that
19 location.
- 20 Q And you moved somewhere else in Columbia?
- 21 A Yes.
- 22 Q Have you been at that place since?
- 23 A Yes.
- 24 Q Who else -- has anyone else moved in that house?
- 25 Is it just you and the kids?

1 A Yes.

2 MR. BLANKENSHIP: No further questions.

3 THE COURT: Redirect?

4 REDIRECT EXAMINATION

5 BY MR. PISARIK:

6 Q Just briefly. Tell me again, Ms. Ansaar: You
7 found out that the defendant was having -- had
8 relations with someone else. When was that?

9 A The young lady came to me after I got married and
10 told me that they was.

11 Q So that would have been 2005?

12 A Yes.

13 Q But you said the defendant moved out in
14 September 2006?

15 A Uh-huh.

16 Q Okay.

17 MR. PISARIK: No further questions.

18 THE COURT: Anything else?

19 MR. BLANKENSHIP: No further questions.

20 THE COURT: All right. You may come down,
21 ma'am. Thank you very much.

22 (The witness leaves the witness stand.)

23 THE COURT: Next witness.

24 MS. BODMAN: May I approach?

25 THE COURT: Sure.

1 (Whereupon there is a bench conference off the
2 record in the presence of the jury but out of the
3 hearing of the jury.)

4 THE COURT: All right. Ladies and gentlemen,
5 the State's attorney indicates that the next witness
6 will be [REDACTED] and that testimony may be --
7 depending on the cross examination, it may be somewhat
8 lengthy.

9 It's 12:00 o'clock. I know we didn't get
10 started until a little bit late, but I think the most
11 efficient use of our time would be to go ahead and take
12 a lunch break at this time. I'm going to ask you to be
13 back in the jury room at 1:30.

14 That will give us a good solid afternoon for
15 testimony. I'll ask you not to discuss the case when
16 you return to the jury room at 1:30. I'll ask you also
17 not to discuss the case with anyone else over the lunch
18 hour.

19 Try to be back promptly at 1:30. At that time
20 we will continue with the trial. Have a pleasant lunch.
21 Thank you very much. You can leave your notepads in the
22 seats or leave them with the bailiff, either way that
23 you prefer.

24 (The jury is excused for lunch at 12:05 p.m.)

25 THE COURT: All right. Stand at ease until

1 1:30.

2 (Whereupon there is a luncheon recess.)

3 THE COURT: Thank you. Be seated. Approach
4 the bench, Counsel. I've already got a note.

5 (Court's Exhibit Number 2 is marked for
6 purposes of the record.)

7 THE COURT: All right. Is the State ready to
8 proceed?

9 MS. BODMAN: One matter, Your Honor. We have
10 five witnesses lined up for today. Our last witness --

11 THE COURT: Five more?

12 MS. BODMAN: Five more lined up for today.
13 Our last witness would be the forensic interviewer and
14 offering the tape, and the tape itself obviously, we
15 know for sure, will take 50 minutes.

16 I expect some time to be used with the
17 interviewer just in terms of laying out what she does
18 and all that sort of thing. What I was just asking is
19 that if we do end, you know, prior to 5:00, if you
20 would allow us to go ahead and end for the day and
21 just start with that interviewer and the tape in the
22 morning.

23 I spoke with Mr. Blankenship, and he doesn't
24 have any objection to it. I would expect -- we have
25 been discussing with him how many witnesses he may

1 have -- we still would finish, have no problem finishing
2 tomorrow.

3 THE COURT: No, I don't plan to run late. I
4 don't anticipate this case will run over the week. And
5 after all, the guy who was going to Africa, we let him
6 go. So we have no problem.

7 Are we ready for the jury? Is the State ready
8 for the jury?

9 MS. BODMAN: Yes, Your Honor.

10 THE COURT: Is the defense?

11 MR. BLANKENSHIP: Yes.

12 THE COURT: Bring the jury.

13 THE BAILIFF: Yes, sir.

14 MS. BODMAN: Your Honor, this witness also is
15 going to be affirming.

16 THE COURT: Hold the jury. Let me go ahead
17 and put her on the stand. Let me inquire about her
18 understanding of testifying.

19 MS. BODMAN: Absolutely. The State calls Miss

20 [REDACTED]

21 (The witness comes forward.)

22 [REDACTED] being
23 first duly affirmed to tell the truth, testifies as
24 follows:

25 THE CLERK: Have a seat in the witness box.

1 State your name for the record and spell your first name
2 for us.

3 THE WITNESS: [REDACTED] VICTIM [REDACTED].

4 THE COURT: [REDACTED] how are you today?

5 THE WITNESS: Fine.

6 THE COURT: Do you know who I am?

7 THE WITNESS: No.

8 THE COURT: Well, it's enough to know that I'm
9 a judge. My job is just to make sure everybody does the
10 right thing in here. Do you understand that?

11 THE WITNESS: Yes, sir.

12 THE COURT: Now, Ms. Bodman is going to ask
13 you some questions, and then Mr. Blankenship is going to
14 ask you some questions. Have they told you that?

15 MS. SHEALEY: I will, Your Honor.

16 THE COURT: Oh, I'm sorry. Ms. Shealey is
17 going to ask you some questions, this lady here with the
18 gray suit on. Do you understand? Now, you just
19 affirmed or you have just said that you will tell the
20 truth. Do you understand that?

21 THE WITNESS: Yes, sir.

22 THE COURT: All right. What does that mean to
23 you?

24 THE WITNESS: That I'm telling the truth?

25 THE COURT: Uh-huh.

1 THE WITNESS: (There is no response.)

2 THE COURT: Do you understand what the truth
3 is?

4 THE WITNESS: Yes, sir.

5 THE COURT: Okay. Do you know what would
6 happen to you if you don't tell the truth?

7 THE WITNESS: No.

8 THE COURT: Well, have you thought about that?

9 THE WITNESS: No.

10 THE COURT: All right. I'm going to -- how
11 old are you now?

12 THE WITNESS: Twelve.

13 THE COURT: What grade are you in school?

14 THE WITNESS: Sixth.

15 THE COURT: And when you talk to your
16 teachers, do you always tell them the truth?

17 THE WITNESS: Yes, sir.

18 THE COURT: Okay. Are you going to promise me
19 you're going to tell me the truth today?

20 THE WITNESS: Yes, sir.

21 THE COURT: All right. You can come down and
22 sit with your lawyer.

23 (The witness leaves the witness stand.)

24 THE COURT: All right. Now, you can bring the
25 jury.

[REDACTED] -- DIRECT -- MS. BODMAN

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1 THE BAILIFF: Yes, sir.

2 (The jury returns to the courtroom at
3 1:48 p.m.)

4 THE BAILIFF: The jury is seated, Your Honor.

5 THE COURT: All right. Thank you, ladies and
6 gentlemen. We're now ready to continue with the trial.
7 Solicitor, call your next witness.

8 MS. BODMAN: The State calls [REDACTED]
9 [REDACTED] being
10 first duly affirmed to tell the truth, testifies as
11 follows:

12 THE CLERK: Have a seat in the witness box and
13 state your full name for the record, please.

14 THE WITNESS: [REDACTED] [REDACTED]

15 DIRECT EXAMINATION

16 BY MS. BODMAN:

17 Q And, [REDACTED] I need you to speak up as much as you
18 can so that all these people can hear everything
19 that you say. Okay?

20 A Okay.

21 Q You can do that for me?

22 A Yes, ma'am.

23 Q Okay. [REDACTED] how old are you?

24 A Twelve.

25 Q And when is your birthday?

[REDACTED] -- DIRECT -- MS. BODMAN

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- 1 A [REDACTED].
- 2 Q Okay. [REDACTED]
- 3 A Yes, ma'am.
- 4 Q So you just had a birthday?
- 5 A Yes.
- 6 Q What did you do for your birthday that you just
- 7 had?
- 8 A Went to the skating rink.
- 9 Q The skating rink?
- 10 A Uh-huh.
- 11 Q With who?
- 12 A My friends and family.
- 13 Q What school do you go to?
- 14 A Gibbes Middle School.
- 15 Q And how long have you gone there?
- 16 A Since December.
- 17 Q So just recently?
- 18 A Yes, ma'am.
- 19 Q Not for very long. Have you been able to make some
- 20 friends at your new school?
- 21 A Some.
- 22 Q And where did you go to school before that?
- 23 A Alcorn.
- 24 Q And do you know how long you went to school there?
- 25 A Since it started.

- 1 Q I'm sorry?
- 2 A Since school started.
- 3 Q Since school started just this past year? This
- 4 fall?
- 5 A Yes.
- 6 Q And where did you go prior to that?
- 7 A Forest Heights.
- 8 Q Forest Heights. And do you know what grades you
- 9 were in when you were at Forest Heights?
- 10 A First through fifth.
- 11 Q And do you know where you went to school prior to
- 12 Forest Heights?
- 13 A To Alcorn.
- 14 Q To where?
- 15 A To Alcorn.
- 16 Q So you went to Alcorn twice?
- 17 A No, I went once.
- 18 Q Okay. So you went to Forest Heights, Alcorn?
- 19 A Then Gibbes.
- 20 Q And then Gibbes. So do you know where you went
- 21 before you went to Forest Heights before?
- 22 A Polo Road.
- 23 Q Polo Road Elementary?
- 24 A Yes.
- 25 Q When you were at Forest Heights, did you have a

[REDACTED] -- DIRECT -- MS. BODMAN

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- 1 teacher by the name of Derek Morgan?
- 2 A Yes, ma'am.
- 3 Q Let me ask you this: When you started going to
- 4 Forest Heights, do you know where you were living
- 5 at that time?
- 6 A At [REDACTED].
- 7 Q Is that where you live now?
- 8 A Yes.
- 9 Q Prior to living at [REDACTED], do you remember
- 10 where you lived?
- 11 A No.
- 12 Q Do you -- is it just the address that you don't
- 13 remember or you don't remember anything about that
- 14 house?
- 15 A The address.
- 16 Q Just the address. Okay. I'm going to show you
- 17 State's Exhibit Number 3. Do you recognize what's
- 18 in those photos?
- 19 A Yes.
- 20 Q Speak into the microphone.
- 21 A Yes.
- 22 Q Okay. And what's showing in those photographs in
- 23 that exhibit?
- 24 A Our old house.
- 25 Q Do you remember how long you lived at the old

[REDACTED] -- DIRECT -- MS. BODMAN

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- 1 house?
- 2 A No, ma'am.
- 3 Q What do you remember about that house that you
- 4 lived in? Do you remember how many bedrooms there
- 5 were?
- 6 A Three.
- 7 Q And who all lived in that house with you?
- 8 A My mom, my step-daddy, and two of my brothers.
- 9 Q And who are your brothers?
- 10 A [REDACTED] and [REDACTED]
- 11 Q Okay. [REDACTED]?
- 12 A And [REDACTED]
- 13 Q Are they older than you or younger than you?
- 14 A They're older..
- 15 Q Both of them are older?
- 16 A Yes, ma'am.
- 17 Q And how much older is [REDACTED]?
- 18 A Three.
- 19 Q And how much older is [REDACTED]?
- 20 A One.
- 21 Q You said your mom, your two brothers, and you said
- 22 your stepfather. Who was your stepfather?
- 23 A Reggie.
- 24 Q Do you see Reggie here in the room that we're in?
- 25 A Yes, ma'am.

[REDACTED] -- DIRECT -- MS. BODMAN

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1 Q Can you point to him and tell us either where he's
2 sitting or what he's wearing so we know who you're
3 talking about?

4 A He's sitting over there (indicating).

5 Q Back in the gallery or at the front table?

6 A At the front table.

7 MS. BODMAN: May the record reflect the
8 witness has identified the defendant?

9 THE COURT: The record so reflects.

10 BY MS. BODMAN:

11 Q What do you remember about when your stepdad and
12 your mom got together or got married? Do you have
13 any memories of those things?

14 A Yes.

15 Q Okay. What do you remember? Do you remember their
16 wedding?

17 A Yes.

18 Q Okay. What do you remember about it?

19 A The wedding?

20 Q Uh-huh.

21 A We -- we were just like having fun and all the
22 pretty stuff.

23 Q You got to dress up for it?

24 A Yes.

25 Q Do you remember what you got to wear?

- 1 A A dress.
- 2 Q Do you remember anything about the dress?
- 3 A It was white.
- 4 Q Do you have any idea -- do you know how old you
5 were when your mom married Reggie?
- 6 A No.
- 7 Q Do you know how old you were when he started living
8 in your house?
- 9 A No.
- 10 Q You said stepdad and you referred to him as Reggie;
11 but when he lived in your house, what did you call
12 him? Did you call him dad or did you call him
13 Reggie?
- 14 A I called him Reggie.
- 15 Q Reggie. Do you remember telling your teacher,
16 Mr. Morgan, about some things that happened between
17 you and Reggie?
- 18 A Yes.
- 19 Q Why is it that you felt comfortable telling
20 Mr. Morgan about this?
- 21 A Because my grandmother and mother kept on asking me
22 if anybody had been mean to me. So I got sick and
23 tired when people kept on asking me what happened
24 and did you ever got touched or something. So
25 Mr. Morgan asked me what's wrong with you and why

[REDACTED] -- DIRECT -- MS. BODMAN

235

1 is you bad and all that kind of stuff. So I told
2 Mr. Morgan what happened.

3 Q Okay. But what was it about Mr. Morgan? Why did
4 you feel that you could tell him?

5 A I don't know.

6 Q And then after you told Mr. Morgan, do you remember
7 talking to the officer at your school?

8 A Yes, ma'am.

9 Q Okay. And do you remember going to the Assessment
10 Resource Center and talking to them about what
11 happened to you?

12 A Yes, ma'am.

13 Q Let's talk a little bit about what you call the
14 different parts of your body. The private part on
15 a woman where you pee, what do you call that?

16 A A private.

17 Q A private. Okay. And what do you call that part
18 on a man where he pees?

19 A A private.

20 Q Can you tell the jury then what happened to you,
21 between you and Reggie? What happened? Do you
22 remember about how old you were?

23 A Around five or six.

24 Q Okay. Where in the house did it happen to you?

25 A My room.

[REDACTED]

-- DIRECT -- MS. BODMAN

236

- 1 Q Did it happen anywhere else in the house besides
2 your room?
- 3 A One time in my momma's room.
- 4 Q And do you remember the time of day that this would
5 happen to you?
- 6 A Night.
- 7 Q And do you remember where anybody else was in the
8 house? If anyone was home or not home, where they
9 were?
- 10 A My brothers would be home.
- 11 Q Okay. Sometimes you said?
- 12 A Yes.
- 13 Q And where do you remember that your mom would be?
- 14 A Work.
- 15 Q Did she work a lot?
- 16 A Yes.
- 17 Q What do you remember about your bedroom that you
18 had in that house?
- 19 A It's kind of big.
- 20 Q Okay. Did you have a room by yourself or did you
21 share it with either of your brothers?
- 22 A I had a room by myself.
- 23 Q Okay. I guess that's the perks of being the only
24 daughter in the family. Did they have to share a
25 room?

-- DIRECT -- MS. BODMAN

237

- 1 A Yes.
- 2 Q So it was kind of big. What else do you remember
- 3 about your room?
- 4 A I had a lot of toys.
- 5 Q Yeah. What kinds of toys?
- 6 A Like dolls, teddy bears, a house.
- 7 Q A house? Like what kind of a house?
- 8 A A dollhouse.
- 9 Q A dollhouse. What do you remember then happening
- 10 in your room with Reggie?
- 11 A (Witness crying.)
- 12 (Pause.)
- 13 Q It's okay. It's okay.
- 14 A (There is no response.)
- 15 Q You said it happened at night?
- 16 A Yes.
- 17 Q So would you be awake or would you be asleep?
- 18 A Asleep.
- 19 Q Okay. And then what would happen while you were
- 20 sleeping? What would happen next?
- 21 A (There is no response.)
- 22 Q Did you ever wake up?
- 23 A Yes.
- 24 Q Okay. And when you woke up, would your clothes be
- 25 on or would they be off?

Victim

-- DIRECT -- MS. BODMAN

238

- 1 A Off.
- 2 Q And where would Reggie be?
- 3 A In my room.
- 4 Q Okay. Speak up. Where was he?
- 5 A In my room.
- 6 Q Where was he in your room?
- 7 A On my bed.
- 8 Q Okay. Where on the bed was he?
- 9 A (There is no response.)
- 10 Q It's okay. Was he just sitting on the bed or was
- 11 he touching you?
- 12 A (There is no response.)
- 13 Q Is this easy to talk about?
- 14 A (There is no response.)
- 15 Q It's okay, honey. Just talk to me. Okay? Were
- 16 Reggie's clothes on or were they off?
- 17 A Off, off.
- 18 Q And what was he doing? Where was he?
- 19 A (There is no response.)
- 20 Q Was he making any kind of contact with you at all?
- 21 So your clothes are off and his clothes are off.
- 22 Is he touching you with anything?
- 23 A Uh-huh, yes.
- 24 Q Okay. What is he touching you with?
- 25 A With his private.

Me. [REDACTED] -- DIRECT -- MS. BODMAN

239

- 1 Q Okay. And where was he touching you with his
2 private? Where on your body was he touching you?
3 A Mine.
4 Q Your?
5 A Private.
6 Q Was he saying anything to you when he did this?
7 A (There is no response.)
8 Q And do you remember if he would ask you to do
9 anything?
10 A (There is no response.)
11 Q What were you doing when he was touching his
12 private to your private?
13 A (There is no response.)
14 Q It's okay. It's okay. It's okay. [REDACTED] do you
15 remember going to the Assessment Resource Center
16 and telling them what happened to you?
17 A Yes.
18 Q Okay. And before you testified today, before you
19 have gotten up here today -- it's okay. Have you
20 been able to take a look at that interview and look
21 back at what you told everybody at the ARC?
22 A Yes.
23 Q Okay. Did you -- do you remember who it was that
24 you talked to, who the person was that interviewed
25 you?

[REDACTED]

-- DIRECT -- MS. BODMAN

240

1 A I know it was Ms. Amy and...

2 Q Is there someone else that interviewed you on the
3 tape?

4 A Yes.

5 Q Okay. And Ms. Amy, you went to go see her at the
6 ARC; didn't you?

7 A Yes.

8 Q And how often would you go see Ms. Amy?

9 A Once a week.

10 Q Once a week. Okay. So you went to counseling and
11 therapy with Ms. Amy?

12 A Yes.

13 Q Is that right? Okay. But was it Ms. Amy that you
14 talked to on the videotape or was that somebody
15 else?

16 A Somebody else.

17 Q Okay. And when you talked to that person in that
18 interview, did you try to tell them everything that
19 you could remember?

20 A Yes.

21 Q About what Reggie had done to you?

22 A Yes, ma'am.

23 Q [REDACTED] did this happen just one time or did it
24 happen more than one time?

25 A More than one.

[REDACTED]

-- DIRECT -- MS. BODMAN

241

- 1 Q Okay. Did it happen two times or do you think it
2 happened more than two times?
- 3 A More than two times.
- 4 Q Do you think you have an idea of how many times it
5 happened?
- 6 A No.
- 7 Q A few times or a lot of times?
- 8 A A lot of times.
- 9 Q Did he ever talk to you about telling or not
10 telling?
- 11 A I don't remember.
- 12 Q You don't remember.. Okay. Do you remember ever
13 trying to tell your mom about what was happening to
14 you?
- 15 A One time.
- 16 Q What do you remember about that?
- 17 A One time we was talking, I was trying to tell my
18 mom, but she said hush. So I went in my room and
19 started crying.
- 20 Q [REDACTED] you told the jury about him touching his
21 private part to your private part. Did he ever try
22 to do anything else with his private part to you?
- 23 A Yes, ma'am.
- 24 Q Okay. Speak up.
- 25 A Yes, ma'am.

Victim

-- DIRECT -- MS. BODMAN

242

- 1 Q Okay. And what else did he try to do with his
2 private part to you?
- 3 A Try to make me suck his private part.
- 4 Q Okay. Anything else that you remember about him
5 trying to do anything else with his private part to
6 you?
- 7 A No.
- 8 Q Okay. So his private part to your private part,
9 and then he wanted you to suck his private part
10 also?
- 11 A Yes, ma'am.
- 12 Q So what did you say or what did you do when he
13 asked you to suck his private part?
- 14 A No, and I tried to push him away.
- 15 Q Do you remember ever trying to scream out for help?
- 16 A Yes.
- 17 Q What do you remember about that?
- 18 A I was trying to call a name, and they acted like
19 they can't hear me.
- 20 Q Call whose name?
- 21 A My brothers.
- 22 Q And they didn't seem to hear you?
- 23 A No.
- 24 Q You said that one time something happened in your
25 mom's room. On that time what do you remember?

Victim

-- DIRECT -- MS. BODMAN

243

- 1 What were you doing in your mom's room?
- 2 A Watching TV and slept.
- 3 Q And what?
- 4 A And slept.
- 5 Q So you're sleeping in your mom's room and what do
- 6 you remember happening next? What happened first?
- 7 A (There is no response.)
- 8 Q Did you just keep sleeping or did something else
- 9 happen?
- 10 A Something else happened.
- 11 Q Okay. Did you wake up?
- 12 A Yes.
- 13 Q Okay. And when you woke up, who did you see?
- 14 A Reggie.
- 15 Q Reggie. And where was Reggie?
- 16 A Next to me.
- 17 Q Okay. And were his clothes on or were his clothes
- 18 off?
- 19 A Off.
- 20 Q Do you remember, were your clothes on or were they
- 21 off?
- 22 A Off.
- 23 Q Do you remember where he was standing or where he
- 24 was sitting when you woke up?
- 25 A In front of me.

- 1 Q Do you remember how you were lying on the bed when
2 you woke up?
- 3 A On my back.
- 4 Q So what was happening then? You're lying on your
5 back. You wake up. Reggie is standing there. Is
6 he touching you anywhere on your body?
- 7 A (There is no response.)
- 8 Q Just yes or no.
- 9 A Yes.
- 10 Q Okay. And what part of your body is he touching?
- 11 A My legs.
- 12 Q Your legs. Okay. And what is he touching your
13 legs with?
- 14 A His private.
- 15 Q And how was he touching your legs with his private?
16 Where were they? Where was his private?
- 17 A Between my legs.
- 18 Q And what was he doing with his private between your
19 legs?
- 20 A Pushing back and forth.
- 21 Q Say that again into the microphone so they can hear
22 you.
- 23 A Pushing back and forth.
- 24 Q Did anything happen with his private after he was
25 pushing back and forth?

Victim

-- DIRECT -- MS. BODMAN

245

1 A No.

2 Q Do you remember what happened after he stopped
3 pushing back and forth between your legs?

4 A No.

5 Q The day that you told Mr. Morgan what had been
6 happening to you, [REDACTED] that day that you told
7 Mr. Morgan what had happened to you, had there been
8 anybody else that had ever touched you in any kind
9 of sexual way?

10 A No, ma'am.

11 Q Aside from, I guess, Mr. Morgan and Deputy
12 Satterfield, you met with Heather, the person that
13 interviewed you on the videotape at the ARC. And
14 then you met with Amy, Ms. Amy, at the ARC; right?

15 A Yes, ma'am.

16 Q So Mr. Morgan, Deputy Satterfield, the person on
17 the videotape that interviewed you, Ms. Amy. You
18 said you tried to tell your mom one time; right?

19 A Yes, ma'am.

20 Q Was there anybody else that you told what had been
21 happening to you with Reggie?

22 A No.

23 Q Okay. Thank you very much. Ms. Shealey is going
24 to ask you a few questions. Okay?

25 A Okay.

Victim

-- CROSS -- MS. SHEALEY

246

1 MS. SHEALEY: I'm going to move the podium
2 just a little closer so I don't have to shout.

3 THE COURT: Go ahead.

4 CROSS EXAMINATION

5 BY MS. SHEALEY:

6 Q VICTIM my name is Prentiss Shealey. I'm going to
7 have to ask you some questions and some of them may
8 be hard questions, but I want you to try to answer
9 them truthfully. Okay?

10 A Okay.

11 Q You testified before you just turned 12?

12 A Yes, ma'am.

13 Q And you just had your birthday on [REDACTED]?

14 A Yes, ma'am.

15 Q You are in sixth grade; is that right?

16 A Yes, ma'am.

17 Q Do you have a favorite subject?

18 A Math.

19 Q Math. Do you play any sports?

20 A No, ma'am.

21 Q What do you like to do for fun?

22 A Draw.

23 Q Draw?

24 A Yes, ma'am.

25 Q And you have two brothers, [REDACTED] and [REDACTED]

Victim [REDACTED] -- CROSS -- MS. SHEALEY

247

- 1 A Yes, ma'am.
- 2 Q And your mom is Alyiah? Did I say that right?
- 3 A Yes, ma'am.
- 4 Q And Reggie was your stepdad?
- 5 A Yes, ma'am.
- 6 Q And you and your mom, you'll had kind of -- I'm
- 7 sorry. Reggie and your mom kind of had a rocky
- 8 relationship; isn't that right?
- 9 A Yes.
- 10 Q And you know that he cheated on your mom?
- 11 A No.
- 12 Q Didn't he take you to another woman's house?
- 13 A No.
- 14 Q That was before they got married?
- 15 A No.
- 16 Q And you're here today because you had said that
- 17 Reggie had touched you inappropriately; is that
- 18 right?
- 19 A Yes.
- 20 Q And when you told Mr. Martin, you said that he
- 21 raped you. That's the word you used?
- 22 A Yes, ma'am.
- 23 Q That's a pretty adult word. Where did you hear
- 24 that word?
- 25 A Movies.

Victim

-- CROSS -- MS. SHEALEY

248

- 1 Q From movies. Okay. What does that word mean to
2 you?
- 3 A Like abused.
- 4 Q What is it -- okay. Can you be a little bit more
5 specific?
- 6 A I think touched.
- 7 Q Okay. Just if somebody is touching you and they're
8 not supposed to?
- 9 A Yes.
- 10 Q And you testified that he would touch you when your
11 mom was at work?
- 12 A Yes.
- 13 Q Okay. So she was never there?
- 14 A No.
- 15 Q Didn't you tell your teacher that he touched you
16 when your mom was there?
- 17 A Yes, one time.
- 18 Q Okay. But didn't you just tell me that it only
19 happened when your mom was at work?
- 20 A What? Even when she was there.
- 21 Q I'm sorry?
- 22 A Even when she was there.
- 23 Q Where was she in the house when that happened?
- 24 A Asleep.
- 25 Q Asleep. And this is the house (indicating)?

Victim

-- CROSS -- MS. SHEALEY

249

- 1 A Yes, ma'am.
- 2 Q That's State's Exhibit 3. And where was her
3 bedroom compared to yours?
- 4 A Like...
- 5 Q Was it beside it? Across the hall?
- 6 A It was across the hall.
- 7 Q Okay. And you testified on direct that this
8 happened a lot, and it was over about a year
9 period. Did it happen every night?
- 10 A Yes.
- 11 Q So it happened every night?
- 12 A Yes, ma'am.
- 13 Q And it happened in your room at night?
- 14 A Yes, ma'am.
- 15 Q Did it happen any other time during the day?
- 16 A No.
- 17 Q Okay. So it never happened in the morning or in
18 the afternoon?
- 19 A No.
- 20 Q Okay. Didn't you tell the forensic examiner that
21 it happened one morning?
- 22 A I don't remember that.
- 23 Q Okay. That was when you said your brother actually
24 walked in and caught you?
- 25 A I don't remember.

Victim

-- CROSS -- MS. SHEALEY

250

- 1 Q You don't remember your brother walking in?
- 2 A No.
- 3 Q You don't remember saying that he walked in to tell
- 4 you that breakfast was ready?
- 5 A No.
- 6 Q Now, you testified that Reggie would put his
- 7 private on your private. Was his private inside
- 8 your private?
- 9 A No.
- 10 Q Okay. Did you tell the teacher or the investigator
- 11 that it was?
- 12 A No.
- 13 Q And you said that one time it happened in your
- 14 mom's room?
- 15 A Yes, ma'am.
- 16 Q Okay. And that was at night?
- 17 A I don't remember.
- 18 Q Okay. Well, you testified before that it always
- 19 happened at night, so I guess it was at night?
- 20 A I guess.
- 21 Q And you testified that -- when you talked a little
- 22 bit to the forensic examiner about white stuff, you
- 23 testified that there was no -- nothing happened
- 24 when it was in your mom's room; is that right?
- 25 A No.

Victim

-- CROSS -- MS. SHEALEY

251

- 1 Q All right. So no white stuff in your mom's room?
- 2 A No.
- 3 Q Now, you testified before that once you did try to
- 4 tell your mom?
- 5 A Yes.
- 6 Q Is that right? Was Reggie standing there?
- 7 A Yes.
- 8 Q So you were going to tell her in front of Reggie?
- 9 A Yes.
- 10 Q And you testified before that your mom had been
- 11 asking you if something happened?
- 12 A Yes.
- 13 Q And that was before you told Mr. Morgan?
- 14 A Yes.
- 15 Q Was she asking you if somebody was abusing you?
- 16 A Yes.
- 17 Q Okay. And you said that your grandma had asked you
- 18 too?
- 19 A Yes.
- 20 Q Is that Ms. Mary?
- 21 A No.
- 22 Q No. That's just you're grandmother?
- 23 A Yes.
- 24 Q And your grandmother asked you if -- did you tell
- 25 the forensic examiner that your grandmother asked

Victim

-- CROSS -- MS. SHEALEY

252

1 you if you liked Dan or Reggie better?

2 A No, that was Ms. Mary.

3 Q Okay. That was Ms. Mary. I'm sorry. Maybe I have
4 those two people confused. Did Ms. Mary ask you if
5 you had been abused?

6 A No.

7 Q Okay. So it was just your grandmother?

8 A Yes.

9 Q And you didn't tell them?

10 A No.

11 Q No. And when did they start asking you if you were
12 abused?

13 A It had been a long time.

14 Q It had been a long time?

15 A (Indicating in the affirmative.)

16 Q So once you told Mr. Morgan, you talked to your mom
17 about this?

18 A Yes.

19 Q Okay. Have you talked to Ms. Mary about it?

20 A No.

21 Q Now, was it Ms. Mary or your grandmother that was
22 actually abused as well?

23 A My grandma.

24 Q Okay. And when she asked you if you had been
25 abused, did she tell you that, It's okay to tell

Victim

-- CROSS -- MS. SHEALEY

253

- 1 you because I've been abused too?
- 2 A Yes.
- 3 Q She said that her stepfather abused her?
- 4 A Yeah.
- 5 Q But you didn't tell her?
- 6 A No.
- 7 Q Even though you did tell. So have you talked to
- 8 your grandmother about this since?
- 9 A Yes.
- 10 Q Have you talked to either of your brothers about
- 11 it?
- 12 A No.
- 13 Q Okay. But you were going to counseling with
- 14 Ms. Amy?
- 15 A Yes, ma'am.
- 16 Q Okay. So y'all have talked about it. Did you meet
- 17 with somebody from the ARC recently to talk about
- 18 the trial?
- 19 A No.
- 20 Q You didn't. Nobody met with you to tell you what
- 21 was going to happen at trial?
- 22 A Yes.
- 23 Q Who was that?
- 24 A I don't know her name.
- 25 Q Was it somebody at the ARC?

Victim

-- CROSS -- MS. SHEALEY

254

- 1 A Yes.
- 2 Q Okay. And they talked to you about what was going
3 to happen today?
- 4 A Yes.
- 5 Q And they told you, you know, how you should behave,
6 how you should dress, things like that?
- 7 A Yes, ma'am.
- 8 Q And they told you'll how you need to respond to
9 questions?
- 10 A Yes, ma'am.
- 11 Q And did you meet with the investigator and talk
12 with him?
- 13 A I don't remember.
- 14 Q Okay. You would never -- I'm sorry. So you did
15 meet with somebody from the ARC to talk about what
16 was going to happen in trial; right?
- 17 A Yes.
- 18 Q Did they bring you over to the courthouse?
- 19 A No.
- 20 Q You hadn't been to the courthouse before?
- 21 A Yes.
- 22 Q Okay. But they didn't bring you?
- 23 A No.
- 24 Q Did you meet Ms. Bodman here?
- 25 A Yes.

Victim

-- CROSS -- MS. SHEALEY

255

- 1 Q And you met with her a couple of times?
- 2 A Yes, ma'am.
- 3 Q And she went over what questions she was going to
- 4 ask you?
- 5 A Yes, ma'am.
- 6 Q And she kind of told you what questions I might ask
- 7 you?
- 8 A No.
- 9 Q She didn't?
- 10 A No.
- 11 Q And did they bring you into the courtroom at all to
- 12 show you around?
- 13 A Yes, ma'am.
- 14 Q You said you don't remember when I asked you about
- 15 meeting with an investigator. You met with an
- 16 investigator in the beginning right after you
- 17 disclosed; is that right? Did you ever talk to the
- 18 investigator, law enforcement, besides the school
- 19 resource officer, did you ever talk to anybody?
- 20 Any cop?
- 21 A I don't remember.
- 22 Q You don't remember. Okay. Now, the people that
- 23 you talked to at ARC; you met with Heather Smith
- 24 and you met with Amy Phillips. There is somebody
- 25 else that you met with before, but you don't

[REDACTED]

-- CROSS -- MS. SHEALEY

256

1 remember their name about prepping for court. You
2 would never lie to them; would you?

3 A No.

4 Q Okay. And you never would misled them?

5 A No.

6 Q You know it's very important to be truthful; isn't
7 that right?

8 A Yes, ma'am.

9 Q And you haven't lied to them?

10 A No.

11 MS. SHEALEY: Your Honor, I have a matter of
12 law.

13 THE COURT: Approach the bench.

14 (Whereupon there is a bench conference off the
15 record in the presence of the jury but out of the
16 hearing of the jury.)

17 BY MS. SHEALEY:

18 Q Okay. [REDACTED] we're almost done, I promise.

19 MS. SHEALEY: Beg the Court's indulgence.

20 THE COURT: Sure.

21 (Pause.)

22 BY MS. SHEALEY:

23 Q Okay, honey. We're almost done, I promise. Now,
24 you had said that sometimes when he was touching
25 you, you would be pushing him or you would be

Victim

-- CROSS -- MS. SHEALEY

257

1 yelling for help?

2 A Yes.

3 Q But when you did that, were you, you know,
4 screaming, you know, MINOR 1 MINOR 3

5 A Yes.

6 Q So you were doing it as loud as you could?

7 A Yes.

8 Q And they were in the house?

9 A Yes.

10 Q And it was this house (indicating); right?

11 A Yes, ma'am.

12 Q And they didn't hear you?

13 A No.

14 MS. SHEALEY: No further questions, Your

15 Honor.

16 THE COURT: Redirect?

17 MS. BODMAN: No further questions, Your Honor.

18 THE COURT: All right. Come down.

19 THE BAILIFF: Watch your step.

20 (The witness leaves the witness stand.)

21 THE COURT: Approach the bench.

22 (Whereupon there is a bench conference off the
23 record in the presence of the jury but out of the
24 hearing of the jury.)

25 THE COURT: Solicitor, you may call your next

[REDACTED]

-- DIRECT -- MR. PISARIK

258

1 witness.

2 MR. PISARIK: The State would call [REDACTED] MINOR

3 [REDACTED]

4 [REDACTED] MINOR 1 being

5 first duly affirmed to tell the truth, testifies as

6 follows:

7 THE CLERK: Have a seat in the witness box.

8 State your name for the record and spell it for us.

9 THE WITNESS: My name is [REDACTED] MINOR 1

10 [REDACTED] MINOR 1

11 DIRECT EXAMINATION

12 BY MR. PISARIK:

13 Q [REDACTED] do you know [REDACTED]

14 A Yes, sir..

15 Q How is it that you know [REDACTED]

16 A She's my sister?

17 Q Are you her older brother? Younger brother?

18 A Older brother.

19 Q Okay. Tell me a little about yourself. Where do
20 you go to school?

21 A I go to Keenan High.

22 Q Okay.

23 A And I'm in the ninth grade.

24 Q Ninth grade. Do you play any sports at Keenan?

25 A Yes, I play football.

MINOR 1

-- DIRECT -- MR. PISARIK

259

1 Q Football. Where did you go to school before you
2 went to Keenan?

3 A Alcorn Middle.

4 Q Alcorn Middle. Where did you go before Alcorn?

5 A Forest Heights.

6 Q Did you have Derek Morgan as a teacher at any
7 point?

8 A Yes, sir.

9 Q Did you like Mr. Morgan?

10 A Yes, sir.

11 Q Tell me: Do you know the defendant in this case,
12 Reginald Spellman?

13 A Yes, sir.

14 Q How do you know Mr. Spellman?

15 A He was my momma's husband.

16 Q Okay. Is Mr. Spellman in court?

17 A Yes, sir.

18 Q Okay. Can you just point him out? Who is he?

19 A (Indicating.)

20 Q Okay. Just go ahead and tell me what he's wearing.

21 A He's wearing a black shirt, dress shirt.

22 Q Okay.

23 MR. PISARIK: Let the record reflect he has
24 pointed out the defendant.

25 THE COURT: The record so reflects.

[REDACTED]

-- DIRECT -- MR. PISARIK

260

1 BY MR. PISARIK:

2 Q Tell me this: What was your relationship like with
3 the defendant?

4 A Good.

5 Q Yeah. Did you like him?

6 A Yes, sir.

7 Q Yeah. Do you remember him leaving at any point
8 in 2006? Do you remember him --

9 A Yes, sir.

10 Q -- leaving the house? Do you remember at any point
11 when the defendant was living there, do you
12 remember ever seeing him do anything sexual to

13 [REDACTED]

14 A No, sir.

15 Q No. At some point after the defendant left the
16 house -- do you remember -- did your sister ever
17 indicate to you that something might have happened?

18 A Yes, sir.

19 Q Okay. Did you get the impression that it was
20 sexual in nature?

21 A Yes, sir.

22 Q Okay.

23 MR. PISARIK: Nothing further, Your Honor.

24 THE COURT: Cross examination.

25 MS. SHEALEY: Just briefly.

MINOR 1 -- CROSS -- MS. BODMAN

261

CROSS EXAMINATION

BY MS. SHEALEY:

Q MINOR 1 you just testified that your sister indicated that something did happen between her and Reggie?

A Yes, sir -- I mean -- yes, ma'am.

Q When did y'all talk about that?

A Like as soon as we had left the old house.

MS. SHEALEY: No further questions, Your Honor.

THE COURT: All right. Anything further?

MR. PISARIK: Nothing.

THE COURT: All right. You can come down, sir. Thank you very much.

THE WITNESS: You're welcome.

(The witness leaves the witness stand.)

THE COURT: Is this witness free to go? Without objection.

Next witness

MS. BODMAN: The State calls Nicole Williams.

(The witness comes forward.)

NICHOLE WILLIAMS, being first duly sworn, testifies as follows:

THE CLERK: Have a seat in the witness box. State your name for the record, please.

1 THE WITNESS: My name is Nicole Williams.

2 DIRECT EXAMINATION

3 BY MS. BODMAN:

4 Q And, Ms. Williams, where do you work?

5 A I am the victim advocate at the Assessment Resource
6 Center, the children's advocacy center here in
7 Richland County.

8 Q And can you tell the jury a little about what is a
9 children's advocacy center, specifically, I guess
10 the Assessment Resource Center here?

11 A Children's advocacy centers are nationally
12 accredited centers through the National Children's
13 Alliance, where we sort of have a one-stop shop, if
14 you will, for investigating allegations of child
15 abuse or mistreatment.

16 So at the ARC specifically, we have people who
17 are trained specifically in talking to children in
18 forensic interviewing. We have a pediatrician on
19 staff who does forensic medical exams.

20 We have a small therapy component. We have a
21 victim advocate on staff, a child life specialist
22 on staff who assists the children in the medical
23 exam, explains the medical exam to them, and stays
24 with them through the exam to support them.

25 That way the children don't have to go to the

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1 hospital and then to law enforcement to have an
2 interview done. Then if there is DSS involvement,
3 have another interview at DSS.

4 It minimizes trauma and re-traumatization from
5 having to tell the story over and over again. It's
6 done at one time. Investigators can come and
7 observe the interview in progress or they get a
8 copy of that interview when it's done. Of course,
9 our staff is available, our medical director, to
10 assist them in going through those records.

11 Q Okay. You mentioned a child life specialist who
12 stays with the child prior to the medical exam?

13 A And through the medical exam. We never allow
14 parents in the exam room. That way our doctor can,
15 first of all, look at the child first before
16 getting any information, outside information. So
17 the child life specialist explains the exam to them
18 and then stays in there through the exam to support
19 them with the physician.

20 Q Okay. And you said part of that explanation prior
21 to the exam is going to alleviate some of the
22 anxiety and stress about what is about to happen to
23 them?

24 A Exactly.

25 Q Okay.

- 1 A They get to see the room, know what's going to
2 happen, and the order everything is going to happen
3 and even play with the equipment.
- 4 Q And the ages of children, I guess, what does it
5 span that you all see at the Assessment Resource
6 Center?
- 7 A Anywhere from zero to 18 or who is developmentally
8 under the age of 18; so we see vulnerable adults as
9 well.
- 10 Q So some of those children, I guess, if you're
11 talking about a 17 or 18-year-old girl, perhaps has
12 already had a gynecological exam with a doctor;
13 right?
- 14 A Correct.
- 15 Q But many of those children have never had such an
16 exam before?
- 17 A Uh-huh.
- 18 Q It's kind of an adult examination, if you will, I
19 guess?
- 20 A For --
- 21 Q Or it's more typically of an adult?
- 22 A Yes.
- 23 Q That type of examination. Okay. Your role as a
24 victim advocate, what is your role?
- 25 A At the ARC?

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1 Q Yes.

2 A I wear many hats. Primarily my first job is to
3 ensure that the family of the victim and their
4 family's rights are observed under the South
5 Carolina Crime Victims Bill of Rights.

6 I provide education to the family, support,
7 answer questions prior to the interview and the
8 medical exams for the parents. Occasionally I'll
9 accompany a child into the exam room if our child
10 life specialist is out or if -- because sometimes,
11 you know, I'm playing with them; and they just
12 build an attachment and don't want to go.

13 I assist law enforcement and DSS in scheduling
14 exams and interviews at the ARC, answer questions
15 from parents or solicitors; and I serve as the
16 liaison between law enforcement, DSS, Solicitor's
17 Office, and our office so that when they need
18 something, they contact me.

19 Also, I serve as that for the family. So if
20 they have something from DSS or the prosecutor that
21 they have a question about, I can get that
22 information for them or put them in touch with
23 their investigator.

24 Q In terms of when it's time for a case to come to
25 trial and a child to testify, what role, if any, do

1 you have in that regard?

2 A I assist in preparing the child and the family, if
3 necessary, for court. So I answer questions from
4 the family about the judicial process. But the
5 primary role there for me is in preparing the child
6 to testify in court, decreasing anxiety about
7 what's going to happen here, by explaining the
8 whole court process, who everyone in the room is,
9 who the jury is, who sits at what tables.

10 We tour the courtroom and just do whatever we
11 can to make the child feel as comfortable as
12 possible about the prospect of testifying because
13 it's anxiety driven for adults but more so for
14 children because they don't have the context for it
15 as we do.

16 Q So similarly as a child life specialist does for a
17 medical exam, you do that for the courtroom
18 setting?

19 A Exactly. They get to come in and play with the
20 equipment here too. They come and sit in the
21 stand. We come to an empty courtroom and play with
22 the microphone and sit in the judge's seat and just
23 see what is involved in a courtroom because it's
24 kind of a scary prospect.

25 Q Did you do that with [REDACTED]

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1 A I did.

2 Q And aside from -- you were talking about just the
3 courtroom itself and who everybody is. What, if
4 any, involvement do you have in terms of the
5 substance of the testimony?

6 A The primary thing that I tell the child, aside from
7 showing them the courtroom when we're talking about
8 the act of testifying, is to talk about the fact
9 that her only job is to tell the truth.

10 We talk about if there's a question you don't
11 understand, if there's an objection, you know what
12 to do in that setting, in that situation; and then
13 we review the video of her forensic interview, and
14 I did with [REDACTED]

15 She watched it and I asked her at the end of
16 that -- my job is not to ask questions. Except
17 after we watch the video, I will usually ask: Is
18 there anything different or has anything changed
19 from when you had that interview?

20 Q Okay. So you don't ask them anything about what
21 happened to them, not like an interviewer does.
22 It's just to be present with her while she reviews
23 it?

24 A Yes, to support her through that and make sure that
25 if she has any questions, that there is someone

1 there who can answer those.

2 Q At any time in preparing [REDACTED] for testifying,
3 was anything brought to your attention by her that
4 was inconsistent with what she said on the
5 videotape?

6 A No.

7 MS. BODMAN: No further questions.

8 THE COURT: Cross examination.

9 MR. BLANKENSHIP: Thank you, Your Honor.

10 CROSS EXAMINATION

11 BY MR. BLANKENSHIP:

12 Q My name is Reynolds Blankenship. I represent
13 Reginald Spellman.

14 A Yes.

15 Q You are an employee of the ARC?

16 A Of the South Carolina Department of Mental Health,
17 and through them I work for the Assessment Resource
18 Center, yes.

19 Q Okay. Is the Assessment Resource Center an arm of
20 law enforcement?

21 A No.

22 Q Okay. What is the multidisciplinary team?

23 A The multidisciplinary team is -- well it's a
24 requirement from the National Children's Alliance
25 for accreditation as a children's advocacy center

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1 that we participate in the multidisciplinary team.

2 So the multidisciplinary team is made up of
3 law enforcement, Department of Social Services,
4 Solicitor's Office, the medical provider, which in
5 this case is through the ARC, mental health, which
6 is also through the ARC, and victim advocacy, which
7 is through the ARC and the various agencies that
8 have victim advocates. We meet and review cases as
9 needed in investigating child abuse.

10 Q So in this case and other cases, you work with law
11 enforcement and the prosecution in dealing with
12 cases?

13 A We work in tandem but we are a separate agency,
14 correct.

15 Q What training do you have as a victim's advocate?

16 A Well, my degree is from the University of South
17 Carolina in experimental psychology and criminal
18 justice. Then I went through the South Carolina
19 Victim's Assistance Academy.

20 It's part of the national requirement that
21 victim advocates be certified. I've been certified
22 through the Crime Victim Ombudsman's Office here in
23 South Carolina.

24 Q Okay. Is any particular degree required to become
25 certified as a victim's advocate?

1 A No. But primarily to receive a position as a
2 victim advocate, depending on what field you were
3 in -- you know, they would want somebody who has a
4 background in social services or psychology or
5 criminal justice.

6 Q So maybe I could get certified but I may not get a
7 job because my background is not correct?

8 A In order to be certified, you actually have to work
9 as a victim advocate and you have to have so many
10 hours in training in victim advocacy per year prior
11 to being certified. You would also have to have
12 either an internship or peer review of some type in
13 your position.

14 Q You said you watched the video of [REDACTED] -- or
15 [REDACTED] interview -- with [REDACTED]

16 A Correct.

17 Q When did you do that?

18 A Monday of this week. We watched it prior to this
19 trial, and we also watched it -- there was some
20 delay in the start of the trial; so we also watched
21 it last October or November.

22 Q Okay. So you watched it yesterday?

23 A Is this Tuesday? Yes. Yesterday morning.

24 Q Was it just you and [REDACTED]

25 A That's correct.

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1 Q And you -- so you and [REDACTED] sat and watched the
2 video of her giving a statement?

3 A Of her forensic interview, correct.

4 Q And that was just yesterday?

5 A Yes..

6 MR. BLANKENSHIP: No further questions.. Thank
7 you.

8 THE COURT: Redirect?

9 MS. BODMAN: No further questions.

10 THE COURT: All right. You may come down.

11 Is this witness free to go? Can she be
12 excused?

13 MS. BODMAN: Yes.

14 THE COURT: Without objection.

15 (The witness leaves the witness stand and is
16 excused.)

17 THE COURT: Next witness.

18 MS. BODMAN: The State calls Investigator
19 Richard Carter.

20 (The witness comes forward.)

21 RICHARD CARTER, being
22 first duly sworn, testifies as follows:

23 THE CLERK: Have a seat in the witness box.
24 State your name for the record.

25 THE WITNESS: Richard Carter.

1 DIRECT EXAMINATION

2 BY MS. BODMAN:

3 Q With whom are you employed?

4 A I'm employed with the Richland County Sheriff's
5 Department.

6 Q In what capacity?

7 A I am an investigator assigned to the Special
8 Victims Unit.9 Q What type of crimes does the Special Victims Unit
10 deal with?11 A We investigate crimes involving child abuse,
12 whether it's physical or sexual, and also cases
13 involving crimes against elderly or vulnerable
14 adults.

15 Q Sexual assaults against adults?

16 A Yes.

17 Q And how long have you been an investigator with the
18 Special Victims Unit?

19 A Four and a half years.

20 Q Can you tell the jury a little bit about your
21 education and your training and your background
22 that brought you eventually to the Special Victims
23 Unit as an investigator?24 A Yes. I've been in law enforcement for 15 and a
25 half years. I started in North Carolina after I

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1 graduated from East Carolina University with a BA
2 degree in criminal justice. I was an investigator
3 at that department. I later went to the Mount
4 Pleasant Police Department and came to Richland
5 County in 2003.

6 After a little over a year, I was promoted to
7 investigations where I worked property crimes,
8 financial crimes, and any other types of
9 investigations before going into the Special
10 Victims Unit.

11 Q You were in here sitting at the table when Nicole
12 Williams was testifying and spoke about the MDT,
13 the multidisciplinary team. Are you a member of
14 that?

15 A Yes, I am.

16 Q I guess as an investigator with the Sheriff's
17 Department?

18 A Correct.

19 Q In the Special Victims Unit?

20 A Correct.

21 Q How is it that you became involved in this case
22 involving [REDACTED] and Reginald Spellman?

23 A I was assigned the incident report. When cases
24 typically come in in the morning, my sergeant gets
25 cases, reads them, and assigns them to whatever

1 investigator he deems.

2 Q Who is your sergeant?

3 A My sergeant is Scott Faust.

4 Q And how many investigators are in the Special
5 Victims Unit?

6 A Myself and there are two others.

7 Q Is that including Sergeant Faust?

8 A No.

9 Q Okay. So Sergeant Faust and then three
10 investigators?

11 A Correct.

12 Q And so I guess -- where does the incident report
13 originate from?

14 A The complainant, whoever is making -- who calls and
15 says, I want to make a report. That's where it is.
16 A line unit -- in this case it was Deputy
17 Satterfield -- was who generated the report and
18 wrote or typed the information.

19 Q So who was our complainant, I guess, in this case?

20 A The complainant in this case was Mr. Morgan.

21 Q Derek Morgan?

22 A Yes, ma'am.

23 Q And then the incident report you said is then
24 produced by the line officer, who was Deputy
25 Satterfield in this case?

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1 A Yes.

2 Q Okay. So the incident report is filled out by
3 Deputy Satterfield and then goes where?

4 A From there it goes to her supervisor to have it
5 approved, and then it's transferred or sent up to
6 the Sheriff's Department headquarters, where at
7 that point it's sent out to investigations; and
8 it's stuck in a stack of daily reports.

9 People can go through them, put them in the
10 corresponding division that they need to go to.
11 Sergeants come in in the morning. They review them
12 and assign them to whatever investigator is under
13 them.

14 Q So because this involves sexual abuse of a child,
15 it goes to the Special Victims Unit?

16 A Yes.

17 Q And then Sergeant Faust assigned it to you?

18 A Yes.

19 Q Do you recall the -- I guess, did you basically
20 take notes or a case summary about your involvement
21 in the case and what you did?

22 A Yes.

23 Q Okay. So when was the case assigned to you? When
24 did you get the incident report?

25 A Sergeant Faust -- it was assigned to me on

1 April 26th of 2010.

2 Q Okay. So what do you know about it at this point?
3 You get the incident report from Deputy
4 Satterfield. What did you need to do? What was
5 the next step in the process?

6 A Make contact with -- in this case since it involved
7 a child, the child's mother.

8 Q Okay.

9 A Which would be Ms. Ansaar.

10 Q And because we're dealing with a child victim, I
11 guess, what is the first thing that you are going
12 to do in terms of the investigation or collecting
13 evidence?

14 A Well, based on the information that was reported,
15 this was in 2010, and the report was it happened
16 last in '06. There's a lot of crimes. You know, I
17 don't have any evidence. So what I would do is
18 send paperwork over to the Assessment Resource
19 Center to schedule a forensic interview and medical
20 exam.

21 Q So did you do that?

22 A I did.

23 Q And then who is responsible for setting it up,
24 making the appointment, scheduling the interview
25 and the medical?

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- 1 A The ARC, the Assessment Resource Center.
- 2 Q So you basically give them the contact information
- 3 of the family and the person that needs to be
- 4 interviewed?
- 5 A Yes.
- 6 Q And they take the next step?
- 7 A Yes.
- 8 Q Did you ensure that an appointment was made and set
- 9 up for the interview and the medical exam?
- 10 A I did.
- 11 Q So you said there's no crime scene for you to go
- 12 to. Why in this case is there no crime scene?
- 13 A There is -- you know, we're talking about a
- 14 four-year time period. Any type of DNA or physical
- 15 evidence would all be deteriorated. The second
- 16 thing is where they were living at at the time that
- 17 was in the report was not the same place as the
- 18 place or location of where it occurred at.
- 19 Q And how much time based on your investigation,
- 20 approximately how much time had passed since they
- 21 even lived at that location?
- 22 A Approximately about three and a half years.
- 23 Q Okay. So what essentially are you waiting to
- 24 happen at this point?
- 25 A At this point I'm waiting for the interview to be

1 conducted at the Assessment Resource Center and
2 also the medical exam.

3 Q Did that occur? Did they interview her and do a
4 medical exam?

5 A They did.

6 Q And then what do you get back, if anything, from
7 them after the interview and the exam?

8 A I get back a report that was completed by
9 Ms. Heather Smith who actually conducted the
10 interview, and I also get a report from
11 Dr. Luberoff about her medical exam.

12 Q Did you review that report, that report of the
13 interview, as well as the report of the medical
14 exam?

15 A I did.

16 Q And based upon your review of those two things,
17 what did you do next?

18 A After that I was also in touch with Ms. Smith
19 regarding the location of where Mr. Spellman was
20 living.

21 Q Now, Ms. Smith is?

22 A Heather Smith.

23 Q And where does she work?

24 A She works at the Assessment Resource Center.

25 Q As what?

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1 A She is a forensic interviewer.

2 Q And is she the one that interviewed [REDACTED] VICTIM

3 A Yes, ma'am.

4 Q Why are you in touch with Heather about the
5 location of the defendant?

6 A That was the information that was given to her by
7 either -- by way of family -- and she just related
8 to me.

9 Q Aside from the interview at the ARC, were you aware
10 of any continued contact that [REDACTED] WOULD BE
11 having with the ARC?

12 A I was aware that she was in therapy.

13 Q So were you able to get any information about the
14 defendant's potential whereabouts?

15 A I was able to. We have a system we call Accurint.
16 It's a law enforcement tool. Actually the phone
17 number that was provided to me --

18 Q Sit up to the microphone and speak up. Thank you.

19 A The phone number that was provided to me by
20 Ms. Smith was used. I input it into the law
21 enforcement system that we use called Accurint and
22 researched that number and was able to figure out a
23 location in North Carolina, not an exact address
24 but it was in North Carolina. From that I also was
25 able to look up some addresses in North Carolina

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1 where Mr. Spellman was possibly living at.

2 Q Okay.

3 A And I also ran his driver's history in North
4 Carolina.

5 Q To see if, I guess, you can find out exactly where
6 he is?

7 A Correct.

8 Q So what did you do next?

9 A Well, after I obtained the forensic interview
10 report, medical report --

11 Q Sit up to the microphone.

12 A After I obtained the reports from the ARC, I then
13 went and obtained an arrest warrant.

14 Q And then what did you do? You're actively looking
15 for him. You get the warrant. What's your next
16 step?

17 A In this case since Mr. Spellman was believed to be
18 living in North Carolina, I took the warrant, gave
19 it to our warrant division, who then they will
20 enter that warrant into what they call NCIC, wanted
21 person files.

22 Then that would be turned over to the warrant
23 division, the fugitive team, to follow up on and
24 try to conduct -- use their resources and reach out
25 to the law enforcement agents in North Carolina to

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1 locate.

2 Q If a warrant is put into NCIC, if the person wanted
3 on the warrant is arrested or stopped, I guess
4 anywhere in the United States, would they then know
5 about that warrant?

6 A If they check that person's name through NCIC.

7 Q Right. They would have to, I guess, run the
8 person's name to actually see, but would it then
9 pop up?

10 A Correct.

11 Q So they would know, Uh-oh, this person is wanted in
12 South Carolina?

13 A Correct.

14 Q What happens next? You put it into NCIC?

15 A In August I was informed by our fugitive team that
16 Mr. Spellman had been located in North Carolina and
17 arrested.

18 Q And what happened next?

19 A At that time I also later found out that
20 Mr. Spellman was not agreeing with returning to
21 South Carolina, and he was fighting extradition.

22 Q And what did you have to do in order to get him
23 back?

24 A At that time a Governor's warrant had to be
25 obtained and forwarded.

1 Q And then he was subsequently brought back to South
2 Carolina under these charges?

3 A Yes.

4 Q What, if anything, did you do in terms of speaking
5 to or gathering information from Derek Morgan about
6 what he had learned from [REDACTED]

7 A There was a summer -- by the time I started the
8 investigation, school was out. I waited until
9 school returned, got back in session in the fall,
10 and got in touch with Mr. Morgan about the matter.

11 I asked if he could provide me a statement;
12 and because of him being at the school and a
13 teacher, I had asked him to just type something up
14 and email it to me, which he did.

15 I later then took that information, put it in
16 a formal statement that we use at the Sheriff's
17 Department, a question and answer. After I
18 obtained all that, I actually met with Mr. Morgan.
19 He read it and he signed it.

20 Q I'm going to show you what's been marked as State's
21 Exhibit Number 4 for identification and just take a
22 look at that and see if you recognize it.

23 A I do.

24 Q And is that the -- I guess, what is that?

25 A This is the information he e-mailed me.

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1 Q I guess the details about his conversation with

2 [REDACTED]

3 A Yes, ma'am.

4 Q And this exhibit is two pages?

5 A Yes, ma'am.

6 Q That details his conversation with [REDACTED]

7 A Yes, ma'am.

8 Q About what had happened to her?

9 A Yes, ma'am.

10 Q Based upon your investigation or during your
11 investigation, did you review this State's Exhibit
12 Number 4, the details that Mr. Morgan had provided
13 you about his conversation with [REDACTED]

14 A Yes, ma'am.

15 Q Did you review Deputy Satterfield's report
16 regarding her contacts and conversation with

17 [REDACTED]

18 A Yes.

19 Q Did you review the forensic interview that [REDACTED]
20 had at the Assessment Resource Center?

21 A Yes.

22 (State's Exhibit Number 5 is marked for
23 identification.)

24 BY MS. BODMAN:

25 Q I'll show you what's marked as State's Exhibit

1 Number 5 and ask if you recognize that?

2 A I do.

3 Q Did you review that also as part of your
4 investigation?

5 A Yes.

6 Q Without discussing the details that are in it, what
7 is State's Exhibit 5?

8 A This is information [REDACTED] wrote or was given and
9 provided to during her therapy.

10 Q With Amy Phipps?

11 A Yes, ma'am.

12 Q And I guess her trauma narrative is what it's
13 called?

14 A Yes.

15 Q In reviewing all of those things we talked about --
16 Derek Morgan's statement, notes, Deputy
17 Satterfield, the forensics interview, and her
18 trauma narrative notes from therapy -- based upon
19 your investigation, did you observe any
20 inconsistencies in her disclosures?

21 A No, ma'am.

22 MS. BODMAN: No further questions at this
23 time.

24 THE COURT: Cross examination.

25 MR. BLANKENSHIP: Thank you.

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CROSS EXAMINATION

BY MR. BLANKENSHIP:

Q Investigator Carter, my name is Reynolds

Blankenship. I represent the defendant. Let me

first show you a document, I guess. Do you

recognize that document?

A Yes, sir.

Q And what is that document, please?

A This is a copy of the original arrest warrant.

Q Thank you. And on this document, is there a place

for you -- for someone to complete an affidavit?

A Yes.

Q And what is an affidavit?

A That is the body of the probable cause with which

to give the arrest warrant.

Q Okay. Is it signed under oath?

A Yes.

Q Under penalty of law?

A Yes.

Q And did you sign an affidavit on this warrant?

A I did.

Q Okay. And this is the arrest warrant for

Mr. Spellman?

A Yes.

Q Okay. And in that warrant do you see a sentence

- 1 called -- or it starts, "on one occasion"?
- 2 A Yes.
- 3 Q Can you read that sentence, please.
- 4 A On one occasion the victim was asleep in the
- 5 mother's bedroom and awoke to find the defendant
- 6 holding her legs up while she was on her back.
- 7 Q Can you read the next sentence too, please.
- 8 A The defendant then placed his penis into the
- 9 victim's vagina and had sexual intercourse with
- 10 her.
- 11 Q Right. It says, placed his penis in the victim's
- 12 vagina and had sexual intercourse with her. That's
- 13 what it says?
- 14 A Yes.
- 15 Q And you signed that affidavit?
- 16 A I did.
- 17 Q And you submitted it to a judge?
- 18 A Yes.
- 19 Q To determine probable cause to arrest Mr. Spellman?
- 20 A Yes.
- 21 Q And this information, placed his penis in the
- 22 victim's vagina and had sexual intercourse with
- 23 her, that's from your investigation?
- 24 A Yes.
- 25 Q And did you hear [REDACTED] testify today?

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- 1 A I did.
- 2 Q Did you hear her say that Mr. Spellman put his
3 penis in her vagina?
- 4 A No.
- 5 Q She didn't say that; did she?
- 6 A I didn't hear her.
- 7 Q Anything about sexual intercourse with her?
- 8 A I didn't hear her.
- 9 Q Do you think that would be an inconsistency between
10 her testimony today and this warrant?
- 11 A Based on what she said today versus before, yeah.
- 12 Q Regarding the extradition Mr. Spellman was in North
13 Carolina?
- 14 A Correct.
- 15 Q When you were looking to arrest him?
- 16 A Yes.
- 17 Q And when he was in North Carolina, he declined to
18 be transferred back to South Carolina; right?
- 19 A Correct.
- 20 Q But he was under arrest up there; wasn't he?
- 21 A Right.
- 22 Q He wasn't free to leave the -- wherever he was
23 detained?
- 24 A He was arrested.
- 25 Q Any evidence that he was trying to flee law

1 enforcement?

2 A No.

3 Q Okay. So there is no evidence of that. In fact,
4 didn't he eventually sign paperwork to be
5 extradited back to South Carolina?

6 A I guess he did. I don't know. I wasn't involved
7 in the extradition process.

8 MR. BLANKENSHIP: Your Honor, I'd move that
9 the arrest warrant be admitted as Defense Number 2.

10 THE COURT: Any objection?

11 MS. BODMAN: No objection.

12 THE COURT: All right.

13 (Defendant's Exhibit Number 2 is received into
14 evidence.)

15 MR. BLANKENSHIP: No further questions.

16 THE COURT: Redirect?

17 REDIRECT EXAMINATION

18 BY MS. BODMAN:

19 Q That warrant, the charge, you charged him with a
20 completed sexual battery; correct?

21 A Yes, ma'am.

22 Q Today in this courtroom **VICTIM** got on this stand,
23 and she said his private part touched her private
24 part; didn't she?

25 A Yes.

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1 Q That his private part touched her private part;
2 right?

3 A Yes.

4 Q Under the law you are familiar with CSC statutes
5 doing what you do. The definition of a sexual
6 battery, how much penetration has to happen for a
7 completed sexual battery? Completed?

8 A However so slight.

9 Q Ever so slight. And she said his private part
10 touched her private part; didn't she?

11 A Yes.

12 MS. BODMAN: No further questions.

13 MR. BLANKENSHIP: Just briefly.

14 RECROSS EXAMINATION

15 BY MR. BLANKENSHIP:

16 Q Investigator did she say "in" today or "on" or just
17 touched?

18 A Touched.

19 Q There was no testimony about penetration ever so
20 slight; was there?

21 A Touched.

22 Q Right. And all the information that led to your
23 warrant really was [REDACTED] statements; wasn't it?
24 Whether you heard them from someone else through
25 the ARC interviewer or the teacher, really the only

1 source of that evidence would have been [REDACTED]
2 herself; right?

3 A Yes.

4 MR. BLANKENSHIP: No further questions.

5 THE COURT: All right. You may come down.

6 May this witness be excused? He's your
7 investigating officer.

8 (The witness leaves the witness stand.)

9 THE COURT: Approach the bench, please,
10 Counsel.

11 (Whereupon there is a bench conference off the
12 record in the presence of the jury but out of the
13 hearing of the jury.)

14 THE COURT: Ladies and gentlemen, we're going
15 to take a short break. I checked with the attorneys on
16 the schedule. We're running on time. We're in good
17 shape. Just go to your jury room a few minutes. Relax.
18 Don't discuss the case while you're in the jury room.
19 We'll call you in about 10, 15 minutes.

20 THE BAILIFF: Follow me, please.

21 (The jury retires to the jury room at
22 3:13 p.m.)

23 THE COURT: All right. Stand at ease for
24 about 10 minutes.

25 (Whereupon there is a recess.)

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1 (State's Exhibit Number 6 is marked for
2 identification.)

3 THE COURT: Is the defense ready?

4 MR. BLANKENSHIP: Yes.

5 THE COURT: Is the State ready?

6 MS. BODMAN: Yes.

7 THE COURT: Bring the jury.

8 (The jury returns to the courtroom at
9 3:39 p.m.)

10 THE BAILIFF: The jury is seated, Your Honor.

11 THE COURT: Call your next witness.

12 MS. BODMAN: Your Honor, the State calls
13 Dr. Susan Luberoff.

14 (The witness comes forward.)

15 SUSAN BREELAND LUBEROFF,
16 being first duly sworn, testifies as follows:

17 THE CLERK: Have a seat in the witness stand.
18 State your full name. Spell your last name for the
19 record, please.

20 THE WITNESS: I'm Susan Breeland Luberoff,
21 L-U-B-E-R-O-F-F.

22 DIRECT EXAMINATION

23 BY MS. BODMAN:

24 Q Dr. Luberoff, where do you work?

25 A I work for the University of South Carolina School

1 of Medicine, Department of Pediatrics. I'm
2 stationed at the Assessment Resource Center or ARC,
3 which is a facility that evaluates children for
4 concerns for sexual and physical abuse or neglect.

5 Q And you're position at the ARC, what are your
6 responsibilities there as a pediatrician at the
7 ARC?

8 A I'm a pediatrician. So when children come in for
9 evaluation, I'm the one that does the medical part
10 of their evaluations. I do the physical exam and
11 any lab work that needs to be done. I help explain
12 any medical issues that come up in that child's
13 investigation to people that need to understand the
14 medical parts of it.

15 Q Can you tell the jury about your education and your
16 training, your background that brings you to be a
17 pediatrician at the ARC?

18 A I graduated from the University of South Carolina
19 School of Medicine, actually in the third class to
20 graduate here in Columbia. I finished a three-year
21 residency in pediatrics at what used to be called
22 Children's Hospital at Richland Memorial. Now,
23 it's Palmetto Health Children's Hospital.

24 I've been a pediatrician ever since. I've
25 worked in several different areas of pediatrics,

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1 but the largest part of my experience has been in
2 this field and dealing with children who may have
3 been injured or harmed by another person.

4 I have completed some specific training
5 regarding child abuse or maltreatment of children
6 and one of the -- really one of the most pertinent
7 trainings to this case is a six-week period of time
8 that I spent in Denver at the Kempe National Center
9 on Child Abuse as a scholar in residence. It's
10 like a mini-fellowship of extra training for
11 doctors about child abuse.

12 I also completed a three-week training through
13 the National Children's Advocacy Center in
14 Huntsville, Alabama, on child sexual abuse issues
15 in particular. Both of those periods of time were
16 about in 1990. I get a little fuzzy, '89, '90,
17 about right then.

18 Since then I've been continuing my education
19 in that field by attending workshops and seminars
20 on child abuse, as well as other areas of
21 pediatrics.

22 I am a Clinical Associate Professor of
23 Pediatrics at the University of South Carolina
24 School of Medicine. I teach third-year medical
25 students.

1 I also provide training for people that need
2 to understand the medical issues about child sexual
3 abuse, for instance, to law enforcement, teachers,
4 guardians ad litem, other doctors, nurses.

5 Q Do you teach at the medical school or to medical
6 students?

7 A I teach to medical students, but I don't teach the
8 child abuse part of their training. I teach some
9 of their other core lectures to third-year medical
10 students.

11 Q So how many years have you been -- I guess, what
12 you do, you are a forensic pediatrician?

13 A Yes.

14 Q So applying the law, whether or not child abuse
15 occurred or injuries are a result of abuse or a
16 crime, applying, I guess, the law to the injuries
17 that you see?

18 A I'm sorry. I lost the question.

19 Q Forensics. I mean, the word forensics is applying
20 the law to medicine?

21 A Yes.

22 Q Okay. In terms of your training in physical abuse
23 and sexual abuse, is your training learning how to
24 identify injuries?

25 A It's learning how to identify injuries and learning

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1 how to help figure out whether the injury that's on
2 the child got there by accident or not by accident.

3 Q So how long have you been a forensic pediatrician?

4 A I started doing child abuse evaluations in about
5 1989, and I've done it to some degree continuously
6 since then; but I did take about a nine-year break
7 to work with handicapped children.

8 During that period of time, I didn't directly
9 see children for child abuse, but I would get phone
10 calls from folks that were thinking through medical
11 issues in cases. I would help them that way, sort
12 of behind the scenes. I've been back in this role
13 now for -- next Monday will be six years.

14 Q So when you weren't actually seeing potentially
15 abused children yourself, you were consulting?

16 A Correct.

17 Q This may be a difficult question, but can you
18 estimate approximately how many children you have
19 seen as a forensic pediatrician?

20 A Specifically in this role to help with evaluations
21 for physical or sexual abuse, my best estimate is
22 that I've seen probably at least 6,000 by now.

23 Q Have you testified in courts of law in South
24 Carolina as a forensic pediatrician before?

25 A Yes, I have.

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1 Q Have you been qualified as an expert in the area of
2 forensic pediatrics?

3 A Yes. They use different titles like child abuse
4 pediatrics and other kinds of things, but yes.

5 Q And approximately how many times have you been
6 qualified as an expert?

7 A I stopped counting at 100 many years ago. I really
8 couldn't even give you an estimate since I stopped
9 counting.

10 MS. BODMAN: Your Honor, at this time I ask
11 that Dr. Luberoff be qualified as a forensic
12 pediatrician.

13 MS. SHEALEY: Without objection, Your Honor.

14 THE COURT: All right. Go ahead.

15 BY MS. BODMAN:

16 Q Did you examine [REDACTED] [REDACTED] on June the 18th
17 of 2010?

18 A Yes, I did.

19 Q Can you tell us -- I guess, first of all, just
20 generally about the process of your examination.

21 A Sure. When children come to the ARC for an
22 examination, one of the first things that happens
23 is that one of the employees help to prepare the
24 child for the exam by explaining everything to him
25 or her.

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1 That employee will explain everything that I'm
2 going to do. They'll orient the child to the exam
3 room, to all the equipment. If anything makes a
4 noise, they'll let them hear that noise so they're
5 not going to be startled by it during the exam.

6 She also teaches the child any positions that
7 I'm going to need for the child to be in so that by
8 the time I see the child, the child life specialist
9 who has prepared the child is confident or is as
10 confident as she can be that the child won't be
11 further traumatized by the exam process.

12 Also, that the child will be able to be really
13 able to be comfortable and cooperative because one
14 of the really important things for me is to be able
15 to get a really good look at things.

16 If I have a child that's scared, that's
17 clamping up her legs or squirming or something like
18 that, I'm not going to get a good look. So that's
19 the first step in the examination process.

20 Then my exam itself involves a very careful
21 look at all the child's skin, whether the child has
22 come in for a worry about sexual abuse, physical
23 abuse, or neglect. I look for any of those.

24 For any child that comes in, I'm going to take
25 a careful look at all of the child's skin for any

1 injuries that I might want to ask the child about
2 or photograph or anything like that.

3 I do things that children expect to be done,
4 like listen to the heart, look in the ears. Some
5 things I do that really aren't related to what I
6 need to know but because children expect that, it
7 helps to make them comfortable.

8 Then I do a very careful exam of the genital
9 area and often use a particular piece of equipment
10 that's called a colposcope, which has a bright
11 light on it. It's like a pair of binoculars so
12 that I can see things a little bit bigger and see
13 real well.

14 Depending on what the history is of why the
15 child came and what the child has said in an
16 interview and my medical exam, I might do testing
17 on the child for sexually transmitted infections or
18 other kinds of problems.

19 Q When you say history, what do you mean?

20 A Well, when I use the word history, to medical
21 people, history means what we're told about why the
22 child is there. So the history generally is
23 whatever the referral source told our intake people
24 when they called to schedule the appointment, what
25 is the reason the child is coming.

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1 Q So either it's specifically, I guess, the injury is
2 this child was either slapped across the face or
3 this child reports sexual abuse?

4 A Yes, those are very common examples of histories
5 that we have might have.

6 Q Licking or penetration or any numerous types of
7 acts?

8 A Right.

9 Q I guess the reason that [REDACTED] on 6/18/2010 was
10 coming to you was a history of what?

11 A I believe the word in the intake was rape, that she
12 had been raped when she was younger.

13 Q Okay. And so how did her specific exam go forward,
14 I guess?

15 A So [REDACTED] on the day that she came for an exam,
16 she had an exam and an interview. She was prepped
17 for the exam in the way that I just explained to
18 you, about somebody telling her all about it and
19 about the positions and everything.

20 Then we did the exam that I just described. I
21 looked at all of her skin. I did a careful exam of
22 her genitalia, examined other parts of her body,
23 her mouth, her scalp, generally a really good
24 physical exam, just a general physical exam, but
25 with particular attention to the skin and genital

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1 areas and areas that are sometimes injured on
2 children.

3 Q Let's talk, I guess, about the genital exam. Tell
4 as best you can as to how that examination
5 proceeds.

6 A I tend to do the genital exam in the middle of the
7 exam. Older children tend to be embarrassed by the
8 genital part, and I don't like for them to leave
9 the exam room right after that because they are
10 going straight out into a waiting room with a bunch
11 of people right after they've had their genitals
12 looked at.

13 So I do it kind of in the middle. Then I do
14 some other things afterwards so they can kind of
15 get unembarrassed. So the genital part comes after
16 I have looked at their hands and feet and felt
17 their belly.

18 We'll have the child -- if it's a girl, we'll
19 have the child position her legs and knees so that
20 I can get a good look; and they have two choices
21 for that.

22 One is to lay on their backs and put the soles
23 of their feet together and their knees out to the
24 side so that the genitals are sort of exposed.
25 That's called the frog-leg position.

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1 To kids that looks like frog legs. I have
2 actually never seen a frog that does this, but we
3 have a toy frog that we show them. Then the other
4 choice is to put their feet in the stirrups, which
5 is just another way of spreading the feet so we can
6 see. The child usually gets to choose which of
7 those positions.

8 Q Did you, I guess, prepare records or a report
9 regarding your examination of **VICTIM**

10 A I did.

11 Q Did you bring a copy of this with you?

12 A I did.

13 MS. BODMAN: Actually, let me have them marked
14 real quick just for identification.

15 (State's Exhibit Number 7 is marked for
16 identification.)

17 BY MS. BODMAN:

18 Q Okay. I'm going to show you what's been marked as
19 State's Exhibit Number 7. I'm going to ask if you
20 can look through that and see if you recognize it.

21 A Yes, this is a copy of the report that I generated,
22 along with lab results and some medical
23 questionnaires that the mother and child filled out
24 or the mother filled out.

25 Q Your examination of the genital examination, what

1 were your findings regarding [REDACTED]

2 A One of the things that we make note of is what
3 stage of puberty that the child is in. That's the
4 first thing I usually mention in the report.

5 [REDACTED] had not started having her periods.

6 She was starting to show signs of puberty
7 though. She was sort of halfway along in her
8 breast development, and she was starting to have
9 some pubic hair. So it probably wasn't going to be
10 too much longer before she started having periods.

11 Then as far as the rest of her genital exam, I
12 note the shape of the hymen. Hymens come in lots
13 of different shapes. I note whether there is
14 evidence of puberty on her hymen, evidence that her
15 hormones are starting to make her hymen grow in the
16 way that's normal. Then I note if I see any
17 injuries to it, any issues around the anal area,
18 and whether there is any discharge or not, those
19 sorts of things.

20 Q What did you see in [REDACTED]

21 A With [REDACTED] -- and she chose to be examined in the
22 frog-leg position -- that's generally the choice of
23 a child that's young like [REDACTED] She had --
24 everything was normal about her genital area. Her
25 hymen was what we call circular. It surrounded the

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1 opening in it. It had a normal opening as I would
2 expect.

3 It did have affect from her hormones. It was
4 starting to thicken up like we expect a hymen to do
5 at puberty and her anal area was normal. There was
6 no discharge from either area and no injury.

7 Q [REDACTED] was how old when she came in for this
8 examination?

9 A She was ten, ten and a half.

10 Q Okay. And when was she reporting that this sexual
11 abuse had occurred to her?

12 A As I recall, it was around six years old; but I
13 have that intake information right here -- when she
14 was six years old.

15 Q So approximately about four years had passed?
16 Somewhere around four years had passed since this
17 sexual abuse?

18 A Since what was in the history, yes.

19 Q Okay. Talk to us about -- if you can, educate us
20 about the hymen and sexual activity. I mean, are
21 you aware of some myths regarding the hymen?

22 A Yes.

23 Q Okay. If you can educate us about that.

24 A Yes.. It's very common for people to grow up
25 believing that the hymen has properties that it

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1 really doesn't have. The hymen itself is a piece
2 of tissue that's near the beginning of the vagina.

3 It sits somewhat up inside this body, and it
4 can be in several different shapes in that space;
5 but it's a tissue that's human. It's human normal
6 living tissue with all the properties that other
7 tissues that it has to heal. It has a blood
8 supply. It grows and so on.

9 It's common for people to grow up believing
10 that the first time that a girl is involved in a
11 sexual act that the hymen ruptures or tears or is
12 in some way destroyed or forever records that
13 event.

14 That is actually very, very, very unusual in
15 real life for that to happen because the hymen, it
16 can stretch. There is an opening in it that's
17 normal, and that opening allows a lot -- allows the
18 passage of a lot larger object than you would think
19 that it would.

20 The hymen is compressible too so that if an
21 object, a finger or a penis, goes through the
22 opening of the hymen, it can compress the hymen and
23 tissue away from it so that it's not injured.

24 Now, it's not impossible for a hymen to be
25 injured during sex. It does happen but it doesn't

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1 often happen. And when it does happen, it heals
2 and it heals really nicely without making a scar.

3 The hymen is one of the tissues that we call
4 mucus membrane tissue, which means it stays moist
5 all of its life. It's bathed in moisture. Sort of
6 a parallel to that is to think about the inside of
7 your mouth. It's a mucus membrane because it stays
8 moist all your life.

9 Well, if you injure the inside of your mouth
10 either by biting down on a pork chop and cutting it
11 or having oral surgery in your mouth even, then
12 those mucus membranes will just heal back over with
13 new mucus membranes.

14 It's very rare that you need a scar in your
15 mouth to cover over an injury that you've had. The
16 hymen is like that. It heals beautifully and it
17 heals fast.

18 So that if a child does get injured from a
19 sexual act, we have the best chance of seeing
20 evidence of that if we see that child within just a
21 couple of days after it happens.

22 The longer it is before we see them, the more
23 realistic it is for that to have healed over and
24 for us to not be able to tell that there was ever an
25 injury there.

1 Most hymenal injury, if it occurs in the first
2 place, will completely heal without a scar by
3 about two weeks. Then on top of that, if something
4 happens sexually to a child before she enters
5 puberty, the hymen is different than it is after
6 puberty.

7 Just like the breasts look different before
8 puberty and after puberty, the hymen before puberty
9 looks -- if I could take it out and hold it up to
10 the light and show you, you would be able to see
11 light through it. It looks really thin and it
12 looks really fragile.

13 That might be part of why people sort of think
14 that it is fragile and it gets burst all the time.
15 At puberty it undergoes a tremendous growth because
16 of hormones.

17 One of the things it does is it starts
18 thickening up and thickening up. So by the time a
19 child is having periods, if I were able to take the
20 hymen out and try to look through it, it would be
21 as thick as my thumb. There would be no way I
22 could see anything through it.

23 Another direction that it grows, besides front
24 to back to get thicker and thicker, is that if you
25 think of a hymen as being sort of like a circle

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1 with an opening in it.

2 As it's doing all of that thickness growing,
3 it's growing so much that the surface of it starts
4 to kind of fold and ripple so that by the time
5 puberty is over, if you were to take an object and
6 try to go through that opening, there is a lot more
7 surface area for it to just simply spread out and
8 make room.

9 I didn't even think to bring it, but if you
10 think of it like the scrunchies that girls use for
11 their ponytails, a scrunchie, when it's not in your
12 hair, it has a little small hole on it.

13 But when you've got to stretch it and make a
14 ponytail, it stretches out. There's a lot of room
15 because it's all folded around on itself. It's
16 kind of like that.

17 So at the stage of puberty that **VCIM** had
18 achieved by the time I saw her, she was having some
19 estrogen effect on her hymen; so it was starting to
20 have a lot of that luxurious growth.

21 That growth also, if there had been an injury
22 at an earlier age, obscures injury because there is
23 so much growth that happens. So her exam was
24 completely normal.

25 There was no injury to her hymen, nothing

1 abnormal about her hymen at all; but that is
2 actually what I would expect to see in a child of
3 [REDACTED] age with a history of some sort of sexual
4 abuse years earlier.

5 Q And sometimes when you're talking about injury, you
6 had prefaced with "if, at all." So an intrusion
7 into the genitals, female genitals, could occur
8 without injury?

9 A Yes, and often occurs without injury, more often
10 than not.

11 Q That is the, I guess, more frequent experience that
12 there is no injury?

13 A That's correct.

14 Q But even if there is injury, you would expect it to
15 heal very quickly?

16 A Yes.

17 Q I've like to show you State's Exhibit Number 6.
18 Have you previously looked at that?

19 A Yes, I have.

20 Q And in discussing the hymen and the openings, would
21 this help you a little bit to be able to describe
22 to the jury about these openings?

23 A Sure.

24 Q And what you see?

25 A Sure.

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1 MS. BODMAN: I've previously shown this to
2 defense counsel.

3 MS. SHEALEY: Without objection.

4 THE COURT: Go ahead.

5 BY MS. BODMAN:

6 Q Would it help you to step down, I guess, to be next
7 to it or no?

8 A I'll tell you what is going to help me is I have
9 recently broken my arm. I can't hold that; so if
10 you can hold it.

11 Q Yes, absolutely.

12 A (Witness leaves the witness stand.)

13 Q I hold it.

14 A You know what, since it's kind of small, I'll try
15 to just use my finger.

16 Q Do you want me to go on the other side?

17 A This is my good arm.

18 Q What are we looking at here now?

19 A These are just some illustrations. These are not
20 photographs. These are just another way of
21 illustrating the different shapes that are common,
22 that you see in little girls' hymens.

23 This (indicating), let me kind of orient you
24 here. These illustration are portraying a little
25 girl that's got her legs spread. In order to even

1 see this part (indicating) though, it's covered up
2 by the labia or the lips that are outside of it.

3 So one of the things I have to do is to have
4 the child be comfortable enough for me to move
5 those out of the way. So the labia now has been
6 pulled away for us to be able to see this part of
7 the child's body.

8 Q The labia is what? The outer lips?

9 A Well, there are two sets of labia, but the sort of
10 common term is lips of the vagina.

11 Q Okay.

12 A You pull those away. So this (indicating)
13 represents sort of the edge of the lips that have
14 been pulled away. This (indicating), it says
15 annular here. I used the word circular because I
16 like that better. It means the same thing. It's
17 circular. It goes all the way around the opening.

18 This part right here (indicating) is the
19 opening. That goes all the way up into the vagina
20 to the cervix. That's sort of the gateway into the
21 childbirth experience.

22 Almost all little girls who have everything
23 else normal -- vagina, ovaries, and so on -- have
24 an opening in that hymen when they're born. It's
25 not common at all to be born without an opening in

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1 it.

2 In fact, the opening is necessary to allow
3 mucus and later menstrual blood to come out. Girls
4 produce mucus from before they're born. So it's
5 got to go out so there's got to be an opening.

6 If there's not an opening, then at some point
7 in that child's life, a doctor or surgeon has to
8 make an opening in it. So they need an opening and
9 most of us are born with an opening there. This
10 one is circular.

11 This (indicating) where it looks kind of
12 scalloped or folded, that's sort of what I was
13 trying to describe to you that it does when it's
14 growing. This is called fimbriated vagina,
15 scalloped, lots of different adjectives that we can
16 use to describe these.

17 We use these words in our chart just so we can
18 remember what that child's hymen looked like.
19 There is no significance of one of these over
20 another. It's very common when children are about
21 seven years old for the top part of the hymen not
22 to be as obvious. So it looks almost like a
23 crescent starting at the top.

24 This (indicating) is trying to show a shape
25 that's kind of poking out at you. Some hymens are

1 almost like a sleeve. They will kind of be poking
2 out a little bit. It's normal in some kids to have
3 a little connection from one part of the hymen to
4 another.

5 Q So these are essentially two openings?

6 A Two openings, yes. And this is a child that had
7 two openings. And while she was still developing
8 and before she was born, it started to erode down.
9 So there's two little bumps that give us a record
10 that she used to earlier have one like that.

11 So these are a bunch of common shapes to just
12 show you that they're not all the same, just like
13 people's eyes are shaped differently and noses are
14 shaped differently, hymens are shaped differently.

15 Q So to have no opening whatsoever you're saying is
16 not normal?

17 A I'm not going to say it's abnormal because you can
18 live with it, and it does happen sometimes in
19 girls; but it's very unusual and it requires
20 intervention. There needs to be an opening there.

21 Q Okay. Thank you.

22 A (Witness resumes the witness stand.)

23 Q And what you saw -- you said that hers was
24 normal -- but what you saw in [REDACTED] is there one
25 of these that demonstrates or shows what you saw in

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1 her?

2 A Yes, hers was this annular or circular type
3 (indicating), which is the most common shape that
4 we see in girls at and beyond puberty. Hers was at
5 this shape (indicating) at that point. It may
6 later, as she got further into puberty, have
7 advanced to the other shape.

8 Q With an opening?

9 A Yes.

10 Q And at some point does the hymen, I guess,
11 disappear or does a middle-aged woman still --- is
12 it normal for a middle-aged woman to still have a
13 hymen?

14 A It's normal for a middle-aged woman to still have a
15 hymen, just like a middle-aged man still has a
16 penis. It's normal. It doesn't go anywhere,
17 unless it's removed for cancer or, you know,
18 something extraordinary.

19 Q Do you have an opinion to a reasonable degree of
20 medical certainty as to whether or not your
21 findings, what you saw, was consistent with what
22 [REDACTED] reported?

23 A Yes. A normal exam is still consistent with a
24 history of having sexual abuse, even involving
25 penetration, years earlier.

1 Q And when you're talking about the genitals, female
2 genitals, what part of the female genitals does
3 that include? You talked about the outer lips, but
4 what is considered part of the female genitals?

5 A Well, the outer part of the genitalia is the dry
6 skin part, the outer part of the outer lips. The
7 inner surface of the outer lips, the inner lips,
8 the hymen, the vagina, all of that are the more
9 intimate part, the internal part of the genitalia.

10 The genitalia would be the labia, the hymen,
11 the clitoris, the urethra opening where a child
12 pees, the vagina itself, the cervix, the uterus.
13 All of that would be part of the genital system.

14 Q Okay. And the labia is included in the genitals?

15 A Yes, it is.

16 MS. BODMAN: No further questions at this
17 time.

18 THE COURT: Cross examination.

19 CROSS EXAMINATION

20 BY MS. SHEALEY:

21 Q Is it your understanding that [REDACTED] alleged
22 penetration?

23 A Yes.

24 Q And I have your report here where you have checked
25 off vaginal and penile penetration; is that

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1 correct?

2 A Yes. That page that you're looking at is part of
3 the page that's the history.

4 Q Okay.

5 A So this would be what we've been told by the
6 referral source about the history.

7 Q Okay.

8 A This isn't from me asking the child about it or
9 anything like that. What I checked, to answer your
10 question, was the reason for referral, sexual
11 abuse, vaginal penile penetration greater than ten
12 days ago.

13 Q And you filled this out? This is your report?

14 A It is.

15 Q Okay.

16 MS. SHEALEY: Your Honor, I'd like to move
17 this in as a defense exhibit.

18 THE COURT: What?

19 MS. SHEALEY: I'd like to enter this in as a
20 defense exhibit.

21 THE COURT: As what? Into evidence?

22 MS. SHEALEY: Into evidence.

23 MS. BODMAN: I guess I need to see all the
24 pages that are there.

25 (Pause.)

1 MS. BODMAN: Yeah, it's missing some pages.
2 If we just could get the entirety of the record, then we
3 have no objection.

4 MS. SHEALEY: Your Honor, we can do that.

5 THE COURT: Are you going to examine her about
6 it now?

7 MS. SHEALEY: No, I was going to enter it into
8 evidence. We may have found a good copy. Your Honor,
9 if you would like, we can substitute it and continue.

10 MS. BODMAN: We can handle it. We have no
11 objection to the medicals, but I think we need to handle
12 it. We'll get them together when we take a break.

13 THE COURT: You mean the entire report? Is
14 that what you're saying?

15 MS. BODMAN: Correct, yeah. Can we approach?

16 THE COURT: All I want to know is if you have
17 any objection to the report?

18 MS. BODMAN: No, I don't.

19 (Defendant's Exhibit Number 3 is received into
20 evidence.)

21 THE COURT: Okay. Go ahead, Ms Shealey.

22 BY MS. SHEALEY:

23 Q Dr. Luberoff, you just testified that, as expected
24 because the alleged abuse occurred in 2006, the
25 exam results were normal?

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1 A Yes.

2 Q Is that correct?

3 A Yes, they were normal and the history was it
4 happened.

5 Q So if the allegations were true, the results would
6 be a normal exam?

7 A I would expect it to be.

8 Q If the allegations are false, it would be a normal
9 exam?

10 A I would expect it to be normal if they were false
11 also, yes.

12 MS. SHEALEY: No further questions.

13 THE COURT: Redirect?

14 MS. BODMAN: No, sir.

15 THE COURT: All right. You may come down.

16 THE WITNESS: Thank you.

17 THE COURT: Thank you very much.

18 (The witness leaves the witness stand.)

19 THE COURT: All right. Approach the bench.

20 (Whereupon there is a bench conference off the
21 record in the presence of the jury but out of the
22 hearing of the jury.)

23 THE COURT: All right. Ladies and gentlemen,
24 that will conclude the testimony for today. I'm going
25 to ask you to be back in the jury room at 9:30 tomorrow

1 morning, at which time we'll continue with the trial.

2 Again, I'm going to ask you not to do any
3 independent research on this case over the evening hours
4 with any internet process or anything else like that or
5 discuss the case among yourselves when you return to the
6 jury room in the morning or with anyone else over the
7 evening hours. Hope you have a pleasant evening. We'll
8 see you at 9:30 in the morning.

9 I anticipate -- I'm not sure -- but I
10 anticipate we'll conclude this case tomorrow. I'm not
11 sure but that's my indication at this point. All right.
12 Thank you very much.

13 (Whereupon the jury is excused for the day at
14 4:16 p.m.)

15 THE COURT: All right. Anything for the
16 record at this time from the State?

17 MS. BODMAN: No, Your Honor.

18 THE COURT: From the defense?

19 MR. BLANKENSHIP: No, other than we need to
20 clarify that medical report.

21 THE COURT: All right.

22 MS. SHEALEY: Your Honor, I would just --
23 since we are done early, I would again like to ask to
24 proffer the victim's testimony and the investigator's
25 testimony.

1 THE COURT: The investigator?

2 MS. SHEALEY: I also wanted to proffer the
3 investigator's testimony too.

4 THE COURT: You want to call the investigator?

5 MS. SHEALEY: Yes.

6 THE COURT: Where is the investigator? Which
7 investigator? Who are you talking about?

8 MS. SHEALEY: Investigator Carter.

9 THE COURT: Who?

10 MS. SHEALEY: Investigator Carter.

11 THE COURT: Carter. And what else?

12 MS. SHEALEY: And the victim's.

13 THE COURT: What is the State's position?

14 MS. BODMAN: Well, I object to the victim.

15 Essentially they said their theory of wanting to admit
16 this testimony was that if she had potentially been
17 abused by somebody else prior to the date of disclosure,
18 they wanted to ask about that.

19 And that if she had, if she said yes, then
20 that could potentially open up whoever else was abusing
21 her to be a source of knowledge of how she would know
22 about, you know, penises and white stuff.

23 But I asked that question of her on this
24 witness stand; so that's been proffered. I said: Did
25 anybody else prior to the date that you told Mr. Morgan

1 what Reggie had been doing to you, had anybody else
2 sexually molested you? And she said no. That's the
3 proffer. I did the proffer for them.

4 THE COURT: Ms. Shealey.

5 MS. SHEALEY: Your Honor, first of all, we
6 already know she lied on the stand stating that she
7 never had lied to ARC before. Because as Ms. Bodman
8 told us in chambers yesterday when she found out she was
9 pregnant, she lied to ARC and said that she had never
10 had sex.

11 We then had to be -- it had to be explained to
12 her that she couldn't be pregnant without having sex.
13 Then she said, Well, yes, I have been having sex. So
14 we already know she lied to ARC and then she lied on
15 the stand because she said she never lied to ARC. So
16 she essentially opened the door about the other
17 information.

18 You know, there are other reasons besides
19 finding out if she was having sex with someone at the
20 exact time in April of 2010 when she disclosed that I
21 wanted -- I feel like we should have been able to
22 present to a jury. When that information was excluded,
23 we changed our -- we had to change the trial strategy;
24 so questions that I would have asked her on direct --

25 THE COURT: Cross.

1 MS. SHEALEY: -- cross examination, that I
2 would like to be able to ask her about other people
3 touching her and when it started.

4 THE COURT: Well...

5 MS. BODMAN: Can I address the lie issue?

6 THE COURT: Well, I'm not concerned about
7 that.

8 MS. BODMAN: Okay.

9 THE COURT: You might be. I'm not. I've
10 already ruled that out. And tell me the question, write
11 down the exact question you want to ask her. In other
12 words, the State has already asked if she had been --
13 what was your word -- abused?

14 MS. BODMAN: Was she sexually molested by
15 anybody else prior to that date that she talked to Derek
16 Morgan.

17 THE COURT: She says no. Now, what's your
18 question?

19 MS. SHEALEY: Well, Your Honor, I have a
20 couple of questions I want to ask her. I want to ask
21 her that question as well as --

22 THE COURT: Well, now, she has already
23 answered that question. You didn't follow that up with
24 any cross examination; so that's in the record.

25 MS. SHEALEY: Okay, Your Honor.

1 THE COURT: You can't do it again.

2 MS. SHEALEY: Well, I'd also like to ask her
3 more specifically if certain people that she disclosed
4 had touched her -- you know, go further into it. She
5 has already been very inconsistent on the stand; and
6 when you ask her a question, then she changes her story.
7 I want to be able to follow up on that.

8 THE COURT: I don't see that. I don't know
9 what you're talking about. She changed her testimony on
10 the stand? What are you talking about?

11 MS. SHEALEY: Well, she changed her story on
12 the stand from what actually happened when she talked to
13 the forensic interviewer and when she talked to the
14 teacher and when she talked to the investigator.

15 THE COURT: That was six months later; right?
16 Six months later?

17 MS. SHEALEY: Six months?

18 THE COURT: Later.

19 MS. SHEALEY: When she talked to -- the
20 forensics interview was done in June of 2010.

21 MS. BODMAN: She is saying today, her
22 testimony was in some aspects different than those
23 things; but that is all about Reggie. That's all about
24 this defendant. It's all about her disclosure to
25 Heather, to Amy Phipps. That's all there.

1 It was there for her to cross examine on and
2 she did. It's there for her to address in closing. She
3 could have -- as you said, she could have asked her more
4 questions about: Well, you say that nobody else
5 sexually molested you prior to that date with Derek
6 Morgan, but was Shawn in the house? Was he touching
7 you? She could have asked about all that timeframe.
8 That was all there.

9 MS. SHEALEY: Your Honor, I could have, but
10 since you have ruled that we can't get into all of the
11 new information, our trial strategy --

12 THE COURT: That's not -- I'll go back to my
13 first question to you was: What's the relevance? If
14 she had been touched, molested, or involved in sexual
15 activity at the time of the disclosure, then I think the
16 case law applies. The rape shield statute doesn't, but
17 all the cases say prior to.

18 If the activity took place prior to the
19 disclosure, then the jury ought to know about it. But
20 that's not what the evidence in this case is so far. It
21 seems to me that you're looking for something that you
22 might find, that might be there; but there is no
23 evidence that there is anything there and the child has
24 denied that.

25 Now, if you have other evidence to prove what

1 you're seeking to prove, that's a different story. But
2 to get it from a witness, from the child, who has
3 already testified that there was nothing prior to the
4 disclosure, other than the defendant's alleged act, I
5 don't know how -- I mean, I just never have been
6 involved in a post-trial examination that sought to
7 elicit something that was not elicited during the
8 testimony of the witness.

9 MS. SHEALEY: Well, Your Honor, I don't think
10 that this kind of situation happens very often,
11 thankfully.

12 THE COURT: Well, that's true. I mean, I
13 agree with you on that. But I think the fact that
14 there's this gap in time between known sex activity and
15 the alleged sexual activity precludes jumping over that
16 period of time.

17 As I say, I think you've had the opportunity
18 to do that when she was on the stand. I didn't preclude
19 you from doing anything on the stand except for going
20 into the behavior which postdated the disclosure and to
21 a fair amount of time. It wasn't the next day.

22 It was, according to the outline Ms. Bodman
23 gave me, is from April until November where she
24 indicates that -- I mean, you agreed to this timeline.
25 That's when she began having sex with some other

1 individuals.

2 I still don't -- I mean, I don't see how you
3 bridge the gap, as they say, unless you did it with her
4 when she was on the stand. I don't think you can go
5 back and fish around to try to find -- I mean, you could
6 have asked her if she had relations with whomever you
7 think she might have had relations with.

8 I think she did testify that -- I can't
9 remember whether she testified to Shawn or whether that
10 question was ever asked of her. But searching for a
11 third party at this stage of the proceedings, I just --
12 I don't see how that's proper or admissible.

13 MS. SHEALEY: And I wasn't asking to do it in
14 front of the jury. I was asking to proffer it.

15 THE COURT: Well, you know, even if you did
16 proffer it, what would you do with it?

17 MS. SHEALEY: Well, we would preserve it so
18 the Court of Appeals would have something to look at on
19 appeal.

20 THE COURT: Well...

21 MS. BODMAN: I mean, to me --

22 THE COURT: They'll have plenty to look at.

23 MS. BODMAN: At this point it would just be
24 badgering her and embarrassing her. I asked her that
25 question about the relevant timeframe, and she answered

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1 it under oath. If you go back and say, Did you really
2 tell the truth? Is that true? Really didn't you have
3 sex? I mean, it's just badgering her and embarrassing
4 her.

5 THE COURT: Well, the Court of Appeals can
6 deal with my ruling.

7 MS. SHEALEY: Thank you, Your Honor. I do
8 believe that you said I could proffer the investigator.

9 THE COURT: Go ahead. Officer.

10 (The witness comes forward.)

11 THE COURT: Mr. Carter, you're back up on the
12 stand.

13 You're the one who called him in your case in
14 chief. Well, never mind. Go ahead.

15 IN CAMERA CROSS EXAMINATION

16 BY MS. SHEALEY:

17 Q Is investigator your title?

18 A Ma'am?

19 Q Is investigator your title?

20 A Yes, ma'am.

21 Q You are the investigating officer in the case that
22 alleges that Reginald Spellman abused [REDACTED] is
23 that correct?

24 A Yes.

25 Q Are you the investigating officer of the case where

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1 [REDACTED] VICTIM became pregnant?

2 A Yes.

3 Q And she became pregnant last -- they estimate last
4 November? That's 2010?

5 A No, it was the end of December, first of January
6 2011.

7 Q And that was discovered at a forensic interview at
8 ARC?

9 A Correct.

10 THE COURT: Ms. Bodman, just in sensitivity,
11 do you want your client here to hear this?

12 (Pause.)

13 (The victim leaves the courtroom.)

14 THE COURT: All right. Continue.

15 MS. SHEALEY: Thank you, Your Honor.

16 BY MS. SHEALEY:

17 Q Subsequently she had an abortion?

18 A She did.

19 Q And there is a fetus in possession of SLED from
20 that abortion; is that correct?

21 A That's incorrect.

22 Q Is there -- where is the fetus?

23 A It's with the evidence custodian of the Richland
24 County Sheriff's Department.

25 Q Okay. So it is in law enforcement's possession?

1 A It is.

2 Q Now, the child named three possible people that
3 could be the father?

4 A Yes.

5 Q Okay. But initially she said she was not having
6 sex and would not tell you who the father was?

7 A Initially -- if we're going to get into that
8 case -- initially she was a witness, potential
9 witness to another sexual abuse case involving
10 another juvenile, a minor child.

11 She was scheduled at the ARC to be interviewed
12 for information regarding what she witnessed that
13 involved the other child. Okay. A medical exam
14 was also completed. At that time a pregnancy test
15 was given, and she was found to be pregnant.

16 Q And initially she wouldn't tell you or anyone at
17 ARC who the father was?

18 A Correct. There was no information to indicate that
19 she had had sex with anyone.

20 Q Well, after you found out she was pregnant, a
21 second forensic interview was done on the friend;
22 and the interviewer asked -- said **VOTHI** won't
23 tell us who the dad is. You've need to help us
24 out.

25 A No, the follow-up interview to the other person

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1 involved in that case, that person -- that female,
2 that girl -- disclosed two possible names. Now,
3 there is no relevance whatsoever. There is no
4 connection between Mr. Spellman and [REDACTED] being
5 pregnant. There is no relationship in there
6 whatsoever.

7 The name of Shawn Bennett that's been
8 mentioned throughout this trial, there is no
9 information given by the female or [REDACTED] that
10 Mr. Bennett had sex with either one of them.

11 Q Isn't it true that the female friend actually said
12 that she thought [REDACTED] had had sex with Shawn
13 Bennett?

14 A In the information that I have, there is no
15 reference that Shawn Bennett had sex with her or
16 [REDACTED] It was the friend who said [REDACTED] said
17 that the father of that child was somebody named
18 Josh.

19 Q Well, she also said it could be [REDACTED] or ADHD or
20 she even said it could be her brother, [REDACTED] She
21 was just naming possibilities at that time.

22 THE COURT: Is that a question?

23 BY MS. SHEALEY:

24 Q Is that true?

25 A That follow-up forensic interview that I have

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1 where her friend said that [REDACTED] said that Josh
2 was the father or that daddy of the child.

3 Q But later in the interview, she names a few more
4 people; isn't that true?

5 A I believe the particular person you're talking
6 about indicates who she has had sex with.

7 Q Okay. Now, in [REDACTED] interview about the
8 particular person, she says that Shawn Bennett
9 actually touched her on her breasts; isn't that
10 true?

11 A The information in that report, everything, all the
12 touching was done over clothes. There was nothing
13 done under clothes, and there was no information --
14 there was no disclosure of any kind that there was
15 any sexual intercourse between Mr. Bennett and

16 [REDACTED]
17 Q Well, I didn't ask about sexual intercourse. I
18 said he touched her breasts; isn't that true?

19 A That is information that's in --

20 Q And it's illegal for an adult male to touch someone
21 [REDACTED] age on the breast; isn't that true?

22 A It is.

23 Q And she said Shawn Bennett did that; didn't she?

24 A She did.

25 Q Have you talked to Shawn Bennett?

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1 A No, ma'am.

2 Q So the friend says Shawn Bennett tried to have sex
3 with her. [REDACTED] VICTIM says he touched her on her
4 breast, but you haven't even talked to him?

5 A No, ma'am.

6 Q And you heard [REDACTED] VICTIM mom testify earlier that
7 Shawn Bennett was in and about the house in 2006;
8 didn't you?

9 A Yes.

10 Q So [REDACTED] VICTIM claims she was abused in 2006 when Shawn
11 Bennett was around, and then she claims she was
12 abused later when Shawn Bennett was around; isn't
13 that true?

14 A Okay. Now, we're going to -- the trial that we're
15 in now, she has alleged that she was abused by
16 Mr. Spellman. There is no information that she was
17 abused by Mr. Bennett in 2006. The second case
18 that I have, which is the one she is pregnant, she
19 has disclosed that Mr. Bennett did touch her
20 breasts.

21 Q And as you testified before, the fetus is in law
22 enforcement's possession; is that correct?

23 A It is.

24 Q And names have been given of people who are the
25 possible father of that child; is that correct?

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1 A The consistent name of Josh, with no last name, is
2 given; however, I have no other information at this
3 time to follow up on. It is an open investigation.
4 It is not a closed case. It is ongoing. I mean,
5 it's not going to go away.

6 Q Well, in the interview which was done in April of
7 2011, they state that Josh is a friend of [REDACTED]
8 They give who his aunt is. They give what
9 neighborhood he lives in. Did you try to
10 investigate who this Josh was?

11 A The aunt and uncle that resided in the neighborhood
12 do not live there anymore. I have spoken with
13 [REDACTED] and he doesn't know where the trailer is or
14 residence where the aunt and uncle used to live.

15 If I had that information, I would be asking
16 management who lived there to attempt to identify
17 him. That's something I want to do. I mean, it's
18 not something that I'm, you know, not wanting to
19 do.

20 Q Did you ask [REDACTED] who he is? Where he goes to
21 school? Any kind of identifying identification?

22 A I have but [REDACTED] hasn't given me any information to
23 help identify the last name or who Josh is.

24 Q So [REDACTED] is protecting Josh?

25 A I don't know if [REDACTED] is protecting anyone.

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1 Q But this is -- it was stated in the forensic
2 interview that this was a friend of [REDACTED] isn't
3 that true?

4 A It is but I...

5 Q And all this happened about ten months ago; is that
6 true?

7 A Well, I believe the child was aborted in April of
8 last year.

9 Q And since then this fetus hasn't been tested to
10 anyone?

11 A The fetus was submitted to our DNA lab, a sample.
12 I executed a search warrant to collect the fetus.
13 I also executed a search warrant to have the fetus
14 tested.

15 What they do in this particular situation is a
16 paternity test. A profile was developed using
17 [REDACTED] known sample. The other, I guess, second
18 part of the paternity test, the way it was
19 explained to me by our DNA analyst, is that it's
20 not something they submit into CODIS to see if they
21 can get a hit. They do a normal paternity test
22 when they get a suspected or known sample to
23 compare it to. They will do it at that time.

24 Q And you haven't found Josh to test this yet?

25 A Correct.

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- 1 Q Josh, a friend of [REDACTED] --
- 2 A Correct.
- 3 Q -- hasn't told you?
- 4 A Correct.
- 5 Q How many times have you talked to [REDACTED] about
- 6 this?
- 7 A Actually the last time I talked to him was
- 8 yesterday.
- 9 Q Okay. And you asked him if he had seen Josh?
- 10 A I did.
- 11 Q Has he seen Josh?
- 12 A No.
- 13 Q Did you ask him where Josh goes to school?
- 14 A He doesn't know.
- 15 Q And he doesn't know which trailer the aunt and
- 16 uncle live in?
- 17 A He didn't know.
- 18 Q Did you ask [REDACTED]
- 19 A No, I haven't spoke with [REDACTED]
- 20 Q Because she seemed in her interview to know where
- 21 the trailer was.
- 22 A I will say that information during her second
- 23 interview, I did ask Heather, who conducted that
- 24 interview, to inquire to see if she couldn't obtain
- 25 additional information --

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- 1 Q Uh-huh.
- 2 A -- to help identify anybody possible.
- 3 Q Did you talk to [REDACTED] or anyone else about [REDACTED] or
4 Justin or ADHD?
- 5 A No.
- 6 Q Other names that were given in the forensic
7 interview?
- 8 A No.
- 9 Q So you're just banking on it's the one person that
10 we think it is?
- 11 A That's the information.
- 12 Q And [REDACTED] actually disclosed three names of
13 people it could be; is that true?
- 14 A And I believe she did that through therapy.
- 15 Q Okay.
- 16 A That wasn't told directly to her mother to tell to
17 me. That wasn't told directly to me.
- 18 Q So this is the first you're hearing of that?
- 19 A The first I heard of that was in October of last
20 year.
- 21 Q Okay. Did you figure out who those names were?
- 22 A The Josh, there was a [REDACTED], and I can't remember
23 the other name.
- 24 Q Did you try to figure out who these people were,
25 the ones who weren't Josh?

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1 A I did. Actually I had tried to figure out who Josh
2 was by asking Deputy Satterfield to check the
3 records at the school for any Josh, but there were
4 a lot of Joshes.

5 Q What about the other two that VICTIM said? Did
6 you try to figure out who they were?

7 A I believe there was a MINOR (phonetic);
8 but, you know, I'm limited in the information that
9 I have. There is nothing that suggests that MINOR
10 -- it was Josh as the father of the child,
11 not ANOR I believe MINOR is mentioned as
12 someone that was, I guess, her boyfriend at one
13 time.

14 Q Well, someone VICTIM mentioned could be the father
15 of the child; correct?

16 THE COURT: Counsel, where are you going with
17 this? I think we're way far afield.

18 MS. SHEALEY: Your Honor, at this point in
19 time, I'm just attacking the credibility of this
20 investigation. As I stated before, I feel like the
21 investigation is relevant.

22 THE COURT: Well, I don't.

23 MS. SHEALEY: I understand that. I'm
24 proffering it for the Court of Appeals.

25 THE COURT: No, you're in my courtroom right

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1 now. This is not the Court of Appeals. I don't see the
2 relevance of this to anything in this trial, and I just
3 suggest that your wind it up.

4 BY MS. SHEALEY:

5 Q Investigator, no one has been arrested after
6 [REDACTED] become pregnant at 11; have they?

7 A No, ma'am.

8 Q And that was ten months ago?

9 A It's an open investigation.

10 MS. SHEALEY: No further questions, Your
11 Honor.

12 THE COURT: All right. Anything from the
13 State?

14 MS. BODMAN: No, Your Honor.

15 THE COURT: All right. You may come down.
16 Thank you very much.

17 (The witness leaves the witness stand.)

18 THE COURT: At 9:30. See you then.

19 MR. BLANKENSHIP: Thank you.

20 MS. BODMAN: Thank you, Your Honor.

21 THE COURT: Counsel, I was just reminded that
22 the Richland County Grand Jury has to be qualified in
23 this courtroom at 9:30 in the morning. So we'll deal
24 with the jury at that time, but you need not be here at
25 9:30. And if you are, you'll just have to sit in the

1 back. It ought to take about 30 minutes.

2 (Whereupon the proceedings are concluded for
3 January 10, 2012.)

4 (The following proceedings are reported on
5 January 11, 2012.)

6 (State's Exhibit Number 8 is marked for
7 identification.)

8 THE COURT: Is the State ready to proceed?

9 MS. BODMAN: We are, Your Honor.

10 THE COURT: Is the defense ready to proceed?

11 MR. BLANKENSHIP: Yes.

12 THE COURT: Bring the jury.

13 (The jury returned to the courtroom at
14 11:23 a.m.)

15 THE COURT: Good morning. Let me again
16 apologize to you for the delay. Every year the Richland
17 County Grand Jury rolls over. That's a jury that
18 decides whether a case is going to be brought to trial
19 or not.

20 Just as you were qualified on Monday, they
21 have to be qualified; and this year it's my
22 responsibility to qualify that grand jury. That's
23 what we were doing for the last hour or so in this
24 courtroom.

25 Sorry that it sort of delayed the beginning of

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1 the continuation of the trial. I hope you understand.
2 We're doing the business of the court 24/7. We're here
3 to serve.

4 All right. Ms. Bodman, call your next
5 witness.

6 MS. BODMAN: The State calls Heather Smith.
7 (The witness comes forward.)

8 HEATHER MARIE SMITH, being
9 first duly sworn, testifies as follows:

10 THE COURT: Have a seat in the witness box.
11 State your full name for the record.

12 THE WITNESS: My name is Heather Marie Smith.

13 DIRECT EXAMINATION

14 BY MS. BODMAN:

15 Q Ms. Smith, where are you employed?

16 A I work at the Assessment Resource Center. It's a
17 children's advocacy center in Richland County. I
18 do forensic evaluations and I'm the clinical
19 services supervisor there.

20 Q So what is your official -- you're a clinical
21 services supervisor. What is, I guess, your
22 professional title there?

23 A Forensic evaluator.

24 Q Can you tell the jury, I guess, basically what a
25 forensic evaluator is?

1 A Sure. A forensic evaluator is someone who
2 interviews children for investigation. We do
3 forensic interviewing; which is a very specific
4 type of interview, for law enforcement or the
5 Department of Social Services when they're
6 investigating potential crimes against children.

7 Q Can you tell the jury about your education and your
8 training, background that leads you to be a
9 forensic evaluator?

10 A Okay. I have a Bachelor's in psychology from the
11 University of South Carolina. I also have a
12 Master's in counseling from the University of South
13 Carolina School of Medicine. I'm a licensed
14 professional counselor in the State of South
15 Carolina.

16 Q What kind of schooling or classes did you have to
17 take to get your Master's and your license to be a
18 counselor?

19 A It's a four-year program for Bachelor's and a two
20 and a half year program for a Master's in
21 counseling. I actually also have a graduate
22 certification in psychiatric rehabilitation, which
23 is a specialty advanced degree in diagnosing and
24 treating serious mental disturbance.

25 Q Aside from your job at the Assessment Resource

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1 Center, do you also do private counseling?

2 A I do. I work in two clinics for private practice.
3 One is a -- is Post Trauma Resources, which is a
4 clinic where we treat adults and children who have
5 experienced trauma. So I do specific specialized
6 treatment of trauma at that clinic.

7 Then I also work at Forensic Family
8 Associates, which is a clinic where we work mainly
9 with families and children doing counseling with
10 those -- with that population.

11 Q So at the Assessment Resource Center and at least
12 through Post Trauma Resources, you are focusing on
13 individuals that have or possibly have suffered
14 trauma?

15 A Yes.

16 Q Can you tell the jury then about what -- other than
17 your formal education -- what other kind of
18 training have you had to be a forensic interviewer?

19 A In order to conduct forensic interviews in the
20 State of South Carolina, you do have to hold a
21 Master's with a license. Then you also have to be
22 trained specifically in a forensic interviewing
23 protocol. So I have had advanced training in the
24 protocol that we use mainly in South Carolina,
25 which is known as the RATAC protocol.

1 I'm also a teacher now of the protocol in our
2 statewide training where we teach the specifics of
3 the protocol; the importance of, you know, knowing
4 child language and child development when
5 interviewing children; how to understand the
6 dynamics of a child that may have been abused and
7 how that might affect an interview; as well as just
8 the specifics of how to question children.

9 Q So aside from, I guess -- well, this training that
10 you have in terms to be a forensic interviewer, how
11 long is that training?

12 A It's a 40-hour intensive training. Then I've also
13 been to -- have had advanced training in the
14 protocol, as well as national training at the
15 conference that they have yearly. It's a national
16 conference in forensic interviewing.

17 Q Aside from the protocol itself, you said you also
18 received training in terms of child development?

19 A Yes.

20 Q Why is that important for you to also understand
21 child development?

22 A Because depending on the age of the child you're
23 interviewing, you need to know where the child is
24 in the development, they're age; so that you don't
25 ask questions that would confuse them or lead them

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1 or be suggestive.

2 Q And some children, I guess at certain ages, are
3 more concrete thinkers and communicators and then
4 as they develop and get older can be more abstract?

5 A Sure. When children are very young, it's really
6 important that you ask very, very simple questions.
7 As they get older, they are much more able to
8 understand questions, understand more complex
9 questions. So you really have to know a child's
10 age and the developmental level so that you're not
11 confusing or misleading in your interview.

12 Q You said you also received training in terms of the
13 dynamics of abuse. What do you mean by that?

14 A When you interview children that may have been
15 abused and then they do disclose abuse, they're
16 often very traumatized. So when they talking about
17 being abused, they do have certain behavioral
18 dynamics you need to be aware of so that you can
19 help make them more comfortable so that you can
20 help them remain calm when they are talking about
21 something that's very hard for them to talk about.

22 So we're trained in the mental health field,
23 and then also we receive extra training that helps
24 us know how to deal with that in an interview when
25 we're trying to ask questions about facts. We're

1 doing a fact-finding interview. It's not really
2 counseling or therapy. So it's really important to
3 help them feel comfortable and keep them calm
4 during an interview process.

5 Q How you conduct a forensic interview is going to be
6 different than how therapy or counseling sessions
7 are conducted?

8 A Very different.

9 Q In terms of your training and education, does that
10 include also, I guess, the process of disclosure or
11 how disclosures may or may not happen?

12 A We do. We train providers, investigators, and
13 other interviewers in the State about how children
14 tend to disclose, what is the typical way that a
15 child might disclose, as well as barriers to
16 disclosure.

17 So when you're in an interview, you know how
18 to address those so that, again, the child is
19 more comfortable. The child is able to tell
20 exactly what happened to them without shutting down
21 or breaking down and having a really difficult
22 time.

23 Q How long has the Assessment Resource Center, the
24 ARC, I guess, is how we affectionally refer to it,
25 how long has that been around in Columbia?

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1 A Since 1990.

2 Q And what is the accreditation of the ARC?

3 A The ARC is an accredited center through the
4 National Children's Alliance, which is out of
5 Washington, D.C. They accredited all -- well, they
6 accredited child advocacy centers.

7 You have to go through the process of
8 accreditation where you have to meet certain
9 qualifications. Your staff has to be trained on a
10 certain education level, as well as in a protocol
11 that's nationally recognized. Then you also have
12 to provide other services, such as medical exams,
13 victim advocacy services, that type of thing.

14 Q Does the protocol, the accreditation, also include
15 things like peer review?

16 A It does.

17 Q Okay. So your evaluations are peer reviewed?

18 A We do. We have a process of peer review amongst
19 staff where you observe another colleague's
20 interview and then get feedback on that.

21 Q Okay. Does it also include what we've heard about
22 the MDT, multidisciplinary team? Does that
23 accreditation also require you to be a part of an
24 MDT?

25 A It does. The multidisciplinary team is one of

1 those qualifications that the National Children's
2 Alliance wants all child advocacy centers to have.
3 It's the highest standard.

4 What that is is the multidisciplinary team
5 brings together the investigating agencies, the
6 prosecuting agencies, and the interviewers, along
7 with child protective services.

8 So it's really a place to make sure that all
9 services for the child and the family are getting
10 addressed so that there are no kind of gaps in what
11 these children and families need.

12 Q So the protocol that you follow, that you referred
13 to as RATAAC and your MDT or peer review, all of
14 these are national standards?

15 A They are.

16 Q Are you reviewed on a periodic basis to make sure
17 that you're meeting all the accreditation
18 standards?

19 A We are. It changes but currently we have to have a
20 five-year accreditation.

21 Q Okay.

22 A So every five years.

23 Q And you said you yourself have gone through all
24 this training, and now you are actually a teacher
25 at the training?

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1 A I am.

2 Q What is the name of the training?

3 A The training is named Child First of South
4 Carolina.

5 Q Have you testified in courts of law as a forensic
6 interviewer before?

7 A I have.

8 Q And have you been qualified as an expert in the
9 area of forensic interviewing?

10 A I have.

11 Q Have you also been or has that also included the
12 areas of the dynamics of child abuse?

13 A Yes.

14 Q And the things that we talked about in terms of the
15 process of disclosure?

16 A Correct. The dynamics, the process of disclosure,
17 the child development, assessing in a forensic
18 interview.

19 Q All of those underlying things that you need to be
20 a forensic interviewer?

21 A Correct.

22 Q Do you know how many times you've been qualified as
23 an expert?

24 A I've been qualified in both criminal and family
25 courts, I'd say, 25 times, possibly more.

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1 MS. BODMAN: Your Honor, at this time, I'd
2 offer Heather Smith as an expert in the area of forensic
3 interviewing.

4 MR. BLANKENSHIP: No objection.

5 THE COURT: All right. You may proceed.

6 BY MS. BODMAN:

7 Q Let's start then with the process of a child who is
8 suspected of being a victim of either physical or
9 sexual abuse comes to your center, what is the
10 process that they go through?

11 A We receive an intake form from the investigator who
12 is requesting the interview. We only do interviews
13 that are requested by law enforcement or child
14 protective services or through an investigating
15 agency.

16 So when they -- when we arrange the
17 appointment, the child may or may not have a
18 forensic medical exam. But, if so, they're also
19 scheduled for that, for the forensic interview and
20 the medical exam.

21 When the family arrives to the center, we have
22 the parent fill out a caregiver form, which just
23 documents kind of some background history on the
24 child.

25 We ask for school information, whether or not

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1 they have any type of developmental delay, or any
2 type of learning disability. We get family
3 information just so we know kind of a little bit of
4 background about the child. We also ask in that
5 form what the parent knows about what's going on.
6 We just really want to get from the parent's point
7 of view what they may know.

8 Then the child is interviewed. It's an
9 interview that is just between myself and the child
10 in a forensic interview room that is designed to be
11 child friendly, comfortable. We do video record
12 our interviews. There is a camera in the room. We
13 introduce that to the child, and then we start the
14 protocol.

15 Q When you say it's a child friendly room, are you
16 talking about toys being in the room?

17 A No.

18 Q Okay. So what do you mean by child friendly?

19 A It doesn't look like a doctor's office or a
20 doctor's examination room. It's more of a -- it's
21 very comfortable with couches and comfortable
22 chairs.

23 There are no toys specifically because we
24 don't want external distraction. You have to keep
25 the child focused. It's a very fact-oriented

1 interview.

2 It's not play therapy or playing or anything
3 like that. It's very important to minimize the
4 distractions; but at the same time, it's kind of
5 warm and inviting to the child. It's not a very
6 clinical setting.

7 Q Okay. And then you said that you have the protocol
8 for the actual interviewer and the interview itself
9 is RATAc?

10 A It is.

11 Q What does that stand for?

12 A RATAc is an acronym, and it stands for the phases
13 or stages of the interview. The R stands for
14 rapport building. In that phase we're really
15 trying to make the child feel comfortable. We're
16 assessing.

17 We're having them answer questions open ended.
18 We want them to really start talking to us. So we
19 really just ask very open-ended questions. Tell me
20 about school. Tell me about your family.

21 That part is really important because we want
22 them to get into kind of a habit of answering
23 questions open ended with a narrative response. We
24 want them to talk to us and feel comfortable
25 talking. So we encourage that during rapport

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1 building.

2 We're also assessing a child's language
3 ability at that point, just to see if they have
4 speech problems, if they have speech delays, and if
5 they're cognitively functioning on target.

6 Then comes the A, which is anatomy
7 identification. That's where we use anatomical
8 drawings that are true to the body, gender type,
9 both boy and girl, and have the child name their
10 names for body parts. So we have them identify
11 their language for body parts.

12 Q Why is that?

13 A That's important. I don't want to use or influence
14 a child with my names for body parts. So I
15 don't -- so whatever word they use, I will use in
16 the interview following whatever they call for the
17 body parts. That's just real important. You want
18 to be as nonleading and nonsuggestive as possible.

19 Q In your experience as a forensic interview, have
20 you heard a lot of interesting names for child's
21 body parts?

22 A Very, very interesting and unusual names for body
23 parts. What we do is we follow the child's
24 language. It's a very important part of the
25 protocol because I think it helps also a child to

1 feel more comfortable when you are using their
2 words. It makes them feel listened to and heard.

3 So once we've had the child name the body
4 parts, then we move into the T, which is the touch
5 inquiry. The touch inquiry is a place where we
6 turn the topic of the conversation around to
7 touches so that the child knows: Now we're going
8 to talk about different touches.

9 So you might get hugs, kisses, and tickles.
10 We always start out with touches that are okay
11 touches that are normal touches a child might get
12 in their life.

13 Following that discussion of who may give them
14 okay touches, we turn to what we call the abuse
15 scenario. In that phase it's simply in the
16 protocol, you want to know, first of all, does the
17 child know what body parts are private.

18 So we'll ask the child to identify private
19 parts on the drawings; and if they do know what
20 those are, then we ask: Have you ever been touched
21 in that manner?

22 So it turns the -- this stage of the
23 protocol -- turns the topic to knowing about
24 private parts: Have you ever been touched in a way
25 that was inappropriate?

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1 If they disclose, if they say yes, I have,
2 then we move further into that stage of the
3 protocol where we ask many fact-finding questions.
4 We really want to get the central elements of what
5 might have happened: Who, what, where, when, how
6 did these things happen?

7 Q So if a child says no, no one has ever touched my
8 private part. No, no one has ever hit me. Then
9 you're going to essentially just skip over the
10 abuse scenario?

11 A That's correct.

12 Q And then you're going to move on?

13 A That's correct. If a child says, No, that's never
14 happened to me and I haven't been hurt -- because
15 we also assess for many different types of abuse
16 and witness to violent crimes and that type of
17 thing.

18 But if they say, No, I haven't experienced
19 that, then we move into the last phase of the
20 protocol which is C, which is closure. In that
21 phase of the protocol, we are reviewing
22 self-protection strategies.

23 So when a child leaves our center, we want
24 them to know what to do if someone ever touches
25 them inappropriately, hurts them inappropriately,

1 does something to them that makes them
2 uncomfortable, we want them to know what to do. We
3 will review, kind of review: Who are you going to
4 tell if this happens to you? Then we respectfully
5 end the interview.

6 Q So either way if there is a disclosure or not a
7 disclosure, you're going to go ahead and do some
8 type of closure of, Well, if anybody ever does
9 touch your private part, is there somebody you can
10 tell?

11 A Right.

12 Q Do you understand that's not right and okay?

13 A That's correct.

14 Q I guess it also just kind of gives you a way to end
15 the interview.

16 A In a respectful manner and let the child know it's
17 over and we'll be moving and leaving the room.

18 Q Okay. Did you interview [REDACTED] on June 18,
19 2010?

20 A Yes, I did.

21 Q Did you do a report regarding that interview?

22 A I did.

23 Q And did you record that interview?

24 A I did.

25 Q Okay. I guess just generally, let's go back to the

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1 abuse scenario. If you could just talk to us about
2 the types of questions that you asked, how you
3 asked the questions. Is there a difference between
4 if a child has alleged or is saying that it
5 happened once versus chronic abuse, many times?

6 A Okay. Yes. So during the abuse scenario -- and
7 this is something we train in and we're all trained
8 in, and I now train other investigators and
9 interviewer -- when you're in the abuse scenario
10 phase of the protocol, it's very important to be
11 aware constantly of the questions that you're
12 asking.

13 You do not want to lead a child or be
14 suggestive. So your questions really need to try
15 to gather as much narrative response, is what we
16 call it, where a child just talks and says what
17 happens to them versus yes/no questions or, you
18 know, even a question where I'm telling the child
19 what happened.

20 That is very inappropriate and would not be a
21 very good interview. So you have to be very aware
22 during that phase of what types of questions you're
23 asking. You always really start open ended.

24 Then if you need to get more directed, which
25 would be if a child is answering in a narrative

1 way, I may need to go back and say, Well, I didn't
2 understand that part. Let me ask a little bit more
3 of a directed question to make sure I've got the
4 idea, and it's clear to me what happened.

5 And so, you know, when we train in this
6 protocol, that is one of the things that we are
7 always making sure that is taught is that you have
8 to make sure your questions are always open ended
9 so that the child can answer in their own words.
10 So that's, you know, the types of questions.

11 Q Okay. And how -- I guess is it inappropriate for
12 you to ask questions that involve two options. For
13 example, were your clothes on or off?

14 A No.

15 Q When you give two options for the child?

16 A That's not inappropriate. Obviously that would
17 be -- because we're trying to ask more open-ended
18 questions, we want to minimize just asking two
19 options.

20 If we're going to ask a question "on or off,"
21 we always have to give a third option, which is "or
22 something else." We don't want to just assume to
23 know what happened to a child.

24 During a forensic interview, it's very
25 important not to assume anything, not to have a

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1 bias one way or another. You have to maintain
2 neutrality.

3 So if I'm going to ask "on or off," I would
4 need to add "or something else." So that the child
5 -- because their clothes could have been a
6 different way. So I want to make sure I'm
7 capturing all of that.

8 Q So you said you ask open-ended questions and they
9 give you a narrative. Then can your questions
10 become more narrow?

11 A They often do become more narrow when I'm trying to
12 understand and fill in details about, say, clothing
13 or body positioning or sensory details. I may ask
14 more directed questions about: Was it this way,
15 that way, or another way?

16 So it really is to help -- you know, children
17 aren't adults in the way that they understand and
18 the way that they communicate. So it's very
19 important as a forensic interviewer to now that and
20 to help a child tell whatever it is they need to
21 tell through my questions.

22 My questions are what helps guide the child
23 through an interview process. So being aware of a
24 child's age and their development, it will help me
25 know when I need to get directed and when I need to

1 stay open ended.

2 Q And in terms of, I guess, a child recalling and
3 telling you events that happened, if it happened
4 just to them one time or acute, I guess, where it
5 happened to them many times and chronic, how does
6 that affect -- or does it affect their ability to
7 relay those events to you?

8 A It does affect an ability for a child to recall an
9 event that happened. If it's a one-time
10 occurrence -- and really as adults we can
11 understand that too. For children it's even more
12 difficult.

13 If an event happens to us one time, we're much
14 more likely to remember more details, more likely
15 to even remember the sequence of events and how
16 things happened, more likely to remember maybe even
17 a day or a timeframe.

18 But when something happens over a long period
19 of time, many times, the memories, the way that
20 memories are encoded within our brain, the memories
21 tend to overlap.

22 So when you're interviewing a child who has
23 had multiple incidents happen to them over a period
24 of time, you know, more than even three months,
25 oftentimes children have more difficulty recalling

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1 the details.

2 So when you're interviewing a child that has
3 had multiple incidents happen to them, you do have
4 to be aware of that; and you may need to get more
5 directed in your questioning.

6 But even though you do get more directed in
7 your line of questioning, you would always want to
8 go back and try and get more of a narrative
9 response after a child is telling you what
10 happened.

11 Q Can you tell us a little bit about, I guess, the
12 process of disclosure? Is delayed disclosures in
13 children of abuse, is that something that you see
14 commonly?

15 A I do.

16 Q Okay.

17 A Delayed disclosure is actually the norm. It's more
18 normal for a child not to tell immediately than it
19 is for a child to tell right away. The reasons for
20 that are many.

21 Some of the main reasons for that are that
22 they're children. So like an adult, we would
23 immediately call the police or go and tell someone
24 if someone were hurting us, for children the
25 dynamic of the authority hierarchy is there.

1 So if an adult is hurting them or an adult has
2 done something to them, they often don't feel like
3 they can tell because they're not supposed to.
4 Especially when, you know, when there's an abuse
5 scenario.

6 Typically abuse happens within families,
7 interfamilial, so that even creates more of a
8 dynamic for a child not to tell immediately because
9 it's someone they trust, someone they love, someone
10 that is part of their family.

11 They don't want to get that person in trouble.
12 They don't want to ruin the family, break up the
13 family, and then just have lots of problems that
14 would follow from that. So children tend not to
15 tell immediately.

16 Q In terms of the process of disclosure, can there be
17 sometimes maybe a tentative disclosure or a testing
18 of the waters?

19 A Yes. What we really find with children that we're
20 interviewing and that are disclosing abuse is that
21 they're not quite sure how adults are going to
22 respond to what they're saying.

23 So children tend to start out maybe giving you
24 a little bit of what happened. So we call that a
25 tentative disclosure, when a child is waiting to

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1 see how you respond in an interview.

2 They're waiting to kind of we call it testing
3 the waters to see if you're going to get upset,
4 start yelling at them, have a huge reaction, or are
5 you going to be calm and everything is going to be
6 okay.

7 So knowing kind of that children may go
8 through different types of disclosure, they may be
9 a little tentative or they may even deny it at
10 first and say, No, it didn't happen to me.

11 Then they may say, Well, yeah it did. Knowing
12 that, then you can kind of use the tools that may
13 help them be more comfortable and be able to talk
14 further about it.

15 Q The tentative disclosure, can that occur outside
16 the realm of the actual forensic interview?

17 A Sure.

18 Q Kind of test the waters to a parent or another
19 person that they feel comfortable telling?

20 A Yes. They may tell something to a parent, to a
21 trusted adult that is not exactly what happened to
22 them. They may say, I don't like so and so. In
23 their minds children sometimes think they told.

24 To them that's telling just because they said,
25 I don't like this person. They're really testing

1 adults to see what kind of response they're going
2 to get. We see that often.

3 Q What about the term, I guess, minimization? What
4 does that mean?

5 A Minimization is when a child may not tell all of
6 what happened. Again, as part of a tentative
7 disclosure, they may use qualifiers. It's a
8 linguistic term where a child says it might have
9 happened or it could have happened or it probably
10 happened.

11 They may make these types of -- use these
12 types of qualifiers before they say something.
13 That's a part of minimization where they're just
14 very worried about what's going to happen and
15 they're very afraid to tell.

16 So we do often see minimization when a child
17 is very tentative about telling. So knowing how to
18 respond to that, it really does -- you know, it
19 takes some training to be able to respond to a
20 child that's in that phase of the disclosure so
21 that you can help them feel more comfortable and
22 confident about telling.

23 Q In terms of sexual abuse, not physical abuse, but
24 in terms of sexual abuse, have you been able to
25 identify certain acts that are the most difficult

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1 for a child to disclose regarding sexual abuse?

2 A Children tend to have difficulty talking. A child
3 that is disclosing about sexual abuse, they tend to
4 have a lot of difficulty talking about body
5 positioning, whether there was penetration,
6 something inside of their body, whether there was
7 ejaculation or anything to do with sensory
8 experiences.

9 They often either don't know how to describe
10 it because it's never happened to them before or
11 that they are very uncomfortable talking about
12 that.

13 Q Can you relate minimization to that, I guess, the
14 disclosure of penetration and ejaculation? Do
15 those two things relate sometimes?

16 A In terms of the interview?

17 Q Of sexual abuse and disclosing that there had been
18 penetration, actual penetration, and ejaculation?

19 A We often see minimization surrounding those acts,
20 yes.

21 Q And why is it those acts?

22 A Because the child either doesn't really know how to
23 describe something that's happened to them that has
24 never happened to them before, and we don't expect
25 the child to know those acts or they may just be

1 very uncomfortable discussing those particular acts
2 because it's really the worst part of what
3 happened.

4 Q The term empowerment strategies, what can you tell
5 us about that term?

6 A That's a term that is something that we've
7 recognized in children that we interview that have
8 been abused in terms of their statements of abuse.
9 They often want the interviewer or want an adult
10 that they're telling about what happened to know
11 that they actually tried to stop it or that they
12 tried to do something to make it stop.

13 So oftentimes I've had children tell me that
14 they actually killed someone that abused them, but
15 we know that did not happen. Obviously, the person
16 was not killed or that they stabbed someone or more
17 common statements from children who use this
18 strategy are they hit someone or they tried to kick
19 someone off of them or they screamed out trying to
20 get an intervention.

21 So we do see this often with -- when children
22 are telling because they really want adults to know
23 that they're not at fault, that they didn't do
24 anything to cause it, and that they tried to stop
25 it.

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1 Q Is that related to they are afraid that we are
2 going to blame them, Why didn't you do something to
3 stop it?

4 A It is. One of the reasons that children don't tell
5 immediately is that they feel like they are going
6 to get in trouble. Even though for us as adults,
7 we know that is not something we would ever make a
8 child get in trouble for, they believe, because of
9 the adult/child relationship, that they may get in
10 trouble for it. So they often have that -- that's
11 one of the biggest worries in children that are
12 telling about abuse.

13 Q And when you have a child who has been abused at
14 say, you know, the age of five and six years old,
15 but they don't disclose until they are, you know,
16 older, say ten years old, they don't disclose.

17 Is it -- or have you seen where that child
18 does not display really any type of behavior
19 problems because of that abuse until later? So
20 they're not immediately displaying behavior
21 problems at five, six, seven; but it isn't until
22 ten that they start showing out?

23 A That's actually a very common way that abuse could
24 come out. When children are five and six, when
25 they're preschool age, early school age, elementary

1 school aged, they don't really understand the moral
2 impact of what abuse could have for them because
3 they're just not -- they don't have that
4 developmental stage yet. They haven't reached it.

5 When a child becomes nine, ten, eleven -- and
6 this isn't a fixed stage. It just depends on the
7 child -- but there is a time where a child
8 realizes -- we call it moral development -- where
9 a child realizes this is a very horrible, bad
10 thing to have happened and for me to be involved
11 with.

12 When a child understands that and grasps how
13 serious and how horrible it was, they often tend to
14 act out behaviorally. Because again, the child
15 doesn't have the brain development or the language
16 development to talk about their feelings or to talk
17 about some thoughts that they're having that are
18 negative. Instead they're going to act out
19 behaviorally because that's the only way they know
20 how to express anxiety or some type of worry.

21 Q Now, some of these things we talked about,
22 obviously delayed disclosure, **VICTIM** is ten when
23 she comes for her interview and she discloses to
24 you stuff that happened to her when she was much
25 younger. So we have delayed disclosure; correct?

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1 A Yes. She was ten when she came to the clinic, and
2 she disclosed incidents that happened when she was
3 age five or six.

4 Q And some of the other things -- I guess, let me
5 back up before I get there. When you are going
6 into an interview or you're in the interview
7 talking to the child and trying to get out
8 information that happened to them, in terms of
9 being able to rule out or to look for things that
10 are inconsistent with this child being -- either
11 this being suggested to them or them being
12 coached -- what types of things are you looking for
13 in that child's disclosure?

14 A Through being trained in a protocol and, again,
15 training on a protocol and making sure that the
16 interviewers who are investigators and interviewers
17 interview these children, it's very important that
18 you look for any signs of that.

19 You're going to look for any signs of coaching
20 or whether a child has been influenced in some
21 manner by an adult. So really you're looking at
22 the child's language and what they're saying and
23 does it appear to be in the child's own words or in
24 their own language or does it appear to be more
25 adult language? Does it appear to be something

1 they've heard versus what they have experienced?

2 So we have safeguards in place in the protocol
3 to make sure we're getting the right idea. We are
4 always trying to summarize in an interview to make
5 sure, Am I getting this right? What I'm
6 understanding, is that the way it happened to you?
7 Is this something that really happened to you? So
8 those safeguards are in the protocol and should be
9 used.

10 Q In determining whether it's somebody that told them
11 these things or something that actually happened to
12 them, are you looking for things such as details
13 and sensory details in their recollection?

14 A Yes, in an interview, we must ask about -- in a
15 fact-finding interview if a child is disclosing
16 abuse, we must ask about: How did that feel on
17 your body? How was your body positioned?

18 So we understand exactly what happened and
19 also so we understand, you know, is the child
20 telling us something that could have plausibly
21 happened to them. So we're constantly asking about
22 sensory details: What did something feel like,
23 look like, what did you hear, those kind of
24 questions.

25 Q Even body positioning --

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1 A Yes.

2 Q -- would be like a detail that you're looking for?

3 A Yes.

4 Q Okay. You did videotape, you said, videotape your
5 interview with [REDACTED]

6 A I did.

7 Q And you reviewed that tape to make sure everything
8 was recorded in that video with her?

9 A Yes.

10 Q I guess, do you review it prior to doing your
11 report or do you do your report soon after so it's
12 all fresh in your memory?

13 A I review at the time of the report.

14 Q Okay.

15 MS. BODMAN: Your Honor, at this time we offer
16 as evidence State's Exhibit Number 8.

17 MR. BLANKENSHIP: Objection.

18 THE COURT: Over the defense objection, it's
19 admitted.

20 (State's Exhibit Number 8 is received into
21 evidence.)

22 BY MS. BODMAN:

23 Q Some of these things that we talked about then,
24 minimization, the empowerment strategies, things
25 like that, did you see some of those aspects in the

1 interview with [REDACTED]

2 A I do.

3 MS. BODMAN: Okay. Your Honor, at this time
4 I'd like to play the interview for the jury, State's
5 Exhibit Number 8.

6 THE COURT: You may proceed.

7 THE WITNESS: Will I be able to see it as
8 well?

9 MS. BODMAN: Do you want to maybe come down to
10 this chair.

11 (Whereupon the video, State's Exhibit Number
12 8, is played for the jury.)

13 BY MS. BODMAN:

14 Q Talk to us about a child's ability to tell us or to
15 relate exactly what age they were when something
16 happened to them?

17 A Children have a hard time talking about time
18 depending on their age. Typically that skill is
19 not learned. They're not able to really give
20 timeframe until around age 11; so 11 to 12.

21 So it's very confusing for them to try to
22 isolate a date or even an age. It's just hard
23 because they don't have the development yet for
24 that.

25 Q So at times you're trying to ask her, you know, how

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1 old were you when this happened. She says at one
2 point eight, seven, six, five. She gives those
3 different ages. How did you follow up to try and
4 find out how old she was since she was giving these
5 different ages about when it happened?

6 A What I was trying to do there, really throughout
7 the entire interview, was help her anchor the time
8 by age or through a school grade. I was trying to
9 find a way to anchor that for her because knowing
10 what I know about child development and that
11 children aren't able to produce the timeframe
12 through their memory, trying to help her isolate,
13 Well, were you in first grade or second grade?

14 That can sometimes help, you know, give us a
15 timeframe. Oftentimes it's just very difficult for
16 children to provide that. They don't have the
17 development to do it.

18 Q Okay. So while she was differing on whether or not
19 she was five, six, seven, or eight, she was able to
20 say she was at Polo Road Elementary --

21 A In the first grade.

22 Q -- when it happened. The home, she said it was at
23 her old house that it happened in?

24 A Yes.

25 Q Okay.

1 A So often we will try to anchor it through what
2 school you were attending, what grade you were in,
3 where was it in terms of -- especially when a child
4 has moved to different addresses. What address was
5 it? Those are things that children can connect but
6 not always. It's just really -- time is very hard
7 for children to be able to remember.

8 Q And when you're talking about chronic abuse and a
9 delayed disclosure, when they go back and recall
10 the events of what happened to them, how does their
11 age and the fact that they're ten when they are
12 recalling something that happened to them, you
13 know, at five or six, how does that affect how it's
14 relayed?

15 A Well, memories are encoded at the age they
16 happened. The brain is encoding a memory at age
17 five or six for this child. So she is trying to
18 retrieve the memory at ten of an incident that
19 happened or incidents that happened to her between
20 age five, six, seven.

21 So she remembers the events like a five or six
22 year old would remember but yet telling at ten. So
23 oftentimes, especially when it's chronic and there
24 are multiple incidents she is trying to remember
25 and retrieve the memories, oftentimes combined with

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1 the fact that it's years later, children often have
2 a huge difficulty being able to isolate one
3 incident and tell everything about that.

4 As interviewers we're trained to be able to
5 notice that and understand that and then try to
6 help the child, using more directed questions to
7 find out what happened.

8 Q And also in terms of chronic abuse that you said,
9 they'll describe it as usually it would happen, but
10 then sometimes they can tell about a distinct
11 memory that they have. Why does that one memory
12 maybe stick out over the other events that happened
13 to them?

14 A We don't really know to answer to that, and we
15 don't really know why perhaps it's one memory.
16 Most likely -- it could be -- because it happened
17 in a different location in the house or it's a
18 different incident in terms of the actual acts that
19 happened that might stick out for a child.

20 So they may remember that particular time with
21 more detail than all the other times that it
22 happened kind of the same way, in a more routine
23 way.

24 So in this particular case, it seemed that she
25 was able to remember a time in her mother's bedroom

1 with much more detail because it was a strange
2 incident to her.

3 She even appeared to be confused about why
4 would he do that, as opposed to all the other times
5 it happened in her bedroom in the middle of the
6 night.

7 Q She indicated that usually it was in her bedroom in
8 the middle of the night. That seemed to be the
9 more common occurrence, and then she said one time
10 in my mom's room?

11 A Correct.

12 Q Also, the details of what she gave about him
13 rubbing his private part between her knees
14 essentially?

15 A Correct.

16 Q And when asked, you know, why did he do that, she
17 actually seemed kind of perplexed about why he was
18 doing that?

19 A Correct. She was very confused about that.

20 Q The empowerment strategies that we talked about,
21 did you see examples of that in her interview?

22 A Frequently. She actually brought that up often in
23 my interview. She really wanted to express that
24 she had tried to do something to push him off of
25 her, to fight him off, to make it stop. That

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1 actually came up numerous times in the interview.

2 Q And would an example of empowerment strategies also
3 be that she yelled out for her brothers?

4 A Correct.

5 Q Okay. As, I guess, we talked about before, there
6 are some empowerment strategies that you know for
7 sure are not true; that they say, I killed the
8 person, and we know the person is still alive.

9 So, I guess, this could be an example of an
10 empowerment strategy that she may or may not have
11 actually used. She may have tried to push him off
12 or she is trying to -- she feels guilty for not
13 doing anything and she is trying to say that she
14 did try to fight?

15 A Right. She could have actually, over the course of
16 time, done both of those things.

17 Q The details she gives about, you know, specifically
18 the act itself and when we were talking about -- we
19 talked about two, I guess, different concepts. One
20 is minimization, and the other one was the two acts
21 of sexual abuse that are the most difficult for a
22 child to acknowledge, the penetration and the
23 ejaculation.

24 The penetration, there's two times that she
25 says during the interview -- I guess it's around

1 when you're first asking her about what Reggie did
2 to her -- you ask just an open-ended question: Can
3 you tell me what he did with his private parts.
4 She essentially starts with -- I guess, was it a
5 narrative?

6 A Correct.

7 Q In that narrative, she says twice, he tried to put
8 it back in. I mean, she used that word back in?

9 A That's correct.

10 Q In her own narrative response. But then you
11 followed it up with a specific question of did he
12 put his private in your private? And her response
13 to that was he tried to or almost. Could that be
14 an example of minimization?

15 A It could be an example of either minimization or
16 not understanding the way that the body parts work
17 and operate and not really having a language for
18 penetration or it also could have been
19 minimization.

20 She appeared as a child to me that was
21 uncomfortable, shy at the beginning, especially at
22 the beginning where she is very soft spoken, and
23 appeared a little uncomfortable. At times I
24 actually checked in with her to make sure she was
25 actually doing okay.

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1 It's not always that visible on the video, but
2 in the room she definitely appeared to be
3 uncomfortable. So I often check in when I notice
4 that. But it was probably both. I think the
5 likelihood is that it's both of these things. She
6 doesn't really know how to talk about something
7 that has never happened to her and it's
8 uncomfortable.

9 Q Could that also tie into an empowerment strategy,
10 that she was able to keep him from penetrating her
11 and fighting him off?

12 A Yes, I mean it could be that. Oftentimes children
13 come up with defensive barriers to try to get
14 them -- it's what we call accommodating to
15 something that happened that's not a good thing.
16 It's not pleasant; so they accommodate.

17 They often will find a way to rationalize it
18 or explain it in their own minds so that they can
19 live with it. They can survive within it. It
20 could be that that was her pushing him off, trying
21 to fight him off and push him away is a way to kind
22 of make it make sense in her world.

23 Q A coping mechanism?

24 A A coping mechanism, exactly.

25 Q The forensic interview process in this room, this

1 child-friendly environment, the protocol that you
2 go through in terms of rapport building, going
3 through this process, if you can relate that
4 process and, I guess, fact-finding mission and a
5 child's disclosure in that context compared to
6 coming into this courtroom and having to reveal or
7 being asked the same details in terms of their
8 disclosure, how this environment could affect them
9 versus that environment in terms of their
10 disclosures and their ability to relay, again, what
11 happened to them?

12 A Okay. Well, as you can see from the interview
13 room, we try to make it very comfortable. [REDACTED]
14 appeared to become very comfortable in my
15 interview.

16 She was kind of lounging on the furniture. We
17 want that. We want children to be that comfortable
18 that they're not -- that there's really no barriers
19 to their talking about what may have happened.

20 So, again, as you can see from the video, she
21 was -- she got very much more comfortable as the
22 interview went on; whereas, in a courtroom, I mean,
23 it can be anxiety for me as an adult having to come
24 in and talk about and answer questions. It's just
25 a much more formal environment. It's very

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1 structured and there's lots of people around.

2 It can often -- that can be a barrier to a
3 child talking and telling what happened. The whole
4 reason that child advocacy centers were started and
5 formulated is that children aren't -- they are
6 being given an opportunity to tell in a comfortable
7 environment what happened to them. It really does
8 increase a child's ability to talk.

9 Q And talk about embarrassing things?

10 A Embarrassing, uncomfortable, hurting, painful
11 things, things that may have separated them from
12 their family. It causes real upheaval in a child's
13 life to tell.

14 Q No further questions at this time. Thank you.

15 THE COURT: Approach the bench.

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

19 THE COURT: Cross examination.

20 MR. BLANKENSHIP: Thank you.

21 CROSS EXAMINATION

22 BY MR. BLANKENSHIP:

23 Q Hi. My name is Reynolds Blankenship. I represent
24 Reginald Spellman, who is the defendant. You are
25 the forensic interviewer for ARC in this case?

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1 A Correct.

2 Q And you're also a licensed counselor?

3 A I'm a licensed professional counselor.

4 Q Okay. But you didn't do the counseling of [REDACTED]

5 [REDACTED] in this case?

6 A No, I did not.

7 Q I don't want to misquote you or anything. I think
8 you said if a child makes a disclosure, after that
9 they are going to get progressively more detailed
10 in the facts of what they disclosed? Is that fair?

11 A I'm not sure I understand what you're asking. So
12 if you can maybe ask it again.

13 Q I'm sorry. Once they disclose and maybe after the
14 disclosure starts, they might get more detailed?

15 A They might get more comfortable and be able to tell
16 more, yes.

17 Q Would that same be true with the post interview
18 therapy?

19 A It really would depend on other factors just in the
20 home and kind of are they getting support at home
21 and how the process of the investigation is going.
22 It really depends.

23 Therapy is supposed to help a child with
24 coping skills so that they are able to, you know,
25 be able to talk more easier about it if something

HEATHER MARIE SMITH -- CROSS -- MR. BLANKENSHIP 381

1 has happened.

2 Q Okay. And the therapy sessions would address the
3 incidents that led to the interview and the
4 therapy?

5 A Typically trauma-focused therapy at the ARC and at
6 other trauma-focused clinics that do trauma-focused
7 therapy, it's a very specific model. It's called
8 the Trauma Focused Cognitive Behavior model.

9 As part of the model, what you're mainly
10 initially focused on is helping a child cope. So
11 you're really helping a child decrease behavior
12 problems, increase their ability to self-regulate,
13 and really be in control of themselves, especially
14 if they're having issues at school or at home.

15 So that's the kind of initial therapy service
16 that is given. Then over -- as you perceive the
17 therapy, it is discussed. The incidents of abuse,
18 are discussed in therapy.

19 It's part of the model to help a child be able
20 to talk about it without avoiding the subject
21 because avoidance is a negative coping skill, and
22 we don't want a child to avoid something bad
23 happening to them because later on in life they'll
24 just avoid other things that happen that aren't
25 good things. It also can really create some

1 internal conflicts. So the discussion of the
2 incidents definitely occurs in therapy.

3 Q And [REDACTED] did therapy; right.

4 A She did.

5 Q And you did not perform that?

6 A I did not.

7 Q Who performed that therapy?

8 A The therapist she was referred to is Amy Phipps.

9 Q So Amy Phipps did the therapy with [REDACTED] [REDACTED]

10 A That's correct.

11 Q The forensic interview, is that sort of the --

12 [REDACTED] disclosed to a teacher March 22, 2010;
13 right?

14 A Right. My understanding is that the teacher is who
15 she initially disclosed to.

16 Q And you did not have a forensic until June 18,
17 2010?

18 A Correct.

19 Q Is the forensic interview one of the first real
20 investigative processes, procedures?

21 A It depends. Typically it should be the most formal
22 interview that happens. A child may disclose and
23 typically does disclose to a nonfamily member who
24 is a trusted adult.

25 School teachers, guidance counselors, or

HEATHER MARIE SMITH -- CROSS -- MR. BLANKENSHIP 383

1 church members who they trust are typically who a
2 child tells. Strangely enough not family because
3 they don't -- they're worried about the response
4 that a family member may give them or what may
5 happen.

6 But then later on, you know, once the police
7 are called to investigate, they have to do an
8 incident report. So typically, I mean, they would
9 know more about that than me. That's not my side
10 of it.

11 But typically a minimal facts interview is
12 done by an investigator: Just tell me what
13 happened. Then the ARC or a child advocacy center,
14 the best practice model is for a child to do the
15 formal investigative interview there, at a child
16 advocacy center.

17 Q So she disclosed March 22nd and two months later
18 she had the forensic interview?

19 A Yes.

20 Q After the forensic interview, does the
21 investigation stop?

22 A No.

23 Q Are you aware of any investigation that was
24 conducted after your forensic interview?

25 A I don't have knowledge of that, no.

HEATHER MARIE SMITH -- REDIRECT -- MS. BODMAN 384

1 Q Did you say that -- does a child remember more
2 detail as they get older usually?

3 A A child remembers more details when an event
4 happens to them when they're older.

5 Q Okay.

6 A So if a child is older when something happens,
7 they'll be much better able to remember it and be
8 able to talk about it. You have memory and you
9 have language. Those two things, as a child ages,
10 gets better on both sides.

11 MR. BLANKENSHIP: No further questions.

12 THE COURT: Redirect?

13 (State's Exhibit Number 9 is marked for
14 identification.)

15 REDIRECT EXAMINATION

16 BY MS. BODMAN:

17 Q Let me show you what's been marked for
18 identification as State's Exhibit Number 9 and ask
19 if you recognize that?

20 A I do.

21 Q And I think you said that there is essentially a
22 referral, I guess, or an intake that is done by the
23 ARC so that you have just an idea of what this is
24 about?

25 A Correct.

HEATHER MARIE SMITH -- REDIRECT -- MS. BODMAN

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1 Q The defense attorney asked you about there was a
2 disclosure in March, but what is the date of the
3 disclosure done at the school?

4 A In terms of our incident report, it looks like
5 April 23, 2010, a report was filed with the
6 Richland County Sheriff's Department by the school.

7 Q Okay. So not March but April?

8 A April 23rd.

9 Q Okay. And does the ARC conduct forensic interviews
10 on occasion, like immediately that day? I mean,
11 you're going to get the child into the ARC
12 immediately? You're going to reschedule other
13 interviews to fit a child in?

14 A That's not common. Typically they're scheduled as
15 we have space available. You know, for some
16 children it's not a good practice to do it, say,
17 the day that they initially tell. Because
18 oftentimes they're more traumatized right after
19 they tell because of a response they may have
20 gotten from an adult.

21 So sometimes it's better to have some time to
22 kind of let it settle and then to have the
23 interview. Really it's a case-by-case basis. It
24 depends on our availability of slots and then also
25 how the child is doing. We ask about that.

1 Q Does it also depend on whether or not the
2 perpetrator is still in the home, out of the home?
3 Do they have contact with the perpetrator?

4 A Correct.

5 Q Are we concerned that the perpetrator may influence
6 the child, to get to the child and try to get them
7 to deny or whatever?

8 A Correct. In some cases if the child still is in a
9 dangerous environment, we may need to have child
10 protective services come in to do an assessment and
11 do their work before an interview takes place at a
12 child advocacy center.

13 Q So in this situation where the information is that
14 she does not have contact with the perpetrator that
15 she has alleged against --

16 A Correct.

17 Q -- I mean, is there a concern about immediately
18 getting her into the ARC for an interview?

19 A No. I mean, this would not be considered an
20 emergency case that we would need to see within 24
21 or 48 hours.

22 Q Okay.

23 MS. BODMAN: No further questions.

24 THE COURT: Anything further?

25 MR. BLANKENSHIP: Just one.

HEATHER MARIE SMITH -- RECROSS -- MR. BLANKENSHIP 387

RECROSS EXAMINATION

BY MR. BLANKENSHIP:

Q I apologize I said March on the paperwork, but April 22nd is the date I was attempted to refer to. between that and June is two months?

A April 23rd and then she was interviewed June 18th.

Q Thank you.

MR. BLANKENSHIP: Nothing further.

THE COURT: Thank you very much, ma'am. You may come down.

THE WITNESS: Thank you.

THE COURT: May this witness be excused? Without objection.

(The witness leaves the witness stand and is excused.)

THE COURT: All right. Ladies and gentlemen of the jury, we're going to take our lunch break at this time. The clerk advises me that your lunches are here. We're probably not going to reconvene until about 2:30. It's about an hour.

So after you've had your lunch, if you want to walk around -- I don't know if it's raining outside or not; but if you want to take a walk, please do so. Just be back in the jury room by 2:30. All right. Thank you very much. Again, don't discuss the case among

1 yourselves while you're in the jury room.

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

3 THE COURT: We will stand at ease until 2:30.

4 (Whereupon there is a luncheon recess.)

5 THE COURT: Ms. Bodman, does the State plan to
6 rest?

7 MS. BODMAN: Yes, sir.

8 THE COURT: All right. Will there be any
9 motions?

10 MR. BLANKENSHIP: There will be.

11 THE COURT: Let's go ahead and do it rather
12 than bring the jury back in and send them back out. The
13 State rests.

14 MR. BLANKENSHIP: Sure. We would move for a
15 directed verdict based on a lack of evidence that would
16 allow the jury to find guilt beyond a reasonable doubt.

17 THE COURT: All right. Well, I think there's
18 sufficient evidence in the record from which a jury --
19 let me see here -- from which a jury could either infer
20 from direct or circumstantial evidence that the
21 defendant is guilty.

22 They could infer that or some evidence which
23 reasonably tends to prove the guilt of the defendant or
24 from which guilt might be logically and reasonably
25 deduced and that evidence taken in the light most

1 favorable to the State. So I must respectfully deny
2 your motion.

3 MR. BLANKENSHIP: Thank you. We would also
4 like you to go ahead and ask if Mr. Spellman testifies.

5 THE COURT: I will talk to him. Have your
6 client stand.

7 Mr. Spellman, at this time I'm going to
8 explain to you certain of your constitutional rights.
9 If you do not understand anything I say, please let me
10 know. If you want me to explain anything in more
11 detail, please let me now. Do you understand?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: We have now reached the stage of
14 the trial where you may present your defense. You have
15 the right to claim the protection given you by the Fifth
16 Amendment of the Constitution of the United States.

17 This amendment states in part: No person
18 shall be compelled in any criminal case to be a witness
19 against himself or herself. This means that you cannot
20 be required to testify in this case.

21 You have a right to testify on your own
22 behalf; however, no one can make you testify. This is
23 a personal right. No one can waive this right except
24 you.

25 If you decide to testify, you will be subject

1 to the same rules that govern other witnesses. You may
2 be examined and cross examined on any relevant issue in
3 this case.

4 In addition, if you have any convictions
5 involving dishonestly or false statement or for crimes
6 punishable by imprisonment for more than one year and
7 this Court determines that the probative value of
8 admitting this evidence outweighs its prejudicial effect
9 to you, the solicitor will be able to introduce your
10 record to attack your credibility.

11 If you decide to testify, this decision on
12 your part must be freely and voluntarily, intelligently
13 made with the knowledge of the protections given to you
14 by the Fifth Amendment to the Constitution and the
15 consequences of your decision to testify.

16 If you decide not to testify, I will instruct
17 the jury that they cannot give the fact that you did not
18 testify any consideration whatsoever and that there is
19 to be absolutely no prejudice to you because you did not
20 testify.

21 It's left entirely up to you whether or not
22 you wish to testify. You may talk with your attorney,
23 your family and friends or anyone else; but the final
24 decision is going to be left entirely up to you. Do you
25 understand that?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Do you understand what I've
3 explained to you?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Do you have any questions about
6 what I've explained to you?

7 THE DEFENDANT: No, sir. No, sir..

8 THE COURT: Have you discussed with your
9 lawyer whether you should or should not testify?

10 THE DEFENDANT: I would like to have a little
11 bit more time to discuss it with him, if it's possible,
12 sir.

13 THE COURT: All right. Well, I don't have
14 much time. I have the jury waiting. So have a seat.
15 Do you wish to step out?

16 MR. BLANKENSHIP: Yes, I guess so. Could I go
17 ahead and ask -- if he does decide to testify, we would
18 request that he be able to walk to the witness stand
19 without the shackles on his legs.

20 THE COURT: All right. Let's settle his
21 record so he'll know what he's facing.

22 MS. BODMAN: I think we settled it prior to
23 starting. It's a grand larceny of 5,000 and above and
24 an attempt to obtain goods by false pretenses. It was
25 an October 2006 conviction and a February 2007

1 conviction. I've got certified copies.

2 THE COURT: Is there any dispute about that?

3 MR. BLANKENSHIP: Than sounds right. I
4 thought it was a breach of trust.

5 MS. BODMAN: The original warrant was a breach
6 of trust. That was the warrant number, the breach of
7 trust, but he pled to it, I guess, as a reduced charge,
8 attempting to obtain property by false pretenses.

9 MR. BLANKENSHIP: I think that's right.

10 THE COURT: Is that jury room locked?

11 THE BAILIFF: Yes, sir, we have all the
12 jurors.

13 THE COURT: Is the jury room locked, that one?

14 THE BAILIFF: Not to my knowledge, Judge.

15 THE COURT: Why don't you check?

16 THE BAILIFF: Judge, it is, but I have a key.
17 They can go in there if they would like.

18 THE COURT: Would you look and see if there's
19 nothing dangerous in there.

20 THE BAILIFF: I've looked but I'll look again.

21 (Pause.)

22 MR. BLANKENSHIP: We agree.

23 THE COURT: Sir?

24 MR. BLANKENSHIP: We agree on the record.

25 THE COURT: Okay. We're trying to get you a

1 room if you need to go out.

2 MR. BLANKENSHIP: Yes, I think so.

3 THE COURT: Your might want to take his --

4 THE BAILIFF: It's safe but no furniture is in
5 it.

6 THE COURT: That's all right. They can stand.
7 Mr. Cooper, would you escort them?

8 (Whereupon there is a recess.)

9 MR. BLANKENSHIP: We're ready.

10 THE COURT: Mr. Spellman, do you plan to
11 testify?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: All right. Mr. Cooper, bring the
14 jury.

15 Is he your first witness?

16 MR. BLANKENSHIP: Yes.

17 THE COURT: Approach for a minute, please.

18 (Whereupon there is a bench conference off the
19 record.)

20 THE COURT: All right. Ready for the jury?

21 MR. BLANKENSHIP: Yes, sir.

22 THE COURT: Do you want to announce that you
23 rest --

24 MS. BODMAN: That's fine.

25 THE COURT: -- to the jury.

1 MS. BODMAN: I'd be happy to do it, yes.

2 THE COURT: Bring the jury.

3 (The jury returns to the courtroom at
4 3:00 p.m.)

5 THE BAILIFF: Your Honor, the jury is present.

6 THE COURT: All right. Ladies and gentlemen,
7 we're now ready to continue the trial.

8 Ms. Bodman.

9 MS. BODMAN: Your Honor, at this time the
10 State of South Carolina rest its case.

11 THE COURT: Ladies and gentlemen of the jury,
12 that means the State will offer no more evidence in this
13 case. We now have the -- the defendant now has the
14 opportunity to present his defense; but as I told you,
15 he need not do so.

16 Mr. Blankenship.

17 MR. BLANKENSHIP: Thank you, Your Honor. The
18 defense calls Reginald Spellman.

19 THE COURT: All right.

20 (The witness comes forward.)

21 REGINALD SPELLMAN, being
22 first duly sworn, testifies as follows:

23 THE CLERK: Have a seat in the witness box.
24 State your name for the record.

25 THE WITNESS: Reginald Spellman.

REGINALD SPELLMAN -- DIRECT -- MR. BLANKENSHIP 395

DIRECT EXAMINATION

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BY MR. BLANKENSHIP:

Q Mr. Spellman, do you understand the charge that's
been made against you?

A Yes, I do.

Q And what do you understand that charge to be?

A From my understanding it's criminal sexual conduct
in the first degree with a minor.

Q Okay. Did you rape VICTIM [REDACTED]

A No, I did not.

Q Have you ever sexually touched VICTIM [REDACTED]

A No, I haven't.

Q Have you ever gone into VICTIM [REDACTED]'s room at
night?

A No, I have not.

Q Have you ever gone into her room and removed her
clothes?

A No, I have not.

Q Have you ever gone into her room and removed your
clothes?

A No, I have not.

Q Are you sure?

A I'm positive.

Q You heard her testify that you did?

A Yes, I did.

REGINALD SPELLMAN -- DIRECT -- MR. BLANKENSHIP 396

- 1 Q And you're here to tell the jury that, in fact, you
2 did not?
- 3 A I, in fact, did not.
- 4 Q Did you ever pull your penis out in front of
5 [REDACTED] [REDACTED]?
- 6 A No, I did not. That's inappropriate for an adult
7 person. I don't understand why that would be said.
- 8 Q Okay. How do you know [REDACTED] [REDACTED]?
- 9 A She is my wife's daughter.
- 10 Q You said your wife. Who is your wife?
- 11 A Alyiah Ansaar.
- 12 Q You're still married to her?
- 13 A Yes, I am.
- 14 Q When did you meet Alyiah Ansaar?
- 15 A I met Alyiah around 2003.
- 16 Q And did you begin dating immediately?
- 17 A Yes, we did.
- 18 Q Did you have a sexual relationship?
- 19 A Yes.
- 20 Q How old was she at the time?
- 21 A At the time Alyiah was, I think, 24, 25.
- 22 Q How old were you?
- 23 A I was 30.
- 24 Q And did you eventually get married to Alyiah
25 Ansaar?

REGINALD SPELLMAN -- DIRECT -- MR. BLANKENSHIP 397

- 1 A Yes, I did.
- 2 Q When did you get married to her?
- 3 A We got married in 2003.
- 4 Q What was the date?
- 5 A April 16th.
- 6 Q April 16th of 2003?
- 7 A Yes.
- 8 Q Did you hear Ms. Ansaar testify that you all were
9 married in 2005?
- 10 A Yes, I did.
- 11 Q But you're saying it was 2003?
- 12 A Yes, sir. Because the time that I was arrested for
13 the charge that I had that me and her separated, it
14 was our third year in marriage.
- 15 Q Okay. And where were you married?
- 16 A We were married at the Masonic Temple on Gervais
17 Street.
- 18 Q In Columbia?
- 19 A Yes, here in Columbia.
- 20 Q Who was at the wedding?
- 21 A Her family, my mom, just mostly her family and our
22 friends, mutual friends, that I met through her as
23 our relationship went on.
- 24 Q Was [REDACTED] at the wedding?
- 25 A Yes, she was. She was the flower girl.

- 1 Q And this was in 20003?
- 2 A Yes, sir.
- 3 Q How old was she?
- 4 A She would have been around about four.
- 5 Q And I notice that your eye, when you're looking at
- 6 me, is there something wrong with one of your eyes?
- 7 A When I was nine years old, I was in a car accident.
- 8 I lost the sight in my right eye. So I have no
- 9 muscular control over that eye from the accident.
- 10 Q That's when you were nine?
- 11 A Yes.
- 12 Q I just wanted to make sure. So you all were
- 13 married in April of 2003?
- 14 A Yes.
- 15 Q Did you go on a honeymoon?
- 16 A Yes, we went to Grand Bahama, Mexico.
- 17 Q Mexico?
- 18 A Yes.
- 19 Q And where did you all live after you were married?
- 20 A [REDACTED]
- 21 Q And who all lived in that house after the wedding?
- 22 A Me, her children, and her. That was it at the
- 23 time.
- 24 Q Did you have children of your own at that time?
- 25 A Yes, I did. I have three. I have twin girls and a

REGINALD SPELLMAN -- DIRECT -- MR. BLANKENSHIP 399

1 son.

2 Q How old are the twin girls or when were they born?

3 A They were born in 2000.

4 Q All right. So that means they were three years old
5 when you were married?

6 A Yes.

7 Q But they didn't live with you?

8 A No, they didn't. They came occasionally. Their
9 mother worked at Baptist. On the days I wasn't
10 working, they would come and spend time with me.

11 Q So they live in Columbia?

12 A They lived in Camden.

13 Q In Camden?

14 A Yes.

15 Q And your son, when was he born?

16 A My son, he was born -- oh, he was born two years
17 after that, 2002.

18 Q Is that from the same mother as your girls?

19 A No, it's not.

20 Q Okay. It's a different mother?

21 A Yes.

22 Q And he was born when?

23 A He was born around 2002.

24 Q So shortly before you met Ms. Ansaar?

25 A Yes.

- 1 Q Where did he live?
- 2 A He lived in Camden too.
- 3 Q Did he live with your daughters?
- 4 A No, he didn't. They stayed like five minutes apart
- 5 from each other.
- 6 Q How often did you see him?
- 7 A I seen him mostly on the weekends.
- 8 Q And were you working at the time?
- 9 A Yes, I was.
- 10 Q Where did you work?
- 11 A When I first met Ms. Ansaar, I was working at the
- 12 State Troopers Association. I was a telemarketer.
- 13 Q How long did you work there?
- 14 A I worked there basically, probably maybe six
- 15 months.
- 16 Q And this is 2003?
- 17 A Yes, it is.
- 18 Q Where did you go after that for work?
- 19 A I had a lapse in my job. I was looking for work.
- 20 I eventually started working at Red Lobster on Two
- 21 Notch. Her brother, which is a dude, he got me a
- 22 job working there, working in the dish room.
- 23 Q So you were working in the dish room at Red
- 24 Lobster?
- 25 A Yes.

REGINALD SPELLMAN -- DIRECT -- MR. BLANKENSHIP 401

- 1 Q This was 2004?
- 2 A Yes.
- 3 Q How long were you there?
- 4 A I was there almost a year.
- 5 Q So that goes into 2005?
- 6 A Yes.
- 7 Q What about after that?
- 8 A After that I started working for Wendy's.
- 9 Q And that's in 2006?
- 10 A Yes, that's in 2006.
- 11 Q Did you and Ms. Ansaar have a good relationship?
- 12 A Well, it was just like any other basic marriage.
- 13 Just as Ms. Ansaar said, you know, earlier we had a
- 14 conflict when it came down to, you know, us having
- 15 sex.
- 16 Q What was the conflict?
- 17 A She didn't want to as much as I did.
- 18 Q She didn't want to as much as you did?
- 19 A Yes.
- 20 Q So you wanted to have sex with her?
- 21 A Yes.
- 22 Q And how often did you all have sex?
- 23 A Oh, you could say maybe -- maybe three, four times
- 24 a month.
- 25 Q And you said your son was born in 2002?

- 1 A Yes.
- 2 Q And who is his mother?
- 3 A Her name is Jacqueline Favor (phonetic).
- 4 Q Were you dating that woman or was she someone you
- 5 just met and had sex with?
- 6 A I briefly -- I shortly met her after me and my
- 7 twin's mother had broke up.
- 8 Q How old was the mother of your son when your son
- 9 was born?
- 10 A At the time Jackie was 45, 46.
- 11 Q She was older?
- 12 A Yes.
- 13 Q Much older?
- 14 A Yes.
- 15 Q And what about the mother of -- who is the mother
- 16 of your twin daughters?
- 17 A Her name is Latasha Jackson.
- 18 Q And how old was she when you were having sex
- 19 together?
- 20 A When I met Natasha, she was 35.
- 21 Q Did the conflict between you and your wife ever
- 22 lead to violence?
- 23 A No. I'm a firm believer in not putting my hands on
- 24 a woman, you know. I can't stand that type of
- 25 thing. She is a grown woman. I'm a grown man. I

REGINALD SPELLMAN -- DIRECT -- MR. BLANKENSHIP

403

1 don't need to raise her, and she don't need to
2 raise me.

3 Q What was your relationship like with her kids?

4 A We had a close relationship. You know, her son,
5 [REDACTED] at the time he was into baseball. We was
6 going to baseball games. We was out in the yard
7 playing with the kids. Basically when we was at
8 home and she was home, she would fuss at me and
9 them for playing around in the house so much.

10 Q And is this -- this is one of the State's exhibits.
11 Is this the house where you were living?

12 A Yes.

13 Q And this is a mobile home?

14 A Yes, it is.

15 Q Is that what they call a single-wide mobile home?

16 A Yes, it's single wide.

17 Q Approximately how big is this mobile home?

18 A I really couldn't say. I don't know. I know it's
19 just -- it's not that very much long.

20 Q Is that one room wide?

21 A No. It's basically -- that room right there is
22 maybe -- it might be the size of the -- a little
23 bit smaller than the jury box.

24 Q To back here (indicating)?

25 A To where the guy in the striped shirt is.

- 1 Q To here (indicating)?
- 2 A Yes.
- 3 Q To the wall?
- 4 A Yes, to the wall.
- 5 Q And how many rooms were in this mobile home?
- 6 A Three.
- 7 Q Three rooms total?
- 8 A Three rooms total.
- 9 Q What was each room?
- 10 A One was ~~was~~ room, the other one was the boy's
- 11 room, and one was me and Alyiah's room.
- 12 Q So three bedrooms?
- 13 A Yes, three bedrooms.
- 14 Q Was there a living room?
- 15 A Yes, there was a living room.
- 16 Q Was there a separate kitchen?
- 17 A It was kind of adjacent to the living room.
- 18 Q What were the walls made out of?
- 19 A They were panel walls.
- 20 Q Paneled walls?
- 21 A Yeah. It's basically one of those old style
- 22 trailers back in the days when your mom and grandma
- 23 used to have an old style trailer, one of those old
- 24 style ones.
- 25 Q Now, if you're in that house with a TV on in the

REGINALD SPELLMAN -- DIRECT -- MR. BLANKENSHIP 405

1 living room?

2 A Uh-huh.

3 Q Can you hear it throughout the house?

4 A Yes, clearly.

5 Q Can you hear people speaking in other rooms?

6 A Yeah, you can hear what they're saying..

7 Q Did you ever call out from another room to someone
8 else in the house?

9 A Yeah. You could hear it real good. Just like I'm
10 talking to you now, you can hear it. If there's
11 something on the TV, you can hear it. You
12 understand what's on the TV.

13 Q In 2005 did you meet -- were you still living in
14 the house?

15 A Yes. Yes, I was.

16 Q At any point did you ever leave the house?

17 A In February of 2006, before that the year in 2005,
18 me and Alyiah went through some marital situations
19 where there was some unfaithfulness between both of
20 us. You know, like they say, two wrongs don't make
21 it right. I wind up having an affair with a girl,
22 and I wound up having a son.

23 Q Who is the girl?

24 A Her name is Shaquell (phonetic). Her name is
25 Smiley now, but it was Shaquell Fuller then.

REGINALD SPELLMAN -- DIRECT -- MR. BLANKENSHIP 406

- 1 Q Where did she live?
- 2 A She lived next door.
- 3 Q And how old was she?
- 4 A She was 20.
- 5 Q So you were having sex with her?
- 6 A Yes.
- 7 Q How often were you having sex with her?
- 8 A Oh, it was every now and then. It wasn't a regular
- 9 thing.
- 10 Q And when did that relationship start?
- 11 A It started in November of 2005.
- 12 Q And how long did it last?
- 13 A Until February -- yeah, February when she left.
- 14 She left because my wife found out about the
- 15 relationship; so she moved herself from the
- 16 situation.
- 17 Q And was she pregnant?
- 18 A Yes, she was.
- 19 Q With your child?
- 20 A Yes.
- 21 Q And did your wife find out about that?
- 22 A Yes. One of her -- me and the girl's mutual friend
- 23 told her while I was at work. She told her and I
- 24 came home to it. We had a big argument, of course.
- 25 Q So that led to a big argument?

REGINALD SPELLMAN -- DIRECT -- MR. BLANKENSHIP 407

1 A Uh-huh.

2 Q And did that argument lead to you leaving the
3 house?

4 A Yes, it did.

5 Q Okay.

6 A I left there and went to Georgia where Ms. Fuller
7 had left -- had moved to where her mom and
8 grandmother were. I stayed down there for a couple
9 of months.

10 Q Where in Georgia?

11 A Hinesville, Georgia.

12 Q Who lived in that house?

13 A At the time it was just me and her and the baby.
14 Well, she hadn't had the baby by then, but it was
15 just me and her.

16 Q She was pregnant?

17 A Yeah, she was pregnant.

18 Q Did you stay down there?

19 A Yeah, I stayed down there for probably maybe two or
20 three months.

21 Q Were you talking to Ms. Ansaar while you were down
22 there?

23 A Yes, we were talking back and forth on the phone.
24 I was trying to reconcile with the marriage. We
25 came to an agreement to a certain extent, and I

1 wound up moving back to Columbia, and me and her
2 got back together.

3 Q She was still in Columbia?

4 A Yes.

5 Q She was still in that house right there in the
6 picture?

7 A Yes.

8 Q She was still living with the kids?

9 A Yes.

10 Q Do you know who was taking care of the kids while
11 you were gone?

12 A No, sir, I don't. I have no idea.

13 Q Did you end up coming back to Columbia quickly?

14 A Yes, I did. Once I found out -- once we talked
15 about it, maybe like a week later, I came back to
16 South Carolina.

17 Q When was that?

18 A It was like March, March or April of '06.

19 Q And you moved back in?

20 A Yes, I did.

21 Q Were you reconciled as husband and wife in your
22 opinion?

23 A Not really. Like you say, because of the affair,
24 you know, we kind of was trying to work things out
25 as we went along; but it just didn't work out.

REGINALD SPELLMAN -- DIRECT -- MR. BLANKENSHIP 409

1 Q Did you -- were you having sex with each other?

2 A Yes. It still wasn't as regular as I wanted it
3 but, you know, we were.

4 Q And did you eventually leave again?

5 A Yes, I left in -- it was around about the time of
6 August.

7 Q You left in August of 2006?

8 A Yes, it was August, August of 2006.

9 Q You went back -- did you go back to Georgia?

10 A Yeah, I went back to Georgia. My son was born
11 August 4th of 2006. I was down there for that, and
12 I stayed down there for a couple more months. At
13 the same time, me and her were still -- I was
14 calling, still trying to get things back together
15 with her; and we tried to come to another mutual
16 agreement, and I moved back to South Carolina.

17 Q When did you move back to South Carolina?

18 A It was September of 2006.

19 Q And when you were in Georgia, were you having
20 sexual relations with your son's mother?

21 A Yes, I was.

22 Q And when you returned in September to Columbia,
23 were you having sexual relations with Ms. Ansaar?

24 A Yes, I was.

25 Q Did you stay at the house on [REDACTED] [REDACTED] beyond

REGINALD SPELLMAN -- DIRECT -- MR. BLANKENSHIP 410

1 September 2006?

2 A After I -- while I was there, I wound up being
3 arrested for a charge, and I left. It was like
4 September, the end of September, I was arrested for
5 the charge. Since then I haven't been back to the
6 house.

7 Q What was the charge?

8 A The charge was -- in actuality it was forgery, but
9 it was dropped down to a breach of trust.

10 Q Were you sent to jail for that?

11 A I had time served. I got 30 days time served.

12 Q When you went to jail, did you say you went to jail
13 in September?

14 A Yes.

15 Q Did you go to jail for any other charge?

16 A While there I wind up having to go to Lexington
17 County for another charge, and I stayed there for
18 like five months.

19 Q What was that charge?

20 A It was grand larceny over 5,000.

21 Q So a breach of trust and grand larceny?

22 A Yeah.

23 Q Would you consider those charges concerning acts of
24 dishonesty?

25 A Not really. Because of the situation -- not going

REGINALD SPELLMAN -- DIRECT -- MR. BLANKENSHIP 411

1 into what it was about -- but, no, I wouldn't
2 because there's more behind it. The charges sound
3 bad, but there's more behind the situation. I was
4 just one of those guys caught up in the wrong -- in
5 the wrong situation.

6 Q And do those charges reflect that you're a liar?

7 A No, it doesn't. That does not reflect my demeanor,
8 what type of man I am.

9 Q In light of those charges that some may say
10 indicate that you were a dishonest person, are your
11 telling these people the truth today?

12 A Yes, I am.

13 Q You're charged with trying to rape a six-year-old
14 child. Do you understand that?

15 A Yes, I do.

16 Q And you're flatly denying it?

17 A Yes, I am.

18 Q You've heard various witnesses come up and testify
19 against you. You heard [REDACTED] [REDACTED] give a
20 statement on a video; right?

21 A Yes, I have.

22 Q And you heard another account from [REDACTED] [REDACTED]
23 on the stand yesterday; didn't you?

24 A Yes, I did.

25 Q Okay. Was anything in that -- that she said

REGINALD SPELLMAN -- DIRECT -- MR. BLANKENSHIP 412

1 yesterday on the stand true?

2 A Nope.

3 MS. BODMAN: Objection, Your Honor. That's
4 for the jury to decide.

5 THE COURT: I understand that. I'm going to
6 allow it. Go ahead.

7 BY MR. BLANKENSHIP:

8 Q She made some accusations against you yesterday.

9 A Uh-huh.

10 Q Are you denying all of those accusations?

11 A Yes, I am.

12 Q And you were sitting over there earlier when the
13 videotape was played. Have you seen that videotape
14 before?

15 A Yes, I've seen it once before.

16 Q And today you were able to hear the audio of the
17 video?

18 A Yes.

19 Q There were some other accusations in that video.
20 Did you hear those?

21 A Yes, I did.

22 Q Do you flatly deny those?

23 A Yes, I do. I really do.

24 Q You've never gone into [REDACTED] room and
25 sexually molested her in any way?

REGINALD SPELLMAN -- DIRECT -- MR. BLANKENSHIP 413

1 A No, I think that is very immoral.

2 Q Have you ever tried to stick your penis in her
3 vagina?

4 A No. God, no.

5 Q Have you ever told her to suck or kiss your penis?

6 A No, never.

7 Q Have you ever touched her with your hands
8 inappropriately?

9 A No, I have not.

10 Q Now, before you left -- you said you left in 2006
11 on a couple of occasions?

12 A Yes.

13 Q What grade was **VICTIM** in?

14 A At the time she was in -- she had just started the
15 first grade.

16 Q The 2005/2006 year was the first grade for her?

17 A 2006, yes.

18 Q Who all was living in the home in the spring of
19 2006?

20 A She has a god-brother named Shawn Bennett. He came
21 and stayed -- he was there off and on for a good
22 while.

23 Q Are you accusing him of anything?

24 A No, I'm not accusing him of anything.

25 Q He was present?

1 A Yes, but he was present in the home. Quite
2 frequently there were times he would spend the
3 night. Most of the times he would spend the night.

4 Q Where would he sleep when he was in the house?

5 A On the couch next to [REDACTED] room.

6 Q But you're not saying --

7 A I'm still not saying that he did anything to her,
8 but that was the only place he could sleep.

9 Q Was Ms. Ansaar working nights at that time?

10 A Yes, she was.

11 Q So on many nights you were the only adult in the
12 house at night?

13 A No, there have been times that -- he basically was
14 over there just about every day, you know. We
15 would hang out. Me and him had kind of a good
16 relationship. Me and him would hang out around the
17 house. You know, if it was -- got too late or
18 whatever, he would just stay.

19 Q But you admit that there were many nights that you
20 were the only adult in the house?

21 A Yes.

22 Q And the kids were there?

23 A Basically the times that I was there, my kids were
24 coming up to stay with me while their mother was at
25 work. So her mother would come and get the kids.

REGINALD SPELLMAN -- DIRECT -- MR. BLANKENSHIP 415

1 So I could have basically time alone with my own
2 kids.

3 Q You're talking about during the day or night?

4 A During the day. She would keep them until their
5 mother came.

6 Q But there were times it was just you, [REDACTED]
7 [REDACTED] and MINOR 3 right?

8 A Yes.

9 Q [REDACTED] would come home -- Ms. Ansaar would come
10 home when?

11 A Sometimes if she worked at night, she would come
12 home during her breaks every now and then; but most
13 of the time it was like 7:00 o'clock in the
14 morning.

15 Q So you all were there many times -- right -- just
16 you and the kids?

17 A Uh-huh.

18 Q Did you ever threaten [REDACTED] Don't tell your mom
19 about the sex stuff?

20 A No, I have no reason to threaten her.

21 Q Why not?

22 A Because I didn't do any of the accusations that she
23 is claiming that I did.

24 Q Did you ever hear [REDACTED] tell her mom anything
25 that you were doing, whether it be the sexual

REGINALD SPELLMAN -- DIRECT -- MR. BLANKENSHIP 416

1 abuse, any other kind of abuse?

2 A No, she never --

3 Q Did she --

4 A -- like I say, me and the kids, we had a good
5 relationship. I mean, like I said, we would play
6 around in the house. She would be fussing because
7 we were playing around in the house.

8 You know, I paid more attention to the boys,
9 you know, because we were boys. You know, I did
10 boy things with them. I played baseball and stuff
11 like that. She would get mad because I wouldn't
12 play with her like I would play with them. I did
13 that for the simple reason of this type of thing.

14 Q Did any of the kids ever complain that, Reggie was
15 yelling at us and doing other stuff?

16 A No, they actually came to me before they came to
17 their mother.

18 Q Were they respectful to you?

19 A Yes.

20 Q So no indications that they resented you because
21 you weren't their father?

22 A No. In actuality when they went to their father's
23 house for the weekends or whatever, they would come
24 back and say, Reggie, Reggie, guess what I did at
25 dad's house? We would sit around and talk about

REGINALD SPELLMAN -- DIRECT -- MR. BLANKENSHIP 417

1 what they did, you know. It was just a family. We
2 were a family.

3 Q So you thought you had a good relationship with the
4 kids?

5 A Yes.

6 Q And maybe somewhat of a rocky relationship with
7 your wife?

8 A Yes.

9 Q When did you get out of jail? You said you went in
10 September of 2006.

11 A After I left Lexington, because of me being
12 incarcerated, I had to go to Kershaw County for
13 child support. I spent six months there. I left
14 there in August of 2007.

15 Q Where did you go in August of 2007?

16 A When I was released, I moved to North Carolina with
17 my mother and grandmother, Rosie Drakeford and
18 Rosemary Spellman.

19 Q Why didn't you go back to Ms. Ansaar?

20 A While I was in Lexington County, she wrote me a
21 letter and told me she didn't want the marriage
22 anymore and for me not to come back home.

23 Q Did you respond to her at all?

24 A I made a visit for her to come and we talked, and
25 it wound up into an argument; and I just left her

1 that day.

2 Q So in August of 2007, you lived in North Carolina
3 with your mom and grandma?

4 A Yes.

5 Q Where did they live?

6 A My mom stayed in -- well, at the time they both
7 stayed in Aberdeen, North Carolina.

8 Q And from August 2007 until -- have you ever come
9 back to South Carolina to live?

10 A No.

11 Q Have you gotten into a relationship with anybody up
12 there sexually?

13 A Yes, right now I have -- I have a girlfriend right
14 now. Her name is Lorraine Jones. She's 45.

15 Q How long have you been with her?

16 A I've been with her basically for going on five
17 years now.

18 Q Since August 2007 have you seen [REDACTED] or

19 [REDACTED] MINOR 3

20 A No, I haven't.

21 Q Have you seen your other kids?

22 A Yes, my mom goes down to Camden and picks them up
23 and brings them up for like the holidays. My son,
24 he comes and spends the summer with me, my oldest
25 son.

REGINALD SPELLMAN -- DIRECT -- MR. BLANKENSHIP 419

1 Q How old is he?

2 A In August he'll be nine.

3 Q What about the girls?

4 A The girls, they just turned 12.

5 Q And your other son?

6 A My other son, he just turned five.

7 Q Have you had any contact since August 2007 with
8 Ms. Ansaar?

9 A There was one occasion where Ms. Ansaar called, and
10 she was talking about she wanted to come up and see
11 me. At the time I was -- as I said, at the time I
12 was dating Ms. Jones at the time. Me and her had
13 just started a relationship.

14 I kind of felt like that was going to be a
15 conflict. We never did. She was already on her
16 way up there. I kind of like just kind of cut her
17 off because I didn't want to deal with the
18 situation that was going to be going on.

19 I knew it was a plan for disaster. She was
20 calling my mom trying to get my mom to find out and
21 tell her where I was and how to get to where I was,
22 but she never came.

23 Q Did you have any other contact with her?

24 A Later on in 2010, I called her. Me and Ms. Jones
25 were talking about getting married. I was like, I

REGINALD SPELLMAN -- DIRECT -- MR. BLANKENSHIP 420

1 had to tie up my loose ends on this part and ask
2 Ms. Ansaar for a divorce. I called her and I asked
3 her for a divorce, and she said, That's all right.
4 I got it. If you want a divorce, you got it.

5 Q She said that was fine to get divorced?

6 A Yes.

7 Q And she wasn't going to fight you on it?

8 A No.

9 Q Did you have any communications with her since?

10 A No, I haven't. I tried to call her a few times to
11 find out what was going on as far as the divorce
12 was concerned, and she would never answer her
13 phone.

14 Q Who was going to file for the divorce?

15 A I was in the process of trying to figure out how to
16 file for the divorce. The last time I talked to
17 her to ask her for the divorce, she had me thinking
18 that she was already filing; but I still was trying
19 to file myself.

20 Q All right. When was the first time you learned
21 that [REDACTED] was accusing you of trying to
22 rape her?

23 A Me and my fiancée, we were going to -- Ms. Jones --
24 we were coming from the grocery store, and I got
25 stopped by the police. They ran my name. It came

REGINALD SPELLMAN -- DIRECT -- MR. BLANKENSHIP 421

1 back that I had a fugitive warrant from South
2 Carolina. I didn't know what for. They took me to
3 the precinct, and they told me what the warrant was
4 for and who it was for.

5 Q And they wanted to -- was there any request to
6 extradite you back to South Carolina?

7 A Yes, there were.

8 Q You said you didn't want to do that; didn't you?

9 A Yes. Because at the time I had -- someone was
10 letting me know something about a writ of habeas,
11 which means I had the right to find out what they
12 wanted to extradite me for.

13 The attorney that I had that was doing my
14 extradition, he was supposed to have been trying to
15 do it for me, but he wasn't. So I was trying to
16 buy some time to figure out what to do. It wasn't
17 that I was trying to dodge it or not come back.
18 It's just that I was trying to figure out what was
19 going on.

20 Q Did you immediately deny the allegations?

21 A Yes.

22 Q And you eventually were transported back to South
23 Carolina; right?

24 A Yes. I finally went to my extradition hearing, and
25 I filed -- and I signed my extradition papers to

REGINALD SPELLMAN -- DIRECT -- MR. BLANKENSHIP 422

1 come back.

2 Q So you never intended to run from the charges?

3 A No, I couldn't. How was I supposed to run from
4 something I never knew I had?

5 Q Are you ready to face the charges?

6 A Yeah, I wanted to face the charges. I just wanted
7 to know what was going on with it. I never knew
8 what it was. The police officer that arrested me
9 didn't know what a CSC was.

10 Q Have you tried -- have you thought about how to
11 defend yourself in this case?

12 A I thought about it plenty of different ways, but
13 the only thing I can do is tell the truth. I mean,
14 a lie is going to get me even in worse trouble.

15 Q Now, why would **VICTIM** a child, come up with this
16 accusation against you; do you know?

17 A Me, myself, not saying that this is true; but I
18 feel like it was her mom's doing. Not saying -- I
19 said, I don't point the finger at her, you know,
20 but when I first married Ms. Ansaar, her words to
21 me were, There's no divorcing me.

22 Q This is an awful bad accusation to make; isn't
23 it --

24 A Yes.

25 Q -- for a child to make it. Is there any

REGINALD SPELLMAN -- DIRECT -- MR. BLANKENSHIP 423

1 explanation that you can come up with?

2 A None that I can think of, not unless she was trying
3 to hide something or hide somebody.

4 Q She's saying -- you heard her testify --

5 A Yes.

6 Q -- and you saw the story on the video?

7 A Uh-huh.

8 Q There is an accusation that you came into her room
9 at night when she was sleeping. Did that ever
10 happen?

11 A Never. When the kids are asleep, they are asleep.
12 I don't go -- especially the little girl. I'm not
13 going to -- no, that's a pool for trouble.

14 Q Did you ever remove her clothes when she was
15 sleeping?

16 A No, I did not.

17 Q Did you ever take off your clothes in front of her?

18 A No, I did not.

19 Q Did you ever walk around the house with your shirt
20 off?

21 A Oh, no, that was a thing of respect, I felt, on
22 myself as being the man.

23 Q And this is a small house?

24 A Uh-huh.

25 Q There were five of you, you say?

REGINALD SPELLMAN -- DIRECT -- MR. BLANKENSHIP 424

- 1 A Yes.
- 2 Q And there were times when--
- 3 A -- Shawn came and lived with us.
- 4 Q So that's six people in this small, small house.
- 5 So this is close quarters?
- 6 A Yes.
- 7 Q And where was [REDACTED] room compared to you and
- 8 Alyiah's room?
- 9 A [REDACTED] room was here (indicating). Our room was
- 10 maybe no farther than the first bleachers right
- 11 there (indicating).
- 12 Q Was it directly across the hall from each other?
- 13 A You can pretty much say, not really directly across
- 14 but kind of at a diagonal.
- 15 Q How far down?
- 16 A Maybe from here, like I say, to the bleachers
- 17 behind the wall.
- 18 Q Is it here (indicating)?
- 19 A Yes.
- 20 Q From here where was the boys' room?
- 21 A Right next to our room.
- 22 Q So was it your room, the boys' room, and [REDACTED]
- 23 room?
- 24 A Yes, the window in the picture is her room.
- 25 MR. BLANKENSHIP: Nothing further.

REGINALD SPELLMAN -- CROSS -- MS. BODMAN

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1 THE COURT: Cross examination.

2 CROSS EXAMINATION

3 BY MS. BODMAN:

4 Q You said that when you got married, Alyiah said to
5 you, There is no divorcing me?

6 A Yes.

7 Q And going into a marriage, that's what you hope
8 that your partner's attitude is; right?

9 A Yes.

10 Q We are not getting divorced. Okay. So if we're
11 getting married, there is no divorce here; right?

12 A Uh-huh.

13 Q But actually you said that later, she said, Fine.
14 Let's get a divorce?

15 A Yes.

16 Q I mean, when the writing is on the wall, you hope
17 that you're not going to get a divorce. You hope
18 you're not going to divorce your spouse, but the
19 writing is on the wall for her, and she said, That
20 is fine. We're done.

21 A Yes.

22 Q And at the time she said, Fine. We're done, you
23 had actually been out of the picture for a long
24 time; right?

25 A Yes, ma'am.

- 1 Q For quite some time she had known about the affairs
2 then. You had left the home. You had actually
3 gotten yourself incarcerated, apparently multiple
4 times. You were moving from jurisdiction to
5 jurisdiction, and she is like, Yeah. We're done.
6 We're over. We're divorcing.
- 7 A No, she actually did that. She wrote me when I was
8 in Lexington County, and she said she didn't want
9 the divorce; but I initially said that, you know,
10 that I wanted a divorce. She just said she didn't
11 want to be in the marriage anymore, but she never
12 did...
- 13 Q And when was that that she wrote you?
- 14 A She wrote me -- let's see. I left Richland County
15 on October the 29th. I went from there to
16 Lexington County on October 29th. So I would say
17 it was like maybe in the middle of October she
18 wrote me and told me.
- 19 Q Of 2006 or 2007?
- 20 A Seven.
- 21 Q 2007?
- 22 A Yes.
- 23 Q Okay. She is like, Fine. You know, we're done.
24 We're over. Divorce is fine with me?
- 25 A Yes.

REGINALD SPELLMAN -- CROSS -- MS. BODMAN

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- 1 Q This marriage is over. I don't want anything more?
- 2 A Yes.
- 3 Q So in 2003 you say you all get married?
- 4 A Yes.
- 5 Q So you are [REDACTED] stepfather?
- 6 A Yes.
- 7 Q Did she call you Reggie?
- 8 A Yes, she did. She called me Reggie by my name.
- 9 Q And you talked about the boys how they would go
- 10 visit their father, [REDACTED] dad. That's David
- 11 [REDACTED] sitting right here (indicating)?
- 12 A Yes.
- 13 Q That's the dad that you were talking about?
- 14 A Yes.
- 15 Q That's here supporting his daughter, [REDACTED]
- 16 sitting next to him?
- 17 A Yes.
- 18 Q And his name is David; it's not Reggie?
- 19 A No, it's not.
- 20 Q And he's not a stepdad. He is her biological
- 21 father?
- 22 A Yes, he is.
- 23 Q You were living then at [REDACTED] [REDACTED] [REDACTED] [REDACTED]
- 24 A Yes.
- 25 Q In that trailer?

- 1 A Yes.
- 2 Q Three bedrooms?
- 3 A Yes.
- 4 Q Just you, Alyiah, [REDACTED] [REDACTED] and [REDACTED] were
5 living there?
- 6 A Yes.
- 7 Q That's what you said. That was it at the time.
8 That was your answer?
- 9 A Yes.
- 10 Q And [REDACTED] had her own bedroom?
- 11 A Yes, she did.
- 12 Q And how she described it on the stand, about her
13 dollhouse and the toys and things that she had in
14 her room, that's what her room was like?
- 15 A Pretty much.
- 16 Q And then [REDACTED] and [REDACTED] shared their own room?
17 A Yes.
- 18 Q And there were days that you were not working?
- 19 A Yes.
- 20 Q And Alyiah worked at night many times?
- 21 A Uh-huh.
- 22 Q She was working two and three jobs at a time?
- 23 A At the time she was only working two jobs.
- 24 Q When was she working three jobs?
- 25 A This was like way before 2006.

REGINALD SPELLMAN -- CROSS -- MS. BODMAN

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- 1 Q You mean --
- 2 A Actually like 2005.
- 3 Q 2005?
- 4 A Yes.
- 5 Q And for some period of time she would actually be
- 6 working three jobs?
- 7 A Yes, that was the time.
- 8 Q If you're working three jobs, you can't be in the
- 9 home at the same time you're at three jobs?
- 10 A Uh-huh.
- 11 Q And you've got -- there are small children then in
- 12 the house; right?
- 13 A Yes.
- 14 Q I mean, **VICTIM** six years old?
- 15 A Yes.
- 16 Q **MINOR** would be ten years old?
- 17 A Yes.
- 18 Q And, I guess, **MINOR** would be seven? Eight?
- 19 A Seven.
- 20 Q Small children that can't be left alone?
- 21 A Uh-huh.
- 22 Q She is working three jobs. You said that you were
- 23 a family. So you are there in the house with the
- 24 kids?
- 25 A Uh-huh.

1 Q Making sure that they eat?

2 A Yes.

3 Q Making sure they do their homework?

4 A Uh-huh.

5 Q Making sure they take their baths and go to bed?

6 A Yes.

7 Q Get a good night's sleep?

8 A Uh-huh.

9 Q Everybody is tucked into their own rooms?

10 A Yes.

11 Q That's you. That's your responsibility as the

12 stepdad?

13 A Yes, that's my responsibility. But the times that

14 I was at home, I was not -- they were not there.

15 Q Where were the kids then?

16 A Their grandmother would, as I said, their

17 grandmother would come pick them up on the days

18 that I worked. When I was home, my kids would come

19 up because their mother worked at Baptist. The

20 days that she was working there, I would notify her

21 so she would bring the kids; and I would watch the

22 kids while she was at work.

23 Q So every time? There was never a time that you

24 were home with these kids in their own home with

25 [REDACTED] [REDACTED] and [REDACTED]

REGINALD SPELLMAN -- CROSS -- MS. BODMAN

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- 1 A Not during 2006, no.
- 2 Q 2005?
- 3 A 2005, no. Not really, no.
- 4 Q There were times that you said you had a lapse in
- 5 your job; right?
- 6 A Yes.
- 7 Q So you weren't working at all?
- 8 A Those times though were the times that I was out
- 9 looking for jobs.
- 10 Q At night?
- 11 A No, not at night.
- 12 Q And there were three jobs that you said: The State
- 13 Troopers Association for about three months?
- 14 A Uh-huh.
- 15 Q Red Lobster for about a year?
- 16 A Uh-huh.
- 17 Q And then Wendy's in 2006?
- 18 A Uh-huh.
- 19 Q And that's it?
- 20 A That's it.
- 21 Q September 2006. September 29, 2006, is that
- 22 (indicating) you?
- 23 A Yes.
- 24 Q Is this a picture of you?
- 25 A Yes, it is.

1 Q You said you were working at Sumter Utility
2 Company?

3 A I was -- when I got arrested, I had just got the
4 job for that; but I never did get to start working
5 for them.

6 Q So although you were not working for them, you said
7 you were working for them?

8 A I was supposed to start the next day before I got
9 locked up.

10 Q So there was a period of time after Wendy's in 2006
11 that you were not working?

12 A No.

13 Q You lost your job at Wendy's, and then you were
14 getting a job at Sumter Utility?

15 A I was working at night at Wendy's. I was trying to
16 find a daytime job because when the kids were at
17 school, they would come to the daycare where her
18 mother and her grandmother worked at. Well, she
19 worked at and her mother worked at.

20 Q Okay. Now, you said that you moved back to -- was
21 it Georgia in August of 2006?

22 A Yes.

23 Q So how did do you work at Wendy's in August of 2006
24 and live in Georgia?

25 A I went to -- I came -- I started working for

REGINALD SPELLMAN -- CROSS -- MS. BODMAN

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1 Wendy's in September.

2 Q In September of 2006?

3 A Yes, when I came back from --

4 Q So when you came back from Georgia?

5 A Yes. When I came back from Georgia, that's when I
6 started working for them.

7 Q So in late 2006 you didn't start working at
8 Wendy's?

9 A I didn't start working until -- yeah. Because that
10 was my last job before I got arrested.

11 Q You said that you and Alyiah did argue about sex?

12 A Yes, we did.

13 Q And the argument was that you were not having
14 enough sex with her. You wanted to have more?

15 A Yes.

16 Q So your sexual gratification needs were not being
17 met by Alyiah?

18 A No, they weren't.

19 Q And you've admitted at least to seeking other
20 places for sexual gratification in other women?

21 A Yes.

22 Q So you were going to find other places to get that
23 sexual gratification that Alyiah was not providing
24 to you?

25 A Well, actually it was kind of a -- like I said, two

1 wrongs don't make a right. I actually caught
2 Ms. Ansaar cheating on me. I was mad and trying to
3 do the same thing and wound up having a child in
4 the process.

5 Q I understand you wanted that opportunity to tell
6 the jury about that, but my question to you was:
7 You were not getting the sexual gratification you
8 wanted from Alyiah. So you did seek other ways to
9 get that sexual gratification?

10 A I did seek that with Ms. -- Ms. Jones.

11 Q And between working, taking care of your children
12 apparently because they were coming over to your
13 house a lot, you were able to find the time to go
14 next door and have an affair with this woman?

15 A Yes.

16 Q You would find the time in the day to go do that?

17 A Well, the next door neighbor had kids herself
18 because she -- Shaquell was staying with her
19 friend, with some neighbors of ours. That's how I
20 met her. The neighbor had kids. So my kids would
21 go over there with them. That's how it was. It
22 wasn't that I was leaving my kids anywhere or
23 leaving them on anybody.

24 Q My point is you found the time to do it?

25 A Yes.

REGINALD SPELLMAN -- CROSS -- MS. BODMAN

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1 Q It was September 28th or 29th of 2006 was the last
2 day that you lived in that home on Percival Road;
3 correct?

4 A Yes.

5 Q Never to go back to that home?

6 A No. She informed me not to darken her doorstep
7 again.

8 Q Well, she informed you that later?

9 A Yes.

10 Q But that day that you left, you said you got
11 arrested? You got incarcerated?

12 A Yes.

13 Q So you didn't leave because there was any kind of
14 big argument with Alyiah?

15 A No.

16 Q She didn't throw all of your stuff out of the
17 trailer?

18 A No.

19 Q There wasn't some big breakup or disagreement. It
20 was pretty uneventful in terms of your relationship
21 with Alyiah?

22 A Yes.

23 Q Now, you actually never admitted to Alyiah about
24 the affair and the child that you conceived; did
25 you?

REGINALD SPELLMAN -- CROSS -- MS. BODMAN

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1 A No, not at the time. No, I didn't.

2 Q So when she first confronted you about it, you
3 actually denied it?

4 A Yes, I did.

5 Q You were dishonest with her about that. You did
6 not tell her the truth?

7 A Well, actually, what I did not tell her was that
8 she was pregnant because I did not know at the time
9 that she was pregnant. That was what I told her no
10 about. I did not know that the girl was pregnant
11 at the time.

12 Q But I said, You denied it? You said, Yes, I denied
13 it.

14 A I denied that I didn't know that she was pregnant.
15 That's what I denied. I did not deny having the
16 relationship with her.

17 Q October of -- October 27th of 2006, you were
18 convicted of attempting to obtain property under
19 false pretenses; correct?

20 A Yes, ma'am.

21 Q And you told this jury that you did not think that
22 that was a crime involving dishonesty?

23 A To the situation of that, that situation, I was
24 doing some work for a friend of mine. And what
25 happened was between the time of me -- they wrote

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1 me a check for the work I was doing. Between the
2 time of me cashing the check and them giving me the
3 check, we had a falling out; and they reported the
4 check stolen.

5 So it wasn't that I stole anything or took
6 anything or tried to juke anybody. It was just two
7 people having an argument and wind up I got in
8 trouble.

9 Q You stood in a courtroom right here, actually in
10 this very courthouse, and you plead guilty to
11 attempting to obtain property under false
12 pretenses; correct?

13 A Yes, I did.

14 Q And you were represented by a lawyer; correct?

15 A Yes.

16 Q And you understand the South Carolina State
17 Legislature considers this a crime of dishonesty;
18 right?

19 A I wouldn't know. I guess so.

20 Q On February 6th of 2007, you were convicted of
21 grand larceny, a value over \$5,000?

22 A Yes.

23 Q And you told this jury, again, that this is not a
24 crime of dishonesty? Theft?

25 A The situation with that was her god-brother stole a

1 truck. He got in trouble and he blamed it on me.

2 So I didn't tell that he did it and -- he was

3 saying he didn't do it. I was saying I didn't do

4 it. So they got both of us in trouble.

5 Q Again, you stood up in front of a judge, and you

6 pled guilty to that charge?

7 A Yes, I did.

8 Q Correct?

9 A Yes.

10 Q And you were represented by an attorney; correct?

11 A Yes, I was.

12 Q You said at the very beginning of your testimony

13 that you do not know why she said that?

14 A Yes, ma'am.

15 Q She said this?

16 A Yes, ma'am.

17 Q And the best that you can come up with is that, I

18 guess, (A), she was -- ~~WOMAN~~ was jealous because

19 you played with the boys more than her?

20 A No, that wasn't it. I said that, you know, me and

21 her mother were getting a divorce. It was also

22 said that, you know, that she ripped up my picture.

23 So obviously she was mad.

24 So it's a possibility -- not saying that she

25 just -- that was a reason, but it's a possibility

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1 she might have been talking bad about me and her
2 mom. She is really close with her mom. So she
3 might have said, Reggie hurt my mom and made my mom
4 upset.

5 Q But she said -- you have acknowledged that Alyiah
6 said she was fine with divorcing you?

7 A Yes, ma'am.

8 Q And [REDACTED] answer about how her mom was doing
9 about what she had said you did to her was she was
10 really angry and she had torn up her wedding
11 picture?

12 A Not because of what I did to her but as far as us
13 separating.

14 Q That was the question that was posed to [REDACTED] was
15 how was her mom doing with all of this, this
16 allegation?

17 A Okay.

18 Q And that she ripped up your wedding picture after
19 hearing what you did to [REDACTED]

20 A Okay. But like I said, it wasn't -- like I said,
21 I'm not totally pointing fingers at her as to the
22 reason why she is making these allegations. I'm
23 just saying, you know, that if she is mad, she
24 might have been mad when I asked for a divorce.

25 Because when I asked her for the divorce, she

1 hung up on me. So there is no telling -- like I
2 said, I'm not saying that she is speaking bad about
3 me; but she might have been saying some things out
4 of the way in front of the kids. I don't know. I
5 can't say. I can't say for sure.

6 Q And you said you had a good relationship with the
7 kids?

8 A Yes, I did.

9 Q You said that -- you indicated something about
10 August 2007 you had moved to North Carolina to live
11 with your grandmother?

12 A My grandmother and my mom.

13 Q Okay. That's August of 2007?

14 A Yes.

15 Q Then you indicated that there was a time --
16 sometime that you said Alyiah said she wanted to
17 come up and see you and had gotten in the car, and
18 you were trying to give her directions.

19 A Yes, she was trying to come up. She had indicated
20 that she wanted to come. She had called and said
21 she wanted to come see me.

22 Q Okay. So when did that happen?

23 A Oh, that was like maybe a month after I got up
24 there.

25 Q So around September of 2007?

REGINALD SPELLMAN -- CROSS -- MS. BODMAN

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- 1 A Maybe like the end of 2007, September.
- 2 Q September, October, something like that of 2007?
- 3 A September.
- 4 Q And then did you all communicate with each other
- 5 after that? Phone calls?
- 6 A No.
- 7 Q Since October 2007 you did not talk to her?
- 8 A No.
- 9 Q And you said you had tried to call her -- at some
- 10 point you'll called her or tried to call her
- 11 regarding a divorce, and she wouldn't answer. When
- 12 was that?
- 13 A This was after -- this was round about April or
- 14 May.
- 15 Q Of what year?
- 16 A 2010.
- 17 Q 2010?
- 18 A Yes.
- 19 Q And she just wouldn't answer your phone calls at
- 20 all?
- 21 A No, she wouldn't.
- 22 Q Did you leave voicemail messages?
- 23 A Yes, I did.
- 24 Q And she would not return your voicemail messages?
- 25 A She would not return them. I called at least maybe

1 about three more times after that. I just left it
2 alone. I went ahead trying to seek -- do the
3 divorce myself.

4 Q And so that would be -- coincide with the timeframe
5 that [REDACTED] had disclosed about what you did to
6 her?

7 A Yes.

8 Q So she doesn't pick up the phone. Alyiah doesn't
9 pick up the phone and call you and say, We got you
10 now. You are not getting your divorce?

11 A No.

12 Q Nothing. She doesn't even want you to know that
13 she knows what [REDACTED] said?

14 A I guess so.

15 Q She doesn't want to give you any kind of hints
16 about what's going on?

17 A From what I understand after I was extradited here,
18 that she was not to have any contact with her, and
19 I wasn't to have any contact -- she was not to have
20 any contact with me, and I was not to have any with
21 her.

22 Q Well, as a condition of your -- the pending case --
23 you were told not to have any contact with the
24 victim; correct?

25 A Yes.

REGINALD SPELLMAN -- CROSS -- MS. BODMAN

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1 Q Any direct or indirect contact with the victim?

2 A Yes. At the time when I was calling, I did not
3 know that the situation was going on. It was
4 directed to her for her not to contact me. So I
5 didn't know anything, other than her just not
6 answering the phone, I didn't know this situation
7 was going on.

8 Q Right. She complied with whoever instructed her
9 not to have any contact with you. She complied
10 with that?

11 A Yes.

12 Q And she would not return your phone calls?

13 A Yes.

14 Q Now, your attorney stood up in opening statements
15 and said that the sexual assault of a child is the
16 most vile and disgusting act. Do you agree with
17 that statement?

18 A Yes, I do.

19 Q Do you think that it is actually even worse than
20 some murders?

21 A I honestly put it up there with that.

22 Q And, in fact -- I mean, there might be some people
23 that commit a murder and might go around and brag
24 about it -- right -- to either make themselves look
25 tough, to give themselves some street credit,

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1 whatever it is. They're going to brag that they
2 either assaulted someone, shot someone, killed
3 someone?

4 A There have been instances that that has happened,
5 yes.

6 Q It sends out a message: Don't mess with me?

7 A Yes.

8 Q But you don't normally hear people bragging about
9 how many six year olds they molested?

10 A No.

11 Q It is a shameful and disgusting act?

12 A Yes, it is.

13 Q That no one would want to admit to?

14 A Yes. But then in the same token, there are some
15 cases where I have met some guys who do deal with
16 young girls and will say that they deal with young
17 girls. So it's basically not -- it's kind of
18 regular.

19 MS. BODMAN: No further questions.

20 THE COURT: Redirect?

21 MR. BLANKENSHIP: Thank you.

22 REDIRECT EXAMINATION

23 BY MR. BLANKENSHIP:

24 Q How many guys do you know that mess with young
25 girls? Are you talking about six years old?

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- 1 A No, just teenage girls or as old as me messing with
2 a young girl, teenage girl.
3 Q Oh, teenage girls?
4 A Yes.
5 Q Okay. There was some discussion about where you
6 were working, where you were living in
7 September 2006?
8 A Uh-huh.
9 Q Do you remember that?
10 A Yes.
11 Q With Ms. Bodman?
12 A Uh-huh.
13 Q Was **VICTIM** in second grade in September 2006?
14 A No, she was in first grade.
15 Q I think earlier you said she was in first grade in
16 '05/'06?
17 A She was in first grade.
18 Q And then it was said the year '05 and '06.
19 A Oh, '05?
20 Q Yes.
21 A '05, she wasn't in school.
22 Q Do you understand that school goes from fall to
23 spring?
24 A Yes.
25 Q So the school year of fall of 2005 to spring 2006,

1 what grade was she in?

2 A She was in first grade.

3 Q In September, fall 2006 to spring 2007, what grade
4 would she be in?

5 A She started at the end of 2006 going to school.

6 Q But she would be in second grade in the fall of
7 2006?

8 A Oh, yes.

9 Q You weren't a very good husband to Ms. Ansaar; were
10 you?

11 A I tried to do the best I could, except for the
12 affair, yeah.

13 Q So you cheated on her?

14 A Yes, I did, uh-huh.

15 Q And you pled guilty to obtaining goods under false
16 pretenses; right?

17 A Yes.

18 Q And you pled guilty to grand larceny?

19 A Yes.

20 Q That might make you a thief?

21 A No. What those charges are does not make the man
22 that I am.

23 Q Is it fair that someone could call you a thief if
24 you pled guilty to those two things?

25 A It would be fair for them to say that, yes.

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1 Q Some stranger on the street, you know, he stole
2 some stuff from people and accepted it when he
3 shouldn't have, you might call that a thief?

4 A That's a possibility. I mean, it's all on how you
5 look at it. I mean, you actually have to look at
6 the situation of what happened in order to say
7 that. Because there are a lot of people that have
8 been accused of things that they really hadn't done
9 it.

10 Q Are you a child molester?

11 A No, I am not, definitely not.

12 Q Have you ever molested [REDACTED] [REDACTED]

13 A No, I have not, never.

14 MR. BLANKENSHIP: Nothing further.

15 THE COURT: Recross?

16 MS. BODMAN: No further questions.

17 THE COURT: You may come down, sir. Thank you
18 very much.

19 (The witness leaves the witness stand.)

20 MR. BLANKENSHIP: The defense rests, Your
21 Honor.

22 THE COURT: Reply? Any reply, Ms. Bodman?

23 MS. BODMAN: No, sir.

24 THE COURT: All right. Ladies and gentlemen,
25 that concludes the evidence in this case. Now, the

1 remaining portion of the trial will consist of the final
2 summations or arguments by counsel and my instruction to
3 you on the law of the State of South Carolina as it
4 applies to this case.

5 Then the case is going to be turned over to
6 you for deliberation. It's 4:00 o'clock. I don't like
7 to start the argue and charge and deliberations after
8 4:00 o'clock because they tend to run on.

9 The closing arguments and my charge to you
10 will take over an hour, probably. So I think the best
11 and most efficient use of our time is to adjourn now for
12 the evening.

13 I'm going to ask you to return to the jury
14 room at 9:30 in the morning, at which time we will
15 conclude this case. I'll ask you again, don't discuss
16 the case among yourselves when you return to the jury
17 room or among your friends or family this evening.

18 I'll ask you again, please do not try to do
19 any internet research or anything of that nature. I
20 want you to come in fresh in the morning with a clear
21 head and be prepared to resolve this matter. Thank you
22 very much. Have a pleasant evening.

23 (The jury is excused for the day 4:01 p.m.)

24 THE COURT: Any motions?

25 MR. BLANKENSHIP: Just to renew our directed

1 verdict motion.

2 THE COURT: Okay. I still feel there's
3 sufficient evidence for this to go to the jury, and I
4 will deny your motion.

5 MR. BLANKENSHIP: Thank you.

6 THE COURT: At 9:30. At 9:30 I'll have you a
7 set of proposed instructions. Let me ask if you have
8 any suggested instructions that you wish for the Court
9 to give to the jury?

10 Anything from the State?

11 MS. BODMAN: Nothing out of the ordinary, just
12 the normal charge, Your Honor.

13 THE COURT: All right. From the defense?

14 MR. BLANKENSHIP: I think nothing out of the
15 ordinary. We do renew our request that there be no
16 instruction --

17 THE COURT: -- as to corroboration?

18 MR. BLANKENSHIP: -- about not being
19 corroborated.

20 THE COURT: I assume the State will request
21 that statute?

22 MS. BODMAN: Yes, Your Honor.

23 THE COURT: I'll give it. All right. 9:30.
24 Thank you very much.

25 MR. BLANKENSHIP: Thank you.

1 (Whereupon the proceedings are concluded for
2 January 11, 2012.)

3 (The following proceedings are reported on
4 January 12, 2012.)

5 THE COURT: All right. Counsel, I provided a
6 proposed set of jury charges. Any deletions, exceptions
7 by the State or from the State?

8 MS. BODMAN: The only thing we noticed really
9 is on page 3 when it starts, "The indictment in this
10 case charges the defendant with criminal sexual
11 misconduct. It's the assault with intent to commit
12 criminal sexual misconduct.

13 THE COURT: We'll change that.

14 MS. BODMAN: I think that was the only thing
15 we really noticed.

16 I'm sorry. I did notice that a number of the
17 jurors are taking notes. So are you also going to
18 instruct on that?

19 THE COURT: I always tell them.

20 MR. BLANKENSHIP: I'm sorry?

21 THE COURT: I always talk to them about notes.
22 From the defense?

23 MR. BLANKENSHIP: We just renew our written
24 motion regarding the statute on corroboration.

25 THE COURT: Corroboration?

1 MR. BLANKENSHIP: Yes.

2 THE COURT: Well, overruled. I think it
3 probably flies by without thinking a whole lot about it
4 anyway.

5 Is the State ready for the jury?

6 MS. BODMAN: Yes, Your Honor.

7 THE COURT: Defense ready for the jury?

8 MR. BLANKENSHIP: Yes.

9 THE COURT: Bring the jury.

10 THE BAILIFF: Yes, sir.

11 (The jury returns to the courtroom at
12 9:47 a.m.)

13 THE BAILIFF: The jury is seated.

14 THE COURT: Thank you very much. Good
15 morning. We're now ready to conclude the trial with the
16 closing arguments of counsel and my instructions to you
17 on the law of South Carolina as it applies to this case.

18 Solicitor, you may give your final closing
19 argument.

20 MS. BODMAN: Your Honor, we will preserve our
21 closing until after defense.

22 THE COURT: All right. Yes, sir, you may
23 proceed.

24 CLOSING ARGUMENT

25 MR. BLANKENSHIP: Good morning. Thank you all

1 for staying with us for so long. It's been a long week,
2 I know.

3 As I told you at the beginning of this case,
4 the molestation of a child is disgusting and about as
5 vile as it is in this society. We've been here to tell
6 you that Reginald Spellman is not a child molester. He
7 did not sexually molest VICTIM [REDACTED]

8 I also told you at the beginning of this trial
9 what I thought would happen and what would be presented
10 to you. I suggest that the only real evidence in this
11 case would be the inconsistent accusations by VICTIM
12 [REDACTED] and the denial of the accusations by Reginald
13 Spellman.

14 I told you that the State would put up various
15 witnesses, and I asked you to listen carefully to what
16 those witnesses actually provided to you by way of
17 evidence. In a minute I'll go through each witness and
18 what I saw them provide to you.

19 But first I'd like to also say that at the
20 beginning of this case, the State promised you that you
21 would see certain evidence. They said that you would
22 receive evidence that Reginald Spellman tried to have
23 sexual intercourse with VICTIM [REDACTED] that he tried to
24 have her perform sexual -- oral sex on him -- and that
25 he tried to perform oral sex on her.

1 I ask you to think back to all the evidence.
2 Where was there ever a mention that he tried to perform
3 oral sex on her? It didn't come up in the video. It
4 didn't come up with any witness. It didn't come up with
5 any testimony. So I'm not sure why that promise was
6 made, but it was not fulfilled.

7 The Court is going to instruct you on what the
8 law is as far as reasonable doubt, the elements of
9 assault with intent to commit criminal sexual conduct
10 with a child under the age of 11.

11 I'll tell you that reasonable doubt means you
12 have to hesitate to act. What that means is when you're
13 considering: Did the State present evidence that is
14 conclusive that Mr. Spellman is guilty? Would you
15 hesitate to say that?

16 If you do then you have a reasonable doubt;
17 and therefore, you have to find that he is not guilty.
18 Based on the evidence that was presented to you, which
19 really was just an inconsistent story between -- you
20 watched that video and you listened to the testimony of
21 VICTIM [REDACTED]

22 There are many things that just did not
23 connect. There are acute, specific accusations in the
24 video that VICTIM [REDACTED] actually denied on the stand.
25 The video itself was internally inconsistent. Her

1 testimony on the stand was internally inconsistent.

2 Now, they start with -- they put up various
3 witnesses. They put up Derek Morgan who was her
4 teacher, and they put up Officer Satterfield who was a
5 student resource officer at the elementary school.

6 Your Honor, do you mind if I go up there?

7 THE COURT: Sure.

8 MR. BLANKENSHIP: Now, Derek Morgan testified
9 that [VICTIM] had been acting funny for a few months in
10 his classroom that he taught all year and that
11 eventually she reported that something had happened four
12 years ago in her home.

13 He reported it to the student resource
14 officer -- and the same thing -- she reported it to
15 Investigator Carter who also testified in this case.
16 Derek Morgan and Officer Satterfield did not offer you
17 anything other than [VICTIM] [REDACTED] story. They gave
18 you no additional evidence.

19 Investigator Carter testified on behalf of the
20 State. He is the officer who investigated this case and
21 eventually brought the charges on behalf of the State.
22 He filled out the arrest warrant. He is the one who got
23 a judge to issue a warrant for the arrest of Reginald
24 Spellman.

25 Investigator Carter sat here and listened to

1 [VICTIM] testify in court. He acknowledged that
2 her testimony in court was inconsistent with her prior
3 statements about what happened. He plainly said that on
4 the stand.

5 [VICTIM]'s mother testified, Aliyah
6 Ansaar. She testified that after [VICTIM] discovered to
7 her teacher, Mr. Morgan, she had no indication of any
8 sexual abuse.

9 [VICTIM] testified that prior to disclosure,
10 her grandma and mom had been asking her over and over
11 again: Did something happen to you? So there must have
12 been some indication by mom prior to disclosure if the
13 story is true. Those two things are inconsistent with
14 each other.

15 One of the more telling inconsistencies in
16 this story comes from [VICTIM] older brother, [MINOR]
17 [MINOR] testified that he never walked in and caught
18 Reggie doing anything.

19 In the video we watched yesterday, [VICTIM]
20 specifically told a story about [MINOR] coming in and
21 catching Reggie in the act. This is an acute, specific
22 allegation that on the stand she denied.

23 She watched that video the day before. On the
24 very next day on the stand, she told you that this never
25 happened. But she watched the video on Monday and told

1 Nicole Williams from ARC that the story on the video was
2 100 percent accurate. Nicole Williams told you that.
3 Then the next day on Tuesday the story is different.

4 So not only does the story change between ten
5 years old when [REDACTED] was interviewed and twelve years
6 old whole she testifies. It changed from Monday to
7 Tuesday. That's a major, specific event.

8 The expert yesterday from the State testified
9 that children tend to -- if there's a constant course of
10 abuse, they may not get details correct; but she
11 testified they do get acute, specific events in memory.

12 If there was constant abuse, that would stand
13 out. That's a specific event. One time someone walked
14 in and found them in the act. The only witness to ever
15 see this happen, other than Reggie and [REDACTED] would be
16 [REDACTED]

17 On Monday [REDACTED] says she watches the video,
18 watches herself say [REDACTED] came in, caught him in the
19 act, we're going to eat breakfast. This is a specific
20 memory. On Tuesday she says that never happened. Now,
21 I don't see how that's something that she would forget
22 on Tuesday having watched the video on Monday.

23 [REDACTED] also told you that Reggie moved out of
24 the house in September 2006. [REDACTED] told you the same
25 thing. Reggie told you the same thing. [REDACTED] and

1 MINOR 1 told you that right after he have moved out,
2 within a couple of months, they moved to another house.
3 They moved out of that mobile home and they moved into
4 another house.

5 MINOR 1 said, My sister told me a couple of
6 months after we moved -- this would be November 2006 or
7 so -- about the sexual abuse. VICTIM in the video and
8 in her trial testimony, said she never told anyone but
9 Mr. Morgan.

10 So I don't know why MINOR 1 would say that she
11 told him about this sexual abuse, and then before she
12 said she never told anybody about it. So the story just
13 falls apart with these specific events that were
14 testified to inconsistently.

15 Even if the State's expert is correct, that a
16 child's memory as to the time and the general course of
17 abuse, you can miss out on details like: Was I turned
18 this way? Was I turned that way? Was it daytime? Was
19 it nighttime? Those things may be forgettable, but
20 these specific things would stand out.

21 A witness walking in and catching this is not
22 something you would forget. Telling someone, a
23 disclosure to your older brother, that's not something
24 that he would forget. So I'm not sure why these
25 inconsistencies are there unless the story is just not

1 true.

2 The State presented another expert witness,
3 Dr. Luberoff, who obviously is very impressive and knows
4 her stuff. She gave a great educational lesson on the
5 hymen, how it works. But really what evidence did she
6 give you to help you decide guilt or not guilty?

7 She said that the results of her medical exam
8 showed a normal hymen and that this result would be
9 expected whether the story was true or not. So while it
10 was educational, it really gave you nothing to help you
11 make your decision. The results would have been the
12 same if this story is true or not true.

13 As I said in the opening, the State is going
14 to present various witnesses to make it look like
15 there's all this evidence, when really it's just one
16 story. Well, it's not one story.

17 It's one accuser with various versions of the
18 story, but Dr. Luberoff's lengthy testimony does not
19 give you evidence either way. She admitted as much.
20 The result would have been the same either way.

21 Now, as I've said, the only real evidence for
22 you to consider comes from [REDACTED] herself and Reginald
23 Spellman. [REDACTED] testimony, her video statement, and
24 her sworn testimony to you is filled with specific
25 inconsistencies.

1 At trial she testified, first, mom was often
2 home when the abuse was happened. It didn't matter
3 whether her mom was home or not; right? It didn't
4 matter whether her mom was home or not.

5 A few minutes later she testified on cross
6 examination, the abuse only happened when her mom was at
7 work, when she was at work, not when she was home.
8 Again, by Ms. Shealey just minutes later, she
9 acknowledged, Oh, yeah, it also happened when mom was
10 home. It didn't matter whether her mom was home or not.

11 In this mobile home, this one (indicating), if
12 mom was home, that's a -- and she knew mom was home,
13 that's a memory I don't think she would get confused.
14 Just like she wouldn't get confused about whether her
15 brother walked in, she wouldn't get confused whether she
16 told someone about it.

17 And while she might forget minor details, she
18 is not going to forget whether her mom was home
19 sometimes or not. She says this happened every night,
20 every night. It didn't matter whether her mom was home
21 or not. Then it was only when her mom was at work.

22 Well, which one was it? That's not a detail
23 you would forget. That's not the position, and that's
24 not -- you know, was it all when I was six? Was it when
25 I was six and a half or five and a half? In that mobile

1 home, you would not forget that.

2 Along the same lines, she testified that it
3 was always at night; but in the video she said that
4 MINOR 1 came in and caught them in the morning going to
5 breakfast.

6 Again, then that changed where he never caught
7 her, never caught her again. In the video she said
8 something about, Oh, yeah, one time it was in mom's room
9 in the afternoon; but she told you that it was always at
10 night.

11 VICTIM also told you that prior to the
12 disclosure to Mr. Morgan, mom and grandma constantly
13 were asking her about: Have you been abused? Did
14 something happen?

15 Now mom tells us she had no notification until
16 after the disclosure to Mr. Morgan. VICTIM told you
17 that mom and grandma had asked her constantly. Grandma,
18 in fact, told VICTIM about sexual abuse by her own
19 stepfather.

20 VICTIM told you, I got sick of them asking
21 me; so I told Mr. Morgan. And who did she accuse? Her
22 stepfather. It sounds like a similar story to what
23 grandmother told her.

24 VICTIM also told you on the stand that Reggie
25 never threatened her. She sat here and told you he

1 never threatened her. But the video we watched
2 yesterday, she said that he did threaten her and
3 specifically said, If I tell momma, they won't be able
4 to keep me. That's what he threatened her with, If I
5 tell momma, they won't be able to keep me. She told you
6 that he never threatened her.

7 Again, she may forget minor details; but a
8 grown man who is sexually molesting her every night and
9 then threatening her about it, she is not going to
10 forget that detail. I mean, that's a specific, acute
11 memory that she would have if it were true. It wouldn't
12 change it.

13 Again, she watched the video on Monday. On
14 Monday she specifically told Nicole Williams from the
15 State that that was 100 percent accurate. The very next
16 day she tells you a different story.

17 Was she trying on the stand to remember what
18 happened? Was she trying to remember what she had told
19 in the story before? I don't know but they're don't add
20 up. They don't line up.

21 [REDACTED] proceeded to tell you -- well, on the
22 video she said that she wanted to tell her mom because
23 she was being threatened. She was being threatened by
24 Reggie not to tell anyone about this, but she wanted to
25 tell mom.

1 The only time she ever tried to tell her mom
2 was when Reggie was standing right there. She said they
3 were talking, and she tried to tell mom when they are
4 standing right there.

5 Does that make sense that she would go up at
6 that moment to say -- to tell on Reggie who is standing
7 right there? Then he leaves in September of 2006 and is
8 gone for the entire time.

9 Then in April, almost four years later in
10 2010, that's when she tells Mr. Morgan. He's been gone
11 but the only time she ever tried to tell somebody was
12 when he was right there.

13 The State's own expert said children don't
14 usually disclose to a family member. We've got her
15 trying to disclose to mom when the alleged perpetrator
16 is standing right there.

17 Going back to a highlighted, specific incident
18 that you were told about, on the video [REDACTED] says in a
19 very detailed fashion, on one occasion she was in her
20 room on her bed. Reggie was on top of her with the door
21 shut.

22 [REDACTED] walks in to wake her up for breakfast,
23 and Reggie says, Get out. Get out. She said, I don't
24 know exactly what he said, but it was, Get out. Get
25 out. The very next day -- well, she watched the video

1 on Monday. Again, she watched this video with a
2 specific memory relayed to Heather Smith of ARC.

3 On Monday she tells Nichole Williams of ARC,
4 That is 100 percent accurate. The very next day: This
5 never happened. She was asked about it specifically,
6 This never happened. Her brother said this never
7 happened.

8 In fact, she heard her brother say that. So
9 their trial testimony is the same, but it's very
10 different from the specific allegations she made in the
11 video that she watched the day before she testified to
12 you.

13 The interviewer from ARC testified
14 yesterday -- and she is obviously highly trained, highly
15 educated -- she talked to you about the very same kids
16 who may have been molested could do. You know, they may
17 wait to disclose; they may not. They remember specific
18 instances of things, but she also testified that they
19 she would remember acute, specific events.

20 She met with **VICTIM** once in 2010 for about an
21 hour. I think she talked to you for longer than that,
22 but she met with her once in 2010 and then refers her to
23 Amy Phipps for counseling.

24 There is testimony that she went to Amy Phipps
25 weekly after that forensic interview. Heather Smith

1 said she was unaware of any subsequent statements made
2 by [REDACTED]

3 She was aware of the one video in that
4 friendly environment where she was giving a statement
5 for about an hour. Remember that she works for ARC,
6 which is part of that multidisciplinary team. She is
7 with law enforcement.

8 She is called to testify about a lot of these
9 inconsistencies, trying to explain: This could happen.
10 This could happen. It's somewhat like the State
11 acknowledges inconsistencies in those stories.

12 In fact, during opening statement the State's
13 attorney told you, We're charging Reginald Spellman with
14 attempted or assault with intent to commit -- not the
15 actual sexual battery -- but an assault with intent to
16 do it.

17 Then they told you'll, You may hear testimony
18 that convinces you that the actual sexual battery
19 happened, but we're only charging him with the assault.
20 That kind of indicates that the State itself wasn't sure
21 what you were going to hear.

22 They were aware that these stories are
23 inconsistent, and they warned you about it. They tried
24 to mask it, but they warned you about it. Why would
25 they be concerned that you might hear actual assault

1 battery, but they're only charging with assault and
2 don't worry about it.

3 Again, Heather Smith met for an hour with
4 [REDACTED] talked to you longer than that probably, and
5 referred her to Amy Phipps, the licensed counselor at
6 ARC, who met with [REDACTED] weekly and according to
7 Heather Smith would have discussed the details of these
8 events.

9 We didn't hear from Amy Phipps. She didn't
10 testify. I don't know why. Again, Nicole Williams, the
11 ARC advocate, did testify. She testified earlier. She
12 testified that she met with [REDACTED] and watched the
13 video again the day before [REDACTED] was to testify.

14 [REDACTED] confirmed that the story in the video
15 is 100 percent accurate. As you can see, [REDACTED]
16 testimony the very next day is different, significantly
17 different, with respect to acute, specific events and
18 details.

19 Heather Smith may be right that kids will
20 screw up the timeframe, and they'll screw up minor
21 details: Time and places and certain things that they
22 don't understand; but they don't forget specific, acute
23 events.

24 A witness walking in one time, you wouldn't
25 forget that. You wouldn't forget that from 2010 when

1 the video was taken to 2012 when this trial happened.
2 You wouldn't forget it from Monday to Tuesday.

3 All of that individually should give you
4 hesitation to say that the State has proved beyond a
5 reasonable doubt that Reginald Spellman tried to have
6 sex with [REDACTED] VICTIM Collectively, it's overwhelming. Is
7 it conclusive that Reginald Spellman tried to have sex
8 with [REDACTED] VICTIM or oral sex with [REDACTED] VICTIM It can't be.

9 Reginald Spellman didn't have to testify. He
10 has a constitutional right not to. But as I said in the
11 beginning, he wanted to. He got up there and adamantly
12 denied this in front of you.

13 He surely didn't want to in public court say,
14 I cheated on my wife. I had a baby out of wedlock. You
15 know, I'm a convicted thief. He admitted that he
16 pleaded guilty to these crimes. He said it could be
17 called dishonesty. He could be called a bad husband,
18 but he's not a child molester. That's a giant leap.

19 We also heard -- keep in mind, Ms. Ansaar
20 testified, his wife, [REDACTED] VICTIM mother. They had a
21 marital conflict about how much sex he wanted from her,
22 an adult woman.

23 She found out that he was having a sexual
24 affair with at least one other woman, an adult woman.
25 Next we're here. She got pregnant and moved to Georgia.

1 He went after her. He was having sex with her down
2 there, an adult woman.

3 Reggie testified that there was another woman.
4 He was wanting to get married to another adult woman who
5 he was having a sexual relationship with. He has other
6 child from other adult women with whom he has sexual
7 relationships with.

8 The State asked him a question yesterday: You
9 had this strong sexual thirst; and when you couldn't get
10 from it Ms. Ansaar, there was a suggestion that he was
11 going to get it from a six year old in a house with five
12 people. He was also having an affair with the next door
13 neighbor. That doesn't make a lot of sense. That just
14 doesn't make a lot of sense.

15 One question that you may be asking that makes
16 sense is -- or maybe two. Why in the world would
17 **VICTIM** **████████** say this? She's a kid. By Reggie's own
18 account, they all had a good relationship. He had a
19 good relationship with kids. Why would she do it? I
20 don't know. We don't know but she has.

21 This is a big accusation. She sat up there.
22 You saw her. She was slow to respond sometimes. She
23 looked upset. That could be taken as she didn't want to
24 relive something that happened to her and she is in a
25 courtroom.

1 But it also could be she is grasping at the
2 gravity of what she has said and realized that she has
3 to say it again in court. She says it vastly different
4 from what she said in that videotape, at least with
5 respect to major specific events that she wouldn't
6 forget, especially having watched them the day before to
7 confirm her accuracy the day before.

8 The State had watched the video presumably.
9 They didn't try to correct these clear misstatements
10 about specific events. Maybe they're not misstatements.
11 We don't know which ones **VICTIM** really believes, if any
12 of them, but it's not consistent.

13 So when you go back and deliberate, think
14 about all the inconsistencies in these stories. Think
15 about what this man is charged with doing. If you
16 hesitate to say that the State has proved beyond a
17 reasonable doubt that he is guilty of trying to have sex
18 with this six year old, then you need to find him not
19 guilty.

20 Is it conclusive? No. Is it conclusive that
21 he is guilty of the crime of raping a six year old? No.
22 All that (indicating) is reasonable doubt on the wall.
23 It has to cause you to hesitate to say that he is guilty
24 beyond a reasonable doubt.

25 If you have any question when you're -- you

1 may get the video back in the room that you may watch.
2 If you have any question about: Does that line up with
3 the testimony that she gave us on the stand? You can
4 ask to have it read to you so that you can compare it to
5 see that what she watched on Monday is not the same as
6 what she told you on Tuesday. We ask that you find him
7 not guilty. Thank you.

8 THE COURT: Mr. Blankenship, if you will
9 remove your -- let's take this down.

10 MR. BLANKENSHIP: Okay.

11 MS. BODMAN: Actually he can leave them up.

12 THE COURT: Okay. It's up to you.

13 CLOSING ARGUMENT

14 MS. BODMAN: That's fine.

15 Child sexual molesters prey on secrecy. That
16 is how chronic abuse happens. Reginald Spellman preyed
17 on secrecy behind closed doors in a home with other
18 young children there.

19 He would make sure that those other children
20 were asleep or otherwise occupied; and behind those
21 closed doors, he molested [REDACTED] But time and
22 opportunity and the truth was on [REDACTED] side.

23 Then one day came into her life, Derek Morgan.
24 Our teachers do more than just teach our children how to
25 read. They spend probably more time with our children

1 than we do.

2 He gave her his time and his caring and his
3 attention and really love, a display of love, to this
4 young lady in listening to her about her life and her
5 brothers, what they had for dinner the night before.

6 **VICTIM** who had been holding this secret
7 inside of her, even though he was out of her life, her
8 fear of probably while he's in the home of upsetting her
9 mom or getting blamed or not believed because mom loves
10 husband then turns to, Oh, no, I never told. Am I going
11 to get in trouble for never telling?

12 As she grows up and turns to the age of ten
13 and her family is talking to her about, Have you ever
14 been touched? She is learning this -- as Heather called
15 it -- this moral imperative of really what happened to
16 her, understanding the significance of a sexual act and
17 what really happened to her is now in the forefront of
18 her mind.

19 She is starting to display behavior problems.
20 Mr. Morgan is recognizing that. Maybe grandma, who has
21 been abused herself, is recognizing what she saw in
22 herself by saying, Hey, have you ever been touched?
23 It's okay.

24 That's what we want. Many parents do. They
25 go home -- right -- and you talk to your children about

1 good touches and bad touches and you let them know, Hey,
2 if anybody has ever touched you, you can tell me. Do
3 you know that you can tell me? It's all right.

4 This just happened to be a time in [REDACTED] VICTIM
5 life that her mom and her grandma were doing that, Hey,
6 honey, if anything has ever happened to you, you know
7 you can tell us.

8 She is struggling with this, and Derek Morgan
9 says, You can tell me this. He says to her, I am here
10 to help you. I can't help you if you don't tell me
11 what's going on. And she tells him.

12 There are heroes in this world, and they are
13 our teachers. They are our teachers because what does
14 Mr. Morgan do? He does not hesitate. He doesn't
15 hesitate. He immediately goes back and he writes down
16 his conversation with [REDACTED] VICTIM exactly what [REDACTED] VICTIM told
17 him. You heard him say it was two pages.

18 He wrote it down. He turned it in into the
19 school resource office or guidance counsel. That next
20 morning, because he said it was at the end of the day,
21 after-school program, he made sure this was reported:
22 Someone needs to go in and talk to her.

23 Deputy Satterfield does just that. Deputy
24 Satterfield, who we didn't hear had any training in
25 forensic interviewing, but she had the grasp that she

1 heard enough of it and she knew that she needed to go
2 in -- we heard the RATAC, rapport building -- that she
3 needed to go in there and start with some: Hey, how are
4 you today? Some chitchat to make her feel comfortable.
5 Tell me what happened, and she reveals it to Deputy
6 Satterfield.

7 Then from investigations, she is sent to the
8 ARC for an interview where you see that reliable,
9 trained, professional interview done. It is videotaped
10 so that you can see it yourselves and rely on it and
11 know that nobody put anything in this little girl's
12 mind. This is her recollection and her free disclosure
13 of what happened to her.

14 I'm going to talk to you a little bit about
15 the law, some of the law that we talked about in the
16 openings and some of the law that the judge is going to
17 be reading to you in what we call the Court's charge.

18 First of all is we do have to prove this case
19 beyond a reasonable doubt. Proof beyond a reasonable
20 doubt is proof that leaves you firmly convinced of a
21 defendant's guilt.

22 There are few things in this world that we
23 know with absolutely certainty. In criminal cases the
24 law does not require proof that overcomes every possible
25 doubt.

1 Now, as we told you in opening, there is only
2 one way that we can be able to prove something in any
3 case with absolute certainty. And that is if you
4 yourselves were in that house, in that room, and saw it
5 happen yourself.

6 You would be an eyewitness. You would not be
7 sitting here. You would have taken that witness stand.
8 But we all know that sexual assaults do not happen in
9 public.

10 They happen in secret behind closed doors.
11 They don't want anybody else to see so that they can
12 say: Liar, didn't happen. What witnesses do you have?
13 It's me against you. Me, an adult, against you a little
14 kid. Who is going to believe you?

15 If based on your consideration of the
16 evidence, you are firmly convinced that the defendant is
17 guilty of the crime charged, you must find him guilty.
18 If, on the other hand you think there is a real
19 possibility that he is not guilty, you must give him the
20 benefit of the doubt and find him not guilty.

21 If based on your consideration of the
22 evidence -- this is evidence, State's Exhibit Number 8.
23 This is evidence. What you heard out of this witness
24 stand, the words that are typed on that record, is
25 evidence.

1 Evidence is not just documents, DNA, medical
2 findings. This (indicating), the words that come out of
3 the witness's mouth into that microphone and surround us
4 in this room is evidence.

5 You are the judges of the credibility of the
6 witnesses. Was the person straightforward or hesitant?
7 Why? If they were straightforward or hesitant, why?
8 Was the witness consistent or inconsistent? How does
9 the witness know the facts that they know?

10 Was the witness present during the incident or
11 did they just happen upon the scene? Was the testimony
12 of a witness strengthened or weakened by other
13 testimony? And is there some reason a witness would
14 want to give testimony which would help or hurt one side
15 or the other?

16 Straightforward or hesitant, I think, you
17 know, one of the weak defenses put forth here is that
18 Alyiah has this motive because four years prior to the
19 disclosure, five years prior to the disclosure, he
20 cheated on her and he had a child out of wedlock; and
21 this is her way of getting back at him.

22 I want you to remember when Alyiah was sitting
23 on this witness stand answering the questions, very
24 calm, you know, remembering what she could. At the
25 point that this is first mentioned in this trial, not

1 mentioned in opening, not mentioned on direct of her
2 examination, but on cross examination the defense
3 attorney says to her, When did you find out that he had
4 been cheating on you?

5 Okay. This is the big motive -- right -- the
6 big motive for the whole false allegation. You would
7 think that there would be some sort of reaction from
8 her, some sort of outward reaction of, I've been caught.
9 I've been snagged. Yeah, that jerk cheated on me. Yeah
10 let's talk about that.

11 She answered it exactly like any other
12 question. She sat back. She actually kind of raised
13 her eyes, as if she is thinking back in time to when she
14 found out; and she kind of looked up, thought for a few
15 seconds, and then turned back and answered the date.

16 That's the big -- this is the whole crux of
17 their case is she had some big motive because of this
18 cheating. There was no pause, no change, no hesitation.
19 That is: Is a witness straightforward or hesitant? If
20 they are hesitant, why are they hesitant? Because
21 they're actually recalling in their minds the events,
22 the incident, the facts, what they know.

23 Consistent or inconsistent? You heard from
24 Investigator Carter, Nicole -- I mean, even really, I
25 guess, Deputy Satterfield because if there had been any

1 inconsistencies with what she told Derek Morgan or
2 Deputy Satterfield, they would have brought it out on
3 cross.

4 They would have cross examined Morgan or
5 Satterfield or Morgan about: Well, didn't she tell you
6 it was this other person or something else happened?
7 Everything up until [REDACTED] took this stand in this
8 courtroom, everything that she has said about what
9 happened to her, the testimony has been that it was
10 consistent, up until the moment she comes into this
11 courtroom.

12 We're going to talk about in a minute why
13 there could have been some inconsistencies or were some
14 inconsistencies to what she testified to in this
15 courtroom.

16 Heather? How does she know what she knows?
17 She is an expert. She is trained. She is a trainer in
18 what she does to make sure that she does a professional
19 job, and you can rely on the information that she gets
20 from a child.

21 Her explanations of minimization or the
22 empowerment strategy, all of that is helpful to us in
23 understanding what it is that [REDACTED] said, what it is
24 she is able to say or not able to say about what
25 happened to her.

1 The defendant took the stand. You judge his
2 credibility like you do any other witness. He does not
3 get believability points because he didn't have to
4 testify, absolutely not.

5 You question everything that he said, didn't
6 say, how he said it, the same as you do any other
7 witness. He has the biggest motive in here to tell a
8 story. His story is full of holes and inconsistencies
9 and ridiculous assertions. We'll get to that more.

10 The judge is going to instruct you on the law
11 that the testimony of a victim need not be corroborated
12 in a criminal sexual conduct case. Now, I want to make
13 it very clear that I am not telling you, the judge is
14 not telling you, the legislature has not told you that
15 if a child comes forth and makes an allegation, you must
16 convict. That is not what this says.

17 In this case the evidence that is presented in
18 this case is reliable, professionally gotten; and you
19 can convict on a victim's testimony alone. The
20 legislature in their infinite wisdom -- and yes, don't
21 laugh. I use wisdom and legislature in the same
22 sentence -- knew that sexual assault cases are different
23 than other crimes.

24 There are no witnesses. Children delay in
25 disclosing sexual abuse, and so there is not going to be

1 any DNA evidence. That sex penetration does not -- and
2 as Dr. Luberoff said -- mostly does not ever leave any
3 type of injuries. So even if the child came forward
4 that day and we examined them, we're not going to have
5 medical evidence to present to you.

6 The legislature wanted you to know this about
7 sexual assault cases. In this case her interview, her
8 forensic interview, proves this beyond a reasonable
9 doubt.

10 Assault with intent to commit a CSC with a
11 minor in the first degree. So you have the assault
12 during attempting or offering to commit violent injury
13 upon another person with the present ability to complete
14 the injury. Your pants are off. You're on top of the
15 child. You say, Suck my private. You are trying to get
16 it in and the child is fighting you off.

17 With the intent to commit the sexual battery.
18 It's sexual intercourse -- so penis to vagina -- or oral
19 sex or anal intercourse or any intrusion, however
20 slight -- however slight -- of any part of a person's
21 body or an object into the genital or anal openings of
22 another person's body, except when accomplished for
23 medically recognized treatment.

24 So it's any of these single ways: Sexual
25 intercourse or oral sex. She said multiple times in her

1 interview, he was trying to put it back in -- back in.
2 Well, that implies that there was an "in" to begin with.
3 Right? He's trying to put it back in.

4 She also clearly describes him. He said, Suck
5 my private, and she said no; and he was pushing her head
6 down to his private part, and she was trying to push his
7 legs away. If the child is less than 11 years of age.
8 She was five or six. She was ten when she disclosed.

9 Before he walked in that door, before anybody
10 walked in this door to start this trial, this defendant
11 got the benefit of the doubt. He got it. She says at
12 least three times on that video, He put it back in.

13 But we understand that also when she is
14 specifically asked about, Did he get his private in your
15 private? She says no. So we understand that you might
16 be hesitant to say whether or not the act was completed.

17 You have a six year old who doesn't understand
18 their genital anatomy or how it feels or where it goes;
19 so they may have a difficult time saying whether there
20 was intrusion, however slight. So we gave him that
21 benefit of the doubt before this trial started.

22 Let's talk about some of the things he
23 discussed here. One is we already said if there had
24 been inconsistencies in what **VICTIM** disclosed to Derek
25 Morgan or Satterfield, they would have brought it up on

1 cross. We didn't hear any attack on something different
2 that she said.

3 Investigator Carter testified at trial that
4 [REDACTED] testimony was inconsistent with her prior
5 statement. Well, here it is. She testified. I mean,
6 that doesn't tell us anything more than what we actually
7 saw her say for herself; right? [REDACTED] took the stand
8 in front of you.

9 Mom testified: No indication of abuse until
10 she heard about it from the teacher. But let's see,
11 [REDACTED] testified mom had been asking her prior to
12 disclosure. Well, I already addressed that; right?

13 We want parents to go home and say, Hey, heard
14 you were talking at school about good touches or bad
15 touches or you're starting to learn about sex or we just
16 saw this movie, something came on the news about
17 somebody being molested. Honey, has anybody touched
18 you? Are you okay? That is perfectly understandable
19 and reasonable.

20 No indication of abuse. Medical records,
21 Dr. Luberoff's medical records, are in evidence. She
22 said -- let me find it. Essentially mom said that she
23 had been having -- according to mom -- a hard time
24 behaving and learning how to read.

25 Page 6 of the medical records: A hard time

1 behaving and learning how to read. She used to have a
2 very bad attitude towards anybody that said anything to
3 her.

4 She is doing much better since she came out
5 with her story. I mean, that's just a mom who just
6 didn't know why the child was acting that way but now
7 knows. She is doing much better since she came out with
8 her story.

9 MINOR 1 never walked in and caught Reggie, but
10 VICTIM stated in the video specifically MINOR 1 walked in
11 and caught them. MINOR 1 was trying to wake me up and
12 said, Get out. Get out.

13 Heather talked about how when your memory you
14 go back -- it happened a while ago -- your memory really
15 kind of focuses in on when you are six, when you are six
16 years old.

17 Well, the truth is -- think about this --
18 VICTIM doesn't really know exactly what MINOR 1 saw --
19 right -- because it was MINOR 1 eyes. She said on the
20 video afterwards, Heather asked her, Did MINOR 1 tell
21 anybody? And in a very sad voice, she kind of looks
22 down and she goes, No, MINOR 1 didn't tell anybody.

23 And did you ever talk about it with him? No,
24 referring to that incident, referring to what he saw.
25 Did you ever talk to him about it? No, MINOR 1 never told

1 anybody.

2 So you think about this, [REDACTED] is in her
3 room at some stage of being abused, chronic abuse that
4 happens. At some stage of this, she knows what is
5 happening or about to happen to her. I mean, this
6 happens to her on a chronic basis.

7 The door, there is going to be a noise at the
8 door. He is about to be caught. I mean, it's not even
9 talking about sexual abuse, but you're doing something
10 and all of a sudden you hear someone about to come in on
11 you, you're dressing and your kid comes to the door, you
12 jump. You immediately react. You're going to yell, Get
13 out. Get out.

14 So we don't even know if [REDACTED] even actually
15 got a foot into the door. We don't know: Is the bed
16 behind the door? So [REDACTED] didn't get to be able to look
17 around the door to see what was happening. What was the
18 lighting situation in the room? He could have not been
19 able to see what was going on.

20 I think she said they were under the covers.
21 So he is not going to understand or even have gotten a
22 view of what was happening. But this six year old who
23 is chronically abused is finally thinking in her mind,
24 Oh, my God, somebody is seeing this. It's going to come
25 out. You know, thank God. It's a moment of, Ah,

1 somebody else knows about this.

2 But Reggie who is about to be caught
3 immediately, Get out. Get out. And MINOR jumps back
4 and goes back to whatever he did. The six-year-old
5 VICTIM is, Yeah, MINOR busted in and saw us.

6 She is hoping. That's what she is hoping and
7 thinking, but she doesn't know what MINOR1 eyes saw.
8 She doesn't know and they clearly don't tell anybody.
9 It's also very possible: What if MINOR saw something,
10 and he feels terrible about not saying anything? This
11 is a very distinct memory she has.

12 My sister told me in November of 2006 about
13 sexual abuse. He actually said that it was something
14 sexual in nature. But, you know, how much, how many
15 details did he get from her? There is nothing that it
16 was anything detailed of what she told Derek Morgan.

17 If she was saying something like, you know, he
18 was messing with me; but she says he never told anyone
19 but Mr. Morgan. Well, yeah, that could be because
20 that's the first person that she really told the
21 details, the details of the sexual abuse. It's not
22 inconsistent.

23 Dr. Luberoff, he's like, Why did we hear from
24 her? The results would be the same if it's true or not
25 true. Because people have misconceptions about the

1 hymen.

2 I didn't want -- we don't want you to be going
3 back and asking, Well, you know, was the hymen busted?
4 Was there, you know, blood on the sheets, those types of
5 questions.

6 This is about educating ourselves so that when
7 you all go back to deliberate, you have the information
8 before you. You have that information. And it's the
9 defendant that makes it that we absolutely are not going
10 to have any medicals -- right -- because it's that
11 threat. It's the threat of secrecy. They created this
12 situation. He created this situation that we have
13 [REDACTED] testimony and no medical evidence.

14 [REDACTED] The best evidence for you to rely on
15 is that videotape, and Heather helped us learn about
16 that. The ARC interview, it is conducted in a
17 nationally accredited child advocacy center using a
18 nationally recognized interview protocol, RATAC. It is
19 in a child-friendly setting that is low anxiety.

20 In this courtroom she is sitting here with the
21 very man who did this to her, the very man that she has
22 not seen, not a single time, since September 29th of
23 2006, when he was incarcerated.

24 This, you saw it here, her first time facing
25 the man that sexually abused her on a chronic basis.

1 She had to take this witness stand in front of him and
2 in front of her own dad, David [REDACTED]

3 Do you think she has ever told him about her
4 head being pushed down? Told to suck someone's penis?
5 That white stuff was coming out of it? That he was
6 rubbing his penis between her knees?

7 I don't think there is any adult that wants to
8 come in here, take this witness stand, and talk about
9 the most recent sexual experience that they have had,
10 consensual or otherwise.

11 I mean, Dr. Luberoff can come in here and talk
12 about -- I really think I remember she used the word
13 luxurious talking about the hymen. Only she can
14 probably do that.

15 I mean, these are details that are just
16 extremely embarrassing. Then Dr. Luberoff is talking
17 what about she saw in her body, a young teenager. They
18 don't want to take their clothes off in gym class in
19 front of each other.

20 She was talking about how she was sitting in a
21 frog-leg position. I mean, this is just unbelievable
22 anxiety. She wanted to get it over with. You can tell
23 when I was talking to her just about initial things:
24 About where she lives, her brothers, where she goes to
25 school.

1 Then the minute I said, Tell us what Reggie
2 did to you, her lips clammed right up; and she stared me
3 down, and those eyes pleaded with me, Don't make me do
4 this.

5 The intrusion, however slight. She did say
6 back in and she clearly multiple times described how she
7 was fighting him off and how he had his private part
8 exposed and was trying to put it in her.

9 We explained the empowerment techniques, how
10 she talks about yelling out for her brothers and
11 fighting him off, but he was strong. Go back and watch
12 this. You will have that tape with you.

13 Listen to her tone of voice and really even
14 the times that it's just her own free recall. It's not
15 really even in response to any specific question. It's
16 just, Tell me about this and her recollection of, you
17 know, I would try to fight him off, but he was too
18 strong. It's not the [REDACTED] that's sitting here today.
19 This (indicating), this (indicating) is the little
20 [REDACTED] that was fighting him off.

21 The yelling out, I think it's interesting for
22 a couple of things. You know, it could very well be
23 easily kind of an empowerment technique that she is
24 trying to like, Don't get mad at me for not telling
25 anybody. I did. I tried to yell out.

1 He's not going to let her yell out. He is on
2 top of her. The minute she starts making some kind of
3 noise, he is going to stop it. There wasn't any kind of
4 continuous yelling out. He is going to stop it.

5 In fact, when you listen to her on that tape
6 and she says -- one time she is describing how she was
7 yelling out. She said, When I yelled out, he pushed me
8 over and he got out of the bed.

9 So he had stopped. I mean, if she yelled out,
10 he would push her. She would turn over in the covers,
11 put herself down in the covers. So, you know, in a way
12 when she did start yelling out, it probably was that she
13 was empowering herself.

14 The chronic abuse and the delayed disclosure
15 that in her mind, the every night -- this was a lot. It
16 was a lot. It was usually in her room. She is able to
17 remember a couple of incidents that are unique and
18 different that stand out.

19 It was her own free recall. She said, Was it
20 always in your room?

21 Yeah.

22 Then, boom she is, Well, wait. There was
23 one time. There was one time in my mom's room -- free
24 recall of that event -- she was laying on her side.
25 She had been watching TV, fell asleep, and she wakes

1 up. Her legs are bent and he is standing and his penis
2 is between her legs, and he is rubbing back and forth.

3 She can't remember the age but eventually
4 we're able to anchor it with a school. She said, I was
5 at Polo Road Elementary. That coincides with when he
6 said even himself that he left the home the end of
7 September of 2006 and within a month or so that Alyiah
8 says they then changed schools. So they moved to a new
9 address and they changed schools.

10 He is gone. He is out of the picture. They
11 move to a new house, go to a new school. So she is able
12 to anchor that better with where they are in life, where
13 they are living, where we were going to school then.

14 She didn't know why she was there that day to
15 talk. I think this is important because it ties into
16 this theory that mom was setting her up to say that
17 there's some kind of motive.

18 So Heather asked her, Do you know why -- did
19 you know why you were coming here today? She kind of
20 shrugged her shoulders; and then she goes, I was going
21 to ask my momma, but she was talking to an adult. She
22 was kind of like, I wonder where we're going.

23 Then she says that the officer, Deputy
24 Satterfield, said that I was going to go talk to a
25 friend of hers about what happened; but I haven't talked

1 to anybody yet. Then Heather kind of mentioned, Hey,
2 you know, maybe that's me.

3 [REDACTED] laughs, like all of a sudden, Yeah,
4 maybe you're this friend that Deputy Satterfield is
5 talking about. Satterfield knows about the ARC. She
6 knows the next step is referring the child to the ARC.
7 She said, You don't have to talk anymore, but you're
8 going to go talk to a friend of mine about what happened
9 to you.

10 If this is all some kind of set up, they're
11 are in the car, mom is saying, Okay, let's get it
12 together. Let's get out stories together. You're going
13 to go in there, and this is what you're going to say
14 happened. This is who you're going to talk about.

15 But, no, she actually even says that she was
16 mad at the officer because the officer told her momma
17 because she was afraid that her mom would be mad for not
18 telling. So when she gets this off her chest with Derek
19 Morgan, then Derek Morgan gets referred to Deputy
20 Satterfield.

21 [REDACTED] has no clue where this process is
22 going. She's just, Oh, I got that off my chest to my
23 friend, Derek Morgan, my teacher. Then later she finds
24 out, Whoa, that officer called my momma. I'm kind of
25 mad. She called my momma. You know, I'm going to get

1 in trouble.

2 Before we go on with a little bit more of what
3 **VICTIM** talked about, I talked to you about judging the
4 defendant's credibility in his testimony, like you do
5 every other witness. Let's talk about it.

6 First of all, his demeanor on the stand is
7 completely, ludicrously inconsistent with someone who is
8 falsely accused. Oh, my gosh. You are accused of
9 molesting your six-year-old stepdaughter.

10 I mean, are you going to just calmly say, I
11 don't know why they're saying this? No, I would never
12 touch her. This is horrible. Let me just start lining
13 up all the things that, you know, this could be about.

14 You have got to go check out Shawn Bennett.
15 You know, he is like, You know, I'm not wanting to say
16 it was Shawn, but he was in the house a lot. Well, what
17 does he not say about Shawn?

18 He never, ever says that Shawn was alone with
19 the kids because he wasn't. Never, ever said that he
20 saw anything suspicious with Shawn because he didn't.
21 It's him. It's Reggie. It's consistent.

22 Just some very strange stuff about -- just
23 being inconsistent about -- at some point he said he
24 went back to Georgia in August of 2006 for six months,
25 but then he says he moved back here in September of

1 2006. So that's essentially a month later.

2 But then says he was arrested on September
3 29th of 2006, but then he says he was here a few weeks
4 because he and Alyiah were back having sex again. He
5 was working at Wendy's in 2006 but gave a different
6 employer's name on September 29th, 2006.

7 Then he says, Well, I didn't ever work there.
8 I was going to go work there. How do you work at
9 Wendy's when you're actually living in Georgia but then
10 you have this other job? You know, he can't keep his
11 story straight.

12 He wants to just throw out these weak,
13 multiple theories and hope essentially that you'll just
14 grab on to one of them. If I just throw something out
15 there, somebody may bite that Alyiah put **VICTIM** up to
16 this because he cheated on her four years previously.
17 **VICTIM** would get upset because he would play
18 with the boys more than her. I mean, does she probably
19 even remember that? He is out of the picture four years
20 later.

21 I'm sure she has got other things to be
22 worried about than old stepdad didn't play monopoly with
23 me or wouldn't play with my dolls and that Shawn was at
24 the house frequently. This guy, Shawn Bennett, was at
25 the house frequently.

1 He admits that they were not having sex at the
2 frequency he wanted and admits that he was going to go
3 other places to get sexual gratification. So here he
4 is, alone in the house with the kids, with a wife that
5 is working two or three jobs, is only home for a few
6 hours.

7 Those few hours, I'm sure she is either trying
8 to get laundry done, go to the grocery store, and go to
9 sleep -- go to sleep. So when she is home, she is in
10 her room trying to catch some sleep to go to her next
11 job, which is consistent with what [REDACTED] said: Either
12 my mom wasn't home, was at night working.

13 She said one time she was in the other room
14 sleeping. Did she come home? They had a fight. She
15 wouldn't have sex with him. She was tired, wanted to go
16 to bed; and he goes over to [REDACTED] room. Admitted
17 that he was dishonest with Alyiah. He was cheating on
18 her, and then he denied cheating on her.

19 He was convicted of two crimes of dishonesty,
20 attempting to obtain property by false pretenses. He
21 tried to say something about this was a hot check.
22 There just weren't funds. He's not charged with
23 fraudulent check. It was attempting to obtain property
24 by false pretenses and a grand larceny over 5,000 that
25 he now tries to say that wasn't me.

1 But he said he stood up in a court of law,
2 raised his hand, swore to tell the truth, just as he did
3 yesterday. It was the same oath that he was under when
4 he said, I plead guilty to grand larceny. It's the same
5 oath he was under yesterday, not a lot of respect for
6 the oath.

7 He says that he never spent time alone with
8 the kids, but then he said he would take them over to
9 the mistress's house basically so they wouldn't be
10 alone. That means he's the only adult with the kids.
11 He wants to go have sex with the neighbor. So he takes
12 the kids with him.

13 Alyiah had off every other weekend. So that
14 means, under his theory, she is working two or three
15 jobs during this timeframe. She only has off every
16 other weekend.

17 He says, Oh no, I was never alone with the
18 kids because the mother-in-law would come, the grandma,
19 would come pick them up. Then the mother of a couple of
20 my kids would come drop them off.

21 That means that every single night, other than
22 every other weekend, every single night, grandma was
23 driving over picking up three kids, driving them back to
24 her house.

25 The mother of his children -- one set of

1 children -- were driving over dropping his kids off
2 every single night. Even his own attorney -- own
3 attorney -- says, Come on. Many times you were the only
4 adult in the home, and he says yes.

5 I thought about really wanting to play some
6 parts of the interview with you in closing, but I know
7 that this has been a long process. You watched it once.
8 As I said, it's going back with you.

9 Please take the time to watch it, and you can
10 stop and talk about what you see: The details, the tone
11 of her voice, of how she relays these events in this
12 safe and professional environment.

13 Around 27:15 is how she talks about after the
14 assault she would turn over and cover herself. Then
15 Heather asked her, What would he do after you turned
16 over? She said, I don't know. He was behind me.

17 That's the kind of thing if you're just
18 coming in to make up something, you don't make that kind
19 of information up. You know, turning over in your
20 covers, hiding yourself, that is essentially what she
21 would do every time. After it was over, she would turn
22 over, cover herself up. She doesn't know what he's
23 doing.

24 Around 39:30 she is talking about trying to
25 tell her mom. It starts out by saying, Yeah, they would

1 talk a lot. So I was trying to tell my mom and Reggie
2 shushed me. So I went into my room and just started
3 crying about it.

4 Then she says just on her own, you know, she
5 is just remembering bits and pieces of this chronic
6 abuse. She says, That's why I would tell my momma to
7 wash my covers all the time. I told Reggie, If you
8 don't wash my covers, I will tell my momma.

9 That is a child who has semen on her sheets
10 and doesn't want to sleep on it. If that didn't happen
11 to you, how could you ever make up you wanted your
12 sheets washed all the time?

13 That kind of detail you don't know to cover
14 just in a free recollection of thinking back to what
15 happened. That's why I would tell my momma to wash my
16 covers all the time. I told Reggie, If you don't wash
17 my covers, I will tell my momma.

18 At around 17:50, she is describing his private
19 part rubbing back and forth between her legs, the events
20 in her mom's room. Heather says to her, You know, why
21 do you think that he did that? She kind of tilts her
22 head and looks up and she says, I don't know why he did
23 that.

24 That is a six year old. This happened when
25 she was five or six. That is a six year old not

1 understanding that a man could get gratification from
2 that friction. I mean, this is a six year old going:
3 Why is this man rubbing his penis between my knees? I
4 have no idea why he did that.

5 It was disgusting. I was crying. Just on her
6 own she said, I was crying and described how he sat on
7 the edge of the bed and white stuff would come out. He
8 would clean it with soap and water. She describes where
9 the bathroom is, where he would go, come back.

10 At 14:30 as she is describing the details of
11 trying to put his private part on her private part, I
12 would keep trying to push it back, but he was strong and
13 he was still trying to put it back in. He was strong.
14 These are all very, very important. 27:15: Just a
15 narrative response, her own free recall of the details
16 of the abuse.

17 This is evidence that you can rely on beyond a
18 reasonable doubt. The enormity of what she had to say
19 on this witness stand in front of him, in front of her
20 parents, the pressure, the embarrassment is all
21 understandable about why she wasn't able to give in this
22 courtroom, this adult setting, this intimidating
23 setting, the details that she was able to give in this
24 setting (indicating).

25 There are heroes in this world, and they are

1 survivors. They are survivors of sexual abuse. There
2 are heroes in this world that are survivors of sexual
3 abuse that have the courage and the strength to come
4 into this courtroom and to point to their abuser and to
5 say, This happened to me.

6 There are heroes in this world, and this week
7 one of them is named [REDACTED] [REDACTED] Reginald Spellman
8 preyed on secrecy. He prayed this would never come out.
9 This secret is out. You have the evidence.

10 Downstairs next to the elevator there is a
11 plaque. It's probably more important than any other
12 photos, paintings, or plaques that adorn the walls of
13 this courthouse. It probably goes unnoticed by most
14 people coming in and out doing business in the
15 courthouse.

16 It says, Justice will direct our course.
17 Justice will direct our course. In April of 2010, Derek
18 Morgan and [REDACTED] [REDACTED] set off on that course
19 together; and that course leads us here to this
20 courtroom.

21 We hand the course off to you. We ask you to
22 do what justice demands and the evidence supports: To
23 find Reginald Spellman guilty of assault with intent to
24 commit a sexual assault against [REDACTED] [REDACTED] Thank
25 you.

1 (Whereupon the Court charges the jury as
2 follows.)

3 THE COURT: All right. Ladies and gentlemen,
4 is everybody okay?

5 It now becomes my responsibility to talk to
6 you about the law of the case, the law of South Carolina
7 as it applies to this case. The attorneys have told you
8 their version of the law.

9 This may or may not differ with what they've
10 told you, but your responsibility under your oath is to
11 take the law as I explain it to you and apply it to the
12 facts as you find the facts. That's the arrangement
13 that we have. You find the facts. I discuss the law.

14 Well, you've heard all the testimony in this
15 case. You've heard the arguments of both the State and
16 the defendant. You'll take to the jury room with you
17 the evidence in this case that's been introduced. I
18 have from time to time had juries send out a message to
19 me and ask me to send them a copy of what I'm about to
20 go over with you.

21 Well, I'm generally not able to do that. In
22 some states it is done, but it's not done in South
23 Carolina. I'm going to ask you to please pay close
24 attention as I explain the law to you in this case.

25 I'm going to remind you again that under our

1 Constitution and code of laws, only the jury may make
2 findings in this case. I'm not permitted to indicate to
3 you how I might feel about the facts.

4 If I have said or done anything in this case
5 which would indicate to you that I have an opinion
6 concerning the facts, then you should disregard that.
7 You must independently weigh the evidence presented in
8 this trial and render your verdict based solely on that
9 evidence.

10 The same Constitution and laws which designate
11 and make you the finders of the facts also make me the
12 instructor of the law. If you have some idea as to what
13 the law is or the law ought to be and it does not agree
14 with what I now tell you the law is, your obligation
15 under the oath which you have taken is to abandon this
16 preconception on your part and accept and apply the law
17 precisely as I now state it to you.

18 The indictment in this case charges the
19 defendant with -- and that's what I read to you
20 earlier -- assault with intent to commit criminal sexual
21 conduct in the first degree with a minor or with a minor
22 in the first degree.

23 I remind you again that the fact the defendant
24 was arrested, charged, and indicted in this case is not
25 any evidence in this case and cannot be considered by

1 you as evidence of guilt in this case, nor does it
2 create any presumption or inference of guilt.

3 The indictment is simply the formal written
4 instrument which contains the charges made against the
5 defendant. It's the formal document by which the case
6 is brought into court.

7 Now, as I told you earlier, the defendant has
8 pled not guilty to these indictments. That plea puts
9 the burden on the State to prove the defendant guilty.
10 A person charged with committing a criminal offense in
11 South Carolina is never required to prove himself or
12 herself innocent.

13 I charge you that this is an important rule of
14 law: That the defendant in a criminal case, no matter
15 what the seriousness of the charge may be, will always
16 be presumed innocent of the charge, innocent of the
17 crime for which the indictment has been issued, unless
18 guilt has been proven by evidence satisfying you of that
19 guilt beyond a reasonable doubt.

20 This presumption of innocence does not end
21 even when you begin your deliberations, but it
22 accompanies the defendant throughout the trial until you
23 reach a verdict of guilt based on evidence satisfying
24 you of that guilt beyond a reasonable doubt.

25 Presumption of innocence, it has been said, is