

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM AIKEN COUNTY

Eugene C. Griffith, Jr., Circuit Court Judge

ORIGINAL
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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

RALPHEAL ROBERTSON,

APPELLANT

APPELLATE CASE NO. 2014-001630

RECORD ON APPEAL

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State of South Carolina
County of Aiken

Court of General Sessions

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	)	
	)	Transcript of Record
v.	)	2014-GS-02-00382;
	)	384; 385; 386
	)	
Ralphael Robertson	)	
	)	
<u>Defendant.</u>	)	

July 15-17, 2014
Aiken, South Carolina

B E F O R E:

The Honorable Eugene C. Griffith, Jr., Judge;
and a jury.

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Michael Routzong, Assist. Public Defender
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Bethanie K. Creppon
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1 (The following proceedings were held July
2 15-17, 2014.)

3 (State's Exhibit Nos. 1-5 marked for
4 identification.)

5 THE COURT: Ms. Hammack, you may call your
6 case.

7 MS. HAMMACK: Thank you, Your Honor.

8 First case is *State vs. Raphael Robertson*.
9 He's charged in Indictment 2014-GS-02-382 with
10 criminal sexual conduct with a minor first degree;
11 2014-GS-02-384 with criminal sexual conduct with a
12 minor first degree; 2014-GS-02-385 with lewd act on
13 a minor, and 2014-GS-02-386 with lewd act on a
14 minor.

15 THE COURT: All right. Before we get started,
16 I got one thing -- I need to step back to the back
17 for just a minute. I'll be right back in here. I'm
18 sorry to interrupt. I should have done this before,
19 but I didn't ask myself that same question. All
20 right. We'll stand at ease for just a minute.

21 (Brief pause in the proceedings.)

22 THE COURT: All right. Now back on the record.
23 Ms. Hammack, you called that first case and
24 mentioned three indictments against Mr. Raphael
25 Robertson. Tell me those charges one more time.

1 MS. HAMMACK: Your Honor, there's actually four
2 indictments; two indictments for criminal sexual
3 conduct with a minor first degree, and two
4 indictments for lewd act on a minor.

5 THE COURT: All right.

6 Ladies and gentlemen of the jury, the State of
7 South Carolina has called four indictments against
8 Raphael Robertson. Mr. Robertson is represented in
9 court today by -- pardon me.

10 You'll have to pronounce your name for me
11 again, please.

12 MR. ROUTZONG: Michael Routzong, Your Honor.

13 THE COURT: Routzong. Michael Routzong. Mr.
14 Routzong, would you please introduce yourself, your
15 co-counsel, and your client to the members of the
16 jury panel.

17 MR. ROUTZONG: Yes, Your Honor. My co-counsel
18 is Mr. David Hayes of Aiken. This is Raphael
19 Robertson. My name is Michael Routzong.

20 THE COURT: All right, folks. Any member of
21 the jury panel know anything about the accusations
22 regarding the four indictments recited by
23 Ms. Hammack regarding Mr. Raphael Robertson? If
24 so, please stand and let me ask questions. What I
25 don't need is somebody that read about it in the

1 newspaper to say, oh, yeah, I read this, this, and
2 this, and that, that, and that. I'm going to ask
3 questions that have very specific yes/no answers so
4 I can make a determination of whether or not you need
5 to be seated in the jury.

6 So does any member of the jury panel know
7 anything about the accusations in the indictments
8 against Mr. Raphaël Robertson? Please stand. No
9 one is standing.

10 Ms. Hammack, introduce everybody at your table
11 before I ask the next question.

12 MS. HAMMACK: Thank you, Your Honor.

13 My name is Ashley Hammack. I'm Assistant
14 Solicitor here in Aiken County. Helping me today is
15 Sam Grimes, he's also an Assistant Solicitor.

16 THE COURT: All right. Ladies and gentlemen of
17 the jury, there's been four attorneys introduced.
18 Any member of this jury panel ever been represented
19 in any capacity by any of the attorneys just
20 introduced? If so, please stand. No one is
21 standing.

22 Any member of the jury panel related by blood,
23 marriage, close personal friends to any of the
24 attorneys or Mr. Robertson? Please stand. No one
25 is standing.

1 All right. Potential witnesses in no
2 particular order. I'm going to read the names of
3 the witnesses and then I'm going to ask basically
4 the same question. So potential witnesses in the
5 case, in addition to Mr. Robertson, will be
6 Marquette Roberts, Jessica Roberts, Lieutenant
7 Stephanie Callahan, Lakia Curry, Investigator Robert
8 Anderson, Jacqueline Dobey, Michael Stobbe, Kate
9 Chappell, Anne Laver, Tommy Platt, Wallace Owens,
10 Kim Sievers, Michelle Williams, Santana Gonzalez and
11 Minor

12 Any member of the jury panel related by blood,
13 marriage, or close personal friends to any of those
14 potential witnesses? If so, please stand. Got one.

15 All right. Tell me your name.

16 POTENTIAL JUROR: Scott Farmer.

17 THE COURT: Mr. Farmer, what juror number are
18 you?

19 POTENTIAL JUROR: 50.

20 THE COURT: Which witness are you related or
21 close personal friends to?

22 THE WITNESS: Kim Sievers. My stepdad was
23 married to her -- his nephew to her. His -- her
24 ex-husband or whatever he was.

25 THE COURT: So somehow y'all are related by

1 marriage?

2 POTENTIAL JUROR: Yes.

3 THE COURT: Y'all are not blood cousins?

4 POTENTIAL JUROR: Huh-uh.

5 THE COURT: And the fact that you were related
6 to Ms. Sievers in some fashion by marriage, would
7 that affect your ability to be fair and impartial to
8 both the State of South Carolina and Mr. Ralphael
9 Robertson?

10 POTENTIAL JUROR: No, sir.

11 THE COURT: Can you be fair?

12 POTENTIAL JUROR: Yes, sir.

13 THE COURT: All right. Anybody else? No one
14 else.

15 Any member of the jury panel read any newspaper
16 accounts, heard in the beauty shop, barber shop,
17 read on Facebook, anything about the case involving
18 Ralphael Robertson? If so, please stand. No one is
19 standing.

20 Any member of the jury panel, member of your
21 immediate family, members of any organizations such
22 as MADD mothers, SADD students, Citizens Against
23 Violent Crime or any of those organizations whose
24 focus is on counseling victims of violent crimes?
25 If so, please stand. No one is standing.

1 Any member of the jury panel -- now, this is
2 going to be a yes/no answer. I don't need any
3 details, just kind of want to know your basic
4 involvement with any type of situation such as this:
5 Any member -- and this is going to be -- I'm not
6 going to ask for an explanation. I'm going to ask,
7 has it and would it affect your ability to be fair
8 and impartial. This case involves accusations made
9 by the State regarding sexual misconduct. It's
10 going to contain materials of that sort. So to that
11 end, is any member of this jury panel, close
12 personal friend, or member of your immediate family
13 ever been a victim of a sexual crime or sexual
14 assault? If so, please stand. And, like I said,
15 this a yes or no.

16 Ma'am, your name?

17 POTENTIAL JUROR: Juror No. 40, Cynthia Dicks.
18 I have a stepdaughter that was --

19 THE COURT: All right. That's enough. So a
20 member of your family. Would that affect your
21 ability to be fair and impartial to both the State
22 and to Mr. Robertson?

23 POTENTIAL JUROR: Yes, sir.

24 THE COURT: You can be fair?

25 POTENTIAL JUROR: I hope so.

1 THE COURT: All right. That's what I want to
2 know. That's what I want to hear.

3 Any member of the jury panel, member of your
4 immediate family, or very close personal friend have
5 any preconceived notion that the State does not bear
6 the burden of proving a defendant's guilt beyond a
7 reasonable doubt and cannot accept the law as I
8 instruct you, which will be your jury oath. Please
9 stand. No one is standing.

10 All right. Let me talk to you, Ms. Hammack,
11 and Mr. Routzong.

12 (Sidebar conference.)

13 THE COURT: All right. Folks, one thing I'm
14 very careful about doing, as all the other presiding
15 judges in the state are, is, I have to educate the
16 juries as to what the law in South Carolina is. And
17 my job is to instruct that law as I understand it.
18 The internet has caused a huge influx of bad
19 information, misinformation, incorrect information.

20 And television does the same thing. On
21 television the case is committed, tried, convicted
22 or released or whatever all inside an hour, even
23 with commercials. That just doesn't happen.

24 So what I want to ask is this: In South
25 Carolina, a person accused of a crime is accused.

1 They are presumed to be innocent until the State
2 proves each and every element of the offense they're
3 accusing a person of beyond a reasonable doubt. I
4 define reasonable doubt at the very end of the case.
5 Does any of the jury panel have any reason that they
6 will not be able to accept the law as I instruct it
7 to you during this case and listen to the witnesses
8 who are going to testify? If you're going to have
9 an issue with that, I need to know it, so please
10 stand. No one is standing.

11 So I constantly, during a case, give
12 reassurances to that end, to let you understand
13 that's how it works in a real courtroom, and it's
14 not Judge Judy and television shows and things you
15 hear on the internet.

16 I give an example and I'll tell y'all this: I
17 was trying a murder case over in Laurens County and
18 the newspaper on Wednesday -- like today, it's
19 Tuesday, tomorrow morning -- the paper came out in
20 Laurens and said that Judge Addy was trying a case.
21 Well, I'm Judge Griffith. They had the wrong judge
22 in there. The said the lady was shot three times,
23 but she was shot one time. They said all the facts
24 wrong. So what I'm telling you is, what y'all need
25 to decide this case, you'll hear in this courtroom

1 as a group 13 from the State's witnesses and the
2 defense witnesses, if they call any, and from my
3 instructions. Nothing outside the courtroom really
4 matters. It ain't a real courtroom.

5 So that's what I want to make certain is, any
6 member of the jury panel not able to accept service
7 on those terms? Please stand. No one is standing.

8 All right. Any other -- now, on TV the lawyers
9 ask questions to the jurors. In South Carolina, the
10 judge receives questions from the lawyers and I get
11 to ask them all. So they've sent me questions to
12 ask you, which are consistent with my normal
13 questions.

14 Any other questions from the State or the
15 Defense?

16 MS. HAMMACK: Not from the State, Your Honor.

17 MR. ROUTZONG: Your Honor, we'd just ask the
18 Court -- I think it's Defense No. 2. And I know
19 that we discussed this together, Your Honor. I
20 guess I can put my --

21 THE COURT: All right. I think I've covered
22 that in my explanation to the jury. And I'll allow
23 you to make a record of that --

24 MR. ROUTZONG: Yes, sir.

25 THE COURT: -- as soon as we select the jury.

1 All right. With that being the case, madam
2 clerk, please generate me a random list.

3 All right. Here's what's going to happen:
4 Back in the old days we used to have a cricket box
5 with your names in it and they pull them out one at
6 a time. Now the computer does that for us, most of
7 the time. It will be randomly from your number.
8 The clerk will read your name one at a time, you'll
9 come forward. Each side has a certain number of
10 please excuse the juror on each side. We will
11 select until they either run out of please excuse
12 the jurors or we have 13 members. Okay?

13 Now, if you're not lucky enough to get
14 selected, you'll have to call in tonight to see when
15 to come back tomorrow and/or Thursday, and we'll
16 work in that fashion. As soon as I get this jury
17 seated, I'm going to excuse the balance of you to go
18 back to your household, work, whatever. So as soon
19 as we got with this, the 13 will start working and
20 we'll keep right on rolling with the others of you.

21 I always tell a joke right now. Y'all want to
22 hear one? I try to help lawyers learn to ask good
23 questions and not ask a question one too many.
24 Sometimes they don't know the answer and they ask
25 one too many questions.

1 So here's how the story works: Husband and
2 wife been married 25 years. He's a preacher, been
3 preaching at the same church 25 years. Finally the
4 children get married, they're expecting their first
5 grandkid. Grandkids live up in the Midwest and new
6 Grandma wants to see that grandbaby born, so she's
7 ready to fly out, be gone about a week and help get
8 the baby back home and whatnot with her daughter.
9 She's at the airport. Honey, look, we've never been
10 apart 25 years, but if something happens to me,
11 here's a letter, you open it in case something
12 happens to me.

13 She flies off. She's gone a week. Well,
14 wouldn't you know it, he couldn't stand it, he
15 opened the envelope up. Honey, there's a box in the
16 cabinet behind the refrigerator on the top shelf.
17 Take it down and look in it. He does. And what do
18 you know, he looks in there, three eggs and a stack
19 of hundred-dollar bills. What in the world is that
20 all about? So he puts the box back and he's feeling
21 a little bit guilty about feeling -- his wife said
22 don't open it unless something happens to her.

23 She comes back after a week, everything is
24 fine. The baby gets home, she had a wonderful time
25 with her daughter and her new grandbaby. Honey, I

1 got a confession to make; he says, I opened your
2 letter and I went and retrieved the box. Oh, I kind
3 of figured you would, but that's okay. He says, I
4 really hate to ask, but I got to ask, you got to
5 explain to me about the eggs.

6 She said, well, you know, we've been 25 years
7 and you've been a preacher, so every time you have
8 given a bad sermon, I put an egg in the box. And he
9 said, you know, that's pretty good, I've been
10 preaching 25 years, there's three eggs, three bad
11 sermons, that's wonderful. He had to ask, what
12 about the hundred-dollar bills? She said, when I
13 got a dozen, I had to sell.

14 All right. We're ready?

15 THE CLERK: Yes, sir.

16 THE COURT: All right. Y'all tell them where
17 to stand and all that. I don't know your routine
18 here in this courtroom.

19 THE CLERK: If your name and number is called,
20 please come to the front, bring all your belongings
21 with you, and turn around and face the audience for
22 me.

23 Juror No. 3, Rebecca Bant.

24 (Ms. Bant comes forward.)

25 THE CLERK: What say you for the State?

1 MS. HAMMACK: Please excuse Ms. Bant from this
2 case.

3 THE CLERK: Please return to your seat.

4 Juror No. 11, Chris Bledsoe.

5 (Mr. Bledsoe comes forward.)

6 THE CLERK: What say ye for the State?

7 MS. HAMMACK: Please present Mr. Bledsoe.

8 THE CLERK: What say ye for the Defense?

9 MR. ROUTZONG: Please seat Mr. Bledsoe.

10 THE CLERK: Please have a seat in the jury box.

11 Number 57, Clinton Gantt.

12 (Mr. Gantt comes forward.)

13 THE CLERK: What say ye for the State?

14 MS. HAMMACK: Please present Mr. Gantt.

15 THE CLERK: What say ye for the Defense?

16 MR. ROUTZONG: Please excuse Mr. Gantt.

17 THE CLERK: Return to your seat.

18 Juror 76, John Heaton.

19 (Mr. Heaton comes forward.)

20 THE CLERK: What say ye for the State?

21 MS. HAMMACK: Please excuse Mr. Heaton from
22 this case.

23 THE CLERK: Return to your seat.

24 Number 157, Stephanie Simpers.

25 (Ms. Simpers comes forward.)

1 THE CLERK: What say ye for the State?
2 MS. HAMMACK: Please present Ms. Simpers.
3 THE CLERK: What say ye for the Defense?
4 MR. ROUTZONG: Please seat Ms. Simpers.
5 THE CLERK: Have a seat in the jury box.
6 166, Breann Staubs.
7 (Ms. Staubs comes forward.)
8 THE CLERK: What say ye for the State?
9 MS. HAMMACK: Please present Ms. Staubs.
10 THE CLERK: What say ye for the Defense?
11 MR. ROUTZONG: Please seat Ms. Staubs.
12 THE CLERK: Have a seat in the jury box.
13 188, Debora Williams.
14 (Ms. Williams comes forward.)
15 THE CLERK: What say ye for the State?
16 MS. HAMMACK: Please present Ms. Williams.
17 THE CLERK: What say ye for the Defense?
18 MR. ROUTZONG: Please seat Ms. Williams.
19 THE CLERK: Have a seat in the jury box.
20 Number 98, Agnes Key.
21 (Ms. Key comes forward.)
22 THE CLERK: What say ye for the State?
23 MS. HAMMACK: Please present Ms. Key.
24 THE CLERK: What say ye for the Defense?
25 MR. ROUTZONG: Please seat Ms. Key.

1 THE CLERK: Please have a seat in the jury box.
2 82, Susan Hixon.
3 (Ms. Hixon comes forward.)
4 THE CLERK: What say ye for the State?
5 MS. HAMMACK: Please present Ms. Hixon.
6 THE CLERK: What say ye for the Defense?
7 MR. ROUTZONG: Please excuse Ms. Hixon.
8 THE CLERK: Return to your seat.
9 59, Annette Gilbert.
10 (Ms. Gilbert comes forward.)
11 THE CLERK: What say ye for the State?
12 MS. HAMMACK: Please present Ms. Gilbert.
13 THE CLERK: What say ye for the Defense?
14 MR. ROUTZONG: Please seat Ms. Gilbert.
15 THE CLERK: Have a seat in the jury box.
16 189, Juliana Williams.
17 (Ms. Williams comes forward.)
18 THE CLERK: What say ye for the State?
19 MS. HAMMACK: Please present Ms. Williams.
20 THE CLERK: What say ye for the Defense?
21 MR. ROUTZONG: Please seat Ms. Williams.
22 THE CLERK: Have a seat in the jury box.
23 41, Leslie Dodd.
24 (Ms. Dodd comes forward.)
25 THE CLERK: What say ye for the State?

1 MS. HAMMACK: Please present Ms. Dodd.

2 THE CLERK: What say ye for the Defense?

3 MR. ROUTZONG: Please excuse Ms. Dodd.

4 THE CLERK: Please return to your seat.

5 Number 4, Teresa Barden.

6 (Ms. Barden comes forward.)

7 THE CLERK: What say ye for the State?

8 MS. HAMMACK: Please present Ms. Barden.

9 THE CLERK: What say ye for the Defense?

10 MR. ROUTZONG: Please seat Ms. Barden.

11 THE CLERK: Please have a seat in the jury box.

12 Number 170, Gerry Taylor.

13 (Mr. Taylor comes forward.)

14 THE CLERK: What say ye for the State?

15 MS. HAMMACK: Please excuse Mr. Taylor from

16 this case.

17 THE CLERK: Please return to your seat.

18 79, Anthony Hillary.

19 (Mr. Hillary comes forward.)

20 THE CLERK: What say ye for the State?

21 MS. HAMMACK: Please present Mr. Hillary.

22 THE CLERK: What say ye for the Defense?

23 MR. ROUTZONG: Please seat Mr. Hillary.

24 THE CLERK: Please have a seat in the jury box.

25 103, Jan Laughlin.

1 (Ms. Laughlin comes forward.)

2 THE CLERK: What say ye for the State?

3 MS. HAMMACK: Please present Ms. Laughlin.

4 THE CLERK: What say ye for the Defense?

5 MR. ROUTZONG: Please excuse Ms. Laughlin.

6 THE CLERK: Please return to your seat.

7 That is three strikes for the State and four
8 for the Defense.

9 63, Darrell Glover.

10 (Mr. Glover comes forward.)

11 THE CLERK: What say ye for the State?

12 MS. HAMMACK: Please present Mr. Glover.

13 THE CLERK: What say ye for the Defense?

14 MR. ROUTZONG: Please seat Mr. Glover.

15 THE CLERK: Please have a seat in the jury box.

16 128, Lauren Nave.

17 (Ms. Nave comes forward.)

18 THE CLERK: What say ye for the State?

19 MS. HAMMACK: Please present Ms. Nave.

20 THE CLERK: What say ye for the Defense?

21 MR. ROUTZONG: Please seat Ms. Nave.

22 THE CLERK: Please have a seat in the jury box.

23 42, Richard Dorman.

24 (Mr. Dorman comes forward.)

25 THE CLERK: What say ye for the State?

1 MS. HAMMACK: Please present Mr. Dorman.
2 THE CLERK: What say ye for the Defense?
3 MR. ROUTZONG: Please excuse Mr. Dorman.
4 THE CLERK: Please return to your seat.
5 26, Laura Christenbury.
6 THE CLERK: What say ye for the State?
7 MS. HAMMACK: Please present Ms. Christenbury.
8 THE CLERK: What say ye for the Defense?
9 MR. ROUTZONG: Please seat Ms. Christenbury.
10 THE CLERK: Please have a seat in the jury box.
11 MS. HAMMACK: Judge, may we approach?
12 THE COURT: Sure.
13 (Sidebar conference.)
14 THE CLERK: 185, David Whittle.
15 (Mr. Whittle comes forward.)
16 THE CLERK: What say ye for the State?
17 MS. HAMMACK: Please present Mr. Whittle.
18 THE CLERK: What say ye for the Defense?
19 MR. ROUTZONG: Please seat Mr. Whittle.
20 THE CLERK: Please have a seat thin jury box.
21 187, Tonoka Wiggins.
22 (Mr. Wiggins comes forward.)
23 THE CLERK: What say ye for the State?
24 MS. HAMMACK: Please excuse Mr. Wiggins from
25 this case.

1 THE CLERK: Please return to your seat.

2 135, John Owen.

3 (Mr. Owen comes forward.)

4 THE CLERK: What say ye for the State?

5 MS. HAMMACK: Please present Mr. Owen.

6 THE CLERK: What say ye for the Defense?

7 MR. ROUTZONG: Please seat Mr. Owen.

8 THE CLERK: Please have a seat in the jury box.

9 THE COURT: All right. Ladies and gentlemen,
10 are there any matters of law that the Court needs to
11 hear regarding the selection process employed or
12 composition of this jury from the State?

13 MS. HAMMACK: Not from the State, Your Honor.

14 THE COURT: From the Defense?

15 MR. ROUTZONG: No, sir.

16 THE COURT: All right. Fair enough.

17 All right. Folks, I'm sorry I couldn't put
18 y'all in the box. All right. Here's the deal:
19 Y'all are excused for the balance of the day. I'm
20 going to ask -- y'all have the juror information
21 cards with the Clerk of Court's phone number.
22 That's very important. That allows you not to have
23 to come back this afternoon or tomorrow; you can
24 call back.

25 Here's the deal: Call back tonight after 6:00.

1 There will be a recording on there that will say
2 please call back some other time, call back after
3 that other time, please come back in at some other
4 time, some other day, tomorrow or the next day.
5 Follow the instructions on the recording. If you
6 don't do that, you need to come back and ask. So I
7 trust you'll have the number before you leave so you
8 can call back.

9 If this case goes rapidly, I may pick another
10 jury for the second case; if this case goes rather
11 slowly, I may not. I don't know. That's why you
12 get to call in. But do not call in early and ask
13 the young ladies downstairs in the clerk's office,
14 what's the plan for tomorrow? They won't know
15 because they're not up here. The girls up here are
16 the ones that will know because they're in here with
17 me and the court reporter. So please don't call
18 early and ask. You'll get somebody who will say,
19 you know, I don't know, let me go find out. It just
20 really floods up the phone. So please don't call in
21 early, wait until the appropriate time and call in
22 then. Do y'all understand those instructions?
23 Y'all are free to go for the day. Call the number
24 tonight after 6:00.

25 (Jury panel released.)

1 THE COURT: I was asking the lawyers --
2 generally in a trial, the earlier witnesses are
3 generally a little longer; they tell more of what's
4 part of the case. The witnesses towards the end get
5 shorter. So I was asking, y'all give me an idea of
6 what I'm getting because I don't know anything about
7 the case any more than y'all do. So I was just
8 asking them, what's the game plan, what's coming at
9 the 14 of y'all and me, because I kind of wanted to
10 know.

11 What they suggested and I'm going to suggest to
12 y'all, is we go to lunch now and come back at 1:00,
13 have opening remarks, and then the witnesses that
14 may be a little bit longer won't be broken up over
15 the lunch break. That kind of makes sense to me.
16 Does that suit y'all?

17 THE JURY: . (Nods 'heads.)

18 THE COURT: Excellent.

19 All right. Now, very important instructions
20 y'all got to follow: Y'all are not sworn in yet.
21 I'm going to have y'all sworn in momentarily. But I
22 ask very detailed questions about, will y'all accept
23 the law as I instruct it to you? Part of your oath
24 that you'll get moments from now will say that. It
25 will say, accept the law as instructed by the Court.

1 Well, I'm the Court in this case because I'm
2 assigned here for the next two weeks. So I get to
3 preside here. And I told you this: Everything you
4 need to decide this case, you'll hear in this
5 courtroom, from this witness stand, because I'm here
6 and the court reporter is here, and the 14 of y'all
7 will be together. And I'm going to say 14 for the
8 purpose of this: If we get to the end and no
9 one's -- and the reason I selected an extra one is,
10 I didn't know -- if something was to come up, I got
11 one juror in the panel that's got protection on
12 Thursday and I'm going to make certain I cover her,
13 and so if we go into Thursday morning, I want to
14 make certain that I have an extra one to cover her
15 in case, because I don't like anybody being
16 uncomfortable worrying about whether they're going
17 to get to where they need to be. As I told
18 everybody, I will do my best to protect you.

19 I'm going to do my best to keep the trial
20 running right along, and we're going to try to work
21 hard to get it all presented to you in a timely
22 fashion. So I'm telling you that because I'm going
23 to have y'all first shown where the jury room is and
24 then y'all can go to lunch.

25 But now, I told y'all earlier, everything you

1 need, you're going to hear from this witness stand.
2 It is important, since I'm not going to give you my
3 instructions on the law until the very end, y'all
4 will be allowed to discuss the case amongst one
5 another until the very end. The first witness is
6 important, the second witness is just as important,
7 the last witness is just as important. Everything
8 lays out what the parties want you to hear and
9 consider. So it would be unfair to anybody to start
10 discussing the first witness' testimony at that
11 break and then the second. It will get all broken
12 apart. So y'all got to talk about something else;
13 tomatoes and corn that y'all had this summer that
14 came in that was really good, the Judge's joke that
15 wasn't real good, whatever y'all want to talk about,
16 just not about the facts of the case. So you're not
17 allowed to talk about the case until I say, okay,
18 y'all have heard everything you need, you now got my
19 instructions, now begin your deliberations. So
20 every break, I'm going to say, please remember,
21 don't discuss the case, talk about anything else but
22 the case.

23 Now, also during the lunch breaks, I'll have a
24 longer break in the morning and a longer break in
25 the afternoon, between lunch and breakfast and

1 supper and all that.

2 Y'all let cell phones come in the courtroom?

3 Do they have their cell phones?

4 THE BAILIFF: No. We take -- we pick them up.

5 THE COURT: Y'all have them?

6 THE BAILIFF: Right.

7 THE COURT: All right. During a break --

8 during the longer breaks, y'all have the opportunity

9 to use your cell phones. I generally like for you

10 to step outside the building that way you're not in

11 the jury room, because I've tried it both ways.

12 You're trying to talk and you may not want the other

13 three or four to listen to you getting your kids

14 home from wherever they are, whatever it is. It's

15 like cigarette smokers; there's a place somewhere

16 around here that I'm certain they can get you out if

17 you need to take a break of that type. If you need

18 to step outside to use your cell phone, you may, but

19 you can't talk about the case to anybody, not even

20 your pet.

21 Secondly, most cell phones have research

22 capacity, you can get on the internet. I can.

23 Since I'm giving you the law, I don't need y'all

24 doing any research on the law or definitions on

25 anything. What y'all need is in here. I don't know

1 what's on the internet, but I'm telling you it's
2 wrong. It's just like I said about the newspaper,
3 they get it wrong too. Just because it's out there
4 on TV and on the internet does not make it so; it
5 just makes it on the internet. So I caution and
6 tell you, please don't go on the internet and do
7 anything.

8 And this is equally as important. You got
9 young people on the jury, some of y'all may Facebook
10 or Twitter or MySpace or whatever it is, SnapChat
11 and all that. My kids do all that stuff. I don't
12 quite have the time to learn how to do it. Do not
13 go on Facebook or SnapChat or Twitter or anything
14 and say, I'm on the jury, because just as sure as
15 you do, somebody will comment back, well, what's the
16 case about? Oh, I heard the case is about...and
17 then you're in a conversation with somebody, and I
18 don't want you talking about the case. So just
19 don't invite that conversation by saying, I'm on the
20 jury. You can tell your family when you go home,
21 I'm on the jury, but the Judge said don't talk about
22 the case, and that's where you stop. But don't put
23 it on those social networks because it will just
24 invite a conversation and then who knows what. So I
25 just rather not deal with that. And the easiest way

1 is to not, that way everybody is not doing anything.

2 The State has a case to present to you. The
3 Defense has nothing whatsoever to present, if they
4 choose not to. I told you early on, the State has
5 the burden of proving this case because they brought
6 the allegations. Those indictments we talked about
7 are accusations; they're not proof of anything.

8 The Defense has nothing to prove or disprove.
9 If the defendant decides not to testify, y'all won't
10 even be allowed to talk about him not testifying.
11 You got to decide the case on what you were told,
12 not what you weren't told. Okay?

13 Now, I'm going to swear them before lunch,
14 okay, I always ask the lawyers, or do you want to
15 wait until after lunch? I have no preference.

16 MS. HAMMACK: We've got no problem, Judge.

17 THE COURT: Okay. Let's do it now.

18 Place them under oath, please.

19 THE CLERK: Stand and raise your right hand.

20 You shall well and truly try and a true
21 deliverance make between the State of South Carolina
22 and the defendant at the bar and a true verdict
23 render according to the law and evidence in this
24 case, so help you God? Please respond, I will.

25 THE JURY: I will.

1 THE CLERK: They're sworn.

2 THE COURT: All right. One thing I want y'all
3 to do when you come back from lunch at 1:00 is, I
4 want y'all to go see the jury room. First, y'all
5 need to find out where the jury room is and then the
6 secret way out of here. There are a lot of hallways
7 in here and I can't give you directions because I
8 have no clue how to get out of here.

9 Will you, since you're sitting right there and
10 you're not -- I won't make you the foreperson if you
11 do this for me. Will you find out how many of your
12 jury mates would like a notepad and pencil and give
13 me a number? And then I'll see if I can get the
14 Clerk of Court to get me notepads and pencils for
15 anyone who needs one. So if you find out you need
16 five, you let one of the bailiffs know, they'll
17 gather them up. I let jurors take notes, so if you
18 need a notepad, you inventory how many you need and
19 let one of the bailiffs know. Okay?

20 FEMALE JUROR: Okay.

21 THE COURT: All right. That's your instruction
22 before lunch. Y'all are free to go enjoy your
23 lunch. You don't have to go as a group, you can go
24 wherever you want. Just be back in the jury room by
25 1:00 ready to listen. So follow Mr. Whittle.

1 (The jury exits the courtroom at 11:48 AM.)

2 THE COURT: All right. Anything we need to do
3 other than deal with the statutory requirements for
4 the video before we break, Ms. Hammack?

5 MS. HAMMACK: Nothing further than that.

6 THE COURT: Mr. Routzong?

7 MR. ROUTZONG: I don't know if you want to
8 address that voir dire question issue, Your Honor.
9 I have --

10 THE COURT: Absolutely. That's exactly what I
11 wanted to do. I knew there was something else out
12 there.

13 MR. ROUTZONG: Very briefly, Your Honor, this
14 is number 2 on Defense's voir dire -- requested voir
15 dire.

16 Basically, Your Honor, I think you did an
17 outstanding job of saying everything pertinent to
18 this issue except the one thing, Your Honor, that's
19 really important in cases like this. People have
20 prejudices about sexual crimes. I think that's
21 demonstrated. They can have a prejudice towards --
22 or a bias towards the fact that a child is saying
23 that something happened. That's why I think this
24 question is particularly important, Your Honor.

25 THE COURT: All right. Let's make that --

1 Court's Exhibit No. 1, for purposes of this motion,
2 I'm making your voir dire; for purposes of the
3 record, I think that my -- or I find that my
4 questions in voir dire were broad but very specific
5 in regard to the jurors understanding that they're
6 taking an oath to accept instructions that the Court
7 gives them, they're to understand the State has the
8 burden of proof, and they're also to understand that
9 the defendant has nothing to prove and is presumed
10 innocent.

11 I will further instruct them at the close
12 that -- consistent with the law that a child's
13 accusation under a CSC need not be corroborated, but
14 that they must consider all of the witnesses equally
15 and not presume one -- basically the duty of
16 credibility, believability, and their evaluation of
17 that in my instructions.

18 So, respectfully, I understand your motion,
19 I've ruled during the voir dire the way I did, and
20 I'll consistently stick with that as denying that
21 request to instruct number 2. I will do everything
22 I can to address it within the instructions through
23 the trial and at the -- prior to the jury's
24 deliberations.

25 Anything else on that one?

1 MR. ROUTZONG: No, sir.

2 (Court's Exhibit No. 1 marked and admitted into
3 evidence.)

4 THE COURT: All right.

5 Regarding the video, I was given a video in
6 chambers by the State which was provided in
7 discovery to Mr. Robertson's attorneys. The video
8 was about 57 minutes and it was conducted by -- was
9 it Anne Laver?

10 MS. HAMMACK: That's correct, Your Honor.

11 THE COURT: I remember her name being Anne.
12 And in the video she interviewed the child. And
13 she's an interviewer at the Child Advocacy Center
14 here in Aiken. Based upon my viewing of the video,
15 the video was taken consistently as is done in
16 investigations of criminal sexual conduct with
17 minors. The totality of the questions I did not
18 find leading or suggestive. The child's responses
19 were not suggested to by the interviewer. The
20 questions were open-ended.

21 I will -- I find, just listening to the child's
22 comments and responses to questions, that the
23 details were quite apparent as to the child's
24 recollection of the events. It was recorded, audio
25 and video, consistent with requirement. The child

1 is under 12. The child will be allowed to be
2 cross-examined as to the statement, should the State
3 choose to introduce it. The video appeared, to me
4 in my observation, to have coherence from beginning
5 to end as to the introduction, walking into the
6 room, all the way to the very end with the
7 interviewer and the child. The Court would allow it
8 to be introduced under 17-23-175, unless I hear
9 something different in the trial.

10 So my ruling is that it can come in under that
11 code section because it contains coherence and
12 guaranties a trustworthiness based upon the
13 responses given by the child and the open-ended
14 questions as provided by the interviewer.

15 All right. Understand, once we get there, if
16 it goes differently, I'll consider anything you'd
17 like, Mr. Routzong, then. Okay? So that's kind of
18 my in limine ruling.

19 Anything else?

20 MS. HAMMACK: Not from the State, Your Honor.

21 THE COURT: All right. We'll stand at ease for
22 67 minutes.

23 (A luncheon recess transpired.)

24 THE COURT: All right. Y'all ready?

25 MS. HAMMACK: We are.

1 need some more chocolate. That's generally the
2 complaint I get. So Greg has plenty and can get
3 more. So that's for y'all's benefit. I have some
4 up here. So y'all enjoy it. Don't let the bailiffs
5 tell you you can't have any more. That doesn't gt
6 kept from you. That's me providing it. The drinks
7 in the back the County buys. Okay?

8 With that explanation, Ms. Hammack.

9 MS. HAMMACK: Thank you, Your Honor.

10 Mr. Routzong, madam clerks, members of the
11 jury, **Minor** is your typical 11-year-old
12 girl. In a couple of weeks she'll be starting 5th
13 grade here in Aiken. She likes Oreos better than
14 she likes Nutter-Butters. When you're talking about
15 gummy snacks, her favorites are the red ones. She
16 likes playing outside, but if the Disney channel is
17 on, she's going to be in front of that TV.

18 Now, in all of those ways, **Minor** is your
19 normal soon-to-be 5th grader. But as you'll hear
20 this week in court, **Minor** is not quite a typical
21 11-year-old girl because, as y'all will hear, the
22 defendant, that man, did some very adult things to
23 her.

24 Now, members of the jury, you're going to hear
25 from the time that **Minor** was five years old in

1 kindergarten until she was seven years old in 1st
2 grade, how the defendant abused the position of
3 trust to do these very adult things with this child.

4 As you'll hear, the defendant was dating
5 Minor mother, he was living in the home, and he
6 had times where he was alone with Minor watching
7 over her while her mom was at work. And
8 unfortunately for y'all, y'all are going to hear
9 what he did when he was alone in the house with
10 Minor It's not going to be comfortable, y'all
11 aren't going to enjoy it, but it's important. So I
12 ask you to listen to the witnesses as they tell you
13 what went on during those years and what happened.

14 Now, the Judge has already told you, this ain't
15 CSI. You're not going to hear about DNA, you're not
16 going to hear about fingerprints. As he said, cases
17 don't get solved in an hour with the commercial
18 breaks. Investigations take time, and y'all aren't
19 going to be here for just an hour. But because of
20 that, we don't have fancy machines that pick out
21 that piece of DNA that shines up blue under the
22 light or whatever. You're not going to be able to
23 lift this tiny fingerprint that's going to pin the
24 crime down on this guy at the last second. You have
25 the testimony of the witnesses, people that saw

1 things, people that experienced things, to tell you
2 what happened.

3 You're going to hear from those witnesses over
4 today and probably tomorrow, and I ask you to pay
5 attention to them. And as you pay attention to
6 them, use your common sense. You all got it.
7 Listen to them and think, who has a reason to lie?
8 Who has a reason to be here today? Listen to Minor
9 and listen to the other people that sit in that
10 chair and talk to you.

11 Now, at the end of this trial I'll come back
12 before you, I'll go over what you've heard, and I'll
13 talk to you about the charges that we have in this
14 case. There's four indictments, but it's two
15 separate charges, two of each; one is criminal
16 sexual conduct with a minor first degree. And we'll
17 go over that more at the end. But basically you
18 have four questions to answer.

19 Your job as the jury, as the finders of fact,
20 are to answer the questions of what happened. Did
21 the defendant during this time commit a sexual
22 battery on Minor And we'll talk about what a sex
23 ual battery is. And then with the lewd act charges,
24 during these times did the defendant touch Minor
25 for his sexual pleasure? We'll go over those. And

1 I'm confident that at the end of this day or at the
2 end of this trial, when each of you have to answer
3 those questions, your answer will be yes and your
4 verdict will be guilty. Thank you.

5 THE COURT: Mr. Routzong.

6 MR. ROUTZONG: Thank you, Your Honor.

7 Good afternoon. You know, Ms. Hammack is
8 exactly right; all of those things that she said
9 about CSI, fingerprints, DNA, it doesn't exist in
10 this case. And she's telling you that both because
11 it's true and to kind of make it sound a little bit
12 like, don't look at that lack of evidence, just
13 believe what we're telling you. When you really
14 look at this case, ladies and gentlemen, it only
15 comes down to two people; one of them is a child and
16 one of them is Mr. Robertson.

17 Now, it's so nice and pleasant to talk about
18 Oreos and the things she enjoys as a child, but
19 there are two people -- I can talk about
20 Mr. Robertson's mom who's sitting right back there
21 and the things he enjoys. But it's not about that.
22 It's about whether a child can lie or be mistaken.
23 Mr. Robertson may be lying. The thing is, we don't
24 have any definitive explanation as to what happened.
25 What happened here, from the standpoint of just

1 evidence, is we only have these two people saying
2 this happened. Mr. Robertson is going to tell you
3 it didn't.

4 Here's what I want you to focus on: There is
5 evidence besides that; there's how people acted, and
6 it's the people **Minor** knows -- how they acted and
7 what they did. This disclosure -- alleged
8 disclosure took place over a period of just about a
9 year when her mom was told that something happened.
10 I want you to look at how her mom -- how she reacted
11 to that. And a year later, all of the people who
12 were involved and what they did. Ultimately you're
13 the ones that have to decide who is telling the
14 truth. And if you're not sure, you have to come
15 back with not guilty. You're not here to give
16 closure to a child and her family, you're not here
17 to try to paint a picture for yourselves as to what
18 might have happened. You just have to listen to the
19 evidence, and you have to do that presuming he's
20 innocent.

21 What does that mean? That means as you're
22 sitting here right now, you're presuming that
23 they're wrong and that you're going to listen to all
24 of the evidence presuming that they're wrong.
25 That's what you just took an oath to do. Frankly, I

1 just don't know what happened here. I find odd
2 things all throughout this case. But I think if you
3 listen to the evidence, presuming that he's
4 innocent, and listen to what everybody has done
5 involved in this case, at the end of it you're also
6 going to say you don't know what happened. And when
7 that happens, that means he's not guilty. Thank
8 you.

9 THE COURT: Thank you, Mr. Routzong.
10 Call your first witness.

11 MS. HAMMACK: The State calls Minor [REDACTED]

12 [REDACTED]

13 THE COURT: She's outside, so it will be a
14 minute for her to get in here.

15 Minor [REDACTED]
16 being first duly sworn, testified as follows:

17 THE WITNESS: Yes, I will.

18 THE CLERK: Have a seat up there in the witness
19 box. State your full name for the Court, please.

20 THE WITNESS: Minor [REDACTED]

21 DIRECT EXAMINATION

22 BY MS. HAMMACK:

23 Q. Now, Minor [REDACTED] I'm going to ask you some
24 questions. And I might tell you to speak up really
25 loud, okay, because everybody over there has to hear

- 1 you. Okay?
- 2 A. (Nods head.)
- 3 Q. You got answer out loud for me.
- 4 A. Yes.
- 5 Q. Tell me, Minor [REDACTED] how old are you?
- 6 A. I'm 11.
- 7 Q. And when is your birthday?
- 8 A. May 25th.
- 9 Q. Okay. What grade are you in?
- 10 A. I'm about to be in 5th.
- 11 Q. And where do you go to?
- 12 A. Byrd Elementary.
- 13 Q. Where do you live, Minor [REDACTED] What town do you
- 14 live in? You don't have to tell me your address.
- 15 A. Aiken.
- 16 Q. You live in Aiken?
- 17 A. (Nods head).
- 18 Q. Have you always lived in Aiken?
- 19 A. No.
- 20 Q. Okay. Tell me who lives with you right now.
- 21 A. My cousin, my aunt and my grandma and my mom.
- 22 Q. Okay. Do you have any pets at home?
- 23 A. No.
- 24 Q. Tell me this, Minor [REDACTED] Do you know the
- 25 difference between the truth and a lie?

1 A. Yes.

2 Q. Can you tell me what the truth is?

3 A. A truth is something that you seen or saw; that
4 something happened or something that -- something --

5 MR. ROUTZONG: Your Honor, I can hardly hear
6 her. Will you ask her to please speak up.

7 THE COURT: Absolutely.

8 Please speak up for us, Minor [REDACTED]

9 MY MS. HAMMACK:

10 Q. Minor [REDACTED] this box right there is a microphone.
11 When you answer, will you kind of speak towards it
12 or speak really loud for me. Okay?

13 A. Something that is -- that you have not done --
14 something that you have done and that you did not
15 want to do.

16 THE COURT: A little more for me.

17 Q. Okay. You have to speak really loud. I know
18 it seems like you're yelling, but act like you're
19 yelling to me. Okay?

20 A. Okay.

21 Q. All right. Can you tell me what a lie is?

22 A. A lie is something that has not been seen or
23 has -- not done.

24 Q. Okay. And what happens if you tell a lie?

25 A. You get in big trouble.

1 Q. Okay. Tell me this, Minor [REDACTED] Are there places
2 on your body that are not okay for people to touch?

3 A. Yes.

4 Q. Okay. Hold on one second. Okay?

5 And, Minor [REDACTED] before I ask you another question,
6 I'm going to do something with this microphone; I'm
7 going to take the tape off of it and let you hold it
8 in your hand. So you can hold it right by your
9 mouth. Okay? You hold that microphone in your
10 hand, and when you talk, you talk into it. Okay?

11 A. Okay.

12 Q. Minor [REDACTED] I'm going to show you a really big
13 picture of a girl. Can you show me on here places
14 that are not okay for people to touch?

15 A. Here, here, and here.

16 Q. All right. Starting over here, what do you
17 call this part of your body?

18 A. Your butt.

19 Q. And what do you call this part of your body?

20 A. Your boobs.

21 Q. And what do you call this part of your body?

22 A. Your toochie.

23 Q. Okay. Tell me, Minor [REDACTED] has anybody ever
24 touched you in a place that's not okay to touch?

25 A. Yes.

- 1 Q. Speak into the microphone, please.
- 2 A. Yes.
- 3 Q. Okay. Who has touched you in a place that is
- 4 not okay to touch?
- 5 A. My friend, my cousin, and Raphael.
- 6 Q. All right. Let's go through those really fast.
- 7 Who is your friend?
- 8 A. He lives down the road and he's ten years old.
- 9 Q. He's ten years old. And where did he touch you
- 10 in a place that's not okay to touch?
- 11 A. He smacks my butt.
- 12 Q. Okay. And what happens when he does smacks
- 13 your butt?
- 14 A. He gets in trouble for it.
- 15 Q. Okay. You said your cousin touched you in a
- 16 place that's not okay to touch?
- 17 A. Yes.
- 18 Q. Who is your cousin?
- 19 A. She is -- she is -- she's Kaylin [phonetic].
- 20 Q. And how old is Kaylin?
- 21 A. She's eight.
- 22 Q. And where does Kaylin touch you in a place
- 23 that's not okay to touch?
- 24 A. My boobs.
- 25 Q. And what happened when Kaylin touched you

1 there?

2 A. She got in trouble for it.

3 Q. Okay. And who is the last person that's
4 touched you in a place that's not okay to touch?

5 A. Raphael.

6 Q. And who is Raphael?

7 A. One of my mom's friends, but not anymore.

8 Q. Is Raphael a kid or is Raphael a grownup?

9 A. He's a grownup.

10 Q. Okay. And are -- you said he was friends with
11 your mom?

12 A. Uh-huh.

13 Q. Okay. You got to answer yes or no for me.

14 A. Yes.

15 Q. Okay. And tell me, [REDACTED] where were you when
16 Raphael touched you in a place that's not okay to
17 touch?

18 A. At my old house.

19 Q. Okay. Tell me about your old house. Was it
20 near anything?

21 A. It was near two other houses.

22 Q. Okay. Was it near anybody?

23 A. Yes.

24 Q. Who was your house near to?

25 A. Sandra and -- that's it.

1 Q. Okay. And who is Sandra?

2 A. She's one of my old friends.

3 Q. Okay. Did you have -- you said you didn't have
4 any pets at the house where you live at now. Did
5 you have any pets at your house near Sandra?

6 A. Yes.

7 Q. Okay. Tell me this, Minor [REDACTED] At the house near
8 Sandra, did Raphael touch you in a place that was
9 not okay to touch one time or more than one time?

10 A. More than one time.

11 Q. Okay. And in the house, where were y'all?

12 A. In my mom's room.

13 Q. Okay. Why did you go to your mom's room?

14 A. He told me to.

15 Q. Okay. What would happen -- tell me this: When
16 he would tell you to go to your mom's room, would
17 you go to the room?

18 A. Yes.

19 Q. Would anybody else be in her room with you?

20 A. No.

21 Q. Okay. What would happen after you'd go in her
22 room?

23 A. He would tell me to take off my clothes.

24 Q. Okay. Would your mom be home?

25 A. No.

1 Q. Do you know where your mom was?

2 A. She would be at the store or at work.

3 Q. Okay. Would anybody else be home when this
4 would happen?

5 A. No.

6 Q. Okay. After Ralphael would tell you to take
7 off your clothes, what would happen?

8 A. He would come in the room.

9 Q. Okay. Where would you be in the room when he
10 would come in?

11 A. On the bed.

12 Q. Okay. And what would he do once he came in the
13 room?

14 A. He would take off his clothes.

15 Q. Okay. When you say you took off your clothes,
16 do you mean all of your clothes or some of your
17 clothes?

18 A. All.

19 Q. Okay. And what about Ralphael? Would he take
20 off all of his clothes or some of his clothes?

21 A. Yes, all of his clothes.

22 Q. Okay. After he took his clothes off, what
23 would happen?

24 A. He would put me in this -- these positions.

25 Q. Okay. Tell me about the positions, Minor [REDACTED]

1 Where would you be in the room in these positions?

2 A. On the bed.

3 Q. Okay. And would you be sitting on the bed or
4 standing on the bed or would you be standing on your
5 head? How would you be on the bed?

6 A. I would be sitting on the bed.

7 Q. Okay. And when he would put you in the
8 positions, what would you have to do or how would
9 you -- what positions would you be in? Can you tell
10 me about --

11 A. I would be on my stomach and my back.

12 Q. Okay. Once he put you in positions, what would
13 happen?

14 A. He would do something.

15 Q. Okay. Can you tell me what he would do?

16 A. He put liquid on my butt.

17 Q. Okay. This liquid on your butt, where would it
18 come from?

19 A. His private.

20 Q. Okay. What did it look like?

21 A. It looked white.

22 Q. Okay. You told me a minute ago that he would
23 touch you in places that were not okay. Can you
24 tell me where on your body he would touch that was
25 not okay?

1 A. Yes.

2 Q. Okay. Where?

3 A. On my boobs, on my butt, and on my toochie.

4 Q. Okay. Give me one second. Okay?

5 [REDACTED] I'm going to show you a really big
6 picture of a boy now. Can you show me on this
7 picture of a boy what part of Ralphael's body that
8 he would touch your body with?

9 A. (Indicating).

10 Q. Okay. And what do you call that?

11 A. His private.

12 Q. Okay. You said that he would touch your
13 toochie. What part of his body would he touch your
14 toochie with?

15 A. His mouth.

16 Q. His mouth. Okay. What would he do with his
17 mouth to your toochie?

18 A. Lick it.

19 Q. Okay. Did he say anything to you when he would
20 do this?

21 A. No.

22 Q. Where would you be he would do this?

23 A. On the bed.

24 Q. Where would he be?

25 A. Standing on the floor.

1 Q. Okay. And what would happen after he would
2 lick your toochie?

3 A. If he heard a car, he'd stop and tell me to
4 hurry up and put on my clothes; if he didn't, he'd
5 keep going.

6 Q. Okay. So did he ever hear a car?

7 A. Sometimes, yes.

8 Q. Okay. On the times when he didn't hear a car,
9 you said he would keep going. What would happen
10 next?

11 A. He would stop.

12 Q. Okay. Tell me, Minor [REDACTED] what part of his body
13 did he touch your butt with?

14 A. His private.

15 Q. Okay. And I forgot to ask you this, so let me
16 ask you: When he would lick your toochie, would he
17 lick on top of your toochie or would he lick inside
18 of your toochie?

19 A. Inside.

20 Q. Okay. And when his private would touch your
21 butt, would it touch on the outside of your butt or
22 on the outside of your butt?

23 A. Outside.

24 Q. And when he would do these things, would your
25 clothes still be off or would they be on?

1 A. Off.

2 Q. And what about his clothes?

3 A. Off.

4 Q. Okay. Tell me this, Minor [REDACTED] You said it
5 happened more than one time at the house near
6 Sandra. Did it happen the same way each time or did
7 it ever happen different?

8 A. Same way.

9 Q. Okay. Did Ralphael ever touch you in a place
10 that was not okay anywhere other than a house near
11 Sandra?

12 A. No.

13 Q. Okay. Did he ever ask you to touch any part of
14 his body?

15 A. No.

16 Q. Okay. Tell me this: Do you still live at the
17 house near Sandra?

18 A. No.

19 Q. Okay. Have you ever lived with any friends?

20 A. My aunt Jessica and my aunt -- La-La and my
21 aunt.

22 Q. Okay. Who is La-La?

23 A. She is one of my friends that go to my school
24 now.

25 Q. Okay. I want to stop you for just a second.

1 MS. HAMMACK: Judge, may I inquire if everyone
2 can hear her?

3 THE COURT: I'll inquire.

4 Jury still hear her?

5 THE JURY: (Nods head.)

6 THE COURT: Mr. Routzong, can you still hear
7 her?

8 MR. ROUTZONG: Yes, Your Honor.

9 THE COURT: Okay.

10 BY MS. HAMMACK:

11 Q. You said La-La goes to school with you?

12 A. Yes.

13 Q. Is La-La her real name?

14 A. No.

15 Q. What's her real name?

16 A. L.W. [REDACTED]

17 Q. Okay. And did -- you said you lived with

18 L.W. [REDACTED] for a little while?

19 A. Yes.

20 Q. Okay. And did you have a dog and a cat at

21 L.W. [REDACTED] house?

22 A. No; she had a dog.

23 Q. Okay. Tell me this: Did you ever see Ralphael
24 at La-La's house?

25 A. Yes.

1 Q. Were you and Ralphael ever by yourself at
2 La-La's house?

3 A. Yes.

4 Q. Did anything ever happen with Ralphael at
5 La-La's house?

6 A. Yes.

7 Q. What happened at La-La's house?

8 A. He did the same thing, but one thing -- he did
9 the same thing, but one thing different.

10 Q. Okay. When it would happen at La-La's house,
11 did it happen one time or more than one time?

12 A. More than one time.

13 Q. And where would it happen in La-La's house?

14 A. Upstairs in her room.

15 Q. Okay. Were there other rooms upstairs or just
16 her room?

17 A. A bathroom and her mom's room.

18 Q. Okay. And would anybody else be in La-La's
19 room with you?

20 A. No.

21 Q. Where would La-La be?

22 A. Would be with her mom at a store or she'd be
23 with her mom at work.

24 Q. And where would your mom be?

25 A. She would be at work or at the store.

1 Q. Would anybody else be home?

2 A. No.

3 Q. Okay. And when something happened at La-La's
4 house, you said it would happen upstairs in La-La's
5 room.

6 A. (Nods head).

7 Q. You said it was the same, but something
8 different. What was different?

9 A. He told me to put his private in my mouth.

10 Q. Okay. And did you put his private in your
11 mouth or did he put it in your mouth or did anything
12 happen?

13 A. He put it in my mouth.

14 Q. Okay. And where would you be when he would put
15 his private in your mouth?

16 A. On the bed.

17 Q. Okay. Where would he be?

18 A. On the bed.

19 Q. Okay. What would he do with his private when
20 it was in your mouth?

21 A. Nothing.

22 Q. Okay. Would he make you do anything?

23 A. Yes.

24 Q. What would he make you do? Can you tell me?

25 A. I don't remember.

1 Q. Okay. Keep talking into the microphone.

2 Can you -- would he tell you to do something or
3 would he make you do something when his private was
4 in your mouth?

5 A. No.

6 Q. Okay. What would happen after he put his
7 private in your mouth?

8 A. If he heard a car, he'd keep going -- wait. If
9 he heard a car, he would stop and tell me put on my
10 clothes; if he didn't, he would keep going.

11 Q. Okay. And you said that it was the same as at
12 the house near Sandra.

13 A. Yes.

14 Q. Did he -- tell me about that. Did he touch you
15 in other places that aren't okay to touch?

16 A. He touched my butt and my toochie. And that
17 was it.

18 Q. Okay. Keep talking into the microphone for me.

19 A. He touched my butt and my toochie. And that
20 was it.

21 Q. And what part of his body touched your toochie?

22 A. His mouth.

23 Q. Okay. And what part of his body touched your
24 butt?

25 A. His private.

1 Q. Did -- you mentioned at the house near Sandra
2 that liquid would come out of his private. Did that
3 happen at the house with La-La?

4 A. No.

5 Q. Okay. Tell me this, Minor [REDACTED] When he put
6 private in your mouth, would he put just a little
7 bit in your mouth or a lot or what would he do?

8 A. A little bit.

9 Q. Okay. And did anything happen to his private
10 while it was in your mouth?

11 A. No.

12 Q. Okay. What would you do while his private was
13 in your mouth?

14 A. Pretty much nothing.

15 Q. Okay. And what would he do while his private
16 was in your mouth?

17 A. He would lick my toochie.

18 Q. Okay. And you said y'all were both on the bed
19 when this would happen. Where -- how would you be
20 laying on the bed?

21 A. On my back.

22 Q. Okay. And where would he be on the bed?

23 A. He would be on top.

24 Q. On top of what?

25 A. Me.

1 Q. Okay. Tell me this, Minor [REDACTED] When you were
2 living at the house near Sandra, did you ever tell
3 anybody about what Ralphael did to you?

4 A. No.

5 Q. Okay. How come?

6 A. I was scared.

7 Q. Okay. What were you scared of?

8 A. Him.

9 Q. Okay. When you were at the house with La-La,
10 did you tell anybody about what was happening?

11 A. Yes.

12 Q. Who did you tell?

13 A. My mom and Michelle.

14 Q. Okay. Will you give me just a minute?

15 A. (Nods head).

16 Q. Okay.

17 MS. HAMMACK: I beg the Court's indulgence.

18 THE COURT: Yes, ma'am.

19 BY MS. HAMMACK:

20 Q. Now, Minor [REDACTED] after you talked to your mom and
21 Michelle about what happened, did you ever have to
22 talk to anybody else about what happened with
23 Ralphael?

24 A. No.

25 Q. Did you ever have to go to a place with a

1 camera and talk to a lady about what happened?

2 A. I talked to a police at school.

3 Q. Okay. Okay. I don't have any more questions
4 for you right now. Mr. Routzong is going to ask you
5 a couple questions, and you answer his questions.

6 Okay?

7 A. (Nods head).

8 CROSS-EXAMINATION

9 BY MR. ROUTZONG:

10 Q. Good afternoon, Minor [REDACTED] I know this is not
11 very comfortable to talk about, it's not very
12 pleasant. I just want you to know you don't be
13 afraid of me. The Judge is sitting right there; he
14 isn't going to let me do anything to you. The
15 deputies, Ms. Ashley, is not going to let anything
16 happen to you. But I've got to ask you some
17 questions. Okay? And I know that you know the
18 difference between truth and a lie; you told us
19 that.

20 Can you tell me a little bit about when you --
21 the house with the dog and the cat, that was the one
22 on Daylily Drive; is that right?

23 A. (Nods head).

24 Q. How old were you when you lived there?

25 A. I don't remember.

1 Q. Do you remember when Mr. Robertson met your
2 mom?

3 A. No.

4 Q. Do you remember everybody that lived at your
5 house back then on Daylily?

6 A. He lived there, but he went away. He went
7 somewhere else. And then my aunt and my cousin
8 would come over and be with me.

9 Q. Do you remember your uncle Richard?

10 A. Yes.

11 Q. And he lived there?

12 A. No. He lived at the other house with Sandra.

13 Q. I noticed when I saw an interview of you that
14 Ms. Laver asked you what you liked and you answered
15 that you liked to go to school. You really seemed
16 to brighten up when you mentioned school and that
17 you had a lot of friends. You still feel that way?

18 A. Uh-huh.

19 Q. Good. Let me ask you something, and the way
20 I'm going to ask you is a little bit different than
21 the way Ms. Ashley asked you. I'm going to say
22 something to you and I just want you to tell me if
23 you agree with me or not. Okay?

24 A. Okay.

25 Q. You agree with me that when you were at

1 Michelle's house -- is that your aunt?

2 A. No.

3 Q. What relative -- she's not of relation to you?

4 A. She's just one of my friends.

5 Q. Ms. Williams, Michelle Williams?

6 A. She's just one of my friends that me and my mom
7 like to be with her.

8 Q. And you were living there?

9 A. Uh-huh.

10 Q. And while you were living there, you remember
11 taking a bath with, you call her, La-La; right?

12 A. Yes.

13 Q. And you remember when your mom came in and she
14 said, why are you guys touching each other? Do you
15 remember that?

16 A. No.

17 Q. Do you remember -- you remember the first time
18 that you told your mom what happened?

19 A. Yes.

20 Q. And that was in the bathroom?

21 A. I don't remember.

22 Q. Do you remember when your mom asked you that,
23 you told her, I learned it at school?

24 A. I don't remember.

25 Q. Do you remember telling your mom, after you

1 said that it was in school, then you said Ralph
2 touched me?

3 A. No.

4 Q. Okay. Do you remember telling your mom that
5 you saw it happen somewhere?

6 A. No, I do not remember.

7 Q. You don't remember any of those things?

8 A. (Shakes head).

9 Q. When you were -- when Mr. Robertson and you and
10 your mom were all together, do you ever remember
11 them taking videotapes of themselves?

12 A. No.

13 Q. Did you ever accidentally walk in on anybody
14 while they didn't have their clothes on?

15 A. No.

16 Q. Miss Minor [REDACTED] do you remember going to talk to
17 Ms. Laver? And that was the room where all the
18 cameras were at and they filmed you. Do you
19 remember that?

20 A. No.

21 Q. Do you remember talking to your cousin
22 Marquez --

23 A. No.

24 Q. -- and what you told him? I think he was
25 spraying a hose on the wall and you guys must have

1 been playing together -- how old is Marquez?

2 A. I think he's 16 or 15.

3 Q. Well, a couple years ago he would have been
4 around 14?

5 A. Yeah.

6 Q. And you were playing together probably and you
7 saw him spray some water on the wall out of a hose
8 and you said, that looks like somebody peeing. Do
9 you remember that?

10 A. No.

11 Q. Do you remember talking to your cousin Marquez
12 saying what happened with -- what you're saying
13 happened with Ralphael on the phone? Do you
14 remember that?

15 A. No.

16 Q. Now, that interview with Ms. Laver, that was
17 when you sat down -- I think you had on a pink
18 outfit and she gave you a drink and you were sitting
19 on the chair. Do you remember that at all?

20 A. No.

21 Q. I just have one more question for you, Miss

22 Minor [REDACTED] I just want to -- tell me if I'm right.

23 You don't remember telling your mom about anything?

24 A. About what?

25 Q. About what happened.

1 A. I do remember telling her that.

2 Q. You remember now?

3 A. No.

4 Q. Okay. So you don't remember telling your mom
5 anything; right?

6 A. I do remember that, but I don't remember
7 anything else that you're telling me.

8 Q. Okay. And you don't remember talking to
9 Marquez about it?

10 A. No.

11 Q. And you don't remember talking to Ms. Laver?

12 A. No.

13 Q. Okay. And do you remember talking to Ms. Kim
14 Sievers who's sitting right over there? Do you
15 remember talking to her?

16 A. I do remember talking to Ms. Kim.

17 Q. Okay. And do you remember talking to your --
18 you have an aunt that's a sheriff's deputy; right?

19 A. Yes.

20 Q. And did you talk to her about it?

21 A. No.

22 Q. You didn't talk to your aunt about it?

23 A. No.

24 MR. ROUTZONG: I don't have any other
25 questions, Your Honor.

1 MS. HAMMACK: Judge, no further questions for
2 her.

3 THE COURT: You can step down. And if you want
4 to take a piece of candy, help yourself. That's my
5 candy.

6 THE WITNESS: Okay.

7 MS. HAMMACK: The State calls Santana Gonzalez.

8 SANTANA GONZALEZ

9 being first duly sworn, testified as follows:

10 THE WITNESS: Yes, I do.

11 THE CLERK: Have a seat in the witness box.
12 State your full name for the Court and spell your
13 last, please.

14 THE WITNESS: Santana Gonzalez,
15 G-O-N-Z-A-L-E-Z.

16 DIRECT EXAMINATION

17 BY MS. HAMMACK:

18 Q. All right, Santana. I'm going to ask you some
19 questions, and I just need you to speak really loud
20 so I can hear you over here. Okay?

21 A. Okay.

22 Q. Tell me, Santana, where do you currently live?

23 A. [REDACTED] Pacer Park Lane, Aiken, South Carolina.

24 Q. Okay. Are you related to Minor [REDACTED]

25 A. Yeah; she's my daughter.

1 Q. Are you related to the defendant in this case?

2 A. No, ma'am.

3 Q. Do you know the defendant in this case?

4 A. Yes, ma'am.

5 Q. How do you know him?

6 A. We were friends and started dating.

7 Q. Okay. Do you remember where you were living
8 when you started dating the defendant?

9 A. [REDACTED] Daylily Place.

10 Q. I need you to keep talking really loud to me.
11 Okay? Give me just a second.

12 MS. HAMMACK: Your Honor, permission to
13 approach?

14 THE COURT: Sure.

15 BY MS. HAMMACK:

16 Q. Santana, I'm going to show you what's been
17 marked as State's Exhibits 1 and 2. Take a look at
18 those and tell me if you recognize them.

19 A. Yes, ma'am.

20 Q. What are they?

21 A. This is [REDACTED] Daylily Place, where we lived.

22 Q. Is that the [REDACTED] Daylily where y'all used to
23 stay?

24 A. Yes, ma'am. They added some additions to it.
25 But, yes, ma'am.

1 Q. So it's not exactly the same?

2 A. No.

3 Q. Do you still live there?

4 A. No, ma'am.

5 MS. HAMMACK: Your Honor, at this time we'd
6 move State's Exhibits 1 and 2 into evidence.

7 MR. ROUTZONG: Without objection.

8 THE COURT: State's 1 and 2 admitted without
9 objection.

10 (State's Exhibit Nos. 1 and 2 admitted into
11 evidence.)

12 BY MS. HAMMACK:

13 Q. Now, Santana, you said that you were living at
14 Daylily Place when you met the defendant. Do you
15 remember if **Minor** was in school when you met the
16 defendant?

17 A. Yes, ma'am; she was in kindergarten.

18 Q. Okay. And what year would that have been when
19 she was in kindergarten?

20 A. Around 2008.

21 Q. Okay. Did **Minor** meet the defendant?

22 A. Not at first, no, ma'am.

23 Q. Did he eventually meet the defendant?

24 A. Yes, ma'am.

25 Q. What did she call the defendant?

1 A. My Ralphael.

2 Q. When you and the defendant were dating, did he
3 live with you or did he live elsewhere?

4 A. He lived elsewhere.

5 Q. Did he ever come to live with you?

6 A. Yes, ma'am. He eventually lived with me.

7 Q. When he moved in with you, was he working
8 anywhere?

9 A. No, ma'am.

10 Q. What about you; were you working?

11 A. Yes, ma'am.

12 Q. Where were you working?

13 A. I had two jobs. I worked at Parkdale Mills and
14 Circle K in Aiken.

15 Q. And working two jobs, how many hours a day did
16 you work?

17 A. About 20 hours a day.

18 Q. And where would **Minor** be when you worked?

19 A. At first, with my family; my sister, my mom, my
20 grandma.

21 Q. And you said at first. Where did she
22 eventually start to stay while you were at work?

23 A. The defendant eventually started keeping her
24 for me.

25 Q. Okay. Did your relationship progress and

1 things got more serious?

2 A. Yes, ma'am.

3 Q. You got to talk really loud for me. Okay? If
4 you need to, that box right there is a microphone.
5 You can hold it in your hand and speak into it.

6 A. Yeah. I'm kind of nervous.

7 Q. All right. Tell me this: Talking about [REDACTED]
8 Daylily Place, was that -- when y'all were staying
9 there, was that near anybody?

10 A. Yes, ma'am. We had a couple neighbors out
11 there.

12 Q. Okay. And who was that near?

13 A. A little girl that [REDACTED] Minor played with, Sandra.

14 Q. Okay. Did y'all have any pets at the Daylily
15 Place?

16 A. We had a dog and a cat.

17 Q. What were their names?

18 A. Ruffy and Diego.

19 Q. Which one was Ruffy?

20 A. The dog.

21 Q. Okay. Did you stay at Daylily?

22 A. Yes, ma'am.

23 Q. Do you still live at Daylily?

24 A. No, ma'am.

25 Q. How long did you live at Daylily?

1 A. Maybe four years.

2 Q. Okay. Did you stay there while [Minor] was in
3 kindergarten?

4 A. Yes, ma'am.

5 Q. Okay. And how many years was [Minor] in
6 kindergarten?

7 A. She spent two years in kindergarten.

8 Q. Why was that?

9 A. I felt she didn't grasp enough and made her
10 repeat.

11 Q. So you said 2008 she was -- was her first year
12 in kindergarten?

13 A. Yes, ma'am.

14 Q. And she did a second year in kindergarten.
15 Were y'all at Daylily for both of those years?

16 A. Yes, ma'am.

17 Q. Did you stay at Daylily when she went into 1st
18 grade?

19 A. For the first part, yes, ma'am.

20 Q. Okay. And you said for the first part. After
21 that, where did y'all end up staying for a while?

22 A. We stayed with a friend of mine Michelle and --

23 Q. Okay. And what is Michelle's last name?

24 A. Williams.

25 Q. All right. Does Michelle have any other family

1 that lived in the house while y'all were there?

2 A. Her daughter L.W. [REDACTED]

3 Q. What does L.W. [REDACTED] go by?

4 A. La-La.

5 Q. Where was Michelle's house that y'all stayed
6 at?

7 A. Kalmia Apartments.

8 Q. Santana, I'm going to show you what's been
9 premarked State's Exhibits 3 and 4. Look at those
10 and tell me if you recognize them.

11 A. Yes, ma'am.

12 Q. Okay. What are they?

13 A. Michelle's apartment.

14 Q. All right. The Kalmia Apartments?

15 A. Yes, ma'am.

16 Q. Is that where y'all stayed when Minor [REDACTED] was in
17 1st grade?

18 A. Yes, ma'am.

19 MS. HAMMACK: At this time, we'd move State's
20 Exhibits 3 and 4 into evidence.

21 MR. ROUTZONG: Without objection, Your Honor.

22 THE COURT: State's 3 and 4 admitted without
23 objection.

24 (State's Exhibit Nos. 3 and 4 admitted into
25 evidence.)

1 BY MS. HAMMACK:

2 Q. Now tell me this: I meant to ask you, when you
3 were staying at [REDACTED] Daylily Place, is that in Aiken
4 County?

5 A. Yes, ma'am.

6 Q. What about Kalmia Apartments; is that in Aiken
7 County?

8 A. Yes, ma'am.

9 Q. All right. When you were staying in Kalmia
10 Apartments, who all stayed there with you?

11 A. Me, [REDACTED] Minor [REDACTED] Michelle, her daughter [REDACTED] L.W. [REDACTED] and
12 the defendant.

13 Q. And you said that you stayed there in 1st
14 grade?

15 A. Yes, ma'am.

16 Q. So if [REDACTED] Minor [REDACTED] was in kindergarten -- first
17 kindergarten in 2008 to 2009, what year would that
18 have been that y'all moved into Kalmia?

19 A. Around 2010.

20 Q. All right. Tell me this: When y'all were at
21 Kalmia did you ever leave [REDACTED] Minor [REDACTED] alone with Ralphael
22 there?

23 A. Yes, ma'am.

24 Q. How come?

25 A. I had to work, look for a job, do some errands.

1 Q. Okay. Did anything significant happen while
2 y'all were living in Kalmia?

3 A. Yes, ma'am.

4 Q. Tell me about that.

5 A. I was giving L.W. [REDACTED] and Minor [REDACTED] a bath
6 together --

7 Q. Talk into the microphone.

8 A. Sorry. I was bathing them and caught them
9 inappropriately touching.

10 Q. Okay. What did you do?

11 A. Questioned them about it.

12 Q. Okay. At that time did, Minor [REDACTED] disclose
13 anything to you?

14 A. Yes, ma'am.

15 Q. What did she disclose to you, very generally?

16 A. That someone had inappropriately touched her.

17 Q. Okay. Now, you're not allowed to tell me who
18 she said inappropriately touched her, but did she
19 tell you where?

20 A. Yes, ma'am.

21 Q. Where did that happen?

22 A. In a couple different places.

23 Q. What places?

24 A. When we stayed on Daylily and when we moved
25 into Kalmia Apartments.

1 Q. Okay. And how did you know she was talking
2 about Daylily?

3 A. She explained about her age and that we had a
4 pet.

5 Q. Okay. Was that the only place where you had a
6 pet?

7 A. Yes, ma'am.

8 Q. Tell me this: About when did this happen?

9 A. Could you repeat the question?

10 Q. About when did this happen with the whole
11 bathtub thing?

12 A. Before Christmas of 2010.

13 Q. Before Christmas of?

14 A. 2010.

15 Q. Okay. After [Minor] told you this, what did you
16 do?

17 A. Thought about it and questioned her and asked
18 her some questions in front of Michelle.

19 Q. Okay. Did you call the police?

20 A. No, ma'am.

21 Q. How come?

22 A. I sort of -- I believed what happened but I
23 couldn't believe about who she stated did it to her.

24 Q. Did you take any other measures?

25 A. Yes, ma'am.

1 Q. What did you do?

2 A. I kept her away from the person that she said
3 did this to her.

4 Q. Give me just a second. Okay?

5 A. Okay.

6 Q. Did you ultimately talk to the police in this
7 case?

8 A. Yes.

9 Q. Did they come to you or did you go to them?

10 A. They came to me.

11 Q. Santana, the Ralphael that we've been talking
12 about, do you see him in the courtroom today?

13 A. Yes, ma'am.

14 Q. Can you identify him for the Court by
15 describing what he's wearing?

16 A. A yellow-beige collared shirt.

17 MS. HAMMACK: Your Honor, at this time, let the
18 record reflect that the witness has testified the
19 defendant.

20 THE COURT: Record will so reflect.

21 BY MS. HAMMACK:

22 Q. And the person that you identified, is that the
23 Ralphael that you dated?

24 A. Yes, ma'am.

25 Q. Was there ever a Ralphael that you dated?

1 A. No, ma'am.

2 Q. Is that the Ralphael that stayed with you at
3 [REDACTED] Daylily Place?

4 A. Yes, ma'am.

5 Q. Is that that Ralphael that stayed with you at
6 Kalmia Apartments?

7 A. Yes, ma'am.

8 Q. Is that the Ralphael that you left alone with
9 [REDACTED] Minor

10 A. Yes, ma'am.

11 Q. Is that her Ralphael?

12 A. Yes, ma'am.

13 MS. HAMMACK: No further questions.

14 THE COURT: Mr. Routzong?

15 CROSS-EXAMINATION

16 BY MR. ROUTZONG:

17 Q. Good afternoon, Ms. Gonzalez. When you met
18 Ralphael, who was living in the house with you?

19 A. To start with, it was my stepfather, me, and

20 [REDACTED] Minor

21 Q. And your uncle Richard was there?

22 A. (Shakes head).

23 Q. He wasn't? Ms. Gonzalez, this time in the
24 bathroom when you noticed that these two children
25 were touching each other in a way that you thought

1 was inappropriate, your recollection, when you wrote
2 the statement on December 7th of the next year -- I
3 believe it was December 7th. Your recollection at
4 that time was that the first thing Minor said to
5 you was that she learned it at school.

6 A. Yes, sir.

7 Q. And then your recollection was that she
8 mentioned Raphael?

9 A. Yes, sir.

10 Q. And the next thing you recorded when you wrote
11 this statement was that, then she told me she seen
12 it somewhere.

13 A. Yes, sir.

14 Q. When Minor said she seen it somewhere, that
15 was because you guys had videos of yourselves making
16 love?

17 MS. HAMMACK: Your Honor, I'm going to object
18 to that. I don't know that that's a proper
19 characterization of her statement.

20 MR. ROUTZONG: It's -- I'm reading it right out
21 of the statement.

22 MS. HAMMACK: Your Honor --

23 MR. ROUTZONG: And she -- she's --

24 MS. HAMMACK: -- that's a hearsay statement --

25 MR. ROUTZONG: -- available to --

1 MS. HAMMACK: -- by a witness that's already
2 testified that he could have cross-examined her on.

3 MR. ROUTZONG: Which she denied all the way
4 through.

5 MS. HAMMACK: He's trying to get out the
6 statement of the child to her mother.

7 MR. ROUTZONG: Your Honor, if I can be heard.

8 THE COURT: Yeah. Let me do this: Let's get
9 the jury to step out. I want to see this statement
10 because I was confused as to what the statement was.

11 Y'all step in the jury room, have a few
12 minutes' break. I'll have y'all right back out
13 here.

14 (The jury exits the courtroom at 2:01 PM.)

15 THE COURT: I was a little confused. I thought
16 that she gave a statement or talked to police and in
17 that statement, he did this, this, and this. I must
18 have misunderstood it.

19 MS. HAMMACK: She -- Your Honor, if I may
20 proffer, she gave a statement to police about
21 statements that Minor made. He's trying to
22 cross-examine her on the content of Minor
23 statements that she included in her statement.
24 Those are hearsay statements. That witness has
25 testified. He had the opportunity to cross her on

1 those statements. At this point, it's just
2 inadmissible hearsay that he's asking her about
3 something that someone else said.

4 THE COURT: Didn't he ask her brief questions,
5 the child, about where you learned this somewhere
6 else or did you see it in movies or videotapes or
7 something and she said she didn't remember.

8 MS. HAMMACK: She said that -- he asked if
9 she -- and I forget exactly what he asked. But he
10 said, do you -- he was asking the child, you
11 remember videotapes? She said no. Do you
12 remember -- did you ever walk in on anybody? And
13 she said no.

14 There's no -- I don't think there's any basis
15 for him then asking another witness about the
16 statements of the child that's not -- it's not
17 proper impeachment, it's not refreshing her memory,
18 it's just asking her about hearsay. If he was
19 trying to impeach the child, he would have first had
20 to have refreshed her memory because she testified
21 that she did not remember. He did attempt to
22 refresh her memory and he can't impeach her through
23 another witness this way.

24 THE COURT: Mr. Routzong, where are you headed
25 with this? I want to hear from you.

1 MR. ROUTZONG: You want me to address what she
2 said or --

3 THE COURT: I'm really not sure you got the
4 question you want -- let me -- you proffer the
5 question that you were asked when she objected
6 because I think I got -- I'm a question or two past
7 that maybe, and her explanation -- Ms. Hammack's
8 explanation. So what was going to be your question?

9 MR. ROUTZONG: There's actually three things
10 that Ms. Gonzalez put in her statement.

11 THE COURT: In Ms. Gonzalez's statement?

12 MR. ROUTZONG: Yes, sir.

13 THE COURT: Okay. Tell me about that.

14 MR. ROUTZONG: And this -- Ms. Gonzalez
15 purported that these were the things that her
16 daughter told her. Her daughter doesn't have any
17 recollection. I don't have any recorded or written
18 statements to refresh her memory with.

19 MS. HAMMACK: And, Your Honor, I apologize, but
20 if I may, she specifically answered twice, I do
21 remember telling my mother. At that time it would
22 have been appropriate for him to go into the
23 contents of those statements. But when he asked if
24 she remembers talking to her mother, she clearly
25 said yes twice.

1 THE COURT: All right. Keep going.

2 MR. ROUTZONG: The problem is, Your Honor, she
3 doesn't remember what she said. And if she's
4 denying she said something, this would be the means
5 of impeaching.

6 THE COURT: Well, I thought the daughter -- do
7 you remember telling your mother? Yes. What did
8 you tell her? I don't remember. It was like a
9 two-part question; she reported the incident or some
10 incident to her mother, but she didn't remember the
11 details. She just remembers telling her mother
12 that, quote, something happened. And I'm using that
13 as a very loose quote. She didn't remember the
14 details of what she told her mother, is what I
15 understood the child to say.

16 MR. ROUTZONG: It might be that we can have the
17 reporter report it back to us. But I think I went
18 down the line. I asked her, do you remember telling
19 somebody at the school? No, don't recall that. Do
20 you remember telling it was Ralphael? I think she
21 may have even said she doesn't remember that. I
22 think I --

23 THE COURT: She told the police investigator;
24 she said that.

25 MR. ROUTZONG: She did remember that.

1 THE COURT: And then she told her mother.

2 All right. Let's do that. Y'all will have to
3 bear with Bethanie; we're putting her on the spot
4 with finding this testimony. Y'all give her a
5 couple minutes to find that.

6 (Portions of the record read back by the court
7 reporter.)

8 THE COURT: So what you're trying to do,
9 Mr. Routzong, is to utilize Ms. Gonzalez's statement
10 of her disclosure of the child's disclosure.

11 MR. ROUTZONG: The initial disclosure. And she
12 mentions right off the bat, I learned it at school.
13 That's -- I think that's completely relevant to what
14 the jury needs to hear to determine whether or not
15 he's guilty. I don't have any recording or written
16 statement from Minor I asked Minor did she say
17 those things, she denied it. It's in the first
18 statement.

19 MS. HAMMACK: She didn't deny it. We just
20 listened to it. She said she didn't remember. You
21 have to unequivocally deny making the statement
22 before she can impeached with extraneous evidence.

23 THE COURT: But she can have her recollection
24 refreshed.

25 MS. HAMMACK: Which he had the opportunity to

1 do when he crossed her. He can't create hearsay
2 through another witness.

3 THE COURT: Here's the thing: The video hasn't
4 been played yet and it seems to me that she would
5 have to be present in the courtroom to refresh her
6 recollection of that interview and then she can be
7 cross-examined on that also. Why is that not more
8 or less the same thing as, you've not tried issues
9 of statement yet -- I don't know whether you're
10 going to -- but if she didn't write -- reduce to
11 writing a statement, someone, the child, then he
12 doesn't even have that to refresh her recollection
13 because it wouldn't be her writing to refresh; it's
14 her mother's disclosure to a third party of the
15 disclosure from the child.

16 MS. HAMMACK: But he cannot refresh Minor
17 memory through the testimony of someone else.

18 THE COURT: I agree with you. I think he would
19 be allowed to ask this lady, the mother, what the
20 child told her. But likewise -- I mean, her
21 statement disclosure to law enforcement I don't
22 believe should come in because she's got her own --
23 even questioned her on it.

24 But I think he's got a right -- I think he's
25 got a right to ask that question. I don't see how

1 that statement -- her statement would come in to
2 help the child, refresh the child's memory. I don't
3 think that's the case.

4 MS. HAMMACK: Correct. And she can't say what
5 the child told her just because the child said that
6 the child doesn't remember making those statements.
7 He could have crossed the child on it and said, do
8 you remember saying blah, do you remember saying
9 blah, and if the child says no, she doesn't
10 remember, he still got it out through testimony. He
11 can't ask --

12 THE COURT: But he's done that.

13 MS. HAMMACK: Correct. So he can't now ask the
14 mom, can you remember the child saying blah. And if
15 so, if does that, does it then open the door for us
16 to go into asking her exactly who did this child say
17 did this to her, because otherwise, we're barred
18 under hearsay from doing that.

19 MR. ROUTZONG: Your Honor, the child says she
20 doesn't remember. This is the initial disclosure.
21 The child immediately says, I learned it at school.
22 That's along the lines as -- and I'm not saying it's
23 exactly -- well, maybe it is exactly like -- I'm not
24 trying to argue that point.

25 But if the only way that we can get the jury to

1 understand what the child initially disclosed as to
2 her and the child denies it, there is no other way.

3 MS. HAMMACK: The child didn't deny it. That's
4 a mischaracterization of the evidence.

5 MR. ROUTZONG: I don't know that I can
6 distinguish in this context between somebody denying
7 it and saying they don't remember. If you don't
8 remember, what does that -- what can we infer from
9 that?

10 MS. HAMMACK: And, Your Honor, I think this
11 just goes --

12 MR. ROUTZONG: It's the initial disclosure.
13 The jury needs to hear that.

14 MS. HAMMACK: He's saying that it's the initial
15 disclosure. He's saying that the mom said that the
16 child said that's the initial disclosure. I mean --

17 MR. ROUTZONG: Your Honor, this is the starting
18 point in this case where this child, as far as we
19 know, the evidence that we have, there's no evidence
20 to contradict there's any other time. So this is
21 initial disclosure to her own mom.

22 THE COURT: Isn't she limited to time and
23 place?

24 MS. HAMMACK: She is, and we did that on
25 direct. He's trying to impeach bad memory through a

1 third witness. That's not proper under the rules of
2 evidence.

3 THE COURT: I think he can ask the question.
4 You want to ask the question -- let me go back and
5 rephrase this. You want to ask the question: When
6 the child initially disclosed to you the incident,
7 the misconduct, whatever it is, did she also tell
8 you where she learned about this? Answer being, at
9 school. Is that right?

10 MR. ROUTZONG: I want her to tell the jury the
11 things that this young lady says she doesn't
12 remember anymore.

13 THE COURT: I'll tell you what. Just to make
14 sure we get a good record, I want you to proffer
15 that testimony right now. In fact, let's hear it.

16 MS. HAMMACK: Your Honor, if I may, I don't
17 know if you want to handle these separately, but I
18 would also like for the Defense to proffer any
19 testimony he intends on getting into as far as sex
20 tapes. He asked the child if she --

21 THE COURT: Okay. Do each of them separately.

22 MR. ROUTZONG: Do you want to rehear when I
23 asked her as far as does she remember -- do you want
24 me to just start at the beginning and proffer it all
25 over again or do you want to just start with the

1 tapes?

2 THE COURT: Let's start with the report. The
3 walking in on the -- them bathing together. That's
4 where it -- where we started stumbling around.

5 MR. ROUTZONG: Yes, sir.

6 EXAMINATION

7 BY MR. ROUTZONG:

8 Q. Ms. Gonzalez, you walked in on La-La and
9 Minor and you saw them touching each other?

10 A. Yes, sir.

11 Q. And you felt that the way they were touching
12 each other was inappropriate?

13 A. Yes, sir.

14 Q. And, in fact, you asked them, why are you
15 touching each other, basically?

16 A. Basically, yes, sir.

17 Q. And Minor told you in response to your
18 questioning -- I don't have all of your questions in
19 the -- in your statement. But somewhere along the
20 line, Minor told you that she learned this in
21 school?

22 A. Yes.

23 Q. And that was the first thing she told you?

24 A. Yes.

25 Q. Okay. And then she said Mr. Robertson touched

1 her?

2 A. Yes, sir.

3 Q. And then she said that she learned it from --
4 and I'll read from your statement: Then she told me
5 she seen it somewhere.

6 A. Yes, sir.

7 Q. That's what she told you?

8 A. Yes, sir.

9 Q. And I'll just go further. You and Ralphael had
10 made tapes together?

11 A. No, sir.

12 Q. You never made any videotapes?

13 A. No tapes, no, sir.

14 Q. Okay. I probably -- if you want me to ask --
15 there's probably one more question. Are you aware
16 of any time Minor walked in on you and Ralphael
17 while you were having sex?

18 A. No, sir. There's never been any time she
19 walked in on us having sex.

20 THE COURT: I want to ask some questions.

21 EXAMINATION

22 BY THE COURT:

23 Q. Has any recording of any type ever made --

24 A. We -- yes, sir.

25 Q. He said videotape --

1 A. He --

2 Q. -- and I want to know, any type of electronic
3 media recording device.

4 A. We recorded ourself one time, yes, sir.

5

6

EXAMINATION

7 Q. What was that on, the device?

8 A. A cell phone.

9 Q. It was on a cell phone. Whose cell phone was
10 it on?

11 A. Raphaël's cell phone -- the defendant's cell
12 phone.

13 Q. Okay. Are you aware of **Minor** ever seeing it?

14 A. No, sir.

15 THE COURT: All right. Ms. Hammack, do you
16 have some cross-examination on this? I'm sorry; I
17 guess direct.

18 MS. HAMMACK: I don't need to ask her any
19 questions, Your Honor. But him asking her to say
20 what another person told her is inadmissible hearsay
21 and is improper impeachment of a witness that's
22 already testified; it's improper refreshment of the
23 recollection of another person's memory.

24 There's nowhere in the rules of evidence that
25 this is proper anyway to ask her what someone else

1 told her.

2 THE COURT: All right. Well, what I'm getting
3 hung up -- I agree with you, if he's trying to
4 impeach the testimony of another witness, but he's
5 not. The girl said he didn't remember. And there
6 is a time she did remember. That's not attempting
7 impeachment, that's something else. And I'm trying
8 to distinguish that between the two of y'all. So if
9 it were impeachment, I'm with you. But this is a
10 child that says, I don't remember, to a question he
11 asked, and then the mother remembers the response to
12 that type of question from the child 18 months ago
13 or some period of time ago. That's what I think the
14 distinguishing rule is.

15 MS. HAMMACK: I guess my fear is that any time
16 in court if anybody says they don't remember, then
17 that opens the door to any hearsay that's offered
18 for the truth of the matter asserted by any witness.

19 And I guess the State's only question is, if
20 they're allowed to ask her about the substance of
21 what someone else told her, we feel that opens the
22 door for us to specifically ask her who her daughter
23 said did this to her. If everything else she said
24 comes in, then that comes in.

25 MR. ROUTZONG: She's already said that, Your

1 Honor. I asked her and then she said Ralphael. But
2 the important thing for the jury to hear to decide
3 this case is the order in which she says it. And
4 the substance of what she says and the number of
5 different -- the inconsistencies, in other words.
6 She says, I learned it at school, Ralphael did it, I
7 saw it somewhere. Those are inconsistencies that
8 this jury needs to hear to decide this case.

9 MS. HAMMACK: And it would have been brought
10 out in front of the testifying witness that said
11 that, which was Minor

12 THE COURT: Who didn't remember them.

13 MS. HAMMACK: Right. But he can --

14 THE COURT: She didn't deny them. If she
15 denied them, he'd impeach her. She didn't remember.

16 MS. HAMMACK: And he got to ask her in front of
17 the jury, do you remember saying that you had seen
18 it somewhere? Do you remember saying you learned it
19 at school? So they have already heard it. It's
20 improper to then bring it up this way.

21 MR. ROUTZONG: And thank goodness her mother
22 remembers, Your Honor, because that way the jury can
23 actually hear what Minor told her mother, the
24 initial disclosure.

25 MS. HAMMACK: Under that logic --

1 THE COURT: I think it all comes in. I think
2 he can ask the question and, likewise, you can ask
3 the question, who did she say did this? I think
4 y'all both get it.

5 MS. HAMMACK: Okay.

6 THE COURT: That's what I think. I think he
7 can ask the order of disclosure to her; likewise,
8 you can come right back up and ask the question,
9 your daughter told you this, because it's already
10 been asked of the daughter. And again, if the video
11 is played, it will be again there.

12 All right. I'm extinguishing this on this is
13 relevant evidence. I don't -- it's not hearsay to
14 impeach, it's she's a young child with a bad memory.
15 But I believe her disclosure is relevant to the
16 issue of the question of fact and is probative to
17 that question of fact and not unduly prejudicial to
18 either side. It's prejudicial to both sides, but
19 probative value is -- more than outweighs the
20 prejudicial value in 403.

21 All right. Would y'all like a break? I would.

22 (Short break.)

23 THE COURT: All right. Y'all ready to go
24 forward?

25 MS. HAMMACK: Yes, sir.

1 THE COURT: Bring the jury in, please.

2 (The jury enters the courtroom at 2:36 PM.)

3 THE COURT: Mr. Routzong, still your witness.

4 MR. ROUTZONG: Thank you, Your Honor.

5

6

CROSS-EXAMINATION

7

(Continued)

8

BY MR. ROUTZONG:

9

Q. Ms. Gonzalez, to kind of pick up where we left

10

off as asked ago, we were in the bathroom --

11

A. Yes, sir.

12

Q. -- and you walked in and you see La-La and

13

Minor touching each other in a way that you

14

considered to be inappropriate.

15

A. Yes, sir.

16

Q. And then you testified that you asked them

17

about it. I'm not asking you to tell us

18

specifically what you asked, but somehow, in some

19

way, during this conversation with Minor she

20

disclosed to you, after you asked her, that she

21

learned about these things in school.

22

A. Yes, sir.

23

Q. And then she said Mr. Robertson -- she said

24

Ralph, I think, in your statement; is that correct?

25

A. Yes, sir.

1 Q. And then the last thing I asked you was -- she
2 actually told you a third thing; that she told you
3 that she seen it somewhere.

4 A. Yes, sir.

5 Q. And I'm not sure if we stopped right there or
6 not. But the fact is that you and Mr. Robertson
7 have recorded yourselves, through some electronic
8 means, having sex?

9 A. Not before this incident, no, sir.

10 Q. And it was on Mr. --

11 A. Yes, sir.

12 Q. -- Robertson's cell phone; is that correct?

13 A. Yes, sir.

14 Q. And this was around Christmastime in the year
15 2010?

16 A. Before Christmas of 2010, yes, sir.

17 Q. Pretty close to that time. And that's how you
18 remember it?

19 A. Yes, sir.

20 Q. Okay. And you got all of this information --
21 well, let me ask you the question this way: Where
22 was Mr. Robertson at?

23 A. Could you specify please?

24 Q. During this time period when this disclosure
25 was made, was he still living with you?

- 1 A. Yes, sir.
- 2 Q. Okay. He's in your house. Do you remember
- 3 exactly where he was at?
- 4 A. Yes, sir.
- 5 Q. Where was he at?
- 6 A. He was out of town.
- 7 Q. Was he in Maryland?
- 8 A. Yes, sir.
- 9 Q. Okay. And you called him?
- 10 A. Yes, sir.
- 11 Q. And you told him what **Minor** had said?
- 12 A. Yes, sir.
- 13 Q. And he came back from Maryland?
- 14 A. Not immediately, no, sir.
- 15 Q. But at some point in time, he came back from
- 16 Maryland?
- 17 A. Yes, sir.
- 18 Q. And you guys were still dating?
- 19 A. Yes, sir.
- 20 Q. And that was in -- around Christmastime 2010.
- 21 And Maryland, at some point in time he came back.
- 22 No disclosure to the police by you?
- 23 A. No, sir.
- 24 Q. And the reason is that you didn't really
- 25 believe it?

1 A. That's not what I said.

2 Q. You did believe it?

3 A. I believed it happened to her, but I did not
4 want to believe that the person she said did it to
5 her did it.

6 Q. It's interesting that you say that because in
7 your statement you make it perfectly clear you
8 wanted to be sure who it was.

9 A. Yes, sir.

10 Q. And you had somebody else in mind?

11 A. No, sir.

12 Q. Your stepfather -- I called him your uncle.
13 You have a stepfather named Richard?

14 A. No, sir.

15 Q. You don't have a stepfather named Richard?

16 A. No, sir.

17 Q. What is your stepfather's name?

18 A. Patrick.

19 Q. Patrick. And the next time you really, I
20 guess, hear anything or do anything about this is
21 when you're contacted by the police?

22 A. Could you rephrase that, please?

23 Q. Well, you didn't contact the police?

24 A. No, I did not contact the police.

25 Q. And about almost a year later, around that

1 time, the police contacted you?

2 A. Yes, sir.

3 Q. And Mr. Robertson was with you that entire
4 time?

5 A. We were not, as you could say, dating. We were
6 living together.

7 Q. You were living together. Okay. And in your
8 statement you said sometimes you left him alone with
9 her?

10 A. Yes, sir.

11 Q. I just want to ask you another question, and
12 it's the last question, I think. Ralphael came back
13 from Maryland in about May of 2011; is that your
14 recollection?

15 A. No.

16 Q. It was earlier than that?

17 A. I'm not sure on the date of when he returned
18 from Maryland.

19 Q. It was about the time, I think, he helped you
20 move out of the -- that would have been Michelle's
21 house. And where did you move after that?

22 A. After Michelle's house, I moved in with my
23 grandmother.

24 Q. And she helped you move to your grandmother's
25 house, Mr. Robinson. I said she, but I meant he.

1 He helped you move to your grandmother's house?

2 A. Not really, no, sir.

3 Q. When did you move to your grandmother's house?

4 A. I'm not sure on the date.

5 Q. It was in the summer?

6 A. I'm not sure.

7 Q. Okay.

8 MR. ROUTZONG: No other questions, Your Honor.

9 THE COURT: Redirect?

10 MS. HAMMACK: Very briefly, Judge.

11 REDIRECT EXAMINATION

12 BY MS. HAMMACK:

13 Q. Santana, who did Minor say touched her?

14 A. The defendant.

15 Q. Did she say anybody else had touched her?

16 A. No, ma'am.

17 Q. Okay. The defense attorney asked you about
18 uncle Richard who is not uncle Richard but not your
19 stepfather. Has Minor ever said that that person,
20 whoever he is, or any other person has ever touched
21 her?

22 A. No, ma'am.

23 MS. HAMMACK: No further questions.

24 THE COURT: Anything else?

25 MR. ROUTZONG: No, sir.

1 THE COURT: All right. Ma'am, you may step
2 down.

3 THE WITNESS: Thank you.

4 MR. GRIMES: State calls Investigator Kim
5 Sievers.

6 KIMBERLY SIEVERS

7 being first duly sworn, testified as follows:

8 THE WITNESS: Yes, ma'am.

9 THE CLERK: Have a seat in the witness box.
10 State your full name for the Court, spelling your
11 last.

12 THE WITNESS: Kimberley Sievers, S-I-E-V-E-R-S.

13 DIRECT EXAMINATION

14 BY MR. GRIMES:

15 Q. Good afternoon. Can you tell us where you
16 work?

17 A. I work at the Aiken County Sheriff's Office.

18 Q. And what do you do there?

19 A. I'm a juvenile investigator.

20 Q. Investigator. And what are your
21 responsibilities as a juvenile investigator?

22 A. I investigate child abuse, sexual abuse, and
23 crimes committed by juveniles.

24 Q. So to kind of sum that up, if a child is either
25 the suspect or the victim, that's the type of crime

1 that you investigate?

2 A. Yes.

3 Q. And what is your training and experience?

4 A. I have been at the sheriff's office for 15
5 years. I've been a juvenile investigator for eight
6 years. I was on the internet crimes against
7 children task force for six years. I've had
8 numerous trainings in sexual abuse, child abuse,
9 victims, children as victims.

10 Q. Quite a bit of law enforcement experience then
11 in 15 years?

12 A. Yes, sir..

13 Q. Do you recall when you became involved in this
14 case?

15 A. Yes, sir. I believe it was November of 2011.

16 Q. All right. And how did you get involved in
17 this case?

18 A. I received a report to investigate. Our --
19 when an incident report is made, then it goes to our
20 supervisor who then assigns it to an investigator,
21 if it's something that needs to be investigated.

22 Q. All right. And who is your supervisor?

23 A. Lieutenant Gaskins.

24 Q. And she's over juvenile investigations?

25 A. Yes, sir.

1 Q. And do you know how this report was made to the
2 sheriff's office?

3 A. Yes. A deputy on the road, Jessica Roberts,
4 made the initial incident report.

5 Q. And she reported it to somebody else at the
6 sheriff's office?

7 A. She did. She reported it to Lieutenant Eric
8 Abdullah.

9 Q. And once that report was made, then it made its
10 way to juvenile investigations?

11 A. Yes, sir.

12 Q. And ultimately assigned to you?

13 A. Yes, sir.

14 Q. And did you work on this case by yourself?

15 A. Yes, sir.

16 Q. And is that normal for this type of case?

17 A. Yes, sir.

18 Q. All right. How did you begin your
19 investigation in this case?

20 A. I got a copy of the report and I read the
21 report.

22 Q. Just for our information, the report that you
23 would have gotten, is that basically just general
24 information about what's alleged to get you started?

25 A. It is. It's just the initial report. The

1 officers just fill in the blanks to the best of
2 their knowledge for the initial report, for it to go
3 to an investigator.

4 Q. Okay. And how would you initiate this
5 investigation?

6 A. I originally made contact with Ms. Santana
7 Gonzalez, the mother of the victim.

8 Q. And she just testified?

9 A. Yes, she did.

10 Q. And once you met with her and kind of found out
11 about what was going on, what's the next step?

12 A. I referred her for an interview at the Child
13 Advocacy Center.

14 Q. All right. Let me back up. Before we get
15 there, you found out about this in 2011?

16 A. Yes, sir.

17 Q. And you met with Santana in 2011?

18 A. Yes, sir.

19 Q. Did you know who the suspect was in the case?

20 A. Yes, sir.

21 Q. You knew who the allegations were against?

22 A. Yes, sir.

23 Q. And at the time that you became involved in
24 this case, was he still living in the house with

25 Minor

1 A. No, sir, he was not.

2 Q. Okay. So the allegations that you were
3 investigating, were they recent or in the past?

4 A. They were previous allegations, in the past.

5 Q. So you sent [Minor] for an interview?

6 A. Yes, sir.

7 Q. And where does that happen?

8 A. At the Child Advocacy Center.

9 Q. Okay. And you weren't present for the
10 interview; is that correct?

11 A. I wasn't in the room during the interview. No,
12 sir.

13 Q. Okay. But you were able to see the recording
14 from the interview?

15 A. Yes, sir.

16 Q. And after you saw the recording from the
17 interview, were you familiar with basically all of
18 the allegations in the case?

19 A. Yes, sir.

20 Q. So what did you do after that?

21 A. I met with Santana Gonzalez. Some things came
22 out during the interview with [Minor] in reference to
23 places that I needed to confirm with Santana.

24 Q. Okay. In other words, did you know -- did you
25 know how old [Minor] was at the time of the

1 allegations?

2 A. Not exactly, no, sir.

3 Q. Is that something that you were investigating?

4 A. Yes, sir.

5 Q. And how did you go about finding out how old
6 she was?

7 A. I talked with Santana about details that Minor
8 talked about in reference to where she was living at
9 different times and where things occurred. Santana
10 was able to tell me what years they were living in
11 particular places.

12 Q. And the details were just kind of...

13 A. One of the details was that Minor talked
14 about, in her interview, having a dog and a cat.
15 And I asked Santana where -- where they lived when
16 they had a dog and a cat and if there were multiple
17 places, and she disclosed that it was just at the
18 Daylily Road address.

19 Q. So at that point, you knew that the only
20 address that she lived at with a dog and a cat was
21 at Daylily?

22 A. Yes, sir.

23 Q. And you were able to find out when she lived at
24 Daylily --

25 A. Yes, sir.

1 Q. -- through this interview with Ms. Gonzalez?

2 A. Yes, sir.

3 Q. Why is that important in a child sexual
4 investigation?

5 A. It's -- why is what important; the dates?

6 Q. The location and the age of the victim?

7 A. Jurisdiction and to know the age of the child
8 at the time.

9 Q. Okay. When you talked to Ms. Gonzalez -- and I
10 know she just testified. She didn't have any
11 information as far as the actual events themselves?

12 A. No.

13 Q. Okay. Who else did you talk to in this
14 investigation?

15 A. I talked with Mr. Raphael Robertson, I talked
16 with Michelle Williams.

17 Q. And you talked to -- why was she significant?

18 A. Because she was part of the -- it had come up
19 before that she was involved. [Minor] had disclosed
20 to her as well that something happened. And I
21 talked with Michelle about what was disclosed to
22 her.

23 Q. Is this the Michelle Williams that they were
24 living with?

25 A. Yes, it is.

1 Q. Okay. And her residence, is that one of the
2 incident locations?

3 A. Yes; Kalmia Apartments.

4 Q. And her daughter is L.W. --

5 A. Yes.

6 Q. -- La-La that we've been talking about?

7 A. Yes, sir.

8 Q. So you had the story from Minor and you
9 essentially -- did you talk to pretty much everybody
10 involved in this situation --

11 A. Yes, sir.

12 Q. -- at some point in your investigation?

13 A. Yes, sir.

14 Q. I do want to ask you this: I know we talked
15 initially about the fact that the allegations in the
16 case were not recent or ongoing when you began your
17 investigation. Was there any need for you to
18 collect evidence that you might collect in sexual
19 abuse cases like sheets or clothing or anything like
20 that?

21 A. No, sir. They weren't even living in either of
22 those locations.

23 Q. They weren't living in either of those
24 locations. So would there be any value to anything
25 that may be in the household?

1 A. No, sir.

2 Q. And why is that?

3 A. Anything that we typically would collect in a
4 freshly committed sexual assault, like the bed
5 sheets or something, I mean, they would have been
6 moved and/or washed, or for that long of a
7 timeframe, you wouldn't know which ones you were
8 looking at to begin with.

9 Q. So would there be any forensic value to any of
10 that sort of thing?

11 A. No, sir.

12 Q. Okay. Just to -- not to put too fine a point
13 on it, but in some cases you might investigate,
14 there could potentially be DNA or something of that
15 nature on a person or sheets.

16 A. Yes, sir.

17 Q. There's no point in looking for that in this
18 case?

19 A. No, sir. When you deal with that, you're
20 dealing with, like, I think, a 72-hour timeframe
21 when you're dealing with DNA evidence on a person.

22 Q. And I know that you got involved in this case
23 in 2011. Just basically, that's more than 72 hours
24 after any of these allegations were alleged to have
25 occurred?

1 A. Yes, sir.

2 Q. The house at Kalmia Apartments, is that in
3 Aiken County?

4 A. Yes, sir.

5 Q. Well, I guess it's more of an apartment.

6 A. Uh-huh.

7 Q. And where they were living on Daylily, was that
8 in Aiken County?

9 A. Yes, sir.

10 Q. How old is the defendant?

11 A. He is 31 years old, I believe.

12 Q. Please answer any questions the Defense has for
13 you.

14 A. Yes, sir.

15 CROSS-EXAMINATION

16 BY MR. ROUTZONG:

17 Q. Good afternoon.

18 A. Good afternoon.

19 Q. The deputy that made the report initially, that
20 was Jessica Roberts?

21 A. Yes, sir.

22 Q. And she's related to Ms. Gonzalez?

23 A. Yes, sir.

24 Q. That's her sister?

25 A. I think so.

1 Q. You made -- you answered a question from
2 Mr. Grimes about Michelle Williams. That disclosure
3 that Ms. Williams told you about, that happened --
4 in other words, Michelle Williams let you know that
5 happened the same day as the disclosure to Santana?

6 A. I didn't speak with Michelle Williams until
7 January 20th, 2012. Is that the right answer?

8 Q. But when -- the disclosure that she's referring
9 to, that happened the same day -- the bathtub
10 incident and everything, that happened the same day;
11 that day, whatever it was, close to Christmas in
12 2010?

13 A. I'm not sure if it was the same day, but I
14 think it was all relatively within the same time
15 period.

16 Q. Jessica has a son?

17 A. Yes, sir.

18 Q. His name is Marquez?

19 A. Yes, sir.

20 Q. Roberts or --

21 A. I think so.

22 Q. -- is it a different name?

23 A. I believe it is. I'm not sure.

24 Q. From your understanding, this alleged
25 disclosure, the first one by Minor that was close

1 to Christmas in 2010?

2 A. Yes, sir.

3 Q. And it's almost a year later that you became
4 involved?

5 A. Yes, sir.

6 Q. Investigator Sievers, the report that
7 Jessica -- I guess Jessica Roberts is the one that
8 made the report initially.

9 A. Yes, sir.

10 Q. And she's a family member. That's not really
11 an appropriate police procedure, is it?

12 A. What?

13 Q. If Jessica Roberts becomes aware of something,
14 appropriate procedure would be for her to talk to
15 maybe a supervisor and get someone like you
16 appointed to investigate it?

17 A. And that's what she did by making the report.
18 Because she's a mandated reporter, she doesn't have
19 a choice but to make a report.

20 Q. And the report that she made that went to
21 Lieutenant Gaskins?

22 A. Yes, sir.

23 Q. And then Lieutenant Gaskins got you involved?

24 A. Yes, sir.

25 Q. And all that happened in November of 2011?

1 A. The initial police report was completed in,
2 yes, November of 2011.

3 MR. ROUTZONG: I don't have any other
4 questions, Your Honor.

5 THE COURT: Redirect?

6 REDIRECT EXAMINATION

7 BY MR. GRIMES:

8 Q. I know Mr. Routzong asked you about Deputy
9 Roberts making this report and that she made it to
10 somebody else and later it got assigned to you. She
11 didn't participate in this investigation; is that
12 correct?

13 A. Correct.

14 MR. GRIMES: No further questions.

15 THE COURT: Any follow-up?

16 RECROSS-EXAMINATION

17 BY MR. ROUTZONG:

18 Q. It's your testimony that not at all -- she
19 didn't participate in it at all?

20 A. No, sir, not after the initial report. She
21 makes the initial report and then I conduct an
22 investigation after that. She was not part of my
23 investigation.

24 Q. Just for purposes of helping me understand the
25 timeline and the -- that she didn't participate in

1 the report. That's what you're saying?

2 A. She didn't participate in the investigation.

3 She made the initial report.

4 Q. So when her son made a recording, was that
5 before the report was made or after the report was
6 made?

7 A. I believe all of that was before, but I don't
8 know the date of -- I don't know what the date of
9 the recording was. But I think that would have been
10 prior to the initial report. I'm not sure.

11 Q. So you can't -- and I'm not picking on you or
12 anything. But you can't really say that she
13 didn't -- if you're not sure when that happened, you
14 can't really say definitively that she didn't
15 participate in the investigation?

16 A. Yes, sir. The recording wasn't part of the
17 investigation, wasn't based on the charges that I
18 made.

19 Q. Just to -- like I said, I'm not picking on you
20 or anything. I know you're an investigator, so you
21 can take it. I'm just really trying to be as clear
22 as I can because I'm a little confused. She has a
23 son, his name is Marquette [sic]?

24 A. Yes. And supposedly the way this began is

25 **Minor** disclosed to Marquette --

1 Q. Well, let me ask you a question first. She has
2 a son and he recorded -- made a recording. And
3 you're not sure whether that recording was before or
4 after?

5 A. I could look at the evidence receipt and find
6 out when the recording was. Yes, sir. I would have
7 to actually look at the video to be able to answer
8 the date. I'm not sure. I would have to look at
9 the actual video to know the date that that had
10 transpired.

11 Obviously, it had to have transpired prior to
12 me starting the investigation because all of it was
13 handed over to me at the same time.

14 MR. ROUTZONG: I don't have any other
15 questions, Your Honor.

16 THE COURT: Anything else?

17 MR. GRIMES: Nothing further from the State,
18 Your Honor.

19 THE COURT: All right. You may step down.

20 MS. HAMMACK: Your Honor, may we approach?

21 THE COURT: You may.

22 (Sidebar conference.)

23 THE COURT: All right, folks. The State had
24 seven or eight witnesses listed. They've called the
25 ones they have here today, but they didn't think

1 they'd get through this quick at 3:00. They thought
2 we'd still be going on with some others. Two
3 witnesses need to be called yet; they're not here,
4 and the ones that are here, they're are not
5 available. So we'll be done for the day and we'll
6 start back early in the morning. Now, is 9:30 early
7 enough for y'all or do you want to start a little
8 earlier?

9 JUROR: 6:30.

10 THE COURT: I think that may be just a little
11 too early. Do y'all want to start at 9:00? The
12 lawyers will be here early. I'm coming from
13 Newberry. Is 9:00 okay?

14 THE JURY: (Nods heads.)

15 THE COURT: Okay. Now, just from what they
16 told me, we should be able to get the testimony done
17 most likely and be able to finish up tomorrow, you
18 know, after lunch. Now, if we don't start till
19 10:00, that may not happen. All right. I'll do my
20 very best to get here at 9:00 and we'll start then.
21 Okay?

22 All right. Y'all have notepads. Y'all put
23 them in the jury room and y'all organize them so you
24 can find them. Y'all are not allowed to discuss the
25 case. When you go home tonight, tell your families,

1 Judge said don't talk about the case. Okay? So see
2 you in the morning first thing, 9:00.

3 (The jury exits the courtroom at 3:06 PM.)

4 THE COURT: All right. We'll stand at ease.

5 (Court in recess for the evening.)

6 (In-chambers interviews were held at 9:32 AM,
7 July 16, 2014, of Juror No. 189, Juliana Williams,
8 and Juror No. 8, Agnes Key.)

9 THE COURT: All right. Here's what I've done:
10 I've talked with Ms. Williams, but they incorrectly
11 brought here in here. I didn't ask her any
12 questions. Then I sent for Juliana Williams, talked
13 with her, and she thought she knew the lady in the
14 white and black dress as Ms. Dunbar. Then I talked
15 to Ms. Key. Ms. Dunbar was a member of the jury
16 venire, she was riding with Ms. Key. She couldn't
17 leave yesterday to go home until Ms. Key could
18 leave. So that explains why she sat there all day
19 and didn't leave until Ms. Key left.

20 Now, I asked both of them, and there's a record
21 of it if it's needed, but it was, you know, did
22 y'all talk about the case, did anybody approach you
23 about the case. Both of them said no, and that they
24 could still be fair and impartial.

25 Do y'all wish me to inquire any further? And

1 that's why Ms. Dunbar is not here today because
2 she's not a family member. And I asked both of
3 them, do you -- have you been approached or do you
4 know anybody that would approach you, from either
5 the State's witnesses or the Defense's witnesses,
6 and they both said no.

7 Any further inquiry -- well, I think we're
8 good. Problem solved. It explains it, but it
9 certainly was an awkward-looking situation. Y'all
10 any further inquiry?

11 MR. ROUTZONG: No, sir.

12 THE COURT: All right. I'm going to bring them
13 in and tell them what I've done, on the record out
14 there once we get set up, and explain to them that,
15 you know, this is -- we wear green stickers in the
16 Eighth Circuit that say jurors. It's easy to
17 identify them like that.

18 All right. The record is closed on that issue.
19 Let's get back into the courtroom.

20 (Returned to the courtroom.)

21 THE COURT: All right. Now, for this record
22 out here, a matter regarding several of the
23 participating jurors was brought to my attention by
24 the attorneys involved in the case. After a brief
25 in-chambers conference, it was determined that I

1 would interview, in-camera, two of the jurors who
2 were involved in the conversation. That was done
3 and record was made on the stenographer's machine.

4 It appears that a juror -- member of the venire
5 not selected was riding with one of the
6 participating jurors who was seated, and she was
7 forced to remain in the courtroom all day because
8 she did not have a ride home and, thus, that was the
9 person who was communicating with the participating
10 jurors. And so I'm satisfied the two jurors who
11 were speaking with this lady represented to the
12 Court they could be fair and impartial in this
13 trial.

14 So is there anything further from any of the
15 attorneys they wish to put on the record now?

16 MS. HAMMACK: Not from the State, Your Honor.

17 MR. ROUTZONG: No, sir.

18 THE COURT: All right. Bring them in, please.

19 (The jury enters the courtroom at 9:34 AM.)

20 THE COURT: All right. Ladies and gentlemen of
21 the jury, sorry for the delay in starting. Like I
22 told y'all earlier, this is my first time to hold
23 court in Aiken. I'm from up in the Eighth Circuit;
24 I hold a lot of court in Greenwood, Laurens, my
25 hometown of Newberry, I actually hold a lot of court

1 there, but mostly the other two bigger counties.
2 Every county does things just a little bit
3 different. And I noticed y'all don't have an
4 identification badge on you. In Laurens and
5 Newberry, we give out stickers that are green, that
6 are about that big, that say jury in white and green
7 stickers. And I always tell jurors, look -- you
8 know, if I'm in Newberry, I know most of the jurors
9 because that's my hometown.

10 And now that y'all are seated on this jury,
11 y'all be very aware that the lawyers and the
12 participants in the case are not allowed to interact
13 with y'all or talk with you. They can say good
14 morning, hello, but that's about it. They're going
15 to give you the cold shoulder. So if you notice any
16 of the lawyers and you know them -- and you may or
17 may not, it doesn't matter. In Newberry, everybody
18 knows everybody and tends to their business for
19 them. But here in Aiken, I don't know who knows who
20 and I don't care. I mean, it seems like a very nice
21 town.

22 If you notice one of the lawyers or one of the
23 witnesses or one of the participants in trial not
24 speaking any more than that, don't take that against
25 the person, because it's a Court's ruling. Y'all

1 may not have know. But as I told you, these people
2 involved in the case are not allowed to speak with
3 you or try to influence you and your decision in the
4 trial. Y'all are deciding this based upon the
5 testimony and evidence presented in the courtroom,
6 not about a conversation that occurred somewhere
7 else with someone else or on Facebook or Twitter or
8 whatever.

9 And so it was brought to my attention there was
10 a conversation outside. Turned out to be an
11 innocent conversation, had nothing to do with the
12 trial, nothing to do with any of the witnesses or
13 participants. But I took extra careful time to make
14 certain that was the case and not something
15 otherwise. Now, I tell you that with the green
16 badges we have back home that -- I tell the
17 participants, if you see someone with a green badge,
18 you best steer clear of them because we don't want
19 to look like we're trying to influence anyone. They
20 can influence you in here -- they're allowed to
21 influence you right here all they want; outside, I
22 don't have the benefit of the court reporter, so I
23 don't see it or hear it myself.

24 So that's what took me a little time to address
25 that and sort it out, and there's no issue but for

1 that explanation. And now y'all know, if anyone
2 tries to approach you, I need to know about it.
3 I'll address it, because if someone is on the
4 outside trying to get to you, then that's not good
5 because that's not proper and that's part of my job
6 is to see to it that y'all are presented the case in
7 the courtroom properly and under the rules of South
8 Carolina. So that's my explanation.

9 Now, one other thing: We got an additional
10 court reporter in the courtroom right here, the
11 young lady in black. She's here practicing to
12 become a court reporter. So the case hasn't gotten
13 more important overnight or anything like that. But
14 she's a different kind of court reporter; instead of
15 doing it like Bethanie, she does it like this. So
16 she's in there practicing to take her test to become
17 a court reporter next week. So thumbs up to her.
18 So if y'all were wondering what she's here about,
19 she's new to the courtroom, she's just trying to get
20 the job this lady has for a different judge. Okay?

21 Ms. Hammack, you ready?

22 MS. HAMMACK: The State's ready, Your Honor.

23 THE COURT: Mr. Routzong?

24 MR. ROUTZONG: Yes, sir.

25 THE COURT: All right. Call your witness.

1 MR. GRIMES: State calls Anne Laver.

2 ANNE LAVER

3 being first duly sworn, testified as follows:

4 THE WITNESS: Yes.

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

6 State your full name for the Court and spell your
7 last.

8 THE WITNESS: My name is Anne Laver, L-A-V-E-R.

9 DIRECT EXAMINATION

10 BY MR. GRIMES:

11 Q. Good morning, Ms. Laver.

12 A. Good morning.

13 Q. Can you tell us where you work.

14 A. I work at the Child Advocacy Center in Aiken,
15 South Carolina.

16 Q. And what do you do there?

17 A. I'm the program coordinator and I interview
18 children at the center.

19 Q. Do you have training to interview children?

20 A. I do.

21 Q. And what type of training is that?

22 A. I have completed the basic training and
23 numerous advanced trainings in interviewing
24 children.

25 Q. And do you have an estimate of about how many

1 times you've interviewed children?

2 A. Probably between 2,300 and maybe 2,500.

3 Q. Did you conduct an interview in the case we're
4 here on today with Minor

5 A. Yes, sir.

6 Q. And do you recall about when that interview was
7 conducted?

8 A. In 2011.

9 Q. And do you recall how old Minor was?

10 A. She was eight.

11 Q. Okay. I'm going to show you what's been marked
12 as State's Exhibit 5 and ask you if you recognize
13 this.

14 A. Yes, sir.

15 Q. And what is this?

16 A. That is a video recording of the interview
17 conducted at the Child Advocacy Center.

18 Q. And is that your initials on it that you've
19 identified it?

20 A. Yes, sir.

21 Q. All right.

22 MR. GRIMES: At this time, the State would move
23 to introduce State's Exhibit 5 into evidence.

24 THE COURT: Mr. Routzong?

25 MR. ROUTZONG: No objection.

1 THE COURT: All right.

2 (State's Exhibit No. 5 admitted into evidence.)

3 MR. GRIMES: And we'd ask to publish that at
4 this time.

5 THE COURT: All right. I see y'all have a
6 fancy video player out here, do you not?

7 MR. GRIMES: Yes, Your Honor. It comes out of
8 this box.

9 THE COURT: All right, folks. Is this the
10 video y'all told me is about an hour?

11 MS. HAMMACK: Yes, Your Honor.

12 THE COURT: All right. This is -- I've had to
13 view this video preliminarily to make certain it was
14 done in accordance with the statutes, and it was.
15 So now you'll get to view it. So I'm not going to
16 come over there and watch it again, I'm going to
17 listen to it because I've already seen it. So enjoy
18 the candy. After the video is over, we'll probably
19 take a break because it's a 57-minute stretch.

20 (Video played for His Honor and the jury.)

21 THE COURT: All right. While we get the video
22 screen collapsed, let's take a short break. Y'all
23 have been sitting there for a while watching that
24 video. Step into the jury room, don't discuss the
25 case, and we'll have you back out here in just a

1 little bit.

2 Now, I was asked earlier -- during this break
3 the bailiffs asked me, he said, it's normal during a
4 jury trial that we try to work through lunch a
5 little bit, and the jurors order lunch. They've
6 asked me, would y'all like to order lunch? If so,
7 y'all need to make an order soon so they can get in
8 the process of getting it for you. And what it'll
9 do is kind of assure we get done with the case
10 today. Does that interest y'all?

11 THE JURY: Yes.

12 THE COURT: All right. Mr. Whittle, check on
13 their lunch when they're back from this break.
14 That'll be the main task for them to do other than
15 take a break. So y'all step in the jury room and
16 discuss what they're going to get for you.

17 (The jury exits the courtroom at 10:33 AM.)

18 THE COURT: All right. We'll stand at ease for
19 a few minutes.

20 (Short break.)

21 THE COURT: All right. Bring the jury back in,
22 please, Mr. Whittle.

23 (The jury enters the courtroom at 10:56 AM.)

24 THE COURT: All right. Mr. Grimes, still your
25 witness.

1 MR. GRIMES: No further questions for this
2 witness, Your Honor.

3 THE COURT: All right. Mr. Routzong, your
4 witness.

5 MR. ROUTZONG: I don't have any questions, Your
6 Honor.

7 THE COURT: Well, if I would've known that, I
8 would have done it before the break. That's okay.

9 Ms. Laver, you may step down.

10 Ms. Hammack?

11 MS. HAMMACK: Your Honor, at this time the
12 State rests.

13 THE COURT: I'll tell you what, I need to put
14 something on the record real quick, so y'all step
15 back in the jury room. This won't take long. I
16 didn't anticipate them having no questions and
17 resting that quick.

18 (The jury exits the courtroom at 10:58 AM.)

19 THE COURT: All right. Now, Mr. Routzong, you
20 want to make any motions?

21 MR. ROUTZONG: Yes, sir. At this time the
22 Defense moves for a directed verdict in our favor,
23 Your Honor. Viewing the evidence in the light most
24 favorable to the State, the State has failed to
25 provide any credible evidence for the finder of fact

1 to consider.

2 THE COURT: All right. Respectfully, the Court
3 took notes. The young lady, in and her testimony as
4 well as her interview, testified to several
5 different instances regarding an act while she was
6 laying on her stomach, an act while she was laying
7 on her back, as well as an act while she was in
8 another house that involves her sitting, I believe,
9 and testified that those three acts, separately,
10 happened multiple times.

11 So the Court would find there is facts upon
12 which the jury can consider whether or not the
13 criminal sexual conduct first, as well as the lewd
14 act, codifies criminal sexual conduct third in fact
15 occurred, and jurisdiction was met, the defendant
16 was identified, as well as the location of the homes
17 within Aiken County. So I'm going to respectfully
18 deny that motion.

19 Anything else?

20 MR. ROUTZONG: Not from the Defense, Your
21 Honor.

22 THE COURT: All right.

23 Y'all ready?

24 MS. HAMMACK: Your Honor, at this time, the
25 State would ask that Your Honor inquire as to

1 whether the defendant intends to testify. And if
2 so, we need to address his criminal history.

3 THE COURT: All right. Let's do that.

4 All right. Mr. Robertson, I've got to advise
5 you of certain rights. You have the Constitutional
6 right to remain silent. No one can make the
7 decision as to whether you wish to testify or wish
8 to not testify other than you. You can talk with
9 your two attorneys, with your family, with your
10 family and your attorneys. The long and short of it
11 is, when it's time to decide that, your lawyers give
12 you advise, but you make that decision.

13 Now, if you choose to not testify, I will
14 instruct the jury -- and I've already preliminarily
15 told them this, that if you chose not to testify and
16 exercise that Constitutional right to remain silent,
17 that I would tell the jury in their instructions
18 before they deliberate, they could not discuss your
19 failing to testify in any manner whatsoever; that
20 that would be a subject off limits, that your
21 exercising that right was your right, and theirs not
22 to discuss. And thus, the jury would have to
23 consider the case only on what the -- was presented
24 to them and they could not consider or even discuss
25 your failing to testify. Do you understand that?

1 THE DEFENDANT: I do.

2 THE COURT: Now, if you choose to testify and
3 choose to take the stand, what Ms. Hammack has told
4 me moments ago is that -- and I don't know anything
5 about any criminal history you have. But she will
6 be allowed to use convictions of certain types and
7 ask you questions about those convictions and when
8 they were and did you actually have them, if you
9 chose to testify, as an attack on your credibility.
10 Do you understand the State has that right if you
11 take the stand?

12 THE DEFENDANT: I do.

13 THE COURT: Ms. Hammack what type of record do
14 you have verified that you could use?

15 MS. HAMMACK: You want the ones the State
16 intends to use, Your Honor?

17 THE COURT: Yes.

18 MS. HAMMACK: He's got three forgeries out of
19 Georgia from 2004, two forgeries out of Aiken from
20 2004, he's got a burglary from Edgefield from 2005,
21 a giving false information to law enforcement from
22 Aiken in 2008, two fail to stop for blue lights in
23 Aiken in 2011, and a possession of stolen vehicle
24 from 2011.

25 THE COURT: All right. Mr. Routzong, as far as

1 that record goes, what say you about his -- the use
2 by the State of those convictions as attacks on his
3 credibility for impeachment purposes?

4 MR. ROUTZONG: Upon my review, Your Honor, I
5 agree; I think that the State can use those, Your
6 Honor.

7 THE COURT: I agree with you.

8 All right. Now, Mr. Robertson, understand the
9 State can, basically in their cross-examination,
10 say, Mr. Roberston, you just testified in front of
11 this jury, but isn't it true that you have that list
12 of convictions that Ms. Hammack just cited. You'd
13 have to testify as to your understanding of those
14 convictions. Do you understand?

15 THE DEFENDANT: I do.

16 THE COURT: So I want you to have ample time to
17 speak with your lawyers after my now having advised
18 you of these rights. Do you need more time with
19 your lawyers to decide whether or not you wish to
20 testify? If you do, I'll grant you some extra time.
21 Do you need any time?

22 THE DEFENDANT: No.

23 THE COURT: Mr. Routzong, have y'all had ample
24 time to speak with him about this prior to my
25 colloquy with him?

1 MR. ROUTZONG: Yes, sir. I spoke with him
2 briefly this morning about this issue and he, in my
3 opinion, was very clear on what will happen if he
4 testifies, what the State can do.

5 THE COURT: Okay. And other than this morning,
6 you've also counseled him many other times?

7 MR. ROUTZONG: I don't recall ever speaking to
8 him before about the State being able to impeach him
9 any other time but this morning.

10 THE COURT: Okay. I'll tell you what we're
11 going to do --

12 MR. ROUTZONG: If I did, I don't recall.

13 THE COURT: All right. I'm going to give you a
14 few extra minutes right now to talk with him and
15 Mr. Hayes. Y'all discuss that with him, and then
16 when y'all are ready to proceed, just tell me so.
17 I'll just sit here at ease. If y'all need to step
18 out, y'all may; I don't mind that at all. We'll
19 stand at ease until they come back in here.

20 (Brief pause in the proceedings.)

21 THE COURT: Mr. Routzong, have you had enough
22 time?

23 MR. ROUTZONG: Yes, sir.

24 THE COURT: Mr. Robertson, have you had enough
25 time to speak with your lawyers?

1 THE DEFENDANT: I have.

2 THE COURT: All right. Bring the jury back out
3 and we'll get going.

4 (The jury enters the courtroom at 11:14 AM.)

5 THE COURT: All right. We're ready to
6 continue. The observation that I have of jurors, a
7 lot of time people acclimate to their seat and
8 that's kind of their space and their area. Other
9 than the two alternates that were told to stay
10 there, y'all have kind of shifted around. So
11 congratulations, y'all have a new-found appreciation
12 for the old jury box.

13 All right. Mr. Routzong?

14 MR. ROUTZONG: The Defense calls Captain
15 Abdullah with the sheriff's department, Your Honor.

16 ERIC ABDULLAH

17 being first duly sworn, testified as follows:

18 THE WITNESS: Yes.

19 THE CLERK: Have a seat in the witness box,
20 stating your full name and spelling your last.

21 THE WITNESS: Eric Mohammed Abdullah,
22 A-B-D-U-L-L-A-H.

23 DIRECT EXAMINATION

24 BY MR. ROUTZONG:

25 Q. Good morning, Captain Abdullah.

1 A. Good morning.

2 Q. I'll be brief. I don't have a whole lot of
3 questions. Where do you work at?

4 A. I work for the Aiken County Sheriff's Office.

5 Q. And you're familiar with the fact that this is
6 the trial of Ralphael Robertson?

7 A. Yes, sir.

8 Q. Do you know Jessica Roberts?

9 A. I do.

10 Q. And Marquez Roberts?

11 A. Yes.

12 Q. What is their relationship to Santana Gonzalez?

13 A. Santana Gonzalez is Jessica Roberts' sister and
14 Marquette Roberts is Santana's nephew, which is
15 Jessica Roberts' son.

16 Q. What is your relationship, if any, with
17 Jessica?

18 A. Well, we both work at the sheriff's office and
19 she is my girlfriend.

20 Q. Okay. Did there come a time when you became
21 involved in any way with this case?

22 A. Yes. I took the initial incident report and
23 referred it to our investigations.

24 Q. And you signed off on your own report?

25 A. Yes, sir.

1 Q. How did you become aware that there were
2 allegations?

3 A. I was notified by Jessica Roberts.

4 Q. If you know, can you tell me how she found out?

5 A. I believe -- well, other than -- I believe that
6 her son told her. And then she contacted me to take
7 the initial report.

8 Q. Did you have an opportunity to speak with
9 Marquez?

10 A. Yes, I did.

11 Q. Did you become aware of any investigation that
12 Marquez did?

13 A. He told me that he --

14 Q. You don't have to say what he said, just
15 that --

16 A. But yes.

17 Q. Okay. Are you aware of whether or not anybody
18 notified DSS about these allegations?

19 A. I don't have any knowledge of that.

20 Q. You didn't?

21 A. No, sir.

22 Q. Are you familiar with your policy and
23 procedures manual from the sheriff's department?

24 A. I'm familiar with it.

25 Q. What are you supposed to do, if anything, when

1 an allegation arises and you're part of the
2 investigation?

3 A. I'm not quite understanding.

4 Q. Are you supposed to notify DSS?

5 A. I'm not aware if I should or not, other than do
6 the initial report and refer to our investigator.

7 Q. I have a copy of the policy and procedures.
8 Would you like to look at it and kind of refresh
9 your memory?

10 A. Sure.

11 Q. Don't read it out loud, just refresh your
12 memory.

13 Are you supposed to notify DSS?

14 A. Looking at that policy, sir?

15 Q. Yes, sir.

16 A. According to the policy, we are supposed to
17 notify them. But we do that through our juvenile
18 investigations.

19 Q. Captain Abdullah, as the captain in the
20 sheriff's department, do you think it would be
21 advisable when a charge of criminal sexual conduct
22 is made and it involves the family members of Aiken
23 County Sheriff's Department, do you think it's
24 advisable that that be turned over to a different
25 agency to investigate?

1 A. Not necessarily I don't.

2 Q. I don't have any other questions. Please
3 answer any questions the State has for you.

4 CROSS-EXAMINATION

5 BY MR. GRIMES:

6 Q. I know you talked to Mr. Routzong about the
7 fact that you took the initial report in this case.
8 What is the initial report?

9 A. The initial report is -- is, you know, when we
10 have a complaint of information, we document that
11 initial complaint and as -- and then we refer it to
12 who it may go to or if it's going to be for a
13 continual investigation or if it's going to be admin
14 closed.

15 Q. Is it at the beginning of the investigation or
16 the end?

17 A. It's at the beginning.

18 Q. Okay. And an initial report of a CSC case or
19 any case involving children as the victim or a
20 witness or a defendant, where would that initial
21 report go?

22 A. That initial report will be forwarded to our
23 juvenile investigations division.

24 Q. All right. Are you in the juvenile
25 investigations division?

1 A. No. At the time I took the initial incident
2 report, I was assigned to the uniform patrol
3 division.

4 Q. Did you have any involvement -- after you took
5 this initial report, did you have any involvement in
6 this investigation?

7 A. No, sir.

8 MR. GRIMES: No further questions.

9 THE COURT: Any redirect?

10 REDIRECT EXAMINATION

11 BY MR. ROUTZONG:

12 Q. You don't disagree with me that you signed off
13 on your own report?

14 A. I did sign off on my own report, sir.

15 Q. If there was a car wreck involving the Aiken
16 County Sheriff's Office employee, what's the
17 procedure for that?

18 A. If it's a county vehicle, i.e., if they were in
19 their patrol car and they were involved in a traffic
20 collision, the uniform patrol supervisor will do an
21 internal investigation, do an incident report, and
22 the South Carolina Highway Patrol will be notified
23 to conduct the collision report.

24 Q. So on a car wreck when there's a county
25 employee involved, your testimony is you call

1 highway patrol and they investigate?

2 A. Well, yes, a -- it's a joint investigation; one
3 that's conducted by the patrol supervisor, as long
4 as it's a uniform patrol vehicle or a county patrol
5 car, and we also call South Carolina Highway Patrol
6 as well.

7 Q. Thank you very much.

8 MR. ROUTZONG: I don't have any other
9 questions, Your Honor.

10 THE COURT: Anything else?

11 MR. GRIMES: Your Honor, just briefly.

12 RECROSS-EXAMINATION

13 BY MR. GRIMES:

14 Q. This investigation didn't involve any
15 allegations of conduct by any sheriff's department
16 employees; is that correct?

17 A. That's correct.

18 MR. GRIMES: No further questions.

19 THE COURT: All right.

20 You may step down, Captain.

21 MS. HAMMACK: Your Honor, may the Captain be
22 released from his subpoena at this time?

23 THE COURT: Sure. I don't think we need him
24 anymore.

25 Okay. Any others?

1 MR. ROUTZONG: Your Honor, we call Mr. Ralphael
2 Robertson.

3 THE COURT: All right. Mr. Robertson, come
4 forward to be sworn.

5 RALPHAEL ROBERTSON
6 being first duly sworn, testified as follows:

7 THE DEFENDANT: Yes, ma'am.

8 THE CLERK: Have a seat in the witness box,
9 stating your full name and spelling your last.

10 THE DEFENDANT: Ralphael Robertson,
11 R-O-B-E-R-T-S-O-N.

12 DIRECT EXAMINATION

13 BY MR. ROUTZONG:

14 Q. Mr. Robertson, make sure you speak right into
15 that microphone. You're kind of soft-spoken.

16 How old are you, Mr. Robertson?

17 A. I'm 28.

18 Q. You've lived in Aiken all your life?

19 A. No, I haven't.

20 Q. Where did you live at before?

21 A. Maryland -- Baltimore, Maryland.

22 Q. How long have you been in the Aiken area?

23 A. About 13, 14 years.

24 Q. Now, Mr. Robertson, I'm going to ask you some
25 questions about your criminal record. Are you the

1 same Raphael Robertson that has several forgery
2 convictions?

3 A. I am not.

4 Q. Are you the same Raphael Robertson that has a
5 burglary, false information, failure to stop for
6 blue lights, stolen vehicle? Are you the same
7 Raphael Robertson?

8 A. I am not.

9 Q. You don't have any convictions for any of
10 those?

11 A. Yes, I do.

12 Q. Okay. So that's -- you are that person?

13 A. Oh, I'm sorry, I am. I committed those crimes.
14 I am.

15 Q. Okay. Mr. Robertson, how did you become
16 involved with Ms. Santana Gonzalez?

17 A. I met her through a mutual friend named
18 Antoinette at Academy Apartments in Graniteville
19 about -- around 4th of July. I took my niece down
20 there to pop firecrackers and I met Santana. She
21 was down there with my cousin Antoinette. I met her
22 there.

23 Q. Where was that?

24 A. In Graniteville.

25 Q. How long have you known her?

1 A. About six, seven years -- Santana?

2 Q. No -- yes.

3 A. Oh, yeah. Yeah, about six, seven years.

4 Q. And Minor was born at that time?

5 A. Right, right, right.

6 Q. How old was she?

7 A. She might have been about three, four.

8 Q. You've known her since she was three or four?

9 A. Right.

10 Q. What relationship did you have with Santana?

11 A. Beginning, it was platonic, we just having fun.
12 Then things got serious, so we started dating.

13 Q. What do you mean by serious?

14 A. I mean, we was having sex, but she wanted to go
15 a little bit further than that. And I just had met
16 her, so I was like trying -- just on shaky grounds.
17 So I was like, well, why not? You know, she had a
18 job, I didn't have a job; she'd do things for me,
19 you know, take me out to eat, those types of things.
20 You know, and she was different, so I gave her a
21 shot.

22 Q. How would you characterize your relationship a
23 little bit later on?

24 A. Real strainious [sic]. I wasn't really -- you
25 know, 'cause I had just got out of prison when I met

1 her, so it was kinda -- I was still kinda on a
2 rebound situation. I was dating another female at
3 the time, so it was kinda -- I was just, like,
4 bouncing around with her and another girl. So --
5 and they was, like, bickering back and forth because
6 one girl named Shawnae [phonetic], she was black,
7 she had a problem with Santana being white. And so
8 Santana had a problem with her being black. So it
9 kind of just like -- you know, Facebook beef, stuff
10 like that. So I was kind of a in rock and a hard
11 place.

12 Q. Did you ever move in with Santana?

13 A. I did.

14 Q. How long did you stay with her?

15 A. I was off and on. I was staying with my sister
16 Jackie and Michelle -- I was staying with Michelle
17 for a long time. But I was bouncing around from my
18 mom house to my sister, Santana, back and forth.

19 Q. Is that the same Michelle Williams that has
20 been referred to by Minor and Santana, different
21 testimony?

22 A. It is.

23 Q. What relationship did you have with her, if
24 any?

25 A. I known Michelle for probably when I first

1 moved down here, because she's from New York. So I
2 used to date her sister. So when me and her sister
3 broke up, me and Michelle kept a real good
4 relationship. She's bisexual, so it was not -- we
5 never was involved with each other. So she was kind
6 of like my sister, so I moved in with her. That's
7 how I met Santana from being at Academy.

8 Q. How did you become aware of these allegations?

9 A. April 2011, I got a call. I went to Maryland
10 to visit family. Santana called me, she was like,
11 you know, we have something to talk about you get
12 back. So I was like, what's going on? She was
13 like, well, we'll just talk about it when you get
14 home. And I kind of knew -- I been dating her for a
15 long time, so I kind of knew she -- it was something
16 important, because she don't just call me out the
17 blue. It was, like, in her voice.

18 So I was like, what's going on? She was like,
19 well, I talked to Minor and she said -- she caught
20 Minor and La-La in the tub. And I was like, what
21 was going on? She was like, well, they was doing
22 something, touching each other. I'm like, okay. So
23 she was like, well, when you get back, we're gonna
24 talk to her. I was like, all right. So when I got
25 back, we talked to her.

1 Q. Do you believe that's the same incident that's
2 been testified here in court --

3 A. Yes.

4 Q. -- the touching incident?

5 A. Yes.

6 Q. What, if anything, did you do when you came
7 back from Maryland?

8 A. Well, they was -- Michelle was in the flux of
9 moving from Kalmia to a sister house -- to another
10 sister house. So when I came back, I helped them
11 move. It was about around June. But I had to come
12 to court in August, that's when I had to come -- I
13 remember what time it was.

14 So when I helped them move to Shawn house,
15 Santana, she was staying there then, she moved to
16 her sister house, Jessica house. So about -- I'd
17 say about two weeks, Santana lost her job. And she
18 was like, man, you know, my sister, she's really on
19 my back about, you know, me not having no money, me
20 picking up around bills. And I'm like, okay, you
21 know what I'm saying, I'll holler at my mom.

22 So I asked my mom could she move in with her.
23 But my mom, she had just lost her job. So my mom
24 was like, nah, she can't move in with me because
25 your brother is paying my bills. So then I asked my

1 father. So my father was like, yeah, she can move
2 in with me. So I moved her in with father. I'm
3 staying at Shawn house. Her and my father fell out,
4 so then she went back to her grandma house, Santana
5 did. Then she was like, well, it's packed over
6 here, it's a lot of kids over here, this, that, and
7 et cetera.

8 So I was like, well, I'm gonna ask Shawn could
9 you move in. So I asked Shawn. This was around
10 July, so I still got to come to court in August. So
11 around July, she moved to Shawn house and I went to
12 prison in August.

13 Q. When you were in prison, who came to see you?

14 A. My mom, my sister, Santana, **Minor** came to see
15 me. That was it.

16 Q. Anybody from law enforcement?

17 A. No.

18 Q. Mr. Robertson, it sounds like you've had kind
19 of an extended intimate relationship in that -- and
20 I know it's not particularly pleasant to talk about,
21 but there's been some testimony that you had videos
22 together with Santana. Can you tell us about that?

23 A. I mean, we was -- we was pretty active. So, I
24 mean -- and, you know, watched porn or whatever.
25 And I was like, well, let's make a movie. So we

1 made a couple movies at our house. We made like
2 three there and, like, two at Michelle house.

3 Q. Have you ever seen any other movies involving
4 Santana --

5 A. Yeah --

6 Q. -- that didn't include you?

7 A. Oh, yeah, yeah, yeah --

8 MS. HAMMACK: Your Honor, I'm going to object.
9 That's character evidence.

10 MR. ROUTZONG: Your Honor, there's been
11 testimony from the mother that the child says, I saw
12 it somewhere.

13 THE COURT: I agree with you. I think you can
14 ask the question you just did. But as far as
15 getting into the details of that, I think that would
16 not be relevant.

17 MR. ROUTZONG: Yes, sir.

18 BY MR. ROUTZONG:

19 Q. To your personal knowledge, had you ever seen
20 Minor watching any of these kinds of videos?

21 A. No.

22 Q. When you came back from Maryland, how would you
23 characterize your relationship with Santana?

24 A. I mean, like I said, I came back around May,
25 June -- yeah, it had to be around May, June -- I say

1 June. We was still -- we actually talked to Minor
2 about it one time. We sat her down and I was like,
3 well, Minor your mom said that you said that I did
4 something to you --

5 Q. You can't say anything anybody else said.

6 A. Okay, okay, okay. Well, like I said, when she
7 moved from Michelle house, she moved to Jessica
8 house then. So, I mean, we was still -- we was
9 still dating. It was strong, it was really heavy,
10 it was very heavy. I mean, like I said, when I went
11 to prison in August, she was coming to see me.

12 Q. When you came back from Maryland -- and this
13 would have been after this initial disclosure to her
14 mom, alleged disclosure -- you were still with
15 Santana. Were you watching Minor as well
16 sometimes?

17 A. Well, I mean, we was still dating. Like I
18 said, she moved in with my father, then we moved in
19 Shawn house together. So I was trying to help them
20 out.

21 Q. Now, there came a time when you weren't dating
22 Santana anymore.

23 A. Right.

24 Q. When was that?

25 A. About around January of 2012.

1 Q. Prior to that, were you dating -- seeing other
2 women?

3 A. Yeah. I was seeing Shawn and a girl named
4 Fawn.

5 Q. Were you aware of any time that -- that -- or
6 do you have the impression that Santana knew about
7 this?

8 A. Oh, yeah, she knew. I mean, she used to take
9 me to their house. I mean, the type of relationship
10 me and Santana had was -- and she don't really care
11 if I see other people as long as I use protection.
12 I think her exact words were, it turns her on to see
13 me with other women because she knows that I would
14 be the one going home with her at night.

15 Q. Mr. Robertson, you've been here all week,
16 you've heard this testimony from all of the folks
17 concerned, including Minor [REDACTED] [REDACTED] alleged some
18 very vile things that she says that you did to her.
19 Did you do any of those things?

20 A. I did not.

21 Q. You never touched her butt?

22 A. No.

23 Q. Did you ever touch her private parts?

24 A. No.

25 Q. Her breasts?

1 A. No.

2 Q. Why not?

3 A. She's a child. I mean, my sister has six
4 daughters, Michelle has La-La. I mean, I've been
5 around women my whole life. That's what I do, raise
6 kids, I help them. I mean, I don't have any, so I
7 have nieces and nephews and I'm like the cool uncle,
8 if you want to call it that. So I always helped
9 out. It was never -- she's a child. I was dating
10 other women.. Doesn't make sense.

11 Q. Mr. Robertson, do you have anything else that
12 you'd like the Court to know?

13 MS. HAMMACK: Your Honor, I'm going to object
14 to that question. That -- it needs to be a little
15 more pointed. That opens up to any possible
16 inadmissible testimony.

17 THE COURT: THE COURT: I'll let you rephrase
18 it. How about that?

19 BY MR. ROUTZONG:

20 Q. Is there anything else you'd like to say?

21 MS. HAMMACK: Same objection, Your Honor.

22 THE COURT: I'm going to let him answer it.

23 A. Yeah. I would be a lie to tell y'all that I'm
24 not afraid, scared, nervous. I mean, it's my trial,
25 you know. I picked all of you, so -- but I'm also

1 anxious to prove that I didn't do it. And I want to
2 let y'all know that the same question I keep asking
3 myself is, why would she say me? I mean, I don't --
4 and I wish I had an answer. I don't have an
5 answer --

6 MS. HAMMACK: Your Honor, I'm sorry. I've got
7 to object. This is a narrative; this isn't a
8 response to the question.

9 THE COURT: I'm going to agree with that.

10 All right. You want to rephrase that question,
11 you may.

12 MR. ROUTZONG: I don't have any other
13 questions, Your Honor.

14 Mr. Robertson, please answer any questions the
15 State has for you.

16 CROSS-EXAMINATION

17 BY MS. HAMMACK:

18 Q. Mr. Robertson, you want this jury to believe
19 today that you didn't do any of these things that
20 Minor says you've done; right?

21 A. No.

22 Q. You don't want this jury to believe that you
23 did this; right?

24 A. I want --

25 Q. You want them to believe you; right?

1 A. I want them to know that I didn't do it.

2 Q. Okay.

3 A. I don't want them to believe it.

4 Q. Okay. And you're up here telling them this
5 here today. And, like you said, you're the same
6 Ralphael Robertson that got convicted of forgery in
7 2004; right?

8 A. Correct.

9 Q. Actually, one forgery. A second forgery in
10 2004?

11 A. I don't have my record here.

12 Q. Okay. Would you disagree with me if I said
13 five forgeries in 2004?

14 A. No, I probably wouldn't.

15 Q. Okay. Same Ralphael Robertson that was
16 convicted of burglary second degree in 2005?

17 A. Right.

18 Q. Same Ralphael Robertson that was convicted of
19 giving false information to the police in 2008?

20 A. Right.

21 Q. Same Ralphael Robertson that was convicted of
22 failing to stop for a blue light in 2011?

23 A. Right.

24 Q. Two times in 2011?

25 A. No; it was the same incident.

1 Q. And the same Ralphael Robertson that was
2 convicted of possession of a stolen vehicle in 2011?

3 A. Same incident.

4 MS. HAMMACK: I don't have a single question
5 for you.

6 THE COURT: Any redirect?

7 REDIRECT EXAMINATION

8 BY MR. ROUTZONG:

9 Q. Mr. Robertson, are you an angel?

10 A. No.

11 Q. Are you a pedophile?

12 A. No.

13 Q. Did you molest Minor

14 A. I did not.

15 Q. Did you touch her in any way inappropriate?

16 A. I did not.

17 MR. ROUTZONG: No further questions, Your
18 Honor.

19 THE COURT: Ms. Hammack, anything else?

20 MS. HAMMACK: No, Your Honor.

21 THE COURT: All right. You may step down.

22 Mr. Routzong, anything else?

23 MR. ROUTZONG: The defense rests, Your Honor.

24 THE COURT: All right. Ms. Hammack, anything
25 in rebuttal?

1 MS. HAMMACK: No, Your Honor.

2 THE COURT: All right. We're going to take a
3 short break. We're going to step in the jury room.
4 Y'all are free -- you can't begin discussing the
5 case because I haven't given you my instructions.
6 I'm going to utilize the next few minutes to talk to
7 the lawyers about my instructions to you and try to
8 get an idea of how long they're going to summarize
9 their cases to you. That's what comes next is
10 summarize, I instruct you, then y'all deliberate.

11 Mr. Whittle and I faxed our order in. They
12 said 11:45, but they expect to be a few minutes
13 late. They're going to deliver it, so we're looking
14 at 18 minutes to the hour. It could be here at any
15 moment. Y'all are kind of at ease until lunch gets
16 here, then enjoy your lunch. By that time I will
17 have done what I need to with the lawyers. So once
18 we all get finished eating, we'll start back
19 working. Okay? So y'all are at ease. If y'all
20 want to step outside and smoke or utilize your cell
21 phones, you can, as long as you don't discuss the
22 case yet. Okay? So if y'all want to step outside
23 and stretch your legs, y'all are free to do that.
24 Y'all don't have to sit in that jury room.

25 (Jury exits the courtroom at 11:43 AM.)

1 THE COURT: I'm going to print up my
2 instructions that I use. I'm going to let y'all see
3 it. And then if y'all have objections to it, we'll
4 go from there.

5 All right. Any other motions from the Defense?

6 MR. ROUTZONG: Renewed directed verdict, Your
7 Honor.

8 THE COURT: And for the same basis I denied the
9 motion at the close of the State's case, I
10 respectfully deny at this point also.

11 MR. ROUTZONG: Thank you, Your Honor.

12 THE COURT: All right. We'll stand at ease
13 until we get the instructions printed out. I'm
14 going to let y'all see it and y'all can utilize it
15 if you want. I always get asked, what's your
16 reasonable doubt charge? I say it both ways: A
17 reasonable doubt is the kind of doubt that would
18 cause a reasonable person to hesitate to act, and a
19 reasonable doubt will have you firmly convinced. I
20 use both of them, so it's both in there. You'll see
21 it when it comes up. I liked predictability when I
22 was a lawyer, knowing what the judge was going to
23 say a little bit. So I'm going to try to pass that
24 along for y'all. I believe also in there is the not
25 required to be corroborated by the victims in there

1 as well as the specific time is not an element of
2 that statute.

3 Now, how do y'all suggest we instruct --
4 because this has got the criminal sexual conduct
5 third statutory language with definitions from the
6 former lewd act language. How do y'all wish to do
7 this? I saw the indictments were for lewd act.

8 MS. HAMMACK: At the times of the incidents,
9 lewd act was still the law. So that's why it's
10 indicted under the lewd act, because that was the
11 applicable statute for the incident times.

12 THE COURT: Okay.

13 MR. ROUTZONG: I agree with that, Your Honor.

14 THE COURT: I'll charge lewd act.

15 All right. We'll stand at ease.

16 (Luncheon recess.)

17 THE COURT: The attorneys have seen the
18 instructions that I intend to read from. Are there
19 any exceptions to that instruction as it's written?
20 Now, I'll ask you again at the very end because I
21 may not read it exactly as that, it may come out
22 differently. So do y'all have an idea now what I'll
23 say? Is that sufficient from what I told you
24 earlier I would give?

25 MS. HAMMACK: Yes, Your Honor.

1 MR. ROUTZONG: Yes, sir.

2 THE COURT: All right. Y'all ready to go?

3 MS. HAMMACK: Yes, Your Honor. I'm going to
4 waive opening on the law.

5 THE COURT: Very well.

6 Mr. Routzong, you'll start then.

7 MR. ROUTZONG: Yes, sir.

8 THE COURT: Very well. Bring the jury in,
9 please.

10 (The jury enters the courtroom at 1:07 PM.)

11 THE COURT: You heard all of the testimony
12 presented. It's now an opportunity for the lawyers
13 to summarize what they believe has been presented
14 from the witness stand and with the evidence
15 introduced. As soon as the lawyers are done
16 summarizing, then I'll give you my instructions on
17 the law and what to do in your deliberations. And
18 by that time, I'll have my verdict form for you
19 also. All right. I'll be working on that and let
20 y'all know about that.

21 All right. Mr. Routzong.

22 MR. ROUTZONG: May it please the Court.

23 Ladies and gentlemen, you remember the opening
24 statements everybody made yesterday. And I tried to
25 indicate to you what your responsibilities are in

1 terms of how you're supposed to view the evidence.
2 It would be so easy in a case like this to see a
3 young girl and she says some very violent things
4 happened to her and not really consider the
5 evidence, not really look at it coldly, in a way, as
6 just what it is, what was presented up here. How
7 did they look? What was their demeanor? Presuming
8 he's innocent, which means they're wrong, from what
9 standpoint, that's the way when you go back there
10 until you decide collectively what happened, that's
11 the way you have to be. You can't just say, oh,
12 poor thing, we've got to give her closure. It's
13 easy to do that. You've got a hard job here.

14 So let's look at what we heard. The testimony
15 was sometime in December 2012 -- I'm sorry, 2010,
16 two little girls were in a bathroom and Santana
17 walks in. We don't have any video, we don't have
18 NASA satellite photographs and recordings to tell us
19 what happened. The only thing we have is what
20 people testified here.

21 And it kind of gets compacted in a way because
22 you remember I asked Santana, the mother of Minor
23 well, what did she say? And I said, didn't she say
24 this first? The first thing she said when her
25 mother asked her, what are you doing, where did

1 you -- we really don't know what she asked her, do
2 we, because, like I said, we weren't there, we can't
3 enter that bathroom and try to figure this out.
4 Somehow we've got a response from Minor according
5 to Santana, I learned it at school, I found out from
6 school. That was the first thing out of her mouth,
7 according to her own mother. That has to be
8 considered by you. You can't just let that slide.
9 And then we really don't know what happened next.
10 We don't know if there was a time lapse. It's all
11 compacted. We don't know that, well, it wasn't at
12 school, it was Ralph. We don't know if it was that
13 quick. We don't know if her mother overreacted, we
14 don't know if she cried, we don't know if she yelled
15 at her. We don't know if Minor thought about what
16 she had just said and said, oh, I said it happened
17 at school. You remember when she brightened up when
18 she mentioned her school at the CAC video, because
19 school is important to her. Maybe Ralph is the next
20 best thing.

21 Then she said a third thing: I saw it
22 somewhere. We just don't know how all these answers
23 came about. It sounds kind of compacted like she
24 did it like this. (Demonstrating). You know one
25 thing? What we do know, her mom, after hearing her

1 responses, made a mother's-intuition-type analysis
2 of it, evaluation, and didn't believe her. You know
3 that because of how her mom reacted. She didn't go,
4 you know, confront Mr. Robertson and stomp his guts
5 out, call the police, call her sister; no, this is
6 what happened. None of that happened. Her mom
7 never did that in this case at all, not one time.
8 That's her own -- this is Minor own mom who made
9 this evaluation. That's why I say you can't gloss
10 over the fact we don't know what happened in that
11 bathroom. We don't know how all these statements --
12 we do know that she didn't say Ralph alone, she said
13 two other ways.

14 What we also know is that maybe there was some
15 opportunity too. You heard about the video. It's
16 on his cell phone, I believe the testimony was.
17 There may be more than one. It's a little bit -- we
18 know there's at least one, there's agreement on
19 that.

20 Sometime, maybe almost a year later, there's
21 been testimony that this child was asked by her
22 cousin, 14- or 15-year-old Marquez, we don't -- see,
23 I wish we knew about that too. We don't know what
24 he asked him, we don't know what he asked him, we
25 don't know what he suggested, we don't know any of

1 that.

2 You know what's interesting? You know when the
3 State called Ms. Laver? Ms. Laver sat in that chair
4 and gave you her qualifications on how you conduct a
5 child interview. At least she said I've been --
6 I've done a lot of classes on this.. Not a
7 14-year-old kid, not the son of Jessica Roberts.
8 Remember, Jessica is Santana's sister. And that's
9 where law enforcement got involved; not from
10 Santana, not because Minor told somebody at school.
11 Somehow it arose with her cousin. You remember I
12 asked Minor about the garden hose and spraying it
13 on the wall and how that looked like something? She
14 said, I don't remember, I don't recall.

15 Let's talk about the potential fillers for
16 these allegations. You've got Marquez, you've got
17 maybe Jessica Roberts, maybe Lieutenant Abdullah,
18 you have Investigator Sievers, and then in the end,
19 you have Ms. Laver at the Child Advocacy Center, the
20 end product of all of these fillers. I want you to
21 be -- pay attention or try to remember that CAC
22 video. What did that child do? She's asked
23 questions, you see it several times, she goes
24 (demonstrating) then gives the answer. Then there
25 are other times like, you know, asking her about her

1 cat, her dog, it's like that. (Demonstrating). So
2 we've come down this little trail here to the CAC
3 video, and now here we are today.

4 When I asked her questions, one of the first
5 questions I asked her right after telling her she
6 didn't have to be afraid of me -- because she didn't
7 have to be afraid of me -- and after the State said,
8 you know the difference between the truth and a lie,
9 and after she stood up here and put her hand on the
10 Bible and swore to tell the truth -- ladies and
11 gentlemen, just like every other witness that comes
12 to court, just because she's a child, she told you
13 she knew what the difference between the truth and a
14 lie was. That child came right over, here sat in
15 that chair, and told me she didn't recall telling
16 her mom that it happened at school, that she learned
17 it from school. She said, well, Ralph, I remember;
18 I don't remember anything about telling my mom I saw
19 it somewhere else. And the -- to me, ladies and
20 gentlemen, the thing that should give you pause the
21 most, that child sat right there and said, I don't
22 even remember the CAC video, the Child Advocacy
23 Center. And remember, I asked her, I said, you
24 remember you had the pink outfit and got a drink and
25 they had cameras and all that? That happened after

1 all these other things were alleged to have
2 happened. Ladies and gentlemen, that wasn't true.
3 That child knew it wasn't true. She wasn't going to
4 answer any of my questions, sat right there and said
5 an untruth under oath, just like every other witness
6 is required, when they tell the Court, to take an
7 oath and tell the truth, she didn't. Ladies and
8 gentlemen, that should give you some pause. If
9 she's not telling the truth about that, you need to
10 ask yourselves, can you believe her about anything
11 else?

12 You know, Lieutenant Abdullah was up here. And
13 I called him for some very specific reasons. I
14 wanted you guys to hear that there was law
15 enforcement family connections here. But I also
16 wanted you to see kind of a juxtaposition of a very,
17 very tough, strong, honest law enforcement man. And
18 then you heard the solicitor, Ms. Hammack, she sat
19 right up here and read his arrest record, timing of
20 this, that, and the other thing. There's no way for
21 me to know. I told you in my opening arguments I
22 don't know. But something you might want to ask
23 yourself, maybe that man and Jessica Roberts don't
24 want that man in their family. We don't know.
25 There's no evidence to that, I'm just putting it out

1 there. You have to ask yourself though, when you're
2 considering all this though.

3 Ladies and gentlemen, if you go back there and
4 say to yourselves, gee, I don't know what happened.
5 This isn't something you bargain away. You know,
6 you don't sit there and say, well, something
7 happened, don't know what. If you come to that
8 conclusion, you got to find him not guilty. You
9 can't go back there and say, well, you know, split
10 up and, well -- you got to listen to each other.
11 But this isn't horse training or bargaining, this is
12 looking at the evidence that was presented up here
13 and coming to a verdict which speaks the truth.
14 That's what you're supposed to do. That's what you
15 must do. And I appreciate all of you listening.

16 THE COURT: Thank you, Mr. Routzong.

17 Ms. Hammack.

18 MS. HAMMACK: Thank you, Judge.

19 That man just called that little girl a liar.
20 He just told you that 11-year-old **Minor**
21 is a liar. If **Minor** is lying about
22 this, let's talk about how in the world that makes
23 sense. Why? Why would she lie? Why would she make
24 this up? What reason in the world does an
25 eight-year-old little girl have to make this up to

1 her mom? What reason does an 11-year-old little
2 girl have to come in here and tell each of you that
3 this happened if it didn't? What did she get out of
4 that? What did she gain? She had the police come
5 to her school, she had to go talk to a woman with
6 video cameras, she had to come up here in front of a
7 whole room of strangers and talk about something
8 that grown-ups don't say in public. Is that what
9 she got out of this? That's a great reason to lie.

10 Members of the jury, nobody benefited from her
11 saying this. She didn't get anything out of it.
12 Her mama didn't get anything out of it. But more
13 importantly, there's been no testimony yesterday or
14 today, there's been zero evidence, that she had any
15 reason to lie. That was her Ralphael. She wasn't
16 mad at him. There was no testimony that her mom was
17 mad at him. If you believe everything the defendant
18 says, she didn't care what he did. There was zero
19 testimony that Jessica Roberts or Captain Abdullah
20 had any reason to get this child to make up this
21 grand conspiracy theory. There was zero testimony
22 of why anybody would want to lie about this man.

23 Even more concerning, ladies and gentlemen, how
24 in the world is an 8-year-old going to make up what
25 you heard her say? How in the world is an

1 eight-year-old going to be able to tell you what it
2 feels like to perform oral sex on a grown man? How
3 is an eight-year-old going to be able to make up
4 what it's like to have a grown man ejaculate on her?
5 How in the world is she going to know what that's
6 like?

7 The Defense wants you to believe that she
8 learned it in school. And I know kids these days
9 grow up a lot faster than we did, but you're telling
10 me that in second grade that she's going to be able
11 to describe a penis, be able to describe oral sex,
12 be able to describe someone ejaculating on her, that
13 that's what she's learning from the kids at school.
14 Members of the jury, y'all aren't stupid. Y'all
15 have your common sense, you didn't have to leave
16 that down at the metal detector.

17 The Judge is going to tell you that reasonable
18 doubt is what it sounds like. What's reasonable?
19 Is it reasonable to think that this girl learned
20 that at school and just decided to make it up for no
21 reason against him on this man? That's not
22 reasonable, that's ridiculous. Now he wants to say,
23 well, if she didn't learn it at school, she saw on a
24 sex tape, that there's a secret sex tape on a cell
25 phone, that's how she learned. Well, the problem

1 with that is, you heard zero evidence of that
2 happening. The Judge will tell you the testimony is
3 evidence. [Minor] told you she never seen a video,
4 never walked in on Mama and her Ralphael. Santana
5 said, my child has never seen a video. Heck, the
6 defendant sat right there and told you she hadn't
7 seen a video. Everyone agrees on that. Just
8 because it's randomly said doesn't make it evidence.
9 Everyone agrees she hadn't seen a sex tape. So how
10 in the world can that girl get in front of y'all and
11 tell you those explicit sexual details? The only
12 way she can do that is because she lived it.

13 Now, members of the jury, if this girl is
14 lying, there's one big problem about that. If
15 you're going to get somebody in trouble, you got to
16 tell. She didn't tell anybody. For years she
17 didn't tell anybody. She didn't tell because she
18 was scared. She was five years old and she was six
19 years old and she was seven years old, that grownup
20 told her not to tell. Kids are supposed to obey
21 grown-ups, do what they say. If you're going to lie
22 on somebody, you have to actually tell on them.

23 Mom didn't even call the police. If you're
24 going to lie on somebody, why not get your money's
25 worth, make it big? If she's going to lie, why

1 didn't she come in here and say, he had sex with me
2 every day for three years, it was terrible. She
3 didn't do that. She's telling you what she
4 believed. Members of the jury, if **Minor**
5 is lying, she ought to go to Hollywood and make
6 millions of dollars because she's the best actress
7 I've ever seen in my life. She's not lying to you.

8 Now, the Defense talked at the beginning of the
9 trial that she's either lying or she was mistaken.
10 I don't even know how to respond to that. How do
11 you mistake that? Are you telling me that she
12 thought it was his penis in her mouth but it was
13 really something else? Are you telling me that she
14 thought it was his tongue in her vagina but it was
15 really something else? Are you kidding me? That's
16 not reasonable; that's ridiculous. It's almost
17 offensive to even talk about. You don't mistake
18 that.

19 If she's not mistaking that, well, maybe she's
20 mistaking who did this to her. Well, members of the
21 jury, who else would have done it? Who else did we
22 talk about that could have done this? There was no
23 testimony that Mom was dating a different Ralphael.
24 The defendant admitted he was dating her; he moved
25 in with her because, as in his words, I didn't have

1 a job, she did, so I thought I'd give it a try,
2 things were getting serious, you know. He's the one
3 in the house.

4 [Minor] and Santana told you that [Minor] would
5 be left alone with him while Mama worked. You
6 didn't hear any testimony or evidence that Mama left
7 her with another man. Raphael Robertson is the
8 only person during this timeframe that had the
9 opportunity, the access, and the relationship with
10 Mama to get to that girl and to get to her alone.
11 You have not heard one word about anybody else doing
12 this to her. There's no mistake. This isn't a lie.

13 So if it's completely ridiculous to think that
14 this eight-year-old girl and then when she's 11
15 years old, consistently, time after time telling
16 people what y'all heard yesterday, if it's
17 unreasonable to think that she's making that
18 incredibly detailed story up and if it's
19 unreasonable to think that she's mistaken, there's
20 only one reasonable explanation for this. He did
21 it. The defendant did this to her.

22 Now, let's talk about that. At the beginning
23 of this trial I told y'all that y'all were going to
24 have four questions to answer. Mr. Routzong told
25 you himself this comes down to two people, the

1 defendant and Minor Now, he's charged with four
2 crimes, and if I don't knock this over, we'll talk
3 about them. The first two that we have are criminal
4 sexual conduct with a minor in the first degree and
5 lewd act. And we have these two crimes together
6 because, as you'll see when you look at the
7 indictments, they have the same time range on them.
8 They don't have a -- one particular day; they've got
9 a range. And it's May 25th, 2008 to May 25th, 2009
10 for both of them. The reason we have that date is
11 because, as she told you, that's Minor birthday.
12 So we know during that year that she was five years
13 old. She was in kindergarten and she was living at
14 Daylily Place. We know that's the year that
15 the defendant moved in and started staying with
16 them.

17 Now, for criminal sexual conduct with a minor
18 in the first degree, you've got to have a sexual
19 battery. The Judge will go over this a little more.
20 But basically, you have a sexual battery against
21 another person. A sexual battery is any intrusion,
22 however slight. Any intrusion into the opening of a
23 body, however slight, meaning even just a little
24 bit. What we're talking here is oral sex. When
25 Minor told you, he licked my toochie on the inside,

1 that's your sexual battery. For it to be a first
2 degree, she has to be under the age of eleven. We
3 know she was five. At the same time, we have the
4 lewd act; same time period, same place. But instead
5 of a sexual battery, it's touching. It doesn't have
6 to be an intrusion, but it has to be touching for
7 sexual pleasure. The touching for sexual pleasure
8 that we're talking about when **Minor** was five and in
9 kindergarten at Daylily Place is, again, him putting
10 his mouth on her, performing oral sex on her, and
11 then ejaculating on her butt. Those are the first
12 two questions that you have to answer: Did this
13 happen at this time? Did this happen at this time?
14 And you heard the testimony of how that's exactly
15 what happened.

16 The second set of questions you have to answer,
17 pretty easy, is the exact same charges, different
18 time range. This is when **Minor** is six and seven
19 years old. This is when they end up moving into
20 La-La's house. And you heard, she told you, you
21 watched the video, of how not only this happened at
22 Daylily Place, the house with the cat and the dog,
23 but it happened at La-La's house at Kalmia
24 Apartments. And you heard how here he licked her
25 toochie and she had to put her mouth on his thing.

1 Oral sex both ways is our intrusion into the body,
2 it's our sexual battery, all before her 11th
3 birthday. Same thing with the lewd act; same date
4 range, we're at La-La's house, the touching for his
5 pleasure.

6 Now, members of the jury, Mr. Routzong wants to
7 make a real big deal about the fact that Minor
8 can't remember every single thing about
9 every single day from when she was eight years old.
10 Kids don't think and relate the way we do. Kids
11 don't stop to look at a calendar every second to
12 figure out, so what day did this happen? Kids
13 remember the important things. For example, take a
14 five-year-old to Disney World. He's going to tell
15 you that we went to Mickey and Minnie's house, we
16 saw the castle, we rode the Dumbo ride, I got to
17 meet Mickey Mouse, I got to meet Minnie Mouse, I got
18 to meet Chip & Dale and they gave me a hug. That's
19 what a five-year-old remembers. A five-year-old
20 isn't going to be able to tell you it was Tuesday,
21 April 8th, 1993, and I was five years old, four
22 months and three days. They just don't think that
23 way. They remember the important things. They
24 remember the things that leave a permanent
25 impression on their minds. Minor may

1 not be able to remember what day she wore a pink
2 outfit, but she has no problem with remembering
3 exactly what the defendant did to her. At no point
4 has she been untrue about that.

5 Now, members of the jury, the way we figure out
6 when these things happen is by landmarks. She used
7 landmarks. Adults use landmarks every day. You may
8 not can tell somebody the exact address of a
9 location, but you can say, turn left at Burger King
10 and then go by where the old hospital was. You can
11 explain where to go. You use landmarks, things that
12 are important. **Minor** couldn't tell you exactly how
13 old she was when this happened or the exact time
14 that she told her mother about it, but she can tell
15 you, I lived at the house with the dog and the cat,
16 the house with my friend Sandra, the important
17 things.

18 And law enforcement told you, mom told you,
19 that using that, they were able to determine when
20 these things happened. It happened at La-La's
21 house. Got a friend La-La, it happened up in her
22 bedroom, her bedroom is upstairs, and we know when
23 they lived there. So that's how we prove time and
24 place.

25 Now, members of the jury, like I said, the

1 defense attorney wants to claim because she can't
2 remember every single thing -- if all of us could
3 remember every single thing, we'd be a lot better
4 off. But she was very sure about the details and
5 the elements of these cases. She was sure about
6 them in 2008 -- I'm sorry, when she was eight in
7 2011 when she talked to Ms. Anne. She told you the
8 same thing today, three years later.

9 Now, the defense attorney wants to fuss because
10 you got to look at the evidence, you got to look at
11 the evidence. That is evidence. The Judge is going
12 to tell you that's evidence. I don't have bedsheets
13 to hold up here and say, hey, here's DNA, here's
14 fingerprints. We don't have that in this case. By
15 the time that law enforcement got involved, they
16 weren't even living at either of those two places.
17 They couldn't take Minor in for a rape kit and get
18 DNA that had just been left on her, they couldn't
19 take these sheets and look for DNA that had just
20 been left on the sheets. During the course of three
21 years, I think Minor took a bath or two, the sheets
22 been washed, any possible evidence could have been
23 destroyed.

24 But as the Judge is going to tell you, you
25 don't have to have physical evidence to prove a

1 case. Just because you don't have bedsheets in
2 front of you, does that mean this didn't happen?
3 No. As the Judge will tell you, the witness'
4 testimony is evidence.

5 Now, we didn't have five people to stand up
6 here and say, yeah, I saw him doing that to her.
7 Because guess what, these things don't happen in
8 broad daylight out in public. These things happen
9 when someone has the opportunity and the access and
10 the type of relationship of trust that they can get
11 a child alone, away from other adults, away from
12 Mama, to do this in secret where there are no other
13 witnesses, where you can tell a child don't tell
14 your mother.

15 But as the Judge is going to tell you, the
16 testimony of [Minor] is enough. Her testimony about
17 what happened is enough to prove the State's case.
18 So what that means is, if you believe what [Minor]
19 told you, he's guilty. You don't have to have more
20 than that. If you believe that little girl, if you
21 believe those details that she told you, if you
22 believe what she says her Raphael did to her, that
23 is enough, you don't need more.

24 Now, Mr. Routzong wanted to say that this was a
25 case about two people, the defendant and [Minor]

1 But then he got up here and he wanted to talk about
2 everybody in the world but them. First, he wanted
3 to talk about Mama. Mama didn't believe her. Well,
4 that's not what Mama said. Y'all heard Mama up
5 here. She said, I knew it happened, but I didn't
6 want to believe that he would do that to her.

7 Now, members of the jury, the Judge is going to
8 tell you that you're not here to reward anyone and
9 you're not here to punish anyone. Do not reward the
10 defendant, do not punish an eleven-year-old girl
11 because Mama should have done more. I don't think
12 there's anybody in this world that thinks that Mama
13 should have done more. Should Mama have called the
14 police as soon as her daughter told her that? Yes.
15 Yes, she should have. But does that mean that
16 because Mama didn't call the police, that he didn't
17 do this? No. It doesn't mean that at all. Don't
18 reward him because her mother didn't protect her.
19 Don't punish **Minor** for telling and nothing
20 happening.

21 Mr. Routzong wanted to know why **Minor** didn't
22 tell people sooner, but then he wants to get mad at
23 her for telling. He says, well, she told her cousin
24 and she told the officer and told her mama. And
25 because of all that, you can't believe her because

1 she told people. That don't make sense. He wants
2 you to punish the victim and reward the defendant
3 because Jessica Roberts filed a report. She's a
4 mandatory reporter. She has to tell. If Joe Smith
5 on the street walks up and tells her, she has to
6 tell. Kim Sievers explained that to you; she has to
7 tell. What reason does she have to make this up?
8 She don't have one. He wants to fuss because
9 Captain Abdullah filed the report and gave it to
10 juvenile investigations to investigate because
11 that's their job. Does that mean that this didn't
12 happen because somebody else had to report it? No.
13 That doesn't mean that at all. It's unreasonable to
14 think that that makes him not guilty.

15 Oh, yeah, I forgot about the whole cool uncle
16 thing. I don't even know what to do with that.
17 He's been around women and kids all his life.
18 That's what he does; he's the cool uncle.
19 Mr. Routzong keeps saying you're not here to give
20 this girl closure, and he's exactly right. This
21 ain't about closure, this is about justice. Minor
22 [REDACTED] for three years, from the time she was
23 in kindergarten when she was five until the time she
24 was seven years old, had to go in her mama's
25 bedroom, go in La-La's room, take off her clothes at

1 the direction of that man, her Ralphael, she had to
2 get on the bed, and get in positions, as she called
3 them. She had to lay there while he performed oral
4 sex on her, he made her perform oral sex on him, and
5 then he ejaculated on her. Little kids don't make
6 that up.

7 You have four questions to answer. One of them
8 is not was Mama a good Mama. You have four
9 questions to answer only: That he did this criminal
10 sexual conduct, lewd act, during both time periods.
11 Members of the jury, the answer is yes, he did this
12 to Minor Find him guilty.

13 MR. ROUTZONG: Your Honor, may we approach for
14 just a second?

15 THE COURT: Sure.

16 (Sidebar conference.)

17 THE COURT: Ladies and gentlemen of the jury,
18 this is my opportunity to instruct you on the law.
19 And I'm going to tell you ahead of time, I'm going
20 to read some of it but I'm going to tell you some of
21 it. So I'm kind of going to do both things. I
22 don't like reading specifically because I think it
23 makes it a little more difficult to understand. But
24 understand this: After you begin your deliberations
25 and you didn't understand something that I

1 instructed or you'd like it reinstructed, I do have
2 the ability to reinstruct you. So you won't have to
3 remember it all in one pass.

4 The State of South Carolina has charged the
5 defendant, Ralphael Robertson, with two counts of
6 criminal sexual conduct first degree, and two counts
7 of committing a lewd act upon a minor. You'll, of
8 course, bear in mind that Mr. Robertson has pled not
9 guilty, and by the entry of that plea, is denying
10 all charges alleged in the four indictments.

11 Now, you will have the four indictments in the
12 jury room. As I told you early on, an indictment --
13 these are the formal documents, there's four of
14 them -- are allegations made by the State of South
15 Carolina against Mr. Robertson. They're not proof
16 of anything. The proof comes from the witness stand
17 and the evidence presented. The evidence which
18 you're to consider is the testimony of the various
19 witnesses along with exhibits that have been
20 introduced during the course of the trial.

21 Mr. Robertson has pled not guilty to these
22 indictments, and that puts the burden of proving his
23 guilt upon the State. A person charged with
24 committing a criminal offense in South Carolina is
25 never required to prove himself innocent. It's the

1 State's responsibility for proving his guilt. I
2 charge you as an important rule of law, that the
3 defendant in a criminal trial, no matter what the
4 seriousness of the crime is, will always be presumed
5 innocent of that crime before the indictments were
6 issued unless a guilty verdict has been proven by
7 the evidence, satisfying you, the jury, of his guilt
8 beyond a reasonable doubt. This presumption of
9 innocence does not end when you begin your
10 deliberations, but it accompanies him throughout the
11 entire trial and until you reach a unanimous verdict
12 of guilt based upon the evidence which has been
13 presented in this case satisfying you of his guilt
14 beyond a reasonable doubt.

15 The presumption of innocence is kind of like a
16 robe of righteousness placed upon the shoulders of a
17 defendant and remains with him until it has been
18 removed by the evidence satisfying you of his guilt
19 beyond a reasonable doubt. A presumption of
20 evidence is not just a mere legal theory and it's
21 just not a mere legal phrase. It is a substantial
22 right to which every defendant is entitled, unless
23 you, the jury, are satisfied of the evidence of his
24 guilt beyond a reasonable doubt.

25 Now, I remind you, during this trial I told you

1 several times that you have responsibilities as the
2 finders of fact, I have responsibilities as the
3 presiding judge to be instructor of the law. I've
4 had the duty to rule on some certain admissibility
5 of certain evidence offered during the trial, and
6 you're to only consider the evidence which has been
7 introduced during this case. You're to only
8 consider testimony which has been presented in the
9 witness stand and exhibits which have been made part
10 of the record, which my court reporter has an
11 inventory of the numerous exhibits. I have the
12 additional duty of charging you on the law
13 applicable which is applicable to this case. And as
14 the presiding judge, I'm certain I told you that I'm
15 the sole judge of the law in this case for the
16 purposes of this trial. But it's your duty to
17 accept, as jurors, the law as I'm now saying it to
18 you.

19 If you have any idea of what the law is, what
20 the law should be, what you heard the law might be,
21 it is your responsibility to abandon that idea and
22 accept the law as I instruct it to you today,
23 because you're sworn to accept the law and apply it
24 exactly as I state it to you. If I should make an
25 error in instructing the law, there's another time

1 and another place in another court to consider the
2 error and, if necessary, correct it. But for the
3 purposes of today, you're to consider and accept the
4 law as I'm now instructing it to you.

5 Now, in this court when a case is tried before
6 a jury, the jurors become the sole and exclusive
7 judges of the facts. As a trial judge, I'm not
8 allowed to suggest in any way or make any statement
9 during the trial to the jury as to any opinion I may
10 have on the facts. You the jury are the sole judges
11 of the facts, and you're not to infer by anything
12 that I said during the process of the trial and any
13 of my rulings or otherwise or anything I now say to
14 you during the course of my instructions, is that I
15 have no opinion on the facts. The law does not low
16 me to have such an opinion, so this matter is solely
17 for you to make determinations on. It's your duty
18 to determine the effect, value, weight, and the
19 truth of the evidence presented to you during this
20 trial.

21 Now, as the sole fact-finders, you should have
22 listened closely to the evidence presented and you
23 must weigh the evidence now in your deliberations,
24 using your good judgment and your common sense.
25 Weighing of evidence is entirely a mental process.

1 Evidence which convinces you of its truth is
2 evidence which you should consider. As such, in
3 considering evidence, you are the judges of the
4 credibility and the believability of the witnesses
5 who have testified. You can use anything in your
6 common, every-day experiences, your good judgment,
7 and your common sense in evaluating one's
8 credibility. You may also consider these factors in
9 passing upon one's credibility: What was the
10 manner, what was the appearance of the witness who
11 testified? Was the witness straightforward? Was
12 the witness hesitant in answering any questions?
13 How did the witness come to know the facts that he
14 or she testified to? What was his or her ability to
15 know these facts? Is there any reason a witness
16 would want to give testimony to help one side or
17 hurt the other side? In other words, was the
18 witness biased or prejudiced to one side or the
19 other? Was the testimony of a witness strengthened
20 or weakened by other testimony or other evidence?

21 You as a group may believe as little of a
22 witness' testimony as you deem proper. You may
23 believe the testimony of a single witness against
24 that of many or, just the opposite, you may believe
25 part of a witness' testimony and disbelieve the

1 rest. The fact that a part of the testimony is not
2 disputed does not mean that you must accept it as
3 true and undisputed. You must still gauge the
4 credibility of the witnesses and determine the
5 believability of the facts offered through their
6 testimony.

7 Now, in trials there are generally two types of
8 evidence presented; there's direct evidence and
9 circumstantial evidence. Direct evidence is
10 testimony of a person who asserts or claims to have
11 first-hand knowledge of a fact, such as an
12 eyewitness.

13 Circumstantial evidence is slightly different.
14 Circumstantial evidence is proof of a chain of facts
15 and circumstances indicating the existence of
16 another fact. Our law makes no distinction between
17 the weight or value to be given to either direct or
18 circumstantial evidence, nor is a greater degree of
19 certainty required of circumstantial evidence than
20 that of direct evidence.

21 I instruct you that you should weigh all of the
22 evidence, all of the testimony in this case, and
23 make determinations of the fact. Now, in criminal
24 prosecutions in courtrooms in South Carolina, the
25 State -- that is, the Prosecution -- has the burden

1 of proving the defendant's guilt. A defendant has
2 no burden whatsoever, as a defendant is presumed
3 innocent. . The Prosecution must prove their case to
4 the standard called proof beyond a reasonable doubt
5 before a finding of guilt may occur. If the State
6 fails to meet this high burden, then it will be your
7 duty to find the defendant not guilty and acquit him
8 of the charges.

9 Now, I've used the term reasonable doubt
10 numerous times thus far. What is a reasonable
11 doubt? A reasonable doubt is the kind of doubt
12 which would cause a reasonable person to hesitate to
13 act. A reasonable doubt is a doubt which makes an
14 honest, sincere, conscientious person in the search
15 of truth, hesitate to act. Proof beyond a
16 reasonable doubt is proof which leaves you firmly
17 convince offend the defendant's guilt.

18 Now, I tell you that reasonable doubt may arise
19 from evidence which is in the case or from the lack
20 or absence of evidence in the case. You the jury
21 must make the determination of whether or not
22 reasonable doubt exists as to the guilt of the
23 defendant. Now, I tell you this also: The very
24 fact that you as a group of jurors discuss
25 thoroughly, have a full and free discussion of the

1 guilt or innocence of the defendant, does not
2 automatically create and establish that a reasonable
3 doubt exists. You must have -- be firmly convinced
4 that a reasonable doubt exists.

5 Now, early on I instructed one of my jurors to
6 inventory the notepad, the inventory I would need
7 here. And I tell you this also, some people are
8 better note-takers than others, and some jurors have
9 not taken notes. That's fine either way. What I
10 will tell you is this: Jurors' notes should not be
11 given greater weight than to a person's recollection
12 who did not take notes. Some people are better at
13 listening and hearing and retaining than they are
14 note-takers. Some are just the opposite; they are
15 better note-takers. If a person's notes -- it's
16 really to be used by the person who took the notes
17 and not to convince someone else that their memory
18 is flawed.

19 And I tell you this: If there's a discussion
20 as to the testimony of a person or witness and
21 there's a dispute, well, this witness said thus and
22 so, no, I remember the witness saying otherwise, you
23 have the opportunity to tell me, Judge, we'd like to
24 hear the testimony of this witness replayed so we
25 can go through it a second time. So understand

1 that's available to you during your deliberation is
2 the replay of a recording of the testimony of any
3 witness who testified here.

4 Now, as I told you, Mr. Robertson is charged
5 with two counts of first-degree criminal sexual
6 conduct with a minor and two counts of committing a
7 lewd act upon a minor. The specifics of the law of
8 those four charges are as follows: The State must
9 prove, beyond a reasonable doubt in order to prove
10 first-degree criminal sexual conduct with a minor,
11 that Mr. Robert engaged in sexual battery with the
12 victim; sexual battery and sexual intercourse, oral
13 sex, anal intercourse, or any intrusion, however
14 slight, of any part of a person's body or of any
15 object into the genital or anal openings of another
16 person's body, except when the intrusions are
17 accomplished by medically recognize treatment or for
18 diagnostic purposes.

19 The State must also prove that the victim is
20 less than 11 years old at the time of the sexual
21 battery. Consent, willingness, indifference or
22 ignorance on the part of the minor, if any, as to
23 what was taking place does not in any way affect the
24 charge of criminal sexual conduct with a minor
25 because an unmarried woman under the age of 14

1 cannot legally consent to sexual intercourse.

2 As to the charge of lewd act upon a minor,
3 Mr. Robertson is charged with two counts of lewd
4 act. In order to sustain a conviction of lewd act
5 upon a minor, the State must prove beyond a
6 reasonable doubt that the defendant was over the age
7 of 14; additionally, the State must prove that the
8 defendant wilfully and lewdly committed or attempted
9 a lewd or lascivious act upon the body or its part
10 of a child under the age of 16 with the intent to
11 arouse, appeal to, or gratify the lust, passions, or
12 sexual desires of the defendant or the child.

13 Willfully means voluntarily, intentionally
14 means with the specific intent to do something the
15 law forbids. Lewd means obscene, lustful, indecent;
16 lascivious means intending to incite lust, lewd,
17 indecent or obscene or attempting to deprave the
18 morals in respect to sexual relations.

19 Now, under South Carolina law, the testimony of
20 the victim in a criminal sexual conduct with a minor
21 need not be corroborated in prosecutions or in
22 committing lewd act of a minor prosecutions. The
23 State is not required to prove precise time of the
24 instances, as time is not a material element of
25 criminal sexual conduct with a minor in the first

1 degree or committing a lewd act upon a minor.

2 Now, the State must also prove in all four of
3 these charges, the criminal intent as a necessary
4 element. This must be proved by the State beyond a
5 reasonable doubt also. Criminal intent is always a
6 matter that must be determined by the jury from the
7 circumstances surrounding the situation. There's no
8 way to prove intent to a mathematical certainty.
9 There's no way medical science can dissect a
10 person's brain and determine what he or she had in
11 mind. So our law states that criminal intent may be
12 inferred from the circumstances shown to have
13 existed both before and after the fact, and this is
14 how you the jury must make a determination as to
15 whether or not an element requiring intent was
16 present.

17 Criminal intent is a state of mind that
18 operates joint with an act toward omission in the
19 commission of a crime. Criminal intent is a mental
20 state, a conscious wrongdoing. So it's up to you
21 the jury to determine what the defendant intended to
22 do based upon the circumstances shown to have
23 existed. And I tell you, the State must prove
24 criminal intent beyond a reasonable doubt just as
25 the State must prove every element to you beyond a

1 reasonable doubt of each of the elements of the four
2 crimes.

3 Now, I tell you also, there are four crimes.
4 They all stand on their own. The State must prove
5 the elements of each of the four. Your verdicts do
6 not have to be consistent. You can have one one
7 way, three the other, two and two, three and one the
8 opposite way, or four one way, four the other. They
9 do not all have to be the same. You must consider
10 them independently.

11 Now, I tell you, as a group of jurors, y'all
12 need to be mindful of the importance of your
13 responsibility to our state, to your community.
14 It's been my job and as an officer of the court, as
15 the instructor of the law, and the presiding judge,
16 to be certain that this case was tried fairly and
17 impartially. And I've made every attempt to do
18 that. It's my instruction to you that the verdict
19 you reach will be from considering the evidence,
20 testimony, that has come in this trial from this
21 courtroom, considering and weighing the evidence
22 carefully, applying my instructions on the law, and
23 reaching a unanimous verdict.

24 Now, in every case, your verdict must be fair.
25 You have no enemies to punish, you have no friends

1 to reward. You must decide this case and without
2 the influence of outside, considering the facts
3 which have been presented to you in this case and
4 reach a unanimous verdict on these counts. Your
5 sole consideration must be whether the State proved
6 beyond a reasonable doubt that Mr. Robertson
7 committed these acts.

8 All right. Now I get to ask the lawyers were
9 my instructions complete, because we had a
10 conversation waiting on lunch as to my instructions.
11 This is what I tend to tell the jury during this
12 portion of the trial: They're now able to make
13 comments to me, to say, Judge, would you please
14 instruct a little further on this issue or that
15 issue, and I can consider those requests. I'll tell
16 you 12, as soon as we put you in the jury room, I'll
17 pull my alternates out. At that point, you'll begin
18 your deliberations. If you want to hear testimony,
19 I need a note from my foreperson who's seated right
20 here. Tell me your name.

21 THE FORELADY: Debora Williams.

22 THE COURT: Isn't that amazing, I pick two
23 Ms. Williams to help with the jury. All right.
24 You're going to be my foreperson. If you need
25 testimony -- now, she does not get paid extra. She

1 gets the same responsibilities. She's just going to
2 preside. If you want to hear testimony of a
3 witness, write down a note, hand it to one of my
4 bailiffs who will bring it to me, and Mrs. Creppon
5 will retrieve it from her recording device. On
6 the -- it was so-and-so, just describe it, if you
7 don't know the name, and we'll figure it out,
8 because in a trial of a day and a half, you can
9 pretty well guess which witness, if you describe
10 what they look like.

11 If you need further instruction on the law --
12 Judge, we didn't understand reasonable doubt, we
13 didn't understand -- write that down. I may can put
14 it in writing and hand it back to you in a short
15 time. It may be the question you ask may be too
16 difficult to write back, so I may bring you back in
17 for further instructions. If you need to see the
18 video again, you're more than welcome to see it
19 again.

20 So questions on law, instructions, testimony or
21 seeing the video, you're more than welcome to see
22 and hear again. Once you begin your deliberations,
23 if you need a break, we're on your time. Take a
24 break. If one person needs a break, all 12 get the
25 break. So if somebody says, I need to step out for

1 some fresh air, stop talking, get your fresh air.
2 Once all 12 are back in there, then you can start
3 talking again.

4 Never had this happen before: At the very end
5 of the trial once you reach the verdict, I'm going
6 to bring y'all out here and say, Ms. Williams, have
7 y'all reached a verdict? You're -- obviously if you
8 tell me you have a verdict, you knock on the door.
9 This happened last week, very similar trial in
10 Newberry. Have you reached a verdict? Yes, sir.
11 Was it unanimous? No, sir. Never had a jury tell
12 me that. So then you don't have a verdict yet, go
13 back in and get me one. So they went back and
14 deliberate a while longer. But somehow they missed
15 me saying it was a unanimous requirement. So I
16 think I've said it three times now, four. So it's
17 got to be 12/zero, one way or the other.

18 Now, these indictments, this form, the verdict,
19 guilty, not guilty, you'll sign and date. They're
20 all numbered and they're all separate. They're all
21 very similar in their pattern to follow. If you
22 have any questions about that or you want to sign it
23 after the fact with the help of my Clerk of Court,
24 we'll be glad to let you do that. But that's where
25 we write the verdict is on these indictments.

1 All right. I'm going to put all 14 in the jury
2 room. I'm going to speak with the attorneys about
3 my instructions. If they have no further requests
4 or suggestions as to my instructions, then I will
5 send the indictments and the evidence to you. I'll
6 pull the alternates out, and then y'all start
7 discussing the case.

8 Now, while I'm doing this, y'all can take a
9 break right now. Once everybody gets back together,
10 I'll send it to you. So y'all step in the jury
11 room. Alternates, y'all hang with them until we get
12 the deliberations started.

13 (The jury exits the courtroom at 2:20 PM)

14 THE COURT: Any other comments on the jury's
15 instructions?

16 MR. GRIMES: Your Honor, it just occurred to me
17 while we were listening to it, I'm not sure if they
18 wanted to request a charge on the defendant's prior
19 record. But they may not want it mentioned.

20 THE COURT: I didn't think about that. Y'all
21 didn't make a big deal about it in closing and I
22 didn't think about it. So that's up to y'all.

23 MR. ROUTZONG: I think that's probably correct,
24 Your Honor, we probably shouldn't have one.

25 THE COURT: All right.

1 MR. ROUTZONG: He has a substantial record.

2 THE COURT: Y'all got any suggestions on what
3 you want me to tell them? I've got what's in the
4 charge book. I've never had that come up, really.
5 I mean, it's been --

6 MS. HAMMACK: Charge book is fine with me.

7 THE COURT: All right. Something simple.

8 Now, Mr. Routzong made mention at sidebar prior
9 to the closing arguments about the comment made in
10 closing by the State that the victim shouldn't be
11 punished in this case or something to that effect.
12 I tried to address that in my initial comments, but
13 particularly in my ending comments that it's the
14 State's burden to prove and no one to punish -- no
15 enemies to punish or friends to reward and that sort
16 of thing. I think I addressed that.

17 Mr. Routzong, is that sufficient to your
18 concerns? I went over it pretty heavily in the
19 burden of proof and the State's responsibility of
20 proving the guilt and the defendant having nothing
21 whatsoever to prove.

22 MR. ROUTZONG: I think it does, Your Honor. I
23 think the part about not rewarding enemies -- or,
24 excuse me, friends and enemies, that was sufficient,
25 Your Honor.

1 THE COURT: All right. Let's bring the jurors
2 back in.

3 MR. ROUTZONG: Your Honor, can I hand this up?

4 THE COURT: Sure.

5 MR. ROUTZONG: Your Honor, I think we're going
6 to let that alone. I don't know why I would want to
7 reemphasize that. I think you're correct that it
8 was talked about enough.

9 THE COURT: Okay.

10 MR. ROUTZONG: I understand that it was for
11 impeachment value more than --

12 THE COURT: The prior record?

13 MR. ROUTZONG: Yes, sir.

14 THE COURT: All right. So if they ask a
15 question about it, I will certainly reinstruct them.

16 Does the State also likewise agree that we just
17 leave it like it is? I'll be happy to do it either
18 way.

19 MR. GRIMES: Your Honor, I think that's a
20 Defense charge that they can request if they wanted
21 to. I don't see any reason why we would need to. I
22 think it was clear that it was used for impeachment
23 purposes.

24 THE COURT: All right.

25 MR. ROUTZONG: We don't need to reemphasize it.

1 THE COURT: Very good. Okay. So I will not
2 reinstruct them on either issue; the one brought up
3 at sidebar or the prior record to be used for
4 impeachment purposes only and not for consideration
5 of his guilt or innocence on these charges. Right?

6 MR. ROUTZONG: Yes, sir.

7 THE COURT: All right. Leaving it like it is.
8 The record is closed. We are standing at ease.

9 MS. HAMMACK: Your Honor, one other thing. We
10 do have a clean laptop for purposes of viewing the
11 video, if the jury so desires. If they would like
12 to see it on a bigger screen, we can do that as
13 well. But we do have a clean laptop that can be
14 sent back to the jury room.

15 THE COURT: Excellent. I like that.

16 MR. ROUTZONG: Your Honor, I kind of object to
17 that. And the reason is, it's very similar to
18 written statements going back in there under the
19 continuing witness rule. It has kind of a weight,
20 when they're staring at the disc. I'd rather they
21 come out here and we all listen to it out here.

22 THE COURT: Okay. I'll consider that if they
23 ask. I'm kind of of the opinion that -- used to be
24 cassette recordings of confessions or statements and
25 whatnot, we sent the tape recorder back in the jury

1 room and they'd play it to their hearts' content.
2 Most people can work a tape recorder, as long as the
3 tape couldn't be recorded over. So understanding
4 your objection, until they ask, I won't have to
5 address it.

6 MR. ROUTZONG: Yes, sir.

7 THE COURT: All right. There's the indictments
8 and the five exhibits. Y'all agree there are five
9 exhibits, all State's and one Court's exhibit?

10 MR. ROUTZONG: Do you want us to review that,
11 Your Honor?

12 THE COURT: Yes. Y'all give it a look.

13 (The jury retires to the jury room to begin
14 their deliberations at 2:30 PM.)

15 (The jury enters the courtroom at 3:00 PM.)

16 (Court's Exhibit No. 2 marked and admitted into
17 evidence.)

18 THE COURT: We got your note. Ms. Bethanie has
19 been working diligently. She had to play through it
20 really quickly. Remember, I had some work I had to
21 do; objection made right in the middle of the
22 testimony. She was trying to piece together when
23 those time stops were so she can go to the next
24 spot. So we're going to be patient with her. She
25 was trying to pick those out. So we'll play the

1 testimony for you. We'll play them all the way
2 through. Y'all want to go ahead and see the video
3 while we're out here at the same time?

4 THE FORELADY: Yes.

5 THE COURT: Okay. What we'll do is go ahead
6 and play the testimony and then we'll move the TV
7 up. And once you get all the testimony, it takes a
8 minute to get the TV up, if anybody needs a short
9 break, let me know.

10 All right. We'll start the testimony.

11 (Testimony of Minor [REDACTED] played for the
12 Judge and jury.)

13 THE COURT: Y'all need a short break while we
14 put the TV up or not?

15 Okay. Keep rolling, guys.

16 (Video of interview of Minor [REDACTED] played
17 for the Judge and jury in the courtroom.)

18 THE COURT: Go ahead with your deliberations.
19 If you have any other questions, just send me a
20 note.

21 (The jury retires to the jury room at 4:35 PM
22 to resume deliberations.)

23 (Court's Exhibit No. 3 marked and admitted into
24 evidence.)

25 THE COURT: All right. We'll stand at ease.

1 (The jury enters the courtroom at 8:37 PM.)

2 THE COURT: All right. Ms. Williams, I wanted
3 to bring y'all out here because what I want to tell
4 you, I want to make certain I had a record of it.
5 So since Bethanie is out here, it's easier for me to
6 bring y'all out here than her in there.

7 First question for you: Do you think further
8 deliberations, if y'all continue to be deliberate,
9 would be fruitful?

10 THE FORELADY: No.

11 THE COURT: Now, here's the -- I was going to
12 offer y'all something to eat too, if that would
13 help. I don't know that it would and y'all haven't
14 asked. Y'all have been good about asking if y'all
15 needed something, so I hadn't really worried about
16 whether y'all are hungry or not. I figured if you
17 were, you'd raise your hand and ask.

18 All right. Here's the way it works: I'm going
19 to give y'all another instruction and ask you to
20 deliberate a little longer. Here's the way it
21 works: The 12 of y'all were selected from a panel
22 of about 75 people from Aiken County. Y'all are a
23 good panel, a good mix of the county, as good as any
24 judge can get. I would like for y'all to go back
25 and listen to each side's opinion, whoever is in

1 agreement or disagreement, whatever, with an open
2 mind, listen. If you can't reach a decision, I
3 mean, I need to know that. But if you can't, then
4 I'm going to declare a mistrial. Then I'll have to
5 select 12, 13, 14 other jurors, some other week,
6 some other time. We can do that. It's not
7 impossible. Then we'll do it again, try all the way
8 through another day and a half of that. So we can
9 do that. That's not a problem doing that.

10 My issue, my point of fact is, the 12 of y'all
11 are just as good as the 12 we'll get next time.
12 Y'all are just as capable. Y'all heard the
13 testimony, y'all saw the video. Y'all have worked
14 hard. I haven't been listening at the door, but
15 I've walked by and y'all have been quiet. Y'all
16 have worked hard and have done what I've told you to
17 do. Y'all have listened to my instructions, y'all
18 have sent notes out. Another panel will be just as
19 good, but no better than y'all.

20 Can I ask y'all, go back for a few minutes and
21 see if y'all can resolve whatever differences there
22 are? And if you can't, that's what I'm going to do.

23 THE FORELADY: Can you go over the law one more
24 time and state what we're looking at?

25 THE COURT: Sure. You're talking about the

1 statutory law. There's two crimes each.

2 THE FORELADY: What's the criteria?

3 THE COURT: Okay. Here you go. Now,
4 everything -- all the elements of each crime is
5 beyond a reasonable doubt. Hold on.

6 All right. There's two indictments for
7 criminal sexual conduct with a minor first. There's
8 two elements to it, really. State's got to prove
9 both of them beyond a reasonable doubt. First, the
10 State has to prove the victim was less than eleven
11 years old. The second one is a little more
12 involved. The State must prove beyond a reasonable
13 doubt that the defendant engaged in sexual battery
14 with the victim.

15 Sexual battery is defined as sexual
16 intercourse, oral sex, anal intercourse or any
17 intrusion, however slight, of any part of the
18 person's body or any object into the genital or anal
19 openings of another person's body.

20 Consent, willingness, indifference, or
21 ignorance on the part of the minor matters not.
22 That's criminal sexual conduct in the first.

23 Lewd act on a minor, same on those, the
24 elements are the same. There's more than just two
25 elements here. First, the State has got to prove

1 that the minor was under the age of 18. The State
2 must also prove the defendant was over the age of
3 14. The State must then prove the defendant
4 willfully, lewdly committed or attempted to commit a
5 lewd or lascivious act on the body parts of a child
6 under the age of 16 with intent to arouse, gratify
7 the lust, appeal to the sexual desire of the
8 defendant or the child. Willfully means voluntarily
9 and intentionally with the specific intent to do
10 something the law forbids. Lewd means obscene,
11 lustful or indecent. Lascivious means intending to
12 incite the lust, lewd or indecent or intending to
13 deprave the morals in respect to sexual relations.
14 That's the elements for lewd act upon a minor.

15 Again, on all of those, both criminal sexual
16 conduct and lewd act, the State has to prove each of
17 those elements beyond a reasonable doubt and y'all
18 must agree unanimously. Okay?

19 All right. Y'all deliberate just a little
20 longer and let me know if I can answer any more
21 questions.

22 (The jury retires to the jury room at 8:44 PM
23 to resume deliberations.)

24 THE COURT: We'll see what that does.

25 Okay. Bring the jury in.

1 (The jury enters the courtroom at 8:54 PM.)

2 THE COURT: All right.

3 Ms. Williams, have you reached a verdict?

4 THE FORELADY: Yes.

5 THE COURT: Is it unanimous?

6 THE FORELADY: Yes, it is.

7 THE COURT: Very well.

8 Madam Clerk, you may publish the verdict.

9 THE CLERK: Your Honor, Indictment No.

10 2014-GS-02-00386, *State of South Carolina vs.*

11 *Raphael Robertson*, indictment for lewd act upon a

12 child, verdict is guilty, signed by foreperson

13 Debora Williams.

14 Indictment No. 2014-GS-02-00385, *State of South*

15 *Carolina vs. Raphael Robertson*, indictment for lewd

16 act upon a child, verdict is guilty, signed by

17 forelady Debora Williams.

18 Indictment No. 2014-GS-02-00384, *State of South*

19 *Carolina vs. Raphael Robertson*, indictment for

20 criminal sexual conduct with a minor first degree,

21 verdict is guilty, signed by forelady Debora

22 Williams.

23 Indictment No. 2014-GS-02-00382, *State of South*

24 *Carolina vs. Raphael Robertson*, indictment for

25 criminal sexual conduct with a minor first degree,

1 verdict is guilty, signed by forelady Debora
2 Williams.

3 THE COURT: All right. Any other issues for
4 the jury, Mr. Routzong?

5 MR. ROUTZONG: No, sir.

6 THE COURT: All right.

7 Is there any objection to deferring sentencing
8 until the morning?

9 MR. ROUTZONG: I don't have any objection.

10 THE COURT: That would suit me better.

11 MS. HAMMACK: No objection, Your Honor.

12 THE COURT: All right. I want the jury to know
13 that.

14 I'd like to speak y'all and thank y'all for
15 your service as the jury just momentarily because
16 y'all will be free to go and will not have to come
17 back in the morning. So y'all come back in the jury
18 room with me.

19 (Court's Exhibits 4-6 marked and admitted into
20 evidence.)

21 (Court in recess for the evening.)

22 RALPHAEL ROBERTSON

23 being first duly sworn, testified as follows:

24 THE DEFENDANT: Yes, ma'am.

25 MR. ROUTZONG: Your Honor, do you want to hear

1 the motion now or wait until -- probably best to
2 hear it now, I guess.

3 THE COURT: Let's hear it now.

4 MR. ROUTZONG: At this time, Your Honor,
5 Mr. Robertson moves for a new trial. Your Honor,
6 the basis for the motion is, we don't believe that
7 the jury, if they were reasonable, based on the
8 testimony and the evidence presented by the State,
9 that they could have concluded he was guilty,
10 particularly from the standpoint that we had some
11 inconsistent testimony from the accuser in this
12 case, arguably inconsistent, in that she appeared to
13 remember some things very well, and there's been
14 plenty of time to rehearse, perhaps. And when I
15 questioned her, she doesn't remember anything. And
16 certainly there were many things that I asked her
17 about that if she were being truthful, she would
18 have remembered.

19 And I know we argued that in front of the jury,
20 Your Honor, but we just don't feel that any
21 reasonable jury could have concluded -- they may
22 have made this conclusion based on the fact that it
23 was a child and the normal things we run into with
24 these types of cases, Your Honor.

25 THE COURT: So basically the same evidence when

1 you made the directed verdict at the closing of the
2 State, the same evidence, in fact presented to the
3 jury that you're arguing now, I don't think those
4 facts have changed. The facts were sufficient that
5 the jury evaluated and resolved the question of
6 fact. I'm going to believe that I made a consistent
7 ruling that there were enough facts to go to the
8 jury and that the jury resolved those facts.
9 Unfortunately for your client, against his favor.
10 But the jury did answer the question of fact as to
11 the believability, credibility of the young victim.
12 So I will not disturb that guilty verdict. So I
13 will respectfully deny your motion for a new trial.

14 MR. ROUTZONG: One other issue, Your Honor. In
15 chambers I discussed with Ms. Hammack, with you,
16 there was some allegation of a possibility that
17 there may have been some juror misconduct. The
18 allegation was -- I became aware of it from
19 Mr. Robertson, based on what he believed he heard
20 from his sister. So I contacted his sister after
21 our in-chambers discussion.

22 She tells me that she cannot articulate any
23 basis for thinking that there's any juror
24 misconduct. So I guess that's going to conclude
25 that investigation, Your Honor. I don't have any

1 basis to move forward, to go talk to the juror's
2 sister or anything, based on what I know right now.

3 THE COURT: Well, if you find otherwise, you
4 still have a limited number of days to interpose a
5 motion for new trial or whatever relief you deem
6 appropriate on behalf of your client. So if there's
7 an additional motion sometime in the future, let me
8 know; otherwise, right now, I'm just going to hear
9 and consider the motion I've already ruled on.

10 All right. Now moving forward to sentencing.

11 MS. HAMMACK: Yes, Your Honor.

12 THE COURT: All right. Mr. Routzong, you want
13 to -- let's hear from the. I heard the prior
14 record. So, Ms. Hammack, I'll be glad to hear from
15 you, whatever you'd like to present right now,
16 having heard the trial the last two days.

17 MS. HAMMACK: Your Honor heard the facts. I
18 don't think there's anything more we need to add to
19 that. He's currently on probation for the last of
20 his convictions from 2011. He did three years
21 active, but then came out on probation. He's still
22 on probation for those, so that needs to be
23 addressed. But Your Honor has heard the facts and
24 his record.

25 THE COURT: Okay. What's the probation terms

1 right now?

2 PROBATION OFFICER: He's on probation for
3 possession of stolen vehicle. He was sentenced to
4 five years suspended to three years of service and
5 five years probation.

6 THE COURT: All right.

7 All right. Mr. Routzong, let's hear from you.

8 MR. ROUTZONG: May it please the Court, Your
9 Honor. Mr. Robertson is 30 years old. He's a
10 resident of Aiken. Your Honor, of course you've
11 heard the facts and --

12 THE COURT: He testified in court he was 28.

13 MR. ROUTZONG: I was looking at his birthday,
14 and it looks like [REDACTED] But I might have it down
15 wrong.

16 MS. HAMMACK: Our understanding was 31 as well.

17 THE COURT: All right. I'll bet you I wrote he
18 was 28. That's okay. Keep going.

19 MS. HAMMACK: Your Honor, I believe he did
20 testify that he was 28. We've got both [REDACTED] and
21 [REDACTED] as possible dates of birth for him, so that
22 would make him one of the two.

23 THE COURT: All right. Roughly late 20s or
24 just turned 30.

25 MR. ROUTZONG: Yes, sir. He's a resident of

1 Aiken, he's a high school graduate. He has two
2 children, I believe, Your Honor.

3 We disagree with the verdict. There's not a
4 whole heck of a lot I can add. I know his mother
5 would like to speak up on his behalf. I think the
6 jury struggled quite a bit. At least we don't know
7 what the evolution of that process was. But I think
8 that does indicate, Your Honor, that there was some
9 wonderment about whether or not he was guilty. And
10 I hope the Court will take that into consideration
11 as much as you can. I know you're somewhat hemmed
12 in by the fact the statute requires a minimum of 25
13 years.

14 But based on all of that, Your Honor, we'd ask
15 the Court to consider concurrent sentences and
16 minimum sentences. His mother does want to address
17 the Court, Your Honor.

18 THE COURT: All right. Let's hear from her.

19 Ma'am, tell me your name.

20 MS. ADAMS: Regina Adams.

21 THE COURT: I'll be glad to hear from you.

22 MS. ADAMS: I'm Raphael Robertson's mother.

23 Every mother knows her child. Raphael has done
24 some crazy things such as taking cars. That's the
25 most stuff he's done; taking a car, running from a

1 police. This stuff, he's never, ever done. He's
2 been around all the kids. I have numerous grand
3 children. I've raised my children, my nieces, my
4 nephews and other kids. But this is stuff right
5 there he would not do. Every parent know her child
6 and what he would do. If Ralphael would do anything
7 wrong, I have no problem putting his butt in the
8 jailhouse. I've called the police when he took my
9 car and put him in the jailhouse. If any of my kids
10 do something, I have no problem calling the police.

11 If this is something he would have done,
12 Santana -- I've talked to her. I asked her if he
13 did this. She said, no, I know he wouldn't do this,
14 I know my Ralphael. If he would have done it, I
15 would have no problem calling the police. I went
16 through a similar situation with another family
17 member. I had no problem calling the police on my
18 own brother. So if I thought he done it, I would
19 have no problem calling the police, enforcing the
20 law, because that's just me. I have no problem
21 calling the police. Every parent in here, if you
22 love your child, if you love any child, you enforce
23 the law. That's just what I do.

24 So with that being said, I know my child. I
25 know this is something that he would not do. I've

1 talked to him. I've grilled him on the same thing.
2 I looked him in his eyes, did you do this, son?
3 Mama, that's something I wouldn't do. So with that
4 being said, I know he would not do this. I ask
5 the -- you to take this into consideration. Look at
6 this young man and don't take his whole life away
7 from him. I do plan to do more. I'm not working at
8 this point because I got hurt on the job. So I'm
9 not working now. And I'm struggling with some other
10 things. And I -- excuse me -- taking into
11 consideration -- and I love my child just as any
12 parent would love their child.

13 What happened to **Minor** -- I love her too, and
14 I wish the best for her and I pray for her every day
15 as well as I pray for her mother. And whatever
16 happened and whoever did it to her, I pray for them.
17 I pray for my child. And I know that whatever
18 happened, God will take care of it because I pray
19 every day. And I pray for everybody else. And God
20 will take care of my child. Thank you.

21 THE COURT: Thank you, ma'am.

22 Mr. Routzong, anything else from you?

23 MR. ROUTZONG: He's been in our detention
24 center for 510 days, Your Honor.

25 MS. HAMMACK: Would Your Honor like to address

1 the probation matter?

2 THE COURT: I will in just a minute.

3 MR. ROUTZONG: Your Honor, at the appropriate
4 time, Mr. Robertson would like to address the Court.

5 THE COURT: I neglected to hear from you,
6 Mr. Robertson. I'm sorry I didn't ask.

7 THE DEFENDANT: I mean, I didn't do it. I know
8 I screamed that from the rooftops. It was crazy. I
9 talked my sister and I was telling her that, you
10 know, you didn't really seem like a judge. You was
11 just like a cool guy you meet at the bar or
12 something because I never actually met a judge like
13 you before. So, I mean -- but I know I wasn't -- it
14 was really the jury that I had to worry about.

15 And so I was just hoping for a new trial on
16 this trial or really a not-guilty verdict. But if
17 you do find some leniency, it would be very
18 appreciated. And that's it.

19 MS. HAMMACK: Your Honor, for the record,
20 Mr. Robertson was charged with eight other counts in
21 this case. There were 12 total warrants; we
22 indicted four of them. We'll be dismissing the
23 other warrants as part of this resolution.

24 MR. ROUTZONG: Your Honor, just to put this in
25 the best possible light I can for the defendant,

1 during a lot of those time periods, I think,
2 arguably, he was incarcerated on other charges.
3 So -- and I know that when you look at the video,
4 the young lady actually says ten times after being
5 given a choice of four, I think, two, five, ten or
6 something else, and I think she says ten. That's
7 questionable in and of itself. But I just want
8 to -- I just don't want it to be out that there so
9 many incidents alleged and could be easily proven.
10 He may have had an alibi for some of them.

11 Judge, Mr. Robertson has also asked me to
12 inform the Court that he's been pretty much
13 continuously incarcerated since September 9th, 2011.
14 That would be, of course, more than 510 days. But I
15 think he has 510 on this charge as well. But...

16 MS. HAMMACK: The time from 2011 was when he
17 was convicted in 2011 and sentenced to that time on
18 those charges.

19 MR. ROUTZONG: That's my understanding as well,
20 Your Honor.

21 THE COURT: All right. Mr. Robertson, I tell
22 you this: I didn't get -- well, it's not my job to
23 find the facts or judge your conviction, whether you
24 did it or not; the jury did that. It's my
25 responsibility to sentence you based upon your prior

1 record and based upon the parameters placed upon the
2 court system and the judges regarding the sentencing
3 parameters.

4 Considering all of that and the testimony and
5 whatnot I heard during the trial on indictments
6 14-GS-02-382 and 384, which are the CSC first, the
7 sentence of the Court is you be confined for 30
8 years, given credit on both of those for 510 days.

9 On indictment 385, which is one of the lewd act
10 counts, the sentence of the Court is 15 years, and
11 that runs concurrent with the two 30-year sentences,
12 also credit for 510 days.

13 On Indictment 14-GS-02-386, I'm giving you an
14 additional ten years consecutive of that 30, credit
15 for 510 days. I wish you lucky. I'm sorry.

16 PROBATION OFFICER: Your Honor, if I may, the
17 monetary?

18 THE COURT: Just convert it to a civil
19 judgment.

20 -- END OF TRANSCRIPT OF RECORD --

21

22

23

24

25

WITNESSES

Aiken County Sheriff

Kim Sievers

Law Enforcement Case #: 11-073564

AAH

ARREST WARRANT NUMBER

M026508

FILED April 10 2014

Liz Hedard
K.C.C.P. & G.S.

Anna Sanders
FBI

ACTION OF GRAND JURY

true bill

[Signature]

Robert Wade

Foreperson of Grand Jury

Date: April 10, 2014

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2014GS0200385

The State of South Carolina

County of Aiken

COURT OF GENERAL SESSIONS

APRIL TERM 2014

THE STATE

vs.

RALPHEAL L. ROBERTSON

CDR #: 2468

Indictment for

LEWD ACT UPON A CHILD

§ 16-15-0140

J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)
)

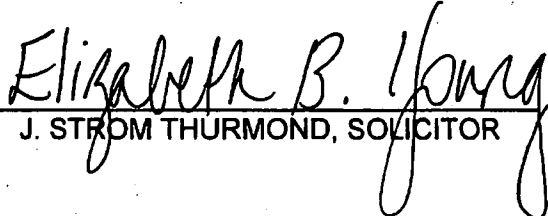
INDICTMENT FOR
LEWD ACT UPON A CHILD

§ 16-15-0140

At a Court of General Sessions, convened on April 14, 2014, the Grand Jurors of Aiken County present upon their oath:

That RALPHEAL L. ROBERTSON, being over the age of fourteen (14) years, did in Aiken County at divers times on or between May 25, 2008 to May 24, 2009, wilfully and lewdly commit or attempt to commit a lewd or lascivious act upon or with the body of Minor [REDACTED] a child under the age of sixteen (16) years, with the intent of arousing, appealing to, or gratifying the lust, passions and sexual desires of his or such child. All in violation of §16-15-140 of the Code of Laws of South Carolina (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


J. STROM THURMOND, SOLICITOR

WITNESSES

Aiken County Sheriff

Kim Sievers

Law Enforcement Case #: 11-073564

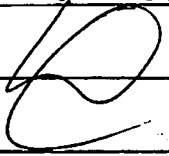
AAH

ARREST WARRANT NUMBER

M026512

FILED April 10 2014
Liz Hodard
J.C.C.P.&G.S.
Anne Sanders

ACTION OF GRAND JURY

true bill


Robert Wade

Foreperson of Grand Jury
Date: April 10, 2014

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2014GS0200386

The State of South Carolina

County of Aiken

COURT OF GENERAL SESSIONS

APRIL TERM 2014

THE STATE
vs.

RALPHEAL L. ROBERTSON

CDR #: 2468

Indictment for

LEWD ACT UPON A CHILD

§ 16-15-0140

J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA)

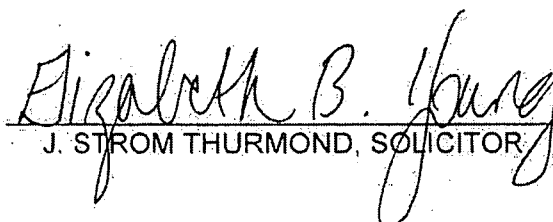
INDICTMENT FOR
LEWD ACT UPON A CHILDCOUNTY OF AIKEN.)
)
)

§ 16-15-0140

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Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


J. STROM THURMOND, SOLICITOR

WITNESSES

Aiken County Sheriff

Kim Sievers

Law Enforcement Case #: 11-073564

AAH

ARREST WARRANT NUMBER

M026504

FILED April 10 2014

Liz Hodard
S.C.C.P.&G.S.
James Sanders

ACTION OF GRAND JURY

true bill

[Signature]

Robert Wade

Foreperson of Grand Jury

Date: April 10, 2014

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2014GS0200384

The State of South Carolina

County of Aiken

COURT OF GENERAL SESSIONS

APRIL TERM 2014

THE STATE

vs.

RALPHEAL L. ROBERTSON

CDR #: 0385

Indictment for

CRIMINAL SEXUAL CONDUCT WITH A
MINOR FIRST DEGREE

§ 16-03-0655(1)

J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)
)

INDICTMENT FOR
CRIMINAL SEXUAL CONDUCT WITH A
MINOR FIRST DEGREE

§ 16-03-0655(1)

At a Court of General Sessions, convened on April 14, 2014, the Grand Jurors of Aiken County present upon their oath:

That RALPHEAL L. ROBERTSON did in Aiken County at divers times on or between May 25, 2009 and May 24, 2011, commit the crime of Criminal Sexual Conduct With A Minor In The First Degree, in that the Defendant did commit a sexual battery upon Minor a minor who was six (6) or seven (7) years of age at the time of the incidents. All in violation of §16-3-655, Code of Laws of South Carolina (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


J. STROM THURMOND, SOLICITOR

WITNESSES

Aiken County Sheriff

Kim Sievers

Law Enforcement Case #: 11-073564

AAH

ARREST WARRANT NUMBER

M026502

FILED April 10 2014

Liz Godard
U.C.C.P. & G.S.

Amber Sanders
FBI

ACTION OF GRAND JURY

true bill

Robert Wade

Foreperson of Grand Jury

Date: April 10, 2014

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2014GS0200382

The State of South Carolina

County of Aiken

COURT OF GENERAL SESSIONS

APRIL TERM 2014

THE STATE

vs.

RALPHEAL L. ROBERTSON

CDR #: 0385

Indictment for

CRIMINAL SEXUAL CONDUCT WITH A
MINOR FIRST DEGREE

§ 16-03-0655(1)

J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA)

COUNTY OF AIKEN)

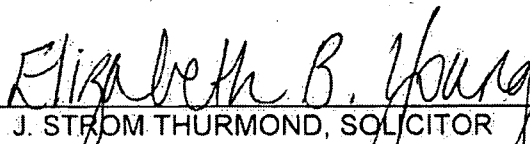
INDICTMENT FOR
CRIMINAL SEXUAL CONDUCT WITH A
MINOR FIRST DEGREE

§ 16-03-0655(1)

At a Court of General Sessions, convened on April 14, 2014, the Grand Jurors of Aiken County present upon their oath:

That RALPHEAL L. ROBERTSON did in Aiken County at divers times on or between May 25, 2008 and May 24, 2009, commit the crime of Criminal Sexual Conduct With A Minor In The First Degree, in that the Defendant did commit a sexual battery upon Minor [REDACTED], a minor who was five (5) years of age at the time of the incidents. All in violation of §16-3-655, Code of Laws of South Carolina (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


J. STROM THURMOND, SOLICITOR

222
STATE OF SOUTH CAROLINA)
COUNTY OF Aiken)
STATE VS.)
Ralphael L. Robertson)
AKA:)
Race: Black Sex: M Age: 28)
DOB: SS#:)
Address:)
City, State, Zip: AIKEN, SC 29803)
DL#: SID#: SC01541782)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014GS0200382
A/W#: M026502
Date of Offense: 5/25/2008
S.C. Code § 16-03-0655(1)
CDR Code #: 0385

SENTENCE SHEET

25 years - Life

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADS

TO: Sex / Criminal sexual conduct with minor or Attempt - victim under 11 yrs of age - First degree

in violation of § 16-03-0655(1) of the S.C. Code of Laws, bearing CDR Code # 0385
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☒ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted. ☐ Lesser Included Offense. ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Ashley A. Hammack 80176 Defendant [Signature] 71861 Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,

for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections. 510 days

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 26-53-35.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso 47.9 (Public Def/Prob)	\$500
§ 14-1-212 (Law Enforce. Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114 (BUI Breath Test Fee)	\$50
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea
Proviso 90.5 (SCCA Surcharge)	\$5
3% to County (if paid in installments)	\$
TOTAL	\$ 133.90

_____ days/hours Public Service or employment

Obtain GED ☐

Attend Voc. Rehab. or Job Counseling ☐

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol testing _____

Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Presiding Judge

Judge Code:

Sentence Date:

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

[Signature] 2154
7-17-14

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

223

COUNTY OF Aiken
 STATE VS.
Ralphael L. Robertson

INDICTMENT/CASE#: 2014GS0200384A/W#: M026504Date of Offense: 5/25/2009S.C. Code §: 16-03-0655(1)CDR Code #: 0385

AKA:

Race: Black Sex: M Age: 28DOB: SS#:

Address:

City, State, Zip: AIKEN, SC 29803DL#: SID#: SC01541782*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Sex / Criminal sexual conduct with minor or Attempt - victim under 11 yrs of age - First degree

in violation of § 16-03-0655(1) of the S.C. Code of Laws, bearing CDR Code # 0385

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☒ Mandatory GPS(CSC ☐ § 17-25-45
 w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Hamack, Ashley Agnew80171
SC Bar#

Defendant

Attorney for Defendant71861
SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 30 days/months/years ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☒ CONSECUTIVE to sentence on: 2014 GS 02-3824385☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 510 days☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20(a) or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/cu	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)	\$	\$ 3.90
TOTAL	\$	\$ 133.90

_____ days/hours Public Safety Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equal, _____ weekly/monthly
pmts. of \$ _____

\$ _____ paid to _____ Tender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
 § 47.12 requires \$500 be paid to Clerk
 during probation.

Presiding Judge

Judge Code: 2154Sentence Date: 7-17-14Clerk of Court/ Deputy Clerk Ann SandersCourt Reporter: Beth Ann Chapman

SCCA/217 (03/2011)

CLERK OF COURT
 J. L. GILBERT
 Clerk of Court of Common Pleas and General Sessions for Aiken County, South Carolina, do hereby certify that the foregoing is a true and correct copy of the original document(s) which have been filed in my office this JUL 22 2014
Ann Sanders
 C.C.P. & G.A., Aiken County, S.C.
 Deputy Clerk

224
STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Aiken
STATE VS.
Ralphael L. Robertson
AKA:
Race: Sex: M Age: 28
DOB: SS#:
Address:
City, State, Zip: AIKEN, SC 29803
DL#: SID#: SC01541782

INDICTMENT/CASE#: 2014GS0200385
A/W#: M026508
Date of Offense: 5/25/2000
S.C. Code §: 16-15-0140
CDR Code #: 2468

SENTENCE SHEET

≤ 15 years and/or ≤ \$10,000*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Sex / Lewd Act, committing or attempting lewd act upon child under 16 (June 4, 1996)

in violation of § 16-15-0140 of the S.C. Code of Laws, bearing CDR Code # 2468
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☒ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Ashley Agnew 80176 Defendant
Hammack 71861 Attorney for Defendant
SC Bar# SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 15 days/months/years ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2014 GS - 384 + 382
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 510 days

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUPTotal: \$ plus 20% fee: \$ Payment Terms: ☐ Set by SCDPPPS Recipient:

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso 47.9 (Public Def/Prob)	\$500
§ 14-1-212 (Law Enforc. Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114 (BUI Breath Test Fee)	\$50
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea
Proviso 90.3 (SCCJA Surcharge)	\$5
3% to County (if paid in installments)	\$
TOTAL	\$ 133.90

 days/hours Public Service Obtain GED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equal, consecutive, or monthly pmts. of \$ \$ paid to Public Defense FundOther:

☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

STATE OF SOUTH CAROLINA
COUNTY OF Aiken
I, Liz G. Anderson, Clerk of Court, do hereby certify that the foregoing constitutes a true and correct copy of the original document which has been filed in my office this
JUL 22 2014
Liz G. Anderson
Clerk of Court
C.C.P. & G.A., Aiken County, S.C.
Deputy Clerk

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

225

COUNTY OF
STATE

Aiken

VS.

Ralphael L. Robertson

AKA:

Race: Black Sex: M Age: 28

DOB: 1/1/88 SS#: _____

Address: _____

City, State, Zip: AIKEN, SC 29803

DL#: _____ SID#: SC01541782

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Sex / Lewd Act, committing or attempting lewd act upon child under 16 (June 4, 1996)

in violation of § 16-15-0140 of the S.C. Code of Laws, bearing CDR Code # 2468

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☒ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST:

Ashley D. Hammack
Hammack, Ashley Agnew80176
SC Bar#

Defendant

Attorney for Defendant

71861
SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 10 days/months/years, ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 510 days☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
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§ 56-1-286 (DUI Breath Test)	\$25
Proviso 47.9 (Public Def/Prob)	\$500
§ 14-1-212 (Law Enforce. Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114(BUI Breath Test Fee)	\$50
§ 56-5-2942(I) (Vehicle Assessment)	\$40/ea
Proviso 90.5 (SCCJA Surcharge)	\$5
3% to County (if paid in installments)	\$
TOTAL	\$ 133.90

_____ days/hours Public Safety employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____

\$ _____ paid to _____

Other: _____

☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code: _____

Sentence Date: _____

Clerk of Court/ Deputy Clerk

Court Reporter:

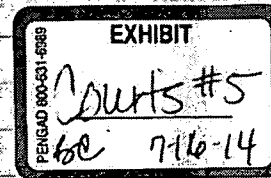
SCCA/217 (03/2011)

STATE OF SOUTH CAROLINA
COUNTY OF Aiken
I, Liz Goddard, Clerk of Court of Common Pleas and General Sessions for Aiken County, South Carolina, do hereby certify that the foregoing constitutes a true and correct copy of the original documents filed in my office this JUL 27 2011.

Liz Goddard
Clerk of Court
Deputy Clerk

Can we start the video at 35 minutes & rewatch it? Would it be possible to watch it in the jury room or can you clear the courtroom? We would like to talk as we watch it.

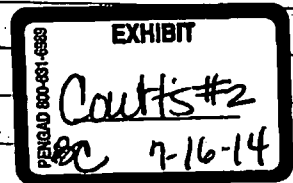
D. Will



Can we go outside & take a break for about 10 minutes?

D. Will

Court #4



Can we see Santana & Sierra's testimony?

D. Williams

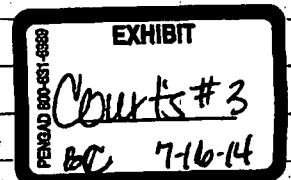
We can replay either or both witness's testimony.
I cannot print out testimony.

Let me know if you would like to hear
either.

Hear both
D. Williams

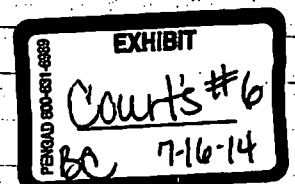
Can we have a DVD player to watch the
interview?

D. Williams



We have one juror that will not change his mind.
What do we need to do?

D. Williams



CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

October 7th, 2015



Kathrine H. Hudgins
Appellate Defender

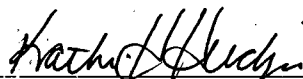
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

October 7th, 2015



Kathrine H. Hudgins
Appellate Defender

RECEIVED

OCT 07 2015

SC Court of Appeals

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT