

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Spartanburg County
Roger L. Couch, Circuit Court Judge

RECEIVED
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SC SUPREME COURT

ROBERT S. HORTON,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-001608

APPENDIX

SUSAN B. HACKETT
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ALICIA OLIVE
Assistant Attorney General

P. O. Box 11549
Columbia, SC 29211

ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

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2 COUNTY OF SPARTANBURG) IN THE COURT OF GENERAL SESSIONS

3
4 The State,)
5 -vs-) TRANSCRIPT OF RECORD
6 Robert S. Horton,) 2009-GS-42-3878, -3879
7 Defendant.) July 9, 10, 11 and 12, 2013
8 Spartanburg, South Carolina

9
10 B E F O R E:

11 HONORABLE J. DERHAM COLE, JUDGE; and a jury
12

13
14 A P P E A R A N C E S:

15 JENNIFER AJ JORDAN, ESQUIRE
16 SUSAN SHAVER REESE, ESQUIRE
17 Attorneys for the State

18 MICHAEL D. BROWN, ESQUIRE
19 Attorney for the Defendant
20
21
22

23 Margaret A. Woods
24 Circuit Court Reporter
25

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MOTIONS AND MATTERS

1 (Proceedings July 9, 2012)

2 THE COURT: Ya'll have any voir dire requests?

3 MS. REESE: Yes, Your Honor.

4 MR. BROWN: Your Honor, we will follow your standard
5 questions.

6 (Whereupon, counsel handed the documents to the court.)

7 THE COURT: Alright, any motions or other matters that
8 need to be addressed prior to jury selection?

9 MS. REESE: Um, Your Honor, we have some pretrial motions
10 you wanna do those.

11 THE COURT: Okay.

12 MS. REESE: Uh, Your Honor, our first request would be,
13 uh, a standard *Boiter* motion, uh, to exclude any prior, uh,
14 alleged false allegations by the child. We know of no prior
15 allegations by the child ---

16 (Cross-talk.)

17 THE COURT: Do you have any?

18 MR. BROWN: As relates to directly to my client, it's my
19 understanding there haven't been any direct allegations;
20 however, I know by way of investigation that both law
21 enforcement conducted as well as the Department of Social
22 Services there is an allusion to a prior incident of some sort
23 from 1999 and I think, uh, based upon the direct information
24 we had particularly from DSS that is pertinent to this case
25 and at least not to assert that something actually happened

MOTIONS AND MATTERS

1 but at least to go into the possibility that this was brought
2 up at some point by the child.

3 MS. REESE: Your Honor, uh, we believe under *Boiter* than
4 unless he can prove these allegations are false they are not
5 admissible here and those allegations were investigated, I
6 don't know to the extent of those allegations but there is no
7 showing whatsoever that those were false allegations.

8 MR. BROWN: Again, Your Honor, based upon the information
9 that, uh, was compiled from the DSS notes, it was noted by the
10 caseworker that the information, uh, would be directly related
11 to this case.

12 THE COURT: Well what what is it that you propose to to
13 introduce?

14 MR. BROWN: Just just there was a previous allegation of
15 some sort ---

16 THE COURT: That the child in this case, the victim in
17 this case, made a a similar allegation against someone
18 else ---

19 MR. BROWN: Yes, sir.

20 THE COURT: --- previously? Uh, ---

21 MR. BROWN: And that that was investigated whether it was
22 found and unfound, Your Honor, we have not been able to
23 ascertain that information; however, uh, the fact that some of
24 the activity that has been alleged coulda been learned at some
25 other stage and that that is the portion that we would at

MOTIONS AND MATTERS

1 least like to be able to question.

2 MS. REESE: Your Honor, first of all, I don't know the
3 specifics, the only thing I know of in a DSS report is that
4 there is a screen out at one point I believe that there may
5 have been an allegation, uh, it doesn't even say who made the
6 allegation, where it's the child or an adult related to the
7 child and un -- there's certainly no no showing that it's a
8 false allegation. We believe under *Boiter* this is just not
9 admissible.

10 THE COURT: Alright, well here's what we'll do, uh, if it
11 is relevant to anything and if it is admissible, we'll have to
12 address that outside of the jury's presence ---

13 MR. BROWN: Yes, sir.

14 THE COURT: --- so before any question can you ask of any
15 witness that relates to those particular, uh, facts or
16 allegations we'll have to do that outside the jury's presence..

17 MR. BROWN: Yes, sir.

18 MS. REESE: Your Honor, the second motion we have is a
19 motion, uh, compliance with Rape Shield, uh, just to make sure
20 that there is no, uh, allegation of any, uh, sexual acts by
21 this child made by the defense.

22 MR. BROWN: Your Honor, we don't plan on goin' to any,
23 uh, direct allegations of sexual acts notion, maybe sexual
24 curiosity but no sexual acts.

25 MS. REESE: Your Honor, again, I don't know what he's

MOTIONS AND MATTERS

1 alluding to, I've got no idea what he's alluding to and we
2 believe under Rape Shield he's not allowed to bring up any any
3 sexual activity by this child directly or indirectly.

4 MR. BROWN: Won't be any sexual activity, Your Honor.

5 THE COURT: Okay, apparently the parties are in
6 agreement. Alright, last one?

7 MS. REESE: And, Your Honor, the last one is that we
8 would make a motion at this time we believe in prior, uh,
9 conversations I believe the defendant has made allegations
10 that the mother of this child does not believe this child or
11 expressed doubt over whether or not this child is telling the
12 truth, we would make a motion in limine regarding any opinion
13 of the mother or any witness as to whether or not this is true
14 or not, we believe it's just improper as to the ultimate issue
15 of fact.

16 MR. BROWN: Your Honor, again, uh, in particular as
17 relates to the mother, uh, the mother bein' a party of of this
18 household, an -- anything that she may have observed, uh, with
19 her daughter durin' the the entire time period either related
20 to this particular incident or anything before we think that
21 she, uh, can express certainly her nurture and care as a
22 mother and any opinion that would be related to that follows.

23 THE COURT: Uh, you don't intend to have her offer any
24 opinion as to whether or not the allegations made by the child
25 are true or false, do you?

MOTIONS AND MATTERS

1 MR. BROWN: Not not by way of direct questions, Your
2 Honor. If it comes up, I understand that the State may choose
3 to handle, uh, their witness, uh, in the manner in which they
4 they choose, we do have her listed as a witness as well but I
5 I don't intend any direct questions, uh, that relate to that
6 unless they get into it.

7 THE COURT: Well I I feel fairly certain they're not
8 gonna ask any witness because it's not admissible as to
9 whether or not they believe this child has testified
10 truthfully about allegations she's making. You you agree with
11 me that nobody is entitled to testify as to their opinion as
12 to whether or not child ---

13 MR. BROWN: Not not ---

14 (Cross-talk.)

15 THE COURT: --- is being truthful ---

16 MR. BROWN: --- certainly, Your Honor.

17 THE COURT: Okay.

18 MS. REESE: Your Honor, what I, what I don't I ca --
19 really can't tell but I think what they're, one thing that he
20 has expressed in the past is they were gonna ask this this
21 woman about her opinion about whether or not this could have
22 happened or could not have happened, um, so I do think that
23 they want to elicit some opinion testimony from her about and
24 they may not be quoting, I mean, saying do you believe it
25 happened but they're, they want to elicit testimony regarding

MOTIONS AND MATTERS

1 whether or not this is possible, would it -- whether it could
2 have happened, whether she believes it.

3 THE COURT: Well Mr. Brown's in agreement that he
4 understands that she's not to testify as to her belief as to
5 whether or not the child's allegations are truthful or
6 false.

7 MR. BROWN: Your Honor, as it relates to any professional
8 that had a chance to, uh, spend time with this young lady in
9 the course of their professional observation, they can get
10 into things they they know by way of their conversations with
11 this young lady, n -- again, not an opinion on whether they
12 believe the young lady or not but in terms of their sessions
13 or their time with this this young lady I think we could, that
14 should be admissible and I think we should be able to get into
15 that.

16 THE COURT: I'm not sure I understand what you're
17 referring to.

18 MR. BROWN: I know they're gonna put up someone from DSS,
19 that person may offer whatever opinions they observe durin'
20 that time period, I don't know, the same same situation
21 Susan's having terms of not knowing what could come up.

22 MS. REESE: Your Honor, we're not gonna elicit any
23 opinion testimony, we don't think it's appropriate from any
24 witness, any defense or, uh, prosecution witness as to the
25 ultimate issue of fact.

MOTIONS AND MATTERS

1 MR. BROWN: Again, a professional opinion that may come
2 up whether they through their conversations, uh, gain
3 information that would say this happened, didn't happen in
4 terms a actual abuse as it relates to Mr. Horton or anyone
5 else that's the particular information that may come up or
6 that I will possibly may seek from a witness.

7 THE COURT: I'm not, I'm not following you for some
8 reason. If somebody from the Department a Social Services may
9 testify about their investigation into the allegation of this
10 case ---

11 MR. BROWN: Yes, sir.

12 THE COURT: --- and you wanna ask them if they're believe
13 what she's saying is truth or false?

14 MR. BROWN: No, sir, just in terms of their conversations
15 and what they observed and the information they gain from this
16 young lady.

17 THE COURT: Oh, they can testify as to what she told them
18 if it's inconsistent with what she has stated, uh, or
19 consistent for that matter in appropriate circumstance but
20 sure they can, uh, uh, I mean, they they have, they're
21 entitled to impeach the, uh, the witness's testimony ---

22 MR. BROWN: Yes.

23 THE COURT: --- by some other witness.

24 MS. REESE: Those are all the, uh, pretrial motions from
25 the State, I believe that there's a motion on the search

MOTIONS AND MATTERS

1 warrant.

2 THE COURT: Okay.

3 MR. BROWN: Your Honor, as the the first motion as
4 relates to, uh, the location of evidence that was taken from
5 what I understand to be a family home, uh, we would want to go
6 into the nature of the search warrant itself, uh, terms of
7 permission that was was granted, in terms of access, exactly
8 how the search warrant was executed, we put the prosecution on
9 notice in regards to that, Your Honor, and we'd like to at
10 least have, uh, some testimony in in regards to the nature of
11 the search warrant itself.

12 THE COURT: Was there a search warrant?

13 MS. REESE: Yes, Your Honor.

14 THE COURT: Do you have the copy of it?

15 MR. BROWN: They do, Your Honor.

16 MS. REESE: He has a copy.

17 MR. BROWN: I don't know if it's -- they have the
18 original search warrant.

19 MS. REESE: I have a certified copy of the search
20 warrant, Your Honor, and we're prepared, if he wants to have a
21 pretrial hearing on the search warrant, we're we're ---

22 THE COURT: Well, I mean, is there -- do you perceive
23 it's to -- that there is somethin' wrong with that search
24 warrant?

25 MR. BROWN: Your Honor, in the manner of, uh, the

MOTIONS AND MATTERS

1 execution in particular they gain access to, uh, the home that
2 was occupied by Mr. Horton, uh, and minor children as well as
3 his wife, the minor in particular, uh, there was a section
4 that was cut out from on the carpet from that a DNA analysis
5 was done and I imagine the State is gonna present the
6 information as relates to that.

7 MS. REESE: Your Honor, the the DNA from the home was not
8 obtained by search warrant, the DNA from the home was
9 obtained, uh, at the permission of the wife who allowed the
10 officer come in and take samples of the carpet, uh, based on
11 what the child had told the Children's Advocacy Center but
12 that was consent to search. The only, that the only search
13 warrant in this case was on a buccal swab done by the
14 defendant. Once the material was taken from the house and
15 carpet then, uh, the officer obtained a search warrant for the
16 defendant's DNA and that was obtained by buccal swab.

17 THE COURT: Alright, uh, Mr. Brown, it -- do you have any
18 challenge to any evidence received as a result of the
19 execution of search warrant?

20 MR. BROWN: Not from the buccal swab, no, sir, we don't.

21 THE COURT: Do do you challenge the consent that the
22 State contends was given to allow them to search the
23 residence?

24 MR. BROWN: Based upon the information we received, Your
25 Honor, I understand, uh, Ms. Reese's rendition of we would, we

MOTIONS AND MATTERS

1 would like to go into that and explore the way in which it
2 happened.

3 THE COURT: Well you can honestly do that but do do you
4 contest it? I mean, do you contend that they had no consent
5 to search the residence?

6 MR. BROWN: Again, with conflicting stories, uh, I I
7 would, Your Honor. I have not had the chance to speak with
8 Ms. Ms. Horton in regards to her consent or anything else as
9 as relates to this case.

10 MS. REESE: Your Honor, the State's happy to call the
11 officer, we have the permission and consent to search, uh,
12 signed by the mother at the time and we're happy to to have a
13 pretrial motion on that.

14 THE COURT: Alright, Mr. Brown, you got a copy a that
15 consent to search form signed by who?

16 MS. REESE: Signed by Mrs. Horton who was his ---

17 THE COURT: What's her ---

18 MS. REESE: --- wife.

19 THE COURT: --- name? I know, what's her first name?

20 MS. REESE: Stephanie.

21 THE COURT: Stephanie Horton?

22 MR. BROWN: Yes, sir.

23 THE COURT: You have that?

24 MR. BROWN: We do have it in our file.

25 THE COURT: Do you believe that that's not, uh, valid?

MOTIONS AND MATTERS

1 MR. BROWN: Your Honor, again by the way of ---

2 THE COURT: Let me ask this: What what was received as a
3 result of the consent to search, ---

4 MS. REESE: Uh, ---

5 THE COURT: --- what was obtained?

6 MS. REESE: --- the officer, uh, obtained carpet cuttings
7 from a closet of the minor child, uh, that contained the
8 defendant's DNA, semen.

9 THE COURT: And and the officers will testify that he
10 went to the residence, asked Stephanie Horton if they could
11 search the residence and got permission to obtain those
12 samples?

13 MS. REESE: Yes, Your Honor, that the testimony would be
14 that, uh, she went out talked to Ms. Horton, Ms. Horton did
15 sign a consent to search and, uh, what that she took the
16 carpet cuttings pursuant to that consent.

17 THE COURT: And, uh, how far in the case do you think
18 we'll be before we get to that point?

19 MS. REESE: Uh, I imagine, I guess we would do it -- well
20 no -- yeah, we could do it with Ms. Horton, uh, second
21 witness, Your Honor.

22 THE COURT: The second witness? Alright, so I
23 understand, Mr. Brown, you you're not necessarily challenging
24 that consent to search, you just don't know if it was valid or
25 not?

MOTIONS AND MATTERS

1 MR. BROWN: Don't know if it's valid or not and I don't
2 know the nature of the con consent. Again, the relay of
3 information that both Ms. Reese and I have gained from our
4 respective parties in this case there have been been
5 conflicting things that have been said on both sides. This is
6 one of the things that clearly for for us is in question if
7 she even consented, uh, even by way of a signature or if she
8 felt that she was being duped by law enforcement.

9 THE COURT: But but you say you've not talked to her.

10 MR. BROWN: I have not, sir.

11 THE COURT: And, uh, uh, Ms. Reese, I assume you have.

12 MS. REESE: I have, Your Honor, and also have Officer
13 Burrell who did the consent to search.

14 THE COURT: Okay. Alright, well we can take that
15 testimony, uh, we we call her and and; uh, provide that
16 testimony if we need to be -- outside the presence of the
17 jury.

18 MR. BROWN: And, Your Honor, one last, uh, motion *in*
19 *limine*. I know there's information as relates to, uh, some
20 pornographic material that was was gained by way of a search
21 of the home itself, uh, that the the exact nature of the
22 titles we feel may be inflammatory to the jury so we're here
23 to request that that information in terms of the actual titles
24 of any, uh, pornographic material not be used to to incite the
25 jury create some type of impression.

MOTIONS AND MATTERS

1 MS. REESE: Your Honor, ---

2 MR. BROWN: The fact that there was pornographic material
3 we have no problem with that in their statement.

4 MS. REESE: --- Your Honor, it's my understanding the
5 defense in the case is that he he admits to the pornography
6 bein' in the home, think the titles he's referring to is Rape
7 and Lesbian Rape were the titles of the pornographic material.
8 I would, I'm not going to introduce that in in terms of my
9 other witnesses but I would ask that I be allowed to
10 cross-examine him if he testifies as to the nature of the
11 pornography he was watching, Judge.

12 THE COURT: Alright, so I understand it the State intends
13 to, uh, it intends not to go into the title description of the
14 material unless until the defendant were to testify and it may
15 become relevant.

16 MS. REESE: Yes, Your Honor.

17 THE COURT: Alright, so it'll be excluded up until that
18 point.

19 MS. REESE: Yes, Your Honor.

20 MR. BROWN: Yes, Your Honor.

21 THE COURT: Alright, anything else?

22 MR. BROWN: That's it, Your Honor.

23 MS. REESE: Um, Your Honor, my only concern is the
24 defendant has a Bible and it's, I I just think that might be
25 in inappropriate in front of the jury.

MOTIONS AND MATTERS

1 MR. BROWN: We have several books over here, Your Honor,
2 I can conceal it if I need to. I'll ask him not to open it.

3 THE COURT: Uh, as long as it's not shown in the presence
4 of the jury.

5 MS. REESE: Thank Your Honor.

6 THE COURT: Alright, anything else?

7 MS. REESE: I have nothing further.

8 THE COURT: Alright, bring the jury in please, sir.

9 These are two separate incidents occurring between the same
10 time frame?

11 MS. REESE: Yes, Your Honor.

12 THE COURT: State alleges it occurred where?

13 MS. REESE: At [REDACTED] Road in Boiling Springs.

14 THE COURT: 144 what?

15 MS. REESE: Old Kimbrell Road in Boiling Springs.

16 THE COURT: Kimbell?

17 MS. REESE: Kimbrell, K-I-M-B-R-E-L-L.

18 (Whereupon, a discussion was held off the record.)

19 MR. BROWN: Yes, that that's correct, Your Honor.

20 THE COURT: This is the residence of, uh, the Hortons?

21 MS. REESE: Yes, Your Honor.

22 MR. BROWN: That's correct, Your Honor.

23 (Pause.)

24 THE COURT: Mr. Brown, once this jury panel gets in here
25 we can't have any discussions over here.

JURY QUALIFICATION

1 MR. BROWN: Yes, sir.

2 (Whereupon, a discussion was held off the record.)

3 (The following takes place in the presence of the jury
4 panel.)

5 THE COURT: Alright, we've got everyone seated now? I'll
6 get -- got 'em all?

7 THE BAILIFF: Yes, sir.

8 THE COURT: Uh, good afternoon, ladies and gentlemen, uh,
9 my name is Derham Cole, I'm a resident judge here in the
10 Seventh Judicial Circuit. I will be presiding over a term of
11 general sessions court which is the criminal side of the
12 circuit court just as Judge Couch will be across the
13 hall, uh, I think you all met Judge Couch this mornin' durin'
14 the qualification process. Uh, the first case that we have
15 that's going to require some of your participation here is the
16 case of the State vs. Robert Stephen Horton. Mr. Horton has
17 been accused by the State through the solicitor or the
18 prosecutor's office with having committed the crime of
19 criminal sexual conduct with a minor in the second degree.
20 There are two separate counts, two separate charges that have
21 been alleged against the defendant. Uh, when the State makes
22 a charge against a person such as this, they do so by
23 documents referred to or called "indictments" and these are
24 the documents that I hold in my hand, those indictments set
25 forth the charge or the allegations made against a person

JURY QUALIFICATION

1 charged with a crime. In this case these indictments allege
2 that Robert Stephen Horton did here in Spartanburg County
3 between the dates of January the 1st of 2008 and May the 7th
4 of 2009 commit the crime of criminal sexual conduct with a
5 minor in the second degree, uh, in that the defendant did
6 engage in a sexual battery with a minor child being Minor
7 [REDACTED] who was at least 14 years of age or less and also at
8 least 8 -- 11 years of age or older so between the ages of 11
9 and 14, inclusive of those ages, the State alleges he
10 committed the crime of or committed a sexual battery against a
11 child of that age and there are two separate charges alleged
12 between that time period.

13 Now as to those charges and as to those allegations the
14 defendant has entered a plea of not guilty. A plea of not
15 guilty places upon the State the burden of proving the
16 allegations that they have set forth in each of those
17 indictments, the burden of proving each of the essential
18 elements of the crimes that they have alleged against the
19 defendant and therefore the burden is upon the State to
20 establish the defendant's guilt to the satisfaction of twelve
21 jurors beyond a reasonable doubt before any verdict of guilty
22 could be returned as to either of the indictments and so we're
23 gonna be selecting thirteen of you, there'll be twelve primary
24 jurors and then one additional juror to serve as an alternate
25 and by way of your participation you're simply gonna be called

JURY QUALIFICATION

1 upon to listen to all of the testimony, to consider all the
2 evidence presented durin' the trial of the case, at the
3 trial's conclusion as you go back to begin deliberations
4 you'll be asked to examine all of that evidence, from that
5 evidence you'll decide what you believe to be the true facts
6 as they relate to these allegations, once you decide those
7 facts you'll then apply the law that I will have provided you
8 and you will determine whether or not the defendant has been
9 proven guilty beyond a reasonable doubt and if he has then
10 your verdict would be guilty as to that particular charge and
11 if he has not then your verdict would be not guilty as to that
12 particular charge.

13 Now before we begin with, uh, jury selection I've got
14 some questions that I'm gonna ask you as a group, uh, the
15 purpose of the questions is to determine whether or not
16 there's some reason why, uh, any one of you jurors should not
17 be selected to participate in the trial of this particular
18 case; in other words, do ya have some reason why you think you
19 could not be fair and impartial if you're called upon to serve
20 as a juror in this particular case so as these questions are
21 asked should they apply to you, you need to respond, I'll ask
22 that ya please stand, I'll address those matters with you
23 individually in the event that should become necessary. Uh,
24 as you are called upon to respond to questions, if you don't
25 wanna answer the question in front of an audience you can step

JURY QUALIFICATION

1 down here and I'll discuss it with you privately but I need
2 you to provide me with all the information you're required to
3 so that we can determine, uh, whether or not you should be
4 serving in the trial of this case.

5 Now the first thing I'm going to do is to introduce some
6 people to ya and the purpose of these introductions is to find
7 out if you have any connection with these people, they're all
8 people involved in the trial of this case; in other words, are
9 you related by blood or marriage to any of these people or
10 some members of their families, uh, do you go to work with
11 'em, do you go to church with 'em, do you socialize with 'em,
12 have you met them somewhere, uh, do you know them in any
13 fashion whatsoever, so as these people are introduced or their
14 names are recited if you know or have some connection with 'em
15 whatsoever I'm gonna ask that ya please stand so that we can
16 determine what that connection is and whether or not would
17 affect your ability to be fair and impartial in in the case.

18 Now first of all as I've told ya, the defendant, that is
19 the person who is accused of having committed the crimes of
20 criminal sexual conduct with a minor in the second degree is
21 Robert Stephen Horton. Mr. Horton, I'll ask if you'll please
22 stand and face the jury panel so that they may see who you
23 are.

24 (Whereupon, the defendant complied.)

25 THE COURT: Alright, thank you, you may be seated. Uh,

JURY QUALIFICATION

1 seated at, uh, the defense table with Mr. Horton is Michael
2 Brown his lawyer, he'll be assisting him in the trial of this
3 case. The person alleged to be the victim of these, uh,
4 incidents is Minor [REDACTED] is she present?

5 MS. REESE: She's not not courtroom right now, Your
6 Honor.

7 THE COURT: She's not in the courtroom but is anybody
8 here who's related to her?

9 MS. REESE: Uh, no, Your Honor, they're ups -- I have 'em
10 upstairs.

11 THE COURT: They're upstairs, okay. Uh, where do the
12 Manleys reside?

13 MS. REESE: Uh, they now reside in Enoree.

14 THE COURT: Well, I mean, at the time of this event where
15 they, where they reside.

16 MS. REESE: They were at, uh, the Kimbrell Road in
17 Boiling Springs.

18 THE COURT: In Boiling Springs, okay. Uh, the Manleys
19 and and her parents' names?

20 MS. REESE: Uh, Your Honor, she is the daughter of
21 Stephanie Horton and a stepdaughter ---

22 THE COURT: Oh, I'm ---

23 MS. REESE: --- to Mr. ---

24 THE COURT: --- sorry, okay. Alright, uh, in addition to
25 those we have other potential witnesses, excuse me, let me

JURY QUALIFICATION

1 introduce the lawyers for the State, they are Susan Reese and
2 Jennifer Jordan, they are both assistant circuit solicitors
3 for the Seventh Judicial Circuit and they'll be presenting the
4 case on behalf of the State. Uh, in addition to Minor
5 who's alleged to be the victim, uh, we have other potential
6 witnesses that they include Stephanie Horton who's her mother,
7 uh, Chris, let me, the following witnesses are all employed by
8 the Spartanburg County Sheriff's Department, they include
9 Chris Durham (stood), David Hogsed, Megan Burrell (stood),
10 Tommy Clark, Robert Rosenberg, Margaret Greer, Jack
11 Westmoreland and Anita Mullinax. The following, uh, five
12 witnesses or six witnesses are employed by the State Law
13 Enforcement Division, uh, commonly referred to as SLED, they
14 include Amy Stephens, Nikki Perry, Selena Kinard, Sheree
15 Brown, Catherine Leisy and Lori Giles, we also have Lynn
16 McMillan who's employed with the Children's Advocacy Center
17 and Nancy Henderson who's a medical doctor employed by the
18 Greenville Hospital Systems. We also have Trip Whitlock, Hank
19 Williams, Jeff Wyatt, Jennifer Isbell, Tricia Isbell, Tracey
20 Hunter Richards and Porsha Moore employed by the Department of
21 Social Services. Are there any other potential witnesses on
22 behalf of the State?

23 MS. REESE: No, Your Honor.

24 THE COURT: The, uh, defendant?

25 MR. BROWN: No, Your Honor.

JURY QUALIFICATION

1 THE COURT: Alright, now does any juror know any of those
2 people who have just been introduced to ya or their names
3 been recited, ---

4 THE BAILIFF: Stand up.

5 THE COURT: --- if so please stand and if I call out a
6 name and the person wasn't present in court and you know
7 somebody by that name but you're not sure if it's the same
8 person, if you'll stand and we'll try to narrow down that
9 identification for ya. Alright, I'm gonna start to my right,
10 uh, work my way front to back and then I'll jump the aisle and
11 start with my right and work to my left. If you'll give me
12 your name and your juror number please, ma'am.

13 JUROR NUMBER 69: Cathy Green, Number 69.

14 THE COURT: Alright, who is it that you know?

15 JUROR NUMBER 69: Hank Williams is my pastor.

16 THE COURT: Hank Williams is your pastor?

17 JUROR NUMBER 69: Yes, and I recognize some of the names,
18 I don't know it's from my church or not.

19 THE COURT: Alright, Hank Williams is the pastor at what
20 church?

21 JUROR NUMBER 69: Boiling Springs First Baptist Church.

22 THE COURT: Okay, and you recognize some a the other
23 names?

24 JUROR NUMBER 69: I do but I don't know exactly, I don't
25 know if they're affiliated with the people I know, they have

JURY QUALIFICATION

1 the same last name.

2 THE COURT: Okay, uh, can you identify which one that
3 might be?

4 JUROR NUMBER 69: Uh, ---

5 THE COURT: Was it one a the few, one a the few, uh,
6 names I listed last?

7 JUROR NUMBER 69: Horton.

8 THE COURT: Uh, Stephanie Horton?

9 JUROR NUMBER 69: Yes, but I don't know if if if she's
10 related.

11 THE COURT: Well where's Stephanie Horton?

12 MS. REESE: She, Your Honor, she's upstairs.

13 THE COURT: Well see that's why we need some people down
14 here so jurors can see who they are. Uh, Stephanie Horton is
15 the wife of the defendant, is that true?

16 MS. REESE: Yes, Your Honor.

17 THE COURT: Uh, this is the defendant, uh, Robert Horton,
18 his wife is Stephanie Horton, would that help ya at all?

19 JUROR NUMBER 69: I don't know. I don't know if that
20 would.

21 THE COURT: Okay, how do you think you might know
22 Stephanie Horton?

23 JUROR NUMBER 69: Through church maybe.

24 THE COURT: Through church? Let's just put it this way:
25 Let's just assume for the purpose a this question that it is

JURY QUALIFICATION

1 that Stephanie Horton, would that in any way affect or impair
2 your ability to be fair and impartial in this case if you were
3 called upon to serve as a juror?

4 JUROR NUMBER 69: I don't think so.

5 THE COURT: Alright, and the fact that you know, uh, the
6 preacher or pastor Hank Williams, would that have any bearing
7 upon your decision in the case?

8 JUROR NUMBER 69: No.

9 THE COURT: Alright, is anyone else that you think you
10 may know?

11 JUROR NUMBER 69: Uh, ---

12 THE COURT: I called out Whitlock, Wyatt, Isbell and
13 Richards.

14 JUROR NUMBER 69: I know a Wyatt but I don't think that's
15 the same family.

16 THE COURT: Jeff Wyatt?

17 JUROR NUMBER 69: I don't know. I don't know. I know a
18 a wife of a Wyatt but I don't know if that's the same
19 family.

20 THE COURT: Alright, let's assume right now that it is,
21 would it affect your judgment in this case if it were?

22 JUROR NUMBER 69: No.

23 THE COURT: Okay, anyone else you know?

24 JUROR NUMBER 69: No, sir.

25 THE COURT: Okay, thank you, you may be seated. Next

JURY QUALIFICATION

1 juror name and number, please.

2 JUROR NUMBER 57: Tina Floyd, 57.

3 THE COURT: Alright, who is it you know?

4 JUROR NUMBER 57: Tommy Clark.

5 THE COURT: And, uh, how do you know Mr. Clark?

6 JUROR NUMBER 57: Uh, he used to bring his son to the
7 fun center at Gold's Gym when I worked there ---

8 THE COURT: Alright.

9 JUROR NUMBER 57: --- and he also was, uh, the officer
10 who was involved in a, somebody stole from me and he was the
11 officer that I talked to.

12 THE COURT: Okay, and would those facts have any bearing
13 upon your decision in this case?

14 JUROR NUMBER 57: Uh, I don't think so.

15 THE COURT: Thank you, be seated. Yes, ma'am.

16 JUROR NUMBER 87: Uh, Gina Huntley, Number 87.

17 THE COURT: Who do ya know?

18 JUROR NUMBER 87: Uh, Trip Whitlock if it's same one.
19 Uh, if he runs a furniture store just only from purchasing
20 furniture ---

21 THE COURT: Okay, would it have any bearing upon your
22 decision?

23 JUROR NUMBER 87: No, sir.

24 THE COURT: Thank you, you may be seated. Yes, ma'am.

25 JUROR NUMBER 110: Amy ---

JURY QUALIFICATION

1 THE COURT: Oh, excuse me, let me get the front row.
2 Yes, ma'am, front row.

3 JUROR NUMBER 152: Debra Rowe, 152.

4 THE COURT: Who do you know?

5 JUROR NUMBER 152: Officer Durham. I worked for a short
6 while with him at the alternative school.

7 THE COURT: And would that have any bearing upon your
8 decision?

9 JUROR NUMBER 152: No, sir.

10 THE COURT: Thank you, be seated. Alright yes, ma'am.

11 JUROR NUMBER 110: Amy Logan, 110, uh, Stephen Horton or
12 Robert Horton, I'm sorry.

13 THE COURT: You know the defendant?

14 JUROR NUMBER 110: Uh, just from grew, I grew up with the
15 Horton family in church at Boilin' Springs First Baptist
16 Church.

17 THE COURT: Okay, and would that have any bearing upon
18 your decision in this case if you were called upon to serve as
19 a juror?

20 JUROR NUMBER 110: No.

21 THE COURT: You could put that fact aside and not allow
22 it to influence your decision?

23 JUROR NUMBER 110: Yes.

24 THE COURT: Alright, thank you, may be seated. Yes,
25 ma'am.

JURY QUALIFICATION

1 JUROR NUMBER 191: Nancy Seay, 191. Trip Whitlock I
2 know, I've grown up with and have known as a friend.

3 THE COURT: And would it have any bearing upon your
4 decision in the case?

5 JUROR NUMBER 191: No, sir.

6 THE COURT: Thank you, be seated. Yes, sir.

7 JUROR NUMBER 159: Uh, 159 William Sizemore. Uh, Trip
8 Whitlock I go to church with him and and been friends with him
9 and Jeff Wyatt is is the same, uh, he used to teach and coach
10 with Jeff.

11 THE COURT: And would either either of those facts have
12 any bearing upon your decision in the case?

13 JUROR NUMBER 159: No, sir.

14 THE COURT: Alright, thank you, you may be seated. Uh,
15 these are events which the State alleges occurred, uh, back
16 between January the 1st of 2008 and May the 7th of 2009, they
17 allege that the events occurred, uh, at the Horton residence
18 on Old Kimbrell Road in Boiling Springs, South Carolina. Does
19 any member of the jury panel believe that you may have heard,
20 seen or even read something that might relate to this case; in
21 other words, have you in any way been exposed to any type of
22 information that might relate to this case or its
23 circumstances, if so please stand?

24 (No response.)

25 THE COURT: Has any member of the jury panel or any

JURY QUALIFICATION

1 member of your immediate family and I'm going to define an
2 immediate family member as a parent, a spouse, a child or a
3 sibling, a parent, spouse, child or a sibling, have you or any
4 members of your immediate family as I just defined it, uh,
5 ever been the victim of or have you ever been accused of
6 having committed any type of similar crime as is alleged in
7 these indictments; in other words, have you or a family member
8 ever been victim, victim of, or accused of any type of a
9 sexual abuse offense: criminal sexual conduct, lewd act upon a
10 child, sexual assault of any type, you or a family member ever
11 been a victim of or accused of any of those types of offenses,
12 if so please stand.

13 Alright, let me first get your names and your numbers
14 before you give any other information. I'll start with you,
15 ma'am.

16 JUROR NUMBER 146: Michelle Pearson, Number 146.

17 THE COURT: Alright, Ms. Green?

18 JUROR NUMBER 69: Yes, Kathy Green, 69.

19 THE COURT: Sixty-nine. Yes, ma'am.

20 JUROR NUMBER 34: Thirty-four, Sherry Cantrell.

21 THE COURT: Okay. Yes, ma'am.

22 JUROR NUMBER 105: Janice Lehman, 105.

23 THE COURT: 105. Sir?

24 JUROR NUMBER 97: John Cimball, 97.

25 THE COURT: Ninety-seven. Alright, I've got five jurors

JURY QUALIFICATION

1 responding to the question. Now, uh, you can respond to the
2 question where you are, if you don't mind doin' so, if you
3 prefer to step down here to provide me with that, with that
4 information, feel free to do that and I'll start with Juror
5 146.

6 JUROR NUMBER 146: My mom was sexual -- sexually abused
7 as a child.

8 THE COURT: Okay, and, uh, would that fact, uh, have any
9 bearing upon your decision in this case?

10 JUROR NUMBER 146: No, sir.

11 THE COURT: Could you put that fact aside and not allow
12 it to influence your judgment?

13 JUROR NUMBER 146: Yes, sir.

14 THE COURT: Okay, thank you, you may be seated. Juror
15 69?

16 JUROR NUMBER 69: Yes, I had a family member, uh, assault
17 me as a child but I don't believe it would would affect me and
18 it's all been forgiven and ---

19 THE COURT: Alright, so you could put that experience
20 aside and not allow it to influence your judgment?

21 JUROR NUMBER 69: Right.

22 THE COURT: Alright, thank you ma'am, you may be seated.
23 Juror 34.

24 JUROR NUMBER 34: Yes, I was a victim as a child by a
25 family member and also my granddaughter is going through

JURY QUALIFICATION

1 something of this nature now.

2 THE COURT: And would either of those experiences or
3 facts have any bearing upon your decision in this case?

4 JUROR NUMBER 34: No.

5 THE COURT: Could you put those aside and not allow those
6 to influence your judgment?

7 JUROR NUMBER 34: Yes.

8 THE COURT: Thank you, you may be seated. And Juror

9 105 ---

10 JUROR NUMBER 105: May I step ---

11 THE COURT: --- you step ---

12 JUROR NUMBER 105: --- up?

13 THE COURT: --- sure.

14 JUROR NUMBER 105: Thank you, sir.

15 (Whereupon, Juror Number 105 came forward.)

16 (Whereupon, a discussion was held off the record.)

17 THE COURT: Uh, Juror 105 is excused from service in this
18 case. Ninety-seven?

19 JUROR NUMBER 97: I had a sex offender break in my house
20 and steal all my, uh, young childrens' underwear and no, I
21 don't need to be in here.

22 THE COURT: Alright, you think it would influence your
23 decision.

24 JUROR NUMBER 97: I -- it already has.

25 THE COURT: Uh, okay, well we'll excuse you from service

JURY QUALIFICATION

1 in the case but don't leave quite yet. Anyone else need to
2 respond to that, uh, question?

3 (No response.)

4 THE COURT: Uh, has any member of the jury panel ever
5 been called to testify as a witness in a criminal case whether
6 you were called by the prosecutor or by defense lawyer, have
7 you ever been called to testify as a witness in a criminal
8 case, if so please stand?

9 Alright, Juror 146 and was that the case you you referred
10 to earlier or a different ---

11 JUROR NUMBER 146: No, ---

12 THE COURT: --- one?

13 JUROR NUMBER 146: --- no.

14 THE COURT: Okay.

15 JUROR NUMBER 146: Uh, I had witnessed friend, uh, go
16 through domestic violence but I was summons to court, went to
17 Maryland and she dropped charges.

18 THE COURT: Okay, and would that have any bearing upon
19 your decision?

20 JUROR NUMBER 146: No.

21 THE COURT: Thank you, be seated. Yes, ma'am?

22 JUROR NUMBER 125: Uh, Juror Number 125, Millie Miller, I
23 was a witness in a murder trial.

24 THE COURT: And, uh, were you called by the State or by
25 the defense?

JURY QUALIFICATION

1 JUROR NUMBER 125: By the State.

2 THE COURT: And would that have any bearing on your
3 decision in this case?

4 JUROR NUMBER 125: No, sir.

5 THE COURT: Thank you, be seated. Yes, sir?

6 A. JUROR NUMBER 94: Francis Kel -- Francis Kelly,
7 Juror Number 94.

8 THE COURT: And, uh, were you called as a witness by the
9 State or by defense counsel?

10 JUROR NUMBER 94: Uh, both at diff -- several different
11 times.

12 THE COURT: Okay, and, uh, how many times have you
13 testified in a criminal case about?

14 JUROR NUMBER 94: Six.

15 THE COURT: And would that have any bearing upon your
16 decision in this case?

17 JUROR NUMBER 94: That wouldn't, Your Honor, but I do
18 have a daughter and this is ---

19 (Cross-talk.)

20 THE COURT: Well just I'll I'll I'll ask you, I'll ask
21 you some other questions just a minute, okay, let's just,
22 let's just respond to the question being asked ---

23 JUROR NUMBER 94: I don't ---

24 THE COURT: --- by me.

25 JUROR NUMBER 94: --- know.

JURY QUALIFICATION

1 THE COURT: Okay, alright. Thank you be seated. Yes,
2 ma'am?

3 JUROR NUMBER 191: Uh, Juror 191, Nancy Seay. I was, uh,
4 called as a witness for prosecution in drug-related case near
5 the school where I taught.

6 THE COURT: And would that have any bearing upon your
7 decision in this case?

8 JUROR NUMBER 191: No, sir.

9 THE COURT: Thank you, may be seated. Does any member of
10 the jury panel belong to, uh, or do you contribute time or
11 money to any organizations that might be, uh, described as law
12 enforcement support or victim's rights types of organizations,
13 uh, those include, uh, organizations like Mother's Against
14 Drunk Drivers, uh, Citizens Against Violent Crime, the Safe
15 Homes Rape Crisis Center, the Children's Advocacy Center, the
16 Honorary Sheriff's Association, the Fraternal Order of Police,
17 the Police Benevolent Society or a Trooper's Association or a
18 Neighborhood Watch type of organization, do you belong to any
19 or do you contribute time or money to any a those types of
20 organizations, if so please stand? Alright, I've got Juror
21 Number 94 and, uh, let me get 94 first, it it -- tell me wh --
22 what you belong to, sir.

23 JUROR NUMBER 94: I contribute to the PBA New York City,
24 this Trooper's Association here, Sheriff's Honorary Society
25 here and to a a children's fund where battered children are

JURY QUALIFICATION

1 being able to go to a camp.

2 THE COURT: Okay, thank you, sir, you may be seated.

3 Yes, ma'am?

4 JUROR NUMBER 13: Vickie Blackwell 13. Uh, I have
5 contributed to Mother's Against Drunk Drivin', not in several
6 years but I have.

7 THE COURT: Okay, thank you, you may be seated. Yes,
8 sir?

9 JUROR NUMBER 159: Yes, sir, uh, 159, uh, through, uh,
10 uh, M.A.D.D., Mother's Against Drunk Drivers I have.

11 THE COURT: Alright, thank you, be seated. Anyone else
12 need to respond to the question belong to or contribute time
13 or money to?

14 (No response.)

15 THE COURT: Uh, is any member of the jury panel now
16 employed or have you ever been employed as a law enforcement
17 officer or do ya have an immediate family member as I
18 previously described it who is or has been employed as any
19 type of law enforcement officer, uh, that includes sheriff,
20 deputy, city, town, municipal law enforcement, uh, officers,
21 uh, detention facility officers, parole agents or officers,
22 Department a Corrections officers, State Law Enforcement
23 Division, FBI, troopers, any type of law enforcement officer
24 have you been one or do you have a family member who is or has
25 been, if so please stand?

JURY QUALIFICATION

1 Alright, you, sir, I'll start with you, work my way back
2 then back across.

3 JUROR NUMBER 32: Evan Cantrell, 32.

4 THE COURT: Alright.

5 JUROR NUMBER 32: My brother and his wife both are with
6 Spartanburg County.

7 THE COURT: With the sheriff's department?

8 JUROR NUMBER 32: Yes.

9 THE COURT: Would it have any bearing upon your decision
10 in the case?

11 JUROR NUMBER 32: My sister-in-law's a sex crimes
12 investigator so...

13 THE COURT: Do you think that would influence your
14 judgment?

15 JUROR NUMBER 32: Probably.

16 THE COURT: Alright, we'll excuse Juror Number 32 from
17 service in the case, don't leave yet. Yes, ma'am?

18 JUROR NUMBER 59: Fifty-nine, Rebecca Gambrell. My
19 father was a police officer for Spartanburg County 'bout 40
20 years ago.

21 THE COURT: Alright, would that have any bearing upon
22 your decision?

23 JUROR NUMBER 59: No.

24 THE COURT: Thank you, be seated. Yes, ma'am?

25 JUROR NUMBER 7: Uh, Rebecca Beach, 7 I have a cousin

JURY QUALIFICATION

1 that's a highway patrolman.

2 THE COURT: And would that have any bearing upon your
3 decision?

4 JUROR NUMBER 7: No, sir.

5 THE COURT: Thank you, be seated. Yes, ma'am?

6 JUROR NUMBER 87: Uh, Gina Huntley, Number 87. My
7 younger brother worked in the Department a Corrections.

8 THE COURT: Would that have any bearing upon your
9 decision?

10 JUROR NUMBER 87: No, sir.

11 THE COURT: Alright. Juror 34.

12 JUROR NUMBER 34: Uh, my daughter's father-in-law is a
13 judge.

14 THE COURT: Your what?

15 JUROR NUMBER 34: My daughter's father-in-law is a judge.

16 THE COURT: And that's where?

17 JUROR NUMBER 34: Uh, I think he services both counties,
18 uh, services both, all areas.

19 THE COURT: Alright, would that have any bearing upon
20 your decision?

21 JUROR NUMBER 34: No.

22 THE COURT: Thank you, be seated. Yes, sir?

23 JUROR NUMBER 164: Juror -- my wife's uncles were
24 policemen in Spartanburg but not mine.

25 THE COURT: Okay, and your number's what?

JURY QUALIFICATION

1 JUROR NUMBER 164: Sir?

2 THE COURT: Your name and number are what?

3 JUROR NUMBER 164: I I was, uh, Fred, uh, Lieutenant Fred
4 Rogers and Ralph Sawyer.

5 THE COURT: Alright, what's your name?

6 JUROR NUMBER 164: James W. Splawn.

7 THE COURT: And your juror number is what?

8 JUROR NUMBER 164: 164.

9 THE COURT: Thank you. Would that have any bearing upon
10 your decision?

11 JUROR NUMBER 164: No, sir.

12 THE COURT: Thank you, be seated. Yes, ma'am?

13 JUROR NUMBER 161: Dianne Smith, 161. My daughter's a
14 sergeant for Spartanburg City Public Safety.

15 THE COURT: And would that have any bearing upon your
16 decision?

17 JUROR NUMBER 161: No.

18 THE COURT: Thank you, be seated. And 94?

19 JUROR NUMBER 94: I have a very close cousin actually
20 just moved outta my house that's a Spartanburg County
21 Sheriff's Deputy.

22 THE COURT: Alright, and, uh, was it anybody that was,
23 uh, called out as a witness in this case?

24 JUROR NUMBER 94: No, sir.

25 THE COURT: Okay, would that have any bearing upon your

JURY QUALIFICATION

1 decision?

2 JUROR NUMBER 94: That would not, no.

3 THE COURT: Alright, thank you, be seated. Alright, now,
4 uh, is there anything about the nature of the case, that is,
5 what, uh, the State alleges against the defendant, is there
6 anything about the nature of the case itself that would
7 prevent any juror from being able to be fair and impartial if
8 you were called upon to serve, uh, in this particular case, if
9 so please stand?

10 Alright, Juror Number 94 and, uh, there's somethin' about
11 the case or some circumstances, uh, special to you that you
12 believe would preclude you from being able to be fair and
13 impartial?

14 JUROR NUMBER 94: I couldn't be fair and impartial, no,
15 sir.

16 THE COURT: Alright, thank you, we'll excuse you from
17 service in the case, that's Juror Number 94. Alright, what's
18 your num -- name and number please, sir?

19 JUROR NUMBER 120: Zachery McJimpsey, 120.

20 THE COURT: 120. And you have a reason that's special to
21 you as to why you believe you could not be fair and impartial
22 in this case?

23 JUROR NUMBER 120: Yes, sir.

24 THE COURT: Alright, we'll excuse you from service also,
25 that's Juror 120.

JURY QUALIFICATION

1 Uh, anyone else know of any reason whatsoever why you
2 think you could not be fair and impartial if you were called
3 upon to serve as a juror in this case, if so please stand?

4 (No response.)

5 THE COURT: Any other questions requested by the State?

6 MS. REESE: None from the State.

7 THE COURT: By the defendant?

8 MR. BROWN: No, Your Honor.

9 THE COURT: Alright. Draw us a jury please, ma'am.

10 THE CLERK: Yes, sir.

11 THE COURT: Uh, as your names are called, you'll be
12 called to come forward, a computer selects your names randomly
13 from the, uh, number of jurors we have attending this week,
14 uh, when your name is called, you'll be asked to come forward
15 and you'll see the two desks where the lawyers are seated,
16 just come between those two desks towards me about two steps,
17 turn and face your fellow jurors, uh, each side, uh, has an
18 opportunity to excuse you from serving in the case or to have
19 you seated for service in the case. Uh, if either side asks
20 that you be excused, you can simply go back and have a seat
21 where you are now, if both agree to have you seated for
22 service in the case, you'll be having a seat in that
23 (indicating) jury box to your right and to my left so please
24 simply come forward as your name is called and you'll be
25 instructed if you're to be seated for service in the case or

JURY QUALIFICATION

1 excused from service in the case. If you happen to be closer
2 to the wall than you are to the center aisle, you can come
3 around the desk and take your stance where I've asked you to
4 stand, if you're towards the center, closer to the center then
5 just come up the center aisle and take your position, uh, in
6 front of the lawyers seated at the desk.

7 (Pause.)

8 THE CLERK: Number 180, Jessica Watson.

9 (Jessica Watson, a black female came forward.)

10 THE CLERK: What says the State?

11 MS. REESE: Please present the juror.

12 THE CLERK: What says defense?

13 MR. BROWN: Please seat the juror.

14 THE BAILIFF: Ma'am.

15 THE CLERK: Number 73, Tameka Hall.

16 (Tameka Hall, a black female came forward.)

17 THE CLERK: What says the State?

18 MS. REESE: Please present the juror.

19 THE CLERK: What says defense?

20 MS. REESE: Please seat the juror.

21 THE CLERK: Number 138, Philip Nix.

22 (Philip Nix, a white male came forward.)

23 THE CLERK: What says the State?

24 MS. REESE: Please present the juror.

25 THE CLERK: Says defense?

JURY QUALIFICATION

1 MR. BROWN: Please seat the juror.
2 THE CLERK: Number 191, Nancy Seay.
3 (Nancy Seay, a white female came forward.)
4 THE CLERK: What says the State?
5 MS. REESE: Please excuse the juror from this case.
6 THE BAILIFF: Right here (indicating).
7 THE CLERK: Number 153, Andrew Schaper.
8 (Andrew Schaper, a white male came forward.)
9 THE CLERK: What says the State?
10 MS. REESE: Please present the juror.
11 THE CLERK: Says defense?
12 MR. BROWN: Please seat the juror.
13 THE CLERK: Number 146, Michelle Pearson.
14 (Michelle Pearson, a white female came forward.)
15 THE CLERK: What says the State?
16 MS. REESE: Please present the juror.
17 THE CLERK: What says defense?
18 MR. BROWN: Please excuse the juror.
19 THE CLERK: Number 1, Bobby Alexander.
20 (Bobby Alexander, a black male came forward.)
21 THE CLERK: What says the State?
22 MS. REESE: Please present the juror.
23 THE CLERK: Says defense?
24 MR. BROWN: Please seat the juror.
25 THE CLERK: Number 152, Debra Rowe.

JURY QUALIFICATION

1 (Debra Rowe, a white female came forward.)
2 THE CLERK: What says the State?
3 MS. REESE: Please present the juror.
4 THE CLERK: Says defense?
5 MR. BROWN: Please seat the juror.
6 THE CLERK: Number 29, Clara Campbell.
7 (Clara Campbell, a black female came forward.)
8 THE CLERK: What says the State?
9 MS. REESE: Please present the juror.
10 THE CLERK: Says defense?
11 MR. BROWN: Please seat the juror.
12 (Whereupon, a discussion was held off the record.)
13 THE CLERK: Number 80, Kevin Hite.
14 (Kevin Hite, a white male came forward.)
15 THE CLERK: Says the State?
16 MS. REESE: Please excuse the juror from this case.
17 THE CLERK: Number 140, Paul Oshields.
18 (Paul Oshields, a white male came forward.)
19 THE CLERK: What says the State?
20 MS. REESE: Please present the juror.
21 THE CLERK: Says defense?
22 MR. BROWN: Please excuse the juror.
23 THE CLERK: Number 13, Vickie Blackwell.
24 (Vickie Blackwell, a white female came forward.)
25 THE CLERK: What says the State?

JURY QUALIFICATION

1 MS. REESE: Please present the juror.
2 THE CLERK: What says defense?
3 MS. REESE: Please seat the juror.
4 THE CLERK: Number 159, William Sizemore.
5 (William Sizemore, a white male came forward.)
6 THE CLERK: What says the State?
7 MS. REESE: Please excuse the juror from this case.
8 THE CLERK: Number 189, William Wright.
9 (William Wright, a black male came forward.)
10 THE CLERK: What says the State?
11 MS. REESE: Please excuse the juror from this case.
12 THE CLERK: Number 40, Amanda Clark.
13 (Amanda Clark, a white female came forward.)
14 THE CLERK: What says the State?
15 MS. REESE: Please present the juror.
16 THE CLERK: What says defense?
17 MR. BROWN: Present the juror.
18 THE CLERK: Number 121, Justin McLellan.
19 (Justin McLellan, a white male came forward.)
20 THE CLERK: What says the State?
21 MS. REESE: Please present the juror.
22 THE CLERK: Says defense?
23 MR. BROWN: Please excuse the juror.
24 THE CLERK: Number 156, Melissa Sharpe.
25 (Melissa Sharpe, a white female came forward.)

JURY QUALIFICATION

1 THE CLERK: What says the State?
2 MS. REESE: Please present the juror.
3 THE CLERK: Says defense?
4 MR. BROWN: Please seat the juror.
5 THE CLERK: Number 58, Samuel Freeman.
6 (Samuel Freeman, a white male came forward.)
7 THE CLERK: What says the State?
8 MS. REESE: Please present the juror.
9 THE CLERK: Says defense?
10 MR. BROWN: Please seat the juror.
11 THE CLERK: Number 78, Barbara Hardy.
12 (Barbara Hardy, a black female came forward.)
13 THE CLERK: What says the State?
14 MS. REESE: Please present the juror.
15 THE CLERK: What says defense?
16 MR. BROWN: Please seat the juror.
17 THE CLERK: Number 116, Timothy McCarty.
18 (Timothy McCarty, a white male came forward.)
19 THE CLERK: What says the State?
20 MS. REESE: Please present the juror.
21 THE CLERK: What says defense?
22 MR. BROWN: Please seat the juror.
23 THE COURT: Let let's get another alternate.
24 (Whereupon, a discussion was held off the record.)
25 THE CLERK: Uh, Number 10, Joseph Bentley.

JURY QUALIFICATION

1 (Joseph Bentley, a white male came forward.)

2 THE CLERK: What says the State?

3 MS. REESE: Please present the juror.

4 THE CLERK: What says defense?

5 MR. BROWN: Please seat the juror.

6 THE CLERK: Alright, those who have been selected I'll
7 ask you to please go with the bailiff to the jury room and
8 I'll bring you back shortly to begin with the trial.

9 (The following takes place outside the presence of the
10 jury.)

11 THE COURT: Are there any matters that need to be
12 addressed regarding jury selection by the State?

13 MS. REESE: None from the State?

14 THE COURT: By the defendant?

15 MR. BROWN: None, Your Honor.

16 (Whereupon, the jury pool was released.)

17 (Pause.)

18 THE COURT: Uh, we'll take ten minutes before we begin.

19 (Whereupon, a recess was taken.)

20 (Whereupon, a discussion was held off the record.)

21 THE COURT: Alright, any matters to be addressed prior to
22 the jury bein' sworn?

23 MS. REESE: Your Honor, it's my understanding that, uh,
24 Mr. Brown and I just spoke to Stephanie Horton outside and
25 that she, uh, told Mr. Brown told us that she had consented to

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1 the search so I'm gonna Mr. Brown speak.

2 MR. BROWN: And it wasn't a matter of any, uh, potential
3 or perceived, uh, inducement by by law enforcement, Your
4 Honor.

5 THE COURT: Alright, so you're satisfied that the search
6 need not, I mean, the consent need not be challenged?

7 MR. BROWN: That's correct, Your Honor.

8 THE COURT: Okay.

9 MS. REESE: And it's my understanding the search warrant
10 he's not challenging the search warrant which is just the
11 buccal swab.

12 MR. BROWN: That's correct.

13 THE COURT: Alright, we ready for the jury?

14 MS. REESE: Yes, Your Honor.

15 THE COURT: Alright, bring 'em in, ask Ms., uh, Sharpe,
16 Juror 156, Melissa Sharpe take foreperson's seat.

17 (The following takes place in the presence of the jury.)

18 THE COURT: Yeah, I need the two alternates, I want the
19 alternates take the two back seats. Uh, ya'll move down one
20 more, might show sumtin' on the screen, you can move one more,
21 might show sumtin' on the screen and ya'll can see a little
22 bit better if you're further down.

23 Alright, ladies and gentlemen, we're ready to begin with
24 the, uh, trial of the case which you have been selected, uh,
25 Ms. Sharpe, I'm gonna ask you to serve as the foreperson of

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1 jury. As the foreperson you've got three duties that none of
2 the other jurors will have, uh; number one, you'll serve as a
3 spokesperson for the jury, if during the trial something
4 arises that needs to be brought to my attention, you or one of
5 your fellow jurors has some difficulty, problem or question,
6 you let me know either directly or through the bailiff and
7 I'll address those issues, uh; secondly, you're gonna be
8 called upon to preside over jury deliberations when the time
9 comes, that of course won't be until the end of the trial
10 after all the evidence has been received and I've instructed
11 you on the law but when the time does come for jury
12 deliberations in the jury room you will preside over that
13 process simply to ensure that those deliberations are carried
14 out in some orderly fashion; thirdly, you'll actually write
15 the verdicts or the decisions of the jury, you'll do that on a
16 form that I'll provide ya at the trial's conclusion on which
17 you will indicate the jury's unanimous decision as it relates
18 to each of the separate, uh; indictments. Now the foreperson
19 has those specific duties that I just indicated, that does not
20 however mean that she is any more important than any of you
21 other jurors and that's because any decision that a jury makes
22 has to be unanimous, all twelve of you must be in agreement,
23 someone simply has to be delegated those responsibilities that
24 I have just indicated and I have delegated those to Ms. Sharpe
25 in appointing her as the foreperson but all of you jurors are

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1 equally important so far as the ultimate decisions in the case
2 are concerned because as I've stated, uh, the verdicts have to
3 be unanimous, all of you must be in agreement.

4 Now, Mr. McCarty and Mr. Bentley, each of you have been
5 selected as, uh, alternate jurors. The function of an
6 alternate juror is to take the place of one of the original
7 twelve if during the trial one or more of these juror cannot
8 continue to serve for some reason and so if a juror's called
9 away because of an illness or emergency and cannot continue to
10 serve then one or both of you will be called upon to take that
11 or those juror's places, in that event you become the twelfth
12 juror, in that event you participate, uh, in jury
13 deliberations. Uh, if however when the time do does come for
14 jury deliberations the original twelve are able to perform
15 that function then your service would end, you wouldn't
16 participate any further and that's because the decision of a
17 jury is that of twelve, no more than twelve can participate in
18 that deliberation process but it is important that you pay
19 just as careful attention as we ask of all of the jurors in
20 this case because it does occur from time to time for one
21 reason or another one or two of these jurors may be called
22 away, in the -- that event one or both of you will be called
23 in to participate, uh, in the trial in its entirety so I do
24 wanna thank you for your participation, uh, as alternate
25 jurors just as I thank each juror who has been selected for

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1 the purpose of deciding the verdicts in this particular case.

2 You may swear the panel.

3 THE CLERK: Yes, sir.

4 (Whereupon, the jury panel was sworn.)

5 THE CLERK: Thank you, may be seated.

6 THE COURT: Uh, ladies and gentlemen, as you know you
7 have been selected to decide the verdicts in the case of State
8 vs. Robert Stephen Horton, as you also know he has been
9 accused by the State through the solicitor with having
10 committed the crimes of criminal sexual conduct with a minor
11 in the second degree. The allegations setting forth those
12 charges are contained in the indictments, those are the
13 documents that I, that I referred to and read from prior to
14 your selection. Each of those indictments charges with the
15 defe -- charges the defendant with having committed the crime
16 of criminal sexual conduct with a minor in the second degree,
17 each indictment alleges that between January 2008 and May of
18 2009 on two separate occasions the defendant did engage in a
19 sexual battery with a minor child being **Minor** who was
20 14 or less but at least 11 years of age at the time that any
21 sexual battery took place. As you also know as to each of
22 those charges and as to those, uh, allegations he's entered a
23 plea of not guilty as I've told ya, that plea of not guilty
24 places upon the State the burden of proving the allegations
25 that are set forth in each of those indictments, the burden of

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1 proving each of the essential elements of the crimes alleged
2 and therefore the burden is upon the State to establish the
3 defendant's guilt to the satisfaction of you twelve jurors
4 beyond a reasonable doubt before any verdict of guilty could
5 be returned. The indictments are not evidence of of anything,
6 they're not proof of anything, they're simply the charge and
7 they set forth the charge and they are the, uh, means by which
8 any person who's accused of a crime is brought into this court
9 to, uh, stand trial on those charges but the indictments
10 aren't evidence of anything, they don't establish anything,
11 the evidence comes in durin' the course of the trial, uh, you
12 will however at the trial's conclusion have the indictments in
13 the jury room because it is on the back of each indictment,
14 madam forelady, that you're gonna be indicating the jury's
15 decision as it relates to that particular charge but other
16 than serving as the verdict forms the indictments serve no
17 purpose so far as you jurors are concerned, uh, other than for
18 you to understand what the charge is.

19 Now the way the trial will proceed is that in a moment
20 the lawyers are going to address you in what are called
21 "opening statements". There are two occasions in the trial of
22 a case where lawyers are permitted to address the jury
23 directly and that is at the beginning of the trial before any
24 evidence has been introduced, uh, then again at the conclusion
25 of the trial after all of the evidence has been received,

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1 please keep in mind, however, that the lawyer's statements are
2 not evidence. You're not to consider any statement made by
3 the lawyers as proof of any fact and issue and that's because
4 the lawyers aren't witnesses to anything, if they were they
5 wouldn't be acting as lawyers in the case, they'd be
6 testifying as witnesses in the case. Uh, they don't know
7 anything about this case of of their own personal knowledge or
8 experience like witnesses will be testifying to, uh, they're
9 not gonna take the witness stand and testify, uh, in your
10 presence under oath and be subjected to ri -- direct and
11 cross-examination, uh, like each of the witnesses will be so
12 what they tell ya is not to be considered by you as any
13 evidence upon which you will base your decision but it is
14 important that you listen to what they have to say because
15 their statements do serve a purpose and the opening statements
16 will serve to provide you with a basic understanding as to
17 what this case is about from both the perspective of the State
18 and of the defendant so that you'll have some context in which
19 to place the evidence that we will be receiving shortly
20 thereafter. The closing statements occur after all of the
21 evidence has been received and again, while those statements
22 are not evidence it does afford the lawyers an opportunity to
23 discuss with you the evidence that you have seen and heard
24 during the course of the trial and by that discussion each
25 will have an opportunity to try to persuade you or to convince

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1 you that the evidence in the case does or does not support a
2 particular decision and it's in between those opening and the
3 closing statements accomplished by the lawyers that we
4 actually receive the evidence upon which you'll base your
5 decision.

6 The State, as you've been told, has the burden of proof,
7 they've made the accusation, they brought the charge and
8 therefore they have the burden of proving just what they've
9 alleged against the defendant, they have the burden of proving
10 de -- the defendant's guilt beyond a reasonable doubt and so
11 they will go forward first in their presentation of evidence.
12 Uh, after the State has concluded in its presentation of
13 evidence, any defendant in a criminal trial has the same
14 opportunity to take the witness stand and testify, to call
15 witnesses and present evidence but a defendant is never under
16 any obligation to do so and that's because the burden is not
17 upon a person who's accused of a crime to prove that they are
18 not guilty or to prove that they are innocent because in many
19 cases that might not even be possible, the burden is always
20 upon the State as I say because they brought the charge to
21 prove the defendant's guilt beyond a reasonable doubt and so
22 if during the course of a criminal trial if a defendant does
23 not take the witness stand and testify or does not call any
24 other witness or produce any evidence, that's not a fact or
25 circumstance that you may consider in any way whatsoever in

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1 your deliberations or in your determination as to whether or
2 not his guilt has been proven beyond a reasonable doubt but
3 every defendant is afforded an opportunity to testify or
4 present evidence if, uh, he or she, uh, wishes to do so so
5 after after the evidence has been received and after you've
6 heard the final summations of the lawyer I will then instruct
7 you fully on the law as it relates to the criminal law in
8 general and as it relates to these particular crimes
9 specifically and after that you'll be asked to go back and
10 begin with your deliberations. Through that process and in
11 the exercise of good judgment and common sense you're simply
12 gonna be called upon to carefully examine all the evidence, to
13 decide what you believe to be the true facts as they relate to
14 these allegations. Once you decide those facts you'll apply
15 the law that I will have provided you and you will determine
16 whether or not the defendant has been proven guilty, uh,
17 beyond a reasonable doubt, if he has your verdict's guilt, if
18 he has not, your verdict is not guilty.

19 Now all we're gonna ask for ya to do is to pay careful
20 attention throughout the course of the trial and that's
21 because, uh, one of your prerogatives as a juror and as the
22 finders of the fact in this case is to assess and evaluate the
23 credibility of witness testimony. You decide what is the most
24 credible evidence in the case and you have to evaluate a
25 witness's testimony in light of other witness's testimony and

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1 other evidence in the case. Uh, you can believe everything
2 that a witness testifies to, you may choose to believe none of
3 it, you may believe some portion of a witness's testimony and
4 reject some other portion of that same witness's, testimony,
5 you may believe one witness as opposed to several or several
6 as opposed to one but in order for you to be in a proper
7 position to evaluate a witness's testimony, it's important
8 that you give every witness the same degree of attention as
9 they testify so that you'll be in a proper position at the
10 trial's conclusion to evaluate and assess each witness's
11 testimony in light of not just their testimony but the other
12 testimony and the other evidence in the case and of course it
13 is always important that you keep an open mind throughout the
14 course of the trial and that simply means that you are not to
15 begin making up your minds or formulating your opinions as to
16 what you think the ultimate decisions in this case ought to be
17 until all of the evidence has been received, until I've
18 instructed you on the law that's applicable in the case and
19 until you've been asked to begin with your deliberations at
20 the trial's conclusion, that is the process that has been
21 designed for the last two hundred plus years to ensure that
22 you arrive at a fair and just decision in the case so I do
23 wanna thank you in advance for your participation as well as
24 for your careful attention, I would ask that you please give
25 the lawyers your attention now as they give you their opening

OPENING STATEMENTS

1 statements. Ms. Reese.

2 MS. REESE: Thank Your Honor, may it please the Court.
3 Good afternoon. On May 3rd 2009 that was a big day for Minor
4 Manley, at the time she was 13 and she had a secret to tell,
5 she didn't know exactly how to tell it, she lived with her
6 mother and a stepfather, the defendant, so she got up that
7 morning and she decided she was finally gonna have the courage
8 to tell what was going on. Her mom's pregnant, she had a
9 little sister and a little brother in the house, what she
10 decided to do was write a note. See, Minor had a pretty good
11 life or it seemed like it. She is homeschooled and Minor has
12 some severe learning disabilities, you're gonna see that when
13 she testifies, but she was homeschooled so she stayed home
14 most of the time and, uh, she seemed to have a very close
15 relationship with her family. Minor got up that morning and
16 she wrote a note but she didn't want anybody to find it so she
17 went to a binder that only her mother looked in and she put
18 the note in that binder, then she went to computer and she
19 emailed her mother and told her mother to go look in the
20 binder. In that letter Minor told her secret, the secret was
21 horrible: For about a year and a half Minor was being
22 sexually abused by her stepfather. The allegations include
23 oral sex, that she was having to perform oral sex on him, he
24 was on her, she was having to rub him and he was rubbing her.
25 This had gone on for about a year and a half.

OPENING STATEMENTS

1 My name is Susan Reese and I prosecute child abuse cases
2 here in Seventh Circuit. One a the hardest things that I have
3 to do is to help jurors understand and accept that this really
4 does happen because I think if we believe it doesn't happen or
5 it can't happen that makes everybody feel safer about
6 themselves. The first thing I'm gonna ask you to do is to
7 believe, to understand that men really do do this to children
8 and then judge this case on some merits. Another thing that I
9 want, uh, you to understand is that this isn't CSI, that's a
10 great show but the truth is that what you learn is that sexual
11 abuse allegations aren't like other types of crimes especially
12 in family settings, children don't disclose right away, it is
13 hidden, they don't talk about it so there's not physical
14 evidence of abuse. Um, you will hear what you hear from the
15 stand and you will have to base your decision on what you hear
16 from the stand and the evidence and people that will testify.
17 Minor will testify, and I have to admit I'm a little afraid
18 for her. She's waited a while for this. She's scared and
19 she's nervous and she's gonna come in and try to tell you
20 what's going on. I have five children at my house and I could
21 not get a single one of them to get up on that stand and tell
22 you what they had for breakfast this morning much less the
23 worst thing that ever happened to them in their life but
24 Minor gonna try to do that. I ask you to be patient with
25 her, I ask you listen carefully to her as it is gonna be hard

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1 for her to do that, you'll also hear from people who worked
2 with Minor and officers who investigated the case.

3 Defendant's been charged with criminal sexual conduct in
4 the second degree with a minor, that means he committed a
5 sexual battery on a child between the ages of 11 and 14. A
6 sexual battery includes oral sex, it's penetration however
7 slight of the vaginal or anal openings of a child or oral sex
8 so either one of those, okay, is sexual battery. The
9 question -- he's charged with two counts over a long period of
10 time because Minor will not be able to tell you the date and
11 time that each of these things happened, she will be able to
12 tell you 'bout specific incidences and that's why the time
13 frame and that's why the two counts.

14 State has the burden of proving that defendant's guilty
15 beyond a reasonable doubt. What you are gonna hear is that
16 beyond a reasonable doubt doesn't mean beyond any doubt,
17 nothing's beyond any doubt, but it's a doubt that makes you
18 hesitate to act and in the end after you hear all of the
19 testimony if you are firmly convinced that this defendant
20 committed that sexual battery then it's your obligation to
21 find the defendant guilty of criminal sexual conduct in the
22 second degree.

23 I'm gonna ask you to do three things: First of all, my
24 dad was a basketball coach growing up and he every analogy
25 that I ever heard was some kind of basketball analogy. He

OPENING STATEMENTS

1 used to say, Susan, keep your eye on the ball and I remember
2 that every time I I try a case, I'm gonna ask you keep your
3 eye on the ball, just make sure you understand what's
4 important and pay attention to what's important, the second
5 thing's just to be fair, be fair to the State, be fair to
6 defense, that's all I ask and; finally, don't leave your
7 common sense at the door, use your common sense in making this
8 decision. The word "verdict" actually means to speak truth
9 and I believe once you hear all the testimony that you're
10 gonna return a verdict that speaks the truth in this case,
11 that the defendant is guilty of criminal sexual conduct the
12 second degree.

13 MR. BROWN: "I knew he would lose his family but I didn't
14 think this soon, I'm also worried about the last name, my
15 mother's been married three times and I'm worried about the
16 last name," words of Minor [REDACTED] young girl who has brought
17 the initial allegations in this case, words of a person that
18 because of the time frame that the prosecution has pointed out
19 and in particular an investigation started Megan Burrell
20 beginning on a specific date and as Susan has spoken with you
21 and asked you at the conclusion of this trial to speak the
22 truth, to give a verdict, I want you to focus on the beginning
23 time period in which the allegation began, it's that January.
24 You'll hear testimony as relates to the importance of that
25 January and everything else that was associated with that

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1 'cause unfortunately in the life of Ms. Minor she had
2 lost contact with her father, father I I don't think the State
3 is even gonna call in this case, a father who lived somewhere
4 else and up until the time period of this allegation young
5 Minor had had positive relationship with her father that when
6 that relationship was no longer there as relates to Minor
7 being sick, having in particular mono, and the only person in
8 the household it was contagious disease was affected by it she
9 didn't have a relationship with her dad anymore after that and
10 that became a center of focus because all of a sudden after
11 many years of being parented by Mr. Robert Horton with his
12 wife, you'll see Stephanie Horton, in that home, all of a
13 sudden Robert Horton is doin' somethin' terrible, she'll have
14 a chance today to come as a much older person who knows why
15 she's here, who's had a chance to have a number of people ask
16 her the same questions over and over to interview her from
17 what I would say is a one-sided perspective but of course
18 we're here to get the truth and yes, you must keep your your
19 eye on the ball. As a former athlete, I applaud Susan's
20 analogy as my coach also told me to keep my eye on the ball.
21 I'm not here to confuse, I'm not here to try to constrain to
22 lead you astray, I want you listen to the testimony but in
23 particular as the judge told you this morning on the other
24 side a the hall use what you have in a place that makes you
25 the second most important people that we know according Judge

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1 Couch in terms of your service here as members of jury. You
2 heard the judge say the first most important obviously are the
3 people serving right now on the front lines in our military
4 but what gives you the ability to be here today is your life
5 experiences and in particular your common sense you're not
6 gonna leave at the door and that's not gonna be the case I
7 know in the course of this trial. You'll have the chance to
8 listen to testimony as it relates to what allegedly was
9 occurring. Robert Horton would have you know these
10 allegations are false and as I will tell you with your common
11 sense think about how things of this nature would occur, would
12 it be an isolated time period that starts all of a sudden,
13 would there be a history involved, don't leave your common
14 sense at the door and know there a number of things that
15 coulda come into play in this case but there are few things
16 that should be quite obvious to you. I appreciate your
17 service here this week, I look forward to having an
18 opportunity to speak with you the very end of this case.
19 Remember the time frame in which they are alleging these
20 things began up until the time period in which a young lady
21 passed a note to her mother and everything surrounded that.
22 At the conclusion of this case, based upon that that same
23 question of reasonable doubt not a perfect case, not a
24 conclusive case, not yes this happened, maybe, that's gonna be
25 up to your determination as to the triers of fact here today

Minor - DIRECT EXAMINATION BY MS. REESE

1 and I would say to you you have that reasonable doubt that
2 Susan referred to and at the end a the case the judge is gonna
3 charge you with the law and you have a duty as unanimous
4 members of this jury to come back with a verdict of not
5 guilty. Please pay attention, it's very important to everyone
6 here in this courtroom, everyone that's gonna come through
7 those doors. Thank you for your time and I look forward to
8 speaking with you at conclusion of this case.

9 THE COURT: Ms. Reese.

10 MS. REESE: Your Honor, the State calls case Minor
11 Manley.

12 (Whereupon, the witness came forward.)

13 THE CLERK: Place your left hand on the Bible and raise
14 your right hand.

15 Minor having been first
16 duly sworn, testified as follows:

17 THE CLERK: Thank you, have a seat there, please.

18 THE COURT: Let ---

19 DIRECT EXAMINATION BY MS. REESE:

20 Q. Please state ---

21 THE COURT: --- let, excuse me just a minute. Let me ask
22 you just if you'll scoot up towards that microphone and you
23 can adjust it however you need to, be sure you speak into it
24 so we can all hear your testimony.

25 THE WITNESS: Okay.

Minor [REDACTED] - DIRECT EXAMINATION BY MS. REESE

1 BY MS. REESE:

2 Q. Can you state your name for the jury, please.

3 A. Minor [REDACTED]

4 Q. And, Minor [REDACTED] how old are you?

5 A. Seventeen.

6 Q. What is your birthday?

7 A. [REDACTED] [REDACTED]

8 Q. And, Minor [REDACTED] where do you go to school?

9 A. I'm homeschooled.

10 Q. And how long have you been homeschooled?

11 A. Since I was in the sixth grade.

12 Q. And when was the, uh, well do you know the difference
13 between telling the truth and telling a lie?

14 A. Yes.

15 Q. And, uh, are lies good or bad?

16 A. Bad.

17 Q. And what happens to people who tell lies?

18 A. Bad things happen to them.

19 Q. And do you know what would happen in a courtroom if
20 somebody told a lie?

21 A. No.

22 Q. Uh, would it be a good thing or a bad thing?

23 A. Bad thing.

24 Q. Uh, ---

25 THE COURT: Let me ask you to scoot up just about one

Minor - DIRECT EXAMINATION BY MS. REESE

1 more foot.

2 (Whereupon, the witness complied.)

3 THE COURT: Okay.

4 BY MS. REESE:

5 Q. Minor do you remember when your mom got married ---

6 A. Yes.

7 Q. --- to the defendant? Uh, how old were you?

8 A. Um, I guess about 9, 10.

9 Q. And when you got married to the defendant, I mean, your
10 mother got married to the defendant was your sister born?

11 A. Yes.

12 Q. And, uh, was your brother Josiah born yet?

13 A. No.

14 Q. Uh, so who right now, how many brothers or sisters do ya
15 have in your family?

16 A. Uh, there's me, my sister and two brothers.

17 Q. And when you -- when the defen -- when the defendant
18 married your mom, how many children were in the family then?

19 A. Just me and my sister.

20 Q. When your mom and dad got married or mom and stepdad got
21 married, where did you live first?

22 A. Uh, we lived with my grandparents.

23 Q. And was there a time when you moved from there?

24 A. Yes.

25 Q. And where did you move to?

Minor

- DIRECT EXAMINATION BY MS. REESE

- 1 A. His house.
- 2 Q. And was his house a new house or an older house?
- 3 A. I guess an older house.
- 4 Q. And how long did ya live there?
- 5 A. Um, a few months.
- 6 Q. Was there a time when your mom and the defendant bought a
- 7 new house?
- 8 A. Yes.
- 9 Q. And when, do you know how old you were when you moved
- 10 into the new house?
- 11 A. Uh, maybe 11.
- 12 Q. And when you moved into that new house, did you have your
- 13 own room?
- 14 A. Yes.
- 15 Q. And, uh, where did everyone sleep in the house when you
- 16 first moved in?
- 17 A. Uh, in their own room.
- 18 Q. Okay, and was the house new or did you buy it used? Had
- 19 somebody used it before?
- 20 A. It was new.
- 21 Q. And the room that you were sleeping in was that always
- 22 your room?
- 23 A. Yes.
- 24 Q. Did anybody else ever have that room?
- 25 A. No.

Minor - DIRECT EXAMINATION BY MS. REESE

1 Q. Did someone move in with you in that room at some
2 point?

3 A. Yes, my sister.

4 Q. And were there one bed or two beds after she moved in?

5 A. Two beds.

6 Q. Now on the house of where the property was where you
7 lived with your mom and the defendant, was there anybody else
8 living around you?

9 A. Yes.

10 Q. Okay, who?

11 A. Um, his parents lived up the yard from us.

12 Q. And was it on the same kind of big property?

13 A. Yes.

14 Q. Okay. And did you have a relationship with his
15 parents?

16 A. Yes.

17 Q. Okay. And did you go see them from time to time?

18 A. Yes.

19 Q. And were you livin', do you know if you were livin' in
20 Spartanburg County then?

21 A. Yes.

22 Q. When you first started bein' homeschooled, what -- tell
23 me about when you were homeschooled, what was a normal day in
24 the day of being homeschooled?

25 A. I would get up, get breakfast, get ready for school and

Minor - DIRECT EXAMINATION BY MS. REESE

1 start school and then by 11:30, 12 we would eat lunch, take a
2 nap and then we would go outside to play.

3 A. Did -- were -- at the, at the time, who was homeschooling
4 you?

5 A. My mom.

6 Q. Does she still home school you?

7 A. Yes.

8 Q. And at the time when you about 11:30 would you be done?

9 A. Yes.

10 Q. Okay. After you ate lunch did your mom do anything,
11 other than play that was there any kind nap time in your
12 family?

13 A. Yes.

14 Q. And what time was that?

15 A. Um, it depends on when we ate lunch, it's two hours.

16 Q. Okay. And by the time you moved into this new house, uh,
17 was Josiah born yet or was he born while you were living in
18 the new house?

19 A. He was born while we livin' in the new house.

20 Q. Uh, at nap time after you had finished your daily work
21 and you had eaten, did you actually take a nap?

22 A. Sometimes.

23 Q. And did everybody have an assigned place to go for nap
24 time?

25 A. Yes.

Minor

- DIRECT EXAMINATION BY MS. REESE

1 Q. Okay, and where was your place?

2 A. Uh, my bedroom.

3 Q. And where was Sammy's place?

4 A. The livin' room.

5 Q. And where was your mom's place?

6 A. She would take a nap with my baby brother.

7 Q. And where was that?

8 A. In his room.

9 Q. Okay, and that's Josiah?

10 A. Yes.

11 Q. Uh, when you first moved into the house, was the
12 defendant working?

13 A. Yes.

14 Q. What -- did there come a time when he stopped working?

15 A. Yes.

16 Q. And dur -- during the time that he stopped working, would
17 be -- he be home with you during the day?

18 A. Yes.

19 Q. Were there times during the time after he stopped working
20 that your mom would leave and you would be there with the
21 defendant?

22 A. Yes.

23 Q. And what -- where would she go?

24 A. To the store or do errands.

25 Q. And did there come a time when you, the defendant started

Minor - DIRECT EXAMINATION BY MS. REESE

1 asking you to do something that you just felt a little
2 uncomfortable about?

3 A. Yes.

4 Q. And when did that start, do you remember?

5 A. No.

6 Q. What did you start having to do?

7 A. Rub his legs with lotion.

8 Q. And do you know where he would get the lotion?

9 A. Out of his bed -- bathroom.

10 Q. And you would start rubbin' his legs, where would you be
11 when you had to rub his legs?

12 A. Um, on the couch.

13 Q. And how would he tell you that he wanted you to do
14 that?

15 A. He would just tell me to rub his legs.

16 Q. And how many times would you have to do that?

17 A. Uh, not often.

18 Q. And did anything kinda strange happen when you were
19 rubbing his legs?

20 A. Yes, he would make my hand go back up, go up his legs.

21 Q. And what would you do when he did that?

22 A. Try to, uh, keep my hands down.

23 Q. Uh, what would he be wearing when he had you rub his
24 legs?

25 A. Loose boxer shorts.

Minor

- DIRECT EXAMINATION BY MS. REESE

1 Q. Did you, uh, tell your mom about this?

2 A. No.

3 Q. Do you know why you didn't tell her about it?

4 A. No, I just didn't tell her.

5 Q. Uh, was there a day when you had to do more than just rub
6 his legs with lotion?

7 A. Yes.

8 Q. Tell me about that day. Where were you? Where -- well
9 let's ask this: Where were you -- where's your mom that day?

10 A. Uh, my brother and sister was sick and she took 'em to
11 the doctor.

12 Q. And what had you been doin' that day?

13 A. School.

14 Q. And you know about when this was, I know you can't
15 remember the dates, but do you know about when it started,
16 this other stuff started?

17 A. Uh, January.

18 Q. And what year was that, do you know?

19 A. Uh, I'm not sure.

20 Q. And on this day you said your mom had taken the other
21 kids to the doctor, where was the defendant?

22 A. At home with me.

23 Q. And what were you doing?

24 A. School.

25 Q. And what did you, what's the first thing that the

Minor - DIRECT EXAMINATION BY MS. REESE

1 defendant did?

2 A. Uh, he told me that he was gonna take a shower and so
3 that's what he did while I finished school.

4 Q. When he got out of the shower what happened next?

5 A. He came into where I was, the room that I was in, and he
6 was wearing a towel.

7 Q. Was that unusual?

8 A. Yes.

9 Q. And what, if anything, did he say after he came out with
10 a towel?

11 A. He just came and got me.

12 Q. And where did he take you?

13 A. Into his and my mom's room.

14 Q. And what's the next thing you remember happening?

15 A. Uh, he just -- I just rubbed his legs with lotion and,
16 uh, then he, um, asked me if I trust him and then that's when
17 he molested me.

18 Q. Tell me that day after he took you in and had you rub his
19 legs with lotion did you ever see him without the towel?

20 A. Yes.

21 Q. And when you saw him, did he say anything about his
22 private part?

23 A. No.

24 Q. Uh, did he ever tell you if he could do anything special
25 with his private part?

Minor - DIRECT EXAMINATION BY MS. REESE

1 A. Yes.

2 Q. And what did he tell you?

3 A. That he can make it do tricks.

4 Q. And did he make it do tricks?

5 A. Yes.

6 Q. What did he make it do?

7 A. Just go back and forth.

8 Q. After he showed you that did he make you do anything else
9 or do anything to his private part?

10 A. No, just rub.

11 Q. Just rub? When you say "rub", what do you mean?

12 A. Just rub back and forth.

13 Q. Did he do anything other than have you rub on him that
14 day?

15 A. Uh, he licked and rubbed on me.

16 Q. Did you have your clothes on ---

17 A. No.

18 Q. --- when it first started? I mean, when you first went
19 into the -- I don't mean when he licked and rubbed. When you
20 went into the room with him, did you have your clothes on?

21 A. Yes.

22 Q. And what happened to your clothes?

23 A. He took 'em off.

24 Q. And when he asked you "do you trust me", what did you
25 say?

Minor - DIRECT EXAMINATION BY MS. REESE

- 1 A. I didn't say anything.
- 2 Q. And did he tell you what he was gonna do?
- 3 A. No.
- 4 Q. Uh, did you say anything when he did it?
- 5 A. No.
- 6 Q. When you say he licked you, where did he lick you?
- 7 A. My private part.
- 8 Q. When that was over, did he say anything to you?
- 9 A. He told me not to tell.
- 10 Q. What did you do?
- 11 A. Not tell.
- 12 Q. How did you feel after that was over the first time?
- 13 A. Uh, I didn't really understand what was goin' on.
- 14 Q. And did you -- was there another time? Was that -- that
- 15 was the first time that happened?
- 16 A. Yes.
- 17 Q. Over the course of the next say year, year and a half,
- 18 did more things happen?
- 19 A. Yes.
- 20 Q. You said the first time he licked you and rubbed you and
- 21 you rubbed him, did you ever have to do anything else to him?
- 22 A. Yes.
- 23 Q. What did you start having to do to him?
- 24 A. Uh, I had to start licking him.
- 25 Q. And when you say you licked him, where did you have to

Minor [REDACTED] - DIRECT EXAMINATION BY MS. REESE

1 lick him?

2 A. His private part.

3 Q. Did his private part go in your mouth or stay outside?

4 A. Yes, inside my mouth.

5 Q. And would you have to do anything while his private part
6 was inside your mouth to his private part?

7 A. Just rub it.

8 Q. Where did these things happen, in what rooms of the house
9 can you remember?

10 A. Uh, the kitchen, my bedroom and his bedroom.

11 Q. Let's talk about the kitchen first. What would happen in
12 the kitchen?

13 A. Just would, uh, rub.

14 Q. And how would that happen?

15 A. Uh, it be at night and we would say goodnight and then he
16 would rub.

17 Q. And would your clothes be on or off?

18 A. On.

19 Q. And did you do anything to try to avoid goin' into the
20 kitchen at night when you said goodnight to him?

21 A. Yes.

22 Q. What did you do?

23 A. I'd try to beat my sister to tell him goodnight.

24 Q. And why would you try to beat your sister?

25 A. Because I didn't want to anything to happen.

Minor - DIRECT EXAMINATION BY MS. REESE

1 Q. And if you beat your sister, how did that prevent it from
2 happening?

3 A. Sometimes it didn't.

4 Q. So you and your sister would both go in the kitchen ---

5 A. Yes.

6 Q. --- and say goodnight?

7 A. Yes.

8 Q. And you would try to beat your sister in the kitchen ---

9 A. Yes.

10 Q. --- and if you could beat your sister in the kitchen then
11 your sister would be there too? I I'm just havin' trouble
12 understandin'. How did that prevent it from happening? If
13 you beat your sister, what was good about that?

14 A. Uh, I would get to go to bed and then she would follow
15 me.

16 Q. Um, you said it also happened in your mom and dads'
17 bedroom, ---

18 A. Yes.

19 Q. --- other than the time that it happened that you just
20 told them about, told the jury about, did it happen again in
21 the bedroom?

22 A. Yes.

23 Q. And can you tell me about the time that it happened in
24 the bedroom that time.

25 A. Uh, my brother came to get me durin' the night so I went

Minor [REDACTED] - DIRECT EXAMINATION BY MS. REESE

1 to go get my mom and she took him back to bed and when I got
2 back in bed he came and got me and took me in there.

3 Q. Where was your mom?

4 A. In -- tryin' to get my brother to sleep.

5 Q. And you said you got up to get your mom because Josiah
6 had gotten you up ---

7 A. Yes.

8 Q. --- and she took your brother in his room ---

9 A. Yes.

10 Q. --- and the defendant then came and got you ---

11 A. Yes.

12 Q. --- and he took you where?

13 A. Into his bedroom.

14 Q. And what did you have to do that night?

15 A. Uh, lick.

16 Q. And when you were licking him, and I know this is a hard
17 part, when you were licking him, did something happen?

18 A. Yes.

19 Q. What happened that time?

20 A. Uh, stuff came out.

21 Q. And where did it go?

22 A. Into my mouth.

23 Q. And what did you do?

24 A. I spit it back out.

25 Q. Where did you spit it?

Minor [REDACTED] - DIRECT EXAMINATION BY MS. REESE

- 1 A. Onto the bed.
- 2 Q. Uh, after that was over, uh, did you go back to bed?
- 3 A. Yes.
- 4 Q. Now when your mom would go into Josiah's room, did she
- 5 sometimes stay in Josiah's room with him?
- 6 A. Sometimes, yes.
- 7 Q. And at nap time she took a nap with Josiah, right?
- 8 A. Yes.
- 9 Q. Uh, you said it also happened in your bedroom, ---
- 10 A. Yes.
- 11 Q. --- uh, can you tell us, do you remember a specific
- 12 incident or a specific place in your bedroom where it
- 13 happened?
- 14 A. My bed or the closet.
- 15 Q. And when would these things happen in your room?
- 16 A. Nap time or bedtime.
- 17 Q. And the day in the closet what did you have to do that
- 18 day in the closet?
- 19 A. Um, lick and rub him.
- 20 Q. And did anything happen that day with his private?
- 21 A. Yes.
- 22 Q. What happened?
- 23 A. Stuff came out.
- 24 Q. Now had between the time that you went to the bedroom
- 25 that night for the first time and stuff came out and you spit.

Minor - DIRECT EXAMINATION BY MS. REESE

1 it out, threw it up you said on the bed, and that time, had
2 stuff come out of his private other times in between?

3 A. Yes.

4 Q. And what would you do when stuff would come out?

5 A. Just spit it out.

6 Q. And did you ever do anything other than spit it out?

7 A. Uh, get mouthwash or rinse out my mouth.

8 Q. Now did he, did you think he knew you were getting
9 mouthwash?

10 A. No.

11 Q. The day in the closet you said stuff came out, that day
12 did it go in your mouth?

13 A. Yes. No, sorry.

14 Q. In the closet that day did it, did it go in your mouth
15 the day in the closet?

16 A. No.

17 Q. Where did it go?

18 A. Onto the floor.

19 Q. And did he say anything when it went on the floor?

20 A. He said, So you don't, so you don't have to go runnin'
21 for mouthwash.

22 Q. Did you know he knew you were runnin' for mouthwash?

23 A. No, I didn't know.

24 Q. How long did this happen to you, over what kinda period
25 of time? Do you know how long it was?

Minor

- DIRECT EXAMINATION BY MS. REESE

1 A. I guess a year and a half.

2 Q. And in May of 2009 you've told your mother about it,
3 right?

4 A. Yes.

5 Q. During that year and a half period, was there a time and
6 do you remember how many times it happened?

7 A. No.

8 Q. You said it happened twice in the bedroom, in his
9 bedroom, ---

10 A. Yes.

11 Q. --- and you remember once in the closet, ---

12 A. Yes.

13 Q. --- do you remember how many times it happened in the
14 kitchen or in your bedroom?

15 A. No.

16 Q. How -- would there be any way or would he do anything to
17 make sure people didn't come in when it was happening?

18 A. Yes, he would block the door.

19 Q. And how would he do that?

20 A. With his body.

21 Q. And how did that prevent somebody from coming in?

22 A. I'm not sure.

23 Q. Did somebody ever try to come in?

24 A. No.

25 Q. Okay. Were there times that something happened in your

Minor - DIRECT EXAMINATION BY MS. REESE

1 bedroom when your little sister was there?

2 A. Yes.

3 Q. And what would happen then?

4 A. He would just rub.

5 Q. And what was your little sister doing?

6 A. In bed.

7 Q. So did your little sister ever come in while he was doing
8 these things and see it?

9 A. No.

10 Q. Was there ever a time that something else or that was
11 there another place that he did something to you?

12 A. Yes.

13 Q. And do you remember what was goin' on that day?

14 A. Uh, I had a youth trip that I was goin' on with my
15 church.

16 Q. Where were you goin'?

17 A. Carowinds.

18 Q. And how were you supposed to get to Carowinds that
19 mornin'?

20 A. He he was supposed to drive me.

21 Q. And where were, where was he going to drive you to?

22 A. Church.

23 Q. And did you get in the car with him to go that morning to
24 Carowinds or to go ---

25 A. Yes.

Minor

- DIRECT EXAMINATION BY MS. REESE

- 1 Q. --- to the church? And where did you end up going?
- 2 A. His parents' house.
- 3 Q. And where did you go in his parents' house?
- 4 A. The spe -- spare bedroom.
- 5 Q. And what happened in the spare bedroom?
- 6 A. Uh, he asked me if he, if he wanted me or if if I wanted
- 7 him to lick, uh, or if he wanted to lick on me, I said no.
- 8 Q. And what happened?
- 9 A. He did.
- 10 Q. He did anyway.
- 11 A. Yes.
- 12 Q. And did you have to lick him that day?
- 13 A. No.
- 14 Q. What did you do that day?
- 15 A. Just rub him.
- 16 Q. And did anything come out of his private part that day?
- 17 A. Yes.
- 18 Q. And what happened to it?
- 19 A. It ran down his leg.
- 20 Q. And what did he do?
- 21 A. Went to the bathroom.
- 22 Q. Did you get to go to Carowinds that day?
- 23 A. Yes.
- 24 Q. And after he had done this he took you to to the
- 25 church?

Minor

- DIRECT EXAMINATION BY MS. REESE

1 A. Yes.

2 Q. Did you tell anybody what happened?

3 A. No.

4 Q. Did you let on like anything happened?

5 A. No.

6 Q. How were you able to do that?

7 A. I wanted to forget everything happened and so that's what
8 I did, just pushed it to the side.

9 Q. So were there many days that you did other things other
10 than think about this or try ---

11 A. Yeah, ---

12 Q. --- to?

13 A. --- yes.

14 Q. How did you decide to tell? What happened, if anything,
15 that made you decide to tell about this?

16 A. I just had enough and I thought it was leadin' to sex and
17 so I told my mom.

18 Q. Why did you think it was leading to sex?

19 A. He told me that the next time he would treat me like an
20 adult.

21 Q. And what did you think that meant?

22 A. Sex.

23 Q. So based on what he said to you did you decide you needed
24 to tell?

25 A. Yes.

Minor - DIRECT EXAMINATION BY MS. REESE

1 Q. And how did you tell?

2 A. Through a note.

3 (Note marked State's Exhibit No. 1 for identification.)

4 Q. And, Minor I'm gonna show you somethin' it's called
5 State's Exhibit 1 for identification, do you recognize that?

6 A. Yes.

7 Q. Uh, what is that?

8 A. It's the note I wrote my mom.

9 Q. And you wrote that the morning that you told?

10 A. The day before.

11 Q. Okay. And what did you do with this note but that that,
12 is that your note?

13 A. Yes.

14 Q. And has that been changed in any way since you wrote
15 it?

16 A. No.

17 MS. REESE: Your Honor, at this time I would move to
18 admit State's Exhibit 1.

19 MR. BROWN: No objection, Your Honor.

20 THE COURT: It's admitted.

21 (State's Exhibit No. 1, note, admitted into evidence.)

22 BY MS. REESE:

23 Q. So, Minor uh, after you wrote this note where did you,
24 did you take it to her and give it to her?

25 A. No.

Minor - DIRECT EXAMINATION BY MS. REESE

1 Q. Uh, what did you do with it?

2 A. I put it in her binder.

3 Q. And why did you choose to put it in her binder?

4 A. 'cause nobody looks in her binder.

5 Q. And how did -- did you do anything so that she would find
6 it?

7 A. Yes, I wrote her an email.

8 Q. And what did the email say?

9 A. Uh, that I put sumtin' in her binder and to look at it.

10 Q. Uh, and what did you do? Did you -- where were you that
11 morning when you, when you told her to go look, where were
12 you?

13 A. I was cleanin' my fish tanks bowl.

14 Q. And after your mother found that note what did she do?

15 A. She came and asked me if this is real and I told her
16 yes.

17 Q. Where was the defendant that day?

18 A. Outside.

19 Q. Did you want her to talk to him about this?

20 A. No.

21 Q. And did she anyway?

22 A. Yes.

23 Q. After you told your mom what had happened did the
24 defendant still continue to stay in your house?

25 A. For a few days.

Minor

- DIRECT EXAMINATION BY MS. REESE

- 1 Q. And where did you sleep while he stayed in your house?
- 2 A. In my bed.
- 3 Q. Where did your mom sleep?
- 4 A. Uh, in my brother's room.
- 5 Q. And was there a time when your mom took you to meet with
- 6 the defendant after you had told?
- 7 A. Yes.
- 8 Q. And where did you go?
- 9 A. His parents' house.
- 10 Q. And who was in the room there?
- 11 A. Uh, him, my mom and me.
- 12 Q. And what did he say to you?
- 13 A. Uh, that he's sorry for whatever he did and that he has
- 14 serious problems and needed help and he didn't wanna lose his
- 15 family.
- 16 Q. And after that did he move outta the house or did your
- 17 mom ask him to leave the house?
- 18 A. He moved out.
- 19 Q. And, uh, have you seen him since?
- 20 A. No.
- 21 Q. Do you know how old you were when this started?
- 22 A. Twelve.
- 23 Q. And you say it lasted for about a year and a half?
- 24 A. Yes.
- 25 Q. And when was the last time somethin' happened before you

Minor - DIRECT EXAMINATION BY MS. REESE

1 told?

2 A. Uh, that Saturday before I told.

3 Q. Minor would there be any time when he would leave you
4 alone or not hurt you or mess with you as you call it,
5 molested you, would there be any time he wouldn't that?

6 A. Yes.

7 Q. When was that?

8 A. Uh, once a month?

9 Q. And what would he, if anything, would he do durin' those
10 times?

11 A. Uh, anything else.

12 Q. Okay. So you said he would leave you alone, did that
13 mean you didn't have to do anything to him?

14 A. Yes.

15 Q. Alright, you did do anythin -- I don't understand.

16 A. No, I didn't have to do anything to him.

17 Q. Okay. So would there ever be a time when he would rub on
18 you, would would there ever be a time when you, was once a
19 month, would there ever be a time when you had to do something
20 to him when it was once a month?

21 A. Yes.

22 Q. Okay, and what would you have to do?

23 A. Just rub.

24 Q. Now was that what he was doin' to you or what you were
25 doin' to him? When you say "just rub", who was just rubbing?

Minor - CROSS-EXAMINATION BY MR. BROWN

1 A. Me.

2 Q. Okay. Uh, what did you call this when it was goin' on,
3 when when he would talk to you about it, what did, what did
4 you call it?

5 A. We just call it lick and rub.

6 Q. Minor when you're saying "lick and rub", when you're
7 saying "lick", you had to lick him, each time you did that
8 would it go inside your mouth or would it stay outside?

9 A. Inside my mouth.

10 Q. And while it was inside your mouth you would have to do
11 what?

12 A. Uh, lick and rub.

13 MS. REESE: Nothing further.

14 THE COURT: Mr. Brown.

15 MR. BROWN: Thank Your Honor.

16 CROSS-EXAMINATION BY MR. BROWN:

17 Q Hey, Minor how you doin'?

18 A. Fine.

19 Q. Just gonna ask you some questions, I'm not here to try to
20 trip ya up or make ya mad or anything like that, okay?

21 A. (Nodded in the affirmative.)

22 Q. Do you know who Lynn McMillan is?

23 A. Yes.

24 Q. Where she work at?

25 A. Uh, I can't remember the name but it's where I went for

1 counselin'.

2 Q. Do you remember sittin' down talkin' with her and at
3 least twice for an interview with her?

4 A. Yes.

5 Q. And she asked you some a these questions that Ms. Reese
6 has asked you?

7 A. Yes.

8 Q. Some a the same questions that Ms. Burrell has asked
9 you?

10 A. Yes.

11 Q. And you talked to a few more people there as well?

12 A. Yes.

13 Q. At -- how long do ya think you went there to that place
14 in Spartanburg?

15 A. Uh, the last couple months for counselin'.

16 Q. Okay, this year?

17 A. Yes.

18 Q. And back then when you told, wrote a note and said
19 somethin' happened, how long do you think you went there?

20 A. Um, I didn't start counselin' that year.

21 Q. Okay. You have a a sister?

22 A. Yes.

23 Q. What's her name?

24 A. Samantha.

25 Q. You, what what do you call her by short?

Minor - CROSS-EXAMINATION BY MR. BROWN

- 1 A. Sam.
- 2 Q. You have two brothers?
- 3 A. Yes.
- 4 Q. And durin' the time period which you lived in the family
- 5 home here in Spartanburg, how many brothers and sis did you
- 6 have living with you?
- 7 A. Uh, my sister and my brother.
- 8 Q. Okay. And your brother Josiah?
- 9 A. Yes.
- 10 Q. You have two other brothers or stepbrothers with your
- 11 dad, right?
- 12 A. Yes.
- 13 Q. Okay. And now you have a a 3-year-old brother.
- 14 A. A 2-year-old.
- 15 Q. Two-year-old. You remember when you talked with
- 16 Ms. McMillan, you tell anyone that you had something wrong
- 17 with you durin' the time period of January?
- 18 A. Yes.
- 19 Q. What you tell was wrong with you?
- 20 A. I had mono.
- 21 Q. Okay. And that's a, that's one reason why you remember
- 22 January so well?
- 23 A. Yes.
- 24 Q. Okay, and with mono you had already been to the
- 25 doctor ---

Minor - CROSS-EXAMINATION BY MR. BROWN

1 A. Yes.

2 Q. --- and the doctor told you how you had to take care a
3 yourself or told your mom how you had to take care of it?

4 A. Yes.

5 Q. You would get treatment for that?

6 A. Yes.

7 Q. Was anybody in the house worried about that? Were people
8 afraid to come around you?

9 A. Uh, just my dad and stepmom.

10 Q. Okay, your dad and stepmom?

11 A. Yes.

12 Q. You saw your dad that at Christmas though.

13 A. Yes.

14 Q. And in January did your dad come visit you?

15 A. No.

16 Q. What about the next month?

17 A. No.

18 Q. The next month after that?

19 A. No.

20 Q. You hadn't seen your dad for a while.

21 A. No.

22 Q. How'd you feel about that?

23 A. Uh, I wanted to see him.

24 Q. Before ya got sick with mono and since that Christmas,
25 before all that did you see your dad over the, over the

Minor - CROSS-EXAMINATION BY MR. BROWN

1 years?

2 A. Yes.

3 Q. So you saw him a lot.

4 A. Yes.

5 Q. You had a pretty good relationship with your dad?

6 A. Somewhat.

7 Q. Okay, but after you got sick your dad didn't come see
8 you.

9 A. No.

10 Q. Did you ever use, uh, your family's computer?

11 A. Yes.

12 Q. Wha'd ya do on the computer?

13 A. I played games and that's about it.

14 Q. Did you ever talk to any friends on your, on your
15 family's computer?

16 A. No.

17 Q. Did you ever tell Ms. McMillan that you would talk to
18 your friends on your computer wit your family?

19 A. No.

20 Q. Did you ever have an argument with your mother and
21 Mr. Horton about you usin' that computer to talk to people?

22 A. Yes.

23 Q. You tell us about the argument.

24 A. Sir?

25 Q. Could you tell us about that argument that you had.

Minor

- CROSS-EXAMINATION BY MR. BROWN

1 A. Oh, uh, ---

2 Q. What was it about?

3 A. Boys.

4 Q. And well why did ya'll have this this conversation 'bout
5 boys and that that you usin' the computer?

6 A. Because I was talkin' to older boys and didn't really
7 know 'em, it's ---

8 Q. So you were talkin' to older boys on the computer.

9 A. Yes.

10 Q. And at least one a the things they talk about was the
11 fact you was talkin' to boys in chat room.

12 A. Yes.

13 Q. So you you would agree with me that you were talkin' to
14 other people on the computers at time?

15 A. Yes.

16 Q. Did ya ever see any bad stuff on that computer?

17 A. See any 'bad stuff?

18 Q. Yeah?

19 A. Yes.

20 Q. Bad stuff like what?

21 A. Porn.

22 Q. And when you say "porn", what is porn?

23 A. I'm not really sure.

24 Q. Well is porn about art, is it about trees, is it, is it
25 about animals or is it about people?

Minor - CROSS-EXAMINATION BY MR. BROWN

1 A. People.

2 Q. And in terms of looking at at porn, did ya see people
3 doin' things to each other?

4 A. Yes.

5 Q. Okay. Would you look at it sometimes or did you look at
6 it a lot?

7 A. Uh, I only saw it that one time.

8 Q. Okay, and you watched it?

9 A. No. I I saw it and I clicked out of it and I told my mom
10 to come look and she saw it.

11 Q. Okay. So you woulda had an opportunity to see porn at
12 home ---

13 A. Yes.

14 Q. --- when nobody else knew about it.

15 A. Yes. Yes.

16 Q. You you mention somethin' about your your door to your
17 bedroom bein' locked, is is that a, tr -- is it true that door
18 could be locked?

19 A. My bedroom door?

20 Q. Yes.

21 A. No.

22 Q. Your bedroom door couldn't be locked, could it?

23 A. No.

24 Q. In fact, would you agree with me that the way your
25 bedroom door is made it kinda leaves like a wedge if you try

Minor

- CROSS-EXAMINATION BY MR. BROWN

1 to close the door all the way?

2 A. Yes.

3 Q. You can't even close your door all the way, can you?

4 A. Uh, well you could if you wanted to.

5 Q. But you would have to force it and possibly break the
6 door?

7 A. No.

8 Q. But you could close it?

9 A. Yes.

10 Q. Why couldn't you lock it?

11 A. There was no lock on the door.

12 Q. Okay. So it be kinda hard for anybody whether it's Rob
13 or your your mother to come into that room and lock the door
14 'cause there wasn't a lock.

15 A. Right.

16 Q. How how many beds were in that room that you slept in?

17 A. Two.

18 Q. Okay. Wanna show you a series of four pictures that

19 kinda show as I understand it your room from [REDACTED]

20 Road, do you recognize any a these images?

21 A. Yes.

22 Q. The image that I'm pointin' to the left, the top left
23 hand corner what is that?

24 A. My bed and my sister's bed.

25 Q. And that what's your sister name?

Minor - CROSS-EXAMINATION BY MR. BROWN

- 1 A. Samantha.
- 2 Q. And so it was two beds in that, in that bedroom?
- 3 A. Yes.
- 4 Q. And Sammy slept in that bed right beside ya.
- 5 A. Yes.
- 6 Q. You and Sammy spend a lotta time together?
- 7 A. Yes.
- 8 Q. You and Sammy were just always together.
- 9 A. Not always.
- 10 Q. When would, when when would you and Sammy not be
- 11 together?
- 12 A. Nap time.
- 13 Q. Nap time.
- 14 A. Yes.
- 15 Q. And you've you've you talked to different people related
- 16 to this case about that, right?
- 17 A. Yes.
- 18 Q. You talked to a number a people about that, right?
- 19 A. Yes.
- 20 Q. And you and Sammy would be apart nap time.
- 21 A. Yes.
- 22 Q. You would sleep on your bed.
- 23 A. Yes.
- 24 Q. Sammy would sleep in hers.
- 25 A. No.

Minor - CROSS-EXAMINATION BY MR. BROWN

- 1 Q. Even though her bed was in the bedroom with you?
- 2 A. Yes.
- 3 Q. Sammy sleep in her bed at night?
- 4 A. Yes.
- 5 Q. You would sleep in your bed at night.
- 6 A. Yes.
- 7 Q. Okay. Do you remember keepin' some journals about your
- 8 life durin' this time period?
- 9 A. Yes.
- 10 Q. Why'd you write in those journals?
- 11 A. Uh, my mom thought it would be a good idea 'cause she
- 12 used to write in journals ---
- 13 Q. Okay, ---
- 14 A. --- and ---
- 15 Q. --- and how'd you, how'd you like writing in the
- 16 journals?
- 17 A. I didn't like writing.
- 18 Q. Why?
- 19 A. Uh, I don't know how to spell good so...
- 20 Q. But but you tried ---
- 21 A. Yes.
- 22 Q. --- and you did try to write things about your life.
- 23 A. Yes.
- 24 Q. What are some of the things that you remember in terms of
- 25 writing in your journals?

Minor - CROSS-EXAMINATION BY MR. BROWN

1. A. Uh, wantin' friends, boyfriends, wantin' to see my dad,
2. gettin' outta the house, havin' fun, bein' a girl.
3. Q. And so you remember about writing about boys, that you
4. wanted boyfriends, ---
5. A. Yes.
6. Q. --- would you agree with me that you wrote about that a
7. lot?
8. A. Yes.
9. Q. Would you -- you would also agree me that you wrote about
10. want to see your dad.
11. A. Yes.
12. Q. Would you agree with me those were two of the main things
13. you always wrote about in that journal?
14. A. Yes.
15. Q. You did miss your dad a lot, didn't ya?
16. A. Yes.
17. Q. Do you ever recall writing anything in that journal about
18. your stepdad?
19. A. Just that he went back to work and that's about it.
20. Q. And who who'd you write your journal for or your
21. journals?
22. A. I just wrote it for me.
23. Q. Okay, and those those were your private thoughts?
24. A. Yes.
25. Q. Do do you recall one a the entries in which you wrote

Minor [REDACTED] - CROSS-EXAMINATION BY MR. BROWN

1 about the number a boys that you want as a boyfriends before
2 you got married?

3 A. No.

4 Q. Okay.

5 MS. REESE: Your Honor, I object, I do -- I've never seen
6 this, I don't know what he's talking about.

7 THE COURT: Well ---

8 MR. BROWN: I ---

9 THE COURT: --- let let me see ya'll just a minute.

10 (Whereupon, a bench conference was held off the record.)

11 BY MR. BROWN:

12 Q. Do you remember these (indicating)?

13 A. Yes.

14 Q. Is this what you're referring to as your journals that
15 you used ---

16 A. Yes.

17 Q. --- to write in? This (indicating) was a a calendar also
18 but you wrote in this as well?

19 A. Yes.

20 Q. And pictured here in this top left hand corner is what?

21 A. My mom's cell phone number.

22 Q. And who's cell phone? I mean, ---

23 A. Um, his.

24 Q. "His" meaning?

25 A. Rob.

Minor [REDACTED] - CROSS-EXAMINATION BY MR. BROWN

1 Q. You remember remember this (indicating) journal as
2 well?

3 A. Yes.

4 Q. This is where you record some a the things about
5 boyfriends ---

6 A. Yes.

7 Q. --- and wanna see your dad?

8 A. Yes.

9 Q. Okay. Wanna ask you about this (indicating) part in
10 particular, could you read that.

11 A. "I feel like that it really happened."

12 Q. Do you know what that's talkin' about?

13 A. Yes.

14 Q. What is it talkin' about?

15 A. My momma's gonna take me to my doctor, he is also a
16 therapist so and I really trust him and I was, I was gettin'
17 choked up on what to say and so I wrote that down.

18 Q. Okay. You remember talking to obviously a a a
19 number of people, do you, but you also remember talkin' to
20 Ms. McMillan.

21 A. Yes.

22 Q. Have you ever talked to Ms. McMillan or anyone else about
23 the fact that you could have imagined some things?

24 A. Yes.

25 Q. And so this happening or the possibility it happened

Minor

- CROSS-EXAMINATION BY MR. BROWN

1 didn't you tell some folks that this may have been somethin'
2 that you imagined?

3 A. I was asked if I could have dreamed it and then I started
4 doubtin' myself but I do not doubt myself.

5 Q. I understand that and I know you're here today after
6 talkin' to a lotta people but my question is back then, closer
7 to a time period in which you said things happened, didn't you
8 also say that you could have imagined this, ---

9 A. Yes.

10 Q. --- that you coulda dreamed this?

11 A. Yes.

12 Q. Did you have, you have ma -- imagination issues ---

13 A. Yes.

14 Q. --- back then?

15 A. Yes.

16 Q. Have you worked on that with therapy?

17 A. Yes.

18 Q. You've kinda gotten those things?

19 A. Yes.

20 Q. Are you still workin' on that?

21 A. Yes.

22 Q. Okay. Do you ever remember walk into the house seein'
23 your stepdad touch himself?

24 A. No.

25 Q. Did you ev -- remember walk in the house seein' your

Minor

- CROSS-EXAMINATION BY MR. BROWN

1 stepdad with his back turned to you at the window in your
2 room?

3 A. No.

4 Q. Don't recall that.

5 A. No.

6 Q. You ever recall seein' your stepdad at the window of your
7 room with your -- with his back turned toward ya ---

8 A. No.

9 Q. --- with his shorts on?

10 A. No.

11 Q. Now you're very sure about that.

12 A. Yes.

13 Q. You sound like you're very sure about that.

14 A. Yes.

15 Q. Why do you sound so sure about that?

16 A. Because I know it didn't happen.

17 Q. Has anyone talked to you about that?

18 A. Yes.

19 Q. Okay. So you had prior conversations with people about
20 why I'm asking you that question?

21 A. Yes.

22 Q. Okay. So you've been prepared for that question.

23 A. Yes.

24 Q. Okay. Why do you think I ask you that question?

25 A. Um, because he was in the closet and sumtin' came out

Minor - CROSS-EXAMINATION BY MR. BROWN

1 and ---

2 Q. Okay. Okay, alright. Alright, like that time, nap time
3 with exception your mom she didn't go do errands at eleven
4 o'clock at night, ---

5 A. No.

6 Q. --- did she? She didn't go one o'clock in the mornin'?

7 A. No.

8 Q. In fact, when it was time to give night kisses, everybody
9 was in the house.

10 A. Yes.

11 Q. Your mom was there.

12 A. Yes.

13 Q. Again, I wanna show you the picture that you referred to,
14 are the two beds yours and Sammy's?

15 A. Yes.

16 Q. From where I'm seein' this picture, where would your
17 brother's room be?

18 A. Um, the door would be here (indicating) and it would be
19 right there (indicating).

20 Q. Okay, so it was right there.

21 A. Yeah.

22 Q. Like ten feet away could I be at your door and look into
23 your brother's room?

24 A. If you turned.

25 Q. It's thick wall? thin wall?

Minor - CROSS-EXAMINATION BY MR. BROWN

1 A. Thin.

2 Q. And you say your mother would be in that room sometimes
3 with your brother?

4 A. Yes.

5 Q. Okay. When Ms. Burrell came to see you and talk to you
6 about this, did you go around with her in your house?

7 A. No.

8 Q. Did you walk around with her in the house?

9 A. No.

10 Q. Did you walk around and say, Things happened over
11 here, ---

12 A. No.

13 Q. --- things happened over there, ---

14 A. No.

15 Q. --- things were in this room, ---

16 A. No.

17 Q. --- that room?

18 A. No.

19 Q. You never did?

20 A. No.

21 Q. Did you ever go to that house with your mom and
22 Ms. Ms. Burrell?

23 A. No.

24 Q. One point you said, uh, somethin' would happen to you
25 once a month ---

Minor

- CROSS-EXAMINATION BY MR. BROWN

1 A. Yes.

2 Q. --- and you wouldn't have to do anything to him ---

3 A. Yes.

4 Q. --- but would you agree with me that you told somebody
5 before that if somethin' happened once a month you would have
6 to do somethin' with him or to him?

7 A. Yes.

8 Q. So it's not the same thing, you would agree with me on
9 that?

10 A. I would have to do sumtin' to him.

11 Q. And you've been asked that a number a times ---

12 A. Yes.

13 Q. --- prior to comin' here today.

14 A. Yes.

15 Q. You've talked to several people about that, right?

16 A. Yes.

17 Q. Has anyone ever asked you, and I'm not gonna ask you, has
18 anyone ever asked you to describe these actions in detail?

19 A. Yes.

20 Q. And would they ever ask you how you were standing, where
21 he was standing, what you were doin'?

22 A. No.

23 Q. No one's asked you a lotta detailed questions about that.

24 A. No.

25 Q. Do you ever recall telling Ms. McMillan -- do you, do you

Minor - CROSS-EXAMINATION BY MR. BROWN

1 remember talkin' to her that May?

2 A. Yes.

3 Q. You recall ever tellin' Ms. McMillan that your stepdad
4 said he has problems, ---

5 A. Yes.

6 Q. --- that he's sorry?

7 A. Yes.

8 Q. Did he admit to doin' this?

9 A. No, he never admitted it.

10 Q. Okay. Okay, correct me if I'm wrong, based upon the
11 questions of Ms. Ms. Susan here, I don't know if the, one a
12 the last things she asked you was about him and what he said
13 when there was a meeting as you say with the family or with
14 your mom and and Rob, ---

15 A. Yes.

16 Q. --- did you say that he said he was sorry for this, ---

17 A. Yes, but he never really admitted that he did it.

18 Q. --- that he has problems, ---

19 A. Yes.

20 Q. --- that he's sick, ---

21 A. Yes.

22 Q. --- that he needed help?

23 A. Yes.

24 Q. Okay. Do you recall tellin' Ms. McMillan that?

25 A. Yes.

Minor

- CROSS-EXAMINATION BY MR. BROWN

1 Q. Okay. When you talked Ms. McMillan back then, do you
2 remember gettin' upset and emotional ---

3 A. Yes.

4 Q. --- and you co -- wha'd you get emotional about?

5 A. Missed my dad.

6 Q. It choked ya up, didn't it?

7 A. Yes.

8 Q. You started cryin'?

9 A. Yes.

10 Q. Have you seen your dad dad lately?

11 A. Yes.

12 Q. Okay. And you've seen him since these things have come
13 into question?

14 A. Yes.

15 Q. You been over his house?

16 A. Yes.

17 Q. He's taken you on some trips?

18 A. Yes.

19 Q. Where are some a the places you've gone?

20 A. Six Flags.

21 Q. Okay, how'd you, how'd you like that?

22 A. It was fun.

23 Q. Alright, did you take, did you go with your brothers and
24 sisters?

25 A. Uh, my two brothers over there.

Minor

- CROSS-EXAMINATION BY MR. BROWN

1 Q. Okay. Have you got some some nice things since seein'
2 your dad or...

3 A. Yes.

4 Q. Okay. And so you still see him ---

5 A. No.

6 Q. --- every now and then?

7 A. No.

8 Q. Why haven't you seen him lately?

9 A. Uh, we got in an argument...

10 Q. Okay. Do you recall telling Ms. Susan that your stepdad
11 didn't know anything about mouthwash?

12 A. Yes.

13 Q. Do you also recall that she asked you questions relating
14 mouthwash and you also stated that he said to you, So you
15 don't have to go run for mouthwash?

16 A. Yes.

17 Q. Alright, so you agree with me that those two aren't the
18 same thing?

19 A. Um, what do you mean they ain't the same thing?

20 Q. He didn't know about mouthwash and then he said, So you
21 don't have to go runnin' for mouthwash.

22 A. I didn't know he knew.

23 Q. Would you agree with me that you were homeschooled?

24 A. Yes.

25 Q. Did you participate in cheerleading?

Minor

- CROSS-EXAMINATION BY MR. BROWN

1 A. No.

2 Q. Did you run track?

3 A. No.

4 Q. Play basketball?

5 A. No.

6 Q. What were the main activities that you had to do back
7 then?

8 A. I'm homeschooled and I just played outside.

9 Q. And did you play with your your sister ---

10 A. Yes.

11 Q. --- and your brother?

12 A. Yes.

13 Q. Did you play at your grandpa -- grandparents' house?

14 A. Yes.

15 Q. Did you play out in the yard a lot?

16 A. Yes.

17 Q. And you also went to church.

18 A. Yes.

19 Q. You go to church twice a week?

20 A. Uh, yes.

21 Q. Is that the only time you really had a chance to see
22 other kids outside of your family?

23 A. Yes.

24 Q. How old is Sammy?

25 A. She's ten.

Minor - CROSS-EXAMINATION BY MR. BROWN

1 Q. Sammy stayed in the room with you, right?

2 A. She did.

3 Q. How old is Josiah?

4 A. He's five.

5 Q. And F -- F-E-D is that February?

6 A. Yes.

7 Q. You're still somewhat missin' your dad?

8 A. Yes.

9 Q. Prior to that some a the same stuff was about missin'
10 your dad?

11 A. Yes.

12 MR. BROWN: Beg the Court's indulgence.

13 (Attorney/client discussion held off the record.)

14 MR. BROWN: Sorry, mark this as Defense Exhibit 1.

15 (Note card marked Defendant's Exhibit No. 1 for
16 identification.)

17 BY MR. BROWN:

18 Q. We were just talkin' about the journals, uh, and again
19 you've read this (indicating) to the jury?

20 A. Yes.

21 MR. BROWN: I ask that this be admitted into evidence as
22 Defense Exhibit No. 1.

23 MS. REESE: No objection.

24 THE COURT: It's admitted.

25 (Defendant's Exhibit No. 1, note card, admitted into

Minor - CROSS-EXAMINATION BY MR. BROWN

1 evidence.)

2 BY MR. BROWN:

3 Q. Do you recall tellin' your mom that you missed your
4 stepdad?

5 A. Yes.

6 Q. You recall tellin' her that recently?

7 A. No.

8 Q. Recall the last year tellin' her that?

9 A. Yes.

10 Q. You don't miss him today though, do you?

11 A. No.

12 Q. And that's because you're here in court?

13 A. Sir?

14 Q. That's because you know you're -- you know why you're
15 here in court?

16 A. Yes.

17 Q. Would you agree with me that you talked to at least nine
18 people 'bout this case?

19 A. Uh, I guess so.

20 Q. Okay. Do you recognize any a these (indicating) names?

21 A. Yes.

22 Q. Ms. Lynn McMillan?

23 A. Yes.

24 Q. Yvonda (phonetic) Glenn?

25 A. Yes.

Minor - CROSS-EXAMINATION BY MR. BROWN

1 Q. Ms. Evans? Ms. Sparks?

2 MS. REESE: Your Honor, I don't think she knows who these
3 people are and I've never seen this piece a paper he has.

4 MR. BROWN: That's discovery provided by the prosecution.

5 (Whereupon, a discussion was held off the record.)

6 BY MR. BROWN:

7 Q. And you talk with Ms. Megan Burrell.

8 A. Yes.

9 Q. And Ms. Burrell's in the courtroom.

10 A. Yes.

11 Q. Okay. You spent time with people and they've kind of
12 worked with you on your testimony here today, would you agree
13 with me, ---

14 A. Yes..

15 Q. --- and what you're supposed to say in court today,
16 right?

17 A. Not what I'm supposed to say.

18 Q. Okay. They work with you on your testimony.

19 A. Yes.

20 Q. They've asked you questions after questions after
21 questions.

22 A. Yes.

23 Q. You say that that's been goin' on for a while.

24 A. Yes.

25 MR. BROWN: That's all the questions I have.

Minor - REDIRECT EXAMINATION BY MS. REESE

1 MS. REESE: Briefly.

2 REDIRECT EXAMINATION BY MS. REESE:

3 Q. Minor uh, when you said you met with your stepdad, tell
4 me exactly what he said about he was sorry.

5 A. He just said that he was sorry for whatever he did ---

6 Q. Okay.

7 A. --- and that he needed help.

8 Q. Okay. And the other part that he was sick?

9 A. Yes.

10 Q. Okay, so he never said, I did this to you, he just said
11 I'm sorry for whatever I did.

12 A. Yes.

13 Q. Uh, have have you seen your dad recently?

14 A. My real dad?

15 Q. Yeah.

16 A. Uh, not in the past couple months, no.

17 Q. So, uh, you, when is the last time you saw him?

18 A. Um, last year.

19 Q. Uh, after this happened did you go to counseling?

20 A. Yes.

21 Q. And you've been seein' a counselor for a while?

22 A. Yes.

23 Q. Minor is there any doubt in your mind that this
24 happened to you?

25 A. No.

Minor - REDIRECT EXAMINATION BY MS. REESE

1 Q. Now when this first happened, who kept telling you, who
2 kept asking you about it being a dream?

3 A. My mom and he did.

4 Q. And did they ask you a lot about it?

5 A. Yes.

6 Q. Is there any doubt in your mind that this happened to
7 you?

8 A. No.

9 Q. Now the porn that you talked about on the computer, did
10 that belong to you?

11 A. No.

12 Q. Was it something that you looked up?

13 A. No.

14 Q. Who did that porn belong to?

15 A. Rob.

16 Q. And did you find it intentionally or by accident on the
17 computer?

18 A. Accident.

19 Q. And what did you do the minute you saw it?

20 A. I clicked out of it and went to go tell my mom.

21 Q. And did your mom confront him about the porn on the
22 computer?

23 A. Um, I'm not sure.

24 Q. Now when you talked about Rob being in your room, did you
25 say the door was locked or the door was blocked?

Minor - REDIRECT EXAMINATION BY MS. REESE

1 A. Blocked.

2 Q. Blocked. So what you mean by the door was blocked was
3 what?

4 A. He was standin' in front of it.

5 Q. Okay, so you never said it was locked.

6 A. No.

7 Q. He asked you about your grandparents, did you used to go
8 over and see his his parents a lot, ---

9 A. Yes.

10 Q. --- play in the yard?

11 A. Yes.

12 Q. Since you disclosed have you been able to see them?

13 A. No.

14 Q. Do you have any relationship with them anymore?

15 A. No.

16 Q. Is there a part about, uh, what, if anything, when you
17 were getting ready for this case, what did we talk about that
18 you were supposed to say?

19 A. The truth.

20 Q. And, Minor I'm gonna show you two pictures.

21 (Photographs marked State's Exhibit No. 2 and 3 for
22 identification.)

23 Q. Do you recognize, these are State's Exhibit 2 and 3 for
24 identification, and I think these are maybe just blown up
25 pictures of what Mr. Brown showed you, do you recognize

Minor - REDIRECT EXAMINATION BY MS. REESE

1 these?

2 A. Yes.

3 Q. And what are they pictures of? What is 2 a picture of?

4 A. My closet.

5 Q. And what is 3 a picture of?

6 A. Part a my room and my closet.

7 Q. Okay. Uh, and what did you keep in this closet?

8 A. My clothes and toys.

9 Q. Okay. And are these accurate as to what it looked like
10 when you reported?

11 A. Yes.

12 MS. REESE: Your Honor, I'd, uh, move to admit State's
13 Exhibit 2 and 3.

14 MR. BROWN: No objection, Your Honor.

15 BY MS. REESE:

16 Q. Minor ---

17 THE COURT: They're admitted.

18 (State's Exhibit Nos. 2 and 3, photographs, admitted into
19 evidence.)

20 Q. --- these journals and did you write about your stepdad
21 in your journals?

22 A. Sometimes.

23 Q. Did you write about the things he was doing to you?

24 A. No.

25 Q. Why not?

Minor

- RECROSS-EXAMINATION BY MR. BROWN

1 A. Because I wanted it not to be real and so I would try to
2 forget it.

3 Q. Uh, and in talkin' about the, uh, mouthwash, I think that
4 was already been cleared up, but the first time when you told
5 me you didn't know about him, he didn't know you were doin'
6 mouthwash, right?

7 A. Right.

8 Q. And when I a -- when when he said the time that the stuff
9 came out in the closet, what did he say to you?

10 A. So you don't have to go runnin' for mouthwash.

11 Q. And is that the first time you realized that he did know
12 about mouthwash?

13 A. Yes.

14 MS. REESE: Nothing further.

15 RECROSS-EXAMINATION BY MR. BROWN:

16 Q. Very briefly. Mouthwash does it have a smell?

17 A. Uh, it was just regular mouthwash.

18 Q. Could you taste the mouthwash?

19 A. Yeah.

20 Q. Did it have alcohol? was it strong?

21 A. Just mouthwash.

22 Q. Anybody that would know, if you dreamed or imagined,
23 anybody that would know that would be your mother and your
24 stepdad, right, and you've already testified that you've had
25 some problems with that in the past ---

Minor

- RECROSS-EXAMINATION BY MR. BROWN

1 A. Yes.

2 Q. --- what was real and what wasn't real.

3 A. Yes.

4 Q. Okay. You said -- do you recall testifyin' that he
5 locked the door behind him earlier?

6 A. Blocked. If I said lock, I meant blocked.

7 Q. So he blocked the door behind him.

8 A. Yes.

9 Q. Blocked the door behind him.

10 A. Blocked, yes, blocked.

11 Q. And the door that he woulda blocked is on the other side
12 a the room?

13 A. Yes.

14 Q. On the other side a the room from the closet?

15 A. Yes.

16 Q. And he he would block the door with his, ---

17 A. His bo ---

18 Q. --- with his body ---

19 A. Yes.

20 Q. --- on the other side a the room from the closet?

21 A. Yes.

22 MR. BROWN: All the questions I have.

23 MS. REESE: Nothing further.

24 THE COURT: Okay, thank you may step down.

25 (Whereupon, the witness left the stand.)

MOTIONS AND MATTERS

1 THE COURT: Uh, ladies and gentlemen, we're gonna recess
2 for the evening. Let me caution ya that, uh, in this case and
3 in any case that you might be called upon to participate in,
4 your decisions have to be based solely upon the testimony and
5 the evidence received durin' the trial of your case or the
6 likelihood for that matter but it's it can only be based upon
7 what you see and hear durin' the trial. You you can't
8 supplement your knowledge by conducting outside research,
9 doing your own investigation into any issue or talkin' to
10 people, uh, about the case so tonight when you go home you
11 can't discuss your jury service or the fact of the -- any fact
12 that relates to this case with your husbands or wives or or
13 children or friends or any other relative, you can't discuss
14 it with anybody, you can't even discuss it with your fellow
15 jurors unless and until you're involved in jury deliberations
16 and that won't come until the end of the trial so no
17 discussions of any kind whatsoever with any person whatsoever,
18 uh, during the overnight recess, also as I say, don't conduct
19 any research, don't do your own investigation into any issue
20 and also because you have to base your decision upon what you
21 see and hear during the trial you can't permit yourselves to
22 be exposed to any type of media coverage that might relate to
23 the case: no television, no radio, no newspaper article, so do
24 not look at anything on the TV, listen to anything on the
25 radio or read anything in the newspaper that relates to this

MOTIONS AND MATTERS

1 case, your decision has to be based upon the evidence
2 presented. Uh, with those, uh, cautions in mind, do have a
3 good evening and please report directly to your jury room at
4 9:30 in the morning, 9:30 in the mornin'. If you're not sure
5 how to get back to that jury room, talk to the bailiff,
6 they'll provide you with that instruction, okay. Have a good
7 evening, we'll see ya in the morning at 9:30.

8 (The following takes place outside the presence of the
9 jury.)

10 THE BAILIFF: They cleared the hall, sir.

11 THE COURT: Alright, court is in recess until 9:30 in the
12 mornin'.

13 (Proceedings July 10, 2012)

14 THE COURT: Alright, we ready for the jury?

15 MS. REESE: Yes, Your Honor.

16 THE COURT: Bring 'em in, please.

17 (The following takes place in the presence of the jury.)

18 THE COURT: Uh, good mornin', ladies and gentlemen, uh,
19 let me thank you for your patience, uh, that's you've -- as
20 you can see what happens what people don't follow instructions
21 and don't appear on time it imposes upon your time and I feel
22 certain that that's not gonna happen again durin' the course
23 of this trial or this week so thank you for your patience in
24 waiting for us to bring you back in the courtroom. Uh, as you
25 know when we recessed yesterday the State had begun with their

STEPHANIE HORTON - DIRECT EXAMINATION BY MS. REESE

1 presentation of evidence so we will continue with that
2 presentation this mornin'. Ms. Reese.

3 MS. REESE: State calls Stephanie Horton.

4 (Whereupon, the witness came forward.)

5 THE CLERK: Place our left hand on the Bible, raise your
6 right, please.

7 STEPHANIE HORTON, having been
8 first duly sworn, testified as follows:

9 (Whereupon, a discussion was held off the record.)

10 DIRECT EXAMINATION BY MS. REESE:

11 Q. Can you state your name for the jury, please.

12 A. Stephanie Horton.

13 Q. And how do you know the defendant?

14 A. He is my husband.

15 Q. And how do you know Minor

16 A. She is my daughter.

17 Q. And, uh, when did you meet the defendant?

18 A. I met him, uh, it was 2003.

19 Q. And what year did you get married?

20 A. In '04.

21 Q. How old was Minor when you got married if you
22 remember?

23 A. She was either, uh, I think she was 11, 10 or 11.

24 Q. Uh, when you first got married, where did you live
25 initially?

STEPHANIE HORTON - DIRECT EXAMINATION BY MS. REESE

- 1 A. In Boiling Springs.
- 2 Q. Uh, was there any time where you and your husband
- 3 purchased a home?
- 4 A. Yes.
- 5 Q. And, uh, where did -- where was that home, what
- 6 address?
- 7 A. At [REDACTED] Road in Boilin' Springs.
- 8 Q. And was that in Spartanburg County?
- 9 A. Yes.
- 10 Q. And, uh, what kind of home did you purchase?
- 11 A. It was a double-wide trailer.
- 12 Q. Okay. And, uh, was it used or new?
- 13 A. It was brand new.
- 14 Q. And, uh, can you tell us a little bit about the way that
- 15 the house was from the one side to the next. You said it was
- 16 a double-wide, ---
- 17 A. Yes.
- 18 Q. --- how many bedrooms?
- 19 A. It had, uh, originally it had three bedrooms and we made,
- 20 uh, the dining room into a study so technic -- uh, it ended up
- 21 bein' four bedrooms.
- 22 Q. Uh, and when you first moved there, where did everyone
- 23 sleep?
- 24 A. We had the master bedroom and, uh, Minor had her own
- 25 room and Samantha had a room.

STEPHANIE HORTON - DIRECT EXAMINATION BY MS. REESE

1 Q. Now at that time was Josiah born yet?

2 A. No, he wasn't.

3 Q. So, uh, Minor had her own room and at some point later
4 Samantha moved in with her?

5 A. Yes.

6 Q. Uh, to your knowledge was there ever a problem with
7 opening or closing the door in Minor room?

8 A. No.

9 Q. It could be closed.

10 A. Yes.

11 Q. Uh, where does Minor go to school?

12 A. She is homeschooled.

13 Q. And how long has she been homeschooled?

14 A. Uh, it's been four, five years now.

15 Q. And, uh, who home-schools her?

16 A. I do.

17 Q. Uh, is Minor -- does Minor have any challenges
18 regarding her education?

19 A. Yes.

20 Q. And, uh, how would you describe those?

21 A. She has a, uh, learning disability in reading, reading
22 comprehension and writing.

23 Q. And, uh, is it a significant one in terms of where she
24 should be grade wise?

25 A. Yes.

STEPHANIE HORTON - DIRECT EXAMINATION BY MS. REESE

1 Q. Um, do you know right now based on your schooling of
2 **Minor** what her grade level is?

3 A. She has just finished the eighth grade.

4 Q. And that's her school age I guess, her school, where she
5 is at school.

6 A. Right.

7 Q. Uh, when you lived with the defendant, who all worked?

8 A. Just him.

9 Q. Did you work at all outside the home at any time durin'
10 the marriage?

11 A. No, I didn't.

12 Q. So have you always done the homeschoolin' for your
13 daughter and now Sammy?

14 A. (The witness nodded in the affirmative.)

15 Q. Does -- is Johi -- Josiah's homeschooled now as well?

16 A. He is gonna be, uh, starting public school in the Fall.

17 Q. Uh, describe for us a normal day, especially back when
18 this was going on, a normal day for a homeschool day.

19 A. Uh, we generally would get started around 7 or 7:30, we
20 would do, uh, most of the instruction time first which means
21 that I would read or do any of the, uh, the oral subjects
22 first and then she would continue with all of her written work
23 after that and it usually was around 12 or so when we finished
24 and we would eat lunch and take a nap and that would be the
25 fr -- after lunch then that would be the end of our school

STEPHANIE HORTON - DIRECT EXAMINATION BY MS. REESE

1 day.

2 Q. And, uh, what time, uh, if you know roughly, I know it
3 wasn't the same every day, but what what was nap time?

4 A. It was usually around 1 to 3, I tried to get 'em down
5 earlier than that but roughly around 1 to 3 I guess.

6 Q. And when, uh, when the girls and would take naps, uh, and
7 Josiah when he came along, was there a designated place for
8 them to take naps or have a nap time?

9 A. They would, uh, both go to their bedroom, they were
10 sharin' a bedroom at the time, and I would go into Josiah's
11 room and lay down with him for his nap.

12 Q. Did that arrangement ever change in terms of the girls
13 being in the same room?

14 A. There was a time that, uh, the girls did, uh, separate
15 and Sammy went into the livin' room and **Minor** stayed in the
16 bedroom.

17 Q. Now durin' this time did the older girls have to nap or
18 was it, uh, could they also do other things other than just
19 nap where they were?

20 A. Yeah, they didn't have to nap, they they usually watched
21 TV.

22 Q. Uh, but it was a quiet time.

23 A. Yes.

24 Q. And you would lay down with Josiah you said?

25 A. Yes.

STEPHANIE HORTON - DIRECT EXAMINATION BY MS. REESE

- 1 Q. And that would be in his room?
- 2 A. Yes.
- 3 Q. Uh, did the defendant work when you first married him?
- 4 A. Yes, he did.
- 5 Q. And where did he work?
- 6 A. He worked at Whitlock's Furniture in Spartanburg.
- 7 Q. And after a while did that change?
- 8 A. Yes.
- 9 Q. And, uh, do you remember when he stopped working?
- 10 A. He had, uh, back surgery in '07, he in -- he had a a back
- 11 injury at work.
- 12 Q. And what year, I mean, what, do you remember what month
- 13 he had surgery?
- 14 A. In November of '07.
- 15 Q. And did you, uh, did he at that time stop working at
- 16 Whitlock?
- 17 A. Yes.
- 18 Q. Okay.
- 19 A. Well it was prior to that that he stopped workin'.
- 20 Q. And durin' that time was he at home during the day?
- 21 A. Yes.
- 22 Q. And while he would be at home was it unusual for you to
- 23 leave the house and leave **Minor** with him?
- 24 A. There was only a few occasions that that happened.
- 25 Q. Um, but it did happen on occasion.

STEPHANIE HORTON - DIRECT EXAMINATION BY MS. REESE

1 A. Yes.

2 Q. Um, and durin' this time, um, at some point did Minor
3 become ill?

4 A. Yes.

5 Q. And, uh, do you remember when she was sick?

6 A. It was, uh, the winter months of '07.

7 Q. And so, uh, late '07 ---

8 A. Yes.

9 Q. --- you say "winter months" you mean, do you mean January
10 of '07 or do you mean November, December of '07?

11 A. She started, um, gettin' real bad sick later part of
12 November, early December.

13 Q. Uh, once you, uh, once the defendant stopped working, uh,
14 did he ever go back to work for a time?

15 A. Uh, not at Whitlock's, no.

16 Q. Uh, where if anywhere did he go back and when?

17 A. It was, uh, the summer of '08 that he, uh, received a
18 temporary job from a staffing company.

19 Q. So during '07 le -- uh, November or a little bit before I
20 guess, November of '07 to the summer of '08, uh, the defendant
21 was home during the day?

22 A. Yes.

23 Q. And what kinds of things would he do during the day?

24 A. Uh, durin' his recovery time not a whole lot of anything.
25 There were times that he would go outside and walk but most of

STEPHANIE HORTON - DIRECT EXAMINATION BY MS. REESE

1 the time it was, uh, you know, layin' around tryin' to recover
2 from the surgery.

3 Q. After he got better, after the recovery time as you would
4 call it, did he do other things around the house?

5 A. He, uh, eventually, you know, started maybe doin' a
6 little bit a yard work outside, uh, tryin' to build some a his
7 muscles back up from where he was just laying around before.

8 Q. Uh, do you remember the day that Minor wrote you a
9 note?

10 A. Yes.

11 Q. And what were you doing that day?

12 A. It was, uh, it was early May and I was actually in the
13 kitchen just cleanin' up and the girls were playin' and I had
14 stopped and went over to the computer and I was checkin' my
15 email.

16 Q. And, uh, did you see anything on the email?

17 A. She had sent me an email saying that, uh, for me to look
18 in my journal, that she had left me a note.

19 Q. I'm gonna show you what's been marked as State's Exhibit
20 1, do you recognize this (indicating)?

21 A. Yes.

22 Q. Is that the note that Minor wrote to you?

23 A. Yes, it is.

24 Q. And, uh, Minor her learning disability creates a problem
25 for her writing, is that a fair statement?

STEPHANIE HORTON - DIRECT EXAMINATION BY MS. REESE

1 A. Yes, it is.

2 Q. And, uh, can you, uh, are you able to read Minor
3 writing?

4 A. Oh, yes.

5 Q. And what does the note say?

6 A. "Dear mama, this is hard to say but I think that Rob
7 wants to have sex with me because he sent," wait a minute, "he
8 said next time he wants to. I don't know how to say no. He
9 licks and rubs on my "Lucy" and I have to do it to him. I
10 don't wanna do it. "Help me," in big letters, "help me to say
11 no, Minor And then down at the bottom she says, "Please do
12 not say anything to Rob."

13 Q. After you read that note and some of the words are
14 misspelled, right?

15 A. There's a, yes, there's several.

16 Q. Now in there she says he licks and rubs my "Lucy", do you
17 know what she's referrin' to?

18 A. Yes, I do.

19 Q. And, uh, what was a "Lucy" to Minor at the time?

20 A. It was her va -- vagina.

21 Q. And was that her name for it?

22 A. Yes.

23 Q. After you read that note what did you do next?

24 A. Um, I stood silent and I did ask her if she was
25 absolutely sure and I said are you talkin' about Rob, my Rob,

STEPHANIE HORTON - DIRECT EXAMINATION BY MS. REESE

1 and she said yes.

2 Q. Based on what she told you in that conversation 'cause
3 it, uh, well first of all, let me ask you when you talked to
4 her and you can't tell me what she said so, uh, I just need
5 for you to, uh, tell me did she report a sexual assault to
6 you?

7 A. Yes.

8 Q. Did she say where it happened?

9 A. Yes.

10 Q. Where did she say it happened?

11 A. She said that it would happen in her bedroom and in there
12 was occasions in in our bedroom.

13 Q. And did she say when it happened?

14 A. Durin' nap time and there were occasions that I would
15 have to get up with Josiah at night, in the middle of the
16 night, and she said that he would come and lead her, get her
17 outta bed and lead her into our room.

18 Q. Um, after you had that conversation with him or her did
19 you in fact confront the defendant?

20 A. Yes, I did.

21 Q. Now was that day what was he doing when she wrote that
22 letter or when you got that letter?

23 A. He was actually cutting grass.

24 Q. Was he walking with a cane at that time?

25 A. No.

STEPHANIE HORTON - DIRECT EXAMINATION BY MS. REESE

1 Q. Uh, based on the information that you had, uh, what did
2 you do in terms, did you move outta the house at that time?

3 A. No, not immediately.

4 Q. Uh, did you stay in the house with him for a few days?

5 A. Until Tuesday.

6 Q. Was Minor present in the house?

7 A. Yes.

8 Q. Was there a time when you scheduled a kind of meeting
9 between Minor and the defendant?

10 A. Yes.

11 Q. And where did you take Minor for that meeting?

12 A. Up to his mother's house.

13 Q. And what, if anything, did he say to her or to you during
14 that meeting?

15 A. He said that, uh, that he was sorry that he had a problem
16 with porn and that if he ever, uh, wronged her then he was
17 sorry, that he didn't feel like that he had wronged her in any
18 way and that ---

19 Q. Did ---

20 A. --- he wanted to get help for the porn.

21 Q. --- did he say, did he make the comment during this
22 meeting, I'm sick?

23 A. No.

24 Q. Uh, do you remember telling me yesterday that he made the
25 comment, I'm sick and I need help?

STEPHANIE HORTON - DIRECT EXAMINATION BY MS. REESE

1 A. Sick yes, yes. I'm sick, I need help for the porn, and
2 that's what he was referrin' to.

3 Q. Uh, after hearin' this, uh, did you -- at that point what
4 did you do in an effort to help Minor

5 A. Uh, the first thing I did was called her Sunday
6 schoolteacher and, uh, she was a huge member in our our
7 church. I talked to her about it and, uh, she then told me
8 that I needed to contact the CAC for, uh, Minor to have a
9 forensic interview.

10 Q. And did you in fact contact the Children's Advocacy
11 Center?

12 A. I did.

13 Q. So you did not report this to law enforcement.

14 A. Uh, not at that time I didn't.

15 Q. And, uh, since and and you did the interview at the
16 Children's Advocacy Center with the interviewer, is that
17 right?

18 A. Yes.

19 Q. And since then has Minor needed counseling, have you
20 taken her to counseling?

21 A. Yes.

22 Q. And how often has she had counseling?

23 A. Uh, it was once a week and I honestly don't know how long
24 it was, I mean, as far as the weeks, I don't know.

25 Q. Uh, since the time that this happened do you still have

STEPHANIE HORTON - CROSS-EXAMINATION BY MR. BROWN

1 contact with defendant?

2 A. Only with texting for, uh, bills and financial needs.

3 Q. Uh, do you work currently?

4 A. Yes, I do.

5 Q. Does he still, uh, send child support to you?

6 A. On occasion, yes.

7 Q. And has he said anything to you or texted you anything in
8 regard to that financial support?

9 A. We have had contact, yes.

10 Q. Uh, has he made any comments to you in an effort to
11 influence you about this court case?

12 A. No.

13 MR. BROWN: Objection, Your Honor.

14 THE COURT: Overruled.

15 BY MS. REESE:

16 Q. Has he ever told you if you pursue this and if you go
17 forward that he won't be able to financially support you
18 anymore?

19 A. Yes.

20 MS. REESE: Nothing further, Your Honor.

21 CROSS-EXAMINATION BY MR. BROWN:

22 Q. Ms. Horton, how you doin' today?

23 A. Good.

24 Q. In your conversations with your husband, has he ever said
25 that he did anything ---

STEPHANIE HORTON - CROSS-EXAMINATION BY MR. BROWN

1 A. No.

2 Q. --- Minor

3 A. No.

4 Q. Has he stated to you that he is scared of this process of
5 being here today?

6 A. Yes.

7 Q. And has he stated to you he's scared of the nature of
8 these charges that have been brought against him?

9 A. Yes.

10 Q. And for that reason has he stated to you he's scared to
11 even face prosecution because a this?

12 A. Yes.

13 Q. In the time period, uh, in particular as relates to
14 Ms. Susan asked you November '07 around that time you stated
15 that Minor got sick, you began to notice November, December
16 of '07 she was sick, ---

17 A. Yes.

18 Q. --- would you agree with me that, uh, by January of 2008
19 you knew what was wrong with her in terms of her sickness?

20 A. Yes.

21 Q. What was that?

22 A. She had mono.

23 Q. Okay. And you also mentioned that your husband had had
24 some some surgery ---

25 A. Yes.

STEPHANIE HORTON - CROSS-EXAMINATION BY MR. BROWN

1 Q. --- durin' the latter half a 2007?

2 A. Yes.

3 Q. Would you agree with me or not that November of 2007 was
4 right around the time that he had surgery?

5 A. Yes.

6 Q. And what do you know that surgery to be as you are his
7 wife?

8 A. He had a back surgery, he had a bulging disc.

9 Q. And he had actually had operation.

10 A. He had surgery, yes.

11 Q. And as a result of havin' that that type of surgery, uh,
12 would you say at least he was bedridden or or lounge-ridden?

13 A. Oh, yeah, yes.

14 Q. And his mobility that time was greatly compromised?

15 A. Yes.

16 Q. Really couldn't move around that much?

17 A. (The witness nodded in the affirmative.)

18 Q. Were you guys involved in a intimate way?

19 A. No.

20 Q. Why not?

21 A. Due to his recovery time that was not possible.

22 Q. Was he on medication durin' that time period?

23 A. Yes, he was.

24 Q. Was he on one form of medication or several different
25 forms a medication?

STEPHANIE HORTON - CROSS-EXAMINATION BY MR. BROWN

1 A. He had, uh, several.

2 Q. Some for pain?

3 A. Yes.

4 Q. You say Valium was one of 'em?

5 A. I don't remember that one.

6 Q. Okay. You say he had some other medication that -- was
7 he on two different forms of blood pressure medicine that you
8 may know of or was he on blood pressure medicine I should add?

9 A. He was on blood pressure medicine at the time.

10 Q. Uh, did he have any forms of stitching from his surgery?

11 A. Yes.

12 Q. Did he have the need to have bandages on his his area?

13 A. Yes.

14 Q. Well would you agree with me it would be pretty hard for
15 him to engage you in any type of activity?

16 MS. REESE: Your Honor, I'm gonna object about her
17 diagnosis of his medical ability to engage.

18 THE COURT: Well she can speak from her own experience if
19 she has that, it's overruled to that extent.

20 BY MR. BROWN:

21 Q. Would it be difficult for him to engage you in anything
22 physical?

23 A. Yes.

24 Q. Based upon your your previous testimony you would also
25 agree that in January 2008 he was still couchridden, bedridden

STEPHANIE HORTON - CROSS-EXAMINATION BY MR. BROWN

1 for these injuries?

2 A. Yes.

3 Q. You say he didn't return to work until the summer of
4 2008 ---

5 A. Yes.

6 Q. --- because of his injuries? Have you ever had the
7 opportunity to go back to the address in Boilin' Springs with
8 Ms. Megan Burrell?

9 A. Yes.

10 Q. You walked through that location with Ms. Megan
11 Burrell?

12 A. Yes.

13 Q. Is that the actual size of that home, is that a big
14 home?

15 A. It was a fairly good size home, yes.

16 Q. Kind of literally like a a double-wide ---

17 A. Yes.

18 Q. --- type of trailer. As relates to the living area
19 inside the house with **Minor** Sammy, Josiah, how would you
20 describe their rooms?

21 A. Uh, it -- leading down the hall, uh, there was at the
22 time we had a nursery so that was Josiah's room to the
23 left ---

24 Q. Um-hum.

25 A. --- and then on down was, straight down was Sammy's room

STEPHANIE HORTON - CROSS-EXAMINATION BY MR. BROWN

1 and to the left was a bathroom, cross the hall from that was
2 **Minor** room.

3 Q. Okay, and by 2007 after Josiah got older would you agree
4 with me that Sammy and **Minor** had the same room?

5 A. Yes.

6 Q. And if I was walkin' down the hall, I was lookin'
7 straight forward, this (indicating) is the livin' room, if I
8 was lookin' straight down the hall, what what room would I see
9 first?

10 A. You would see Samantha's room ---

11 Q. Is that a great ---

12 A. --- or ---

13 Q. --- distance or is it a short distance? If I'm standin'
14 here (indicating) and that's a door, how close would I be
15 to ---

16 A. Uh, ---

17 Q. --- Josiah's room?

18 A. --- pretty close.

19 Q. And in between the livin' area there's a kitchen area
20 right here (indicating) ---

21 A. Yes.

22 Q. --- that brings me closer ---

23 A. Yes.

24 Q. --- and as I get a little bit closer there's a room right
25 over here (indicating) ---

STEPHANIE HORTON - CROSS-EXAMINATION BY MR. BROWN

- 1 A. Yes.
- 2 Q. --- and that ultimately that room became I guess a a
- 3 study ---
- 4 A. It did.
- 5 Q. --- but prior to that was it, was it a nursery?
- 6 A. Yes.
- 7 Q. Okay. If I move closer and I put my right hand right
- 8 here (indicating) where you at, what room would that be?
- 9 A. That would be Minor room.
- 10 Q. If I move just a step closer, what room would I be in?
- 11 A. That would be, uh, Josiah's room.
- 12 Q. So Josiah's room, Minor and Sammy's room is literally
- 13 that close.
- 14 A. Yes, yes.
- 15 Q. Is there a big wall in between the two?
- 16 A. No, very small.
- 17 Q. Very small so literally if I was at the door of one, if I
- 18 did like this (indicating), I could pretty much touch?
- 19 A. Yes.
- 20 Q. Okay. And the bathroom would be just across the hall on
- 21 this (indicating) side ---
- 22 A. Yes.
- 23 Q. --- after ---
- 24 A. The step.
- 25 Q. --- the step so all this is pretty much very close

STEPHANIE HORTON - CROSS-EXAMINATION BY MR. BROWN

1 together.

2 A. Yes, it is.

3 Q. You've been, uh, working with the South Carolina
4 Homeschooling Association ---

5 A. Yes.

6 Q. --- and you've you've got some training obviously from
7 them and you've tric -- participated in some things that have
8 allowed you to homeschool your children?

9 A. Yes.

10 Q. So you are a full-time homeschool teacher?

11 A. Yes.

12 Q. And up until this point you've been working?

13 A. Right.

14 Q. And you stated earlier in a question from Ms. Susan there
15 there would be just a few times in which you would leave the
16 home and leave the children there with Mr. Horton?

17 A. Yes.

18 Q. Was that often? was it five times? ten times? maybe three
19 times? maybe two times?

20 A. I can only remember leavin' them twice with ---

21 Q. Twice. And would you agree with me that you guys pretty
22 much acted as a very, very close family?

23 A. Yes, we did.

24 Q. Did you have a lotta activities together in home?

25 A. Yes.

STEPHANIE HORTON - CROSS-EXAMINATION BY MR. BROWN

1 Q. And if you traveled outside the home, you pretty much
2 travel as a family?

3 A. Yes.

4 Q. What were some of the things you did outside the home?

5 A. We, uh, went out to eat often and, uh, just the normal
6 stops, uh, to shop, to grocery shop, things of that nature.

7 Q. Well in terms of grocery shopping or anything that dealt
8 with, uh, spending money, would you work closely with your
9 husband in regards to that?

10 A. Yes.

11 Q. Would he make all the financial decisions and say this is
12 how we're gonna spend our money as a family?

13 A. No.

14 Q. You, I know you laughed and smiled, uh, how would you
15 guys decide that? Would you, would you say that you were
16 50/50 in terms of decisions or would you influence that more
17 than he would sometimes?

18 A. It was probably 80/20 on my side.

19 Q. On your side so you pretty much call the financial shots.

20 A. Yes.

21 Q. And you would agree with me that he would sign his check
22 and give it to you, ---

23 A. Yes.

24 Q. --- that you would decide what was gonna happen with it
25 after that?

STEPHANIE HORTON - CROSS-EXAMINATION BY MR. BROWN

1 A. Right.

2 Q. And was he the kind of person that loved to go out to eat
3 or...

4 A. No, it was mostly me.

5 Q. So you you like to go out to eat?

6 A. Yes.

7 Q. You were known for goin' out to eat often.

8 A. Um-hum, yes.

9 Q. When you went out as a family, what were some the the
10 actions that your children would take, in particular **Minor** as
11 relates to your husband?

12 A. Usually when we would get outta the car she would
13 immediately go over to him and lock her arm with his ---

14 Q. You mean ---

15 A. --- to walk in with him.

16 Q. --- if I place my arm up un -- under his?

17 A. Yes.

18 Q. How how long was she doin' that? few months? years?

19 A. That that was just usually what she did so I don't know,
20 I mean, it's they were buddies.

21 Q. Durin' the time period of these allegations or or right
22 before, did ya'll have a chance to go out as a family?

23 A. Yes.

24 Q. And in regards to that type of buddy buddy action, did
25 you ever observe **Minor** have that type of action with your

STEPHANIE HORTON - CROSS-EXAMINATION BY MR. BROWN

1 husband?

2 A. Yes.

3 Q. Would you agree with me that even after this came up
4 ya'll had an occasion to go out?

5 A. Yes.

6 Q. Did you observe **Minor** havin' that same type of action?

7 A. Yes, I did.

8 Q. What was your reaction to that?

9 A. Uh, at the time I was stunned I guess and I I pretty much
10 put my body in between the two of 'em.

11 Q. Okay. Would you agree with me that that would alarm you
12 if she had said, Hey, somethin' happened, why are you still
13 lockin' arms?

14 A. Yes.

15 Q. Well we've also heard prior testimony in this courtroom
16 as it relates to night sugars, was that a normal routine in
17 the family?

18 A. Yes, it was.

19 Q. Around this time period did you have the chance to
20 observe **Minor** still engagin' in night sugars?

21 A. Yes.

22 Q. Did you notice anything different or anything abnormal
23 about how she was acting towards night sugars?

24 A. No.

25 Q. Was a regular routine.

STEPHANIE HORTON - CROSS-EXAMINATION BY MR. BROWN

1 A. Yes.

2 Q. Would you agree with me that leading up to the time
3 period which this letter was received **Minor** wasn't acting
4 abnormal?

5 A. No.

6 Q. Was she acting normal towards her stepdad?

7 A. Yes.

8 Q. You know your daughter, you love your daughter, ---

9 A. Yes.

10 Q. --- over the years your daughter has had an off on, off
11 and on relationship with her dad, ---

12 A. Yes.

13 Q. --- how is their relationship right now?

14 A. Um, she hasn't seen him in a while, it's been several
15 months and they just kinda text every once in a while, it's
16 not really good.

17 Q. Has it always been the the type a relationship they've
18 had for the majority of her life when you two weren't together
19 meaning you and her her father?

20 A. They were closer when she was younger.

21 Q. And when she was younger she had a pretty good relation
22 with her father, ---

23 A. Yes.

24 Q. --- at at some point that relationship changed when she
25 was younger?

STEPHANIE HORTON - CROSS-EXAMINATION BY MR. BROWN

1 A. Not when she was younger, uh, the year that she got
2 mono ---

3 Q. Okay.

4 A. --- he stopped seein' her.

5 Q. Alright, and how did she feel about that?

6 A. She was heartbroken and because of the actions that he
7 took durin' the time that she had mono as far as him not
8 comin' to see her and she refused to talk to him.

9 Q. And why did he refuse to not come see her?

10 A. Uh, not real sure.

11 Q. After she got over the mono did he come to see her?

12 A. No.

13 Q. Durin' that time period with the mono as well as
14 afterwards, would you say at least over the course of a year
15 he didn't come see her?

16 A. No, he never came.

17 Q. Didn't have any contact of substance with his daughter.

18 A. No.

19 Q. She didn't go over his house?

20 A. No.

21 Q. Prior to that when she did go over there did she have a
22 pretty good time at her dad's house?

23 A. Not to my knowledge.

24 Q. Okay, when you say "not to my knowledge", uh, why do you
25 say that?

STEPHANIE HORTON - CROSS-EXAMINATION BY MR. BROWN

1 A. That when she would come back she ---

2 MS. REESE: Your Honor, ---

3 A. --- uh, ---

4 MS. REESE: --- I I'm just, uh, concerned about where
5 this is leading, uh, may we approach?

6 THE COURT: Okay.

7 (Whereupon, a bench conference was held off the record.)

8 BY MR. BROWN:

9 Q. The year before he stopped seein' her when she went over
10 to her dad's house how was it for her as you understand?

11 A. Um, from my understandin' she she didn't have a good
12 time. She would come back ill will, uh, moody, cranky and
13 most a the time she was sick.

14 Q. Okay. So you you were able to observe, as a mother who
15 knows her daughter, the difference how your daughter would act
16 on goin' over her dad's house as opposed to come back home
17 with you and her stepdad.

18 A. Yes.

19 Q. She came back home with you and her stepdad, how was she
20 acting then?

21 A. She was, she would always say that she was so glad to be
22 home.

23 Q. Durin' the time period when she would go over to her
24 father's house, would she receive gifts?

25 A. Yes.

STEPHANIE HORTON - CROSS-EXAMINATION BY MR. BROWN

1 Q. She come home with those gifts?

2 A. Yes.

3 Q. Okay. Uh, did she have a chance to go out with with her
4 father and I don't know if anyone else was in in the home, I
5 didn't ask you that; was anyone else living with her father
6 during that time period?

7 A. Yes.

8 Q. And who who was in the home as you understand?

9 A. Uh, Stacey which is her stepmom and two brothers.

10 Q. Okay, so she has two brothers that her father has had
11 with Stacey?

12 A. Yes.

13 Q. Do you know if they went out on family night outing?

14 A. Uh, on Friday nights they would go football games but
15 that's the only thing that they would do.

16 Q. Okay, they never went to been out to the movies or
17 anything?

18 A. Not to my knowledge.

19 Q. Did they have neighbors?

20 A. Uh, they did.

21 Q. She have a chance to play with other kids as far as you
22 know of?

23 A. As far as I know, yes.

24 Q. You just testified that I understand your daughter was
25 pretty upset when she couldn't see her father or he didn't

STEPHANIE HORTON - CROSS-EXAMINATION BY MR. BROWN

1 wanna or didn't come around in terms of seein' her ---

2 A. Yes.

3 Q. --- after she got sick with mono, are you also aware that
4 she kept a journal or journals?

5 A. Yes, I ---

6 Q. Do you recognize any of these (indicating) items?

7 A. I do.

8 Q. You recognize this (indicating) that I'm holdin' up
9 that's marked as a weekly calendar?

10 A. Yes, I do.

11 Q. Alright, who do they belong to?

12 A. That's **Minor**

13 Q. And do you recognize what I'm holdin' up to be some sort
14 of journal?

15 A. Yes.

16 Q. And what's the title of this journal?

17 A. **Minor** and BFF's journal.

18 Q. Okay, can you recognize this (indicating)?

19 A. Yes.

20 Q. Recognize it as her handwriting?

21 A. Yes.

22 Q. What's the beginning date on this entry?

23 A. Uh, December ---

24 THE COURT: Uh, ---

25 A. --- the ---

STEPHANIE HORTON - CROSS-EXAMINATION BY MR. BROWN

1 THE COURT: --- excuse me just a minute. Are those
2 marked as exhibits because if they're not she can't be reading
3 from 'em.

4 BY MR. BROWN:

5 Q. Okay. You recognize this (indicating)?

6 A. Yes.

7 Q. Okay. And you also recognize this (indicating)?

8 A. Yes.

9 Q. And who this (indicating) belong to?

10 A. Yes, it's Minor

11 Q. Okay.

12 MR. BROWN: Like to mark this for identification purpose
13 at this time.

14 (Journals marked Defendant's Exhibit Nos. 2, 3 and 4 for
15 identification.)

16 BY MR. BROWN:

17 Q. Hold up what you already identified first one bein'
18 Defendant's Exhibit No. ---

19 A. Yes.

20 Q. --- 2, Defense Exhibit No. 3 and the third Defense
21 Exhibit No. 4, ---

22 A. Yeah.

23 Q. --- you recognize all these?

24 A. Yes, I do.

25 Q. They belong to?

STEPHANIE HORTON - CROSS-EXAMINATION BY MR. BROWN

1 A. Minor

2 MR. BROWN: This time I'd like to offer these to
3 evidence.

4 MS. REESE: Your Honor, uh, I think I now have all the
5 copies that were from yesterday and we're -- we don't have,
6 don't have any objection as long as I have all the copies.

7 THE COURT: Well you need to look at it?

8 MS. REESE: Uh, I looked at them yesterday, Your Honor,
9 and I just asked him to make me copies of these and he has
10 placed them here so I believe I have them now.

11 THE COURT: Okay, they're admitted without objection.

12 (Defendant's Exhibit Nos. 2, 3 and 4, journals, admitted
13 into evidence.)

14 BY MR. BROWN:

15 Q. Durin' this time period and I know you stated least one
16 of 'em began in 2006 is where your daughter kept these
17 journals?

18 A. Yes, I did.

19 Q. And they ran for a time period from 2006 well beyond a
20 time period of these allegations that we're here for today?

21 A. Well I know -- I knew that she kept a journal but as far
22 as daily entries I did not know what she was doin', no.

23 Q. You didn't. So you would agree with me that these
24 journals were kept for her private thoughts.

25 A. Yes.

STEPHANIE HORTON - CROSS-EXAMINATION BY MR. BROWN

1 Q. The date a this last journal entry, this (indicating)
2 one ---

3 A. Was April the 6th ni -- uh, 2009.

4 Q. Okay. Well in terms the -- these journals, uh, did you
5 know that or did your daughter ever express to you her
6 interest in boys?

7 A. Yes.

8 Q. Did she also express to you her desire of goin' to her
9 dad's house?

10 A. At times. -----

11 Q. And would it surprise you that her private thoughts in
12 those journals and particularly durin' the time period January
13 2008 beyond there were two things: seein' her father and the
14 fact that she liked boys, that surprise you?

15 A. No, it doesn't.

16 Q. You you have how many children?

17 A. I'm sorry?

18 Q. You you have how many children?

19 A. I have four.

20 Q. The youngest child that you have ---

21 A. He's two.

22 Q. --- what's his name?

23 A. His name is Noah.

24 Q. Durin' the time period which **Minor** found out that you
25 were pregnant with Noah, how would she act?

STEPHANIE HORTON - CROSS-EXAMINATION BY MR. BROWN

- 1 A. She was happy at first.
- 2 Q. You you say "at first", uh, did that change?
- 3 A. Well I think as a child seein' another baby come into the
- 4 house it's hard and so I think that it was gettin' next to her
- 5 at times but not all the time.
- 6 Q. And that was around what time period?
- 7 A. Uh, around March and April.
- 8 Q. Of what year?
- 9 A. Of '09.
- 10 Q. Okay. And Sammy is who to Minor
- 11 A. She's her sister.
- 12 Q. And in terms of your children bein' at home with you
- 13 durin' that time period, would Sammy be around Minor a lot or
- 14 not so often?
- 15 A. Yes.
- 16 Q. And if they were around each other a lot, Minor go
- 17 outside without Sammy for the most part?
- 18 A. They usually stuck together.
- 19 Q. They stuck together.
- 20 A. Yeah.
- 21 Q. E -- what about even the most simple time of even goin'
- 22 to the bathroom, Sammy allow Minor to to go the bathroom
- 23 without her?
- 24 A. Uh, there were times that Sam would come in on her but
- 25 most of the time they were left alone.

STEPHANIE HORTON - CROSS-EXAMINATION BY MR. BROWN

1 Q. Okay. And for the most part would you say that Sammy and
2 Minor because they were at home together a lot they were
3 often together?

4 A. Yes.

5 Q. Would Sammy wanna be around Minor all the time?

6 A. Yes.

7 Q. Sammy didn't like being away from Minor

8 A. No.

9 Q. You guys did things together as a family?

10 A. Right.

11 Q. And would you agree with me that if you went somewhere,
12 if people were left at home, Sammy and Minor would be
13 together for the most part?

14 A. Yes.

15 Q. You found out that at some point your husband had been
16 looking at pornographic material, ---

17 A. Yes.

18 Q. --- how'd that make you feel?

19 A. Sick to my stomach.

20 Q. You talk to him about him lookin' at this pornographic
21 material and you expressed to him that you really hated
22 this?

23 A. Yes.

24 Q. What was his reaction?

25 A. He told me that he wouldn't look at it anymore.

STEPHANIE HORTON - CROSS-EXAMINATION BY MR. BROWN

1 Q. Prior to this time period of these allegations had you
2 ever had, uh, the occasion of talking to him about watching
3 pornographic material or had ya ever caught him having porn?

4 A. No.

5 Q. So this the first time that you knew that he was lookin'
6 at porn.

7 A. Yes.

8 Q. Are you active in your church?

9 A. No.

10 Q. Not active in your church now?

11 A. No, ---

12 Q. Back ---

13 A. --- not ---

14 Q. --- then?

15 A. Yes, very active.

16 Q. Okay. What were you doing at church back then?

17 A. Uh, we both were Sunday school teachers.

18 Q. How often did you go to church a week?

19 A. Uh, Sunday mornin's, Sunday nights for AWANA and that was
20 for the kids and on Wednesday nights for GA.

21 Q. Okay, so you would agree with me that church was pretty
22 much first opportunity or one of the consistent opportunity
23 that your children would have any chance to be around other
24 kids ---

25 A. Yes.

STEPHANIE HORTON - CROSS-EXAMINATION BY MR. BROWN

1 Q. --- young and old.

2 A. Yes.

3 Q. Okay. When you guys were not goin' to church or you
4 weren't goin' to out to eat as a family, uh, did you watch
5 movies at home?

6 A. Yes.

7 Q. What kind of things would you watch at home as a
8 family?

9 A. Uh, normally cartoons or, uh, the Disney movies.

10 Q. Disney movies, funny movies sometimes, ---

11 A. Yes.

12 Q. --- comedies? Now when you say "Disney movies", things
13 like, I don't know, the Nutty Professor, uh, Dumbo, ---

14 A. Yeah, ---

15 Q. --- just just ---

16 A. --- things a that nature, yes.

17 Q. Oh, okay, just all kinda sorts and stuff that was
18 stagnated for the youngest or the oldest but yours pretty much
19 kept what you watched in your home family-based.

20 A. Right.

21 Q. And you kept your conversations around your your children
22 family-based?

23 A. Oh, yes.

24 Q. Was there a a time period which, uh, you had a discussion
25 with **Minor** about her activity on the computer?

STEPHANIE HORTON - CROSS-EXAMINATION BY MR. BROWN

- 1 A. Yes.
- 2 Q. What kinda discussion was that about?
- 3 A. Uh, Robert had been on the computer and he found that she
- 4 had, she was talkin' to this, uh, in a chat room to someone,
- 5 to a a a guy and I confronted **Minor** about it if she had been
- 6 on the computer in a chat room because she knew that I didn't
- 7 allow that.
- 8 Q. Okay, and what was her first response?
- 9 A. Her first response was no, she had not done that and
- 10 that, uh, she didn't know who that was ---
- 11 Q. Okay.
- 12 A. --- that I was referrin' to.
- 13 Q. Did she eventually change wh -- change what she had to
- 14 say?
- 15 A. It was, uh, like that night we were still up and she come
- 16 to me in tears cryin' and she said, I I'm sorry I lied and she
- 17 was just, uh, very upset about it, about lyin' to me.
- 18 Q. Di di -- so she knew from your conversation with her that
- 19 Rob had found out and found proof that she had been talkin'
- 20 this someone.
- 21 A. Yes.
- 22 Q. You don't know how old that person was?
- 23 A. I have no idea.
- 24 Q. You don't know how often she got on the computer and
- 25 talked to others?

STEPHANIE HORTON - CROSS-EXAMINATION BY MR. BROWN

1 A. No, ---

2 Q. You don't know, ---

3 A. --- I didn't know she was in a chat room at all so I have
4 no idea.

5 Q. --- you don't know what they talked about.

6 A. No.

7 Q. Uh, you didn't go into that level of detail, you just
8 wanted her to stop chatting.

9 A. Yes.

10 Q. You know what chat rooms are used for?

11 MS. REESE: Your Honor, I object.

12 THE COURT: Sustain.

13 BY MR. BROWN:

14 Q. Just know your daughter was in a chat room, at some point
15 got caught.

16 A. Yes.

17 Q. In terms of your family conversation, in terms of what
18 you kept with the confines of family environment, can you say
19 the same thing was occurin' at church when **Minor** wasn't
20 around you or your other kids?

21 A. Yes.

22 Q. You say that when she was in her youth group, uh, you
23 knew it was a family environment and she never had
24 inappropriate conversations with other young people.

25 A. Not to my knowledge.

STEPHANIE HORTON - CROSS-EXAMINATION BY MR. BROWN

1 Q. Would you agree with me that it's possible?

2 A. Yes, ---

3 MS. REESE: Your Honor, I'm gonna object again.

4 THE COURT: Sustain.

5 BY MR. BROWN:

6 Q. You knew what you discuss in your your home, ---

7 A. Yes.

8 Q. --- can't say what other people discuss in their homes,
9 you can't see other people raise their kids.

10 A. No.

11 Q. Have you observed your husband go into a room with **Minor**
12 and close the door behind him?

13 A. No.

14 Q. You observed your husband during nap time take **Minor** off
15 to be with her by himself?

16 A. No.

17 Q. Never observed that?

18 A. No.

19 Q. You observed durin' the nighttime with night kisses this
20 is your hus -- your husband touching **Minor** inappropriate?

21 A. No.

22 Q. You ever observe your husband acting strange or a little
23 different around **Minor**

24 A. No.

25 Q. Does your family use or do you use mouthwash?

STEPHANIE HORTON - CROSS-EXAMINATION BY MR. BROWN

1 A. I normally don't, no.

2 Q. If your husband were to take a shower, would he come out
3 in a towel?

4 MS. REESE: Your Honor, I object to what he would or
5 wouldn't do.

6 THE COURT: Overruled, go ahead.

7 BY MR. BROWN:

8 Q. Your husband wanted to take a shower, would he come out
9 in a towel?

10 A. No, he would not.

11 Q. That wasn't his practice?

12 A. No.

13 Q. Would he come out in a bathrobe? Would he be dressed?

14 A. If he needed to he would but most a the time he would be
15 dressed.

16 Q. So wrappin' a towel around him just that wasn't his
17 normal.

18 A. No.

19 Q. What was the one thing that your husband liked to do when
20 he was at home in particular as it relates to bein' outside?

21 A. The outside usually was his number one place to go, uh,
22 he also liked bein' on the computer.

23 Q. So those two ---

24 A. Other ---

25 (Cross-talk.)

STEPHANIE HORTON - CROSS-EXAMINATION BY MR. BROWN

1 Q. --- places you're guaranteed to find him?

2 A. Yeah.

3 Q. And you spent the time with the children?

4 A. Yes.

5 Q. What would he do outside?

6 A. Uh, mostly yard work.

7 Q. How would you describe the yard where you lived?

8 A. We had very pretty yard, uh, it it was well kept, he was
9 landscapin' and we had a garden at the time.

10 Q. And the landscape would it be a small area that he would
11 mulch or did he do it extensively, did he do a little bit to
12 it or...

13 A. Just a little bit at a time. Usually, uh, his back would
14 not allow him to do a a lotta work at one time.

15 Q. Just before he went back to work durin' the that summer
16 would you observe him to be outside?

17 A. Yes.

18 Q. When he was attempting to get back on his feet or
19 eventually was gettin' back on his feet, was able to go
20 outside, did you look at him out the window at times?

21 A. Yes.

22 Q. Do you ever recall an occasion which he was outside, you
23 even called him on a, on the phone and said, What are you
24 doin', and if you don't, that's fine, I'm I'm just askin'.

25 A. Uh, I'm not sure ---

STEPHANIE HORTON - CROSS-EXAMINATION BY MR. BROWN

1 Q. Okay.

2 A. --- if he was outside.

3 Q. Yes, ma'am. But you observed your husband as tryin' to
4 get back to his normal self outside?

5 A. Yes.

6 Q. With your daughter's learning disability and and prior to
7 allegations involving this case had you ever had your daughter
8 in any form of therapy?

9 A. She took, uh, speech therapy while she was in public
10 school but as far as any kinda therapy after bein'
11 homeschooled, no.

12 Q. Besides speech therapy and prior to these allegations did
13 you have her any other kind of therapy?

14 A. Uh, she had speech therapy and also resource.

15 Q. Okay, and resource dealt with her, uh, learning ---

16 A. Yes.

17 Q. --- disability? And so she would have some form of IEP
18 if we use that that terminology?

19 A. Yes.

20 Q. And there was a need for her to have special education of
21 some sort?

22 A. An hour each day of, uh, one-on-one instruction.

23 Q. Okay. And when she began homeschooling, did you have
24 anyone that would come to the house and ---

25 A. No.

STEPHANIE HORTON - CROSS-EXAMINATION BY MR. BROWN

1 Q. --- assist in terms of any type a resource?

2 A. No.

3 Q. Alright. And by way of your testimony you would say that
4 you pretty much had your homeschoolin' every day began at
5 least 7 or 7:30 in the mornin' up until 11:30 or close to
6 noon?

7 A. Yes.

8 Q. How many breaks would ya'll take in a day?

9 A. Uh, usually just one.

10 Q. Did you know your daughter to be one who would have a a
11 vivid imagination and one to imagine things in particular?

12 A. Not really.

13 Q. Did you ever have any conversation with your daughter
14 about not recalling things correctly or having dreams about
15 things?

16 A. There are times that she does not remember activities
17 that has happened in the past but as far as her makin' things
18 up I don't know.

19 Q. Has your daughter ever confused anything between dreams
20 and if somethin' else has happened or have you ever had that
21 conversation with her?

22 A. No.

23 Q. Okay. So if she ever were to say that to anyone else,
24 you necessarily couldn't dispute that.

25 A. Yes.

STEPHANIE HORTON - CROSS-EXAMINATION BY MR. BROWN

1 Q. So it's possible if she said that, it's possible that
2 that could have been somethin' she was thinkin'?

3 A. Yes.

4 Q. Since these allegations your daughter has been seeing a
5 therapist has that issue as far as you understand come up or
6 been dealt with?

7 A. Not to my knowledge.

8 Q. Are you privy to each and every session and what goes on
9 with your daughter with the people ---

10 A. No, ---

11 Q. --- that she's seein'?

12 A. --- he, uh, gives me updates occasionally but I I stay
13 away for her to get her therapy on her own.

14 Q. Durin' the time period, uh, shortly after these
15 allegations, how long did ya'll live in Spartanburg?

16 A. After the allegations were made, uh, that week, the week
17 of her tellin' me we moved the weekend.

18 Q. Okay. Did you move outta Spartanburg County?

19 A. Yes, we did.

20 Q. And you went to what county?

21 A. We went to Laurens County.

22 Q. Okay. Ya'll stayed there for how long?

23 A. Uh, three years, we're currently there.

24 Q. Okay.

25 MR. BROWN: Your Honor, uh, we believe at this stage

STEPHANIE HORTON - REDIRECT EXAMINATION BY MS. REESE

1 based upon a prior conversation there's a matter of law.

2 THE COURT: Okay, we'll address that at lunch. You you
3 got some -- are you through with your cross-exam?

4 MR. BROWN: Uh, Your Honor, may we approach?

5 (Whereupon, a bench conference was held off the record.)

6 BY MR. BROWN:

7 Q. Please answer any questions that Ms. Reese may have.

8 REDIRECT EXAMINATION BY MS. REESE:

9 Q. Um, after **Minor** was interviewed at the Children's
10 Advocacy Center, uh, did Megan Burrell the detective on the
11 case contact you?

12 A. Yes, she did.

13 Q. And did she come out to your house?

14 A. Yes, she did.

15 Q. And did she ask you for consent to search your home?

16 A. She did.

17 (Permission to search marked State's Exhibit No. 4 for
18 identification.)

19 BY MS. REESE:

20 Q. I'm gonna show you what's been marked as State's Exhibit
21 4 for identification, do you recognize that (indicating)?

22 A. Yes, I do.

23 Q. And is that (indicating) your signature?

24 A. Yes.

25 Q. And did you consent to the search that she wanted to do

STEPHANIE HORTON - REDIRECT EXAMINATION BY MS. REESE

1 of the home?

2 A. Yes.

3 MS. REESE: Your Honor, at this time I'd make a motion
4 to, uh, admit State's Exhibits 4.

5 MR. BROWN: Without objection, Your Honor.

6 THE COURT: It's admitted.

7 (State's Exhibit No. 4, permission to search, admitted
8 into evidence.)

9 BY MS. REESE:

10 Q. Uh, now when Brown was talking to you, you said that, uh,
11 your husband had surgery in November of 2007 back surgery ---

12 A. Yes.

13 Q. --- and there was a recovery period for him when he
14 basically couldn't do anything ---

15 A. Yes.

16 Q. --- and he wo -- could not have sex, is that ---

17 A. Yes.

18 Q. --- uh, and how long was that recovery period?

19 A. I wanna say it was two months, at least eight weeks.

20 Q. So eight weeks. So he would have been through that
21 recovery period in late January 2008?

22 A. Yes.

23 Q. Uh, now I'm unclear, when you were talkin' 'bout **Minor**
24 locking her arms with him, you, I think Mr. Brown asked you
25 when all this came out or after all this, after she disclosed

STEPHANIE HORTON - REDIRECT EXAMINATION BY MS. REESE

1 to you did you go take her out to eat with him?

2 A. That night we did go out to eat.

3 Q. Okay.

4 A. We had to, uh, go to Greenville to make a deposit at the
5 bank ---

6 Q. Okay.

7 A. --- and I told 'em that I needed them to act like nothin'
8 was goin' on and we would deal with it later.

9 Q. Okay. Uh, as to the pornography, uh, you said that he
10 assured you that nothing else was going on after the initial
11 talk you had, is that right, he ---

12 A. Yes.

13 Q. And, uh, did you have that discussion with him several
14 times about pornography?

15 A. Uh, it was just the one time that I can remember.

16 Q. And after that, uh, he assured you that that there was no
17 pornography.

18 A. Yes.

19 Q. When he left the house, did he come back to take several
20 vide, uh, DVDs?

21 A. Yes, he did.

22 Q. And after **Minor** disclosed he admitted to you he had
23 still been watching the pornography.

24 A. Yes.

25 Q. As to the chat room, it's my understanding you confronted

1 **Minor** that day ---

2 A. Yes.

3 Q. --- and she told you initially that she had not been in
4 the chat room, ---

5 A. Yes.

6 Q. --- describe how you found out that she had been in the
7 chat room. Did you continue the conversation with her or did
8 she initiate the second conversation about the chat room?

9 A. She initiated the second conversation.

10 Q. And where were you?

11 A. Uh, we were out on the porch at the time, it was late and
12 she came to me.

13 Q. And what was her demeanor?

14 A. She was very upset, she was shakin', she was cryin' and
15 she said, uh, she told me that she had lied to me, that she
16 had been in those chat rooms.

17 Q. And, uh, had anyone confronted her at that time or is
18 that just something she chose to come to you and tell you?

19 A. She chose to come tell me.

20 Q. Mr., uh, Brown ask you about your intimate relationship
21 with defendant, when you had an intimate relationship with
22 him, what was the nature of that relationship primarily? Was
23 it intercourse? was it oral sex? something else? what was the
24 primary nature of your relationship with him?

25 A. The primary nature was oral sex.

STEPHANIE HORTON - REDIRECT EXAMINATION BY MS. REESE

1 Q. I'm also gonna show you ---

2 (Whereupon, a discussion was held off the record.)

3 (Photographs marked State's Exhibit Nos. 5, 6, 7 and 8
4 for identification.)

5 Q. Let me show you what we marked as State's Exhibit 5, 6, 7
6 and 8 for identification, do you recognize those pictures?

7 A. Yes.

8 Q. And what are those pictures of? What is this, uh,
9 Exhibit, State's Exhibit 5 for identification, what are those
10 pictures of?

11 A. That's the picture of our study.

12 Q. Okay, and is that the computer that we've heard about?

13 A. Yes.

14 Q. Uh, picture 6 what are, what are those pictures?

15 A. That's of the living room and our bedroom.

16 Q. State's Exhibit 7 for identification what are those
17 pictures of?

18 A. Uh, that's our our living room and the front of our house
19 and our mailbox.

20 Q. And State's Exhibit 8 what are those pictures of?

21 A. That is pictures of Josiah's room, pardon me, yeah, all
22 of those were Josiah's room.

23 Q. And are those fair and accurate pic, uh, depictions of
24 the way your house looked at the time when Detective Burrell
25 did the search?

STEPHANIE HORTON - RECROSS-EXAMINATION BY MR. BROWN

1 A. Yes.

2 MS. REESE: Your Honor, at this time we would move to
3 admit as State's Exhibits 5 through 8.

4 MR. BROWN: Without objection, Your Honor.

5 THE COURT: They're admitted.

6 (State's Exhibit Nos. 5, 6, 7 and 8, photographs,
7 admitted into evidence.)

8 MS. REESE: Nothing further, Your Honor.

9 MR. BROWN: Just very brief, Your Honor.

10 RECROSS-EXAMINATION BY MR. BROWN:

11 Q. Said **Minor** came to you later on that night while you and
12 Mr. Horton went out on the the porch, ---

13 A. Right.

14 Q. --- you guys were talkin' about various things, had you
15 had a discussion while you were on that porch about her bein'
16 in that chat room?

17 A. Yes, we actually did.

18 Q. Was **Minor** the kind of person that would let ya'll go off
19 and talk amongst yourselves or would she come sometime and try
20 to eavesdrop?

21 A. She would eavesdrop sometimes.

22 Q. You can't say if she was eavesdroppin' that night or not
23 but eventually she came to you ---

24 A. Yes, sir.

25 Q. --- after she had been confronted about the chat room.

STEPHANIE HORTON - RECROSS-EXAMINATION BY MR. BROWN

1 A. Yes.

2 Q. You mentioned that, uh, you had oral sex with your
3 husband, where would ya have oral sex with your husband?

4 A. In our bedroom.

5 Q. Would you leave the door open?

6 A. There were times if it was real late we would leave the
7 door open.

8 Q. When would you close the door?

9 A. Uh, we normally had a fire goin' in the fireplace in the
10 wintertime and that was about the only time that we would
11 leave the door open just so that we could keep an eye on the
12 fire.

13 Q. You ever have an occasion to think anyone in the home was
14 watching you and your husband at any point having oral sex or
15 sex of any anything?

16 A. Myself no.

17 Q. Okay. Were you ever made aware that ---

18 MS. REESE: Your Honor, I'm gonna object to what she was
19 made aware of, I'm afraid it's hearsay.

20 THE COURT: Sustained unless you can lay some foundation
21 for it.

22 BY MR. BROWN:

23 Q. And in terms of engaging oral sex with your husband, did
24 he ever say to you he thought somebody was watching ---

25 MS. REESE: Your Honor, I object.

STEPHANIE HORTON - RECROSS-EXAMINATION BY MR. BROWN

1 THE COURT: Sustained.

2 BY MR. BROWN:

3 Q. Would you close the door sometimes?

4 A. Yes.

5 Q. Do you know if anyone could have observed you through the
6 door based upon your own experience?

7 A. No.

8 Q. You don't know if someone could?

9 A. If the door was closed then no, they they can't.

10 Q. There would be no cracks in the door, no way for anyone
11 to to look through?

12 A. If the door was closed all the way shut, no.

13 Q. Okay, and you're certain of that?

14 A. Yes.

15 Q. And you also mentioned earlier that the door to the room
16 that **Minor** and Sammy shared was a door that could be closed
17 completely, ---

18 A. Yes.

19 Q. --- you're certain of.

20 A. Yes.

21 Q. Alright. That's all the questions I have.

22 MS. REESE: Nothing further, Your Honor.

23 THE COURT: You may step down.

24 (Whereupon, the witness left the stand.)

25 MS. REESE: Your Honor, at this time would you want me to

STEPHANIE HORTON - RE-CROSS-EXAMINATION BY MR. BROWN

1 call a witness?

2 THE COURT: No, I think we're gonna break for lunch.

3 MS. REESE: Okay.

4 THE COURT: Alright, ladies and gentlemen, we're gonna
5 recess for lunch, keep in mind my caution previously given ya:
6 no discussions about the case with any person not among
7 yourselves, no investigation, no research, no exposure to
8 media coverage. Have a good lunch, please report directly to
9 your jury room at 2:30, at 2:30 this afternoon, please be
10 prompt.

11 (The following takes place outside the presence of the
12 jury.)

13 THE COURT: Uh, Ms. Horton, I need you to retake the
14 stand, please, Mr. Brown's gonna ask some additional
15 questions.

16 (Whereupon, the witness returned to the stand.)

17 THE COURT: You're still under oath of course.

18 (Whereupon, a discussion was held off the record.)

19 THE COURT: Alright, Mr. Brown, you wish to make a
20 proffer?

21 MR. BROWN: Yes, Your Honor, uh, based upon having that
22 the ability have a conversation with Ms. Horton there's
23 testimony that we would like to have the possibility get into
24 as relates to past learned behavior potentially of Ms. Minor
25 [REDACTED].

STEPHANIE HORTON (IN CAMERA) - DIRECT EXAMINATION BY MR. BROWN

1 THE COURT: Alright, go ahead and make your proffer.

2 MR. BROWN: Okay.

3 DIRECT EXAMINATION BY MR. BROWN:

4 Q. Ms. Horton, we had a chance to speak briefly in the hall
5 but again, along the lines of the question I asked you earlier
6 in front of the jury, you testified earlier that when **Minor**
7 would come back from her father's house how was she acting?

8 A. She was very ill will, she, uh, was cranky and moody.
9 There were times she would cry and a lotta times she would
10 come home and and she would be sick to her stomach or some
11 kinda, she would be sick somehow.

12 Q. And how long had that that occurred?

13 A. Uh, just about every time she would go.

14 Q. And had that occurred since 2000, 2001, 2002, 2003 up
15 until ---

16 A. Yes.

17 Q. What about prior to that?

18 A. Even prior to that he, uh, started havin' her at three
19 yea -- when she was 3-years-old and he would take her for the
20 day and then eventually it was every other weekend ---

21 Q. Okay.

22 A. --- and as time went on it just kept gettin' worse.

23 Q. So as time went on it kept gettin' worse. Durin' this
24 time period, was he involved with someone or married to
25 someone?

STEPHANIE HORTON (IN CAMERA) - DIRECT EXAMINATION BY MR. BROWN

1 A. Early on no. Uh, when Minor was 5 he did get married.

2 Q. And in particular as it relates to the age of 5, who was
3 he married to?

4 A. Uh, it's Stacey Fowler, I don't know her maiden name.

5 Q. Did you ever have a conversation with your -- with Chad
6 about Stacey?

7 A. Yes, I have.

8 Q. What was that conversation about?

9 A. Uh, I had caught Minor masturbating and she told me that
10 it was okay, that Stacey did it, and so I did confront Chad
11 about that and he denied everything and said that no that
12 he -- she didn't get it from her.

13 Q. Okay, this is somethin' that Minor directly relayed to
14 you?

15 A. Yes.

16 Q. And was this along the same time or period what you saw
17 when she returned home that she was havin' some kinda physical
18 episodes?

19 A. Yes.

20 Q. And what kinda physical episodes were they?

21 A. Uh, that she she was late potty trainin' and so when she
22 would come, when she would come back, she would, uh, wet the
23 bed, she would wet her panties and there were even occasions
24 where she soiled herself.

25 Q. Would that be normal if she was in the home with you?

STEPHANIE HORTON (IN CAMERA) - DIRECT EXAMINATION BY MR. BROWN

1 A. No, that was very abnormal. I would get her to the point
2 where she was fine for the two weeks, she wasn't havin'
3 accidents at all at home or at school and then she would go to
4 his house and it would start all over.

5 Q. Okay, so that cause you concern?

6 A. That caused great concern.

7 Q. And that caused one a the conversation that you had in
8 regards to what was goin' on?

9 A. Yes.

10 Q. Did you ever have a direct conversation with him about
11 his wife at that point after ---

12 A. I ---

13 Q. --- that?

14 A. --- I confronted him the first time but no, not after
15 that.

16 Q. And she kept goin' over his house after that?

17 A. Yes.

18 Q. Okay. Uh, did you see any other signs of anything
19 else?

20 A. She would just little gestures and things that she would
21 say, uh, there was at one point she said that people over at
22 her daddy's house walked around naked ---

23 Q. Okay.

24 A. --- or they they would sleep naked and it was just little
25 signs like that.

STEPHANIE HORTON (IN CAMERA) - DIRECT EXAMINATION BY MR. BROWN

1 Q. And you didn't know exactly what sleepin' naked could
2 be?

3 A. No, I had no idea. I mean, I I was puttin' it off that
4 maybe she was watchin' a movie and she saw it ---

5 Q. Okay, mean that ---

6 A. --- and she continued to wanna go over there, she wanted
7 her daddy so...

8 Q. So you didn't stand in the way of that.

9 A. I I didn't know really what to do.

10 Q. At some point after the allegations were made, did you
11 have a a chance to speak with someone regards to anything
12 involving Chad and his ex-wife or wife?

13 A. Yes, my, uh, I had my interview with Lynn at the CAC,
14 then, uh, Yolanda Brown I think was her last na -- Yolanda was
15 her first name, she was the investigator for DSS in
16 Spartanburg County, she was there as well as Lynn, and, uh,
17 they had pulled from the file that there was actually a DSS
18 report done in Greenville County, uh, but it was not founded,
19 someone obviously looked into it but then they they didn't
20 find a reason why they should investigate.

21 Q. And as far as you know who's name was attached to that?

22 THE COURT: Well ---

23 A. It was ---

24 Q. Alright.

25 A. --- anonymous.

STEPHANIE HORTON (IN CAMERA) - DIRECT EXAMINATION BY MR. BROWN

1 THE COURT: Alright, well now she can't testify except to
2 things that are within her knowledge.

3 MR. BROWN: Okay.

4 THE COURT: You might have other witnesses but the the
5 proffer's got to be still something that's admissible.

6 BY MR. BROWN:

7 Q. And as far as you know, did that report relate to any
8 kind of allegation of abuse involvin' **Minor**

9 THE COURT: If you know of your own personal
10 knowledge, ---

11 Q. As far as you know?

12 THE COURT: --- you've seen the report or you helped
13 prepare the report.

14 A. I did not have a chance to read the report, I was told
15 about it.

16 BY MR. BROWN:

17 Q. Okay, and you you had conversations about that report.

18 A. Yes, we -- I talked with Megan and I was very clear and
19 told her I had no idea who would have, uh, filed the report,
20 that she kinda skimmed over it with me and then she, uh,
21 immediately got back to the case at hand.

22 Q. Okay. And in skimming that report that related to
23 **Minor**

24 A. Yes, it was related to **Minor**

25 Q. Okay. And how old would **Minor** would have been based

STEPHANIE HORTON (IN CAMERA) - CROSS-EXAMINATION BY MS. REESE

1 upon that report based upon how much ---

2 (Cross-talk.)

3 A. I honestly don't know. I don't know the date on the ---

4 Q. Alright.

5 A. --- report.

6 Q. In your conversations with anyone, did anyone ever tell
7 you that that was related to this case or coulda been related
8 to this case?

9 MS. REESE: Your Honor, I ---

10 THE COURT: Well that would be hearsay.

11 MR. BROWN: That's all the questions I have.

12 MS. REESE: Your Honor, ---

13 THE COURT: You wanna ask her somethin'?

14 CROSS-EXAMINATION BY MS. REESE:

15 Q. --- uh, I was just gonna ask her if **Minor** other than
16 this with the defendant has she ever reported sexual abuse to
17 you?

18 A. No.

19 MS. REESE: That's all.

20 THE COURT: Okay, thank you, you may step down.

21 (Whereupon, the witness left the stand.)

22 THE COURT: Uh, is there an objection to the additional
23 testimony?

24 MR. BROWN: Yes, sir.

25 MS. REESE: Yes, Your Honor, there is. Your Honor, we

MOTIONS AND MATTERS

1 don't believe it's relevant, it's certainly not about false
2 allegation or or prior allegation of *Boiter* and certainly we
3 don't believe relevant. Uh, this would've been, uh, a report,
4 uh, she was roughly 4-years-old, uh, no clear allegation
5 unfounded report and it has no bearing or no relevance to the
6 allegations here.

7 MR. BROWN: Your Honor, outside of the direct report that
8 was written by DSS that stated that this report is directly
9 related, uh, to this case, uh, in terms this information being
10 shared at some point with Ms. Horton, uh, coupled with
11 activities that have been alleged by Ms. Horton to have been
12 known over a series of years. Even though it may seem strange
13 to some, uh, it would be our argument, uh, contention that
14 this is directly related, uh, based upon, uh, the number of
15 years have gone by in terms of the observed behavior of **Minor**
16 in terms of returning from her father's home and of course at
17 some point this information being shared think it's it's
18 relevant and should come in.

19 THE COURT: Alright, well there may be other testimony or
20 evidence to be, uh, elicited durin' the course of this trial
21 that might in some way make this testimony relevant to that
22 issue but at this point I don't see it so the objection is
23 sustained for now.

24 MR. BROWN: Yes, sir.

25 THE COURT: Alright, court is in recess until 2:30.

MEGAN BURRELL - DIRECT EXAMINATION BY MS. REESE

1 (Whereupon, a recess was taken.)

2 THE COURT: We ready for the jury?

3 MS. REESE: Uh, ---

4 THE COURT: Where's Mr. Brown?

5 THE DEFENDANT: I'm not sure, Your Honor.

6 MS. REESE: I don't think he's back.

7 (Pause.)

8 (Whereupon, the defense attorney returned to the
9 courtroom.)

10 THE COURT: Ya'll need to synchronize your watches so you
11 get the right time. Bring the jury in, please.

12 (The following takes place in the presence of the jury.)

13 THE COURT: Uh, good afternoon, ladies and gentlemen,
14 we're going to continue with the State's presentation.

15 MS. REESE: Your Honor, the State calls Officer Megan
16 Burrell.

17 THE CLERK: Please raise your right hand.

18 MEGAN BURRELL, having been
19 first duly sworn, testified as follows:

20 THE CLERK: Thank you, you may be seated.

21 DIRECT EXAMINATION BY MS. REESE:

22 Q. Can you state your name for the jury, please.

23 A. Megan Burrell.

24 Q. And where are you employed?

25 A. With Spartanburg County Sheriff's Office.

MEGAN BURRELL - DIRECT EXAMINATION BY MS. REESE

1 Q. And, uh, did you have occasion to investigate, uh, a case
2 involving the defendant Robert Horton?

3 A. I did.

4 Q. And how did you become involved in that case initially?

5 A. I received a phone call from the Children's Advocacy
6 Center indicating that, uh, Stephanie had contacted them
7 regarding some allegations and at that time I contacted, uh,
8 Ms. Horton.

9 Q. Uh, did you, you can't tell me what she said, but did you
10 speak with Ms. Horton?

11 A. I did.

12 Q. And, uh, what was her demeanor or mental state at the
13 time that you spoke with her?

14 A. Uh, very upset, very, just kinda disheveled, not really
15 exactly understanding what was goin' on, wanting to know what
16 the the next couple steps would need to be.

17 Q. Uh, at that time did you obtain a letter from Ms. Horton
18 that she said **Minor** had written to her?

19 A. I did.

20 Q. And is that (indicating) the letter that we marked
21 yesterday as State's Exhibit 1?

22 A. Yes.

23 Q. And, uh, what did you do with that letter?

24 A. Uh, I placed that letter letter into evidence.

25 Q. After you took that evidence, uh, did you in fact speak

MEGAN BURRELL - DIRECT EXAMINATION BY MS. REESE

1 with Minor

2 A. I did not.

3 Q. Uh, and why did you not speak with her initially?

4 A. Because on all the cases that I work dealing with child
5 victims we refer them to the Children's Advocacy Center, uh,
6 to be interviewed or spoken with about their allegations, uh,
7 those are licensed and trained professionals so I do not
8 interview with children.

9 Q. Uh, did you ever interview Minor about this?

10 A. I did not.

11 Q. Did you ever take her through her home?

12 A. I did not.

13 Q. Did you ever have her show you any area in the home?

14 A. I did not.

15 Q. Uh, did you in fact speak with someone, again you can't
16 tell me what they said, but did you speak with someone from
17 the chil -- Children's Advocacy Center?

18 A. Yes.

19 Q. And did you get, uh, a report from them about her
20 allegations?

21 A. Yes, I did.

22 Q. And based on the information you received did you decide
23 that there was anything that you might be able to do to
24 investigate this case forensically?

25 A. I did.

MEGAN BURRELL - DIRECT EXAMINATION BY MS. REESE

1 Q. And, uh, what did you do at that point?

2 A. Based on the information that I received from the
3 Children's Advocacy Center it was indicated that one of the
4 incidents that had occurred with **Minor** occurred in the closet
5 of her bedroom and at that time I determined that there would
6 be something to investigate forensically further, uh, being
7 that the defendant was alleged to have ejaculated in the
8 closet of her bedroom and that when he ejaculated, uh, that
9 his semen hit the floor and I determined that maybe I would be
10 able to possibly gather that for DNA purposes.

11 Q. And did you in fact at that time go to the house where
12 the, uh, Horton's lived?

13 A. I did.

14 Q. And I show you State's Exhibit 4, uh, what is that
15 (indicating)?

16 A. That is a consent to search or permission to search, uh,
17 form for, uh, Spartanburg County Sheriff's Office.

18 Q. Uh, at the time that, uh, you took that permission to
19 search, t -- well tell me who who filled that out?

20 A. I did.

21 Q. And who did you speak to in regard to getting permission
22 to search?

23 A. To Stephanie Horton.

24 Q. And she lived there at the time?

25 A. She did.

MEGAN BURRELL - DIRECT EXAMINATION BY MS. REESE

1 Q. And, uh, after you obtained that consent to search did
2 you in fact go to search that area ---

3 A. Yeah, ---

4 Q. --- yourself?

5 A. --- I did.

6 Q. And did you take anyone else with you?

7 A. I did. At that time I called, uh, one of our ID officers
8 David Horton -- David Hogsed, excuse me, uh, uh, to the scene
9 to assist me with that.

10 Q. And, uh, that was all p -- with the permission of
11 Stephanie Horton.

12 A. Yes, once she signed the consents.

13 Q. Uh, at the time that you entered the bedroom, **Minor**
14 bedroom and then her closet, ---

15 A. Um-hum.

16 Q. --- uh, did you look at the floor?

17 A. I did.

18 Q. And could you visibly see anything with the naked eye?

19 A. No, you could not see anything with the naked eye.

20 Q. Uh, at that point were you present when Officer Hogsed
21 performed any kind of test on or, uh, looked for anything on
22 the floor of the closet?

23 A. I was.

24 Q. And, uh, what did he do, if you remember?

25 A. Uh, I don't know the fancy terminology for it but

MEGAN BURRELL - DIRECT EXAMINATION BY MS. REESE

1 basically he takes a light and shines it onto the carpet of
2 the floor, uh, that gives a a an indication that something was
3 there.

4 Q. And did he in fact get an indication that some something
5 was there that you couldn't see with the naked eye?

6 A. He did.

7 Q. Uh, after he did that were you present when he did a
8 presumptive test?

9 A. I was.

10 Q. And after the presumptive test, uh, did he in fact make a
11 determination about whether or not to take any evidence from
12 the closet?

13 A. Yes, the presumptive test at that time te -- was
14 positive, uh, so we did at that time take a sample of the
15 carpet where the positive test was.

16 Q. Uh, once you took that test or took that, uh, that
17 information and that evidence did, uh, did you take custody of
18 that or did did Officer Hogsed take custody of that?

19 A. Of the carpet?

20 Q. Yes.

21 A. He did.

22 Q. Uh, and that was done in your presence?

23 A. Yes.

24 Q. After you got that evidence did you in fact obtain a
25 search warrant?

MEGAN BURRELL - DIRECT EXAMINATION BY MS. REESE

1 A. I did.

2 Q. And what was that search warrant for?

3 A. The search warrant was, uh, an attempt to seek the DNA of
4 the defendant in order to compare that with what we believe
5 was DNA on the carpet.

6 Q. And did you in fact, uh, get that, uh, search warrant?

7 A. I did.

8 Q. And did you in fact take the defendant's DNA?

9 A. Yes, I did.

10 Q. Uh, and where did that happen?

11 A. That was at the sheriff's office. I contacted him and
12 asked him to come to the sheriff's office to do that.

13 Q. Alright, and pursuant to that search warrant you did
14 retrieve that evidence or someone did?

15 A. Yes.

16 Q. Uh, now tell me how, and and I know you don't know the
17 technical terminology for it, but how do you retrieve
18 someone's DNA now?

19 A. Um, it's called a "buccal swab" and it's basically a
20 large Q-Tip that you swab the sides, uh, of the cheeks of
21 someone's mouth, uh, and then that's sealed and placed into a
22 a little container.

23 Q. And who did that on the defendant?

24 A. Christopher Durham who is an ID officer with the
25 sheriff's office.

MEGAN BURRELL - DIRECT EXAMINATION BY MS. REESE

1 Q. And after he, uh, took the buccal swab were you
2 personally there when he did it?

3 A. I was.

4 Q. Did you watch him seal the container that he placed it
5 in?

6 A. Yes, I did.

7 Q. And after he sealed the container what, if anything, did
8 you see him do with it?

9 A. He placed it into an evidence bag.

10 Q. Anything else? After he placed into evidence bag what
11 did he do with the evidence bag?

12 A. Oh, he gave it to me.

13 Q. Okay, and I'm gonna show you what's been marked as
14 State's Exhibit 9, ---

15 (Whereupon, a discussion was held off the record.)

16 Q. --- can you identify that (indicating) item?

17 A. Yes, this is the evidence bag that contains the buccal
18 swab from the defendant, uh, ---

19 Q. And what did you do with that item?

20 A. I took this item down to our, uh, to our evidence.

21 Q. And did you break the seal on that at all?

22 A. I did not.

23 Q. And, uh, did you alter with, alter it or tamper with it
24 while it was in your possession?

25 A. I did not.

MEGAN BURRELL - CROSS-EXAMINATION BY MR. BROWN

1 Q. Uh, as the investigative officer in the case, did you
2 ultimately make the decision to send these items to SLED for
3 analysis?

4 A. I did.

5 Q. And other than just briefly sayin' hello to Minor or
6 seeing her, have you ever interviewed her about this case?

7 A. I have not.

8 Q. Nothing further.

9 CROSS-EXAMINATION BY MR. BROWN:

10 Q. Have you interviewed Minor mom?

11 A. I'm sorry?

12 Q. Have you interviewed Minor mom?

13 A. I have.

14 Q. You talked to Minor mom about your initial
15 investigation as relates to this case?

16 A. I did.

17 Q. Did you ever share any personal opinions with Minor
18 mom?

19 A. I can't imagine that at some point I didn't explain to
20 her what I do and why I do it.

21 Q. Did you ever have any personal opinions about how
22 Minor mom should conduct her personal affairs?

23 A. I'm not sure I know what you mean.

24 MS. REESE: I'm gonna object to her personal opinions
25 about how someone should conduct.

MEGAN BURRELL - CROSS-EXAMINATION BY MR. BROWN

1 THE COURT: Sustained.

2 MR. BROWN: Your Honor, I'm askin' based upon her
3 conversations with Ms. Horton what type a conversation did she
4 have directly.

5 THE COURT: Well you can ask her about her discussions
6 but but not about any opinion she may have.

7 BY MR. BROWN:

8 Q. Did you ever discuss with Ms. Horton what she should do
9 with her bank account?

10 A. I probly explained to her the laws of when when people
11 are married. Uh, if I know what I usually say when people are
12 going through divorce-type situations and things like that
13 that in the State of South Carolina when people are married
14 each party has an equal right to the money, yes.

15 Q. Okay, but this wasn't a divorce situation, was it?

16 A. Uh, she asked, she brought that up, we discussed that in
17 the conversation, yes.

18 Q. Okay, and in terms a your discussions with her, did you
19 talk to her directly about her bank account and what she
20 should do with that?

21 A. I can't say for sure I did, I work thirty cases a month
22 and I talk to a lotta people ---

23 Q. Well you do recall ---

24 A. --- so...

25 Q. --- this case 'cause you're here testifyin' about this

MEGAN BURRELL - CROSS-EXAMINATION BY MR. BROWN

1 case, correct?

2 A. I don't recall exactly what I talked to her about, no.

3 Q. Would it been possible that you discussed with her that
4 she should take all the money outta the bank account?

5 A. It's possible.

6 Q. Is that something that you typically advise people to
7 do?

8 A. If I'm asked about certain money situations then I will
9 give.

10 Q. In particular as relates to to her taking all the money
11 outta the bank account, would you have advised her, could it
12 been possible that you advised her take all the money outta
13 bank account so he couldn't get a lawyer?

14 A. No, that's not possible not that he couldn't get a
15 lawyer.

16 Q. Okay, but it is possible that you told her take all the
17 money outta the bank account?

18 A. It's possible.

19 Q. Did you also prepare an incident report as relates to
20 this case?

21 A. Did I prepare an incident report, yes.

22 Q. Yes.

23 MR. BROWN: I can mark this.

24 (Whereupon, a discussion was held off the record.)

25 (Incident report marked Defendant's Exhibit No. 5 for

MEGAN BURRELL - CROSS-EXAMINATION BY MR. BROWN

1 identification.)

2 BY MR. BROWN:

3 Q. Gonna show you what's been marked as Defense Exhibit
4 No. 5, are you familiar with that (indicating) document?

5 A. I am.

6 Q. Uh, could you describe for the jury what that document
7 is.

8 A. This is an incident report that is generated by the
9 Spartanburg County Sheriff's Office, it was actually written
10 by me regarding the allegations of Minor

11 Q. Okay, and the first sheet in terms of the narrative
12 describes what?

13 A. Just the basic allegations.

14 Q. Okay, and in particular in the information that you've
15 shared with the jury could you read the second page.

16 A. You want me to read it in its ---

17 Q. Yes, ma'am.

18 A. --- entirety? "The victim was seen at the Children's
19 Advocacy Center on May 8th 2009 and May 14th 2009 for forensic
20 evaluation. The victim gave a clear disclosure of sexual
21 abuse by the suspect her stepfather. The victim disclosed
22 that the su -- suspect digitally penetrated her genital area
23 on multiple occasions, she also disclosed mutual oral sex and
24 rubbing of the genitals. The victim disclosed that one
25 incident occurred in her bedroom closet and that when the

MEGAN BURRELL - CROSS-EXAMINATION BY MR. BROWN

1 suspect ejaculated the semen dripped onto the carpet. The
2 suspect wiped up the semen with a sock. The victim also
3 disclosed that one of the incidents of mutual oral sex and
4 rubbing of the genitals occurred at the suspect's parents'
5 residence which is located at [REDACTED], Boiling
6 Springs, South Carolina. The most recent incident occurred at
7 her residence on May 2nd 2009 and the victim disclosed penile
8 oral penetration and disclosed that he suggested adult
9 relations," that's in quotes, "the victim then disclosed to
10 her mother who is the complainant about the sexual abuse
11 through a written note."

12 Q. Okay, and that's your report.

13 A. That's my initial incident report, yes.

14 Q. And what is in this report as you read that's different
15 than what we've heard in this courtroom thus far?

16 A. I don't know.

17 THE COURT: Well ---

18 MS. REESE: Your Honor, I would object to him pitting
19 witnesses if that's what he's asking her to do.

20 THE COURT: Sustained.

21 BY MR. BROWN:

22 Q. Did you read in this report any information as relates to
23 digital penetration?

24 A. I did.

25 Q. Okay. What do you understand digital penetration to

MEGAN BURRELL - CROSS-EXAMINATION BY MR. BROWN

1 be?

2 A. The use of a digit to penetrate.

3 Q. And a digit is what?

4 A. A finger.

5 Q. What do you deem to be penile penetration?

6 A. The use of a penis to penetrate.

7 Q. Okay, and this is report that you initially took.

8 A. That's correct.

9 Q. And the date on this is?

10 A. May the 7th 2009.

11 MR. BROWN: Like to move this into evidence at this time.

12 MS. REESE: Your Honor, I think ---

13 MR. BROWN: Well based ---

14 MS. REESE: (Cross-talk.)

15 MR. BROWN: --- upon she's testified ---

16 MS. REESE: (Cross-talk... object to that, I don't think
17 it comes into evidence. It's her hearsay from the vic --
18 Children's Advocacy Center and she's, uh, ---

19 THE COURT: Sustained.

20 MR. BROWN: Your Honor, I I I would ---

21 THE COURT: She has testified to it and you can examine
22 her if she's testified to somethin' that's not consistent or
23 she can use it to refresh her memory if need be.

24 MR. BROWN: Well that that's why presented it to her but
25 it's a part of her official report too you know.

MEGAN BURRELL - CROSS-EXAMINATION BY MR. BROWN

1 THE COURT: I understand, I ---

2 MR. BROWN: Yes.

3 THE COURT: --- sustain the objection.

4 MR. BROWN: Yes, sir. Yes, sir.

5 BY MR. BROWN:

6 Q. You also stated that you went to the the residence with
7 at least a few officers ---

8 A. Yes, one officer.

9 Q. --- and you observed what was occurring in terms of any
10 type of search?

11 A. That's correct.

12 Q. In particular as relates to the residence, what rooms did
13 you go into?

14 A. Well I specifically went into Minor bedroom into the
15 closet.

16 Q. And it's your testimony here today that you didn't go
17 into any other rooms in -- of that home?

18 A. I can't be sure that I did not go into other rooms of the
19 home, my specific search was to be the closet of Minor
20 bedroom.

21 Q. And just only that that closet.

22 A. Yes, but my consent to search includes the entire
23 house.

24 Q. Okay, alright. The the way in which you described
25 getting a search warrant for the purposes of getting DNA

MEGAN BURRELL - CROSS-EXAMINATION BY MR. BROWN

1 evidence from Mr. Horton and him ultimately coming down to see
2 you, that's not exactly the way it happened, is it?

3 A. I don't know what you mean.

4 Q. It -- was there anyone else there with Mr. Horton?

5 A. You you were there.

6 Q. Had anyone made contact with your office in terms of
7 arranging for Mr. Horton to to come see you?

8 A. I contacted you indicating that I had a search warrant.

9 Q. Okay, and we came down willingly?

10 A. After the first search warrant expired, yes.

11 Q. And that's based upon scheduling with my office, ---

12 A. That's what I was told, yes.

13 Q. --- nothing to do with Mr. Horton.

14 A. I I don't know, I didn't speak with him.

15 Q. When you came down, when we came down and you saw
16 Mr. Horton, did he hesitate in terms of giving you ability do
17 swab?

18 A. I don't recall, I don't remember the exact moment that
19 that happened.

20 Q. But you got that swab.

21 A. I did.

22 Q. He he he complied.

23 A. I had a search warrant.

24 Q. But he complied.

25 A. He did.

MEGAN BURRELL - CROSS-EXAMINATION BY MR. BROWN

1 Q. You obtained that. Did you ever get a swab from anyone
2 else that's associated with this case?

3 A. I did not.

4 Q. You understand the underlyin' allegations at the time
5 which you received information from the Children's Advocacy
6 Center?

7 A. Yes.

8 Q. You ever seek to get a swab from Minor

9 A. No.

10 Q. Didn't think that was important?

11 A. I guess not.

12 Q. Would it have had bearin' on the case if you had got a
13 swab from her based upon your investigation?

14 A. I don't believe so.

15 Q. You don't believe so because you didn't do it, right?

16 A. I just don't believe so.

17 Q. But you didn't do it, did you?

18 A. I did not.

19 Q. And any DNA that you found in that home only related to
20 one person.

21 A. In the closet of the bedroom, yes.

22 Q. And you understand the underlyin' allegations in this
23 case involves oral and from what you read your report penile
24 penetration?

25 A. Yes.

MEGAN BURRELL - CROSS-EXAMINATION BY MR. BROWN

1 Q. How many times have you talked with Ms. Horton?

2 A. Stephanie?

3 Q. Yes.

4 A. Several, multiple, I don't know exactly.

5 Q. Okay, and based upon your multiple conversations would
6 you gain new information each and every time you talked to
7 her?

8 A. Gain new information in what regard?

9 Q. About this case.

10 A. I'm sure on certain conversations I would, I can't say
11 that every time I spoke with her there was something new I
12 would learn.

13 Q. What would be the purpose you speaking Ms. Horton so many
14 times as relates to this case?

15 A. To let her know where -- what the status of the case was,
16 where we stood, what was going on, what was gonna happen next,
17 just to keep her advised of the situation.

18 Q. Do you know if Ms. Horton would have had contact with the
19 solicitor's office to obtain that same information?

20 A. After Mr. Horton was arrested, yes.

21 Q. And Mr. Horton was arrested when?

22 A. I don't know.

23 Q. Okay. On that day that we came to to give a swab, how
24 long after the swab bein' taken was Mr. Horton arrested?

25 A. I honestly can't recall without lookin' at the date of

MEGAN BURRELL - CROSS-EXAMINATION BY MR. BROWN

1 the arrest warrant, it may have been the same day but I I
2 don't know.

3 Q. Do you recall on that day in which we came down, in fact,
4 at some point you allow Mr. Horton to travel to the detention
5 facility and turn himself in based upon the fact that you just
6 did that swab?

7 A. It -- I I remember he turned himself in, I did not recall
8 that it was exactly right after that.

9 Q. So you can't, you can't disagree with me at this point.

10 A. No, I can't disagree with you.

11 Q. And he did turn himself in.

12 A. I have that recollection, yes.

13 Q. Okay, and so outside of that would you agree with me that
14 it wouldn't take multiple conversations to get that type
15 information to Ms. Horton?

16 A. I don't -- I understand exactly what your point is but I
17 speak to usually the victim's parents or whoever is the person
18 I am dealing with the allegations multiple times just to
19 assure them ---

20 Q. Okay.

21 A. --- that the process is going smoothly and that they know
22 what's going on.

23 Q. And you work with the solicitor's office in regards to
24 these type a cases?

25 A. Yes, I do.

MEGAN BURRELL - CROSS-EXAMINATION BY MR. BROWN

1 Q. Are you familiar that they have a a victim's advocate
2 that works with individuals?

3 A. I am.

4 Q. You -- are you familiar with the victim's advocates
5 role?

6 A. To assist the victims.

7 Q. And particular as relates to information as relates to
8 any suspect that is taken into custody and arrested, do you
9 have any direct knowledge as relates to what a victim
10 advoca -- advocate can do?

11 A. I don't.

12 Q. Is there any type of particular forms based upon your
13 experience as a member of law enforcement that discloses and
14 gives the ability of an officer to contact the family?

15 A. A form?

16 Q. Yes.

17 A. Yes, a victim's notification ---

18 Q. Okay.

19 A. --- sheet.

20 Q. Do you know if that same information is shared with
21 solicitor's office at the time which the arrest has
22 occurred?

23 A. They get the entire case file.

24 Q. So it's very possible indeed that a victim's advocate can
25 contact the family.

MEGAN BURRELL - CROSS-EXAMINATION BY MR. BROWN

1 A. I'm sure that they can.

2 Q. Outside of contacting the family which would be second
3 conversation what would be the need to talk to Ms. Horton
4 again?

5 A. I just said to keep her advised of the situation.

6 Q. Okay, and outside of keepin' her advised as you say here
7 today would there be any other needs to have conversations
8 with her?

9 A. When you work sex crimes and you're dealing with young
10 victims, you want, if you have a passion about these cases
11 then you want to continue to follow up to make sure
12 everything's going okay and there's nothing that I can do as
13 law enforcement to assist them, that is probly why I kept
14 calling her as you say I did. I don't ---

15 Q. No, I I asked, I didn't say you did. I asked you ---

16 A. Oh, um, ---

17 Q. --- what did you do and you say ---

18 A. --- I ---

19 Q. --- talk ---

20 A. --- I ---

21 Q. --- to her.

22 A. --- multiple times.

23 Q. Okay. Now outside of your passion, understanding that
24 you're a member of law enforcement, would there be any other
25 need for you to contact Ms. Horton about this case?

MEGAN BURRELL - CROSS-EXAMINATION BY MR. BROWN

1 A. Not outside of law enforcement, no.

2 Q. And in terms of contactin' her multiple times, would you
3 have provided your own type of advice or information to her?

4 A. I'm sorry, can you repeat that.

5 Q. In contacting her multiple times, ---

6 A. Um-hum.

7 Q. --- understanding your passion, would have provided any
8 type of personal advice to Ms. Horton in your conversations
9 with her?

10 A. I don't know because I don't recall exac -- I mean, this
11 case is three years old so I don't recall exact conversations
12 that I had with her.

13 Q. Based upon your experience as a law enforcement officer
14 and as you say you worked a number of these cases, would it be
15 your practice to contact someone several times and talk to
16 them about personal things?

17 A. No.

18 Q. Did you ever follow up with the Children's Advocacy
19 Center in regards to this case?

20 A. Follow up?

21 Q. Yes.

22 A. Speaking to them about this case, yes.

23 Q. Yes. Multiple times?

24 A. I'm sure.

25 Q. You're sure?

MEGAN BURRELL - CROSS-EXAMINATION BY MR. BROWN

1 A. There were multiple interviews, therefore I'm sure I
2 spoke to them multiple times after each interview to gain the
3 information from the interview.

4 Q. I'm sorry just for the point of clarity when you say
5 "multiple interviews", what are you referring to?

6 A. **Minor** was seen multiple times at the Children's Advocacy
7 Center for a forensic interview.

8 Q. Okay. And when you say "multiple", do you mean three
9 times, four times, five times?

10 A. I think she was seen twice initially but I am not sure.

11 Q. But you would have kept in contact with that center in
12 regards to any interview she had.

13 A. Yes.

14 Q. So you would agree with me that twice is not several
15 times or multiple times.

16 A. Okay.

17 Q. Is it always your pattern and practice to seek, obtain a
18 swab outside a gainin' information from defendant or the
19 potential thereof based upon your law enforcement
20 experience?

21 MS. REESE: Your Honor, may we approach?

22 THE COURT: Okay.

23 (Whereupon, a bench conference was held off the record.)

24 BY MR. BROWN:

25 Q. As a part of your investigation, have you had a chance to

MEGAN BURRELL - REDIRECT EXAMINATION BY MS. REESE

1 observe, uh, the interviews involving Ms. Minor

2 A. The forensic interviews?

3 Q. Yes.

4 A. I have not observed them tape.

5 Q. Is that typical in terms of your investigation practice
6 in following up on cases?

7 A. Yes.

8 Q. You just don't bother to look at the interviews?

9 A. I get detailed disclosures and s -- forensic summaries
10 that have the information on them.

11 Q. No video watching.

12 A. (The witness nodded in the negative.)

13 Q. That's all the questions I have.

14 REDIRECT EXAMINATION BY MS. REESE:

15 A. Uh, Officer Burrell, in the statement that you or the
16 your report, when you say "penetration", it says penile oral
17 penetration, right?

18 A. I'll refer back, I'm not sure. Yes.

19 Q. So there's not an allegation of anything other than what
20 we refer to as "oral sex" in your report ---

21 A. That's ---

22 Q. --- other than the digital penetration and the rub.

23 A. --- that's correct.

24 Q. Okay. Um, and this information is not information that
25 you obtained from interviewing Minor is that right, ---

MEGAN BURRELL - REDIRECT EXAMINATION BY MS. REESE

1 A. That's correct.

2 Q. --- it's inorma -- information you tain -- obtained from
3 the Children's Advocacy Center.

4 A. That's correct.

5 Q. And, uh, in the normal course of an investigation once
6 you take a report do you routinely keep in contact with the
7 victim's parents?

8 A. Yes.

9 Q. And when does the solicitor's office actually get the
10 case?

11 A. After the arrest is made and the defendant is arrested.

12 Q. And do you sometimes continue the contact? What what's
13 the reason for continuing contact?

14 A. Most of the time, most of the time with the solicitor's
15 office I have that personal contact, they, I'm the first face
16 that they've seen dealing with these allegations, I am the
17 person who has begun the investigation or maybe it was the
18 uniform patrol officer but I am the investigator that's
19 handling that case and so there is usually some form of a
20 relationship at that point in the investigation so I usually
21 keep contact instead of just passing it off and and being done
22 with the case at that point because obviously if they go to
23 trial then once again I'm the face they see.

24 Q. After the initial arrest and your contact initially with
25 the victim's mother, ---

MEGAN BURRELL - RECROSS-EXAMINATION BY MR. BROWN

1 A. Um-hum.

2 Q. --- did you continue to have contact over the last three
3 years?

4 A. Sporadic contact yes but about some other things
5 involving the case, there was some things taken into evidence
6 that were returned, things like that.

7 Q. Okay, so nothing ongoing about your talking about the
8 case since the initial arrest maybe ---

9 A. That ---

10 Q. --- weeks after ---

11 A. --- would be right, that's correct.

12 Q. And the information you have in your report is completely
13 what you understood the representative from the Advocacy
14 Center to tell you.

15 A. That's correct.

16 Q. Nothing.

17 RECROSS-EXAMINATION BY MR. BROWN:

18 Q. Very briefly. And the information that you received in
19 that report led you to seek a warrant at sometime, correct?

20 A. An arrest warrant, yes.

21 Q. Yes.

22 A. Yes.

23 Q. The entirety of what would be your narrative.

24 A. Yes.

25 Q. And you mentioned somethin' about divorce proceedings,

JACK CHRISTOPHER DURHAM - DIRECT EXAMINATION BY MS. REESE

1 what is your understanding in regards to any divorce
2 proceedings at this time?

3 A. I don't know.

4 Q. You you haven't talked with Ms. Horton about that?

5 A. I have not.

6 Q. Initially you did though.

7 A. Initially yes.

8 Q. So you can't disagree with me that there's nothing in
9 regards to any type of divorce proceedings.

10 A. I don't know.

11 Q. Okay. Thank you.

12 MS. REESE: Nothin' further, Your Honor.

13 THE COURT: You may step down.

14 (Whereupon, the witness left the stand.)

15 MS. REESE: State calls Chris Durham.

16 (Whereupon, the witness came forward.)

17 JACK CHRISTOPHER DURHAM,
18 having been first duly sworn, testified as follows:

19 THE CLERK: Thank you, may be seated.

20 DIRECT EXAMINATION BY MS. REESE:

21 Q. Can you state your name.

22 A. I'm Jack Christopher Durham.

23 Q. And where are you employed?

24 A. Spartanburg County Sheriff's Office.

25 Q. And, uh, what is the nature of your duties?

JACK CHRISTOPHER DURHAM - DIRECT EXAMINATION BY MS. REESE

1 A. I'm currently a a school resource officer, uh, workin' at
2 Spartan High right now.

3 Q. And what were you duties in June of 2009?

4 A. I was, uh, in in Criminal Investigation Division.

5 Q. And did you have occasion to be present for the execution
6 of a search warrant involving the defendant?

7 A. Yes.

8 Q. And, uh, did the defendant come to the sheriff's
9 office?

10 A. I believe so.

11 Q. Alright. And, uh, did you take a what we call "buccal
12 swab" from him?

13 A. Yes, ma'am.

14 Q. And can you briefly describe for the jury what is the
15 process for taking a buccal swab.

16 A. Just like the investigator said, uh, you take it from a a
17 a sealed package, uh, 2 huge Q-Tips that are about 6 inches
18 and you rub the inside of the cheeks for about ten seconds and
19 it's a very -- it's not invasive at all.

20 Q. And, uh, once you do that and after you you rub the
21 cheeks, what do you, what did you do with the item or what do
22 you do with the item itself?

23 A. Place the the, uh, buccal swabs into a carton, you seal
24 it and then place it into an evidence envelope and you seal
25 that and on the, on the outside of the envelope you put all

JACK CHRISTOPHER DURHAM - CROSS-EXAMINATION BY MR. BROWN

1 the, uh, detailed information on it.

2 Q. And, uh, did you in fact, uh, do that in this case?

3 A. Yes, ma'am.

4 Q. And did you seal the item there in the presence of
5 Detective Burrell?

6 A. Yes, ma'am.

7 Q. And what did you do with it after you sealed it?

8 A. I gave it to, uh, Detective Burrell.

9 Q. Did you alter it or tamper with it at any time while it
10 was in your possession?

11 A. No, ma'am.

12 Q. Okay, I'm gonna show you what state -- is marked as
13 State's Exhibit 9 for identification, can you tell me whether
14 that is the buccal swab that you took of the defendant.

15 A. Hard to see. It appears to be.

16 Q. And, uh, is that the only, uh, part you had in this
17 case?

18 A. Yes, ma'am.

19 MS. REESE: Nothing further of this witness.

20 CROSS-EXAMINATION BY MR. BROWN:

21 Q. Officer, the only person that you took a swab from in
22 this case ---

23 A. I'm sorry?

24 Q. You only took a swab from one person in this case?

25 A. Yes, sir.

DAVID HOGSED - DIRECT EXAMINATION BY MS. REESE

1 Q. No one else related to this case?

2 A. No, sir, not not not me.

3 Q. You're experienced in terms of taking swabs in these type
4 a cases?

5 A. Yes, sir.

6 Q. And you've taken swabs from alleged victims in these type
7 a cases as well?

8 A. I'm sure I have, I I can't tell ya.

9 Q. You wouldn't know that today for certain?

10 A. Right, but I'm sure I I've taken hundreds a swabs from
11 people and and that's just off the top a my head, see, I don't
12 know if they were victims or or defendants or what.

13 MR. BROWN: That's all the questions I have.

14 THE COURT: You may step down.

15 (Whereupon the witness left the stand.)

16 MS. REESE: State calls David calls David Hogsed.

17 (Whereupon, the witness came forward.)

18 DAVID HOGSED, having been first
19 duly sworn, testified as follows:

20 THE CLERK: Thank you, may be seated.

21 DIRECT EXAMINATION BY MS. REESE:

22 Q. Can you state your name for the jury, please.

23 A. David Hogsed.

24 Q. And, uh, what -- where are you employed?

25 A. Spartanburg County Sheriff's Office.

DAVID HOGSED - DIRECT EXAMINATION BY MS. REESE

1 Q. And what are your duties as an employee of the sheriff's
2 department?

3 A. Uh, I'm assigned to the Crime Scene Unit.

4 Q. And, uh, what does it mean to be assigned to the Crime
5 Scene Unit?

6 A. Well basically any time that one of our patrol officers
7 and/or detectives or any member of of our agency or any agency
8 within Spartanburg County calls statin' that they have a crime
9 scene or, uh, needs assistance from our unit we respond when
10 called for.

11 Q. And, uh, did you have occasion in 2009 to work on a case
12 involving the defendant?

13 A. Uh, yes, I did.

14 Q. And do you remember, uh, what date that was?

15 A. It was, uh, May the 8th 2009.

16 Q. And what location did you respond to that day?

17 A. Um, I received a a phone call from, uh, Investigator
18 Burrell had asked me to meet her at [REDACTED] Road
19 which is in Boilin' Springs area.

20 Q. And, uh, did you get to that residence?

21 A. I did.

22 Q. Do you remember talking to anybody there?

23 A. Uh, at first the only person I spoke with was
24 Investigator Burrell.

25 Q. Uh, at some point, uh, as a part of your investigation,

DAVID HOGSED - DIRECT EXAMINATION BY MS. REESE

1 were you taken to a bedroom?

2 A. Yes, I was.

3 Q. And, uh, were you taken to a closet in the bedroom?

4 A. I was.

5 Q. And, uh, did you in fact or can you describe for me,
6 first of all, just tell me about the layout. As you enter the
7 house, where's this bedroom?

8 A. Uh, as you enter the house, you're in like a living room,
9 uh, dining room slash kitchen area, uh, there's a hallway to
10 the left and when you go down the hallway to the left the
11 bedroom was on the far right.

12 Q. And, uh, who took you back to that bedroom?

13 A. Uh, Investigator Burrell.

14 Q. And do you remember what was in the bedroom?

15 A. Uh, there's two beds, uh, as you stepped in one bed set
16 elongated this (indicating) way, I think there was a small
17 space, another bed set that (indicating) way, there was a pile
18 of girl's clothing to right, several dresser drawers, I mean,
19 I don't remember how everything exactly arranged and then the
20 far left corner of the room was the closet in question.

21 Q. And was this a closet that, uh, there was space in? Was
22 it a a closet that just had clothes or was it a closet you
23 could walk into?

24 A. Uh, you could actually step into the closet. Actually,
25 when you stepped into the closet, uh, immediately to your

DAVID HOGSED - DIRECT EXAMINATION BY MS. REESE

1 right was a wall but to the left you could turn and step, uh,
2 maybe 3 feet or so, uh, into the closet.

3 Q. Let me show you what's already been marked as State's
4 Exhibit 3 and State's Exhibit 2, can you identify those
5 (indicating)?

6 A. Uh, State's Exhibit 3 is a photograph of me facing the
7 closet and just takin' a picture of the closet door and
8 dresser to the left is, uh, State's Exhibit 2 is the floor and
9 it's showin' open space on the floorin' of the closet.

10 (Photographs marked State's Exhibit Nos. 13, 14 and 15
11 for identification.)

12 (Whereupon, a discussion was held off the record.)

13 Q. Let me show you what been marked as State's Exhibit 13,
14 14, 15, can you identify those (indicating)?

15 A. Uh, 13 is is the left side of the closet showin' the
16 things that's on the the from the wall coming back towards the
17 door showin' if there's, uh, uh, stuffed animals, uh, toys,
18 uh, and things such as that; State's Exhibit 14 is an overview
19 of me standing outside a the bedroom showing where I put, uh,
20 scales, photographic scales on the floor showing, uh, where
21 the area fluoresced when I used an alternate light source and
22 15 is basically showin' the floor after I cut the carpet
23 out.

24 Q. And are those complete and accurate depictions of the
25 home or the closet, uh, and the carpet as you saw them that

DAVID HOGSED - DIRECT EXAMINATION BY MS. REESE

1 day?

2 A. Yes, before and after I cut it.

3 MS. REESE: Your Honor, this time I would move to admit
4 State's Exhibit 13, 14 and 15 into evidence.

5 MR. BROWN: Without objection.

6 THE COURT: They're admitted.

7 (State's Exhibit Nos. 13, 14 and 15, photographs,
8 admitted into evidence.)

9 BY MS. REESE:

10 Q. Uh, Officer Hogsed, after you got to the room initially,
11 and you can't tell me what was said, but did you have an
12 indication that you were to go to the closet, the child's
13 closet?

14 A. Yes, I did.

15 Q. And when you went to the closet and you said you you
16 walked in the closet, ---

17 A. Yes, you could step into the closet.

18 Q. --- uh, at that point what was the next thing that you
19 did?

20 A. Well first thing we did was we took overall photographs
21 not only of the bedroom but of the whole house in general.
22 Uh, once photograph was taken and from what I learned from
23 Investigator Burrell, uh, of what I was looking for was in the
24 closet, uh, I use what's called a "Micro Bluemaxx alternate
25 light source" and and basically what we did was we searched

DAVID HOGSED - DIRECT EXAMINATION BY MS. REESE

1 the carpet 'cause you could see nothing with the naked eye.
2 Uh, we we searched the carpet usin' this alternate light
3 source, uh, and basically what that light source does is it
4 will illuminesce (phonetic) or fluoresce, uh, any bodily
5 fluids that may be there.

6 Q. So, uh, did you in fact use that light source?

7 A. I did.

8 Q. And did it indicate that there were bodily fluids in the
9 child's closet?

10 A. Yes, there, indicated actually there was four, uh, four
11 spots on the floor in different locations all in the same area
12 but in actually different locations. Uh, once that was done I
13 got the photographic scales out that you can't see it with the
14 naked eye, uh, used a light source again, found 'em, put the
15 scales down and then took the photographs to show where at on
16 the carpet within within the closet they were.

17 Q. So once you indicated you said that there was a
18 presumptive test.

19 A. Yes, uh, once we finally had the photographs taken I then
20 use what's called an "acid phosptates -- phosphatase test"
21 which is a field test for seminal fluid and basically what it
22 is is we use it, uh, I I can't tell you what it tests, all I
23 can tell you is that it is a field test for us for, uh,
24 seminal fluid, uh, and basically you use sterile water, it
25 comes with a little paper, piece a paper, you wet the water,

DAVID HOGSED - DIRECT EXAMINATION BY MS. REESE

1 you hold it down on the area for about a minute to two
2 minutes, you break and goes in the test, you shake those up,
3 get those mixed up good then you dab the, uh, testing fluid on
4 the paper and if you get a dark purple purple reaction then it
5 it is a positive reaction for seminal fluid and that was
6 observed by myself and Investigator Burrell.

7 Q. Once you saw it was a positive reaction for seminal
8 fluid, what -- you said you already had the scales down and
9 pictures taken, ---

10 A. Yes.

11 Q. --- and so what did you do at that point to secure that
12 evidence?

13 A. Uh, basically cut it out, uh, ya know, based on my
14 experience, and I've been doin' crime scene since 1999, uh,
15 most people question why we cut the area out instead of not
16 just swabbing it, but based on my experience sometimes when
17 you swab car -- carpet you don't get a very good adequate
18 sample, uh, so we then cut the carpet out, uh, I put it in, as
19 soon as I cut it out it went into an evidence envelope or
20 evidence bag, like a paper bag, uh, and it was sealed with
21 evidence tape and I filled out all information on the bag, it
22 went to the sheriff's office and through the sheriff's office
23 it was placed into the evidence room.

24 (Carpet cutting with semen marked State's Exhibit No. 10
25 for identification.)

DAVID HOGSED - DIRECT EXAMINATION BY MS. REESE

1 Q. And I'm going to show you what's been marked as State's
2 Exhibit 10 for identification, can you identify that?

3 A. Yes, this is the bag that, uh, that I used to put the
4 carpet in, ---

5 Q. Uh, ---

6 A. --- the large paper bag.

7 Q. --- and you, did you seal that bag?

8 A. I did.

9 Q. And while it was in your possession did you alter it or
10 tamper it in any way?

11 A. No, once it was put in here (indicating) and sealed with
12 evidence tape we don't open it. Once that's evidence tape
13 goes on it we don't open it.

14 Q. And what did you do with the carpet after you secured it
15 in that bag?

16 A. It was placed into evidence at the sheriff's office.

17 Q. Uh, now in addition to actually going into the carpet or
18 goin' into the closet, did you in fact also go into other
19 areas of the home?

20 A. Well I stepped all the way through the home taking photos
21 of of pretty much the entire residence, uh, that's just
22 procedure for us, uh, and as you go down the hallway, and the
23 hallway's to the left of the front door, first room on the
24 left, uh, was set up like a computer room, maybe a study, I
25 call it a computer room, uh, and I I went in there and took

DAVID HOGSED - DIRECT EXAMINATION BY MS. REESE

1 photographs and actually collected a, uh, computer tower outta
2 that room.

3 Q. And I'm gonna show you what's been marked as State's
4 Exhibits 8, 7, 6 and 5, can you identify what are in those
5 pictures?

6 A. Eight is is a child's room and and I apologize, I I think
7 it's the one directly off the end a the hallway but I'm not
8 sure, uh, got a bed, looks like maybe two mattresses 'cause it
9 has quilts on it, pillows, uh, numerous child's toys,
10 Winnie-the-Pooh, maybe Legos, looks like these was, uh, like a
11 daybed with Mickey Mouse on it, numerous toys, uh, trucks and
12 so forth in the floor; Number 7, uh, first photograph's
13 mailbox showin' the house number that I'm at, second
14 photograph's the fronta the residence and in the next two are
15 right and left of the residence step through the door;
16 No. 6 is just, uh, this layout a the residence, uh, one is
17 showin' a piano and the other tw -- the other three look like
18 the bedroom that was on the right, maybe the master bedroom,
19 the large TV in it, and 5's of the first bedroom on the left
20 showin' the computer, computer desk and and the tower,
21 computer tower.

22 Q. And, uh, these are accurate, uh, depictions of what you
23 found when you went in the residence that day?

24 A. They are.

25 Q. Now when you initially walked into the the child's room

DAVID HOGSED - CROSS-EXAMINATION BY MR. BROWN

1 and walked into the closet, uh, could you by looking at the
2 closet, looking at the carpet, could you tell or could you see
3 anything with the naked eye of evidentiary value?

4 A. I could not.

5 Q. Uh, so it wasn't until you shine the blue light that you,
6 there was an indication that you needed to cut the carpet.

7 A. That's correct.

8 Q. Is that the only part you had in the investigation of
9 this case?

10 A. Yes.

11 Q. Nothing further.

12 CROSS-EXAMINATION BY MR. BROWN:

13 Q. Officer, very briefly did you sh -- shine the blue light
14 anywhere else?

15 A. Uh, actually, yes, I did shine it, uh, the first bed on
16 the left as you step through shined it on that bed the carpet
17 there and into the doorway but did not see anything of a
18 biological evidence used in alternate light source.

19 Q. What about the first room on the left-hand side?

20 A. I did not not.

21 Q. What about the livin' room?

22 A. I did not.

23 Q. What about the back bedroom?

24 A. On the left? on the right?

25 Q. On the opposite end.

DAVID HOGSED - CROSS-EXAMINATION BY MR. BROWN

1 A. The master bedroom?

2 Q. Yes.

3 A. I did not.

4 Q. Anywhere into the kitchen area?

5 A. No, the only place that the alternate light source was
6 used was in, uh, Minor room.

7 Q. You said seminal fluid is what you're looking for, ---

8 A. Bodily ---

9 Q. --- any ---

10 A. --- fluid.

11 Q. --- any semen?

12 A. Well body fluid can be saliva, blood, semen, sweat, both.
13 It was my understanding through the investigation that I was
14 looking for seminal fluid so when this area fluoresced, I did
15 an acid phosphatase test for seminal fluid.

16 Q. Just for seminal fluid, ---

17 A. That's correct.

18 Q. --- not for blood, ---

19 A. No.

20 Q. --- not for sweat.

21 A. No.

22 Q. You're capable a doin' those ty -- uh, in ---

23 (Cross-talk.)

24 A. Not for sweat no. Blood yes, I can do 'em for blood and/
25 or human blood.

ROBERT ROSENBERG - DIRECT EXAMINATION BY MS. REESE

1 Q. Okay, that's all the questions I have.

2 MS. REESE: Nothing further of this witness.

3 THE COURT: You may step down.

4 (Whereupon the witness left the stand.)

5 MS. REESE: Your Honor, may may this witness be excused?

6 THE COURT: He may be.

7 MS. REESE: Your Honor, the State calls Robert Rosenberg.

8 (Whereupon, the witness came forward.)

9 ROBERT ROSENBERG, having been
10 first duly sworn, testified as follows:

11 THE CLERK: Thank you.

12 DIRECT EXAMINATION BY MS. REESE:

13 Q. You state your name for the record, please.

14 A. Robert Rosenberg.

15 Q. And what, uh, where are you employed?

16 A. Do what, ma'am?

17 Q. Where are you employed?

18 A. Currently I'm employed with the Spartanburg County
19 Sheriff's Office.

20 Q. And what are your duties as an employee of that office?

21 A. I'm assigned to the evidence department.

22 Q. And, uh, did you in fact take in evidence regarding or
23 not, I'm sorry, did not take in evidence but, uh, actually
24 transport evidence in regard to this particular case?

25 A. Yes, I did.

ROBERT ROSENBERG - DIRECT EXAMINATION BY MS. REESE

1 Q. Um, I'm going to ask you first to look at what's been
2 marked as State's Exhibit 10 for identification, do you
3 recognize that?

4 A. Yes, ma'am.

5 Q. And, uh, what is that or when did you receive that now?

6 A. I received it, uh, well it was in the sher -- it was in
7 the evidence division, uh, I transported that to SLED, I did
8 not receive it.

9 A. Okay. And, uh, how does that work? Can you briefly
10 describe for the jury how how it works, how the evidence
11 department works.

12 Q. Okay, what officers do is they collect evidence on the
13 scene and they bring it to our office and, uh, if we're open
14 they'll bring it to us and we'll catalog it in the computer,
15 uh, if they -- if we're not open, we have a secured lock key
16 up, secured area that has lockers in it that are secured and a
17 mailbox-type device that's secured with locks also.

18 Q. And in this particular case once an item is placed into
19 the evidence room, uh, what happens in regard to to
20 transporting of it for testing?

21 A. Uh, we receive request to to take evidence to SLED and we
22 received to take, uh, the carpet and the buccal swabs or
23 buccal swab.

24 Q. So in relation specifically to the carpet which you have
25 there in front of you, uh, when did you transport that to

ROBERT ROSENBERG - DIRECT EXAMINATION BY MS. REESE

1 SLED?

2 A. I transported it June 18th 2009 at 7:15 in the mornin'.

3 Q. When did you receive that item for transportation?

4 A. Well, Officer Mullinax had received it previously and it
5 was already in evidence and I just picked it up and took it to
6 SLED.

7 Q. So, uh, when I say you received it, when did you pick it
8 up in an effort to take it?

9 A. Oh, that was the date I read, uh, June 18th 2009 7:15 is
10 when I left to go to SLED.

11 A. So was it in fact in your possession?

12 A. Yes, ma'am.

13 Q. And all the way to SLED?

14 A. Yes.

15 Q. And was the seal, did you, while it was in your
16 possession did you ever break that seal?

17 A. Uh, no I never broke the seal.

18 Q. And did you alter it or tamper with it in any way?

19 A. No, uh, when we get to SLED, SLED puts an additional seal
20 cover our seal, this is the only operation I did to this: I'm
21 to date it and initial it in front of the clerk.

22 Q. And so you sealed the item when it, uh, or you put the,
23 you put that seal on it?

24 A. She put the seal on it, I initialed it and date it
25 showin' that she sealed it.

ROBERT ROSENBERG - DIRECT EXAMINATION BY MS. REESE

1 Q. So it was you did not alter it or tamper with it other
2 than to place that or initial that seal.

3 A. Yes.

4 (Buccal swab marked State's Exhibit No. 9 for
5 identification.)

6 Q. Now I'm gonna show you what's been marked as State's
7 Exhibit 9 for identification, do you recognize that
8 (indicating) item?

9 A. Yes, ma'am.

10 Q. And what is that?

11 A. It is a buccal swab from Robert S. Horton.

12 Q. And, uh, when was that received?

13 A. That was received on June 15th 2009 at 9:30.

14 Q. And who received that item?

15 A. I did.

16 Q. Now when you bring, when someone brings an item to you,
17 uh, and you receive it from the sheriff's office, what do you
18 do with it next, after you receive it what do you do?

19 A. What I, what we do is we, uh, check it and make sure
20 everything's in tact, uh, we don't open it. Uh, we take it
21 and catalog it, enter it in computer and put a bar -- a bar
22 code sticker on it and we secure it, we already had other
23 evidence on this case there and then we just secured it
24 together with the other evidence and it's kept in a secured
25 area, yes.

ROBERT ROSENBERG - CROSS-EXAMINATION BY MR. BROWN

1 Q. So while you had that item did you alter it or tamper
2 with it?

3 A. Uh, no, ma'am.

4 Q. At any point, uh, after you took it, did you, took it in,
5 did you in fact transport that item to SLED as well?

6 A. Yes, I did.

7 Q. And is that the same process you used as you described
8 for the carpet?

9 A. No, it's a little bit different. When I have it, all I
10 have is the envelope, the brown envelope that's sealed on the
11 back and I take it to SLED, they put it in this (indicating)
12 plastic container and they put a heat seal on it and what I
13 have to do after she seals it I have to date it and put my
14 initials on it showin' that she, uh, sealed it.

15 Q. And did that all happen in front of you the putting in
16 the pouch ---

17 A. Yes, ma'am.

18 Q. While it was in your possession did you alter it or
19 tamper with it at all?

20 A. No, I did not.

21 Q. Nothing further.

22 CROSS-EXAMINATION BY MR. BROWN:

23 Q. Just one question: Say you received this personal?

24 A. Yes, sir.

25 Q. You say Officer Mullinax received this (indicating) ---

LORI GILES - DIRECT EXAMINATION BY MS. REESE

1 A. Uh, yes, sir.

2 Q. --- then then you got it?

3 A. Yes, sir.

4 Q. That's all the questions I have.

5 MS. REESE: Nothing further.

6 THE COURT: You may step down.

7 THE WITNESS: Yes.

8 (Whereupon, the witness left the stand.)

9 MS. REESE: State calls Lori Giles.

10 (Whereupon, a discussion was held off the record.)

11 LORI GILES, having been first duly
12 sworn, testified as follows:

13 THE CLERK: Thank you, may be seated.

14 DIRECT EXAMINATION BY MS. REESE:

15 Q. Can you state your name.

16 A. Lori Giles.

17 Q. And where are you currently employed?

18 A. I'm currently employed with BASF in Hunstville, Alabama.

19 Q. And, uh, what do you do there?

20 A. I perform, uh, I'm a lab technician there, uh, perform
21 testing on materials, uh, in in conjunction with, uh, catalyst
22 converters.

23 Q. Now in 2009, uh, where were you employed?

24 A. 2009 I was employed with South Carolina Law Enforcement
25 Division known as SLED.

LORI GILES - DIRECT EXAMINATION BY MS. REESE

1 Q. And what were your duties as an employee of the South
2 Carolina Law Enforcement Division?

3 A. I was a evidence processing technician there from 2008 to
4 2011.

5 Q. And what, uh, what what is your training and experience
6 that allowed you to do what you did that time?

7 A. Okay, prior to my employment with, uh, South Carolina Law
8 Enforcement I worked with, uh, Alabama State Department of
9 Forensic Sciences for, uh, 2004 to 2008 where I was trained
10 there for evidence processing, DNA technician also there.

11 Q. Did you have, uh, occasion to work on the case that we're
12 here about today involving Robert Horton?

13 A. Yes, I did.

14 Q. And tell me, uh, what you, I know you said your duties
15 were processing evidence, can you briefly describe what that
16 entails as far as DNA processing.

17 A. Yes, ma'am. Uh, what we do is, uh, we do a presumptive
18 screen of evidence that's brought in, it could be, uh,
19 anything from body fluids that we're testing to, uh, hairs and
20 fibers, we al -- we actually just collect the evidence and
21 then we submit that evidence that we collect to DNA for
22 further analysis con -- uh, as far as a confirmatory
23 analysis.

24 Q. Now I am going to ask you to look at what's been marked
25 as State's Exhibit 10 for identification, ---

LORI GILES - DIRECT EXAMINATION BY MS. REESE

1 A. Um-hum.

2 Q. --- do you recognize that (indicating) item?

3 A. Yes, I do.

4 Q. And can you identify what that is.

5 A. This is a brown paper bag sealed, uh, with, uh, evidence
6 tape, uh, also has, uh, labeling where the i -- evidence came
7 from and we also at SLED when we receive it, we give it a lab
8 number identification and there are also some, uh, signatures
9 and dates and our lab number on this item.

10 Q. How did that particular item come to you?

11 A. I obtained it from the, uh, evidence, uh, clerk, uh, for
12 analysis to, uh, to process the evidence, I obtained it from
13 the clerk.

14 Q. So once something comes to to SLED it goes to the
15 evidence clerk is that ---

16 A. That's correct.

17 Q. --- what I understand correct? And, uh, is the item, did
18 the item when it came to you was it still sealed?

19 A. Yes, it was.

20 Q. So are you the person who broke the seal?

21 A. Yes, I am.

22 Q. And, uh, what did you do once you broke that seal?

23 A. I open the evidence and, uh, I, uh, observed it, I did a
24 visual first and then I, uh, proceeded to go by procedures
25 that we go by to, uh, whatever is a request for, uh, evidence

LORI GILES - DIRECT EXAMINATION BY MS. REESE

1 processing, we go by, uh, the request that that is sent to us
2 and on this particular item, uh, I I re -- the request was
3 for, uh, body fluids, to search for body fluids.

4 Q. And, uh, after you did that what was your next step?

5 A. After I obtain evidence and I perform my testing I
6 collected the evidence and then I, uh, sent that evidence, I
7 took the evidence up to a DNA storage, uh, well it's actually
8 a room and and just left it there under s -- it was locked and
9 sealed, everything was sealed, locked.

10 Q. So it's it's not your job to test the evidence, it's just
11 your job to prepare the evidence to be tested, is that
12 correct?

13 A. That is correct.

14 Q. Alright, I'm gonna show you what's been marked as State's
15 Exhibit 11 for identification and 12, think it ultimately goes
16 in this bag, can you identify those items?

17 A. These items appear to be what I had collected from this
18 item that was sent to us. Uh, the envelopes, uh, state what
19 they are, it's 1.1 and 1.2, uh, pieces of carpet, they are
20 actually cuttings from the pieces of carpet there.

21 Q. So when you received this item, you you broke the
22 seal ---

23 A. Yes.

24 Q. --- on the carpet and then in terms of processing it you
25 looked for any evidence that might be present ---

LORI GILES - DIRECT EXAMINATION BY MS. REESE

1 A. Correct.

2 Q. --- and then you actually did a cutting.

3 A. Correct.

4 Q. Alright, and what exactly is a cutting?

5 A. A cutting is just a portion of the evidence. Instead of
6 sending the entire piece we actually, uh, know the areas that
7 have fluoresced or whatever the request was for and m -- ac --
8 make actual cuttings, just a smaller version of what is
9 collected.

10 Q. And that is what the cuttings themselves are what, uh,
11 you send on for testing?

12 A. Correct.

13 Q. And, uh, are these (indicating) Items 11 and 12 the
14 cuttings from this carpet?

15 A. They are.

16 Q. And this (indicating) bag, uh, what is the significance
17 of the bag that it goes in?

18 A. The the bag is actually just to hold the evidence so it
19 is heat sealed, it is a heat sealed pouch, therefore it's it
20 cannot be tampered with and, uh, it's just to actually just to
21 store the evidence in.

22 Q. So you in fact, uh, after you did the cuttings did a
23 heat, uh, put them in that package and heat sealed them.

24 A. Right.

25 Q. And so at the time that the items left both were

LORI GILES - DIRECT EXAMINATION BY MS. REESE

1 resealed?

2 A. Yes.

3 Q. Okay. And, uh, they were placed into evidence, ---

4 A. Correct.

5 Q. --- uh, the evidence room as you call it, I I ---

6 A. Right.

7 Q. --- don't remember what you used for it.

8 A. Right.

9 Q. And, uh, so your only part in this was to perform the
10 cuttings, uh, for it to be later tested by DNA analyst.

11 A. That is correct.

12 Q. Nothing further.

13 MR. BROWN: Not for this witness, Your Honor.

14 THE COURT: You may step down.

15 (Whereupon the witness left the stand.)

16 MS. REESE: Your Honor, may we approach?

17 THE COURT: You may.

18 (Whereupon, a bench conference was held off record.)

19 THE COURT: Alright, we're gonna take a short break. Let
20 me ask you to please go to your jury room, don't talk about
21 the case, I'll bring you back after that break.

22 (The following takes place outside the presence of the
23 jury.)

24 THE COURT: We'll be at ease for fifteen minutes.

25 (Whereupon, a recess was taken.)

ANITA MULLINAX - DIRECT EXAMINATION BY MS. REESE

1 (Whereupon, a discussion was held off the record.)

2 THE BAILIFF: All rise. Thank you may be seated.

3 THE COURT: Alright, we ready for the jury?

4 MS. REESE: Yes, Your Honor, let me get my ---

5 THE COURT: Alright.

6 MS. REESE: --- paperwork.

7 (Whereupon, a discussion was held off the record.)

8 (The following takes place in the presence of the jury.)

9 THE COURT: Alright, the jury's present, you may ---

10 MR. BROWN: Thank Your Honor.

11 THE COURT: --- continue.

12 MS. REESE: Thank Your Honor, State calls Anita Mullinax.

13 (Whereupon, the witness came forward.)

14 THE CLERK: Place your left hand.

15 ANITA MULLINAX, having been first
16 duly sworn, testified as follows:

17 THE CLERK: Have a seat, please.

18 DIRECT EXAMINATION BY MS. REESE:

19 Q. Can you state your name, please.

20 A. Anita Mullinax.

21 Q. And, uh, where are you employed?

22 A. Spartanburg County Sheriff's Office.

23 Q. And what are your duties there?

24 A. I'm over evidence.

25 Q. And, uh, as a, as a -- were you employed in that, uh, in

ANITA MULLINAX - DIRECT EXAMINATION BY MS. REESE

1 that capacity in 2009?

2 A. I was.

3 Q. And did you have occasion to take in evidence regarding
4 the case of Robert Horton?

5 A. I did.

6 Q. I'm gonna show you there in front of you is what's been
7 marked as State's Exhibit 10, do you recognize that?

8 A. Yes.

9 Q. And can you identify that?

10 A. Uh, it was entered as case 2009-050406 and this is my
11 handwriting and the case number at the bottom showing that I
12 took it in.

13 Q. And is that a cutting of carpet that was taken in this
14 case?

15 A. Yes.

16 Q. And, uh, how did you come into possession of that item?

17 A. I received, uh, this carpeg -- this carpet cutting and a
18 eMachines computer tower from David Hogsed on one 5/11/09 at
19 8:30.

20 Q. And, uh, when you received it was it in fact sealed?

21 A. It was.

22 Q. And did you break the seal?

23 A. No, I did not.

24 Q. Did you tamper or alter it in any way?

25 A. No, I did not.

ANITA MULLINAX - CROSS-EXAMINATION BY MR. BROWN

1 Q. And, uh, once you got it where do you place evidence that
2 comes to you?

3 A. Once it comes in we put a bar code on it that identifies
4 what the item is and what the case number is and then we, uh,
5 depending on the size of the item we place it in different
6 areas of our evidence room.

7 Q. And is that, uh, secured secured evidence?

8 A. It is.

9 Q. And, uh, was this carpet, uh, placed in that location
10 until it was picked up by Robert Rosenberg for transport?

11 A. It was.

12 Q. Nothing further.

13 CROSS-EXAMINATION BY MR. BROWN:

14 Q. You said you received two items?

15 A. I did.

16 Q. And those items were?

17 A. This carpet cutting and an eMachines computer tower.

18 Q. Okay, you mean the computer tower of a computer.

19 A. Yes.

20 Q. Okay, big computer.

21 A. Right, the tower part.

22 Q. Alright, that's the only question I have.

23 THE COURT: You may step down.

24 (Whereupon, the witness left the stand.)

25 MS. REESE: State calls Dr. Nancy Henderson.

NANCY ANN HENDERSON - DIRECT EXAMINATION BY MS. REESE

1 (Whereupon, the witness came forward.)

2 (Whereupon, a discussion was held off the record.)

3 NANCY ANN HENDERSON, having
4 been first duly sworn, testified as follows:

5 THE CLERK: Thank you, have a seat, please.

6 DIRECT EXAMINATION BY MS. REESE:

7 Q. Can you state your name for the jury, please.

8 A. Nancy Ann Henderson.

9 Q. And where are you employed?

10 A. I'm employed with Greenville Hospital System.

11 Q. And what is your occupation?

12 A. I'm a a child abuse pediatrician.

13 Q. And, uh, are you licensed in the State of South
14 Carolina?

15 A. Yes, I am.

16 Q. And where did you receive your undergraduate training?

17 A. I went to Bowman Gray School of Medicine in
18 Winston-Salem, North Carolina.

19 Q. What year did you graduate?

20 A. I graduated medical school in 1984.

21 Q. And what degree did you earn when you first graduated?

22 A. When I first graduated, I earned a BS in pharmacy.

23 Q. And, uh, you said you went to Bowman Gray?

24 A. Bowman Gray for medical school, yes, ma'am.

25 Q. And, uh, where did you do your residency or training?

NANCY ANN HENDERSON - DIRECT EXAMINATION BY MS. REESE

1 A. I did my residency at T.C. Thompson Children's Hospital
2 in Chattanooga, Tennessee.

3 Q. And in what area did you do your residency?

4 A. Pediatrics.

5 Q. Um, so you started out and maybe you can just briefly go
6 you graduated from, uh, college?

7 A. Right, I did a 5-year undergraduate program, uh, at that
8 point you would graduate with a pharmacy degree, uh, a BS in
9 pharmacy and then I went to medical school at, uh, uh, Bowman
10 Gray School of Medicine and, uh, that is 4 years and then I
11 went to, uh, T.C. Thompson Children's Hospital did a 3-year
12 pediatric residency.

13 Q. And ha -- along the way have you developed a specialty?

14 A. Yes, I have.

15 Q. Uh, what is that?

16 A. Well, uh, sub-specialized in adolescent medicine
17 initially and then child abuse pediatrics.

18 Q. And are you -- is there a board certification for this?

19 A. Right, there's a board, uh, sub-board, uh, under the
20 general, uh, heading of pediatrics they're sub-boards both in
21 adolescent medicine and child abuse pediatrician.

22 Q. And did you re -- complete those requirements?

23 A. Yes, I did.

24 Q. Uh, are you on the medical staff of a hospital?

25 A. Yes, Greenville Hospital.

NANCY ANN HENDERSON - DIRECT EXAMINATION BY MS. REESE

1 Q. And are you a member of any medical associations?

2 A. I'm a, a member of the, uh, Pediatric Association, uh,
3 member of APSAC which is a professional organization in, uh,
4 people that, uh, deal with, uh, child abuse, I'm also part of
5 the South Carolina, uh, Medical Response Team, uh, that's, uh,
6 deals with physicians that deal with child abuse.

7 Q. And, uh, what what would -- kind of practice do you have?
8 What do you do on a daily basis?

9 A. Uh, well my practice is a little bit, uh, multi-focal,
10 I'm, uh, the head of the Division of Child Abuse and Neglect
11 and so that involves, uh, teaching. We have residents,
12 pediatric residents, family practice residents there at the
13 hospital so I'm involved in teaching them, uh, about child
14 abuse and neglect and I also work one afternoon in the General
15 Pediatric Clinic doing general pediatrics there. I'm also
16 involved with medical students, uh, we have medical students
17 from, uh, USC come up and do 2-year rotations up there and
18 also teach them the area of, uh, child abuse and then I as
19 part a my job I work, uh, two days a week at the, uh, Advocacy
20 Center in Spartanburg doing medical exams there, I also work,
21 uh, two or three days a week depending on the week at the
22 Julie Valentine Center which is a children's advocacy center
23 in Greenville, uh, where that examines children that may have
24 been abused, I also work at Pendleton Place which is the
25 children's shelter in Greenville, uh, when children have been

NANCY ANN HENDERSON - DIRECT EXAMINATION BY MS. REESE

1 removed, I do the general medical exams there when they first
2 come in and then ongoing, uh, general medical care for them
3 and then the last part a my job, uh, involves a consult
4 service so that when children are more sick and admitted to
5 the hospital there and concerns about abuse and neglect I, uh,
6 am consulted in how to evaluate those children in the
7 hospital.

8 Q. Uh, how many patients have you examined or treated
9 roughly in in your career, uh, related to sexual abuse?

10 A. Um, uh, we see, uh, probably about, uh, 300 children a
11 year, about 75 children in the hospital, most of them in there
12 are in regard to physical abuse, uh, and the majority of
13 children in the outpatient setting are related to child sexual
14 abuse concerns.

15 Q. And other than the training you talked about in terms of
16 your residency, uh, have you had any other training, extra
17 training in the field of sexual abuse in children?

18 A. Well in order to be able to sit for the child abuse
19 boards you had to do, uh, at least 5 years of, uh, ongoing,
20 uh, your practice and that had to be 50 percent had to be
21 related to child abuse and neglect and then it involved, uh,
22 sitting down and taking a, uh, test, uh, too, uh, and that has
23 to be taken every 10 years and so I've taken numerous courses.
24 We have to have a certain number of CMEs in the area of, uh,
25 child sexual, uh, child abuse in general and then for general

NANCY ANN HENDERSON - DIRECT EXAMINATION BY MS. REESE

1 pediatrics, uh, ongoing training, uh, each year to keep up
2 your accreditation.

3 Q. And, uh, have you been qualified as an expert in the
4 field of pediatrics and in the field of, uh, sexual abuse and
5 assessment?

6 A. Yes, I have.

7 Q. Um, approximately how many times?

8 A. Um, I'm probably in court maybe two to three times a
9 month, uh, in dealing with child abuse and neglect issues.

10 Q. In which courts?

11 A. Uh, both family court and criminal court.

12 Q. And you've been qualified as an expert in all of these?

13 A. Yes, ma'am.

14 MS. REESE: Uh, Your Honor, at this time I would move
15 that she be qualified as an expert in the field of pediatrics
16 and, uh, child sexual abuse assessment.

17 MR. BROWN: Without objection, Your Honor.

18 THE COURT: She is so qualified.

19 BY MS. REESE:

20 Q. Uh, did you in fact, uh, evaluate **Minor**
21 regarding, uh, the defendant Robert Horton?

22 A. Yes, I did.

23 Q. And do you know when you did that?

24 A. It was on June 2nd 2009.

25 Q. And, uh, as a part of your evaluation, do you speak with

NANCY ANN HENDERSON - DIRECT EXAMINATION BY MS. REESE

1 the child?

2 A. Yes, I do.

3 Q. Do you do a an actual interview, uh, like say a forensic
4 interviewer would do?

5 A. No, no, I I do it's more like a medical history but I do
6 try to talk to the child alone just to get an understanding of
7 what may have happened, what concerns they have, what words
8 they have about their body, uh, what kinda symptoms they
9 have.

10 Q. Now, uh, you can't testify as to what she told you
11 specifically but did **Minor** at the time you talked to her
12 disclose to you sexual abuse?

13 A. Yes, she did.

14 Q. And, uh, how old was **Minor** at the time of the exam?

15 A. She was 14.

16 Q. And, uh, please describe for the jury what an examination
17 like this consists of.

18 A. Okay, uh, well first, uh, prior to the exam I do talk
19 with whoever the caretaker is that that brings the child and
20 the child, uh, just to get a a kinda past medical history, any
21 concerns they might have and then, uh, I do talk to the child
22 if they're able to separate, uh, by theirselves, again to
23 understand what concerns, uh, they have and and what has
24 happened to them and then I do a a a complete physical exam,
25 uh, we give them the opportunity to have whoever they'd like

NANCY ANN HENDERSON - DIRECT EXAMINATION BY MS. REESE

1 to have in there, sometimes they do, sometimes they don't,
2 whatever they feel most comfortable to make it as easy as
3 possible and the exam, uh, consists of giving a complete head
4 to toe exam, uh, with special attention to the genital area so
5 I use a piece of equipment that's called a "colposcope", it's
6 not at all invasive, it doesn't touch them but allows for an
7 extra light source and magnification of that area to, uh, get
8 a better look and understand what's going on and then
9 depending on what, uh, the disclosure is, I decide if we need
10 to test for sexually transmitted infections and what other
11 tests need to be done and then the, uh, child gets dressed and
12 then, uh, we kind of discuss a a follow-up plan for them.

13 Q. In this particular case, did you do that examination
14 personally?

15 A. Yes, I did.

16 Q. And, uh, in your evaluation did you find any scarring or
17 tearing ---

18 A. No, I ---

19 Q. --- on this child?

20 A. --- no, I did not.

21 Q. Now, uh, Dr. Henderson, in your medical, uh, experience
22 in an allegation of oral pen -- oral, I guess penile oral
23 penetration and can you describe for the jury what penile oral
24 penetration is.

25 A. Well penile oral would be, uh, the male penis going

NANCY ANN HENDERSON - CROSS-EXAMINATION BY MR. BROWN

1 inside the mouth of another person.

2 Q. And, uh, if the allegations in in your expert opinion are
3 penile oral penetration, uh, as well as, uh, some oral sex by
4 the male perpetrator onto the child and some form of digital
5 penetration, uh, would you necessarily find medical evidence
6 of sexual abuse?

7 A. It's, uh, fairly uncommon to find medical evidence
8 related to those types of allegations.

9 Q. Uh, so, uh, do you have an opinion as to whether or not,
10 uh, finding no evidence in this particular case with the oral
11 sex allegations and maybe slight digital penetration would be,
12 uh, consistent with sex abuse?

13 A. Well a normal exam can be consistent with those types of
14 allegations.

15 Q. Nothing further.

16 CROSS-EXAMINATION BY MR. BROWN:

17 Q. Doctor, Ms. Reese has asked you about slight digital
18 penetration, wasn't it a part of the initial information that
19 you received as relates to a clinical history is her statement
20 about she felt Mr. Horton placed his fingers inside her vagina
21 or a finger, in particular I wanna show you Page 4 ---

22 A. Okay.

23 Q. --- as relates to this (indicating) line, again, uh,
24 prosecution has pointed out, I'm not tryin' to say what you
25 initially said but ---

NANCY ANN HENDERSON - CROSS-EXAMINATION BY MR. BROWN

- 1 A. Okay.
- 2 Q. --- do you see where I'm ---
- 3 A. Yes.
- 4 Q. --- and I'm referring to a report that you prepared in
- 5 regards to Ms. Minor ---
- 6 A. Yes.
- 7 Q. --- and based upon the information that you had in
- 8 obtaining information from the child, would you agree with me
- 9 that it says that she felt him put his finger ---
- 10 A. Yes.
- 11 Q. --- inside her vagina?
- 12 A. Yes.
- 13 Q. Okay. Doctor, also as it relates to your report, and
- 14 I'll show you Page 6 of 13 pages that you prepared, regards
- 15 your assessment in terms of any behavioral changes, what did
- 16 you indicate on Page 6 of your report?
- 17 A. Uh, there were none reported to me.
- 18 Q. Okay, and that's consistent here while you're saying no
- 19 behavioral change identified.
- 20 A. Yes, sir.
- 21 Q. Okay. And you referred to an instrument you use to do
- 22 female genital exam earlier, ---
- 23 A. Yes.
- 24 Q. --- and that instrument is known as what?
- 25 A. Colposcope.

NANCY ANN HENDERSON - CROSS-EXAMINATION BY MR. BROWN

1 Q. Colposcope?

2 A. Yes.

3 Q. And that would typically you refer to on Page 8 of this
4 type of examination that you provided?

5 A. Right. Right here (indicating), um-hum, ---

6 Q. Yes.

7 A. --- yes, sir.

8 Q. And in particular the type of exam that you performed, I
9 know you did other things in regards to that in photos there's
10 a distinction here as relates to the hymen, what is the hymen?

11 A. The hymen is an outer, uh, tissue that, uh, uh, covers,
12 uh, partially over the vaginal opening.

13 Q. Okay. In regards to the number of designations here the
14 first one "annular", what does that mean, doctor?

15 A. Annular means, uh, it goes completely around ---

16 Q. Okay.

17 A. --- li -- like a circle.

18 Q. And "estrogenized" what does that depict?

19 A. Estrogen refers to, uh, when you look at the hymen, it
20 has a a thickened, uh, look to it and that's related to the
21 hormones, uh, she'd gone through puberty and it causes it a a
22 thickening of the hymen tissue.

23 Q. That's normal, be the normal, consistent with someone
24 that was going through, uh, maturity stage.

25 A. Yeah, has finished goin' through puberty.

NANCY ANN HENDERSON - CROSS-EXAMINATION BY MR. BROWN

1 Q. Yes, ma'am. What would "redundant" 0:13:22.7 (9) be?

2 A. Redundant is, uh, the hymen instead of just being a
3 circle around, it kind of overlaps with each other, it's just
4 another, uh, type of a normal, there's lots of different
5 normal varieties and that's just a a different description
6 that she didn't have but that's what redundant means.

7 Q. And "micro ---

8 A. Uh, ---

9 Q. --- perforate"?

10 A. --- microperforate just means there's just a a a a very
11 tiny opening in the, uh, hymen.

12 Q. And "crescentic"?

13 A. Crescentic is like a moon, uh, so ---

14 Q. Okay.

15 A. --- it's instead of going completely around it's just
16 goes into the kinda lower half of it.

17 Q. And the last two, Doctor, if you could.

18 A. Uh, infibriated again means it almost like a a petal
19 appearance to it.

20 Q. Okay, and the last one?

21 A. Septate is, a septate hymen has, uh, a a the hymen tissue
22 has a kind of a divider going kind of right across it.

23 Q. Okay, and in in regards to the two distinguishing things
24 that you pointed out on the hymen as relates to your comments,
25 what were they in particular in terms of any tearing,

NANCY ANN HENDERSON - CROSS-EXAMINATION BY MR. BROWN

1 scarring, any intrusion based ---

2 A. Uh, ---

3 Q. --- upon ---

4 A. ---there were -- there no tears, scars or discharge ---

5 Q. Alright.

6 A. --- at the time a my exam.

7 Q. Okay. As relates to Page 9 in particular of your report,
8 outcome of your medical evaluation, the very top box that
9 you've checked in regards to any type of injuries, ---

10 A. I said no injuries identified.

11 Q. You do not identify any type of injuries?

12 A. That's correct.

13 Q. And again you say you performed this exam back in June
14 June 2nd of 2009 ---

15 A. That's correct.

16 Q. --- which would have been closer in time to what you
17 understand to be on the underlying allegations in this case?
18 I'm I'm sorry, I'm showing you the the lack -- well Page 11
19 out of 13 pages.

20 A. Right.

21 Q. Again the outcome of medical evaluation?

22 A. Right.

23 Q. Under miscellaneous symptoms and findings ---

24 A. Right.

25 Q. --- what did you check under that ---

NANCY ANN HENDERSON - REDIRECT EXAMINATION BY MS. REESE

1 A. There no miscellaneous symptoms or findings.

2 Q. In regards to a number of possible scenarios that could
3 relate to her general area, you didn't notice any of these?

4 A. That's correct.

5 Q. Okay, so so no misci -- miscellaneous symptoms or
6 findings.

7 A. That's correct.

8 Q. Alright. No pain, uh, nothing that would be uncommon or
9 that you would identify based upon this ---

10 A. Right, she had no ---

11 Q. --- in your examination.

12 A. --- yes, that's correct she had no no finding.

13 Q. Okay. That's all the questions I have.

14 REDIRECT EXAMINATION BY MS. REESE:

15 Q. Just a couple follow up. Uh, Doctor, uh, he asked you
16 about behavioral changes and there were, uh, you said there
17 were none but there were reported to you frequent stomach
18 aches?

19 A. Right. Yeah, I wouldn't consider tho -- those are more,
20 uh, medical symptoms rather than behavioral, uh, but she did,
21 she had reported frequent stomach aches and I think there was,
22 uh, and some, uh, constipation.

23 Q. And, uh, all of the things that he talked to you about,
24 the different kinds of hymen and and what you saw in your
25 medical, uh, evaluation that is consistent, can be consistent

NANCY ANN HENDERSON - RECROSS-EXAMINATION BY MR. BROWN

1 with the allegations that she made.

2 A. Right, a normal exam could be consistent with those
3 allegations.

4 Q. Uh, one just follow-up question, would it be a common
5 finding for there to be a normal evaluation given those
6 allegations?

7 A. Yes.

8 Q. Nothing further.

9 RECROSS-EXAMINATION BY MR. BROWN:

10 Q. Again, Doctor, you didn't find any tearing of the hymen
11 area?

12 A. That's correct.

13 Q. Okay. Even in an indication in report, uh, no evidence
14 of any foreign objects.

15 A. That's correct.

16 Q. Foreign objects would be a digit or penis, uh, just any
17 kinda object potentially?

18 A. I'm sorry, I didn't understand what the question was.

19 Q. Foreign object could be anything that would be inser --
20 could be inserted in the vagina.

21 A. Oh, yes, yes.

22 Q. And as relates to stomach aches for a person that's
23 coming out of the adolescence stage and was experiencing her
24 monthly cycle, could that be consistent with that?

25 A. Yeah, stomach aches is a very non-specific finding.

NANCY ANN HENDERSON - REDIRECT EXAMINATION BY MS. REESE

1 Q. Thank you.

2 REDIRECT EXAMINATION BY MS. REESE:

3 Q. I just wanna clear up that the foreign object, when you
4 say no foreign object, what is that related to in your report?

5 A. Oh, I'm not sure what that was, I thought he was just
6 asking me if a a a digit or a penis could be considered a
7 foreign object and I think that those kind of things can be
8 considered a type of object, uh, ---

9 Q. When you did a the evaluation though, it, was it your
10 opinion that no foreign object had been inserted or was it or
11 did you find no foreign object in her vagina?

12 A. I found, I found no foreign object in her vagina and she
13 had a normal exam.

14 Q. Uh, briefly because he asked about the hymen, can you
15 explain what the hymen is and how it, uh, presented itself in
16 a, in a young girl adolescent.

17 A. Yes, uh, in a young girl, uh, uh, before they start
18 puberty, uh, which is typically about 8 or so, uh, it is very
19 almost like a Saran Wrap, uh, actually I take it back. When
20 we first are born, uh, babies still have kinda that maternal
21 estrogen the hormone around so the hymen at that point
22 initially as a newborn it is very, uh, thickened and
23 stretchable and then as that maternal hormone is withdrawn,
24 uh, it becomes very thin, uh, like Saran Wrap and once the
25 estrogen is back again which is actually the first sign of

NANCY ANN HENDERSON - REDIRECT EXAMINATION BY MS. REESE

1 puberty even before there is any breast development it again
2 starts becoming much more thick, much more stretchable, uh,
3 uh, and, uh, kind of takes on a a a whole different color to
4 it and sometimes even the shape of it will change a little
5 bit, uh, as a child starts goin' through puberty.

6 Q. So, uh, is the hymen a, I mean, is it a a solid wall I
7 guess is what a lotta people think it is, is that, is that, is
8 that correct?

9 A. No, in fact, you know those terms that we went through
10 that's listed on here, those are all the different varieties
11 of normal and the only thing that would be abnormal is one in
12 where the hymen is completely covering up over the entire
13 vaginal opening and that actually would require, uh, surgery,
14 uh, for that child because they would be unable to have their
15 period because there is not an opening so the majority,
16 majority of, uh, girls are born with, uh, an opening, uh, but
17 it's all different varieties of how that hymen looks and those
18 are really what we talked about and were descriptive terms,
19 uh, as we, uh, write about it but they're all is an opening
20 and it's not a complete covering over the vaginal opening.

21 Q. So since there is on opening can things pass through the
22 hymen or into the vaginal area without tearing the hymen or
23 injuring it?

24 A. Yes, and that happens all the time when, uh, a, uh, once,
25 uh, adolescents, uh, start having their period they use

NANCY ANN HENDERSON - RECROSS-EXAMINATION BY MR. BROWN

1 tampons and things like and there's a lot of good studies in
2 the medical literature that they're, you know, putting that
3 in, uh, for a week or so at a time every month and that and of
4 itself does not cause any trauma, uh, to the hymenal tissue or
5 vaginal area.

6 Q. Uh, so it's not, uh, it's not uncommon for some digital
7 penetration not to effect that area?

8 A. Oh, it's not not uncommon at all.

9 Q. Thank you, no further questions.

10 RECROSS-EXAMINATION BY MR. BROWN:

11 Q. Just as a follow-up, you stated testified two or three
12 times in a month in court, ---

13 A. Yes, sir.

14 Q. --- how often do you testify for the defense outta that
15 two or three times?

16 A. Well I I testify for whoever calls me so I, uh, just
17 testify on behalf of the child that I see so sometimes I'm
18 called on both sides, I'll get a subpoena, uh, for both sides
19 for a particular case.

20 Q. And typically who requests of you to do an exam --

21 A. That often is, uh, Department a Social Services or the
22 solicitor's office that are callin' me but I have been called
23 by the defense to come and testify in particular case.

24 Q. But you never been called by defense to perform an exam
25 on a child?

NANCY ANN HENDERSON - RECROSS-EXAMINATION BY MR. BROWN

1 A. Uh, ---

2 Q. It's not that common, I'm sorry.

3 A. It's not common, no, it's not common.

4 Q. Again, as relates to Page 9, ---

5 A. Yes, sir.

6 Q. --- there's various identifications that could have been
7 checked under the hymen as well as the labia majora and I
8 guess that's labia being what, Doctor?

9 A. The labia is the, uh, kinda outer covering over the
10 vaginal area.

11 Q. And the two distinctions as relates to labia?

12 A. Uh, the majora is kind of the, uh, most, uh, exterior and
13 then the minora is, uh, kind of on the inner side of that.

14 Q. Okay, and as relates to the last situation.

15 A. Uh, the posterior fourchette, that's the lower area, the
16 vaginal area.

17 Q. Okay. That more at the end of?

18 A. Uh, kind of the connecture, connecting part in the, uh,
19 inferior part a the vaginal area.

20 Q. Okay. As relates to your report on Page 9 with beginning
21 no final injuries as relates to any type of a designations:
22 abrasion, absence of posterior hymen, bruising, cleft,
23 hermatomia (phonetic), tear, acute, transection, heal; as
24 relates to the labia: abrasion, bruising, hermatomia,
25 laceration, acute; as relates to the posterior, the lower area

NANCY ANN HENDERSON - REDIRECT EXAMINATION BY MS. REESE

1 that you said: abrasion, bruising, scarrin', anything,
2 laceration, acute, even redness or signs of any introduction,
3 have you identified any indication in regard ---

4 A. No, at the ---

5 Q. --- to this?

6 A. --- time I saw her, she did not have any injuries.

7 Q. Okay. Thank you, that's all the questions.

8 REDIRECT EXAMINATION BY MS. REESE:

9 Q. That is not uncommon with these allegations in those
10 areas either that he just talked to you about.

11 A. That's correct, that area has just an extremely good
12 blood supply and things heal extremely quickly if there is any
13 trauma to begin with.

14 RECROSS-EXAMINATION BY MR. BROWN:

15 Q. And consistently based based upon your experience if it
16 was unwanted introductions of foreign objects, could there be
17 tearing, could there be a notice of trauma if a foreign object
18 had been placed there?

19 A. That that is possible.

20 Q. Thank you.

21 THE COURT: You may step down, thank you.

22 (Whereupon, the witness left the stand.)

23 THE COURT: Uh, ladies and gentlemen, I understand that
24 the next witness might be of some length and, uh, I prefer for
25 the benefit of the jury not to break up testimony so that

MOTIONS AND MATTERS

1 you'll have some continuity. I'm not sure how long the
2 witness will take but it's gonna be more time than we have
3 left for this afternoon, uh, so we're gonna recess for the
4 evenin'. Remember my caution previously give to ya: no
5 discussion about the case, no research, no investigation, no
6 exposure to any type of media coverage that might relate to
7 the case. Uh, do have a good evening, uh, please report to
8 your jury room at 9:30 in the mornin', 9:30 in the mornin'.
9 Have a good evenin'. And please be prompt so that you be can
10 be considerate to all your fellow jurors.

11 (The following takes place outside the presence of the
12 jury.)

13 THE COURT: Am I not -- am I correct, uh, that the next
14 witness includes the, uh, showing two videotapes?

15 MS. REESE: Yes, Your Honor.

16 THE COURT: Alright, and ya'll got those ready to be
17 played without further difficulty?

18 MS. REESE: They're not ready at this moment, they
19 will be ---

20 THE COURT: I know we're not gonna show 'em tonight but
21 they'll be ready at 9:30 ---

22 MS. REESE: Yes, ---

23 THE COURT: --- in the mornin'?

24 MS. REESE: --- Your Honor, they will.

25 THE COURT: Okay. And ya'll ya'll discussed what's gonna

MOTIONS AND MATTERS

1 be shown, there's no objection to the either of the video?

2 MR. BROWN: No, Your Honor.

3 MS. REESE: It's my understanding that we and we'll get
4 together in the mornin' ---

5 MR. BROWN: We will to to review the final product based
6 upon our conversation ---

7 THE COURT: Well and I know but ya'll gonna have to get
8 together before in the mornin' unless you gonna be up here
9 early and so far you ---

10 MS. REESE: We ---

11 THE COURT: --- hadn't been ---

12 MS. REESE: I'm sorry. We've already discussed what
13 we're gonna redact, I just want him to see it.

14 THE COURT: Okay, ya'll gonna do that before 9:30?

15 MR. BROWN: Yes, sir.

16 THE COURT: Okay, court is in recess until 9:30 in the
17 mornin'. Is there any objection to him remaining on bond?

18 MS. REESE: Your Honor, no.

19 THE COURT: Okay. Uh, I don't know how long this case is
20 gonna go but I'm gonna have to have a bondsman here tomorrow
21 to ---

22 MR. BROWN: I'll ---

23 THE COURT: --- agree ---

24 MR. BROWN: --- it it's a family member, Your Honor, they
25 have this family property.

MOTIONS AND MATTERS

1 THE COURT: Well they gonna have to let me know
2 personally that they agree to continue this obligation.

3 MR. BROWN: Yes, sir.

4 (Proceedings July 11, 2012)

5 THE COURT: Alright, ready for the jury?

6 MS. REESE: I think so, Your Honor. Uh, I think the
7 issue was this morning we had a problem with the the thing
8 that the, uh, the copy that the, uh, IT person did for us, we
9 do have a a tape to play this mornin' and we're just gonna
10 s -- when he gets the the right program on this disk we'll
11 just switch out.

12 THE COURT: Well I thought that's why I I, you know, I
13 went to a little bitta trouble last night to remind you you
14 need to get that done ahead a time, you can't wait till it's
15 ready to be played and then do it.

16 MS. REESE: I agree, Your Honor.

17 THE COURT: We had all, we ha -- we've had twelve hours
18 to get it done.

19 MS. REESE: Alright.

20 THE COURT: I mean, sometimes ya have to do the work
21 outside of court time.

22 MS. REESE: Yes, sir.

23 THE COURT: Bring the jury in.

24 (The following takes place in the presence of the jury.)

25 THE COURT: Ask you to go all the way to the end, please,

LYNN MCMILLAN - DIRECT EXAMINATION BY MS. REESE

1 in the back row. Alright, good morning, ladies and gentlemen,
2 we're going to continue with State's presentation of evidence.

3 MS. REESE: Thank Your Honor. Your Honor, the State
4 calls Lynn McMillan.

5 (Whereupon, the witness came forward.)

6 LYNN MCMILLAN, having been
7 first duly sworn, testified as follows:

8 THE CLERK: Thank you, have a seat, please.

9 DIRECT EXAMINATION BY MS. REESE:

10 Q. You state your name for the jury, please.

11 A. Lynn McMillan.

12 Q. And where are you employed?

13 A. Pardon me?

14 Q. Where are you employed?

15 A. I'm employed three places: I am employed at the
16 Children's Advocacy Center, um, of Spartanburg, I'm also
17 employed by University of South Carolina the College of Social
18 Work and also employed by the University of South Carolina
19 Upstate.

20 Q. What are your duties as an employee of the Children's
21 Advocacy Center?

22 A. At the Children's Advocacy Center, uh, my primary
23 responsibility is that I interview children, I'm called a
24 forensic evaluator, uh, and I also have some administrative
25 responsibilities.

LYNN MCMILLAN - DIRECT EXAMINATION BY MS. REESE

1 Q. Um, and in your other employments.

2 A. At the University of South Carolina, uh, College of
3 Social Work, I'm part of the adjunct faculty and I teach, uh,
4 Master's level social workers and at the University of South
5 Carolina Upstate, uh, they have a child advocacy studies
6 program which is a minor program for, uh, various disciplines
7 there and, uh, I'm also adjunct faculty there and subject
8 matter expert for, uh, their their center there.

9 Q. Uh, were you employed at the Children's Advocacy Center
10 in May of 2009?

11 A. Yes, I was.

12 Q. And at some point, uh, well first of all, ta -- tell us
13 about the Children's Advocacy Center and what specific
14 services it provides.

15 A. Yes, the Children's Advocacy Center is an agency here in
16 town, there are advocacy centers throughout the country. Uh,
17 the Children's Advocacy Center of Spartanburg, uh, works
18 primarily with a focus on children who have been either
19 sexually abused, severely physically abused or perhaps have
20 been witnesses to violent crimes and the services include the
21 forensic evaluations that, uh, I'm a part of, uh, they also,
22 uh, we also provide medical evaluations by Dr. Nancy
23 Henderson, a child abuse pediatrician, we also have a number
24 of therapists that are employed who provide, uh, therapy
25 follow-up for the children after they've been interviewed,

LYNN MCMILLAN - DIRECT EXAMINATION BY MS. REESE

1 evaluated. Uh, we also, uh, conduct, uh, we have weekly what
2 we call "staffings", uh, they're team meetings with, uh,
3 ourselves who are involved in a particular case and members of
4 the community who are, uh, other professionals who are also
5 involved in the case and we staff our cases and that's a big
6 part of what we do as well.

7 Q. Uh, what education and training do you have that allows
8 you to be able to do your job?

9 A. I've been a social worker for over thirty years, uh, I am
10 currently a PHD candidate for the University of South Carolina
11 the College of Social Work, um, I have a Master's degree in
12 social work, um, also from USC, um, in 1986 and I have an
13 undergraduate degree social work 1979 from East Carolina
14 University, um, so and and I'm also licensed, uh, in the State
15 of South Carolina and North Carolina as a social worker and,
16 uh, I go to regularly, my license requires and so does my job
17 that I have continuing education, uh, which I do that on a
18 regular basis.

19 Q. Specifically in the area of child abuse assessment, what,
20 uh, is your training and, uh, experience regarding that?

21 A. Specific to the child forensic evaluations which I've
22 been doing for about eleven years now, uh, I attend both
23 national conferences, uh, international conferences, uh, state
24 regional local conferences that have, uh, a focus on perhaps
25 child maltreatment and, uh, and I I attend those, uh, for

LYNN MCMILLAN - DIRECT EXAMINATION BY MS. REESE

1 instance, uh, well there's a number of natural conferences by
2 different, uh, organizations and I I go to those on a regular
3 basis.

4 Q. Uh, are you affiliated with any professional
5 organizations?

6 A. Yes, I am.

7 Q. And what are those?

8 A. I'm a member of the National Association of Social
9 Workers and I'm also a member of the American Professional
10 Society on Abuse of Children which is called APSAC, um,
11 A-P-S-A-C.

12 Q. Um, and how many years have you been practicing or
13 dealing with children who are, uh, have allegations of sexual
14 abuse?

15 A. Well I've always dealt with that as a social worker but
16 specifically to dealing with the direct allegations, uh, as
17 far as evaluations go it's been since 2001.

18 Q. Uh, and how many forensic interviews have you conducted
19 in your career would you estimate?

20 A. Well I wanna distinguish between a forensic interview and
21 a forensic evaluation. Um, a forensic interview would be what
22 we consider a one time interview with a child, uh, and and
23 there a number a people that may do forensic interviews, uh,
24 we consider that we do a forensic evaluation which generally
25 requires more than one interview so as far as a forensic

LYNN MCMILLAN - DIRECT EXAMINATION BY MS. REESE

1 evaluation of multiple interviews, I would estimate I've done
2 around nine hundred.

3 Q. And, uh, during your work at the Children's Advocacy
4 Center, is your work subject to some peer review?

5 A. Yes.

6 Q. And in your experience in conducting forensic interviews
7 and assessment, uh, have you found the information in your
8 training meshes with what you see on the street as it were in
9 these actual interviews?

10 A. Oh, yes, absolutely.

11 Q. Uh, and have you been qualified as an expert in the field
12 of child sexual abuse assessment in the courts of general
13 session and family court?

14 A. Yes, I have in both courts.

15 Q. How many times would you say?

16 A. Uh, forty, fifty.

17 MS. REESE: Your Honor, at this time I would move to
18 have, uh, Ms. McMillan recognized as an expert in the field of
19 child abuse assessment.

20 THE COURT: Any objection?

21 MR. BROWN: Based upon her court experience no, Your
22 Honor.

23 THE COURT: Alright, she is so qualified.

24 BY MS. REESE:

25 Q. Um, I'm gonna ask you a few, uh, general questions, uh,

LYNN MCMILLAN - DIRECT EXAMINATION BY MS. REESE

1 not specifically deal with this case, just in terms of some
2 information. Um, can you tell me what the term "partial
3 disclosure" is.

4 A. Certainly. Uh, disclosure in itself means that you're
5 telling about something and that's what we refer to when
6 children disclose about something, they're telling about
7 something, so a partial disclosure means that they're telling
8 part of something that they may have experienced or something
9 that may have happened to them, uh, and they may have left out
10 some things.

11 Q. Uh, can you give an example, is that common or uncommon
12 in an area of child sexual abuse or child abuse?

13 A. Uh, at the level that I'm involved with in initially and
14 people who talk to children initially it's quite common..

15 Q. And can you give, uh, does the -- does any of the
16 literature explain why that's common?

17 A. Well there'd be a host of reasons why it might be common,
18 it's generally more common, uh, when the person that they're
19 telling things about is closer to them in relationship, it
20 might be somebody in their family or close with their family
21 and and children may only be willing to tell part of something
22 to sort of test the waters about other people's reactions to
23 what they're saying, uh, they may not feel safe enough to tell
24 everything, they may feel ashamed about telling everything and
25 so they only tell part of it.

LYNN MCMILLAN - DIRECT EXAMINATION BY MS. REESE

1 Q. What is a delayed disclosure?

2 A. Delayed disclosure refers to again, uh, telling about
3 something in that it -- they don't tell right away. Something
4 may be happening to them and they delay telling, uh, and and
5 just don't tell immediately after it happens.

6 Q. Is that common or uncommon?

7 A. That's very common.

8 Q. Um, and does the literature tell you why that's common?

9 A. Uh, again, yes, it does, and and again, it -- a delayed
10 disclosure is, uh, closely related to how close the person
11 they're telling about is related to them. Delayed disclosure,
12 um, up to sometimes years is is very common in family
13 situations. What we actually know about disclosure and
14 delayed disclosure also from, uh, a number of very na --
15 national studies is that most children never tell about their
16 sexual abuse as children so sometimes the delay is such that
17 they never actually even tell and then in cases when they do
18 tell it's very common that there is some delay.

19 Q. Um, in terms of what we call a "flat a -- affect", can
20 you explain what a flat affect is?

21 A. We use the term "flat affect", we just mean there's not
22 much emotion, uh, it just you're not, may not be much eye
23 contact, it may not be much, uh, inflection in their voice or
24 change in their voice or their speech pattern may be fairly
25 slow and everything just looks flat and and just not very

LYNN MCMILLAN - DIRECT EXAMINATION BY MS. REESE

1 expressive.

2 Q. And is that common or uncommon in cases of sexual abuse
3 over a period of time?

4 A. Well it's not unusual. I mean, I think children are very
5 unique in how they tell about things and so some children may
6 express a lot of emotion and others may express a flat affect.

7 Q. Uh, do we know why the -- there's a flat affect?

8 A. Well again, there could be a host a reasons why, uh, and
9 that would really probly be unique to that particular child
10 why they weren't expressing much emotion at the time.

11 Q. Um, do children necessarily recall events in
12 chronological order in terms of abuse?

13 A. They can recall events in chronological order if if there
14 have been only like one or two events and it's pretty easy to
15 keep up with that or the events occur around something else
16 that is memorable to the child like, uh, a vacation or
17 birthday or something that may have happened, uh, in their, in
18 their family or or school year but if if things have occurred
19 over a period of time, uh, multiple incidences, uh, children
20 often do not keep the chronological order of events.

21 Q. And, uh, what is the term "compartmentalize" mean?

22 A. Big word I like to use compartmentalize, uh, it means
23 that, uh, we keep our thoughts into compartments, drawers,
24 containers, uh, in our heads where we can put them aside when
25 it's too hard to think about.

LYNN MCMILLAN - DIRECT EXAMINATION BY MS. REESE

1 Q. And is that common or uncommon in in the area of child
2 sexual abuse?

3 A. That's very common.

4 Q. What is a forensic interview or evaluation?

5 A. Well a forensic evaluation is, uh, an an opportunity for,
6 uh, interviews, it's really forensic interviews spread out
7 over more than one time with the child to understand about
8 their experience and, um, and that information is often used
9 as part of investigations, either Department of Social
10 Services or law enforcement or both, and it is the reason it's
11 called a forensic evaluation is that it is set up in a
12 neutral, uh, but child-friendly setting like a children's
13 advocacy center where, uh, the children we help them feel very
14 safe about telling what happened to them, uh, in a
15 non-pressured, uh, manner and where parents are not a part of
16 that and they're not influenced at the time by, uh, somebody
17 in their family or some outside person that may be, uh,
18 upsetting to the child and, uh, it's an opportunity for the
19 child to say what happened to them, uh, and give as much
20 detail about that as possible.

21 Q. And are there any rules for the child during a forensic
22 evaluation?

23 A. Yes, there are. Uh, the rules usually for the children
24 are that, uh, we, while we're in the, uh, in the interview
25 room to do evaluation, uh, we only talk about true things. We

LYNN MCMILLAN - DIRECT EXAMINATION BY MS. REESE

1 only talk about things, uh, that really happened and we
2 generally try and get some agreement from the child to tell
3 the truth. Uh, we also, I give them permission to if they
4 don't know the answer to something that they should say, I
5 don't know or I don't remember, uh, rather than just mess, uh,
6 making something up or guessing at an answer just because I've
7 asked it. Uh, also, uh, we have to, I wanna remind children
8 one of the rules is that if they hear or see that I'm getting
9 mixed up about something that they're trying to explain to me
10 that I want them to be able to stop me and give them
11 permission to correct me and straighten it out.

12 Q. And the the child, is the child informed of these rules
13 any time that there is an evaluation?

14 A. Yes, they generally are informed of the rules.

15 Q. Uh, and the parents are not present for the ---

16 A. The ---

17 Q. --- interview?

18 A. --- the parents may be at the Children's Advocacy Center
19 but they are not present in the room and they are not
20 observing either.

21 Q. Uh, well and I think you've already told me why, uh, and
22 where exactly is the interview itself or the evaluation
23 conducted?

24 A. The Children's Advocacy Center, uh, for our location is a
25 two story, uh, brick house and the lobby area entranceway is

LYNN MCMILLAN - DIRECT EXAMINATION BY MS. REESE

1 downstairs but all of the interview rooms, uh, are upstairs
2 and so, uh, and they're separated rooms on the second floor.

3 Q. Uh, when assessing or making an assessment during
4 evaluation, is there a particular way that you usually, uh,
5 determine a child's knowledge of his or her anatomy?

6 A. It depends on the age of the child how we do that. Uh, I
7 would expect that a younger child, uh, sometimes if the child
8 is going ahead and disclosing to me about things that have
9 happened to them, uh, and they they name a part of their body,
10 I will ask them where that is, if it's a young child I may ask
11 'em to point to that part a their body, uh, if it's an older
12 child, uh, I may ask the same thing so I generally initially
13 determine what they call parts of their body just through
14 their disclosure.

15 Q. Did you in fact have occasion to interview **Minor**

16 **[REDACTED]**

17 A. Yes, I did.

18 Q. And can you tell me how many interviews, uh, that you did
19 with her?

20 A. Uh, I interviewed **Minor** twice.

21 Q. And what were the dates of those?

22 A. Uh, the first time I met with **Minor** uh, was on May 8th
23 of 2009 and the follow-up interview with her was on May 14th
24 of 2009.

25 Q. Uh, during those sessions, and I know you've already

LYNN MCMILLAN - DIRECT EXAMINATION BY MS. REESE

1 answered this in in the abstract, but during those sessions
2 was anyone present except for you and Minor ---

3 A. In ---

4 Q. --- actually in the interview?

5 A. --- in the interview room was only myself and Minor

6 Q. And was anyone, uh, allowed access other than, uh,
7 yourself to the interview?

8 A. Do you mean the interview as it was happening or do you
9 mean the video?

10 Q. Interview as it, as it was happening.

11 A. No, it would just been me and Minor

12 Q. Uh, during the time that you talked with her, during both
13 of these interviews, and you can't tell me specifically what
14 she said but did she disclose to you a sexual assault?

15 A. Yes, she did.

16 Q. And did she say the place that these happened?

17 A. Yes, she did.

18 Q. And what place did she say this happened?

19 A. She identified several places that it happened, uh, at
20 her residence, uh, where she was living with her family, uh,
21 both in the kitchen, uh, in her mother's and, uh, her mother's
22 husband's bedroom, uh, also at the entrance to the master
23 bathroom, in the closet of her bedroom and on the couch in the
24 living room. She identified an additional residence where it
25 occurred which was in the home of, uh, her stepfather's father

LYNN MCMILLAN - DIRECT EXAMINATION BY MS. REESE

1 parents.

2 Q. Uh, and did you in fact use photographs of the home to
3 identify or help Minor identify the places or locations?

4 A. Yes, I did.

5 Q. Uh, and when, uh, did you, uh, videotape these
6 interviews?

7 A. Yes, I did videotape interviews.

8 Q. And have you watched these videos recently?

9 A. I, most of, most of it yes, I have.

10 Q. Uh, and the videos that we have are the complete and
11 accurate depictions of the interviews.

12 A. Yes, that's correct.

13 Q. With the exception of some agreed on things that weren't
14 relevant, what we have is the the agree, I mean, the actual
15 interview you had with Minor is that correct?

16 A. Yes, it is.

17 (DVDs of interviews marked State's Exhibit Nos. 16 and 17
18 for identification.)

19 MS. REESE: Your Honor, at this time we've reviewed
20 these, Your Honor, with the agreements and we would ask to
21 admit these as State's Exhibit 16 and 17.

22 THE COURT: Any objection?

23 MR. BROWN: Without objection, Your Honor.

24 THE COURT: They're admitted.

25 (State's Exhibit Nos. 16 and 17, DVDs of interviews,

LYNN MCMILLAN - DIRECT EXAMINATION BY MS. REESE

1 admitted into evidence.)

2 THE WITNESS: Do I stay here or may I move where I can
3 see better?

4 THE COURT: Uh, well you can move, you'll have to stand.
5 You can stand next to the, uh, projector if you'd like as long
6 as ---

7 THE WITNESS: I'd rather remain ---

8 MS. REESE: Can I take ---

9 THE WITNESS: --- sitting so...

10 MS. REESE: --- can I give her a chair just to sit?

11 THE COURT: Well sure, yeah.

12 THE WITNESS: Okay.

13 THE COURT: Now the court reporter's over here
14 (indicating), Ms. Ms. McMillan, I'll remind you the Court
15 reporter's here (indicating) so if you make a comment, she's
16 gonna need to be able to hear it along with the jurors.

17 MS. JORDAN: Apologize, Your Honor, I just, uh, put the
18 wrong video in, just need to get it out.

19 (Pause.)

20 (Whereupon, State's Exhibit No. 17, DVD of interview, was
21 played.)

22 MS. REESE: Your Honor, may we approach?

23 THE COURT: Yeah.

24 (Whereupon, a bench conference was held off the record.)

25 THE COURT: Uh, ladies and gentlemen, there's another

LYNN MCMILLAN - DIRECT EXAMINATION BY MS. REESE

1 video that's gonna be played, it it's about as long, maybe a
2 little bit longer than that one so we're gonna take a short
3 break and then we'll come back and play that next video so
4 please retire to your jury room, don't talk about the case,
5 I'll bring you back after that break.

6 (The following takes place outside the presence of the
7 jury.)

8 THE COURT: Uh, Ms. McMillan, you're still theoretically
9 on the witness stand so you can't discuss your testimony with
10 anybody durin' the break, okay?

11 THE WITNESS: (Nodded in the affirmative.)

12 THE COURT: Uh, we'll be, uh, in recess for fifteen
13 minutes.

14 (Whereupon, a recess was taken.)

15 THE COURT: Alright, bring the jury in, please, sir.

16 (Whereupon, the witness returned to the stand.)

17 (The following takes place in the presence of the jury.)

18 THE COURT: Alright, uh, as I indicated there's another
19 video to be played so we'll play that this time. Ms. Reese.

20 MS. REESE: Thank Your Honor.

21 (Whereupon, State's Exhibit No. 16, DVD of interview, was
22 played.)

23 BY MS. REESE:

24 Q. After these interviews did you, uh, make a referral
25 regarding **Minor** counseling?

LYNN MCMILLAN - CROSS-EXAMINATION BY MR. BROWN

1 A. Yes, I did make a referral for counseling.

2 Q. And, uh, has she been in counseling?

3 A. Yes, she has been.

4 Q. Other than the investigation part of this, uh, at the
5 forensic interview and reviewing information for the
6 evaluation, have you had any other part in this after the
7 fact?

8 A. No, I have not.

9 Q. Okay.

10 MS. REESE: Nothing further, Your Honor.

11 MR. BROWN: May we approach, Your Honor?

12 THE COURT: You may.

13 (Whereupon, a bench conference was held off the record.)

14 CROSS-EXAMINATION BY MR. BROWN:

15 Q. Ms. McMillan, you're employed where?

16 A. I'm employed at the Children's Advocacy Center of
17 Spartanburg, University of South Carolina College of Social
18 Work and also University of South Carolina Upstate.

19 Q. Okay, and you directly stated, uh, at the beginning of
20 your testimony the mission of the Children's Advocacy
21 Center?

22 A. I'm sorry, I don't think I stated a mission of the
23 Children's Advocacy Center ---

24 Q. But you ---

25 A. --- stated, uh, I think I was asked about the purpose of

LYNN MCMILLAN - CROSS-EXAMINATION BY MR. BROWN

1 what I do or what I do there.

2 Q. Specifically for them and what you do with that
3 organization.

4 A. Are you asking me that again?

5 Q. Yes.

6 A. I'm sorry, thank you. Uh, my job there is primarily that
7 I provide forensic evaluations of children who were referred
8 to the Children's Advocacy Center and I also have, uh, some
9 administrative responsibilities.

10 Q. And did you, did you say somethin' about abused children,
11 uh, victims of trauma, ---

12 A. Um--hum.

13 Q. --- and something else?

14 A. Children who are referred to us. Uh, we are not first
15 responders so if somebody has a concern about something that
16 may have happened to a child, we are not the first one, we
17 might get called about it but we're not the first ones that
18 respond to it, somebody else already knows about an allegation
19 and it generally is an abuse or neglect allegation, uh, an
20 allegation of sexual abuse an allegation of severe physical
21 abuse or, uh, where a child may have been a witness to a
22 violent crime so somebody else already has knowledge of that
23 and then makes that referral to the Children's Advocacy
24 Center.

25 Q. But when you in -- interview any children you don't

LYNN MCMILLAN -- CROSS-EXAMINATION BY MR. BROWN

1 interview from the assumption that it's an allegation, do
2 you?

3 A. Well there is an allegation when they're, when they're
4 referred in because most of our referrals come from either law
5 enforcement or Department of Social Services so as I said
6 somebody already has some concern so most of the time there is
7 some type of allegation.

8 Q. Well when I say "allegation", meaning something that is
9 presumed to have happened, not something that actually is
10 known to have happened.

11 A. Oh, that's correct, we would not know actually.

12 Q. But isn't it your posture in interviewing young children
13 that something has already happened?

14 A. No, it is not my posture.

15 Q. And your method of questioning children is one in which
16 the manner in which you question them is as something has
17 definitely happened?

18 A. No, it is not.

19 Q. And in terms of the video that we've seen, two of them,
20 would you agree or disagree with me with the notion that it's,
21 that is the exact way in which you questioned Minor

22 A. I would disagree with you.

23 Q. Did you, did you call my fa -- my office this week?

24 A. I called your office last week when I received a subpoena
25 from your office to be in court yesterday.

LYNN MCMILLAN - CROSS-EXAMINATION BY MR. BROWN

1 Q. Okay, and why would you call my office?

2 A. 'Cause I always call if I get a subpoena from an
3 attorney.

4 Q. And do you often get subpoenas from defense lawyers?

5 A. Very seldom.

6 Q. Why is that?

7 A. Because our information is often used in terms of
8 eval -- investigation, uh, based on my evaluation of the child
9 and, uh, defense attorneys usually aren't interested in
10 talking with me.

11 Q. Would that also be because you work directly with the
12 solicitor's office on these kinda cases?

13 A. I I do evaluations at the Children's Advocacy Center and
14 those evaluations may be used by other parties.

15 Q. That's not my question. My question is: Don't you work
16 directly with the solicitor's office ---

17 A. I work with, ---

18 Q. --- to perform evaluations?

19 A. --- I work directly with them on cases that they're
20 working on, yes.

21 Q. Have you ever worked with Susan Reese before on any
22 cases?

23 A. Yes, I have.

24 Q. You mention also earlier that you're not certified in
25 child abuse assessment, is that correct?

LYNN MCMILLAN - CROSS-EXAMINATION BY MR. BROWN

1 A. I don't know of any certification in that.

2 Q. But you did mention that you've gone to conferences,
3 national ---

4 A. Yeah, ---

5 Q. --- conferences, international conferences, things of
6 that nature.

7 A. That's correct. But you're not a licensed child
8 psychologist?

9 A. I am a social worker, I'm a licensed social worker, I am
10 not a licensed psychologist.

11 Q. You're not a licensed and trained psychiatrist obviously
12 'cause you're not a MD.

13 A. Obviously, that's correct.

14 Q. Ms. Reese also mentioned literature, what what does she
15 mean by literature? She mentioned peer review and literature
16 that you should be aware of as relates to nature of what you
17 do as...

18 A. I remember asking about peer review, I don't remember a
19 question about literature. Uh, peer review means that, uh, my
20 work and my information would be reviewed by colleagues, other
21 people in this field, uh, and and that does happen.

22 Q. But she also mentioned the nature of literature as
23 relates to what you do as a child abuse evaluator.

24 A. I don't remember her saying literature but I'm asked to
25 respond to a question about that.

LYNN MCMILLAN - CROSS-EXAMINATION BY MR. BROWN

1 Q. But based upon your training you are familiar with
2 literature in terms of what you do.

3 A. I feel like I'm pretty familiar with the literature,
4 yes.

5 Q. Okay, and you're familiar with terminology that your
6 industry uses in regards to child abuse and in particular
7 evaluations?

8 A. I would say I I would be pretty familiar with that.

9 Q. Are you familiar with the term "interviewer bias"?

10 A. Sure.

11 Q. What does that mean for the purpose of the jury.

12 A. Uh, interviewer bias would be, uh, a bias meaning you
13 have a leaning in a particular direction, uh, and if somebody
14 uses the term "interviewer bias" they would say that the
15 interviewer might have some, uh, pre idea about something or
16 have some bias either for or against, uh, somebody that
17 they're they're interviewing.

18 Q. In interviewing **Minor** did you have any
19 interviewer bias?

20 A. I do not believe that I did.

21 Q. Are you also familiar with the term "undue
22 suggestiveness"?

23 A. Uh, that's not the way I usually hear hear it but...

24 Q. You you specifically hear of suggestibility.

25 A. I've heard the term "suggestibility", yes.

LYNN MCMILLAN - CROSS-EXAMINATION BY MR. BROWN

1 Q. Again, for the jury what is suggestibility?

2 A. Suggestibility would be, uh, if you were talking with
3 somebody or interviewing somebody that you might make
4 suggestions, uh, you know, through your questions or you
5 comments that might indicate the kind of answer that you want
6 from that person.

7 Q. And based upon that would you say that would also include
8 or has the potential to include leading questions?

9 A. Uh, leading questions was probly similar but they may not
10 be exactly the same as suggestibility.

11 Q. But based upon your knowledge in what suggestibility is
12 you could or would incorporate leading questions.

13 A. It could be.

14 Q. Okay, alright. What would be a manipulative
15 interrogation or what is manipulative interrogation?

16 A. Uh, I don't know what you mean by that.

17 Q. In terms of an interviewer steering or controlling an
18 interview that one is doing with a child. Are you familiar
19 with that term?

20 A. No, I'm not.

21 Q. And again, in terms of your interview with Minor [REDACTED]
22 is your contention here today that you didn't steer her in any
23 direction to provide answers to you?

24 A. My contention is I did not steer her into answers or
25 questions based on any bias on my part, I would certainly what

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1 I would call direct a child or focus a child if they've
2 already given me some information about something, again part
3 a my job is to understand more about that so I would certainly
4 direct or focus them toward giving me more detail about that
5 but not that I was providing an answer in advance to them of
6 what I wanted them to say.

7 Q. Not even with suggestions of locations of placement of
8 hands?

9 A. I would ask my question based on what the child had
10 already told me and if that child had already said something
11 about hands on the body, I would certainly wanna know where
12 those hands were placed, uh, that would be part of, uh,
13 anatomical, uh, or or touching or we're trying to understand
14 what part of her body was, uh, touched.

15 Q. Well you mention anatomical and I wanna get ---

16 A. Um-hum.

17 Q. --- to that some point but in particular the touching of
18 the hiney, is that somethin' that you recall even with seein'
19 the video today with Minor that she brought up first
20 with you?

21 A. She brought it up when she was, we were doing the
22 anatomical drawings.

23 Q. So it's not something that you suggested.

24 A. I don't recall that, I think I may have asked her
25 something about anywhere else showing her the photographs.

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1 The anatomical drawings are the front and the back, they're
2 separate pieces a paper, the front of the body and the back of
3 the body and as you heard I had one for the child and I also
4 had one for the adult, so in doing that I would want the child
5 and I would direct the child to look at the anatomical drawing
6 and identify any parts of the body based on whatever my
7 questions were.

8 Q. So you didn't direct through your direct question with
9 **Minor** about touching Mr. Horton's hiney.

10 A. Uh, using the word "hiney" would not have been a term
11 that I would have used, uh, and I don't recall specifically
12 from the video if I I may have turned the body over which I
13 would do as far as being, uh, thorough in what I was asking
14 the child to say did anything happen back here..

15 Q. Would you disagree with me that on Video Number 2 you
16 stated anything with his hands on your hiney?

17 A. If if that's what it said, I just don't remember.

18 Q. And would you disagree with me that that would be an
19 original question that you would have brought up or even
20 suggested to **Minor**

21 A. I probly was -- well could be but I was following up with
22 if there were hands another part of his body on the front side
23 in a similar place, it would not be unusual that I would ask
24 that but I may have initiated that part, correct.

25 Q. Okay, and would that be a potentially leading question?

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- 1 A. I think it's a directed and focused question rather ---
2 Q. That's not, ---
3 A. --- than a leading question.
4 Q. --- that's not my question. Wouldn't it be a leading
5 question?
6 A. In my mind it would not.
7 Q. Even if you originated that question?
8 A. In my mind it is not.
9 Q. Okay. The notion of repeated questions over and over and
10 over again from the interviewer, how's that relate to
11 suggestibility?
12 A. Well suggestibility as we had said was introducing a term
13 of my own or leading the child in a particular direction. If
14 I've already asked a question and I ask it again, I'm not
15 asking anything new, it may be very purposeful that I'm asking
16 another question, I wouldn't consider it to be suggestible.
17 Q. Well what about the use of repeated questions in order to
18 again steer a child towards what you're trying to get?
19 A. I may be trying to focus the child or direct, asking a
20 directed question toward gaining more detail so I may be
21 asking them to go toward more detail, uh, about what I'm
22 asking about. Sometimes again my purpose of a question is,
23 uh, because I want to know it again or I wanna know it in a
24 different way or see if they answer in a different way,
25 sometimes it's purposeful in checking for consistency, other

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1 times I simply forgot I already asked the question and I may
2 ask it a second time.

3 Q. So if you asked repeatedly from between Video Number 1,
4 Video Number 2, Did anything go in inside you, ---

5 A. Um-hum.

6 Q. --- his hand and she said no, no, no, she had said yes at
7 the very end, how could you reconcile those two?

8 A. I again just trying to get more details about it. I
9 think, uh, when what I know from my work and from the
10 literature on on on fondling is that, uh, of course that was
11 not a word she used but touching in the genital area and
12 you're rubbing and rubbing with something, she said repeatedly
13 rubbing with his hands, so trying to understand how his hands
14 were moving about her and whether something went inside her in
15 the genital area is really hard to determine. Uh, however
16 slight something might go in, did it go in little bit or long,
17 I did not get into that but I think that was my repeated
18 question ---

19 Q. Why not?

20 A. --- on that. I think it's hard to understand.

21 Q. It's hard to understand if you ask a question, Did
22 something go in you a little bit ---

23 A. I didn't ---

24 Q. --- or a lot.

25 A. --- ask that, that would have been leading to ask that.

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- 1 I don't usually ask a little bit or a lot.
- 2 Q. But didn't you just state however some something slightly
- 3 might have gone inside you, why didn't ---
- 4 A. Why, ---
- 5 Q. --- you ask that question?
- 6 A. --- I'm sorry, why didn't I ask that question?
- 7 Q. Yes.
- 8 A. Well, I just, that's not a question I would ask.
- 9 Q. But you would ask, Did anything go inside you?
- 10 A. I would ask that because I wanna see what the child will
- 11 say about that.
- 12 Q. And you would ask, Did his hand go inside you.
- 13 A. I didn't ask that.
- 14 Q. Okay, so if that's on that video, ---
- 15 A. Or I don't believe I did. If it's on the video, it's on
- 16 the video, ---
- 17 Q. If it's on ---
- 18 A. --- I don't recall ---
- 19 Q. --- the video ---
- 20 A. --- asking specifically, Did his hand go inside you.
- 21 Q. Okay, if it's on the video multiple times, you wouldn't
- 22 disagree with me that you asked that question.
- 23 A. I don't disagree that I asked that question about
- 24 something going inside of her, I don't recall asking
- 25 specifically did his hand go inside of you.

LYNN MCMILLAN - CROSS-EXAMINATION BY MR. BROWN

1 Q. Okay. Is it normally your, normally policy with a
2 seventh grader to circle and draw on the anato -- anatomical
3 charts that you show them?

4 A. Yes.

5 Q. Has it been your policy to allow a much younger child to
6 actually circle and draw on those anatomical notes?

7 A. Well let me change the word from "policy", it's not like
8 a written policy, it is practice that I will use drawings for
9 children, for ver -- depends on their age. For very young
10 children, we might use what's a gingerbread drawing which
11 would has no anatomy on it, it's a simple gingerbread drawing
12 that I usually just draw myself. Uh, for an older child, uh,
13 or a child who's already explained to me or told me that
14 they've seen so -- that seen the body parts, I may use
15 anatomical drawings but those are usually for older children
16 but for using anatomical drawings for teenagers, yes, I do ask
17 them to circle parts of the body that something happened to
18 and to write ---

19 Q. Okay, ---

20 A. --- on it.

21 Q. --- but that's not my question.

22 A. Oh, I thought it was.

23 Q. My my original question and my question is: Is it your
24 practice to fill out an anatomical drawing for teenager ---

25 (Cross-talk.)

LYNN MCMILLAN - CROSS-EXAMINATION BY MR. BROWN

1 A. It often is, yes.

2 Q. And is it your practice to allow a much younger child to
3 draw on those anatomical drawings themselves?

4 A. As I think I just said younger children I would not use
5 an anatomical drawing on, I would use a gingerbread.

6 Q. A gingerbread. Would you allow a younger child to draw
7 on that drawing of a gingerbread ---

8 A. Yes.

9 Q. --- person ---

10 A. Yes.

11 Q. --- but not with the anatomical drawing for an older
12 child.

13 A. Well okay, the fir -- I thought you were asking circling
14 or drawing.

15 Q. Either one. Writing on?

16 A. Yes, if the child was old enough to write and they wanna
17 write something on there, I will have them write on it. The
18 gingerbread drawing is just a blank drawing so sometimes what
19 I'll do with younger children is to let them help me fill out
20 parts of their body like we draw the eyes, the nose, the
21 mouth, the ear, the hair ---

22 Q. But ---

23 A. --- so they may very well draw on that themselves.

24 Q. --- but this is a tool that you use to gain information,
25 correct?

LYNN MCMILLAN - CROSS-EXAMINATION BY MR. BROWN

1 A. It's a tool that I will often use to confirm information
2 that I already have.

3 Q. And you said if a child would want to draw on that, did
4 you do that in this case?

5 A. I directed her to draw, well to -- I draw -- I directed
6 her to circle ---

7 Q. Okay.

8 A. --- on it so I'm not sure what you're meaning by drawing.

9 Q. Well based upon anatom drawings did you do anything to
10 them?

11 A. I believe I wrote on them too.

12 Q. You wrote on them?

13 A. I believe I did.

14 Q. Okay. Would you disagree that you wrote words on it?

15 A. I probly did.

16 Q. Would you disagree with that you circled them?

17 A. I don't remember that I circled 'em, it would not be
18 uncommon for me to write on it especially for a child that
19 might be havin' trouble writing.

20 Q. Alright. Did you ever asking **Minor** did she wanna write
21 on these drawings?

22 A. I don't know.

23 Q. Based upon you reviewin' the video and understanding the
24 nature of questions that you placed to **Minor** do you
25 think she was consistent in her answers?

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1 A. I think that she was in a core consistency, meaning in
2 the core information, the main information that she was
3 telling me about yes, I believe she's consistent.

4 Q. Well I'm not asking about the core, I'm I'm talking about
5 specifics. You asked her specific things, went in specific
6 rooms, certain instances, I understand the notion of time, but
7 with the specific instances, do you feel that she was
8 consistent?

9 A. Generally yes, I feel she was consistent.

10 Q. What does generally mean?

11 A. Means that overall I believe she was consistent in what
12 she said.

13 Q. Again, that's not my question. Was she specific? Was
14 she consistent?

15 A. Which? specific or consistent?

16 Q. Was she consistent?

17 A. I believe that she was.

18 Q. Specifically in each and every instance that she talked
19 about.

20 A. I would have to go back again and look at that.

21 Q. Okay. Based upon your questions to her both in Video 1
22 and Video 2 you would agree with me we could see from those
23 videos if she was consistent or not.

24 A. Yes.

25 Q. Do you recall in your interviews with **Minor** if she said

LYNN MCMILLAN - CROSS-EXAMINATION BY MR. BROWN

1 anything about if something felt real or not?

2 A. I believe in the beginning, um, of the first interview
3 she was, I don't remember exactly what the wording was, she
4 was talking out loud about some a that, I don't remember
5 exactly her statement she made about something being real or
6 not.

7 Q. Okay. Do you remember any conversations or discussions
8 about ADD, dreams and lies from that first video?

9 A. Dreams and lies?

10 Q. Yes.

11 A. I'm sorry. Uh, I remember talking about, I remember her
12 saying ADHD, that her mother thought she had ADHD.

13 Q. Um-hum.

14 A. I remember her talking about, something about dreams that
15 was, uh, apparently that her mother had asked her about
16 dreams.

17 Q. Alright, and and and thereafter you remember her stating
18 that she felt her mother believed her because of porn in terms
19 your lines of question?

20 A. I don't remember that she said that her mother believed
21 her specifically because of the porn, the porn was part of
22 that, that may have been part of her mother's ---

23 Q. Okay, ---

24 A. --- belief.

25 Q. --- well do you remember your next follow-up question to

LYNN MCMILLAN - CROSS-EXAMINATION BY MR. BROWN

- 1 her discussion of porn was did she see any of that?
- 2 A. I think I did ask her that, yes.
- 3 Q. And what do you know her response to be here today?
- 4 A. I'm sorry what?
- 5 Q. What did she say?
- 6 A. She said she had not.
- 7 Q. Do you recall stating to **Minor** that, Your mom has picked
- 8 a side and that's your side?
- 9 A. Yes.
- 10 Q. Is that the type of statement that an interviewer should
- 11 make to a child terms of an evaluation?
- 12 A. If it's appropriate I would make it and I think the idea
- 13 of sides was something that **Minor** had already brought up
- 14 saying that her mother didn't wanna pick sides so that was her
- 15 wording and I followed up on that wording.
- 16 Q. We, we are all saying that you can't have any contact
- 17 with Rob, is that proper for an evaluator to state to a child
- 18 that they're doing a forensic evaluation of?
- 19 A. Absolutely.
- 20 Q. Why?
- 21 A. Because I need for them to be protected and safe during
- 22 the interview without influence and I will absolutely tell the
- 23 child ---
- 24 Q. So would ---
- 25 A. --- that is my recommendation that there be no contact,

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1 that way they're clear whether or not somebody in the family
2 telling them they can or can't. I want the child to know that
3 it is my recommendation that there be no contact and I'm
4 usually very clear with that.

5 Q. --- would it also be your notion to tell the child not to
6 have any contact with the other side of the family
7 altogether?

8 A. It would depend.

9 Q. Do you recall makin' that type of comment to **Minor**

10 A. I did because I felt it was appropriate in this case.

11 Q. Why?

12 A. Because she had said that her grandmother thought she was
13 lying.

14 Q. So based upon the fact the grandmother thought she was
15 lying you feel that it's appropriate to tell the child not to
16 have contact with those who may love and care for her
17 just ---

18 (Cross-talk.)

19 A. During the time of the evaluation if somebody thinks a
20 child is lying, I will absolutely ask for no contact with that
21 person.

22 Q. Did you follow up that commentary by asking, Does anyone
23 else in your family think you're lying?

24 A. I did not.

25 Q. Could you have?

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1 A. Sure.

2 Q. But you didn't, right?

3 A. I did not that I recall.

4 Q. And you you would disagree with me by saying, I don't
5 want you talk to them, you don't think that's suggestive?

6 A. No, I think it's a very appropriate thing and I would say
7 that routinely.

8 Q. During the course of your interviews that we've seen on
9 Video 1 and Video 2, why you never ask Minor where's Sam?

10 A. Why did I ask her that?

11 Q. Why didn't you?

12 A. Why didn't ask her where is Sammy?

13 Q. Yes, wh -- where's Sammy when all this supposedly is
14 goin' on?

15 A. I think we did talk about that.

16 Q. My specific question to you is: Why didn't you ask her
17 where was Sammy when all this was goin' on?

18 A. I don't remember if I asked that specifically, I probly
19 would have asked that specifically, it may have already come
20 up, uh, spontaneously from Minor ---

21 Q. That's ---

22 A. --- and ---

23 Q. --- not, that's not somethin' you would have asked though
24 if there are other siblings in the home around a child that's
25 making allegations and you know other childrens are in the

LYNN MCMILLAN - CROSS-EXAMINATION BY MR. BROWN

1 home you would ask that question?

2 A. Yes, I would want to know that.

3 Q. But you didn't ask that consistently, did you?

4 A. I don't know that I asked it, I know it came up and as I
5 recall, uh, **Minor** was talking about Sammy specifically ---

6 Q. But you, ---

7 A. --- and where she was.

8 Q. --- but you didn't bring up Sammy specifically.

9 A. I had not at that point in time no, I had not brought up
10 Sammy.

11 Q. Were you even concerned about where Sammy was durin' ---

12 A. Sure.

13 Q. But **Minor** brought Sammy up.

14 A. At whatever point in the interview she brought it up,
15 yes, she brought it up.

16 Q. You bring Joey up in the interview?

17 A. I don't believe I brought Joey up, he was 2-years-old, I
18 don't bring up ---

19 (Cross-talk.)

20 Q. Did you ever ask **Minor** where was Joey durin' this time
21 period?

22 A. No, I don't recall asking that.

23 Q. Did you ever ask **Minor** where Sammy was when she
24 supposedly was in the bedroom?

25 A. I don't remember asking that specifically.

LYNN MCMILLAN - CROSS-EXAMINATION BY MR. BROWN

1 Q. Do you ever recall asking Minor where Sammy was when she
2 was in the living room?

3 A. Well she said she was in the living room and if she
4 wasn't in the living room at the time to know exactly where
5 Sammy was, I don't know that she could've told me exactly
6 where in the living room Sammy was, I did not ask that
7 specifically.

8 Q. Alright. During the question as it relates to rubbing
9 lotion, did you ever ask, Where was Sammy?

10 A. I don't recall that I did.

11 Q. As it relates to going into the bathroom, did you ever
12 ask where's Sammy?

13 A. I don't recall that I did ---

14 Q. As relates to ---

15 A. --- specifically every time.

16 Q. --- goin' into the closet, did you ever ask, Where's
17 Sammy?

18 A. I don't recall that I did.

19 Q. Do you recall making a statement that, I want you around
20 people who love and support you?

21 A. Yes, I do.

22 Q. Would that be a notion of suggestibility?

23 A. Uh, I don't think so.

24 Q. Could it be deemed by others who practice in the same
25 area as a notion of suggestibility?

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1 A. I don't know, I doubt it.

2 Q. You doubt it.

3 A. Part a that has to do with again surrounding the child
4 with safety during the, uh, forensic evaluation process and
5 what we do know and what the field generally agrees on is that
6 children need to be surrounded by people who love and care
7 about them so that they're safe to be able to tell about their
8 experience.

9 Q. So that's not an opinionated statement to a child durin'
10 the course of a forensic interview.

11 A. I do not believe it is.

12 Q. The purpose of forensic interview, tell me if I'm wrong,
13 is to gain information.

14 A. It is to gather information in as much detail as possible
15 about what the child is saying, correct.

16 Q. Okay. The purpose of an interview of a forensic nature
17 with the child based upon these allegations is it to share
18 opinions?

19 A. I I didn't see that as sharing an opinion.

20 Q. That's not my question, I just asked ---

21 A. Probly not.

22 Q. Based upon your question of **Minor** was she consistent
23 when you asked her questions as as relates to her rubbing
24 something and something comin' out?

25 A. Yes, I believe she was.

LYNN MCMILLAN - CROSS-EXAMINATION BY MR. BROWN

1 Q. And so if in the course a your video it showed somethin'
2 else terms that interview, you wouldn't dispute that as being
3 conflicting information.

4 A. I would dispute the term "conflicting".

5 Q. Well if you asked her several times, ---

6 A. Um-hum.

7 Q. --- did anything come out, she stated the first time no,
8 she stated the next time no, she stated the last time yes or
9 she stated the forth time no, would that be conflicting
10 information?

11 A. That came out?

12 Q. Yes.

13 A. I I believe she answered that specifically to the
14 situations and she was, she actually distinguished her
15 situations of, uh, his private in her mouth related to what
16 came out of it, that sometimes it did and sometimes it didn't
17 and I ---

18 Q. That's not my question. Only about rubbing did anything
19 come out?

20 A. Oh, I'm sorry I know what you're saying. I don't, I
21 don't know.

22 Q. But you would agree with me if she said no one time, yes
23 another time, that would be conflicting information.

24 A. I wouldn't say it would necessarily be conflicting if we
25 were only talking about one time. If she was talking about

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1 times that she rubbed him and sometimes something came out and
2 sometimes it didn't, that would not be conflicting.

3 Q. But if your question only related to **Minor** rubbing
4 something, something didn't come out and two different answers
5 came about, would that be conflicting information?

6 A. It would be conflicting if the two different answers were
7 about the exact same incident, yes.

8 Q. Okay. And if you asked in general and that related to a
9 specific incident then you would agree with me or disagree
10 with me that that is inconsistent conflictin' information?

11 A. No.

12 Q. If the question was asked, And you rubbing him did
13 anything ever come out, that's a general question, that's not
14 related to a special time, specific instance, if you were
15 given the answer no once and you asked that same exact
16 question later on, would that be conflictin' information?

17 A. The way you just worded it it could be and I would wanna
18 follow up on that.

19 Q. But if you did follow up on it and you left it as a
20 general question, you would agree with me that's conflicting
21 information.

22 A. Sure.

23 Q. Would you say if in your line of questioning you provided
24 **Minor** the opportunity to circle parts on a anatomical chart
25 she circled one thing, you came back with the immediate

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1 question, Well did he touch both, and she followed up an
2 answer in regards to that, would you say that's a notion of
3 suggestibility?

4 A. No.

5 Q. If her initial drawing or circling one thing and you came
6 back and said, Did he touch both, and then she changed her
7 answer to, Oh, yeah, that's not suggestibility?

8 A. No, I don't believe it is, I believe it's clarifying.

9 Q. It's not a part of interviewer bias?

10 A. I do not believe it is.

11 Q. It's not undue influence of the interviewer upon the
12 child?

13 A. No, it is not.

14 Q. Is it common in your experience of interviewin' children
15 durin' a forensic interview that a child has an answer for
16 every single question that you're askin' them?

17 A. No, they do not.

18 Q. In your interview of **Minor** was that your experience?

19 A. I don't believe it was. I think over time she did answer
20 I don't know or I don't remember.

21 Q. Would you say for the most part of your two interviews
22 that you did with **Minor** she answered the majority of your
23 questions?

24 A. Yes, she did.

25 Q. And is that common?

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1 A. Yes, it is.

2 Q. When you stated there were some rules at at the outset of
3 you conducting these forensic evaluations, those are rules for
4 the person that you're interviewing, what rules do you have in
5 terms of when you interview a child for yourself?

6 A. What rules do I have?

7 Q. Yes.

8 A. Uh, my rules would be I want to be, uh, very kind with
9 that child and ask questions that are, uh, developmentally
10 appropriate for that child and to give that child every
11 opportunity to tell me about what happened to them. A rule
12 for myself also would be to, uh, be very observant of that
13 child as far as how their demeanor is and how they communicate
14 and how they express things and make sure that I'm asking
15 questions and giving them an opportunity to tell me based on
16 how they communicate. For instance, if the child is very
17 talkative and very verbal, I think they'd likely be able to
18 give verbal expression and tell me about things; if they are
19 very hesitant, uh, when they are telling about things, I may
20 need to ask them to write things or to draw things that
21 happened to them. I wanna be very careful about the age of
22 the child and again that I'm asking questions that are
23 appropriate for that age. I also wanna make sure that I am
24 following and paying attention as much as possible, it's easy
25 to get confused when you're getting overwhelmed with a lot of

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1 information and so my rule for myself also is to make sure
2 that I'm paying as much attention as I can to what the child
3 is saying, keeping it straight as they're telling it to me and
4 I also wanna be able to make sure that the child is feeling as
5 safe, as comfortable, uh, in the interview room as I can make
6 them feel giving, uh, the difficult information that has to be
7 addressed.

8 Q. Is it a rule, is one of your rules or is it your practice
9 to let a child know that I've just talked with your parent,
10 person that brought you here, we're gonna begin this
11 interview, is that a general practice of yours?

12 A. Oh, sure. The child knows if I talk to their parent
13 because the parent brought them usually.

14 Q. Would it be your opinion that that could lead to a notion
15 of suggestibility before ---

16 A. No ---

17 Q. --- you start your interview?

18 A. --- no, not at all.

19 Q. Well if you're, one of your initiating questions would
20 be, Please tell me the reason why we're here today, after you
21 stated that, wouldn't that be a notion of suggestibility?

22 A. I'm sorry, I didn't follow that.

23 Q. If you state at the outset of your interview, I've just
24 finished talking with your parent, ---

25 A. Um-hum.

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1 Q. --- one who brought ya here, ---

2 A. Right.

3 Q. --- at the outset and the next question or next series of
4 questions immediately relates to, Please tell me why we're
5 here today, do you know why we're here today, would that be a
6 notion of suggestibility?

7 A. No, not at all.

8 Q. If you clarified with your own words that may have been
9 different than what **Minor** had given you, would that be proper
10 in terms of an interviewer?

11 A. It could be or it could not be, I'm not sure what you're
12 referring to..

13 Q. In particular understanding why you're here today, I
14 don't, I didn't know it was wrong, He did somethin' bad, is
15 that proper for you to say he did somethin' bad?

16 A. If I was repeating what she said ---

17 Q. But if she said wrong and you said bad would that be
18 proper?

19 A. No, actually I misspoke and she corrected me on that.

20 Q. Would that be a notion of suggestibility?

21 A. Well it was just a mistake, it wasn't purposeful.
22 suggestibility ---

23 Q. Okay.

24 A. --- to me would imply that I was purposely asking
25 questions to be suggestive.

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1 Q. We're we're not asking about mind reading here, we're
2 asking about specifics.

3 A. Uh, it was a mistake on my part and she corrected it.

4 Q. Did you tell her it was a mistake?

5 A. No, I just repeated back what she said.

6 Q. But you did say "bad".

7 A. I did say "bad", yeah.

8 Q. Would that be suggestive?

9 A. I guess it could be construed that way.

10 Q. You recall **Minor** saying at the very beginning of the
11 interview that she'd love to have a boyfriend?

12 A. I'm not sure.

13 Q. Alright, okay. Do you recall state **Minor** stating at the
14 very beginning of the interview that she spent a lotta time
15 with her grandparents, meaning her maternal grandparents,
16 spent a lotta time outside?

17 A. I do remember that.

18 Q. You recall her stating that every weekend she goes to see
19 her grandmother?

20 A. I do remember talking about that.

21 Q. Do you recall her stating that she's in church a lot?

22 A. Yes.

23 Q. Church every week?

24 A. Yes.

25 Q. Mom and Rob?

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1 A. Yes, I recall that. Excuse me, can I have some water,
2 please? Thank you.

3 THE COURT: There's the container right behind you.

4 A. Oh, thank you. Thank you.

5 Q. Okay. Yes, ma'am. Okay.

6 A. Um-hum.

7 Q. Yes, ma'am. As a part of your interviewin' style or
8 interviewin' technique, do you seek clarification when it
9 comes to allegations of actual physical abuse meaning in
10 particular where people are positioned?

11 A. I'm sorry, do I seek? What?

12 Q. You seek to to clarify ---

13 A. Do I seek?

14 Q. Yes.

15 A. Oh, yes, I would want to clarify that, yes. .

16 Q. Did you do that in this instance with **Minor**

17 A. I believe that I tried to, yes.

18 Q. You think you did that consistently throughout your
19 interview?

20 A. I believe I did it when I felt that clarification was
21 needed whether that was consistent. I would say I
22 consistently tried to clarify.

23 Q. So if you were asking questions about if she licked
24 somewhere on him and he licked somewhere on her, it wouldn't
25 be important to you to know exactly how that would have

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1 happened based upon the positionin'?

2 A. Yes, I would have wanna know about that.

3 Q. Did you ask that consistently?

4 A. I may not have consistently asked it, I would want to
5 know about that.

6 Q. If she said she was in the bedroom and in one instance
7 she said she was on the bed, she didn't say that, she was in
8 the bedroom, wouldn't you have wanted to follow up, find out
9 exactly their position?

10 A. Um-hum, that mighta been a good idea if I did it.

11 Q. But you didn't do that.

12 A. I know that I followed up and tried to clarify a lot of
13 information, I don't know specifically which one you're asking
14 about that I did or didn't follow up on.

15 Q. But wouldn't you agree with me that you never follow up
16 on that?

17 A. No, I don't, I don't know if I would agree or disagree.

18 Q. Not sure.

19 A. I'm not sure.

20 Q. Would it be suggestive of you to offer positioning in in
21 your evaluation to gain information?

22 A. It would absolutely be suggestive if I only gave one
23 position. If I gave multiple positions for which the child
24 could choose from, that would not be.

25 Q. So if you just said, Standing and kneeling, is that

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1 multiple ---

2 A. Yes, it's more than one.

3 Q. --- or is it obvious?

4 A. I don't think it's obvious, I gave her more ---

5 Q. You ---

6 A. --- than one option.

7 Q. What about standing, kneeling, laying down?

8 A. I coulda done that.

9 Q. But if you didn't that's not providing multiple options,
10 is it?

11 A. Well actually the particular was specific to the
12 circumstance which was a closet ---

13 Q. Okay.

14 A. --- and I perhaps made a judgment call that people
15 wouldn't have room in the closet based on what I could see in
16 the photograph to lay down so I did leave out the lay down
17 part.

18 Q. Okay. In particular as relates to any position in the
19 closet, did you clarify positions in the closet?

20 A. I believe that -- well I think I ask her about kneeling
21 or standing.

22 Q. Did you ask her where she was kneeling or standing?

23 A. I think we circled that on the photograph.

24 Q. That's not my question. Did you ask her where she was
25 kneeling or standing in the closet?

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1 A. I believe that I did.

2 Q. Okay, and that would be seen on your video?

3 A. I believe so.

4 Q. Did you ever ask her in the course of any a this forensic
5 evaluation in particular as relates to the closet: Were you
6 standing in the closet? was was his back to you standing in
7 fronta you? was his back against the closet? was he standing
8 near the closet door or vice versa? Did you ever ask her
9 that?

10 A. Asking that specifically coulda been fairly suggestive
11 in itself. I think that when we have a photograph in front of
12 us and we were looking at it I ask her to mark on the
13 photograph where they both where--and she did that and I don't
14 think I clarified anymore how far somebody mighta been backed
15 up to something, I'd have to ---

16 Q. You ---

17 A. --- look at that again.

18 Q. --- you you didn't clarify that? That couldn't be seen
19 in the video, right?

20 A. What couldn't be seen in the video?

21 Q. Your clarification of where they were standing alleged.

22 A. It would be on the drawing.

23 Q. But not in the video.

24 A. When I was aski -- I was using the photographs with her
25 which was on video, ---

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1 Q. Um-hum.

2 A. --- the video I didn't show the photograph to the video,
3 I don't, if that's what you're ---

4 Q. Right, ---

5 A. --- asking about.

6 Q. --- I mean, it wouldn't be clear in the video itself,
7 that's my question.

8 A. Oh, I'm sorry, correct, it would be on the photograph.

9 Q. And you knew you were being videotaped.

10 A. Of course.

11 Q. And outside of an allegation of something occurring in
12 the closet do you recall any other specific instance in which
13 you would have asked for Minor to show where she was
14 standing?

15 A. Excuse me. I believe that when we're using the
16 photographs she did mark some places or point to some places
17 in other rooms, I would just have to look at photographs again
18 to see.

19 Q. And if those photographs contained language or references
20 that were not contained in the video, would those references
21 be your writing or Minor writings?

22 A. There shouldn't be anything on the photographs that
23 wasn't contained in the video.

24 Q. Okay. Alright, so if there's extensive writings such as
25 loveseat in the living room, their bedroom, mailbox, that

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1 those wouldn't be your writings?

2 A. They should all be on wri -- on video being verbally
3 stated then I was writing them on the photographs.

4 Q. Rob's keyboard for his band.

5 A. Correct.

6 Q. Mom's dresser?

7 A. Again, anything that's written on the photograph should
8 be verbally stated in the video.

9 Q. Daybed. And if it's not verbally stated in the video,
10 would that lead to a presumption that it was placed there
11 later or before?

12 A. There would not be anything on there that I would have
13 written outside the video.

14 Q. You're certain of that?

15 A. I'm pretty sure.

16 Q. That's not my question. You're certain of that.

17 A. I am certain.

18 Q. Okay. You recall reference to a loveseat in your two
19 interviews ---

20 A. I ---

21 Q. --- with ---

22 A. --- I ---

23 Q. --- Minor

24 A. --- don't recall.

25 Q. So if that's written in these drawings, that's not on the

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1 video, you would agree with me it didn't ---

2 A. Absolutely, ---

3 Q. --- happen?

4 A. --- if there's somethin' written on there that's not in
5 the video.

6 Q. Okay. Durin' the course of your your interview with with
7 **Minor** when did you observe her become emotional in your
8 conversations with her?

9 A. She became, uh, emotional as far as tearfulness, uh, when
10 she was talking about her father in the first interview.

11 Q. Now the father would be Chad Fowler?

12 A. Correct, Chad Fowler.

13 Q. And she made a reference to that she clams up in terms of
14 talking about these allegations?

15 A. She did say that.

16 Q. Did you observe that type of behavior from her in the
17 course ---

18 A. No, I ---

19 Q. --- of ---

20 A. --- didn't, ---

21 Q. --- interviews?

22 A. --- she was quite talkative.

23 Q. In fact, she laughed with you a ---

24 A. She did laugh, ---

25 Q. --- few times ---

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- 1 A. --- um-hum.
- 2 Q. --- and you laughed with her.
- 3 A. I did.
- 4 Q. You made a reference to a joke ---
- 5 A. Might have.
- 6 Q. --- in terms of someone's location of the office being
- 7 the bathroom.
- 8 A. Yes.
- 9 Q. That was a funny thing.
- 10 A. I I thought it was funny.
- 11 Q. Do you also recall in the course of your interview or
- 12 forensic evaluation of **Minor** direct reference by **Minor**
- 13 talking about the nature of things going on between **Minor**
- 14 mom and her father, biological father?
- 15 A. Yes, I recall her talking some about that.
- 16 Q. And was that also in the course of the interview an
- 17 emotional period for her?
- 18 A. It was during that time that she was tearful, I don't
- 19 remember if she was tearful at that moment in time or not.
- 20 Q. Do you recall hers talkin' about that they were gonna get
- 21 married but then they're not or they're friendly but that
- 22 be -- wouldn't be any chance of them getting together ---
- 23 (Cross-talk.)
- 24 A. Yes, I recall her saying that.
- 25 Q. Did you take that as a notion of your forensic evaluation

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1 some hope that she would have had previously that her parents
2 could work things out?

3 A. Not necessarily.

4 Q. Okay. You recall asking Minor what's different, what's
5 different about this year?

6 A. Yes.

7 Q. Do you recall her response being it's just weird not
8 seeing him?

9 A. Yes, I do recall her saying that.

10 Q. That relates to her father?

11 A. Correct.

12 Q. Do you recall near the conclusion of your second
13 interview Minor saying something about she knew that
14 they would get divorced?

15 A. That Minor said who would get divorced?

16 Q. Her mother and her stepfather.

17 A. I I believe she said something about that.

18 Q. Do you also recall her next immediate statement being one
19 related to last names?

20 A. I don't remember that it be -- was her next immediate
21 statement but I remember her talking about the different last
22 names that, uh, that people had in the family, the children,
23 and that she was hoping they would get, something about last
24 names.

25 Q. Would you disagree maybe she stated, I know he was gonna

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1 lose his family, but I didn't know it was gonna be this
2 soon?

3 A. I recall her saying that, yeah.

4 Q. Would you disagree with me that her next immediate
5 statement based upon your forensic evaluation was, I'm worried
6 about the last names?

7 A. Again, I don't recall that it was the very next statement
8 but I recall her saying that.

9 Q. Would your next immediate question in terms of any
10 trouble sleeping would that be suggestive?

11 A. No, not at all.

12 Q. You made a specific reference to sleep.

13 A. Sleep is a system or a symptom of depression and I
14 routinely ask teenagers about that.

15 Q. But that information wasn't offered to, by **Minor** to you
16 on her own.

17 A. Oh, no, I would ask that as part a my evaluation.

18 Q. And and and based upon a potential notion of
19 suggestibility didn't you open the door for her to respond in
20 kind?

21 A. I absolutely opened the door because I wanted to know if
22 she was having trouble sleeping as a symptom of depression.

23 Q. But you didn't ask her that question, Are you
24 depressed.

25 A. I wouldn't ask a child, Are you depressed.

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1 Q. Did you ask any series of questions that would relate to
2 depression besides, Any trouble sleeping?

3 A. That would be the number one question I would want to
4 know about that and I think I also ask her about the kinda
5 thoughts that she was having about what was going on now, um,
6 and that was sorta toward the end of the interview so there be
7 different ways that I would assess how a child's doing. She
8 had actually, was already telling me things that had changed
9 in her family which give me some idea of some things but I I
10 always ask specifically about sleep, that is one of the first
11 things that will change with somebody when they get depressed.

12 Q. Did you ever ask how she's getting along with her
13 brothers and sisters?

14 A. I think she talked about 'em, I didn't ask it
15 specifically.

16 Q. Didn't she specifically talk about how they were getting
17 along with each other?

18 A. Um, I don't remember.

19 Q. That Joey and Sammy were were kinda gettin' into it, do
20 you recall that?

21 A. I don't remember.

22 Q. Do you recall **Minor** stating to follow up your question
23 that, I didn't even look at him that Wednesday?

24 A. Are you referring to the time that her mother took her
25 over to confront Mr. Horton?

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1 Q. Yes.

2 A. Yes.

3 Q. And if she came to this very courtroom testifyin' to
4 somethin' different, that would be inconsistent.

5 A. Sure.

6 Q. Do you recall ---

7 THE COURT: Will you excu -- excuse me just a minute, can
8 I see ya'll just a sec?

9 MS. REESE: Sure.

10 (Whereupon, a bench conference was held off the record.)

11 THE COURT: Alright, ladies and gentlemen, we're gonna
12 break for lunch. I I I don't like usually interrupt a
13 witness's testimony but we're past lunchtime and it may be a
14 little bit longer so I think it's a good time for us to recess
15 for lunch so we'll do that. Uh, keep in mind my caution don't
16 talk about the case, don't conduct any research, don't, uh,
17 allow yourselves to be exposed to any type of media coverage.
18 Uh, have a good lunch and please report to your jury room at
19 2:30, 2:30 this afternoon. Have a good lunch.

20 UNIDENTIFIED JUROR: Thank you.

21 (The following takes place outside the presence of the
22 jury.)

23 THE COURT: Ms. McMillan, you can step down but again as
24 I've said earlier you can't discuss your testimony with
25 anybody during lunch recess because ---

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1 THE WITNESS: Yes, sir.

2 THE COURT: --- you're still on the witness stand.

3 (Whereupon, the witness left the stand.)

4 THE COURT: Mr. Brown, did you get the bondsman here for
5 Mr. Horton's continued release?

6 MR. BROWN: Your Honor, I I know his father has made
7 contact, uh, with the bondsman, called him, told him that he
8 needed to come and make a personal appearance, uh, it's my
9 understanding that obviously he's a self-employed gentleman
10 and he's gonna have to leave his next job that he's doin', uh,
11 to physically come here but, uh, they assured me he's gonna
12 come make an appearance here today, Your Honor. I will ask
13 that for the purpose of preparing Mr. Horton be allowed to
14 continue out at least through through lunch.

15 THE COURT: What's the State's position?

16 MS. REESE: Your Honor, we would just leave it in the
17 Court's discretion.

18 THE COURT: Alright, I'll let him stay out during lunch.
19 Uh, Mr. Horton, understand that case is gonna continue even in
20 your absence. Once the trial begins it proceeds whether you
21 show up or you don't show up. Uh, you have an obligation
22 under the bond to appear as you know and if you do not appear
23 not only could that constitute an additional criminal offense
24 that could be brought against you but it al -- also could
25 result in estreatment proceeding being being brought against

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1 the bonds person, they forfeit whatever monies or property
2 they've pledged to ensure your presence here so, uh, as I say
3 we'll proceed even in your absence so you must appear and you
4 must be here before 2:30, now Mr. Brown may need to see ya
5 sometime prior but I don't know, I don't need ya before 2:30
6 but ya have to be here not later than 2:30.

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: Okay, court is in recess until 2:30.

9 (Whereupon, a recess was taken.)

10 THE COURT: Alright, bring the jury in, please. Uh,
11 Ms. McMillan, you can take your seat on the stand, please.

12 (Whereupon, the witness returned to the stand.)

13 THE COURT: Good afternoon. As you know when we recessed
14 for lunch the witness was undergoing cross-examination by
15 Mr. Brown so we'll continue with that cross-examination this
16 afternoon.

17 BY MR. BROWN:

18 Q. Just a few more questions. In terms a your forensic
19 evaluation as relates to the notion of night sugars, wha'd you
20 un -- what did you understand from your conversations with
21 Minor both in Video Number 1, Video Number 2 or Interview
22 Number 1, Interview Number 2 in regards ---

23 A. What do I understand about night sugars, is that what ---

24 Q. Yeah.

25 A. --- you're asking?

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1 Q. Yes, ma'am.

2 A. Uh, my understanding was it sounded like it was kind of a
3 nighttime ritual, uh, that the children would, uh, hug their
4 father or stepfather, uh, before going to bed.

5 Q. And in particular as relates to the underlying
6 allegations associated with night sugars, what was your
7 understanding?

8 A. My understanding was that, uh, sometimes a rubbing would
9 happen during that time, a rubbing of her, uh, private area
10 and his would happen during that time and that she made effort
11 to avoid that happening by trying to go first, uh, ahead of
12 her sister Samantha, uh, and sometimes she was able to go
13 first ahead of Samantha and sometimes that worked and
14 sometimes she would be held back.

15 Q. So it is your understanding that from your conversation
16 with **Minor** she said the night sugars took place in the
17 kitchen?

18 A. That's my understanding.

19 Q. And, uh, it's also your un -- understanding that **Minor**
20 expressed to you that sometimes there would be mutual rubbing
21 in the kitchen for night sugars?

22 A. That that is my understanding, that's what I remember.

23 Q. Okay. Do you recall if she ever changed that or if she
24 was pretty much consistent with that?

25 A. I think she added some additional information about, uh,

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1 what her stepfather was wearing, uh, but and that may have
2 been at a different time but I don't recall.

3 Q. Okay. Would you agree with me or disagree with me if you
4 ask the question, What would happen when you were having your
5 period, is that suggestive?

6 A. Uh, it would actually be a question I would ask of a
7 teenage girl that I thought was having her period because I
8 think that's important to understand and and actually I think
9 **Minor** maybe even brought that up before I asked her about
10 it.

11 Q. Again as relates to your direct question, What would you
12 do if you have a period, would that be suggestive in any
13 way?

14 A. No, would not.

15 Q. Would that be an implication that something had to have
16 been goin' on when her period was on?

17 A. No, would not.

18 Q. Would that question lead to an implication that somethin'
19 normally could have gone on but for her period being on?

20 A. It's just a question for more information.

21 Q. And if you asked that question multiple times and her
22 answered changed, could you say that's the result of
23 suggestibility?

24 A. Not necessarily, no.

25 Q. But it is possible?

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1 A. Anything's possible.

2 Q. Would askin' the question, Did you ever see Rob do
3 somethin' to his own private, is that a proper question for
4 you to ask?

5 A. Yes, it is.

6 Q. Why would that be a proper question?

7 A. It's part of gathering more information. She'd already
8 talked about his private, uh, and it would be something I
9 would ask.

10 Q. So would that be an attempt to elicit some some form of
11 information from her without her necessarily providing that on
12 on her own?

13 A. It would be my in -- my way of asking additional
14 questions after what she had already talked about to gather
15 more information.

16 Q. What type of information would you consult in terms of
17 doing your forensic evaluation besides speakin' with **Minor**

18 A. What kinds of information would I consult?

19 Q. Yes.

20 A. Well I would want to interview the, uh, parent or
21 caregiver who, uh, is in charge of the child and, uh, in this
22 particular case the information I reviewed was the incident
23 report from the sheriff's office, uh, I also reviewed the
24 voluntary statement that Stephanie Horton made to the
25 sheriff's office, I, uh, reviewed the letter that she had

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1 written to her mother and there's a psychological evaluation
2 that I believe the mother provided, uh, from the Greenville
3 County School District.

4 Q. Was that psychological evaluation contemporary to your
5 interview or was it very old?

6 A. It was older, it was from 2003.

7 Q. Would a a more recent one greatly assisted you more than
8 one from 2003?

9 A. No, probly ---

10 Q. Would ---

11 A. --- not.

12 Q. --- not?

13 A. --- probly not.

14 Q. Why do you say that?

15 A. Well because psychological profiles don't really change
16 over time and, uh, the information in there was, uh, pretty
17 standard I think for psychological evaluations and information
18 that I would have to tell me about any, uh, challenges that
19 she had.

20 Q. So is it impossible for one's psychological profile to
21 change over time?

22 A. I didn't say it was impossible, I just said that I was
23 satisfied the 2003, if there had been a new one, that woulda
24 fine.

25 Q. Okay, so it is possible that her psychological profile

LYNN MCMILLAN - CROSS-EXAMINATION BY MR. BROWN

1 could have changed.

2 A. There coulda been something different on it, correct.

3 Q. There was not one available that was more recent besides
4 2003.

5 A. Not not to my knowledge.

6 Q. And do you know if she had gone through any psychological
7 treatment in this time period?

8 A. I don't recall that she did.

9 Q. Do you recall **Minor** being consistent in her answers when
10 you questioned her, Did he put anything inside you?

11 A. She had initially denied that he put anything inside her
12 and then later she said that he did.

13 Q. And what did he -- what did she say later that supposedly
14 he put inside of her?

15 A. I believe she said his hand or his fingers, I don't
16 recall what she said.

17 Q. And would you you agree with me that was a product of
18 continued questions if at all it's even part of any interview
19 that you did?

20 A. Uh, it could be.

21 Q. Would that be a notion of suggestibility?

22 A. I don't believe that it is, no.

23 Q. So if you asked that question three times, you got
24 negatives twice, you got a positive third time, could that be
25 a notion of suggestibility?

LYNN MCMILLAN - CROSS-EXAMINATION BY MR. BROWN

1 A. No, not suggestibility, I didn't suggest an answer.

2 Q. But is suggestibility only possible through suggesting an
3 answer or through the conduct of the interviewer?

4 A. Hmm...I don't know.

5 Q. You y ---

6 A. I don't know. I I don't think I was suggesting an answer
7 by asking, to me ---

8 Q. You ---

9 A. --- it's not suggestive.

10 Q. --- but you are familiar with the clinical term of
11 suggestibility ---

12 A. Yes.

13 Q. --- and the type of questions; number one, could lead to
14 sugges -- suggestibility, the manner of the questions also
15 could be a notion of suggestibility ---

16 A. Sure, could be.

17 Q. --- and that can also include leading questions as well
18 as repetitive questions.

19 A. It could.

20 Q. And in terms of your forensic examination of **Minor**

21 **██████████**, you did use leading questions ---

22 A. I don't see the questions as leading, I see them as
23 focused and directed.

24 Q. --- and you also use repeated questions.

25 A. Sure, I use repeated questions, yes.

LYNN MCMILLAN - CROSS-EXAMINATION BY MR. BROWN

1 Q. In fact, information that you've shared with Megan
2 Burrell as relates to any digital penetration, you include
3 that in the report.

4 A. It it is in my report, correct.

5 Q. And would you agree with me or disagree with me if that
6 is in your evaluation it would have come as a product of
7 multiple questions askin' the same thing over and over?

8 A. No, not nesslerily [sic].

9 Q. Okay. Is another whole lotta by-product of interviewing
10 person through the notion of suggestibility isn't the
11 by-product of a child basically trying to please the
12 interviewer?

13 A. That is always somethin' to be considered.

14 Q. Isn't a notion also that that child would seek out to
15 give an answer that the interviewer's ultimately trying to get
16 at?

17 A. It could be.

18 Q. And it can be inferred from multiple questions if through
19 the multiple questions you get a negative, you get a negative,
20 then the answer changes, you no longer have that question
21 asked of you again, that could be inferred that that's an
22 answer the interviewer wanted.

23 A. I actually think I did ask the question again toward the
24 end of the second interview but it could be.

25 Q. And again that's a notion of suggestibility.

LYNN MCMILLAN - CROSS-EXAMINATION BY MR. BROWN

1 A. It could be.

2 Q. When's the last time you've seen Minor in terms of any
3 direct contact?

4 A. Uh, this morning.

5 Q. Prior to that?

6 A. Yesterday morning.

7 Q. Prior to that?

8 A. Don't know. She comes for therapy and I sometimes bump
9 into her in the lobby but I actually don't remember last time
10 I seen her.

11 Q. She comes to therapy in Spartanburg?

12 A. Um-hum.

13 Q. How long has that been goin' on?

14 A. I I don't know when it started. I referred her for
15 therapy, uh, after the completion of my forensic evaluation
16 and she's been in therapy and I sometimes do see her but
17 actually I don't remember the last time I've seen her.

18 Q. Have you reviewed a a current report as a result of her
19 therapy?

20 A. I have not.

21 Q. Do you know if a por -- current report exists?

22 A. Generally therapists write progress notes, uh, about each
23 individual session, uh, versus a report like we would do at
24 the completion of the forensic evaluation.

25 Q. One last question: If you used action words with a person

LYNN MCMILLAN - CROSS-EXAMINATION BY MR. BROWN

1 that you're interviewin', wouldn't that clearly be
2 suggestibility?

3 A. Can you give me example.

4 Q. How did he get to you?

5 A. Oh, no, I don't think that's suggestible at all that
6 example you gave, I think it's requesting additional
7 information to understand about what she's trying to tell
8 me.

9 Q. So you're not suggesting that an action took place with
10 that type a question.

11 A. Not in context of what we were talking about and what I
12 was asking her, no.

13 Q. You know the context that you're asking the question in,
14 correct?

15 A. Pardon?

16 Q. You would the know the context in which you you would be
17 asking the ---

18 A. Yes.

19 Q. --- question ---

20 A. Yes.

21 Q. --- but the person that you're asking that question to
22 they may not.

23 A. Well it -- I remember asking that question and I I
24 remember what the context was and it was something of a very
25 specific incident she was telling me about and I ask her that

LYNN MCMILLAN - CROSS-EXAMINATION BY MR. BROWN

1 question.

2 Q. So you went from asking in a generalized manner, Anything
3 else, and the next question that you ask is, How did he get to
4 you, are there -- are those similar questions?

5 A. "Anything else" is something that I commonly ask after
6 they've told me something or we've talked about something, I
7 would say anything else, um, that would be pretty standard
8 question to ask if the child had thought of something else
9 other than I ask about them and that if they didn't respond
10 with anything else then I would go to another question if I
11 had another question.

12 Q. And the follow-up by asking the question, What part would
13 usually happen here, that's not suggestive?

14 A. No, it is not, not in the context of what I was asking
15 her.

16 Q. But you understood context.

17 A. We were both there together and I think we were both
18 aware a the context.

19 Q. So you went ---

20 A. She was describing to me something that happened and I I
21 can't remember what the words you just used, Anything else
22 happen here, uh, that is in context with whatever I was asking
23 her about.

24 Q. So if you went from, How'd he get to you, then you go to,
25 What part usually happened here, ---

LYNN MCMILLAN - CROSS-EXAMINATION BY MR. BROWN

1 A. I'm not ---

2 Q. --- there's no ---

3 A. --- sure what you're referring to and I I don't know what
4 the context of that was.

5 Q. Well just before she talked about getting on the computer
6 and emailing friends that's context.

7 A. And and actually that's not how I recall the context of,
8 How did he get to you.

9 Q. Okay. It it would be on the the video at ---

10 A. It be ---

11 Q. --- interview?

12 A. --- on the video.

13 Q. If you ask a question, again since you bring up context,
14 if you, if you asked your question, Stuff happened in the
15 closet one time or more than one time, why not a follow-up to
16 that?

17 A. 'cause I think she answered the question.

18 Q. So if she answered the question and gave you an answer
19 that said just one time, that wouldn't lead you to a
20 follow-up?

21 A. What I recall considering context was that she'd already
22 told me what happened in the closet but earlier when she told
23 me about that I had not asked her about one time or more than
24 one time and then I did and she answered one time, I already
25 had the information about what happened in the closet.

LYNN MCMILLAN - CROSS-EXAMINATION BY MR. BROWN

1 Q. So if she had said more than one time as relates to the
2 closet, that would be inconsistent with you asking the
3 question again, Stuff happened in the closet one time or more
4 than time.

5 A. I'm sorry not following.

6 Q. If she had said somethin' different previously and you
7 asked the specific question, Stuff happened in the closet one
8 time or more than time, that that would be inconsistent.

9 A. Do you mean if she was telling me about more incidents
10 earlier and then I ask her one time or more than one time?

11 Q. No, ---

12 A. I'm sorry.

13 Q. --- incidents as relates to the closet several.

14 A. If she had told me previously about more than one
15 incident in the closet and then I ask her did it happen one
16 time or more than one time and her response was different from
17 the other then it would be inconsistent, otherwise it would be
18 consistent.

19 Q. So asking the question of, Why in the closet, why were
20 you in the closet, that's not a an immediate follow-up
21 question that you coulda asked?

22 A. Oh, sure I could have asked that.

23 Q. But you didn't ask that.

24 A. I did not.

25 Q. And you didn't ask, Where was Sammy if you were in the

LYNN MCMILLAN - CROSS-EXAMINATION BY MR. BROWN

1 closet.

2 A. I don't recall asking where was Sammy.

3 Q. You didn't ask, Where was Ms. Horton if you were in the
4 closet.

5 A. I don't recall asking that.

6 Q. You didn't ask where Joey or Josiah was if you were in
7 the closet.

8 A. I don't recall asking that.

9 Q. You didn't ask these kinda questions throughout the
10 majority of your for -- forensic examination.

11 A. Some a the information she provided spontaneously and I
12 didn't need to ask her that specifically.

13 Q. But as it relates to the allegations, for the most part
14 there was no information about anyone else in the home or the
15 location:

16 A. Well actually yes there was. She did provide
17 spontaneously in her narrative of telling me about things that
18 had happened, she did identify where other people were.

19 Q. Okay. Again, in her narrative as relates to the majority
20 of the allegations, some the allegations, a few instances or
21 for the most part not at all.

22 A. I think she provided me that information for the most
23 part.

24 Q. That's all the questions I have thanks.

25 REDIRECT EXAMINATION BY MS. REESE:

LYNN MCMILLAN - REDIRECT EXAMINATION BY MS. REESE

1 Q. Ms. McMillan, you did several pictures with Minor is
2 that right?

3 A. I did several photographs of her home, yes.

4 Q. And you obtained those photographs and how did that go in
5 in the course of the interview, how did information get
6 written on these photographs?

7 A. I wrote them.

8 Q. And, uh, what was the procedure for doing that? How did
9 you go over these with Minor and and how did you get the
10 information to write on these photographs?

11 A. The photographs were used and I already had the
12 photographs and I had told her that that be part of what we'd
13 be doing in the second interview and so what I wrote on there
14 was based on verbally what she was saying to me, uh, as we
15 were talking.

16 Q. So the information you wrote on these photographs were
17 based on what she was telling you at the time when she was
18 identifying items in these photographs.

19 A. Yes, that is correct, she was identifying, I was
20 writing.

21 Q. And the entirety of the information is from the video and
22 was indicated by Minor at the time that you wrote it.

23 A. Correct.

24 Q. Uh, let's talk about he he talked about suggestibility
25 and in terms of suggestibility or suggesting answers,

LYNN MCMILLAN - REDIRECT EXAMINATION BY MS. REESE

1 suggestibility is suggesting an answer in the question, is
2 that right?

3 A. That is my understanding.

4 Q. Uh, so when you are talking to **Minor** in this case and
5 she gives you information, for example, he was doing or he was
6 doing this to me and you say, How did he get to you, in your
7 opinion is that suggestible or is that follow-up question?

8 A. To me that is a follow-up question.

9 Q. So did you in fact say initially, How did he get to you,
10 or did -- was that a response to an answer she had already
11 give you? Was it a just a follow-up to an answer she already
12 gave?

13 A. As I recall she was sharing some information with me
14 about an incident, uh, and I believe the incident was specific
15 to him licking her private and by and I don't remember exactly
16 where it was but wherever it was they were, I didn't
17 understand how he would get his mouth to her genital area and
18 so I I used the word, How did he get to you.

19 Q. And she answered your question.

20 A. I can't remember what she said.

21 Q. Uh, can you tell the jury the way that you ask questions
22 does that sometimes influence an answer? For example, can you
23 ask a question not necessarily suggestive but can you ask a
24 question and then ask it another way and it influence the
25 answer for a child?

LYNN MCMILLAN - REDIRECT EXAMINATION BY MS. REESE

1 A. I'm not sure I follow you.

2 Q. You ask two different questions but they may be worded a
3 little differently, ---

4 A. Correct.

5 Q. --- they mean the same thing to you, do they in fact
6 sometimes get a different answer from a child?

7 A. Oh, I think they could get a different answer to a child
8 and and but also I think is look, we're talkin' about context
9 and and when in the interview process I might ask it and if I
10 ask something different later it may be reworded and it may
11 cue something for them to respond differently, uh, it -- hope
12 not.

13 Q. So it's possible that there might be a different answer
14 to, Did he stick anything inside of you versus, Did his hand
15 go inside you.

16 A. Correct.

17 Q. Uh, and is it possible a child might see any thing as
18 different from a hand?

19 A. I think they could.

20 Q. Uh, now Mr. Brown asked you the mother believed and you
21 said, I think your mom believes you, you didn't say the
22 mother, she didn't say, Mom believes me because of porn, she
23 said, Mom believes me because she knows I couldn't know that,
24 do you remember that?

25 A. I do remember that.

LYNN MCMILLAN - REDIRECT EXAMINATION BY MS. REESE

1 Q. In a situation where they're going through an evaluation,
2 uh, why is it necessary and you, several times you said, You
3 don't need to have any contact with the defendant, what is the
4 reason that you do not, while you're in the process [sic] of
5 evaluating a child not want that child to have contact with a
6 defendant?

7 A. We do not want the child to have any contact with the,
8 uh, defendant during an evaluation any time there are
9 allegations, uh, regardless of the outcome of the evaluations.
10 We feel like the most neutral and cleanest way to do the
11 evaluation is to simply have no contact so that that child
12 cannot be influenced. We know that children are, uh, much
13 more likely to recant, that means take back or deny the very
14 abuse they've already told about if they are influenced, uh,
15 by people who want them to tell a different story or change
16 their mind and so we know that children can be influenced if
17 they're around somebody, uh, particularly the defendant but
18 also people who may not be supporting or believing of their
19 allegation.

20 Q. So is that a standard procedure that you would ask that
21 anybody who wants to influence or could possibly influence a
22 child not be allowed to have, uh, contact with them during the
23 time frame?

24 A. That is correct. In fact, if we and then that can be
25 either way for a child, for somebody influence them to tell

LYNN MCMILLAN - REDIRECT EXAMINATION BY MS. REESE

1 false allegations as well as someone to influence them to take
2 back allegations they've already made so we wanna look at that
3 on both sides. Uh, also, uh, our practice is that if we know
4 the child is having contact with somebody who either isn't
5 believing or supporting or who is the defendant, we will not
6 do the evaluation on the child.

7 Q. Uh, in the situation where you ask **Minor** to circle any
8 area that the defendant had touched and she circled one
9 breast, uh, was there an issue or why did you ask was that
10 both or one? What what was the reason for your follow-up
11 question?

12 A. I would need to look at the drawing. I don't recall if
13 she circled both first because I think she verbally then said
14 one. I don't remember which order she did it and so to me it
15 was a clarifying question.

16 Q. But she made the circles and then you just questioned her
17 about ---

18 A. Correct.

19 Q. Now in terms of the "bad" or "wrong", **Minor** volunteered
20 for you, she said you said, Why are you here, and she said,
21 Because he did something wrong and I didn't know it, and you
22 said, Okay, let me understand he did something bad, and she
23 said, No, wrong, and then you corrected it, is that, is that
24 the way it went?

25 A. That's how I recall it. I misspoke and then she did

LYNN MCMILLAN - REDIRECT EXAMINATION BY MS. REESE

1 correct me on that, yes.

2 Q. Now in a situation where a child has been abused,
3 Mr. Brown asked you well she laughed during the video, is it
4 common or uncommon, I mean, is it a situation where once a
5 child is sexually abused they they never laugh again, they
6 don't, ex -- explain that, please.

7 A. Well the fact that we talked abo -- you asked me earlier
8 about compartmentalization and that ability to put certain
9 things in kind of a side place somewhere, container somewhere
10 where you don't pull it out all the time, so children can
11 certainly laugh about lots of things and do very normal things
12 even though they've been sexually abused and consider that
13 most the children delay about telling and this has been going
14 on for a long time before she did tell, uh, she was able to
15 compartmentalize and put that in a separate place so to me it
16 is also an indication of some resiliency and we look at the
17 resiliency of children, their ability to to kinda bounce back
18 after something has happened, so the fact that they can
19 compartmentalize in a way and still laugh at something and
20 still have fun and do things that is a very strong sign to me
21 that this child's going to be okay.

22 Q. Now and Mr. Brown asked about the Children's Advocacy
23 Center and your number of evaluations, do all of the children
24 you evaluate do you determine that they have made disclosures
25 or do all those cases go to trial?

LYNN MCMILLAN - RECROSS-EXAMINATION BY MR. BROWN

1 A. Absolutely not, those cases don't go to trial, uh, ---

2 Q. Um, and just to follow up, I don't mean to cut you off,
3 but so a number of evaluations you do do not result in charges
4 or anything like that, is that correct?

5 A. That is correct.

6 Q. Nothing further.

7 RECROSS-EXAMINATION BY MR. BROWN:

8 Q. As a follow-up, a number a things that you could do by
9 way of evaluation, in particular as relates to what Ms. Reese
10 had asked about things not goin' to trial, one of the obvious
11 possibility is that is people can plead guilty in cases that
12 you've evaluated.

13 A. Oh, certainly.

14 Q. You spoke about if you gave statement that you would want
15 a child not to be in contact with the abuser, at the initial
16 outset of a interview, do you know if a person is an abuser or
17 not?

18 A. No, I don't, I said the allegations against someone.

19 Q. Well the second interview would you know that?

20 A. No, would not.

21 Q. And you wouldn't know 'bout any influence that one
22 members of their family would have on a person.

23 A. One member of whose family, sorry?

24 Q. Uh, the the ---

25 A. Child's family?

LYNN MCMILLAN - RECROSS-EXAMINATION BY MR. BROWN

1 Q. --- person that, the person that's bein' accused.

2 Grandparents, don't have any contact with grandparents.

3 A. That would not be normally my recommendation unless there
4 was something to warrant that. In this case Minor told me
5 that her grandmother said she was lying ---

6 Q. And that ---

7 A. --- and ---

8 Q. --- that that -- I'm sorry, go ahead.

9 A. --- and that was a reason I had said no contact during
10 the, during evaluation.

11 Q. So typically you wouldn't say that.

12 A. It it just depends. I wouldn't typically say it if if, I
13 mean, children have lots of loving people who care about them
14 but if somebody is calling them a liar, uh, and not believing
15 them then that is not somebody that I want the child to be
16 around at this time.

17 Q. But if someone was calling the child a liar about
18 something completely different, does that have any bearing on
19 your advice to that child?

20 A. It depend on what it was.

21 Q. About a child following another child in the bathroom at
22 all times.

23 A. Not unless that was somehow related to the allegations.

24 Q. Alright. That was part of the substance of what Minor
25 had stated allegedly to her grandmother, correct?

LYNN MCMILLAN - RECROSS-EXAMINATION BY MR. BROWN

1 A. I think that was part of it, yes.

2 Q. If you're gonna to say to a child "standing", "sitting"
3 in your question, what would would that yield the possibility
4 that child would say neither in most instances as yous asking
5 questions as as an example?

6 A. If I didn't give the child enough choices to choose from
7 or accurate that one of 'em was accurate and for her to say
8 neither would be an appropriate answer and then ---

9 Q. Okay.

10 A. --- I would have to follow up to understand.

11 Q. That's a possibility for the child to say neither,
12 correct?

13 A. Sure.

14 Q. But as an examiner, authority figure, you're asking a
15 child or give a child two options or a few options, is that
16 child more likely than not to answer with one of the choices
17 you've given that child?

18 A. If one a the choices is correct, I would expect that
19 that's how they would answer it, ---

20 Q. That's not my ---

21 A. --- yeah.

22 Q. --- question though.

23 A. I don't ---

24 Q. My question is, ---

25 A. --- know how to answer it otherwise.

LYNN MCMILLAN - RECROSS-EXAMINATION BY MR. BROWN

1 Q. --- my question is if you give a child only a few choices
2 to answer, is it common for that child to answer with one of
3 those choices that you've given that child or would the child
4 go outside?

5 A. I don't know. I don't know what's common or not common
6 on that, ---

7 Q. Based upon ---

8 A. --- it's standard ---

9 Q. --- your experience.

10 A. --- question that we would give -- pardon me?

11 Q. Based upon your experience.

12 A. My experience is that it's usually one of them is the
13 correct answer and because I ask the child in the beginning
14 not to guess, not to show me their imagination and to please
15 say I don't know or I don't remember if they don't, my hope
16 for that is that if any, if I gave them several choices and
17 they were all incorrect, I hope that they would say none a
18 those.

19 Q. Is it important for you to ask a child throughout the
20 examination, Are you telling the truth?

21 A. No, it's not.

22 Q. Why not?

23 A. Well we don't ask adults when we talk to 'em about are
24 you telling the truth, uh, we certainly do that with kids but
25 I've already established that and to continue to ask the child

LYNN MCMILLAN - RECROSS-EXAMINATION BY MR. BROWN

1 about are you telling me the truth would be challenge them and
2 somehow letting them know that I think they're not after they
3 already said they agreed that they would tell the truth.

4 Q. So if you challenge them and ask that question, you would
5 let them know that you think they're not?

6 A. I would not.

7 Q. Wouldn't that be the exact nature of suggestibility?

8 A. I would not ask them again if are you telling me the
9 truth.

10 Q. Well didn't you ---

11 A. If it ---

12 Q. Sorry, ---

13 A. --- I'm sorry.

14 Q. --- go ahead. Didn't you just state your reason for not
15 asking that question multiple times that would give that child
16 indication that you would think that they're not telling you
17 truth?

18 A. I think that it would just strictly be inappropriate to
19 ask the child repeatedly, Are you telling me the truth, and I
20 think it would convey to the child that somehow I wasn't at
21 least believing what they were saying or that what they were
22 saying was making sense to me. In this case with **Minor** she
23 brought up the idea that, uh, if somebody thought she was
24 lying or dreaming and I followed up with that to say, Are
25 you -- is there anything in this that you're lying about, and

LYNN MCMILLAN - RECROSS-EXAMINATION BY MR. BROWN

1 I only did that in response to something she brought up.

2 Q. Understand that but again, if you asked repeatedly
3 throughout, Are you telling the truth, would that be a notion
4 of suggestibility based upon ---

5 A. I think ---

6 Q. --- what you ---

7 A. --- that it could.

8 Q. And you didn't do that?

9 A. I I did not do that.

10 Q. Okay. And would you agree with me if a child's being
11 interviewed by you for the purpose of an allegation of abuse,
12 child is seen by a clinician for the purpose of allegation of
13 a child abuse, child was talking to members of the family
14 about notions of child abuse, child is being exposed to
15 members of law enforcement, the Department of Social Services
16 concernin' those underlyin' allegations, would that have a
17 direct bearing on if that child would or could later come back
18 and recant?

19 A. I think that just merely talking to law enforcement or
20 DSS then talking to me or first talking to their family that
21 in and of itself would not necessarily lead a child to recant.
22 If there was pressure on the child to change their story or
23 pressure on a child from how things are not going well since
24 they told, that is the part that I think would affect the
25 recantation, not other people being involved in it in and of

CATHERINE LEISY - DIRECT EXAMINATION BY MS. REESE

1 itself.

2 Q. Okay, so you're saying if there was pressure then the
3 child could have recanted.

4 A. If there was pressure on the child to take back what they
5 said, yes, they can recant.

6 Q. If there's no pressure and there's a support system of
7 various parties, agencies and individuals that are saying,
8 We're with ya on this, you would agree with me that it's less
9 likely that a child would be inclined to come back and
10 recant?

11 A. Correct.

12 Q. That's all the questions I have.

13 MS. REESE: Nothing further.

14 THE COURT: You may step down.

15 (Whereupon, the witness left the stand.)

16 MS. REESE: Your Honor, State calls Catherine Leisy.

17 CATHERINE LEISY, having been
18 first duly sworn, testifies as follows:

19 THE CLERK: Thank you may be seated.

20 DIRECT EXAMINATION BY MS. REESE:

21 Q. You state your name, please.

22 A. Catherine Leisy.

23 Q. And, uh, where are you employed?

24 A. I work for the South Carolina Law Enforcement division
25 commonly known as SLED.

CATHERINE LEISY - DIRECT EXAMINATION BY MS. REESE

1 Q. And what are your duties as an employee of the South
2 Carolina Law Enforcement Division?

3 A. I am a forensic scientist assigned to the DNA Serology
4 Unit. My responsibilities include processing forensic cases,
5 generating reports based on the results and conclusions drawn
6 and testifying to those reports as necessary. I also assist
7 in the training of new analysts within the department.

8 Q. And what is your educational background?

9 A. I have a bachelor of science degree in genetic
10 engineering from Cedar Crest College in Allentown,
11 Pennsylvania.

12 Q. And what is your specialized training that allows you to
13 work with the South Carolina Law Enforcement Division?

14 A. I have received in-house training from other court
15 qualified analysts in all the different types of testing
16 analysis I'm required to perform as a part of my job. I'm
17 also required to attend continuing education on an annual basis
18 which consists of seminars, uh, referring to general forensic
19 topics as well as training sessions that are specific to the
20 tests and analysis that I perform.

21 Q. And, uh, have you ever been qualified as an expert in the
22 field of DNA?

23 A. Yes, I have.

24 Q. How many times?

25 A. On approximately forty occasions in various jurisdictions

CATHERINE LEISY - DIRECT EXAMINATION BY MS. REESE

1 throughout South Carolina, California, Massachusetts, New
2 Jersey, Florida, the District of Columbia as well as United
3 States District Court in Florence.

4 MS. REESE: Your Honor, at this time I would move that
5 she be recognized as an expert in field of DNA.

6 MR. BROWN: Without objection, Your Honor.

7 THE COURT: She is so qualified.

8 BY MS. REESE:

9 Q. Uh, tell the Court briefly in terms of analysis what
10 kinds of bodily fluids do you analyze in your job with the
11 South Carolina Law Enforcement Division?

12 A. When we're trying to identify bodily fluids, that's
13 what's known as "forensic serology", we can test for semen,
14 blood, as well as saliva.

15 Q. Uh, and just briefly as part of, uh, some information for
16 us, can you tell us, uh, what is DNA in layman's terms?

17 A. DNA stands for DeoxyriboNucleic Acid, it's the genetic
18 material found in all of our body cells with the exception of
19 our red blood cells. DNA is packaged into structures called
20 "chromosomes" which contain our genes and genes are simply
21 strands of DNA that code for our physical characteristics such
22 as our height or our eye color. We receive half of our DNA
23 from our mother and half from our father and therefore have
24 two copies of every gene. Now approximately 99.9 percent of
25 anybody's DNA is identical to that of everyone else's and it's

CATHERINE LEISY - DIRECT EXAMINATION BY MS. REESE

1 the variation, that remaining .1 percent that allows us to
2 tell different people apart.

3 Q. So for any given individual, is the DNA information, uh,
4 in one bodily fluid the same as in other bodily fluids and
5 tissue?

6 A. Yes, it is.

7 Q. And is DNA, uh, particular to a a person?

8 A. With the exception of identical twins, an individual's
9 overall DNA is unique to them.

10 Q. Uh, generally what are you trying to determine through
11 DNA identity testing, uh, of for particular criminal case?

12 A. What we're trying to do is develop a DNA profile from an
13 unknown biological material left at a crime scene or on an
14 item of evidence and determine whether or not that stain was
15 left by a known individual whose standard has been submitted
16 for comparison purposes.

17 Q. So you develop say on an item of evidence, uh, tell the
18 jury what a profile is.

19 A. We test fifteen locations in our DNA which are known as
20 STRs which stands for "short tandem repeat". An STR is a
21 location where a short core unit of DNA repeats a certain
22 number of times so at a particular STR location as I mentioned
23 before we have two copies of every gene, one from our mother
24 and one from our father. Let's say at one particular STR
25 location one of my copies of DNA has eight repeat units and

CATHERINE LEISY - DIRECT EXAMINATION BY MS. REESE

1 the other copy has nine, my DNA types at that STR location
2 would just be eight and nine, we're simply counting those
3 repeats. At the collection of DNA types at the fifteen STR
4 locations that we test, is what we call a "DNA profile",
5 that's what will be unique to each individual and once we have
6 developed a profile from evidence we can compare it to the
7 profile of a known individual to determine if they match which
8 would indicate that that individual is the contributor of the
9 DNA found at the scene.

10 Q. So in effect you're simply comparing the DNA profile you
11 retrieve from an item and comparing it to a known sample of
12 someone's DNA.

13 A. That's correct.

14 Q. Uh, what safeguards and controls are used to make sure
15 that each item of evidence retains the DNA that's there and
16 that it's not, uh, you know, I guess contaminated?

17 A. As each case is submitted to the laboratory it is
18 assigned a specific and unique case number, each item within
19 that case is also assigned a specific and unique item number.
20 Uh, we take great pains to try to avoid any type of
21 cross-contamination or mishandling, uh, only one sample will
22 be handled at a time. Uh, we're constantly the cleaning
23 surfaces and instrumentation that's being used, changing Latex
24 gloves, things of that nature, we also introduce what are
25 called "reagent blanks and negatives", they are samples that

CATHERINE LEISY - DIRECT EXAMINATION BY MS. REESE

1 are run along side the evidence and known standards that are
2 collected that never have DNA added to them so at the end of
3 the testing process if those reagent blanks and negatives are
4 clean and contain no DNA, it indicates that all the chemicals
5 that we used were free of DNA and that the DNA obtained from
6 the evidence and the known standards actually came from those
7 items and I did not contaminate them during the testing
8 process.

9 Q. Did you receive evidence in this case, in the case of
10 Robert Horton?

11 A. Yes, I did.

12 Q. And do you know when you received that?

13 A. I took custody of these items in July of 2009.

14 (Carpet cutting Item 1.1 marked State's Exhibit No. 11
15 and carpet cutting Item 1.2 marked State's Exhibit No. 12 for
16 identification.)

17 Q. Uh, and let me show you what's been marked State's
18 Exhibits 11 and 12 for identification along with the evidence
19 bag it came in, do you recognize those (indicating) items?

20 A. Yes, I do.

21 Q. And when did you receive them?

22 A. Again, I took custody in July 2009, I believe it was July
23 28th.

24 Q. And, uh, at the time you received them, what was their
25 condition?

CATHERINE LEISY - DIRECT EXAMINATION BY MS. REESE

1 A. The two manilla envelopes or coin envelopes had been
2 placed inside this (indicating) heat sealed pouch, the pouch
3 was properly sealed with the seal dated and initialed by the
4 individual who was the last to touch it. Uh, the pouch was in
5 tact indicating that the evidence had not been tampered with
6 in any way during transfer to my custody.

7 Q. And so, uh, at the time that you received it, did you in
8 fact break the seal?

9 A. Yes, I did.

10 Q. And what did you do, uh, what, can you identify what
11 exactly those items are?

12 A. In the smaller envelope, uh, is what is known as "SLED
13 Item 1.1" for this particular case, it is a cutting from a
14 piece of carpet, the larger envelope contains SLED Item 1.2
15 which was also a cutting from a piece of carpet.

16 A. And, uh, what did you do after you broke the seal to
17 prepare that item to be tested?

18 A. I only tested Item 1.1 in this particular case. Uh, the
19 first step was to perform an initial serology test to check
20 for the possible presence of semen, that test was positive
21 indicating the possible presence of semen in the item so I
22 went ahead and developed a DNA profile from that item.

23 Q. And how do you develop quickly, how you de -- uh, how do
24 you develop a DNA profile from particular item?

25 A. Because this item potentially contained semen, I perform

CATHERINE LEISY - DIRECT EXAMINATION BY MS. REESE

1 what's known as a "differential extraction", it's a technique
2 that allows us to try and separate sperm cells which would be
3 present in the semen from any other cells that may be present
4 such as white blood cells or what we call "epithelial cells"
5 which are just body surface cells. Uh, once I am able to
6 extract DNA from these items I make copies of the fifteen STR
7 locations that I'm interested in testing. Once those copies
8 are made I count the copies and the DNA types are assigned at
9 each of those locations giving me the profile, I then have a
10 profile suitable for comparison to a known standard.

11 Q. Other than what is needed -- was needed to be done for
12 analysis, did you alter or tamper that, with that evidence in
13 any any any way?

14 A. No, I did not.

15 Q. Now a -- you say you did develop a profile from that
16 particular item, ---

17 A. Yes.

18 Q. --- and what do you do, once you have tested that item
19 what do you do with the items, uh, i -- that you just
20 tested?

21 A. Once I complete my testing the coin envelopes are placed
22 back in heat sealed pouch in which I receive them, the pouch
23 is resealed, I then date it and initial the seal so that
24 whoever had custody of it next would be able to tell whether
25 or not it had been tampered with, the pouch was then returned

CATHERINE LEISY - DIRECT EXAMINATION BY MS. REESE

1 to the custody of one of our evidence control technicians.

2 Q. And where is that profile information kept?

3 A. Uh, we generate reports in case folders that contain both
4 the raw data as well as the final conclusions that we draw
5 based on those, uh, profiles that we develop.

6 Q. I'm gonna show you what's been, uh, marked as State's
7 Exhibit 9 for identification, uh, can you identify that
8 (indicating) item.

9 A. Uh, this (indicating) pouch and envelope contains, uh, a
10 known DNA standard for Robert Horton. In this particular case
11 I received buccal swabs which are basically just sterile
12 Q-tips that have been rubbed against the inside of the cheek
13 to collect cells to be used to develop a profile.

14 Q. And, uh, what did you do in regard to that, I'm not, I
15 guess I should ask first the these two items were not opened
16 at the same time, were they?

17 A. That's correct. The evidence for -- uh, would have been
18 opened first being the cuttings from the carpet, then I would
19 have opened the standard for Mr. Horton.

20 Q. And were the cuttings from the carpet sealed and put away
21 before your next item was tested?

22 A. Yes, they were.

23 Q. And, uh, what did, uh, were you able to develop a profile
24 from the buccal swabs that you received?

25 A. I was.

CATHERINE LEISY - DIRECT EXAMINATION BY MS. REESE

1 Q. And once you've developed a profile from both items
2 what's the next step?

3 A. Once a profile has been developed from both an item of
4 evidence and a known individual, we compare those two profiles
5 to determine if they are a match and if that individual could
6 have contributed, uh, the DNA profile from that evidence.

7 Q. Uh, did you in fact compare the, uh, cuttings from the
8 carpet and the DNA you extracted to the buccal swab of the
9 defendant?

10 A. I did.

11 Q. And what did you find?

12 A. The DNA profile developed from the semen on the cutting
13 from the carpet matches the DNA profile of Robert Horton and
14 the probability of randomly selecting an unrelated individual
15 having a DNA profile matching semen on this item is
16 approximately 1 in 10 quadrillion.

17 Q. Now do you have a way to explain for the jury what a, how
18 that number works 'cause I don't understand what qu --
19 quadrillion is? Can you -- do you have any way of explaining
20 that to us?

21 A. Ten quadrillion would be significantly larger than the
22 current population of the earth, uh, somewhere in the the
23 realm of about one million times larger, it just means that if
24 you randomly selected an individual from the population, ran
25 their profile, the probability that that profile would be

CAHTERINE LEISY - CROSS-EXAMINATION BY MR. BROWN

1 exactly what I found in the evidence would be approximately 1
2 in 10 quadrillion.

3 Q. So in other words, in your opinion the items or the
4 cuttings, the DNA sample from the carpet matches that of
5 Robert Horton.

6 A. It is a match, yes.

7 MS. REESE: Your Honor, this time we would move to admit
8 State's Exhibits 9, State's Exhibits 10, 11 and 12.

9 MR. BROWN: No objection.

10 THE COURT: They're admitted.

11 (State's Exhibit No. 9, buccal swab, State's Exhibit
12 No. 10, carpet cutting with semen, State's Exhibit No. 11,
13 carpet cutting Item 1.1, and State's Exhibit No. 12, carpet
14 cutting Item 1.2, admitted into evidence.)

15 (Whereupon, a discussion was held off the record.)

16 MS. REESE: Nothing further at this time, Your Honor.

17 CROSS-EXAMINATION BY MR. BROWN:

18 Q. Afternoon.

19 A. Good afternoon.

20 Q. Is there any particular reason why you didn't test 1.1?

21 A. Uh, typically when we receive cuttings or items of
22 clothing that may have a large area of stain on them, it's not
23 unusual to pick only one of the stains or if there are
24 multiple maybe pick two or three. Uh, if the question at hand
25 is is this stain from a particular individual, if I don't feel

CAHTERINE LEISY - CROSS-EXAMINATION BY MR. BROWN

1 that it's more informative to be able to say well I have that
2 DNA profile found in two stains as opposed to just finding it
3 in one, I'll typically just deal with one. As is testing is
4 very time consuming as -- and expensive, we try to be as
5 efficient as we can in answering the question that we have in
6 front of us.

7 Q. So as relates to, uh, the two cuttings of the carpet, you
8 don't know where they came from in terms of the source.

9 A. I do not.

10 Q. You don't know anything about locations?

11 A. Uh, I don't believe I had any information about that in
12 the submission paperwork, no.

13 Q. Okay, and you tested specifically for semen as relates to
14 the carpet you tested for?

15 A. Yes, sir.

16 Q. Did you test for blood?

17 A. I did not.

18 Q. You test for saliva?

19 A. No, sir.

20 Q. You were only provided one buccal swab for one
21 individual?

22 A. Uh, I only received a standard from one individual,
23 that's correct.

24 Q. You haven't received a standard for any other
25 individual?

CATHERINE LEISY - REDIRECT EXAMINATION BY MS. REESE

1 A. No, sir.

2 Q. Okay, that's all the questions I have.

3 REDIRECT EXAMINATION BY MS. REESE:

4 Q. Ms. Leisy, uh, in terms of a standard of another
5 individual, when you do a DNA, uh, analysis, if there was, uh,
6 a mixture of DNA, would you know that without having a swab
7 from someone else?

8 A. Yes, in most cases you can tell just by looking at the
9 evidence profile whether or not you have a mixture of multiple
10 individuals.

11 Q. And in this case it did not indicate a mixture.

12 A. That's correct, I had what we'd call a "single source
13 profile" meaning it's just from one individual.

14 Q. Now in a situation hypothetically where, uh, you have one
15 person who there may be some remnant of of saliva and then
16 this kind of sample which is semen, is there an issue about
17 whether or not one for be -- lack of a better word would
18 overpower another?

19 A. Uh, when you're dealing with mixtures, it's more about
20 how much material you have from one individual. Uh, if you
21 have two different bodily fluids but you have significantly
22 more, say if you have significantly more semen present and
23 there's just a small amount of saliva, you may not be able to
24 detect a profile from the individual that contributed the
25 saliva, uh, it's basically just if there's so much DNA present

CATHERINE LEISY - RECROSS-EXAMINATION BY MR. BROWN

1 in the semen, it doesn't allow you to detect that lower level
2 contributor.

3 Q. So there is a lot of DNA present in in semen is what
4 you're saying?

5 A. Uh, really in any bodily fluid you expect high
6 concentrations of cells that contain DNA, it's more about how
7 much semen you would have versus how much saliva or how much
8 of a secondary contributor.

9 Q. And this was, in terms of the way you would rate this,
10 was a significant of amount of DNA as far the semen goes?

11 A. It was certainly more than enough to develop a profile,
12 it was, it was enough sample.

13 Q. So in your opinion it would not be unusual not to be able
14 to detect say a oral DNA in that sample.

15 A. Again, it depends on how much of a secondary contribution
16 was made, uh, it's, you know, it wouldn't be impossible that
17 there's a second contributor there but all I'm seeing is a
18 single source profile matching Mr. Horton.

19 Q. And, uh, if the the addition of another swab though would
20 not have affected your opinion in this case.

21 A. No it would not have affected the conclusion at all.

22 Q. Nothing further.

23 RECROSS-EXAMINATION BY MR. BROWN:

24 Q. If you had specifically looked for saliva and provided
25 another buccal swab for the purpose of analyzing saliva, would

CATHERINE LEISY - RECROSS-EXAMINATION BY MR. BROWN

1 it been possible that you coulda found that?

2 A. Uh, what I have developed from the cutting from carpet
3 would not have been affected by the presence of another buccal
4 swab being submitted for another individual.

5 Q. Not in terms of saliva.

6 A. Saliva a -- as a part a the evidence?

7 Q. Yes.

8 A. No, I -- there's no way to separate out saliva from what
9 I had at this point. The profile I developed is all I'm gonna
10 be able develop from this item, it's not gonna be affected by
11 any other type a standard.

12 Q. And if that's the only profile that you have, you don't
13 have saliva, there would only be one individual, correct?

14 A. Assuming there's no secondary saliva contributor, it
15 would just be from one individual, that's correct.

16 Q. And based upon your test you didn't find saliva.

17 A. I didn't test for saliva.

18 Q. Okay, so it co -- coulda been possible that you coulda
19 found saliva?

20 A. It's possible that there would be an indication with our
21 serology testing, uh, but that particular test is not what we
22 call "confirmatory", a positive could have indicated the
23 possible presence, there would be no way for me to confirm the
24 presence of saliva.

25 Q. You didn't test for it.

CATHERINE LEISY - RECROSS-EXAMINATION BY MR. BROWN

1 A. I did not.

2 Q. Okay. Thank you.

3 MS. REESE: Nothing further.

4 THE COURT: You may step down.

5 THE WITNESS: Thank you, sir.

6 (Whereupon, the witness left the stand.)

7 MS. REESE: Your Honor, may this witness be excused?

8 THE COURT: She may be.

9 MS. REESE: Your Honor, at this time the State rests.

10 THE COURT: Alright, ladies and gentlemen, that is all
11 the testimony or other evidence to be offered by the State at
12 least in their case in chief. Before we go any further I've
13 got some legal matters I'll need to address with the lawyers
14 so I'll ask you to please go to your jury room, Do not yet
15 discuss the case, I'll bring you back just a few minutes.

16 (The following takes place outside the presence of the
17 jury.)

18 THE COURT: Any motions or other matters to address prior
19 to, uh, continuing?

20 MS. REESE: Not from the State.

21 MR. BROWN: Your Honor, we would make a motion for
22 directed verdict as relates to the second count involving the
23 notion of criminal sexual conduct in the second degree as
24 relates specifically to, uh, digital penetration, that
25 information or any discussion thereof with regards to digital

MOTIONS AND MATTERS

1 presentation came from examination of the defense based upon
2 prior reports I've never been provided to law enforcement as a
3 result of examination, uh, that happened with Ms. Lynn
4 McMillan, however, it'd be our contention we didn't see any of
5 that in in the affirmative as relates to digital penetration
6 from her interview, second to that, Your Honor, we would say
7 that our primary notion we've heard direct testimony from
8 Ms. Minor that didn't corroborate that, Your Honor.

9 THE COURT: Well, uh, neither of these indictments allege
10 digital penetration, they just allege commission of sexual
11 battery and there is testimony of two or more sexual batteries
12 occurring between the period alleged in the indictment.

13 MR. BROWN: Yes, sir, uh, and again would be our
14 contention as relates to, uh, distinguishin' the two we would
15 point to the digital penetration as being the source of one of
16 those indictments, Your Honor.

17 THE COURT: But the indictment doesn't say that.

18 MR. BROWN: Yes, sir, I understand.

19 THE COURT: Alright, uh, motion for directed verdict on
20 that ground is denied. Uh, any others?

21 MR. BROWN: None at this time, Your Honor.

22 THE COURT: Alright, uh, have you discussed with your
23 client about his right to testify or not?

24 MR. BROWN: I have, Your Honor.

25 THE COURT: Does he indicate to you a preference?

MOTIONS AND MATTERS

1 MR. BROWN: He has consistently stated to me that he
2 would like to proceed to testify, Your Honor.

3 THE COURT: Alright, uh, Mr. Horton, ---

4 THE DEFENDANT: Yes.

5 THE COURT: --- uh, you've heard me ask Mr. Brown if he's
6 talked to you about your right to testify or not, ---

7 THE DEFENDANT: Yes, sir.

8 THE COURT: --- do you understand that any time that
9 you're accused of a crime you always have an absolute right to
10 remain silent which simply means that nobody can make you say
11 anything, nobody can ask you any questions about, uh,
12 circumstances relating to the charge, you don't have to take
13 the witness stand, you don't have to make a statement, uh,
14 it's your choice as to whether or not you will say anything,
15 uh, that relates to the charge, uh, and when you come to trial
16 nobody can make you testify, uh, you can testify if you want
17 to but nobody can require it. Uh, do you understand you have
18 the right to remain silent?

19 THE DEFENDANT: I do, Your Honor.

20 THE COURT: And do you also understand that you have a
21 right to take the witness stand and testify if you wish to?

22 THE DEFENDANT: I do, Your Honor.

23 THE COURT: Do you understand that that decision is yours
24 and yours alone?

25 THE DEFENDANT: Yes, Your Honor.

MOTIONS AND MATTERS

1 THE COURT: Have you had plenty of time to talk with
2 Mr. Brown about your decision as to whether or not you will
3 testify?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: Has he explained to you that, uh, if you take
6 the witness stand and testify you'll have to answer questions,
7 uh, asked of you by not only your lawyer but by the prosecutor
8 and you'll have to respond to those questions even if the
9 responses to those questions might tend to prove you guilty of
10 some crime the State claims you committed so far as the
11 questions are relevant.

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: Uh, has he also explained to you that if you
14 elect not to testify that I will instruct the jury as I
15 already have that they can't hold that against ya, they can't
16 consider it in any way, they can't, uh, use that fact in
17 making their decision as to whether or not your guilt has been
18 proven beyond a re -- reasonable doubt.

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: And have you and Mr. Brown discussed the
21 advantages and disadvantages of your testifying as well as
22 your not testifying?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: And do you appreciate what those advantages
25 and disadvantages are?

MOTIONS AND MATTERS

1 THE DEFENDANT: I do, Your Honor.

2 THE COURT: And understanding, uh, each of those factors
3 that I've discussed with you, have you made a decision about
4 whether or not you'll testify?

5 THE DEFENDANT: I have, Your Honor.

6 THE COURT: And what is that decision?

7 THE DEFENDANT: I would like to testify, Your Honor.

8 THE COURT: And is that a decision that you reached of
9 your own free will and accord?

10 THE DEFENDANT: It is, Your Honor.

11 THE COURT: Has anybody forced ya into it?

12 THE DEFENDANT: No, sir, Your Honor.

13 THE COURT: Anybody even suggested to ya that that's the
14 decision you ought to make?

15 THE DEFENDANT: No, sir, Your Honor.

16 THE COURT: You made that decision on your own?

17 THE DEFENDANT: I did, Your Honor.

18 THE COURT: And you're satisfied with it?

19 THE DEFENDANT: I am, Your Honor.

20 THE COURT: Alright. Uh, are there gonna be any other
21 witnesses besides the defendant?

22 MR. BROWN: Yes, Your Honor, uh, we have two additional
23 witnesses.

24 THE COURT: Okay. Alright, let's take, uh, ten minutes
25 before we, uh, continue.

JENNIFER ISBELL - DIRECT EXAMINATION BY MR. BROWN

1 (Whereupon, a recess was taken.)

2 THE BAILIFF: Thank you, be seated.

3 THE COURT: Ready for the jury?

4 MR. BROWN: Yes, Your Honor.

5 THE COURT: Bring 'em in.

6 MR. BROWN: Your Honor, we approach?

7 THE COURT: Sure.

8 (Whereupon, a bench conference was held off the record.)

9 (The following takes place in the presence of the jury.)

10 THE COURT: Alright, ladies and gentlemen, as you know
11 the State has concluded in their presentation so we'll now
12 proceed with any to be offered by the defense.

13 MR. BROWN: Thank Your Honor. Defense would call
14 Ms. Jennifer Isbell.

15 (Whereupon, the witness came forward.)

16 THE CLERK: Please raise your right hand.

17 JENNIFER ISBELL, having been first
18 duly sworn, testified as follows:

19 THE CLERK: Thank you may be seated.

20 DIRECT EXAMINATION BY MR. BROWN:

21 Q. Ma'am, if you could please state your name.

22 A. Jennifer Isbell.

23 Q. And wh -- where do you live?

24 A. I live in Boiling Springs.

25 THE COURT: Uh, excuse me, ma'am, let me ask if you'll

JENNIFER ISBELL - DIRECT EXAMINATION BY MR. BROWN

1 scoot that chair up a little bit so you'll be closer to that
2 microphone and ---

3 THE WITNESS: Alright.

4 THE COURT: --- you can adjust it if you need to, be
5 sure ---

6 THE WITNESS: Okay.

7 THE COURT: --- it pick up your voice.

8 BY MR. BROWN:

9 Q. And I, and I see that you're in some scrubs today, ---

10 A. Yes.

11 Q. --- uh, where do you work at?

12 A. At Spartanburg Regional.

13 Q. And what do ya do there?

14 A. I'm a secretary X-ray tech.

15 Q. Okay, how long you been doin' that?

16 A. For two years.

17 Q. And do you know Robert Horton?

18 A. Yes, I do.

19 Q. How do you know him?

20 A. He was my stepfather.

21 Q. Was married to your mother?

22 A. Yes.

23 Q. How long ago?

24 A. Uh, about 1992 to 1996, '97.

25 Q. Okay, and did he live in the home with you and your

JENNIFER ISBELL - DIRECT EXAMINATION BY MR. BROWN

1 mother?

2 A. Yes.

3 Q. And you also have a sister.

4 A. I do.

5 Q. She not in Spartanburg County?

6 A. No, she's not.

7 Q. Okay. And durin' the course of the time period which you
8 were together as a family, how was he as a stepfather?

9 A. He was very good, he treated us as if we were his own
10 kids and nothin' else.

11 Q. And you were, you were a young child durin' that time
12 period?

13 A. I was.

14 Q. Would you agree with me it was at least from the time
15 that you were 4 to about 9 or 10?

16 A. Yes, sir.

17 Q. And you understand what he's being charged with here
18 today?

19 A. Yes, sir.

20 Q. And based upon your own, uh, experience and interaction
21 with him, is he the kinda person that would do these kinda
22 things he's been alleged?

23 A. No, sir.

24 Q. Okay. Please answer any questions that prosecution may
25 have for you.

MILES "TRIP" WHITLOCK, III - DIRECT EXAMINATION BY MR. BROWN

1 CROSS-EXAMINATION BY MS. REESE:

2 Q. Um, he was your stepdad from the time you were 4 until
3 about 10, is that right?

4 A. Yes, ma'am.

5 Q. Nine or ten. Thank you, no further question.

6 MR. BROWN: You're you're -- can I follow up?

7 THE COURT: Go ahead.

8 REDIRECT EXAMINATION BY MR. BROWN:

9 Q. Your sister, is she younger than you or older than you?

10 A. She's older.

11 Q. How many years?

12 A. She's, uh, older three years by my age.

13 Q. Okay, thank you.

14 THE COURT: You may step down.

15 (Whereupon the witness left the stand.)

16 MR. BROWN: Your Honor, defense would call Trip Whitlock.

17 (Whereupon, the witness came forward.)

18 THE CLERK: Please raise your right hand.

19 MILES "TRIP" WHITLOCK, III,

20 having been first duly sworn, testified as follows:

21 THE CLERK: Thank you may be seated.

22 DIRECT EXAMINATION BY MR. BROWN:

23 Q. Afternoon, sir.

24 A. Good afternoon.

25 Q. If you could please state your name.

MILES "TRIP" WHITLOCK, III - DIRECT EXAMINATION BY MR. BROWN

- 1 A. My real name or what I go by?
- 2 Q. Your real name and what you go that's fine.
- 3 A. Miles Witler -- Whitlock the third, "Trip".
- 4 Q. Okay, and you live here in Spartanburg County?
- 5 A. Yes.
- 6 Q. And what do ya do in Spartanburg County?
- 7 A. I own Whitlock's Furniture.
- 8 Q. Okay. Do you know Mr. Robert Horton?
- 9 A. Yes.
- 10 Q. How do you know Robert Horton?
- 11 A. He worked for me.
- 12 Q. 'bout how long did he work for you?
- 13 A. He worked from 2002 to 2007 somewhere like 'bout five
- 14 years.
- 15 Q. What type of employee was he?
- 16 A. Excellent.
- 17 Q. Dependable?
- 18 A. Absolutely.
- 19 Q. On time?
- 20 A. Absolutely. Had a key to the store, he'd be there before
- 21 me sometimes.
- 22 Q. Hardworkin' guy?
- 23 A. Absolutely.
- 24 Q. Durin' this time period do you know of Mr. Horton was
- 25 married to Ms. Renee Horton?

MILES "TRIP" WHITLOCK, III - CROSS-EXAMINATION BY MS. REESE

1 A. He was. He he wasn't married the whole time, he got
2 married while he was workin' for me or he was single when he
3 start and got married, I don't know exact time frame.

4 Q. And you knew about their marriage?

5 A. Absolutely.

6 Q. What type a marriage did they have in your opinion?

7 A. A great marriage.

8 Q. What type a husband in your opinion?

9 A. Fantastic.

10 Q. You knew that he had stepchildren?

11 A. Yes.

12 Q. In terms of his interaction with his stepchildren, how
13 was he as a stepfather?

14 A. Just like the other witness, I mean, it was just like
15 they were his children.

16 Q. Well please answer any questions that prosecution may
17 have.

18 CROSS-EXAMINATION BY MS. REESE:

19 Q. Mr. Whitlock, you don't have any personal knowledge of
20 anything that happened between this defendant and his
21 stepdaughter in regards to sexual allegations, do you?

22 A. No.

23 Q. Nothing further.

24 REDIRECT EXAMINATION BY MR. BROWN:

25 Q. From what you heard, is he the kinda person that'll do,

HANK WILLIAMS - DIRECT EXAMINATION BY MR. BROWN

1 | that do the things he's been alleged here today?

2 | A. Repeat that.

3 Q. From what you know of this case what he's been charged
4 with, is he, is he the kinda person that would do such?

5 | A. Absolutely not.

6 | Q. Alright, thanks.

7 | MS. REESE: Nothing.

8 THE COURT: You may step down.

9 (Whereupon, the witness left the stand.)

10 MR. BROWN: Defense would call Mr. Hank Williams.

11 (Whereupon, the witness came forward.)

12 HANK WILLIAMS, having been
13 first duly sworn, testified as follows.

14 DIRECT EXAMINATION BY MR. BROWN:

15 Q. Afternoon, sir, could you state your name for the record.

16 A. Hank Williams, a pastor at First Baptist Church, Boiling
17 Springs, South Carolina.

18 Q. And do you know Mr. Robert Horton?

19 | A. I do.

20 Q. How do you know Mr. Robert Horton?

21 A. Uh, he's a member of our congregation. His parents
22 joined I think, uh, nearly eight years ago, I think he was a
23 couple years after that and he and Renee and their family.

24 Q. Was he involved in your church?

25 | A. He was, they actually taught Sunday school I believe in

HANK WILLIAMS - CROSS-EXAMINATION BY MS. REESE

1 the children's department.

2 Q. You had a a chance to observe him and his conduct as a
3 Sunday school teacher?

4 A. I don't know that I actually ever wa -- watched them or
5 saw them in a Sunday school class room but, uh, just
6 interactions, uh, at the church they were pretty faithful,
7 Wednesday night meals and that kinda thing and seein' them
8 around as a family, uh, with other folks in the church.

9 Q. And so you did observe them together as a family.

10 A. Yes.

11 Q. And from your direct observations and what you know, what
12 type a family man was he or is he?

13 A. I I believe he was a a great father, great husband.

14 Q. And as a stepfather did you have the the chance to
15 observe him interacting with his stepchildren?

16 A. Again, in a general sense I suppose, yes.

17 Q. And from what you observed, was he a good stepfather?

18 A. He was, he was, I believe he loves his children.

19 Q. And from your interactions knowing his involvement at
20 church, do you perceive him to be the type a person that would
21 do the things he's been accused of here today?

22 A. I do not.

23 Q. Thank you, sir, please answer any questions the
24 prosecution may have.

25 CROSS-EXAMINATION BY MS. REESE:

ROBERT STEPHEN HORTON - DIRECT EXAMINATION BY MR. BROWN

1 Q. Hi.

2 A. Hi.

3 Q. Do you have any person knowledge of, uh, any conduct or
4 anything that you witnessed regarding sexual nature, uh, or
5 these allegations between the victim and defendant?

6 A. No, ma'am.

7 Q. Nothing further.

8 THE COURT: You may step down.

9 (Whereupon, the witness left the stand.)

10 MR. BROWN: Your Honor, defense would call Mr. Robert
11 Horton.

12 (Whereupon, the defendant came forward.)

13 ROBERT STEPHEN HORTON, having been
14 first duly sworn, testified as follows:

15 (Whereupon, a discussion was held off the record.)

16 DIRECT EXAMINATION BY MR. BROWN:

17 Q. Good afternoon, sir.

18 A. Afternoon. Afternoon, excuse me.

19 Q. Would you please state your name for the jury.

20 A. Robert Stephen Horton.

21 Q. And, Mr. Horton, where do you live?

22 A. I live in Boilin' Spring, South Carolina.

23 Q. Mr. Horton, do you know why you're here today?

24 A. I do.

25 Q. Alright, and what's that reason?

ROBERT STEPHEN HORTON - DIRECT EXAMINATION BY MR. BROWN

1 A. Uh, my stepdaughter has made some sexual al -- misconduct
2 allegations against me.

3 Q. And, Mr. Horton, in regards to those charges, you've been
4 here throughout the course of this trial?

5 A. I have.

6 Q. You've had the chance to hear various people take that
7 same seat in which you're sitting at now?

8 A. Yes, sir, I have.

9 Q. You had a chance to hear testimony of members of law
10 enforcement, ---

11 A. I have.

12 Q. --- members of the Children's Advocacy Center, ---

13 A. Yes, sir.

14 Q. --- you also heard your wife testify?

15 A. Yes, sir.

16 Q. Okay. You've also heard **Minor** testify.

17 A. I did, yes.

18 Q. Well how long have you known, uh, Renee?

19 A. I met Renee on November 8th 2003.

20 Q. How'd you meet her?

21 A. Uh, one a my best friends Jeff White introduced us, uh,
22 we went on a double date with he and his girl friend.

23 Q. Okay, from that what happened next?

24 A. Uh, we waited about a week, we created a huge phone bill
25 for another week and we had our first solo date on November

ROBERT STEPHEN HORTON - DIRECT EXAMINATION BY MR. BROWN

1 22nd 2003.

2 Q. Okay, and at some point that relationship [sic] led to
3 marriage?

4 A. Uh, yeah, I think I said I love you about December 3rd.

5 Q. Okay. And when did you get married?

6 A. We were married July 30th 2004.

7 Q. Where'd you get married at?

8 A. We were actually married on our property under some crepe
9 myrtle trees.

10 Q. And what what -- where's that property located?

11 A. It's at [REDACTED] Road, Boilin' Springs.

12 Q. That's the same residence that's in question as relates
13 to this case?

14 A. It is.

15 Q. And who was present at your wedding?

16 A. Uh, well myself, my wife, uh, Preacher Tommy, I can't
17 remember his last name at the moment, uh, my mom and dad, my
18 mother-in-law, my father-in-law, uh, [REDACTED] Minor and Saman.

19 Q. Josiah wasn't born yet?

20 A. No, Josiah was yet to come.

21 Q. Uh, and from that time period up until the time period of
22 these allegations, how long did you live there with Renee and
23 the ---

24 A. We, ---

25 Q. --- children?

ROBERT STEPHEN HORTON - DIRECT EXAMINATION BY MR. BROWN

1 A. --- uh, she she and the girls actually moved in around
2 May 30th of 2004, couple a months before we were married so
3 we've been there since that point, since about May 30th of
4 '04.

5 Q. Well describe to the jury your typical family life. We
6 we've heard testimony from Renee ---

7 A. Of a typical day?

8 Q. In terms a how you operate as a family.

9 A. Typical day, uh, I guess before hurt my back I was
10 gettin' up goin' to work. Uh, my day started givin' my wife a
11 kiss and my day ended the same way. Uh, I would go to work,
12 uh, we talked on the phone any break I had, lunch time, uh, to
13 the point we were actually talkin' all the way home from our
14 home home phone. Uh, I come home to to knee hugs I call 'em
15 from Sammy and later from Joey. Uh, sometimes we we fixed
16 somethin' to eat, I would help with that, uh, a lotta times.
17 Uh, my mother-in-law actually warned me the first time she met
18 me that I was marryin' the take-me-out-to-eat queen and she
19 was right. Uh, anything we did we did as a family. Uh,
20 except for work we were pretty much together. We would go
21 shoppin' and out to eat and to my parents and to our in-laws,
22 to my in-laws.

23 Q. And how was your family's interaction with your
24 parents?

25 A. My wife and and the kids with my parents?

ROBERT STEPHEN HORTON - DIRECT EXAMINATION BY MR. BROWN

1 Q. Yes.

2 A. Uh, the children loved to spend their days at my mom and
3 dads'. Uh, if it was summertime, no school involved, uh, they
4 could be at my mom and dads' house I would, just from what
5 Renee has told me before, what my mom's relayed to me, nine
6 o'clock the mornin' the kids would be up at mom and dads'
7 house makin' mud pies, ridin' their, uh, Power Wheels and
8 their their bikes. Uh, if school was in, uh, it would probly
9 be just the afternoons or whatnot but, uh, there's probably
10 the length of a football field separates our houses and that
11 gave 'em good opportunity to go back and forth visit with
12 grandma and papa.

13 Q. Durin' this time period you said before you hurt your
14 back, where you workin'?

15 A. Where was I working?

16 Q. Yes.

17 A. I was workin' at Whitlock's Furniture.

18 Q. And what were you doin' there?

19 A. I was the warehouse manager.

20 Q. And you worked there for five years?

21 A. A little over five years, yes.

22 Q. And you ultimately got hurt?

23 A. I did.

24 Q. How'd you get hurt?

25 A. I I didn't know it at first, couple months before I knew

ROBERT STEPHEN HORTON - DIRECT EXAMINATION BY MR. BROWN

1 the results of it I felt a pop and some extreme pain in my
2 lower back, it was around October of '06. Uh, what had
3 actually happened at that point was the, uh, L5, S1 disc had
4 ruptured and it took a couple a months before it touched the
5 sciatic nerve and well I went a couple months before it
6 reached the nerve but once it did I was pretty much
7 incapacitated from that point on.

8 Q. And ultimately as a result of your injury did you have
9 surgery?

10 A. I did. I had surgery 11 months later on, uh, I know it
11 was November, I think November 5th of 2007.

12 Q. Okay, okay, and terms that surgery did that leave you
13 bedridden or incapacitated?

14 A. It did for a while, it's left me with a permanent
15 disability. Uh, it took, there was some recovery time and
16 then a lot of therapy. I spent a lotta time in therapy the
17 next six, seven months and I had spent time in therapy the
18 last three years as well.

19 Q. And in regards to that disability you have not -- well
20 how old are you?

21 A. I'm 41.

22 Q. You say you're a young man?

23 A. No, not anymore.

24 Q. Well in gar -- regards to your injury, is that why you
25 would say that you're not a young man?

ROBERT STEPHEN HORTON - DIRECT EXAMINATION BY MR. BROWN

1 A. Uh, that and circumstances that have us here today I feel
2 very old.

3 Q. Well in regards to your injury and your disability, you
4 have not sought permanent disability.

5 A. No, sir, have not.

6 Q. Are you workin'?

7 A. I am, I'm employed.

8 Q. Where are you employed at?

9 A. I'm employed with a company called Quality Logistics in
10 Greer.

11 Q. And what do ya do for them?

12 A. Uh, I do some forklift work in the warehouse and then I
13 do some, uh, straight truck drivin' between, uh, the Greer
14 facility and a facility in Fountain Inn.

15 Q. After the time period whi -- which you've had your
16 operation and you found yourself at home, how long was it
17 before you got back up on your feet?

18 A. I'm stubborn, I tried the next day, that didn't work too
19 good. Uh, there was at least two weeks where I didn't move
20 much at all, uh, and it was just a gradual process. Uh,
21 somewhere around a month after surgery I have, uh, me and
22 Renee have two large pecan trees in our front yard and, uh, I
23 went out with a a little tool that allowed me to pick it up
24 without bendin' over and I told her I was gonna try to pick up
25 pecans and I think she actually come and collected me that

ROBERT STEPHEN HORTON - DIRECT EXAMINATION BY MR. BROWN

1 day, I made it fifteen minutes, this was nearly a month later.
2 Uh, it was just a gradual process each day walkin' a little
3 bit more, movin' a little bit more. Uh, roughly two months
4 after the surgery by the second week a January I got to where
5 I was walkin' out to, uh, my barn which is probly 30 feet from
6 the back door where I could sit on a stool, do some woodwork,
7 do some things with my hands: sandin' and such, paintin'.

8 Q. How long after this were you able to go out in the yard
9 do some work?

10 A. That probably waited until late February when the,
11 obviously when the weather warmed up. There may have been
12 some instances where I went out and after the initial two
13 months there may a been some things I did, uh, but the best a
14 my recollection I probly waited 'til late February, first a
15 March before I got really involved with that.

16 Q. Okay. Were you able to work in the yard at the same
17 ability level that you did before you had surgery?

18 A.. No, no.

19 Q. Was it partially diminished? greatly diminished?

20 A. It was to me greatly diminished. Uh, things that, things
21 that I was used to accomplishin' on a single day off, uh, were
22 takin' a week, takin' seven days to do.

23 Q. Well we we've heard testimony as relates to Renee bein'
24 at the house, did she work?

25 A. Not while we were married, no.

ROBERT STEPHEN HORTON - DIRECT EXAMINATION BY MR. BROWN

1 Q. So you the only person that was workin'?

2 A. Yes.

3 Q. Okay. You also heard direct testimony as relates to the
4 children of the home being homeschooled, ---

5 A. Yes.

6 Q. --- that true?

7 A. Uh, homeschoolin' started I wanna say maybe '07, uh, I'm
8 not really sure of the the date, the year. **Minor** finished
9 fifth grade, uh, she had attended Carlisle-Foster's Grove
10 through fifth grade and in the middle of fifth grade year they
11 changed and had moved the fifth graders to a middle school and
12 that was, caused a lotta problems, uh, obviously probly wasn't
13 only her, a lotta kids got uprooted, shifted in the middle a
14 the school year. Uh, the biggest thing for Renee and and
15 myself she she was involved with resource, she had some
16 individual one-on-one attention in this little bitty school.
17 When she was uprooted to this middle school, uh, we actually
18 went as a family, we talked to a resource teacher, uh, I
19 clearly remember Renee sayin', I'm one a those parents that
20 likes to email or call to check up on my child, and and the
21 woman told her, I won't have time for that and I think that
22 single instance was one thing that led Renee to homeschool.

23 Q. And did you support her on that?

24 A. Absolutely. She, with the one-on-one attention, she she
25 made progress in school. She's got a learnin' disability but

ROBERT STEPHEN HORTON - DIRECT EXAMINATION BY MR. BROWN

1 when she had somebody workin' with her one-on-one, she made
2 progress. Without distraction she she did good but if she
3 couldn't have that then obviously it -- this was Renee's call
4 what was best for [Minor] and whatever she wanted I I would
5 support her.

6 Q. Well durin' the time period of November up until Jan --
7 November '07 up until January '08, where were you at?

8 A. I was at home.

9 Q. Where was Renee at?

10 A. Renee was at home.

11 Q. Where was [Minor]

12 A. Uh, Kelse -- [redacted] shoulda been, that may a been the
13 first year a home school, I'm not, I'm not sure.

14 Q. Well you you've heard prez -- previous testimony as
15 relates to somewhere around the time of late '07, definitely
16 in the month of January of 2008 that [Minor] had mono.

17 A. Yes, yes, she did.

18 Q. You would agree with that?

19 A. Yes, I remember.

20 Q. What do you remember about that time period of [Minor]
21 havin' mono.

22 A. She was, she was sick off and on, uh, she had a fever
23 that rose and it dropped. It wasn't -- it was weird, it
24 concerned us but by the time that Renee would get really
25 concerned the fever would pretty much drop down to normal, uh,

ROBERT STEPHEN HORTON - DIRECT EXAMINATION BY MR. BROWN

1 you know, it didn't get to a dangerous level. Around the
2 first, into the first week or into the second week a January
3 '08, uh, I had made my way out to our barn and was doin' some
4 woodwork and Renee called me on my cell phone and she said
5 Minor fever's hit a hundred and five degrees, we're goin'
6 to the emergency room and that was the first time and probly
7 the last time that I've lifted anything so heavy because I
8 toted her to the van and Renee left for emergency room with
9 her. At that point I waited on my mom and dad to show up to
10 sit with, uh, Sammy and Minor before I left to go to
11 emergency room with her to meet her there.

12 Q. You say you lifted Minor

13 A. I carried her.

14 Q. Were you goin' through physical therapy then?

15 A. I was.

16 Q. What kind effect did that have on you?

17 A. It didn't do me any favors.

18 Q. Did it ---

19 (Cross-talk.)

20 A. But now she had lo -- she had lost some weight runnin' a
21 fever, she had probly lost 10 pounds or so. Uh, my weight
22 limit has remained pretty much the same, I'm not supposed to
23 lift anything over 40 to 45 pounds and she was probably at
24 that point due to the fever 70 to 75 pounds.

25 Q. You had continued on physical therapy after that?

ROBERT STEPHEN HORTON - DIRECT EXAMINATION BY MR. BROWN

1 A. Yes.

2 Q. [Minor] went to the hospital, uh, she was treated by
3 physicians ---

4 A. Yes.

5 Q. --- she came home, ---

6 A. Yes.

7 Q. --- Renee was at home with [Minor]

8 A. Yes, that night.

9 Q. Renee nursing [Minor] durin' this time period.

10 A. Uh, whatever she needed to do, yes.

11 Q. Was [Minor] still goin' to her grandparents on her
12 mother's side durin' this time period?

13 A. She went when we went, we all went as a family.

14 Q. Was [Minor] considered to be contagious durin' this time
15 period?

16 A. As far as I know yes from what they were tellin' us. The
17 the initial thing that I had heard was to keep her home for at
18 least three months and not to spread it, uh, and Renee and
19 myself did not get sick, uh, we were told the younger, that
20 Sammy and Joey were younger, that they were not gonna catch
21 it.

22 Q. And durin' this time period had you had significant
23 surgery on your back durin' this time period?

24 A. Uh, my surgery was about two months prior to this.

25 Q. Alright. Did you have any bandaging, any wounds,

ROBERT STEPHEN HORTON - DIRECT EXAMINATION BY MR. BROWN

1 anything that needed to heal?

2 A. Uh, but probly have had just a little bit of maybe
3 scabbin' left at that point. I think the the stitches were
4 gone at that point.

5 Q. Okay, but you had had some some form of stitching?

6 A. Oh, yes, yes.

7 Q. How long was **Minor** experiencing effects of being sick
8 mono?

9 A. With mono? It's it's hard to say. Uh, it was longer
10 than three months. We were told that it could last anywhere
11 to nine months, anywhere from six to nine months. Uh, we were
12 told to kinda keep her indoors, uh, for three months, no
13 visits. Uh, I think we pretty much stayed with that three
14 months as far as church so we wouldn't spread it and I think
15 we started started back after that point.

16 Q. And you you guys were still at home as a family.

17 A. Yes, yes.

18 Q. Durin' this time period, did you have anybody else that
19 would come over to house?

20 A. Uh, Renee's mom and dad would come over, my mom and dad
21 would come over, my sister would stop by every once in a
22 while.

23 Q. Well we've heard the name of of Chad Fowler, ---

24 A. Yes.

25 Q. --- who is Chad Fowler?

ROBERT STEPHEN HORTON - DIRECT EXAMINATION BY MR. BROWN

1 A. Chad is Minor biological father.

2 Q. Durin' the time period in which Minor was goin' through
3 this indeed at home mono, Chad Fowler come over?

4 A. Not once, no.

5 Q. Do you know any reason why Chad Fowler didn't come
6 over?

7 A. Not off the top, not directly but Renee called him on the
8 way to the emergency room and informed him what was goin' on.
9 We didn't know what was wrong with Minor Uh, her fever that
10 we knew a hundred five was deadly with a child, uh, he
11 called -- she called Chad informed her -- him that, uh, she's
12 takin' Minor His response was is I have my two boys and
13 there's no one else here and I can't get out the house and
14 there were more conversations through the day. Renee would
15 call and let him know, I'm not sure if he called her or not. I
16 believe he did call maybe later that evenin' to talk to Minor
17 once we got her home but Renee explained to him what the
18 doctor had said, she's not to go out, she's to stay put, the
19 effects of mono can last for months. He knew where we were
20 at. Um, I'm not clear on if, uh, I believe he had visited us
21 once, I believe he had made the trip at one time but he was
22 familiar with the area, he and I'd had plenty a conversations
23 and talkin' on the phone that night he knew how to get to us,
24 he was welcome any time he wanted to come.

25 Q. He didn't come that night?

ROBERT STEPHEN HORTON - DIRECT EXAMINATION BY MR. BROWN

1 A. He he did not come that night or any following night.

2 Q. Did he come the next week?

3 A. No, sir.

4 Q. Next month?

5 A. No, sir.

6 Q. Next six months?

7 A. Uh, I think he mighta called twice durin' that 6-month
8 period.

9 Q. Next year?

10 A. Absolutely not.

11 Q. What type relation did Renee and Chad have?

12 A. When I, when Renee and I first met it wasn't the best,
13 uh, they clearly didn't like each other. Uh, I had already
14 been married, I've already, I'd already seen fights between
15 formers and I ju -- I stayed out of it. Uh, I took him for
16 what he was worth. He extended his hand, I shook his hand and
17 generally we talk about sports, we talk high school sports,
18 that was about the extent of our conversation so but as far as
19 he and Renee there was not a good relationship. There was a
20 buttin' a heads in practice form, it was, uh, parentin' in
21 which way maybe to go on certain things.

22 Q. Did Renee ever share you any opinions with you about how
23 she felt about Chad?

24 A. Oh, yes.

25 Q. Did ya'll ever talk about how she felt about Chad in in

ROBERT STEPHEN HORTON - DIRECT EXAMINATION BY MR. BROWN

1 the family home?

2 A. We did.

3 Q. Okay. You ever talk about Chad in front of the kids out in
4 the open?

5 A. Not derogatory, not not anything ugly. Uh, I I I don't,
6 I don't think so, that's not -- if they heard anything it was
7 probably unintentional, it wasn't really her style to, you know,
8 that's her daddy, we're ---

9 Q. How ---

10 A. --- not gonna run him in the ground. Um, ---

11 Q. --- how how'd you feel 'bout the way Chad would interact
12 with your wife at that time?

13 A. He he was fine. I I I was standin' there, he didn't say
14 anything. I mean, he was fine, he was cordial.

15 Q. Any time they they would talk from on the phone from time
16 to time?

17 A. There was very little phone conversations, uh, other than
18 maybe the day before or I'm I'm really not rememberin' exactly
19 how they arranged it but she would visit every other week. We
20 had a drop off point, we had a pick up point. He lived in
21 Easley, we lived in Boilin' Springs and we had business to
22 conduct in Greenville as far as, uh, depositin' payroll into
23 our credit union so usually we'd meet him somewhere between,
24 uh, Greer and Greenville. We drop her off on Friday and then
25 we'd make arrangements to pick her up on Sunday and as she got

ROBERT STEPHEN HORTON - DIRECT EXAMINATION BY MR. BROWN

1 older, you know, she could make a phone call, she could call
2 what time and where and things like that.

3 Q. And that was pretty consistent ---

4 A. Yes.

5 Q. --- up until January of '08?

6 A. It was, uh, the only exception somebody wanna go to the
7 beach, uh, we could double up weekends, you'd get over two
8 weekends in a row or we would keep her two weekends in a row.
9 Uh, she was more than fair as far as -- he had no custody
10 rights, he he did not have anything set court order that he
11 could get her every other weekend, uh, he paid what he was
12 supposed to pay on time and it was a cordial relationship ---

13 Q. Okay.

14 A. --- on on the surface.

15 Q. Well up until the time that **Minor** had mono and Chad
16 wasn't visiting, you had a pretty decent relation with him.

17 A. With Chad it it was cordial. Uh, the only conversations
18 I had with him were, uh, droppin' her off and pickin' her back
19 up, mostly tried to like I said, we would stick to high school
20 sports and things like that, maybe racin', uh, computers. He
21 was, uh, he was a little bit more knowledgeable about, uh,
22 burnin' disk and things like that and so there were things
23 that he would tell me and show me and, uh, maybe even CDs to
24 help speed up a computer and things like that that he would
25 loan to me.

ROBERT STEPHEN HORTON - DIRECT EXAMINATION BY MR. BROWN

1 Q. And after Minor went to the hospital had mono Chad
2 didn't come around, did you ever have any conversations with
3 Renee about the fact that Chad didn't come around what kinda
4 person he was?

5 A. Oh, I'm sure I did. I'm sure I did. I wasn't happy
6 about it.

7 Q. Did you express anything in any kinda extreme terms,
8 harsh terms about that?

9 A. I can if the Court allows I can tell you exactly what I
10 called him, what I feel, I thought he was a dumb ass, this is
11 his child.

12 Q. You ---

13 A. My exact terms or words to Renee was I would run halfway
14 across the world for my children and he couldn't drive 40
15 miles to see his daughter.

16 Q. --- you had this discussion in the family home?

17 A. Uh, I -- we did.

18 Q. You do it you think out of the view of the other
19 children?

20 A. Uh, I'm sure we thought we we were, uh, I -- we wouldn't
21 do that necessarily in front of 'em not intentionally, not
22 intentionally.

23 Q. And after those kinda comments of what you referred to
24 him as did you maintain, uh, that feelin'?

25 A. I pretty much have since. Uh, there was no effort to see

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1 her. There was a open door policy at our house, our phone
2 number did not change and there was no effort to connect with
3 his daughter.

4 Q. Well ya'll -- you've also heard some testimony in regards
5 to the fact that **Minor** durin' this time period wanted to see
6 her her dad, ---

7 A. Yes.

8 Q. --- did did you ever hear **Minor** have any conv --
9 conversations with Renee about that?

10 A. I can't recall when exactly. I do remember the day of,
11 uh, probably as she got her home from the hospital asking if
12 her daddy was comin' because she knew he'd been called. Uh,
13 there were conversations where, uh, why hasn't he called, can
14 I go to my daddy's. The first three months I think **Minor**
15 understood that, you know, as far as why she could not leave,
16 I don't know, she wasn't understandin' why he was not comin'
17 to see her. The last time I remember hearin' from him we came
18 was probly around the time that she could get back out and we
19 went out to eat, we came back and he had left a a message on
20 her answerin' machine and she called or I I think it was
21 **Minor** that called and left him a message and then that was
22 it.

23 Q. How'd this make **Minor** feel?

24 A. It give her some hope that night, you know, there was a
25 message from her father, you know, that kinda perked her up a

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1 little bit.

2 Q. But after that?

3 A. She was disappointed, uh, just leavin' a voi -- a message
4 on the answerin' machine that was obvious, you know, were
5 standin' right there, you could hear that, uh, but she wasn't
6 heartbroken, ya know, she had heard from him and she was
7 leaving a message but she didn't hear back from him.

8 Q. Did that have any affect or bearing on Sammy and and
9 Joey?

10 A. I I don't really think so, um, I mean, she wasn't happy.
11 He could have came to the playtime, uh, understandably coulda
12 made her mad, I knew -- I know it made her mad.

13 Q. Well did **Minor** see her her siblings interacting with the
14 man they knew to be their father?

15 A. There was one instance. Uh, I was in the kitchen, Sammy
16 came in and and give me knee hugs like I was talkin' about
17 and, uh, Renee was standin' there, Renee said, You're daddy's
18 little girl, aren't you, and she looked up at me and she said,
19 I'm daddy's little girl, and looked back in the hallway **Minor**
20 was standin' there just glarin' and Renee and I talked about
21 it later, uh, and my my words to her was if looks could kill
22 I'd a been dead and that that was the first thing come to
23 mind. She doesn't have a daddy, she heard us doin' that and
24 there was and I didn't see any retaliation, she was fine later
25 but she was clearly upset by that or clearly upset that she

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1 didn't have the same opportunity.

2 Q. And you heard prior testimony which it was stated that
3 Sammy only knew you ---

4 A. I'm a, ---

5 Q. --- as her father?

6 A. --- I'm the only daddy she's -- I'm not her biological
7 father. Sammy was 18-months-old I met her and, uh, she
8 screamed bloody murder first time she saw me so it took a
9 while but I'm I'm the only person she's ever known as daddy.

10 Q. And you are Joey's biological father.

11 A. I have a son named Josiah who's, Joey turned 6 about
12 three weeks, two weeks, two and a half weeks, uh, to the best
13 a my knowledge he doesn't remember me anymore. Uh, I have
14 a 2-year-old son named Noah that I've never met in my life.
15 Renee was three months pregnant with Noah when this started
16 and I've I have never seen him.

17 Q. So after Renee and the kids went to live with Renee's
18 parents you lost contact with the family. ---

19 A. Yeah, ---

20 Q. --- terms of actually bein' able to see them?

21 A. --- I've not seen my children in three years.

22 Q. Well, Mr. Horton, uh, you know the principal allegations
23 that have been raised against you, ---

24 A. Yes, sir.

25 Q. --- particularly the the month of January **Minor** has

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1 stated that some things began to occur with you, do you know
2 anything about those things?

3 A. No. The month a January she came down with mono. Uh,
4 around the end a the first week, roughly end a the first week,
5 uh, beginnin' the second week a January of '08, uh, was when
6 we took her to emergency room. When her fever hit a hundred
7 five degrees is exactly when we went with her. Uh, she was
8 sick the whole month, she was sick for months after that
9 recovering from that. As far as myself, I was
10 incapacitated.

11 Q. Well dur -- durin' that time period would you have been
12 able to stoop, bend down?

13 A. Fact I did not with great ease. The worst thing I did at
14 that that time period was pick child up, carry her to the van
15 that day, that was the most extreme strenuous thing I did.

16 Q. And you you said that set you back a couple weeks ---

17 A. It did.

18 Q. --- in terms of physical pain and what you had to deal
19 with?

20 A. It did.

21 Q. Would you have been able to bend down, kneel down and
22 perform oral sex on her?

23 A. No, no, sir, no.

24 Q. Bendin' down performin' oral sex on your wife?

25 A. No.

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1 Q. Were ya bein' sexual active durin' that time period?

2 A. We were not durin' that time period. Uh, it was at least
3 two months from the date of surgery, it was closer to, probly
4 closer to Valentine's Day before any a that was even
5 possible.

6 Q. Valentine's Day's in February?

7 A. Yes.

8 Q. Okay. Well durin' time period in which you were
9 recovering, were you on any kinda medication?

10 A. I was on several medications. Uh, I was on Hydrocodone,
11 I was on Neurontin, uh, I was on one form a blood pressor --
12 blood pressure medicine at that time Enapril (phonetic), I'm
13 on my second one now, uh, I was on, uh, a muscle relaxer,
14 Flexeril. Uh, there was another, I I'm not sure if it was
15 Valium or not, uh, Valium's the only thing that's comin' to my
16 mind, I'm not sure if that's what it was. There was somethin'
17 else other than the Flexeril to help with, uh, sleepin' and
18 and muscle spasms.

19 Q. And over time your dosage and indeed some a those
20 medications kinda tapered off?

21 A. No, the dosage in the, uh, painkillers and the Hy -- the
22 the Neurontin is for the nerve damage, that has increased, the
23 frequency and the, uh, milligrams.

24 Q. What about the Flexeril?

25 A. The Flexeril these days the the amount in the milligrams

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1 remain the same, uh, it's pretty much as needed for myself.

2 Q. So you wouldn't always take it.

3 A. Not these days, uh, this week yes but if I needed to but
4 generally just real bad muscle spasms in my back and in my
5 neck, maybe in my leg.

6 Q. In in the few months after the surgery were you takin'
7 all your medication like you were supposed to?

8 A. I was.

9 Q. And ultimately from the time period in which you had your
10 surgery to the time you went back to work was how how long?

11 A. Uh, I had surgery November of '07, I went back to work,
12 uh, in July of '08.

13 Q. And durin' this time period Renee was at home helpin'
14 take care of you, ---

15 A. Yes.

16 Q. --- **Minor** was sick or getting over mono ---

17 A. Yes.

18 Q. --- for several months and so she was nursin' both you
19 guys?

20 A. Yes.

21 Q. Were you interacting with **Minor**

22 A. Uh, when we need be. Uh, she was homeschooled at this
23 point, uh, thinkin' back on it now when I first injured my
24 back I do remember pickin' her up from school, uh, on a snow
25 day and bringin' her home and then by the time surgery had

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1 come about Renee had already started homeschoolin' her at that
2 point. Uh, as far as interactions durin' that time period,
3 she, if she did any of her homeschoolin' while she was sick,
4 it woulda been in the bed but I know she didn't, there was at
5 least a week, maybe longer that she didn't do any of it, uh,
6 but generally the kids did, uh, her and Sammy did their work
7 in the study and then, uh, durin' the recovery period I was in
8 my recliner, there were days I just stay in our bed, uh, we
9 would interact at lunchtime, we would all eat as a family.

10 Q. Now **Minor** ever come in into your your bedroom and motion
11 you up?

12 A. In my bedroom?

13 Q. Yes.

14 A. No, sir.

15 Q. Living room?

16 A. There there were probly a couple times where all of us
17 were in there, uh, my thing with Renee was givin' her back
18 rubs, uh, as far as my legs I don't think so, my back that's
19 after surgery. Uh, I do remember with with both the girls
20 Renee was present, Joey was present, Joey was a baby and it
21 was funny to the girls especially Sammy because I could give
22 her a back rub just like this (demonstrating), I did not move
23 my hand much, she was just a tiny little thing, uh, but that
24 was not a common practice, no.

25 Q. In terms of givin' these rubs, did you ever go lower to

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1 lower extremities?

2 A. With the girls just a couple times I'm talkin' about was
3 generally their neck, their shoulders, right around the
4 shoulder blades.

5 Q. Okay. You ever let your hand go near **Minor** genital
6 areas?

7 A. No, sir.

8 Q. Ever place your hands at any time period on one or both
9 of **Minor** breast area?

10 A. No, sir.

11 Q. Okay. Did you ever have **Minor** come into your bedroom
12 and perform oral sex on you?

13 A. No, sir.

14 Q. You ever give **Minor** instructions on how to do oral
15 sex?

16 A. No, sir.

17 Q. We've heard testimony about night kisses in the
18 kitchen, ---

19 A. Night sugars, yes.

20 Q. --- night sugars, well what what does that entail?

21 A. Uh, that basically it started when we, when they moved in
22 and it started with Sammy. Sammy was, uh, the baby, uh, Renee
23 would bring Sammy and lean her over, she would give me some
24 sloppy night sugars, uh, **Minor** would do the same and all I
25 would do is extend my face and then they would kiss me on the

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1 cheek and then she would, when it was just Sammy, she'd take
2 Sammy, lay down with her and **Minor** would go get in bed.

3 Q. Okay.

4 A. Now early on I don't know, I think it's pretty much the
5 same, been the same even with Joey. She would take Joey, lean
6 him over, you know, bring him in there, give night sugars, the
7 girls would follow along, give night sugars, they would get
8 ready, go get in bed, she would take off with Joey.

9 Q. Wanna show you two photos I'll mark.

10 (Photographs marked Defendant's Exhibit Nos. 6 and 7 for
11 identification.)

12 Q. Exhibit 6 and Exhibit 7 describe what you see in this
13 photo.

14 A. This is inside our house, uh, standin' between kitchen on
15 the right, the study is on the left, I'm lookin' down the
16 hallway. Uh, at the end a the hallway is my son's room, to
17 the left is, uh, the bathroom and to the right would be **Minor**
18 and Samanthas' room.

19 Q. Okay. I show you another photo, can you describe what
20 see in this.

21 A. Uh, this is just a closer view. This (indicating) is the
22 girl's room on the right, my son's room dead ahead and then
23 this (indicating) is the restroo -- the bathroom on the left
24 and the air conditioning unit I guess on the was right there
25 on your left.

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1 Q. And from these photos do they depict a large amount a
2 space in between you said the study on the left ---

3 A. Um-hum.

4 Q. --- standin' in that photo taken from the kitchen, seein'
5 the girls room on one side and Joey's room in front, is there
6 a large amount a space?

7 A. Not a large amount of space, uh, there's a short hallway,
8 uh, matter a fact, this this picture shows it best because the
9 carpet ends right here (indicating) and there's a little bitta
10 linoleum.

11 Q. If I was standing at the entranceway of those photos and
12 that door was the door to Joey's room, am I standing pretty
13 much where it is, I mean, I'm close ---

14 A. You need to come in.

15 Q. This (indicating) close enough?

16 A. Um-hum, maybe another step.

17 Q. Alright, and so if I'm ---

18 A. Uh, ---

19 Q. --- standing here (indicating), ---

20 A. --- if ---

21 Q. --- I'm standing where the kitchen is ---

22 A. Um-hum.

23 Q. --- and if I reach my left hand out, ---

24 A. You'd be touchin' the study door.

25 Q. Okay, so there's a door here (indicating) for the study.

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- 1 A. Yes.
- 2 Q. Again, if I move up and I'm at the study door and if I
- 3 look to my right, is there anything there, was it just the
- 4 wall immediately?
- 5 A. Right past the kitchen there was a a closet, a closet
- 6 door.
- 7 Q. Was a closet door.
- 8 A. Um-hum.
- 9 Q. And just beyond that closet door what's the next thing I
- 10 come to?
- 11 A. On the right would be the **Minor** and Samantha's bedroom.
- 12 Q. So I'm, if I'm at the door of the study, ---
- 13 A. Um-hum.
- 14 Q. --- I can reach out and touch the closet door, ---
- 15 A. Yes.
- 16 Q. --- if I make one step here (indicating), what am I close
- 17 to on the right-hand side?
- 18 A. Uh, another step you're right there at the girl's
- 19 bedroom.
- 20 Q. It's -- I'll be right here at the girls' bedroom.
- 21 A. Yes.
- 22 Q. And if I reach my left hand out, what ---
- 23 A. That's the bathroom.
- 24 Q. So the bathroom, the girls' room ---
- 25 A. Yes.

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1 Q. --- and then if I take ---

2 A. No, ---

3 Q. --- steps right here (indicating) ---

4 A. --- no, you wouldn't even need to take a step, it's right
5 there. Joey, Josiah's room ---

6 Q. Is right there.

7 A. Yes.

8 Q. So that's how much space we're talkin' about.

9 A. Yes.

10 Q. Well we we've also heard testimony as relates to your
11 study, in particular use of the computer in that study, use of
12 the computer in that study by both you and Minor

13 A. I'm sorry?

14 Q. Use of that computer by you and Minor

15 A. Uh, yes, and ---

16 Q. Minor had access to that computer?

17 A. Yes, we all did.

18 Q. Was that the area in which Minor would do her work?

19 A. The study yes, yes.

20 Q. Is that the area in which you would look things up on
21 computer?

22 A. Yes, it is.

23 Q. We've heard some testimony about pornographic material,
24 pornography, ---

25 A. Yes, sir.

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1 Q. --- would you tell the jury about that.

2 A. I got slipped into a habit of lookin' at pornography, uh,
3 my wife had actually confronted me about it probly a year
4 before these allegations surfaced. Uh, I told her it wouldn't
5 happen again and it didn't for months, uh, and then I don't
6 really f -- I'm not really gonna sit here and say I went
7 lookin' for things, uh, there were a lotta things that would
8 pop up and my weakness was goin' into it and lookin' at it
9 from there, uh, but the day, the day that Renee brought the
10 note that Minor had wrote to me, uh, she asked me if I had
11 been lookin' at pornography, I told her I had been.

12 Q. Day that Minor brought a note?

13 A. The date that she presented the note with the a --
14 accusations on it, uh, Renee also at that point asked me about
15 it, she she said she knew I had been doin' it again.

16 Q. And the issue about pornography in the home which your
17 prior statement, prior conversation with Renee, Minor know
18 about it?

19 A. Uh, not that I was aware of, no.

20 Q. Did Renee have a heated discussion with you about you
21 lookin' at pornography?

22 A. Oh, yes, oh, yes.

23 Q. She expressed words that defin [sic] let you know she was
24 mad?

25 A. I got the message yes, sir.

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1 Q. When'd ya'll talk about it? mornin' time? afternoon?
2 nighttime?

3 A. Uh, it was around 10:30, maybe 11:00 that Sunday
4 mornin'.

5 Q. You think the kids could hear your conversation or did
6 ya'll try to talk?

7 A. I don't think they were hearing the conversation that
8 day, uh, we were outside, the heat pump was, the the air was
9 runnin', uh, so unless they were at the back door, unless
10 somebody was standin' right at the back door, we were out at
11 the back porch havin' this conversation, uh, but they would've
12 had to been standin' right at the back door here (indicating).

13 Q. But you you've also heard testimony in which you knew
14 that some point Minor knew that Renee was upset about you
15 lookin' at porn ---

16 A. Yes.

17 Q. --- prior to the allegation.

18 A. I'm not rememberin' at the moment, I'm not.

19 Q. And durin' the time period which this letter was given to
20 Renee, you said that Renee confronted you about what, lookin'
21 at porn ---

22 A. Yes.

23 Q. --- with the way that you have computer sit in the the
24 study room, Minor have the ability to look at some porn?

25 A. I didn't think so as far as what I looked at, uh,

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1 obviously I wasn't as smart as I thought I was. I thought I
2 was clearin' my browser out. Uh, what we had done was had set
3 up AOL Kids for the children to play on and we were usin'
4 Internet Explorer, uh, but we had actually, uh, we had had a
5 earlier problem and we had changed the icon on the computer
6 where it wasn't Internet Explorer, it was somethin' only she
7 and I would know, uh, and Minor had discovered that was still
8 Internet Explorer.

9 Q. You said you had an earlier problem, what do ya mean?

10 A. She had an incident where we discovered she was in a chat
11 room without our knowledge.

12 Q. When you, when you say "chat room", you, what do you
13 mean, what was goin' on the chat room?

14 A. I can only go on assumptions, uh, what ---

15 Q. I'm sorry, you can go ahead, I'm sorry.

16 A. --- what I was doin' that evenin' there were, uh, little
17 surveys and contests that I did on the computer, uh, we, uh,
18 we used that to pay for Christmas one year doin' surveys and
19 little contest things, I was playin' on the computer, and what
20 I would do when I went in and entered the first one, I would
21 do a copy on my email address and then from there on out when
22 I played one a the games I would just paste it and I wouldn't
23 have to retype it and I had been on the computer, um, probly
24 right before supper, I went back in closer to bedtime and got
25 back on and I did a copy paste and instead of my email showin'

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1 up what came up was Hotbod123 and at first I thought my wife
2 was playin' a joke on me and I went and asked her about it and
3 she didn't know anything about it. Uh, she went and asked
4 **Minor** about it, **Minor** denied it, asked her if she was in a
5 chat room, we we didn't know at that point and she said, No, I
6 haven't done any a that, so I looked into it a little bit
7 more. Uh, usin' the browser history I found the chat room,
8 uh, and to the best a my knowledge it was someone claimin' to
9 be a 14-year-old boy from New York and the the only
10 conversation Renee initiated with her was right before bedtime
11 and she said no. After Renee had got Joey as -- to sleep and
12 the girls were in bed, we went outside on back porch and we
13 were discussin' it and this is, this is October of '08, this
14 is maybe six, seven months before these allegations started,
15 but we sat on the back porch and we were discussin' it and
16 what do we need to do to to block her from doin' this, uh,
17 this is where we changed the icon. Now if if she's in L --
18 AOL Kids, she can't get into a chat room, uh, but if she's in
19 Internet Explorer, she can do what she wants so at that point
20 we changed the icon where she wouldn't know where Explorer was
21 to go to but while we were havin' the discussion she came out
22 the back door cryin' and upset sayin' that she had been lyin'
23 and she admitted bein' in the chat room that point.
24 Q. So she could hear ya'll talkin' or she could have heard
25 you you guys talkin'.

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1 A. My assumption was she stood at the back door and was
2 listenin' to the conversation.

3 Q. So when she got confronted about this chat room she
4 adamantly denied ---

5 A. At first.

6 Q. --- to Renee ---

7 A. Yes.

8 Q. --- even with you you provide the details of ---

9 A. The facts I'd gathered, yes.

10 Q. And you're the person that basically told on her.

11 A. I guess so, yes. Uh, I wasn't sure, wasn't sure what it
12 was at first. It wasn't a, it wasn't a get **Minor** thing at
13 all, uh, but it was when we, when Renee and I, everything we
14 did we we worked together on it, there was no one person
15 makin' decisions, uh, and we set there and what could it be
16 and that was our conclusion is a chat room, it's gotta be, and
17 then after I got to lookin' at the history I was able to find
18 where Mr. Hotbod123 was at, what chat room he was in.

19 Q. So Renee had a conversation obviously with **Minor**, ---

20 A. Yes.

21 Q. --- **Minor** excuse me, and was it a pleasant
22 conversation?

23 A. The initial one, uh, it wasn't ugly, she she's, I've
24 never seen her be ugly to any of 'em, uh, I mean, she was very
25 fair with her but stern, you know.

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1 Q. You supported her?

2 A. I did.

3 Q. Did you baby **Minor** in terms of, Oh, it's gonna be okay,
4 don't worry about it?

5 A. After she admitted to what she had done, uh, the biggest
6 thing I thought was gettin' her calmed down because when she
7 come outside she was 'bout hysterical, I'm sorry I lied. Uh,
8 the biggest thing with her, uh, Renee told me when we first
9 started datin' that she had a guilty conscious [sic], not that
10 she's walkin' around with guilt all the time but if she did
11 somethin' she'd tell on herself because she couldn't live with
12 it and she always told me **Minor** was the same way.

13 Q. And ultimately after that did you ever have any other
14 time periods in which you told on **Minor** 'bout anything?

15 A. We had, we had heated discussions maybe not really
16 tellin' on her. Uh, there were opportunities where although
17 I'm a stepdad I'm gonna put my foot down and be the father.
18 Uh, there were a couple incidences where I was cuttin' grass
19 usin' the large John Deere yard tractor, uh, our house sits on
20 nearly an acre and a half and **Minor** and Samantha had charge a
21 Joey. Joey, uh, was probly 18 months, close to 2 years at
22 this point, they're watchin' him while I cut grass and if it
23 was my turn to watch Joey there was no problem with that, you
24 know, but it was time to cut grass, they took ahold a Joey, I
25 made a loop and turned around at the very lower end of our

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1 property and nearly run over my 2-year-old son and neither
2 girl was anywhere near, they were in the backyard and
3 forgotten their little brother and that was not a pleasant
4 conversation. I did not swear at her but I did raise my voice
5 enough to make her cry, I was very upset.

6 Q. You tell Renee about it?

7 A. I did immediately.

8 Q. What did Renee say about it?

9 A. She told me to calm down, she agreed with me and then she
10 talked to Minor

11 Q. She talk to Minor in a pleasant tone?

12 A. Probly not pleasant but s -- I mean, stern, Renee's not
13 ugly person at all.

14 Q. Any other times she had any ---

15 A. Just similar things like that. There were, like I said
16 we had set times, uh, even if I was workin' or even durin'
17 recovery, uh, my big thing's always been yard work, uh, I love
18 workin' outside. My my grandfather was a farmer, I'm livin'
19 on his property and I love makin' that, I promised Renee a
20 beautiful home and a beautiful beautiful yard and most of the
21 time it was early mornin's for me I would get out there while
22 the kids were doin' schoolwork if I was not workin' and that
23 was my time but if Renee needed me to keep up with Joey, I
24 would. Now there were times, uh, afternoon Minor it was her
25 turn to keep up with Joey, there were more than one time I

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1 took Joey away from her because she was clearly disgusted with
2 it. I don't -- she -- it wasn't anything against her little
3 brother, she just, there were other things she would rather be
4 doin'. She did not wanna be babysittin' at that point and I
5 took Joey, I quit what I was doin', took Jo -- took my son
6 with me.

7 Q. And durin' this time period you say you were out in the
8 yard, what what time a year was that?

9 A. Uh, after after I got to recoverin' pretty good any time
10 a the year weather permittin'.

11 Q. I'll show you some photos.

12 (Whereupon, a discussion was held off the record.)

13 (Group of photographs (16) marked Defendant's Exhibit
14 No. 8 for identification.)

15 Q. Show you a group of photos that have collectively been
16 marked as Exhibit 8. show you the first photo, do you
17 recognize what's in that (indicating) photo?

18 A. That's our front yard lookin' from our driveway.

19 Q. This (indicating) photo?

20 A. That's the same, little further down lookin' toward the
21 house this time, this is more lookin' toward the yar -- road.

22 Q. Is there anything unique about anything that you had to
23 do with this yard?

24 A. Anything unique?

25 Q. Depicted in this photo.

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- 1 A. Over a 7-year period I had to move a lotta dirt.
- 2 Q. And as a result a that you've worked in your yard a lot,
- 3 in your front yard as well?
- 4 A. I did. Uh, front yard, uh, like I said it's acre and a
- 5 third, I was all over the place.
- 6 Q. Show you another photo, what does that (indicating) photo
- 7 show?
- 8 A. That is lookin' down our driveway right behind our
- 9 mailbox at the, at the yard and the road.
- 10 Q. And what's also seen in thi -- in this photo in regards
- 11 to plants or vegetation?
- 12 A. I'm sorry?
- 13 Q. What's in this photo in regards to plants or vegetation?
- 14 A. Oh, what I planted here these are nandinas I planted here
- 15 and this is called "creepin' phlox" or "thrift", country
- 16 people call it thrift.
- 17 Q. Okay. I show you another photo, what does that
- 18 (indicating) photo show?
- 19 A. This is the opposite side. Uh, this is our lower lot.
- 20 What I've done here, uh, well before I injured my back what I
- 21 discovered is if you don't wanna weed eat it or cut it you
- 22 cover it with mulch so and what I've added is, uh, lilies and
- 23 and, uh, more a the creepin' phlox.
- 24 Q. I'll show you another photo, what does that (indicating)
- 25 photo show?

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1 A. This is lookin' down at our lower property, uh, that's
2 bricks I've yet to get to. There's a, there's a lotta
3 unfinished projects floatin' around. These are -- this
4 (indicating) is the edge a the crepe myrtles where we got
5 married at and actually that's what started the landscapin'
6 project. Once we got married under those crepe myrtle trees I
7 wanted to make it look nice, I wanted to preserve it.

8 Q. This (indicating) photo.

9 A. This is lookin' straight down our lower lower lot toward
10 the neighbor's house.

11 Q. This (indicating) particular photo?

12 A. This is our crepe myrtles, this is a direct view of where
13 we were married at.

14 Q. Were they ---

15 A. These these are new. Uh, I learned, what I learned about
16 crepe myrtles in the process well I scrape the yard to add the
17 mulch, when I scrape the roots, new trees will sprout directly
18 off the main root. These three or four trees here
19 (indicating) are new, they were not there when we got married,
20 uh, all the trees grow off on single root.

21 A. This (indicating) photo.

22 Q. That was an attempt at a garden this year, uh, that
23 didn't quite do so good but this (indicating) is the garden
24 area, uh, I did as much as I could, as much as my back would
25 allow. I got 'bout half of it done this year, it it comes up

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1 about twice as wide if if we're good with it.

2 A. This (indicating) particular photo?

3 Q. This was at the end of our house. Uh, the swing decayed
4 in the last three years and I had to get rid of it. This
5 (indicating) is a rose bush I planted for Renee and but this
6 is our little swing, little shaded area where, uh, me and her
7 could sit and swing.

8 A. This (indicating) photo?

9 Q. That's one a many piles of mulch I have around, that's
10 (indicating), my, uh, little utility trailer.

11 A. This (indicating) photo?

12 Q. This little area here (indicating) is mulched over, uh,
13 this is where we would put pool up for the kids and it, I
14 think the pool was standin' when this started, uh, but there
15 was no need for one after that so I've left, I've left it
16 preserved in ca -- and this is what this is a little row boat
17 to the pool just in case we can put another above ground pool
18 in one day.

19 A. And you say, "when this started", what do ya mean?

20 Q. When these allegations started three years ago. I kept
21 it in, the pool was no longer in use, there was nobody there
22 to use it, I got rid a it but I kept the area in place just in
23 case another one could be put up one day.

24 Q. This (indicating) area.

25 A. That's a lotta weeds. This (indicating) is gettin'

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1 close, uh, to the edge a my property, it's just in a little
2 area I've mulched, it's close to, uh, one a my compost bins
3 and, uh, where I keep firewood for our fireplace.

4 Q. Okay. This (indicating) photo?

5 A. This (indicating) is in the backyard lookin' straight at
6 the the back door a the house, the back porch. This
7 (indicating) is where me and Renee said we would solve the
8 world's problems from that back porch.

9 Q. And what's this first window?

10 A. That's the kitchen.

11 Q. And the next window?

12 A. That would be the girls' bedroom.

13 Q. And this (indicating) photo?

14 A. This (indicating) is lookin' over the earlier one. Uh,
15 this (indicating) is a compost bin: leaves, scrap food, coffee
16 grounds, uh, for gardenin', uh, and then this is a kindlin'
17 box here (indicating), uh, for startin', kindlin' for startin'
18 fires and then this right here (indicating), this little area
19 is empty at the moment but that's where firewood would go if I
20 had any firewood.

21 Q. Okay. That's (indicating) a similar photo to the
22 other ---

23 (Cross-talk.)

24 A. Yes, I think this is similar to the earlier ones.

25 Q. This last photo what does it show?

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1 A. This is showin' right outside the house. Uh, this
2 (indicating) is the edge of the patio, uh, where the heat pump
3 is. The heat pump is under the bedroom window of the girls'
4 bedroom.

5 Q. Okay. I believe this photo here, I ask you somethin'
6 about that. Pretty big yard?

7 A. It's good size.

8 Q. Kept ya busy?

9 A. Yes.

10 Q. Durin' the time period in which you were getting better,
11 you spent some time in the yard?

12 A. That was my therapy. Uh, I'm I'm -- my dad calls me a
13 third daughter, I love stayin' out there.

14 Q. And Renee would be at home durin' this time period ---

15 A. Yes, she didn't, she didn't work, she homeschooled.

16 Q. At some point you got better, you went back to work.

17 A. Yes.

18 Q. Where'd you go to work at?

19 A. I could not go back to work until, uh, my claim with the
20 worker's comp. insurance was settled and, uh, and then I went
21 back originally through a temporary service, uh, to Eaton
22 Corporation in Duncan and I was with Eaton maybe a month, uh,
23 through July and August of '08 and then I was offered an
24 assistant manager's position with OfficeMax in Spartanburg,
25 uh, west side and I worked there probably two or three months

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1 and then in November, late November of '08, uh, I was offered
2 a position with Timken which was a forklift position, uh, I
3 couldn't take the, uh, the lifting requirements were gettin' a
4 little bit more increased at OfficeMax, the walking, and then
5 the pay was good per hour but the hours were gradually comin'
6 down, uh, so Re -- Renee and I discussed it, Timken, uh, I
7 would have a steady paycheck each week, I knew I would have 40
8 hours a week, uh, and so from there I went to Timken and was
9 under consideration for a a higher position prior prior to all
10 this startin'.

11 Q. Okay, so at least by summertime, the early part a summer
12 you say July you were workin'?

13 A. Uh, July of '08, yes.

14 Q. So you were out outta the house.

15 A. Yes.

16 Q. And when you came home, what what would be your routine
17 when you got home?

18 A. It would depend on what my wife wanna to do. If we were
19 goin' out to eat, I knew about it before I got there. I
20 generally knew what was goin' on before I got home. Uh, our
21 practice was we call -- I called her on breaks and I called
22 her on the way home, uh, there's always milk or bread or
23 somethin' that might need, might need to be, uh, needed, uh,
24 and then there was times a come on home, we're goin' out to
25 eat, we're goin' to momma's, uh, there were times too where,

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1 uh, she would meet me at work. She might bring me a change a
2 clothes or whatnot, she'd meet me at work and, uh, we could go
3 straight from work, uh, to Gray Court from there.

4 Q. Just you two or the entire family?

5 A. The entire family.

6 Q. So you always operate as a family.

7 A. The last and only time, well the last time that Renee and
8 I were by ourselves was our honeymoon in July and early August
9 of '04, I think maybe maybe a Valentine's date once to go see
10 a movie, maybe twice.

11 Q. Okay. Durin' this time period, would you have the
12 ability or would have time periods in which you were alone
13 with Minor

14 A. Durin' that time period? I only remember two times
15 durin' the entire marriage, maybe two times that it was just
16 me and Minor

17 Q. Why would that be if ---

18 A. There seems there was an o -- uh, Renee took Sam and Joey
19 to the doctor or maybe S -- uh, maybe the other time too was
20 just she took Sam and I happened to be home.

21 Q. Okay. And durin' this time period if you were alone with
22 Minor where would you be and where would Minor be?

23 A. I would more likely be outside workin' in the yard. Uh,
24 the one instance I'm thinkin' of her, uh, Renee had took Joey
25 and Sammy to the doctor, I was actually gettin' the garden

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1 started and this was like May, uh, '08, maybe May of '07, I'm
2 not sure the year, uh, but Minor was doin' her schoolwork on
3 the back porch ---

4 Q. On ---

5 A. --- so we were both outside that day.

6 Q. --- on the back porch.

7 A. Yes.

8 Q. Durin' this time period, did you suggest to Minor that
9 she go in the house?

10 A. No.

11 Q. Durin' this time period, did you suggest to Minor to go
12 in her room?

13 A. No.

14 Q. To go in your bedroom?

15 A. No.

16 Q. Go into the livin' room?

17 A. My my practice would've been I wo -- once I got done if I
18 was goin' inside the house if I needed to use the restroom I
19 would have just told her where I'm goin', I'm gonna use the
20 potty.

21 Q. Would it have been your practice to approach Minor and
22 tell her you want to put lotion on her legs?

23 A. No.

24 Q. You would it, would it been your practice durin' these
25 two time periods to tell Minor that, Hey, I want you take off

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1 your your pants, ---

2 A. No.

3 Q. --- let me put lotion on your legs?

4 A. Absolutely not.

5 Q. Would you have taken off Minor pant and taken off her
6 panties?

7 A. No, sir.

8 Q. Have you ever taken off Minor pants and her panties
9 and ask her does she trust you?

10 A. No, sir.

11 Q. You have taken off Minor pants, panties asked her if
12 she trusted you and proceeded to lick her lower area?

13 A. Absolutely not.

14 Q. Would you have tried to ask Minor perform oral sex on
15 you ---

16 A. No, s ---

17 Q. --- durin' these time periods in which you remember that
18 you may have been home alone?

19 A. No, sir.

20 Q. Those are only two time periods that come to your mind?

21 A. I can only remember where maybe twice, yes.

22 Q. So if your wife testified to roughly the same thing as
23 what you, she may have been gone twice, ---

24 A. Right.

25 Q. --- that would be consistent with what you're sayin'?

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1 A. I'm sure it would, yeah.

2 Q. If durin' the time period in which you were healin' with
3 your back, sittin' in the recliner and there was a need for
4 food in the home, would your your wife leave with some of the
5 children, all of the children or would she have left them at
6 home?

7 A. It it really depend on the situation what they were
8 doin'. Uh, if it was warmer weather, get toward springtime a
9 that year, uh, it it depended. Sammy's the type a person
10 that's not gonna be by herself, she's very shy, uh, you don't
11 walk away from her, you don't leave her. Uh, first time I met
12 her she screamed at me so it took, it took a few weeks, uh,
13 'fore she even warmed up to me. She she had her little circle
14 and that's still the way she is today so durin' that time
15 period, uh, if Sammy wanted to stay home and play, she woulda
16 stayed home and both the girls woulda played, uh, Renee
17 could've took Joey, if Joey was a toddler and movin' about,
18 more than likely by this time period Joey's able to ride a
19 4-wheeler, a little Power Wheels car, uh, they're gone to
20 grandma's and **Minor** went whether she wanted to or not.
21 Because Joey and Sammy wen, **Minor** had no choice but to keep
22 up with 'em.

23 Q. Now you say "grandma's", what do you mean grandma's?

24 A. Momma, my mom and dad and then they they live, their
25 property adjoins mine.

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1 Q. So it's all connected.

2 A. They're, the two properties are connected. There's
3 roughly the length of a football field separates our houses.

4 Q. Would the kids ever spend time at your grandparents'?

5 A. Uh, pretty much every day, um-hum.

6 Q. They play out in the yard?

7 A. They did, they played out in the yard.

8 Q. Play with -- at your grandparents' ---

9 A. Yes.

10 Q. --- their grandparents'? Did your parents ever come
11 visit you?

12 A. Oh, yes, yes.

13 Q. What about when you were sick or when you were healin'?

14 A. Yes, uh, they had to. Uh, my father helped get me in the
15 house the d -- the surgery was actually done outpatient which
16 kinda surprised us, uh, but I was in no position to walk. My
17 father helped get me in the house and, uh, just to use the
18 restroom he had to hold me up so I could do do stuff like
19 that. Uh, after that it was a lotta pain and, uh, Renee
20 findin' muscles she didn't show she had helpin' me move about.

21 Q. Okay. Did your parents ever come and try to help you out
22 with anything inside your home?

23 A. Inside the home?

24 Q. Yes. Would they bring anything, bring anything to eat?

25 A. Oh, yes. Oh, yeah. Uh, there there might be leftovers,

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1 uh, mom has always worked with the the kitchen at church. Uh,
2 **Minor** always attended sumtin' called KidFuge each summer, uh,
3 it's a week long thing with the kids at church, uh, they had
4 vacation Bible School, there were plenty a times, uh, stuff
5 like that be catered: Chick-fil-A, Subway, any of the local
6 restaurants and we were the beneficiaries a that because mom
7 would get some leftovers and bring us some a those so there
8 was always times like that.

9 Q. And so they could drop in announced or unannounced?

10 A. They walk right in the back door, it's unlocked, it's we
11 live out the country.

12 Q. So they had full access to your house.

13 A. They did. The had a key if it was locked. Spare key
14 stay with my father.

15 Q. Okay.

16 A. If we were outta town, uh, he was in charge.

17 Q. Your parents coulda walked in your house at at any given
18 time.

19 A. Yes.

20 Q. In terms of your activities with your computer and
21 pornographic material, would that do anything to you
22 emotionally?

23 A. The way for me it got started it it was things I'd never
24 seen before, uh, things I have never thought about and
25 considered and the only way I could explain it to Renee is it

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1 was a fantasy world because believe me, there were plenty a
2 things I saw that are never gonna happen in my lifetime
3 healthy or not, uh, and I think that's what got it started. I
4 would just see things, I I'm I'm never gonna see these things,
5 I'm never gonna be a part a these things but they're right
6 there to look at.

7 Q. Would that cause some type a physical reaction from
8 you?

9 A. It would, yeah, it would.

10 Q. And in terms of viewin' this pornographic material, uh,
11 when would you look at it?

12 A. Generally, uh, it would be early mornin's. Uh, back
13 then, uh, the the way my, the the amounta medication I was
14 takin' there were a lotta nights Re -- Renee would get done
15 with Joey and come back in the livin' room and I would sleep
16 in the recliner and it may be 10:15, 10:30, somewhere around
17 in there, uh, I've already passed out or very close to it, uh,
18 and we also had a, had a deal Joey especially when he was a
19 baby that from 12:00 midnight to 4 a.m. she didn't have to
20 fool get up with him. When he was á baby if he cried, he was
21 mine up to midnight and he was mine from 4 a.m. on and the if
22 he got up at 4:00 I just stayed up because I always got up
23 about 5:30 anyway and so that just kinda continued from there
24 especially after I hurt my back that was kinda my schedule
25 too. Whether I wanted to or not I can't -- I can lay, you

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1 know, lay in one position for so long and there were a lotta
2 times I'd wake up at 4 a.m. and I'd start on the coffee and
3 start with the surveys I mentioned and it wasn't an every day
4 thing. There was some a these places that once you visit 'em
5 you get a pop-up or you get an email or sumtin' like that
6 and ---

7 Q. Let's at some point -- well did you begin to, uh, have
8 some personal time with yourself in terms of lookin' at this
9 pornography?

10 A. Every once in a while. I mean, usually mornin' times.
11 Uh, there there would be occasions, uh, Renee would be
12 shoppin', the kids would be gone to grandma's and papa's and
13 maybe I just got home from work, I would have times like
14 that.

15 Q. So you you would try to, if you had personal time with
16 yourself in lookin' at this pornography ---

17 A. That's ---

18 Q. --- you're sure that no one would be around?

19 A. They were either in the bed or not in the house. Uh, the
20 only other time where I had exclusive time just me with the
21 computer would be late at night when they were gettin' the
22 children ready for bed and I didn't do that because it's
23 entirely possible for Samantha to hear a noise and come
24 huntin' mama or daddy and walk in any moment, ---

25 Q. Okay.

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1 A. --- that's entirely possible at 4 a.m. as well, uh, but
2 with the house quiet I would hear her comin' in time to shrink
3 a screens down or X out of it.

4 Q. Well you recall some point after you came to see me I
5 received a call from Ms. Megan Burrell and in particular as
6 relates to her request to collect some DNA samples from you?

7 A. Yes.

8 Q. And after that you do recall being charged with what
9 you're facin' here today?

10 A. I do.

11 Q. And at some point after that you learned that there was
12 an allegation that there was some or the potential of some a
13 your semen bein' in the closets of the girls', ---

14 A. Yes.

15 Q. --- you recall that?

16 A. Yes.

17 Q. You tell this jury how it is that your semen came to be
18 found in the closet of Samantha and Minor

19 A. That was around the second or third week a March of '09,
20 uh, I was workin' at Timken, I called Renee, uh, on the way
21 home from work that day and I don't remember if she was
22 gettin' her haircut or if she was at Walmart but she she was
23 gone, Minor was in charge of Sam and Joey and Renee's
24 instructions to me was put shoes on Sammy and Joey, let 'em go
25 out, they're dyin' to get outside, uh, and matter a fact I put

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1 shoes on my son while I was talkin' to Renee. We got 'em
2 outside, uh, **Minor** was with 'em, the first thing they did was
3 head to grandma's and then I watched 'em on their bikes and
4 their 4-wheelers and off they went. I had just got in from
5 work and I went and changed, I put on some shorts, some socks
6 and a t-shirt and I sat down at computer. The intent of
7 sittin' at the computer was not to view pornography, uh, but
8 that's what happened. Now again as I stated while ago I had
9 the house to myself and this is, if I'm gonna do this this is
10 the time I'd rather do it, but when I'm in the house by myself
11 I have a bathroom on the backside a the study and so as the
12 time came, as the climax came, I got up and I headed to the
13 bathroom. Now as I got to the bathroom ---

14 Q. Is is that what you normally would do if you had this
15 alone time?

16 A. Yes, if I had time to myself and there was no one else
17 there, uh, but as I got to the bathroom somethin' crashed into
18 the heat pump, uh, which is right outside the girls' bedroom
19 window. The first thing I thought was that Joey had run into
20 it and my imagination and the way I know my son, uh, I thought
21 he had run head first into it. I made my way to the window of
22 the girls' bedroom to see what was goin' on and at this point
23 I'm still holdin' myself for lack of a better term but as I
24 got to the window I never did open the blinds to see what was
25 goin' on and the screen door shut, somebody had come in the

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1 house and the only thing I could think of is obscure myself,
2 I took three steps to the closet.

3 Q. When you say obscure yourself, what do ya mean by
4 obscuring?

5 A. I didn't wanna be exposed like I was. At that point in
6 time when the screen door shut, I had my penis out in my hands
7 and I did not wanna be caught that way.

8 Q. And with your penis out in your hands, what what was
9 happenin' with the the climax issue?

10 A. I was tryin' to contain it.

11 Q. How were you try to contain it?

12 A. I was squeezin', I was squeezin' as hard as I could.

13 Q. Well did you eventually let go?

14 A. I had no choice.

15 Q. And when you let go what happened?

16 A. It went into the carpet.

17 Q. And you said that you had heard the screen door shut.

18 A. The screen door had shut, I knew somebody was in the
19 house at that point.

20 Q. And from where the screen door is, is that the front door
21 or the kitchen ---

22 A. It's at the back door. Uh, we have a a back door then a
23 screen door where we can leave the back door open and just,
24 uh, use the screen door to come in and out.

25 Q. That would be the back door and the the porch that you

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1 were talkin' about?

2 A. Yes.

3 Q. And after you, uh, let go and as you say went into the
4 carpet ---

5 A. Yes.

6 Q. --- what what happened next?

7 A. I was wipin' with my sock when **Minor** come in. Uh, she
8 come to the bedroom door and I'm standin' basically inside the
9 closet door leaned up on the, this this door jam and she asked
10 me what I was lookin' for, I looked up and the first thing I
11 saw was a Uno game and that's what I told her I was lookin'
12 for and I told her, I said we were considerin' playin' it that
13 night and I turned around and walked off.

14 Q. And you had on ---

15 A. I had on gray ---

16 Q. --- gray ---

17 A. --- shorts.

18 Q. --- gray shorts?

19 A. Gray shorts.

20 Q. Is it possible with the way in which you had just as you
21 say climaxed ---

22 A. Yes.

23 Q. --- **Minor** would have noticed that?

24 A. At the time I didn't think so, uh, uh, this this was like
25 I said, I didn't want anybody knowin' I was lookin' at porn,

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1 uh, this was extremely embarrassin', sumtin' I didn't wanna
2 get caught doin', I really didn't think she'd pay a attention
3 at the time, uh, but there was no way I coulda turned around
4 without an erection and without my shorts being' wet.

5 Q. So when you turned around you were leavin' the room, did
6 you walk past **Minor** What did **Minor** do next?

7 A. **Minor** was right at the door and she she stood there
8 while I walked out. The only move she made was just kinda
9 sideways to let me pass.

10 Q. She say anything to you?

11 A. Said she was just back to get jackets. This was about
12 mid-March of '09 and grandma told her to get some jackets so
13 she come back to get some jackets for her and the kids.

14 Q. And then she went back outside?

15 A. She did, she went back to grandma's.

16 Q. Did you ever talk to **Minor** about it?

17 A. We never had discussion about it.

18 Q. You just in your mind hope that **Minor** didn't understand
19 or ---

20 A. She gave no indication that it was anything other than I
21 said that I was lookin' for a game. She gave me no
22 indication, she waved bye as she went out the door back to
23 grandma's, gone back to grandma's is what she said, ---

24 Q. So ---

25 A. --- I never thought about it again.

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1 Q. --- so it's your contention that you had your back turned
2 and you're makin' like a ---

3 A. Little buffer, ---

4 Q. With your sock?

5 A. --- yes.

6 Q. In the rug?

7 A. Yes.

8 Q. And you can't say if **Minor** behind ya or you discovered
9 that some point you turn around she was standin' right
10 there?

11 A. She was standin' at an angle behind me, yes.

12 Q. So that the reason why your semen was found in that
13 closet?

14 A. Yes.

15 Q. And so you are denyin' in fronta this jury that **Minor**
16 did not perform oral sex on you.

17 A. There was nothin' to do with **Minor** as far as any a that
18 bein' in that carpet other than her walkin' in after I had did
19 what I did. She walked in on the tail end of it and saw
20 that.

21 Q. Well in regards to that that closet and allegation of
22 oral sex, is it big enough for two people to stand there?

23 A. It's not big enough for an adult and a child to stand
24 there not with the amounta toys and clothes and and shoes and
25 whatnot that was in there, no.

ROBERT STEPHEN HORTON - DIRECT EXAMINATION BY MR. BROWN

1 Q. Okay. After this is mid-March did anything else happen
2 the next few months that was unusual to you or you just
3 continue to live as a happy family up until that point?

4 A. Yeah, just continue to live as a happy family, uh, ---

5 Q. Okay.

6 A. --- that was enough of a scare for me to if I looked at
7 any kinda pornography after that was strictly mornin' time.

8 Q. You're still lookin' at porn.

9 A. From time to time, yes.

10 Q. Uh, some point you say you had this discussion with
11 **Minor** and shortly thereafter a letter was given to Renee?

12 A. Yes.

13 Q. Okay. With the letter being given to Renee, what
14 happened next?

15 A. Renee came outside confronted me about it and she asked
16 me about it. She let me read it, uh, she was scared, she was
17 shakin', she said she didn't know what to believe, uh, she was
18 three months pregnant this time. Uh, she told me she knew
19 about the pornography, at that point she told me she had known
20 about it for three years and the only thing we could really
21 decide at that point was I stayed outside. They had lunch, we
22 separated me from **Minor** at that point, that was a mutual
23 decision. Uh, I let my wife handle it on that end, I told her
24 my heart had hit the floor, I knew what these kinda
25 allegations what what could happen.

ROBERT STEPHEN HORTON - DIRECT EXAMINATION BY MR. BROWN

1 Q. What do ya mean by that?

2 A. I've read enough in the paper, uh, seen enough online
3 that an allegation'ss made, an accusations' made and what
4 could potentially happen that somebody could lose their jobs,
5 a man that worked two jobs at once could lose both of 'em, a
6 man could have his children taken away and not be allowed to
7 see 'em for three years.

8 Q. Well shouldn't that be the result of a person that would
9 do somethin' like this?

10 A. I'm sorry?

11 Q. Shouldn't that be the result of someone that would do
12 somethin' like this to a, to a child?

13 A. If somebody is proven to do that to a child maybe.

14 Q. Alright. Did ya do this?

15 A. No, sir.

16 Q. Early you mentioned **Minor** is the kinda person that would
17 speak up, she had a guilty conscience, ---

18 A. . Yes, she'd tell on herself.

19 Q. --- would that -- would you say this is that kinda
20 situation that if ---

21 A. It sh ---

22 Q. --- she had a guilty conscience she would speak up?

23 A. --- it should be, it should be. You're 13-years-old, you
24 don't let anybody take your pants off you. You're not a
25 6-year old, you're a 13-year-old, you know better.

ROBERT STEPHEN HORTON - DIRECT EXAMINATION BY MR. BROWN

1 Q. So in terms of understandin' how Minor would
2 speak up with a guilty conscience, would she write normally
3 anything that say, Hey, I have a guilty conscience but this is
4 what I want be known somethin' I did bad?

5 A. I don't think she would generally write stuff, uh, she
6 would generally get just not think and and get herself caught.

7 Q. But if she had ---

8 A. She stole makeup at one point from her mom, from her
9 stepmom and took it to school, uh, this was the last few
10 months, uh, she testified to bein' teased, uh, we don't
11 believe that be entirely true, uh, because she was stealin'
12 makeup and takin' it to somebody's school, she was tryin' to
13 fit in. They were puttin' makeup on at school, she would come
14 home, forget to take all makeup off, that's an example of her
15 givin' herself away. There was very few things anybody would
16 have done that they woulda been caught doin'.

17 Q. So typically either you or Renee would catch Minor
18 Minor in somethin' ---

19 A. In somethin', usually minor.

20 Q. --- that you would confront her with.

21 A. Yes. I mean, stealin's pretty pretty big but it's it's
22 not beat somebody down big. It was a stern discussion and
23 there was a stern discussion from me where I made her cry, uh,
24 because she, we had discussions, she went against it and did
25 sumtin' again and, uh, I was very stern about it enough to

ROBERT STEPHEN HORTON - DIRECT EXAMINATION BY MR. BROWN

1 bring tears to her eyes.

2 Q. With these allegations bein' made, did you have a chance
3 to confront **Minor** about these allegations?

4 A. Kinda. Yeah, uh, the these allegations were made on a,
5 on Sunday May 3rd and it was, uh, the followin' Wednesday, uh,
6 we had a family meetin' and then later that evenin', uh, one a
7 the results a that meetin' was that Renee bring **Minor** up to
8 my mom and dads' house and the three of us set down, uh, it
9 was non-productive. At that point Renee was angry, uh, she
10 was goin' back and forth but she was angry. She was extremely
11 angry 'bout the pornography let me know so, uh, and I was
12 emotional, I agreed to whatever she said, this is what we're
13 gonna do, we and we followed the steps we were told to follow.
14 If a child makes an accusation, these are the steps you follow
15 and that's what we did.

16 Q. Are you, are you saying that she was more mad about the
17 pornography than the allegation themselves?

18 A. That she was mad about the entire thing, she didn't know
19 what to believe, the pornography she knew.

20 Q. At that that particular meeting at that time, did you say
21 I'm sick, I need some help?

22 A. I did say I needed help regardin' the pornography and
23 Pastor Williams that was up here a while ago was the person I
24 consulted. Uh, I never said I was sick, it was somethin'
25 wrong, uh, but I never said I was sick.

ROBERT STEPHEN HORTON - DIRECT EXAMINATION BY MR. BROWN

1 Q. Was it somethin' wrong regards to your desire to sexually
2 abuse Minor

3 A. I I'm sorry, say ---

4 Q. Was it somethin' wrong with a desire of yours to sexual
5 abuse Minor

6 A. I've never had a desire to sexual abuse anybody let alone
7 Minor

8 Q. So at that time period when you had that conversation
9 with Renee and Minor you never admitted to Renee that, Hey,
10 I've been doin' somethin' to Minor

11 A. Absolutely not.

12 Q. So that's consistent with Renee's testimony when she came
13 and said ---

14 A. It is.

15 Q. Renee also testified that she knew your preferred method
16 durin' the time period in which you were essentially healing
17 if there was any interaction you say after Valentine's Day
18 or around ---

19 A. Roughly around Valentine's Day.

20 Q. --- was oral sex.

21 A. Yes.

22 Q. --- is there any way that anybody in the house would know
23 that?

24 A. If they watched us through an open door sure.

25 (Whereupon, a discussion was held off the record.)

ROBERT STEPHEN HORTON - DIRECT EXAMINATION BY MR. BROWN

1 (Group of photographs (3) marked Defendant's Exhibit
2 No. 9 for identification and photograph marked Defendant's
3 Exhibit No. 10 for identification.)

4 THE COURT: Let me see ya'll just a minute, please.

5 (Whereupon, a discussion was held off the record.)

6 (Whereupon, a bench conference was held off the record.)

7 BY MR. BROWN:

8 Q. Say unless someone looked through a crack?

9 A. That's possible, yes.

10 Q. Show you what's been marked as Exhibit 10, are you
11 familiar with this (indicating) photograph?

12 A. Yes.

13 Q. What is that photograph showin'?

14 A. That's bein' able to -- a crack into our bedroom through
15 a door.

16 Q. This was taken in a, in a dark situation?

17 A. Yes.

18 Q. This is with the door closed?

19 A. That's -- the door is closed, yes.

20 Q. And this is a visible crack?

21 A. Yes.

22 Q. Okay. And so if someone were standin' on the other side
23 of your bedroom door they could see in your bedroom?

24 A. Yes.

25 Q. Also wanna show you three photos, show you group a three

ROBERT STEPHEN HORTON - DIRECT EXAMINATION BY MR. BROWN

1 photos from Exhibit 9. There's some prior testimony about the
2 door to the girls' room, ---

3 A. Yes.

4 Q. --- as relates to this (indicating) photo, what does it
5 show?

6 A. The door is tilted. It won't shut easily, uh, ---

7 Q. What door is this?

8 A. This is the door to the bed -- girls' bedroom, **Minor** and
9 Samanthas' bedroom.

10 Q. Okay. You said that the door's tilted and won't shut?

11 A. Yeah, it's tilted. It hits the door jam and it won't
12 shut flush, you you pretty much have to force the issue.

13 Q. And if you, if you forced it, would you have to throw the
14 door off?

15 A. You'd have to throw it off and it it would slam,
16 I mean, ---

17 Q. Make a noise, ---

18 A. --- yeah, ---

19 Q. --- boom.

20 A. --- it's kinda loud. It it's not sumtin' we would do
21 durin' the middle of the night, ya know, or when somebody's
22 asleep.

23 Q. What does this (indicating) photo show?

24 A. That's the same door from the other side. You can see
25 where it's edgin' up right there (indicating) hittin' the door

ROBERT STEPHEN HORTON - DIRECT EXAMINATION BY MR. BROWN

1 jam.

2 Q. And this (indicating) photo.

3 A. That's the same door as as clearly on the door jam
4 there.

5 Q. And is it showin' the the door opening and widening from
6 the top to the bottom at that slant you're talkin' about?

7 A. Yeah, as it goes downward yes, uh, it widens.

8 Q. So it be difficult?

9 A. Yes, you would have to exert some force on it to and we
10 did.

11 Q. When you say "we did", who's we?

12 A. Uh, Renee and myself.

13 Q. And why di ya'll close the door?

14 A. Generally we didn't, uh, the doors were never closed.
15 Uh, we would push 'em up like that, uh, especially for Joey so
16 he could get out, get loose, uh, even when Joey was 2, if if
17 Joey was 2-years-old Sammy was just 6, I mean, she's still a
18 little one herself, you know, we wouldn't shut the door and
19 there were no locks on any of the doors.

20 Q. So when that door jam in that particular doorway, would
21 you have come into that room with **Minor** and presumably Sammy
22 close the door behind you and have **Minor** perform oral sex on
23 you?

24 A. Absolutely not.

25 Q. If Renee was in the room with Joey and you were in the

ROBERT STEPHEN HORTON - DIRECT EXAMINATION BY MR. BROWN

1 room with Minor how close would you be?

2 A. If if that circumstance existed, we would be from right
3 here (indicating) on one side of the wall from each other, ---

4 Q. That ---

5 A. --- 3 feet, 4 feet.

6 Q. --- that never occurred?

7 A. Not extensive. I mean, I may have walked in there, may
8 have followed Sammy in there, may have went in there to
9 discuss sumtin', take 'em somethin', it's entirely possible, I
10 mean.

11 Q. Would you have been in the room with the door closed with
12 Minor somethin' goin' on if if if Renee had put Sammy to bed
13 in his room?

14 A. Put Sammy to bed where?

15 Q. Uh, excuse me, Joey to bed in his room.

16 A. Would I have been with with Minor and Samantha in their
17 room?

18 Q. Yes.

19 A. Uh, that it's possible.

20 Q. Would you have been in Minor ---

21 A. But not with ---

22 (Cross-talk.)

23 A. --- just Minor

24 Q. Well would you have been in that room alone?

25 A. No, uh, if if I had been in there, it woulda been with

ROBERT STEPHEN HORTON - DIRECT EXAMINATION BY MR. BROWN

1 both girls present, I mean.

2 Q. They slept together?

3 A. Well Sammy's never by herself, never. I mean, the the
4 last month or so we were together there was a separation,
5 other than that they were together in their bedroom nap time
6 and nighttime.

7 Q. Please answer any questions that prosecution may have.

8 MS. REESE: May we approach?

9 THE COURT: (No response.)

10 (Whereupon, a bench conference was held off the record.)

11 THE COURT: Uh, ladies and gentlemen, because a the hour
12 we're gonna break up the testimony, we'll do a
13 cross-examination beginnin' in the morning at 9:30, so let me
14 caution you about what I've provided you before, that is, no
15 discussions about the case with anybody, no research, no
16 investigation, no, uh, exposure to any type of media coverage.
17 Uh, do have a good evening, please report to your jury room at
18 9:30 in the mornin', 9:30 in the mornin' but before ya leave
19 let me ask you sit, uh, Mr., uh, Horton, if you'll step down
20 have a seat with your lawyer, please.

21 (Whereupon, the witness left the stand.)

22 (The following takes place outside the presence of the
23 jury.)

24 THE COURT: Uh, Mr. Horton, as I have, uh, cautioned and
25 instructed the other witnesses when we took a break, durin'

MOTIONS AND MATTERS

1 the overnight recess you're theoretically still on the witness
2 stand so you're not to discuss this case in any fashion with
3 anybody including your lawyer.

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Alright, no discussions about your testimony.

6 THE DEFENDANT: Okay.

7 THE COURT: Uh, you got his bondsman here?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Who's got a copy of the bond? Either of
10 ya'll have a copy of the bond?

11 MR. BROWN: I don't, no, sir.

12 MS. REESE: I don't, no.

13 THE COURT: I guess we need to get it.

14 THE BAILIFF: They've cleared the hall, sir.

15 THE COURT: Thank you.

16 (Pause.)

17 THE CLERK: It's not showin' on our computer, I can run
18 to the office right quick and get it.

19 THE COURT: Okay. While the clerk's doin' that I noticed
20 that there were some photographs marked and they've been
21 talked about, they've not been introduced, are they gonna be
22 introduced? Is there an objection to it? Now what's the
23 situation of the photo?

24 MS. REESE: Your Honor, I I don't think he established
25 when they were taken, I think they were just taken in the last

MOTIONS AND MATTERS

1 week. I can clear that up but if he wants to admit them just
2 to save havin' to go back and do redirect.

3 MR. BROWN: That's when I was plannin' on introducin'
4 'em, Your Honor, durin' redirect.

5 THE COURT: Sir?

6 MR. BROWN: Durin' redirect to to introduce these photos.

7 THE COURT: Well that be too late on redirect. Do do do
8 you object to the photo?

9 MS. REESE: Uh, not absent establishing when they were
10 taken I'm okay wi -- I mean, if he will identify when they
11 were taken. I don't, I think those are recent, I think those
12 were this week, I don't think they have anything to do ---

13 THE COURT: I understand.

14 MS. REESE: Okay.

15 (Whereupon, a discussion was held off the record.)

16 THE COURT: Uh, let me see ya'll just a minute, please.

17 (Whereupon, a bench conference was held off the record.)

18 THE COURT: Alright, uh, it appears I've got a copy of
19 the bond, the, uh, bondsman's Ricky D. Mize, is that you
20 Mr. Mize?

21 MR. MIZE: Yes, sir.

22 THE COURT: You got some form I -- of identification?

23 THE DEFENDANT: Yes, sir, I do.

24 THE COURT: Show that to deputy there.

25 (Whereupon, a discussion was held off the record.)

MOTIONS AND MATTERS

1 THE COURT: Uh, you signed a bond for Mr. Horton ensuring
2 that he'd be in court for this trial?

3 MR. MIZE: Yes, sir.

4 THE COURT: And he's in court for this trial now ---

5 MR. MIZE: Yes, sir.

6 THE COURT: --- but he wants to stay out on bond while
7 this trial's in progress.

8 MR. MIZE: That's fine, sir, he can.

9 THE COURT: Uh, that won't happen without your consent,
10 do ---

11 MR. MIZE: That's fine.

12 THE COURT: --- you agree to it?

13 MR. MIZE: Yes, sir, ---

14 THE COURT: Okay.

15 MR. MIZE: --- he's right next to door to me.

16 THE COURT: Okay.

17 MR. MIZE: I got my eye on him.

18 THE COURT: Alright.

19 (Whereupon, a discussion was held off the record.)

20 THE COURT: Alright, any other matters that need to be
21 addressed before we recess?

22 MS. REESE: Not from the State, Your Honor.

23 THE COURT: Court's in recess until 9:30 in the mornin'.

24 (Proceedings July 12, 2012)

25 THE BAILIFF: Thank you, be seated.

ROBERT STEPHEN HORTON - CROSS-EXAMINATION BY MS. REESE

1 THE COURT: Alright, any matters to address before the
2 jury's brought in?

3 MS. REESE: None from the State.

4 THE DEFENDANT: None from defense, Your Honor.

5 THE COURT: Alright, bring 'em in.

6 (Whereupon, a discussion was held off the record.)

7 (The following takes place in the presence of the jury.)

8 THE COURT: Good mornin', ladies and gentlemen, as you
9 know we recessed yesterday the, uh, defendant was under, had
10 undergone direct examination by Mr. Brown so we're gonna
11 continue with that examination by the State. Ms. Reese. Uh,
12 Mr. Horton, you can come around and take the, resume your seat
13 on the stand ---

14 THE DEFENDANT: Of course.

15 THE COURT: --- and of course you're still under oath for
16 the purpose of these ---

17 THE DEFENDANT: Yes, Your ---

18 THE COURT: --- questions ---

19 THE DEFENDANT: --- Honor.

20 THE COURT: --- also.

21 (Whereupon, the defendant came forward.)

22 CROSS-EXAMINATION BY MS. REESE:

23 Q. Mr. Horton, you testified yesterday there was a
24 particular afternoon when Minor was Minor turn to keep
25 Josiah and she was fed up with him so you had to take him, ---

ROBERT STEPHEN HORTON - CROSS-EXAMINATION BY MS. REESE

1 A. Well there were multiple occasions.

2 Q. --- where was her mother?

3 A. Uh, well Renee woulda been inside the house at that
4 point.

5 Q. So Renee would be inside the house and **Minor** would be
6 keeping the children outside.

7 A. Yes.

8 Q. What was Renee doing inside?

9 A. Uh, that I don't know. She coulda very well been
10 followin' up on homeschool work gradin' papers.

11 Q. But it was **Minor** responsibility to watch those
12 children outside.

13 A. Once they went outside until I -- it really depended. If
14 it was my day off, uh, there were my times to keep the
15 children.

16 Q. The day you were cutting the grass ---

17 A. Yes.

18 Q. --- where was Renee?

19 A. Uh, Renee and the children were inside the house.

20 Q. Well you said that Josiah you almost hit him on the lawn
21 mower.

22 A. Oh, I'm sorry, uh, that was a different day. Uh, that
23 Renee was either inside the house or she coulda been on the
24 back porch, she coulda come out on the back porch to smoke.

25 Q. But ---

ROBERT STEPHEN HORTON - CROSS-EXAMINATION BY MS. REESE

1 A. As far as I'm aware, she was inside the house.

2 Q. --- but Minor was watching the children.

3 A. Uh, Minor was supposed to be watchin' the children.

4 Q. Did Minor love your parents?

5 A. I'm sorry?

6 Q. Did she love your parents?

7 A. As far as I know she did. She enjoyed goin' up there.

8 Q. She spent time with them.

9 A. She did.

10 Q. Had a good relationship with them as far as you know.

11 A. She did.

12 Q. Played in the yard at their house.

13 A. She did.

14 Q. The time of the surgery you had was November 5th, 2007,
15 is that right?

16 A. Yes, ma'am.

17 Q. And it was outpatient.

18 A. It was.

19 Q. And you stated that you really didn't start having sexual
20 relations with your wife again until around February of
21 2008 ---

22 A. Somewhere close to Valentine's Day, yes.

23 Q. --- but you were well enough in February of 2008 to
24 resume your sexual relationship with your wife.

25 A. Around February 2008.

ROBERT STEPHEN HORTON - CROSS-EXAMINATION BY MS. REESE

1 Q. And that was primary orl -- primarily oral sex.

2 A. Uh, given my condition yes, flat on my back.

3 Q. Now at the same time during that time period you said

4 **Minor** had mono ---

5 A. She did.

6 Q. --- and **Minor** had mono, you said she was restricted to
7 the home, she couldn't leave ---

8 A. Yes.

9 Q. --- so you were flat on your back and **Minor** was in the
10 home restricted to her home.

11 A. I was not flat on my back continuously.

12 Q. Well you just said you were flat on your back so
13 during ---

14 A. Durin' oral se ---

15 Q. --- the time ---

16 A. --- durin' durin' oral sex relationships with my wife in
17 February of 2008 I woulda been flat on my back.

18 Q. And so you were restricted in your movements, you stayed
19 in the home for the most part.

20 A. Well for the most part. It depended on my therapy and
21 part a my therapy was to get exercise. If I could take steps,
22 they -- these were baby steps, if I could, uh, get outside and
23 walk to the mailbox and back then I would.

24 Q. So during your recovery period **Minor** also had mono ---

25 A. She did.

ROBERT STEPHEN HORTON - CROSS-EXAMINATION BY MS. REESE

1 Q. --- and she had to stay in the house.

2 A. She did.

3 Q. So if errands needed to be run, ---

4 A. Um-hum.

5 Q. --- if groceries needed to be bought, who did that?

6 A. Uh, Renee probly would've done that.

7 Q. And so since both of you were pretty much bedridden would
8 you be left with the children ---

9 A. Uh, it's possible.

10 Q. --- or did she take them with her?

11 A. It's possible she took 'em with her.

12 Q. You were married to Renee 'bout seven years when this
13 happened or when the disclosure happened.

14 A. No, we were approachin' our fifth weddin' anniversary
15 when these allegations were made. Our eighth anniversary is
16 roughly two weeks.

17 Q. So is it your testimony in front of this jury that you
18 were alone with **Minor** in that 5-year period about twice.

19 A. To the best a my knowledge yes.

20 Q. Is it your testimony that her sister Sam was never
21 without **Minor** she was always with **Minor**

22 A. As far as I know up until the very last month, uh, that
23 we would live together as a family when when it was nap time,
24 when it was nighttime, Sammy's not the kinda person that's
25 gonna get along, she's very shy and very timid, uh, even even

ROBERT STEPHEN HORTON - CROSS-EXAMINATION BY MS. REESE

1 at night sugars, uh, Minor testified she tried to beat Sam
2 there but if Sam gave night sugars and headed toward the room
3 she was not gone longer than thirty seconds and she come back
4 to Minor she was not gonna be without sissy. The last month
5 they were separated there was a lot of aggression, there was a
6 lot of, we didn't know what was goin' on, Minor was very
7 aggressive last month.

8 Q. That was nighttime, right? You had, there was nap time
9 in your house every day for two hours.

10 A. As far as I know Monday through Friday because I was at
11 work.

12 Q. So you didn't really, even though -- how 'bout when you
13 weren't working ---

14 A. When I was ---

15 Q. --- nap time two hours?

16 A. Roughly, yes.

17 Q. And Sammy's nap place according to your wife and
18 according to Minor was in the living room.

19 A. Only the last month we were together.

20 Q. That only happened the last month, that's your
21 testimony?

22 A. It is.

23 Q. When these allegations came out, did you tell her that if
24 she reported this that DSS would come in and investigate and
25 probably take her children?

ROBERT STEPHEN HORTON - CROSS-EXAMINATION BY MS. REESE

1 A. Not to her.

2 Q. Did you tell your wife that if she reported it DSS would
3 probly take her children?

4 A. I told her there was a possibility.

5 Q. **Minor** was taken outta school for homeschooling in
6 2007, ---

7 A. Yes.

8 Q. --- were you a part a that decision?

9 A. Uh, my wife, my wife made the majority a that decision
10 and I supported her.

11 Q. But you went to the school and met with 'em, did you
12 not?

13 A. Met with school officials?

14 Q. Yes.

15 A. We, I I do recall meetin' with 'em durin' the transition.
16 When they went from the elementary school in the middle a the
17 school year to the middle school, I did go with her and I did
18 talk well more observer I guess. Renee would ask the, uh,
19 resource officer, you know, certain questions: I'm a stay on
20 top a things mom, I email, I call, and I was present when this
21 teacher told her I don't have time for that.

22 Q. So you were part of the decision and supported decision
23 for **Minor** to be homeschooled.

24 A. Absolutely.

25 Q. Ever tell Renee that her daughter was bipolar?

ROBERT STEPHEN HORTON - CROSS-EXAMINATION BY MS. REESE

1 A. I suggested after this started due to what was goin' on I
2 asked if she would be, could be checked for it, yes.

3 Q. Do you have any kind of degree that would allow you to
4 diagnose a child with bipolar disorder?

5 A. The the only information I had was just for what was
6 goin' on, uh, and doin' research.

7 Q. So you told your wife that you believed her daughter was
8 bipolar.

9 A. No, I asked my wife if she would have her tested for
10 bipolar.

11 Q. What you said was bipolar is the only explanation.

12 A. I don't recall that I said that, it's -- emotions were
13 very high. Uh, I said, I do recall sayin' that bipolar could
14 be an explanation.

15 Q. Did you ever tell her, I don't know if we'll ever know
16 what's in Minor head?

17 A. Yes.

18 Q. Ya ever tell people at church that she was bipolar?

19 A. No, ma'am.

20 Q. After these allegations came out did you plead with Renee
21 and say, Don't report this because my little boy needs his
22 dada?

23 A. I probably did.

24 Q. Now tell me about the computer, how do you get pop-ups on
25 the computer?

ROBERT STEPHEN HORTON - CROSS-EXAMINATION BY MS. REESE

1 A. Depends on where, what kinda sites you're lookin' at.
2 If, uh, if you're lookin' for electronics, you could get a
3 pop-up from, uh, Best Buy.

4 Q. So if you're looking at porn, you get pop-up porn
5 sites?

6 A. You could. If you're lookin' at lingerie, you could get
7 the same result.

8 Q. Did you go on the internet and actively look for porn?

9 A. I did.

10 Q. And so you began to get pop-ups from porn.

11 A. I would occasionally, yes.

12 Q. Now once you looked for porn you didn't just save it on
13 the computer, you downloaded onto disks, right?

14 A. No, ma'am.

15 Q. You never downloaded it onto disks.

16 A. I've never burned anything to a disk or printed anything
17 to paper.

18 Q. You testify yesterday that Chad Fowler, child's father,
19 had taught you how to burn movies and things on disks?

20 A. I did.

21 Q. So it's your testimony you never burned anything to
22 disk.

23 A. I did not, ---

24 Q. Do you remember ---

25 A. --- not porn, not pornography. I did not download

ROBERT STEPHEN HORTON - CROSS-EXAMINATION BY MS. REESE

1 pornography to a DVD.

2 Q. After these allegations came out do you remember going to
3 your house and removing several disks from ---

4 A. I ---

5 Q. --- the house?

6 A. --- I did.

7 Q. Do you remember leaving two behind?

8 A. I do not.

9 Q. They were named Rape and Lesbian Rape, you ---

10 MR. BROWN: Objection, ---

11 Q. --- know anything ---

12 MR. BROWN: --- your Honor.

13 Q. --- about that?

14 THE COURT: Overruled.

15 A. I don't recall any titles.

16 Q. So you, did you ever watch Rape and Lesbian Rape as a
17 part ---

18 A. There was one of 'em I believe I did watch, I did, yeah.

19 Q. You promised your wife you weren't watching it, ---

20 A. I did.

21 Q. --- repeatedly you promised her.

22 A. Not repeatedly. We had a conversation about it and I
23 stopped for about four or five months.

24 Q. And that conversation happened the first time initially
25 because some porn got printed out on the computer.

ROBERT STEPHEN HORTON - CROSS-EXAMINATION BY MS. REESE

1 A. Uh, that she called me at work, uh, an hour after I got
2 to work and said somethin' had printed out on the printer.

3 Q. And it was in the hands of ---

4 A. She said Samantha found it.

5 Q. --- Samantha ---

6 A. Yes.

7 Q. --- who was 3 or 4 at the time.

8 A. Uh, 'bout 3 or 4, right.

9 Q. So you admit you lied to her 'cause you didn't wanna get
10 in trouble with her.

11 A. I didn't want my wife disappointed in me. It had nothin'
12 to do with trouble. I didn't wanna break her heart, I didn't
13 wanna disappoint her.

14 Q. So you lied to her.

15 A. I did lie to her.

16 Q. But you weren't afraid of disappointing her by watching
17 the porn.

18 A. It got to be overwhelmin' guess, it got to be like an
19 addiction lookin' at it.

20 Q. Well but the porn didn't come find you, you found it,
21 right?

22 A. Um, sometimes. Sometimes the pop-ups would come up, I
23 could be doin' somethin' totally else.

24 Q. But this is your responsibility.

25 A. It is my responsibility, it was one I failed at.

ROBERT STEPHEN HORTON - CROSS-EXAMINATION BY MS. REESE

1 Q. How many times a week did you masturbate to this porn?

2 A. This was not an every day thing, maybe twice a week.

3 Q. How many times did you watch porn in your house?

4 A. Again, roughly 'bout the same, probly 'bout twice a
5 week, ---

6 Q. As ---

7 A. --- possibly three times.

8 Q. --- as far as you knew, your wife did not know that was
9 going on.

10 A. As far as I knew.

11 Q. During the time since these allegation have you text your
12 wife repeatedly reminding her ---

13 MR. BROWN: Objection, Your Honor, out out of court
14 conversations.

15 THE COURT: Overruled.

16 BY MS. REESE:

17 Q. Have you text and had communicated with your wife
18 repeatedly that, 'If you continue to go forward with this,
19 there won't be enough money for me to support you or the
20 children?

21 A. No, that's not what I said.

22 Q. Did you remind her that financially you supported her and
23 she need to be careful 'bout what went on here?

24 A. I don't think that was ever my words.

25 Q. Do you deny that there was a conversation about money and

ROBERT STEPHEN HORTON - CROSS-EXAMINATION BY MS. REESE

1 whether or not this should go forward?

2 A. I don't think that was the conversation. There was
3 nothin' my wife could do once this was in the hands of the
4 State.

5 Q. You tell her, You have the power to stop this?

6 A. No, I don't think I told her she had the power to stop
7 anything.

8 Q. Two of these children are yours, correct?

9 A. That is correct.

10 Q. After these allegations came out did you take all the
11 money outta the bank account?

12 A. I did not. My wife said she was instructed by Megan
13 Burrell to wipe out all the accounts.

14 Q. Did you inform your wife that you were gonna have to sell
15 her car because of these allegations so you could meet your
16 expenses?

17 A. That, no, that's not what the conversation.

18 Q. Did you ask for the title to her car?

19 A. No, I had the title.

20 Q. Did ya have your dad go get the car?

21 A. We had to have the car towed back at my father-in-law's
22 request in April or May, excuse me, this past May. My wife
23 kept the vehicle the entire time.

24 Q. Did you ever tell her, I'm going to have to sell your
25 car?

ROBERT STEPHEN HORTON - CROSS-EXAMINATION BY MS. REESE

1 A. I told her there was a possibility when this first
2 started. When I'm consult lawyers and facin' massive fees to
3 defend myself, the only thing I could do to raise was think of
4 what we possessed, what could we sell.

5 Q. And this at the time your wife was had your children ---

6 A. She did.

7 Q. --- and this was her vehicle?

8 A. Yes, and she was with my in-laws. She was not without a
9 vehicle, she was not without transportation. My mind was
10 goin' a million miles an hour.

11 Q. But you chose to try to sell her car.

12 A. No, I never attempted to sell her car.

13 Q. But that's what you told her ---

14 (Cross-talk.)

15 A. I told her there was a possibility to raise funds: my
16 vehicle, her vehicle, our home. We had no money.

17 Q. You said you had a deal with Renee that if Josiah woke up
18 between 12 and 4 it was your responsibility.

19 A. No until 12 midnight he was my responsibility and from
20 4 a.m. on he was my responsibility.

21 Q. Okay, so does that mean Josiah woke up pretty regularly
22 at night?

23 A. Well this was only when he was an infant. Now when when
24 Joey got to where he was a toddler, he would get up, as Minor
25 described, he would get up, he would get Minor would

ROBERT STEPHEN HORTON - CROSS-EXAMINATION BY MS. REESE

1 bring him to Renee once he become a toddler. The time period
2 you're talkin' about is when he was just an infant and it
3 didn't matter who come to him.

4 Q. But you admit that Joey would get up, he would get Minor
5 and then Minor would get Renee.

6 A. Yes.

7 Q. Did you take Minor to the church the day she had to go
8 to Carowinds?

9 A. I did.

10 Q. You stop by your parents' house for anything?

11 A. I did not.

12 Q. Did you ever tell your wife that if this really happened
13 then she was a terrible mother?

14 A. No, I did not.

15 Q. You tell Renee that Minor dreamed this?

16 A. I brought up the possibility of it, I asked her.

17 Q. So you're the one who brought up the possibility this
18 could be a dream.

19 A. I may have been one person who brought it up.

20 Q. You asked Stephanie to ask Minor if it was a dream.

21 A. No, I did not.

22 Q. Did you ever tell your wife she could take \$150 a week
23 out of the account ---

24 A. No, ---

25 Q. --- or left if you needed the money for expenses that

ROBERT STEPHEN HORTON - CROSS-EXAMINATION BY MS. REESE

1 might change?

2 A. --- no, I don't believe I've ever said that. I
3 transferred, I was paid bi-weekly, I transferred \$300 every
4 two weeks.

5 Q. And you deny that you repeatedly reminded her that her
6 financial security is based on what happens.

7 A. Well it it could be, it could very well could be. This
8 will impact my family greatly, it already has.

9 Q. Now at the time 2008, 2009 you were a Sunday
10 schoolteacher, right, ---

11 A. Yes.

12 Q. --- at a children's Sunday school class?

13 A. I have two girls, yes.

14 Q. At the time you were a Sunday schoolteacher, did the
15 pastor of your church know that you were watching this
16 pornography?

17 A. At that time, no.

18 Q. Do you think it would have affected his opinion of your
19 ability to be a Sunday schoolteacher if he'd known that?

20 A. I can't testify to that, I don't know. I'm sure he
21 woulda counseled me, that he he did when I came to him.

22 Q. Do you mi -- do you think it might affect people's
23 reputa -- your reputation in the community if people knew that
24 in your off time you were watching videos on rape and lesbian
25 rape?

ROBERT STEPHEN HORTON - CROSS-EXAMINATION BY MS. REESE

1 MR. BROWN: Objection, Your Honor, that calls for
2 speculation.

3 THE COURT: Overruled.

4 A. When this first started, it didn't matter what the title
5 was, uh, it was shameful to me no matter what.

6 Q. That's not my question. Would, do you think it would
7 have affected your reputation in the community if people had
8 known what you were really doin'?

9 A. If they knew I lookin' at any porn, yes. I was
10 ashamed.

11 Q. Now today you're a forklift operator, is that right?

12 A. I operate a forklift and I drive a straight truck.

13 Q. And you have, I think you testified yesterday you have
14 three jobs or you had three jobs?

15 A. Since this began?

16 Q. Yeah.

17 A. When roughly about the time this started I was workin' at
18 Timken full-time and I had been offered a a part-time position
19 with Bi-Lo in the evenin's, I lost both those jobs, uh, after
20 I was incarcerated. Uh, I worked a couple a temporary
21 positions following my release and for the last two years from
22 November of '09 to November of '11 or, excuse me, December
23 ele -- '11 I worked at Atkins Machinery.

24 Q. Is that the only place you work now or where do you work
25 now?

ROBERT STEPHEN HORTON - CROSS-EXAMINATION BY MS. REESE

1 A. Now I work at a place called Quality Logistics in
2 Greer.

3 Q. And you only have one job now.

4 A. That is correct.

5 Q. You've seen what's been marked as State's 2, 3 and 4, you
6 recognize these (indicating)?

7 A. I do.

8 Q. What are they?

9 A. Those are Minor journals.

10 Q. Now these belong to who?

11 A. Minor

12 Q. And where were they kept in the house?

13 A. I do not know.

14 Q. Uh, her property, right?

15 A. Uh, while she lived at the house, yes.

16 Q. They belong to her.

17 A. While she lived at the house, yes.

18 Q. And they didn't belong to her when she had to move, is
19 that your testimony?

20 A. They moved and they left things behind. I I told my wife
21 any trash, anything that need to be discarded to leave to me.
22 She left stacks of clothes to go to Goodwill, she left bags a
23 trash, things in trash cans and ---

24 Q. These were Minor

25 A. These were in trash.

ROBERT STEPHEN HORTON - CROSS-EXAMINATION BY MS. REESE

1 Q. They were not, were -- they were not in the trash, were
2 they, they were sitting there waiting to be moved and you took
3 them.

4 A. No, ma'am, they were ---

5 Q. They belong to ---

6 A. --- in the trash.

7 Q. --- Minor Did they ever belong to Stephanie?

8 A. She bought it, yes.

9 Q. Did they belong to her, did they belong to Minor

10 A. While she lived at the house they do.

11 Q. Those journals belong, you think they belong to
12 Stephanie? Did they belong to you?

13 A. Once everything was moved outta the house they do. They
14 were in the house. They were left behind and ---

15 Q. Stealing's a bad thing, right?

16 A. Uh, I'm not, uh, stealin' in my house.

17 Q. You you testified yesterday that stealing was a bad
18 thing, you were upset 'cause Minor was taking makeup to the
19 school, stealing's a bad thing.

20 A. Yes.

21 Q. Those journals aren't yours.

22 A. I didn't steal 'em.

23 Q. Let's talk about the day that you are in your computer
24 room. You are masturbating to this pornography and you hear,
25 you're you're getting ready to go to the bathroom ---

ROBERT STEPHEN HORTON - CROSS-EXAMINATION BY MS. REESE

1 A. Yes.

2 Q. --- and you hear a bump.

3 A. I hear a crash.

4 Q. A crash.

5 A. Yes.

6 Q. Did it occur to you at that point to put your business
7 up, zip up your pants and go see what was goin' on?

8 A. I had my hand inside my pants.

9 Q. Did it occur to you to stop doing what you were doing ---

10 A. I did stop.

11 Q. --- and zip up your pants?

12 A. I did stop.

13 Q. Did you zip up your pants?

14 A. They were shorts, they had no zipper.

15 Q. So when you walked out there you told me you had your
16 penis in you hand, ---

17 A. I did.

18 Q. --- that's what you testified to and ---

19 A. I did.

20 Q. --- and you didn't think, Oh, maybe I better quit this to
21 see what the crash about?

22 A. No, I thought my son had crashed into the heat pump and
23 he was my primary concern.

24 Q. But obviously you still had your hand on you penis so
25 your primary concern was not your son.

ROBERT STEPHEN HORTON - CROSS-EXAMINATION BY MS. REESE

1 A. Goin' to check on him he was. My family was the number
2 one thing in my life.

3 Q. As long as you weren't watchin' porn.

4 A. Well that's true. That was wrong that I was watchin'
5 porn, I did not put them first at that point in time, I agree.

6 Q. And your family, you were in charge of three kids that
7 day according to your testimony and they're outside ---

8 A. They're at my mom ---

9 Q. --- and you're, ---

10 A. --- and dads'.

11 Q. --- and you're watchin' porn.

12 A. That's correct.

13 Q. Now once you get out there you say you hear a door slam.

14 A. Once I get to the window the screen door shuts.

15 Q. Did ya ever think a takin' your hand off your penis at
16 that point?

17 A. At that point the excitement was too much, I was, I was
18 about to climax.

19 Q. Despite the fact that everything's bumpin' and crashing
20 around you, that's what you're thinkin' about?

21 A. That's not, it was not thinkin', that was a physical
22 response.

23 Q. So it's your testimony that in a situation like that:
24 bumping, crashing, you don't know what's goin' on, you're
25 afraid for your son, the normal response, a normal response is

ROBERT STEPHEN HORTON - CROSS-EXAMINATION BY MS. REESE

1 to ejaculate?

2 A. That was a physical response, that was not a decision.

3 Q. But that's normal, you, that's what you just said, I
4 mean, that's normal, it's a normal response.

5 A. That's the only time I've ever been in that situation, I
6 can't answer that.

7 Q. You choose to do that, when you hear this door slam, you
8 walk into your daughter's closet.

9 A. I step to the edge of it, yes.

10 Q. Step to the edge of it. Were you inside or outside the
11 closet?

12 A. I was leanin' on the door jam leanin' inside the
13 closet.

14 Q. Let me show you, I'll show it to you first, show this to
15 you what's been marked as State's Exhibit 3, is that
16 (indicating) the entrance to your daughter's closet?

17 A. It is.

18 Q. And this (indicating) is the floor of the closet ---

19 A. It is.

20 Q. --- and that's State's Exhibit 2, so you standing
21 somewhere in here (indicating)?

22 A. Yes, on the door jam.

23 Q. On the door jam. When you go into this closet, there's
24 an open space on the side, ---

25 A. Yes.

ROBERT STEPHEN HORTON - CROSS-EXAMINATION BY MS. REESE

1 Q. --- now are these your daughter's toys?

2 A. Uh, they're both of 'em, Minor and Samanthas'.

3 Q. And that's where you choose to go to finish your
4 business?

5 A. It wasn't a choice, it was the only available spot I
6 saw.

7 Q. Now where are you facing when this happens?

8 A. I was facin' inside the closet.

9 Q. And where is the first time you see Minor Where is she
10 in this (indicating) picture?

11 A. She came in pretty much after the fact. She came into
12 the door so she woulda been to the far left a this picture, I
13 had my back to her.

14 Q. The far left here (indicating)?

15 A. It's not in the picture, the door's not showin' in the
16 picture.

17 Q. So when she comes in, she's outta this picture over in
18 this (indicating) area, that's what you're tellin' me.

19 A. Yes, that she's over toward the door there (indicating).

20 Q. And you're standing facing the closet, ---

21 A. Yes.

22 Q. --- facing the back a the closet ---

23 A. Yes.

24 Q. --- and she came in after the fact.

25 A. Uh, pretty much when it was finishin', yes.

ROBERT STEPHEN HORTON - CROSS-EXAMINATION BY MS. REESE

1 Q. Did you tell anyone about this at the time?

2 A. No, I did not.

3 Q. So she was able to come in that house, you heard the door
4 slam, but she came in the house and got to the room without
5 you being able to hear her comin' up the hall.

6 A. I heard the door slam and I made a move to, I di -- I
7 didn't want anybody catch me in that position.

8 Q. Did you hear her coming up the hall?

9 A. Not with the the heat pump runnin', the air runnin' no,
10 it wouldn't a took her four seconds to get to the door.

11 Q. Well that happened a lot because you also testified
12 yesterday that **Minor** may have been listening at the door ---

13 A. Believe we're ---

14 Q. --- when you were talkin' about chat room.

15 A. Yeah, we believe so, we're not sure.

16 Q. You don't know.

17 A. No, I do not know for positive.

18 Q. But if she did she was able to do that quietly without
19 you knowing she was there.

20 A. No, the back door's away from that heat pump.

21 Q. If she was there, she was able to get to that location
22 without you knowing she was there.

23 A. From the back porch sure.

24 Q. She was there and you didn't know it.

25 A. Where you talkin' about?

ROBERT STEPHEN HORTON - CROSS-EXAMINATION BY MS. REESE

1 Q. At the time you talk about the the the chat room, ---

2 A. I was on the back porch with my wife.

3 Q. --- and you said Minor coulda been listenin' ---

4 A. It's possible, yes.

5 Q. And if she did then she was able to get through that
6 house to listen to you to that back area without you knowing
7 about it.

8 A. Sure.

9 Q. Tell me about lotion in the living room.

10 A. Lotion in the livin' room?

11 Q. Yeah, you testified yesterday that you would rub, if I
12 understand it correctly, you would rub your backs wife with
13 lotion in the living room.

14 A. Not in, not usually in the livin' room no, that was our
15 private time in our bedroom.

16 Q. But you testified yesterday that ---

17 A. There were a ---

18 Q. --- some a this ---

19 A. --- couple times.

20 Q. --- happened in fronta the girls.

21 A. Yeah, there was a couple times.

22 Q. So you would rub her back, she would rub your back but
23 there would be lotion in the living room.

24 A. On those, on those couple occasions there were. Now if
25 they were consistently I don't know.

ROBERT STEPHEN HORTON - REDIRECT EXAMINATION BY MR. BROWN

1 Q. And the girls were there.

2 A. The girls were present a couple times. I I don't recall
3 rubbin' my wife's back in the living room. I know, I know she
4 rubbed mine in there.

5 Q. Ever rub your legs?

6 A. I'm sure they did.

7 Q. With lotion?

8 A. Sure. Right after I had surgery. I was in tremendous
9 pain, I had a lotta muscle spasms, lotta muscle cramps.

10 Q. And the lotion rubbing eased those.

11 A. Any kind of, any kinda massage techniques would, yes.

12 Q. Nothing further.

13 REDIRECT EXAMINATION BY MR. BROWN:

14 Q. Now, Ms. Mr. Horton, if **Minor** came through the, through
15 the house and came and listened to you guys on the back porch,
16 would she have to slam a door?

17 A. She wouldn't have to. I mean, we we never closed bedroom
18 doors for the kids.

19 Q. So if **Minor** was on the outside the house and comin' in,
20 she would have to come through a door, ---

21 A. Yes.

22 Q. --- that door very well could slam.

23 A. Well the screen door always. If if you didn't sit there
24 and hold it, it's just a typical screen door, it it would
25 kinda slam.

ROBERT STEPHEN HORTON - REDIRECT EXAMINATION BY MR. BROWN

1 Q. So it would be very easy to hear her if she was comin'
2 through a screen door.

3 A. If somebody's comin' from the outside, yes, if somebody's
4 already inside the house and they way 75 pounds, no, you're
5 probly not gonna hear 'em tiptoein' through a house.

6 Q. Ms. Reese pointed out this (indicating) photo, in
7 particular what's on this (indicating) side?

8 A. Now now what that is that's a, that's Minor dresser,
9 that was one I re -- Trip Whitlock he let me have and I, and I
10 refinished it for Minor Behind it is the window, the
11 outside window.

12 Q. And where's the next window on this side a the house?
13 would it be the kitchen?

14 A. It would be the kitchen, yeah.

15 Q. So there's no other ---

16 A. There's no ---

17 Q. --- window ---

18 A. --- no, there's no other windows.

19 Q. --- at any point.

20 A. No, the ---

21 Q. So if you're, if you're on left side of the house in this
22 (indicating) portion of the house, you can't see out to the
23 right unless you come to what room?

24 A. I would -- to see out the window?

25 Q. Yes.

ROBERT STEPHEN HORTON - REDIRECT EXAMINATION BY MR. BROWN

1 A. I will either the kitchen or through the girls' room.

2 Q. And you were closest obviously on that day to which
3 room?

4 A. I was parallel to the room, the bathroom was on my left
5 and their room was on the right.

6 Q. And so the only window that you could've looked out to
7 the right to see outside woulda been this one (indicating)?

8 A. It wasn't the only window but it was where the heat pump
9 was underneath ---

10 Q. And ---

11 A. --- and that's where the crash came from.

12 Q. --- the heat pump is directly underneath ---

13 A. Yes, ---

14 Q. --- this (indicating) window.

15 A. --- it's directly underneath.

16 Q. If you have pop-ups on your computer, does that place
17 potentially somethin' inside your computer like a a trojan
18 horse or somethin'?

19 A. It did, it did, it has.

20 Q. And what's, I don't know if you're familiar, what's a
21 trojan trojan horse?

22 A. That's just a virus. Uh, I know, uh, when you visit
23 certain sites it'll put cookies in there, it'll remember your
24 address and it can redirect some pop-ups and I didn't know as
25 much then as I do now I guess but I still don't know

ROBERT STEPHEN HORTON - REDIRECT EXAMINATION BY MR. BROWN

1 everything about it.

2 Q. At, you mentioned at at some point 'cause a these charges
3 you were incarcerated, ---

4 A. I was.

5 Q. --- when when you were released, uh, did you have a order
6 by the Court in regards to how you should interact with your
7 wife?

8 A. I was told my only contact was through financial means.

9 Q. So that would be consistent with any conversations that
10 Ms. Reese referenced?

11 A. Yes.

12 Q. And we've heard previous testimony that you were the
13 person that was workin' in the house?

14 A. I worked, uh, Re --- Renee has only recently become
15 employed ---

16 (Cross-talk.)

17 Q. So durin' this time period, you said durin' the time
18 period of your marriage up until these allegations.

19 A. Yes, we we discussed that actually before we got married,
20 uh, she wanted to know if she could be a stay-at-home mom.

21 Uh, we we did not have a homeschool discussion at that point,
22 uh, but I remember the conversation, uh, she wanna know if she
23 could be a stay-at-home mom and the discussion we had was
24 similar to one my parents had. Uh, my mom had asked my dad if
25 she could stay home and raise the babies until it's time for

ROBERT STEPHEN HORTON - REDIRECT EXAMINATION BY MR. BROWN

1 school and my response was the same as his, The the good
2 Lord'll provide.

3 Q. Ms. Reese asked you about goin' to the school with your
4 wife, you went to the school to support your wife?

5 A. Yes, um-hum.

6 Q. Did you go to school in hopes of getting **Minor** outta
7 school so you could take her back home and at some point plan
8 to abuse her?

9 A. Absolutely not.

10 Q. You mention that or Ms. Reese brought up the fact of
11 dreams, you said you were one of others that coulda been
12 concerned 'bout **Minor** havin' dreams?

13 A. I I was concerned about it. I I did bring it up with my
14 wife and she brought it up as well. I mean, when I mentioned
15 it, it was obviously a consideration with her, that's -- uh, I
16 do remember **Minor** wakin' up couple years earlier thinkin'
17 pirates were in her room, she had been watchin' Pirates of the
18 Caribbean and she dreamed about it and thought pirates was
19 comin' in through her bedroom window.

20 Q. And so there had been previous conversations between you
21 and your wife about **Minor** seein' things and possibly thinking
22 they're ---

23 A. There were, ---

24 Q. --- they were real?

25 A. --- there there were instances, yeah. Uh, there there

ROBERT STEPHEN HORTON - REDIRECT EXAMINATION BY MR. BROWN

1 were times just things she said, uh, that you you don't put a
2 lot of thought into other than where did that come from.

3 Q. And you guys obviously as you've heard testimony before
4 from your wife you did watch movies as a family?

5 A. Yeah, we did, we watched family movies.

6 Q. At the time period which your wife and the children move
7 outta the house there are a number a things left there ---

8 A. Yes.

9 Q. --- including magazines, movies, ---

10 A. Things, she took what she needed.

11 Q. --- clothin'?

12 A. E -- anything she needed. She took the furniture,
13 anything she needed.

14 Q. These journals were left behind, ---

15 A. These journals were, yeah.

16 Q. --- other things were left behind.

17 A. The journals were left behind, my fridgerator was gone,
18 you know, so I'm ---

19 Q. She ---

20 A. --- assuming you're done.

21 Q. --- they took what they thought to be important at that
22 time.

23 A. I believe even the batteries in my smoke detectors were
24 gone so I'm assumin' you're done and what you've left behind
25 as instructed is trash and things to go to Goodwill.

ROBERT STEPHEN HORTON - REDIRECT EXAMINATION BY MR. BROWN

1 Q. You've heard previous testimony from Ms. McMillan, uh,
2 which she referenced a prior psychiatric evaluation of some
3 sort concerning Minor ---

4 A. She had some through school, yes.

5 Q. --- and you also heard her testimony that it hadn't been
6 updated since that extended time period?

7 A. Probably the last one, and this is just assumin', would
8 be, uh, the start a the '06 school year, maybe the start of
9 her fifth grade year because as best my knowledge they did one
10 each year, uh, they wanted to know where she was, uh, mentally
11 as far as her speech, her learning capacity. Uh, when she was
12 at that small school, the, if she coulda stayed at that
13 school, she woulda stayed there, she wouldn't been
14 homeschooled, she got one-on-one attention and was doin' fine
15 the environment there. The only thing I can relate it to, and
16 me and Renee talked about this, when she went to that middle
17 school, it was like kinda like it was for me. We went to a
18 small country school through sixth grade and then we went to
19 junior high which was a combination of four or five schools
20 and we were shell shocked, uh, but a lot of other kids weren't
21 but all of us that just kinda grew up in the country didn't
22 know how to react, instead a one classroom, we're goin' to
23 multiple classrooms, this was somethin' she was not used to
24 and the lack a one-on-one attention her mind would wander, she
25 needed that one-on-one attention with her mom.

ROBERT STEPHEN HORTON - REDIRECT EXAMINATION BY MR. BROWN

1 Q. So you you would say it had a immediate effect on her by
2 goin' this kinda school.

3 A. It did, it did.

4 Q. So you agree me with that she was in a controlled closed
5 environment bein' homeschooled?

6 A. Yes, it was more controlled, yes.

7 Q. She didn't have a a lot of intersection with other
8 children outside your house.

9 A. The the only other time woulda been at Sunday school on
10 on, uh, Sunday mornin', Sunday nights and Wednesday nights.

11 Q. Ms. Ms. Reese also showed you couple photos, we referred
12 to some photos on yesterday. The photos that we showed
13 yesterday they show the same location of the home the photos
14 that we reviewed on yesterday, the number of photos I laid
15 out, ---

16 A. Right.

17 Q. --- they show the home?

18 A. Yes, ---

19 Q. Show the rooms?

20 A. They did.

21 Q. Show that particular room that Ms. Reese referred to?

22 A. Yes, yes.

23 Q. And would it be your testimony, be your testimony that
24 they would accurately depict the the home at the time which it
25 was in the state which you left it?

ROBERT STEPHEN HORTON - REDIRECT EXAMINATION BY MR. BROWN

1 A. Yes, to the best a my knowledge, yes.

2 Q. You no longer live in that home?

3 A. No, I have ---

4 Q. Sue Susan -- excuse me, Renee no longer lives in that
5 home?

6 A. No, she does not.

7 MR. BROWN: We'd offer these into evidence at this time.

8 MS. REESE: Your Honor, I would ask when they were taken.

9 BY MR. BROWN:

10 Q. Mr. Horton, you no longer live in this home ---

11 A. I do not.

12 Q. --- but I did accompany you to take a look at this
13 home, ---

14 A. Yes.

15 Q. --- that was within last two weeks?

16 A. Yes.

17 Q. And this is the same state in which you left the
18 home, ---

19 A. Yes, to the best a my knowledge.

20 Q. --- shortly after your wife moved outta home?

21 A. Yes.

22 MR. BROWN: Renew my motion, Your Honor.

23 THE COURT: Any objection?

24 MR. REESE: No objection.

25 THE COURT: How many photographs in that group?

ROBERT STEPHEN HORTON - REDIRECT EXAMINATION BY MR. BROWN

1 MR. BROWN: It was sixteen in one group, Your Honor,
2 which showed a lot of the outside photos.

3 THE COURT: Are those all marked separate?

4 MR. BROWN: Yes, sir, well they they've been marked as a
5 group and stapled.

6 THE COURT: Alright, what you got in your hand now?

7 (Whereupon, a discussion was held off the record.)

8 THE COURT: Alright 6, 7, 8, 9, 10 no objection,
9 Ms. Reese?

10 MS. REESE: No objection, Your Honor.

11 THE COURT: Okay, they're admitted.

12 (Defendant's Exhibit Nos. 6, 7, 8, 9 and 10, photographs,
13 admitted into evidence.)

14 BY MR. BROWN:

15 Q. One last question with the rubbing of your back and
16 rubbing on lotions it's very plausible you say kids were
17 present or coulda been present, right?

18 A. Oh, I'm sure there were a few times. Uh, right after my
19 surgery, you know, I'm not movin' much, got a lotta medication
20 in me, uh, I'm usually the one that babied, I babied Renee,
21 and that was one one a the sweet times I got to be babied,
22 they took care of me.

23 MR. BROWN: All the questions I have, Your Honor.

24 MS. REESE: None, Your Honor.

25 THE COURT: You may step down.

ROBERT H. HORTON, SR. - DIRECT EXAMINATION BY MR. BROWN

1 (Whereupon, the defendant left the stand.)

2 MR. BROWN: I would call Robert Horton, Sr.

3 THE CLERK: Place your left on the Bible, raise your
4 right.

5 ROBERT H. HORTON, SR., having
6 been first duly sworn, testified as follows:

7 THE CLERK: Have a seat, have a seat.

8 DIRECT EXAMINATION BY MR. BROWN:

9 Q. How you doin' today, sir?

10 A. Hi.

11 Q. Could you state your name.

12 A. Robert H. Horton.

13 Q. And where do you live, sir?

14 A. [REDACTED] Road, Boilin' Springs.

15 Q. And can you hear me? Can you hear me?

16 A. I'm ---

17 Q. Can you hear me?

18 A. --- I'm hard a hearin', ---

19 Q. Yes, yes, ---

20 A. --- co ---

21 Q. --- sir?

22 A. --- come a little closer.

23 Q. I will. You know this (indicating) young man?

24 A. Yes.

25 Q. You've been present durin' the course of this trial?

ROBERT H. HORTON, SR. - DIRECT EXAMINATION BY MR. BROWN

1 A. Yes, sir.

2 Q. You've heard testimony as relates to somethin' involving
3 the beach.

4 A. Yes, sir.

5 Q. You go to the beach every year?

6 A. Yes, sir.

7 Q. What time of year do you go to the beach?

8 A. October.

9 Q. October.

10 A. I had been to beach, we've been October ever -- for the
11 last twenty years. My wife was in food service and had
12 conventions in October, that's why we got started goin' in
13 October.

14 Q. Would you all ever go to the beach in August?

15 A. No, sir.

16 Q. You heard testimony that was stated you went to the beach
17 in August.

18 A. I did not.

19 Q. You didn't?

20 A. No, sir.

21 (Vacation schedule marked Defendant's Exhibit No. 11 for
22 identification.)

23 Q. I'm gonna show you what's been marked as Exhibit 11, ---

24 A. Alright.

25 Q. Could you tell the jury what this shows in particular.

ROBERT H. HORTON, SR. - CROSS-EXAMINATION BY MS. REESE

1 A. What you mean? When I went to the beach?

2 Q. Yes, sir. Yes, sir. Does it show the time in which
3 arrived at the beach?

4 A. In '06 we went 10th and the 12th; '07 we went 10th and
5 18th and '07 we went 11th and 15th; '08 we went 10 and 9;
6 '0 -- '09 we went 10 and 8, that's when her mother died and we
7 had to come home and we went back had the funeral and 10th
8 through the 7th and '10 we went, uh, October 7th and 10th and
9 11th, we went October the 6th.

10 Q. So outta all those years ever go in August?

11 A. No, sir.

12 Q. And that's what this this shows.

13 A. Yes, sir.

14 Q. And this is ---

15 A. That's where we've stayed every time we went.

16 Q. Same place.

17 A. Same place.

18 Q. You you've been goin' there for twenty years.

19 A. Yes, sir, stayed in the house.

20 MR. BROWN: Your Honor, I move that this be admitted.

21 MS. REESE: No objection, Your Honor.

22 THE COURT: It's admitted.

23 (Defendant's Exhibit No. 11, vacation schedule, admitted
24 into evidence.)

25 MR. BROWN: Please answer any questions the prosecution

ROBERT H. HORTON, SR. - CROSS-EXAMINATION BY MS. REESE

1 may have.

2 CROSS-EXAMINATION BY MS. REESE:

3 Q. I just have one question, Mr. Horton. So in 2008 ---

4 A. Come a little closer where I can ---

5 Q. Oh, yeah, ---

6 A. --- hear ya.

7 Q. --- I'm sorry.

8 A. I don't hear well.

9 Q. In 2008 you and your wife went to the beach October the
10 9th?

11 A. Yes, ma'am.

12 Q. And how long were ya there?

13 A. Thirteenth. We stayed five days when we go.

14 Q. Okay, ---

15 A. We go on Thursday and go back Tuesday.

16 Q. So in -- on October the 9th through the 13th you were at
17 the beach.

18 A. Yes, ma'am.

19 MS. REESE: Nothing further, Your Honor.

20 THE COURT: You can step down.

21 (Whereupon, the witness left the stand.)

22 MR. BROWN: That's defense presentation, Your Honor.

23 THE COURT: Any reply?

24 MS. REESE: None, Your Honor.

25 THE COURT: Alright, ladies and gentlemen, that's all of

MOTIONS AND MATTERS

1 the testimony or evidence to be offered in the trial of the
2 case, what now remains to be done are the summations to be
3 accomplished by the lawyers after which I'll instruct you on
4 the law and then you can begin deliberations, before we do
5 that I've got some matters to address with the lawyers so I'll
6 ask you to please go to your jury room, don't talk about the
7 case, I'll bring you back in just a few minutes.

8 (The following takes place outside the presence of the
9 jury.)

10 THE COURT: Alright, any motion or other matters to
11 address?

12 MS. REESE: None from the State, Your Honor.

13 MR. BROWN: None from defense, Your Honor.

14 THE COURT: Alright, uh, the State has presented three
15 requests to charge, uh, Mr. Brown, do you have any?

16 MR. BROWN: Your Honor, we'd ask the Court to administer
17 its normal charges in regards to criminal sexual conduct
18 second degree. I know the State has made mention of a charge
19 of no time period bein' required and I understand the Supreme
20 Court, uh, in 2008 has made reference under *State vs. Thompson*
21 as this is not a mandate but I know they have presented
22 statutory law in that regard, I would request that the Court
23 would include that particular charge as relates to time.

24 THE COURT: Which are you talkin' about the State's
25 request?

MOTIONS AND MATTERS

1 MR. BROWN: Yes.

2 THE COURT: Their their request Number 2 you're you're
3 you're agreeing that it should be charged?

4 MR. BROWN: I request that that the Court would consider
5 saying that time is a factor, that should be included as a
6 alternative charge, Your Honor.

7 THE COURT: That time is an element of the crime?

8 MR. BROWN: Yes, sir.

9 THE COURT: Do you think it is?

10 MR. BROWN: I think as relates at least to one of the
11 allegations, Your Honor, that makes the separation in terms of
12 two indictments. There clearly was a reference to a time
13 period in August of 2008.

14 THE COURT: Well they they definitely have to establish
15 that they're two separate events, two ---

16 MR. BROWN: Yes.

17 THE COURT: --- separate incidents.

18 MR. BROWN: Yes, sir.

19 THE COURT: Is that what you're referencing?

20 MR. BROWN: I am, Your Honor.

21 THE COURT: Okay, yeah, I'm gonna instruct them they have
22 to find two separate, those are two separate indictments, they
23 have to be two separate events.

24 MR. BROWN: Yes, sir.

25 THE COURT: Alright, anything else?

CLOSING ARGUMENTS

1 MR. BROWN: Can we have a few minutes, Your Honor?

2 THE COURT: Alright, we'll take, uh, ten minutes.

3 MR. BROWN: Yes, sir.

4 (Whereupon, a recess was taken.)

5 THE BAILIFF: Thank you, be seated.

6 (Whereupon, a discussion was held off the record.)

7 MS. JORDAN: Your Honor, may we approach?

8 (Whereupon, a bench conference was held off the record.)

9 THE COURT: Alright, bring the jury in, please.

10 (The following takes place in the presence of the jury.)

11 THE COURT: Alright, ladies and gentlemen, you're gonna
12 hear from the lawyers in their final summations, after that
13 I'll provide you an instruction on the law and then you can
14 begin deliberation so please give the lawyers your attention
15 now as they give you their final summations. Mr. Brown.

16 MR. BROWN: May it please the Court, Your Honor. 1963
17 Reverend Dr. Martin Luther King stated that the ultimate
18 measure of a man is not where he stands in times of comfort
19 and convenience but where he stands in times of challenge and
20 controversy, that's what this case involves, that man was
21 facing those challenges and the controversy that is related to
22 the two charges in this case is Mr. Robert Horton. Mr. Horton
23 has as you've heard over a period of three years gone through
24 bein' accused, facin' serious accusations as relates to
25 Ms. Minor [REDACTED] Now durin' the course of this case you

CLOSING ARGUMENTS

1 heard testimony, you've seen forensic interviews that were
2 conducted, keep in mind what enables you to serve here today
3 is what we all would hope that we would have: the God-given
4 opportunity to exercise our common sense and of course our
5 life experiences 'cause that's what's make you who you are as
6 members of the jury, that's what equips you, but in this case
7 Robert Horton is facing two serious charges, charges that
8 relate to what; number one, is very easy to say but; number
9 two, what's so very difficult for any man to face an
10 accusation from a young lady, very easy to say, very difficult
11 to face and what the prosecution has presented essentially is
12 a case that was started from a conversation from someone at
13 the Children's Advocacy Center, Ms. Lynn McMillan.
14 Ms. McMillan as you will see 'cause you had provided to you in
15 two interviews, two interviews which she talked with **Minor**
16 Manley.

17 Well think about three things as relates to this case, I
18 like to think of them in terms of fantasy, circumstance and
19 suggestibility. Fantasy, circumstance, suggestibility. For
20 those a you who are apprised of the educational system and
21 what it takes on a day-to-day basis to educate children,
22 hopefully they're thriving and they're growing. You know one
23 of the things involved clearly is their day-to-day activities,
24 their exposure, their ability to mature, that's typically what
25 appears. We know that Renee Horton has done her best as a

CLOSING ARGUMENTS

1 mother, she makes certain decisions in the lives of her
2 children that she felt to be the best, we also know that at
3 some point in the early stages of the young life of Minor
4 she had an evaluation done that dealt with some
5 psychological issues, that wasn't presented to us but made
6 reference to by Ms. McMillan, and it wasn't updated if you ---
7 as you recall the conversation that I had with her, some a
8 that can come into play in terms of many years later.
9 Ms. McMillan tried to say maybe one psychological profile
10 doesn't change with the time period but you and I know through
11 our life experiences of what we know from other experiences
12 that we've encountered that's not necessarily the case and in
13 particular for a young lady come into the time period in which
14 she's become a woman facing a number of things and in
15 particular being the oldest child of a number a children in a
16 home, a very closed off setting, her mother is there day in
17 and day out homeschooling, that child knows out of all the
18 children in the home that Robert Horton is not her real
19 father. She knows that her younger sister who's around her
20 all the time recognizes Robert Horton as her father and she
21 knows her younger brother Joey or Josiah as his proper name is
22 is his biological son, that's a lot for a young girl to endure
23 especially if her mother and biological father are at odds
24 one another and again, with your life experiences and what you
25 know can adults sometimes have situations in which it's not

CLOSING ARGUMENTS

1 presented in a proper manner for children to hear especially
2 over a period of years when the mother's doin' the best she
3 can, she's allowin' that daughter to go in a situation where
4 there's admittedly some negative interaction. You heard
5 testimony that Minor would come back from the home of her
6 father Chad Fowler, number a things that her mother would
7 notice but bein' a good mother and knowin' that she wants her
8 daughter to have the opportunity to see her father she still
9 allowed Minor to go there, couldn't interfere with that, we
10 understand that, but at some point at a specific time period
11 you heard that, January '08, Minor had endured the ravages of
12 mono, as you heard Ms. McMillan relate to time periods that
13 could stand out a child's mind certain things but also a time
14 period in which that child say, Hey, I know I wanna see my
15 father.

16 You've heard information as it relates to journals that
17 young Minor kept, you'll have a chance to review those. Take
18 a look at 'em, flip through 'em, see some a the things that
19 Minor was considering, two things in particular stand out: I
20 wanna see my father, I want a boyfriend, young girl growin'
21 up, very small home. Renee being adamant in how she felt
22 about Chad, not the best relationship, there have been
23 conversations over the years about Chad, clearly Robert being
24 supportive, doting husband he's gonna back his wife up.
25 Again, in your life experiences and with your common sense you

CLOSING ARGUMENTS

1 think everything is gonna be presented to a child or every
2 conversation that adults should have will be sweet, pleasant
3 and always calm. Chad called that house, Renee talked to him,
4 would they be sweet and pleasant with all their conversations
5 think about that. Would a young girl who had up until January
6 of '08 comin' down with mono would she ever been apprised a
7 that knowing what her family had gone through? You've seen
8 the videotape, you know it wasn't the best of conversations.
9 The unfortunate part with Minor is some point she was taken
10 out of school, one a the most ideal situation, but there were
11 other factors involved and is particular resources that were
12 available for Minor in which you and I don't know she would
13 have had the opportunity if she had gone through those
14 resources to not only get the educational help that she needed
15 for the deficiency she had in reading and writing because she
16 was on grade level terms a math, she wasn't on grade level
17 with everything else as a 13-year-old almost turning 14, but
18 additional resources that coulda been there which the school
19 system would have had a chance to see what else had been goin'
20 on with Minor particular state of mind. Sometimes things
21 happen, sometimes unfortunately people don't like to talk
22 about issues of the mind, that is a taboo subject, don't know,
23 'cause young Minor with the help of her mother is tryin' to
24 do the best that she can for her kids was taken outta the
25 school system, she was homeschooled and as far as we know

CLOSING ARGUMENTS

1 still to this day she's still being homeschooled, still has
2 some challenges, some a those things now are bein' addressed
3 but they're not before this court, keep those things in mind.

4 Second to that but also important the fact that this
5 young girl durin' the time period of comin' into maturity
6 you've seen on the video she recognizes that she saw
7 somethin', remember that same term on that same computer,
8 that's where Minor -- Minor would sit down and do her work
9 day in and day out. Renee coulda been at the kitchen table,
10 Renee coulda been in the livin' room watchin' TV not always
11 standin' over Minor as she's doing work, pop-up comes up,
12 somethin' that coulda played seein' those adult relations. As
13 you've heard reference to family movies, home movies from
14 earlier, one of 'em bein' the Nutty Professor, also recognize
15 the kids could have seen Dumbo, think a the words and
16 terminology that you get from home movies, that's important,
17 that also relates to concept in which coulda been in the mind
18 of young Minor we don't know that. We know it could be
19 extreme for a young girl in the sta -- stages of maturity to
20 get confronted with pornographic material, also young Minor
21 was in chat rooms. Your life experiences, your common sense,
22 what you know occur in chat rooms especially with someone
23 who's alleging they're in New York, alleging they're an older
24 male, what kinda conversations typically occur in chat rooms,
25 that information wasn't wholly available to Renee Horton,

CLOSING ARGUMENTS

1 Robert Horton when it was occurring. When a young girl
2 growin' up in a closed off environment, the younger sister and
3 younger brother and a new sibling, another child not by Chad
4 Fowler but by Robert Horton who's married to Renee on the way,
5 **Minor** bein' oldest and now three siblings knowing only one
6 person as dad, **Minor** knowin' who her father is and knowin'
7 that she wanted to see her dad and unfortunately durin' this
8 time period contracting mono which no one else in the home was
9 affected by, especially a man that had an o -- his own medical
10 conditions, person that was sufferin' his own right the
11 effects of operation. Her dad didn't come see her anymore.
12 What will that do to a young girl, think about that, also what
13 would have given her the opportunity that she ultimately did
14 realize after these allegations. She moved to Gray Court with
15 Stephanie's parents, she woulda had the chance to hear from
16 her father who unfortunately has not been a part a these
17 proceedings but still with that video, I knew it would break
18 up their marriage, I didn't know this soon, I'm concerned
19 about the last names. Now for a young lady who is in a
20 child-like stage is that somethin' that you would be concerned
21 about or for a 13 or 14-year-old who's smart enough to know
22 and realize what kinda effect it was gonna have on their
23 family getting potentially and end result? I can't say, they
24 can't say, that's for you to consider and that's somethin' for
25 you to consider along with everything else that's been

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1 presented beyond a reasonable doubt, don't know. Those
2 factors do exist, a subject as I said before potential
3 fantasy, somethin' that's been made up to get what she want.
4 She ultimately has gotten what she want terms a bein' outta
5 the house, she lives somewhere else now, now she has her
6 siblings and her mom, think about that, ladies and gentlemen,
7 circumstance relates to **Minor** durin' this time period facin'
8 that sickness and any time after that.

9 Robert Horton began working that summer when allegedly
10 some a these activities were goin' on. Renee took this
11 (indicating) very stand and told you in the course their
12 marriage she would think of only two times, the same thing
13 that Robert said, in which she woulda been outta the house.
14 How would that have been possible? Think about that,
15 circumstances surround that. Think about the manner in which
16 questions were asked **Minor** think about responses, think
17 about how something of this nature would have to occur based
18 upon your common sense. You know through life experiences,
19 you know as adults there should be words of description as
20 opposed just blank accusations, someone tryin' to guide you in
21 terms of what information they're trying to seek but still not
22 a lotta information. Licked and rubbed, I rubbed and licked.
23 Common sense, no other for the kinda things that could have
24 occurred to make certain things happen would have been licking
25 a 13-year-old would have gone through the fifth grade, woulda

CLOSING ARGUMENTS

1 been exposed to the school system, who been exposed to her
2 mother who had three kids that point, was havin' a fourth
3 child would she have known the birds and the bees at a minimum
4 or based upon talking to someone that's tryin' to get certain
5 answers out of her who's coming from a certain position
6 (indicating) this side a the room, would that child have known
7 certain expectations, a 13-year-old girl girl who would have
8 gone through a period of maturity and talkin' with her mother
9 would she have really thought licking and rubbing she coulda
10 been pregnant or that be somethin' that, Hey, I'm talkin' to
11 this lady, she's tryin' to get additional answers outta me,
12 I'm gonna throw somethin' else in there, **Minor** was just that
13 smart. She's smart enough to be in a chat room, she was smart
14 enough to get on email, she's smart enough to try to conceal
15 the fact that she was talkin' to someone who held himself out
16 to be an older boy, denied at first hearing Renee and Robert
17 on the back porch discussin' and again your common sense will
18 tell you was it a simple discussion or not, I better come
19 clean, they're talking about me, coming clean when all the
20 cards are laid on the table. In this instance a guilty
21 conscience is not clear because when **Minor** was questioned as
22 you heard through my interrogation of Megan Burrell certain
23 things were already stated to her and certain things were
24 included in reports. Digital penetration, didn't hear any a
25 that from **Minor** she took that stands. Certain things in the

CLOSING ARGUMENTS

1 interview with Lynn McMillan, didn't hear that but the one
2 thing that law enforcement never had in terms of contacting
3 Robert Horton for DNA sample first thing, let's go get, let's
4 go get the sample, first thing law enforcement does, think
5 about that, use that as a measuring stick in terms of your
6 life experiences and that, is that the first thing law
7 enforcement should do speak with someone on one side and then
8 we're gonna go and seek a search warrant which Mr. Horton
9 complied, came down, providing a swab, why? 'cause guaranteed
10 **Minor** did see somethin' in an adult who had his back turned
11 did do and as Mr. Horton told you they never discussed it,
12 just walked out on him afterwards shameful that she caught him
13 in that position knowing that she had to see what he was
14 doin', knowin' there was a physical element to it. Bein' her
15 stepfather he can't have that kinda conversation with her, you
16 never heard anyone say that he ever talked to her about birds
17 and the bees and life resources so how could Robert Horton
18 durin' that time period of a condition which he said he, if he
19 engaged in somethin' of his preference would be flat on his
20 back, how would he move around possibly again engage a young
21 lady to do that? Did you ever hear any testimony sayin' that
22 they were on a bed in her room, they were on a bed in the
23 family room, she was layin' on her back, her legs were open,
24 he was in front of her, did you hear that kinda information?
25 That information I submit to you is is is very crucial because

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1 based upon life experiences and common sense you know certain
2 things have to be a part of what goes on but more importantly
3 with this kinda accusation to lick and rub and ultimately to
4 produce something, especially when someone says lick, lick is
5 not a terminology that based upon common sense would produce
6 the type of result that would happen. You never heard the
7 word "sucking", totally different, totally different, totally
8 different, consider that with your common sense. Consider
9 that what first came out was a letter, a letter that was
10 written to produce a result at the end didn't know anything
11 talked about, she did, didn't state in the letter he's gonna
12 hurt me, gonna hurt you, none a that designed to produce an
13 effect that started a snowball reaction. Well I've said this
14 now I'm at the opportunity after a few days have gone by
15 things she thought about over the weekend, things she had to
16 think about what she would have to say and of course lick and
17 rub and somethin' that she would potentially seen on porn.
18 She had enough time to think about what stories she needed to
19 add to it then from that moment on the next week she goes and
20 sees Lynn after Megan Burrell got involved, enough time to
21 think about what she needed to say based upon some a the
22 things she had seen but limited, limited information in terms
23 of what actually occurs with that kinda thing. Fireplace was
24 burnin', small home, the door's left open, Renee and Robert
25 engaging certain activities. Would she have been able to see

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1 that? And if Robert and Renees' door was closed, you've seen
2 that photo and you'll have a chance to observe it again, would
3 she ever been able to look through that? Would she have been
4 able to see her parents involved in these kinda activities?
5 Common sense tells you we're all adults, think about your
6 youth, would you ever had the chance to to know that your
7 parents were involved in somethin' of a sexual nature, think
8 about that. Third factor outside the circumstance
9 suggestibility. Child has expectations, wants people come and
10 start askin' certain questions and the most important thing I
11 would say after my conversations Ms. McMillan is the fact that
12 she said very openly and admittedly it was almost shocking to
13 her because again she operates in a certain mindset just like
14 Megan Burrell who's in here told you she has a passion, you're
15 law enforcement, you're supposed to be objective but you have
16 a passion, one-sided perspective, the same way Lynn McMillan
17 had that perspective. Well why didn't you ask her every now
18 and then, [Minor] are you lyin', every now and then, [Minor]
19 are you lyin', [Minor] are you tellin' the truth? Why? you
20 heard her response 'cause at that point the child may try to
21 offer somethin different and she knows, Susan knows, Jennifer
22 knows based upon our training and our experiences the notion
23 of suggestibility. A biased interviewer, a person that is
24 seeking to get certain things out of a child lead them in a
25 certain direction after she's been confronted by one person,

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1 gets confronted by another person, she talks to another
2 person, she talks to another person, Oh, and now here we are,
3 several people operating from the same perspective, no chance
4 to clear her guilty conscience because everybody is on her
5 side, they're on her side from one perspective. I wasn't in
6 that home, you wasn't in the home, none a these people
7 involved in this case that have brought this to this courtroom
8 they were not in that home. I can't say what happened, what
9 didn't happen, what could've happened, how they lived each and
10 every day and they can't. **Minor** can be consistent in what
11 she was saying. Notice how when I talked to her some things
12 were very obvious and very clear. If Susan talked to her,
13 head in the direction that Susan wanted to take her. Lynn
14 McMillan talked to her, expectations of a child to please the
15 adult, the authority figure at the time the question's being
16 asked especially after having conversations with her mother
17 and her grandparents and others at that point, think about
18 that, the notion of suggestibility 'cause that is a true
19 indeed a real concept when it comes to dealin' with children
20 and dealin' with professionals who come from this perspective.

21 Robert Horton took the stand which he didn't have to do
22 but he took the stand and told you how he lived as a family
23 man, went through extensively one a the main things he loved
24 the nurturin' of his home and in particular that big yard and
25 the fact that his wife did not work, she was there at home

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1 with the kids and when he was able to work again she was still
2 there at home with the kids. Think about that. It's a lot to
3 think about consider if somethin' did or didn't happen. I
4 submit to you if you find any question in your mind not beyond
5 reasonable doubt, the kinda doubt that would cause you pause
6 and hesitate and think, Hmm...could this have happened, is
7 this true though, maybe not, then you will be duty bound to
8 come back with a verdict none other than not guilty, consider
9 that.

10 Now Ms. Reese is gonna follow me up, she she does have
11 opportunities admitted from the State that's brought the
12 charges to finish lines gets to hear what I'm gonna tell you
13 guys, come back in her closin' summation. She's gonna talk
14 about some evidence. You notice her question in particular
15 when the person who bought the final summation of the DNA
16 analysis Ms. Reese craftidly try to say, Umm, it was of such
17 an amount, of such an amount that was tested and of course you
18 heard from the DNA expert who said, Well it was enough to
19 test. Ms. Reese through her craft is a very good trial
20 lawyer, tried to make it seem certain way but just keep that
21 in mind, ladies and gentlemen, as relates to evidence.

22 Another important factor Megan Burrell took the stand and
23 the officer that came on did the cutting, he took the stand,
24 well what did he talk about? Didn't talk about what was taken
25 into evidence except one thing the cutting of a carpet, large

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1 portion, but what did we learn when the DNA expert took the
2 stand? there's another cutting. Well what woulda been on that
3 cutting if it had been examined but it wasn't?

4 What was the other thing that came in play? You heard,
5 from Officer Mullinax that a computer was was secured. Did
6 you hear any testimony about anything on that computer, 'cause
7 of course law enforcement took it in custody, they looked at
8 it, relating to child pornography, kiddy pornography, kinda
9 things that people that are accused a this would be engaged
10 in, didn't hear that, keep that in mind, ladies and gentlemen,
11 in your deliberations, didn't hear that. Did you hear any
12 testimony about any literature, any magazines, anything that
13 was led went to the this was the focus in terms of a pedophile
14 Robert Horton. Also, keep in mind that the young lady took
15 the stand who was the stepdaughter from a previous marriage
16 who said that durin' that time period in which Robert was
17 married to her mother she was a very young girl and a older
18 sister, doesn't live here, she woulda been the same exact age
19 as **Minor** From your common experience, common sense and the
20 experiences that you know in life and the things that you know
21 each and every day, consider this: Is this somethin' that a
22 person would have started the time period in which a young
23 lady would have mono, subject himself to types of infection
24 and all of a sudden all these years of servin' in a role of
25 caregiver, provider, a man who loved his family, who allowed

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1 his wife to stay home, he was there for his stepchildren both
2 the current stepchildren and the last set of stepchildren.
3 She took the stand and told you, No, he's not the kinda man
4 that would do this, that woulda been seen back then, they
5 woulda come in with all kinda reports that said Robert Horton
6 is the kinda man that does this 'cause bam, we got him, he's
7 done it before, hadn't heard that, they wanna come here today
8 because they have crafted and presented a case from a young
9 girl who's been steered time and time again for whatever
10 reasons.

11 Consider the size of the trailer, consider the size of
12 where all this supposedly would have taken place, especially
13 when ya hear a couple times, when ya hear four times, when ya
14 hear five times, inconsistent. The kitchen here (indicating),
15 the computer room there (indicating), the bathroom, Samantha,
16 Minor room and then Josiah's room all right there literally
17 in a confined space. Is it impossible to believe that a man
18 was doin' whatever he was doin' on that day couldn'ta turned
19 around, heard a nose, hearin' the door close, it's impossible
20 to believe that? Can you consider that beyond a reasonable
21 doubt? Is it possible believe as he made reference since the
22 prosecution has only showed you certain photos the same unit
23 that he talked about is outside that window to the childrens'
24 room, it's not impossible to believe it if see it, it's there.
25 They didn't wanna present it, they took certain pictures they