

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM FLORENCE COUNTY

Michael G. Nettles, Circuit Court Judge

 ORIGINAL

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

LEONARD EUGENE BROCKINGTON,

APPELLANT

APPELLATE CASE NO. 2014-000989

RECORD ON APPEAL

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1 STATE OF SOUTH CAROLINA)
) COURT OF GENERAL SESSIONS
 2 COUNTY OF FLORENCE) No. 2012 GS 21 00447

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 4 STATE OF SOUTH CAROLINA)
)
 5)
 6 versus) TRANSCRIPT OF RECORD
)
 7)
 8 LEONARD EUGENE BROCKINGTON)
)
 9 Defendant)

10 Florence, South Carolina
 11 April 21-24, 2014

12
 13 B E F O R E:
 14 HONORABLE MICHAEL G. NETTLES, Judge, and a Jury

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1 (The within matter came before the Court for hearing
2 on April 21, 2014)

3 THE COURT: Good morning, everybody. Please be
4 seated.

5 Ladies and gentlemen, I'm Michael Nettles. I'm the
6 Resident Judge of the Twelfth Judicial Circuit which en-
7 compasses Florence and Marion County.

8 You have been asked to participate in a one week term
9 of General Sessions Court, which is criminal court. The
10 people who appear before you are accused of committing a
11 crime. That is the subject matter we are dealing with to-
12 day.

13 (Jury roll call)

14 (Jury panel sworn by the Clerk)

15 THE COURT: Ms. Parr, you may call your first case.

16 SOLICITOR: Thank you, Your Honor. May it please the
17 Court?

18 The State calls Leonard Brockington, Indictment 2012
19 GS 21 447.

20 Your Honor, would you like for me to state what the
21 charges are?

22 THE COURT: You can. Very well.

23 SOLICITOR: The Defendant has been charged and indicted
24 for criminal sexual conduct with criminal sexual conduct
25 with a minor in the first degree and lewd act upon a

1 child.

2 THE COURT: Thank you. Ladies and gentlemen of the
3 jury panel, Mr. Brockington, as Ms. Parr as indicated, has
4 been charged with criminal sexual conduct with a minor in
5 the first degree and lewd act on a minor, and these offenses
6 arise out of allegations of criminal activity that took
7 place between January first, 2011, and October third of
8 2011.

9 Ladies and gentlemen of the jury, I hold in my hand
10 the Indictment which is essentially a piece of paper that
11 starts the criminal process.

12 I want to tell you from the very outset that just by
13 virtue of the fact that Mr. Brockington has been indicted
14 is not any evidence whatsoever. He is presumed innocent,
15 and we will start from that frame of reference.

16 Ladies and gentlemen of the jury, each of you has
17 been qualified, and I'm going to ask you some questions
18 to determine whether there is any reason why you could not
19 be fair and impartial with regard to the trial of this
20 case.

21 Is anyone related to the Defendant, Leonard Eugene
22 Brockington? Are you related to him by blood or marriage,
23 or have a close business, personal or social relationship
24 with Mr. Brockington? If so, please stand.

25 (No response)

1 THE COURT: No response.

2 I'm going to ask you whether or not any of you are re-
3 lated by blood or marriage, has a close social, business or
4 personal relationship with any of these potential witnes-
5 ses, and pay very close attention:

6 Investigator Chad Collins, Florence County Sher-
7 iff's Department; Vince Hanna, Florence County Sheriff's
8 Department; Jorgen Waldermo, Charlotte, North Carolina;
9 Minor , Charlotte, North Carolina.

10 Jeanene Waldermo, Charlotte, North Carolina; Karen
11 Waldermo, Charlotte, North Carolina; Heather Smith,
12 Columbia, South Carolina; Dr. Alicia Benedetto, Columbia,
13 South Carolina.

14 Dr. Susan Luberoff, Columbia, South Carolina; Jamie
15 Shefton, Florence, South Carolina; MGA ,
16 Florence, South Carolina; Staci
17 Parker, Florence, South Carolina.

18 Once again is anyone related by blood or marriage
19 or has a close social, business or personal relationship
20 with any of these witnesses? If so, please stand.

21 (No response)

22 THE COURT: No response.

23 THE COURT: Ms. Parr, I'm going to ask you, if you
24 would, to stand and identify yourself and others in the
25 Solicitor's Office, if you could.

1 SOLICITOR: Your Honor, I'd like to add the name of
2 Amy Anderson.

3 THE COURT: Amy Anderson. Anyone related by blood
4 or marriage or has a close social, business or personal
5 relationship with Amy Anderson? If so, please stand.

6 (No response)

7 THE COURT: No response.

8 SOLICITOR: Thank you. My name is Patricia Singleton
9 Parr, and assisting me is Robert Wells.

10 (Naming other persons in the Solicitor's Office)

11 THE COURT: Very good. Is anyone related by blood or
12 marriage or has a close business, social or personal rela-
13 tionship with any of these lawyers? .

14 Some of these lawyers have been engaged in private
15 practice. Have any of them served as your attorney while
16 they were in private practice? If so, please stand.

17 (Juror standing)

18 THE COURT: Yes, maam. If you could come forward.

19 (Juror coming forward with counsel)

20 CLERK: This is Juror Number 157.

21 THE COURT: Yes, maam. Your full name?

22 JUROR: Ginger Larrimore. Robert Wells using my CPA
23 firm. He's their client.

24 THE COURT: Okay.

25 JUROR: Would you consider that a reason?

1 THE COURT: Well, I think that would mean you have
2 more of a business relationship. I will excuse you from
3 service on this case, but I'll ask you to stay here with
4 the jury because we have another case that does not involve
5 Mr. Wells.

6 She is excused for purposes of this trial, and she
7 will stay with us for the second jury selection.

8 (Juror excused)

9 THE COURT: Mr. Anderson, I'm going to ask if you
10 could stand and face the jury panel by yourself and intro-
11 duce yourself and the members of your office.

12 MR. ANDERSON: My name is Hank Anderson, and I pract-
13 ice by myself. Seated there in the blue shirt is my client,
14 Leonard Brockington. (Naming members of his office)

15 THE COURT: Very good. Is anyone related by blood or
16 marriage to any of these individuals? Do you have a close
17 social, business or personal relationship with him, or have
18 you been represented by Mr. Anderson in the past, or do
19 you have an ongoing case with him?

20 And, if so, please come forward.

21 (Juror standing)

22 Please come forward, sir.

23 (Juror coming forward with counsel)

24 CLERK: Juror Number 2.

25 THE COURT: Your full name, sir?

1 JUROR: Edward Addison. I wasn't sure if I under-
2 stood everything you said. Ms. Parr and I are church
3 members.

4 THE COURT: You go to the same church?

5 JUROR: Yes, sir.

6 THE COURT: In all seriousness, do you eat dinner at
7 her house or visit?

8 JUROR: No, sir, but we're social friends.

9 THE COURT: Okay, have you eaten dinner at her house?

10 JUROR: I have attended an event at her house.

11 THE COURT: And has she ever come to your house?

12 JUROR: No.

13 THE COURT: Okay, and if you were called upon to serve
14 on this jury, the fact that you know her and are social
15 friends with her, could you set that relationship aside
16 and give the State and Defendant a fair and impartial
17 trial?

18 JUROR: Oh, absolutely.

19 THE COURT: The fact that Ms. Parr might take a cer-
20 tain position in this case, do you think you might give a
21 greater weight to that position just by virtue of the fact
22 that you know her?

23 JUROR: No.

24 THE COURT: You feel that you can be fair and impartial,
25 and you can base your decision on the evidence or the lack

1 of evidence in this case, together with the law as I will
2 charge it to you? Do you think you can do that?

3 JUROR: Yes, sir.

4 THE COURT: And you feel as though you can be fair
5 and impartial?

6 JUROR: Yes.

7 THE COURT: You are qualified to serve. Please stay
8 with us.

9 (Juror returning to seat in Courtroom. Another juror
10 coming forward.)

11 CLERK: Juror Number 114.

12 THE COURT: Yes, sir, name and number?

13 JUROR: My number is 114, and my name is Charles
14 Paine. I know Ms. Parr. We go to the same church.

15 THE COURT: Would you consider her to be a close per-
16 sonal friend?

17 JUROR: I would think so.

18 THE COURT: All right, and do you see her on a weekly
19 basis?

20 JUROR: Just on Sunday. That's all.

21 THE COURT: Has she ever come to your home?

22 JUROR: No.

23 THE COURT: Have you ever gone to her home?

24 JUROR: No.

25 THE COURT: If you were called upon to serve on this

1 jury, could you set aside the fact that you go to the same
2 church and give both the State and the Defendant a fair
3 and impartial trial?

4 JUROR: Yes.

5 THE COURT: Could you base your decision on the evi-
6 dence or lack of evidence presented in this case and the
7 law as I charge it to you and give everybody a fair trial?

8 JUROR: Yes.

9 THE COURT: The fact that you know Ms. Parr and she
10 might take a position as an advocate in this case, would
11 you give what she has to say and her position greater weight
12 than what the Defense might have to say by virtue of the
13 fact that you know her.

14 JUROR: No.

15 THE COURT: And could you be fair and impartial?

16 JUROR: Yes, sir.

17 THE COURT: Thank you, sir. You are qualified to
18 serve.

19 (Juror returning to seat. Another juror coming for-
20 ward.)

21 CLERK: Juror 105.

22 THE COURT: Yes, sir, your name?

23 JUROR: Gene M. Norris.

24 THE COURT: You work at the post office, 105?

25 JUROR: Uh hm.

1 THE COURT: All right.

2 JUROR: I believe Mr. Anderson helped my son to buy a
3 gun and with the charges or whatever. I'm not sure. See,
4 my wife handled it . .

5 THE COURT: All right.

6 JUROR: . . and I don't even know if that's the same
7 lawyer. The fellow's name was Hank.

8 THE COURT: But you don't even know him. Correct?

9 JUROR: I wouldn't know him if he walked in the door.

10 THE COURT: All right. If called upon to serve on
11 this jury, could you set aside the fact that this might
12 be the lawyer who represented your son?

13 JUROR: Yes.

14 THE COURT: And give the State and the Defendant a fair
15 and impartial trial?

16 JUROR: Yes.

17 THE COURT: All right, sir. Thank you.

18 JUROR: I wasn't sure that was him. (Returning to seat)

19 THE COURT: He said his name was Hank, and he made a
20 lasting impression on him, Mr. Anderson.

21 Ladies and gentlemen of the jury panel, has any mem-
22 ber of the jury panel formed or expressed an opinion about
23 any issue or matter involved in this case? If so, please
24 stand.

25 (No response)

1 THE COURT: No response.

2 If any member of the jury panel aware of any bias to-
3 ward .. .

4 (Juror standing)

5 THE COURT: Yes, if you would come forward.

6 (Juror coming forward)

7 CLERK: Juror Number 133.

8 JUROR: My name is Jared Smith. I don't know if
9 this would have any bearing or not, but my son in law is
10 the Assistant Attorney General, and his focus is on inter-
11 net children's porn.

12 So I wanted you to know.

13 THE COURT: The central question is whether or not
14 you can listen to the evidence in this case or lack of
15 evidence in the case and pay attention to the law as I
16 charge it to you, giving the State and the Defendant a
17 fair and impartial trial.

18 That is the inquiry, if you can do that and give
19 the State and Defendant a fair and impartial trial.

20 JUROR: Yes.

21 THE COURT: By virtue of the fact that your son is
22 working for the Attorney General's Office, doing that,
23 could you set that aside and give both the State and the
24 Defendant a fair and impartial trial?

25 JUROR: Yes.

1 THE COURT: Thank you, sir. You are qualified to
2 serve.

3 (Juror returning to seat in Courtroom)

4 (Another juror coming forward)

5 CLERK: Juror Number 76.

6 THE COURT: Yes, sir.

7 JUROR: I can't make a clear and conscientious decis-
8 ion. (Name not audible)

9 THE COURT: So what you are saying is that -- let me
10 ask you this. If called upon to serve on the jury, could
11 you listen to the evidence in this case and the law as I
12 charge it to you and give both the State and the Defendant
13 a fair and impartial trial?

14 JUROR: No, sir. I can tell you that honestly.

15 THE COURT: Well, in view of that, I am going to excuse
16 you for the purpose of this trial, but you need to stay with
17 us. There is another type case that will be tried as well
18 today.

19 She is excused for purposes of this trial.

20 (Juror excused from this trial)

21 Is there any member of the jury panel who has any
22 bias or prejudice toward either the State or the Defendant
23 in this case? If so, please stand.

24 (No response from any juror)

25 THE COURT: No response.

1 Is there any member of the jury panel who was a mem-
2 ber of the Grand Jury which issued the Indictment in this
3 case? If so, please stand.

4 (No response)

5 THE COURT: No response.

6 Is there any member of the jury panel a law enforce-
7 ment officer or have a family member who is a law enforce-
8 ment officer or former law enforcement officer? If so,
9 please stand.

10 (Juror standing)

11 THE COURT: Yes, sir. What is your situation?

12 JUROR: My father in law is a SLED Agent.

13 THE COURT: Thank you.

14 Yes, sir, if you could come forward.

15 (Juror coming forward)

16 CLERK: Juror Number 105.

17 THE COURT: Yes, sir.

18 JUROR: My son just recently graduated from the Crim-
19 inal Academy and is going to be a DNR officer.

20 THE COURT: You know what they call them? They call
21 them the squirrel police.

22 JUROR: I call him a grouper trooper. Yes, sir.

23 THE COURT: If you are called upon to serve on this
24 jury, could you set aside the fact that your family mem-
25 ber has just graduated from the Law Enforcement Academy, and

1 listen to the evidence in this case or lack of evidence,
2 and listen to the law as I charge it to you, and give both
3 the State and the Defendant a fair and impartial trial?

4 JUROR: Yes, sir.

5 THE COURT: The fact that your relative is involved
6 in law enforcement, would that give you any type of bias
7 toward the State?

8 JUROR: No, sir.

9 THE COURT: You are qualified to serve.

10 (Juror returning to seat)

11 (Another juror coming forward)

12 CLERK: Juror Number 28.

13 THE COURT: Yes, sir, your name?

14 JUROR: Clayton C. Cosby.

15 THE COURT: All right, Mr. Cosby.

16 JUROR: My granddad was a Deputy Sheriff in Texas if
17 that is relevant.

18 THE COURT: That is a very important relevance. If
19 called upon to serve on this jury, could you set aside the
20 fact that you have a member of your family who was involved
21 in law enforcement -- set that aside and listen to the
22 evidence presented or the lack of evidence and the law as
23 I charge it to you and give both the State and the Defen-
24 dant a fair and impartial trial? Could you do that?

25 JUROR: Yes, sir.

1 THE COURT: You are qualified to serve. Thank you.

2 (Juror returning to seat)

3 CLERK: Juror Number 150.

4 (Juror coming forward)

5 THE COURT: Yes, sir. Your full name?

6 JUROR: Marcus Williams. My uncle serves on the
7 Hartsville Police Department.

8 THE COURT: Okay, and if called upon to serve on this
9 jury, could you set aside the fact that you have a relative
10 in law enforcement and give both the State and the Defen-
11 dant a fair and impartial trial? Could you listen to the
12 evidence or lack of evidence presented in this case, lis-
13 ten to the law, and give the State and Defendant an impar-
14 tial verdict?

15 JUROR: Yes, Your Honor.

16 THE COURT: You are qualified to serve. Thank you.
17 (Juror returning to seat)

18 THE COURT: Ladies and gentlemen, you have heard what
19 the allegations are against Mr. Brockington and the time
20 frame in which this took place, within Florence proper and
21 within Florence County.

22 With that basic information, is there anybody in the
23 jury panel who has heard or read or seen anything concern-
24 ing this matter? If so, please stand.

25 (No response from any juror).

1 THE COURT: No response.

2 Is there any member of the jury panel who is a member
3 of a group whose primary purpose is the promotion of law
4 enforcement? I think just about every sheriff's department
5 in the State has like a Sheriff's Association. I think
6 The troopers may have such an organization, and there are
7 other organizations like MADD, Mothers Against Drunk Driv-
8 ing, SADD, Students Against Drunk Driving, CAVE, Citizens
9 Against Violent Crime.

10 Is there anybody on this jury panel who is a contribu-
11 tor to or member of any of these organizations that are
12 associated and promote law enforcement? If so, please
13 stand.

14 (No response from jurors)

15 THE COURT: No response.

16 All right. Does any member of the jury panel know of
17 any reason whatsoever why you cannot serve as a juror on
18 this case, with particular emphasis being placed on your
19 ability to be fair and impartial to both the State and the
20 Defendant? If so, please stand.

21 (No response)

22 THE COURT: Any additional questions from the State?

23 SOLICITOR: May I approach?

24 THE COURT: Yes.

25 (Conference at the bench between counsel and the Court

1 off the record)

2 THE COURT: I read question number one and I'm not
3 going to ask that. On the record, I'm not going to ask
4 that.

5 MR. ANDERSON: Her question . .

6 THE COURT: Her question number one.

7 Does any member of -- do you or any member of your
8 family have any charges pending in Marion or Florence County?
9 If so, please stand.

10 (No response from jurors)

11 THE COURT: There is no response.

12 I think questions 5 and 6 have been adequately . .

13 (Juror standing)

14 THE COURT: Yes, maam, if you will come forward?

15 JUROR: Would you repeat your question?

16 THE COURT: Have you or a member of your family been
17 prosecuted in Marion or Florence County?

18 JUROR: Have been prosecuted?

19 THE COURT: Yes, maam. If you could come forward?

20 (Juror coming forward)

21 JUROR: (Statement inaudible) A family member.

22 THE COURT: What was his name?

23 JUROR: Antoine Hines.

24 THE COURT: And when was that?

25 JUROR: In '66.

1 THE COURT: If called upon to serve on this jury,
2 could you listen to the evidence in this case or the lack
3 of evidence, listen to the law I charge to you, and give
4 everybody a fair and impartial trial?

5 JUROR: Yes.

6 THE COURT: You're qualified to serve.

7 (Juror returning to seat in Courtroom. Bench con-
8 ference following.)

9 MR. WELLS, That's the reason we wanted you to ask Num-
10 ber Five.

11 THE COURT: I've asked it a thousand diferent ways.

12 MR. WELLS: Sometimes a juror will say they just can't
13 pass judgment on anyone.

14 THE COURT: Do you have an objection to that?

15 MR. ANDERSON: I don't believe its really necessary.

16 THE COURT: I don't want to get into religious aspects
17 of it but that objection is noted for the record.

18 (Another juror standing)

19 THE COURT: yes, maam, your name and number?

20 CLERK: This is number 122.

21 (Juror coming forward)

22 THE COURT: Yes, maam.

23 JUROR: My husband has a cousin who has been convicted
24 of statutory rape. I don't know if that is relevant to
25 us here.

1 THE COURT: Well, that is very relevant. If you were
2 called upon to serve on this jury, could you set aside the
3 fact that you have a relative by marriage that was convicted
4 under those facts?

5 The facts of every case are different. Could you set
6 that aside and listen to the evidence presented in this
7 case or the lack of evidence, listen to the law as I will
8 charge it to you, and give the State and Defendant a fair
9 and impartial trial? Could you do that?

10 JUROR: Yes.

11 THE COURT: You are qualified to serve. Thank you.

12 (Juror returning to seat)

13 THE COURT: I am specifically not going to ask Number
14 6 as there are a number of questions that cover that.

15 Ladies and gentlemen of the jury panel, is there any
16 member of your immediate family who is a psychiatrist or a
17 counselor?

18 (Juror standing)

19 THE COURT: Yes, sir.

20 CLERK: Juror Number 70.

21 THE COURT: Yes, sir, your name?

22 JUROR: Tom Huff. You know, we handle subjects like
23 this within our organization, and -- but we go by the Bible
24 standard that there has to be two verifiable and credible
25 witnesses.

1 THE COURT: Okay..

2 JUROR: Because in this case you have to have witnes-
3 ses . .

4 THE COURT: The ultimate question is whether or not
5 you can follow the law as I charge it to you. You may
6 have some idea what the law is, but you must disregard that
7 and apply the law as I charge it to be.

8 JUROR: My conscience wouldn't allow -- once the of-
9 fense has been presented, it would be up to my conscience
10 to dismiss it unless I think it is viable to the case, and
11 I want to -- do you understand what I mean?

12 THE COURT: What I'm going to do is excuse you for the
13 purpose of this action and for the purpose of this term
14 of Court.

15 I will transfer you to a civil term of Court, and you
16 will receive notice. You are free to leave at this time.

17 He is excused from this term of Court and transferred
18 to Common Pleas.

19 CLERK: Yes, sir.

20 (Juror excused)

21 (Another juror coming forward)

22 CLERK: Juror 116.

23 THE COURT: Ms. Player.

24 JUROR: I have my Master's in counseling.

25 THE COURT: You are certainly not disqualified, but

1 my question to you is, could you listen to the evidence
2 presented in this case and the law as I charge it to you,
3 and give the State and Defendant a fair and impartial
4 trial?

5 JUROR: Yes, sir.

6 THE COURT: Thank you. You're qualified to serve.

7 (Juror returning to seat)

8 (Another juror standing)

9 CLERK: Juror Number 159.

10 (Juror coming forward)

11 THE COURT: Yes, maam, Ms. Hall.

12 JUROR: I have a step-sister who is a child psycholo-
13 gist in Columbia for the State.

14 THE COURT: Okay. If you were called upon to serve
15 on this jury, could you set aside that you are related to
16 someone involved in counseling and give the State and the
17 Defendant a fair and impartial trial?

18 JUROR: Yes.

19 THE COURT: You are qualified to serve.

20 (Juror returning to seat)

21 (Another juror coming forward)

22 CLERK: Juror Number 38.

23 THE COURT: Yes, maam.

24 JUROR: I have a daughter who is seeing a psycholo-
25 gist.

1 THE COURT: Okay. The question really is whether or
2 not you have a relative who is a psychiatrist or a psychol-
3 ogist. So you are qualified to serve. Thank you very
4 much.

5 (Juror returning to seat)

6 (Another juror coming forward)

7 CLERK: Number 28.

8 THE COURT: Your name?

9 JUROR: Clayton Cosby.

10 THE COURT: Mr. Cosby?

11 JUROR: My aunt is a retired worker with troubled
12 teens.

13 THE COURT: Would that affect your ability to be fair
14 and impartial in this case?

15 JUROR: No, sir.

16 THE COURT: You are qualified to serve. Thank you.

17 (Juror returning to seat)

18 THE COURT: Madam Clerk, you can give us a jury. The
19 strikes are five and ten. Is that your understanding, Mr.
20 Wells?

21 SOLICITOR: Yes, it is.

22 THE COURT: So the strikes are five and ten.

23 Ladies and gentlemen of the jury panel, if your name
24 is called, come and stand right there and face the back of
25 the Courtroom.

1 Bring your personal belongings with you.

2 (Brief pause in the proceeding)

3 THE COURT: The Bailiff has called my attention to an issue
4 with regard to Juror Hudson.

5 (Juror 72 coming to the bench to speak with the
6 Court)

7 THE COURT: This is a situation that you've got that
8 is not an exemption but we're going to delay your service
9 so you can arrange for somebody else to do that while you
10 serve. Since you work outside the home, you do not fall
11 within the exemption.

12 I will excuse you for this term of Court, and you'll
13 receive a note when you are to come back.

14 And your full name?

15 JUROR: Teresa Hudson.

16 (Juror excused)

17 THE COURT: Very good. Madam Clerk, you are recog-
18 nized.

19 (Whereupon, a jury was seated in the following manner:

20 Number 16, Michael Brooks, excused by the State;

21 Number 96, Sherry Miles, excused by the Defendant;

22 Number 92, William K. McCallister, seated;

23 Number 75, Virber A. Jackson, seated;

24 Number 38, Mary E. Dillah, excused by the State;

25 Number 47, Andrew P. Flynn, seated;

1 Number 72, excused by the Court;
2 Number 110, Bruce A. Pech, seated;
3 Number 84, Terrell Lane, excused by the Court;
4 Number 25, Amenda K. Cockfield, excused by the Defen-
5 dant;
6 Number 53, Robert E. Gainey, excused by the State;
7 Number 122, Jessica L. Rich, excused by the Defendant;
8 Number 45, Britney S. Fields, excused by the State;
9 Number 95, Cassandra S. McQueen, seated:
10 Number 59, Stephen T. Hall, seated;
11 Number 136, George A. Stephenson, seated;
12 Number 40, Corinne A. Edwards, seated;
13 Number 54, Bobby Gamble, seated;
14 Number 154, Dena K. Yarborough, excused by the Defen-
15 dant;
16 Number 28, Clayton C. Cosby, seated;
17 Number 44, Susan C. Evans, seated;
18 Number 32, Edward R. Daisy, excused by the Defendant;
19 Number 33, Carolyn B. Daniels, seated.)
20 THE COURT: Strikes are one and two on the alternates
21 -- two alternates. One and two on each.
22 (Whereupon, alternate jurors chosen as follows:
23 Number 158, Joe W. Pearce, Jr., excused by the Defen-
24 dant;
25 Number 9, William Burden, Jr., excused by the State;

1 Number 145, Lauren E. Weatherford, seated as alternate;
2 Number 133, Kenneth J. Smith, excused by the Defendant;
3 Number 11, Latonya S. Bartell, seated.)

4 (Transcription Note; Jury strike sheet attached)

5 THE COURT: Any objections with regard to the jury se-
6 lection process, from the State?

7 SOLICITOR: None from the State.

8 THE COURT: From Defense?

9 MR. ANDERSON: No, Your Honor.

10 THE COURT: Very good. The balance of the jury panel,
11 we're going to ask that you go to the fifth floor Courtroom.
12 The Bailiff will escort you down there to the Fifth Floor
13 Courtroom.

14 There will be another case, another jury panel, se-
15 lected.

16 You are free to leave at this time.

17 (Jurors not selected for this trial excused from the
18 Courtroom)

19 (Conference at the bench between counsel and the
20 Court off the record)

21 THE COURT: Bear with us just one moment.

22 (Brief pause in proceeding)

23 THE COURT: Mr. Andrew Flynn, I'm going to ask if you
24 could serve as the Foreman of this jury. I am going to
25 ask Mr. Hall to switch chairs with you.

1 Mr. Flynn, when it comes time to deliberate you will
2 have one vote, but you have been given an additional re-
3 sponsibility which is to preside over the deliberation
4 process.

5 Essentially that means to just ensure that everybody's
6 voice is heard in the deliberation process. You are to en-
7 sure that.

8 In addition to that, if there are questions that de-
9 velop amongst you during the trial of this case or any con-
10 cerns that you have, I will ask the bailiff to make those
11 note pads available, and you reduce them to writing. Then
12 give it to Mr. Sammy, the Bailiff, and he will give it to
13 me.

14 If there is a question or concern I can help you with
15 I will be happy to do that. That goes through the process
16 of the trial and through the deliberation process.

17 If there are questions that come up, relate it to the
18 Foreman. You can write it down and give it to the Bail-
19 iff. If it's something I can help you with, I'll be happy
20 to do that.

21 There are certain things that -- we are going to re-
22 cess for this afternoon and come back and start this trial
23 in the morning. I'm going to ask you all to be here in
24 this Courtroom at nine thirty sharp. You will need to be
25 here a little bit earlier. Sometimes in this Courthouse

1 or this building, it can be pretty busy. Sometimes the
2 elevators are a little slow. So I want everybody to be
3 here on time.

4 You also have been given some very attractive juror
5 badges, and I'm going to ask you to display those. The rea-
6 son why we're doing that is because in this building, the
7 way it is configured, sometimes lawyers and parties and
8 witnesses travel in the same elevators, and sometimes they
9 can be discussing the case.

10 You are required to make your decision by what tran-
11 spires in the confines of this Courtroom, and that can
12 pose a problem.

13 In addition, people need to be able to identify you
14 as a juror to avoid those type problems, and, in addition
15 to that, if anyone would try to contact you about this
16 case that is strictly illegal. If someone was to say, well,
17 you are on this jury and I want to talk to you about that
18 -- I don't anticipate that would happen, but if they do it
19 is going to be very important that you identify them, if you
20 can. Report them to me and I will deal with them. That
21 is inappropriate.

22 In addition to that, I give each of you instructions
23 not to do any independent investigation. You know there
24 is not anything in the world you can't put on the computer
25 and do research, investigate any of the personalities, any

1 of the lawyers, any of the witnesses. Don't ask anything
2 or put anything on there; don't do any independent inter-
3 net investigation.

4 You don't even know -- we only know where this thing
5 allegedly took place, where the allegations arise out of
6 at a point in time, and it is just allegations.

7 We don't know anything about that, but do not do any
8 independent investigation. If as the case progresses you
9 hear about a particular place, don't go and look or do any
10 independent investigation.

11 You will make your decision from what transpires here
12 in this Courtroom and the law as I charge it to you.

13 There is such a thing, and I've tried to avoid it in
14 my later years. Say Facebook and Tweeter or Twitter or
15 whatever it is. That has no place in this Courtroom. Do
16 not put anything about your involvement in this case on
17 Facebook, Twitter -- and there are some other ones out
18 there, but the bottom line is do not put anything about
19 your involvement in this case on there. Do not do that.

20 Do not discuss the case amongst yourselves or with
21 anyone else.

22 Mr. Foreman, I'm going to ask you to enforce that rule.
23 There will definitely be periods of time where you are in
24 the jury room together, and you all can talk about any-
25 thing you want to.

1 You can talk about Carolina baseball, about the beach;
2 talking about spring break; talk about anything but you
3 can't talk about this case.

4 You can't talk about the lawyers, can't talk about the
5 witnesses. There will be a time after you hear all of the
6 evidence and my charge on the law that you can begin deliberations.
7 Until then I'm going to ask you to enforce the
8 rule that there be no discussion amongst yourselves about
9 anything having to do with this case. I ask that you enforce
10 that rule.

11 In addition to that, any one of you with significant
12 others, when you come home your spouse will say, well,
13 tell me what happened with your jury service.

14 This is one occasion where you can tell them I have
15 been ordered not to talk about it, and do not do that because
16 your significant spouse or significant other may have
17 an opinion about this type litigation.

18 You need to base your decision on what transpires
19 here in the Courtroom, not someone else's view of this type
20 case.

21 I'm going to at this time ask that you be excused.
22 You are free to leave for the day. Everybody understands
23 you are to be back here in this Courtroom at nine thirty
24 in the morning. One of the Bailiffs will assist you in the
25 jury room, but be here and be here on time. You're free

1 to leave at this time.

2 Everyone remain seated while the jury exits the Court-
3 room.

4 (Jury excused for the balance of the day)

5 THE COURT: How long do you anticipate the motions
6 taking? How many motions do we have, Ms. Parr?

7 SOLICITOR: I believe four.

8 THE COURT: All right. How long do you anticipate
9 that will take?

10 MR. WELLS: I think it depends a lot on whether you
11 will want to hear the statements actually played or not.

12 THE COURT: Right.

13 MR. WELLS: If they are played it will take some two
14 and a half hours. If they are not played in full, it'll
15 be considerably shorter than that.

16 THE COURT: All right. Okay. Mr. Anderson, do you
17 have an idea as to how long it will take?

18 MR. ANDERSON: Your Honor, I've filed three motions,
19 and I'm going to have to make a fourth oral motion. I
20 agree with Mr. Wells' assessment. I think for one of the
21 motions you are going to have to hear the entire tape, and
22 that is going to probably take -- all total, I think the
23 motions will probably take two hours.

24 THE COURT: All right. Very good.

25 We're going to recess until two thirty, and obviously

1 we won't do anything other than the motions today and re-
2 convene at nine thirty in the morning, but we will be back
3 at two thirty sharp.

4 MR. ANDERSON: This floor, Your Honor?

5 THE COURT: This floor.

6 (Whereupon, the Court stood in recess until 2:30
7 P.M., when the matter was continued.)

8 THE COURT: Please be seated. Good afternoon.

9 Mr. Anderson, you are recognized. I understand there
10 are some motions you have before the Court.

11 MR. ANDERSON: Yes, sir, Your Honor. May it please
12 the Court?

13 First of all, I'd like to make an oral motion, Your
14 Honor, to prohibit the State from referring to the young
15 girl as the victim in this case.

16 Your Honor, certainly if this was a burglary and a
17 house had been broken into and you could prove the house
18 had been broken into, you could prove something had hap-
19 pened. Something was stolen or somebody had been shot or
20 something, and then certainly you could call him a victim,
21 but in this case, Your Honor, the little girl says this is
22 what happened.

23 Obviously, my client has not been found guilty of any-
24 thing so, Your Honor, I would object to the State referring
25 to the young girl as a victim in this case.

1 THE COURT: Ms. Parr, what do you have to say about
2 that?

3 SOLICITOR: Your Honor, we request that we be allowed
4 to refer to her as the victim in this case. Your Honor,
5 in all cases if there is an allegation that something has
6 occurred and they have not been found guilty, they are re-
7 ferred to as victims.

8 This is no different than that, and it is for a jury
9 to decide guilt. She has indicated that this occurred, and
10 under the law she can be referred to as such.

11 THE COURT: Mr. Wells, would you like to weigh in on
12 that?

13 MR. WELLS: I agree with Ms. Parr. I think there are
14 times so the jury knows who you are referring to, it is ap-
15 propriate. There are no allegations with regard to the
16 younger sister, and I think at times it can differentiate
17 who you are referring to -- that you are referring to the
18 victim in that regard.

19 I mean, I don't see there is any difference in this
20 case from any other. It is up to the jury to decide whe-
21 ther this man did this or not. She would be the victim as
22 far as this case is concerned.

23 THE COURT: All right. What . .

24 MR. ANDERSON: Your Honor, . .

25 THE COURT: . . I am going to do -- yes, sir?

1 MR. ANDERSON: I was just going to say if they want
2 to refer to her as the prosecuting witness, we have no ob-
3 jection to that.

4 THE COURT: Okay, I'm not going to make an absolute
5 ruling at this time. However, if you make reference to
6 her as being a victim, I might clarify to the jury with
7 some sort of curative charge.

8 You know, that whether she's a victim or not will be
9 resolved by you. But let's see how that develops, and I'm
10 going to -- Mr. Anderson, I'm going to ask that you object
11 at the appropriate time and we will deal with it at that
12 time.

13 MR. ANDERSON: Your Honor, the next objection I have
14 or the motion I filed -- I would object to the State quali-
15 fying the person who conducted the interview as an expert.
16 Your Honor, recently there has been a case, State versus
17 Kroma, and in there it specifically says -- they are refer-
18 ring to a forensic interviewer -- it says in there in con-
19 sidering the ongoing issues developing from their use at
20 trial by the State, we can envision no circumstances where
21 their qualification as an expert at trial would be appro-
22 priate.

23 Your Honor, the words forensic interviewer is actually
24 a misnomer. The use of the word forensic indicates that
25 the interviewer adduces evidence suitable for use in the

1 Court.

2 Judge, we would object to the interviewer being quali-
3 fied as an expert in this case. I think the Supreme Court
4 case I just cited from 2013, Your Honor, says there is no
5 need to . .

6 THE COURT: Essentially, it would be just like a po-
7 lice officer interviewing someone with regard to a case.
8 They are just a fact witness.

9 MR. ANDERSON: Yes, sir.

10 THE COURT: What is the State's position in that re-
11 gard?

12 SOLICITOR: Your Honor, we believe that the forensic
13 interviewer or the person who did the interview should not
14 be qualified as a forensic interviewer.

15 THE COURT: So we agree on that?

16 SOLICITOR: Yes, but I may call her later as an expert
17 in another area. But as a forensic interviewer, I do not
18 intend to qualify her as an expert.

19 THE COURT: The ruling of the Court is that -- what
20 is her name?

21 SOLICITOR: Dr. Alicia Benedetto.

22 THE COURT: All right, Ms. Benedetto will not be qual-
23 ified as an expert nor are you to refer to her as an ex-
24 pert.

25 SOLICITOR: In the area of forensic interviewer.

1 THE COURT: That's correct. You say you may intend to
2 offer her as an expert in another area, and, if so, what
3 is it?

4 SOLICITOR: Yes, Your Honor. We intend to offer her
5 as a clinical psychologist in child sexual -- child sexual
6 assault.

7 THE COURT: Okay, very good.

8 Mr. Anderson, you are recognized.

9 MR. ANDERSON: Your Honor, another motion that I filed
10 was a disclosure of her counseling records, Your Honor, and
11 it is our understanding that there is someone here today --
12 Ms. Parr said that she was going to have the records turned
13 over to you to conduct an in-camera hearing, so I think it
14 may be . . .

15 THE COURT: Okay.

16 SOLICITOR: Your Honor, Ms. Heather Smith is in the
17 Courtroom today, and she is available.

18 THE COURT: So essentially, if I understand you cor-
19 rectly, you want me to view the records to determine whe-
20 ther there is any exculpatory evidence. Is that correct,
21 or have you -- turn -- over the records?

22 SOLICITOR: It is for you to determine whether or not
23 there is exculpatory in order for us to get a copy of the
24 records.

25 MR. ANDERSON: Yes, we know the Solicitor's Office has

1 not looked at any of these records.

2 THE COURT: Okay.

3 SOLICITOR: Under the case law, the procedure is that
4 the Court make the determination in an in-camera hearing.

5 THE COURT: I'll be happy to -- do we have the re-
6 cords? I'd like to have them at this time.

7 SOLICITOR: Your Honor, she says these are the orig-
8 inal records.

9 THE COURT: Thank you.

10 (Brief pause in the proceeding)

11 THE COURT: I assume that the Defense Counsel knows
12 the natural mother of the child was charged with abuse and
13 neglect because of her failure to report the event?

14 MR. ANDERSON: Your Honor, in Family Court, but any
15 type of criminal procedure is . .

16 THE COURT: But you are aware of the fact that there
17 was restricted visitation?

18 MR. ANDERSON: Your Honor, not that has been ongoing.
19 I know at first, because there was a child protective ser-
20 vices plan, and there was a hearing in Family Court. The
21 plan was put into effect.

22 However, the D.S.S. Trial Judge also specifically has
23 said there is a private action going on as well, and cer-
24 tainly I am not privy to anything going on in the private
25 action, so I don't know what's happened since the D.S.S.

1 case was heard.

2 (Pause in the proceeding)

3 SOLICITOR: May it please the Court?

4 THE COURT: Yes.

5 SOLICITOR: Mr. Anderson represented the Defendant in
6 the D.S.S. cause of action.

7 MR. ANDERSON: I represent my client, Your Honor, not
8 the natural mother.

9 THE COURT: All right.

10 (Pause in proceeding continued)

11 THE COURT: All right. This section of the report is
12 called Section L, Mental Status Exam. I think to some ex-
13 tent it is exculpatory because it goes through -- as to
14 all of her appearance, hygiene, her activity during the
15 interview, her affect, mood, speech, thought process, her
16 thought content, hallucinations -- whether they exist or
17 not -- delusions, and it goes through a comprehensive list.

18 To the extent those are normal, I think that could be
19 construed as being exculpatory, and so these three sheets
20 I am going to turn over to the Defense.

21 I'm going to allow the State to look at them and then
22 I'm going to order that he be given a copy of these three
23 sheets so far.

24 You all can come up and take a look at them.

25 (Pause in proceeding continued)

1 MR. WELLS: We'll just go and copy them.

2 THE COURT: That will be good.

3 (Pause continuing)

4 THE COURT: I'm going to order that this be disclosed
5 to the Defendant because it talks about preparation for
6 testimony and the fact that she has been brought into the
7 Courtroom to practice testimony and that sort of thing,
8 to the extent that could affect her testimony.

9 I would allow the Defendant to review those.

10 (Pause in proceeding continued)

11 THE COURT: This Heather Smith -- I assume you intend
12 on calling her as an expert?

13 SOLICITOR: No. Actually, Your Honor, we are not.

14 THE COURT: Well, this initial clinical assessment can
15 be exculpatory in that there are a couple of things in
16 there that talk about her having some normalcy. I think
17 some of it could be exculpatory.

18 In addition to that, there is a reluctance by her to
19 talk. There was different forms of therapy, non-direct
20 play therapy, and those are things that are valid for the
21 Defense to talk about with anybody who is going to testify
22 about the child's condition, the fact that there was some
23 reluctance in that regard.

24 I think some things need to be explored by the De-
25 fense. I'm going to allow that to take place. This initial

1 clinical assessment, I'm going to allow that to be pro-
2 duced as well.

3 (Pause in proceeding continued)

4 THE COURT: I'm going to allow this that refers to
5 2013 to be -- so these three. The initial assessment --
6 one is an initial assessment, and one is a report of a
7 particular event.

8 (Pause continued)

9 COURT: Is the State or the Defense saying this tran-
10 script of the State of South Carolina -- the South Carolina
11 Department of Social Services versus Karen Waldermo --
12 have you all seen this? Has everybody seen this tran-
13 script?

14 MR. ANDERSON: I have seen this.

15 SOLICITOR: I have not seen this.

16 MR. ANDERSON: If it is North Carolina, yes, I have
17 seen it.

18 THE COURT: Okay, I think this is the South Carolina
19 . . .

20 (Discussion between counsel and the Court off the
21 record)

22 (Pause continues)

23 THE COURT: This addendum to the Waldermo case of No-
24 vember 8, 2012, to the extent that it contemplates a cus-
25 tody battle and the fact that Karen Waldermo maintains the

1 event never took place, I believe that to some extent could
2 be exculpatory.

3 (Pause continued)

4 THE COURT: Does everybody have the custody and visit-
5 ation agreement?

6 MR. ANDERSON: I think I do.

7 THE COURT: It says final agreement.

8 MR. ANDERSON: Is that from '08, Your Honor?

9 THE COURT: Actually, what I have is not dated.

10 MR. ANDERSON: Are you saying it could be from '08?

11 THE COURT: Well, I don't know what it is. It says
12 final agreement, custody and visitation. The parties
13 agree Jorgen Waldermo shall have primary physical and legal
14 custody of the minor children, and it goes on to talk about
15 visitation.

16 MR. WELLS: Could I see that for a moment?

17 THE COURT: Tell you what, that and the Order of In-
18 tervention -- those clearly are discoverable, and I will
19 allow you all both to have a copy.

20 SOLICITOR: I think I gave you a copy of the Order
21 of Intervention.

22 (Pause continued)

23 THE COURT: I am going to allow this interview outcome
24 to be disclosed to the Defendant. It talks about the man-
25 ner in which these allegations came out. Just by virtue

1 of the nature of the allegations, she is alleging some
2 things happened and some things didn't.

3 I think that in order to adequately cross examine the
4 alleged victim and anybody who testifies about this -- I
5 think the Defense needs to know how it came out in the
6 first instance.

7 Also within this interview outcome, it talks about a
8 Younger Sister who was not sexually abused.

9 MR. WELLS: That is the younger sister.

10 THE COURT: So I think those are exculpatory to that
11 extent, and I'm going to allow that to be distributed to
12 the Defendant.

13 SOLICITOR: Is that the forensic interview on Younger Sister

14 THE COURT: Okay, I don't know it all. I just know
15 what you all have provided to me, and that one is exculpa-
16 tory to the extent that Younger Sister denies there was any sex-
17 ual abuse.

18 Mr. Wells, I have given you each of these documents
19 piecemeal . .

20 MR. WELLS: Yes.

21 THE COURT: . . and I'm going to let you put on the
22 record what has been disclosed to the Defense.

23 MR. WELLS: Mr. Anderson says he has this so you need
24 not copy this.

25 Everything that you have asked to be disclosed, I've

1 made two copies and given it to Mr. Anderson and Ms. Parr
2 with the exception of one thing Mr. Anderson said he had
3 that Ms. Parr did not, so I made only one copy of it.

4 MR. ANDERSON: Your Honor, to be more specific, that
5 is a transcript of the D.S.S. hearing. I participated in
6 that hearing so I do have a copy of that.

7 THE COURT: All right. Well, Mr. Wells, what I'm
8 going to ask you to do, and you don't necessarily have to
9 do that now is to make a copy of everything I have ordered
10 to be disclosed in this file, and you make that a part of
11 the record.

12 MR. WELLS: If we can put all of that together.

13 REPORTER: I can.

14 MR. WELLS: Do you want me to do that now?

15 THE COURT: Just at any time. I think it needs to
16 be a part of the record, all that I've ordered to be dis-
17 closed.

18 MR. WELLS: Yes, sir.

19 (Various documents named by the Court from D.S.S.
20 Records marked Court's Exhibit 1)

21 THE COURT: All right, Mr. Anderson, you are recog-
22 nized.

23 MR. ANDERSON: May it please th Court? I was given
24 a witness list this morning by the State of potential wit-
25 nesses they intend to call.

1 Your Honor, one is a Dr. Susan -- I don't know how to
2 pronounce her last name.

3 THE COURT: It looks like Luberoff.

4 MR. ANDERSON: It's L U B E R O F F, out of Columbia,
5 South Carolina.

6 Your Honor, I had anticipated that the counseling
7 records that you just gave me were from her. However,
8 they are not. They are from Heather Smith out of Columbia,
9 South Carolina.

10 Your Honor, if a report has been prepared by Susan
11 Luberoff, I would certainly ask that I be given that. I
12 don't know what she does or what she has to do . .

13 THE COURT: Do you anticipate calling her as a wit-
14 ness, Ms. Parr?

15 SOLICITOR: Yes, Your Honor. I have given him that --
16 the physical examination or medical examination of the
17 child.

18 THE COURT: Ms. Parr, for the record, I will ask that
19 you respond to me and not talk to Mr. Anderson.

20 SOLICITOR: May it please the Court? You Honor, Dr.
21 Luberoff is the medical examiner and that is a copy of
22 her assessment, which was provided to defense counsel
23 when we provided the forensic evidence.

24 THE COURT: Do you have that report before you, Ms.
25 Parr?

1 MR. ANDERSON: I think I do have it. I did not know
2 that was her name. Her handwriting is about like mine, Your
3 Honor.

4 THE COURT: Do you have a copy of that right there be-
5 fore you, Ms. Parr?

6 SOLICITOR: I do.

7 THE COURT: Show that to him and refresh his memory
8 so he can make a determination of whether or not he has it.

9 MR. ANDERSON: I did not know that was Susan Luberoff,
10 Your Honor, and I apologize.

11 THE COURT: So we agree that you do indeed have that
12 report, Mr. Anderson, is that correct?

13 MR. ANDERSON: I do.

14 THE COURT: And if that satisfies that, you may pro-
15 ceed.

16 MR. ANDERSON: Your Honor, the last motion I filed
17 was to prohibit the out of Court statements that were made
18 by the child, pursuant to 17 23 175, and also, Your Honor,
19 to prohibit the showing of the videotape that was done at
20 the Ark Center in Columbia.

21 THE COURT: And the grounds for that?

22 MR. ANDERSON: Your Honor, it is kind of -- there is
23 more than one step to it, Your Honor.

24 First of all, as I've already mentioned, the Kromah
25 case -- Your Honor, in that case, it says the kind of case

1 -- it specifically says the kinds of statements -- the
2 Supreme Court says, by way of example, the kind of state-
3 ments the forensic interviewer should avoid at trial. The
4 child is told to be truthful. A direct opinion as to the
5 child's veracity, and any statement that directly vouches
6 for the child, such as stating the interviewer has made a,
7 quote, compelling finding of abuse, unquote.

8 Any statement to indicate to a jury that the inter-
9 viewer believes the child's allegations in the current mat-
10 ter or an opinion the child's behavior indicated the child
11 was telling the truth.

12 Your Honor, when they interview a child, one of the
13 first things they do is I am now going to talk to you about
14 telling the truth versus telling a lie.

15 Another problem I have with it, Your Honor, is that
16 the child is never put under oath when they are giving their
17 statement.

18 Another problem I have with it, Your Honor, is that
19 the child is not subject to cross examination at the time
20 she is making the statement.

21 Your Honor, the -- of course, the Court has come out
22 -- the Supreme Court has come out with the Crawford case,
23 Crawford versus Washington, and that says, you know, the De-
24 fendant has a right to confrontation. Your Honor, if that
25 out of Court statement is put into evidence . .

1 Let me interrupt you, Mr. Anderson. First of all, we
2 know that in order for the -- in order under our law for the
3 case to go forward the victim is going to have to testify,
4 so Crawford doesn't really apply, does it?

5 MR. ANDERSON: Your Honor, I think Crawford does apply
6 if they are going to show the taped interview of her at the
7 Ark Center.

8 At the time she made the statement, Your Honor, there
9 was no defense counsel present. She was not under oath,
10 and there are certain questions that were asked of her in
11 the interview that are prohibited by Kromah.

12 THE COURT: All right, and, of course, Crawford quite
13 typically is where you try to introduce out of Court state-
14 ments without benefit of a witness to cross examine.

15 In this case, she is going to testify, and you would
16 have an opportunity to cross examine her, but, first of all,
17 let me hear from you, Ms. Parr.

18 Do you anticipate playing these interviews?

19 SOLICITOR: Yes, Your Honor, the State is prepared
20 to go to an in-camera hearing to have that qualified to go
21 in.

22 Your Honor, there is also State versus Neal, which
23 addressed the argument that counsel has made, including
24 Crawford versus Washington.

25 It simply says that in regard to cross examination

1 the confrontation clause guarantees only an opportunity
2 for cross examination, and not cross examination that is
3 effective in whatever way and to whatever extent might be
4 wished.

5 So it is really the opportunity to cross examine, and
6 this is a case I would like to pass up to the Court which
7 specifically dealt with the forensic interview and admis-
8 sion of the examinee as well.

9 That case was also cited in an unpublished Opinion that
10 was filed on June 26, 2013, and that is State versus
11 Anthony Tillman, an unpublished Opinion.

12 THE COURT: All right. Mr. Wells, you are very exper-
13 ienced. You've been doing this for a while. What is your
14 position with regard to the law as far as the admissibil-
15 ity of these type interviews?

16 MR. WELLS: Your Honor, I think there is a statute that
17 specifically says in these interviews where you have a
18 proper examiner, and we clearly plan to prove in this
19 case, if it's a child victim under twelve and the child vic-
20 tim testifies during the trial . .

21 THE COURT: And it is a requirement that the victim
22 testify before . .

23 MR. WELLS: We plan to do that, and, I mean, the law
24 is very clear. The statute says that, and the Court of Ap-
25 peals in that case specifically said it was proper to do

1 this.

2 THE COURT: But you do agree that if I would rule it
3 was admissible, it would certainly be appropriately re-
4 dacted with regard to what is in all of these reports where
5 it talks about you need to tell the truth, and there is a
6 whole section talking about truthfulness, and all of those
7 things indirectly bolsters the testimony.

8 Do you anticipate redacting those?

9 MR. WELLS: No, we don't, but Ms. Parr is a better ex-
10 pert on this particular video than I am although I have
11 watched it once. I really can't remember what all is in
12 there, but I don't think the statute indicates that it
13 has to be redacted.

14 I mean, I don't see that there is anything inappropri-
15 ate in there. I mean, you would honestly hope that the
16 child would be told to tell the truth.

17 SOLICITOR: We've got the video ready for you to view
18 the video.

19 THE COURT: Let's see it. It's just one video?

20 MR. WELLS: Yes, sir, Your Honor.

21 THE COURT: And that's the last thing we have to take
22 up?

23 MR. WELLS: The only other thing is that we would call
24 -- I think this will be fairly brief. At the time of the
25 giving of the statement, the Defendant was not in custody,

1 I don't believe. In fact, he was not arrested until some
2 three days later.

3 So it is clearly a voluntary statement, and we can
4 briefly put that in evidence.

5 THE COURT: Then let's do that first and then we'll
6 take a look at the video.

7 MR. WELLS: Okay.

8 SOLICITOR: Before we do that, also -- before we put
9 the video in, I think -- I would make that clear if I put
10 the forensic interview up so she can tell you what she
11 did and in compliance with the statute.

12 THE COURT: Let's do the Jackson v. Deno. Any objec-
13 tion to that, Mr. Anderson?

14 MR. ANDERSON: No, Your Honor.

15 THE COURT: Let's deal with that then.

16 You may call your first witness.

17 MR. WELLS: Investigator Chad Collins.

18 THE COURT: Investigator Collins, how you doing?

19 CHAD COLLINS, being duly
20 sworn, testified as follows, out of the presence of the
21 jury:

22 CLERK: Please take the stand and state your full
23 name for the record.

24 THE COURT: Get close to that microphone and speak up
25 loud and clear so I can hear everything you've got to say.

INV. COLLINS IN CAMERA

1 WITNESS: Yes, sir. Chad Collins.

2 DIRECT EXAMINATION

3 BY MR. WELLS:

4 Q. Investigator Collins, with whom are you employed?

5 A. The Florence County Sheriff's Office.

6 Q. And were you so employed with them back in October
7 of 2011?

8 A. Yes, sir, I was.

9 Q. And what particular areas do you investigate?

10 A. I investigate homicide, child abuse, sexual assault
11 and rape cases.

12 Q. And in that regard, did you receive a report of a pos-
13 sible child assault or possible child sexual assault?

14 A. Yes, sir, on October third of 2011, I was contacted
15 by Sergeant Vince Hanna of the Florence County Sheriff's
16 Office to respond to Delma Elementary School located on
17 Casper Drive in Florence County, to meet with D.S.S. on a
18 case that had been reported to them.

19 Q. All right, and as a result of your investigation, did
20 you determine the perpetrator to be the Defendant in this
21 case, Leonard Brockington?

22 A. Yes, sir.

23 Q. As a result of that, did you attempt to contact him
24 about coming in for an interview?

25 A. Yes, sir. On the sixth of October of 2011, I made

INV. COLLINS IN CAMERA

1 contact with Mr. Brockington and asked if he would mind
2 coming to the Sheriff's Office in order to talk with me.
3 He agreed to come in on the seventh, which would be the
4 next day, of October of 2011.

5 I met Mr. Brockington out in the foyer and brought
6 him into one of the interview rooms we have closest to
7 the forensics office in the Sheriff's Office.

8 Q. All right. At that time was the Defendant under ar-
9 rest or in custody?

10 A. He was not.

11 Q. In fact, was he -- would he have been able to leave
12 at any time?

13 A. Yes, sir.

14 Q. And after the interview was over, did you allow him
15 to leave?

16 A. Yes.

17 Q. And was it a later time when you placed him under ar-
18 rest -- another day?

19 A. Yes.

20 Q. In that regard -- at the beginning of the interview,
21 did you advise him of any rights -- at the beginning?

22 A. Not at the beginning, no.

23 Q. All right. And before the interview was over, did
24 you at that time advise him of his rights -- later on in
25 the interview?

INV. COLLINS IN CAMERA

1 A. Yes. During the conversation it got to the point where
2 he was talking specifically about what he was there for,
3 and at that time I felt it was in his best interests to ad-
4 vise him of his Miranda Rights.

5 Q. All right. Now, was there any pressure or force for
6 him to make the statement?

7 A. No, sir.

8 Q. Or any coercion?

9 A. No.

10 Q. Was in fact this statement video-taped?

11 A. Yes, sir, it was.

12 Q. And do we have the actual disc on the video tape, the
13 original?

14 A. Yes, sir. It was turned over to the Solicitor's Of-
15 fice.

16 Q. All right.

17 MR. WELLS: The only other thing I guess I would ask
18 him -- I would advise the Court -- we are redacting this
19 part.

20 BY MR. WELLS:

21 Q. Toward the end of this interview, was a polygraph men-
22 tioned?

23 A. Yes, sir, it was.

24 Q. And there was nothing really of substance after the
25 polygraph as far as what he said?,

INV. COLLINS IN CAMERA

1 A. No, sir.

2 MR. WELLS: If I understand correctly, what we plan
3 to do -- I think Ms. Parr and Mr. Anderson -- Mr. Godlowe
4 will play the equipment for us, and they have agreed on a
5 point that we would stop before the polygraph would be men-
6 tioned.

7 Is that correct?

8 MR. ANDERSON: I think that is correct.

9 MS. PARR: That is correct, Your Honor.

10 MR. WELLS: That is basically it, Your Honor, and we
11 can play that if you want.

12 I'm not sure it's necessary. As I say, it's a self-
13 serving statement, not a confession, but I do feel it should
14 be played in fairness to both sides.

15 THE COURT: All right. Mr. Anderson?

16 MR. ANDERSON: Your Honor, I don't have any questions
17 for Mr. Collins.

18 THE COURT: Mr. Anderson, do you have any motions to
19 suppress this what the State has characterized as a self-
20 serving statement?

21 MR. ANDERSON: No, sir.

22 THE COURT: You agree that it is admissible and that
23 it was given pursuant to Miranda and in fact he was not in
24 custody?

25 MR. ANDERSON: Your Honor, . . .

1 THE COURT: And it's exculpatory?

2 MR. ANDERSON: Well, in the very beginning it was not
3 but later he was given Miranda and continued to talk with
4 Investigator Collins. I think it is admissible, Your
5 Honor.

6 THE COURT: Okay, very good. It is indeed admissible
7 and I would order the tape be redacted and that everybody
8 be on top of that.

9 If there is any discussion about a polygraph, then,
10 you know, it would be a mistrial because just the word poly-
11 graph is going to indicate to -- that word alone indicate to
12 the jury that there is a polygraph with an adverse result
13 and, therefore, that that's why we are here.

14 MR. ANDERSON: Your Honor, that was just talked about
15 but none was ever given.

16 THE COURT: If you say polygraph, it's going to poi-
17 son the whole process. So don't let anything be said about
18 a polygraph.

19 MR. WELLS: Yes, we understand that. It is at the very
20 end of the interview.

21 THE COURT: You understand that you aren't going to
22 talk about the word polygraph. It won't come out of your
23 mouth?

24 WITNESS COLLINS: No, sir.

25 THE COURT: Okay.

1 MR. WELLS: That's all, Your Honor.

2 THE COURT: We are ready for the interview, and you
3 may step down.

4 (Witness Collins excused from stand)

5 SOLICITOR: Your Honor, do you want us to put on the
6 record her qualifications?

7 THE COURT: Let's just look at the video and then we
8 can do that.

9 (Whereupon, the video of the interview with the child
10 was played for the Court)

11 THE COURT: Mr. Anderson, let me see the case you were
12 talking about as far as bolstering of testimony.

13 (Brief pause in the proceeding)

14 MR. ANDERSON: It has got a footnote six that talks
15 -- I realize the pages aren't numbered but the case I gave
16 you is on page 15 and 16.

17 THE COURT: All right.

18 MR. ANDERSON: It has a footnote six on the bottom
19 and then on the next page.

20 (Pause continued)

21 THE COURT: Footnote what?

22 MR. ANDERSON: Footnote six at the top of that page
23 where it talks about -- the very next page also.

24 (Pause continued)

25 SOLICITOR: Your Honor, we would note that that is

1 not a majority Opinion.

2 THE COURT: My opinion -- and I'm going to hear arguments
3 from counsel, but my opinion is that the interview itself
4 is appropriate pursuant to the statute, 17 23 175.

5 However, there are some concerns, and I'll be glad
6 to hear from the Defense in this regard, but, of course,
7 the language in this Opinion, the fact that it is inappro-
8 priate for an interviewer to say, I told her to tell the
9 truth -- of course, the prelude to this thing, the state-
10 ment was made, I want you to tell what ~~was~~ real. I want
11 you to tell what's the truth.

12 You have an objection to that, and I don't know whe-
13 ther that would be helpful to the State or to the Defense,
14 but the bottom line is it was said, and she is not render-
15 ing an opinion about what was ultimately said in the pre-
16 lude.

17 But she did say, you need to tell the truth. I don't
18 necessarily see the harm in that. What do you think, Mr.
19 Anderson?

20 MR. ANDERSON: Your Honor, I'm going to object to it,
21 and I -- for several reasons, Your Honor.

22 First of all, I think that the Proveaux and also the
23 State versus Jimmy Paul Gurley that was heard in 2012 --
24 that case says the assessment of the witness' credibility
25 is exclusively in the province of the jury.

1 A witness is generally not allowed to testify . .

2 THE COURT: Mr. Anderson, what I'm -- I understand
3 that is what the rule is. That's always been what the
4 rule was, that whether or not a witness is telling the
5 truth is ultimately for the jury to decide, and . .

6 MR. ANDERSON: In the interview -- be real and tell
7 the truth. Also in the written report, she said in her
8 opinion it's compelling. She's got that checked. The
9 most important thing is be real and tell the truth. You
10 know you have to tell me the truth today is what she asked
11 her.

12 THE COURT: All right, now, we're talking about two
13 different things.

14 We're not talking about the report. We're talking
15 about the interview that we saw.

16 MR. ANDERSON: Also, Your Honor, I think that other
17 portions of the interview are inappropriate.

18 THE COURT: We're talking about the truthfulness.

19 MR. ANDERSON: Her telling her to be real and tell the
20 truth -- important to tell the truth today.

21 THE COURT: What do you think about -- that's a little
22 bit different because what these cases are talking about
23 are expert interviewers that get up there and say, it is
24 not only right but it's common for them to deny it at first
25 and then they go on, and thinking about what she said, I

1 believe she's telling the truth.

2 That is different than her saying, you need to tell
3 the truth. Do you understand what I'm saying?

4 MR. ANDERSON: I understand that, Your Honor, and I
5 would repeat something I said before. She was not put un-
6 der oath, Your Honor. She's not being sworn in.

7 THE COURT: Do you think you have to swear somebody
8 in to -- for it to be a prior statement?

9 MR. ANDERSON: Your Honor, I think that it is improper
10 and I object to that being shown to the jury.

11 THE COURT: All right. What is the State's position
12 in that regard?

13 SOLICITOR: Your Honor, in regards to the child being
14 told to only tell what is true and what is real, the Doc-
15 tor makes no comment as to whether she believes the child.

16 In the beginning she just laid down the ground rules,
17 and that is no different than when she comes in to testify
18 and we tell her really, just tell what really happened,
19 and she makes no comment or any encouraging thing that she
20 believes her or she doesn't believe her.

21 It evolves to the point that in her report . .

22 THE COURT: We're not talking about the report now.
23 We'll talk about that later.

24 All right, . .

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1 MR. WELLS: Your Honor, I wanted to add this. When
2 -- I mean, it seems to me that when you put the child wit-
3 ness up on the stand you have to ask the child -- you
4 don't know if the child understands what an oath is -- if
5 the child understands they are supposed to tell
6 the truth or they can be punished if they don't tell the
7 truth.

8 That is what is asked in any case, and I don't see
9 the difference here. I think she feels like it's something
10 she has to ask one time, not over and over -- you know you
11 are supposed to tell the truth.

12 I think that is proper, and I guarantee you in any
13 case that would be admitted in cases like this. That is
14 not giving her opinion the child is telling the truth, but
15 it is something the jury needs to see where the child is
16 told . .

17 THE COURT: The question is still up to the jury as
18 to whether or not what she said was actually the truth, so
19 you are protected on the record in all respect in that re-
20 gard.

21 I think just by virtue of the fact that she said to
22 tell the truth does not render it inadmissible.

23 One of the things that concerns me to some extent is
24 the recap at the end. She goes back and is sort of say-
25 ing, all right, now let me recap what you've said. I do

1 think there is a problem with that.

2 What is the State's position on that?

3 MR. ANDERSON: Before we get to that . .

4 THE COURT: Well, we're going in my order and then
5 you can say whatever. Let's get to that.

6 I want to hear what you've got to say about that, her
7 recapping what went on at the end of that.

8 MR. ANDERSON: Your Honor, as far as that's concerned,
9 yes, I do have an objection to that. I think throughout
10 the entire case it is brought up over and over. That is
11 brought up five times, this happened and this happened --
12 this happened here, even though we're innocent.

13 So, yes, at the very end absolutely. I think that is
14 just improper bolstering of what was said up to that.

15 THE COURT: All right. I'm going to allow you to
16 talk with Ms. Parr about that. She just recaps. I have a
17 tendency to not allow that in.

18 There is no much there that is exculpatory because
19 once again she denies that he touched her.

20 MR. WELL: I have seen that in many cases, Your Honor.

21 THE COURT: So right there where she comes back in to
22 recap, you ought to redact it after that.

23 MR. ANDERSON: Your Honor, I see no relevance whatso-
24 ever to the drawing of the picture.

25 THE COURT: Let's do one thing at a time.

1 MR. ANDERSON: Your Honor, you said do I want to stop
2 right there.

3 THE COURT: I said -- right, you don't.

4 MR. ANDERSON: I want to stop the whole thing but if
5 that's where we are right now, then yes.

6 THE COURT: Okay. Well, I agree. I will redact it
7 where the recapping starts.

8 Now let's talk about the drawing of the picture.

9 MR. ANDERSON: I think we should stop right there. I
10 mean, what possible relevance could her drawing something
11 do anything other than draw sympathy from the jury?

12 THE COURT: Well, I think it's exculpatory. When you
13 have a child who has been raped or abuse, they show usually
14 some monster figure, and to the extent it's not that it
15 shows she's a healthy normal person who draws a normal
16 first grade picture.

17 I don't know why they did that. It seems sort of -- I
18 don't know if that's why they do it or not.

19 If you don't want the picture in, I think it is in-
20 deed irrelevant. The only relevance would be that she is
21 a normal healthy child who drew a normal house that didn't
22 have a monster molest her.

23 MR. ANDERSON: I would like for it to be out, Your
24 Honor.

25 THE COURT: Then I agree. What does the State have to

1 say about that? How would it be relevant?

2 SOLICITOR: Well, in terms of relevancy, I don't be-
3 lieve it is relevant to the ultimate issues. It was just
4 a time period when Dr. Benedetto wanted to see if there
5 were any other questions she needed to ask, and that was
6 just passing the time away.

7 THE COURT: It is certainly irrelevant. I would ask
8 you here if there is any kind of diagnostic significance
9 to that?

10 (TRANSCRIPTION NOTE: Response by unknown person, none
11 at all.)

12 THE COURT: Then we will redact that.

13 MR. WELLS: So we understand, we will end the tape
14 where she walks out to leave the child?

15 THE COURT: That's right. While that's not your mo-
16 tion, you would at least agree with that redaction?

17 MR. ANDERSON: I would agree with that redaction.

18 THE COURT: All right. Any other specific objections
19 from the Defense with regard to the tape?

20 MR. ANDERSON: Yes, sir, Your Honor. Of course, I
21 was not in the Legislature when that was passed, but I do
22 think an argument could be made for the statements to come
23 in but not the videotape itself to come in.

24 I would object on those grounds. Your Honor, also,
25 under State v. Jarvis, 314 South Carolina 17 or 443 South-

1 eastern Second 566, if proper corroboration testimony is
2 cumulative to the victim's testimony it cannot be harmless.
3 It is precisely this cumulative effect which enhances the
4 devastating impact of improper corroboration.

5 If the little girl testifies -- obviously we won't
6 have the problem if she doesn't -- then the videotape and
7 then Dr. Benedetto testifies, that would -- we would have
8 heard the same thing three times.

9 I think that that is improper corroboration.

10 THE COURT: What does the State have to say about all
11 of that? I mean, it is clearly one of the doctors -- she
12 is going to be able to testify as to the date and time and
13 circumstances of the report. She's not going to be able to
14 re-go over all of that. The law is clear on that.

15 Isn't that your understanding?

16 SOLICITOR: Yes.

17 THE COURT: She can testify to a report that was given
18 on this date and these were the circumstances of the re-
19 port; date, time and circumstances of the report.

20 SOLICITOR: And she can say what she observed of the
21 girl's or the child's demeanor, but that's it. But not
22 . .

23 THE COURT: That's correct. Not anything about the
24 facts.

25 SOLICITOR: Yes, sir.

1 THE COURT: What do you think about the fact that the
2 child is going to say -- in order for the video to come
3 in, she has got to testify, so clearly -- you know, the
4 case law is very clear that you cannot show the video with-
5 out giving the Defense the opportunity cross examine, so
6 we know we've got to have her testify live before the
7 video.

8 And statute says that, so that's where we are.

9 Then the counselor can testify as to the date, time,
10 circumstances of the -- I think that is all appropriate,
11 and you are protected on the record in that regard.

12 Can you think of anything else?

13 One of the things that causes me some concern is that
14 there was -- someone could argue that there might have
15 been some leading with regard to how she touched the skin;
16 how he had clothes on and there was skin.

17 I think those are things that could be argued to the
18 jury was clearly leading in that regard, but I don't think
19 it is in the interview to the extent that it cannot be
20 played.

21 Anything else with regard to the video from the
22 State?

23 SOLICITOR: Nothing from the State.

24 THE COURT: Anything from the Defense?

25 MR. ANDERSON: No, Your Honor.

1 THE COURT: All right. Any other motions from the
2 State?

3 SOLICITOR: Yes, Your Honor, a motion to clear the
4 Courtroom of spectators during Minor testimony.

5 THE COURT: Any objection from the Defense?

6 SOLICITOR: Other than the Defendant.

7 THE COURT: He's going to be here. I can promise you
8 that.

9 MR. ANDERSON: What does she mean by spectators?

10 THE COURT: I think she means anybody who is not a
11 lead investigator or the Defendant. I think your staff
12 would be able to be in here, but I think she's talking
13 about people -- I don't think there's anybody else other
14 than the lead investigator, you, your staff and the Defen-
15 dant would be in here.

16 Anybody else you want in here?

17 MR. ANDERSON: No, Your Honor, other than what you've
18 just stated.

19 THE COURT: Okay.

20 SOLICITOR: I think Minor would feel more comfortable
21 if Ms. Heather Smith was in the Courtroom.

22 THE COURT: Well, it is your motion to clear the
23 Courtroom.

24 SOLICITOR: Yes, sir, but I was talking about specta-
25 tors not appropriate to this case.

1 MR. ANDERSON: Your Honor, one of my motions would be
2 to exclude witnesses who will be testifying.

3 MR. WELLS: Of course, we would take up about who is
4 in the Courtroom at the time anybody testifies anyway when
5 we know who will be here at that time.

6 THE COURT: Well, I'll grant your motion. When she
7 testifies you can be here, Mr. Wells can be here, lead in-
8 vestigator can be here, Mr. Anderson, Ms. Goldman and the
9 Defendant.

10 SOLICITOR: Under the statute, Your Honor, the vic-
11 tim's parents . .

12 THE COURT: Yes, the victim's parents.

13 All right.

14 MR. ANDERSON: Your Honor, that would be the father
15 and not the step-momma?

16 THE COURT: That is a good question.

17 SOLICITOR: Your Honor, she . .

18 THE COURT: The natural father can be here.

19 All right. Any other motions from the State?

20 SOLICITOR: No, Your Honor.

21 THE COURT: Any other motions from the Defense?

22 MR. ANDERSON: No, Your Honor.

23 THE COURT: Do you all have a lot of documentary evi-
24 dence to introduce?

25 SOLICITOR: The State does not.

1 THE COURT: How about the Defense?

2 MR. ANDERSON: None at this time, Your Honor.

3 THE COURT: All right. Very good. We will recon-
4 vene at nine thirty in the morning.

5 Madam Clerk, we have not sworn the jury so make sure
6 we do that in the morning.

7 We'll stand at ease until nine thirty tomorrow morning.

8 (Whereupon, the Court in recess until April 22, 2014,
9 when the matter was resumed)

10 THE COURT: Good morning, everybody. Please be
11 seated.

12 Anything from the State before we proceed?

13 MR. WELLS: Your Honor asked me to have copies made
14 of all of the records, the counselor records, that were
15 turned over to the State and Defense.

16 I would pass this copy up for the Court's record.

17 THE COURT: Very good.

18 (Records previously identified as Court's Exhibit 1)

19 THE COURT: Anything from the Defense before we pro-
20 ceed?

21 MR. ANDERSON: Yes, Your Honor. May it please the
22 Court?

23 As to potential witness other than the lead investi-
24 gator, I would respectfully ask that they be removed from
25 the Courtroom until they are actually called to testify.

1 THE COURT: Okay. What is the State's position on
2 that?

3 SOLICITOR: Your Honor, we would object to the seques-
4 tration.

5 THE COURT: Due to the nature of these offenses, I do
6 think it is appropriate to do that. I would ask that all
7 witnesses for the State and Defense to be sequestered. I
8 am just going to allow the victim's natural father to be
9 in here and the lead investigator. The Defendant obviously
10 can be here, but otherwise everyone else is going to be re-
11 moved from the Courtroom.

12 The Sequestration Order is also going to prohibit wit-
13 nesses from discussing their testimony with other witnesses
14 and I ask, Ms. Parr, that you talk to your State's witnes-
15 ses and make sure they understand in a clear way they are
16 not to discuss in any way anything that has transpired here
17 in this Courtroom.

18 And, Mr. Anderson, I would ask you to do the same with
19 regard to Defense witnesses.

20 MR. ANDERSON: Yes, sir.

21 (Courtroom cleared as ordered by the Court)

22 THE COURT: Anything further before we proceed?

23 SOLICITOR: Thank you, Your Honor. One matter if
24 we may approach?

25 (Conference at the bench between counsel and the

1 Court off the record)

2 THE COURT: We have conducted appropriate voir dire
3 and if you call someone who was not on the voir dire that
4 would be the time to object to it.

5 All right. Are we ready for the jury?

6 (Brief pause)

7 (Whereupon, the jury returned to the Courtroom and
8 were sworn by the Clerk for purposes of their service in
9 the trial of the case)

10 THE COURT: Thank you for being here and on time. I
11 see everyone has displayed their jury badges. Thank you
12 for doing that.

13 Mr. Foreman and ladies and gentlemen of the jury, we
14 are here again on the case that is 2012 GS 21, 00447, the
15 State of South Carolina versus Leonard Eugene Brockington.

16 I want to talk with you a little bit about that.
17 Some of you may have served on a criminal jury before,
18 a General Sessions jury, and some of you may have served in
19 other cases.

20 I want to talk with you a little bit about what to
21 expect and some of the ground rules.

22 I hold in my hand this Indictment where the State of
23 South Carolina has accused Leonard Eugene Brockington with
24 these two criminal offenses. What I hold in my hand as
25 the Indictment is simply the written document that starts

1 these proceedings, and it has absolutely no evidentiary
2 value whatsoever.

3 The State has accused him of violating the criminal
4 codes of South Carolina but as Mr. Brockington sits there
5 at the defense table he is presumed just as innocent as me
6 or you.

7 Let's start from that frame of reference. There are
8 constitutional safeguards that come into play, one of which
9 is that the State has the burden of proof. They are the
10 ones who have resources to gather up the evidence to pre-
11 sent to you in this proceeding.

12 The Defendant need not do anything. He need not pre-
13 sent any witnesses. He need not testify. If you think
14 about that, our Forefathers when they wrote the Constitu-
15 tion made it that way because quite often it is impossible
16 for someone to prove their innocence. In the United States
17 of America that is not required.

18 The third thing I want to remind you of is that in a
19 criminal case the State has the highest burden of proof
20 known to our judicial system. It is proof beyond a reason-
21 able doubt.

22 A reasonable doubt is the kind of doubt that would
23 cause a reasonable juror to hesitate to act. That doesn't
24 mean it is beyond all doubt. You can have a doubt about
25 anything, but it is a very real substantial doubt.

1 I will explain reasonable doubt in greater doubt at
2 the conclusion of the case, but it is a very high burden
3 of proof.

4 The State must prove each and every element of the of-
5 fense beyond a reasonable doubt.

6 As we start this proceeding, the lawyers are going to
7 have an opportunity to make an opening statement. Mr. Wells
8 for the State will stand up and kind of tell you a little
9 bit about this case and what they have to prove; sort of
10 give you a roadmap of what you can expect and the evidence
11 that is going to be presented.

12 The Defense is also going to have an opportunity to
13 give an opening statement. Once again, he is not required
14 to do so but he is given the opportunity to if he elected
15 to do so, and I anticipate he will.

16 He will talk to you a little bit about the case, some
17 of the things about the law, the Constitution, and any de-
18 fenses you might have.

19 After the opening statements, we will begin taking evi-
20 dence in this case. Given the rules of criminal procedure,
21 the State goes first since they have the burden of proof.
22 They will call witnesses to the witness stand and they will
23 take full testimony which is evidence.

24 Other forms of evidence are documentary evidence,
25 photographs, various stipulations of counsel. There are a

1 number of different forms of evidence. The one you will
2 hear most is oral testimony. Pay very close attention to
3 these witnesses as they take the witness stand.

4 Ladies and gentlemen of the jury, you and I have cer-
5 tain roles to fill. I am the arbiter of the law. That
6 means that I determine what evidence you are given here,
7 preside over the proceeding, and at the conclusion of the
8 case I charge you the law.

9 You have a very awesome responsibility in that you are
10 to be the arbiter of the facts. In every case that is
11 tried in this Courtroom, there is a dispute about the facts.
12 There is a difference with regard to the inferences that
13 can be drawn from the facts.

14 But in every case there is a factual dispute, and you
15 are the ones who are going to resolve those differences and
16 to determine where the truth lies; to determine whether or
17 not the State has met their burden of proof.

18 In every trial that takes place when the witnesses
19 take the witness stand you are going to hear the lawyers --
20 it happens in every trial I have presided over or partici-
21 pated in -- where the lawyers say, I object; I have to
22 take up a matter of law with the Court.

23 This is a proceeding that is governed by rules of
24 evidence and criminal procedure. It is my duty to determine
25 what you get to hear.

1 When they make those objections, quite often I will
2 call the lawyers up here and we will talk about the proced-
3 ural or legal objections that they have. These conversa-
4 tions take place outside of your presence or sometimes I
5 will ask you to return to the jury room.

6 There is a reason behind that because in making my
7 ruling on admissibility of evidence sometimes I may have
8 to comment on the facts. Of course, the law doesn't allow
9 me to comment on the facts because it is your province to
10 determine what the facts are.

11 For those reasons, sometimes the conversation will
12 take place outside of your sight, and I promise you one
13 thing. If at the conclusion of the case you have some
14 question about some of the things we talked about, after
15 the verdict has been rendered in this case, I can share
16 that with you, but it would be inappropriate for me to do
17 that before the verdict is rendered since you have the re-
18 sponsibility to base your decision on the facts that come
19 from this witness stand, uninfluenced by any other factors.

20 Ladies and gentlemen of the jury, you are called upon
21 to determine necessarily the believability of witnesses. I
22 will go into great detail about this at the conclusion, but
23 let me just tell you from the very outset that in evaluat-
24 ing the believability of witnesses what you need to do is
25 to bring your good common sense into the Courtroom.

1 You may believe one witness against many witnesses.

2 You may believe one witness as against one. You may believe
3 all of what a witness says, none of what a witness says, or
4 a part thereof.

5 Ask yourself when the witnesses testify if they have
6 an interest in their testimony. Is there a bias or is there
7 a prejudice?

8 In addition to whether they may have an interest, a
9 bias or prejudice, it is also important for you to pay at-
10 tention to the way they testify. The law says you can pay
11 attention to their demeanor.

12 Any of you who, like myself, have teenage children or
13 in their twenties, when you talk to them and speak with
14 them about something it is important to listen to what they
15 say, but it is also important to look at the way they act
16 when they talk.

17 The law say that you can use your good common sense to
18 evaluate whether or not a witness is telling the truth.

19 I will tell you how awesome your responsibility is.
20 These are very, very serious charges here today, and if I
21 make an error with regard to what you get to hear or in my
22 charge in an inappropriate fashion, those are very easy
23 things to be corrected.

24 One thing, Mr. Foreman and ladies and gentlemen, that
25 you need to understand is that if there is an error with

1 regard to the findings of fact, quite often that cannot be
2 corrected. So that is why serving as a juror here today is
3 a very important thing.

4 It is important to the State of South Carolina, and
5 it is important to the Defendant.

6 I ask that you pay very close attention. You have
7 taken a very solemn oath to listen to the evidence that
8 comes from the witness stand and determine what the truth is
9 and apply it to the law as I charge it to you.

10 At the conclusion of the evidence, the lawyers will
11 have an opportunity to give closing arguments. These clos-
12 ing statements are truly argumentative in nature. They
13 are very similar in form to the opening statements where
14 the lawyers stand up before you and give a summary presen-
15 tation.

16 But these arguments at the close of the evidence are
17 truly argumentative in nature because at that point in
18 time the evidence will have been presented and they get to
19 speak to the evidence that supports their relative posi-
20 tions.

21 What they have to say is not evidence. I promise you
22 though that it will aid you immensely in your deliberation
23 process so pay very close attention to them.

24 At the conclusion of that, I will charge you the law.
25 I'm going to ask that you not take notes. Everyone needs

1 to pay very close attention when the witnesses testify.

2 This is a very important matter. You are participat-
3 ing in a time-tested system, taken a very solemn oath to
4 listen to the evidence and apply it to the law. I am con-
5 vinced you will do that.

6 Mr. Wells, you are recognized.

7 MR. WELLS: Thank you, Your Honor. May it please the
8 Court, ladies and gentlemen of the jury?

9 Certainly the State also would like to join in with
10 what the Judge said and thank you for your willingness to
11 be here with us on this particular case as jurors.

12 This is not going to be a pleasant experience neces-
13 sarily. All that we ask you to do is to listen to the
14 evidence as it comes from the witness stand and to deter-
15 mine the truth and render a verdict.

16 Now, my name is Rob Wells, and I will be prosecuting
17 the case with Patricia Singleton Parr. We are trying this
18 case together for the State. I will be questioning some
19 witnesses, and Ms. Parr will be questioning some witnesses,
20 and, of course, Mr. Anderson is the attorney for the De-
21 fendant in this case, Leonard Brockington.

22 Now, I want to talk to you briefly about this case as
23 far as what the charges are and what the State is going to
24 prove, and the State will prove this case beyond a reason-
25 able doubt.

1 Let me give you some background and advise you about
2 some of the witnesses who will be called in this case.
3 This is sort of a roadmap of this particular case.

4 Now, the charges in this case are very serious. The
5 first charge is criminal sexual conduct with a minor, in
6 the first degree.

7 The State must prove in this case that the Defendant
8 engaged in a sexual battery with a child under the age of
9 eleven years old.

10 Again, as I said, the Defendant is charged with a sex-
11 ual battery, and a sexual battery based on the statute can
12 be defined or some of the things are sexual intercourse,
13 cunnilingus or fellatio. In this particular case, what
14 the State will be intending to prove is that the Defendant
15 committed fellatio with the little girl in this case,
16 Minor , and that she was six years old at the
17 time. This was back in 2011.

18 Now, some of you may -- excuse my language, and I hate
19 to be blunt about this, but some of you may not understand
20 what fellatio is. Fellatio, as we intend to prove, is that
21 the Defendant made the six year old child to suck his
22 penis.

23 The second charge is lewd act on a minor. Again, in-
24 volving the same victim.

25 In a lewd act on a minor, you can also include oral

1 sex and it can be including lesser things, involving an im-
2 proper touching.

3 For a Defendant to commit a lewd act on the body of
4 a child under age six, he must be over age fourteen, and
5 it may be to satisfy his own sexual lust, which may involve
6 improper touching, for example.

7 One of the things the State intends to prove is that
8 the Defendant made the child, Minor touch his penis, and
9 for his own state of gratification to do certain things to
10 it.

11 This was in 2011 and when the child was six years
12 old.

13 I want to give you some of the background here as to,
14 again, what the State intends to show, where we're coming
15 from and the relationship to these parties.

16 Now, there are actually two children who are involved,
17 and the abuse we intend to prove is on the older child,
18 Minor who at the time the crimes occurred was six years
19 old and has just turned nine.

20 She has a younger sister, Younger Sister who is two years
21 younger than she is, and there are no allegations at all
22 that Younger Sister, the younger child, was abused, but only the
23 older child, Minor

24 The parents of these two young children are Jorgen
25 Waldermo, who is sitting right here, and Karen Waldermo.

1 Jorgen was originally a native of Norway, and he came
2 to the U.S. to study at the University
3 of South Carolina where he graduated, and while he was over
4 here he subsequently met his wife, at that time, Karen,
5 and they were married and had these two children.

6 Then they had problems and were separated, and they
7 were divorced in 2009. The two children then, based on the
8 custody -- the custody was granted to the mother. They
9 lived with the mother, with the father having visitation
10 rights.

11 Subsequently since that time, and I believe in 2010,
12 or maybe 2011, he met -- anyway, subsequent to his divorce
13 he met his present wife, Jeanene, and they are now mar-
14 ried, so he has another wife named Jeanene.

15 In any case, the way he became involved back in 2011
16 is the Defendant apparently was a friend of the mother,
17 Karen, and he stayed from time to time at her house.

18 So it is for that reason that the Defendant had ac-
19 cess to the children. That would be his relationship with
20 the girls.

21 Now, some of the people that we'll be calling as far
22 witnesses -- what really started the ball rolling was on
23 September 24th of 2011 that was the child, Minor s, first
24 disclosure, and a child who was older whose name is
25 MGA -- she lived across the street and even

1 though she was older she was playing with Minor from time
2 to time.

3 On a particular occasion they were in the house where
4 the Defendant was staying and some incident occurred with
5 the Defendant. After that, the child disclosed to MGA
6 for the first time that she was sexually abused.

7 I will tell you this up front. I will not be allowed
8 to ask MGA to tell us exactly what Minor told her.
9 She will testify as to the fact that the child reported sex-
10 ual abuse, and the only details we can go into is the time
11 and place that it occurred.

12 For that reason, we will be somewhat lengthy in what
13 we can ask her in that regard, but that was when the first
14 disclosure was made to MGA .

15 She will relate what happened after that occurred. So
16 she went home and her mother happened to be out of town on
17 that particular day which was a weekend, but after talking
18 with her mother then her mother was on the phone to another
19 alleged contact, another neighbor, Staci Carter, who was re-
20 cently married and now is Staci Parker.

21 But she contacted her. She lived next door to the
22 mother Karen, and she thought Staci might know the mother
23 better than they did. So they notified -- they called up
24 Staci, and Staci came over and spoke to MGA . When
25 the mother, Karen, came home, she talked to her about

1 what had been told.

2 Subsequently, on that particular weekend the father
3 called to talk to the daughters, and he and Karen, the
4 mother, then had some conversation about the allegations
5 that had been made.

6 Because he was concerned it was arranged where the
7 children would come up and stay with him and his wife the
8 next week. They at that time lived in Charlotte.

9 It was on that weekend -- that was the first time the
10 child disclosed to the father for the first time that she
11 had been abused sexually.

12 At that point, the father called his ex-wife, Karen,
13 to say he was going to call the law enforcement about it.
14 He did. He called the Florence Police Department, and he
15 arranged to bring the children on that Monday to their
16 school.

17 Anyway, when he got involved he also called D.S.S.,
18 and a representative of D.S.S. met them out at the school.
19 Also a police officer came to the school, and that is when
20 the investigation started in this particular matter.

21 The D.S.S. worker talked to the child, a Complaint
22 was made. At that time, it had been decided the child
23 should no longer live -- the children should no longer
24 live with the mother, and custody changed for that time
25 being for them to live with the father and his present

1 wife.

2 Now, obviously the most important witness in this
3 case would be the child herself, who has just turned nine
4 and who will be testifying about what happened to her when
5 she was six years old.

6 This type thing is difficult for a child, to have to
7 get up on the witness stand and testify before you ladies
8 and gentlemen of the jury, and we will try to have the
9 Courtroom cleared of everybody except those who are neces-
10 sary in that regard to try to make it easier on the child.

11 So we ask you to listen very closely to her testimony
12 when she takes the stand.

13 Now, as I told you, we cannot go into detail as to
14 what the child told the outcry witness. There is one in-
15 centive in that regard. Once the child takes the stand
16 and testifies, if she was under the age of twelve when
17 this occurred, if the child was examined as she was by a
18 forensic examiner who was trained in this particular area,
19 it was videotaped.

20 In other words, the forensic interviewer questioned
21 her as to what occurred, and based on the statutes of South
22 Carolina once the child has testified then we can play the
23 interview for you, the interview the forensic interviewer
24 had with the child when the investigation was taking place
25 or during that period of time.

1 We do plan to do that in this particular case and we
2 would ask you to give very careful attention to that inter-
3 view as well as the child is dealing with the forensic in-
4 terviewer.

5 There will also prior be some testimony from other
6 counselors, and finally the Court is going to call the in-
7 vestigator in this particular case. Through him we will
8 show you a statement that he took from the Defendant in
9 this case, and in fact it is a self-serving statement, and
10 you should view that particular statement that he made to
11 law enforcement and make your own conclusions in that re-
12 gard to get the whole picture in this particular case.

13 I think, ladies and gentlemen, that kind of gives
14 you a ballpark format as to what the State intends to at-
15 tempt to prove in this particular case. I believe it does.
16 It is very important that you give careful attention to the
17 evidence, to the witnesses who testify, so that you can
18 reach a verdict that speaks the truth at the end of this
19 trial.

20 Again, thank you very much.

21 THE COURT: Thank you, Mr. Wells.

22 Mr. Anderson, you're recognized.

23 MR. ANDERSON: You heard the Judge say just a few min-
24 utes ago that no one is required to prove their innocence.
25 Leonard Brockington is not required to prove his innocence.

1 As the Judge stated, there is oftentimes when you
2 cannot prove your innocence. In 1692 or 1693 in Massachu-
3 setts testimony came out about people consorting with the
4 devil and practicing witchcraft.

5 The first accusers were a nine year old girl and an
6 eleven year old girl.

7 Throughout that investigation in Salem they even ques-
8 tioned a four year old girl. When all of it was said and
9 done, a hundred and fifty men and women had been sent to
10 jail. Over twenty men and women had been hung over the
11 accusations of a nine year old, an eleven year old and even
12 talking with a four year old.

13 The State has told you a little bit about this case
14 and what they think is going to happen. The State has
15 said the little girl may take the stand -- they anticipate
16 she will take the stand. They need her to take the stand,
17 and she's going to say that my client, Leonard, made her
18 touch him on two occasions.

19 They also -- the little girl is also going to testify
20 he made her perform oral sex or give him a blow job or
21 whatever you want to call it.

22 Other than that, the State has -- that's it. The
23 Judge told you in his remarks that Leonard doesn't have
24 to prove a thing. Sometimes you can't prove you didn't
25 do something, but the State has the accusations of a six

1 year old girl; that she told a friend and she told a
2 counselor, said it on tape, and started things, but
3 it is her words, her accusation, and what you will hear,
4 I think, on cross examination is that she didn't like
5 Leonard. She didn't like him. You will hear that the
6 mom didn't believe it.

7 You will hear that the girl made several inconsistent
8 statements. You will hear the girl said some things and
9 later denied them.

10 You will hear that the girl didn't say some things
11 and then later brought them up at another time.

12 You won't hear anybody get up there and say they saw
13 this happen. You won't hear anybody get up there and say,
14 you know, we've got some DNA. We've got something from
15 the Defendant.

16 You won't hear anybody say they have any physical ev-
17 idence. You're not going to hear any of that. What you
18 will hear is a six year old girl saying this is what he
19 did.

20 In October of 2011 Leonard got a call from the Sher-
21 iff's Office. The very next day he voluntarily went to
22 the Sheriff's Office and said, hey, what's going on? And
23 from that day to this day Leonard has been living this
24 nightmare. He can't wake up from it.

25 Sure, in Leonard's mind he said things like, you know,

1 I'll go talk to Chad Collins and ask him what's going on,
2 and this will all be over. But it wasn't.

3 Leonard later got arrested on these charges. He said
4 after talking with some friends and family of mine, I could
5 be facing up to fourteen years, and I'm sure if I go and
6 talk to friends and family who know me will say this is
7 preposterous; there's no way in the world Leonard would
8 do that. That's what the boys I've coached, my family and
9 friends would say.

10 When Leonard and I were going over the evidence, he
11 said, there's no physical evidence. No, sir. No eyewit-
12 nesses. No, sir.

13 He said once they know this, the nightmare is going to
14 be over. There is nothing in the world they've got other
15 than this little girl saying this, so this will be over.
16 But it's not.

17 You will hear, I anticipate, that the little girl
18 went to a counselor in North Carolina. She went to that
19 counselor for a year, and over that year's time the little
20 girl refused to talk about this. Wouldn't talk about it
21 or bring it up.

22 So the counselor was changed and she went to another
23 counselor, and now she is ready to testify about this.

24 I think you will also hear that dad didn't have cus-
25 tody before this happened, and he has custody now.

1 You will hear the dad was paying some Eleven Hundred
2 Dollars a month for child support but he's not paying any
3 child support now.

4 I think that after you hear everything, not only from
5 direct examination testimony but also from cross examina-
6 tion testimony, you will agree that Leonard didn't do this.
7 Of course, Leonard can't prove he didn't do it, but, as
8 the Judge said, sometimes you can't prove you didn't do a
9 thing.

10 He doesn't have to prove anything. The State does.

11 Thank you.

12 THE COURT: Thank you, Mr. Anderson.

13 The State is recognized. You can call your first
14 witness.

15 MR. WELLS: We would call MGA

16 THE COURT: MGA . Yes, maam, please come
17 forward.

18 I'm going to ask you to come forward and place your
19 left hand on the Bible and raise your right hand while the
20 Clerk administers the oath.

21 MGA , being
22 duly sworn, testified as follows:

23 CLERK: Have a seat and state your full name for the
24 record, please.

25 THE COURT: Have a seat on the witness chair and pull

MGA

ON DIRECT

1 up real close to that microphone. I'm going to ask you to
2 speak loud and clearly so that we can hear everything you've
3 got to say.

4 Let's start with your full name, please.

5 WITNESS: MGA

6 THE COURT: Thank you. Mr. Wells, you are recognized.

7 DIRECT EXAMINATION

8 BY MR. WELLS:

9 Q. MGA , how old are you?

10 A. I'm fourteen years.

11 Q. So back in 2011, you were then about twelve years
12 old?

13 A. Yes, sir.

14 Q. Now, what grade are you in school right now?

15 A. I'm a freshman in high school.

16 Q. And where do you go to school?

17 A. (Inaudible response)

18 Q. And where do you live?

19 A. (Inaudible response)

20 Q. Is that in the West Florence area?

21 A. Yes, sir.

22 Q. All right. Have you lived there for a number of
23 years?

24 A. Yes, sir, all my life.

25 Q. Now, do you know in this case, the victim, a little

1 girl, Minor ?

2 A. Yes, sir.

3 Q. All right, and how do you know Minor ?

4 A. She was our neighbor, and I used to play with her when
5 she lived there, me and EP .

6 Q. All right. Now, back in 2011, you were twelve years,
7 and about how old would she have been?

8 A. Six.

9 Q. Now, who was the other person that you played with
10 that you mentioned?

11 A. EP .

12 Q. And was he about the same age as she was?

13 A. I think she was a year older.

14 Q. All right. Now, he was a boy that you would play
15 with as well in the neighborhood?

16 A. Yes, sir.

17 Q. Now, did Minor have any other brothers or sisters
18 who lived there with her?

19 A. She had a sister, Younger Sister

20 Q. All right, and was she younger or older?

21 A. Younger.

22 Q. About how much younger than she?

23 A. I want to say maybe two years.

24 Q. Now, did Minor live with her parents?

25 A. Yes, with her mom.

MGA

ON DIRECT

1 Q. Do you remember what her mom's first name was?

2 A. . .

3 Q. If you can't remember, that's all right.

4 A. Karen.

5 Q. Now, back in 2011 was there another man who stayed in
6 the house with Minor ?

7 A. Yes, sir.

8 Q. Is he here in the Courtroom?

9 A. Yes, sir.

10 Q. Do you see him in the Courtroom?

11 A. Yes, sir.

12 Q. Just point him out.

13 A. (Witness complying)

14 Q. And did you know him by any particular name?

15 A. Leonard.

16 Q. And this will sound like a really dumb question but I
17 have to ask you because of the way the particular statute is
18 written.

19 At that time was he, the Defendant, over the age of
20 fourteen years?

21 A. Yes, sir.

22 Q. As I say, I know that sounds dumb, but we have to
23 put that on the record.

24 Now, I want to turn your attention to Saturday, Sep-
25 tember 24th of 2011, the date on which Minor made a

1 disclosure to you.

2 Now, what were you and Minor doing that particular
3 day?

4 A. We were, you know, just doing all girl stuff, playing.

5 Q. And that was in the house where she lived?

6 A. Yes, sir.

7 Q. All right. Now, were any other children present in
8 the house?

9 A. Younger Sister was there.

10 Q. And were you actually playing with Younger Sister or just
11 with Minor ?

12 A. I was playing with Minor .

13 Q. Was Minor 's mother, Karen, present in the house at
14 the time?

15 A. No, sir.

16 Q. Now, was the Defendant present in the house during
17 that time?

18 A. Yes, sir.

19 Q. Now, prior to the disclosure did anything happen in-
20 volving the Defendant and Minor

21 A. Um, he started yelling at her. We were in the room
22 and he was yelling at her.

23 Q. Could you understand why he was yelling at her?

24 A. I don't remember. I just know he was yelling at her.

25 Q. Now, did the Defendant stay in the room with the two

MGA

ON DIRECT

1 of you?

2 A. No, sir.

3 Q. Now, after the Defendant left the room, did Minor sub-
4 sequently make a disclosure to you?

5 A. Yes, sir.

6 Q. And without going into details, was it in the nature
7 that she had been sexually abused by the Defendant?

8 A. Yes, sir.

9 Q. Now, when she was telling you this, did she make any
10 kind of hand gestures?

11 A. Yes, sir.

12 Q. Show us what that was.

13 A. (Witness complying)

14 Q. Now, the one thing I can ask you as far as details is
15 did Minor indicate where this incident occurred? Where
16 any of this sexual abuse had occurred?

17 A. Yes, sir, . . .

18 Q. Go ahead. I mean, as far as the location or the place
19 where this occurred? Did she mention anything in that re-
20 gard?

21 A. She said he made me do this, and that's how she ex-
22 plained it.

23 Q. Well, did it occur like in the house or somewhere
24 else?

25 A. She said in the living room chair is where it was at.

1 Q. Were you familiar with that living room chair?

2 A. I had seen it before, but, I mean, . .

3 Q. Okay. After Minor told you these things happened,
4 how did it make you feel?

5 A. I was real nervous and scared.

6 Q. What did you then do?

7 A. I went and walked around the neighborhood but I didn't
8 tell anybody. I was just trying to think, everything was
9 --- and then I went home and told my mom.

10 I called my mom and told her and . .

11 Q. Let me stop you. Was your mom at home at the time?

12 A. No, she was at the beach.

13 Q. I believe she was celebrating a birthday, is that
14 right?

15 A. Yeah.

16 Q. So you called her and told her what Minor had told
17 you?

18 A. Yes, sir.

19 Q. All right, and did your father get on the phone too?

20 A. Yeah, I told my mom and and my dad got on the phone
21 and talked to me and Staci.

22 Q. And among the three of you, what was decided should
23 be done as far as telling anybody else?

24 A. That Staci would talk to Karen.

25 Q. So the next thing that was --, the next person you all

MGA

ON DIRECT

- 1 talked to was who?
- 2 A. Staci. My mom told my dad and my dad called Staci.
- 3 Q. Let me stop you again. Who is Staci?
- 4 A. Parker -- she was my neighbor.
- 5 Q. All right, let me just ask you, where did you live in
- 6 relation to Minor and her mother?
- 7 A. We were right across the street.
- 8 Q. You lived across the street, and where did Staci
- 9 live?
- 10 A. Across the street from me. They lived beside each
- 11 other.
- 12 Q. So Staci's house was next door to Minor is that
- 13 right?
- 14 A. Yes, sir.
- 15 Q. All right, and after Staci was called, did she actu-
- 16 ally come over and talk with you?
- 17 A. Yes, sir.
- 18 Q. All right. What -- do you remember what condition you
- 19 were in when Staci came over?
- 20 A. I was panicking. I was really scared.
- 21 Q. And was it agreed that Staci would be the one to con-
- 22 tact Minor mother?
- 23 A. Yes, sir.
- 24 Q. If you would, answer any questions Mr. Anderson has.
- 25 Thank you.

1 THE COURT: Cross examination, Mr. Anderson.

2 CROSS EXAMINATION

3 BY MR. ANDERSON:

4 Q. MGA , do you remember talking with Investiga-
5 tor Collins?

6 A. Yes, sir.

7 Q. Investigator Collins is right here?

8 A. Yes, sir.

9 Q. As a matter of fact, I believe maybe two weeks after
10 this date that Mr. Collins and another lady who works with
11 D.S.S., Ms. Shefton, came to your house. Is that right?

12 A. Yes, sir.

13 Q. And they sat down with you, I think at your kitchen
14 table?

15 A. Yes, sir.

16 Q. I think your mom was present, your dad was present?

17 A. Yes, sir.

18 Q. You remember that?

19 A. Yes, sir.

20 Q. You remember they were asking you questions about
21 this case?

22 A. Yes, sir.

23 Q. Do you remember telling them that EP was also
24 present; that you all dressed him up?

25 A. I think he was before this happened.

MGA

ON CROSS

1 Q. Do you remember telling Investigator Collins that
2 Minor went to her mom's bedroom door and knocked on her
3 bedroom door to ask a question?

4 Do you remember that?

5 A. I don't recall.

6 Q. And that that's when Mr. Brockington actually yelled,
7 or that's when Leonard yelled?

8 A. I just remember he yelled at Minor , but I don't re-
9 member Minor . .

10 Q. You don't remember her leaving her room and going to
11 ask her mom a question?

12 A. I don't remember.

13 Q. So Leonard just out of the blue . .

14 A. I remember her leaving or something but I don't remem-
15 ber the reason.

16 Q. Have you discussed this case with anyone since Octo-
17 ber of 2011?

18 A. No, sir.

19 Q. Is it fair to say that was about two and a half years
20 ago?

21 A. Yes, sir, almost three.

22 Q. So almost three?

23 A. Yes.

24 Q. This year will be three?

25 A. Yes, sir.

- 1 Q. You are fifteen now?
- 2 A. I'll be in a month.
- 3 Q. So you soon have a birthday?
- 4 A. Yes, sir.
- 5 Q. When this happened, you were twelve, and since then
- 6 thirteen and fourteen?
- 7 A. Yes.
- 8 Q. Soon 'fifteen?
- 9 A. Yes, sir.
- 10 Q. And since this happened, you have gone, I guess,
- 11 to middle school, is that right?
- 12 A. Yes, sir.
- 13 Q. You are now at West Florence?
- 14 A. Yes, sir.
- 15 Q. And a lot has been going on the last two and a half
- 16 years?
- 17 A. Uh hm.
- 18 Q. You remember one time asking Leonard to help you with
- 19 your cat because it had gotten a plug stuck on it when you
- 20 were playing with a rod and reel?
- 21 A. No, sir.
- 22 Q. Do you remember asking him to come over and help you
- 23 get the plug out of the cat?
- 24 A. No.
- 25 Q. Okay. Do you remember telling Investigator Collins

MGA

ON CROSS

1 and Investigator -- excuse me, the D.S.S. worker, Ms.
2 Shefton, that Minor and EP played naked together,
3 had a naked party?

4 A. No, sir.

5 Q. Had a naked dancing party?

6 A. No, sir.

7 Q. Okay. Your Honor, that's all the questions I have.

8 THE COURT: Any Redirect, Mr. Wells?

9 MR. WELLS: One moment, Your Honor.

10 (Brief pause in proceeding)

11 MR. WELLS: Briefly.

12 REDIRECT EXAMINATION

13 BY MR. WELLS:

14 Q. Let me ask you one thing real briefly. Mr. Anderson
15 asked you about did they have a naked party. Is what you
16 recall that EP had his shirt off?

17 A. Yes, sir.

18 Q. And is that the extent of it?

19 A. That's all I know. I wasn't there.

20 Q. Thank you.

21 THE COURT: All right, you can step down.

22 (Witness excused from stand)

23 MR. WELLS: The next witness will be the mother of
24 this girl. Once her mother testifies, is there any objec-
25 tion to her being excused?

1 THE COURT: Any objection, Mr. Anderson?

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

3 THE COURT: They will be free to leave.

4 Ms. Anderson, please come forward.

5 AMY ANDERSON, being duly sworn,
6 testified as follows:

7 CLERK: Have a seat on the witness stand and state your
8 full name for the record.

9 THE COURT: Ms. Anderson, pull up real close to that
10 microphone and speak loudly and clearly so we can hear
11 everything you've got to say.

12 Let's start with your full name.

13 WITNESS: Amy Jeannine Anderson.

14 THE COURT: Thank you. Mr. Wells, you are recog-
15 nized.

16 DIRECT EXAMINATION

17 BY MR. WELLS:

18 Q. Amy, what is your relationship to MGA
19 Anderson?

20 A. I'm her mother.

21 Q. And do you work outside the home?

22 A. Yes, sir.

23 Q. Where do you work?

24 A. Days Inn Restaurant.

25 Q. And are you familiar with back in 2011 when Minor and

AMY ANDERSON ON DIRECT

- 1 Younger Sister , two little girls, and their mother, Karen,
2 lived close to you?
3 A. Yes, sir.
4 Q. All right, and where did they live in relation to
5 you?
6 A. Across the street.
7 Q. Now, did you live in your house first or did they
8 live there first?
9 A. (Inaudible response)
10 Q. Now, did any other relative of the mother, Karen, live
11 there in that house?
12 A. Her parents -- well, her mother and stepfather.
13 Q. All right, they lived there first, and subsequently
14 Karen and her children moved in and the parents then moved
15 out?
16 A. Yes, sir.
17 Q. And was it back in 2011 when the Defendant moved in
18 for the first time?
19 A. Yes, sir.
20 Q. Your daughter, MGA , played with Minor some
21 of the time?
22 A. Yes, sir.
23 Q. And would she also play with EP from time to time?
24 A. Yes.
25 Q. Who was EP ?

AMY ANDERSON ON DIRECT

1 A. My other friend's -- my neighbor across the street,
2 her son.

3 Q. Where would they normally play?

4 A. In the yard. Sometimes they would go in each others'
5 homes.

6 Q. Now, on the weekend of September 24th, 2011, did you
7 have occasion to go down to the beach to celebrate your
8 birthday with some friends?

9 A. With my mother and my sister.

10 Q. And some time that day did you have occasion to receive
11 a rather disturbing phone call from your daughter?

12 A. Yes, sir.

13 Q. And do you remember about what time of day it was?

14 A. It was early afternoon, I think. Probably around
15 twelve or one -- somewhere around there.

16 Q. All right.

17 A. I don't know the exact time.

18 Q. And was basically the nature of the call that Minor
19 had disclosed to your daughter being sexually abused?

20 A. Yes, sir.

21 Q. All right, and there were details she had been told?

22 A. Yes, sir.

23 Q. Don't go into those things. Okay?

24 A. Okay.

25 Q. All right. Now, how did MGA sound over the

AMY ANDERSON ON DIRECT

1 phone to you?

2 A. She was very upset. She was talking real fast, and I
3 was trying to calm her down and ask her to talk -- since I
4 wasn't there, to let me speak to her daddy.

5 And she was embarrassed and said, oh, no, and I said,
6 let me speak to your daddy, everything will be fine. She
7 was scared.

8 And so then I told her daddy to talk to her, and I kind
9 of told him what she had told me.

10 Q. Now, after you talked to her father, was it determined
11 that your husband and MGA would contact anybody else
12 to tell them what occurred?

13 A. Yes. I had told my husband they needed to contact
14 Staci across the street because her child played with them
15 as well.

16 Q. And so that is what you told them to do, is that right?

17 A. Yes, sir.

18 Q. Now, during the time when you saw Minor play with
19 your daughter, did you ever notice Minor doing anything
20 inappropriate as far as normal for a six year old?

21 A. No.

22 Q. Thank you very much. Answer any question that Mr.
23 Anderson has.

24 THE COURT: Mr. Anderson, Cross Examination.

25 MR. ANDERSON: I don't have any questions, Judge.

1 THE COURT: Ms. Anderson, you may step down and you
2 are free to leave when you feel it is appropriate to do
3 so.

4 (Witness excused by the Court)

5 (Brief pause in the proceeding)

6 THE COURT: Yes, ma'am, please come forward.

7 SHARI NICHOLS, being duly
8 sworn, testified as follows:

9 CLERK: Please be seated and state your full name
10 for the record.

11 THE COURT: Have a seat in the witness chair and pull
12 up real close to the microphone. Speak loudly and clearly
13 and slowly in order that we can hear everything that you
14 have to say.

15 Let's start with your full name.

16 WITNESS: Staci Parker Nichols.

17 DIRECT EXAMINATION

18 BY MR. WELLS:

19 Q. Back in 2011, you were Staci Parker?

20 A. Yes, sir.

21 Q. And have you recently married since your last name is
22 Parker now?

23 A. Yes, sir, I have.

24 Q. All right, very good. Now, what type of work do you
25 do?

STACI P. NICHOLS ON DIRECT

1 A. I'm a registered nurse at Kershaw Health.

2 Q. All right. Now, did you formerly live on
3 Drive in Florence?

4 A. I did.

5 Q. And did you live there back in 2011?

6 A. I did.

7 Q. When did you first move in there?

8 A. I moved in there in 1999.

9 Q. All right. Now, did you also have a son who was liv-
10 ing with you back in September of 2011?

11 A. I did.

12 Q. And what was his name?

13 A. EP . . .

14 Q. All right. Now, is he a similar age to the victim,
15 Minor , in this case?

16 A. He is a couple of years younger than Minor

17 Q. Okay. Back in 2011, did he play with Minor and her
18 younger sister, Younger Sister

19 A. Very frequently.

20 Q. Now, where did you live in relationship to Minor and
21 her family?

22 A. Right next door.

23 Q. What is the name of Minor and Younger Sister mother?

24 A. Karen.

25 Q. And did you know her?

STACI P. NICHOLS ON DIRECT

1 A. I did.

2 Q. Now, did any other relatives live in the house prior
3 to Karen moving in with her children?

4 A. Karen's mother and stepfather. They lived there be-
5 fore they moved there.

6 Q. All right. After they moved in, did the parents move
7 out?

8 A. Yes, sir.

9 Q. Now, may I assume that Karen was already divorced from
10 her previous husband, Jorgen, when she moved in there?
11 Is that correct?

12 A. I don't recall if they were completely divorced at
13 that time but they were not together when she moved in.

14 Q. All right. Now, are you familiar with the Defendant
15 in this case, Leonard Brockington?

16 A. Just by seeing him. By acquaintance.

17 Q. All right, and when did you first meet him?

18 A. I met him when he was at Karen's house and we would
19 be out in the yard.

20 Q. All right, and was that back in 2011?

21 A. Yes, sir.

22 Q. How did you meet him? Do you remember?

23 A. Just the children would be outside playing, and he
24 would be outside as well. I would be outside watching
25 my kids.

STACI P. NICHOLS ON DIRECT

1 Q. All right. When you first met the Defendant, did he
2 do anything to make you feel uncomfortable?

3 A. At one point he was sitting in the side yard and I
4 was sitting in my yard, and the children were riding their
5 bicycles around the driveway, and he was taking pictures
6 on his cell phone, saying he was sending it to his mother
7 because it was so cute.

8 I just thought it was strange.

9 Q. All right, and did you bring the child back in the
10 yard?

11 A. Yes. I told him to come back over.

12 Q. All right. Now, during the time -- during that time
13 period when you would see Minor did you ever see her
14 act inappropriately for a six year old child?

15 A. Not in my presence.

16 Q. All right. Now going back, on September 24, 2012,
17 did anything out of the ordinary happen as far as a dis-
18 closure made to you by another neighbor?

19 A. I was called over by my neighbor, Kirby Anderson.
20 His daughter, MGA, had been over and had told him
21 what had happened, what had been told to her.

22 So I walked across the street . .

23 Q. To their house?

24 A. . . to talk to them.

25 Q. All right. When you arrived there, how did MGA

STACI P. NICHOLS ON DIRECT

1 appear to you?

2 A. MGA was upset, she was crying; didn't know
3 what to do or what she should do, she told me.

4 Q. All right. As a result of receiving that information
5 what was the next thing that was done as far as contacting
6 anybody else?

7 A. At that point Karen was not home, and since I had a
8 closer relationship with her than Kirby, I decided I would
9 tell Karen what the child had told MGA .

10 Q. Now, did Karen subsequently come home on that parti-
11 cular day?

12 A. She did. It wasn't too much longer after that.

13 Q. Did the Defendant appear to be home at the time?

14 A. If he was, he wasn't where I saw him.

15 Q. And did you actually tell her outside or go inside?

16 A. I did. I called her over and told her I needed to
17 talk to her, and we went up under my carport and I then
18 explained to her what Minor had told MGA .

19 Q. How did Karen react when you told her that?

20 A. She was pretty nonchalant; said that she wasn't sure
21 that Minor was telling the truth, and that she would look
22 into it.

23 Q. And do you know if she immediately stopped the Defen-
24 dant from coming to her house?

25 A. She did not.

STACI P. NICHOLS ON DIRECT

1 Q. Now, did you advise Karen she should tell anybody else
2 about this?

3 A. I told her. I thought she should call Minor s dad be-
4 cause if she was telling other people she would probably
5 subsequently tell her father.

6 Q. Now, did Karen work during that time period?

7 A. Not to my knowledge.

8 Q. Now, after you had that conversation with her, did she
9 ever talk with you again?

10 A. No, sir. I moved shortly after that.

11 Q. Just one other thing and I'll sit down.

12 I believe you indicated that the mother -- when you
13 told her this, she just appeared to be nonchalant. What
14 did you mean by that?

15 A. Um, she wasn't visibly upset by the news. She didn't
16 act shocked by the news. She was just, you know, Minor
17 has been known to tell lies. She just kind of downplayed
18 it.

19 Q. All right. If you would, answer any questions Mr.
20 Anderson might have.

21 THE COURT: Mr. Anderson, you are recognized.

22 CROSS EXAMINATION

23 BY MR. ANDERSON:

24 Q. Ms. Parker, do you know Chad Collins?

25 A. Yes, sir.

STACI P. NICHOLS ON CROSS

1 Q. I think he came to your residence. Is that right?

2 A. Yes, sir.

3 Q. And can you see him over that podium?

4 A. Yes, sir.

5 Q. And did a D.S.S. worker also come?

6 A. . .

7 Q. A Jamie Shefton -- does that ring a bell?

8 A. I think so.

9 Q. And they sat down and discussed with you what you
10 had heard and what you observed?

11 A. Yes, sir.

12 Q. Okay. You said you had lived there, I guess, since
13 19 . .

14 A. Ninety-nine.

15 Q. . . and this happened when you had been there twelve
16 or thirteen years?

17 A. Yes, sir.

18 Q. So you had had an opportunity to live next door to
19 Karen how long?

20 A. Since she had moved in.

21 Q. And when did she move in?

22 A. I don't recall the exact date she moved in.

23 Q. Was ^{Younger Sister} with her?

24 A. Yes, the children were both with her when she moved
25 in.

STACI P. NICHOLS ON CROSS

1 Q. And Younger Sister was four in 2011?

2 A. Yes, sir.

3 Q. And I think Minor was six?

4 A. I believe so.

5 Q. So they had lived next door to you for a few years?

6 A. Probably a year.

7 Q. Okay. Karen had custody of the two girls at that
8 time?

9 A. Yes.

10 Q. Do you know whether they ever left and went to visit
11 with their dad?

12 A. They did.

13 Q. How often would they go?

14 A. I don't recall. I didn't pay that much attention to
15 that.

16 Q. You indicated earlier they played with your son a good
17 bit?

18 A. Yes.

19 Q. So I guess when they were playing with your son they
20 wouldn't have been off visiting their dad?

21 A. No, I mean they would just have been at their house.
22 They were -- we were just neighbors. They would come over
23 and play in my yard. My son would go play in their yard, or
24 they would come and play in our house with our toys. They
25 just played like neighbors play.

1 Q. So in September of 2011 you had no reason to doubt
2 that Karen was a good mom, did you?

3 A. No, sir.

4 Q. You had no reason to question her judgment, did you?

5 A. No, sir.

6 Q. So you felt safe sending your son over there to play
7 with her children?

8 A. Yes.

9 Q. Were you ever made aware that your son had been caught
10 in the closet with Minor

11 A. Yes, she told me that one time.

12 Q. That the two of them were caught playing in there
13 naked?

14 A. Yes, sir.

15 Q. And when was that?

16 A. The summer of that year.

17 Q. Between July and August of 2011?

18 A. I suppose. I don't recall the exact dates of those
19 things.

20 Q. But it did happen certainly?

21 A. Yes, it was prior to that.

22 Q. And you said that when you told Karen what had hap-
23 pened she -- if I'm remembering right -- she was not
24 shocked?

25 A. Yes, sir.

STACI P. NICHOLS ON CROSS

1 Q. Is that right?

2 A. Yes, sir.

3 Q. And she said that sometimes Minor would make things
4 up?

5 A. Yes, sir.

6 MR. ANDERSON: Court's indulgence for just one moment,
7 Your Honor.

8 (Brief pause in proceeding)

9 MR. ANDERSON: Your Honor, if it please the Court? I
10 don't have any more questions.

11 THE COURT: Any Redirect?

12 MR. WELLS: A couple of questions.

13 REDIRECT EXAMINATION

14 BY MR. WELLS:

15 Q. So in other words, when you told Karen about this, she
16 continued to live with her boyfriend. Is that right?

17 A. Yes, sir.

18 Q. That's all.

19 THE COURT: Very good. You may step down.

20 (Witness excused from stand)

21 MR. WELLS: Your Honor, in order to clarify with some
22 witnesses where they are in position, could I have a short
23 break?

24 THE COURT: Certainly. Mr. Foreman, ladies and gentle-
25 men of the jury, I'm going to allow you to go back to your

1 jury room and refresh yourselves.

2 Do not discuss the case. Mr. Foreman, I'm going to
3 ask that you enforce that rule. Do not discuss the case.

4 Everyone remain seated as the jury exits.

5 (Jury excused from Courtroom)

6 THE COURT: Anything from the State before we recess?

7 SOLICITOR: No, Your Honor.

8 THE COURT: From the Defense?

9 MR. ANDERSON: No, sir, Your Honor.

10 THE COURT: We'll stand at ease for a short moment.

11 (Whereupon, the Court took a brief recess, after
12 which the matter continued)

13 THE COURT: Anything from the State before we pro-
14 ceed?

15 MR. WELLS: If I could check on Ms. Parr -- just one
16 second.

17 (Brief pause)

18 THE COURT: Anything further from the State?

19 MR. WELLS: No, Your Honor.

20 THE COURT: From the Defense?

21 MR. ANDERSON: No, sir.

22 THE COURT: Bring the jury.

23 (Note returned to the Courtroom from the jury)

24 THE COURT: All right, a question has been posed, does
25 it make any difference as far as high school with two

1 witnesses? They have not had contact with since.

2 The question was asked in about five or six differ-
3 ent ways, if there was any reason why they could not be
4 fair and impartial; have a close personal, business or so-
5 cial relationship with any of these witnesses.

6 I don't know what we could have done to ensure that
7 further. However, my inclination is to call the two jurors
8 out and call that to the Foreman's attention, and ask them
9 if the fact that you knew them in high school, would that
10 affect their ability to be fair and impartial.

11 What do you say about that, Mr. Wells?

12 MR. WELLS: I think that would be appropriate.

13 THE COURT: Mr. Anderson?

14 MR. ANDERSON: I think that would be the appropriate
15 procedure, Your Honor.

16 THE COURT: We'll have -- just get the Foreman to
17 have the jurors come out one at a time. Bring those
18 jurors out one at a time.

19 BAILIFF: Yes, sir.

20 (Juror coming into Courtroom, Number 59, Stephen Hall)

21 THE COURT: Right there would be fine. Mr. Hall, how
22 are you doing?

23 I have information from the Foreman that you might
24 know one of these witnesses and that you knew them back
25 in high school. Is that correct?

1 JUROR: Yes, sir.

2 THE COURT: The fact that you have known them in pre-
3 vious years, would that affect your ability to be fair and
4 impartial and base your ruling on the evidence presented
5 here or lack thereof, and the law as I charge it to you?

6 JUROR: In no way, shape or form.

7 THE COURT: All right. You are qualified to serve.

8 Thank you.

9 (Juror Hall returned to jury room)

10 (Juror coming into Courtroom, Number 44, Susan Evans)

11 THE COURT: Your full name?

12 JUROR: Susan Cochran Evans.

13 THE COURT: All right, Ms. Evans. It's been called
14 to my attention that you might know one of these witnesses
15 from high school years and had a very close relationship
16 with him.

17 The first inquiry is whether or not the fact that you
18 know them from previous years -- would that affect your
19 ability to be fair and impartial, and would you listen to
20 the evidence presented in this case as a whole or the lack
21 thereof, the law as I charge it to you, and give both the
22 State and Defendant a fair and impartial trial?

23 Can you do that?

24 JUROR: Yes, sir.

25 THE COURT: All right, you are qualified to serve,

1 thank you.

2 (Jury returned to jury room)

3 THE COURT: Any further inquiry from the State?

4 SOLICITOR: None from the State.

5 THE COURT: Any from the Defense?

6 MR. ANDERSON: No, sir.

7 THE COURT: Very good. We're ready to proceed.

8 (Jury brought into the Courtroom)

9 THE COURT: Mr. Wells, you're recognized. You may
10 call your next witness.

11 MR. WELLS: Your Honor, we'd call Jorgen Waldermo.

12 THE COURT: Yes, sir. Please come forward.

13 JORGEN WALDERMO, being duly
14 sworn, testified as follows:

15 CLERK: Please have a seat and state your full name for the
16 record.

17 THE COURT: Pull your chair up real close to that
18 microphone and speak up loudly, clearly and slowly in or-
19 der that we can hear everything you've got to say.

20 WITNESS: Jorgen Waldermo, W A L D E R M O.

21 THE COURT: Spell the first name too.

22 WITNESS: J O R G E N.

23 THE COURT: Mr. Wells.

24 DIRECT EXAMINATION

25 BY MR. WELLS:

JORGEN WALDERMO ON DIRECT

1 Q. Where were you born and grew up?

2 A. Norway.

3 Q. And when did you first come to the United States?

4 A. In 1989.

5 Q. What was your purpose in coming to this country?

6 A. To attend the University of South Carolina.

7 Q. And did you attend and graduate from the University
8 of South Carolina?

9 A. Yes.

10 Q. Now, while you were a student at USC, did you meet at
11 that time your first wife, Karen?

12 A. Yes.

13 Q. Was she also a student at USC, or was she a student
14 at another school?

15 A. She was a student at another school.

16 Q. Now, do you remember approximately what year you and
17 your first wife, Karen, were married?

18 A. In 1993.

19 Q. Now, did you and Karen subsequently have children to-
20 gether?

21 A. Yes.

22 Q. How many children did you have?

23 A. Two children.

24 Q. Were they boys or girls?

25 A. Two girls.

JORGEN WALDERMO ON DIRECT

- 1 Q. And what are their names?
- 2 A. Minor and Younger Sister .
- 3 Q. How old are Minor and Younger Sister now?
- 4 A. Minor has just turned nine, and Younger Sister is seven.
- 5 Q. So they are about two years apart then?
- 6 A. Yes.
- 7 Q. Now, that means back in 2011 Minor , if she's nine
- 8 now, was then around six. Is that right?
- 9 A. Correct.
- 10 Q. Now, what type of work do you do?
- 11 A. I'm a computer programmer.
- 12 Q. And do you work for yourself or a particular company?
- 13 A. For a company.
- 14 Q. And how long have you done that?
- 15 A. Computer programming, thirteen years.
- 16 Q. During the period you were married to Karen, what
- 17 places did you live?
- 18 A. We lived in Durham, North Carolina, in Cary, North
- 19 Carolina, and Florence, South Carolina.
- 20 Q. All right. Now, was it when you and Karen were liv-
- 21 ing in Florence that you had marital problems and separated?
- 22 A. That's correct.
- 23 Q. What year did you separate?
- 24 A. In 2008.
- 25 Q. And what year were you divorced?

JORGEN WALDERMO ON DIRECT

1 A. In 2009.

2 Q. You were divorced after a year of separation basically?

3 A. Yes.

4 Q. Now, after the divorce did your two children, Minor
5 and Younger Sister, live with Karen with you having visitation
6 rights?

7 A. That's correct.

8 Q. Now, after the divorce did you continue to live in
9 Florence for a period of time?

10 A. Yes.

11 Q. And did you subsequently move to Charlotte?

12 A. Yes.

13 Q. Now, in what year did you meet your present wife,
14 Jeanene?

15 A. In 2011 -- in 2010, excuse me.

16 Q. In 2010?

17 A. Yes.

18 Q. And you all married in late 2010?

19 A. Yes, in November 2010.

20 Q. How did you all meet?

21 A. E Harmony.

22 Q. Now, after you and Jeanene first married, where did
23 the two of you all live?

24 A. We had -- I had my house in Florence, and she had a
25 house in Charlotte and was trying to run a business at the

JORGEN WALDERMO ON DIRECT

1 same time. She was back and forth a lot.

2 Q. What work did she do?

3 A. She is an interior designer.

4 Q. Now, when did you first learn of the Defendant?

5 A. That was probably in 2011.

6 Q. All right. Was Karen the person who made you aware of
7 him?

8 A. Yes.

9 Q. Did she indicate what type relationship she was hav-
10 ing?

11 A. Yes, that he was her boyfriend.

12 Q. And did she ever indicate that he was staying with
13 her?

14 A. It seemed that way by what was going on as far as the
15 logistics.

16 Q. All right. Did you all have a concern that you tried
17 to help them with over the fact she was getting the child-
18 ren up very early to drive him to work in Sumter?

19 A. Yes, we had some concerns about that.

20 Q. And as a result of that, did you offer -- did you act-
21 ually give them some money to try to help them in that re-
22 gard?

23 A. Yes, we gave them some money to try to help with the
24 situation.

25 Q. Now, let me call your attention to the weekend of

JORGEN WALDERMO ON DIRECT

1 September 24th and 25th of 2011. Now, on that particular
2 weekend did you have occasion to call Karen's house to talk
3 with your daughters?

4 A. Yeah, I typically called and talked to them, so it was
5 a normal call.

6 Q. All right. Now, before the call was ended, did Karen
7 get on the phone?

8 A. Yes, she did.

9 Q. And what, if anything, did she indicate as far as
10 some statements that had been made?

11 A. She said some allegations had been made but I didn't
12 know the details, and I was somewhat concerned.

13 Q. Did she say who this involved?

14 A. Yes.

15 Q. And who was that?

16 A. Brock.

17 Q. And on which child?

18 A. On Minor

19 Q. Is that a name you had called him from time to time?

20 A. Yes.

21 Q. All right. Now, as a result of hearing that informa-
22 tion for the first time about some allegations of which you
23 did not know the details, what steps did you then take as
24 far as the children in that regard?

25 A. We drafted an Email and sent it to Karen with some

JORGEN WALDERMO ON DIRECT

1 suggestions so we could safeguard everybody and make sure
2 things were handled appropriately until we could get more
3 information about the situation.

4 Q. All right. Now, as a result of that, did you also re-
5 quest to have the children come to your house for visita-
6 tion the next weekend?

7 A. That was our visitation anyway, so, yes.

8 Q. They would have come anyway?

9 A. Yes.

10 Q. Now, on that weekend, the next weekend, which would
11 have been around October first or October second of 2011,
12 did Minor disclose to you about her being abused?

13 A. Yes. On Sunday we were sitting in the room talking
14 about Florence. And at that time she started sharing some
15 things that were very alarming.

16 Q. And did that involve sexual abuse?

17 A. Correct.

18 Q. All right. Was that the first time you had actually
19 heard these allegations?

20 A. Yes.

21 Q. All right. Now, prior to that time had Minor ever
22 acted like she was mad with the Defendant, Mr. Brockington?

23 A. I got the impression that they didn't like him, and
24 so that's correct.

25 Q. But had you heard her defend him before?

JORGEN WALDERMO ON DIRECT

1 A. Yeah. In one situation initially when I heard her
2 sexual allegations, I was concerned that it was because she
3 didn't like him. So I asked some other questions, and she
4 made a statement.

5 I asked, does he spank you, and she said, no, he . .

6 MR. ANDERSON: Your Honor, I'm going to object.

7 THE COURT: Sustained.

8 BY MR. WELLS:

9 Q. But did she in fact actually defend the Defendant on
10 other occasions as far as other things?

11 A. Yes, she defended him clearly.

12 Q. All right. Now, as a result of receiving that infor-
13 mation that weekend, did you subsequently call Karen and
14 tell her what you planned to do?

15 A. I called and told her I had to report this to the po-
16 lice.

17 Q. All right. What was her reaction?

18 A. She begged me not to do that.

19 Q. All right. Now, did you in fact on that Sunday call
20 the Florence Police Department?

21 A. I called the Florence Police Department that Sunday.

22 Q. And what, if anything, were you instructed to do?

23 A. To show up in Florence that morning and bring the
24 kids to school.

25 Q. And was that Delmay here?

JORGEN WALDERMO ON DIRECT

1 A. Delmay.

2 Q. Did you in fact do that?

3 A. Yes.

4 Q. When you came to Florence did you also contact the
5 Department of Social Services or D.S.S.?

6 A. Yes, that's correct.

7 Q. At the school were you met by a D.S.S. worker as well
8 as the Florence police officer?

9 A. That's correct, yes.

10 Q. And where did they have you all to go?

11 A. The principal's office.

12 Q. Now, did the D.S.S. worker subsequently talk to Minor
13 by herself, or without you being present?

14 A. Yes.

15 Q. As a result of that conversation, did she indicate the
16 children would no longer be allowed at that time to live
17 with the mother and the Defendant?

18 A. Yes.

19 Q. And was custody going to be transferred to you and
20 your wife at that time?

21 A. Correct.

22 Q. Now, you had mentioned you had had a house in Flor-
23 ence. Where was that house located?

24 A. On Drive.

25 Q. All right. In October of 2011, had you sold the house?

JORGEN WALDERMO ON DIRECT

1 A. I'm trying to remember when I sold it.

2 Q. But you were in Charlotte before that time?

3 A. Yes, that was in 2010 -- no, 2011.

4 Q. All right. Nonetheless, did you and your wife con-
5 tinue -- did you and your wife decide that you should live
6 in Florence for a period of time?

7 A. Yes, when we heard about the situation and we didn't
8 want to take Minor out of school, so we made arrangements
9 to live in Florence again. We moved back to Florence
10 full time.

11 Q. And was that so that Minor could finish that semes-
12 ter in school?

13 A. That's correct, and make the investigation easier for
14 everybody.

15 Q. Right. Now, subsequently after the Christmas break
16 did you subsequently move to Charlotte at that time so
17 the children could start a new semester in school?

18 A. Yes, we were given permission and we started them in
19 school there the following semester.

20 Q. Now, after Minor's disclosure in September of 2011,
21 and during that particular time period thereafter, did you
22 notice any different behavior on the part of Minor that
23 concerned you?

24 A. Yes. Several things.

25 Q. If you would, just relate some of the things that

JORGEN WALDERMO ON DIRECT

1 you observed?

2 A. She wet the bed at night, and she . .

3 Q. Did she do this previously?

4 A. She did not do it before, and in general like anger
5 -- anger inside her that I had never seen before.

6 Q. How was -- can you give us an example of a way you
7 observed her expressing her anger?

8 A. Yes. We brought a trampoline over to where her mom
9 lives after we moved, and at that time she was out in the
10 yard beating ants with a -- with like a metal rod and was
11 really anger, really getting at them, and her mom had indi-
12 cated several times she just didn't know how to handle her
13 she was so out of hand.

14 Q. Okay. Did she ever do anything to demonstrate being
15 more sexually aware?

16 A. Yes.

17 Q. What was that?

18 A. One time in the car she had a water bottle and started
19 putting it down toward her vagina, like bearing toward that
20 area, and also in the bath there were several instances with
21 that part.

22 I didn't witness that myself but my wife was telling
23 me about it.

24 Q. Tell us about what you actually witnessed.

25 A. Just the thing with the water bottle.

JORGEN WALDERMO ON DIRECT

1 Q. Now, during that time frame, would the mother, Karen,
2 have supervised visitation with her daughters?

3 A. That's correct.

4 Q. Now, during that time period how would Minor act in
5 exchanges with her mother?

6 A. Very distant to her. Angry at her, and just it
7 seemed like she didn't want to have much to do with her.

8 Q. Now, after Minor moved back with you and your wife
9 and you moved back to Charlotte, I guess in January of
10 2012, did you seek counseling for Minor

11 A. Yes, a counselor in North Carolina.

12 Q. And how did you feel about that counselor, or did it
13 help her?

14 A. It helped. It was play therapy. It was very low
15 pressure and tried to let her work at her own pace, and it
16 seemed like she really enjoyed that time.

17 Q. All right, and did she subsequently get some additional
18 counseling?

19 A. Yes.

20 Q. And where was that?

21 A. At the Ark where they did the forensic interview. We
22 were told they had some great counselors there, and we
23 wanted her to get the utmost help so we drove to Columbia to
24 get her into counseling there.

25 Q. Now, did the counseling there seem to help Minor

JORGEN WALDERMO ON DIRECT

1 A. It helped a lot.

2 Q. Now does Minor appear to act fairly normal on a nor-
3 mal basis?

4 A. Yes, she's much better. She still wets her bed at
5 night but she is much better.

6 Q. Just one final thing. Why did you change counselors?

7 A. It was -- we were in touch with the Ark and we act-
8 ually needed to find a counselor. Karen didn't want to
9 continue with the one in North Carolina. We had an agree-
10 ment in our settlement that we would have a neutral coun-
11 selor that none of us had talked to, and so we could both
12 feel good about going there on new terms and she could fi-
13 gure out what was going on.

14 Karen was supposed to go to that counselor as well,
15 but she hasn't made it there yet.

16 Does that answer your question?

17 Q. So it was because of the agreement -- was one of the
18 reasons you changed?

19 A. Yes, we had to change counselors. We couldn't con-
20 tinue with the one in North Carolina.

21 Q. So you changed to one in Columbia?

22 A. Middle ground, yes.

23 Q. Answer any questions Mr. Anderson may have.

24 THE COURT: Mr. Anderson, you're recognized. Cross
25 examination.

JORGEN WALDERMO ON CROSS

1 CROSS EXAMINATION

2 BY MR. ANDERSON:

3 Q. How is the best way to pronounce your last name?

4 A. Waldermo.

5 Q. Mr. Waldermo, right now you're living in Charlotte?

6 A. That's correct.

7 Q. You remarried -- I think you indicated you remarried
8 in 2011?

9 A. Yes.

10 Q. I'm sorry, in November of 2010?

11 A. Yes, in November of 2010. That's right.

12 Q. We won't hold you to a day.

13 A. Yes.

14 Q. Two girls are Minor and Younger, and you and Karen
15 were divorced in 2009?

16 A. Yes, February of 2009.

17 Q. Separated, I guess, in 2008?

18 A. Yes.

19 Q. Then got divorced after one year separate and
20 apart?

21 A. Yes.

22 Q. For the jury's edification, you all lived separate
23 and apart for a year, and that is one of the grounds in
24 South Carolina to get a divorce, if you live separate for
25 a year. Is that right?

JORGEN WALDERMO ON CROSS

1 A. Yes, that's right.

2 Q. In that agreement or in the divorce you all did like
3 a custody agreement or division of property -- things like
4 that. Do you recall that?

5 A. Yes.

6 Q. You agreed to pay Karen, I think, One Thousand One
7 Hundred Fourteen Dollars a month?

8 A. That's correct.

9 Q. In child support?

10 A. That's correct.

11 Q. And you also agreed to pay on a temporary basis -- I
12 think it was four years -- alimony of Six Hundred Dollars
13 a month?

14 A. Correct.

15 Q. At the time you all separated and signed this paper-
16 work you, I guess, were working as a computer programmer?

17 A. Yes.

18 Q. And if I recall correctly, you were making approxi-
19 mately Six Thousand Dollars a year -- I mean a month. Is
20 that right?

21 A. Yes.

22 Q. She was imputed Twenty-one to Twenty-two Hundred Dol-
23 lars a month? She wasn't working at the time but she was
24 imputed that. Is that right?

25 A. Imputed -- I gave her this.

JORGEN WALDERMO ON CROSS

- 1 Q. Capable of earning Twenty-two to Twenty-three Hundred
2 Dollars a month?
- 3 A. I don't know.
- 4 Q. Okay. Divided the property? I mean, physical things
5 like houses?
- 6 A. Yes, sir.
- 7 Q. And you assume a lot of credit card debt?
- 8 A. Yes, whatever was in my name.
- 9 Q. And I think that was approximately Seventy Thousand
10 Dollars? I mean, it was a lot of credit card debt?
- 11 A. Probably not in my name but half of it probably was
12 in my name.
- 13 Q. Okay. Now, when you and Karen separated in 2008 and
14 later had the custody agreement in 2009, there was no rea-
15 son whatsoever to think that Karen was not a good mom?
- 16 A. No, just some instability from time to time. In general
17 a good mom.
- 18 Q. And that would be all of 2009, all of 2010, into
19 2011, is that right?
- 20 A. Yes.
- 21 Q. You had every other weekend?
- 22 A. That's correct.
- 23 Q. And there was a provision, like in most form Orders,
24 that you could have other times when the parties could
25 mutually agree?

JORGEN WALDERMO ON CROSS.

1 And there were provisions for Thanksgiving, Christmas
2 and things like that. Is that right?

3 A. Yes.

4 Q. Also, I think there was a provision that if you went
5 out, of the country you certainly could do that, I guess, if
6 you wanted to return to Norway?

7 A. That's correct.

8 Q. Okay. Now, all of this happened in, I guess, Septem-
9 ber and October, of 2011?

10 A. Yes.

11 Q. And a safety plan was enacted, and you got custody of
12 the two children?

13 A. Yes.

14 Q. And when you got custody that was the end of the
15 child support. Is that right?

16 A. I kept paying the child support.

17 Q. All right, when did you quit paying that?

18 A. I think when they told me that I could stop, and I
19 think that was even after the emergency hearing.

20 Q. All right.

21 A. The Judge ordered it.

22 Q. In December were you paying it at that time?

23 A. No.

24 Q. Two or three months later you weren't paying it?

25 A. Yes, that was when the emergency hearing was.

JORGEN WALDERMO ON CROSS

1 Q. Now, to do the math, in 2009 about Thirteen Thousand
2 in child support, Eleven Hundred a month. Is that right?

3 A. Yes.

4 Q. In 2010 it would be the same thing, about Thirteen
5 Thousand? Then in 2011 up through October, about Ten or
6 Eleven Thousand Dollars?

7 A. Yes, that's correct.

8 Q. And if you had kept on paying child support until
9 Minor reached, I guess, high school graduation or they
10 graduated from high school, that could have been a Hundred
11 Fifty to Two Hundred Thousand Dollars. Is that right?

12 A. That's probably right.

13 Q. You said this first came out in September of 2011,
14 is that right

15 A. Yes.

16 Q. And isn't it true that prior to September of 2011
17 Karen called you because Minor was acting out -- I think
18 we need to get some counseling?

19 A. That's right.

20 Q. And did she tell you about an incident that hap-
21 pened at the DMV where she pulled her dress up and
22 flashed people?

23 A. Yes, she told me about that.

24 Q. And that was prior to September of 2011, wasn't
25 it?

JORGEN WALDERMO ON CROSS

1 A. That's correct.

2 Q. Didn't Leonard get on the phone with you and say,
3 hey, Minor is acting a little funny; I think we
4 ought to get her checked out?

5 A. Yes, he got on the phone with me and also in per-
6 son one time.

7 Q. Okay, and that wasn't in October? That was prior
8 to October. Right?

9 A. Prior -- probably two weeks before we heard some-
10 thing and I talked to him in person.

11 Q. Okay. Now, the counselor that she was seeing in
12 North Carolina, that would be Ms. Wendy Stenbara,
13 is that right?

14 A. That's right.

15 Q. And Minor saw her for about a year?

16 A. That's sounds right.

17 Q. And over that course of a year, Minor did not
18 want to discuss it. Is that your understanding?

19 A. Yes, that's right.

20 Q. Refused to bring it up; didn't want to talk about
21 it?

22 A. Under no pressure.

23 Q. And then you actually change her counselor or take
24 her to Columbia to another counselor?

25 A. That's correct.

JORGEN WALDERMO ON CROSS

1 Q. Would it surprise you to know that in the coun-
2 selor's notes it says Minor was brought to me for
3 preparation of trial testimony?

4 A. . .

5 Q. Would that surprise you?

6 A. No, it wouldn't surprise me.

7 Q. Would it surprise you to know that she has seen
8 that counselor . .

9 MR. WELLS: Your Honor, we'd have to object to his
10 using these records unless he's going to introduce them
11 into evidence..

12 THE COURT: Objection overruled. He can look at
13 the -- he's not introducing the records but he's just an-
14 swering the questions. Overruled.

15 BY MR. ANDERSON:

16 Q. Would it surprise you to know she has seen that
17 counselor twelve times?

18 A. No, it wouldn't.

19 Q. As a matter of fact, haven't you brought Minor
20 to this very Courtroom?

21 A. Yes.

22 Q. As a matter of fact, hasn't Minor been in this
23 building on more than one occasion?

24 A. Yes.

25 Q. Not counting yesterday or today?

JORGEN WALDERMO ON CROSS

- 1 A. Two occasions.
- 2 Q. Were you and Minor given any trial notebook to
- 3 take home?
- 4 A. She may have. I haven't actually seen it.
- 5 Q. Something concerning court procedures? Have you
- 6 done homework with her concerning court procedures?
- 7 A. Possibly but I don't remember ever doing any home-
- 8 work with her about that.
- 9 Maybe Jeanene did.
- 10 Q. Have you talked with her about the case?
- 11 A. Minor ?
- 12 Q. Yes.
- 13 A. No.
- 14 Q. She made some allegations to you in October of
- 15 2011, didn't she?
- 16 A. Minor made some allegations to me?
- 17 Q. She told you some things in October of . .
- 18 A. Yeah. Exactly. October first or second prob-
- 19 ably.
- 20 Q. As a result of that, did you later take her to
- 21 the Ark Center in Columbia?
- 22 A. Yes.
- 23 Q. And that is when she saw a doctor or a psycholo-
- 24 gist?
- 25 A. Yes, not a doctor but a psychologist.

JORGEN WALDERMO ON CROSS

1 Q. Did they ask you to fill out a clinical intake
2 sheet?

3 A. All that paperwork Jeanene would have done. I
4 don't remember.

5 MR. ANDERSON: Your Honor, may I approach the wit-
6 ness?

7 THE COURT: You may.

8 BY MR. ANDERSON

9 Q. Mr. Waldermo, do you recognize that?

10 A. Yeah, that is my handwriting.

11 Q. Okay. Does it have your signature on that front
12 page?

13 A. Yeah. Seeing this paperwork now I remember.

14 Q. Okay. Is that an intake form?

15 A. Yes.

16 Q. You remember filling this out?

17 A. Well, vaguely. I fill out a lot of forms.

18 Q. Do you want to take a look at it?

19 A. I filled it out at age forty-four. I'm now forty-
20 six.

21 Do I need to read this now?

22 Q. No, sir. I asked you a second ago -- your memory
23 does not get better with time, does it?

24 A. No.

25 Q. The more time that goes by, the less likely you are

JORGEN WALDERMO ON CROSS

1 to remember events and how they happen?

2 A. Certainly.

3 Q. You took Minor to the Ark which, I guess, is the
4 sexual abuse resource center in Columbia, is that right?

5 A That's right.

6 Q. You took her in October of 2011?

7 A. It may have been October. It was several weeks
8 after the initial allegation. The first appointment
9 we could get, we took her there. It was recommended we
10 take her from D.S.S.

11 That was their recommendation, that we take her
12 there for the initial forensic interview and physical
13 investigation.

14 Q. One of the questions they asked you on this intake
15 interview is tell us how you came to know where there
16 might be a problem. The child said something to you.

17 Tell us what it was the child said as close to the
18 exact words that you can remember.

19 Do you recall that question?

20 A. In what context?

21 Q. Number eight.

22 A. Let me get my glasses so I can see. Yes.

23 Q. Do you remember filling that out?

24 A. Yes.

25 Q. And, again, to your recollection this was in October

JORGEN WALDERMO ON CROSS

1 of 2011?

2 A. Correct.

3 Q. That intake form was prepared so as to give the
4 counselor or doctor or psychologist information about the
5 case?

6 A. Yes.

7 Q. Did Chad Collins go to that interview also?

8 A. I don't think he was there. If he was, I don't
9 remember. Maybe in the waiting room.

10 Q. How about Jamie Shefton?

11 A. She was there.

12 Q. Did you tell the counselor on that intake form
13 that Minor said he had touched her?

14 A. I don't think so. I mean, unless she had asked me
15 some questions. If she had, I probably would have an-
16 swered them.

17 Q. On number eight you didn't indicate she said he
18 had shown his front bottom and asked her to touch him?
19 He also touched her front bottom?

20 A. Are you asking if I talked to Ms. Shefton?

21 Q. No, to the counselor about what you put on this
22 intake form.

23 A. I don't remember seeing a counselor. I filled it
24 out.

25 Q. Did you say that in your answer, that he had touched

JORGEN WALDERMO ON CROSS

1 her over her pajamas?

2 A. I said that in my answer, yes.

3 Q. The only reason you would have said that is if you
4 had heard it from someone?

5 A. Well, yeah.

6 Q. You didn't make that up, did you?

7 A. No.

8 Q. Okay. Now, Minor has never indicated to you when
9 this may have happened, has she?

10 A. No, not . .

11 Q. She didn't say it happened when it was cold in 2011?

12 A. No.

13 Q. Never said it happened in the spring of 2011?

14 A. That's correct.

15 Q. Never said it happened in the summer of 2011?

16 A. No.

17 Q. Never said it happened before school started back
18 in 2011?

19 A. No.

20 Q. Now, you were exercising visitation with her all of
21 2011, weren't you?

22 A. Yes.

23 Q. Saw her a couple of times a month?

24 A. More than that.

25 Q. And the first time she said something to you was

JORGEN WALDERMO ON CROSS

1 that first weekend in October of 2011?

2 A. That's correct.

3 Q. Now, when you talked to Leonard earlier that year,
4 he denied doing anything, didn't he?

5 A. It wasn't a question about that. He came to me to
6 talk about his concerns two weeks prior to this incident.

7 Q. Face to face?

8 A. Yes, and also when I was in the house delivering a
9 couch he took that opportunity to talk to me.

10 Q. Also on the phone?

11 A. I know I spoke with him on the phone on one occas-
12 ion, so it's possible that was something on the phone,
13 but what is clearer to me is in person.

14 Q. Okay.

15 MR. ANDERSON: Court's indulgence for a moment,
16 Your Honor.

17 (Brief pause in proceeding)

18 MR. ANDERSON: Your Honor, that's all the questions
19 I have. Thank you.

20 THE COURT: Redirect?

21 MR. WELLS: Just a couple.

22 REDIRECT EXAMINATION

23 BY MR. WELLS:

24 Q. Jorgen, a couple of things first. Mr. Anderson
25 asked you about the fact that you no longer pay child

JORGEN WALDERMO ON REDIRECT

1 support.

2 Would you estimate that you pay now just as much
3 with Minor and Younger Sister living with you and you are
4 sending them to an expensive private school?

5 A. Yeah, a lot more than that.

6 Q. So you actually are paying more now than what you
7 were paying in child support?

8 A. Yes, a lot more.

9 Q. All right. Now, Mr. Anderson has asked you about
10 this particular sheet. He's been questioning you about
11 number eight. He's asked about this, and I would just
12 ask you to read off number eight what is written here?

13 A. You want me to read what I wrote?

14 Q. Yes, just read it after the question mark.

15 A. Tell us how you came to know there might be a prob-
16 lem. If the child said something to you, tell us what
17 was said as close to the exact words as you can remember.

18 Q. Just read what you wrote. The last sentence is by
19 Jeanene? Some by you and some by Jeanene?

20 A. Yes, that is by Jeanene, the last sentence.

21 Q. All right.

22 A. First mother contacted us and said her neighbor had
23 heard from Minor about abuse. Then we talked to Minor
24 and she told us what happened. That she, Minor said he
25 had showed his front bottom and asked her to touch him.

JORGEN WALDERMO ON REDIRECT

1 He also touched her front bottom with pajamas on.

2 Minor -- this was the last sentence Jeanene wrote.

3 Minor also told me that Brock made her touch him and
4 she did masturbation motions.

5 Q. All right.

6 MR. WELLS: I would move this report into evidence.

7 THE COURT: Any objections?

8 MR. ANDERSON: Your Honor, may we . .

9 THE COURT: Yes, come forward.

10 (Conference at the bench between counsel and the
11 Court off the record)

12 MR. ANDERSON: No objection.

13 THE COURT: That's State's Exhibit 1, is that cor-
14 rect?

15 REPORTER: Yes.

16 (Intake form admitted without objection as State's
17 Exhibit 1)

18 THE COURT: State's 1 is in evidence without objec-
19 tion from Defense.

20 MR. WELLS: That's all the questions I have.

21 THE COURT: You may step down.

22 (Witness excused from stand)

23 MR. WELLS: Call Jeanene Waldermo.

24 JEANENE WALDERMO, being duly
25 sworn, testified as follows:

JEANENE WALDERMO ON DIRECT

1 THE COURT: Come on forward

2 CLERK: Please be seated and state your name for
3 the record.

4 WITNESS: Jeanene Waldermo.

5 THE COURT: Have a seat in the witness chair and pull
6 up real close the microphone. Speak loudly, clearly and
7 slowly so we can hear everything you've got to say.

8 DIRECT EXAMINATION

9 BY MR. WELLS:

10 Q. Jeanene, first of all, what is your relationship to
11 Jorgen Waldermo, who just testified?

12 A. He is my husband.

13 Q. And what year did you all meet and what year were
14 you married?

15 A. In 2010 and we were married in 2010.

16 Q. How did you all meet?

17 A. We met on line, E Harmony.

18 Q. Okay. Now, did your husband have two daughters from
19 a previous marriage?

20 A. He did.

21 Q. And what are their names?

22 A. Minor and Younger Sister

23 Q. About how far apart are they in age?

24 A. Two years or thereabouts.

25 Q. All right, and which is the older child?

JEANENE WALDERMO ON DIRECT

1 A. Minor .

2 Q. All right. Now, during that time period, did the
3 children live with their mother?

4 A. They did, until October of 2011.

5 Q. All right, and your husband had visitation rights?

6 A. He did.

7 Q. Now, at the beginning of October of 2011, did Minor
8 have occasion to disclose to you and your husband some
9 sexual abuse that occurred to her by the Defendant at her
10 home in Florence?

11 A. She did.

12 Q. And as a result of receiving that information, did
13 your husband ultimately report that to the authorities in
14 Florence?

15 A. He did.

16 Q. And at that time, did D.S.S. determine that Mikala
17 and ^{Younger Sister} should at least at that time live with you
18 and your husband?

19 A. Yes. They interviewed her and then told us that
20 they had determined that.

21 Q. All right. Now, as a result of that change in cus-
22 tody did you and your husband move back to Florence for
23 a few months?

24 A. Yes.

25 Q. Why did you all come to live in Florence for the

JEANENE WALDERMO ON DIRECT

1 next few months after that was disclosed?

2 A. Minor was in school and with that and everything
3 else that was going on it would just be an easier trans-
4 ition. She could continue in school and finish out until
5 some period of time that made a little more sense.

6 Q. Did she basically finish out that semester there?

7 A. Yes.

8 Q. And was it after the Christmas break that you moved
9 to Charlotte and put her in private school?

10 A. Yes.

11 Q. Now, what type of work do you do?

12 A. I'm an interior designer, and I do full time con-
13 struction projects.

14 Q. All right. So since you were working, at that time
15 you moved to Florence did you basically have to give up
16 your job through that period of time?

17 A. That's right.

18 Q. And as a result of not being able to work at that
19 time, were you the person who was probably the most
20 around Minor when she was not in school during that
21 time period?

22 A. Yeah, from the time I would pick her up from school
23 and be with her

24 Q. During that time period did you observe any behavior
25 on the part of Minor that did not appear to you to be

JEANENE WALDERMC ON DIRECT

1 totally normal?

2 A. Yes.

3 Q. Okay. Now, the first thing, let me ask you about
4 -- were you present at a doctor's exam in December of
5 2011?

6 A. Yes, I was.

7 Q. What, if anything out of the ordinary, occurred
8 during that examination?

9 A. It was a normal exam for school where they have
10 to do an exam, and she was laying down, and the doctor
11 felt her arms and felt her stomach, and then just barely
12 lifted her pants up and she froze and started crying,
13 and that was it

14 Q. And did the doctor continue to try to examine her
15 after that?

16 A. No.

17 Q. And what was some other inappropriate behavior you
18 observed during time when you were in Florence and when
19 you first moved back to Charlotte?

20 A. She and her sister take a bath and she had this
21 little animal and she had it in the bathtub for some
22 reason, and when I came in she was kind of putting it in
23 what she calls her front bottom.

24 Q. Would that be her vaginal area?

25 A. Yes.

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1 Q. All right.

2 A. One time she was eating her snack which was a
3 carrot, and I came in and she had it in her mouth and
4 she was sucking on it and kind of in a daze, and I
5 asked her, are you okay? But it was not just eating a
6 carrot. She was sucking on it.

7 Q. So she was not eating the carrot but just sucking
8 on it?

9 A. Yes. It was a really long carrot like you get
10 in a bunch, so . .

11 Q. Now, were there any anger issues?

12 A. Yes. One time when we were visiting at Karen's
13 house and she was out in the back by the trampoline,
14 Minor had a bat and she was like hitting the ground and
15 said she was killing ants.

16 She was screaming, and then pretty much any little
17 thing that happened to her, whether it was her homework
18 or getting ready for bed, would get her upset.

19 Then there was one time when she was in a session
20 and the counselor was reading a book about a child that
21 had experienced some things, and Minor closed her eyes,
22 began singing, like la, la, la, and running around
23 the room and throwing things at the wall, just being
24 out of control and almost like she didn't realize what
25 she was doing.

JEANENE WALDMC ON DIRECT

1 Q. And was there any problem with bed wetting?

2 A. Yes. Every night she wet the bed. We would take
3 her up in the night to the bathroom and she would still
4 wet.

5 Q. And did that start during that particular time in
6 2011?

7 A. Yes, it did.

8 Q. Was there ever any problem with her doing anything
9 with her hands?

10 A. I know she got into a lot of different odd habits.
11 She bit her nails to where it would bleed. She rubbed
12 her hands on her skin. She -- there was a time she
13 would repeat everything she said, literally everything.
14 (Portion not audible)

15 Q. Now, after you moved back to Charlotte, did you
16 seek counseling for her?

17 A. Yes.

18 Q. And so she was in counseling for a period of
19 time there in Charlotte?

20 A. Yes.

21 Q. And what type of therapy did that appear to be?

22 A. They call it play therapy where they are just kind
23 of hanging out and mainly in that therapy she would
24 do the exact same thing every single time. Anything
25 that was different from that she would get really upset.

JEANENE WALDERMO ON DIRECT

1 and if they played games she would not want to play, or
2 . .

3 Q. Now, did you subsequently change to another counselor
4 in Columbia?

5 A. Yes.

6 Q. And that was at the Ark Center in Columbia, I be-
7 lieve?

8 A. Yes.

9 Q. All right. Now, as a result of counseling and with
10 the passage of time, did Minor 's behavior improve as
11 to how she is able to act now?

12 A. Yes.

13 MR. ANDERSON: Your Honor, I'm going to object.

14 THE COURT: Sustained.

15 MR. ANDERSON: That was over a long period of time.

16 BY MR. WELLS:

17 Q. Do you notice, other than the bedwetting, anything
18 that is not normal now?

19 A. . .

20 MR. ANDERSON: Objection to leading.

21 Q. Tell us whether or not you observe anything that
22 is abnormal?

23 A. I mean, there are subtle things, you know, some
24 deep down things, where we tell the counselor, but in gen-
25 eral her teachers say she is much more calm and is

JEANENE WALDERMO ON DIRECT

1 capable of being there. At times before she was just
2 sort of there, but now she engages with the other kids
3 and even got a text from one of her best friends' mother
4 . . .

5 MR. ANDERSON: Object.

6 THE COURT: Sustained.

7 BY MR. WELLS:

8 Q. You can't tell us what that said or what someone
9 else said.

10 Now, during the time back in 2011 did Karen ever
11 talk to you about her relationship with the Defendant?

12 A. Did she talk to us about it?

13 Q. Did she ever tell you that there was a romantic
14 relationship? Did she indicate that to you?

15 A. Yes.

16 Q. Bear with me one moment.

17 (Brief pause in proceeding)

18 BY MR. WELLS:

19 Q. Let me just ask one thing to clarify something.

20 Exhibit Number 8, the intake form, is this your hand-
21 writing in the last sentence?

22 A. I think so, yes.

23 Q. And this is in your husband's handwriting?

24 A. Yes.

25 Q. If I could just ask you one final thing to make sure

JEANENE WALDERMO ON DIRECT

1 we are clear on this. When did the bedwetting start?

2 Was it before the incident in September of 2011, if you
3 know? Before September 24, 2011, or after?

4 A. I think it was before.

5 Q. That's all.

6 THE COURT: Cross examination, Mr. Anderson.

7 CROSS EXAMINATION

8 BY MR. ANDERSON:

9 Q. Ms. Waldermo, you presently live in Charlotte?

10 A. Yes.

11 Q. And you said you met, I guess, your husband -- you
12 met him on line?

13 A. Yes.

14 Q. Prior to that, you were decorating houses and things
15 like that?

16 A. Yes.

17 Q. Were you friends with a girl named Heidi or a lady
18 named Heidi?

19 A. She was a client, yes.

20 Q. You all had a close relationship?

21 A. She hired me to do work for her.

22 Q. Okay, and after that did you all have a close re-
23 lationship?

24 A. I've gotten to know her over the years.

25 Q. Did she ever babysit Minor and Younger Sister ?

JEANENE WALDERMO ON CROSS

1 A. Occasionally.

2 Q. Are you aware that Minor asked her one time, why
3 do my stepmom and my dad walk around naked and see
4 each other?

5 A. . .

6 Q. Are you aware of that?

7 A. No, I'm not.

8 Q. So in May of 2011, you are not aware of any ques-
9 tions Minor may have asked Heidi?

10 A. No. I remember she asked her a question. I don't
11 remember that question. I know that Heidi directed her
12 to us at one time, but that's all I remember.

13 Q. All right. You met -- you all met in 2010 in Jan-
14 uary or February of 2010?

15 A. In October, I think.

16 Q. When did you all get married?

17 A. November.

18 Q. A quick marriage?

19 A. I was thirty-five and had never been married, and
20 that is how it was. I knew who I was.

21 Q. So you all met in October, got married in Novem-
22 ber?

23 A. Uh hm.

24 Q. At that point in time, he had visitation with the
25 girls?

JEANENE WALDERMO ON CROSS

1 A. He had visitation with the girls, yes.

2 Q. And you all would visit Younger Sister Minor , and
3 they would come to Charlotte to see you?

4 A. No, we were -- well, sometimes, but we went to
5 Karen's most of the time.

6 Q. Did he have a house in Florence at that time?

7 A. He did.

8 Q. And he elected to sell it?

9 A. He did.

10 Q. And you all moved to Charlotte full time?

11 A. We moved there temporarily.

12 Q. In 2011, where were you all primarily living?

13 A. In 2011?

14 Q. Yes.

15 A. It was probably fifty-fifty Florence and Charlotte.

16 Q. So you all had a visitation with the girls in both
17 places?

18 A. Yeah. I don't think there was any restriction on
19 where we could have visitation.

20 Q. At that point in time, up until October of 2011,
21 Karen had custody of the girls?

22 A. Yes, sir.

23 Q. You all were seeing them every other weekend or
24 maybe a little bit during the week?

25 A. He had every other weekends, and then they would

JEANENE WALDERMO ON CROSS

1 agree on our seeing them sometimes in between.

2 Q. And during the summer of 2011 you had them for
3 maybe a couple of weeks?

4 A. I think so.

5 Q. October of 2011, allegations were made and D.S.S.
6 put into effect the girls coming to live with you all,
7 is that right?

8 A. In Florence, yes.

9 Q. In Florence, the rest of that semester, up until
10 December when you went back to Charlotte, is that right?

11 A. Right.

12 Q. And that is when you started noticing things
13 about Minor ?

14 A. No, it was prior to that.

15 Q. When was that?

16 A. Sometime post-October, before we moved.

17 Q. The State has already asked you about Exhibit Num-
18 ber 8 and what is your writing, is that right?

19 A. Yes.

20 Q. What does that question say, number eight?

21 A. Tell us how you came to know there might be a problem
22 with the child; tell us what the child said as close to
23 the exact words as you can remember.

24 Q. Tell us how you came to know there might be a problem
25 is the first part of that sentence?

JEANENE WALDERMO ON CROSS

- 1 A. Yes. You came to know there might be . . .
- 2 Q. It was in the bathtub -- did you put that on there?
- 3 A. No. That was afterward. After she told us everything.
- 4 Q. Did you tell the counselor that?
- 5 A. Which counselor?
- 6 Q. Any counselor?
- 7 A. About the bathtub?
- 8 Q. Yes, maam.
- 9 A. I don't recall.
- 10 Q. So it wasn't important enough for you to tell some-
- 11 one who was treating your stepdaughter?
- 12 A. We weren't being counseled by the counselor. We
- 13 would meet with her occasionally, but I don't recall if
- 14 I told her. I'm sure if it was part of her therapy I
- 15 did.
- 16 But it had been established at that point that Minor
- 17 had said something happened.
- 18 Q. Okay. I think you said you took the trampoline over
- 19 there after October of 2011 and she acted mad and upset?
- 20 A. Yes.
- 21 Q. Before 2011 -- before October of 2011 did you tell
- 22 anybody about that?
- 23 A. Probably, yeah. Probably a friend but not like
- 24 . . .
- 25 Q. Okay. Now, when she was seeing the counselor in

JEANENE WALDERMO ON CROSS

1 Charlotte and they were doing the play therapy, Minor
2 never did talk about any allegations, did she?

3 A. She did not tell us what she told her but -- so I
4 don't know.

5 Q. She later told another counselor in Columbia?

6 A. Yes.

7 Q. That was later, in 2013?

8 A. Later than 2013?

9 Q. It was later in 2013 after the one in Charlotte --
10 in 2013?

11 A. To the best of my memory.

12 Q. And that was in preparation for a trial?

13 A. No. That was at the request of Karen seeking a new
14 counselor.

15 Q. Now, this new counselor, to your knowledge had she
16 ever given Minor homework to do for this trial?

17 A. No. She gave her a book once that had in it words
18 like (inaudible due to noise in Courtroom).

19 Q. And did the counselor review some stuff with her as
20 far as this case was concerned?

21 A. At some point toward the end. I mean, we initially
22 did not go to her for anything having to do with Court.

23 I know towards the end that she had a book. I know that
24 Minor was given the book and I read a page of it or
25 Minor read a page of it.

JEANENE WALDERMO ON CROSS

1 MR. ANDERSON: Court's indulgence for a moment.

2 THE COURT: Yes, sir.

3 (Brief pause in proceeding)

4 BY MR. ANDERSON:

5 Q. How did you and Karen get along?

6 A. Karen and I got along fine. I didn't see her that
7 often. Then after everything happened, it was -- I
8 really didn't interact with her.

9 Q. That's all the questions I have.

10 THE COURT: Any Redirect?

11 MR. WELLS: Nothing further, Your Honor. Can she
12 come down?

13 THE COURT: Yes, she may.

14 (Witness excused from stand)

15 THE COURT: Mr. Foreman and ladies and gentlemen of
16 the jury, we're going to take a recess until one thirty.
17 I'm going to ask that you be back at one thirty sharp.

18 Once again I'm going to remind you not to discuss
19 the case with anyone else. Do not do any independent in-
20 vestigation. Avoid reading any articles or watching any
21 news events concerning this matter.

22 I'll see you back at one thirty sharp. No discus-
23 sion whatsoever

24 Everyone else remain seated while the jury exits the
25 Courtroom.

1 (Jury excused for the lunch recess)

2 THE COURT: Anything from the State before we re-
3 cess for lunch?

4 MR. WELLS: No, Your Honor.

5 THE COURT: Anything from the Defense?

6 MR. ANDERSON: No, sir.

7 THE COURT: Then we'll stand at ease until one
8 thirty, one thirty sharp.

9 (Whereupon, the Court stood in recess for the lunch
10 period, after which the matter was resumed)

11 THE COURT: Anything from the State before we pro-
12 ceed?

13 MR. WELLS: No, sir.

14 THE COURT: From the Defense?

15 MR. ANDERSON: No, sir, Your Honor.

16 THE COURT: Let me just say for the people in the
17 audience that this is a public forum and you have an
18 absolute right to be here.

19 I have noticed throughout the testimony of these
20 witnesses that an audible noise is made with regard to
21 certain points that are brought out.

22 It isn't appropriate to do that. If someone is
23 on the witness stand and subject to examination, by your
24 doing that it sort of lends the idea that you disagree
25 with what someone has said.

1 I would ask you and order that you not do that or
2 make any noise. Does everybody understand that?

3 If you feel as if you can't restrain yourself and
4 make an audible noise it would probably be a good idea
5 for you to dismiss yourself.

6 Even though this is a public forum, you need to
7 maintain the proper demeanor and decorum.

8 All right, we're ready for the jury.

9 (Jury returned to Courtroom)

10 THE COURT: Mr. Foreman and ladies and gentlemen
11 of the jury, thank you for being here on time.

12 Everybody looks well fed and rested, ready to hear
13 more testimony, and I will ask you pay close attention
14 as the State calls the next witness.

15 Ms. Parr, you're recognized.

16 SOLICITOR: At this time the State calls Jamie
17 Shefton to the stand.

18 THE COURT: Ms. Shefton, if you could come forward
19 and place your left hand on the Bible, raising your right
20 hand as the Clerk administers the oath.

21 JAMIE SHEFTON, being
22 duly sworn, testified as follows:

23 CLERK: Please be seated and state your full name
24 for the record.

25 THE COURT: Yes, maam. Have a seat on the witness

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1 stand, pull up close to the microphone, and speak loudly
2 and slowly so we can hear everything you've got to say.

3 I would ask that you start with your full name and
4 spell your last.

5 WITNESS: My name is Jamie Shefton, S H E F T O N.

6 THE COURT: Thank you. Ms. Parr.

7 DIRECT EXAMINATION

8 BY MS. PARR:

9 Q. Ms. Shefton, in October of 2011 where were you em-
10 ployed?

11 A. With the Florence County Department of Social Ser-
12 vices.

13 Q. And what did you do for the Department of Social
14 Services?

15 A. I was a child abuse and neglect investigator.

16 Q. How long were you with the Florence County Depart-
17 ment of Social Services?

18 A. I was there three years.

19 Q. And would you please tell us your educational back-
20 ground?

21 A. I have a Bachelor of Arts in psychology from Clemson
22 University.

23 Q. And did you have any special training for your job
24 as a child neglect -- abuse and neglect investigator?

25 A. Yes, maam. We have to complete a child welfare

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1 training course, and we have to pass a test to be cer-
2 tified with the State of South Carolina.

3 We do our yearly in-services court prep, child and
4 case interviewing, things of that nature.

5 Q. Okay, and were you certified with the State
6 of South Carolina?

7 A. Yes, I was.

8 Q. Now, prior to working with the Department of Social
9 Services, where were you employed?

10 A. I was employed with the Florence County Guardian ad
11 Litem office as a case manager.

12 Q. And what were your duties as a case manager?

13 A. We had our own lay guardians who we would actually
14 work along with and assist law enforcement with any
15 child abuse or neglect cases that went to Family Court.

16 Q. Now, in your capacity as an investigator with the
17 child abuse and neglect of the Department of Social Ser-
18 vices, would you please tell the Court what your duties
19 were?

20 A. I had to investigate cases of abuse and neglect.
21 We, of course, would have to interview all parties in-
22 volved. We had to attend multi-disciplinary staffings
23 with law enforcement, child advocate centers and any
24 other agencies or parties.

25 We would also have to make case determinations along

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1 with our county director and program coordinator in regard
2 to the case.

3 Q. When you spoke about case determination, what kind
4 of cases were you talking about?

5 A. A determination of whether the report that we got was
6 substantiated or not.

7 Q. Now, in your time with the Department of Social Ser-
8 vices, how many cases did you investigate?

9 A. It would be in the hundreds.

10 Q. Okay, and would you tell us a little bit about that
11 process?

12 A. Usually what we would do is we would rotate a day.
13 I had Wednesday as my day. Also, I'd have to take calls
14 from Friday to Sunday, so any cases that came during the
15 weekend that became my case to get through the investiga-
16 tion of the case, and it would later be transferred onto
17 a foster care case worker or a treatment case worker.

18 Q. And what is the treatment? Tell me about the treat-
19 ment . .

20 A. Treatment cases are cases where the children may not
21 be placed into State custody. They may be placed with rel-
22 atives, or if the agency finds that the parents or care
23 givers would be willing to cooperate the children can re-
24 main in the home with a safety plan, provided that they
25 cooperate in full with the agency on the treatment goals

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1 that are developed for the family.

2 Q. Let's go back to -- well, first, where are you em-
3 ployed now?

4 A. I'm with Assurant.

5 Q. When did you leave the Department of Social Services?

6 A. August of 2012.

7 Q. Now, let's go back to October of 2011. Did you have
8 an occasion to become involved in the issues involving
9 Minor ?

10 A. Yes, I did.

11 Q. Please tell us how you became involved?

12 A. The agency received a report that was accepted by a
13 supervisor, and was dispatched to go out to Delmay Elemen-
14 tary to make contact with the alleged victim child.

15 Q. Okay, and please tell us when did you receive the call
16 on which you were dispatched?

17 A. It was October third, and it was early morning.

18 Q. Was that a Monday morning?

19 A. It was a -- it may have been Monday. I'm not sure
20 but it was October third.

21 Q. Okay, and where did you go?

22 A. Delmay Elementary.

23 Q. And is that in the County of Florence?

24 A. Yes.

25 Q. And when you got to Delmay Elementary School, who did

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1 you see?

2 A. I spoke with the principal to let her know that I
3 had a case, and we were given an office to complete the
4 interview.

5 Q. And was that Ms. Lorraine Jolly?

6 A. Yes. We were given the office to complete the in-
7 terview. Along with myself and the school resource offi-
8 cer, Sergeant Hanna.

9 Q. And was Sergeant Hanna there when you arrived, or did
10 he subsequently come?

11 A. He came after.

12 Q. Okay, you can go on.

13 A. I met with Minor and began to establish a rapport
14 with her. I just asked her about school, the interests
15 she had, which she enjoyed Girl Scouts at the time; asking
16 about her family.

17 I then went further into the assessment about her
18 safety and well-being. She let me know she had food,
19 clothing, shelter.

20 We went further into discussing whether anyone touched
21 her inappropriately, and she did disclose that it was on
22 her front bottom Mr. Brockington.

23 I then asked her if he touched inside or outside of
24 her clothes, and she said it was on the outside.

25 I asked her if anyone else ever touched her, and she

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1 said no. I then asked if anyone put anything into her
2 mouth or any other part of her body, and at the time she
3 said no, and then I asked if she was asked to touch anyone
4 else's body, and she said she touched Mr. Brockington.

5 I then asked if she told her mother or her father,
6 and she said she told her mother.

7 Q. And did she indicate to you when she told her mother?

8 A. She didn't give me a time-line. She just stated she
9 told her. She stated she told a little playmate that --
10 excuse me. I apologize.

11 She stated that she told another playmate that --
12 she called him Brock -- touched her as well.

13 I asked what did her mother do, and she said her mother
14 said sometimes people say things to get what they want.

15 After she told her dad in, I guess, the weekend be-
16 fore the report was made; that she did tell -- that he
17 knew about it as well.

18 Q. Then after you talked with Minor , what did you do?

19 A. What I did was I contacted Sergeant Hanna, and I con-
20 tacted him because there was a disclosure. Sergeant Hanna
21 came and he heard the disclosure, and he then contacted
22 Investigator Chad Collins.

23 Q. Okay. Did Investigator Collins report?

24 A Yes.

25 Q. And what did you do once a disclosure was made?

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1 A. When a disclosure was made, we tried to assess whe-
2 ther the mother could protect the child, and we wanted to
3 have Mr. Waldermo come as well to discuss the allegations.

4 We had them both to come up to the school individually,
5 and we asked Mrs. Waldermo about the allegations and about
6 the child disclosure that she told of previously, that
7 she had been touched.

8 Q. I'm going to stop you right there. When you were
9 talking to Minor , who was with you?

10 A. It was myself, Sergeant Hanna, and then it became In-
11 vestigator Collins.

12 Q. Okay, were any of the parents or school teachers or
13 anybody else there?

14 A. No.

15 Q. Okay, go on.

16 A. After Mr. Waldermo came we explained the investiga-
17 tion and what we'd learned. He was upset but he just
18 wanted to know what was the next step.

19 We then waited for Mrs. Waldermo to come in. She had
20 Younger Sister the young child. They came in and we asked her
21 about it, and she did say that Minor told her this but
22 she said that Minor didn't like Brock, and that's why she
23 thought she was making up the allegations.

24 Q. And then what did you do about Ms. Waldermo, Karen?

25 A. I asked what steps she made to protect her child,

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1 being the child had told her previously she had been touched
2 by Mr. Brockington, or what measures she made to make sure
3 they were never alone or to make sure the child was super-
4 vised, and she stated she let him remain in the home be-
5 cause she broke her arm and needed help.

6 She stated that she believes he touched Minor and
7 then Mrs. Waldermo stated her stepfather had touched her,
8 and I asked had he been around the girls and she said yes,
9 numerous times.

10 I asked her that since you stated he touched you and
11 was inappropriate with you, why would you allow the child-
12 ren to be around him, and she didn't really have an answer
13 about that.

14 At that time it was determined by myself and law en-
15 forcement that she couldn't protect in that capacity or if
16 she didn't believe it, to just on the side of caution to
17 make sure that her girls would be safe.

18 Q. And so tell us what is a safety plan?

19 A. A safety plan is a plan used by the South Carolina
20 Department of Social Services. It's a plan at the time
21 just for an inventive measure to be used in lieu of a treat-
22 ment plan.

23 The plan we put in place was at the time Mr. Brockington
24 wouldn't have any contact during the investigation. We
25 also put in place that Mr. Waldermo would have the children

J. SHEFTON ON DIRECT

1 in his care until the investigation was completed, and
2 that Mrs. Waldermo would continue to have visits with the
3 children.

4 We put in a measure that the girls would continue
5 Girl Scouts that they were doing with their mother before
6 just to maintain some normalcy in their lives.

7 Q. And what was said, if anything, about the Defendant?

8 A. He could not have any contact with the children.

9 Q. And then after the plan -- so you discussed this plan
10 with Karen Waldermo?

11 A. Yes, with Karen and Jorgen and law enforcement, and
12 we signed on the plan.

13 Q. Okay, and did they agree that the children would re-
14 main enrolled in Delmay?

15 A. That's correct, and that he would remain in Florence
16 County until the investigation was completed.

17 Q. Okay, and that was on October third?

18 A. Yes.

19 Q. What happened after October third in regards to the
20 investigation?

21 A. After October third, it is standard that the State
22 have a seven day staffing. The seven day staffing is to
23 staff what is going on with the case and what needs to hap-
24 pen next.

25 It was determined that both girls needed to have a

J. SHEFTON ON DIRECT

1 medical exam and a forensic interview, and we had that sche-
2 duled at the Ark in Columbia.

3 Q. And were you at the Ark when Minor had her forensic
4 interview and medical examination?

5 A. Yes, I did.

6 Q. Do you recall when that was?

7 A. I believe that would have been October 21st.

8 Q. In 2011?

9 A. In 2011, yes.

10 Q. And you said that was in Columbia?

11 A. In Columbia, yes.

12 Q. And after -- did you watch that forensic interview?

13 A. Yes, I did.

14 Q. How were you able to see the interview?

15 A. With closed circuit -- by closed circuit TV we were
16 able to see in the room where she had her interview.

17 Q. But you were not in the room with her?

18 A. No, I was not.

19 Q. And after the forensic interview what did you do?

20 A. After the forensic interview I did call Investigator
21 Collins. During her forensic interview, she did state
22 that she performed oral sex on Mr. Brockington, and that
23 wasn't anything she had disclosed to me, and so that was
24 an additional disclosure which I called law enforcement
25 to let him know as well, that she made that disclosure.

J. SHEFTON ON DIRECT

1 Q. Okay, and so after that disclosure you contacted In-
2 vestigator Collins, and did you continue to have contact
3 with the family?

4 A. Yes, I did.

5 Q. Would you please tell us in what capacity?

6 A. At that time they were living in a friend's condo, so
7 I went there to make sure that home was appropriate. I
8 had contact with the girls. I also had contact with Karen
9 and one telephone contact with Mr. Brockington.

10 He was working in Sumter so he was trying to schedule
11 a time to meet but he was working with Investigator Collins
12 so I was directed by my supervisor to go to the Sher-
13 iff's Department to be there for that interview but he ar-
14 rived earlier than the allotted time so I did view that
15 interview on tape when it got back to the Sheriff's De-
16 partment.

17 Q. And so how long did you follow up with the Waldermos?

18 A. My investigation is a forty-five day investigation or
19 sixty if there is an extension, but it was 45 days for the
20 case determination.

21 After that, their case was indicated and it went to a
22 treatment case worker.

23 Q. So tell us what you mean by case indication?

24 A. Case indication -- indication means that the case more
25 -- that more likely than not the allegations that we had

J. SHEFTON ON DIRECT

1 received were true; that the case was substantiated for
2 sexual abuse and I believe it was neglect in regard to Mrs.
3 Waldermo.

4 Q. Thank you. Now, you said the case went to a treat-
5 ment plan. What do you mean by that?

6 A. That the children were not going to be in State cus-
7 tody. They were placed in the home with Mr. Waldermo be-
8 fore, and there was a Family Court hearing, an emergency
9 hearing, that the Waldermos had where the Judge determined
10 he would be given temporary custody and would be allowed
11 to take the children to Mecklenburg County.

12 So what they were going to do was collaborate with
13 the agencies for counseling services for Minor as were
14 necessary and also with the parent here in Florence.

15 MS. PARR: Beg the Court's indulgence.

16 THE COURT: Yes, maam.

17 (Brief pause in the proceeding)

18 BY MS. PARR:

19 Q. Now, did you do an investigation of Jorgen's home be-
20 fore placing the girls there?

21 A. Yes. It was at the temporary residence that they
22 had. We determined that it was appropriate. It was two
23 bedrooms and he had it furnished for the girls, and it
24 was determined it was appropriate for them to stay there.
25 Being in Mecklenburg County, it was determined the case

J. SHEFTON ON DIRECT

1 would no longer be my case, and the Judge had determined
2 he could have temporary custody so there was not a home
3 study. No interstate study was done.

4 Q. Because the Judge made that determination?

5 A. Yes.

6 Q. Ms. Shefton, please answer any questions the Defense
7 may have for you.

8 THE COURT: Mr. Anderson, you are recognized for
9 cross examination.

10 CROSS EXAMINATION

11 BY MR. ANDERSON

12 Q. Ms. Shefton, I believe you testified earlier that you
13 worked with the Department of Social Services for three
14 years, is that right?

15 A. Yes.

16 Q. And you left in 2012?

17 A. That's correct.

18 Q. Prior to that you were with the Guardian ad Litem pro-
19 gram?

20 A. Yes.

21 Q. I think you indicated you have a Bachelor of Arts in
22 psychology?

23 A. In psychology.

24 Q. And where did you get that?

25 A. Clemson University in 1999.

J. SHEFTON ON CROSS

1 Q. That's a great school.

2 How long did you work with the Guardian ad Litem Pro-
3 gram?

4 A. Four years.

5 Q. So seven years total with the Guardian ad Litem and
6 Department of Social Services?

7 A. Yes, sir.

8 Q. In the child abuse or child neglect area with the De-
9 partment of Social Services?

10 A. Yes.

11 Q. You said you got your Bachelor's in psychology and
12 you also had other training, child welfare raining.

13 Is that right?

14 A. State-mandated training that you have to complete
15 and pass the course to be certified in that capacity.

16 Q. Certified and then you have to do yearly, I guess,
17 continuing education, and then you also have to do some
18 stuff -- I guess some classes on witness interviewing,
19 things like that?

20 A. Yes. Things the State approved for us to take.

21 Q. And I think you indicated that you have probably
22 done hundreds of cases, is that right?

23 A. That's about right.

24 Q. Could you speak up?

25 A. I apologize.

J. SHEFTON ON CROSS

1 Q. Do you need some water?

2 A. No.

3 Q. Okay. Now, I imagine, like anything else, every
4 case is a little bit different?

5 A. That's correct.

6 Q. Keep speaking up for me.

7 I'm sure you have dealt with children from a wide va-
8 riety of ages. Would that be a fair statement?

9 A. Yes.

10 Q. And ^{Younger Sister} when you met with her was four years
11 old?

12 A. Three or four, yes.

13 Q. And Minor was six. Is that about right?

14 A. Correct.

15 Q. Now, this training you have done teaches you how to
16 talk with children?

17 A. Correct.

18 Q. And words you used were establish a rapport, is that
19 right?

20 A. That's right.

21 Q. And what do you mean by that?

22 A. When you establish rapport -- I'm a stranger coming
23 to them. You don't start out asking the most difficult or
24 the most serious questions when you are talking to a child.

25 When you are talking to a child, you want to introduce

J. SHEFTON ON CROSS

1 yourself to them and you want to be on their level. You
2 want to establish rapport of, you know, what do they like
3 to do and different things; their favorite colors; their
4 neighborhood; what do they like to watch; what is their
5 favorite food.

6 You ask them things about their interests, and you also
7 talk to them about their everyday life so that they won't
8 feel scared or defensive or trying to figure out what you
9 may be trying to ask or if they're in trouble.

10 You just want to let them know that I'm here and I'm
11 here to check on you. You just start with your questions
12 from there.

13 Q. You want the child to be comfortable, is that right?

14 A. Exactly.

15 Q. You want the child certainly to be truthful and hon-
16 est with you?

17 A. Yes.

18 Q. And how long do you think you spent with Minor in the
19 principal's office establishing that relationship?

20 A. Initially it was probably about an hour, and then I
21 would have the investigator come in, the parent come in,
22 and we still were talking, just making her comfortable.

23 Q. So you talked with Minor for about an hour, and you
24 asked her a specific question about what had happened that
25 -- or what had come out over the weekend, is that correct?

J. SHEFTON ON CROSS

- 1 A. That's correct.
- 2 Q. You specifically asked her did Leonard touch her?
- 3 A. No, I asked her did anyone ever touch her.
- 4 Q. And what did she say?
- 5 A. She said Brock.
- 6 Q. And then you proceeded to say, where did he touch you?
- 7 A. That's correct.
- 8 Q. And she said her front bottom?
- 9 A. That's correct.
- 10 Q. You then proceeded to say inside your clothes or out-
- 11 side your clothes?
- 12 A. Yes, I did.
- 13 Q. She said outside the clothes?
- 14 A. Yes.
- 15 Q. You asked her if he had ever or anyone had ever put
- 16 anything in her mouth?
- 17 A. Yes, I did.
- 18 Q. What did she say?
- 19 A. She said no.
- 20 Q. You asked if she had been made or forced to touch
- 21 someone, is that right?
- 22 A. Yes.
- 23 Q. And she said yes?
- 24 A. Yes.
- 25 Q. And this was on October third?

J. SHEFTON ON CROSS

1 A. That's correct.

2 Q. Based on the safety plan, I think later you said you did
3 follow-ups?

4 A. Home visits, yes.

5 Q. And as a matter of fact, did you actually go to see Minor
6 later on that night?

7 A. No, I did not.

8 Q. All right. Did you go later in the week and check on
9 her?

10 A. Yes, we did.

11 Q. And you actually went to her apartment, is that right?

12 A. Yes.

13 Q. And I think you met with Minor in her bedroom?

14 A. Yes.

15 Q. You again established, I guess, a little bit of a rap-
16 port with her?

17 A. Yes, she was showing me her new bed and the sheets, and
18 the girls were excited about that and jumped on the beds.

19 We were just asking how she was doing, and she had a
20 Girl Scout meeting and we didn't discuss any of the allega-
21 tions because we were just doing our standard visit with
22 her, talking to her.

23 Then later I came back and met with Mr. Waldermo and
24 his wife, Jeanene.

25 Q. Did you meet with her again and ask her questions?

J. SHEFTON ON CROSS

- 1 A. Not about the abuse or her allegations, no.
- 2 Q. You did not?
- 3 A. No.
- 4 Q. Do you recall writing notes on this?
- 5 A. . .
- 6 MR. ANDERSON: Your Honor, . .
- 7 (Conference at the bench off the record between coun-
- 8 sel and the Court)
- 9 (Brief pause in the proceeding)
- 10 BY MR. ANDERSON:
- 11 Q. You recall going to her house?
- 12 A. Yes.
- 13 Q. When was that?
- 14 A. (Response inaudible)
- 15 Q. Maam?
- 16 A. If you'll bear with me while I go through my notes?
- 17 I saw them on October 13th, . .
- 18 Q. Did you say October 13th?
- 19 A. October 13th is correct.
- 20 Q. Okay. Any other time?
- 21 A. I'm looking here. No other time until we had the
- 22 forensic at the Ark. So October 13th and I believe on
- 23 the 21st.
- 24 Q. I'll hand you that copy and get my copy back from
- 25 you. So you did meet with her on 10 13, is that right?

J. SHEFTON ON CROSS

- 1 A. That's correct.
- 2 Q. And that was at her house?
- 3 A. Yes.
- 4 Q. The house had been set up?
- 5 A. That's correct.
- 6 Q. In your notes, you indicate you had a face to face
7 conversation with her, is that right?
- 8 A. Yes.
- 9 Q. And did she also disclose to you on the 13th that
10 Leonard had touched her?
- 11 A. Where are you looking? What are you looking at?
- 12 Q. The top of the page says 12 26 -- right here -- I'd
13 guess that is when it was faxed.
- 14 A. Yes.
- 15 Q. A little bit further down?
- 16 A. Okay.
- 17 Q. Is that right?
- 18 A. Yes, I see that.
- 19 Q. And then it says on 10 13 11 case worker -- C W -- is
20 that the case worker?
- 21 A. Yes.
- 22 Q. Face to face contact with Minor , is that right?
- 23 A. Yes.
- 24 Q. The third paragraph under that . .
- 25 A. I see that, yes.

J. SHEFTON ON CROSS

1 Q. So did Minor make any additional disclosures?

2 A. Yes.

3 Q. Still maintains Leonard Brockington made her touch
4 his private parts and he touched her?

5 A. Yes.

6 Q. So that would have been the second time that you
7 asked her about this incident?

8 A. What do you mean?

9 Q. Okay, one on 10 3, one on 10 13?

10 A. Yes.

11 Q. And she says he touched my front bottom so on 10 13
12 she still says he touched her?

13 A. Yes.

14 Q. At no time, even on 10 13 or 10 3 -- on 10 3 or on
15 10 13 did she ever say anything about he made me put any-
16 thing in my mouth? She never said that?

17 A. She did not.

18 Q. Did you ever talk with Michelle Cooper about this
19 matter?

20 A. Yes, I did.

21 Q. Leonard Brockington was actually seeing Michelle
22 Cooper?

23 A. At the time I did not know that until I saw the
24 taped statement. Michelle talked with me about the case
25 until our county director became involved with her knowing

J. SHEFTON ON CROSS.

1 Mr. Brockington.

2 Q. At that point in time was Michelle a case worker with
3 D.S.S.?

4 A. Yes, she was.

5 Q. Did you ever talk with her children?

6 A. No, I did not.

7 Q. Did anybody ever talk with her children?

8 A. I don't recall.

9 Q. Did you specifically talk to Michelle about this
10 case?

11 A. Yes, I did. One day an investigator called me re-
12 garding a taped statement from her. He met with the
13 director who pulled me aside to ask me, what's going on,
14 and I told her that Mr. Brockington stated in his taped
15 interview that he knew her; that she was a good girl;
16 that she was a good girl and he had dated her in the past,
17 and she said, yes, we did date in the past.

18 Q. Did you ever discuss these allegations with her?

19 A. Yes. She said that he called her a few nights be-
20 fore the report was made and stated that they're saying I
21 touched her.

22 He said he told her in the past -- he said, I'm hav-
23 ing some issues with the little girl.

24 Q. He had told Michelle that earlier?

25 A. Yes. I don't know if it . . .

J. SHEFTON ON CROSS

1 MS. PARR: Your Honor, I would object. That's hear-
2 say.

3 THE COURT: What is the Defense's position?

4 MR. ANDERSON: I'm just asking a question, Your Honor.

5 THE COURT: I would ask that you rephrase the ques-
6 tion.

7 BY MR. ANDERSON:

8 Q. I'll move on to a different topic. You said you
9 did not talk to Michelle's children?

10 A. I did not.

11 Q. And you never talked directly with Mr. Leonard
12 Brockington, have you?

13 A. On the phone we spoke because we were going to set
14 up a meeting, and he was working in Sumter, and he said,
15 he would see if he could get Saturday off and we could
16 be able to meet.

17 Q. And you never talked with any of his friends or fam-
18 ily?

19 A. No, I did not.

20 Q. Haven't talked to any of his neighbors?

21 A. I did not talk with the neighbors in Karen Waldermo's
22 neighborhood.

23 Q. Are you aware he had another residence as well?

24 A. No, I did not. He stated he stayed with her.

25 Q. You ever talk with any of his children or anything

J. SHEFTON ON CROSS

1 like that?

2 A. No, I did not.

3 Q. And you said you did not know he had another residence
4 so certainly you didn't go to his house then?

5 A. No.

6 MR. ANDERSON: Your Honor, I don't have any additional
7 questions.

8 THE COURT: Any Redirect.

9 SOLICITOR: No further questions of this witness.

10 THE COURT: You may step down. Thank you.

11 (Witness excused from stand)

12 MR. ANDERSON: I have no objection to her being re-
13 leased.

14 THE COURT: You are free to leave. Thank you, maam.

15 SOLICITOR: May we approach?

16 THE COURT: You may.

17 (Conference at the bench between counsel and the
18 Court off the record)

19 THE COURT: Mr. Foreman and ladies and gentlemen of
20 the jury, I'm going to ask you to go to your jury room
21 for just one second. Again, do not discuss the case.

22 (Jury excused from the Courtroom)

23 THE COURT: All right, given the very sensitive na-
24 ture of this matter, the minor child is going to now be
25 testifying -- I'm going to ask that everyone that is not

1 a party to this action leave the Courtroom at this time,
2 and Defense Counsel and the Solicitor can get anybody to
3 come back in after the testimony.

4 But while she's testifying I ask that you exit the
5 Courtroom.

6 Very good.

7 (Brief pause in the proceeding)

8 THE COURT: Yes, maam. I'm going to ask you if
9 you could to come have a seat in the witness chair. What
10 is your full name?

11 WITNESS: Minor

12 THE COURT: Okay, good. You know why you're here,
13 you've spoke with your lawyer, Ms. Parr, about this. You
14 understand why you're here, don't you?

15 WITNESS: Uh huh -- yes.

16 THE COURT: And Ms. Parr is going to ask you some
17 questions, Mr. Anderson is going to ask you some ques-
18 tions, and you understand it is very important that you
19 tell the truth.

20 Do you understand that?

21 WITNESS: Uh hm.

22 SOLICITOR: Say yes.

23 WITNESS: Yes.

24 THE COURT: And do you understand that if you don't
25 tell the truth that there are ramifications for that and

Minor

IN CAMERA

1 you would be in trouble? Do you understand that?

2 WITNESS: Yes.

3 THE COURT: Will you tell the truth if asked ques-
4 tions here today?

5 WITNESS: Yes.

6 THE COURT: Very good.

7 Any further query from the State?

8 SOLICITOR: None from the State.

9 THE COURT: Any from the Defense?

10 MR. ANDERSON: No, sir, Your Honor.

11 THE COURT: Very good. I'm going to -- Ms. Parr, I
12 am going to ask that ^{ask} you her to stand up -- if you can ask
13 her to come out of the witness stand and you can stand
14 there right with her until the jury is seated, and then
15 she can put her left hand on the Bible and raise her
16 right -- you can show her how to do that.

17 SOLICITOR: I'm just going to stand right here.

18 THE COURT: We're ready for the jury.

19 (Jury brought into Courtroom)

20 THE COURT: Yes, maam. I'm going to ask if you
21 could to place your left hand on the Bible and raise your
22 right hand as the Clerk administers the oath.

23 Minor , being duly sworn,
24 testified as follows:

25 CLERK: Go around and have a seat in that chair and

Minor

ON DIRECT

1 say your name, please.

2 THE COURT: Yes, have a seat in that witness chair
3 and pull up real close to that microphone. All right,
4 I'm going to ask that you speak loud and slowly, and let's
5 start with your full name

6 Tell us what your name is.

7 WITNESS: Minor

8 THE COURT: Very good. Keep it up. You're doing
9 real good.

10 Ms. Parr.

11 DIRECT EXAMINATION

12 BY SOLICITOR:

13 Q. Minor, how old are you?

14 A. Nine.

15 Q. And when is your birthday?

16 A.

17 Q. Okay, and do you know what year you were born in?

18 A. In .

19 Q. Good, and what is the most important rule about talk-
20 ing in Court?

21 A. Tell the truth.

22 Q. Now, another important rule is that if you don't
23 understand the question say you don't understand or ask
24 us to repeat it or say it another way. Okay?

25 A. Uh hm.

Minor

ON DIRECT

- 1 Q. And if you would remember to say yes and no.
2 Where do you go to school?
3 A. Trinity Episcopal School.
4 Q. Where is that located?
5 A. Charlotte.
6 Q. What grade are you in?
7 A. Third.
8 Q. Where do you live?
9 A. Charlotte.
10 Q. Do you know your address?
11 A. (inaudible).
12 Q. And who lives at your house?
13 A. My stepmom, my friend, my dad, my sister, and me.
14 Q. Good, and do you have any pets?
15 A. Yes.
16 Q. How many pets do you have?
17 A. One.
18 Q. And what kind of pet is it?
19 A. A dog.
20 Q. What's your dog's name?
21 A. Pete.
22 Q. What kind of dog is Pete?
23 A. I don't know.
24 Q. Okay, is it a big dog or a little dog?
25 A. Medium.

Minor

ON DIRECT

- 1 Q. A little dog?
- 2 A. Medium.
- 3 Q. Now, what are some of the things you like to do for
- 4 fun?
- 5 A. Play, ride my bike and color.
- 6 Q. And color -- okay. What sort of things do you like
- 7 to color?
- 8 A. Pictures.
- 9 Q. Okay, and do you like to draw pictures as well?
- 10 A. Yes.
- 11 Q. Okay. Now, Minor , back when you were six, do
- 12 you remember where you were living at the time?
- 13 A. Not when I was six.
- 14 Q. Not when you were six, okay. Back when you were six
- 15 you went to a place called the Ark. Do you remember
- 16 that?
- 17 A. No.
- 18 Q. Okay, I know that was a long time ago. Do you re-
- 19 member going to see or starting to see Ms. Heather?
- 20 A. Yes.
- 21 Q. Now, when you went to the Ark, when you were six, do
- 22 you remember what you talked to Alicia about?
- 23 A. . .
- 24 Q. Do you remember?
- 25 A. Yes.

Minor

ON DIRECT

1 Q. And would you please tell us what did you talk to

2 Alicia about?

3 A. . .

4 Q. Do you remember what you talked to them about?

5 A. Yes.

6 Q. What did you talk to Ms. Alicia about?

7 A. About Brock.

8 Q. Okay, and what did you tell Ms. Alicia?

9 A. I . .

10 Q. Minor , do you need some water?

11 A. No.

12 Q. Okay. Now, I need you to sit and think about it.

13 You said you talked to Ms. Alicia about Brock. Who

14 is Brock?

15 A. Um, my mom's old boyfriend.

16 Q. Okay. Now, Minor I need you to talk nice and

17 loud so we can all hear you. Okay?

18 A. Uh hm.

19 Q. Do you need a minute?

20 A. . .

21 MS. PARR: May I approach her, Your Honor?

22 THE COURT: Okay.

23 MR. ANDERSON: Your Honor, I . .

24 THE COURT: I thought you were asking to approach the

25 bench. Obviously if you're going to be discussing the

Minor

ON DIRECT

1 matter then you need to do it in such a way that we can all
2 hear it.

3 (Discussion at the bench off the record between coun-
4 sel and the Court)

5 BY SOLICITOR:

6 Q. Now, Minor, this is really hard, but I need you to
7 tell us -- you told us who Brock is. You said Brock is
8 who?

9 A. He's my mom's old boyfriend.

10 Q. He's your mom's boyfriend?

11 A. Old one.

12 Q. You have to talk loud for us to hear you. Okay?

13 Now, would you please say it again?

14 A. My mom's old boyfriend.

15 Q. He's your mom's boyfriend?

16 A. Old boyfriend.

17 Q. Old boyfriend. Okay, and do you see Brock in the
18 Courtroom today?

19 A. Yes.

20 Q. Okay, and where is he? Can you point him out?

21 A. . . .

22 SOLICITOR: Let the record reflect that she has iden-
23 tified the Defendant in this matter as Brock.

24 BY SOLICITOR:

25 Q. You said you talked to Ms. Alicia about Brock. What,

Minor

ON DIRECT

1 if anything, did Brock do?

2 A. He -- can you ask it again?

3 Q. What did you talk to Ms. Alicia about that Brock
4 did?

5 A. He touched me.

6 Q. Can you say it louder?

7 A. He touched me.

8 Q. You say he touched you?

9 A. Yes.

10 Q. Would you please tell us how he touched you?

11 A. With his hand.

12 Q. All right, was it on top of your clothes or under your
13 clothes?

14 A. On top.

15 Q. On top of your clothes. Okay, what else did Brock
16 do?

17 A. . . .

18 Q. Did Brock have you do anything to him?

19 A. Yes.

20 Q. What did Brock do? What did he have you do to him?

21 A. Same thing.

22 Q. You said the same thing. What do you mean the same
23 thing?

24 A. The same thing as he did to me.

25 Q. And what would that be?

Minor

ON DIRECT

1 A. Touch him.

2 Q. And where did you have to touch him?

3 A. His bottom.

4 Q. Okay, and which bottom would that be?

5 A. Front.

6 Q. His front bottom? Okay, and how did you touch him?

7 A. My hand.

8 Q. With your hand, and how did you touch him with your
9 hand?

10 A. He told me.

11 Q. What did he tell you to do with your hand?

12 A. . .

13 Q. If you want to show us, you can do that.

14 A. He -- I don't remember.

15 Q. Do you really not remember?

16 A. Yeah. His private part.

17 Q. Okay. So he had you touch him on his private part,
18 and what part would that private part be?

19 A. His front.

20 Q. Okay, and was that on top of his clothes or under

21 . .

22 A. On top of his clothes.

23 Q. And did you touch his skin or not his skin?

24 A. His skin.

25 Q. Okay, and what did you do when you touched his skin?

Minor

ON DIRECT

- 1 A. Which time?
- 2 Q. Which time -- was there more than one time?
- 3 A. Yes.
- 4 Q. Okay. Tell us one time. Tell us about one time.
- 5 A. On the flower chair in the living room.
- 6 Q. Okay, this was on the flower chair in the living
- 7 room?
- 8 A. Yes.
- 9 Q. And whose house was this at?
- 10 A. My mom's.
- 11 Q. Okay, was that on Drive?
- 12 A. Yes.
- 13 Q. And what happened on the flower chair in your mom's
- 14 house?
- 15 A. . .
- 16 Q. What did Brock have you do on the flower chair?
- 17 A. Touch him.
- 18 Q. Okay, and that's when you touched his private part?
- 19 A. Yeah.
- 20 Q. And what did you touch his private part with?
- 21 A. My hands.
- 22 Q. Okay, and you said you touched his skin?
- 23 A. That time both.
- 24 Q. And tell us, was there another time?
- 25 A. Yes.

Minor

ON DIRECT

- 1 Q. And where was it that time?
- 2 A. In the kitchen.
- 3 Q. And what happened in the kitchen?
- 4 A. He made me suck it.
- 5 Q. Okay, and what was it he made you suck?
- 6 A. His bottom.
- 7 Q. And which bottom was that?
- 8 A. Front.
- 9 Q. His front bottom. Now, how did you know to suck it?
- 10 A. He told me.
- 11 Q. Do you recall what he told you?
- 12 A. To suck it.
- 13 Q. And was there anybody else in the kitchen too?
- 14 A. No.
- 15 Q. Where was your -- were your mom and ^{Younger Sister} at home?
- 16 A. Yes.
- 17 Q. Okay, where were they?
- 18 A. . .
- 19 Q. Were they in another room?
- 20 A. Would you ask it again?
- 21 Q. When you were in the kitchen and Brock had you suck
- 22 it, where . .
- 23 A. They were at the gallery.
- 24 Q. So they were not in the house?
- 25 A. No.

Minor

ON DIRECT

1 Q. Now, Minor , what did Brock tell you when he told
2 you to suck it?

3 A. He told me that white stuff would come out of it.

4 Q. And did you see any white stuff?

5 A. No.

6 Q. Okay. Do you know what happened to the white stuff?

7 A. I don't remember.

8 Q. Do you recall what it looked like? What his bottom
9 looked like?

10 A. I don't know how to explain it.

11 Q. You don't know how to explain it?

12 A. No.

13 Q. So you've told us about a time in the flowered chair
14 that he made you touch him, and then you told us in the
15 kitchen where he made you suck it. Was there another
16 time?

17 A. No.

18 Q. Okay.

19 SOLICITOR: May I have a moment?

20 THE COURT: Yes. .

21 (Brief pause in proceeding)

22 BY SOLICITOR:

23 Q. Now, Minor you talked about Brock's bottom. Now,
24 is that -- what do people do with their front bottom that
25 you are referring to?

Minor

ON DIRECT

1 What do boys do with their front bottom that you are
2 referring to?

3 A. Use it to wee wee.

4 Q. Beg your pardon?

5 A. Use it for wee wee.

6 THE COURT: Ask her to keep our voice louder so we
7 can hear.

8 BY SOLICITOR:

9 Q. You talked about his front bottom, is that correct?

10 A. Yes.

11 Q. Okay, and I'm going to show you this picture and you
12 can let us know -- can you come and circle the front
13 bottom on the boy's picture that you were talking about?

14 A. (Witness complying)

15 Q. Okay, so that's the part he made you suck and to
16 touch?

17 A. Yes.

18 Q. Okay, you can have a seat.

19 SOLICITOR: Your Honor, the State would move to enter
20 into evidence State's Exhibit Number 2.

21 THE COURT: Any objection?

22 MR. ANDERSON: No, sir.

23 (Drawing entered in evidence without objection as
24 State's Exhibit 2)

25 THE COURT: State's 2 in evidence without objection

Minor

ON DIRECT

1 from Defendant)

2 SOLICITOR: May I have a moment, Your Honor?

3 BY SOLICITOR:

4 Q. Minor would you please answer any questions Mr.
5 Anderson may have for you?

6 A. Yes.

7 THE COURT: Mr. Anderson, you're recognized.

8 CROSS EXAMINATION

9 BY MR. ANDERSON:

10 Q. Minor I'm going to stand back here, and in that way
11 if I can hear you I know that everybody else can hear you.
12 Okay?

13 A. Yes.

14 Q. Was that a yes?

15 A. Yes.

16 Q. Okay, I've got a pink tie on. Your sister, Younger Sister
17 is that her favorite color?

18 A. Yes.

19 Q. I think you said earlier you are eight years old?

20 A. Nine.

21 Q. Nine -- that's right. You turned nine on
22 is that right?

23 A. Yes.

24 Q. Right now you live in Charlotte?

25 A. Yes.

- 1 Q. You live with your dad, and he's right here?
- 2 A. Yes, sir.
- 3 Q. And you live with your stepmom?
- 4 A. Yeah.
- 5 Q. And you live with your sister, Younger Sister
- 6 A. Yes.
- 7 Q. And Younger Sister is seven?
- 8 A. Yes.
- 9 Q. I think you said you have a dog, Pete?
- 10 A. Yes.
- 11 Q. A medium dog?
- 12 A. Yes.
- 13 Q. I don't know what kind of dog he is but he's medium?
- 14 A. Yes.
- 15 Q. What does Pete like to do?
- 16 A. Go down to the tennis court.
- 17 Q. Do you all have a tennis court at your house or in your
- 18 yard?
- 19 A. No, down the street.
- 20 Q. Is there like a park down the street?
- 21 A. Yes.
- 22 Q. Now, this past weekend was Easter. Do you know that?
- 23 A. Yes.
- 24 Q. And did you get anything from the Easter Bunny?
- 25 A. No.

Minor

ON CROSS

- 1 Q. The Easter Bunny didn't bring you anything?
- 2 A. No.
- 3 Q. No candy?
- 4 A. No.
- 5 Q. A card?
- 6 A. No.
- 7 Q. Nothing?
- 8 A. No, nothing.
- 9 Q. All right, let me ask you this. Have you lost any
- 10 teeth in the last year or two?
- 11 A. What?
- 12 Q. Have you lost any teeth?
- 13 A. Yes.
- 14 Q. When you lose a tooth do you put it under your pil-
- 15 low?
- 16 A. No, on my nightstand.
- 17 Q. On your nightstand and does the tooth fairy bring
- 18 you some money?
- 19 A. Yes.
- 20 Q. How much do you get for it?
- 21 A. Five Dollars.
- 22 Q. That's a lot of money, isn't it?
- 23 A. Yeah.
- 24 Q. All right, and let me ask you this. This past year
- 25 at Christmas, did Santa come to see you?

- 1 A. Yes.
- 2 Q. Did he bring you lots of toys?
- 3 A. No.
- 4 Q. No? You didn't get any coal, did you?
- 5 A. What?
- 6 Q. You didn't get any lumps of coal? You've been a
- 7 good girl?
- 8 A. Yeah.
- 9 Q. Okay. How about Younger Sister Did she get stuff?
- 10 A. Yes.
- 11 Q. Now, Younger Sister -- I want to ask you some questions about
- 12 what happened a long time ago. Okay?
- 13 A. Yes.
- 14 Q. Now, you indicated that Brock is your mom's old boy-
- 15 friend, is that right?
- 16 A. Yes.
- 17 Q. I guess they dated back in 2011?
- 18 A. . .
- 19 Q. Does that sound right?
- 20 A. Yes.
- 21 Q. A couple of years ago?
- 22 A. Yes.
- 23 Q. Okay. At some point in time after this came out, you
- 24 moved in with your dad and stepmom?
- 25 A. Yes.

Minor

ON CROSS

- 1 Q. And then later you all moved to Charlotte?
- 2 A. Yes.
- 3 Q. Who is your best friend in Charlotte? Who is one of
- 4 your best school friends?
- 5 A. Meg.
- 6 Q. Meg?
- 7 A. Uh huh.
- 8 Q. How old is Meg? Is she also nine?
- 9 A. Yes.
- 10 Q. Is she in the same grade as you?
- 11 A. Yes.
- 12 Q. What grade are you in?
- 13 A. Third.
- 14 Q. Okay, are you making good grades?
- 15 A. Yes.
- 16 Q. What is your favorite subject in school?
- 17 A. I don't know.
- 18 Q. Are you good in spelling?
- 19 A. I don't do spelling.
- 20 Q. How about math? Do you do any math or writing?
- 21 A. Yes.
- 22 Q. Do you do after-care? Do you stay at school afterward
- 23 or do you go home?
- 24 A. (Inaudible)
- 25 Q. You stay after school?

Minor

ON CROSS

1 A. Yes.

2 Q. Does Meg stay after school?

3 A. Yes.

4 Q. After you first moved to Charlotte, Minor I guess
5 in December of 2011, sometime maybe two years ago, do
6 you remember meeting with a Mrs. Wendy Keller?

7 A. Yes.

8 Q. You met with Mrs. Wendy for a long time?

9 A. Yes.

10 Q. For about a year. Is that right?

11 A. Yes.

12 Q. Now, when you were meeting with Mrs. Wendy, did you
13 do things like play therapy?

14 A. Yes.

15 Q. And I don't know what play therapy, so what did you
16 all do? What is play therapy?

17 A. We played.

18 Q. Sounds like fun. What did you all play?

19 A. Different things.

20 Q. Did you all play hide and seek?

21 A. No.

22 Q. Did you play crossword puzzles or anything like
23 that?

24 A. No.

25 Q. What was your favorite thing to play in play therapy?

Minor

ON CROSS

1 A. I don't remember.

2 Q. Okay. That was a long time ago.

3 Now, you met with Ms. Wendy for about a year, and
4 later you left and went and met with Ms. Heather. Is
5 that right?

6 A. Yes.

7 Q. Now, you've been talking with Ms. Heather for about a
8 year now?

9 A. Yes.

10 Q. Okay. You and Ms. Heather have done a lot of
11 things together, haven't you?

12 A. Yes.

13 Q. Ms. Heather may have given you like a notebook to
14 take home with you. Do you recall if she did that?

15 A. No.

16 Q. She didn't give you a notebook?

17 A. No.

18 Q. Did she ever talk to you about coming to Court?

19 A. Yes.

20 Q. Did she ever maybe give you some homework to work
21 on?

22 A. Yes.

23 Q. She did? Did she give you like some sheets of paper
24 to take home with you?

25 A. No.

1 Q. What kind . .

2 A. Well, yes.

3 Q. What kind of homework did she give you?

4 A. Squeezing for like five seconds and then relaxing.

5 Q. Kind of like breathing and then relaxing -- things
6 like that?

7 A. Yes.

8 Q. Okay. Did you and her talk about coming to Court?

9 A. Yes.

10 Q. And one day you came in this Courtroom, didn't you?

11 A. Yes.

12 Q. Did you sit right there where you're sitting?

13 A. Yes.

14 Q. Did you talk to Mrs. Parr?

15 A. Yes.

16 Q. Was Ms. Parr standing up closer or was she standing
17 back here?

18 A. Back there.

19 Q. Where her table is?

20 A. Yes.

21 Q. How about Mr. Chad? Did he come?

22 A. No.

23 Q. You know who Mr. Chad is?

24 A. Yes.

25 Q. The good-looking one over there?

Minor

ON CROSS

1 A. . .

2 Q. You don't have to answer that.

3 Did you come in this Courtroom more than once?

4 A. Yes.

5 Q. How many times have you been here and talked about
6 this case?

7 A. Uh, a couple.

8 Q. A couple? Two or three?

9 A. Yes.

10 Q. Have you done that this year?

11 A. Yes.

12 Q. And you've also met with Ms. Alicia and watched a
13 tape?

14 A. Yes.

15 Q. Now, when you and Ms. Parr, this lady right here that
16 asked you questions earlier -- when you and Ms. Parr came in
17 here and talked, did she ask you the same questions she
18 asked you today?

19 A. Yes.

20 Q. Okay, and she's done that two or three times?

21 A. Yes.

22 Q. She would ask you questions and you would answer?

23 A. Yes.

24 Q. Okay. She would ask you questions about Brock?

25 A. Yes.

Minor

ON CROSS

1 Q. She would ask you questions about what happened?

2 A. Yes.

3 Q. Now, do you remember talking with some other people
4 in this case? Do you remember with a nice black lady
5 named Ms. Jamie with D.S.S.?

6 A. Yes. I don't . . .

7 Q. You do?

8 A. No.

9 Q. You don't remember her?

10 A. No.

11 Q. Okay. When your stepmom and your dad go on a date
12 does Wendy ever babysit you?

13 A. No.

14 Q. She doesn't babysit you?

15 A. No.

16 Q. Do you know who she is?

17 A. Yes.

18 Q. She's a lady who lives up in Charlotte?

19 A. I don't know where she lives.

20 Q. Okay. Does . . .

21 A. Yes, she does.

22 Q. She does babysit?

23 A. Yes.

24 Q. Okay, did you ever ask Ms. Wendy about seeing your
25 dad and your stepmom be naked together and whether

Minor

ON CROSS

- 1 that was okay?
- 2 A. No.
- 3 Q. Okay. I think I may have misspoke -- Heidi -- I think
- 4 the name was Heidi.
- 5 A. Henny.
- 6 Q. Henny?
- 7 A. Yes.
- 8 Q. How do you spell Henny?
- 9 A. H E N N Y.
- 10 Q. Has she ever babysat you?
- 11 A. Yes.
- 12 Q. That would be in Charlotte?
- 13 A. Yes.
- 14 Q. When your dad and your stepmom maybe went out to
- 15 dinner or something like that?
- 16 A. Yes.
- 17 Q. Did you and her play when you were there together?
- 18 You and her and Younger Sister ?
- 19 A. Yes.
- 20 Q. Do you recall ever asking her about seeing your dad
- 21 and your stepmom naked?
- 22 A. No.
- 23 Q. No? All right. Minor I know this happened a long
- 24 time ago, in October of 2011. That was several years
- 25 ago. This gentleman over here, Mr. Chad, and another
- 213

Minor

ON CROSS

1 officer came to Delmay, and they talked to you. Do you
2 remember that?

3 A. No.

4 Q. Do you remember your dad coming to Delmay?

5 A. What?

6 Q. Your dad coming to Delmay?

7 A. No.

8 Q. You remember your mom coming to Delmay?

9 A. When?

10 Q. It would have been a day when all of them were there
11 together. Your mom would have been there, your dad would
12 have been there, your stepmom -- what do you call your
13 stepmom? Nana or Nene?

14 A. Nene.

15 Q. She would have been there, your dad would have been
16 there, another officer would have been there. Do you
17 remember that?

18 A. Uh uh.

19 Q. You don't remember talking to them about Brock either,
20 do you?

21 A. When?

22 Q. In October of 2011 when all of them were at Delmay?

23 A. No.

24 Q. Okay. You do remember going to the Ark Center, is that
25 right, and meeting with Ms. Alicia?

Minor

ON CROSS

1 A. Not Ms. Alicia.

2 Q. What's her name?

3 A. Ms. Alicia's name?

4 Q. Well, I thought you saw Dr. Alicia. She got you to
5 draw for her and you all sat on the couch and talked?

6 A. I don't remember.

7 Q. You don't remember?

8 A. No.

9 Q. Do you remember talking with her about Leonard, Mr.

10 Brock?

11 A. Yes. No.

12 Q. No? Ms. Alicia -- I'm trying to see if this will help
13 you.

14 She took you into a room and there were two couches,
15 and you sat on one and she sat on one, and she had a chart
16 very, very similar to this, and she drew some pictures.

17 You remember that?

18 A. No.

19 Q. Okay, that's fine.

20 MR. ANDERSON: Your Honor, could I have the Court's in-
21 dulgence for a second?

22 THE COURT: Yes.

23 (Brief pause in proceeding)

24 BY MR. ANDERSON:

25 Q. Minor you don't remember talking with Miss Alicia

1 or Dr.Alicia?

2 A. No.

3 Q. Do you remember watching a video of yourself and Dr.
4 Alicia?

5 A. Yes.

6 Q. You do?

7 A. Yes.

8 Q. And on that video she asked you questions?

9 A. Yes.

10 Q. Do you remember that?

11 A. When she asked me questions?

12 Q. Yes.

13 A. No.

14 Q. You don't remember questions or you do remember ques-
15 tions?

16 A. I don't remember when she asked questions.

17 Q. Okay, did you answer questions?

18 A. Yes.

19 Q. Did she ask you questions about your house and your
20 family and your mom?

21 A. Yes.

22 Q. She ask you questions about your dad?

23 A. Yes.

24 Q. Any questions about dogs? I remember you had a dog
25 named Applesauce. Do you remember that?

Minor

ON CROSS

- 1 A. Yes.
- 2 Q. What kind of dog was Applesauce?
- 3 A. A Golden Retriever.
- 4 Q. So he was a big dog?
- 5 A. Um, medium.
- 6 Q. Medium, and you had another dog at that time too,
- 7 didn't you?
- 8 A. Yes.
- 9 Q. What kind of dog was that?
- 10 A. I don't know.
- 11 Q. Medium, small?
- 12 A. Small.
- 13 Q. So you do remember talking with Ms. Alicia or Dr.
- 14 Alicia?
- 15 A. No.
- 16 Q. Do you remember her asking you questions about Mr.
- 17 Brock or Leonard?
- 18 A. No.
- 19 Q. You remember her asking you questions about what had
- 20 gone on with Leonard?
- 21 A. No.
- 22 Q. Do you remember talking with her at all about Brock
- 23 or Mr. Brock here?
- 24 A. No.
- 25 MR. ANDERSON: Your Honor, I don't believe I have any

1 more questions.

2 THE COURT: Any Redirect?

3 SOLICITOR: No, sir. We would ask that she be allowed
4 to leave.

5 THE COURT: You may leave at this time. Thank you,
6 maam.

7 (Witness excused from stand)

8 SOLICITOR: Your Honor, at this time we would call
9 Alicia Benedetto to the stand.

10 THE COURT: Yes, maam.

11 MR. ANDERSON: May we come forward?

12 THE COURT: Yes.

13 (Conference at the bench between counsel and the Court
14 off the record)

15 THE COURT: All right. Mr. Foreman and ladies and
16 gentlemen of the jury, this next witness is going to be
17 fairly lengthy. I'm going to ask you to retire to the jury
18 room and refresh yourselves.

19 Then we'll come back for the afternoon session. Do
20 not discuss the case.

21 Everyone remain seated while the jury exits the Court-
22 room.

23 (Jury excused from Courtroom)

24 THE COURT: We'll stand at ease for about five min-
25 utes but I don't want to have to hunt you, Ms. Parr.

1 Anyone you want to talk to you can bring in here.

2 (Whereupon, the Court took a brief recess, after which the
3 matter was continued)

4 THE COURT: Please be seated. Anything from the State
5 before we proceed?

6 SOLICITOR: No, Your Honor.

7 THE COURT: Anything from the Defense?

8 MR. ANDERSON: No, Your Honor.

9 THE COURT: We're ready for the jury.

10 (Jury returned to Courtroom)

11 THE COURT: Ms. Parr, you are recognized. You may call
12 your next witness.

13 SOLICITOR: At this time we would call Dr. Alicia
14 Benedetto.

15 THE COURT: Ms. Benedetto, if you would come forward
16 and place your left hand on the Bible and raise your right
17 hand while the Clerk administers the oath.

18 ALICIA BENEDETTO, being duly
19 sworn, testified as follows:

20 CLERK: Please be seated and state your full name.

21 THE COURT: Have a seat in that witness chair, pull up
22 to the microphone and speak loudly, clearly and slowly so
23 that we can hear everything you've got to say.

24 Let's start with your full name and we'll get you to
25 spell the last name.

DR. BENEDETTO ON DIRECT

1 WITNESS: Yes, Your Honor. My name is Alicia
2 Benedetto. The last name is B E N E D E T T O.

3 THE COURT: Ms. Parr, you are recognized.

4 DIRECT EXAMINATION

5 BY SOLICITOR:

6 Q. Dr. Benedetto, where are you employed?

7 A. I'm a licensed clinical psychologist with the South
8 Carolina Department of Mental Health in Columbia.

9 Q. And how long have you been employed with the South
10 Carolina Department of Mental Health?

11 A. Since 2000 actually

12 Q. And what services do you provide?

13 A. As part of my employment, I'm actually the Director of
14 the assessment and resource center in Columbia, and that is
15 a child abuse evaluation clinic, a nationally accredited
16 children's advocacy center, which means that we provide
17 evaluations and interviews to law enforcement and the De-
18 partment of Social Services when there are allegations of
19 abuse.

20 Q. And as part of that, do you conduct forensic inter-
21 views?

22 A. Yes, I do.

23 Q. And what is a forensic interview?

24 A. It's an interview -- as I said, our interviews are
25 done at the behest of law enforcement agencies throughout

A. BENEDETTO ON DIRECT

1 the State as well as the Department of Social Services,
2 so they will request that we conduct an interview of a
3 child --- sometimes a vulnerable adult but usually of
4 children, to assist in -- as part of their investigation.
5 It's a investigation interview.

6 Q. And tell us how a forensic interview is conducted
7 to assist possible child abuse or sexual abuse cases?

8 A. All of our interviews are recorded. First of all,
9 they are done at center which is designed to be a child-
10 friendly environment.

11 So, in other words, as opposed to the olden days when
12 children would be interviewed at the police station and
13 things of that sort. It provides a better environment
14 for interviewing children.

15 The interviews, as I said, are recorded. The only
16 person in the room is the child and the interviewer, for
17 example, myself, and the interviews are kept and a report
18 is generated.

19 Then all of that goes to law enforcement.

20 Q. Now, is the child -- well, what are the guidelines
21 set up for these interviews?

22 A. The most important thing that we try to get across to
23 children is that we want to right idea in the interview.
24 It is very important. We are a neutral agency, trying to
25 help get accurate information from the child, whatever

A. BENEDETTO ON DIRECT

1 that information may be.

2 So we will ask them to please make sure that we are
3 understanding things correctly, to tell the truth, and a
4 part of telling the truth is to correct us if we get
5 something wrong.

6 We encourage a child to correct us if we didn't un-
7 derstand something correctly -- that kind of guideline.

8 Q. And is the child informed of these guidelines?

9 A. Yes.

10 Q. Now, where are the interviews conducted?

11 A. At the Ark, and we also let children know that the in-
12 terviews are being recorded. That is something we feel
13 is important for them to be aware of. They are conducted
14 at the Ark on the premises.

15 Q. Are the parents allowed in the interview?

16 A. No. As I said, the only person in the room is the
17 interviewer with the child.

18 Q. Now, who usually will set up an interview?

19 A. The investigating agency. So, for example, if the
20 investigator from law enforcement or the Department of
21 Social Services is there, they are able to watch from a
22 remote location.

23 Q. Now, what, if any, measures are used to assess a
24 child's mental competency?

25 A. The entire interview is a matter of assessing the

A. BENEDETTO ON DIRECT

1 child's ability to understand your questions, so even when
2 we go out to the waiting room to get the child we are get-
3 ting a sense of that child's comfort and confidence, their
4 narrative skills, their ability to answer questions, if
5 they are willing to come with the interviewer.

6 We are constantly assessing whether the child is
7 developmentally at the level of their chronological age,
8 or whether there are some facts that might be or have an
9 impact on their ability to relate information to us.

10 Q. Now, do you obtain the child's family or social his-
11 tory?

12 A. We do have a -- what we call a care-giver report
13 form that is filled out in general by whoever brings the
14 child to the center, and it basically gives us just a
15 little background information about things like what grade
16 the child is in, any developmental delays that we should
17 be aware of.

18 For example, does the child have any speech issues
19 or autism-spectrum disorder. It's just anything that we
20 would to know prior to the interview -- that sort of
21 thing.

22 Q. And do you also obtain a medical history as well?

23 A. I believe our physician obtains the medical history.
24 Yes, maam.

25 Q. Now, what kind of questioning format do you use?

A. BENEDETTO ON DIRECT

1 A. We use -- as I said, we want to make sure we are get-
2 ting the right information, so we try to ask as many open-
3 ended questions, non-leading questions, as possible.

4 Our questions are intended to elicit information
5 from the child rather than telling the child any informa-
6 tion.

7 Q. Now, when assessing child who is so abused, how do you
8 determine a child's knowledge of his or her event?

9 A. At the start of our interview, it involves asking a
10 child what they call parts on the body, and we use simple
11 drawings that are anatomically correct of a child, male
12 and female, and we use those because at the point that those
13 are introduced they are really about labeling parts of the
14 body -- what do you call eyes and different parts, as well
15 as private parts or the genital areas, so that we can com-
16 pile some language for body parts which we may or may not
17 need in the interview.

18 Q. Did you do that in this particular case?

19 A. I did.

20 Q. Now, on what date did you conduct a forensic interview
21 with Minor ?

22 A. It was on October 21st of 2011.

23 Q. Okay, and where was that interview conducted?

24 A. At the Ark assessment and resources in Columbia.

25 Q. And what agency referred Minor for the interview?

A. BENEDETTO ON DIRECT

1 A. Minor was referred by the Florence County Department
2 of Social Services as well as law enforcement, the Flor-
3 ence County Sheriff's Office.

4 Q. And in your opinion, did Minor appear to be compe-
5 tent?

6 A. Yes, she was a very bright and articulate child.
7 Yes, she was fully able to participate in the interview.

8 Q. Okay. Was anything used in the interview with Minor
9 to prevent any type of influence?

10 A. Again, we asked non-leading questions to make sure we
11 are getting the right idea. We would say things like,
12 did I understand that right, to make sure we're getting
13 things correctly.

14 So there will be frequent checking in. Some children
15 are more prone to just go along with what the adult in
16 the room is saying, and, of course, this is a very for-
17 eign experience.

18 This is not an experience like a child has ever had
19 before. It's a place they've never been, being interviewed
20 by someone they never knew before, who takes them in a
21 room and starts asking them questions.

22 So we want them to understand they are the expert on
23 themselves and we really want the information from them,
24 rather than telling them the information ourselves or
25 getting the wrong idea.

A. BENEDETTO ON DIRECT

1 Q. What, if anything, did Minor relate to you concern-
2 ing the time frame of the incident?

3 A. Minor was six at the time I interviewed her, and I did
4 not therefore ask her a lot of questions about time.

5 I did ask her about some -- about location.

6 Q. And was she able to give locations?

7 A. Yes.

8 Q. And what did she say in regard to you about places or
9 locations that the sexual assault occurred?

10 A. She said it occurred at the one story house where her
11 mother lives.

12 Q. Now, did you document the time disclosure in any form?

13 A. Yes. As I said, it is memorialized on a DVD, and we
14 also compile reports.

15 Q. And I'm going to show you -- do you recognize this?

16 A. Yes.

17 Q. How is it that you are able to recognize it?

18 A. It is a copy of the DVD from the Ark.

19 SOLICITOR: Your Honor, the State would move this into
20 evidence as State's Exhibit Number 3.

21 THE COURT: Any objection from Defense?

22 MR. ANDERSON: No, Your Honor.

23 THE COURT: State's Exhibit 3 in evidence.

24 (DVD of interview admitted without objection as
25 State's Exhibit 3)

A. BENEDETTO ON DIRECT

1 BY SOLICITOR:

2 Q. I want to ask you one more question before we publish
3 the interview.

4 Was there anything about Minor s disclosure that
5 caused you to believe it was the result of third-party
6 influence?

7 A. No. That is something we would very carefully explore
8 to make sure that there doesn't appear to be influence of
9 either a parent or some other source, or motivation by the
10 child.

11 Nothing that she stated to me supported that.

12 Q. And was there anything in her disclosure that was
13 affected in any way by suggestibility, or coaching?

14 A. Well, you know, that is a question obviously for the
15 jury to determine. As far as things that we look for in
16 the interview; for example, is the child able to
17 correct the interviewer when the interviewer maybe gets
18 something wrong, and Minor was able to do that sort of
19 thing.

20 So she would make sure that I was getting the right
21 idea and spelling things right, and that sort of thing,
22 so ..

23 Q. And was Minor able to give you details?

24 A. Yes.

25 Q. Now, from your personal observations of Minor s ,

A. BENEDETTO ON DIRECT

1 behavior or demeanor during the interview -- what were
2 your personal observations of her behavior and demeanor
3 during the interview?

4 A. As I said, she was a very bright and articulate child.
5 She was, I would say, a little bit slow to warm up, even
6 when I went up to her in the waiting room.

7 She was a little bit hesitant. Again, she really
8 didn't understand why she was there, and it was a situa-
9 tion that was new.

10 It was a foreign situation, but gradually through
11 talking with her she warmed up some and became much more
12 engaged.

13 There were points in the interview when the subject
14 matter was difficult for her to talk about and she was
15 much more subdued. Her voice tone would get very quiet,
16 like she clearly did not want to answer certain questions,
17 and then when we would talk about neutral matters again,
18 she would again become much more engaged.

19 SOLICITOR: Your Honor, at this time I would ask per-
20 mission to publish the video for the jury.

21 THE COURT: You may do so.

22 (Whereupon, the video of the forensic interview was
23 played for the jury)

24 DIRECT EXAMINATION CONTINUED

25 BY SOLICITOR:

A. BENEDETTO ON DIRECT

1 Q. Dr. Benedetto, please tell us a little bit about
2 your educational background.

3 A. Sure. My undergraduate degree is from New York Uni-
4 versity. My Master's and Doctoral Degree are from St.
5 John's University which is also in New York.

6 Q. And in what was your Doctoral Degree?

7 A. Clinical Psychology.

8 Q. Okay, and what is your current employment again?

9 A. At the Assessment and Resource Center which is a pro-
10 gram of the Department of Mental Health.

11 Q. Now, you are also the chief psychologist?

12 A. When I started at the Ark, I was chief psychologist
13 there for a number of years, twelve years, I guess, and
14 some sixteen months ago I became Director of the Ark.

15 Q. Have you presented in the area of child sexual abuse
16 in Columbia?

17 A. Actually, the Ark provides a training of two child
18 abuse professionals throughout the State. We are the cen-
19 ter that provides training to law enforcement investigators
20 and D.S.S. case workers throughout the State to train them
21 in areas related to child abuse, dynamics of child sexual
22 abuse, child development, child language skills, things
23 that individuals involved in evaluation would benefit from.

24 Q. And, Dr. Benedetto, have you been qualified in Court
25 before?

A. BENEDETTO ON DIRECT

1 A. Yes.

2 Q. Can you tell us in which Courts?

3 A. I've been qualified throughout South Carolina many
4 times in Family Court, as well as in General Sessions
5 Courts, as well as in Courts Martial for the Army a number
6 of times.

7 Q. Okay. Would you please tell us what type of testi-
8 mony you have provided in those venues?

9 A. Expert testimony relative to child abuse.

10 SOLICITOR: Your Honor, at this time the State would
11 move to have Dr. Benedetto qualified as a clinical psychol-
12 ogist in the area of child sexual abuse, sexual assault.

13 THE COURT: Any query with regard to her qualifica-
14 tions?

15 MR. ANDERSON: No, sir.

16 THE COURT: I will indeed so qualify her as a clin-
17 ical psychologist in the area of child sexual abuse.

18 Mr. Foreman, ladies and gentlemen of the jury, nor-
19 mally a witness can only testify as to what they have seen,
20 heard, smelled as a lay witness.

21 However, if a witness is qualified as an expert wit-
22 ness because of education in some field, discipline or
23 art, the Court can qualify them as an expert, and they
24 can advise as to their opinions.

25 Just by virtue of the fact that they are experts does

A. BENEDETTO ON DIRECT

1 not mean that you have to believe their testimony. You
2 evaluate the testimony of expert witnesses just in the
3 same way as lay testimony.

4 I will charge you in greater detail about that at
5 the end of the trial.

6 Ms. Parr.

7 BY SOLICITOR:

8 Q. Among child abuse professionals, what is meant by
9 the term late disclosure? What does it mean?

10 A. Well, one thing that we know about children and the
11 way they disclose, about sexual abuse, particularly when
12 it is abuse within the family, is that children routinely
13 delay disclosure of abuse.

14 So it is kind of counter-intuitive to us as adults
15 because if we think of it as adults we imagine if someone
16 sexually harmed or assaulted us in some way that we would
17 have recourse and we would immediately tell somebody, and
18 it seems like the natural thing to do.

19 But what has been documented time and time again is
20 that children do not routinely report immediately, and,
21 in fact, it is rare that a child will immediately report.

22 Delays can be from hours to days to years, and some
23 individuals who are victimized do not even tell during
24 childhood.

25 Q. And so how common is late reporting among victims of

A. BENEDETTO ON DIRECT

1 sexual abuse?

2 A. Extremely common. Studies have shown that the major-
3 ity of children do not immediately disclose. In fact, a
4 large percentage do not disclose during childhood.

5 Q. Now, what factors do you believe lead to late dis-
6 closure?

7 A. Well, you know, each child's situation is different,
8 and children will choose when they disclose. There can be
9 lots of factors that bear on that.

10 One factor is with the relationship to the person who
11 was abusing him or the perpetrator in the situation.

12 Another factor is whether or not threats have been
13 made, whether or not there is support for an outcry by
14 the child. If they do make an outcry, what is the re-
15 sponse of the system around them? Are they protective or
16 not protective?

17 Depending on the age of the child, they can have wor-
18 ries about what will happen to them, what will happen to
19 somebody that they may care about; whether they will be
20 removed from the home -- lots of worries.

21 Q. And how may a child disclose if the perpetrator is
22 in the family or lives in the home?

23 A. That is certainly the most difficult situation, the
24 continuing relationships that a child can have with someone.
25 Then the child is least likely to disclose to someone who

A. BENEDETTO ON DIRECT

1 is in a care-giving role in the family.

2 Q. Now, based upon your professional experience, can
3 you give us some examples of situations where you have
4 seen late disclosure?

5 A. It really depends on the child and their situation,
6 but I have seen everything from children who because of
7 a situation may tell immediately.

8 For example, if it's a stranger attack. Where a teen-
9 ager is assaulted, that child may go immediately to the
10 police or to adults and disclose; whereas, a younger
11 child may not understand what is happening. They sort of
12 have to figure out who to tell and when to tell; what may
13 happen if they tell.

14 It really depends on many things. I have seen every-
15 thing from someone who told virtually immediately and those
16 who did not tell for many years.

17 Q. Now, what is meant by the term piece-meal or partial
18 disclosure and why may this occur?

19 A. That refers to the fact that children will often
20 tell part of a disclosure and sort of test the waters to
21 see what the response of the system is.

22 We think of the disclosure of child sexual abuse as
23 a process, rather than simply an incident. So a child
24 may tentatively tell someone a little bit about something
25 and see what happens, and then they from the response decide

A. BENEDETTO ON DIRECT

1 whether or not to tell more about it.

2 They may tell more or different parts of the whole
3 picture to different individuals, based on their comfort
4 level, based on the way the question is asked.

5 So somebody might think they are getting everything
6 but maybe hasn't asked quite the right question to get
7 quite the right information. A child may tell one person
8 part of the picture and then another another part. That
9 is one of the reasons we do forensic interviews, to try
10 to consolidate that.

11 Q. Do you ever expect a complete disclosure when inter-
12 viewing a child?

13 A. No. No, we don't. That doesn't necessarily mean a
14 disclosure is incomplete, but we -- it is certainly not
15 atypical to get sort of a partial disclosure in an inter-
16 view setting when a child is meeting someone they have not
17 met before, and then for them to perhaps disclose more or
18 even pieces, even after a number of years.

19 Q. Do children necessarily recall the chronological or-
20 der of events in cases of ongoing sexual abuse?

21 A. No. Just like adults, they are not very good at
22 placing things chronologically. Children are certainly
23 not good with time, particularly a child of Minor 's age
24 of six. A much older child might be better at that, but
25 with a very young child you would not expect them to be

A., BENEDETTO ON DIRECT

1 able to give you, for example, dates or years when things
2 happen, or even which happened first. Recall that the
3 child doesn't necessarily understand what is happening
4 at the time and isn't making a mental note of I should
5 remember what day or what time it is so I can report this.

6 They are just in the moment, and at a later point de-
7 cide to tell. They may not be very accurate which is why
8 we don't ask questions about that.

9 Q. One last question. What role does family play in a
10 child's disclosure?

11 A. A family is obviously important in the child's world.
12 The relationship to the members of that family are very
13 important to them, and that can certainly have an impact
14 on who they tell, when they tell, if they tell, how they
15 feel after they've told, whether or not they maintain the
16 disclosure or recant it.

17 All of those factors are affected by the response of
18 family members and the child's relationship to this indi-
19 vidual.

20 Q. Dr. Benedetto, would you please answer any questions
21 Mr. Anderson may have for you.

22 A. Certainly.

23 THE COURT: Mr. Anderson, you are recognized.

24 CROSS EXAMINATION

25 BY MR. ANDERSON:

A. BENEDETTO ON CROSS

- 1 Q. Dr. Benedetto, when you bring a child or a teenager
2 into the office with a care-giver, do you get them to fill
3 out a questionnaire?
- 4 A. Yes. Whoever has brought the child with them is asked
5 to complete a brief questionnaire.
- 6 Q. Was that done in this case?
- 7 A. Yes.
- 8 Q. Did you use that questionnaire to help you to form-
9 ulate questions?
- 10 A. Only to the extent -- yes, to some extent. As I said,
11 it asks questions about the child's development. It asks
12 when the care-giver first became aware of the allegations.
13 It asks what the child was told about coming in that day.
- 14 Those are things we know ahead of time, so, yes.
- 15 Q. Do you have any other collateral information?
- 16 A. It depends. Sometimes that is actually the only piece
17 of information we have. Sometimes we have an incident
18 report from law enforcement. Sometimes we will have re-
19 cords if the child has been hospitalized or something of
20 that nature. It just depends on the case.
- 21 Q. In this case, did you look at any collateral informa-
22 tion?
- 23 A. The only collateral information I had in this case was
24 an incident report from law enforcement.
- 25 Q. And the Ark intake sheet?

A. BENEDETTO ON CROSS

1 A. Right, the care-giver questionnaire which I previously
2 mentioned, and the incident report.

3 Q. The law enforcement records, what would those have
4 been?

5 A. . .

6 Q. The incident report?

7 A. That's correct.

8 Q. Anything else?

9 A. Not that I'm aware of..

10 Q. And this interview was done on 10 21 2011?

11 A. That's correct.

12 Q. This allegedly came out for the first time the end of
13 September or first of October of 2011?

14 A. I would have to reference the incident report.

15 Q. The incident report said they were called to Delmay
16 on October third of 2011?

17 A. That's what I'm reading, yes.

18 Q. So eighteen days later you saw her at the Ark?

19 A. That's correct.

20 Q. You also interviewed her little sister, is that right?

21 A. I was -- I don't recall if Younger Sister was interviewed.
22 She probably was.

23 Q. If you don't recall doing her interview, could some-
24 one else have done it in your facility?

25 A. Yes.

A. BENEDETTO ON CROSS

1 Q. When you got Minor in the room you started establish-
2 ing a rapport with her?

3 A. That's correct.

4 Q. How would you describe establishing a rapport?

5 A. Part of the interview is establishing that child's
6 comfort, the child's ability to communicate and getting a
7 sense of their competence.

8 Some children are very talkative. Others are very
9 quiet. We try to establish what kind of child are we
10 dealing with and then try to get them to provide something
11 other than just a yes or no response.

12 We try to reach them and talk to them a little bit.

13 Q. And showing Minor pictures in this case, is that a
14 way of getting the child to warm up to you?

15 A. It's a way of -- it is actually just a tool to en-
16 gage the child in something that is kind of interesting to
17 the child, and also takes away from the fact that you are
18 not just kind of sitting there, staring at them.

19 It takes the attention off of them, and interesting to
20 a young child, more than just a conversation.

21 Q. You asked her who she lived with, is that right?

22 A. Yes.

23 Q. And she said her dad, her mom, Younger Sister .

24 A. She described a couple of households.

25 Q. She described two of her mom, actually an aptment

A. BENEDETTO ON CROSS

1 and a house. Then she also described one in Charlotte.

2 Is that right?

3 A. Yes.

4 Q. And you asked her who lived with her mom, is that
5 right?

6 A. Yes.

7 Q. And she said her mom was Karen, is that right?

8 A. That's correct.

9 Q. And you asked her who lived with her mom, and she
10 said she and Younger Sister did, is that right?

11 A. Yes, that's my recollection.

12 Q. You just saw the interview. Is that right?

13 A. Yes, and I think she mentioned that, yes. Yes, she
14 did.

15 Q. She didn't say Leonard Brockington lived there, did
16 she?

17 A. No, at that point she did not.

18 Q. Now, later on you put some diagrams up and asked her
19 what the body parts were, is that right?

20 A. Yes.

21 Q. You talked about touches, tickles, kisses, things like
22 that?

23 A. That's right.

24 Q. Later on you asked her if there were some parts you
25 were not supposed to touch on a guy, and some parts you

A. BENEDETTO ON CROSS

1 were not supposed to touch on a girl?

2 A. I asked her if she had some body parts she would
3 consider private, yes.

4 Q. And did you also ask her if there are some parts
5 that are not supposed to be touched, or did you tell her
6 that?

7 A. I asked her if there were some parts she would con-
8 sider private parts that others should not touch.

9 Q. She showed three on a girl and two on a guy, is that
10 right?

11 A. Yes.

12 Q. And then you specifically said, has anyone ever
13 touched you, and what did she say?

14 A. She said -- she shook her head no.

15 Q. All right. You asked if anybody had ever touched her
16 on the top part of her body, I guess, and what did she say?

17 A. She said no or shook her head, I believe.

18 Q. All right. Her bottom front -- what did she say?

19 A. Shook her head no.

20 Q. Bottom, I guess, back?

21 A. I believe she also shook her head no.

22 Q. Later you asked her has anyone ever asked her to
23 touch them or had she ever touched someone, is that right?

24 A. I asked her if anyone had ever asked her to touch
25 them on their private parts.

A. BENEDETTO ON CROSS

1 Q. And that's when she said Mr. Brockington?

2 A. Yes.

3 Q. She said skin on skin, is that right?

4 A. I asked her on clothes or skin, and she said skin.

5 Q. One time in the bedroom, is that right?

6 A. I asked her to describe a time she remembered, and
7 she talked about a time in the bedroom.

8 Q. One time in the living room in a chair?

9 A. Right.

10 Q. In the flowery chair?

11 A. That's right.

12 Q. And then one time in the kitchen, is that right?

13 A. Those were the locations she described, that's cor-
14 rect.

15 Q. When she was talking about the kitchen she never did
16 say where her mom or where her little sister were, did
17 she?

18 A. No, I did not ask her that.

19 Q. And she didn't volunteer that, did she?

20 A. No.

21 Q. I think later after you talked about the kitchen and
22 two times in the house, you asked if he touched her. Is
23 that right?

24 A. Yes.

25 Q. And what did she say?

A. BENEDETTO ON CROSS

1 A. She said no.

2 Q. I think you asked her did he ever try to and she not
3 like it, and what did she say?

4 A. If I had asked that I would have said did he ever try
5 to and you didn't let him.

6 Q. I'm sorry, let him.

7 A. That's okay, and she said no.

8 Q. Later on in the interview she told you that she didn't
9 get along with Mr. Leonard Brockington?

10 A. . .

11 Q. Is that right?

12 A. Um, I asked if she got along with him, and she shook
13 her head no.

14 Q. There towards the end you asked her, I guess, a gen-
15 eralized question, has anyone ever touched you. Is that
16 right?

17 A. I asked her if somebody else had ever made her touch
18 them. An important part is obviously determining whether
19 there are other perpetrators or alleged perpetrators in-
20 volved, so I asked her if somebody else had ever made her
21 touch them.

22 Q. And you also asked if anybody else had ever touched
23 her. Right?

24 A. Yes.

25 Q. And she said no to both of those?

A. BENEDETTO ON CROSS

1 A. She did.

2 Q. Then you followed up the question with, if someone
3 touched you, who would you tell, and the first person she
4 said was her mom, is that right?

5 A. That's correct.

6 Q. That's Karen?

7 A. Yes. That's what she said.

8 Q. Now, earlier on when you were talking to her, you
9 asked her who she lives with in Charlotte or who lives in
10 the house in Charlotte?

11 A. Yes.

12 Q. And she said my dad, my stepmom, Younger Sister, and she
13 also said Heidi. Is that right?

14 A. Yes.

15 Q. That Heidi lived with them in Charlotte?

16 A. She indicated something about Heidi's house and it
17 sounded like Heidi was staying with them.

18 Q. Okay. Any idea whether or not Heidi is an adult or
19 how old she is?

20 A. I do not know.

21 Q. After you were qualified as an expert, Ms. Parr asked
22 you several hypothetical questions. She asked you about
23 delayed reporting. She asked you about late disclosure.

24 One thing you said was that if a person lived in the
25 home sometimes that would cause late reporting or late

A. BENEDETTO ON CROSS

1 disclosure. Is that right?

2 A. . .

3 Q. And talking about the person, the perpetrator.

4 A. Right. I think I said if it's someone in care-giving
5 role or someone who is in the home, someone that the child
6 looks to as an adult who is sometimes responsible for their
7 care.

8 Q. You never heard that Leonard was responsible for her
9 care, did you?

10 A. I never asked her about his care-giving responsibili-
11 ties, so, no.

12 Q. She never said he had a care-giving role, did she?

13 A. No.

14 Q. Did she say he doesn't live in the home?

15 A. She didn't say he doesn't live there, but when I asked
16 her who lives in the home she said her mom, and when I
17 asked her later, after she mentioned him -- I said, did he
18 stay there sometimes, and she nodded her head yes.

19 Q. Well, when you asked her questions about the apartment
20 in Florence, what did she say?

21 A. . .

22 Q. Her dad and step-mom and . .

23 A. Right, her dad, her step-mom and her sister, and I be-
24 lieve that was it.

25 Q. All right, and then when we got to Charlotte she listed

A. BENEDETTO ON CROSS

1 everybody. Right?

2 A. She did.

3 Q. I mean, she volunteered it. So when you asked her
4 that question about Florence, she did not say Leonard lived
5 there, did she?

6 A. No. I don't know whether he lived there or not.

7 Q. Okay. When you were talking, after you had been qual-
8 ified as an expert, about sometimes children mess up chron-
9 ological events, sometimes they don't have the correct
10 information as to time, date and place.

11 You said that is not unusual?

12 A. I did say that, yes.

13 Q. You said late reporting is extremely common, and a
14 large percentage of children don't disclose at first?

15 A. Yes, that's correct. I did say that.

16 MR. ANDERSON: Court's indulgence for a moment, Your
17 Honor.

18 (Brief pause in the proceeding)

19 MR. ANDERSON: Your Honor, that's all the questions I
20 have at this time.

21 THE COURT: Any Redirect?

22 SOLICITOR: No, Your Honor.

23 THE COURT: You may be excused. Thank you very much.

24 (Witness excused by the Court)

25 THE COURT: All right.

1 SOLICITOR: Your Honor, we would call Dr. Susan
2 Luberoff.

3 THE COURT: Yes, maam. Please come forward. I'm going
4 to ask you, if you could, to place your left hand on the
5 Bible and raise your right hand as the Clerk administers
6 the oath.

7 SUSAN LUBEROFF, being duly sworn,
8 testified as follows:

9 CLERK: Please be seated and state your full name for
10 the record.

11 THE COURT: Be seated and pull up real close to that
12 microphone. Speak loudly and clearly and slowly so that
13 we can hear everything you've got to say.

14 Would you state your full name and have a seat.

15 WITNESS: I'm Susan Luberoff.

16 THE COURT: Very good. Ms. Parr, you're recognized.

17 DIRECT EXAMINATION

18 BY SOLICITOR:

19 Q. Dr. Luberoff, would you tell us about your educational
20 background and training?

21 A. Yes, maam. I am a pediatrician. I graduated from the
22 University of South Carolina School of Medicine in 1983, the
23 third class to graduate there.

24 And I completed a three year pediatrics residency at
25 Children's Hospital, Richland Memorial, in 1986.

S. LUBEROFF ON DIRECT

1 I have since then worked as a pediatrician. I have
2 had extensive extra training in the field of child abuse
3 pediatrics.

4 I am board certified as a pediatrician and board cer-
5 tified in the pediatric sub-specialty of child abuse pedia-
6 trics.

7 Q. And have you been qualified as an expert in the field
8 of child abuse pediatrics?

9 A. I have.

10 Q. And how many times have you testified in Court?

11 A. Over a hundred.

12 MR. ANDERSON: May it please the Court, I have no ob-
13 jection to her being qualified as an expert.

14 THE COURT: Thank you. Mr. Foreman and ladies and
15 gentlemen of the jury, she is qualified as an expert to
16 give her opinion on pediatric child abuse.

17 I will charge you in greater detail as to how to eval-
18 uate that testimony at the end of the case, but she is al-
19 lowed to render an opinion in that field.

20 Ms. Parr.

21 BY MS. PARR:

22 Q. Dr. Luberoff, have you had an occasion to do an exam-
23 ination on Minor ?

24 A. I did.

25 Q. And tell us about how you were brought into this case?

S. LUBEROFF ON DIRECT

1 A. I work at the Assessment and Resource Center, a fa-
2 cility that does evaluations of children suspected of
3 having been physically or sexually abused or neglected,
4 and I do the medical part of that evaluation.

5 Minor was referred to us through the Department of
6 Social Services, and as part of that referral I did her
7 medical exam.

8 Q. Okay. Would you please tell us what type of examina-
9 tion you performed?

10 A. When we see children at the Ark, the Assessment and
11 Resource Center, we do a head to toe complete physical
12 exam, looking for any evidence of abuse. Physical abuse,
13 sexual abuse.

14 So it is a good head to toe exam of every inch of the
15 skin; looking in the ears, the mouth, listening to the
16 heart, and a careful examination of the genitalia.

17 We use a piece of equipment called a culdoscope which
18 is like a set of binoculars with a bright light so we can
19 see the genitalia very close-up and very brightly.

20 We get a height and weight. It is generally just a
21 real good head to toe physical examination where we see
22 everything there is to see on that child.

23 Q. Prior to doing that examination, do you obtain a
24 medical history?

25 A. Yes.

A. LUBEROFF ON DIRECT

1 Q. And did you do that in this particular case?

2 A. Yes.

3 Q. And what, if anything, were you told in order for
4 you to do your examination?

5 A. The medical history -- we have a form for the parents
6 to fill out that has several questions about past medical
7 history, surgeries, injuries, behavioral problems the
8 child might be exhibiting, and that sort of thing, and so
9 in that process we did have some history that was given by
10 the father and step-mother.

11 Q. And did you also get some history as to why Minor
12 was brought there?

13 A. Yes, I had the information at the time the appointment
14 was set up on the reason the interview was set up, and on
15 the same day I did her examination she also did the inter-
16 view.

17 So I also had information from the interview to help
18 me about what she ^{was} reporting or evidence I might need to ob-
19 tain.

20 Q. And what information did you utilize that you were
21 provided?

22 A. I utilized all of that information to do my exami-
23 nation.

24 Q. All right, and what specifically were you told about
25 the alleged abuse?

S. LUBEROFF ON DIRECT

1 A. . .

2 Q. The reason for her examination?

3 A. At the time of intake?

4 Q. Yes.

5 Q. At the time of intake the D.S.S Information that we
6 were given was that she had made an allegation that she
7 had -- that someone had exposed himself to her and touched
8 her inappropriately; that she had been asked to touch the
9 person's penis.

10 Q. Now, based upon that, when you did your examination
11 would you please tell us your findings?

12 A. Yes. I did my examination, and everything on Minor
13 in her exam was normal.

14 Q. And what do you mean by normal?

15 A. I mean that any injuries that were of concern were
16 clean. No evidence of neglect. I saw no evidence of it.
17 Her teeth were in good condition. Her genital area was
18 normal. She had no evidence of injury or discharge that
19 would suggest a sexually-transmitted infection.

20 Her development was normal in that for her age she
21 could carry on an age-appropriate conversation, follow in-
22 structions and interact appropriately during the exam.

23 Q. Okay. Now, tell us, would you ever expect to find
24 evidence of trauma following a sexual assault?

25 A. No. We rarely find evidence of trauma involving sexual

S. LUBEROFF ON DIRECT

1 assault on children, even if the genitalia are involved in
2 the sexual assault.

3 If there is injury, that injury usually will heal
4 quickly within a matter of days, and so a sort of window of
5 opportunity to see injuries is short in the vast majority
6 of cases.

7 Most of the time, by the time the child gets to th Ark
8 for an evaluation -- by the time it comes to someone's at-
9 tention and they come, if there was an injury it has then
10 healed.

11 In this particular case, the history didn't involve
12 actions we would expect to cause injuries. I certainly
13 was not surprised to find a normal exam.

14 Q. Okay, and what about with allegations such as in this
15 case of oral penetration. Would you expect to find any
16 evidence of that?

17 A. Every once in a while a child who has had oral pene-
18 tration with an object or penis -- there might be some
19 mild bruising in the mouth. The child can catch sexually
20 transmitted infections, and you can see evidence of that,
21 but, again, usually an injury to the mouth resolves very,
22 very quickly, really within a matter of just a couple of
23 days, if there is any.

24 I did testing of Minor for sexually transmitted infec-
25 tion, and those tests did not show any evidence of any

S. LUBEROFF ON DIRECT

1 infection.

2 Q. Now, could a normal exam still be consistent with
3 Minor 's medical history of abuse or assault?

4 A. Yes.

5 Q. Would you please explain?

6 A. We usually don't find any -- when a child has under-
7 gone a sexual assault, particularly the kinds of acts that
8 Minor described, it is normal for us to find a normal
9 exam.

10 SOLICITOR: Beg the Court's indulgence for a moment.

11 (Brief pause in the proceeding)

12 BY SOLICITOR:

13 Q. Dr. Luberoff, please answer any questions Mr.
14 Anderson may have for you.

15 THE COURT: Mr. Anderson, you are recognized.

16 Before that, ladies and gentlemen, we are getting
17 -- before we do that, we are getting in the short rows for
18 testimony today. Rather than go to the jury room, I just
19 want you to stand up and stretch just a little bit.

20 Please stand up and stretch right where you are.

21 (Brief pause)

22 We've gone a little longer than Baptist preaching so
23 I think you needed a little break. Very good.

24 Mr. Anderson, you may proceed. You are recognized.

25 MR. ANDERSON: Thank you.

S. LUBEROFF ON CROSS

1 CROSS EXAMINATION

2 BY MR. ANDERSON:

3 Q. Dr. Luberoff, you performed a medical exam on Minor
4 is that right?

5 A. Yes.

6 Q. You also performed one on Younger Sister is that right?

7 A. I don't recall whether I did or not.

8 MR. ANDERSON: Your Honor, may I approach the witness?

9 Q. Are you aware that Minor had a younger sister?

10 A. Yes.

11 Q. Is her name Younger Sister

12 A. Yes, to my recollection.

13 Q. If you would, is this your initials on the bottom?

14 A. Yes. This is a medical record of my exam on Younger Sister

15 Q. So that being the case, would you have done one then?

16 A. Yes.

17 Q. Was that in addition -- my handwriting is worse than
18 yours.

19 A. Thank you.

20 Q. Another reason there might be a normal exam is be-
21 cause nothing happened. Is that right?

22 A. Yes.

23 Q. Thank you.

24 THE COURT: Any Redirect?

25 SOLICITOR: No, Your Honor.

1 THE COURT: You may be excused, and you are free to
2 leave.

3 (Witness excused)

4 SOLICITOR: Heather Smith.

5 THE COURT: Yes, maam. Ms. Smith, please come forward.
6 I'm going to ask if you would come forward and place your
7 left hand on the Bible and raise your right hand sa the Clerk
8 administers the oath.

9 HEATHER SMITH, being duly sworn,
10 testified as follows:

11 CLERK: Please be seated and state your full name for
12 the record.

13 THE COURT: Get real close to the microphone and speak
14 real loudly, clearly and slowly so we can hear everything
15 you've got to say.

16 WITNESS: Heather Marie Smith.

17 THE COURT: Ms. Parr, you're recognized.

18 DIRECT EXAMINATION

19 BY SOLICITOR:

20 Q. Ms. Smith, where are you employed?

21 A. I work at the Assessment and Resource Center, also
22 known as the Ark.

23 Q. What do you do for the Ark?

24 A. I conduct forensic interviews and also provide short
25 term treatment and coordinate treatment services.

H. SMITH ON DIRECT

1 Q. And would you please tell us about your educational
2 background?

3 A. Sure. I have a Bachelor's Degree from the University
4 of South Carolina in psychology. I have a Master's Degree
5 in counseling from the University of South Carolina School
6 of Medicine.

7 I am a licensed professional counselor in the State
8 of South Carolina.

9 Q. You said you are currently employed with the Ark?

10 A. Yes.

11 Q. Would you please tell us what services you provide at
12 the Ark?

13 A. I provide forensic evaluation interviews. I also
14 provide short term treatment, some short term family therapy,
15 and also coordinate treatment for those who need services
16 following forensic interviews.

17 Q. And have you testified in Court before?

18 A. Yes, I have.

19 Q. And how many times?

20 A. Between fifty and seventy-five.

21 Q. And have you been declared an expert?

22 A. Yes, I have.

23 SOLICITOR: Your Honor, at this time the State would
24 move that Ms. Smith be declared an expert in assessment and
25 treatment of child sexual abuse. ,

H. SMITH ON DIRECT

1 MR. ANDERSON: I have no objection, Your Honor.

2 THE COURT: All right. She is so qualified, and she
3 is allowed to render her opinion in this field.

4 You are recognized, Ms. Parr.

5 BY SOLICITOR:

6 Q. Now, Ms. Smith, would you please tell us about the
7 different models of child sexual assault or child sexual
8 abuse treatment?

9 A. The best practice model currently in place is what
10 we call trauma focused cognitive behavioral therapy. We
11 use the acronym TF-CBT for short so that we are not saying
12 such a long label, and it is the next practice model in a
13 skills phase, a training model, so that children even as
14 young as four can learn how to learn skills to help them
15 so that they can kind of regulate their own behavior and
16 their own emotions, to feel better.

17 So there is a skill-based learning and training model
18 to teach children in the child service model -- you teach
19 children how to regulate their own emotions, what coping
20 skills they can use that fit their personality, to help
21 them feel better, and if they are having negative emotions
22 such as anger or intense sadness or anxiety, to be able to
23 regulate those emotions.

24 We teach them how to do that. There are certain tech-
25 niques you can use such as deep-breathing, finding some

H. SMITH ON DIRECT

1 support resources where they are living, to talk to some-
2 one, and as part of that model we also practice those
3 skills and routine them so that children really know how
4 to regulate their emotions and be able to feel better.

5 Q. And tell us about play therapy?

6 A. Play therapy is used for younger children, nine and
7 under, typically. Play therapy is more non-directive.
8 In trauma of this kind you use non-directive because you're
9 not teaching and training, reviewing and practicing, so it's
10 not a lot of direction to the child of ways to practice
11 the concepts and practice the skills.

12 In play therapy, it is more non-directive, so you let
13 the child lead the therapy. So if you were playing with
14 different types of toys, children often will express emo-
15 tion but we allow the child to go with whatever they are
16 playing with.

17 Whereas, in trauma settings, it goes into trying to
18 teach the child skills. It is specific to teaching skills.

19 Q. And what does forensically sensitive mean?

20 A. Forensically sensitive therapy is just having an
21 awareness that there is a court -- a pending court case.
22 That could be a criminal case, that could be in Family
23 Court, a Family Court case, so that as a therapist if I
24 know there is a pending criminal case I am aware of the
25 question I'm asking the child so that I am not contaminating

H. SMITH ON DIRECT

1 any type of picture or court case, any type of court case.

2 Q. And how do you do that?

3 A. Basically you just -- as a therapist you maintain an
4 awareness. I might reach out to the court staff or someone
5 from law enforcement, or the Department of Social Services,
6 in order to know what is going on and when it's happening.

7 It is just so that I am not contaminating anything in
8 that process.

9 Q. Now, you were seeing Minor as a therapist, is that
10 right? You've been her therapist?

11 A. Yes.

12 Q. When did you start seeing her?

13 A. I began seeing Minor in October of 2013.

14 Q. And what was the purpose of your seeing her at that
15 time?

16 A. Minor was referred to me by Dr. Alicia from the Ark,
17 Dr. Alicia Benedetto, following -- she had been in play
18 therapy for almost a year prior to that, and Dr. Benedetto
19 referred her to me for the trauma model so that she could
20 learn the skills and be able to practice them.

21 Q. And when was this?

22 A. October 2nd of 2013.

23 Q. Okay, so she was just referred this past October?

24 A. Yes.

25 Q. And when did she . . .

H. SMITH ON DIRECT

1 A. I apologize, maam. May I make a correction?

2 Q. Yes.

3 A. She was actually referred in February of 2013, and
4 October of 2013 is when the court-preparation, the speci-
5 fic court-preparation services began.

6 I apologize.

7 Q. Now, when she was referred in October of 2013, tell
8 us what did you do on receiving that referral from Dr.
9 Benedetto?

10 A. That was in February of 2013, and I began to see
11 Minor for trauma focused cognitive behavioral therapy, and
12 that was a referral to Family Associates which is a private
13 practice clinic that I practice out of.

14 Because at the Department of Mental Health they use
15 the assessment and resource center -- we do not do long
16 term treatment there; we only do short term treatment, so
17 I began seeing her at the private practice clinic and then
18 transitioned her over to the Department of Mental Health
19 in October.

20 Q. Now, when you saw her in private practice in February
21 of 2013, could you please tell us the nature of that?

22 A. Sure. I always begin by doing the clinical assess-
23 ment so I am assessing Minor for her current functioning,
24 how is she doing in school and at home; what are her par-
25 ents noticing, what are her teachers noticing -- anything

H. SMITH ON DIRECT

1 that I need to work on with her.

2 So I conducted clinical interviews with her mother, sorry,
3 her father and her step-mother, and with Minor . That
4 was my first session.

5 Subsequently, I met with her for about eight sessions
6 where I -- they weren't all weekly. They were -- some of
7 them were weekly and then I would move it to once a month.
8 I gave her a summer break so she could have a break for
9 the summer.

10 And that is when I met with her on emotional rela-
11 tions, identifying feelings and how to regulate emotions;
12 learning coping skills and practicing them. I even met
13 with her care-givers to teach them how to remind Minor to
14 use them at home.

15 It is very important for children that are experienc-
16 ing anxiety, negative emotions, anxiety, anger, sadness,
17 so I did that with Minor , and she was able to learn the
18 skills and practice them.

19 She is intelligent, and she was able to learn and
20 master the concepts and be able to practice them at home.

21 Q. And what type of -- give us some examples of what
22 kind of coping skills she had to work with?

23 A. I started out teaching her a deep-breathing technique
24 because the research tells us that the more oxygen you can
25 get to your brain the more relaxed you can be.

H. SMITH ON DIRECT

1 So we often practice that, but deep-breathing tech-
2 niques to help when she was experiencing intense feelings
3 of sadness, anxiety or anger. She could even do them at
4 school if she needed to.

5 I also helped her to identify some skills that she
6 could use if she was maybe thinking about some negative
7 thoughts too often; that she could watch a movie or she
8 likes to sing and dance, and she could use that.

9 Art is a big stress reliever for her, so we talked
10 about art projects to use as coping skills.

11 Q. And when she first came to you, how did you assess
12 that she needed to work on these particular matters?

13 A. Well, the coping skills are actually geared toward
14 the individual child. Really, what works for them.

15 Some kids don't like to draw; they would rather read.
16 Some children -- for Minor , those are the things that
17 worked for her. It is more -- you know, first, I had to
18 identify what the feelings were that she was experiencing.

19 For Minor , it was anxiety, anger and sadness, and
20 we talked about scenarios that addressed those feelings
21 and how to know when you are starting to feel a negative
22 emotion so you can use a skill before it really gets out
23 of control.

24 Q. And over time, were you able to help alleviate some
25 of those feelings?

H. SMITH ON DIRECT

1 A. Yes, she did improve.

2 Q. And how were you able to evaluate or assess her im-
3 provement?

4 A. Well, she would tell me that she felt better; tell me
5 she is not experiencing intrusive thoughts. Children at
6 school sometimes have negative thoughts at school that
7 really prevent them from learning because they are think-
8 ing about something negative all the time.

9 So having some intrusive thoughts that are negative,
10 let me do these things at school to stop that so I can fo-
11 cus on school, can focus better at school.

12 Then checking in with her care-givers to see if she
13 is experiencing any physical symptoms. One of Minor 'a
14 symptoms was nighttime bedwetting, and that actually did
15 improve. So she stopped wetting the bed, and it made her
16 very proud that she was able to do that because it was em-
17 barrassing to her.

18 That was -- checking in with care-givers, checking
19 with teachers to see what they were seeing -- that type
20 of thing.

21 Q. Okay. When you did your assessment, your initial as-
22 sessment, did you determine a diagnosis?

23 A. Yes, I did. Minor met the criteria of what we call
24 DSM four in the Diagnostic and Statistical Manual that
25 health professionals use to diagnose.

H. SMITH ON DIRECT

1 She met the criteria for post-traumatic stress dis-
2 order.

3 Q. What were some of her -- you mentioned a lot of neg-
4 ative thoughts, anxiety. Can you explain what those were?

5 A. She -- Minor did not -- part of my therapy -- I do
6 not necessarily know the exact thoughts or the exact rea-
7 sons she might be feeling anger or sadness. She was
8 avoidant. She didn't really want to talk to me about a
9 lot of things. She was very uncomfortable.

10 So I didn't really need to get what we would call de-
11 tails of things necessarily, but she did confirm that she
12 would think about bad things that had happened often, or
13 things that would cause her to be nervous, upset, and not
14 really able to be relaxed or calm or feel settled.

15 Q. All right. Now, after you -- you said you focused
16 on trauma-focused cognitive behavior therapy for your pro-
17 file, and then you moved to forensically sensitive therapy?

18 A. I began with forensically sensitive therapy only be-
19 cause I knew there was going to be some court cases, and
20 both family and criminal.

21 Q. So you did that purposefully?

22 A. Yes.

23 Q. And then you moved toward the trauma focus?

24 A. It is all really wrapped in the same thing. Forensi-
25 cally sensitive therapy means the therapist being aware

H. SMITH ON DIRECT

1 that there are pending court cases, and just really know-
2 ing that there are court cases that the child needs to tes-
3 tify or be a part of in the family; it is really just an
4 awareness that you keep a focus on so you are not contami-
5 nating that process.

6 It is very important not to contaminate a court pro-
7 cess.

8 Q. So it was in October that you said you started the
9 court preparation?

10 A. Yes. It was in August of 2013 that I became aware
11 that a trial date had been set for the criminal case. I
12 think that was continued for some months, but -- it was
13 set I believe for November of 2013, but it was continued.

14 Once I realized there was a court date set I began the
15 court preparation services which is a short term therapy.
16 It is psycho-education so it is education where you use
17 a handbook. It's called a Court Handbook that is used in
18 our State with small victims.

19 It just goes through what is a courtroom, the people
20 involved who are at the courthouse, bringing her to the
21 courtroom and introducing her to the courtroom -- that type
22 of thing.

23 So it is just education to help her to feel more com-
24 fortable.

25 Q. And why is this important?

H. SMITH ON DIRECT

1 A. Well, court-testifying is nerve-wracking. I am ner-
2 vous right now, and, say, for a child it is even more be-
3 cause they don't understand the court process. You know,
4 it's a big room, a small child.

5 So preparing them actually just helps them feel more
6 relaxed, be more comfortable, be able to even talk into a
7 microphone. That's unusual for a child.

8 So just having them practice that and educating them
9 reduces the trauma of having to testify.

10 Q. Now, in your court preparation do you talk about the
11 case itself or what . .

12 A. No, I do not. In terms of preparing her for the ques-
13 tions and her actual testimony, that is left up to the Sol-
14 icitor's Office.

15 I just helped her practice in the microphone, talking
16 about her name, school, things she likes to do, just to
17 practice speaking in front of people to gather some con-
18 fidence and know what to do.

19 That if she doesn't understand the question or if
20 something is confusing, that she can-- that she has the
21 right -- oftentimes children don't even know that they can
22 say I don't understand or can you repeat that because they
23 are kind of taught to obey and follow the rules.

24 So teaching her that she is allowed to ask someone to
25 repeat a question and that type of education is what we do.

H. SMITH ON DIRECT

1 SOLICITOR: Beg the Court's indulgence for a moment.

2 (Brief pause in the proceeding)

3 BY SOLICITOR:

4 Q. And are you still providing services to Minor

5 A. Yes..

6 Q Would you please answer any questions Mr. Anderson
7 may have for you?

8 A. Yes.

9 THE COURT: Mr. Anderson?

10 CROSS EXAMINATION

11 BY MR. ANDERSON:

12 Q. Ms. Smith, earlier I think you might have gotten a
13 little mixed up on your dates. The first time you met her
14 was in March of 2013?

15 A. In February.

16 Q. Was that when you got the referral or was it when you
17 actually met with her?

18 A. My first meeting -- that was my first appointment.

19 Q. Do you have a copy of that appointment?

20 A. That would be the initial clinical assessment. Febr-
21 uary 8th.

22 MR. ANDERSON: May I approach, Your Honor?

23 THE COURT: Yes.

24 Q. What does that look like? I just did not see a date
25 on this.

H. SMITH ON CROSS

- 1 A. The date is on the consent form.
- 2 Q. Never mind. What you are talking about is the ini-
- 3 tial clinical assessment of 3 1 13?
- 4 A. No.
- 5 Q. But you did see her on 3 1 13?
- 6 A. Yes, I did.
- 7 Q. Is that right?
- 8 A. Yes.
- 9 Q. So it wasn't February but March?
- 10 A. Actually, I saw her February 8th, February 15th,
- 11 February 20th and then March first.
- 12 Q. All right. In your initial assessment you reviewed
- 13 records?
- 14 A. Yes.
- 15 Q. What had previously been done by Wendy Scledera?
- 16 A. I reviewed the Ark forensic report written by Dr.
- 17 Alicia Benedetto, the forensic interview, the Florence
- 18 County Family Court Order, the Guardian ad Litem report,
- 19 a deposition from the previous therapist, Wendy Scledera.
- 20 Q. Now, I think in your report you prepared, on page --
- 21 Wendy Scledera had seen her at a counseling center?
- 22 A. That's correct, in North Carolina.
- 23 Q. She was seen there for about a year?
- 24 A. Yes.
- 25 Q. That's when they were doing play therapy?

H. SMITH ON CROSS

1 A. That's correct.

2 Q. She remained avoidant about talking about anything
3 concerning my client, Leonard Brockington?

4 A. That is my understanding.

5 Q. And you see her evidently several more times in
6 February?

7 A. Yes, I saw her three times in February.

8 Q. And again on March first?

9 A. Correct.

10 Q. The next note I have is August 16th. Would that be
11 about right?

12 A. I saw her April third, April 22nd, May 15th, May 30th,
13 June 16th and then August 30th.

14 Q. Let's talk about the one that I have.

15 A. Okay.

16 Q. That was just -- the top of it says focused and check
17 court assessment?

18 A. Yes.

19 Q. You asked her about her summer break and how she'd
20 been doing and things like that?

21 A. Yes.

22 Q. Things that were ongoing?

23 A. Correct.

24 Q. And did you at any time after that prepare or do a
25 checklist of -- this says section J, strengths, needs,

H. SMITH ON CROSS

1 abilities, preferences. When did you do that?

2 A. It was part of the court preparation assessment that
3 was done at the Department of Mental Health. The Depart-
4 ment of Mental Health has standards for paperwork, and be-
5 cause it's a state agency, so it is a ten page document we
6 are required to fill out and that is part of a section
7 with strengths, needs, preferences, and it is in order to
8 develop a treatment plan.

9 Q. When was that done?

10 A. That was October 2nd of 2013.

11 Q. And it has a mental exam status, appearance . .

12 A. Correct.

13 Q. . . is activity appropriate, attitude during inter-
14 view, affect appropriate to the situation, mood (reading
15 from form).

16 Speech, tone -- next page, thought process normal, con-
17 tent normal. No evidence of hallucinations. Does that --
18 memory is intact according to check list. Concentration
19 calculation -- able to concentrate.

20 Fund of knowledge, above average.

21 A. That's correct.

22 Q. All of those?

23 A. Yes.

24 Q. And, of course, the memory could be intact for more
25 recent or immediate -- you said intact, is that right?

H. SMITH ON CROSS

1 A. That's correct.

2 Q. Going back to the other page, appearance and hygiene,
3 you've got neat and clean checked.

4 A. That's correct.

5 Q. All of it appeared to be normal for a eight or nine
6 year old child?

7 A. Correct.

8 Q. Also, on October second, you've got the interpretative
9 summary?

10 A. Correct.

11 Q. Minor is an eight year old white female who was re-
12 ferred for short term therapy to prepare her for testimony
13 in a criminal court case. Does that indicate the year before?

14 A. Yes.

15 Q. Later it says pending criminal court case and a re-
16 quirement that Minor testify. The Ark recommends that
17 we provide services as well as other things for the fam-
18 ily?

19 A. Yes.

20 Q. You saw her again on -- is October fourth right?

21 A. I saw her on different days, and I can go through them
22 if you like.

23 Q. The next one was October fourth, is that right?

24 A. That's correct.

25 Q. And that is when you actually gave her the court

H. SMITH ON CROSS

1 notebook?

2 A. Yes.

3 Q. And I think you indicated earlier . .

4 A. It is a State-wide notebook that is used to prepare
5 a child or children for testimony.

6 Q. I think said you went over a couple of things with
7 her and sent a few pages home with her?

8 A. I sent the whole entire book, yes.

9 Q. For her to do some homework?

10 A. Yes.

11 Q. That is -- I think that is to acclimate them to know
12 what is going on?

13 A. Right.

14 Q. Who the players are?

15 A. Really it outlines every person that can be in the
16 Court, references where she would be sitting where people
17 like her family would be sitting, where the jury is sit-
18 ting.

19 It is a very -- it is all about education and letting
20 her know what to expect.

21 Q. Where the Judge is sitting?

22 A. Where the Judge is sitting.

23 Q. Where the Court Reporter . .

24 A. Yes, even the bailiff.

25 Q. Is there a courtroom in the book?

H. SMITH ON CROSS

1 A. I don't remember. I don't think it is.

2 Q. You saw her on 10 16, is that right?

3 A. Yes.

4 Q. That is -- it has F and then a mark -- ~~court~~ education
5 learned at home?

6 A. Yes.

7 Q. One of the homework assignments talked to her about
8 what will happen in Court and reminded her of her coping
9 skills?

10 A. That's correct.

11 Q. And the next one I've got is 11 6 of 2013. Court in-
12 troduction in Florence?

13 A. That's right.

14 Q. She went back there?

15 A. Yes.

16 Q. And if you're making this note, you came with her?

17 A. I did.

18 Q. Met with Minor in Courtroom in Florence. Did you
19 actually come to this Courtroom?

20 A. I cannot remember what Courtroom it was. It looked
21 similar to this one.

22 Q. All right. Introduced her to the setting, went over
23 the notebook?

24 A. Yes.

25 Q. Ms. Parr talk with her?

H. SMITH ON CROSS

1 A. Yes.

2 Q. Did Ms. Parr actually take her to the witness stand?

3 A. She did, and she practiced talking into the microphone
4 on that occasion, and was able to sit in all the differ-
5 ent seats and get a different perspective. Even in the
6 Judge's chair.

7 Q. Did Ms. Parr ask her any questions?

8 A. On that occasion she did not. She only asked her
9 questions about school, family, pets, that kind of thing.

10 Q. The next one I have is November 13th. Is that right?

11 A. That's correct.

12 Q. And that is when you came with her to the Courtroom
13 to talk about what was going on?

14 A. Yes.

15 Q. Is that a fair assessment?

16 A. Yes.

17 Q. Then 11 20 -- is that right?

18 A. Yes.

19 Q. Again meeting at the Courtroom?

20 A. Yes.

21 Q. Actually reviewing the video done at the Ark Center?

22 A. That's right.

23 Q. That was Minor actually reviewing it?

24 A. Right. Minor -- it was on a DVD player attached to
25 a TV, and she watched her interview with Dr. Benedetto.

H. SMITH ON CROSS

1 Q. About a forty-two to forty-five minute interview?

2 A. That seems right.

3 Q. You encouraged her to ask any questions of Ms. Parr
4 then?

5 A. Afterwards, yes.

6 Q. Did Ms. Parr ask her any questions?

7 A. Ms. Parr was not present during the video or watch-
8 ing the video. She later met with Ms. Parr in her office
9 to ask any questions.

10 Q. Were you there at that time?

11 A. I was not.

12 Q. Do you know whether or not any questions were asked
13 and what were the answers?

14 A. I do not know. I did not witness any questions being
15 asked. It is my understanding that questions about the
16 incidents were asked, but I don't know what those were.

17 Q. On 11 12, more Court preparation?

18 A. Yes.

19 Q. Talked about, I guess, the delay?

20 A. Yes, and her frustrations with the delay.

21 Q. I think there were more Court preparation?

22 A. Continuing to keep the rapport and make sure she is
23 using the coping skills learned so that she could main-
24 tain, you know, improvement.

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H. SMITH ON CROSS

1 Q. Met two weeks later, talking about the Christmas break
2 into the next year, and continued Court preparation?

3 A. Continuing rapport and just to check in.

4 Q. Then on January 15th, and that was in 2014?

5 A. Yes.

6 Q. Talked about Court preparation, false feelings, and
7 thing like that. Court was coming up?

8 A. . .

9 Q. Then on April second, did you meet with her?

10 A. Yes, April second, again at the Courthouse here.

11 Q. Three weeks ago?

12 A. Yes.

13 Q. Again what did you all do here? .

14 A. Sure. We -- she came back into the Courtroom. She
15 was able to talk into the microphone, sit in the seats,
16 and then I stepped out and Ms. Parr then worked with her
17 so I'm not exactly sure what they did because I wasn't
18 present.

19 I waited in another room until that was finished.

20 Minor did not want a lot of people to be in the Courtroom
21 when someone asked her questions, so I respected that.

22 MR. ANDERSON: Court's indulgence, Your Honor.

23 (Brief pause)

24 MR. ANDERSON: Your Honor, that's all the questions I
25 have.

H. SMITH ON REDIRECT

1 THE COURT: Any Redirect?

2 REDIRECT EXAMINATION

3 BY SOLICITOR:

4 Q. Ms. Smith, the diagnostic form that Mr. Anderson
5 asked you about and the bottom where it says mental status
6 exam . .

7 A. Yes.

8 Q. . . at the bottom it asked about sleep patterns. Did
9 you make a notation on that?

10 A. Yes, nightmares.

11 Q. And did you go into the content of the nightmares?

12 A. No.

13 Q. And would you please read that whole section?

14 A. . .

15 MR. ANDERSON: Your Honor, I would object at this
16 time. I don't believe that is a collateral matter to some-
17 thing that was brought up on Cross?

18 MS. PARR: Your Honor, he read part of it. He did not
19 read all of it.

20 THE COURT: I'll allow it.

21 BY SOLICITOR:

22 Q. Could you read this?

23 A. Minor is an eight year old white female referred for
24 short term therapy, to prepare her for court testimony in
25 a criminal court case.

H. SMITH ON REDIRECT

1 She has been seen previously by a therapist for
2 trauma behavior therapy with Forensic Family Associates,
3 and progress was positive with a reduction of post-traumatic
4 stress disorder symptoms.

5 She was better able to focus, able to reduce intrus-
6 ive thoughts and anxiety reported last at school. With the
7 pending court case and requirement that we supply short
8 term education and support of therapy. Work was recommended
9 at the Ark to provide these services with victim advocacy
10 to the family.

11 Q. That's all I have.

12 THE COURT: You may step down. You are free to now
13 leave.

14 (Witness excused)

15 THE COURT: Any further witnesses?

16 SOLICITOR: Your Honor, I think this will be a good
17 time to break.

18 THE COURT: I'm not asking if this would be a good
19 time for that. I'm asking if you have anymore witnesses.

20 SOLICITOR: I have no more witnesses today, Your Honor.

21 THE COURT: But do you have any more witnesses?

22 MR. WELLS: Your Honor, we have two more witnesses,
23 both law enforcement officers. Their testimony will be.
24 -- the second one will be lengthy.

25 THE COURT: That's what I want to know. Very good.

1 All right, Mr. Foreman and ladies and gentlemen of
2 the jury, we will now recess for the evening. We're going
3 to ask that you be back at nine thirty, nine thirty sharp,
4 and do not discuss the case.

5 I will reiterate to you from the jury selection on
6 forward that you are to base your decision on what tran-
7 spires here in this Courtroom.

8 I anticipate there will probably be some newspaper
9 article written about these proceedings, and I will point
10 out two things to you.

11 Number one, you haven't heard everything that took
12 place, and you don't need to hear someone else's version
13 of what transpired. You need to base your decision on what
14 transpires here in this Courtroom.

15 So if there is any news coverage in the Florence Morn-
16 ing News or any other local newspaper or the State paper --
17 I don't anticipate that will be the case, but more than
18 likely in the Florence Morning News -- do not read the
19 article.

20 You need to base your decision on what takes place here
21 today and the balance of the testimony that is going to
22 transpire in this trial.

23 Once again, do not engage in any kind of independent
24 investigation or internet research. Don't go and do any-
25 thing outside of this Courtroom.

1 You must base your decision on what transpires here
2 in this Courtroom.

3 Do not discuss the case amongst yourselves or with
4 anyone else. No social media whatsoever.

5 Everyone remain seated as the jury exits.

6 (Jury excused for the evening recess)

7 THE COURT: Anything from the State before we recess
8 for the evening?

9 MS. WELLS: Your Honor, one thing, and I do need to
10 put this on the record, regarding the Defendant's status.

11 THE COURT: What is the situation as far as him being
12 out on bond?

13 Mr. Anderson, have you spoken with his bondsman about
14 whether or not he would continue him on bond? The bond
15 was actually concluded with his appearance in Court.

16 Have you spoken to him about that?

17 MR. ANDERSON: No, sir, Your Honor, I have not.
18 However, I can go and call him. He's been here every time
19 the Court has been in session.

20 THE COURT: All right.

21 MR. ANDERSON: Your Honor can see from behind us that
22 he has extensive family here. He's living with his mom,
23 this nice lady right there.

24 THE COURT: All right, I'm going to allow him to go
25 home, but you understand that if you do not appear that is

1 a separate charge and you can be incarcerated for an addi-
2 tional period of ten years.

3 DEFENDANT: I'll be here.

4 THE COURT: And do you also understand that if you
5 don't show up, we will go forward without you?

6 DEFENDANT: I understand.

7 THE COURT: I'll allow it.

8 Be here in the morning at nine thirty, nine thirty
9 sharp.

10 Anything else?

11 MR. WELLS: No.

12 THE COURT: Anything from you, Mr. Anderson?

13 MR. ANDERSON: No, sir.

14 THE COURT: Just one thing, and I know it's premature
15 to do this, but since we have a moment or two, Mr. Wells,
16 what is your idea with regard to offenses to be charged?

17 As to criminal sexual conduct in the first degree,
18 do you have an opinion with regard to any lesser included
19 offenses?

20 MR. WELLS: At this time in this case, I think that
21 would be all you could charge.

22 THE COURT: I think so, because I think the law is
23 very clear that lewd act is not a lesser included offense.
24 That would only apply if there was some physical alterca-
25 tion. I think it is either criminal sexual conduct in

1 the first degree or nothing.

2 Mr. Anderson, I will be interested in hearing what
3 you have to say about that.

4 MR. ANDERSON: I agree with Your Honor.

5 THE COURT: I think it's either that or nothing, and
6 the verdict form is going to have criminal sexual conduct
7 with a minor, first degree, and lewd act, for the appro-
8 priate resolutions.

9 We will have -- we will conclude the State's testimony,
10 and we will obviously have motions. Then the Defendant
11 will have an opportunity to present their defense, and
12 the Defendant will have an opportunity to take the witness
13 stand if he would like to.

14 Mr. Anderson, I will talk with him on the record to-
15 morrow to determine whether or not he wishes to take the
16 witness stand, and I am certain you have discussed that
17 with him and will continue to do so until this matter is
18 concluded.

19 I'm going to ask you to do that because I will ask
20 him on the record what his decision is.

21 Anything further from the State?

22 MR. WELLS: No, sir.

23 THE COURT: From the Defense?

24 MR. ANDERSON: Nine thirty sharp.

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1 (Whereupon, the Court stood in recess for the even-
2 ing, and the matter was continued on April 23, 2014)

3 THE COURT: Please be seated. Anything from the State
4 before we proceed?

5 SOLICITOR: No, Your Honor.

6 THE COURT: Anything from the Defendant?

7 MR. ANDERSON: No, sir, Your Honor.

8 THE COURT: We're ready for the jury.

9 (Jury returned to Courtroom)

10 THE COURT: Mr. Foreman, ladies and gentlemen of the
11 jury, everybody looks very rested, and I thank you for
12 being here and being here on time.

13 The State's recognized. You may call your next
14 witness.

15 SOLICITOR: Your Honor, at this time we would call
16 Sergeant Vince Hanna.

17 THE COURT: All right, Sergeant, if you could come
18 forward and place your left hand on the Bible and raise
19 your right hand as the Clerk administers the oath.

20 VINCE HANNA, being duly sworn,
21 testified as follow:

22 THE COURT: Have a seat in that witness chair and
23 pull up real close to that microphone. Talk loudly and
24 clearly and slowly so we can hear everything you've got
25 to say.

V. HANNA ON DIRECT

1 Begin with your full name.

2 WITNESS: My name is Vincent Isiah Haynes.

3 DIRECT EXAMINATION

4 BY SOLICITOR:

5 Q. Sergeant Hanna, where are you employed?

6 A. The Florence County Sheriff's Office.

7 Q. And what do you do for the Florence County Sheriff's
8 Office?

9 A. I'm currently assigned to the School Resource Office
10 Division as a supervisor.

11 Q. How long have you been with the Florence County Sher-
12 iff's Office?

13 A. Twenty years.

14 Q. And did you have to undergo training for your job?

15 A. Yes, maam. I finished training in law enforcement
16 from the South Carolina Criminal Justice Academy, and I
17 have two basic school resource officer certifications and
18 national certification.

19 Q. And how long have you been a school resource officer?

20 A. Seven years.

21 Q. And prior to that, what was your assignment?

22 A. I worked with the Forensic Division and the Community
23 Enforcement Team.

24 Q. And you were basically a deputy with the Florence
25 County Sheriff's Office?

V. HANNA ON DIRECT

1 A. Yes, maam.

2 Q. Now, as a school resource officer, would you please
3 tell us what your duties are?

4 A. I supervise the officers who are in the high schools
5 and middle schools throughout Florence County. I also
6 handle all the complaints in incidents that happen at the
7 elementary schools in Florence County.

8 Q. Are there -- you said all the schools in Florence
9 County?

10 A. Within the County, not the City.

11 Q. Not the City -- okay. Now, on October third of 2011,
12 did you have an occasion to respond to a call?

13 A. Yes, maam.

14 Q. Where was that call from?

15 A. That call was at Delmay Elementary School.

16 Q. Okay, and is that in the County of Florence?

17 A. That is actually a city school, and the incident that
18 took place took place in the County, so it gave us juris-
19 diction over the incident.

20 Q. Now, when you responded to Delmay, do you recall what
21 time you responded?

22 A. Yes, it was eleven A.M. Eleven O seven A.M.

23 Q. And when you responded, what did you find?

24 A. I got to the principal's office to meet a D.S.S.
25 worker.

V. HANNA ON DIRECT

1 Q. And what D.S.S. worker did you meet?

2 A. Jamie Shefton.

3 Q. And what did you find when you arrived?

4 A. I spoke with Jamie Shefton and the six year old,
5 Minor , in the principal's office, and we spoke about an
6 incident that took place at her residence.

7 Q. Okay, and you said that Minor was in the principal's
8 office?

9 A. Yes, maam.

10 Q. And do you recall how long you were in the principal's
11 office with her?

12 A. I think it was a little over an hour.

13 Q. Okay.

14 A. We had to wait on the investigator.

15 Q. Okay, so you waited on an investigator?

16 A. Yes, maam.

17 Q. Now, did you talk to Minor ?

18 A. Yes, maam.

19 Q. And what did she disclose to you?

20 A. She disclosed to me that on several occasions that
21 the Defendant touched her private area and what she calls
22 her bottom. Also on occasion she had touched his private
23 area.

24 Q. And who did she identify as the perpetrator?

25 A. Mr. Leonard Brockington.

V. HANNA ON DIRECT

1 Q. Now, as a result of getting this information from
2 Minor , what did you do?

3 A. I contacted Investigator Chad Collins.

4 Q. And did Investigator Collins respond to Delmay?

5 A. Yes, maam. He came to the school.

6 Q. And what -- did you have any further involvement after
7 Investigator Collins came?

8 A. No, maam. I was just there for support.

9 Q. Were you there when Minor 's parents came?

10 A. Yes, maam.

11 Q. Did you interview them?

12 A. No, maam.

13 SOLICITOR: Could I ask the Court's indulgence for a
14 moment?

15 (Brief pause in proceeding)

16 BY SOLICITOR:

17 Q. Sergeant Hanna, would you please answer any ques-
18 tions that Mr. Anderson may have for you?

19 A. Yes, maam.

20 THE COURT: Mr. Anderson, you're recognized.

21 CROSS EXAMINATION

22 BY MR. ANDERSON:

23 Q. Officer Hanna or Sergeant Hanna -- is that right?

24 A. Yes.

25 Q. Twenty years with law enforcement?

V. HANNA ON CROSS

- 1 A. Yes, sir.
- 2 Q. Seven as, I guess, an SRO -- school resource officer?
- 3 A. Yes, sir.
- 4 Q. Thirty years with the Sheriff's Office prior to that?
- 5 A. Yes, sir.
- 6 Q. Now, as far as your training, you said you have gone
- 7 to the Academy?
- 8 A. Yes, sir.
- 9 Q. Is that the State Law Enforcement Academy in
- 10 Columbia?
- 11 A. Yes, sir.
- 12 Q. Eight, ten, twelve week course -- how long is it?
- 13 A. Ten weeks.
- 14 Q. You've been to that?
- 15 A. Yes.
- 16 Q. You certainly passed?
- 17 A. Yes, sir.
- 18 Q. While you were there, did they teach you various
- 19 things like how to shoot a gun, how to drive a car, and
- 20 legal stuff -- how to write a report, defensive tactics
- 21 or maybe hand to hand stuff?
- 22 A. Yes, sir.
- 23 Q. Also some physical -- I think they make you run and do
- 24 some things like that?
- 25 A. Yes, sir.

V. HANNA ON CROSS

1 Q. And you said you've also gotten some additional
2 training; that you are a state-certified SRO and a na-
3 tionally certified SRO?

4 A. Yes, sir.

5 Q. What did that training consist of?

6 A. It consisted of -- they teach us the basics and the
7 advanced of being an SRO, being -- educating students on
8 modern-edge stuff and also being a counselor for students
9 and teachers in any situation that comes up when someone
10 breaks the law.

11 Q. I'm not trying to put you on the spot here, but how
12 old are you?

13 A. Forty-six.

14 Q. Things have changed a lot since you and I were in
15 school, haven't they?

16 A. Yes, sir.

17 Q. Kids are saying things, doing things in elementary
18 school that they weren't doing thirty years ago. Is that
19 an accurate statement?

20 A. Yes, sir.

21 Q. Students saying things in the hallway that you were
22 not hearing thirty years ago. Do you agree with that?

23 A. Yes, sir.

24 Q. Students are over-hearing older kids talk about cer-
25 tain things in the hallways or in the bathrooms or places

V. HANNA ON CROSS

- 1 like that. Do you agree with that?
- 2 A. Yes, sir.
- 3 Q. Now, in this case, you said you got a call to go to
- 4 Delmay on October third of 2011. Is that right?
- 5 A. Yes, sir.
- 6 Q. And once you got there, was Ms. Shefton there?
- 7 A. Yes, sir.
- 8 Q. Was Ms. Shefton at that time working with D.S.S.?
- 9 A. Correct.
- 10 Q. Child protective services?
- 11 A. Yes, sir.
- 12 Q. Now, were you aware of any of her qualifications?
- 13 A. No, sir.
- 14 Q. But she did work for D.S.S.?
- 15 A. Right.
- 16 Q. Did she talk to the child first?
- 17 A. I'm not aware, sir.
- 18 Q. Was she talking to the child while you were in the
- 19 room?
- 20 A. Yes, sir.
- 21 Q. I mean, you said you were there for about an hour?
- 22 A. Yes, sir.
- 23 Q. Now, you said that on several occasions he touched
- 24 her private area? Is that right, what she told you?
- 25 A. Yes.

V. HANNA ON CROSS

1 Q. Did she tell Ms. Shefton that?

2 A. Ms. Shefton was in the room when she told me.

3 Q. All right. Now, several times -- several times has
4 different meanings. How would you define several times?

5 A. . .

6 Q. I mean, she said several times. Is that one time,
7 four times, seven times?

8 A. Well, we let her go ahead and disclose, and I did an
9 initial report. The investigator actually follows up on
10 how many actual times.

11 Q. But you wrote a report in this case, is that right?

12 A. Yes.

13 Q. Do you have that report with you?

14 A. Yes, sir.

15 Q. What does your report indicate as far as -- you
16 wrote several occasions, is that right?

17 A. Yes, sir.

18 Q. So primarily he touched her on what she called her
19 bottom on several occasions?

20 A. Yes, sir.

21 Q. All right. So I'll ask you again, how did you come
22 up with the words several occasions?

23 A. Well, she said he touched her several times.

24 Q. That was her language?

25 A. Yes, sir.

V. HANNA ON CROSS

- 1 Q. So she could have been referring to two times or could
2 have been referring to ten times?
- 3 A. Well, we asked her after she said several, more than
4 once, and she said yes. We said, how many, and she couldn't
5 remember.
- 6 So that was . . .
- 7 Q. Now, at any time during this interview did she ever
8 say he had put her mouth on her, did she?
- 9 A. No, sir.
- 10 Q. And at any time did she ever say I put my mouth on
11 him, did she?
- 12 A. No, sir.
- 13 Q. And she never disclosed that to Ms. Shefton, did
14 she?
- 15 A. Not when I was there.
- 16 Q. And you said you were in there for about an hour?
- 17 A. Yes, sir.
- 18 Q. That's all the questions I have.
- 19 THE COURT: Any Redirect?
- 20 SOLICITOR: No, Your Honor.
- 21 THE COURT: You may step down
22 (Witness excused from stand)
- 23 SOLICITOR: May Sergeant Hanna be excused?
- 24 THE COURT: Any objection to that?
- 25 MR. ANDERSON: No, sir, Your Honor.

V. HANNA ON CROSS

1 (Witness excused)

2 MR. WELLS: The next witness will be Investigator
3 Collins.

4 THE COURT: Investigator Collins, if you would come
5 forward, and I will ask you to place your left hand on
6 the Bible and raise your right hand.

7 CHAD COLLINS, being duly sworn,
8 testified as follows:

9 CLERK: Please have a seat and state your name for
10 the record.

11 WITNESS: Chad Collins.

12 CHAD COLLINS, being duly sworn,
13 testified as follows:

14 DIRECT EXAMINATION

15 BY MR. WELLS:

16 Q. Investigator Collins, where are you employed?

17 A. Florence County Sheriff's Department.

18 Q. How long have you been there?

19 A. Fifteen years.

20 Q. And what are your duties with the Florence County
21 Sheriff's Department?

22 A. My main responsibilities at this time are to investi-
23 gate homicides, child sexual assault and abuse cases, and
24 sexual assault cases in the investigations division.

25 Q. Let me call your attention back to October third of

C. COLLINS ON DIRECT

1 2011. Did you happen to receive a call that particular
2 day to investigate the sexual assault of a child?

3 A. Yes.

4 Q. All right, and where were you asked to go?

5 A. I was asked by Sergeant Hanna of the SRO Department
6 to go to Delmay School located in Florence.

7 Q. And was Sergeant Hanna there when you arrived?

8 A. Yes, sir, he was.

9 Q. And what did you do when you arrived at the school?

10 A. At that point, I tried to get as much informatoin as
11 I could. I spoke with the Deputy and I also spoke with
12 Jamie Shefton. They gave me the particulars of the case;
13 that the child, Minor , had alleged she had been
14 touched by a household member, and also that he had touched
15 her.

16 Q. And what was the name of the person provided to you?

17 A. Yes, it was.

18 Q. And who was that?

19 A. Leonard Brockington.

20 Q. All right. What, if any, action did you all take af-
21 ter you received that information?

22 A. I spoke with Ms. Karen Waldermo, the mother of Minor
23 -- Minor was residing with her at the time at
24 Drive in Florence County. The father, Jorgen Waldermo,
25 was already present at the school.

C. COLLINS ON DIRECT

1 Q. So after you made a call to Karen Waldermo to come to
2 the school, did she in fact do so?

3 A. Yes, she did.

4 Q. What happened as far as with Karen after she arrived?

5 A. When she arrived at the school, she was somewhat sur-
6 prised and we explained to her why we were there. She
7 seemed very anxious, almost into a panic attack. We had
8 to actually had to call the school nurse to check her.

9 Q. But you did advise her what was going to occur at
10 that point?

11 A. Yes, we did..

12 Q. All right. Now, at that time was D.S.S. asked to do
13 a safety plan for the child at that particular time, for
14 Minor ?

15 A. Yes, we asked them to set up a plan.

16 Q. And that was being done by the D.S.S. worker, is that
17 right?

18 A. Yes.

19 Q. Now, as a result of that particular information,
20 what did you do as far as making contact with the Defen-
21 dant, Leonard Brockington?

22 A. What I try to do normally is to see if I can arrange
23 a forensic interview to get as much information as I can.
24 At that time, there were no appointments available in
25 Florence. We were able to schedule one through the D.S.S.

C. COLLINS ON DIRECT

1 at the Ark in Columbia. It was scheduled for a much later
2 date.

3 I was able to make contact with Mr. Brockington by
4 phone. Give me just a second now.

5 I made contact with Mr. Brockington on October 6th
6 of 2011 by phone and asked if he would come into the Sher-
7 iff's Office and talk with me, and he agreed to come.

8 Q. Was he under arrest at that particular time?

9 A. No, sir, he wasn't.

10 Q. All right, and did he in fact come to your office?

11 A. Yes, on the 7th he did show up.

12 Q. And where did you meet with him?

13 A. I met with him in the lobby and walked him to an in-
14 terview room that we had set aside for talking with people,
15 and I just explained why he was there.

16 Q. Okay, and in that regard was he in custody at the
17 time?

18 A. No, sir, he was not.

19 Q. And, in fact, was he allowed to leave once the inter-
20 view was over?

21 A. Yes, sir.

22 Q. So for that reason you did not advise him of his
23 rights at the beginning of the interview?

24 A. No, sir.

25 Q. And later on as things came up did you at some point

C. COLLINS ON DIRECT

1 go on and give him his Miranda Rights?

2 A. Yes. During the interview it became clear that I
3 needed to ask him some direct questions, and I did ad-
4 vise him of his Miranda Rights.

5 Q. Very good. Now, was the interview that you had
6 with him taped?

7 A. It was.

8 Q. All right. Now, after the interview had been com-
9 pleted, have you viewed the tape?

10 A. Yes, sir, I have.

11 Q. And based on your training and experience in law en-
12 forcement, and from interviewing people, tell us whether
13 or not you saw anything at all about his demeanor that
14 gave you any pause at all?

15 A. He was very anxious in the interview room and nervous.
16 He shifted about in his chair quite a bit. When I asked
17 him several direct questions it appeared that he would
18 try to change the subject on me several times.

19 Q. Let me show you -- is this the DVD that was recorded
20 as far as the interview with Leonard Brockington, the De-
21 fendant?

22 A. Yes, it is, and that is my handwriting.

23 MR. WELLS: Your Honor, at this time we would move
24 to play -- well, we'd first move to introduce this into evi-
25 dence.

C. COLLINS ON DIRECT

1 THE COURT: Objection from the Defense?

2 MR. ANDERSON: No, Your Honor.

3 THE COURT: And that is State's Exhibit 4 in evidence
4 without objection.

5 (DVD of Defendant Interview admitted without objection
6 as State's Exhibit 4)

7 MR. WELLS: Your Honor, we would move at this time
8 to play the DVD up to a certain point as far as the relevant
9 parts related to this trial.

10 THE COURT: You may do so.

11 (Whereupon, portion of DVD played of interview of
12 Defendant for the jury)

13 BY MR. WELLS:

14 Q. Now, Investigator Collins, subsequent to that inter-
15 view, what did you do thereafter as far as talking with
16 other potential witnesses?

17 A. Jamie Shefton and I kind of worked in tandem on this
18 one. We went out and spoke with Staci Parker on the 11th
19 of October.

20 Q. She being the neighbor who lived next door to the
21 girls?

22 A. Yes, sir.

23 Q. Tell us about that.

24 A. We met with her and talked with her briefly about her
25 son playing with Minor and Younger Sister. Ms. Parker stated

C. COLLIN ON DIRECT

1 she didn't observe any sexual behavior out of Younger Sister when
2 she was playing at her house.

3 After that, we went and spoke to MGA
4 who lives across the street, the first person Minor dis-
5 closed to.

6 Q. All right, and what, if anything, did he indicate
7 basically?

8 A. She told us that on a particular day that she and
9 Minor and Younger Sister were playing. They were playing at
10 Minor 's house.

11 Q. Did you make a mistake in your report as far as what
12 you put . .

13 A. I did. When I was typing up notes on that particular
14 day, I placed in my notes that MGA said she played
15 with Minor and Younger Sister sometime on 9 24. I put in MG
16 's house when I should have put in they were playing at
17 Minor s house.

18 They were playing -- MGA claims they were play-
19 ing dress-up and Minor went to go knock on the bedroom
20 door, and MGA said she heard yelling from behind the
21 door, and she asked Minor -- she said it was a male voice,
22 She said to Minor , does he always yell at you like
23 that, and Minor then broke down and told MGA what
24 happened.

25 Q. And that was the sexual abuse as far as the Defendant

C. COLLINS ON DIRECT

1 on her, is that right?

2 A. That was what MGA claimed, yes.

3 Q. Now, did you also meet with the father at D.S.S.

4 to discuss the matter with him with Ms. Shefton?

5 A. Yes, I did.

6 Q. And did he relate to you about he knew about the situa-
7 tion or what he had found out?

8 A. That's correct.

9 Q. And that is what he testified to in Court?

10 A. Yes, sir.

11 Q. All right. Now, when was the forensic interview of
12 Minor -- when did that take place?

13 A. The 2nd of October of 2011.

14 Q. At the Ark?

15 A. Yes.

16 Q. And were you subsequently provided with a copy of the
17 interview that was taped of the child with the forensic in-
18 terviewer?

19 A. Yes, I was.

20 Q. And that was played in Court yesterday?

21 A. Yes, it was.

22 Q. All right. Now, as a result -- did you yourself look
23 at the tape?

24 A. Yes, I did.

25 Q. As a result of talking with all of the witnesses, viewing
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C. COLLINS ON DIRECT

1 the child's statement with the forensic interviewer, did
2 you have occasion then on November 7, 2011, to obtain
3 arrest warrants against the Defendant for criminal sex-
4 ual conduct in the matter?

5 A. Yes. Prior to that point, from hearing the inter-
6 view at the Ark, I was not aware of the allegation of
7 oral sex. The only allegation I had up to that point was
8 Mr. Brockington touching Minor and her touching Mr.
9 Brockington.

10 After seeing the Ark information and seeing the video
11 of Minor being interviewed, I was made aware of the oral
12 sex allegation at that point.

13 On the 7th of November I did speak with Judge Timmons
14 at the Sheriff's Office.

15 She was the resident magistrate at the office, and
16 I talked to her about obtaining a warrant for his arrest.

17 Q. And was he subsequently arrested on November 14th
18 of 2011?

19 A. Yes.

20 Q. Please answer any questions Mr. Anderson has?

21 A. Yes.

22 THE COURT: Mr. Anderson.

23 CROSS EXAMINATION

24 BY MR. ANDERSON:

25 Q. Investigator Collins, I'm going to hand you two warrants.

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- 1 A. Yes, sir.
- 2 Q. Are those the two warrants you obtained against Mr.
- 3 Leonard Brockington?
- 4 A. Yes, sir, they are.
- 5 Q. What is the address where the Defendant resides?
- 6 A. At Drive.
- 7 Q. Certainly not Drive?
- 8 A. No, sir.
- 9 Q. What is the date that was served on him?
- 10 A. The 14th of December of 2011.
- 11 Q. So not November?
- 12 A. No, sir.
- 13 Q. December?
- 14 A. Yes, sir.
- 15 Q. More than a month after you talked with Ms. Timmons?
- 16 A. Yes, sir.
- 17 Q. With Judge Timmons, I should say.
- 18 A. Yes, sir.
- 19 Q. I believe you said you've been at the Florence County
- 20 Sheriff's Office for fifteen years?
- 21 A. Yes.
- 22 Q. How did you start off?
- 23 A. I started off as a patrolman. Went to the Academy,
- 24 of course, and was on the road for approximately two
- 25 years. Went to a school as SRO at South Florence High

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1 School for five years and was promoted to investigations
2 in 2005.

3 Q. So for the last nine years you've been an investi-
4 gator?

5 A. Yes, sir.

6 Q. And at the time this happened some six years?

7 A. Yes, sir.

8 Q. How many calls do you think you get a year?

9 A. I average -- when I first started investigations I
10 was averaging somewhere around seventy cases a month. I
11 am now down to probably thirty cases a month.

12 Q. So to begin with, you were getting six to eight hun-
13 dred cases a year?

14 A. On average, yes.

15 Q. And then lately, I guess, maybe three hundred and
16 fifty to five hundred cases a year?

17 A. It has come down considerably, yes, sir.

18 Q. Now, you first got the call on October third, 2011?

19 A. Yes, sir, I did.

20 Q. I got you're briefed by Sergeant Hanna and you worked
21 with Jamie Shefton?

22 A. Yes.

23 Q. You didn't talk to the little girl, did you?

24 A. No, sir, I didn't.

25 Q. And you did that because you don't want to influence

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1 her in any way. Is that right?

2 A. That's correct.

3 Q. Mr. Waldermo, Jorgen, was already there?

4 A. Yes, sir.

5 Q. Was his wife, Jeanene, there?

6 A. When I first entered the room, I didn't see her but
7 she came in afterwards and we talked to Mr. Waldermo.

8 Q. Then after some things were said, you agreed that
9 Karen would come?

10 A. Yes, we did.

11 Q. And Karen came and I think he brought Younger Sister with
12 her. Is that right?

13 A. If I recollect -- I can't remember how Younger Sister ar-
14 rived. I'm not sure if she was with Waldermo or she came
15 in with her.

16 Q. D.S.S. drew up a safety plan?

17 A. Yes, sir.

18 Q. And in the safety plan, if you recall -- you may not
19 but one of the things Karen wanted was for them to con-
20 tinue to go to Girl Scouts?

21 A. Yes.

22 Q. And she had been active in Girl Scouts, I guess, with
23 the girls?

24 A. Yes, sir.

25 Q. While we're on that subject, did you ever go and talk

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1 with anyone at Girl Scouts?

2 A. No, sir, I did not.

3 Q. About these allegations?

4 A. No, sir, I did not.

5 Q. So then you were at the Ark, and then I think you
6 said you went to talk to Leonard Brockington, but before
7 we get to that you set up the interview with the Ark?

8 A. Yes, sir.

9 Q. You wanted to get one in Florence?

10 A. Yes.

11 Q. Nothing was available so you had to go out of town?

12 A. That, and it was a little bit more convenient for
13 the Waldermos.

14 Q. Two weeks later is when the interview was actually
15 set up?

16 A. Yes, sir.

17 Q. Now, earlier you testified -- you said at first I
18 didn't know that there was anything about oral sex. The
19 allegations I received on October third were he touched me
20 and I touched him?

21 A. That's true.

22 Q. And then you went back and followed up on October
23 13th, 2011, and still consistent -- he touched me and I
24 touched him?

25 A. As far as I remember, yes.

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1 Q. No mention of any oral sex at Delmay, no mention of
2 oral sex ten days later on October 13, 2011, when the fol-
3 low-up was done?

4 A. As far as I remember, yes.

5 Q. The first time anything about oral sex was when she
6 goes to the Ark and meets with Alicia Benedetto, is that
7 right?

8 A. Yes, that's true.

9 Q. On 10 6, three days later which would have been a
10 Thursday -- if I have this right . .

11 A. Sounds right.

12 Q. So October third was a Monday so October 6th would
13 be Thursday -- you called Mr. Brockington, and Leonard
14 didn't go, you know what, Investigator Collins, I'm busy
15 right now?

16 A. No, sir.

17 Q. Investigator Collins, I'll be there; what time, and
18 it was set up the next day?

19 A. That's right.

20 Q. So the next day by my calculations you all talked
21 about thirty minutes?

22 A. That's about right, yes, sir.

23 Q. Any questions you asked him he answered?

24 A. He did.

25 Q. Any questions you asked him about Minor as far as

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- 1 him touching her -- I did not do this. Right?
- 2 A. That was the response, yes.
- 3 Q. In the interview, he said I don't have my license but
- 4 here is why I don't have my license? He said that too?
- 5 A. He did.
- 6 Q. He said I don't have a record?
- 7 A. That's true, he did.
- 8 Q. He told you he was working?
- 9 A. Yes.
- 10 Q. So he could get his own house?
- 11 A. Yes, sir.
- 12 Q. He told you that he had called Jorgen and said, look,
- 13 something ain't right here?
- 14 A. Yes.
- 15 Q. He told you he talked with Mr. Jorgen Waldermo and
- 16 said you all need to get this checked out?
- 17 A. Yes, he did.
- 18 Q. He told you that he had concern about the little
- 19 girl's actions?
- 20 Q. Yes.
- 21 Q. Told you he had coached Little League baseball for
- 22 fourteen years?
- 23 A. Yes, sir.
- 24 Q. Told you he would not do this; matter of fact, he
- 25 would kill a guy who did that if they had done this to

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1 one of his children?

2 A. Yes, sir.

3 Q. Later at some point in time during that interview,
4 maybe after fifteen or twenty minutes -- I'm not saying
5 you did anything wrong but I just want to read you these
6 rights?

7 A. Yes, sir.

8 Q. So you did?

9 A. Yes.

10 Q. And he continued to talk to you?

11 A. He did.

12 Q. He didn't say, I don't feel comfortable, and I don't
13 want to go any further?

14 A. No.

15 Q. He didn't do that?

16 A. No, sir.

17 Q. He continued to talk to you and you asked him some
18 of the same questions again, and he continued to answer?

19 A. That's correct.

20 Q. Now, you said you went and talked with a neighbor
21 shortly after that on -- let me back up for a second.

22 When you were talking to Leonard, he said to you on
23 Saturday before all this came out there were about four or
24 five kids playing and I think Karen was in there taking a
25 shower, if I remember right, and four or five kids were

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1 getting ready to barge in the door. I didn't know if she
2 was naked but I said, whoa, whoa. Is that right?

3 A. Yes, sir.

4 Q. He told you Minor got mad at him?

5 A. Uh hm.

6 Q. Now, on October 11th, you went to talk to Ms. Staci
7 Parker?

8 A. Yes, sir.

9 Q. When I say October 11th, I mean October 11 of 2011.
10 She basically told you that she was approached by

11 MGA . . .

12 A. Yes.

13 Q. . . and they wanted me to talk with Karen because I
14 am friendly with her?

15 A. Yes.

16 Q. She said she told him not to act flirtatious in front
17 of me and I didn't see anything untoward with Minor Is that
18 that what you talked about, you and she?

19 A. Yes, sir, and she denied seeing any sexual behavior
20 out of Minor .

21 Q. Right. You go across the street and talk with
22 MGA , is that right?

23 A. Yes, sir.

24 Q. Now, when you were talking with her, you said, how
25 you doing; do you feel comfortable; I want you to be

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1 comfortable.

2 I want you to tell me anything and everything that
3 you can remember. I want you to tell me everything in as
4 clear and as precise and in as much detail as you can tell
5 me. Is that right?

6 A. That would be fair.

7 Q. Not keep it short and sweet; I ain't got time for
8 all this?

9 A. No, I wouldn't tell them that.

10 Q. You probably would tell them after being in law en-
11 forcement as long as you have, and after being an inves-
12 tigator as long as you have, hey, if something comes up
13 or if anything at all comes to mind, here's my card; give
14 me a shout. Is that right?

15 A. Yes, sir. I did.

16 Q. And as an investigator one of the things you're taught
17 in the Academy is to take notes. Is that right?

18 A. Yes, sir.

19 Q. Put them in a report?

20 A. Yes, sir.

21 Q. Is that right?

22 A. Yes.

23 Q. And when you write the reports, of course, you want
24 them to be as truthful, as accurate and as complete as
25 possible. Is that a fair statement?

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1 A. Fair statement.

2 Q. And the reason you want to do that is -- well, one
3 reason, God forbid, if something happened to you down
4 the line another investigator would have to take it up,
5 and if you hadn't written it down he would say what can I do now

6 A. Right.

7 Q. So you've got the notes and you've got the report,
8 haven't you?

9 A. Sure.

10 Q. And this was October of 2011, and we're now April
11 of 2014. My memory doesn't get better with time. How
12 about yours?

13 A. No, sir.

14 Q. So you need to be able to go back and look at your
15 notes and refresh your memory. Would that be a fair
16 statement?

17 A. Absolutely.

18 Q. All right. Anywhere -- I'm sorry. Let me back up.
19 Sitting with MGA at her house, her mom and dad were
20 present?

21 A. Yes.

22 Q. Two parental figures?

23 A. Yes.

24 Q. At any time do you say, oh, man, MGA -- she
25 was some kind of upset when this went down a couple of

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1 weeks ago?

2 A. No, sir, I did not annotate that.

3 Q. Did Amy Anderson say, man O man, when my daughter
4 called me at the beach, she was some kind of upset?

5 A. She made a verbal statement but I did not annotate
6 that, no.

7 Q. Now, you also -- like a good investigator will do,
8 you wrote handwritten notes?

9 A. I did.

10 Q. In your handwritten notes, did you say anything at
11 all about the statement Amy Anderson made?

12 A. I can't remember.

13 Q. You want me to show it to you?

14 A. If you want to show it to me, sure.

15 Q. Do you recognize that?

16 A. I do.

17 Q. Is that your handwriting?

18 A. Yes, it looks like mine.

19 Q. October 11, 2011.

20 A. Uh hm.

21 Q. Is that when you interviewed her?

22 A. Yeah, the people who were there. MGA and Amy
23 and Kirby Anderson.

24 Q. Anywhere in there do you say Amy said that?

25 A. No, sir.

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1 Q. When you were talking with Staci Parker, she indicated
2 to you that Karen actually defended Mr. Brockington, didn't
3 she?

4 A. Yes.

5 Q. Someone who had custody of two little girls for three
6 years prior to this defended Mr. Brockington?

7 A. Yes.

8 Q. Now, when you were talking with MGA , and Mr.
9 Wells asked you about this -- you are correct that they
10 were playing at MGA house when you made a mis-
11 take, and they were actually playing at Minor and Younger Sister
12 house?

13 A. Yes, sir. That was a slight on my part, yes.

14 Q. And the next thing you wrote -- do you have a copy
15 of your report?

16 A. Yes, sir.

17 Q. Inside and playing school, they also dressed up Eason
18 who was playing. Minor went to Karen Waldermo's door,
19 knocked on it to ask a question. She heard Leonard
20 Brockington yelling at Minor .

21 That is what you wrote, is that right?

22 A. Yes.

23 Q. You wrote that in handwritten notes and were retyping
24 this report within how many days afterward? A week, two
25 weeks, three weeks?

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1 A. I'd say three to four weeks.

2 Q. When it was still fresh in your mind?

3 A. As much as it could be with the notes I had written
4 down as well.

5 Q. Leonard said on tape that four or five kids tried to
6 get in the room and she was in there taking a shower, and I
7 jumped up and said, whoa, whoa, and Minor got mad.

8 Inside playing school and dressed up Eason who was
9 present playing. Minor went to Karen Waldermo's door
10 and knocked on it to ask a question, and she heard Leonard
11 Brockington yelling at Minor.

12 She didn't say Brockington was in the room and yelled
13 through the door, did she?

14 A. Not to my memory.

15 Q. She didn't say Karen Waldermo was not there. She
16 didn't say that, did she?

17 A. Not to me that day. No, sir.

18 Q. Leonard said he yelled for Minor not to go in there,
19 and MGA said she yelled at Minor not to go in
20 there?

21 A. That's correct, to the best of my memory, yes.

22 Q. On October 10th you also met with Jorgen Waldermo and
23 his wife, Jeanene, at the D.S.S. Office?

24 A. Yes.

25 Q. You spoke with both of them at that time?

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1 A. Yes.

2 Q. He told you that he knew about this in September?

3 A. Yes.

4 Q. You later called in Ms. Heidi Smith, is that right?

5 A. Yes.

6 MR. WELLS: Your Honor, I'd have to object. She is
7 not present and has not testified at the trial.

8 THE COURT: I'm going to allow him to ask the question
9 but he can't testify to what somebody else said.

10 BY MR. ANDERSON:

11 Q. Did you talk with Ms. Heidi Smith?

12 A. Yes.

13 Q. Did you ask her questions?

14 A. I spoke with her briefly, yes.

15 Q. As a result of those questions, did you ask her if
16 she'd ever babysat for the Waldermos?

17 A. I did.

18 Q. Did she indicate she . . .

19 MR. WELLS: Your Honor, I'd have to object to what
20 she said.

21 THE COURT: That's all the questions I'll allow as to
22 that.

23 The objection is sustained.

24 MR. ANDERSON: I'll move on, Your Honor.

25 Q. I know that on October third you went to Delmay. I

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1 know that on October 6th you called Leonard; on October 7
2 you interviewed him.

3 I know that on October 11 you talked to Staci and
4 went across the street and talked to MGA . Two days
5 later Mr. and Mrs. Waldermo and D.S.S.

6 After that, you went -- when you heard about the Ark
7 you later went and got a warrant?

8 A. Yes, sir.

9 Q. And at any point in time, did you get Karen Waldermo
10 to come in and give you a statement?

11 A. Based on how she reacted at the school and her defens-
12 ive attitude, I didn't feel it would be helpful to either
13 Mr. Brockington or the child.

14 So, no, I did not.

15 Q. At any point in time, did you go this job and say,
16 hey, let me ask you a couple of questions about Leonard
17 Brockington?

18 A. No, sir.

19 Q. Any point in time did you try to track down any former
20 baseball players or any of their families to ask them about
21 Mr. Brockington?

22 A. No, sir.

23 Q. He said on the tape Cheryl Cooper is a D.S.S. worker,
24 and she's a doll baby. Sometimes she was called out on
25 calls and I'd babysit her kids. I'd like to take her

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1 home with me, she's a doll baby.

2 Did you ever go and talk to Cheryl Cooper -- sorry,
3 Michelle Cooper?

4 A. No, I didn't.

5 Q. Did you put that anywhere in your notes?

6 A. No, sir, I did not.

7 Q. Were Michelle Cooper's children given a forensic in-
8 terview?

9 A. . .

10 MR. WELLS: Your Honor, I would object.

11 THE COURT: I overrule your objection. You may answer
12 that question.

13 A. I'm sorry. Would you repeat that?

14 BY MR. ANDERSON:

15 Q. Were her children given a forensic interview?

16 A. They were on a separate incident that was later on.

17 Q. Any allegations against Leonard Brockington?

18 A. No, sir.

19 Q. Did Michelle say anything squirrely or funny about
20 Leonard Brockington?

21 A. . .

22 MR. WELLS: Your Honor, I'd have to object to what
23 she said.

24 THE COURT: I'll sustain the objection.

25 Q. Did you talk to Mr. Brockington's ex-wife?

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1 A. No, sir.

2 Q. Did you go to Leonard Brockington's house?

3 A. No, sir.

4 Q. Did you go to Minor 's house and say, you know what?

5 I heard about a flowery chair in the den. I'd like to

6 look and see if there is a flowery chair in the den?

7 A. No, sir.

8 Q. Go in the kitchen and say, you know, I've heard some

9 stuff about this kitchen. I'd like to know how open is

10 it and could you see in it from the back yard; how big is

11 it? Did you do that?

12 A. No, sir.

13 Q. There were some allegations -- of course, they did

14 change, but there were some allegations about a bedroom.

15 Did you go in that bedroom and check it out?

16 A. No, sir.

17 Q. And in your warrant you allege this thing happened be-

18 tween January and September?

19 A. Yes, sir.

20 Q. Did you ever try and ask Minor did this happen when

21 it was cold? Did this happen when it was warm? Did it

22 happen in school, did it happen over the summer?

23 Did you ever do that?

24 A. I did not.

25 Q. Did you ever go to Karen's house and look for anything

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- 1 on the internet, see if there were pornographic magazines,
2 pornographic tapes, anything like that?
- 3 A. There were no allegations made of pornography.
- 4 Q. Was the child ever asked about pornography?
- 5 A. I believe in her interview she was not asked about
6 that.
- 7 Q. Did you ever ask her?
- 8 A. I did not.
- 9 Q. Did you ever go to Leonard's house and inspect his
10 house?
- 11 A. Again, there were no allegations made about pornography.
12 No, I did not.
- 13 Q. You ever talk to any of Leonard's neighbors over there
14 at Drive?
- 15 A. No, sir.
- 16 Q. Did you ever check with after school care? Minor
17 said she would go to Ebenezer and she would go to some-
18 where else. Did you ever check there to see if Minor or
19 Younger Sister ever mentioned anything at all about something funny
20 going on?
- 21 A. No, sir.
- 22 Q. Mr. Wells talked to you and you said, hey, when you
23 interviewed Mr. Brockington he appeared anxious, he appeared
24 nervous?
- 25 A. I asked him several direct questions and he would
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1 try to change the direction.

2 Q. You recall that?

3 A. Yes, sir.

4 Q. Do you recall Dr. Benedetto testifying?

5 A. I do.

6 Q. Do you recall her ever looking at me a single time
7 when I asked her a question?

8 A. If she did, I did not see it. I can't say.

9 Q. As a matter of fact, she looked this way the whole
10 time, didn't she?

11 A. I can't recall where she looked the whole time, Mr.
12 Anderson.

13 Q. I came over here and just sat down by my legal
14 assistant a couple of times. Did you see that?

15 A. I did see that.

16 Q. One time I was hoping maybe she would look at me, the
17 whole way over here, and did she turn and face me?

18 A. Again, I didn't see -- I didn't pay attention to
19 that.

20 Q. I asked her several questions, and did she give me a
21 direct answer or did she ramble on? Then one time I said
22 . . .

23 MR. WELLS: What he's asking calls for speculation on
24 the part of the witness.

25 THE COURT: I think he can assess whatever he asks.

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1 I'll allow him to answer that.

2 BY MR. ANDERSON:

3 Q. Did you answer? Did she give me a direct answer?
4 Give me a yes or no answer?

5 A. Again, I can't recall her complete testimony.

6 Q. One could argue, couldn't they, Investigator Collins,
7 that she was anxious, maybe a little nervous?

8 When I asked a direct question, she changed the
9 subject and went elsewhere, and would you argue that about
10 Dr. Alicia Benedetto?

11 A. I wouldn't know whether to argue that or not.

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

13 (Brief pause in proceeding)

14 MR. ANDERSON: Your Honor, no more questions.

15 THE COURT: Any Redirect?

16 MR. WELLS: Just a few questions.

17 REDIRECT EXAMINATION

18 BY MR. WELLS:

19 Q. Investigator Collins, would you say that Dr. Benedetto
20 looked directly at the jury when she answered questions?

21 A. Yes, she was directing her comments to the jury.

22 Q. And when you interviewed the Defendant, was there a
23 jury present in the room?

24 A. No, there was not.

25 Q. Were you the only one present?

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1 A. Yes, sir, I was.

2 Q. Did he at one point look like he was doing something
3 with his pocket during the interview?

4 A. It appeared he was pulling them out of his pocket and
5 holding onto his keys.

6 Q. Now, when you do a case like this, are you going to make
7 notes, and is it possible for you to write down everything you
8 are told?

9 A. No, sir, not everything.

10 Q. You only write down the most important things?

11 A. I do.

12 Q. I mean, one of the most important things in this par-
13 ticular case would be talking with the neighbor and the out-
14 cry witness across the street, as far as the allegations
15 against the Defendant?

16 A. Yes.

17 Q. Did you consider the fact that the twelve year old
18 was upset when she did talk would be one of the import-
19 ant things to write down?

20 A. I wouldn't think so. At the time, the information
21 would be more important.

22 Q. Do you recall anybody telling you that?

23 A. Yes, Ms. Anderson told me her daughter was very upset
24 the time she called her.

25 Q. That's all.

1 THE COURT: You may step down.

2 (Witness excused from stand)

3 THE COURT: You may call your next witness.

4 SOLICITOR: Your Honor, the State would rest at this
5 time.

6 THE COURT: Mr. Foreman, ladies and gentlemen of the jury,
7 we have some matters of law to take up, so I am going to ask
8 you to return to the jury room once again.

9 Do not discuss the case. Mr. Foreman, I would ask you
10 to enforce that.

11 Everyone remain seated as the jury exits the Court-
12 room .

13 (Jury excused from Courtroom) , .

14 THE COURT: We'll take about a five minute recess, and
15 when we come back we'll continue.

16 (Court took brief recess, after which the matter was then
17 continued)

18 THE COURT: Please be seated. All right, I'll be
19 happy to entertain motions at this time.

20 MR. ANDERSON: Your Honor, may it please the Court?
21 In behalf of Mr. Brockington, the first motion would be --
22 it relates to Warrant N274311, criminal sexual conduct with
23 a minor under eleven years of age.

24 Your Honor, we would ask for a directed verdict at
25 this time. Judge, in the very beginning she would not

1 answer any questions when Ms. Parr was talking to her. Ms.
2 Parr asked her questions, and she repeatedly said I don't
3 know or I don't remember.

4 After she worked with her for several minutes, she did
5 say that something did happen.

6 Your Honor, in Cross Examination when I was talking to
7 her, she could not remember talking with Ms. Benedetto or
8 remember meeting people at Delmay School, or what things were
9 discussed or talked about.

10 She was not giving me a direct answer, and, Your Honor,
11 based on that, I would ask that that charge be dismissed.

12 THE COURT: Be glad to hear from the State.

13 SOLICITOR: Your Honor, we believe that the charge
14 should not be dismissed. She testified on Direct he made
15 her suck his private penis. That was clear. That was also
16 -- she also disclosed that during the forensic interview.

17 Your Honor, she was a very young child. These things
18 happened when she was six. She has just turned nine now.

19 Your Honor, she was uncomfortable being here, and she
20 had to become acclimated to where she was.

21 For those reasons, we would ask that it not be dis-
22 missed.-- that the warrant not be dismissed.

23 THE COURT: Mr. Anderson, what you said is absolutely
24 true. It wasn't lost on me, nor the jury, and I anticipate
25 you are going to explain that to the jury in no uncertain

1 terms.

2 However, I do believe it's a question of fact. I think,
3 taking everything into consideration, there is at least a
4 scintilla of evidence that that happened just based on her
5 testimony and her testimony alone.

6 There are some inconsistencies in what she said, some
7 inconsistencies in the manner in which she testified and the
8 manner of reporting. I think all those things can be
9 pointed out.

10 This is a classic question for a jury to resolve.

11 Anything further from the Defense?

12 MR. ANDERSON: Yes, I would make the same motion as
13 far as the lewd act, but I understand that that evidence
14 did come out.

15 Your Honor, I would make that motion as well as to the
16 other warrant, Warrant Number 274312. Again, a lot of in-
17 consistencies. First she denied it, and later she -- on
18 Cross Examination she denied it.

19 Matter of fact, I would go one step further. She told
20 about two instances, and then when she testified she only
21 told about one instance as far as lewd act is concerned.

22 Your Honor, I would just make that motion as far as
23 that is concerned.

24 THE COURT: All right. Anything further, Ms. Parr?

25 SOLICITOR: No, sir.

1 THE COURT: I do think both of them are questions of
2 fact for the jury to resolve, and, Mr. Brockington, I'm going
3 to ask if you could stand for me.

4 At this time, I'm going to explain to you certain of
5 your rights. If you do not understand anything I say, or if
6 you want me to explain anything in more detail please let
7 me know.

8 Do you understand?

9 DEFENDANT: Yes.

10 THE COURT: We have now reached the stage of the trial
11 where you may present your Defense. You have a right to
12 claim the protections given to you under the Fifth Amendment
13 to the Constitution of the United States, which states in
14 relevant part, no person shall be compelled in any criminal
15 case to be a witness against himself.

16 That means you cannot be required to testify in this
17 case.

18 You have a right to testify in your own behalf if you
19 elect to do so. However, no one can make you testify. This
20 is a personal right and no one can waive this right except
21 you.

22 If you decide to testify you would be subject to the
23 same rules that govern other witnesses, and you may be exam-
24 ined and cross-examined on any relevant issue in this case.
25 In addition, if you have any convictions concerning any

1 dishonesty or false statement or crimes punishable by imprisonment for more than one year and the Court determines that
2 the probative value of admitting this evidence outweighs
3 the prejudicial effect to you, the Solicitor will be able to
4 introduce that record to attack your credibility.
5

6 I understand based on the statements that you do not
7 have a record.

8 DEFENDANT: No, sir, I do not.

9 THE COURT: Clearly, your lawyer has discussed that
10 with you.

11 If you decide to testify, this decision on your part
12 must be freely, voluntarily and intelligently made, with
13 knowledge of the protections given to you by the Fifth Amendment of the Constitution, and you must understand the consequences of your decision to testify.
14
15

16 If you decide not to testify, I will instruct the jurors
17 that they cannot give the fact that you did not testify any
18 consideration whatsoever, and that there is to be absolutely
19 no prejudice to you because you did not testify.

20 That is left entirely up to you, whether or not to
21 testify. You may talk with your attorney, your family members, or anyone else, but the final decision is left entirely
22 up to you.
23

24 DEFENDANT: I understand that, Your Honor.

25 THE COURT: Do you have any questions about what I have

1 explained to you?

2 DEFENDANT: No, sir. I think I completely understand
3 everything you are saying.

4 THE COURT: All right. Have you discussed this matter
5 with your lawyer?

6 DEFENDANT: Yes, I have.

7 THE COURT: Do you need any additional time to dis-
8 cuss it with him?

9 DEFENDANT: No, I don't think so.

10 THE COURT: Do you wish to testify?

11 DEFENDANT: Well, I mean, my talk with Chad pretty
12 wells sums up anything that I could add. I mean, that is
13 basically what I know, and I don't think I could add any-
14 thing, so I'm not going to testify.

15 THE COURT: Very good. Thank you.

16 DEFENDANT: Thank you.

17 THE COURT: All right. Mr. Anderson, do you anticipate
18 calling any witnesses?

19 DEFENDANT: Your Honor, may it please the Court? I've
20 talked with Leonard in detail about him testifying. We also
21 talked about calling witnesses.

22 Your Honor, to answer your question, I'd like just a
23 minute or two to discuss it with his family. As I expressed
24 in opening remarks to the jury, this is an extremely serious
25 case, Your Honor, and I want it to be totally his decision

1 after talking with his family.

2 If you could just give me a moment or two?

3 THE COURT: Certainly. We will sit right here.

4 (Brief pause)

5 (Conference at the bench between counsel and the Court
6 off the record)

7 THE COURT: We're going to stand at ease for ten minutes.
8

9 (Court took brief recess, after which the matter was
10 continued)

11 THE COURT: Please be seated. You all can resume your
12 place, and we'll go over the charge.

13 All right, I'll go over what I intend to charge --
14 nothing very unusual.

15 I'm going to charge the fact that an indictment is not
16 evidence, presumption of innocence, reasonable doubt, duty
17 of the jury and trial judge.

18 Direct and circumstantial evidence, credibility of wit-
19 nesses and expert witnesses, failure of Defendant to testify
20 and prior inconsistent statements.

21 I'm going to -- I would like to hear what counsel has
22 to say about charging the law with regard to statements,
23 Miranda, voluntariness and all.

24 You know, we've got a statement here where Miranda is
25 given but this is a very unusual situation in that the

1 statement is not inculpatory. Mr. Anderson, I'd like to
2 hear what you have to say about it first, whether we even
3 get into the issue of the voluntariness.

4 I don't think that is really the issue, but do you re-
5 quest that I charge how the jury is to evaluate a statement
6 that is given? If so, I will be happy to do that. I just
7 under these circumstances do not believe it is necessary.

8 MR. ANDERSON: I would agree, Your Honor.

9 THE COURT: What does the State say about it?

10 SOLICITOR: The State would agree.

11 THE COURT: Very good.

12 I'm going to charge the law about how to evaluate the
13 testimony of a child.

14 I'm going to charge the substantive law of first degree
15 criminal sexual conduct with a minor and lewd act on a
16 minor.

17 Any special requests by the State?

18 SOLICITOR: Yes, Your Honor. I passed one up, a re-
19 quest to charge based upon the statute, 16-3-657.

20 THE COURT: All right. That has been chargd before,
21 and it was charged in a case very similar to this; and the
22 Supreme Court said it was not error to charge it, but that
23 doesn't necessarily mean that I ought to charge it.

24 What do you think about the argument, or at least
25 the position that that really -- whether or not the jury is
329

1 to believe the child is really -- whether or not that is
2 proved beyond a reasonable doubt is left up to the jury,
3 and I think that is sort of in the jury's province to say
4 that.

5 SOLICITOR: Your Honor, . .

6 THE COURT: The law says it doesn't have to be but one,
7 but I'm not real sure whether the jury needs to be made aware
8 of that or not.

9 What do you think about that, Mr. Anderson?

10 MR. ANDERSON: Your Honor, I agree with what you've
11 said, Your Honor.

12 Also, in your opening remarks, no one is required to
13 prove themselves innocent. Often it is the case that you
14 can't prove yourself innocent.

15 I think -- I don't think it should be charged, Your
16 Honor.

17 THE COURT: All right.

18 SOLICITOR: Your Honor, the reason we ask that it be
19 charged, Your Honor, is that it is good law in South
20 Carolina.

21 It has not been found to be unconstitutional by either
22 the Supreme Court or Court of Appeals. Your Honor, the
23 rationale of it is . .

24 THE COURT: You read what the Supreme Court said about
25 it -- said it's not error to charge it but it didn't say

1 that you should.

2 SOLICITOR: Correct, Your Honor, but the State would
3 ask that it be charged.

4 I mean, you never have anybody who is going to say
5 they've seen this happened. It is always something that's
6 done when it's just the child and the perpetrator.

7 THE COURT: All right, and I think that is what you
8 ought to tell the jury.

9 I'm not going to charge it.

10 Anything else, from the Defense?

11 SOLICITOR: Would you please note our objection?

12 THE COURT: Yes, your objection is noted.

13 MR. ANDERSON: Nothing from the Defense, Your Honor.

14 I would ask if you want me to rest on the record or what do
15 you want me to do when the jury comes out?

16 THE COURT: I will recognize you, and I assume the
17 appropriate thing is you just rest, and then we will pro-
18 ceed with closing arguments.

19 MR. ANDERSON: Yes, Your Honor.

20 THE COURT: Very good, and obviously the State goes
21 first. Are you going to present the closing argument?

22 SOLICITOR: Yes, Your Honor.

23 THE COURT: Very good, we're ready for the jury.

24 (Jury returned to Courtroom)

25 THE COURT: Mr. Anderson, you are recognized.

1 MR. ANDERSON: Your Honor, at this time the Defendant
2 would also rest.

3 THE COURT: Very good. Mr. Foreman and ladies and gen-
4 tlemen of the jury, you have heard all the evidence to be
5 presented in this case.

6 As I mentioned in the very beginning, this is the time
7 where the lawyers have an opportunity to present closing ar-
8 guments which are very similar in form to the opening state-
9 ments.

10 These are truly argumentative in nature, because you
11 have heard all the evidence to be presented in the case,
12 and the lawyers will give arguments that support that re-
13 spective positions and inferences to be drawn from that.

14 Although it is not evidence, it will aid you immensely
15 in the deliberation process. You and I have been involved
16 in the case since Monday, and they've been involved in it
17 for months at this juncture.

18 So pay very close attention. The procedure under the
19 circumstances it that the State goes first.

20 Ms. Parr, you're recognized.

21 SOLICITOR: Thank you, Your Honor.

22 Ladies and gentlemen of the jury, in behalf of the
23 State of South Carolina I would like to take this opportun-
24 ity to thank you for your service in this case.

25 This is a very important case not only to the State

1 but to Minor as well as to the Defendant.

2 At this time, I would like to tell you a little bit
3 about the law that I think the Judge will charge to you, and
4 after talking with you about the law I will go into more of
5 the details of the case and what is involved.

6 As the Judge told you at the beginning of the trial,
7 the State carries the burden of proof, and that burden of
8 proof is beyond a reasonable doubt.

9 Now, a reasonable doubt is a doubt that would cause a
10 reasonable person to hesitate to act.

11 The Judge also told you about using your common sense,
12 and, in this particular case as in all cases, it will aid
13 in your determination of the facts as well as the credibil-
14 ity and believability of the witnesses.

15 You will also hear a charge about presumption of inno-
16 cence. In criminal matters, the Defendant will always be
17 presumed to be innocent. That is true in this particular
18 case.

19 You will hear also a charge about evidence, about direct
20 and circumstantial evidence. The Judge will also charge you
21 about your duties as jurors and his duty as the Judge.

22 Your duty is to determine the facts in this case. He
23 will charge you on the law also with regards to expert tes-
24 timony. When the experts testified, he gave you the law
25 on expert testimony at that time. He will charge you in

1 more detail concerning expert testimony.

2 You heard earlier about credibility of witnesses. He
3 hsa told you that you would be the judge of determining
4 credibility of witnesses. That means believability, and
5 the Judge will charge you that as well.

6 He will also give you a charge on prior inconsistent
7 statements.

8 Now, the substantive law in this case and what I call
9 the meat of the case is what the Defendant is charged with.
10 He is charged with criminal sexual conduct with a minor in
11 the first degree.

12 We believe the law is that a person is guilty of crim-
13 inal sexual conduct with a minor in the first degree if he
14 engages in a sexual battery with a victim who is under the
15 age of eleven years.

16 The Judge will also give you the charge as to what con-
17 stitutes a sexual battery. Section 16-3-651 of the South
18 Carolina Code defines sexual battery as sexual intercourse,
19 cunnilingus, fellatio, anal intercourse, or any intrusion,
20 however slight, into any part of a person's body or of any
21 object into the genital or anal openings of another's per-
22 sons body, except when the intrusion is accomplished for
23 medically-recognized treatment.

24 For the purpose of this trial, the sexual battery that
25 we are concerned with is fellatio. It is defined as the

1 oral stimulation of the penis or to suck the penis.

2 The Defendant is also charged with committing a lewd
3 act upon a child under the age of sixteen. Under the laws
4 of South Carolina, it is unlawful for a person under the
5 age of fourteen to be used to wilfully and lewdly commit
6 or to attempt to commit a lascivious act upon the body or
7 its parts of a child under the age of sixteen with the in-
8 tent of appealing to or gratifying the lust or passion of
9 that person of the Defendant or of the child.

10 So we believe that is the law in this particular case
11 that the Judge will charge you.

12 Now, you have heard from numerous witnesses in the past
13 couple of days in regards to this matter, and at the begin-
14 ning of the case Mr. Wells gave you a synopsis of what we
15 intended to show.

16 We believe that on or about September 24 of 2011 that
17 this incident came to light by the Defendant, Leonard
18 Brockington, also referred to as Brock, when Minor , the
19 victim in this matter, was six years old.

20 Her mother and father, Jorgen and Karen Waldermo,
21 got separated in 2008 and divorced in 2009. After the sep-
22 aration, the children stayed with Karen, with Jorgen having
23 visitation rights.

24 Then Jorgen remarried in 2010, and the children remained
25 with Karen. Karen became involved with the Defendant,

1 Leonard Brockington, the subject of this action, in some part
2 of the early part of 2011.

3 On September 24th of 2011, Minor was at home and the
4 Defendant was there, as well as the mother, Karen, and her
5 sister, Younger Sister and MGA, a twelve year old friend
6 and neighbor.

7 There was some mention that Eason may have been there
8 as well. They were playing, and Minor went to her mother's
9 door and was knocking on the bedroom door when the Defen-
10 dant yelled at her. At that time, MGA asked, has he
11 always yelled at you like that? She was alarmed, and at
12 that time Minor said to MGA there were other things
13 he did to her.

14 She told her that he makes her touch his private part,
15 and she not only told her what he did but she demonstrated.
16 She did not come out and say that it was masturbation, but
17 she actually showed her what he made her do.

18 Minor told her, and MGA became upset and she
19 left after she found out about it, and she went home. I
20 think first she said she walked around the neighborhood to
21 try to decide what she needed to do. We're talking about a
22 twelve year old who had just been given some devastating
23 news.

24 She goes on home, and her mom is out of town, but she
25 calls her mom. She didn't want to tell her dad because she

1 was embarrassed. She's twelve.

2 MGA calls her mom, and her mom gets her dad on
3 the phone. They talk and she asks her dad to contact Staci
4 Parker -- she's now Staci Nichols. Staci is alarmed, and
5 they all say how upset MGA was.

6 Staci said she was visibly upset and crying. Her mom
7 said she was upset on the phone when she was talking to
8 her, and MGA testified that she was upset at what
9 she had heard.

10 It was decided that Staci would tell Karen when she
11 got home. They waited for Karen to get home, and then when
12 she did Staci Parker Nichols told her what Minor had re-
13 vealed to MGA .

14 Instead of being upset or concerned, she defended --
15 Karen defended the Defendant, Brock.

16 Staci said she told her, well, you need to tell Jorgen,
17 and so this continued. She didn't tell Jorgen that night.
18 Jorgen called on Sunday as he normally called on the week-
19 ends when he didn't have the children.

20 He calls, he talks to the girls, and then after he
21 finished talking to the girls Karen tells him that Minor
22 had made an allegation about the Defendant. She didn't
23 give him any details or anything of that nature.

24 The next weekend, the weekend of October first, on
25 that Sunday while the girls are visiting on their regular

1 visitation in Charlotte, they are talking about how things
2 were going in Florence, talking about Florence Minor tells
3 him, but she doesn't go into any details.

4 She tells him that Brock had made her touch him and
5 that he touched her.

6 He, like any parent, was very concerned, and what did
7 he do? He called Karen and told her what Minor told him,
8 and he immediately calls the police department. The police
9 department tells him to take the child back to school and
10 not to the parent's house.

11 At that time, law enforcement arrives at Delmay and talks
12 to Minor along with Jamie Shefton of the Department of
13 Social Services.

14 Ms. Shefton told us -- you know, she had worked as a
15 case worker in child services for probably seven or eight
16 years, four years in the Guardian ad Litem program and some
17 three years with the Department of Social Services and Child
18 Protective Services.

19 She got just enough information to see if there was
20 something that they needed to act upon. She said they had
21 talked to Minor for about an hour. She was trying to es-
22 tablish a rapport because this is a six year old -- trying
23 to get some information, and that's what she did.

24 And once they got enough information that something
25 happened, that is when they called Chad -- Investigator Chad

1 Collins.

2 Investigator Collins at that time talks with Mr.
3 Waldermo and his wife, Jeanene, as well as Karen, once she
4 arrived.

5 Jamie Shefton at that point was charged with making a
6 determination of whether or not these children were pro-
7 tected or could be protected in the home of the mother,
8 Karen.

9 Based upon her conversation with Karen, talking with
10 Minor , a determination was made to do a safety plan and
11 put these children temporarily in the home of their father.

12 She found out that Minor had reported it to her mom,
13 Karen, and she told her, well, sometimes people just make
14 things up if they want something.

15 She continued to let him stay at her home. She did not
16 report him to D.S.S. or law enforcement or do anything of
17 that nature. She did not make him leave her house.

18 She also reported that she put her children or left
19 them in the care of her step-dad who she alleged had sex-
20 ually assaulted her.

21 So based upon that, it was determined that Minor and
22 Younger Sister well being should not be left with Karen at that
23 time.

24 Investigator Collins did not question Minor but he
25 instead made an arrangement for her to have a forensic

1 interview which was held at the Ark.

2 One other thing I'd like to go back and tell you about
3 Staci Parker Nichols -- when asked upon the stand, she made
4 a comment that she never saw anything inappropriate about
5 Minor 's actions or saw her acting out sexually or doing
6 anything out of the way. She lived next door, in close prox-
7 imity, and Minor would play at her house.

8 Ms. Parker Nichols said on that stand that one time she
9 was very uncomfortable with the Defendant when she saw him
10 taking a picture of her young son, Eason, and she said when
11 she confronted him about it he said he wanted to send it to
12 his mother because it was cute.

13 Now, going back to Jorgen Waldermo, he tried to be a
14 supportive father. Although Mr. Anderson harped on the
15 fact that now you have custody and you don't hve to pay the
16 child support, which is true. Not only that, but he had
17 been paying alimony as well.

18 Even when he got temporary custody of the children, he
19 continued to pay. He didn't stop until the Court told him
20 he didn't have to pay child support any more.

21 He gave her -- he assisted them in paying them so the
22 Defendant could get his license back. He lent them money.

23 So why was he -- if he was not just trying to help
24 out his ex-wife and the Defendant, but he was trying to
25 make it easier on his children.

1 He thought if he helped them, then Karen would not be
2 getting the children up so early in the morning to take
3 the Defendant to Sumter and picking him up, for him to work.
4 I'm not sure how many ex-husbands would do that, but he did.
5 Because he was being a good dad and he thought he could
6 help.

7 As soon as Jorgen found out the details of the dis-
8 closure that Minor made, he did the right thing. He even
9 changed his life around and moved back to Florence tempor-
10 arily so that the children could stay in the same school,
11 continue their same activities.

12 He put her in counseling to deal with all that she had
13 had to deal with, and she has been in counseling continu-
14 ously since these allegations were disclosed.

15 Jeanene Waldermo even gave up her job as an interior
16 decorator so she could be and take care of Minor and her
17 sister, Younger Sister because they love the children and wanted to
18 do what they thought was best for them.

19 It wasn't about the money, as Mr. Anderson made out
20 that he would get out of paying the money, because he has
21 the girls in private school and he meets all of their finan-
22 cial needs which is more than his child support was.

23 So it is not about the money but the father doing what
24 he thinks best for his children.

25 Minor , who was six years old at the time, and who had

1 just turned nine when she took the stand, came forward and
2 told you about the things that happened to her by the Defen-
3 dant.

4 Now, I know they will say her statements were inconsis-
5 tent, or she told some people some things and then told
6 others other things. She told earlier about the Defendant
7 touching her immediately -- well, not immediately, but she
8 told he had touched her. Then she told someone else that
9 he did not. The next time she did not recall or she did not
10 disclose that he had touched her.

11 But when she first told, she did disclose that he had
12 touched her between her legs, on her front bottom, with her
13 pajamas on, on top of her clothes.

14 Now, if that didn't happen, why did the Defendant say
15 the same thing? He says he did it by accident, if you lis-
16 tened to his statement, but he corroborates what she said.
17 He corroborates what she said.

18 So we know she didn't make that up. She was embar-
19 rased to tell her daddy the Defendant made her suck his
20 penis or his front bottom as she referred to it. What six
21 year old wouldn't be? What twenty year old wouldn't be?

22 She told just enough to him so someone could protect
23 her. She didn't tell Jamie Shefton and Sergeant Hanna on
24 that Monday morning, but they didn't question her to any ex-
25 tent because they knew she was going to have a forensic

1 interview, and that's the first time Minor had met any of
2 them, so she's not going to disclose all of that.

3 Once she had a forensic interview with Dr. Benedetto.
4 She described to you how she was trying to make her comfort-
5 able, and you had an opportunity to see her, and at that
6 time she disclosed that he made her such his penis. She gave
7 a lot of detail.

8 Going back to Minor 's testimony on the stand, yes, at
9 the beginning she was very hesitant. But what nine year old
10 wouldn't be? She comes in this Courtroom and had to sit on
11 the witness stand, and she could barely see over the witness
12 stand.

13 But she had to tell strangers what the Defendant who
14 she identified did to her. No child should ever have to go
15 through that.

16 She did, and she told you in her own words, and when
17 things weren't correct she corrected them, so she wasn't
18 making anything up.

19 They say, well, you know, she didn't like him, and he
20 even said he knew they didn't like him. He said that all
21 the time, and that that is why she made this up.

22 The interesting thing being that if a six year old
23 doesn't like you, they are not going to be grabbing your
24 penis. They're going to be trying to get away from you,
25 and saying the things he wants you all to believe.

1 If you listen to the way he described her, she's a six
2 year old sexual thing. Children just do not formulate an
3 idea like that or in that manner and with that amount of
4 detail, and it has been consistent for the past three years,
5 but that's what the Defense would have you to believe.

6 Even though she may not have liked him, at one point
7 she did defend him on one thing that was said. She said,
8 oh, no, he didn't do that.

9 So if she was making it up, she could have added more
10 stuff to it. But she didn't. She just told you, like a
11 child would -- she told you what he did.

12 There was -- Mr. Anderson will talk to you about her
13 coming to the Courtroom and Heather Smith working with her
14 -- she coming and sitting in the witness chair, talking to
15 me. I will tell you it is not uncommon. There is not a
16 case, even with adults, where we don't do that. We do that
17 with witnesses so we will know what they say occurred be-
18 fore we put them on that witness stand.

19 If a prosecutor told you they never talked to their
20 witnesses, I would bet my firstborn that that is not true.
21 That is no different with Minor . Yes, she came to the
22 Courtroom at couple of times because she needed to feel
23 confident. She needed to have a feeling that she had some
24 control over something because she knew and she had been
25 told in her courtroom notebook that children witnesses are

1 given-- something put out by the State of South Carolina --
2 so they could understand what is happening.

3 She has already had to deal with a new scenario, and
4 so they do not feel like they are being abused all over
5 again. It is important for them to have some control, so
6 they are given as much information as they could possibly
7 have to make them feel comfortable in a situation that is
8 so not normal for them. That is why she came to the court-
9 room.

10 Now, you heard from Dr. Alicia Benedetto, and I find it
11 kind of interesting when Mr. Anderson asked Investigator
12 Collins, well, she avoided answering me and she didn't
13 look at me, look me in the face.

14 You know what? She didn't, because she was looking at
15 you because you are the ones that had to hear and under-
16 stand what she was testifying to. She kept eye contact with
17 you as jurors, the most important persons in this courtroom,
18 so you could hear what she said. That was by design, not
19 because she was nervous, or that she was avoiding defense
20 counsel's questions.

21 Because she answered the questions. She may not have
22 given him the answers he wanted, but she answered them.

23 She has been doing this for a long time, and she was
24 well aware as a clinical psychologist in this particular
25 area of the signs to look for in disclosures.

1 She told you there was no sign of third party influence
2 or coaching, and the way she knew that was that she looked
3 for the details. Minor gave a lot of details. She said
4 Minor self corrected so when she said something, she said,
5 oh, no, that wasn't correct.

6 That was a sign, she said, that there was no influence.
7 She also told us about the vague disclosures and how some
8 children will tell immediately and some say I don't know,
9 not want to talk about it.

10 That it is not unusual if the perpetrator is a part
11 of the family for it to take years to tell. Sometimes child
12 victims do not tell until they are adults. So that is not
13 unusual.

14 She also told you that children don't often disclose
15 immediately. They don't come out and say, oh, this happened,
16 blah, blah, blah, blah. They will tell a little bit and
17 then some more before they actually tell everything that had
18 happened.

19 We still may not know everything. She also concluded
20 that children do not know times that things happen, and the
21 date that things happened is not an element of the crime.

22 We have knowledge that he was staying there in 2011,
23 and we know that the children did not go back there after
24 October first because that is when she was with her father.
25 That much we do know.

1 Well, we do know that it occurred in 2011. You heard
2 from Dr. Susan Luberoff, who is a pediatrician and expert
3 in the area of child abuse pediatrics.

4 She indicated that there was no physical damage, but
5 in this particular case she would not have expected to have
6 that because of the type of allegation that it was. Oral
7 penetration by the Defendant. She saw no injury to the mouth
8 but she said the mouth heals quickly, and also there was no
9 allegation that the Defendant penetrated Minor 's vaginal
10 area or anal area.

11 So there would be no evidence there, but she said al-
12 though it was a normal exam that that doesn't mean there was
13 not a sexual abuse in this particular case. In fact, she
14 said in most cases there is no physical evidence.

15 And then you heard from Heather Smith who is a licensed
16 counselor and was declared an expert in assessment and treat-
17 ment of child sexual abuse.

18 Ms. Smith has been treating Minor since, I believe,
19 March of 2013, so a little over a year.

20 Prior to that, Minor went to the counselor there in
21 Charlotte for play therapy, and to address some issues she
22 was having with this disclosure of sexual abuse. She was
23 still having some anger issues and other issues as a result.

24 So Heather Smith used a different type of therapy with
25 Minor. Heather found a diagnosis of post-traumatic stress

1 disorder. You heard that from the stand, and defense coun-
2 sel asked her about that.

3 Now, if nothing happened to Minor , why did she have
4 post-traumatic stress syndrome? I submit to you that she
5 did because of the horrific acts the Defendant made her do.
6 That's why she had it.

7 Ms. Smith also told you that she initially met with
8 her on eight sessions, and that with trauma focused cogni-
9 tive behavioral therapy in order to help her learn to regu-
10 late her emotions and help her with her coping skills,
11 the negative and intrusive thoughts that she had had.

12 Also, to help her find support so she could be more
13 in control and help her with her breathing when she was
14 feeling sad and having nightmares as well.

15 She worked with her on that over this past year, and
16 she indicated that these things are symptoms she has seen
17 since she has been working with Minor

18 It was after Minor has gone to this treatment that
19 she was able to discuss what the Defendant had done to her
20 instead of avoiding it as she had with the prior counselor.

21 Ms. Smith told you that trauma focused cognitive be-
22 havioral therapy is phase-based, and that you go through
23 phases to get to a particular point; that once she got to
24 that point, she was actually made to prepare for Court
25 so she would be able to sit on that stand and tell you what

1 happened to her.

2 It was nothing magic. It was a process, and she did
3 that so Minor could testify, which she did.

4 Ladies and gentlemen, this type of action is never done
5 with an audience. No one saw the Defendant do these partic-
6 ular acts. Perpetrators just don't do this in front of any-
7 one else.

8 In all the years I have been doing this, I have never had
9 one time someone saw the perpetrator do this to a child, but
10 it doesn't matter. A person who abuses children generally
11 likes to be around children.

12 The Defendant told you he was a coach. Not all coaches
13 abuse children, but those persons who are attracted to the
14 children put themselves in those positions.

15 The Defendant even said, oh, children love me; I love
16 children. He talked about Michelle Cooper, who worked at
17 D.S.S. -- he loved her little girl. He wanted to take
18 her home.

19 So he tried to put himself always around children. I
20 submit to you . .

21 THE COURT: Let's have quiet.

22 SOLICITOR . . that he did that and put himself in
23 this position. We believe also that he knew this may come
24 out eventually, and so what did he try to do with Investi-
25 gator Collins? You know Michelle Cooper? She works at

1 D.S.S. and we are friends. He said, I have been telling
2 her all these things that have been going on.

3 Now, if these things had not been happening, why would
4 he have gotten out there earlier and spoke to that person?
5 I submit to you that he was thinking if I tell it gets the
6 spotlight off of me. I'll put it on the child.

7 He kept saying, well, I don't know why in the world she
8 would say these things. Where did she get it from? Well,
9 I can tell you where she got it from. She got it from him.

10 I ask you to recall his demeanor when he gave his state-
11 ment to Investigator Collins. Think about his body language
12 and some of the things he kept saying. It doesn't make sense.

13 Now, ladies and gentlemen, this is the last time I will
14 get to come before you, but I would ask that when you are
15 deliberating that you think about a six year old child coming
16 in here and telling you about these horrific acts that have
17 occurred to her.

18 They occurred to her, and once you have an opportunity
19 we would ask that you find the Defendant, Leonard Brockington,
20 guilty of criminal sexual conduct with a minor, first degree,
21 and lewd act on a minor.

22 Thank you.

23 THE COURT: Mr. Anderson, you're recognized.

24 MR. ANDERSON: The Judge in his opening remarks to you
25 all said no man is required to prove himself innocent. A

1 lot of times a man can't prove himself innocent.

2 I briefly told you about some children in 1692 at the
3 Salem Witch Trials, and I'm not going to go back over it
4 again. I'm sure you remember it. A nine year old girl, an
5 eleven year old girl -- people were put in jail and people
6 were hung.

7 I've studied about this case, and I was reminded of
8 something that happened to me. I know when the Judge read
9 out the Indictment and when Ms. Parr read out the Indict-
10 ment a lot of words came out, CSC with a minor under the
11 age of eleven, lewd act on a child under the age of eleven.

12 Probably a word that came to your mind was predator or
13 child molester, pervert.

14 When my daughter was eleven, she was at Royal Element-
15 ary School. I didn't go to Royal a lot. I didn't have to as
16 my wife normally took care of that.

17 I had to pick EA up for a dentist appointment. I
18 go to Royal, hey, I'm here to pick EA up. Hey,
19 I'd like to pick my daughter up, I'm Hank Anderson. Who is
20 your daughter? EA -- I'm her dad. Can I see
21 some ID? Sure, I'm Hank Anderson here to pick up my
22 daughter.

23 Well, how old is she? She's eleven. What is her
24 teacher's name? I say, I don't know. I don't know what her
25 teacher's name is.

1 They just sat there and looked at me, and word was sent
2 down to EA /'s classroom and she came down the hall. She
3 saw me and brightened, Papa -- then I pick her up, and then
4 the lady said, oh, all right; this guy is okay; he's legit.
5 It was like that.

6 That is human. We as men and women are supposed to
7 protect children. That is what we do, protect children.

8 Mr. Wells said and several people have said what could
9 possibly be worse than what happened to that little girl?
10 If an innocent man goes to jail, that's one thing that
11 could be worse.

12 My dad is still alive, I'm happy to say. He had a tough
13 go but he's doing fine now and I get to spend more time with
14 him. He and I were talking about this case last night, and
15 he said, son, what's going on, and I said, well, dad, it's
16 kind of a crazy case, and, I said, this six year old girl
17 has made this allegation on my man, who is fifty-two.

18 Well, what did she say, son? Well, dad, originally she
19 -- she originally said when she's talking to a neighbor --
20 she says, hey, this man yells at me a lot; yells at me all
21 the time; he touched me and makes me touch him.

22 Well, why does the little girl say that, son? I say,
23 yes, sir, dad, but that is really not what happened as far
24 as I know. I said, Chad Collins' notes reflect that the
25 girl said her momma wasn't home, but his comments reflect

1 she was at home.

2 Now, of course, when I asked the girl on the stand if
3 she had talked about her testimony, she said no; I haven't
4 reviewed it since this happened in 2011. I said Chad Collins
5 is going to come testify he talked with the little girl and
6 a lot of others as well talked with her.

7 Another thing is that Leonard Brockington is going to
8 testify or be able to say that four or five kids were play-
9 ing and they got ready to run into his bedroom, and he said,
10 oh, whoa, whoa, don't go in there; that the momma was home,
11 and my client did raise his voice at them but I think I can
12 straighten that out.

13 Well, what else happened? I said, well, her mom is
14 going to come and say she was upset, but the next door neigh-
15 bor, Ms. Parker, is going to say she was not. She is prob-
16 ably going to say my client made her uncomfortable because
17 he took a picture of her son.

18 I said, dad, you know, law enforcement certainly didn't
19 go and try to obtain my client's cell phone or go to my
20 client's house; didn't check to verify any of that or if
21 there's pictures of small children on this man's phone, or
22 of EP riding his bicycle.

23 He said, all right, what else happened, and I said,
24 well, the young lady talked to the mother of the child, and
25 she said -- this, of course, is the same lady who had custody
353

1 of the children since they were divorced in 2008. He said,
2 so she had custody in '09, '10, '11, and I said, yes, sir.
3 Any problems about her custody? No, sir. She had the kids
4 in Girl Scouts.

5 My dad said, well, son, are there any eyewitnesses?
6 I said, no, sir. Any physical evidence? No, sir.

7 Is there any evidence whatsoever this guy did this other
8 than the little girl? I said, no, sir.

9 I said, dad, his witnesses would come and say he told
10 me this and he told me that, and he said, son, define reason-
11 able doubt for me.

12 I said, dad, a reasonable doubt is any type of doubt
13 that would make a reasonable person hesitate to act, and he
14 said, sort of explain it to me in laymen's terms, and I said,
15 if it would cause you concern or cause you to think about it
16 more, that could be a reasonable doubt.

17 And he said, what did the little girl so? I said, dad,
18 to be quite honest with you, everything about the little girl
19 seemed inconsistent. Her statement is consistently incon-
20 sistent. I said, but let me tell you about her dad first.
21 Her dad seems to be a nice enough guy. I don't think he
22 really knew what was going on.

23 I got to cross examine him and I asked him, do you re-
24 member an incident that happened somewhere when Minor had
25 pulled up her dress, and he said, yeah, I remember that.

1 Did her mom tell you about that? Yeah, her mom told me about
2 that.

3 I said, her dad -- I asked her dad, did she ever say,
4 hey, I think we ought to put her in counseling? He said,
5 yeah, I think she told me that.

6 Did Lecnard ever come to you before this came out and
7 say something is not right with your daughter and things just
8 don't add up; you need to put her in counseling or do some-
9 thing with her? Yeah, he said that to me.

10 My dad said, son, why would someone self-report or some-
11 one say, hey, I'm doing this to your child and you might want
12 to get her checked out? Why would someone do that? I don't
13 know, dad -- doesn't make any sense to me.

14 The State said Minor defended Brock. Well, if he had
15 done this terrible thing to her, why would she defend him? Why
16 would she defend him?

17 Minor said -- the State said I'm going to come up here
18 and say things, and I am, because it's important.

19 The State tried to gloss over stuff but I know you all
20 heard it. I heard it. Jamie Shefton meets with her. Now,
21 Jamie has got a bachelor's in Arts from Clemson University
22 in psychology. Employed by D.S.S. and previously been a Guard-
23 ian ad Litem, worked with children.

24 She talked about establishing a rapport, establishing
25 contact. When Dr. Benedetto testified she went in the room

1 with her and the tape was forty-two minutes, start to finish
2 -- forty-two minutes. Jamie meets with her for an hour, fif-
3 teen to eighteen minutes longer.

4 Did he touch you? Yes. Did you touch him? He made me
5 touch him.

6 Did he put anything in your mouth? No. Did he put his
7 mouth on you? No.

8 Sergeant Hanna comes in the room or was in the room --
9 he touched me several times. Nothing about oral. That's it.

10 Days later, he goes to her house in Florence and talks
11 to her again. Goes to her bedroom, having a good time and
12 cutting up, puts the child at ease.

13 Tell me again what happened. He touched me, I touched
14 him. Anything else you want to tell me? No. No mention of
15 oral sex.

16 No mention of him putting his mouth on her or her put-
17 ting her mouth on him.

18 Now, she goes to the Ark. She mentions the bedroom, she
19 mentions the flowered chair, she mentions the kitchen, and at
20 no point in time does she ever say, oh, yeah, and while we
21 were in the kitchen -- bedroom, den in the chair, kitchen --
22 more preparation, watches the tape.

23 Ms. Parr asks her questions. They go over her testimony.
24 She comes up here and testifies, the little girl does. I'm
25 sorry, let me back up.

1 Goes to the Ark. Kitchen, bedroom, den. Comes up here
2 and testifies, nine years old now.

3 At first she doesn't want to say anything, and then she
4 says he touched me. I turned around and looked at my para-
5 legal and said, did she just say he touched her? Yes.

6 When she was at the Ark Dr. Benedetto, the expert they
7 qualified, said they talked and she asked, did he touch you?
8 No. Did he touch your top part? Shook her head no. Did he
9 touch your private parts? Shook her head no. Did he touch
10 your back? Shook her head no.

11 A few minutes later, I want to get this straight. Did he
12 touch you? No. Anywhere? No. End of the interview, has
13 anyone ever touched you? No. Anyone ever made you touch
14 them? No.

15 Ladies and gentlemen, if you're four or if you're four-
16 teen, or if you're thirty-four, the truth is always consistent.

17 I'm never nervous when I tell the truth but when I would
18 tell my mom and dad a fib I would get a little bit nervous.
19 When I tell the truth I'm comfortable. The truth is the
20 truth is the truth. No matter how old you are.

21 The only thing consistent about her testimony is that
22 it is always inconsistent. Always inconsistent. It's never
23 the same.

24 The State wants to tell you, she told the same thing.
25 No, she didn't.

1 The first time was he touched me, I touched him; no oral
2 sex. The second time, he touched me, I touched him; no oral
3 sex. She's at the Ark Center, he never touched me but there
4 was oral sex in the kitchen.

5 When she comes up here and testifies, it is back to he
6 touched me, I touched him. Consistently inconsistent -- it
7 is always inconsistent.

8 Karen Waldermo, why haven't we heard from Karen? As
9 I said earlier, that's the lady who raised her, the lady who
10 spent time with her. The lady who had her in Girl Scouts.
11 The lady who said I don't think he did it.

12 Why wasn't she talked to, why wasn't she interviewed?

13 Leonard has no duty here whatsoever. He has not had any
14 duty. The State does. Why didn't they talk to Karen.

15 Karen, what's in your house; where do you take the girls;
16 who are their teachers so we can go talk to them. Why wasn't
17 that done?

18 You know, I know you may have some questions about where
19 did all of this come from. Well, we've heard testimony about
20 a naked dancing party with Minor . We've heard testimony she
21 went to a public school.

22 I asked Officer Hanna, Officer Hanna, have things changed?
23 Yeah. Things said in the hallways now? Yep. Older kids say
24 some things? Yeah.

25 Did he ask her, Minor what kind of TV shows to you watch?

1 Do you get on the internet?

2 I heard just a few minutes ago that she goes to a private
3 school, and I guarantee you they have the internet in a pri-
4 vate school. They've got it in public schools.

5 Do you ever watch any videos? Have you ever been exposed
6 to pornography? Why would not a counselor ask that? Why
7 wouldn't Dr. Benedetto say, Minor , have you ever seen naked
8 people? Have you seen what I call pornograhly?

9 Why didn't they go to Leonard's? Why didn't they go and
10 say we just want to look around and check things out? Let
11 us check out some other stuff. That's fine, go ahead.

12 Minor , what kind of TV shows do you watch? No one has
13 asked her that.

14 He doesn't have the burden of proof. Sometimes you just
15 can't prove you didn't do it, but you hope -- man, if they do
16 this and do that, I'll be all right. But it wasn't done.

17 Let's talk about what you did and what you didn't do.

18 Did you go to Minor 's house? No, I didn't. Did you
19 verify a flowered chair in the den? No, I didn't.

20 Of course, Dr. Benedetto says one of the ways I know she
21 is telling the truth is she can tell us a place. Well, why
22 didn't they say, dadgum it, let's look at Karen's house?
23 How hard is that? Why not go check the bedroom out? How hard
24 is it to check the kitchen out? It's not that hard.

25 It could be, I went in the house and there ain't no

1 flowery chair. There ain't no chair in the den, much less a
2 flowery one. How hard would that be?

3 Sometimes you can't prove you didn't do it, but they
4 had the means. Did you go and talk to these people? No.

5 You were at Delmay, and did you talk to her teachers?
6 No. Did you talk to her Girl Scout leader? No. Did you
7 talk with anybody other than her dad, her stepmom, the
8 neighbor, the twelve year old across the street?

9 Did you talk to Leonard's family? No. Did you talk to
10 his ex-wife? No. Did you talk to his kids, his grand-
11 kids? No. Talk to anybody at his work? No.

12 Folks, this has been going on for two and a half years.
13 It hasn't exactly been a secret. I did not hear one person
14 get up here and say, you know what, way back when, he did
15 the same thing to me.

16 I have not heard anybody else say this happened to
17 them. I heard Leonard say in his statement, I didn't do this,
18 I did not do this.

19 What more can he say? What more can he come in and say
20 but, no, man, I didn't do it. But he can't prove it. He was
21 hoping law enforcement would do that. Go and search my
22 house. Go through my phone.

23 Speaking of that, where was he living? Leonard said on
24 the tape that when this came out I got out of there. I haven't
25 been back. He wasn't living on Drive, but

1 (Inaudible) Drive. But he said when this came out, he
2 left that address and didn't go back. He laid it on the table
3 that he got out and hasn't been back.

4 You heard him talking about Michelle Cooper, called
5 her doll baby -- love her, love her kids.

6 Asked Chad, did you talk to Michelle Cooper about this?
7 Yeah, I did. Did she say Leonard did it? No. Did you do
8 a forensic interview on her children? Yeah, I think that
9 was done. Did it say anything about Leonard? No.

10 Leonard even said on the tape that he even babysat
11 her kids. She'd get called in and I would spend the
12 night at her house.

13 Why did you pick Minor There's a four year old
14 that lives there. Why not pick both of them? Why not
15 more than one?

16 Dr. Benedetto testified to a lot of things. She tes-
17 tified to what she observed. She was then qualified as
18 an expert.

19 One thing I didn't hear her say is that when a child
20 is abused, their testimony will be consistently inconsistent.
21 I never heard her say that.

22 Let's talk about late reporting, especially when it's
23 a care-giver. Did Dr. Benedetto say Leonard was a care-
24 giver to Minor ? No, She didn't.

25 Sometimes the reporting will be delayed if they live

1 in the home.

2 In talking with her, Dr. Benedetto said, how many
3 houses do you have? I have three. Who lives there? My
4 momma, Karen, my sister, myself.

5 I have a home in Charlotte. Who lives there? Heidi
6 -- and I'm going to mention Heidi again -- Heidi, my dad, my
7 stepmom, my sister and I.

8 Do you have another house? I have one in Florence
9 where my dad and my stepmom and my sister and I live. She
10 never said Brock lived there or that Brock was a care-
11 giver.

12 When I was asking Ms. Waldermo about Heidi, are you
13 friends with her? Well, not really. She comes to my house.
14 Does she ever babysit for you? Well, maybe once or twice.

15 Who lives in your house in Charlotte? Well, we live
16 with Heidi. Why not just say it? Why not just say it?
17 Heidi is a friend of mine or was at least back then.

18 What are you trying to hide? I don't know, and I'm not
19 saying she's trying to hide anything, but why not just say
20 Heidi was a friend and we lived with her?

21 When I was talking to MGA , the mother wasn't
22 home? No, her mom wasn't home Later Chad said she was at
23 home.

24 Leonard said in the statement even before they talked
25 to MGA that the mom was home, was about to take a

1 shower. Leonard has been consistent.

2 He said I didn't do it -- I did not do it. Like I
3 told my dad, there's something funny here. I told him
4 this isn't good. Something is not right here.

5 This is a man who cannot prove his innocence but he
6 is not required to.

7 My dad and I, we finished up our conversation and my
8 dad looks at me and goes, son -- was my birthday,
9 dad -- no, not that -- it was Easter. He said, the most
10 perfect man who ever lived was falsely accused. He said,
11 son, he was falsely accused.

12 Leonard didn't do this. Everything I've talked about
13 -- reasonable doubt. You don't have to have ten of them.
14 You only have to have one reasonable doubt.

15 He is not guilty. Thank you.

16 THE COURT: Mr. Foreman and ladies and gentlemen of
17 the jury, you have heard all the evidence, you've heard
18 the closing arguments.

19 The next thing, and pay very close attention to this,
20 is I charge you the law.

21 The Indictments allege two different offenses, crim-
22 inal sexual conduct with a minor, first degree, and lewd
23 act on a child.

24 I remind you that the fact that the Defendant was ar-
25 rested and indicted is not evidence. It cannot be considered

1 by you as evidence, nor does it create any presumption
2 of guilt. This document is simply the formal written instru-
3 ment that contains the charges made against the Defendant.
4 It is the formal document by which this case is brought into
5 the Court.

6 Each Indictment charges a separate and distinct of-
7 fense. You must decide each Indictment separately on
8 the law that is applicable to it. You should not be in-
9 fluenced by your decision on any other Indictment. The
10 Defendant may be acquitted or convicted on any or all of
11 the offenses charged.

12 You will be asked to write a separate verdict of
13 guilty or not guilty on each Indictment.

14 The Defendant has pled not guilty to this Indictment,
15 and that plea puts the burden on the State to prove the De-
16 fendant guilty. A person charged with committing a crim-
17 inal offense in South Carolina is never required to prove
18 themself innocent.

19 I charge you that this is an important rule of law in
20 a criminal trial that no matter the seriousness of the
21 charge or what it might be that the Defendant is presumed
22 to be innocent of the crime for which the Indictment was
23 issued until guilt has been proven by evidence satisfying
24 you, the jury, of that guilt beyond a reasonable doubt.

25 The Defendant's innocence does not end when you begin

1 your deliberations but it accompanies the Defendant on
2 throughout the trial until you reach a verdict of guilt
3 based on the evidence of that guilt beyond a reasonable
4 doubt.

5 The presumption of innocence is like a robe of
6 righteousness placed about the shoulders of the Defen-
7 dant, and it remains with the Defendant until it has
8 been stripped from the Defendant's shoulders by evidence
9 satisfying you of his guilt beyond a reasonable doubt.

10 The presumption of innocence is not a mere legal
11 theory, not just a legal phrase, but it's a substantial
12 right to which every Defendant is entitled until you, the
13 jury, are satisfied from the evidence of his guilt be-
14 yond a reasonable doubt.

15 What is a reasonable doubt in the law? A reason-
16 able doubt is the kind of doubt that would cause a rea-
17 sonable person to hesitate to act.

18 The State has the burden of proving the Defendant
19 guilty beyond a reasonable doubt. Some of you may have
20 been jurors in civil cases where you were told it is
21 only necessary to prove that a fact is more likely true
22 than not true, such as by the greater weight or preponder-
23 ance of the evidence.

24 In criminal cases the State's proof must be more
25 powerful than that. It must be beyond a reasonable

1 doubt.

2 Proof beyond a reasonable doubt is proof that leaves
3 you firmly convinced of the Defendant's guilt. There are
4 very few things in this world that we know with absolute
5 certainty. In the criminal case, the law does not require
6 proof beyond every possible doubt.

7 If, based on your consideration of the evidence, you
8 are firmly convinced of the Defendant's guilt of the crime
9 charged, you must find the Defendant guilty. If, on the
10 other hand you think there is a real possibility that the
11 Defendant is not guilty, you must give the Defendant the
12 benefit of every reasonable doubt and find him not guilty.

13 I remind you that during this trial you and I have cer-
14 tain duties to perform. As the Trial Judge it is my respon-
15 sibility to preside over the trial of this case. I also
16 have a duty to rule on the evidence offered during this
17 trial.

18 You are to consider all of the competent evidence be-
19 fore you. You must disregard anything that is not in the
20 record. You are to consider only the testimony which was
21 presented from the witness stand and exhibits which have been
22 made a part of the record in this case, as well as stipula-
23 tions of counsel.

24 I also have the additional duty to charge you the law
25 applicable to this case. As the Presiding Judge, I am the

1 sole judge of the law, and it is your duty to accept and
2 apply the law as I state it to you.

3 You may have some idea of what you think the law is
4 or what it ought to be, and if that idea does not agree
5 with what I tell you the law is, you must disregard your
6 idea because you are sworn to accept and apply the law as
7 I charge it to you.

8 In every case that is tried in this Courtroom, the
9 jury becomes the sole judge of the facts in the case. The
10 Trial Judge may not comment on or make any statement to
11 the trial jury about the facts in a case.

12 Since you are the sole judges of the facts in the case
13 you are not to infer from anything I have said during the
14 progress of the trial in ruling upon admissibility of the
15 evidence or otherwise, or anything I say now during this
16 instruction to you, that I had any opinion about the facts
17 of the case. The law simply does not allow me to have an
18 opinion about the facts.

19 This is a matter solely for you to determine, and as
20 jurors it is your duty to determine the effect, value, the
21 weight and truth of the evidence presented during this trial.

22 There are two types of evidence which are generally
23 presented in the trial of a case, direct and circumstantial
24 evidence.

25 Direct evidence is the testimony of a person who is

1 claiming to have actual knowledge of a fact, such as an
2 eye witness. It is evidence which immediately establishes
3 the main facts to be proved.

4 Circumstantial evidence is proof of a chain of facts
5 and circumstances indicating the existence of a fact. It
6 is evidence which immediately establishes collateral facts
7 from which the main fact may be inferred.

8 Circumstantial evidence is based on inference and not
9 on personal knowledge or observation. A crime may be
10 proven by circumstantial evidence. The law makes no dis-
11 tinction between the weight or the value to be given to
12 circumstantial evidence, nor is a greater proof of circum-
13 stantial evidence than of direct evidence.

14 However, to the extent the State relies on circum-
15 stantial evidence, all the circumstances must be consis-
16 tent with each other, and when taken together point con-
17 clusively to the guilt of the accused beyond a reason-
18 able doubt.

19 If the circumstances merely portray the Defendant's
20 behavior as suspicious, the proof has failed.

21 The State has the burden of proving the Defendant
22 guilty beyond a reasonable doubt, and this burden rests on
23 the State regardless of whether the State relies on direct
24 or circumstantial evidence, or on a combination of the two.

25 You should weigh all of the evidence in the case,

1 and after weighing all the evidence if you are not con-
2 vinced of the guilt of the Defendant beyond a reasonable
3 doubt you must find the Defendant not guilty.

4 Mr. Foreman, ladies and gentlemen of the jury, ne-
5 cessarily you must determine the credibility of witnesses
6 who have testified in this case. Credibility simply means
7 believability.

8 It becomes your duty as jurors to analyze the evi-
9 dence and determine which evidence convinces you of its
10 truth.

11 In determining the credibility of witnesses who have
12 testified in this case, you may believe the testimony of
13 several witnesses or several witnesses, as against only
14 one. You may believe a part of the testimony of a wit-
15 ness and reject the remaining part of the testimony of the
16 same witness.

17 You may believe the testimony of a witness in its en-
18 tirety or reject the testimony of a witness in its entirety.
19 You may consider whether any witness exhibited to you any
20 interest, bias, prejudice or other motive in this case.

21 You may also consider the appearance of the witness
22 on the witness stand, their demeanor.

23 The rules of evidence ordinarily do not permit witen-
24 ses to testify to opinion or conclusions. An exception to
25 this rule is witnesses we call expert witnesses, a witness

1 who by education or experience has become an expert in some
2 art or science or calling, and they may state an opinion as
3 to relevant material matters in which the witness may be an
4 expert, and they may state reasons for their opinions.

5 Now, you must consider any opinion by an expert in the
6 case the same as any other evidence and give it the weight
7 you believe it deserves. If you decide the opinion of an
8 expert is not based on sufficient education or experience,
9 or if you conclude the reasons given in support of the
10 opinion are not sound, or the opinion is outweighed by the
11 other evidence, you may disregard the opinion entirely.

12 An expert witness' testimony is to be given no greater
13 weight than that of other witnesses because the witness is
14 an expert. Further, you are not required to accept an ex-
15 pert's opinion even though it is uncontradicted.

16 Ladies and gentlemen of the jury, I instruct you and
17 emphasize that the fact that the Defendant did not testify
18 is not a fact to be considered by you in any manner in your
19 deliberations and in your consideration on the question of
20 guilt or innocence, and it must not be considered by you
21 in any manner whatsoever.

22 A Defendant has a constitutional right to remain sil-
23 ent, and assertion of this right must not be considered by
24 you in your deliberations. I repeat, under your oath, you
25 must draw no conclusions whatever from the fact that the

1 Defendant in this case did not testify. The fact that the
2 Defendant did not testify should not even be discussed in
3 the jury room.

4 Mr. Foreman, I'm going to ask that you enforce that
5 rule that there be no discussion. It is not relevant, and
6 the reason for that is the burden of proof rests on the
7 State to prove guilt beyond a reasonable doubt. The Defen-
8 dant has no burden to prove anything.

9 There has been evidence presented that witnesses have
10 made prior statements which are not consistent with the wit-
11 nesses' present testimony. You may use this evidence to
12 decide whether you believe the witness.

13 You may also use evidence of earlier contradictory
14 statements to determine the truth in this case. It is up to
15 you to decide whether to believe an earlier statement or the
16 evidence and testimony given at trial. If a witness is
17 shown to have knowingly testified untruthfully to a material
18 matter, you may consider that in determining whether to
19 trust the witness' testimony as to other matters.

20 You may reject all or a part of the testimony of the
21 witness and give all of a part of the testimony the weight
22 you think it deserves.

23 During this trial you have heard testimony from a
24 child. Where a witness is a child, you must determine, as
25 with any witness, whether the testimony is believable.

1 In deciding believability, you may consider not only
2 matters that I have already discussed with you, but you
3 may also consider the age of the child, her ability to
4 observe and to remember facts, the child's ability to
5 understand and to answer questions.

6 Because young children may not fully understand what
7 is happening here, it is up to you to decide whether the
8 child understood the seriousness of appearing as a wit-
9 ness in a criminal trial, whether the child understood the
10 questions, whether the child has a good memory, whether the
11 child understands the difference between a lie and telling
12 the truth.

13 Young children may be influenced by the way a ques-
14 tion is asked, and it is up to you to decide whether the
15 child understood the questions asked.

16 I am now going to charge you the substantive law on
17 which the Defendant has been charged.

18 First degree criminal sexual conduct with a minor.
19 The Defendant has been charged with criminal sexual con-
20 duct with a minor.

21 The State must prove beyond a reasonable doubt that
22 the Defendant engaged in sexual battery with the Defen-
23 dant.

24 Sexual battery is sexual intercourse, cunnilingus,
25 fellatio, anal intercourse, or any intrusion, however slight,

1 of any part of a person's body or of any object into the
2 genital or anal opening of another person, except when
3 the intrusion is accomplished for medically recognized
4 treatment or diagnosis.

5 The State must then prove beyond a reasonable doubt
6 that the victim was less than eleven years old at the
7 time of the sexual battery.

8 Consent, willingness, indifference on the part of
9 the minor, if any, as to what was taking place does not
10 in any way affect the charge of criminal sexual conduct
11 with a minor because an unmarried woman under the age of
12 fourteen cannot legally consent to sexual intercourse.

13 I charge you the law with regard to lewd act on a
14 minor. The Defendant has been charged with committing a
15 lewd act on a minor. A minor is a person under the age
16 of eighteen.

17 The State must prove beyond a reasonable doubt that
18 the Defendant was over the age of fourteen.

19 Next, the State must prove that the Defendant wil-
20 fully and lewdly committed or attempted a lewd or lasciv-
21 ious act on or with the body or its parts of a child un-
22 der the age of sixteen years with intent to arouse, ap-
23 peal to or gratify the ^{lust} passion or sexual desire of the
24 Defendant or the child.

25 Wilfully means voluntarily intending a specific

1 intent to do something the law forbids. Lewd means ob-
2 scene, indecent, lecherous.

3 Lascivious means to incite lust, lewd, indecent or
4 obscene, intended to deprave the morals with respect to
5 sexual relations.

6 Bear with me as I come forward to share with you the
7 verdict form.

8 Mr. Foreman, I'm going to stand as I go over this
9 form with you. Before I go any further, I want to ask
10 the alternates to go into the jury room. You all stay
11 and be seated in there.

12 (Alternates excused from Courtroom)

13 This is a document that says State of South Carolina
14 versus Leonard Eugene Brockington, and it says General
15 Sessions Court, which is criminal court, and it has the
16 Indictment Number here.

17 There are two charges, criminal sexual conduct with
18 a minor, first degree. We, the jury find that the De-
19 fendant is not guilty or guilty, by unanimous consent.

20 Lewd act on a minor. We, the jury, find by unanimous
21 consent find the Defendant is not guilty or guilty.

22 It must be by unanimous consent. It cannot be eleven
23 to one or six to six, eight to four. Everyone has to
24 agree.

25 I'm going to leave this with you, Mr. Foreman.

1 Now, there are some things that might come up dur-
2 ing your deliberations. I don't anticipate any question
3 because I watched you all and you all paid attention
4 when the evidence was presented.

5 You all have the tools to decide the case. I know
6 it is a difficult thing to do but you all have the tools
7 to do it.

8 I have charged you the law and the law is fairly
9 straight forward. You all paid very close attention.

10 But if there are any questions or if a question
11 comes up I will ask that you reduce it to writing and
12 give it to the bailiff, Mr. Foreman. If it is something I
13 can answer, I will be happy to do that.

14 Let me tell you from the outset that factual ques-
15 tions -- I can't answer anything about the facts. I
16 cannot answer the tough factual questions for you.

17 However, if the question has to do with the law,
18 I can help you with that.

19 If a question develops and I'm not sure if it is a
20 question of law or fact, write it down, and if I can
21 help you I will.

22 The other thing I want to mention to you, Mr. Fore-
23 man, you are in charge to preside over deliberations, and
24 that simply means you make sure everybody's voice is
25 heard.

1 If someone gets up to go use the bathroom, stop your
2 deliberations. Everybody has to participate in all of
3 the deliberation process.

4 Every time I've sent you out of the room I have told
5 you not to begin your deliberations. Once again, I will
6 ask you not to begin your deliberations.

7 I must talk with the lawyers and determine whether
8 or not they have an objection to what I have charged you
9 as to the law. Do not begin deliberations until you have
10 received instructions to do so from the bailiff.

11 I ask that you return to the jury room at this time.

12 (Jury excused from Courtroom)

13 (The Court having discussion with alternate jurors,
14 after which alternates were excused)

15 THE COURT: Any objection with regard to the jury
16 charge from the State?

17 SOLICITOR: No, Your Honor.

18 THE COURT: Any from the Defendant?

19 MR. ANDERSON: No, sir, Your Honor.

20 THE COURT: Come forward and take a look at the
21 documentary evidence. Mr. Wells, I'm going to ask if
22 everything that's in that pile is in evidence?

23 MR. WELLS: Yes, sir.

24 THE COURT: Mr. Anderson, is everything there in evi-
25 dence?

1 MR. ANDERSON: No, sir.

2 THE COURT: Everything in that pile is in evidence?

3 MR. ANDERSON: Yes, sir.

4 THE COURT: Anything in that pile not in evidence?

5 MR. WELLS: No, sir.

6 (Jury instructed to begin deliberations at 1:26 P.M.)

7 THE COURT: Stay with us in case they have any ques-
8 tions, and we'll stand at ease.

9 (The Court stood at ease for brief period before
10 the matter was resumed)

11 THE COURT: Please be seated. Set up the video.
12 They want to see the video.

13 (Jury returned to Courtroom)

14 THE COURT: I understand you wish to view the video
15 again. I'm going to make this note a part of the record.

16 (Jury note marked Court's Exhibit 2)

17 THE COURT: The request is to see the Ark video.

18 (Video shown to jury. Jury continued deliberations
19 and the Court stood at ease until 5:19 P.M.)

20 THE COURT: Please be seated and come forward.

21 (Conference at the bench off the record between coun-
22 sel and the Court)

23 THE COURT: We're ready for the jury.

24 (Jury returned to Courtroom)

25 THE COURT: Mr. Foreman, the question has been posed,

1 does the split jury on one charge invalidate a unanimous
2 decision on the other?

3 The answer to that is no, and I ask that you con-
4 tinue to deliberate. Very good.

5 You may return to the jury room.

6 (Jury returned to jury room.)

7 THE COURT: All right, we'll stand at ease, and I'll
8 make the note a part of the record.

9 (Jury note marked Court's Exhibit 3)

10 THE COURT: We'll stand at ease.

11 (Court stood in recess until 5:29 P.M., when the jury
12 was brought into the Courtroom.)

13 THE COURT: Mr. Foreman and ladies and gentlemen of
14 the jury, you all have worked hard. You've been here all
15 day and for that we are appreciative.

16 These are very important matters. It is important to
17 the State of South Carolina. It's important to the Defen-
18 dant, and I wanted to talk with you a little bit about your
19 deliberations.

20 It is six o'clock in the evening. Mr. Foreman, do you
21 anticipate you are at a spot where you are near reaching a
22 conclusion, or do you feel as though it would be better for
23 us to recess for the evening and come back at nine thirty
24 in the morning?

25 FOREMAN: It might be better to come back at nine

1 thirty in the morning.

2 THE COURT: Very good. We will do that and allow
3 you all to get a good night's sleep.

4 Once again, do not discuss this case. I anticipate
5 there might be something in the news or some other news
6 media.

7 If it were to be on the news or in the paper, I would
8 ask that you pay it no attention and divert your attention
9 from it. Do not do any investigation. Do not put anything
10 on the social media.

11 Do not discuss the case with any of your family members,
12 your friends, and I will ask you to be back at nine thirty
13 tomorrow morning here on this floor -- nine thirty in the
14 morning.

15 Bring your attractive jury badges with you. Florence
16 County is a little bit poor, and it doesn't have stickum on
17 it. You may need to use a pin or extra tape. Do that and
18 do not stay around the common areas. Come directly to the
19 Courtroom and don't begin deliberations until all of you
20 are convened. I'll call you into the Courtroom and you can
21 begin at that time.

22 Everyone remain seated as the jury exits.

23 (Jury excused for the evening)

24 THE COURT: Anything from the State before we recess?

25 SOLICITOR: No, Your Honor.

1 THE COURT: Anything from the Defense?

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

3 THE COURT: All right. Mr. Brockington, I want to
4 re-emphasize that I'm going to allow you to remain on bond
5 but they have already reached a verdict with regard to one
6 offense, and if it's not guilty on both of them and you go
7 and we have to put the U. S. Marshall on you we'll have you
8 by sundown and you will spend ten years for not showing up.

9 DEFENDANT: Your Honor, I understand that.

10 THE COURT: Under any set of circumstances if you don't
11 show up we're going to get you. You understand that?

12 DEFENDANT: Yes, sir.

13 THE COURT: Will you be here at nine thirty?

14 DEFENDANT: I'll be here at nine fifteen.

15 THE COURT: All right, we'll stand at ease until nine
16 thirty in the morning.

17 (Court stood in recess at 6:05 P.M., and the matter
18 was continued on April 24, 2014)

19 (Transcription note: Reporter notes indicate the
20 jury began deliberations at 9:29 A.M.)

21 (Other matters came before the Court until 11:08
22 A.M., when the matter was continued)

23 THE COURT: All right, we have received a note from
24 the jury that says, we are split on one decision and
25 unanimous on one. How long do you want us to deliberate?

1 And the last words say unanimous on charge.

2 They have reached a verdict on one and are not unan-
3 imous on the other. I will make this note a part of the
4 record.

5 (Jury note marked Court's Exhibit 4)

6 THE COURT: I will bring them back and give them
7 an Allen Charge and tell them to resume deliberations.
8 We're ready for the jury.

9 (Jury returned to Courtroom)

10 THE COURT: Mr. Foreman, ladies and gentlemen of the
11 jury, thank you for being here and being here on time,
12 for going forward with deliberations.

13 I have received a note from the Foreman in the case
14 that you have not been able to reach a verdict on one of
15 the counts.

16 Please pay close attention as I charge you on the
17 law that governs this situation.

18 Ladies and gentlemen, you have stated that you have
19 been unable to reach a verdict in this case. As I have
20 instructed you earlier, the verdict of the jury must be
21 unanimous.

22 When a matter is in dispute it isn't always easy to
23 reach a verdict or even for two people to agree. When
24 twelve people must agree it becomes even more difficult.
25 In most cases absolute certainty cannot be reached or

1 expected but you have a duty to make every reasonable ef-
2 fort to reach a unanimous verdict.

3 In doing this, you should consult with one another,
4 express your own views and listen to the views of the fel-
5 low jurors.

6 You should tell each other how you feel, why you feel
7 that way. Discuss your differences with open minds.

8 Although the verdict of a jury must be unanimous,
9 every one of you has a right to your own opinion. The
10 verdict you agree to must be your own verdict, from your
11 own convictions.

12 You should not give up your firmly-held beliefs to
13 merely be in agreement with fellow jurors, but you are to
14 consider -- the majority should consider the minority's
15 position, and the minority should consider the majority's
16 position.

17 You should carefully respect the opinions of each
18 other and re-evaluate your positions for reasonableness,
19 for impartiality. Lay aside all outside matters and re-
20 examine your positions based on the law of this case.

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

1 The same participants will come. The same lawyers
2 will ask basically the same questions, get basically the
3 same answers, and we will go through this whole process
4 again.

5 You were selected in the same manner and from the
6 same source as any future jury will be, and there is no
7 reason for me to suppose that the case will ever be sub-
8 mitted to twelve more intelligent, impartial, conscien-
9 tious or competent jurors, or that more evidence will
10 be produced or that clearer evidence will be produced
11 by one side or the other.

12 I would therefore ask that you return to the jury room
13 and resume deliberations.

14 Everyone else remain seated as the jury exits the
15 Courtroom.

16 (Jury excused to resume deliberating)

17 (Other matters taken up in the Courtroom until this
18 case was resumed at 12:29 P.M.)

19 THE COURT: Mr. Foreman and ladies and gentlemen of
20 the jury, a question has been posed, can we have transcripts
21 of the trial.

22 The answer is no. It would take weeks to do that,
23 but you can -- if there is a specific portion of the tes-
24 timony you would like heard you can make that request and
25 we will try to accommodate you in that regard.

1 Please return to your jury room and continue your de-
2 liberations.

3 (Jury excused from Courtroom)

4 THE COURT: We'll stand at ease and make the note a
5 part of the record.

6 (Jury note marked Court's Exhibit 5)

7 (Court stood at ease until 12:29 P.M.)

8 THE COURT: Madam Court Reporter, we have received
9 a note from the jury, could we watch the Ark video from
10 the part where she starts talking about hugging and
11 kissing.

12 I would suggest that it might be easier to play the
13 whole thing. What is your position on that?

14 MR. WELLS: Your Honor, we can do it any way you
15 like. I guess we could fast forward through to some
16 point.

17 THE COURT: Do you have an objection to playing the
18 whole thing?

19 MR. WELLS: No objection to playing the whole thing,
20 Your Honor.

21 THE COURT: Mr. Anderson, do you have any objection
22 to playing the whole thing?

23 MR. ANDERSON: Your Honor, I think it would be easy
24 to do, to get to that part and start there.

25 THE COURT: It might take longer for us to figure

1 out where to do it than simply play the whole thing. I
2 mean, it's not going to be a surprise to anyone who has
3 watched it. We've watched it three times.

4 (Brief pause in the proceeding)

5 THE COURT: Let's play the whole thing. Just crank
6 it up.

7 The part they want to not play is just the initial
8 part of it.

9 Mr. Anderson, do you have any objection to playing
10 the whole thing?

11 MR. ANDERSON: They asked a specific question, so I
12 would object.

13 THE COURT: Let's see if we can agree to where hugging
14 and kissing start.

15 (Brief pause)

16 THE COURT: Would you agree to that, Mr. Anderson?

17 MR. WELLS: I pretty much know where it all is now.
18 This is where I think . .

19 (Discussion between counsel and the Court off the re-
20 cord)

21 THE COURT: Mr. Anderson, if you could go over there
22 and look at it and see if you can reach an agreement on
23 where to start?

24 MR. WELLS: I think that's it.

25 THE COURT: Mr. Anderson, do you agree to the place

1 where it needs to start?

2 MR. ANDERSON: Yes, sir.

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

4 (Jury returned to Courtroom)

5 THE COURT: Mr. Foreman, ladies and gentlemen of the
6 jury, you requested to see the Ark video where she starts
7 talking about hugging and kissing. I think we have it
8 at that point.

9 Please pay very close attention to it.

10 (Requested portion of Ark video played for the jury)

11 THE COURT: Mr. Foreman, ladies and gentlemen of the
12 jury, you may return to the jury room.

13 (Jury excused to continue deliberations)

14 THE COURT: We'll stand at ease.

15 (Court stood at ease until 2:01 P.M.)

16 THE COURT: I've got a message from the jury that
17 we are unanimous on charge two. We are deadlocked on
18 charge one, criminal sexual conduct with a minor, first
19 degree.

20 (Jury note marked Court's Exhibit 6)

21 THE COURT: To the individuals in the Courtroom, if
22 you feel you cannot maintain your emotions -- I don't
23 want any kind of gasp. I don't want any reaction whatso-
24 ever, and if there is a reaction I'm going to ask the
25 Deputy if anybody says anything or, there is any kind of

1 noise to take you into custody, and we will deal with
2 you sometime the latter part of this week. Take them
3 into custody.

4 Does anybody not understand that? (No audible re-
5 sponse) Very good.

6 Bring the jury.

7 (Jury returned to Courtroom)

8 THE COURT: Mr. Foreman, have you reached a verdict?

9 FOREMAN: No, sir.

10 THE COURT: Have you reached a verdict with regard
11 to one of the offenses?

12 FOREMAN: Yes.

13 THE COURT: And is that indeed unanimous?

14 FOREMAN: Yes.

15 THE COURT: Do you have the verdict form?

16 FOREMAN: I did not bring in the form.

17 THE COURT: The bailiff will get that for us. Hand
18 it to me.

19 Is this the verdict form?

20 FOREMAN: Yes.

21 THE COURT: Today is the 24th. All right. Mr. Fore-
22 man, ladies and gentlemen of the jury, is this verdict
23 with regard to lewd act on a minor unanimous?

24 FOREMAN: Yes. (Affirmative responses heard)

25 THE COURT: I will ask the Clerk to publish the

1 verdict.

2 CLERK: State of South Carolina, County of Florence.

3 General Sessions, Twelfth Judicial Circuit.

4 State of South Carolina versus Leonard Eugene

5 Brockington, Case 2012 GS 21 447.

6 . . . As to Count One, criminal sexual conduct with a minor,
7 first degree, there is no verdict.

8 As to Count Two, lewd act upon a minor, we, the jury,
9 by unanimous consent, find the Defendant guilty.

10 Foreman Andrew Flynn, dated April 24, 2014.

11 Members of the jury, if this is your verdict, raise
12 your right hands.

13 THE COURT: Mr. Foreman, you indicated in a note you
14 were hopelessly deadlocked with regard to Count One, is
15 that correct?

16 FOREMAN: Yes, sir.

17 THE COURT: Any additional requests from the State?

18 SOLICITOR: None from the State.

19 THE COURT: Any from the Defense?

20 MR. ANDERSON: No, sir, Your Honor.

21 (Jury excused by the Court)

22 (Jury note marked Court's Exhibit 6)

23 THE COURT: Anyone who wishes to leave may leave.

24 I'll ask the Defendant to come forward.

25 Ms. Parr and Mr. Wells, with regard to sentencing,

1 I will be glad to hear from either or both of you.

2 SOLICITOR: Your Honor, the Defendant does not have a
3 prior record, and we would ask that you hear from Mr.
4 Waldermo.

5 THE COURT: Yes, sir. Your full name again?

6 MR. WALDERMO: Jorgen Waldermo.

7 THE COURT: I'll be glad to hear from you, and I
8 ask that you address your comments to me and not to the De-
9 fendant.

10 In these matters, I need to talk directly to you,
11 you to me, and you are not to speak directly to him.

12 I'll be glad to hear what you've got to say.

13 MR. WALDERMO: I would like to thank the jury for
14 taking that much time over the verdict.

15 As for my daughter, it took a lot of courage for
16 her to stand here on Tuesday. I feel like she was heard
17 and understood. I think her words were truthful. I've
18 watched her since this occurred for almost three years
19 now, and she has made it clear to me what happened.

20 I am so thankful that justice is done, and wish
21 there were protective measures to prevent these things
22 from happening which is extremely important, because who
23 knows what could happen in the future.

24 Hopefully things will be set right.

25 THE COURT: Anything else?

1 MR. WALDERMO: Nothing else. Thank you, Your Honor.

2 THE COURT: Anything further from the State?

3 SOLICITOR: Nothing further, Your Honor.

4 THE COURT: Mr. Anderson, I'll be glad to hear from
5 you.

6 MR. ANDERSON: Thank you. May it please the Court?

7 As the Court heard and saw on the video played in
8 the Courtroom, my client denied these allegations.

9 We understand the jury has reached a verdict. There
10 is no question of what the jury has done in the case.

11 Judge, from everything I've read and everything I
12 have heard, from the witnesses and experts, this is behavior
13 that if it is going to manifest itself it will manifest
14 itself at an early age.

15 If someone has that propensity or is a person who
16 would do this, they don't wait until they are fifty-two or
17 fifty-three years old.

18 He's never been accused of anything like this, and
19 you heard him say he coached kids in baseball, coached
20 a hundred sixty or hundred and eighty kids. One of the
21 witnesses who was sequestered and who has been here
22 all along is a former baseball player he coached.

23 Your Honor, when he was arrested on this charge, he went
24 to jail and was released. I think he spent one or two
25 days in jail. Maybe two days.

1 Your Honor, when this happened he had the job in
2 Sumter but he has been released from that job. He has
3 found another one and has been working since then.

4 Your Honor, his mother has been here every day, sit-
5 ting on the front row most days. She is on the second row
6 today. Her right arm is completely in a cast. He has
7 lived with her and taken care of her.

8 He has two sons and a daughter who have been here
9 all week. They have certainly been supporting him, Your
10 Honor.

11 We were hoping for a better outcome, but we under-
12 stand what happened. .

13 Your Honor, as you are aware, if you're convicted
14 of a lewd act, that carries a lifetime monitoring to my
15 understanding. Also, Your Honor, if convicted of a lewd
16 act -- of course, that is a sex crime, and you have to
17 register twice a year wherever you are living.

18 Your Honor, I would ask you to keep that in mind.
19 He is going to have to have lifetime monitoring and he
20 will have to register twice a year with the Sheriff's
21 Office wherever he resides.

22 Please be as lenient as possible.

23 THE COURT: Mr. Brockington, I'll be glad to hear
24 anything you have to say.

25 DEFENDANT: Yes, Your Honor.

1 THE COURT: Direct your comments to me and not to
2 anyone else.

3 DEFENDANT: I accept what the jury has given me. I
4 still maintain my innocence but I'll take my punishment.
5 The only concern I really have is my mother. I take care
6 of her. I don't know what we're going to be able to do
7 with her.

8 As Mr. Anderson said, I have never been in any trou-
9 ble with the law my whole life, and I'm almost fifty-five
10 years old.

11 Unfortunately, things turned out the way they did,
12 and I just ask that you be as lenient with my sentence
13 as you possibly can.

14 THE COURT: All right. Do we have a sentencing
15 sheet?

16 SOLICITOR: I'm sorry, Your Honor.

17 (Brief pause in the proceeding)

18 THE COURT: Mr. Brockington, one of the things I feel
19 compelled to say is that the Solicitor's Office did a very
20 fine job, and your lawyer was a tremendous advocate on
21 your behalf.

22 The fact that he's done such a good job the -- if
23 you had been convicted of criminal sexual conduct with
24 a minor, your sentence would have been a minimum manda-
25 tory twenty-five years with no parole.

1 I understand the maximum -- even if you had been
2 the President of the United States and been before me,
3 been convicted of that, the least you could get was
4 twenty-five years, and you would serve that day for day.

5 Do you understand that?

6 DEFENDANT: Yes, sir.

7 THE COURT: Do you also understand that the lesser
8 offense in count two is not an included offense, but in
9 that instance if you are convicted you could receive fif-
10 teen years.

11 Do you understand that?

12 DEFENDANT: Yes.

13 You also understand all the ramifications? Your law-
14 yer has spoken to you about that, hasn't he?

15 DEFENDANT: Yes, sir.

16 THE COURT: All right.

17 Mr. Brockington, on Indictment 2012 GS 21 00447,
18 lewd act, the sentence of the Court is you be committed
19 to the State Department of Corrections for a period of
20 fifteen years.

21 Sexual offender registry and GPS monitoring.

22 Good luck to you.

23 -----END OF REQUESTED TRANSCRIPT OF RECORD-----

24

25

1 CERTIFICATE

2 I, HARRIET P. BENNETT, Court Reporter for South
3 Carolina Court Administration, hereby certify that the
4 foregoing Transcript was prepared from the records of
5 Keshia Reed to the best of my ability, having been
6 heard in the Court of General Sessions for Florence
7 County on April 21-24, 2014.

8 FURTHER, I certify that I am neither of kin nor of
9 counsel, nor do I have any interest in the outcome of
10 the same.

11 October 28, 2014

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STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF)

STATE OF SOUTH CAROLINA) #2012 -GS- 21-447
)
vs.) MOTION FOR ADMISSION
Leonard Eugene Brockington) OF OUT-OF-COURT STATEMENT
) OF CHILD PURSUANT TO
DEFENDANT) S.C. CODE SECTION 17-23-175

FILED
2013 SEP 30 PM 1:26
CONNIE REEL-SHEARER
CLERK OF COURT
FLORENCE COUNTY, SC

PLEASE TAKE NOTICE that the undersigned Attorney for the State will move before this Honorable Court at a date to be determined pursuant to S.C. Code Section 17-23-175 for admission of out-of-court statement(s) made by the victim/witness in the above-captioned case, to wit: Minor , date of birth . S.C. Code Section 17-23-175 was enacted as part of the Sex Offender Accountability and Protection of Minors Act of 2006.

Statement of Law

An out-of-court statement by a child under the age of twelve is admissible in a General Sessions Court proceeding upon satisfaction of the provisions set forth in S.C. Code Section 17-23-175 and a finding by the Court that the statement(s) provides "particularized guarantees of trustworthiness." In the present case, the victim/witness was under the age of twelve years at the time of the making of said statement(s) or functioned cognitively, adaptively, or developmentally under the age of twelve at the time of the making of the statement(s). Furthermore, the defendant is currently charged with an offense which would require registry pursuant to the provisions of Article 7, Chapter 3, Title 23 (South Carolina sex offender registry).

Evidence offered by the State pursuant to this section includes recorded statements made by the child victim/witness to the following persons in relation to the above-captioned case:

Alicia Benedetto, Ph.D. Assessment & Resource Center

The State offers the following facts in support of the admission of the aforementioned out-of-court statement(s):

- (1) the statement was given in response to questioning conducted during an investigative interview of the child, pursuant to S.C. Code Section 17-23-175(A)(1);
- (2) an audio and visual recording of the statement has been preserved by electronic means, pursuant to S.C. Code Section 17-23-175(A)(2);
- (3) The child is expected to testify at trial and is subject to cross-examination on the elements of the offense and the making of the out-of-court statement(s), pursuant to S.C. Code Section 17-23-175(A)(3).

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Connie Reel-Shearer
CLERK OF COURT
FLORENCE COUNTY, SC

The State contends that the totality of the circumstances surrounding the making of the statement(s) provides particularized guarantees of trustworthiness. The State requests an *in-camera* review by the Court for consideration of the following factors in support of the admission of said evidence pursuant to S.C. Code Section 17-23-175 (B):

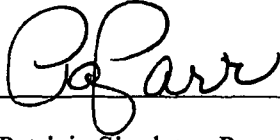
- (1) whether the statement was elicited by leading questions;
- (2) whether the interviewer has been trained in conducting investigative interviews of children;
- (3) whether the statement contains a detailed account of the offense;
- (4) whether the statement has internal coherence; and
- (5) sworn testimony of any participant which may be determined as necessary by the Court.

In addition, recent South Carolina court decisions have upheld the admission of the victim's forensic interview recorded statement pursuant to S.C. Code Section 17-23-175. In *State v. Bryant*, 382 S.C. 505, 675 S.E.2d 816 (S.C. Ct. App. 2009), the court affirmed the application of Section 17-23-175. Specifically, this case examined whether the application of the statute violated the *ex post facto* clauses of the state and federal constitutions. In *Bryant*, the defendant's charges were already pending when the "Jessie's Law" child hearsay exception was enacted. The court determined that the child hearsay exception was procedural in nature and did not alter "substantial personal rights." Furthermore, the court determined that "in order for the *ex post facto* clause to be implicated, the statute at issue must be criminal or penal in purpose and nature." *Bryant, supra*. Thus, Section 17-23-175 was found to be applicable regardless of the date of the defendant's arrest or indictment.

Further, in *State v. Russell*, 679 S.E.2d 542 (Ct. App. 2009), the court upheld the admission of the child victim's videotaped investigative interview pursuant to the child hearsay exception set forth in Section 17-23-175. In *Russell*, the appellant argued that the admission of the videotaped investigative interview amounted to "improper bolstering." The Court of Appeals determined that "the legislature has made a specific allowance for these out-of-court statements by child victims provided certain elements are met." *Russell, supra*. In addition, the court ruled that the child's videotaped interview was "highly probative to the question of Russell's guilt or innocence," and that any prejudicial effect was outweighed by its probative value. *State v. Russell*, 679 S.E.2d 542 (Ct. App. 2009).

For the foregoing reasons, the State moves to introduce evidence and/or testimony of the out-of-court-statement(s) made by the child concerning details of the alleged criminal offense(s) in this case. Furthermore, the State contends that upon consideration of the totality of the circumstances, that said statement(s) possess particularized guarantees of trustworthiness sufficient for admissibility within the provisions of S.C. Code Section 17-23-175.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "P. Parr", is written over a horizontal line.

Patricia Singleton Parr, Assistant solicitor

12th Judicial Circuit Solicitor's Office

This 26 day of September, 2013

STATE OF SOUTH CAROLINA)
)
 COUNTY OF FLORENCE)
)
 STATE OF SOUTH CAROLINA.)
)
 PLAINTIFF,)
 VS.)
)
 LEONARD BROCKINGTON,)
)
)
 DEFENDANT)
)
 _____)

IN THE COURT OF GENERAL SESSIONS
 TWELFTH JUDICIAL CIRCUIT

CASE NO 2012-GS-21-447

**Defendant's Opposition to State's Motion for
 Admission of Out-of Court Statements of
 Child Pursuant to S.C. Code Sec. 17-23-175**

FILED
 2013 FEB 15 PM 2:41
 CLERK OF COURT
 FLORENCE COUNTY, S.C.

The defendant opposes the State's motion for admission of out-of-court statements of child pursuant to *S C Code Sec. 17-23-175*

I. S.C. Code Sec. 17-23-175 is unconstitutional in that it violates the Confrontation Clause of the Sixth Amendment to the United States Constitution as interpreted by *Crawford v. Washington*, 541 U.S. 36, 124 S.Ct. 1354 (2004).

S C Code Sec 17-23-175 was enacted in 2006 and its constitutionality has never been tested in the South Carolina courts. The requirements of the statute for admission of the videotaped forensic interviews in this case are in direct conflict with the provisions of *Crawford v. Washington*, 541 U.S. 36, 124 S.Ct. 1354 (2004), and the statute therefore violates the Confrontation Clause of the Sixth Amendment to the United States Constitution. In *Crawford*, the Court discussed the admissibility of out-of-court hearsay statements of a witness and concluded that the right of confrontation is violated by admission of such statements except in very limited circumstances. Those limited circumstances for admission of such statements exist only when the witness is unavailable, when the out-of-court statements are considered testimonial, and the defendant had a prior opportunity for cross-examination of the witness. Id. at 68, 124 S.Ct. 1374. In contrast, *S C. Code Sec 17-23-175*

allows admission of out-of-court hearsay statements if they were made in response to questioning conducted during an investigative forensic interview of the child (making the statements testimonial) and when the child is available for testimony and cross-examination at trial *S C Code Sec 17-23-175(A)(1), (A)(3)*. The requirement that the child be available for testimony directly contravenes the *Crawford* requirement that the witness be unavailable before out-of-court hearsay statements can be admitted.

The *Crawford* case interprets the Confrontation Clause to be violated when out-of-court testimonial hearsay statements of an available witness are admitted. In this case, the defendant believes the State intends to call the child to testify at trial and be subject to cross-examination. If the child is available to testify, *Crawford* simply does not allow admission of her out-of-court testimonial statements made on the videotaped forensic interviews, the contrary provisions of *S C Code Sec 17-23-175* notwithstanding. Because the statute violates the mandate of *Crawford*, Defendant requests that the Court find the statute unconstitutional and apply *Crawford* to exclude the videotaped forensic interviews of the child.

II. S.C. Code Sec. 17-23-175 violates Maryland v. Craig, 497 U.S. 836, 110 S.Ct. 315 (1990).

S C Code Sec 17-23-175 violates Maryland v Craig, 497 U.S. 836, 110 S.Ct 3157 (1990) in two important ways. First, to be constitutional testimony of a child witness occurring outside the presence of the defendant must be under oath with an opportunity for contemporaneous cross-examination. Second, even if constitutional, the application of *S C Code Sec 17-23-175* to admit out-of-court videotaped statements should be limited to situations where the court makes specific findings regarding the necessity of admitting the evidence.

A. S.C. Code Sec. 17-23-175 is not constitutional because it does not provide for an under oath, contemporaneous cross-examination as required by *Craig*.

The videotaped interviews in this case are just like videotaped testimony, except that the interviews are not under oath and there was not an opportunity for contemporaneous cross-examination. In *Craig*, the United States Supreme Court, while noting that face-to-face confrontation is best, held the testimony of a child witness via closed circuit TV did not violate the right of confrontation. The Court reasoned:

“We find it significant, however, that Maryland's procedure preserves all of the other elements of the confrontation right: The child witness must be competent to testify and must testify under oath, the defendant retains full opportunity for contemporaneous cross-examination; and the judge, jury, and defendant are able to view (albeit by video monitor) the demeanor (and body) of the witness as he or she testifies. Although we are mindful of the many subtle effects face-to-face confrontation may have on an adversary criminal proceeding, the presence of these other elements of confrontation-oath, cross-examination, and observation of the witness' demeanor-adequately ensures that the testimony is both reliable and subject to rigorous adversarial testing in a manner functionally equivalent to that accorded live, in-person testimony. These safeguards of reliability and adversariness render the use of such a procedure a far cry from the undisputed prohibition of the Confrontation Clause: trial by ex parte affidavit or inquisition ..”

Id at 851, 110 S Ct at 3166.

The *Craig* Court noted that the majority of the states had adopted procedures for child witnesses to testify via closed circuit TV or videotaped testimony. The Court concluded, “The Confrontation Clause does not prohibit use of a procedure that, despite the absence of face-to-face confrontation, ensures the reliability of the evidence by subjecting it to rigorous adversarial testing

and thereby preserves the essence of effective confrontation.” Without an oath and without contemporaneous cross-examination, there cannot be effective confrontation. *Section 17-23-175*, therefore, violates the right of confrontation.

I. Even if constitutional, the application of *S.C. Code Sec. 17-23-175* to admit out-of-court videotaped statements should be limited to situations where the court makes specific findings regarding the necessity of admitting the evidence.

Even if the Court determines that *SC Code Sec. 17-23-175* does not violate the Confrontation Clause and chooses to apply the statute in determining admissibility of the videotaped forensic interviews, the Court should consider the necessity of admitting the evidence in addition to the criteria enumerated in the statute, as is required when a court determines whether to allow testimony of children via closed circuit television in child abuse cases. In *Craig*, the Court held that the Confrontation Clause does not prohibit a child witness from testifying by closed circuit television, but that a case-specific finding of necessity for the use of that procedure was required *Id.* at 855-56, 110 S Ct. 3169. If a finding of necessity is required in those circumstances, where a child is actually testifying during a trial and is subject to cross-examination, surely the same finding should be made for admission of an out-of-court testimonial statement in which the child witness was not subject to cross-examination. As noted in *Craig*, *supra*, the denial of a physical, face-to-face confrontation at trial violates the Confrontation Clause “only where denial of such confrontation is necessary to further an important public policy and only where the reliability of the testimony is otherwise assured.” *Id.* at 851, 110 S.Ct. at 3166.

In *Craig*, the Court noted that the public policy of protecting child witnesses from the trauma of giving testimony in child abuse cases could be sufficiently important in some cases to outweigh

the defendant's right of confrontation. *Id.* at 853, 110 S.Ct. at 3167. However, the Court also held that the importance of protecting child witnesses outweighs the defendant's right of confrontation only "if the State makes an adequate showing of necessity." *Id.* at 855, 110 S.Ct. at 3169. To make that showing of necessity, (1) the State must present case-specific evidence from which the trial court can determine whether admission of videotape evidence is necessary to protect the welfare of the particular child witness, (2) the trial court must find that the child witness would be traumatized by the presence of the defendant; and (3) the trial court must find that the trauma suffered by the child witness in the presence of the defendant is more than "mere nervousness or excitement or some reluctance to testify." *Id.* at 856, 110 S.Ct. at 3169. No such showing of necessity can be made here to justify admission of the out-of-court videotaped statements of the children

The South Carolina courts agree that a particularized showing of necessity is needed before videotaped or closed circuit testimony can be used to avoid face-to-face confrontation with a defendant. Although *S.C. Code Sec 16-3-1550(E)* does not preclude the use of videotaped testimony for certain witnesses, the judge must make appropriate findings before such procedures can be used. In *State v. Murrell*, 302 S.C. 77, 393 S.E.2d 919 (1990), the South Carolina Supreme Court affirmed the trial judge's order allowing videotaped testimony of a child witness where the judge heard expert testimony that the child would be significantly harmed by an in-court confrontation. In that case, the child witness was placed in a courtroom setting and the defendant was in an adjacent room viewing the child on video. Defendant's attorney was present in the courtroom for direct and cross-examination, and the attorney's law partner was in the room with the defendant, with three-way communication available at all times between the attorneys and the defendant. *Id.* at 71, 393 S.E.2d 920-921. In *State v. Bray*, 342 S.C. 23, 535 S.E.2d 636 (2000), the South Carolina Supreme Court

determined that although the record contained sufficient evidence to support a finding that testimony of a child witness should be given by closed circuit television, reversal was mandated because the trial court failed to make specific findings for its ruling allowing testimony outside the presence of the defendant, specifically failing to cite to testimony that the child would be traumatized if required to testify in the presence of defendant. *Id.* at 31-32, 535 S.E.2d 641. These requirements for case-specific findings of necessity for admission of videotaped or closed circuit television testimony should limit *S.C. Code Sec. 17-23-175* in a similar manner. Because the statute does not require a finding of necessity for admission of videotaped forensic interviews, it contravenes the provisions of *Craig* and its progeny and therefore violates defendant's right of confrontation. Furthermore, as noted previously, no showing of necessity can be made in this case since the

III. The "particularized guarantees of trustworthiness" enumerated in *S.C. Code Sec. 17-23-175(B)* are not adequate to protect the defendant's right of confrontation and furthermore, are not met in this case.

Prior to *Crawford*, *supra*, the United States Supreme Court, in *Ohio v. Roberts*, 448 U.S. 56, 100 S.Ct. 2531, conditioned the admissibility of all hearsay evidence on whether it falls under a "firmly rooted hearsay exception" or bears "particularized guarantees of trustworthiness." *Id.* at 66, 100 S.Ct. 2539. Under the *Roberts* test, the "particularized guarantees of trustworthiness" enumerated in *S.C. Code Sec. 17-23-175(b)* perhaps could have been held to pass constitutional muster. However, the Court abrogated *Roberts* in the *Crawford* decision, finding that the *Roberts* test was too broad in that "it applies the same mode of analysis whether or not the hearsay consists of ex parte testimony," yet at the same time too narrow in that "it admits statements that do consist of ex parte testimony upon a mere finding of reliability." *Crawford*, *supra*, at 60, 124 S.Ct. 1369. The

Court stated: "This malleable standard often fails to protect against paradigmatic confrontation violations." Id.

The particularized guarantees of trustworthiness that render firmly rooted hearsay exceptions reliable do not exist with regard to the videotaped forensic interviews in this case. Almost all the firmly rooted hearsay exceptions recognized in our jurisprudence apply to non-testimonial statements, with the exception of certain dying declarations that might be made in a testimonial context. Id. at 56, 124 S Ct. 1367, fn. 6. The Crawford Court had the following to say about the fallacy of using the "reliability" determination when dealing with testimonial statements such as the videotaped interviews at issue here.

"Where testimonial statements are involved, we do not think the Framers meant to leave the Sixth Amendment's protection to the vagaries of the rules of evidence, much less to amorphous notions of "reliability." Certainly none of the authorities discussed above acknowledges any general reliability exception to the common-law rule. Admitting statements deemed reliable by a judge is fundamentally at odds with the right of confrontation. To be sure, the Clause's ultimate goal is to ensure reliability of evidence, but it is a procedural rather than a substantive guarantee. It commands, not that evidence be reliable, but that reliability be assessed in a particular manner: by testing in the crucible of cross-examination. The Clause thus reflects a judgment, not only about the desirability of reliable evidence (a point on which there could be little dissent), but about how reliability can best be determined. Cf. 3 Blackstone, Commentaries, at 373 ("This open examination of witnesses ... is much more conducive to the clearing up of truth"); M. Hale, History and Analysis of the Common Law of England 258 (1713) (adversarial testing "beats and bolts out the Truth much better")."

Id. at 61, 124 S Ct at 1370.

Under the reasoning of *Crawford*, the “particularized guarantees of trustworthiness” factors enumerated in *S C Code Sec 17-23-175(B)* simply cannot suffice to allow admission of the out-of-court testimonial hearsay statements contained in the videotaped forensic interviews. Without a prior opportunity for cross-examination on those statements, admission of the videotapes clearly violates defendant’s right of confrontation. Furthermore, even if the factors listed in the statute were adequate to evaluate admissibility, several of the factors are not met in this case, not least of which is whether the child’s statements were elicited by leading questions. For these reasons, the videotaped forensic interviews should be excluded from evidence.

IV. If the videotapes are admitted, South Carolina’s rule of completeness requires that portions adverse to the State’s case must also be shown to the jury.

South Carolina Rule of Evidence 106 provides as follows: “When a writing, or recorded statement, or part thereof is introduced by a party, an adverse party may require the introduction at that time of any other part or any other writing or recorded statement which ought in fairness to be considered contemporaneously with it.” *See also State v Jackson*, 265 S.C 278, 284, 217 S E.2d 794, 797 (1975) (holding that when part of a conversation is put into evidence, an adverse party is entitled to prove the-remainder of the conversation, so long as it is relevant, particularly when it explains or gives new meaning to the part initially recited. “All statements made in a conversation, in relation to the same subject or matter, are to be supposed to have been intended to explain or qualify each other, and therefore the plainest principles of justice requires that if one of the statements is to be used against the party, all of the other statements tending to explain it or to qualify this use should be shown and considered in connection with it.”)

Defendant is informed and believes that if the Court finds the videotaped forensic ~~interviews~~ admissible, the ~~State~~ will request redaction of portions of the tape in ~~which~~ the child witness alleges that defendant also abused the ~~child's~~ sibling. ~~Defendant's~~ position is that the State wishes to exclude these portions of the tape ~~because defendant was not charged with abusing the sibling and~~ there is no ~~evidence whatsoever~~ to corroborate any abuse ~~of the sibling~~. Under the rule of ~~completeness~~, the jury should also see these portions of the videotaped interviews.

Conclusion

For the foregoing reasons, Defendant requests that the videotaped forensic interviews be excluded from evidence. Alternatively, if admitted, Defendant requests that the court require that portions of the videotaped interviews adverse to the State's case also be shown to the jury.

IT IS SO MOVED.

Respectfully Submitted,

BY:


HENRY M. ANDERSON, JR.
ANDERSON LAW FIRM, P.A.
Attorney for Defendant
265 West Evans Street
Florence, SC 29501-3464
(843) 665-4300

December 11, 2013

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	TWELFTH JUDICIAL CIRCUIT
COUNTY OF FLORENCE	)	
		CASE NO 2012-GS-21-447
STATE OF SOUTH CAROLINA,	)	
	)	
PLAINTIFF,	)	
VS	)	MOTION TO REQUIRE DISCLOSURE OF
	)	ALLEGED VICTIM'S COUNSELING
LEONARD BROCKINGTON,	)	RECORDS
	)	
DEFENDANT	)	
_____	)	

FILED
2013 DEC 13 PM 2:41
CONNIE G. GRIFFIN
FLORENCE COUNTY, S.C.

Pursuant to Rule 5 of the South Carolina Rules of Criminal Procedure, Brady v. Maryland, 373 U.S. 83 (1963), Kyles v. Whitley, 115 S.Ct. 1555 (1995), the *Fifth, Sixth, and Fourteenth Amendments of the United States Constitution*, and *Art 1, §§ 3 and 14 of the South Carolina Constitution*, the defendant moves for an order requiring disclosure of counseling records and any other mental health records of the alleged victim.

Typically, law enforcement or the Solicitor's Office refers the alleged victim of sexual abuse to a counselor. The State gets an opinion from the counselor and often wants to use the counselor in court as an expert witness. While the defendant has not been presented any counseling records through discovery, the victim in this case was referred for follow up counseling by law enforcement, as well as, her family. It is the defense attorney's belief that she saw a counselor in North Carolina and is now currently seeing one in South Carolina. While *SC Code §10-11-95* establishes a privilege, this section also provides an exception to the privilege. *Section 19-11-95(D)(1)* provides, in relevant part:

"A provider shall reveal confidences when required by statutory law or by court order for good cause shown to the extent that the patient's care and treatment or the nature and

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Connie G. Griffin
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

extent of his mental illness or emotional condition are reasonably at issue in a proceeding ..”

These records, if they exist, are needed for several reasons. First, the defendant should have access to the same information that law enforcement and the Solicitor’s office have access to in investigating and preparing the case for trial. Second, the defendant should have access to the information in order to learn of any inconsistent statements made to the counselor. Third, the defendant should have access to the notes of the counselor in order to determine if the examiner used appropriate techniques while interviewing and/or discussing the case with the child. Fourth, the defendant should have access to the information in order to determine if the child has been abused by another individual and that such abuse may be the source of the child’s symptoms. Fifth, the defendant should have access to the information in order to determine if there is another cause for the child’s symptoms, and whether the counselor has investigated that possibility.

The defendant contends that the requested information is material to the defense and should be produced prior to trial in order that counsel for the defendant can adequately and effectively prepare a defense. If the State objects to producing one or more of the requested items, then the defendant requests a hearing prior to the trial.

Respectfully Submitted,

BY


HENRY M. ANDERSON, JR.
ANDERSON LAW FIRM, P A.
Attorney for Defendant
265 West Evans Street
Florence, SC 29501-3464
(843) 665-4300

December 11, 2013

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF FLORENCE)

STATE OF SOUTH CAROLINA) #2012 -GS-21- 447
)

vs.)

LEONARD BROCKINGTON,
DEFENDANT)

**MOTION TO CLEAR COURTROOM OF
SPECTATORS FOR THE TESTIMONY OF
CHILD VICTIM**

FILED
2014 APR -1 PM 12:33
CLERK OF COURT CP & GS
FLORENCE COUNTY

PLEASE TAKE NOTICE that the undersigned Attorney for the State will move before this Honorable Court at a date to be determined pursuant to State v. Sinclair, 275 S.C.608, 274 S.E. 2d 411 (1981); Waller v. Georgia, 467 U.S. 39 (1984); and S C. Code Ann. 16-3-1550 (E) to clear the courtroom of spectators during the testimony of the child victim, Minor , Date of birth

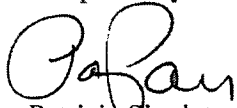
The child victim is who is very young is already considered as a special witness. The Defendant's 6th Amendment Constitutional Rights and/or the U.S. Constitution's Confrontation Clause are not violated by this motion. "The need to protect young victims of crimes, such as sexual abuse, from the trauma of in court testimony is reflected in the General Assembly's enactment of 16-3-1530 (G)". State v. Cooper, 353 S.E.2d 451 (1987). Motion to exclude the public is much less burdensome than motion for videotaped testimony. Since the defendant suffers no prejudice or violation of his constitutional rights, the Victim's Bill of Rights should be considered.

S.C. Code 16-3-1550 (E)

"The circuit or family court must treat sensitively witnesses who are very young, elderly, handicapped, or who have special needs by using closed or taped sessions when appropriate. The prosecuting agency or defense attorney must notify the court when a victim or witness deserves special consideration."

For the foregoing reasons, the State moves to have the courtroom cleared of spectators during the testimony of Minor

Respectfully submitted,



Patricia Singleton Parr

Assistant Solicitor

12th Judicial Circuit Office of Solicitor

This 1st day of April, 2014

CERTIFIED TRUE COPY

Connie Red-Stephens

CLERK OF COURT CP & GS
FLORENCE COUNTY, S.C.

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)
STATE OF SOUTH CAROLINA,)
PLAINTIFF,)
VS.)
LEONARD BROCKINGTON,)
DEFENDANT)

IN THE COURT OF GENERAL SESSIONS
TWELFTH JUDICIAL CIRCUIT

CASE NO 2012-GS-21-447

Written Objection to Qualifying the Person
Conducting the Interview of the Child as an
Expert

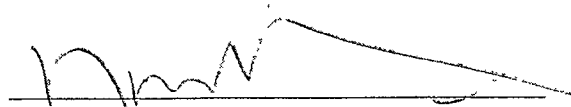
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CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, SC

The defendant objects to the state qualifying as an expert witness anyone who conducted an interview with the alleged victim as part of this investigation. In State v. Douglas, 380 S C 499, 671 S.E 2d 606 (2009), the Supreme Court held "it was unnecessary for the trial court to have qualified her as an expert." Id 380 S C. at 503, 671 S E.2d at 608. The Court reached this conclusion because the interviewer testified "only as to her personal observations and experiences, and her interview with the Victim in this case." Id 380 S C at 502-3, 671 S E.2d at 608.

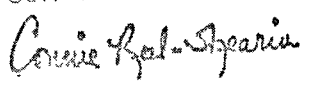
In this case, the so-called "forensic interviewer" did not even opine the alleged victim needed a medical exam. The Court, therefore, should not qualify this interviewer, or any other interviewer, as an expert witness.

Respectfully Submitted,

BY:


HENRY M. ANDERSON, JR.
ANDERSON LAW FIRM, P.A.
Attorney for Defendant
265 West Evans Street
Florence, SC 29501-3464
(843) 665-4300

December 11, 2013

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CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

Name: Minor

CID#: 10241155

Section J: Strengths, Needs, Abilities, and Preferences

Strengths: (family, social, spiritual support, hobbies, and attitudes that have helped overcome past crises)
family support, willing to participate, sense of humor,

Needs: (Client's expression of current needs emotional, physical, social, environmental)
court preparation services and support

Are you currently receiving services from other providers/agencies?

☐ Yes ☒ No

Specify: _____

Abilities: (Client's ability to follow up with treatment, understand instructions, participate in treatment)
Intelligence, verbal ability, insightful,

Preferences: (appt., day/times, therapist, treatment modality, etc.)
afternoon appointments

Section K: View of Treatment and Discharge

Documentation should include the source and the following:

> What are your expectations?

Client:

Don't know

Family (specify):

See if she is able to testify without retraumatization

> What is your commitment and motivation to treatment?

Client:

?

Family (specify):

100%

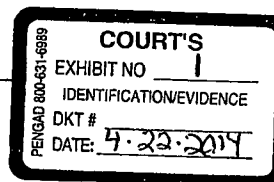
> How will you know when you will be ready for discharge?

Client:

After court

Family (specify):

When you think she is ready

**Section L: Mental Status Exam**

List more than one descriptor if applicable. Elaborate on any problem areas in the space provided.

Appearance & Hygiene

☐ Meticulous ☒ Neat ☒ Clean ☐ Disheveled ☐ Bizarre ☐ Body Odor

Comments:

Motor Activity

☒ Appropriate to situation ☐ Over-active ☐ Tremor/tics ☐ Poor coordination ☐ Repetitive ☐ Lethargic

Comments:

Attitude During Interview

☒ Cooperative ☐ Oppositional ☐ Hostile ☐ Dramatic ☐ Guarded ☐ Irritable ☐ Withdrawn

Comments:

Affect

☒ Appropriate to situation ☐ Blunted ☐ Flat ☐ Tearful ☐ Incongruent ☐ Expansive ☐ Labile

Comments:

Mood

☒ Happy ☐ Euthymic ☐ Anxious ☐ Depressed ☐ Angry ☐ Hopeless ☐ Suspicious ☐ Passive

Comments:

Speech

☒ Normal rate and tone ☐ Slow ☐ Fast ☐ Soft ☐ Loud ☐ Pressured ☐ Slurred ☐ Stuttering ☐ Alogia

Comments:

Name: Minor

CID#: 10241155

Thought Process	☒ Normal, appropriate, coherent, relevant ☐ Loose associations ☐ Flight of ideas ☐ Blocking ☐ Racing ☐ Circumstantial ☐ Tangential ☐ Indecisive ☐ Disorganized ☐ Concrete Comments:
Thought Content	☒ Normal ☐ Phobias ☐ Obsessions ☐ Ideas of hopelessness ☐ Ideas of worthlessness ☐ Paranoia ☐ Persecutory ☐ Suicidal ☐ Homicidal (<i>Note: If suicidal or homicidal, see risk assessment</i>) Comments:
Hallucinations	☒ No evidence ☐ Auditory ☐ Command ☐ Visual ☐ Olfactory ☐ Tactile ☐ Denies Comments:
Delusions	☒ No evidence ☐ Persecutory ☐ Grandeur ☐ Reference ☐ Influence ☐ Somatic ☐ Denies Comments:
Orientation/Level of Consciousness	☒ Alert Oriented to ☒ Person ☒ Place ☒ Time ☒ Situation ☐ Clouded ☐ Confused Comments:
Judgement	☐ Able to make sound decisions ☐ Usually able to make sound decisions ☐ Poor decision making, adversely affects self ☐ Poor decision-making, adversely affects others Comments:
Insight/Adjustment to Problems/Illness, Disabilities, Disorders	☐ Denies problems/illness ☐ Blames others ☐ Minimizes ☒ Acknowledges & understands ☐ Acknowledges but fails to understand Comments:
Memory (use example)	☒ Intact ☐ Poor remote ☐ Poor recent ☐ Poor immediate Comments:
Concentration & Calculations (use example)	☒ Able to concentrate ☐ Able to do simple math ☐ Easily distracted ☐ Daydreams Comments:
Fund of Knowledge (use example)	☒ Above average ☐ Average ☐ Below average Comments:

Other Pertinent Information: _____

Sleep Patterns: ☐ Adequate ☐ Hypersomnia ☐ Early awakening ☐ Insomnia ☐ Short intervals ☐ Sleepwalking ☒ Nightmares ☐ Decreased need for sleep ☐ Other	Appetite/Eating Patterns: ☒ Adequate ☐ Purges ☐ Increased ☐ Binges ☐ Decreased ☐ Doesn't eat ☐ Weight changes: _____ Lbs.	Energy Levels: ☒ Adequate ☐ Increased ☐ Decreased ☐ Fatigue	Libido ☐ Adequate ☐ Increased ☐ Decreased

Name: Minor

CID#: 10241155

Section M: DSM-IV Diagnosis
(Must include both code and description)

Axis I: 995 53 Child Sexual Abuse
 309.9 Post Traumatic Stress Disorder

Criteria For Dx. hypervigilance, avoidance, increased anxiety, intrusive thoughts, nightmares,

Axis II: none noted or reported

Axis III: none noted or reported

Axis IV: stress of court testimony

Axis V: Children's GAF=65

Section N: Interpretive Summary

This is a narrative of the data gleaned during the assessment. It should include: ☐ Priorities for treatment, include co-occurring disorders ☐ Justification for treatment ☐ Recommendation(s) for treatment and referrals (including services and their frequencies) ☐ Clinical judgement re: both positive and negative factors likely to affect the client's course of treatment and clinical outcomes. And it could also include: ☐ Current levels of cognitive, emotional, and behavioral functioning ☐ Issues present ☐ Basis for diagnosis ☐ Adjustments to disorder/disabilities.

Minor Minor

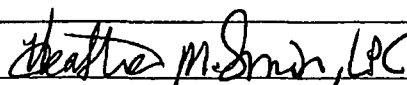
case. She has been seen previously by same therapist for TFCBT at Forensic Family Associates and progress was positive with reduction of PTSD symptoms. She was better able to focus, nightmares were reduced, intrusive thoughts and anxiety reported less at home and school. With pending criminal court case and requirement that Minor testify, short-term psychoeducation and supportive therapy was recommended at the ARC to provide these services as well as Victim Advocacy to the family.

Assisting Staff's Signature / Title (if applicable):

Date:

Clinician's Signature / Title:

Heather M. Smith, LPC



Date: 10/02/2013



Case Consultations | Family Solutions

Minor

Date: 8/16/2013

Service: Individual Therapy

Focus: Check-in/court assessment

Intervention: Therapist met with Minor and asked about her Summer break and how she was doing since our last appointment. Initiated a discussion about testifying in court and how Minor would feel about that happening. Encouraged open expression of emotions and thoughts about the subject. Educated about what criminal court entailed and the purpose of testimony.

Response: Minor reported she had an enjoyable break for the Summer but was also looking forward to starting back school. She initially indicated that she would not be comfortable testifying in court about what happened but after some education about the process, including going to the courthouse to prepare, Minor appeared more comfortable about beginning a preparation process.

Plan: Therapy will move to the ARC for court preparation services due to better resources for travel to out of town court and Victim Advocacy services for family. One final session at this clinic before discharge from here.

Heather M. Smith, LPC

Allison M. Foster, Ph.D.
Licensed Clinical Psychologist

Alicia Benedetto, Ph.D.
Licensed Clinical Psychologist

Heather M. Smith, LPC
Licensed Professional Counselor

FINAL AGREEMENT

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I. CUSTODY AND VISITATION

1. Custody. The parties agree that Jorgen shall have primary physical and legal custody of the minor children.
2. Visitation. Karen shall be entitled to the following visitation:
 - a. Weekends: Commencing Saturday, January 26, 2013, Karen will have visitation with the minor children in Charlotte every other weekend from Saturday at 9:00 a.m. until 6:00 p.m. and Sunday at 9:00 a.m. until 6:00 p.m. for a period of 90 days. The parties agree that Karen shall attend counseling with Heather M. Smith, LPC at the Forensic Family Association in Columbia, South Carolina. She shall provide her psychological evaluation that was performed in the DSS case to Ms. Smith, and also, she agrees that this document, and the subsequent Court Order approving this document, is her specific authorization to allow Jorgen's attorney to obtain a copy of the psychological evaluation from DSS for his review. Ms. Smith shall direct the counseling, and if necessary, involve Jorgen and/or the minor children in the counseling. At the end of the 90 day period, is Ms. Smith agrees, then Karen may begin overnight visitation with the children in Charlotte for another period of 90 days, from Saturday at 9:00 a.m. to Sunday at 6:00 p.m. every other weekend. The same procedure shall commence at the end of the second 90 day period, and should Ms. Smith agree, Karen may exercise her overnight visitation anywhere she chooses from Saturday at 9:00 a.m. to Sunday at

6:00 p.m. every other weekend, subject to the restrictions below.¹ Should Ms. Smith not suggest moving on to the expanded visitation, then the time period shall continue. Karen may request a change in visitation every 90 days, unless a counselor has stated otherwise.

b. Summer. For a period of time of four weeks in the summer each year, Karen will have no visitation with the minor children, as Jorgen takes an extended vacation with the children. Jorgen shall notify Karen by May 30th each year with regard to which four weeks he has chosen. Karen shall be entitled to two non-consecutive weeks of summer visitation commencing at the earliest with summer 2014 (contingent on the restrictions listed above in paragraph 2), as long as she is not working and/or she has made suitable arrangements for care for the children and the children are not staying alone at her home or with their maternal grandparents. If Karen chooses to enroll the children in a YMCA camp during her time, Jorgen will pay for the cost of that camp.

c. Mother's Day/Father's Day. No matter whose weekend it is, Karen shall spend Mother's Day with the children, and Jorgen shall spend Father's Day with the children, from 9:00 a.m. to 6:00 p.m.

d. Christmas. Karen shall have visitation with the children every year from the day after school lets out at 9:00 a.m. to Christmas Day at 2:00 p.m..

¹Should Ms. Smith agree that it would be in the children's best interest to allow Karen to exercise her visitation at the Swinney house, then that restriction may be lifted.

commencing in 2013). Jorgen reserves the right to have the children every third year (2015, 2018, 2021) from after school lets out until Christmas at 2:00 p.m. If Jorgen exercises this right Karen will have the children from Christmas Day at 2:00 p.m. until January 1st at 6:00 p.m. Jorgen will inform Karen of his election by December 1st of that year if he chooses to exercise this election. Where this visitation will take place is contingent on the restrictions listed above in paragraph 2.

e. Thanksgiving. Karen shall have visitation with the children every other Thanksgiving Day and the day after Thanksgiving. Karen will have odd years. Where this visitation will take place is contingent on the restrictions listed above in paragraph 2.

3. Altered Visitation Schedule. This schedule may be altered by agreement between the parties, with confirmation via email.

4. Transportation. Karen shall be responsible for all transportation for visitation, and all pick ups and drop offs shall be in Charlotte, North Carolina. The parties agree that the financial burden will be on Karen for visitation, due to paragraph 5 below.

5. Restraining Orders/Morals Provisions

- a. Neither parent shall expose the minor children to overnight guests not related by blood or marriage to whom they are romantically involved;

- b. Neither parent shall expose the minor children to Leonard Brockington in any way whatsoever.
- c. Neither parent shall make disparaging remarks about the other parent in the presence of the minor children, nor allow others to do so.
- d. Neither parent shall enter the other's property without the consent of the other parent.
- e. Both parents shall remain civil and calm during any visitation exchange, and shall ensure the children are not subjected to any screaming, yelling, or acting out by either parent at any time.
- f. Karen shall not take the children to the home located at

Drive in Florence, South Carolina, unless the
conditions in the footnote in paragraph 2a are met.

6. Child Support/Health Insurance/Uncovered Medicals. Due to the agreement between the parties that Karen shall provide all transportation for visitation and visitation shall be exercised in Charlotte at first, Karen's child support shall be suspended and the file at the Clerk's office closed. Additionally, Karen's child support arrearages, through the date of the final hearing - both privately and with the Clerk of Court's office, are completely forgiven and set to zero. Karen shall begin paying child support commencing with the first Friday after her first visit in Florence in the amount of \$50.00 every other week. Should

she accrue an arrearage of more than \$200.00, Jorgen may file an affidavit with the Clerk of Court's office, and all payments shall be made through that office with the appropriate administrative fee added thereto. Jorgen shall continue to carry the minor children on his health insurance if it is available through his employment, and he shall pay for the minor children's uncovered health and dental expenses, as long as they are incurred while they are in his custody. Should Karen incur an uncovered medical expense during her visitation with the minor children, then that expense shall be her responsibility. Jorgen shall be entitled to claim the minor children as exemptions on his state and federal tax returns, including the tax year 2012.

7. Guardian ad litem Fees. The parties agree that Jorgen shall pay 67% and Karen shall pay 33% of the Guardian ad litem's fees in this case. These fees shall be paid in full within thirty days of the date of the approval of this agreement, directly to her office, unless other arrangements are made that are suitable with Ms. Nettles.

8. Prior Orders. This agreement supercedes all other prior orders with regard to the minor children, and no other provisions from those orders shall be in effect.

9. Contempt Hearing. The parties agree that Karen's contempt action, with the hearing set for February 20, 2013, has been resolved based on this agreement, and the hearing is no longer necessary.

II. MEDIATION

10. Except as regards matters of contempt, the parties agree that should any disputes arise under this agreement or either or all parties seek a modification of the agreement, the parties shall submit their dispute to mediation prior to the filing of any action.

II. APPROVAL, MODIFICATION AND ENFORCEMENT OF AGREEMENT

1. This agreement shall be submitted to the Family Court for the Twelfth Judicial Circuit in Florence County, South Carolina, for the purpose of having the Court review and approve the terms and conditions of this Agreement and for the issuance of an appropriate Order approving the terms and conditions hereof and making the same the Order of the Court. Each party solemnly agrees to promulgate and support the Court's approval of this Agreement and do nothing in derogation hereof or in any way attempt to discourage said approval or merger by the Court.

2. Jorgen and Karen hereby acknowledge and agree that this is a full and complete agreement with respect to all matters raised, and with respect to those which could have been raised in the controversy between them, and is considered by them to be a fully integrated agreement. It is the intent of the parties hereto that the provisions of this agreement shall govern all rights and obligations of the parties as well as all rights of modification.

IV. GENERAL PROVISIONS

The parties represent to each other and further agree to the following:

a. Each party acknowledges that each is or is entitled to be fully informed as to his or her legal rights and obligations; that each of them has entered into and executed this agreement after conferring with or having the right to confer with their attorney, or any expert necessary, if they so chose, and having such knowledge and opportunity, each of them executed this agreement under no duress and without coercion and while not influenced by an intoxicant or drug, intelligently, freely and voluntarily, intending to be bound forever by it and intending that it shall be enforceable by either party by proceedings in the Family Court for the Twelfth Judicial Circuit in Florence County, South Carolina, which shall retain jurisdiction in this matter.

b. This agreement expresses the entire agreement between the parties, supersedes any prior understanding or agreement between them and there are not any other representations or warranties other than those specifically set forth herein. Each party represents to the other that a true and accurate disclosure has been made to the other of all assets and financial matters.

c. Each party may apply to the Family Court of the State of South Carolina for an Order directing specific performance of any act or duty imposed upon the other under the terms of this agreement, and for appropriate relief to enforce the terms and conditions thereof.

d. No waiver of any breach by either party of the terms and conditions of this Agreement shall be binding upon either of the parties unless reduced in writing and subscribed to by both parties.

e. This agreement was duly executed and delivered in Florence County, South Carolina and its terms and conditions shall be governed and interpreted under the laws of the State of South Carolina. The Family Court of South Carolina has and shall retain continuing jurisdiction as regards the parties and subject matter of this action.

f. Jorgen and Karen expressly agree that, at any time hereafter, each of them shall make, execute and deliver any and all further instruments or papers or things as may be reasonably required or desirable for the purposes of giving full effect to this agreement.

WITNESSES:

Jorgen Waldermo

Karen Waldermo



Case Consultations | Family Solutions

Initial Clinical Assessment

Identifying Information:

Minor

Date of Birth:

Reason for Referral:

Minor is referred for Trauma Focused Cognitive Behavioral Therapy (TFCBT) by Dr. Alicia Benedetto at the Assessment and Resource Center (ARC) following a report made by Minor in a forensic interview of sexual abuse by her mother's boyfriend, Leonard Brockington.

Documents reviewed:

ARC forensic interview report

Florence County Family Court Order dated 11/13/2012

Guardian ad Litem report dated 11/8/2012

Deposition transcript of previous therapist, Wendy Skenderi, LPC dated 11/2/2012

History:

Minor was seen at the ARC in October 2011 for a forensic interview after a report was made to law enforcement and Florence County DSS of alleged sexual abuse of Minor by her mother's boyfriend, Leonard Brockington. As part of a DSS safety plan, Minor and her younger sister were removed temporarily from their mother's custody and placed with their father during the investigation. It was later learned that Minor and her sister were around the alleged perpetrator against the DSS safety plan

Allison M. Foster, Ph D
Licensed Clinical Psychologist

Alicia Benedetto, Ph D
Licensed Clinical Psychologist

Heather M. Smith, LPC
Licensed Professional Counselor

while visiting their mother resulting in a change of permanent physical custody to biological father and visitation limited to Charlotte, NC with no visitation occurring in Florence, SC at the incident location. See family court order.

Following the forensic interview, Minor was seen at Carmel Counseling Center by Ms. Wendy Skenderi, LPC for play therapy related to the alleged abuse. Minor was seen by this therapist for approximately one year. During the therapy, Minor remained avoidant regarding discussion of the abuse and Ms. Skenderi decided to provide non-directive play therapy as an alternative. Following the family court hearing in 2012, Minor was referred for my services to provide directed TFCBT in order to learn emotion regulation strategies and to be able to process the reported abuse.

Urgent Needs/Risk Assessment:

No reports of suicidal ideation, self-harm, or homicidal ideation present.

Medical/Developmental History:

There are no remarkable indications of medical or developmental problems with Minor. She is functioning at an above average level at school.

Reported symptoms:

Minor's father and stepmother report observed anxiety, nightmares, difficulty concentrating, repeated nighttime enuresis, and an avoidance of any discussion about the alleged incidents. They report these symptoms appear to increase following visitation with their biological mother and Minor has stated to them that her mother does not believe her reports of abuse.

Minor reports she does not want to talk 'about what happened' because it makes her 'feel sad' and indicated she does have intrusive thoughts about the incident both at school and home that make her have feelings of anger and sadness. She confirmed these thoughts are more frequent after visits with her mother and worries that she will be around the alleged suspect while with her. She also reports having nightmares that wake her from sleep with intense feelings of fear but would not describe what these nightmares involve.

Summary:

Based on reports by Minor and her current caregivers, she meets criteria for a diagnosis of Post-Traumatic Stress Disorder as outlined in the DSM-IV. Due to a pending criminal court case, forensically sensitive therapy will be utilized with the TFCBT model and the focus will be on helping Minor learn to identify feelings, regulate emotions, recognize the connection between thoughts, feelings, and behaviors, and identify and use positive coping strategies to regulate emotion and manage negative thoughts that are impacting her functioning at home and school.

Minor , 2

Heather M. Smith, LPC



Case Consultations | Family Solutions

Minor

Date: 3/1/2013

Service: Individual Therapy

Focus: Feelings identification

Intervention: Therapist introduced Minor to the identification of different emotions and situations that cause certain emotions to arise. Encouraged the importance to openly express feelings in appropriate ways and emphasized that someone could have multiple feelings about the same event or person and normalized this experience. Praised her participation and provided support during therapeutic discussion.

Response: Minor participated fully in the feelings exercise and was able to identify multiple emotions related to scenarios, home and school. She understood that a child can have multiple emotions related to one situation and when asked directly how she felt about 'what happened', she became slightly avoidant and reported she does not want to discuss. Later she reported feeling angry and sad about 'what happened'. Minor responds positively to praise.

Plan. Continue with individual therapy.

Heather M. Smith, LPC

Allison M. Foster, Ph D
Licensed Clinical Psychologist

Alicia Benedetto, Ph D
Licensed Clinical Psychologist

Heather M. Smith, LPC
Licensed Professional Counselor

F=Review of court room experience with Minor and assessment of anxiety level.

I=Therapist reviewed the courtroom experience with Minor and assessed her anxiety level after being in the courtroom and speaking in front of people. Provided reassurance and review of coping strategies to use at school and home when thinking about the upcoming trial.

R Minor reported she was extremely nervous about talking in front of me, solicitor, and father at the court house. She stated she feels better about being able to answer questions though after seeing the courtroom and orienting to where everyone will be when she is in the witness stand. Agreed to use positive coping strategies at home and school when intrusive thoughts about trial appear.

P=Parent notices increased anxiety and difficulties with sleep. Occasional nighttime enuresis. Noted this is normal for a child under stress and encouraged parents to remind Minor of positive coping.

P=Continue with court preparation.

		Completed by: <u>Heather M. Smith, LEC</u>	
Date	Client's Last Name, First	ID#	Type of Note
11/13/2013	Minor	10241155	Individual Therapy

SCDMH FORM - MH-FCC-2

Dec 81 (Rev Mar 91, 2002-07-15) DMHF-CO39.doc

Staff Signature/Title Heather M. Smith, LEC ID# 346

Date 11/13/13 Svc Code H003 Desc Ind Tx Can/NS Minor Bill Time 60

Ticket # 39963389

Audit # 54 156151 CID 10241155 Name _____

11/06/2013	Minor	10241155	Individual Therapy

SCDMH FORM - MH-FCC-2

Dec 81 (Rev Mar 91, 2002-07-15) DMHF-CO39.doc

Date 11/06/13 Svc Code TUCL Desc Ind Tx Can/NS Minor Bill Time _____

Ticket # 39963391

Audit # 54 156153 CID 10241155 Name _____

SCDMH FORM - MH-FCC-2

Dec 81 (Rev Mar 91, 2002-07-15) DMHF-CO39.doc

Staff Signature/Title Heather M. Smith, LEC ID# 346

Date 10/10/13 Svc Code H003 Desc Ind Tx Can/NS Minor Bill Time 60

Ticket # 39963315

Audit # 54 156077 CID 10241155 Name _____

10/10/2013	Minor	10241155	Individual Therapy

SCDMH FORM - MH-FCC-2

Dec 81 (Rev Mar 91, 2002-07-15) DMHF-CO39.doc

Staff Signature/Title Heather M. Smith, LEC ID# _____

Date 10/04/13 Svc Code H003 Desc Ind Tx Can/NS Minor Bill Time 90

Ticket # 39963311

Audit # 54 156073 CID 10241155 Name _____

10/02/2013	Minor	10241155	Assessment

SCDMH FORM - MH-FCC-2

Dec 81 (Rev Mar 91, 2002-07-15) DMHF-CO39.doc

Date 10/02/13

Ticket # 39962290

Audit # 54 155430 CID 10241155 Name _____

Clinical Service Notes

Batch # _____

Time Service Provided _____

AM PM

Next Appt

11-20-13

Time

2.00 AM (PM)

Staff Signature/Title

Chelliah, L.R.

ID#

346

Date

11/13/13

Svc Code

H003

Desc

IndTx

Can/NS

Bill Time

60

Ticket #

39963389

Audit #

54 156151

CID

10241155

Name

Minor

11/06/2013	Minor	10241155	Type of Note
			Individual Therapy

SCDMH FORM - MH-FCC-2

Dec 81 (Rev Mar 91, 2002-07-15) DMHF-CO39.doc

Date

11/16/13

Svc Code

TLLS

Desc

IndTx

Can/NS

Bill Time

Ticket #

39963391

Audit #

54 156153

CID

10241155

Name

Minor

SCDMH FORM - MH-FCC-2

Dec 81 (Rev Mar 91, 2002-07-15) DMHF-CO39.doc

Staff Signature/Title

Chelliah, L.R.

ID#

346

Date

10/16/13

Svc Code

H003

Desc

IndTx

Can/NS

Bill Time

60

Ticket #

39963315

Audit #

54 156077

CID

10241155

Name

Minor

10/16/2013	Minor	10241155	Type of Note
			Individual Therapy

SCDMH FORM - MH-FCC-2

Dec 81 (Rev Mar 91, 2002-07-15) DMHF-CO39.doc

Staff Signature/Title

Chelliah, L.R.

ID#

346

Date

10/04/13

Svc Code

H003

Desc

IndTx

Can/NS

Bill Time

90

Ticket #

39963311

Audit #

54 156073

CID

10241155

Name

Minor

10/02/2013	Minor	10241155	Type of Note
			Assessment

SCDMH FORM - MH-FCC-2

Dec 81 (Rev Mar 91, 2002-07-15) DMHF-CO39.doc

Date

10/02/13

Ticket #

39962290

Audit #

54 155430

CID

10241155

Name

Minor

Clinical Service Notes

Batch # _____

(Florence Courthouse) : AM PM Next Appt 11-13-2013 Time 3:00 AM (PM)
 Time Service Provided
 Staff Signature/Title [Signature] ID# 346
 Date 11/10/13 Svc Code H003 Desc IndTx Can/NS Bill Time 120
 Ticket # 39963391
 Audit # 54 156153 CID 10241155 Name Minor

SCDMH FORM - MH-FCC-2
 Dec 81 (Rev Mar 91, 2002-07-15) DMHF-CO39.doc

Staff Signature/Title [Signature] ID# 346
 Date 10/16/13 Svc Code H003 Desc IndTx Can/NS Bill Time 60
 Ticket # 39963315
 Audit # 54 156077 CID 10241155 Name Minor
 Minor Individual Therapy

SCDMH FORM - MH-FCC-2
 Dec 81 (Rev Mar 91, 2002-07-15) DMHF-CO39.doc

Staff Signature/Title [Signature] ID#
 Date 10/04/13 Svc Code H003 Desc IndTx Can/NS Bill Time 90
 Ticket # 39963311
 Audit # 54 156073 CID 10241155 Name Minor

10/02/2013	Client's Last Name, First	ID#	Type of Note
	Minor	10241155	Assessment

SCDMH FORM - MH-FCC-2
 Dec 81 (Rev Mar 91, 2002-07-15) DMHF-CO39.doc

Date 10/02/13
 Ticket # 39962290
 Audit # 54 155430 CID 10241155 Name Minor

Clinical Service Notes

Batch # _____

(Florence Courthouse) _____ AM PM Next Appt. 11-13-2013 Time 3:00 AM (PM)
 Staff Signature/Title [Signature] ID# 346
 Date 11/14/13 Svc Code H003 Desc IndTy Can/NS _____ Bill Time 120
 Ticket # 39963391 Minor _____
 Audit # 54 156153 CID 10241155 Name _____

SCDMH FORM - MH-FCC-2
 Dec 81 (Rev Mar 91, 2002-07-15) DMHF-CO39.doc

Staff Signature/Title [Signature] ID# 346
 Date 10/14/13 Svc Code H003 Desc IndTy Can/NS _____ Bill Time 60
 Ticket # 39963315 Minor _____
 Audit # 54 156077 CID 10241155 Name _____

Minor _____

SCDMH FORM - MH-FCC-2
 Dec 81 (Rev Mar 91, 2002-07-15) DMHF-CO39.doc

Staff Signature/Title [Signature] ID# _____
 Date 10/04/13 Svc Code H003 Desc IndTy Can/NS _____ Bill Time 90
 Ticket # 39963311 Minor _____
 Audit # 54 156073 CID 10241155 Name _____

Date	Client's Last Name, First	ID#	Type of Note
10/02/2013	Minor	10241155	Assessment

SCDMH FORM - MH-FCC-2
 Dec 81 (Rev Mar 91, 2002-07-15) DMHF-CO39.doc

Date _____
 Ticket # 39962290 Minor _____
 Audit # 54 155430 CID 10241155 Name _____

F=Introduction to Court Notebook

I=Therapist introduced Minor to the court notebook provided by circuit courts and Children's Law Center. Read the first few pages with her and helped answer her questions. Shared the notebook with her father and explained the process of reading 3 pages at home before our next appointment.

R=Minor understood all concepts in the court notebook. Asked appropriate questions about personnel and her role.

P=Minor reported she is nervous to be in front of people answering questions. With support, she appeared less anxious.

P=Continue with courtroom education.

		Completed by: <u>Alexandra M. Gmin, LPC</u>	
Date	Client's Last Name, First	ID#	Type of Note
10/04/2013	Minor	10241155	Individual Therapy

SCDMH FORM - MH-FCC-2

Dec 81 (Rev Mar 91, 2002-07-15) DMHF-CO39.doc

Start Signature/Title [Signature] /ID# _____

Date 10/04/13 Svc Code 1003 Desc Ind Tx Can/NS _____ Bill Time 90

Ticket # 39963311 CID 10241155 Minor _____

Audit # 54 156073 Name _____

Date	Client's Last Name, First	ID#	Type of Note
10/02/2013	Minor	10241155	Assessment

SCDMH FORM - MH-FCC-2

Dec 81 (Rev Mar 91, 2002-07-15) DMHF-CO39.doc

Date 10/04/13 Minor _____

Ticket # 39962290 CID 10241155 Name _____

Audit # 54 155430

Clinical Service Notes

Batch # _____

Time Service Provided _____

AM PM

Next Appt. _____

Time _____

4:10 AM (PM)

Staff Signature/Title _____

/ID# _____

Date _____

Svc Code _____

Desc _____

Can/NS _____

Bill Time _____

Ticket # 39963311

Audit # 54 156073

CID _____

Name _____

Date	Client's Last Name, First	ID#	Type of Note
10/02/2013	Minor	10241155	Assessment

SCDMH FORM - MH-FCC-2

Dec 81 (Rev Mar 91, 2002-07-15) DMHF-CO39.doc

Minor

Ticket # 39962290

Audit # 54 155430

CID _____

Name _____

PLACE FOR STAFF REPORT OR SERVICE

See C-184 in chart.

		Completed by: <i>Heather M. Smith, LPC</i>	
Date	Client's Last Name, First	ID#	Type of Note
10/02/2013	Minor	10241155	Assessment

SCDMH FORM - MH-FCC-2

Dec 81 (Rev Mar 91, 2002-07-15) DMHF-CO39.doc

Minor

Date *10/02/2013*Ticket # *39962290*Audit # *54* *155430*

CID

10241155

Name

Batch #

Clinical Service Notes

Time Service Provided

AM PM

Next Appt.

10/4/13

Time

4.00

AM PM

Staff Signature/Title

K. T. ... LPC

/ID#

3460

Date

10/2/13

Svc Code

H002

Desc

AS-115

Can/NS

Bill Time

120

Ticket #

39962290

Audit #

54 155430

CID

10241155

Name

Minor

F=Review of court notebook education learned at home.

I=Therapist went over the pages assigned for homework during the last session. Answered Minor's questions about what she learned and the expectations of court (tell the truth, answer questions as you remember, etc.). Provided support regarding anxious feelings and reminded Minor of positive coping skills to use when feeling scared or nervous.

R=Minor appeared to understand the education piece of court notebook and asked appropriate questions regarding her role and where people would be in the courtroom. Expressed nervousness about public speaking and particularly answering questions that make her uncomfortable. Appeared to respond favorably to reminders of positive coping strategies. P=Parent reports nighttime enuresis has started again. Handling appropriately.

P=Continue with court preparation.

		Completed by: <u>Heather M. Smith, LPC</u>	
Date	Client's Last Name, First	ID#	Type of Note
10/16/2013	Minor	10241155	Individual Therapy

SCDMH FORM - MH-FCC-2

Dec 81 (Rev Mar 91, 2002-07-15) DMHF-CO39.doc

Staff Signature/Title (Signature) Smith, LPL ID# 3412
 Date 10/16/13 Svc Code H003 Desc Ind/Tx Car/NS 60 Bill Time 60
 Ticket # 39963315 Minor
 Audit # 54 156077 CID 10241155 Name

Individual	Individual Therapy

SCDMH FORM - MH-FCC-2
 Dec 81 (Rev Mar 91, 2002-07-15) DMHF-CO39.doc

Staff Signature/Title (Signature) Smith, LPL ID#
 Date 10/04/13 Svc Code H003 Desc Ind/Tx Car/NS 90 Bill Time 90
 Ticket # 39963311 Minor
 Audit # 54 156073 CID 10241155 Name

Date	Client's Last Name, First	ID#	Type of Note
10/02/2013	Minor	10241155	Assessment

SCDMH FORM - MH-FCC-2
 Dec 81 (Rev Mar 91, 2002-07-15) DMHF-CO39.doc

Ticket # 39962290 Minor
 Audit # 54 155430 CID 10241155 Name

Clinical Service Notes

Batch # _____

Time Service Provided _____

AM PM

Next Appt. TBD

Time _____

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Staff Signature/Title _____

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Date 10/10/13Svc Code H003Desc Ind Tx

Can/NS _____

Bill Time 60Ticket # 39963315Audit # 54 156077CID 10241155

Name _____

Minor

Minor

SCDMH FORM - MH-FCC-2

Dec 81 (Rev Mar 91, 2002-07-15) DMHF-CO39.doc

Staff Signature/Title _____

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Date 10/04/13Svc Code H003Desc Ind Tx

Can/NS _____

Bill Time 90Ticket # 39963311Audit # 54 156073CID 10241155

Name _____

Minor

Client's Last Name, First

ID#

Type of Note

10/02/2013

Minor

10241155

Assessment

SCDMH FORM - MH-FCC-2

Dec 81 (Rev Mar 91, 2002-07-15) DMHF-CO39.doc

Date _____

Ticket # 39962290Audit # 54 155430CID 10241155

Name _____

Minor

FOR TOP OF REPORT OR SERVICE NOTE AS HERE

F=Meeting at Florence courthouse to review forensic interview video and provide support.

I=Therapist sat with Minor while she reviewed the forensic interview video conducted at the ARC in 2011. Encouraged her to ask Pat Parr any questions she may have about the interview and explained she would be meeting with Ms. Parr after the review to answer any questions she may have. Provided reassurance and support about the meeting with Ms. Parr and encouraged the use of positive coping strategies if feeling anxious or sad. Therapist not present during meeting with Ms. Parr but later met with Minor to assess her emotional state and provide support.

R=Minor was attentive during the interview review and was encouraged to ask Ms. Parr any questions she may have about her statements made during the interview. After meeting with Ms. Parr, Minor reported she felt nervous about answering questions but feels comfortable with Ms. Parr and agreed to use coping strategies when feeling nervous.

P=Parent reported Minor is managing increases in anxiety better than in the past, using the coping skills and thought regulation techniques learned in TFCBT. Occasional enuresis but handling with unemotional response. P=Continue court preparation.

		Completed by: <i>Heather M. Smith, LPC</i>	
Date	Client's Last Name, First	ID#	Type of Note
11/20/2013	Minor	10241155	Individual Therapy

3

Clinical Service Notes

Batch #

Time Service Provided

AM PM

Next Appt

TBD

Time

AM PM

Staff Signature/Title

Coenhouse

William M. Brown, LPC

ID#

346

Date

11/20/13

Svc Code

H003

Desc

IndTx

Can/NS

Bill Time

120

Ticket # 39963386

Audit # 54 156148

CID

10241155

Minor

Name

F=Court preparation

I=Met with Minor to explain the reason for delay in trial and provide support with frustration about changing dates. Encouraged open expression regarding her frustration and helped to develop positive new coping strategies so anxiety did not increase. Reminded Minor that her role was only to tell the truth and answer questions to her best ability.

R=Minor responded well to the session and appeared calm regarding news of the delayed trial. She did express her frustration that she was expecting trial to happen before Christmas. Was easily able to identify new strategies to help with her feelings of frustration and anger so that home and school life would not be negatively impacted.

P=Minor has expressed minimal frustration about the change in trial date to parent and continues to have occasional episodes of nighttime enuresis. P=Continue court preparation.

		Completed by: <i>Heather M. Gmin, LPC</i>	
Date	Client's Last Name, First	ID#	Type of Note
12/04/2013	Minor	10241155	Individual Therapy

SCDMH FORM - MH-FCC-2

Dec 81 (Rev Mar 91, 2002-07-15) DMHF-CO39.doc

Clinical Service Notes

Batch # _____

Time Service Provided _____

AM PM

Next Appt

12/11/13

Time

1:10

AM PM

Staff Signature/Title

Y. Lendrew M. Simon, LPC

ID#

346

Date

12/4/13

Svc Code

1003

Desc

Ind Tx

Can/NS

Minor

Bill Time

60

Ticket #

39963381

Audit #

54 156143

CID

10241155

err
(45)

Name

F=Court preparation

I=Therapist met with Minor before Christmas break to provide support and maintain rapport since I would not see her until into the new year. Encouraged open expression regarding feelings and assured her that father and stepmother were sources of support if any anxiety were to surface during the break. At this time we do not have a date for trial so expressed to Minor an apology that she would not know what to expect in terms of timeframe for trial. Encouraged her to 'get on with life' and not think about the trial until necessary.

R=Minor appeared calm and upbeat during our session. She admitted feeling frustrated but was able to compartmentalize and expressed excitement about a winter trip to visit family in Europe. Agreed to turn to her father or stepmother with any concerning feelings or thoughts she may have over the break.

P=Maintaining only minimal anxiety increases during the lack of trial date. Occasional nighttime enuresis but handled appropriately at home. P=Continue to provide support prior to trial.

		Completed by: <i>Heather M. Minor, LEC</i>	
Date	Client's Last Name, First	ID#	Type of Note
12/18/2013	Minor	10241155	Individual Therapy

Clinical Service Notes

Baton # _____

Time Service Provided

AM PM

Next Appt

Time

AM PM

Staff Signature/Title

ID#

Date

Svc Code

Desc

Can/NS

Bill Time

Ticket # 39963367

Audit # 54 156129

CID

Name

Minor

1/17/14

10.03

Ind Tx

346 NC

10241155

F=Check-in with Minor regarding court preparation.

I=Met with Minor to check-in with her about thoughts/feelings related to trial date in April. Supported her frustration that the process is taking so long but praised her for not allowing these feelings to change her behavior at home or school. Reviewed ways to self-soothe and importance of reaching out to family members to get support if feeling anxious or having intrusive thoughts.

R=Minor expressed frustration about the trial going forward so far away. She had a very good holiday break and appeared relaxed and calm. Responded well to praise that her behavior at home and school are positive even during frustration regarding trial. Reported it was easy to forget about the upcoming trial except when she comes in to see me at the clinic. Wants to take a break until trial gets closer.

P=More relaxed and calm than in the past, most likely because has not had to focus on the upcoming trial. Episodes of enuresis less over break.

P=Therapy will be suspended until closer to trial date in April.

		Completed by: <i>Heather M. Smith, LEC</i>	
Date	Client's Last Name, First	ID#	Type of Note
1/17/2014	Minor	10241155	Individual Therapy

Minor

Continuation of Reeling

ADDENDUM TO WALDERMO CASE November 8, 2012**Persons Interviewed:**

Younger Sister : Minor Child

Minor : Minor Child

Karen Waldermo: Natural Mother

Jorgen Waldermo: Natural Father

Jeanine Waldermo: Step Mother

DSS Caseworker: Brent Turner

Viewed Files:

Durant Center

DSS Case File

Police Report

Wendy Skendri -Counselor

Karen Waldermo did not answer my phone calls or return messages for her to call me. So I am reinstating the conversation that I had with her when the case was continued. In a conversation

with Karen Waldermo, she would like for the children to live with her. She stated that she had completed everything that DSS had asked of her to do. She stated that each child has their own room in her house and they love being with her. I asked Karen Waldermo where Leonard Brockington was living now and she replied that he lives in a hotel in Sumter where he works. She stated that he works with electricity and his office was in the Industrial park. I asked her

According to Jorgen Waldermo, he and his wife provide well for the children. They are adjusting well to life in Charlotte. ^{Younger}_{Sister} is in Kindergarten and ^{Minor} is in second grade. ^{Minor} has made little progress with the therapist. He desires to have custody of the children. He loves the children and feels that he is the best choice for custody. The home provides a stable environment. I have witnessed that Jorgen and Jeanine are united in the welfare of the children. The children are loved and well taken care of. I had the opportunity to meet Jorgen Waldermo's dad. I really enjoyed seeing the children at home and so comfortable there. The children are happy and well loved. The home is beautiful and I feel welcome there.

In a conversation with ^{Younger}_{Sister} she wants to live with her mother. She likes school. She likes to watch Sponge Bob on T.V. and Dora Explorer. She drew me a turkey that was her handprint. They have a dog named Pete that is adorable. For Halloween ^{Younger}_{Sister} was a mystery girl walking a dog that had on a mask also. ^{Younger}_{Sister} loves music and her favorite toy is a guitar. ^{Younger}_{Sister} is in Step Dance at school and her mascot name is Maddie Mack. For Christmas ^{Younger}_{Sister} wants a big dog tall as she is. Karen Waldermo was never mentioned by ^{Younger}_{Sister}. She likes living with her dad. ^{Younger}_{Sister} a beautiful child, happy and content living with her dad.

Minor likes school. I asked her what subject she liked best and she likes music, and reading. Did her step dance for me and she is very good at it. Her mascot name is applesauce. For Halloween Minor was a black and white stallion. Minor is very energetic and creative. She loves writer's workshop at school. She loves to go to the library and get a new book to read. Minor wants her front tooth for Christmas. She also wants another American Doll. Minor never once asked about her mom. She loves living in Charlotte with her dad.

In an interview with Jeanine Waldermo, She is concerned because when the children come home for a visit, there are episodes of bed wetting. Minor had a phone call from her mom and the next day she had an accident at school. That was embarrassing for and it had never happened before. It takes them a little while to calm down and get back on a routine after a visit. ^{Younger}_{Sister} still in diapers at night only now. Jeanine is a wonderful mom. She loves these

children as her own. It is clear that Jeanine and Jorgen agree on parenting these children. The children eat healthy, their snack was healthy and I believe the children are safe and secure in the home of Jorgen and Jeanine Waldermo.

In conclusion: I recommend that permanent and legal custody of ^{Younger} _{Sister} and ^{Minor} be placed with Jorgen and Jeanine Waldermo. Karen Waldermo refuses to admit that sexual abuse occurred. When you can't admit the abuse occurred, you cannot adequately protect your children. At the bi-weekly visits the law has been called, one weekend there were three phone calls made to the police. Karen Waldermo will not cooperate with Jorgen Waldermo on the visits. The visits must be supervised. The visits antagonize ^{Younger} _{Sister} and ^{Minor} they have abnormal behavior after the visits and I recommend that the visits cease until such a time as a therapist recommends that ^{Minor} and ^{Younger} _{Sister} are ready for them..I recommend that the case be closed. The Department of Social Services has made every possible effort to reunify the family but it is not possible due to the denial state of Karen Waldermo.

Recommendations:

1. That Legal and Physical Custody be placed with Jorgen Waldermo of the minor children^{Younger Sister} and Minor ..
2. Minor continue counseling
3. That the case be closed.
4. That the Guardian Ad Litem be kept informed .
5. That the Guardian ad Litem continue to monitor minor children.

Jenny Jones

STATE OF SOUTH CAROLINA
COUNTY OF FLORENCE
THE SOUTH CAROLINA
DEPARTMENT OF SOCIAL
SERVICES,
Plaintiff,

vs. CASE NO 2012-DR-21-215

KAREN WALDERMO, JORGEN
WALDERMO, and LEONARD
BROCKINGTON,
Defendants.

IN RE Minor
DOB.

Younger Sister
DOB:

DEPOSITION OF: WENDY SKENDERI, MA, LPC, RPT, BCPCC
DATE November 2, 2012
TIME 12 37 p.m.
LOCATION Carmel Counseling Center
1145 Pineville-Matthews Road
Charlotte, NC
TAKEN BY: Counsel for the Plaintiff
REPORTED BY: LISA A WHEELER, RPR, CRR

A. WILLIAM ROBERTS, JR. & ASSOCIATES
Fast, Accurate & Friendly
Charleston, SC Hilton Head, SC Myrtle Beach, SC
(843) 722-8414 (843) 785-3263 (864) 234-7030

Columbia, SC Greenville, SC Charlotte, NC
(803) 731-5224 (864) 234-7030 (704) 573-3919

(Commencing at approximately 12:37 p.m.)

* * * * *

STIPULATION

It is stipulated by and among Counsel that this deposition is being taken in accordance with the South Carolina Rules of Civil Procedure, Rule 30; that all objections as to Notice of this deposition are hereby waived; that all objections except as to form are reserved until the time of trial; and that the deponent waives reading and signing of this deposition.

* * * * *

WENDY SKENDERI, MA, LPC, RPT, BCPCC
being first duly sworn, testified as follows:

EXAMINATION

BY MR. RICHARDSON:

Q. All right. Ms. Skenderi, could you give us your full name and -- and spell your last name for the record.

A. My full name is Wendy Cherelle Skenderi, S-k-e-n-d-e-r-i.

Q. All right. And where do you currently work?

A. I work at Carmel Counseling Center.

Q. Okay. And what do you do at the

1 APPEARANCES OF COUNSEL

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3 THE SOUTH CAROLINA DEPARTMENT OF SOCIAL
4 SERVICES
5 FLORENCE COUNTY DSS
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10 david.ncbardsan@dss.sc.gov

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26 ATTORNEYS FOR THE DEFENDANT 27 LEONARD BROCKINGTON:

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31 265 West Evans Street, Suite A
32 Florence, SC 29501
33 (843) 665-4300
34 hankalaw@bellsouth.net

35 (INDEX AT REAR OF TRANSCRIPT)

1 counseling center?

2 A. I offer counseling services for
3 children, adolescents and adults.

4 Q. Okay. And how long have you
5 employed -- been employed there?

6 A. I'm a contractor counselor and I've
7 been in this location for eight years.

8 Q. Okay. And is that how long you've been
9 a counselor or did you work somewhere previously?

10 A. That's how long I have been a counselor
11 except for training previously.

12 Q. Okay. What is your educational
13 background in counseling?

14 A. I have a Master's in Christian
15 counseling, 2004, and then I have certification as
16 a licensed professional counselor for North
17 Carolina, as well as I'm a registered play
18 therapist from the Association of Play Therapists
19 and a board certified professional Christian
20 counselor.

21 Q. Okay. And from what institution did
22 you receive your Master's degree?

23 A. Master's degree is from Gordon-Conwell
24 Theological Seminary.

25 Q. Okay. And how about your Bachelor's?

- 1 A. Bachelor's, I have a music therapy
2 Bachelor's from the University of Pacific in
3 California.
4 Q. Okay. You mentioned that you
5 participate in something called play therapy.
6 Could you explain to us what play therapy is?
7 A. Yes. Play therapy is a counseling
8 technique that we use with children by inviting
9 them into the playroom to express themselves.
10 Since children use toys as their words, they
11 express themselves through toys and play so it's
12 how they can tell us what's happening in their
13 world. And so play therapy allows for the child to
14 choose what to play and their choices aren't random
15 but they indicate their experiences in the world.
16 Q. Okay. So play therapy is sort of an
17 integral part of your counseling --
18 A. Yes.
19 Q. -- is that fair to say? Okay. And how
20 long have you been doing this play therapy?
21 A. Eight -- for eight years.
22 Q. Okay. So you've been doing that the
23 entire time you've been a counselor?
24 A. Yes.
25 Q. All right. What sort of trainings have

- 1 you been through and how frequently do they take
2 place since you've become a counselor?
3 A. Since I have become a counselor I
4 continue to do seminars -- go to seminars for --
5 for continuing education, but in addition I've done
6 the play therapy training which is 150 hours of
7 additional training in the area of play therapy, 30
8 of which were in child trauma.
9 Q. Okay. And by child trauma, does
10 that -- is that geared toward sexual abuse cases?
11 A. Yes, sexual and physical and emotional
12 abuse cases.
13 Q. Okay. And have you been counseling
14 children with regard to sexual abuse for the last
15 eight years as well?
16 A. Yes. I'd probably say for the last six
17 years.
18 Q. Okay. For the last six?
19 A. Yes.
20 Q. And can you -- can you tell us -- you
21 may not know the exact number but maybe an
22 approximation of about how many child victims of
23 sexual abuse you've counseled in the last six
24 years?
25 A. I usually have about two in my caseload

- 1 at a time so -- I'd say maybe 30.
2 Q. Okay. And with those kids that -- that
3 you're talking about, approximately 30 kids, is
4 play therapy the primary method that you have used
5 to -- to counsel those children?
6 A. Yes. There's different forms of play
7 therapy so especially play -- child-centered play
8 therapy as well as trauma focused cognitive
9 behavioral therapy -- play therapy.
10 Q. Okay. What situations determine which
11 you use if that makes sense? That question may not
12 make sense but --
13 A. Uh-huh.
14 Q. -- how do you determine which type of
15 play therapy that you use?
16 A. I usually begin with child-centered
17 play therapy. It's a nondirective approach so that
18 I do not lead the child, but the child leads in the
19 session. And then when there has been more
20 disclosure in the sessions, then I switch to more
21 directive trauma-focused cognitive behavioral play
22 therapy.
23 Q. Okay. Have you ever testified in any
24 kind of court before?
25 A. I have not.

- 1 Q. Okay. So this is your first one?
2 A. Yes.
3 Q. All right. Have you ever -- as -- as
4 part of your job, as part of your -- your training
5 or anything do you ever have to -- to write any
6 sort of journal articles or publish any -- anything
7 of any kind?
8 A. No.
9 Q. Okay. So basically what you -- apart
10 from your degrees you -- you're required to go to
11 trainings and just -- and to maintain your
12 certifications, your license in the state of North
13 Carolina?
14 A. Yes, through trainings and through
15 continued readings.
16 Q. Okay. And do you have a specific
17 number of things you're supposed to do on a yearly
18 basis to maintain your license?
19 A. Yes. I have three licenses I'm
20 maintaining and they each have a certain number of
21 hours of continuing education training I must
22 receive.
23 Q. Okay. And does any of that deal with
24 the play therapy that you described, anything
25 geared towards child sexual abuse?

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1 A. It is not specific that I must have
2 training in child sexual abuse but much of play
3 therapy, the seminars, have to do with child sexual
4 abuse.

5 Q. All right. Very good.

6 MR. RICHARDSON: I think at this time
7 I'd move to have Ms. Skenderi qualified as an
8 expert in child therapy, specifically regarding
9 child sexual abuse victims. If anyone else has any
10 questions for her they'd like to take up at this
11 time --

12 MR. ANDERSON: I don't have any, David.

13 MS. KRIZE: No objection. That was
14 Michele. No objection.

15 MR. RICHARDSON: All right. How about
16 Mr. Banner?

17 MR. BANNER: No. I don't -- no, no
18 objections.

19 MR. RICHARDSON: Okay.

20 BY MR. RICHARDSON:

21 Q. All right. So assuming that -- that
22 you have been duly qualified, we'll move on to
23 case-specific questions. Ms. Skenderi, the child
24 in this case, her name is Minor --

25 A. Yes.

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1 room with her making small talk not talking about
2 any sort of deep subject matter? How -- how does
3 she react to you?

4 A. She is happy and she responds to me.

5 Q. All right. So she -- she's willing to
6 engage in conversation with you?

7 A. Yes.

8 Q. Okay. Now when you -- when you first
9 began to broach the topic of the sexual abuse
10 allegations involved in this case with her, what
11 was her reaction to you?

12 A. She avoided the topic by turning away
13 and walking across the room and playing with
14 something else and not answering my questions or
15 responding to my responses.

16 Q. Okay. So is it fair to say that
17 instead of having some emotional outburst she just
18 sort of shuts down? Is that what you're saying?

19 A. Yes.

20 Q. All right. Now you began talking to
21 her about this approximately a year ago. How often
22 have you seen her in that year?

23 A. Are you asking the number of times I've
24 seen her?

25 Q. Sure. And the -- and the frequency, I

Page 10

1 Q. -- is that correct?

2 A. Yes.

3 Q. All right. And how old is she now?

4 A. She is seven years old now.

5 Q. All right. And how long have you been
6 seeing her as her counselor?

7 A. I've counseled her since November 2011
8 so for one year.

9 Q. Okay. So she started coming to you
10 when she was six?

11 A. Yes.

12 Q. All right. And could you tell us what
13 methodology you used with her when she came in? I
14 assume that -- that you were kind of given a heads
15 up about the allegations involved.

16 A. Yes.

17 Q. Can you tell us how you began treating
18 her.

19 A. Yes. I began with child-centered,
20 nondirective play therapy and I still continue to
21 do that. I have also used some -- I've attempted
22 some cognitive behavioral trauma therapy, but she
23 responds best to the child centered.

24 Q. Okay. And what is her normal
25 disposition like with you when you're just in the

Page 12

1 guess, you know, once a week, once every two weeks,
2 however often you -- you've seen her.

3 A. I see her once a week -- I saw her once
4 a week at the beginning and then somewhere maybe at
5 about six-month mark we went to every other week
6 and that's what we're doing now.

7 Q. Okay. So every other week at this
8 point after the six-month mark, right? And during
9 these sessions that you're holding now, say, in the
10 last month, do you still try to -- to talk to her
11 about these sexual abuse allegations?

12 A. About two months ago I stopped trying
13 to do that to her because it created much anxiety
14 and she's still avoiding so I am using
15 nondirective -- a nondirective approach again.

16 Q. All right. So in the times that you
17 have attempted to talk to her about this issue, she
18 has never opened up and discussed it at all with
19 you?

20 A. She has never opened up and discussed
21 it.

22 Q. And has she displayed the same behavior
23 of walking away and shutting down each time you
24 tried to ask?

25 A. Yes, every time.

1 Q. All right. At any point in time has
2 she ever confirmed or denied in any way that --
3 that the sexual abuse took place?
4 A. No.
5 Q. She just refuses to talk when you bring
6 it up?
7 A. Correct.
8 Q. All right. And you -- you mentioned
9 that in the last two months you've tried to take
10 another approach. Could you kind of describe what
11 you're doing now.
12 A. The nondirective child-centered play
13 therapy approach allows her to lead by picking what
14 she will do in the -- in the room. I respond to
15 what she does so there are play themes but nothing
16 verbal, nothing talked about.
17 Q. Okay. And do you plan on seeing her
18 for -- in the foreseeable future?
19 A. Yes.
20 Q. Okay. Do you have any sort of outlook,
21 you know, how -- how long you're going to need to
22 see her?
23 A. That's a difficult question. Because
24 she hasn't opened up it's hard to gauge the time.
25 I'm -- I know that at least a year would be

1 helpful.
2 Q. Okay. Now do you have an opinion
3 within a reasonable degree of therapeutic
4 certainty, for lack of a better term, that this
5 child is likely to suffer severe emotional trauma
6 from testifying in court or by means of videotape
7 about these sexual abuse allegations?
8 A. Yes. In my professional opinion I
9 think it would be too psychologically and
10 emotionally traumatizing for her to testify in
11 court or videotaping.
12 Q. All right. And do you have an opinion
13 within a reasonable degree of therapeutic certainty
14 about this child's ability to communicate about
15 this sexual abuse issue because of her fear?
16 A. Can you rephrase the question?
17 Q. Sure. What -- what I'm -- what I'm
18 asking, do you -- do you believe that she has the
19 ability at this point to communicate information
20 about this sexual abuse or do you believe she's too
21 afraid to do it?
22 A. I believe she's too afraid. She's
23 highly anxious and does not have the ability to
24 talk about it at this time.
25 MR. RICHARDSON: All right. At this

1 time -- well, I'd ask if anyone else has any -- has
2 any questions of Ms. Skenderi.
3 MR. ANDERSON: David, this is Hank
4 Anderson. I've got some questions.
5 MR. RICHARDSON: Okay.
6 EXAMINATION
7 BY MR. ANDERSON:
8 Q. Ms. Skenderi --
9 A. Yes.
10 Q. Do I -- should I call you Ms. Skenderi
11 or Doctor or what do you want me to call you?
12 A. You can call me Wendy. That's fine.
13 Q. All right, Wendy. Wendy, I pulled up
14 your web site and it's got in here your background,
15 your employment, board memberships and
16 affiliations, educations, things like that.
17 A. Uh-huh.
18 Q. Are you familiar with your I guess web
19 site?
20 A. I haven't looked at it for a while, but
21 I think so.
22 Q. Okay. It's got that you work at the --
23 I guess the Carmel Counseling Center.
24 A. Yes.
25 Q. In Matthews, North Carolina?

1 A. Yes.
2 Q. All right. One of the things it
3 indicates in here -- of course, it says what you've
4 done, where you've gone to school and your grades
5 and things like that. And I must admit off the
6 record you made a lot better grades than I ever
7 did. But, anyway, back to the --
8 MS. KRIZE: Put that back on the
9 record.
10 BY MR. ANDERSON:
11 Q. -- subject at hand. One of the things
12 it says is you've got experience with people
13 working through relationship issues, developing
14 boundaries, grief, conflict resolution, dating and
15 singleness. And then later it talks about you have
16 worked with a variety of psychological, emotional,
17 et cetera, et cetera, et cetera, but nowhere in
18 there have I seen where it indicates that you've
19 worked with young boys or young girls who have been
20 sexually abused or sexually traumatized. Is that a
21 fair statement?
22 A. I don't use that terminology, but
23 trauma and abuse is in there.
24 Q. Right. It is. I mean, it just didn't
25 say anything about alleged sexual abuse.

1 A. No. It's not specified as sexual
2 abuse.
3 Q. Okay. No, it's not. But you're saying
4 that's on for -- that is done on purpose?
5 A. Yes.
6 Q. Okay. Earlier when Mr. Richardson was
7 asking you questions you said you've never
8 testified in court before, is that right?
9 A. Correct.
10 Q. I think Mr. Richardson also asked
11 you -- this young child, Minor she has never
12 confirmed nor denied that this alleged incident
13 ever happened?
14 A. Correct.
15 Q. What did her father or what did her --
16 why was she originally brought to your counseling
17 center?
18 A. She was brought to me after the
19 recommendation to her father for her to get
20 counseling after she had a forensic interview.
21 Q. Have you seen that forensic interview?
22 A. Yes.
23 Q. So you've reviewed that?
24 A. Yes.
25 Q. Do you have any idea to a reasonable

1 degree of counseling certainty as to whether or not
2 she will ever be able to testify in court?
3 A. I do not have that idea.
4 Q. How long do you typically work with a
5 young boy or a young girl in a situation like this?
6 I mean, can it go on for four or five years? Would
7 you eventually say, hey, I don't think I can do a
8 whole lot more with this young person? I mean,
9 what is -- what is a typical scenario for something
10 like this? I know you -- I think you said you've
11 dealt with about 30 people and that's been over the
12 last eight years.
13 A. Yes.
14 Q. How long -- how long would you continue
15 to meet with Minor and -- and counsel with her if
16 she never makes a disclosure?
17 A. Yes. Typically six months is adequate
18 time in counseling. Minor s already been a year
19 and I am working with getting some help from
20 other -- consulting from other counselors as well
21 as -- as far as how long to continue with Minor
22 Q. Based on -- and based on what you've
23 done with her so far and the -- hopefully the
24 progress that she's made, do you see the need for
25 any more counseling with her?

1 A. Yes, I do.
2 Q. And do you -- these other people that
3 you've talked with, they're other counselors or
4 other psychologists or psychiatrists?
5 A. Counselors.
6 Q. Okay. What ideas or what things are
7 they pointing out to you or what steps do you see
8 taking in the future?
9 A. They've -- what I have received so far
10 in consult is that I should continue in counseling
11 and I should continue in nondirective counseling to
12 try to allow Minor the time to drop her defenses
13 and the anxiety to ease enough that she would be
14 able to work through the trauma.
15 Q. Okay. And, of course, at this point in
16 time it is simply alleged trauma?
17 A. Correct.
18 Q. Is it possible that one of the reasons
19 she does not want to talk about it is because she
20 has made it up?
21 A. I do not believe that's true.
22 Q. Well, I understand that. But is that
23 possible that that's one of the reasons why she
24 doesn't want to talk about it?
25 MS. KRIZE: And I'm going to place an

1 objection on the record. I don't think that this
2 person can testify as to how Minor thinks, feels
3 or -- or -- or anything like that but go ahead and
4 answer. I can reserve that objection for trial.
5 BY MR. ANDERSON:
6 Q. My question is, is it possible that she
7 doesn't want to address the question because she's
8 making it up?
9 A. That's a possibility.
10 Q. Okay
11 MR. ANDERSON: David, that's all the
12 questions I have at this time.
13 MR. RICHARDSON: All right. David --
14 MS. KRIZE: David Banner, do you have
15 any?
16 EXAMINATION
17 BY MR. BANNER:
18 Q. Wendy, hey, this is David Banner.
19 A. Uh-huh.
20 Q. I'm on my cell phone. I apologize. I
21 was coming back from a hearing, but can you hear me
22 okay?
23 A. I can hear you clearly.
24 Q. Okay. Great. I just have a few
25 questions if you will. Who have you spoken with

1 regarding the allegations of sexual abuse?
 2 A. I've spoken with the father of Minor
 3 and his wife -- his current wife.
 4 Q. Okay. And that -- his current wife,
 5 that is not the mother of Minor?
 6 A. No, she's not.
 7 Q. Okay. Have you spoken with anybody
 8 at -- associated with the Department of Social
 9 Services in Florence County about the allegations?
 10 A. Oh, yes. I have spoken with Bran --
 11 what's his last name, Wiley? I'm trying to
 12 remember. Turner. Bran Turner.
 13 Q. I'm not -- I -- I know the name Bran
 14 but I don't know his last name, but I believe he's
 15 the caseworker, is that correct?
 16 A. That's correct.
 17 Q. Okay. Anybody else that you have
 18 spoken with surrounding the allegations of sexual
 19 abuse?
 20 A. Not that I remember.
 21 Q. Okay. So a complete list would be
 22 Minor father, Minor stepmother and Bran
 23 with DSS?
 24 A. Yes.
 25 Q. When you meet with Minor where do you

1 meet with her?
 2 A. I meet with her here at Carmel
 3 Counseling Center in the playroom.
 4 Q. And where -- where is that? Is that in
 5 or around Charlotte?
 6 A. It is. It's in Matthews, right next to
 7 Charlotte.
 8 Q. Okay. Sure. All right. Have you ever
 9 met with her, Wendy, at any other location other
 10 than at Carmel Counseling?
 11 A. No.
 12 Q. When she goes for counseling at your
 13 office at Carmel, who takes her there?
 14 A. Either Jorgen, her father, or Jeanene,
 15 her stepmother.
 16 Q. Are those the only two people that have
 17 ever taken her to your office for counseling?
 18 A. One time there was one other person and
 19 I do not know her name. It was a babysitter, I
 20 believe.
 21 Q. Okay. So on each occasion other than
 22 that one time either the father or the stepmother
 23 will take her?
 24 A. Yes.
 25 Q. Has the stepmother taken her just by

1 herself without the father?
 2 A. Yes.
 3 Q. Have you ever met with the child's
 4 father and discussed your summaries or findings or
 5 diagnosis during your counseling?
 6 A. Yes.
 7 Q. Do you -- do you know about how many
 8 times you've met with her father to discuss that?
 9 A. I do not know an exact number. I meet
 10 periodically so --
 11 Q. More than -- more than once?
 12 A. More than once. I'm guessing four, but
 13 it's -- it's an estimated guess.
 14 Q. Okay. Less than five?
 15 A. Less than five to discuss the -- my
 16 findings and the progress.
 17 Q. On the occasions where you've met in
 18 person with her father, has her stepmother been
 19 present as well?
 20 A. On a few occasions, not every time.
 21 Q. Have you ever had any discussions with
 22 the child's mother, Karen Waldermo?
 23 A. No.
 24 Q. Have you ever -- I assume you've never
 25 met her in person then?

1 A. No.
 2 Q. Ever provided any information
 3 summarizing your diagnosis of her child?
 4 A. No.
 5 Q. On the occasions where you have
 6 counseled other children involving alleged sexual
 7 allegations, is it typical for you to meet or
 8 discuss your diagnosis and findings with the --
 9 with the parents if the parent's not the
 10 perpetrator? Does that make sense?
 11 A. Yes. And the answer to that is yes.
 12 Q. Okay. You are not going to provide any
 13 testimony as to any -- regarding any of the
 14 allegations that may have been brought in this case
 15 as to Karen Waldermo, is that correct?
 16 A. Correct.
 17 Q. When's the last time that you met with
 18 Minor
 19 A. The last time was 10/18.
 20 Q. Do you have an appointment -- does she
 21 have an appointment scheduled with you coming up?
 22 A. Yes.
 23 Q. When is that?
 24 A. It's next week.
 25 Q. Do you anticipate doing anything

Page 25

1 different at the upcoming appointment than -- than
2 what you've been doing in the last several meetings
3 with her?

4 A. No.

5 Q. Have you been asked -- have you been
6 asked to testify at the trial of this case?

7 A. No.

8 Q. Wendy, I appreciate your time. Have
9 you understood all of my questions?

10 A. I believe so.

11 MR. BANNER: Okay. Thank you very
12 much.

13 THE WITNESS: Thank you.

14 EXAMINATION

15 BY MS. KRIZE:

16 Q. Wendy, hey, it's Michele Krize. I just
17 have a few for you.

18 A. Okay.

19 Q. Can you describe the difference
20 between -- and I think -- I wrote this down really
21 quickly -- the cognitive behavior therapy and the
22 play therapy.

23 A. Play therapy is both -- play therapy
24 is -- is what you use if you're using cognitive
25 behavioral therapy or if you're doing child

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1 Q. Okay. Okay. Also, I think you were
2 asked whether testifying by live or by video but
3 also by closed-circuit TV, would -- would -- your
4 opinion wouldn't change any that -- that she would
5 be traumatized if she had to be put through that,
6 is that right?

7 A. Correct.

8 Q. Okay. Do you -- do you have any
9 opinion as to if she was exposed again to the place
10 of the abuse since the abuse -- the alleged abuse,
11 would that have made a difference as to how
12 forthcoming she is about what happened?

13 A. Yes. I believe that creates difficulty
14 for her and creates more shutdown.

15 Q. Okay. All right. Your practice, do
16 you get referrals from whatever the DSS is -- DSS
17 is our Department of Social Services here in South
18 Carolina. I have no idea what it is in North
19 Carolina. Do you get referrals from that agency in
20 North Carolina for therapy?

21 A. No.

22 Q. Okay. All right. And with regard to
23 Karen Waldermo, have you ever reached out to her to
24 send her -- ask her to participate in any of the
25 therapy or anything like that?

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1 centered. They're both play -- they're both
2 surrounding play. So the -- one of the major
3 differences is one is nondirective and one is
4 directive.

5 Q. Okay. Did the -- did the directive not
6 work with Minor? Is that the reason you reverted
7 back to the play therapy, the --

8 A. Correct.

9 Q. Okay. Okay. Did -- has Minor showed
10 any other sign -- any other physical reaction other
11 than shutting down and turning away, like showing
12 anger or anything else?

13 A. There have been a few occasions where
14 anger was shown and also her skin gets kind of
15 mottled looking, looking anxious.

16 Q. Okay. So there is a physical reaction
17 as well --

18 A. Yeah.

19 Q. -- is that right?

20 A. Yes.

21 Q. Okay. Developmentally with a six, now
22 seven-year-old, is any of this behavior odd to you
23 in your experience?

24 A. In my experience I haven't experienced
25 a full shutdown for this length of time.

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1 A. No.

2 Q. And -- and you've never -- have you
3 ever been contacted by her?

4 A. No.

5 MS. KRIZE: Okay. Okay. That's all I
6 have.

7 MR. RICHARDSON: All right. At this
8 point I believe the Court would probably ask the
9 attorney for the guardian ad litem if he had any
10 questions. I've -- I've spoken to Jim McGee and he
11 didn't feel it necessary that he participate in
12 this and, as such, I have no further questions. So
13 at this time I would move the Court to allow
14 out-of-court statements made by Minor
15 by -- by way of testimony of Dr. Alicia Benedetto
16 pursuant to South Carolina Code Section
17 19-1-180(b)(2), (4) and (5).

18 MR. ANDERSON: David, I -- you know,
19 I'm not going to object at this point in time.
20 However, I would certainly object if this was
21 general sessions court.

22 MR. RICHARDSON: Absolutely. Yeah, I
23 believe this -- this code section only applies in
24 abuse and neglect cases.

25 MR. ANDERSON: Right.

1 MS. KRIZE: Right.
2 MR. ANDERSON: Right. Just so long as
3 we know this is just for a family court hearing
4 only.

5 MR. RICHARDSON: That's correct. Just
6 for an abuse and neglect action only in Family
7 Court.

8 MR. ANDERSON: Okay.

9 MS. KRIZE: Right.

10 MR. BANNER: David, this is David
11 Banner. I need to ask a followup question from
12 Michele's questioning.

13 MR. RICHARDSON: Okay.

14 EXAMINATION

15 BY MR. BANNER:

16 Q. Wendy, have you -- in response to one
17 or two questions that Ms. Krize asked you, have you
18 ever discussed the location of the alleged sexual
19 abuse with Minor

20 A. The location. I do not believe I have.

21 Q. Okay. And what -- what is the basis of
22 your opinion that you believe the -- the location
23 would create her to be more shut down?

24 A. She also shuts down if I talk to her
25 about her visitations with her mother and then also

1 Wendy?

2 A. I don't know.

3 Q. Okay Fair enough.

4 MR. BANNER: Okay. Thank you.

5 That's -- that's all I have Thank you very much.

6 MR. RICHARDSON: All right. This is
7 David Richardson. Is there any further questions
8 of this witness?

9 MS. KRIZE: No. I've got --

10 MR. ANDERSON: No.

11 MR. RICHARDSON: All right. I would
12 again move pursuant to 19-1-180 and the
13 aforementioned subsections for the admission of
14 out-of-court statements of this child by way of
15 testimony by Dr. Alicia Benedetto who I believe was
16 the forensic interviewer if I'm not mistaken and
17 any objections I assume will be taken up at the
18 hearing on November 13th.

19 MS. KRIZE: Right.

20 MR. RICHARDSON: All right. I believe
21 that -- that should do it.

22 (WHEREUPON, the deposition was
23 concluded at 1:12 p.m.)

24 (The witness, after having been advised
25 of her right to read and sign this transcript,

1 I know that in trauma recovery being expose -- if
2 you are avoidant and shut down easily, when you're
3 exposed to any stimuli that remind you of the
4 trauma, then being at that -- the location where it
5 occurred would add to that avoidance.

6 Q. Where did the -- where is the alleged
7 location that this sexual abuse occurred?

8 A. In the mother's home.

9 Q. And who provided you with that
10 information?

11 A. That was from the forensic interviewer
12 report.

13 Q. And that would have been who?

14 A. I think The ARC is what it's called.

15 Q. I'm sorry?

16 A. The ARC. I -- I can look up the name
17 of the person, but it came from The ARC. It's --

18 Q. Is that somebody associated with the
19 Department of Social Services?

20 MR. RICHARDSON: David, The ARC is the
21 counseling center of Columbia where Minor was
22 taken for that forensic interview.

23 MR. BANNER: Okay. Thank you.

24 BY MR. BANNER:

25 Q. So that's a state agency if you know,

1 waives that right.)

1 CERTIFICATE OF REPORTER

2
3 I, Lisa A. Wheeler, Registered
4 Professional Reporter and Notary Public for the
5 State of North Carolina at Large, do hereby certify
6 that the foregoing transcript is a true, accurate,
7 and complete record.

8 I further certify that I am neither
9 related to nor counsel for any party to the cause
10 pending or interested in the events thereof.

11 Witness my hand, I have hereunto
12 affixed my official seal this 5th day of November,
13 2012 at Kannapolis, Cabarrus County, North
14 Carolina.
15
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22
23

24 Lisa A. Wheeler, RPR, CRR
25 My Commission expires
June 7, 2013

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7 EXAMINATION BY MR. BANNER 29 14
8 CERTIFICATE OF REPORTER 32 1
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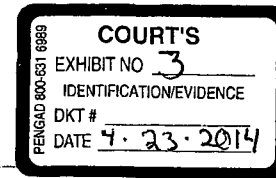
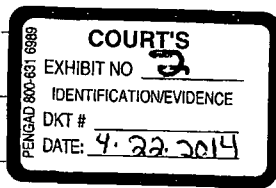
12 EXHIBITS

13
14 (No exhibits proffered.)
15
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Does it make
any difference
if (2) Jurors

Know/high school

witnesses / that they
have not had any
contact with since?

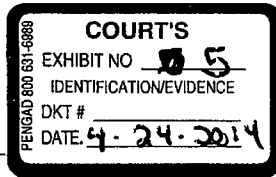


We would like
to Review the

ARC Video

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Foramur

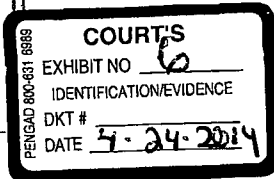


W/ ARE SPLIT ON
 decision and unanimous on
~~1st~~
 how long do you want us to
 deliberate?

UNANIMOUS ON CHARGE

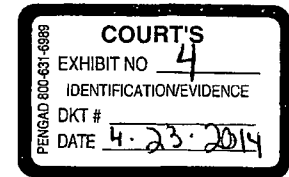
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Can we get the
Transcripts from
the trial?

[Signature]



460

DOES A SPLIT
JURY ON ONE
CHARGE, INVALIDATE
A UNANIMOUS
DECISION ON THE
OTHER

[Signature]

461

WITNESSES

Chad Collins

Florence County Sheriff

Patrica S Parr

ARREST WARRANT NUMBER

M274311

M274312

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date. 3-29-12

VERDICT

Foreperson of Petit Jury

Date

DOCKET NO. 2012-GS-21-00447

The State of South Carolina

County of

FLORENCE

COURT OF GENERAL SESSIONS

APRIL

TERM

2012

THE STATE

vs.

LEONARD EUGENE BROCKINGTON

Indictment for

CRIMINAL SEXUAL CONDUCT WITH A

MINOR FIRST DEGREE

AND

LEWD ACT ON A MINOR CHILD

nothe pws CSC w/ min 1st
hung jury on this count
A convicted of lewd act.

CERTIFIED: A TRUE COPY
J. J. Shearin
CLERK OF COURT, C.P. & G.S.
FLORENCE COUNTY, SC

FILED

2012 MAR 29 PM 1:06

CONNIE REEL-SHEARIN
CCCP & GS
FLORENCE COUNTY, SC

STATE OF SOUTH CAROLINA)

INDICTMENT FOR

COUNTY OF FLORENCE)

CRIMINAL SEXUAL CONDUCT WITH A MINOR
FIRST DEGREE

AND

LEWD ACT ON A MINOR CHILD

At a Court of General Sessions, convened on MARCH 29, 2012 the Grand Jurors of FLORENCE County present upon their oath:

COUNT ONE- CRIMINAL SEXUAL CONDUCT WITH A MINOR FIRST DEGREE

That Leonard Eugene Brockington did in Florence County, State of South Carolina, between January 1, 2011 and October 3, 2011, willfully and unlawfully commit the crime of Criminal Sexual Conduct with a Minor in the First Degree by engaging in sexual battery with a minor who is less than eleven (11) years of age, to wit: had a 6 year old victim perform oral sex on him , whose date of birth is _____, in violation of Section 16-3-655(A)(1), [formerly Section 16-3-655(1)], S. C. Code of Laws, 1976, as amended.

COUNT TWO- LEWD ACT ON A MINOR CHILD

That Leonard Eugene Brockington, being over fourteen years of age , did in Florence County between January 1, 2011 and October 3, 2011, willfully and lewdly commit a lewd or lascivious act upon or with the body of a child, less than sixteen (16) years of age, to wit: 6 years of age, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of said defendant or of the victim, including but not limited to: had 6 years of age victim perform oral sex on him, in violation of Section 16-15-0140, S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

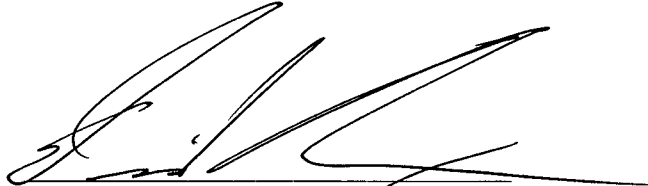


E.L. Clements, III
TWELFTH CIRCUIT SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

May 4th, 2015



David Alexander
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Florence County
Michael G. Nettles, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

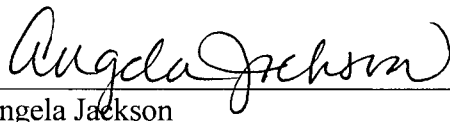
V.

LEONARD EUGENE BROCKINGTON,

APPELLANT

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Salley W. Elliott, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, and Leonard Brockington, # 359727, at Evans Correctional Institution, 610 Hwy. 9 West, Bennettsville, SC 29512, this 4th day of May, 2015.



Angela Jackson
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 4th day of May, 2015.

 (L.S.)

Notary Public for South Carolina
My Commission Expires: July 3, 2023.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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MAY 05 2015
SC Court of Appeals

Appeal from Florence County

Michael G. Nettles, Circuit Court Judge

THE STATE,

RESPONDENT,

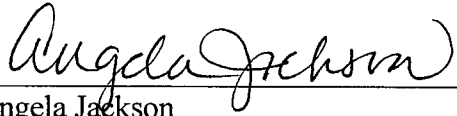
V.

LEONARD EUGENE BROCKINGTON,

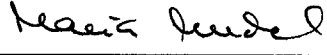
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Angela Jackson
Administrative Specialist

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this 4th day of May, 2015.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: July 3, 2023.