ORIGINAL

Volume 1 of 2

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Lexington County
Thomas A. Russo, Circuit Court Judge
Appellate Case Tracking No. 2014-001717

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SC Court of Appeals

THE STATE,

RESPONDENT,

-v-

CHAD STEPHEN HAYES

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RECORD ON APPEAL

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The following exhibits were delivered to this court

Court's Exhibit 7

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STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF LEXINGTON	)	2013-GS-32-01420 2013-GS-32-01422 2013-GS-32-01423 2013-GS-32-01424 2014-GS-32-01680 2014-GS-32-01681 2014-GS-32-01682 2014-GS-32-01683 2014-GS-32-01684
STATE OF SOUTH CAROLINA	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	VOLUME 1
CHAD STEPHEN HAYES	)	
DEFENDANT	)	

July 28, 2014
Lexington, South Carolina

B E F O R E:

THE HONORABLE THOMAS A. RUSSO, JUDGE; and a jury.

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

SUZANNE MAYES, ASSISTANT SOLICITOR
RHONDA PATTERSON, ASSISTANT SOLICITOR
Attorneys for the State

ROBERT T. WILLLIAMS, SR., ESQ.
Attorney for the Defendant

CAROL M. THUEME, RPR
Official Court Reporter

Mr. Williams moved to have her excluded or excused for cause and the State basically didn't take a position, that it was the Court's call. And considering that we had plenty of jurors and that Ms. Albert does have a relative that works closely in the Solicitor's office, I excused her for cause as well. So that's the explanation of the two jurors that the Court excused for cause.

All right. Does the State have anything to add to that?

MS. MAYES: No, sir, Your Honor.

THE COURT: Defense, anything further?

MR. WILLIAMS: No, Your Honor.

THE COURT: All right. Well, we'll then reconvene at 2:15 and proceed with pretrial matters.

(A lunch break was taken.)

(WHEREUPON, The State's Exhibits Nos. 1-5 were marked for purposes of the record.)

THE COURT: All right. Folks, I know we've got several pretrial matters. I will be happy to take them up in whatever order you all are prepared to deal with them.

MS. MAYES: First, Your Honor, is the motion to suppress, and that is a motion that Mr. Williams has alerted us about. You may want to take up that matter at this time. We have two witnesses here that will be testifying on that issue.

THE COURT: All right. Mr. Williams.

MR. WILLIAMS: Your Honor, this actually has to do with the introduction of photographs which allegedly were received off of a computer which the State will attempt to introduce into evidence. So I don't exactly know which way we want to proceed with this. Obviously, they'll have to put law enforcement up to testify about the issuance of search warrants, how they received the computer and whatever they did to go through the computer to find these photographs.

THE COURT: Okay.

MR. WILLIAMS: So mine's a motion to suppress, but I think really they have to go through the steps.

THE COURT: Sure. Ms. Mayes, are you ready to go forward?

MS. MAYES: Yes, Your Honor. The first witness is going to be Detective Steve Collins. He is also the witness who took the defendant's verbal statement. Actually, the defendant ended up putting the statement in writing, but that is a statement that's going to be used against the defendant in this case and that's part of the case history that he proceeded with the search warrant. So we can actually go ahead and have him testify about that during his testimony leading up to the search warrant. If we need to separate it out, that's fine.

MR. WILLIAMS: I don't have any problems with that, but I have a thought, which doesn't happen often, Your Honor, and that is, since one of the issues happens to be which cases we're trying, perhaps we ought to resolve that.

THE COURT: Consolidation issues?

MR. WILLIAMS: Yes, sir. Because that way it would stand in line behind the charges.

THE COURT: That makes sense. Why don't we deal with the consolidation issues.

MS. MAYES: Your Honor, I have passed up to the Court a copy of the State's motion in support of consolidation. Mr. Williams also has a copy of that.

Your Honor, this case deals with multiple indictments that involve three witnesses who are here in the courtroom. The fourth victim is [redacted] (Daughter 4) and she is a sister of [redacted] (Daughter 1), [redacted] (Daughter 2), and [redacted] (Daughter 3) [redacted]. [redacted] (Daughter 4) is not present for the trial, but she is a child who was subjected to some -- what the State alleges amount to an act of sexual exploitation in that we allege the defendant photographed her nude along with her two sisters. Her sisters are witnesses to that. There is a photograph that shows all girls together, so there will be testimony that involves [redacted] (Daughter 4). She is a named victim in the contributing to the deliquency of a minor

indictment even though she's not here and that's because we believe there is sufficient evidence to support that based on eye witness testimony as well as the substantive evidence of photograph.

MR. WILLIAMS: I believe I can simplify this, Your Honor.

THE COURT: I would appreciate it.

MR. WILLIAMS: We won't have an objection to trying those cases that deal with those three witnesses that are present, trying them together, because I figure if they're close in time, they properly should be heard together. If it's a question of whether or not the evidence comes in, as the Lyle type of evidence, then it should come in.

The only issue which we would have, Your Honor, would have to do with any indictment that deals with any witness who will not be present for us to cross-examine.

MS. MAYES: We can take care of that, Your Honor. And I'll go ahead and state for the record what indictments we are calling.

I believe he is referencing at this point [redacted] Daughter 4 [redacted]. She's the young lady I spoke about before. She resides in Missouri and has been placed to live with her biological father. She is not here for the trial. There is a criminal sexual conduct with a minor indictment that

concerns her and there is a lewd act upon a child indictment that concerns her based on her forensic interview and information that was obtained during the investigation. Those two indictments, the criminal sexual conduct with a minor 2nd degree and the lewd act on a child are not being called.

THE COURT: Okay.

MS. MAYES: She is one of four named juveniles in the contributing to deliquency of a minor indictment and that indictment is being called. And, again, we believe that that charge, even as it relates to her, can be supported by eye witness testimony as well as physical evidence that was recovered from the computer.

MR. WILLIAMS: Your Honor, we would object to that particular indictment going forward at trial because, as she has already said, the allegations involve her and she would be a witness that we should have the right to cross-examine and obviously she's not going to be here for us to cross-examine, so I think by agreeing to narrow it down to those other issues, perhaps she should have enough to try with the other three victims, Your Honor, but we certainly would object to using a contributory deliquency charge involving Daughter 4 [redacted] who is not here for us to cross-examine because he would be denied his right to confront that witness under the Constitution.

THE COURT: Just so the record's clear, let me -- and I hope, Ms. Mayes, you've got your information in front of you, you can tell me, here's what I have right now in front of me regarding indictment numbers. I've got Indictment 2013-1420, which is CSC with a minor 1st degree.

MS. MAYES: That's correct, Your Honor. That indictment is being called.

THE COURT: All right. 2013-1423, criminal sexual conduct with a minor 2nd degree, that involving Heaven.

MS. MAYES: Yes, sir, Your Honor.

THE COURT: Indictment 2014-1684, which is a contributing charge as to Daughter 3 [redacted]. Well, I guess that's the indictment that deals with Daughter 3 [redacted], Daughter 2 [redacted], Daughter 4 [redacted], and Daughter 1 [redacted]?

MS. MAYES: Yes, sir, Your Honor.

THE COURT: And then 2014-1680, attempting or committing lewd act involving Daughter 3 [redacted].

MS. MAYES: Yes, sir, Your Honor.

THE COURT: Now, are there any other -- I think there might be another one; is that correct?

MS. MAYES: Two more lewd act indictments, Your Honor. They are 2014-GS-32-1683, lewd act on a child relating to Daughter 1 [redacted]. 2014-GS-32-1681, lewd act on a

child relating to Daughter 2 [redacted].

THE COURT: All right. And, Mr. Williams, your position is on the contributing indictment, not with going forward on that indictment as a whole but only as it relates to Harley?

MR. WILLIAMS: Your Honor, my objection goes forward to handling that indictment because in the body of the indictment, as it was presented to the Grand Jury, it was presented as four individuals who allegedly were part of the victims in this crime.

THE COURT: Okay.

MR. WILLIAMS: So we would take the position that she cannot go forward with the indictment without having Daughter 4 [redacted] present. However, she can go forward with 2013-1420, 2013-1423, 2014-1680, 2014-1683.

THE COURT: Tell me why she can't go forward on 1684 as it relates to Daughter 3 [redacted], Daughter 2 [redacted] and Daughter 1 [redacted]?

MR. WILLIAMS: Because the Grand Jury took that indictment based on all -- it's just not one victim listed as being part of the contributing.

THE COURT: I understand that. But they don't have to prosecute the case against the particular victim.

MS. MAYES: And it is and/or. Each victim is specified as and/or. With that in the indictment, the State's position is that the jury could find that it only

applied to one victim or two or three; however, we do believe that the eye witness testimony in this case is sufficient to support going forward on all of the charges.

MR. WILLIAMS: With what she's saying then, the jury could find him guilty of three counts of contributing to the deliquency of a minor that same as it could find as to one because you're dealing with three different victims.

MS. MAYES: We could have done four separate indictments for contributing to the delinquency of a minor which would be to the disadvantage of the defendant, it would have him facing additional prison time. We combined one indictment because on multiple occasions these children were together when they were photographed. There's at least one photograph that depicts [Daughter 1] and [Daughter 4] and [Daughter 2] all three together in the photograph and there was a New Year's Eve incident that involved all of the children as well, witnessing this take place with each other, when the defendant was photographing them. So for that reason, Your Honor, that evidence and that testimony is very probative to the State's case.

THE COURT: I guess, Mr. Williams, I'm just having a hard time understanding your position that on this indictment as set forth that says [Daughter 3], date of birth, [redacted]-2001 and/or [Daughter 2], date of birth,

and/or Daughter 4 [redacted], your position that if you can't go forward on all four of those victims, you can't go forward on any of them.

MR. WILLIAMS: Your Honor, it's kind of like the motion that she filed to include all the separate indictments being tried at one time. It's just the reverse of that if you think about it, Your Honor. Actually, what she's doing is just bringing all four and attempting to try it at one time as opposed to having four separate ones tried at one time.

THE COURT: You would rather the State bring four separate indictments against Mr. Hayes?

MR. WILLIAMS: No. What I'm concerned about is the fact that the Grand Jury may have considered evidence dealing with four victims as opposed to three victims.

THE COURT: They may have. But the indictment clearly sets forth and/or and it doesn't -- I'm not sure that it matters what the Grand Jury considered because what's important here is this petit jury.

MR. WILLIAMS: What type of curative instruction would the Court instruct the jury in reference to the fourth?

THE COURT: Well, my thought process -- let me just tell you -- I haven't made a ruling yet, but I'm concerned about your confrontation clause issue as it

relates to Daughter 4 [redacted]. But none of these names nor was this indictment -- the indictment -- the charge was read to the jury but not the victim's names. There would be no issue, I don't think, with -- or there would be no required curative instruction if I ruled that the State can go forward on Daughter 3 [redacted], Daughter 2 [redacted] and Daughter 1 [redacted] and not on Daughter 4 [redacted], and then I don't think there's any need for any curative instruction.

MR. WILLIAMS: Because they won't have access --

THE COURT: They won't even know is my point.

Now, Solicitor, and I don't know, your position is -- does Daughter 4 [redacted] appear in any of other cases?

MS. MAYES: Yes, sir, Your Honor. The children were together on multiple events in photographs that occurred in the bathroom and outdoors on New Year's Eve.

THE COURT: Sure. And let me clarify my question and make it clear.

Is Harley a victim in any of these other indictments as far as the other activity other than the activity in this indictment?

MS. MAYES: Right. She has indictments, but those were not passed up.

THE COURT: You didn't present --

MS. MAYES: Right.

THE COURT: I got you. I'm with you.

MR. WILLIAMS: Your Honor, I assume that the evidence, which would consist of pictures of maybe Daughter 4, would not be -- the Solicitor would not attempt to introduce those.

MS. MAYES: Your Honor, we absolutely would, and that's going to be imperative to the State's case.

This a situation where there are four sisters living in the home and the defendant, we allege, was photographing Daughter 1, Daughter 3 and Daughter 4 sometimes together, sometimes apart, but some information that is going to be offered is that they were witnessing this happen to each other, and the State's position is that all adds to the contributing as well. It's not like just isolating one child and having that child independently participate. But part of the, I guess, endangerment of the morals is having them watch their siblings also be photographed and the whole grooming aspect that's going on, encouraging the children to believe that it's okay and that it's all right.

THE COURT: But does that not exist if -- if you take Daughter 4's situation, if you take Daughter 4 out, don't you still have that with the remaining girls?

MS. MAYES: I believe, Your Honor, the reason it would become probative is if we take Daughter 4 out and she's not in the pictures anymore, then the defendant makes the

argument, well, how do we know Daughter 4 [redacted] wasn't taking the pictures. And the reason we know Daughter 4 [redacted] wasn't taking the pictures is that she's in the pictures.

THE COURT: There won't be any testimony -- I mean -- well, your purpose is she's in the pictures?

MS. MAYES: Yes, Your Honor.

MR. WILLIAMS: Your Honor, I think -- I think that if I were to use that one phrase, how do we know Daughter 4 [redacted]'s not taking the pictures, I think she could probably introduce that picture because I would open the door. But if I don't ask that specific question, then I don't see how she could put in a picture of somebody that I can't cross-examine and ask about how this picture got there and whether or not she was actually with the three and there's been some sort of photography flim flam.

MS. MAYES: I believe that them having a sister that's in the same age group, it's strongly going to be implied that if she's not in any of the pictures, then is she the one taking the picture. I certainly --

THE COURT: Here's my question. And again, please understand, I don't know the case that the State has, but just for hypothetical argument's sake, let's say I rule Daughter 4 [redacted] out because she's not here. And I realize her name could come up if you choose to because she was involved. But could not you effectively prosecute these

other cases and the jury never even know that a Daughter 4 [redacted] exists?

MS. MAYES: We could, Your Honor, if the defense would agree or stipulate that they're going to be make no inference that Daughter 4 [redacted] was involved in this or that Harley was taking the pictures. That's our concern.

THE COURT: Well, if they do that, then it opens the door and at that point I'm going to let you probably refute that. But I don't want to -- I'm not trying to handcuff your case.

All right. But for that issue, them raising the specter of Harley, could you not prosecute these other cases and the jury not ever know that a Daughter 4 [redacted] exists?

MS. MAYES: We could, Your Honor. However, I do want to make the Court aware that some of the photographs of our victims include Daughter 4 [redacted] in them, so we would in effect be losing that evidence which we deem has significant value in the case.

MR. WILLIAMS: Well, of course, my client's losing a lot more than that "some" evidence that's being used in the case. That's the right to confront that individual who's in the picture. She can try her case without those particular items including Daughter 4 [redacted], who's not here.

MS. MAYES: Let me preface it in terms of the defendant's written statement, which I realize the Court hasn't heard yet, but it relates to the pictures in this regard and has probative value to the State in this regard.

The defendant provided a written statement to law enforcement and he acknowledged that he was touching the victims in the breast area and the vaginal area but says he was doing that to check on them for medical purposes, that he wanted to check to see if they had breast cancer or any type of abnormality of the vagina. Then he expanded in his written statement to say that he taught them how to shave their pubic areas, and the State alleges that all of that is part of the inappropriate contact and the lewd act.

Some of these photographs and some of the photographs that include Daughter 4 [redacted] are him actually photographing them while their pubic areas are being shaved, so it relates directly to his written statement, and Harley is in some of those photographs. Actually, there's multiple photographs that show the three girls together while their pubic areas are being shaved and the State alleges the defendant is the one taking the photographs.

THE COURT: You mean the four girls together?

MS. MAYES: The three girls together. Daughter 3 [redacted] is not in those photographs. Daughter 3 [redacted] was a witness, however, to multiple incidents where he photographed the children.

So if we were to potentially lose those photographs because they contain Daughter 4 [redacted] in them, then all of a sudden the jury cannot appreciate -- from the State's standpoint cannot appreciate the value of his admission about teaching them to shave their pubic area. The reason that the State alleges that that is inappropriate and lewd is because he's actually photographing it and it's clear from the photos that it was intended to be sexual in nature. There are extreme closeups going on as this is occurring. And so if we lose that, then all of a sudden then it's like, oh, well, I helped them shave their pubic areas, but the jury can't appreciate why it's lewd or lascivious or even sexual in nature.

MR. WILLIAMS: My only objection has to do with the one person who's not here for me to cross-examine. And if she's not here for me to cross-examine, I can't. You know, it's not my fault. The State brings the case. And they shouldn't be able to pick and choose who they bring up here to try their case with. I mean, she's the one that wants to try them all four at one time.

MS. MAYES: I believe that --

MR. WILLIAMS: Or to try them all at one time.

I shouldn't say all four because now she doesn't want to try all four. She just wants to try the three.

MS. MAYES: I would have no objection to striking Harley's name from that indictment all together. The State just doesn't want to lose the evidence that pertains to Daughter 4 [redacted], which sometimes she's included in those photographs.

THE COURT: Let me ask you this: You've got a photograph that has four girls.

MS. MAYES: The three older girls are in multiple photographs.

THE COURT: The three older girls.

And your issue is that if she appears in a photograph that is presented to the jury, you ought to be able to ask questions about it.

MR. WILLIAMS: And, Your Honor, it's not really -- see, the Court really needs to know that we're not just talking about four or five photographs with the three of them in it. There are numerous single photographs of the individual girls. So it's really not necessary. Perhaps that will simplify things.

THE COURT: That's what I was kind of -- that's what I was trying to ask earlier is do you have photographs of -- I mean, are we just talking about volume or are we talking about --

MS. MAYES: The probative value?

THE COURT: Yes.

MS. MAYES: There is one more issue concerning probative value that I want to mention.

The detective who actually conducted the forensic analysis of the computer determined that all of the nude photographs of the children had been deleted from the computer with the exception of one. There was one that had been saved to the computer by default. And the ones that were deleted had no information as to date and time. The one that was saved to the computer he was able to determine was taken on New Year's Eve on into the early morning hours of January 1st -- it's really not New Year's Eve, the early morning hours of January 1st, slightly after midnight to 1:00 a.m., in that time frame, and that is a photograph of Daughter 4 [redacted]. However, it's an event that was witnessed by her sisters and it's discussed in the forensic interviews about taking these photos of them outside the residence on New Year's Eve. So the fact that that date and time have been confirmed by the analyst and is mentioned in the forensic interview has significant value to us.

Now, could we somehow redact his testimony where he just states one of the nude photographs have this date and time, I wouldn't have an objection to that, but I

wanted to bring that to the Court's attention.

MR. WILLIAMS: Obviously, I would have a problem to that if they're referring to somebody who's not coming here for me to cross-examine him.

Isn't it interesting that the only one they found on the computer is the witness who can't somehow come here to testify and try her case.

MS. MAYES: Your Honor, your question before about volume is, if you could, we could probably take a couple of minutes and figure out exactly how many photos involve Daughter 4 [redacted].

THE COURT: The issue I'm trying to resolve is this confrontation issue. And, really, you know, the things that you've shared with me, of course I haven't seen anything, but I don't question the probative value. I'm sure there's significant probative value. But I don't know that that takes any -- that doesn't override the confrontation clause issue, if there is one. I'm questioning whether or not just because, for example, if I eliminate any reference to Daughter 4 [redacted] in this trial because there's a fourth or a third -- because there's another girl in this photograph, I don't know that that becomes relevant. If she's never discussed and never pointed out, although she appears there, if the testimony is strictly -- I mean, just for argument's sake, you've got a

photograph and there's a girl named Hannah and Sarah, but the only two that are discussed are Hannah and Sarah because they're victims, they're here in court, and they testify, and you've got this third girl in there, but she's never referenced, she's never discussed. I don't know -- I'm not sure that becomes a confrontation clause issue.

MR. WILLIAMS: It's not if she's never discussed.

THE COURT: And so I guess that is my question or I pose that to you is that -- and I don't know because I haven't seen all the evidence, but it sounds like you've got enough evidence present that -- and I don't mean to be disrespectful toward Daughter 4 because she's a human being, but for purposes of this trial if we treated her as nonexistent, you could still prosecute your case effectively, but your evidence would shift to instead of molesting three of us or four of us, it was three of us.

MS. MAYES: Your Honor, can we have a few moments to look over the photographs?

THE COURT: Yes.

MS. MAYES: Because I want to make sure that I'm not missing anything.

THE COURT: And there's some things I want to look at, too. Why don't we just take a few minutes why

you all do that and then let's step back here.

(A break was taken.)

THE COURT: So it's my understanding, you all correct me if I'm wrong then, that, Ms. Mayes, you believe that the State can proceed on the contributing case without referencing Daughter 4 [redacted] and proceed with any photographs that you have that do not involve Harley?

MS. MAYES: We have approximately nine or ten photographs that involve all three of the girls together, or at least two of the girls, one of them being Harley, so we will set those aside and be prepared to not use them unless something changes, considering that.

THE COURT: All right. Now, so just want the record to be clear. We are going to proceed, then, with all of these cases being consolidated with regards to Daughter 3 [redacted], Daughter 2 [redacted] and Daughter 1 [redacted]?

MS. MAYES: And, Your Honor, I believe the defendant's position was that he had no objection -- actually, the defense no longer objects to the consolidation of those indictments as long as Daughter 4 [redacted] is not one of the named victims in the indictment.

MR. WILLIAMS: And any evidence, including Daughter 4 [redacted], not being used in the trial.

THE COURT: Correct.

All right. So now that that consolidation issue

is concluded, then we can proceed then with the witness's testimony.

MS. MAYES: Yes, sir, Your Honor. And just for the record, we've also submitted a motion in support of allowing Rule 440(b) evidence and that is now obsolete based on the consolidation matter being resolved.

THE COURT: Yes, ma'am.

MS. MAYES: And also just briefly if I could put on the record, we did have a discussion in chambers about the content of the forensic interview. We will undertake an effort to redact Daughter 4 [redacted]'s name from any of the questions or answers that are occurring in the forensic interviews that the State intends to offer as evidence and also the defense at this point has no objection to any references in the forensic interviews by the children to witnessing domestic violence against their mother or physical abuse of them -- against them or their sisters they allege was committed by the defendant.

THE COURT: But all references again to Daughter 4 [redacted] will be redacted?

MS. MAYES: Yes, sir, Your Honor.

THE COURT: Is that correct, Mr. Williams?

MR. WILLIAMS: That's correct, Your Honor.

THE COURT: All right.

MS. MAYES: The State calls Detective Steve

Collins.

THE COURT: Detective Collins, if you'd please come around to be sworn, sir.

STEPHEN COLLINS, after being duly sworn, testified as follows:

THE CLERK: Have a seat, sir. Once you're seated, state your full name, spelling your last name for the record.

THE WITNESS: Stephen Collins, S-T-E-P-H-E-N C-O-L-L-I-N-S.

IN CAMERA DIRECT EXAMINATION

BY MS. MAYES:

Q And, Detective Collins, where are you employed and in what?

A As a detective with the Lexington County Sheriff's Department.

Q All right. And how long have you been there with the sheriff's department?

A I've been with the sheriff's department for the past 14, going on 15 years.

Q And how much of that time has been spent in the field of being a detective or investigator at the sheriff's department?

A About nine years.

Q Can you tell us how you became involved in the

investigation of a case concerning this defendant, Chad Hayes?

A An incident report came into the Lexington County Sheriff's Department and I was assigned the report, to be the detective who would follow up with the investigation.

Q All right. What was the date of that report?

A The report came into the sheriff's department on December 9, 2011.

Q All right. And once it came into the sheriff's department and a report had been made, how is it that a detective or an investigator is assigned?

A A supervisor or somebody in any capacity with the investigation unit will go through the incident reports and determine if there is sufficient information in that incident report to warrant a follow-up investigation.

Q All right. Now, can you tell us for purposes of this hearing whether or not you received information concerning Daughter 1 [redacted], Daughter 3 [redacted] and daughter 2 [redacted], all female juveniles?

A Yes, ma'am, I did. They were listed as victims in the initial incident report.

Q And the alleges offenses they were involved with include what?

A Criminal sexual conduct. They alleged that they were the victims of sexual assault.

Q Now, did you also have the opportunity to review forensic interviews, or at least the forensic interview report associated with investigative interviews of Daughter 1 [redacted], Daughter 2 [redacted], Daughter 3 [redacted] and [redacted] in relation to these charges?

A Yes. Forensic interviews through child advocacy centers were scheduled for all of the victims in this case and I was able to review the videos of those interviews as well as the synopsis provided with the examiner.

Q Who did they name as the allege perpetrator of the active sexual abuse?

A Mr. Hayes, Chad Hayes.

Q And can you tell us whether or not there were also allegations that the children were being photographed nude or witnessing one another being photographed nude?

A Yes, ma'am, there were.

Q Now, moving ahead, can you tell us whether or not you had the opportunity to make contact with the defendant in this case, Chad Hayes?

A Yes, ma'am, I did.

Q And what was your understanding of his relationship or the relationship that he would have shared with the girls that led to these charges?

A He was the former boyfriend of their mother.

Q And do you know whether or not they had allegedly

resided in his home during the time frame involved with mother?

A Yes, ma'am. They had allegedly all lived together at 2251 Broad Street in the Leesville area of Lexington County.

Q All right. And can you tell us whether or not the defendant was still living at that location, 2251 Broad Street in Leesville, at the time you made contact with him?

A Yes, ma'am, he was.

Q How did you go about making initial contact?

A By telephone.

Q And what was involved in your notification of any suspect, that you would like to speak with them or make contact with them when you reach them by telephone?

A Depending on the situation, I inform them who I am, I'm a detective with the sheriff's department. Their name has come up during an investigation I'm conducting and I'd like to speak to them further about what has been reported to the sheriff's department.

Q All right. And in this particular case, you identified yourself as a law enforcement officer?

A Yes, ma'am.

Q And when you identified yourself as a law enforcement officer, did you make any specific requests of regarding

contact?
A Yes. I asked if he would be willing to come up and meet with me at the sheriff's department in Lexington County.
Q Would that be a voluntary interview?
A Yes, he was going to drive himself up there if he wanted to meet with me, so yes, ma'am, it would be voluntary.
Q And what arrangements ultimately were made?
A That we were going to meet on March 30 at the Lexington County Sheriff's Department to conduct an interview.
Q All right. And just to clarify, did he, in fact, drive himself there to the sheriff's department voluntarily?
A He arrived through some means. It's my assumption that he drove himself, but he did arrive through his own form of transportation.
Q In other words, you did not go pick him up?
A No, ma'am.
Q And was he in custody at that point in time?
A No, ma'am, he was not.
Q What about when he entered law enforcement doors?
A No, ma'am, he was not.
Q So he arrived. And what is the next step in the

process?
A Well, he comes into the sheriff's department as anybody would, they'll come into the front lobby of the sheriff's department. They are instructed when I'm going to meet with them to let the front desk personnel know that they were here and they will contact me and I'll come up and meet them in the front lobby.
Q Referring back specifically to March 30, 2012, where did you escort Chad Hayes once you met him in the lobby?
A To some interview rooms that are just off of a hallway from the front lobby.
Q Was he in custody at this point in time?
A No, ma'am, he was not.
Q Was he in handcuffs?
A No, ma'am, he was not.
Q What occurred once you were in the interview room together?
A We sat down, I again reintroduced himself, told him who I was, asked for his driver's license, confirmed that he was Chad Hayes, and then we began to talk about what we were there for.
Q All right. And how do you go about making initial rapport during the course of an interview?
A It depends, but, I mean, just engage the person that's there in some small talk. It could be anything

from weather or, you know, you feel -- just gauging their level of comfort of what's their interaction been with law enforcement, and it could be any number of things.

Q During this initial contact with Mr. Hayes, was there any indication that he was under the influence of any kind of alcohol or drugs?

A No, ma'am.

Q Was there any indication that he was having difficulty understanding your questions?

A No, ma'am.

Q Did you have any difficulty understanding his responses to you?

A No, I did not.

Q And how did the interview proceed after that?

A I'd asked him if he was aware of the victims and the mother and the individual who had made the initial incident report, and he was aware of the people that we were talking about and then we began to discuss the allegations that the victims had made.

Q And what happened next?

A He denied ever touching them in any kind of sexual manner when we were talking.

Q And what happened next?

A We began to discuss the possibility that he may be willing to take a polygraph exam, at which point he --

well, I asked him would there be anything that may be concerning on the polygraph exam or anything that might cause an issue.

Q What was his response?

A There were some things that he wanted to talk to me about.

Q And can you tell us whether he had been advised of his Miranda rights or ultimately was advised of his Miranda rights during this point in time?

A At that point in time is when I decided that I was going to go ahead and advise him of his Miranda rights because I was beginning to believe that he was going to start engaging me in a conversation that may not -- that I wouldn't want to be able to talk about.

Q All right. And how did you go about advising him of his Miranda rights?

A Through a written statement form, a Lexington County statement form that at the top of the form you fill in the relevant information about the individual that you're speaking with, you again identify yourself as a detective and that on that form, it lays out the Miranda rights.

Q I'm going to show you what' pre-marked State's Exhibit 2 and ask you whether or not you recognize that?

A Yes, ma'am, that would be the exact form that was used that day.

Q Does it contain your signature anywhere on it?
A Yes, it does.
Q Where?
A The bottom left of the statement.
Q And what is the date of your signature?
A My signature is not dated, but the form is dated in several places on the 30th of March, 2012.
Q All right. Now, you mentioned the waiver of Miranda rights. Can you tell us, start at the beginning of that form and tell us exactly what he was advised of?
A Yes. You have the right to remain silent. Anything I say can and will be used against you in a court of law. You have the right to talk to a lawyer for advice before answering any questions and have him or her present with you during any questioning. If you have no money for lawyer fees, the Court will appoint one to represent you without cost if you wish. If you decide to answer questions now without a lawyer present, you still have the right to stop answering questions at any time. I also have the right to stop answering questions at any time until I've talked to a lawyer. That's the Miranda rights and there's a follow-up statement. I've read the statement of my rights and I understand what my rights are. There's a box for the individual to initial and then it gets into, I make the following statement.

Q Does the portion that contains the Miranda rights, can you tell us whether or not he acknowledged receiving those rights in any way?
A Yes, there is initials placed after each of the five rights that were read to him.
Q Ultimately, can you tell us whether or not he also provided information in the form of a written statement to follow?
A Yes, he did.
Q And whose handwriting is that in?
A It's my handwriting and Mr. Hayes' handwriting.
Q Your handwriting consists of what?
A I ask a question and the answer portion of the question is in Mr. Hayes' handwriting.
Q And do you recognize the second page as well as containing your handwriting and Mr. Hayes' handwriting?
A Yes, ma'am.
Q In connection with the same interview on this same date?
A Yes, ma'am.

MS. MAYES: Your Honor, at this time the State would offer what is premarked as State's Exhibit 2.

THE COURT: Any objection?

MR. WILLIAMS: Your Honor, so she's just marking it as a Court's exhibit, right?

MS. MAYES: We can mark it as a Court's exhibit at this time, Your Honor.

(WHEREUPON, The Court's Exhibit No. 2 was marked for purposes of the record.)

BY MS. MAYES:

Q Do you have a duplicate copy of that same document that we just spoke of, the written statement of Mr. Hayes?

A I actually remained the original the whole time until right now, so I did not ever make a copy of that form for myself.

MS. MAYES: Beg the Court's indulgence.

(Pause.)

BY MS. MAYES:

Q I'm going to show you a document and as you whether or not it's the same document that was just marked as a Court's exhibit?

A Yes, ma'am, it is.

Q Now, you mentioned the waiver of Miranda rights and the fact that the defendant initialed each right. How did you go about actually developing questions and obtaining answers after the defendant waived his Miranda rights?

A Before we got into him providing a written statement, I asked Mr. Hayes to talk about the information that he had told me that was concerning to him about the possible polygraph test.

Q All right. And I asked before about whether the defendant appeared to be under the influence of any type of drugs or controlled substance. Can you tell us whether or not his speech was coherent?
A I had no problem understanding Mr. Hayes whatsoever.
Q Did at any time he ask or request an attorney?
A No, ma'am, he did not.
Q Were any promises made to Mr. Hayes in response for participating in this interview?
A No, ma'am, there were not.
Q Did you coerce Mr. Mayes in any way in order to obtain a statement from him?
A No, I did not.
Q To the best of your knowledge, was his statement and the participation in the written interview that followed freely and voluntarily given?
A Yes, ma'am, it was.
Q Once you posed questions in response to the information he provided, did he freely and voluntarily answer those questions?
A Yes, he did.
Q Can you tell us after he had waived his Miranda rights what the substance of the statement was?
A He talked about how the girls, the victims in this case would come to him with concerns about female problems

and would ask him to check them.

Q And specifically what question did you post to him concerning Daughter 2 [redacted]?

A I asked him if he had ever touched Daughter 2 [redacted].

Q What was his response?

A He wrote, I have never touched her in a sexual problem, only to check her for female problems, felt her boobs for lumps, and her vagina for anything not normal, but I told her I was not a doctor.

Q All right. And for purposes of this hearing and these proceedings, I'm not going to ask you anything specific concerning the second question concerning Daughter 4 [redacted].

A Okay.

Q Moving to the next page, what, if any, questions did you post to him concerning Daughter 1 [redacted]?

A I asked the same thing, Have you ever touched Daughter 1 [redacted]?

He said, I have never touched her in a sexual manner, only if she asked or her mom asked me to check on or see what I thought about a female problem she had, only checked for lumps on her boobs and she had a problem with her vagina burning, itching and hurting. I also helped her shave her private area part so it could look -- so she could learn how. She asked me to help her.

Q What, if any, question did you pose to him concerning Daughter 3 [redacted]?

A Have you ever touched Daughter 3 [redacted].

Q What was his response?

A I've never touched her in a sexual manner, only asked for -- then scratched something out and initialed it -- me to check for lumps on her boobs and to help her to take a bath but not touch her private because she asked me to -- I told her that her mom needed to help her. She was also -- she was also a "touch me not" type person but a lovable person.

Q Anything in addition?

A He followed up with that I've never tried to be sexual with any of the girls and they never have said to me I was doing something sexual to them or anything that they didn't ask me to do or their mom asking me for help with their female problems.

Q All right. And what's the next question you posed?

A You did touch the breasts and vaginal areas of these girls, but you said it was at the request of them or their mother?

Q And his response?

A Yes. And most of the time their mother was present in the room and was also checking, too.

Q And your next question?

A What took place when you would help them in the bathroom to shower?
Q And his response?
A I would help them wash their hair and back when they asked or their mom would help them only if they asked me to.
Q And your next question?
A Describe what you would do when you would touch the girls' breasts or vaginal area?
Q His response?
A Check their breasts for lumps, feel around the breasts to see if I could feel a knot or a bump or a lump, check their vagina area for redness or feel around or in for swelling or anything not normal to me.
Q Feel in around it for swelling or anything not normal to me?
A Yes, ma'am.
Q And your next question?
A When did you begin to help check the girls?
Q And his response?
A When they started their puberty cycles and started having female problems.
Q And how does the statement end?
A It ends me with me writing out a statement which says, This statement was made on my own free will and I

was promised nothing to make this statement. Mr. Hayes initials next to that and then signs his name underneath that.

Q All right. And ultimately did he also sign the second page of this statement?

A Yes, he did.

Q And the defendant's signature was obtained both on the first page and the second page, correct?

A Yes, ma'am, and at the end of the statement.

Q At any point during that interview all the way through to the end of the second page, was Mr. Hayes coerced or threatened in any way to obtain that statement?

A No, ma'am, he was not.

Q Was he promised anything in exchange for the statement?

A No, ma'am, he was not.

Q Did he request an attorney at any point during that statement?

A No, ma'am, he did not.

Q Based upon your observation, was the full statement obtain freely and voluntarily?

A Yes, ma'am, it was.

Q Now, following the written statement and the acknowledgment by the defendant contained therein, what, if any, action did you take in regards to this

investigation?
A I advised Mr. Hayes that he was under arrest and I took him into custody.
Q Following that event, can you tell us whether or not he remained incarcerated?
A Yes, ma'am, he did remain incarcerated for a period time.
Q Now I want to move forward to October of 2012.
A Yes, ma'am.
Q And ask specifically whether any additional measures were taken in this case to obtain evidence?
A Yes, ma'am, there were.
Q And specifically what was that?
A A search warrant was obtained for the defendant's, Mr. Hayes's house.
Q All right. When you say "house," are you referring to that same residence at 2251 Broad Street that you referred to previously?
A Yes, ma'am.
Q And up through this time, had Mr. Hayes been in custody and remained in custody?
A Yes, ma'am, he was.
Q He had been never bond to your knowledge?
A To my knowledge, no, ma'am, he did not.
Q And based upon this information that he had remained

incarcerated, can you tell us who obtained the search warrant?
A I obtained the search warrant.
Q I'm going to show you what is State's Exhibit 3 premarked. Is that the search warrant that you're referring to?
A Yes, ma'am.
Q Now, as to this particular search warrant, can you tell us what you were looking for specifically?
A The following items to include but not limited to computers, digital cameras, memory storage devices such as thumb drives, memory cards, photos, video recording devices. Specific information sought was a teddy bear camera, Guitar Hero video game with drumsticks. Also included in a search warrant will be photographs of the interior and exterior of the residence.
Q All right. And ultimately was the search warrant executed?
A Yes, ma'am, it was.
Q On what date?
A On November 1.
Q So this search included computers, digital cameras, and memory cards, correct?
A Yes, ma'am, that was essentially the items we were looking for.

Q Can you tell us whether or not in the forensic interview of Daughter 1 [redacted] and/or Daughter 2 [redacted] and/or Daughter 3 [redacted] there had been a disclosure about a digital camera being used?
A Yes, ma'am, there was information disclosed about that.
Q And specifically about photos possibly being loaded onto the computer?
A Yes, ma'am, the girls in their interviews said that the photographs were uploaded onto the computer and they'd seen them there.
Q And were they able to tell you specifically where the laptop would be located or expect to be located in the residence?
A No, I did not know from them where laptop would be located.
Q Your understanding there would be a laptop located at that resident?
A Yes, ma'am.
Q Up until the defendant's date of -- up to -- to their knowledge as of the last time they were in the residence?
A Yes, ma'am.
Q And the search warrant was executed again on what date?
A November 1st.
Q And what items were recovered during the search?

A The items that we recovered were drumsticks from the rear bedroom, a CDV -- a CD and printed photo from the desk, a beard trimmer from the front bedroom or bathroom, USB memory stick from mirror in the front bedroom, cassette tapes from the dresser in the front bedroom quantity one, cassette tape from the front dresser bedroom quantity two.

Q All right. And was a laptop computer recovered from the residence?

A No, ma'am, it was not.

Q Was there equipment in the home consistent with a computer?

A Yes, ma'am, there was.

Q But the laptop itself was not there?

A Correct.

Q And was a digital camera located in the residence?

A No, we did not locate any digital cameras.

Q Now moving forward to the next day of November 2 of 2012, what, if anything, occurred?

A We went back out to the residence, the area where Mr. Hayes lived, the property he lived on.

Q Okay. And let's discuss that property to some extent. The property that he lived on, who lived near by?

A Well, his relatives, his mother, his father, and his grandmother. There may be other people. Those are the

ones that I know specifically.
Q So the majority of his neighbors consist of family members, correct?
A Yes.
Q And are there outbuildings associated with his residence?
A There were garages, a shed. Yes, ma'am, there are outbuildings.
Q Any vehicles?
A Yes, vehicles.
Q Can you tell us specifically -- first of all, let me ask you this. On that search warrant, do you recognize this as the same search warrant that you submitted to the judge for signature?
A Yes, ma'am, it is.
Q And ultimately the same return filed December 12, 2012?
A Yes, ma'am.
Q And who's signature is contained on this return?
A That is my signature.
MS. MAYES: Your Honor, at this time what is premarked as State's Exhibit 3 we would offer as a Court's exhibit.
THE COURT: All right.

(WHEREUPON, The Court's Exhibit No. 3 was marked for purposes of the record.)

BY MS. MAYES:

Q All right. And the document I'm going to hand you, can you tell us whether or not it's the same document, a copy of the same document?

A Yes, that is.

Q The search warrant for the residence?

A Yes, ma'am.

Q Specifically on this, if you could relate to the Court and for the record the reason for the release that the property sought was on the subject premises?

A Yes, ma'am. It states that on December 9, 2011, it was reported to the Lexington County Sheriff's Department that the defendant, Chad Hayes, had sexually molested in this case. In this document, it does state four white females, giving the ages of 15, 14, 13, and 10, while at the address of 2251 Broad Street in the Leesville area of Lexington County. Victims were given forensic interviews and as a result of their disclosures of abuse and during the disclosures, the victims reported being photographed in sexual images by Mr. Hayes. They further state that they believed he would save the photos to a computer in the residence. The disclosure of the victims are consistent with them being abused and photographed by

Mr. Hayes. Mr. Hayes was arrested as a result of the information from the victims and the information provided during his interview with law enforcement, Mr. Hayes has begin in jail since his arrest based on the value -- individuals placed on computers, cameras, photographic images. There is reason to believe that the images sought could still be located within Mr. Hayes' residence. The victims lived with Mr. Hayes at the time of the abuse while Mr. Hayes was dating their mother.

Q All right. And can you tell us whether or not the search warrants contained various areas outside the immediate residence?

A Yes, ma'am. The search will include any vehicles and outbuildings associated with the residence.

Q All right. And for the record, how is it that information such as photographs on a computer itself or the hard drive are not fungible evidence the way that drugs or DNA would be?

A Individuals place a higher value of photographs images that they take. They have sentimental value. They've got a residual value to them. It's not something -- you take pictures own your vacation and you come home and you discard your vacation pictures for example. There's every reason to believe that individuals would hold on to those items beyond drugs, for example,

which are consumable, and you would smoke your marijuana or whatever your drug would be and it would be gone within a short period of time. Photographs are looked at differently.

Q Based on your training and experience, can you tell us whether or not images have been recovered from computes months or even a year after the attacks?

A Yes, ma'am. If we're speaking of child pornography or images along those lines, then absolutely individuals, in my training and experience, they have to collect images of child pornography, go to great lengths to get those images and they go to even greater links to keep those images once they've obtained those.

Q And can you tell us whether based upon your training and experience deleted images may be recovered from a computer hard drive?

A Yes. In my training, the images, once they're deleted are still present on a hard drive until those images are actually overwritten on the hard time. Simply deleting them allows a computer to reallocate that space. It does not completely delete their experience until that part on the hard drive is written back over.

Q And how did you obtain entry into the defendant's residence at 2251 Broad Street, given the fact that he was incarcerated?

A His parents who lived next door let us in. They had a key to the residence.
Q All right. His mother and father?
A Yes, ma'am.
Q And once you had the results of that search and a computer was not located, what steps were taken to obtain additional information?
A As far as looking for the computer?
Q Yes.
A We went and asked his parents about the computer, what we were looking for.
Q You said "we." Who is the other person who was with you?
A There are actually two others, Detective Joe Chappell with Lexington County Sheriff's Department and Detective with April Bayne.
Q And Ms. Bayne was employed where at this time?
A With the Solicitor's office at the time.
Q And Detective Chappell was employed where?
A Lexington County Sheriff's Department.
Q And do you know the date that you went back to that family property to speak with Ms. Hayes?
A Well, we spoke with her the day of the search warrant and then we went back the next day based on additional information that was discovered.

Q And for purposes of this hearing, what is that additional information?
A That the computer had been returned to Ms. Hayes. She was in possession of the computer.
Q When you say "returned," who would have been the party, if you know, who would have done the return of the computer back to her?
A The day that we spoke to her, the day that we had the search warrant at the residence, Ms. Hayes told us that she had given the computer to her son's attorney at the time, which was Richard Briebart.

MS. MAYES: Beg the Court's indulgence.

THE COURT: Yes, ma'am.

(Pause.)

BY MS. MAYES:
Q Just to make the record complete, was Mr. Briebart still involved in the practice of law at the point where you had gone to visit her in November, November 1 and 2 of 2012?
A No, ma'am, he was not.
Q And do you have knowledge as to whether or not there was a court-appointed trustee who had taken over client files?
A Yes, I was told there was.
Q Okay. And can you tell us about whether or not it's

your understanding that those client files were then returned to the client for representation?
A Yes, that's my understanding.
Q All right. So you went back out to the residence and spoke with Mr. and Mrs. Hayes. What happened next?
A Well, we knocked on the door and made contact. We had Mr. Hayes, the defendant's father. Mrs. Hayes was not at the residence at that time. We told him why we were back at the house.
Q I want to show you a document that is marked as State's Exhibit 1 and ask you whether or not you recognize it?
A Yes, ma'am.
Q What is that?
A That is a property release form, a Lexington County Sheriff's Department form.
Q What led up to obtaining that document and ultimately obtaining the computer on that date?
A Ms. Hayes gave us the computer.
Q Okay. Were you inside the residence or outside the residence when that occurred?
A When she turned the computer over to us, we were inside of the residence.
Q And how get you get inside the residence?
A They have us in. They were at their residence which

is located at 2245 Broad Street.
Q And so when you went to the door, did you identify yourself as a law enforcement officer?
A I don't think I reidentified myself as a law enforcement officer. They knew us from the day before.
Q And can you tell us whether or not you were invited into the residence?
A Yes, we were invited into the residence.
Q All three of you members of law enforcement?
A No. That day it was just myself and Detective Bayne.
Q And once you're inside the residence, what happened next?
A There was a conversation about the computer. Mr. Hayes and Mrs. Hayes did give us information that they had been in the possession of the computer and that they essentially wanted to make sure they were doing the right thing by giving us the computer.
Q And what happened next?
A They had told me that they wanted to call their attorney, who was Mr. Williams at the time.
Q What happened next?
A We also tried to get in touch with Ben Stitely, who is a colleague of Mr. Williams, I know him through work, and while we were out there, conversations and phone calls were made. I did speak with Mr. Stitely who advised me at

that point they had not been officially retained by Mr. -- Mr. Williams firm had not been officially retained by Mr. Hayes and his family and Ms. Hayes, that conversation, the end result is they turned the computer over to us voluntarily.

Q And Mr. Stitely who you referred to is an associate Mr. Williams' law firm?

A Yes, ma'am, he is.

Q And you spoke with him and he said they were not officially attorneys of record?

A Correct.

Q And Ms. Hayes, did she -- what makes you believe that she consulted with an attorney at some point?

A That she ended up voluntarily turning over the computer to us leads me to believe that she was given information that there was no reason for her not to.

Q Did she leave the room at any point?

A Yes, ma'am. All of the conversations that Ms. Hayes had or her attempts to make phone calls, she would leave the room. They were not in our presence.

Q And in your understanding, was she retaining an attorney?

A Yes, that was my understanding.

Q And when she returned back from that venture, she did what?

A We were given the computer.
Q How did she go about physically obtaining or seizing the computer?
A She went to some other spot, left our presence and returned back with the computer.
Q Do you know if she was still inside the residence at the point that she went to retrieve the computer?
A I did not at that point. And I may have stepped out at that point was well because I was in contact with another detective, if we were going to need to get a search warrant to look in a residence for the computer. So I don't have an exact clear recollection of when all of that -- it was a fluid situation.
Q All right. I want to follow up on that a little bit, what you just mentioned about being in contact with another officer. For what reason were you in contact with another law enforcement officer while you were at the scene of the parents' home?
A If we needed to obtain a search warrant for Mr. and Mrs. Hayes', his father -- Mr. and Mrs. Hayes' father and mother's residence, I believe that we would have been able to establish probable cause that the computer was there and would have been able to get a judge to issue a search warrant for that residence to obtain that evidence.
Q So that process, obtaining a search warrant for that

residence was undertaken, if necessary?
A Yes, ma'am.
Q And you were actually in communication with a fellow officer about that?
A Yes, another detective that was at our headquarters had a computer and could have easily handled that for me if the need arose.
Q And what happened next?
A We were able to get the computer turned over to us voluntarily.
Q And can you tell us what the form is that is premarked State's Exhibit S-1?
A It simply is a release form and it states that the property, in this case an Acer laptop computer, was released to myself, Detective Steve Collins with the Lexington County Sheriff's Office. I signed it, give the case number that the incident is related to. Ms. Hayes signs the signature box of it and it is witnessed by Detective Bayne.
Q All right. And so she actually -- Ms. Hayes actually signed that form as she gave you the computer?
A Yes, ma'am. She signs the form as we are taking the computer.
Q And do you recognize the signature on there as being a signature that you witnessed Ms. Hayes sign?

A Yes, ma'am, that's her signature.
Q And the date on the form?
A Is November 2, 2012.
Q And is your name contained on this document as well?
A It's on the document two places. It's the officer listed with the sheriff's department on the case and the officer that the property is released to.

MS. MAYES: Your Honor, at this time we would mark State's Exhibit S-1 as a Court's exhibit.

THE COURT: All right. Without objection.

(WHEREUPON, The Court's Exhibit No. 1 was marked for purposes of the record.)

BY MS. MAYES:
Q And can you tell us whether or not that's a duplicate copy of that same document?
A Yes, ma'am, it is.
Q Based upon your observation, Detective Collins, was the turning over of that computer, did it appear to be free and voluntary on the part of Ms. Hayes?
A Yes, ma'am, it did.
Q At that point in time based on your observation, did Ms. Hayes have both knowledge and constructive possession of that laptop computer?
A Yes, she did.
Q How long was she gone if you had to estimate between

when she left to retrieve the computer and when she came back?

A Minutes. No more than five.

Q Now, once that consent to search or the release for property form was signed, the release for property form concerning the laptop computer, did you take possession of the computer for purposes of evidence?

A Yes, I did.

Q And where did it go?

A From my possession it was turned over to our evidence.

Q Can you tell us whether or not you had the opportunity to obtain an additional search warrant for the contents of that computer?

A Yes, ma'am. Subsequent to seizing the computer, we did a search warrant to search the computer.

Q I'm going to show you what is premarked as State's Exhibit 4 and ask you if you recognize that document?

A Yes, ma'am, it is the search warrant obtained to search the computer that we seized.

Q And who obtained that search warrant?

A I obtained that search warrant.

Q Can you tell us whether or not such a search warrant is standard when you're going to retrieve information potentially data and potentially images from a computer

hard drive?
A Yes, ma'am, I believe it is standard.
Q And ultimately can you tell us whether or not a computer extraction was carried out by the Lexington County Sheriff's Department following this search warrant being obtained from a judge?
A Yes, ma'am, it was.
Q And do you recognize the search warrant as the same search warrant that you obtained?
A Yes, ma'am, it is a copy of the search warrant that was obtained to search that computer.
Q And ultimately who signed and filled out both the return and the addendum to the return?
A Detective Mike Phipps with the Lexington County Sheriff's Department.
Q He's a computer analyst for the sheriff's department?
A Yes, ma'am. He works in our crime scene unit and that would be a fair assessment of his duties.
MS. MAYES: Your Honor, this would be Court's Exhibit 4.
THE COURT: Okay.
(WHEREUPON, The Court's Exhibit No. 4 was marked for purposes of the record.)
BY MS. MAYES:
Q Can you tell us whether or not this is a duplicate

copy of the same search warrant?
A Yes, ma'am, it looks like the exact same copy of the search warrant that was just passed up.
Q Now, specifically, what did you list in the search warrant as items that you would be looking for within the computer and its contents?
A Again, the search warrant listed with respect to the initial listing images of the four victims in this case.
Q Would that include data storage?
A Yes, ma'am.
Q And deleted images and anything that may be contained in the hard drive?
A Yes, all of the information that would be contained on the computer that would be images of the victims in this case.
Q And ultimately did Detective Phipps obtain images that relate specifically to the victims in this case?
A Yes, ma'am, he did.
Q And can you tell us as it relates to Daughter 1 [redacted] and Daughter 3 [redacted], there were nude images recovered from that computer?
A That is what Mike told me, yes, ma'am.
MS. MAYES: Beg the Court's indulgence.
THE COURT: Yes, ma'am.
(Pause.)

BY MS. MAYES:

Q Again, would you just clarify again that once the computer goes into evidence, is there any reason to believe that the images will self-destruct for fungible reasons?

A No, ma'am, I've never heard of any reason that could cause that to take place.

Q So based upon your training and experience, any data or images on the hard drive on the date it went into evidence should still be there on the date that the extraction is done?

A Yes, ma'am, that is my belief.

MS. MAYES: Nothing further.

MR. WILLIAMS: May it please the Court.

THE COURT: Yes, sir.

IN CAMERA CROSS-EXAMINATION

BY MR. WILLIAMS:

Q Detective, I guess from the beginning, you hold no special qualifications dealing with computers, do you? You're a detective dealing with investigations for persons charged with crimes of the Lexington County Sheriff's Department; is that correct?

A I spent a number of years as a member of the Internet Crimes Against Children Task Force, so I do have more knowledge than a normal detective, but I'm not an expert

in computers by any means, but my training is beyond.
Q You have no particular degrees in computer science?
A No.
Q No degrees dealing with setting up networks or anything like that?
A No, sir.
Q Okay. Let me take you -- I'll try to keep it simple and short. As I understand it, this investigation began on or about December 9 of 2011; is that correct?
A Yes, sir, that is the date the initial incident report came into the sheriff's department.
Q That's the date that you became involved with these cases?
A Yes, sir, that would be the date that I got the report.
Q And from that date up until March 30 of 2012, which is some four months later, there was no interviews of the defendant in regards to any of these allegations, but there were simply some forensic interviews conducted of the three alleged victims in this case?
A Yes, the victims were interviewed, yes, sir.
Q And you -- in terms of that, did you conduct the interviews or were these interviews conducted by other individuals and you took that information to run with?
A Correct. I did not conduct any of the interviews.

Q So in terms of any knowledge that you had about the pictures or even the acts, you received that secondhand?
A Yes, it came from other people. I had no initial direct knowledge of the images.
Q And those forensic interviews were conducted by other individuals who are -- I guess who interviewed the children. Did you read the reports that were done?
A Yes, sir, I read the reports and read the DVDs or the copies of the interviews.
Q And so when you met with my client on March 30 of 2012, did you have enough information prior to meeting with him to go ahead and charge him?
A Yes, sir, I guess you could say I do. To charge somebody with a criminal sexual conduct with a minor, the word of the victim stands alone to establish probable cause, so I guess by letter of law I could have charged him.
Q But you had decided not to charge the defendant at this point in time but to wait until you had an interview conducted of the defendant; is that correct?
A Yes. I'd much rather speak with the defendant and find out if there was any information that he could shed light on the subject about.
Q And when you go -- when he was invited to the sheriff's department and he was brought back into the

investigative wing; is that correct, at the sheriff's department?

A Yes, that's fine. I have no problem calling it that.

Q And when he goes back there, could he have just left at that point in time?

A Sure.

Q And if he had attempted to leave would you have allowed him to leave?

A Yes. If he'd had stood up and said I'm going, I want to leave, I would have not had any issues with it.

Q What time did you get there -- what time did he get there and did you begin your conversation?

A He probably got there about 3 o'clock that afternoon.

Q What time would that have been in military time?

A 1500.

Q All right. And you talked to him for an extended period of time before anything was written down or reported; is that correct?

A I would say about 20 minutes or so.

Q And then after 20 minutes he had denied anything essentially, correct?

A Essentially, yes, sir.

Q And you said that, well, I'll put you on a polygraph; is that correct?

A Right. I never said it like that, but I did ask him

about his interest in taking a polygraph examination.
Yes, sir, that conversation took place.
Q Of course, you knew a polygraph was not admissible?
A Absolutely not admissible.
Q But once that was said, then he agreed to talk to you some more; is that correct?
A Well, he said there were some concerns that he had about some stuff that may have happened that he thought could cause an issue on a polygraph exam.
Q And those are the written items which are included on the two-page statement from him; is that correct?
A Yes, those are the items that he thought would have an issue.
Q And those particular items, in both pages he denied any unlawful sexual conduct with regards to the minor children?
A He denies it, yes. He said that the touching was not sexual, that is correct.
Q And whose witness name is on the bottom of the first page?
A That would be mine.
Q That's your signature on the bottom?
A Yes, sir.
Q After concluding your interview with him, is that when you went ahead and handcuffed him and took to the

cell?
A Yes, sir, after the interview was done, after we had gone over the questions, knowing the allegations that had been made in the videos of the forensic interviews, that I believed that what Mr. Hayes described to me corroborated that information, so I determined to place him under arrest.
Q And you had no witnesses present at the time that you interviewed him; is that correct?
A No, it's just he and I.
Q You had no recording devices?
A No, sir, I did not.
Q No taping of any kind?
A No, sir, there was not.
Q So you arrest him on March 30 of 2012?
A Yes, sir.
Q And at some point in time you secure a search warrant?
A Yes, sir.
Q And the date of that search warrant is what date?
A I believe it was October 30 of 2011.
Q So was that five months later?
A I'd probably say a good six months later.
Q I can't count. September, October?
A Yes, sir.

Q Six or seven months?
A Yes, sir, six or seven months.
Q Seven months later you go to Judge Rawl and you secure a search warrant for the search of what residence?
A I go to Judge Jeffcoat.
Q Jeffcoat?
A Yes, sir. That was the judge that I obtained the search warrant of the residence from.
Q And he would have been the judge at the jail, correct?
A Most likely Judge Jeffcoat would have been the bond court judge, yes, the judge at the jail.
Q And you told Judge Jeffcoat that you wanted to search a particular location that you gave him which was the address of my client; is that correct?
A That's correct.
Q And you're well aware that my client's mother as well as his grandmother have different locations, don't you?
A Yes. They live at different residence, yes, sir.
Q So you get the search warrant and you go out to my -- and you know that the client is in jail, right?
A Yes, sir.
Q Has been in jail?
A Has been in jail, yes, sir.
Q And you go out to that location and you do not find a

computer or a camera?
A No, sir, we did not.
Q So I assume you seize whatever is on the return and then you go back to the sheriff's department. What prompts you to go back out to the house again?
A The information that came to light that the computer that had been given to Mr. Briebart had been given back to Mr. Hayes' mother.
Q And how did you secure that information?
A It came through April Bayne and myself. We were told by Ms. Hayes that the computer had gone to Mr. Briebart. Through Detective Bayne's investigation, she found out that when Mr. Briebart had had the issues that he had, that whatever -- I guess you guys use the word case files as well, but whatever the information the attorney had was turned back over to the clients, and among that information would have been the laptop computer.
Q So you were talking to Ms. Hayes on the date that you came out with the search warrant about the computer and she denied -- did she deny knowing where it was or did she tell you that the computer was at Richard Briebart's office?
A I believe that she said it was at Mr. Briebart's office. Well, she said it had been given to his attorney. I don't know remember exactly whether she said his office,

but the computer, both her and Mr. Hayes denied that the computer was at the property when we were out there looking for it.

Q So having been told that the computer was at Richard Briebart's or the attorney's office, then how did you learn that it was not at the attorney's office?

A I did -- I learned that through Detective Bayne. She was the one that was able to find out that. She was able to find out that that property had been given back to Mr. Hayes' representatives, who were his mother and father, by Mr. Briebart's office, so we now believe that the computer -- Ms. Hayes would have information on where the computer was.

Q Did she tell you they told her?

A She may have. She's here. I don't want to put words in her mouth.

Q Okay. So she said that someone told her that the computer was back from Briebart's office?

A Correct.

Q Well, actually, it wasn't at Briebart's office, was it?

A Well, it was at wherever Ms. Hayes had had it.

Q So you really don't know where it was prior to Ms. Hayes handing it over to you?

A No, I have no idea. I know that it wasn't in

Mr. Hayes' resident when we executed the search warrant unless somebody had gone to extraordinary means to conceal it from us with his house. We did not tear out the ceilings, pull up floors, go to extraordinary means, but i know that this computer was not located in his house where a reasonable person would look for a computer.

Q So you go back out the next day based on the conversation with Ms. Bayne. You have that conversation -- after you have that conversation, you go to Ms. Hayes and you say, I know you've got it, you can turn it over or I'll get a search warrant; is that essentially what you said?

A Actually, we made contact with Mr. Hayes, the defendant's father, first and he made some kind of statement to the effect that she had the computer, he had nothing to do with it, referring to Mrs. Hayes, Mr. Hayes' mother.

Q Okay.

A When she showed back up, we engaged her in conversation about the computer and she did not want to do anything that would cause her or her son to get into any more trouble, which is understanding, and she said that she wanted to speak with your office.

Q All right. So is it your impression that she talked to my office?

A Yes, it's my impression that she talked to somebody at your office, yes, sir.
Q And actually, did you say you had a conversation with someone in my office and he said what?
A That you had not been retained as the attorney for the family at this time.
Q So Ben Stitely told you that we did not represent him?
A Yes, sir, Mr. Stitely is who I spoke with, yes, sir.
Q So then after she leaves the room and has some conversation with someone, then she comes back and what does she do?
A We were able to get the computer. She turns the computer over to us.
Q But you already knew that my office didn't represent him, correct?
A As far as I know, yes, sir.
Q And you knew that -- it was your understanding that she did not own the computer, right?
A No, that she did not own the computer.
Q And the search warrant was for the location where he resided and there was no computer at where he resided, correct?
A No, there was no computer where he resided.
Q So where did you get the computer from?

A I got the computer from Mrs. Hayes.
Q Where did she get it from?
A Whatever she had it prior to us coming out to obtain the computer.
Q So, in essence, what you have is a voluntary turn-over of a computer belonging to the defendant from someone other than the defendant from a location which was not the location of the search warrant?
A That's correct.
Q And that would have been what date?
A The date we got the computer was November 2nd.
Q Did you make any assertions to Ms. Hayes that you had a search warrant for the computer at the time that you picked it up?
A No, sir.
Q And there were three individuals who were present; is that correct?
A No, sir, two individuals. The previous day it was myself, Detective Chappell and Detective Bayne. The 2nd it was just myself and Detective Bayne that had gone back out to the residence.
Q She's a representative of the Solicitor's Office?
A Yes, sir, she was at that time.
Q And the computer which was handed to you, was anything distinctive about that computer to indicate that

it had been one which was subject to the search warrant? Anything special about the computer that you knew it was the computer that you were looking for?

A No, sir. It was the computer that she turned over to us, saying that it was the computer --

Q It was the computer of her son?

A Correct.

Q She said, This is the computer of my son?

A I don't know whether those were her exact words, but I left with the knowledge that I had been handed the computer from Ms. Hayes which she believed belonged to her son.

Q Did she turn over any digital cameras?

A No, sir, she did not.

Q As of this date had you recovered any digital cameras?

A No, sir, we have not.

Q Was there anything prohibiting you from getting a search warrant for her location?

A No, sir, there was nothing prohibiting us. Honestly, I didn't know whether we needed one or not. She had the information. I knew that we were going to get another search warrant to search the computer.

Q When you subsequently got another search warrant to go into the computer which she handed to you, and the

reason you know the information on that is because you had it so you could in the search warrant about what type of computer it was, what the serial numbers were, that time you went to Judge Rawl to have that search warrant signed?
A Yes, sir.
Q Did you serve a copy of that search warrant upon the owner of the computer?
A No. I believe that search warrant was left with the competent. Detective Phipps left a copy of that search warrant with the computer when it was returned back to him. I don't know what --

MR. WILLIAMS: I think that's all I have, Your Honor.

THE COURT: Redirect?

IN CAMERA REDIRECT EXAMINATION

BY MS. MAYES:
Q Just to follow up, you are familiar with that residence out there. Do you know how many outbuildings are associated with the residence of Mr. Hayes?
A I would say at least three, a couple of covered garages and a shed. But the way the property is, you can almost associate those outbuildings with other ones, that depending on how you look at the property, but those are the ones that I remember were directly went in a straight line from his house.

MS. MAYES: Nothing further.

IN CAMERA RECROSS-EXAMINATION

BY MR. WILLIAMS:

Q And again, you don't know where the computer came from?

A No, I do not.

MR. WILLIAMS: That's all I have, Your Honor.

THE COURT: Thank you very much, sir. You may step down.

MS. PATTERSON: Your Honor, the State calls Detective April Bayne Sykes.

THE COURT: Ma'am, if you'd come around to be sworn.

APRIL BAYNE SYKES, after being duly sworn, testified as follows:

THE CLERK: Have a seat. Once you're seated, state your full name, spelling your last.

THE WITNESS: April Bayne, B-A-Y-N-E, Sykes, S-Y-K-E-S.

IN CAMERA DIRECT EXAMINATION

BY MS. PATTERSON:

Q Detective Sykes, where are you employed?

A I'm currently employed at the South Carolina Law Enforcement commonly known as SLED.

Q And before you were employed with SLED, where were

you employed?
A The 11th Judicial Circuit Solicitor's Office.
Q And when did you leave the Solicitor's Office?
A I began my career at SLED March 17 of 2014, this year.
Q And before leaving the Solicitor's Office, did you have the opportunity to work on the case, the State of South Carolina versus Chad Hayes?
A I did.
Q And what was your involvement in that case?
A My general goals and duties when I worked at the Solicitor's Office, I was a victim advocate and a detective, so to kind of put it in layman's terms, we would get case files after local jurisdictions had made an arrest, such as the sheriff's department. They would send us a case file. It was my job to kind of review that case file and see if there's anything that needed follow-up, see if there's anything they needed to do to get the case moving forward, either plea out, go to trial, or be dismissed.
Q And in your review of the case file, did you have the opportunity to review the forensic interviews of the victims?
A I did.
Q Did you have the opportunity to review the reports

from the law enforcement officer?
A I did.
Q And what else other than that did you review?
A It was pretty common practice if someone had been arrested to pull the recorded jail calls and listen to those and document any relevant information obtained from that. In this case, in particular, that is pretty much the length that I went to. I did assist Mr. Collins when he executed the search warrant to obtain evidence related to this case.
Q And going back to the forensic interviews, did the victims relay any information that was pertinent to the search warrant and the items that you were going to be searching?
A They did. The girls had relayed information that nude pictures had been taken of them by Mr. Hayes. Some were outside in the orchard, some were in the bathroom, but various locations on the property and that those pictures had been seen again on the computer and that some had been printed out and were in Mr. Hayes' property. Additionally, there was some information that the girls were physically struck with drumsticks from a video game called Guitar Hero where you simulate playing music and they were speaking of the drumsticks that are actually associated with that video game.

Q Did they give you any detailed information relating to the camera?
A Yes. The girls described the color. They described the lens going in and out. They describe that there was a memory card disc that went with it. So they described it kind of in detail. And they also described the computer as well, but said one I believe was an Acer and one might have been a Toshiba and they described those items as being located in the living room of the residence in a cabinet which is right next to the door.
Q And you said you assisted Investigator Collins with executing the search warrant?
A I did.
Q And do you remember what date the search warrant was executed?
A It was executed November 1, 2012 at 9:40 a.m.
Q And again, what items were you looking for?
A Items to include but not limited to computers, digital cameras, memory/storage devices such as thumb drives and memory cards, photos and video recording devices, specifically sought are a teddy bear camera and a Guitar Hero video game with drumsticks. Also included in the search will be photographs of the interior and the exterior of the residence.
Q And what property were you supposed to go and search

for these items?
A The address at 2251 Broad Street in the Leesville area of Lexington County. The search included any vehicles and outbuildings associated with this residence and a preview of the cameras and computers can also be conducted during the search.
Q And the defendant, Mr. Hayes, he was incarcerated during the time the search was completed?
A Yes.
Q So when you got to the property, who, if anyone, was present?
A His parents, Mr. and Mrs. Hayes.
Q And do you know where they live?
A It's kind of, for a better lack of word, like a -- it's several of the family members live close by, so if you go up one of the driveways you'll have Mr. Hayes, the defendant's resident on the right, and on the left you'll have his parents. Then behind that you've got a swimming pool and you've got several outbuildings, sheds, garages, vehicles. You've got an orchard behind it. And then to the right of the defendant's residence is a beauty shop that his mom works in, and then his grandmother also lives there, so it's kind of a family-owned property area.
Q And how did his parents know that you all were out at the location?

A When you pull up to the driveway to the left of the defendant's residence, it's the same driveway that you would go to his parents. So essentially you can stand in the front yard of the defendant's house and see the parents' house. It's pretty close.

Q So did you make contact with his parents?

A We did. They came out. Two police vehicles pulling in the yard would make anyone want to come out and find out what's going on. They came out and made contact with us. You know, we told them what we were there for and it's our understanding that they'd kind of been looking after his residence, feeding the dogs, taking care of things, so they went and got a key and opened the residence for us.

Q Do you remember who in particular opened the residence?

A I don't remember. Both mom and dad were there, but I don't remember which one actually opened the door.

Q And so you all informed the parents what you were there for?

A Yes, ma'am.

Q You informed them who you were?

A Yes, ma'am.

Q Did they seem to have any questions for you?

A No. I mean, we left. When we finished executing the

search warrant we left.

On the last page of all search warrants you have what is called a return and it's simply a receipt of what's taken from the residence and who was there. We gave them a copy of that so that they would know what was taken from the residence.

Q So you and Investigator Collins and Investigator -- who was the third one?

A Joe Chappell with crime scene.

Q And you all searched Mr. Hayes' residence?

A We did.

Q And were you able to locate -- did you search the entire house?

A Yes.

Q Were you able to locate any of the items?

A We were able to locate the following items: We were able to locate the drumsticks associated with the Guitar Hero game. We found several CDs and printed pictures at a desk and we were able to grab those. There was a beard trimmer in the front bedroom which we obtained. A USB memory stick from the front bedroom was also obtained, and then several cassette tapes.

Q Did you locate a camera?

A No.

Q Did you locate a computer?

A No.
Q Did it appear that a computer had been inside the residence?
A Yes. There were several printers, several cords, a laptop carrier. There was a slide out tray for like a keyboard, but there was no actual computer.
Q And so once you realized there was no computer, what do you guys do next?
A Once we finished executing the search, we went to speak to both of the parents. The mom was actually in her beauty shop giving someone a perm. We waited until she could get a break and then we just kind of explained what we'd found, what we hadn't found. We asked her about the computer and she said she turned all that over to an attorney.
Q Okay. And so did you leave the premises at this point?
A Yes.
Q So once you left of this day, did you do any further investigation as it pertained to the location of the computer?
A I did. That specific attorney that was -- I found out just through working in this office and having knowledge of this attorney having a lot of cases in our office, that that was standard practice for him to take

items like that. And then when he closed his business, a trustee had been appointed to take over those client files, and so just from working up here I was aware that it was common practice for them to return those client files back to a family representative or the defendant that he had previously represented.

Q But you followed that up after Ms. Hayes told you that she had given the computer over to Mr. Hayes' then attorney?

A Yes, ma'am.

Q That was Richard Briebart?

A Yes, ma'am.

Q So after you followed up with what had happened to Mr. Hayes' property, being that it was returned, what did you do next?

A We went back to Mr. and Mrs. Hayes because if the client files were returned to a family representative and Mr. Hayes was still in jail, we thought that it's very possible that mom and dad might have custody and control of the computer and all the files.

Q And when did you go back to their residence?

A The next day.

Q And who went along with you?

A Detective Steve Collins.

Q And when you got there, who was there?

A Just the father was there originally. The mother was out doing something, I'm not really sure what. She showed up about 10, 15 minutes later and we told them we wanted to wait and talk to them both together, and we waited for the mom to return.

Q So when you initially made contact with Mr. Hayes, the defendant's father, did you let him know why you were back?

A Yes, we did.

Q And how long did it take? Did Ms. Hayes ultimately arrive?

A Yes, ma'am.

Q About how long did it take her to get there?

A Ten to 15 minutes. Not long.

Q And when she got there, did you inform her again why you guys were there so quickly?

A Yes, ma'am.

Q And what was her -- did she make any statement or give you any information?

A She immediately said, I have the computer.

Q And after she tells you that, did you have any conversations with her?

A We did.

Q Okay. What conversation did you have with her?

A Basically, you know, we explained, listen, you know

we were here looking for it yesterday. We need the computer and, you know, do you want to sign it over to us? We can get a search warrant, but, you know, it's proper investigation, that that's something we have to look into.

Q And what did she say, if anything?

A She said she wanted to contact an attorney first. She wasn't sure whether or not she should give it to us and so she wanted to contact her attorney and I said, you know, absolutely, that's fine.

I waited in -- the way their house is set up, you walk through the front living room and there's a kitchen off to the side, so I waited in the kitchen with Mr. Hayes and Mrs. Hayes was coming in and out. There was a laundry room or mudroom that goes straight out the back of the residence, so she was in and out of the laundry room and outside, inside, talking on the phone. I assumed she called her attorney. I don't know who she called, but she was on the phone for a good little while.

Q Okay. So she tells you she wanted to call the attorney or Mr. Hayes' attorney and you saw her conversating on the cell phone with someone?

A Yes, ma'am.

Q And she left the room?

A Yes, ma'am.

Q And after she got off the phone, did you see where --

what did she do?
A She said she'd give us the computer.
Q And do you know where she got the computer?
A No. I know she went out the back. As I said, when you're in the kitchen at the counter, it kind of goes straight and there's like a little mudroom or a laundry room, but you can see the back door. She went out the back door and came back two or three minutes later with the computer in her hand.
Q And did she turn over the computer at that point?
A She did.
Q Did she sign the release form?
A She did.
Q Granting you guys permission to take the computer?
A Yes, ma'am.
Q And she signed it with her own signature?
A Yes, ma'am.
Q So once she turned over the computer to you guys, did you take control of the computer?
A Actually, I didn't. Steve Collins did.
Q And at that point did you leave the residence?
A Yes, ma'am.
Q And did you do any other further investigation relating to this case?
A Yes, ma'am. I listened to recorded jail calls that

the defendant placed.

Q I apologize. Before we get so that, I want to show you a diagram.

(WHEREUPON, The Court's Exhibit No. 6 was marked for purposes of the record.)

MS. PATTERSON: May the witness step down, Your Honor?

THE COURT: Yes.

BY MS. PATTERSON:

Q Investigator Bayne or Sykes, does this represent the area that you went to when you and Detective Collins went to serve the search warrant at the defendant's residence?

A Yes, ma'am.

Q Can you locate his residence on this diagram?

A Right there.

Q And can you locate where the parents live?

A Right there.

Q And what's the entrance that you used to get to the defendant's residence?

A We drove right up through there.

Q And is that the same entrance that you used to get to his parents' residence?

A Yes, ma'am.

Q And can you point out some of the outbuildings associated with this property?

A There was one outbuilding that was obviously connected to the pool. There was an orchard and some trees back in there. There were several like garage-type areas that were covered, several vehicles. Over in this area was -- it was my understanding that the grandmother lived in that front house and then back behind it, the mother to Mr. Hayes actually had a beauty parlor that she was running.

Q Did you have any information relating to these vehicles on the property?

A No, ma'am.

Q But you do know the parents lived at this residence and the defendant lived here?

A Yes, ma'am.

Q Thank you.

And again, you don't know when Ms. Hayes went to retrieve the computer?

A No, ma'am. I saw her leave out the back door, but I stayed in the kitchen.

Q But she went out her residence to get the computer?

A Yes, ma'am.

Q And you said you did do some further investigation related to this case?

A Yes, ma'am.

Q And what did you do?

A I listened to hours and hours of recorded jail calls.
Q And did you find anything on the jail calls pertaining to mom having access to Mr. Hayes' computer?
A I did.
Q And what did you find out?
A In particular, there was a conversation on March 31, 2012. He called his mom and he discussed her paying his bills and going on the computer and using his password log-in to get on to the computer and pay some bills.
Q Did he give her the password?
A Yes. Too high for you.
Q Okay. And did he tell her where his computer was located?
A Yes. He said it's the one that he uses in the cabinet, the wireless one.
Q And again, what date was that?
A That call was March 31, 2012 at 6:41 p.m.
Q Did you receive any other information pertaining to momma having control of Mr. Hayes' interests?
A I did. There are some further calls where they discussed the mom signing paperwork, a power of attorney to act on his behalf. And then additionally, there's another call in particular, April 3, 2012, where he talks to his mom again about paying bills on his computer, where he said the bills to be paid are under his favorites on

the computer screen.

Q And did he make any particular statements about his mom having the power of attorney?

A He did. There were several statements. One was the discussion about her signing paperwork to take care of everything.

The next one that was relevant to me was that he said his mom have power of attorney in a conversation on April 3rd.

And then in a conversation of September 29, 2012, he was arguing with his mom and said he wanted his power of attorney taken back from her.

(WHEREUPON, The Court's Exhibit No. 5 was marked for purposes of the record.)

BY MS. PATTERSON:

Q Detective Sykes, I'm going to show you what's marked as Court's Exhibit 5 for identification and ask if you recognize that.

A Yes, ma'am.

Q And what is that?

A This is a CD that contains two jail calls.

Q And are those the jail calls that you just previously testified about?

A Yes, ma'am.

Q And how do you know those are the calls?

A I listened to those and I've initialed the CD.

Q Okay. Your initials are affixed to that CD?

A Yes, ma'am.

MS. PATTERSON: Your Honor, at this time we'd move that this be admitted as Court Exhibit No. 5.

MR. WILLIAMS: Your Honor, I don't have an objection to the Court having it as an exhibit. I will have an objection at some point in time if they start to introduce it into evidence dealing with any other aspect, because I think we're just dealing with the motion now.

THE COURT: Sure. Yes, that all we're dealing with right now. So it will be -- it will come in as a Court's exhibit with that limitation.

MS. PATTERSON: Beg the Court's indulgence.

(Pause.)

MS. PATTERSON: Your Honor, at this time the State would ask permission to publish the first call where he gives his mom the password.

THE COURT: Okay. For purposes of -- go ahead.

MR. WILLIAMS: I'm going to object to that, Your Honor, because I think there's a lot of other steps about the person who actually -- the forensic person who actually pulled this off from the jail and somebody from the jail to talk about whether or not there's some sort of waiver for inmates, allowing them to make these calls and

putting them on notice that it will be recorded, all kind of things. But for purposes of just the hearing, I'm willing to let that go.

THE COURT: For purposes of the hearing, I'll take her word from her testimony that that's what was said.

MR. WILLIAMS: Okay.

THE COURT: I've got no believe that this officer would lie under oath about what was said. I don't need to hear it. If she testified that that's what was said, I'll go with it.

MS. PATTERSON: Yes, sir. Thank you, Your Honor.

Turn beg the Court's indulgence.

(Pause.)

BY MS. PATTERSON:

Q Detective Bayne, if you would not have gotten the computer from Ms. Hayes, could one of the officers have remained at the property while someone else got a search warrant for the property?

A Yes, ma'am.

Q So you believe you had enough information at that point to get a search warrant to search the defendant's parents home?

A Yes, ma'am.

MS. PATTERSON: Thank you, Your Honor. No further questions at this time.

MR. WILLIAMS: May it please the Court.

THE COURT: Yes, sir.

IN CAMERA CROSS-EXAMINATION

BY MR. WILLIAMS:

Q Ms. Bayne, I want to get the dates and times.

A Yes, sir.

Q The reference you're making to the jail conversations, they're done on April 30 of 2012; is that right?

A I referenced several.

Q The ones you just referred to, those two you just referred to.

A I referred to several actually. March 31, 2012 at 6:41 p.m. is the conversation that Mr. Hayes has with his mother about giving her the password to get on the computer to pay his bills and then he tells her where the computer is located and which one it is.

Q That's good.

A All right.

Q So the first time you all went out there with the search warrant was when?

A We executed that search warrant November 1, 2012 at 9:40 a.m.

Q So did you have the recorded conversations about the computer prior to having the search warrant where you went out and searched the residence and it wasn't there?
A I actually had the calls in my possession, but I had not listened to them at that point.
Q So the phone conversations that you're talking about were actually approximately five months before you even had a search warrant to go out and check Chad Hayes's residence, correct?
A I'm a little confused with the question.
Q April 30, 2012, you searched Chad Hayes' residence when?
A We searched Chad Hayes' residence on November 1, 2012.
Q Okay. So you had the recorded conversations from the jail from whatever the difference between March 30th and November of the same year?
A I requested jail calls around March of -- no, I'm sorry. I requested jail call June 2012. I did not actually listen to those jail calls until November 3rd.
Q So you're saying that you requested the jail calls but you just never listened to them until after you did a search and you couldn't find it at Chad Hayes' house?
A I started listening to the jail calls. The way that works is with our case load, as cases come up for trial,

those cases get priority, so I would spend hours and hours listening to those calls. This was one that appeared like it was moving fast towards a trial, so then I started listening to the jail calls. Jail calls expire a year after they're recorded, so it's very common for me to request calls from all sorts of cases and then as time allows, listen to those calls.

Q So when did you listen to those calls?

A After we served the search warrant.

Q And determined that it was not there?

A Correct.

Q And you made the comment about this case was moving fast. But you understood that Richard Briebart had been suspended and was under arrest, so there was no attorney representing Chad Hayes at that time, was there?

A Actually, I had inquired about that before we served the search warrant and Judge Young had on October 30th appointed a public defender and then the understanding we had in our office was that you would probably be retained at a later date, but at that point he had appointed to my understanding a public defender.

Q Did you talk to the public defender?

A No, I did not.

Q Did you talk to my office?

A No, I did not personally.

Q Did anyone from my office say that I was representing him at that point in time?
A I never had a conversation with your office.
Q So you go out there, you don't find the computer. You go back out there the next day and you tell Ms. Hayes that you're going to go get a search warrant if she doesn't produce it, right?
A We basically explained she said she's got possession and control of the computer. We asked her if she'd like to release it and then Detective Collins stepped outside and started making arrangements to get a search warrant.
Q How did you know she had it?
A She told me she had it.
Q Okay. How did you know -- you said that it was your understanding based on the case, the number of cases that the Solicitor had that these files and evidence items were with somebody else.
A When Briebart's office shut down, he had a number of clients that were represented for trial and we had coming and I worked on numerous trials, so not just Mr. Hayes' case. So it was common knowledge that when he shut down a trustee took over his client files and took over his cases. And when those trustees had files such as Mr. Hayes, they would release them back to either the defendant or a family representative.

Q Did you have a conversation with any trustee in reference to Chad Hayes?
A I did.
Q And which trustee did you have a conversation with?
A I would have to refer to my handwritten notes, but I don't have them up here. But I did speak with a trustee.
Q When did you speak to them, before the issuance of the search warrant?
A No, it was the afternoon after we left and didn't find computer and then when we spoke to mom and she said everything was given to the attorney, that's when I made contact with the trustee.
Q So you called the trustee -- where are your notes?
A I believe the Solicitor's Office has them in a file.
Q Do you have them in the courtroom?
A I believe they do, sir.
Q Well, if it will help you?
MS. PATTERSON: Where are they?
THE WITNESS: That folder that had all my stuff in it and when I left I turned it over to Suzanne, it's in that folder. It's handwritten.
MS. PATTERSON: Beg the Court's indulgence.
THE WITNESS: Sorry. When I left, I turned over my files to the Solicitor on each particular case.
BY MR. WILLIAMS:

Q Do you know the name of the person you talked?
A I wrote it down, but I can't tell you off the top of my head. I'd have to look at my notes.

I believe it was Mark Stephen Barrow. I have a phone number that I called on November 2nd, 2012.
Q All right. So you called Mark Stephen Barrow and it was your understanding he was the trustee for Richard Briebart, the attorney; is that right?
A That's my understanding.
Q Did you have a conversation with Mark Stephen Barrow?
A I did.
Q And is it your understanding he said that we turned that over to who?
A He said that he maintains the client file, that he is in fact the trustee. He would never release exactly who those files were turned over to because I was trying to ascertain was it mom or who was the family representative, and he wouldn't release that information.
Q So he never told you that those were released to Ms. Hayes?
A Correct. He never said that the mom specifically had those files.
Q When you say "files," did he mention anything about a computer?
A He wouldn't release that information.

Q So you received no information from the trustee about the location of the computer?
A Not from the trustee. My knowledge was just in working in our office and the cases we had that we were dealing with, that's the protocol that was going on at that time, the trustee was releasing those files back to the clients or their family.
Q Was it your -- why did you think that Richard Briebart would have taken the computer anyway?
A Because the mom said, We gave the computer to the attorney.
Q So you went back the next day and confronted her, referring to Ms. Hayes, and said we can get a search warrant if we have to; is that what you said?
A I think I just asked her, Do you have the computer, and she immediately said yes.
Q And she said that she had to talk to who before she released it?
A She said she wanted to call an attorney to find out if she was doing the right thing. She didn't know whether she should release it or not.
Q Let me ask you this: If she wasn't talking to the attorney representing Chad Hayes and it was Chad Hayes' computer, then it was your understanding she was releasing that under what authority?

A That she had possession and control and she was releasing it to us.
Q Simply because she had it?
A Yes, sir.
Q Did you ever check to see if she had a power of attorney?
A No, I did not.
Q So you don't know if she had a power of attorney?
A Not at that time, no, I did not.
Q Did you ever check the R&C office to see if there were different addresses for the various locations of the people that you talked to, the grandmother, the mother and the father and Chad, if there was any different addresses?
A R&C?
Q Different deeds, Register of Means Conveyance.
A Can you ask that question again? I got lost.
Q Did you ever go to the Register of Means Conveyance to check the deeds to see who actually owned those various properties?
A No, I did not.
Q And, of course, the description that you have given is, which is the house on one side, the house on the other side with an easement in the middle, that's not indicative of anything other than two houses sharing an easement for ingress and egress?

A Correct.
Q It's not an indication of ownership of one person or the right of one person to consent for the other person, is it?
A I have no idea how the lots are laid out.
MR. WILLIAMS: That's all I have, Your Honor.
THE COURT: Anything further?
MS. PATTERSON: Nothing further, Your Honor.
THE COURT: Thank you very much, ma'am. You may step down.
Anything else?
MS. MAYES: Nothing further on this matter, Your Honor.
MR. WILLIAMS: I have a witness on this issue, Your Honor.
THE COURT: All right, sir.
MR. WILLIAMS: Your Honor, I'd call Ms. Hayes to the stand.
THE COURT: Ms. Hayes, if you'd please come around to be sworn.
SANDRA HAYES, after being duly sworn, testified as follows:
THE CLERK: Have a seat up there, please, ma'am. Once you're seated, speak up loud and clear. State your full name, spelling your last, please.

THE WITNESS: Sandra Hayes, H-A-Y-E-S.

IN CAMERA DIRECT EXAMINATION

BY MR. WILLIAMS:

Q Ms. Hayes, the day after the police officers came to your son's house and checked his house, did they subsequently come back and ask you about your son Chad Hayes's computer?

A Yes.

Q Now, when they first came out and found no computer, which would have been the day before, did they ask you about the computer we they left that day?

A They were looking for a computer, yes.

Q Did they tell you which computer they were looking for?

A No.

Q They just said looking for a computer?

A A computer.

Q And what is the residence where you live at?

A 2245 Broad Street.

Q And is it Leesville?

A Leesville.

Q South Carolina?

A South Carolina.

Q What is the address of your son, Chad Hayes?

A 2251 Broad Street, Leesville.

Q Leesville, South Carolina?
A Uh-huh.
Q Are they separate pieces of property, separate lots, if you will?
A Yes. Yes, sir.
Q When they came back out the second time, who did you have a conversation with of the two officers who have testified? Who referenced the computer when they came back out the second time?
A I believe it was Collins.
Q And what did he tell you?
A He told me that they knew I had the computer because they had checked and that they had told them that I had it.
Q And what else did he tell you?
A He told me that he could search the premises with a search warrant and so I said, Well, might as well give you the computer.
Q Did he indicate to you that he did not possess the search warrant at the time?
A No, I was under the impression he had one.
Q And where did you retrieve the computer which you handed over to Detective Collins?
A I went out to the building and got it.
Q Which building did you go out and get it from?

A In the very backyard. It's my building where I put stuff.
Q Your building?
A My building, yes.
Q Did Chad agree for you to turn it over? Did your son tell you to turn it over?
A No, I had not talked to him.
Q But you turned it over because they said they had a search warrant?
A They had a search warrant and they said they knew I had it because they had talked to the place where I went and picked it up after Briebart got in trouble.
Q Who was the only attorney that represented Chad Hayes at that point in time as far as you knew? Did he have an attorney?
A He didn't have one, no.
Q Now you've heard there's been some comment about a public defender who was appointed to represent him?
A Uh-huh. He didn't have one.
Q But he didn't have an attorney at that time?
A No, not to my knowledge.

MR. WILLIAMS: That's all the questions I have, Your Honor.

Answer any questions the Solicitor has.

THE WITNESS: Okay.

IN CAMERA CROSS-EXAMINATION

BY MS. MAYES:

Q Ms. Hayes, take a look here at this exhibit. You recognize this as the aerial photo of the property involving your residence, your son's residence, and your mother's residence, correct?

This is your home here, correct, and that's your pool?

A That's right.

Q Where is it that you went to retrieve that computer?

A From that building.

Q If you could please stand up and show us exactly where.

A This one.

Q All right. This building here located above the cemented carport area, correct?

A Yes.

Q And looking at that, you estimate that somewhere between 20 and 50 yards away?

A I guess so.

Q All right. And this particular building was constructed when?

A I don't know when it was constructed. I bought it already built and moved in on the property.

Q All right. This is your son's residence, correct?

A Yes.
Q These are his vehicles?
A Yes.
Q Whose boat is this?
A Mine. My mother's.
Q What is this building here?
A A garage, a shop that my husband has, he works in.
Q Now your son Chad has multiple vehicles at the residence, correct?
A Yes.
Q And he stores parts connected with those vehicles in various outbuildings there near the residence, correct?
A Yes.

MS. MAYES: Beg the Court's indulgence.

(Pause.)

BY MS. MAYES:

Q All right. And just to confirm for the record, you're pointing to this outbuilding here located parallel to this -- I guess you'd call it sort of a right-of-way driveway here that's shared by multiple family members, correct?
A That's our driveway. We don't share it with anybody. Chad has his own driveway on the other side of the property, the property where he lives.
Q You're referring to right here?

A Yes.
Q All right. But you'll --
A That's our driveway.
Q Just to clarify, you're referring to the building that's located right here?
A Right there, uh-huh.
Q Now, your testimony is that you recall the officers coming out there on November 1 with a search warrant for you son's residence, correct?
A Yes, but I was not at home when they came. I was in my shop working. My husband was there.
Q All right. Your beauty shop is right there also on your family property, correct?
A Yes. It's at the end of my mother's carport.
Q Just to clarify, your mother lives over here to the left of your son Chad, correct?
A Right.
Q And your beauty parlor would be over there as well?
A Just right here at her house.
Q And you said you weren't there when they arrived --
A No.
Q -- but ultimately you got there and let them into Chad's house?
A I didn't let them in.
Q Who let them in?

A My husband.
Q All right. Your husband let them in, but eventually you left your beauty shop and came back to where the officers were, correct?
A And then I left and went back to work.
Q You verbally spoke with the officers when they came out there, correct?
A Yes. They told me what they were doing there.
Q You recall having a conversation with them.

Now, when they were out there on that day, you said to them that the computer had been turned over to his attorney? You said we turned it over to his attorney?
A No.
Q You deny that statement?
A On the day they came with the search warrant to search the house?
Q Yes, ma'am, on November 1.
A I don't remember telling them that that day.
Q Well, your son Chad had been in jail since the date of his arrest, right?
A Right.
Q And he had never made bond?
A No.
Q So if the computer had been turned over to an attorney, who was it that actually gave the computer to

Mr. Briebart?
A My other son. He carried it for me down there.
Q He carried it for you down there?
A Uh-huh.
Q I'm just making sure.
A Yes.
Q So when you say he carried it for you down to Mr. Briebart's office -- "carried for me," I believe were your words -- you're referring to the fact that you put in a request to your other son to retrieve the computer and take it to Mr. Briebart?
A No. He said since I was working that day and I couldn't get it down there, and he wanted it as soon as possible, he said, I'll drop it off by there, Mom, when I get off work, and that's what he did.
Q But you had another conversation with that other son about moving the computer to Mr. Briebart's office, correct? In other words, your conversation with your son --
A Which son? The other son?
Q The son that you're referring to that took the computer to Mr. Briebart -- was that you were busy so he was going to do it for you since you were busy?
A Uh-huh.
Q If you weren't busy you would have done it yourself?

A Right.
Q Okay. And you, in fact, I believe were involved in paying the legal fees for your son, or at least a portion of the legal fees for your son, correct?
A Yes.
Q You were in communication with Mr. Briebart as well?
A Ma'am?
Q You were in communication with Richard Briebart as well?
A Yes.
Q And so the decision was made to turn over the computer to Mr. Briebart, you were busy and so your other son -- what is his name?
A Ken.
Q Okay. So Ken was undertaking that for you.

Now, according to the jail calls, your son had this conversation with you back in March and told you where the computer was and gave you the password. When did you actually retrieve it from his residence? I'm not asking for an exact date, but just around when?
A It was that weekend. He was locked up on Friday and we carried it on Monday. I think it's on Monday.
Q And you had it there at your house until the decision was made to give it to Mr. Briebart?
A Yes.

Q And so it went from your house to Mr. Briebart?
A Right.
Q And then once Mr. Briebart encountered the legal problems that he had, I believe there was communication with Chip Burns --
A Right.
Q -- about being the attorney.
Did the computer ever make it to Mr. Burns?
A I couldn't tell you.
Q Okay. But the next you heard was that your son's file, including the computer, had gone in the care of the trustee who had taken over the files of Mr. Briebart?
A That's right.
Q Now, who actually picked up the file from the trustee?
A The file?
Q The computer.
A I did.
Q And once you picked it up from the trustee, what did you do with it?
A I brought it home.
Q And how long was it actually in your residence?
A Well, from the time I picked it up from them until Collins came.
Q And was it -- it was actually inside your residence

for a while?
A No, I had it in my building.
Q Okay. You'd put it back there in that outbuilding?
A Uh-huh.
Q Where were the rest of his file materials, such as his paperwork?
A What paperwork?
Q The paperwork that would have been the content of the client file that you received back from Mr. Barrow, the trustee?
A Oh. I have it in a file, I guess.
Q Okay. But that's inside your home, correct?
A Yes. I keep that in a file.
Q So the client file was at your home and the computer was placed in the outbuilding?
A Yes, I put it out there.
Q And then law enforcement comes out there on November 1st, you're busy at the beauty shop, end up making your way back and having a conversation with them. Your testimony is that you don't recall telling them that the computer had been turned over to his attorney?
A Not then I don't recall it.
Q Okay. And they searched his residence and -- pursuant to the search warrant and the computer wasn't found. And then the next day they come back and your

husband's home but you're not in the home, correct?
A Right.
Q And you get a call from your husband to come back because law enforcement officers are there?
A I think he might have called me. I had gone uptown.
Q Do you remember placing a call to Ben Stitely that day once you arrived back at the house?
A To who?
Q To Ben Stitely? He's an associate of Mr. Williams.
A No.
Q Who was it that you spoke with when you said that you were going to phone an attorney?
A I didn't -- I didn't tell them I was going to phone an attorney. I told them I needed to speak to someone before I turned it over.
Q Okay. So your testimony is that you did not phone an attorney?
A No.
Q Did you phone someone else who is not an attorney?
A No.
Q Okay. And the decision was made when you came back to give them the computer?
A Yes. I brought the computer back.
Q And, in fact, when they first arrived there and you spoke with them and they said they were looking for the

computer and that it wasn't in fact with Mr. Briebart or with the trustee, at that point you said, I have it?
A No, they told me that I had it, that they had already talked -- the lawyers, the other lawyers.
Q So you deny saying that you had it? You deny that statement?
A No, I told them I had it then.
Q Okay. And the paperwork does contain your signature, I believe, Ms. Hayes?
A Yes, sir.
Q Have you seen a copy of that paperwork? This would be State's Exhibit 1 here.
A Yes.
Q That's the paper that you had signed giving them the computer?
A That's right.
Q And that's your signature, correct?
A That's right.
Q Now, once Mr. Hayes, your son Mr. Hayes had given you the password to the computer, what did you do with that information? Did you pay his bills as requested?
A No. I don't know how to work a computer.
Q All right. So --
A I didn't pay any on it. I did.
Q Why did you go retrieve it from his residence if you

weren't going to pay the bills as you requested that you do?

A Because Briebart wanted it.

Q But your testimony previously was that it was at your residence for some period of time after your son gave you the password and before it went to Mr. Briebart. The conversation with your son about the password was in March.

A Yeah. But I didn't take it out of the house.

Q He asked for you to take it out of the house, didn't he? Do you recall that conversation?

A No. I'm sorry, but I don't.

MS. MAYES: Beg the Court's indulgence.

(Pause.)

BY MS. MAYES:

Q Ms. Hayes, do you recall having a conversation with your son Chad while he was incarcerated in which he gave you a password which was "too high for you" in order for you to access his computer?

A Yes.

Q And he also gave you power of attorney, correct?

A Yes.

Q And you accepted that responsibility, power of attorney?

A Yes.

Q Which is to act on his behalf?
A Yes.
Q Regarding legal matters?
A Yes.
Q And he actually told you in that phone call where the computer was, that it would be the one in the cabinet?
A Yes.

MS. MAYES: Nothing further.

MR. WILLIAMS: No questions on recross, Your Honor. Redirect, I'm sorry.

THE COURT: Ma'am, you may step down.

MR. WILLIAMS: That would be all we have on this issue, Your Honor.

THE COURT: Well, we've got a couple of issues here that we're dealing with, a statement and we're dealing with the --

MS. PATTERSON: I can simplify one.

THE COURT: Okay.

MR. WILLIAMS: Your Honor, I believe based on what has been presented, there's probably insufficient argument that I can make that the statement should not come in. I think there's sufficient evidence, that he wasn't coerced or anything like that.

I would not agree in regards to the search issue, Your Honor.

THE COURT: Okay. Just for the record, then, the issue regarding the statement, I find that the statement made by Mr. Hayes does appear to have been done freely, voluntarily, and without any coercion, and that that statement would be admissible. Although I will say we need to redact --

MS. MAYES: Yes, sir, Your Honor. We actually have already made a redaction and we'll let Mr. Williams review it when we have a break.

THE COURT: Okay. And let me also caution, as you lay the foundation with the witness, there was a lot of talk about taking a polygraph and everything. That needs to be eliminated.

MS. MAYES: Yes, sir, Your Honor, it will be.

THE COURT: Okay.

MS. MAYES: I was just going to say on the issue of the property and the search, we may have one additional matter, and unfortunately, the tax map office is closed. If I could just have one moment.

THE COURT: Okay.

(Pause.)

MS. MAYES: Investigator Jill Smith with our office has visited the tax map office, and based on the information she received, this outbuilding is actually located on real property that is deeded to both Mr. Hayes

and his father, but that's something, Your Honor, that we cannot offer the evidence on at this point without someone from the tax map office. And up until this hearing we did not know specifically which building was the outbuilding it was retrieved from. We only knew that she went outside the residence.

MR. WILLIAMS: My client's name is not on any of these. So I'm just saying, that doesn't make any difference.

THE COURT: What relevance is that anyway?

MS. MAYES: Your Honor, the search warrant does use the language "any outbuildings or vehicles associated."

THE COURT: Right. But they didn't search it. So, I mean, even if -- and I agree with you that that would be relevant if they'd have searched that building and found something and then the question is, did they search his residence and outbuilding or was it someone else's, but the fact that it was never searched, I don't know if that's even a relevant issue.

And let me try to simplify things. I'm going to tell you something that I see here and I'm going to let you address it, Mr. Williams. All the testimony seems to be that Ms. Hayes voluntarily turned the computer over to law enforcement and so I don't know why this is a search

warrant issue.

MR. WILLIAMS: Assuming that the word "voluntary" encompasses law enforcement telling them that they have a search warrant, because the word "voluntary," that phrase --

THE COURT: I think the testimony was they told her that they could get a search warrant.

MR. WILLIAMS: Well, that's not what she said. It depends on which testimony you accept, Your Honor. She said that they said --

THE COURT: Well, I'll be candid with you because we can always go back. I think her initial testimony was they indicated to her they could get a search warrant and your follow-up question was, So they told you they have a search warrant, and she said yes.

MR. WILLIAMS: Okay.

THE COURT: So that was not her initial response to your question.

MR. WILLIAMS: I can only speak to my perception of what she said was that the indication was that they had a search warrant.

THE COURT: Okay. And I understand.

MR. WILLIAMS: So I guess whether it's voluntary or not hinges, if you will, on whether or not law enforcement was honest or whether or not was not, and I

don't use that critically or immorally or anything like that.

THE COURT: No, I know what you're saying.

MR. WILLIAMS: Or whether or not that constitutes to non-voluntary transfer, or whether or not really she had the authority to turn it over. Obviously she had it in her possession. She didn't get authority from --

THE COURT: Well, the testimony was that she had power of attorney.

MR. WILLIAMS: Well, the testimony did not say when the power of attorney came into existence or how long the power of attorney was in existence. There was no offering of a power of attorney where it had been recorded at the R&C office and what the terms and conditions of the power of attorney were. So we're all kind of assuming that she had the power of attorney at that time and that she executed the power of attorney in furtherance of the document, which has not been presented and not been introduced.

THE COURT: Well, if her son was incarcerated and she had the computer --

MR. WILLIAMS: I think that much is true.

THE COURT: -- and turned it over to Mr. Briebart, got it back from Mr. Briebart, took it out

to the outbuilding. I mean --

MR. WILLIAMS: All those things are true.

THE COURT: All right. Solicitor, anything you all want to address regarding that?

MS. MAYES: Your Honor, the implication -- the State position's is certainly that the implication from her testimony was that she had power of attorney and was acting up that authority at the time. I thought that was clear from her testimony.

The State's position is that the computer was validly seized based on consent from Ms. Hayes. She at this point had not only access but also possession of the computer and has acted on her son's behalf on multiple occasion in taking it back and forth where it needed to be and, finally, she stores the client files in the home but places the computer in her outbuilding. The State's position is at this point she is the person with possession of the computer, and at one point her testimony was she actually had a son transport it somewhere on her behalf, again knowing that she was in possession of the computer and carrying out the logistics of where the computer would go and who should have access to it.

Secondly, Your Honor, the State's position is one of inevitable discovery. The officers were there at the scene. She has verbally acknowledged to them, "I have

it." Detective Collins is in communication with another detective who is in the process of getting a search warrant if needed, and officers remained there at the scene while that search warrant was obtained in an hour or two hours at most arguably in order for them to actually come back with the search warrant executed. However, she voluntarily leaves -- makes a phone call, leaves, and then agrees to give them the computer; therefore, the search warrant wasn't necessary, but would have been obtained had she refused. There was probable cause to believe she had it at that point because she did verbally state, "I have it."

Finally, Your Honor, the State's position is that any search concerning the contents of the computer were cured by the subsequent search warrant that was obtained for the computer and its contents by Detective Collins and that search warrant was appropriately obtained and executed prior to actually going into the computer and extracting the results.

MR. WILLIAMS: I'd like to take it backwards first.

I think that the search warrant isn't curing all that. It would be fruits of the poisonous tree if it was obtain illegally, then they got a search warrant to go inside of it. So I think that has absolutely no bearing.

The second thing, Your Honor, is that I will agree that she did take possession of it from his house, transported it to Richard Briebart's office, where it went from Richard Briebart's office through I don't know who, to Mark Barrow's office, and it subsequently was picked up from Mark Barrow's office back in her position -- she took possession of it -- and put it in the storage building, took the files, put it in her office. The only question I have or the only query I have is when we talk about that computer, it was one computer out of -- I don't know -- two or three computers and we would take the position that when law enforcement came to her and said that -- whichever way you go, whether you say we have a search warrant or we're going to get a search warrant, that that was not a voluntary transfer, it was something which she didn't have the authority to turn over because there was no search warrant. It belonged to somebody else. That computer belonged to somebody else.

The phrase which was used by the Solicitor's Office about the inevitable discovery, that's normally applicable when you're dealing with cars and dealing with drugs where the defendant has been arrested, he's standing on the side of the road or he's arrested, he's gone to the jail and then they search that particular vehicle because they have possession of that vehicle. They didn't have

possession of the storage building. If you accept what they're saying, the storage building was on a different piece of property because at one time they're saying --

THE COURT: Are you telling me that that storage building is on wheels and could have left?

MR. WILLIAMS: No, I'm not saying that. But I don't know what the search warrant -- what details of the description of the search warrant would have revealed when the search warrant was issued, whether or not it would have used the correct address, which is where she lives, versus the other search warrant which has a different address.

THE COURT: I don't know that either. Because it wasn't necessary to obtain it because she said, I'll turn it over to you.

MR. WILLIAMS: And I think that's the issue, Judge, whether or not --

THE COURT: And I think based on all the evidence and everything that's been presented, I think the search is appropriate -- well, let me go back.

I think the possession of the computer did come into law enforcement possession in a valid way. I'm not going to say a search because it wasn't pursuant to a search warrant, it was pursuant to consent.

You know, there's testimony throughout this

entire record that Ms. Hayes had authority to possess the computer, did possess it, did move it on several occasions pursuant to request from Mr. Briebart, who was at the time Mr. Hayes' attorney, then it went over to the trustee. The trustee was under the obligation to return the file to Mr. Hayes and/or his designee and Ms. Hayes was the one who went and picked up the file, picked up the computer, took it -- I mean, throughout the record, her having possession, having authority to move it, give it here, put it there, and then we want to all of a sudden stand up when she decides after this long line of moving it around and doing things with it, she finally decides to turn it over to law enforcement now. Oh, Judge, she doesn't have authority to do that. You know, I don't think that's the law. I don't think that's the case here. I think it was a voluntary and a -- I guess voluntary's the word. She voluntarily turned it over. I don't think she was under any threat or coercion. I didn't hear any evidence of that. And so that's the ruling of the Court with regard to the computer.

If there's something else real quick we'll take it because I don't want to lose things. I've got Exhibits 2, 3, 4. And I know there was one -- do you still have the other one?

MS. MAYES: Yes, Your Honor.

THE COURT: Is that all of them right there?

MS. MAYES: Yes, Your Honor.

THE COURT: Let's give that back to Carol and take sure that stays together. So if you'd give those back to her and let her take possession of those.

Anything else that we need to take up?

MS. MAYES: Your Honor, just briefly, the State has filed a motion concerning the forensic interviews of the children under age 12. We're in the process of making redactions. At some point the Court will need to review those. I don't expect that testimony until late Tuesday or Wednesday morning.

THE COURT: Okay.

MS. MAYES: We can provide a copy to you now, but it's unredacted.

THE COURT: No, I understand. And I'd rather get the redacted copy, and Mr. Williams needs to be able to review that as well. Okay. But that's not an issue that we'll have to deal with until late tomorrow at the earliest?

MS. MAYES: That's correct, Your Honor. We would expect to just proffer the testimony of those forensic interviewers in camera just before they testify.

THE COURT: Okay. Anything else before we adjourn for the evening?

MS. MAYES: Nothing from the state.

MR. WILLIAMS: Nothing from the defendant, Your Honor.

THE COURT: Okay. And if you all would do me a favor. I've tried cases with all of you all, so you know I send my charge back with the jury. If you have any specific requests to charge, and I'm not -- I don't need them tonight, but if you'd just think about that and have your respective staffs be thinking about e-mailing myself and my law clerk a copy of those. And if you do that, please do it in Word format so that we can cut and paste and do stuff with that.

Well, if there's nothing further then we'll be at ease then and we'll reconvene tomorrow morning at 9:30.

MR. WILLIAMS: Thank you, Your Honor.

(The proceedings were concluded for the day and reconvened on July 29, 2014.)

*** END OF REQUESTED TRANSCRIPT OF RECORD ***

VOLUME 1 OF 4

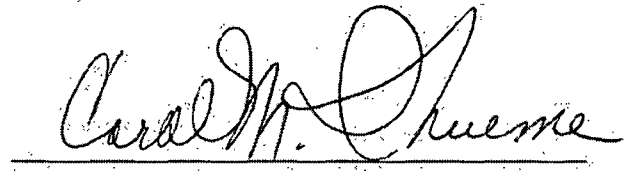
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)

I, CAROL M. THUEME, RPR, Official Court Reporter for the 11th Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Lexington County, South Carolina, on the 28th day of July, 2014.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

May 14, 2015



CAROL M. THUEME, RPR
Circuit Court Reporter

THE COURT: Is there anything we need to take up before we get started?

MS. MAYES: Not at this time, Your Honor.

MR. WILLIAMS: Nothing from the defendant, Your Honor.

THE COURT: All right. Let's bring the jury out.

(The jury came into open court at approximately 10:09 a.m.)

THE COURT: Good morning, ladies and gentlemen. I hope everyone had a good evening last night and you're ready to get started this morning.

Before we begin, let me just touch on a few administrative-type matters. If at any time during the course of the trial any of you, individually or as a group, if you need to take a break, do not hesitate to let me know. Okay? You know, as much as and as embarrassing as it may seem sometimes, sometimes mother nature calls at inopportune times. If you need to take a break, use the restroom or do something of that nature, even if we're in the middle of someone's testimony, get my attention because we can always start back where we left off. It's important that you are comfortable and that your focus is on the testimony and the evidence that's being presented and not sitting there thinking, well, I wonder when he's

going to take a break. So please let me know if at any time you need to take a break, and we'll do that.

We try to keep it comfortable in here. If it gets too hot or too cold, let us know. We'll try to adjust that.

If you can't hear either a witness or one of the attorneys or whatever, don't hesitate to let us know that you're not able to hear and we'll get them to speak up or repeat it or we'll turn up a microphone if we have that ability because it's important that you hear everything that goes on. Okay?

The primary importance throughout this proceeding is that you are comfortable enough to be able to focus and listen to all the evidence as it's presented, okay?

Now, we're about ready to start and I'm going to review some things with you. As you're aware, this is the State of South Carolina versus Chad Stephen Hayes. Mr. Hayes has been charged with the charges that we reviewed yesterday and now we're ready to proceed with the trial.

What I want to share with you, ladies and gentlemen, and I don't know how many of you have actually sat in on an actual jury trial before, but most folks don't have the opportunity or have never had the

opportunity to sit in on an actual jury trial, such as you're doing this week. Most people, their experience with regards to jury trials or their exposure to jury trials is what they've seen in the movies, read in books, or what they've seen on television. And obviously all of those trials are full of high drama, intense action, and rivetting circumstances. It's Hollywood, and those trials are just designed for that purpose.

Now, during the course of this trial, while any number of those things may occur, what is important for you to keep in mind, keep in the forefront of your mind, is that this trial is not for your entertainment. This is a fundamental part of our democracy. It is a search for the truth in an effort to make sure that justice is done for the parties that are before the Court. Searching for the truth and making sure that justice is done oftentimes is slow, deliberate, sometimes it's repetitive; in other words, it's very different from what you've seen in movies, read in books or seen on television. This courtroom is a place of honor that is dedicated to the protection and to the preservation of citizens' rights through what many have called the greatest justice system ever created.

The attorneys that appear before you are advocates for the parties that they represent, but first

and foremost, they are officers of the court, sworn to uphold the integrity and the fairness of our judicial system and to help you in your search for the truth. You should expect them to be professional, reasonable, competent and ethical in the performance of their duties.

Now, in just a moment you're going to take an oath to try this case and to reach a fair and a just verdict, and so you are also expected to be professional, reasonable and ethical in the performance of your duties, which I have absolutely no doubt you'll do. And I want to thank you for accepting this important responsibility of serving on jury trial this week and on this case.

Now, before I go any further, I'm going to ask if you would give Ms. Frick your attention. She is going to place you under your oath for your role as jurors in this case.

THE CLERK: Please stand and raise your right hand.

(WHEREUPON, the jury was sworn at 10:15 a.m.)

THE CLERK: Be seated.

THE COURT: Thank you, folks.

Now, what I'm going to share with you right now is meant to serve as an introduction to the trial of the case. It is not a charge on the law. I will give you the law that is applicable to this case at the end of the

trial.

What I'm going to do now, though, is merely explain to you the procedures that we're going to follow so that you can better understand what may be occurring as we go through the process.

Now, Mr. Hayes has been charged by the indictments that I reviewed with you yesterday and that were filed with this court. The elements of those charges I will go over with you and explain to you when I give you the charge on the law.

Now, as I told you yesterday, the indictments are simply the charge by which the cases are brought into this court. They are not in any sense evidence of any of the allegations that they contain.

Mr. Hayes has pled not guilty to these indictments and that places the burden of proof upon the State to prove each and every element of the indictments beyond a reasonable doubt. And it's going to be your duty, ladies and gentlemen, to decide whether or not the State has met that burden.

Your purpose as jurors is to find and to determine the facts. You are the sole judges of the facts in this case. If at any time I make any comment about the facts, you must disregard those comments because no one is allowed or has the right to determine the fact in this

case other than you, the jury. You are to determine those fact from the testimony that you hear from the witnesses and any other evidence that may be introduced during the course of this trial. It is going to be up to you to determine what inferences that you feel may be properly drawn from that evidence. It is especially important that you perform your duty of determining the facts diligently and conscientiously because ordinarily there is no way that we can correct an erroneous determination of facts by a jury.

Now, on the other hand, but with equal emphasis, the same law that makes you the judges of the facts makes me the judge of the law. The law as given to you by the Court is the only law that you may consider. You must accept and follow it even though you may disagree with it. I'm not allowed to tell you anything about the facts or anything I think about the facts, and you're not allowed to disagree with me about what the law is or what you think the law should be. Your duty is to take the law as I give it to you and apply it to the facts as you find the facts to be from the testimony of witnesses and any other evidence that's introduced during the course of this case.

Now until I tell you to begin your deliberations, you're not to discuss this case with anyone, and that includes amongst yourselves as you retire

back into the jury room as we take a break. At various times during the day we'll take breaks. You're not to have any discussion about the case at all.

It is important that you keep an open mind and that you do not decide any issue in this case until all of the evidence has been presented, the parties have had an opportunity to address you with their closing arguments and I've given you the law in this case. It is your solemn responsibility to determine the guilt or innocence of the defendant and your verdict must be based solely on the evidence as it is presented to you during the course of this trial and on the law as I instruct it to you.

In just a moment, the Solicitor is going to have an opportunity to stand before you and address you with what we call opening statements. During that opening statement she'll explain to you what the issues are in this case or at least what she believes the issues are in this case.

Once she has concluded her opening remarks, then Mr. Williams will have an opportunity to address you on behalf of his client if he chooses to do so, although he is not required to make an opening statement.

What is important for you to understand about the lawyer's opening statements is this: It is not evidence. They are not under oath, they are not on the

witness stand. What they share with you in their opening statement is merely their contention as to what they believe the evidence in this case will show.

The evidence in this case will be presented to you, as I said earlier, through the testimony of witnesses who are placed under oath and take the stand and any other exhibits that may come in during the course of this trial.

Now during the course of the trial on occasion you may hear one of the attorneys say something along these lines: Judge, we have a matter of law we need to take up with the Court or, Your Honor, may we approach the bench. During those times, ladies and gentlemen, if I can resolve the issue up here at the bench, I'll do that. But I may have to ask you to step back into your jury room. If I do ask you to do that, the reason I would ask you to do that is simply this: There are times when I'm having to decide a matter of law that it requires me to make some comment about the testimony or some evidence that's been presented. As I told you earlier, I'm not to have any influence over you about the evidence in this case. And so if I do need to make a comment about evidence in connection with a ruling on the law, it's important that I not do that in front of you to influence your view of the evidence. So I may ask you to step back into the jury room while I resolve the matter of law. And then once

that's done, we'll bring you back out and we'll continue with the case.

Now, in determining what the true facts are in this case, you're going to have to decide whether or not the testimony of a witness is believable. It's going to be my duty to rule as a matter of law whether certain testimony is allowed in this trial at all or not. But once testimony is allowed into this record, whether or not you believe it is solely up for you to decide.

In deciding whether to believe a witness, you have the right to consider the interest of a witness, the bias of any witness, the opportunity for the witness to have seen the matters and the things about which that witness testifies, the way the witness acts on the witness stand. You have the right, ladies and gentlemen, to consider anything that is in this record that will help you in evaluating the testimony of the witnesses. That means that it is your duty to pay close attention to the witnesses, listen to the witnesses, observe them, listen carefully to the attorneys and to the Court. Please do not let your thoughts wander, but give strict attention to all of the testimony in this case and all of the evidence so that at the conclusion of the case, after the lawyers have given you their closing arguments and I've given you the charge on the law, you will then be in a position to

go back into your jury room and at that time you'll have everything you need to then begin your deliberations, talk about the case, discuss the evidence, and reach a verdict.

Now, before I turn it over to the attorneys for their opening statements, let me first inquire of the State, are there any objections or exceptions to the Court's opening remarks?

MS. MAYES: None from the State, Your Honor.

THE COURT: Anything from the defense?

MR. WILLIAMS: None from the defendant, Your Honor.

THE COURT: All right. Thank you, ladies and gentlemen.

Folks, if you would now, I'm going to turn it over to the attorneys. Please give them your undivided attention as they address you with their opening remarks.

MS. PATTERSON: Thank you, Your Honor. May it please the Court.

THE COURT: Yes, ma'am.

MS. PATTERSON: Mr. Williams.

Good morning.

A person's childhood is one of the best times in their lives. It's filled with happy times, fun times, innocent times. When a person's childhood is disrupted in a negative way by something or someone, that natural

progression of maturity is gone. The innocence is lost, it's destroyed, it's stolen. And that is what happened in this case to Daughter 1 [redacted], Daughter 2 [redacted], and Daughter 3 [redacted].

In late 2011, it was revealed that they had endured years of abuse at the hands of the defendant, Chad Stephen Hayes. He took away their innocence by subjecting them to inappropriate behavior and sexual abuse. And for that he stands trial. He's charged with criminal sexual conduct with a minor in the 1st degree, criminal sexual conduct with a minor in the 2nd degree, contributing to the deliquency of a minor, attempting or committing a lewd act, and lewd act, two counts.

Now you're going to hear from the girls, these three sisters. They're three years older than they were when everything was first revealed. But they still remember the disgusting and embarrassing details of what they endured at the hands of the defendant while they lived in his house.

You're also going to hear from the people that got involved and assisted these girls once it was revealed what was going on. You'll hear from law enforcement about their involvement and how they've worked together to try to obtain evidence to help support the allegations of these girls.

You're going to hear a lot of testimony. You're

going to see a lot of exhibits and a lot of evidence. We just ask that you pay close attention and listen carefully and just use your common sense and we're confident that at the conclusion of this trial you will find the defendant guilty of all counts.

Thank you.

MR. WILLIAMS: May it please the Court, Solicitor.

Ladies and gentlemen of the jury, I'm Theo Williams. We met yesterday. And I'm still working in that office across the street on the corner.

You never know what to say when you start a trial because all trials are a little bit different; they all have different charges, they all have different people involved. Obviously, it's not my first day, but I noticed something yesterday when we were picking the jury, which I don't think it really struck me as much as -- you say picking a jury. Obviously what we're trying to do is we had information about where you guys worked, we had information about who you were married to, not that we know everything about you, but we did know that. And as lawyers, whether it be for the State or the defendant, what you try to do is you try to pick people that you think that will listen to the evidence and will be fair. Just be fair. That's all you're looking for. Because you

all work in different places, you all go to different locations.

And the thing that struck me, which had never struck me before was we had several jurors come up, said they didn't think they could be fair and because of whatever relationships they've had in their life or whatever events they've had in their life, and I said, you know, I understand it. I do. But that's what we were looking for is those 12, plus alternate jurors if they end up serving, who can be objective.

Maybe the reason they couldn't be fair was because of the type of charge that was involved. It's offensive. It's the kind of thing that, you know, that tugs on your heart, that -- you know, you've got two parts of the body, I guess: You've got your heart and you've got your brain. And sometimes when you tug on the heart, the brain doesn't work as good. So we were actually looking for 12 jurors who would use their brains, who would be fair and impartial, who are not going to be influenced by what the person is charged with. And everybody can't be a doctor, everybody can't be a surgeon, everybody probably can't a juror, but I think we got 12, 13, 14 good jurors who will listen to the evidence that's presented.

Now, Chad Hayes, you met him yesterday, he's a

boy that -- I happen to live in the big town Batesburg-Leesville, so when I said that it was the beautiful city of Batesburg-Leesville, I live there, too. That was not a cut on Batesburg-Leesville.

Seated over here on the bench behind him is his grandma, 86 years old. She's quicker than I am. And that's his momma and that's his brother. There's a reason I'm kind of introducing you to the whole family, because it's important that you know Chad and you know his family because you're going hear a story about how a person by the name of Christy, who was the mother of those three daughters, meets my client, local boy, I mean, they all live in close proximity. This is Lexington. They live out there in the country. They've got momma's house is here. You've got the son's house is here. You got grandmomma's house over here. And they got a beauty parlor where mom works. There's nothing fancy about the Hayes. I told them this morning that I was going to call them rubes, but they didn't understand what a rube was. They're just regular country people.

So Chad Hayes is in Wal-Mart, because that's what you do when you live in Batesburg, you go to Wal-Mart, and he meets Christy in Wal-Mart, and they strike it up. Christy is the mother of these children. And they exchange numbers, and there's some phone calls

going back and forth between the two of them. This is way back in 2007. When he gets a call from Christy one day and there's some kind of dispute because Christy's up here staying with her sister. Sometimes sisters don't get along. It happens. And for whatever reason, she wanted to spend the weekend that weekend with Chad. So Chad goes down there and picks up Christy and picks up the children for the weekend.

Now, what began as a weekend excursion or a weekend getaway or a weekend avoidance turns into almost four years of living together. That's how all this began.

Chad works at Michelin. He was working at Michelin since 2002. So Christy doesn't work, the mother didn't work, so she stayed at home with the children and he took these children to raise, working every day. Momma and grandmomma took them on vacations, made them a part of the family. Nobody knew anything was wrong until one day about -- and I want to be close on the times. I want to say in August of 2011, Christy gets the children and she takes off. Now, Chad doesn't know why she's taking off. She takes the children, takes off and goes back to Missouri. Because, you see, they're from Missouri. I think that's right. I guess that's the "show me" state. Well, he says, well, whatever. So as quickly as they moved into his life, they quickly moved out.

Now, Christy obviously brings the girls back up here for a period of time because some of them were staying here and I want to say one was staying in Missouri. And he goes about his life, thinking, well, I guess it just didn't work out.

The next thing he knows, March 30th of 2012, which is a long time, he gets a call from Lexington County Sheriff's Department, this gentleman right here, and he wants him to come down to talk to him. So he comes down and talks to him. Then he's told about the allegations that he has been abusing these children, taking pictures of them, doing all kind of stuff, and he gets locked up in jail that day. And after he's locked up in jail that day, he spends the next seven months sitting in jail, hires a lawyer, Richard Briebart -- could have done a little bit better on that one -- and then finally hires another lawyer and gets out of jail. While he's in jail he passes his ten-year pen. If you work for Michelin for ten years you get some kind of special reward for working at Michelin, but he gets it mailed too him, but he can't go back to work at Michelin, so he has to cut grass. That's his tale, that's his story.

He looks forward to you trying this case. He is not dodging this case, he's not hiding from this case, he wants you all to look at this case. It's like turning on

a light. When you hear something in the bathroom, when you hear something in the kitchen, turn that light on, shine that light, discover what the truth is. He's not afraid of the truth. He's tired of worrying about the allegations.

The allegations from these girls are that he beat them all the time, he touched them all the time. One of the girls says that he hit his grandmomma with a frying pan. Well, grandmomma would love to see him try that. Supposedly he allegedly hit his mother and his father.

I apologize I don't have his father here. He's been in the Lexington County Hospital since Poultry Day, May 10th of this year, with cancer. But if he were able to be was here, I'd have him here, too. All we want is the truth. This is probably one situation where the truth will set you free.

Thank you.

THE COURT: All right. You may call your first witness.

MS. MAYES: The State calls Michelle Brackett.

THE COURT: Ma'am, if you would, please come around and be sworn.

MICHELLE BRACKETT, after being duly sworn, testified as follows:

THE CLERK: Have a seat, please, ma'am.

MR. WILLIAMS: Your Honor, I have a matter of law to take up with the Court outside the presence of the jury.

THE COURT: All right. Ladies and gentlemen, let me get you to step back into the jury room. Please have no conversation about the case.

(The jury left open court at approximately 10:37 a.m.)

MR. WILLIAMS: Your Honor, in the discovery that was provided to the defendant by the State, on page 55 of 91 of the discovery, there's a statement from [redacted] (Daughter 1) reporting information that says that [redacted] (Daughter 1) said the day her mother found out, [redacted] (Daughter 4) told her guidance counselor, Ms. Brackett, about allegations of abuse going on at the house.

Your Honor, [redacted] (Daughter 4) is the witness who is not coming, who I'm not able to cross-examine.

THE COURT: Correct.

MR. WILLIAMS: And I have issues with this witness testifying to how she became involved if [redacted] (Daughter 4) is not able for me to cross-examine.

MS. MAYES: I can proffer that testimony, Your Honor.

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

IN CAMERA DIRECT EXAMINATION

BY MS. MAYES:

Q Ms. Brackett, where are you currently employed?

A At Batesburg-Leesville Elementary School.

Q And what is your job description there?

A I'm a guidance counselor.

Q During your work at Batesburg-Leesville Elementary as a guidance counselor, are you familiar with a student by the name of Daughter 1 [redacted]?

A Yes, ma'am.

Q And can you tell us whether or not Daughter 1 [redacted] was a student at that school?

A Yes, ma'am, she was.

Q Now, did Daughter 1 [redacted] also have a sister -- and I know you've been instructed not to mention Daughter 4 [redacted], but this is outside the presence of the jury -- did she also have a sister named Daughter 4 [redacted] attending that school?

A Yes, ma'am.

Q And were you familiar with both students?

A Yes, ma'am.

Q Going back to the time frame of 2008/2009, did you have time to personally -- did you have the occasion to personally have a discussion with Daughter 1 [redacted] in regards to any type of abuse?

A Yes, ma'am.

Q All right. And only in regards to Daughter 1 [redacted], was

information disclosed to you?
A Yes, ma'am. She had concerns of physical abuse going on in the home.
Q All right. And ultimately did you make a report to any authorities that included your concerns about Daughter 1 [redacted]?
A Yes, ma'am, I did. In 2009, I made a report to the Lexington -- or no, I'm sorry, to Lexington DSS.
THE COURT: Let me -- I'm going to interrupt here real quick.
Ms. Mayes, have you finished?
MS. MAYES: That would be -- there will be additional questions after she finished that portion, but that's the portion that relates to physical abuse, to the fact that she got information from Daughter 1 [redacted].
THE COURT: And, Mr. Williams, obviously your objection dealt with if she was going to testify as to things that Daughter 4 [redacted] shared with her, and it doesn't appear to be the testimony.
MR. WILLIAMS: Could I ask her a question.
THE COURT: Sure. Yes, sir.
IN CAMERA CROSS-EXAMINATION
BY MR. WILLIAMS:
Q Ma'am, you work where?
A Batesburg-Leesville Elementary School.
Q And when was the first time that you learned of when

any -- were you first informed of any allegations of abuse?

A That would have been the year 2009.

Q And who informed you first of any allegations of abuse?

A Daughter 1.

Q And did you have a conversation with Harley in regards to allegations of physical abuse?

A Afterwards, yes, sir.

Q And who did Daughter 1 say was being abused?

A Well, she said that both of them were abused; that, in fact, she said she would get it worse physically.

MR. WILLIAMS: Your Honor, if that's what she's going to say then I think that we can avoid the Daughter 4 issue.

Thank you, Your Honor.

THE COURT: Thank you.

All right. Let's bring the jury back in if they're ready.

(The jury came into open court at approximately 10:44 a.m.)

THE COURT: All right. Thank you very much, ladies and gentlemen.

And, ma'am, if you would then please state name for the record, spelling your last.

THE WITNESS: Michelle Knight Brackett, B-R-A-C-K-E-T-T.

DIRECT EXAMINATION

BY MS. MAYES:

Q And, Ms. Brackett, I want to start by asking you a few questions about yourself and where you are currently employed. What can you tell us in that regard?

A I am a guidance counselor at Batesburg-Leesville Elementary School. I have been there since 2001. I started working there after my son started school, and I wanted to have the same hours as he had. I had stayed home with him. Prior to that I was in the United States Army. I served as a flight medic. I worked here at 60 Black Hawks. I also served in the Texas Army National Guard. But I love being a guidance counselor.

Q What can you tell us about your educational background that led you into the field of being a guidance counselor?

A My master's is from the University of Maryland. It's through the counseling program through College Park through the European division. I was stationed overseas. I also have a bachelor's from the University of Texas in psychology -- in psychology.

Q Now, focusing specifically on your employment there at the elementary school in Batesburg-Leesville, what type

of work do you do as a guidance staff member?
A As a guidance staff member I teach in all the classrooms, teach all kids, all of them, try to get to know them and establish a rapport. I also do small groups. A grieving group is a good example or a divorce group. I also do individual counseling as needed. It might be something about bullying or just that their cat died that day, all those different things. And also, of course, report to the proper authorities when something is reported to me due to being a mandated reporter.
Q Now, I want to take you back over the course of the last six to seven years there at the elementary school. Have you had the opportunity to become familiar with students by the name of [Daughter 3 redacted], [Daughter 2 redacted], and [Daughter 1 redacted]?
A Yes, ma'am.
Q Can you tell us whether or not they were students there?
A Yes, ma'am, they were students there. They're sweet girls.
Q I want to start first by asking you about the ages or at least the order of those three girls, [Daughter 3 redacted], [Daughter 2 redacted], and [Daughter 1 redacted]. Which one of the girls is the oldest?
A [Daughter 1 redacted].
Q And I believe that her last name is Sapp?

A Yes, ma'am.
Q And which of the girls is the youngest?
A The youngest is Daughter 3 [redacted].
Q And then which would be in the middle?
A Daughter 2 [redacted].
Q Now, are these three girls related to one another?
A They're all sisters.
Q And with them being sisters, can you tell us whether or not there are any academic issues concerning one of the three girls?
A What I know is Daughter 1 [redacted] repeated a year sometime before she came to me. Daughter 2 [redacted] also repeated a year before she came to me. I do third, fourth, and fifth, so this would have been in their primary school years. Daughter 2 [redacted] is also in special education. She was in a self-contained class, which means that she was not in the general education curriculum except for related arts such as gym and music and art. So she struggled academically and she gave it her best.
Q All right. So of the three girls, Daughter 3 [redacted] has the classification as a special education student?
A Yes, ma'am.
Q All right. Now, with that classification, are you still involved with her? Do you regularly still have contact with the special education students there at the

elementary school?
A Yes. At the elementary school I do have contact. I teach them in their classrooms, I see them, yes, ma'am.
Q Now, so to the school year, which would be the 2008/2009 school year, I'd ask you whether or not Daughter 1 [redacted] Sapp, the oldest of the three girls, was a student there at the elementary school?
A Yes, ma'am, she was.
Q And at the elementary school, is there a specific set of grades that you work with primarily?
A Yes, ma'am, third, fourth, and fifth, and of course special ed, too.
Q So during that time frame of 2008/2009, would Daughter 1 [redacted] have been in that third, fourth, or fifth grade tier and you would have contact with her?
A Yes, ma'am.
Q Referring specifically to that time frame --
MR. WILLIAMS: Your Honor, can I take this down? I can't see the jury.
THE COURT: Or you can move it over here, either way. Certainly out of your way.
BY MS. MAYES:
Q Now, referring back to that school year 2008/2009, when Daughter 1 [redacted] was a student there, can you tell us whether or not you had an opportunity to make a report to

the Department of Social Services?
A Yes, ma'am, I did. In 2009, I reported physical abuse due to a concern of physical abuse in the home to the Department of Social Services in Lexington County.
Q All right. And you can't tell us, though, what was said to you, but did you actually meet with Daughter 1 [redacted] regarding those allegations?
A Yes, ma'am, I did.
Q And ultimately when you say a report was made, who actually made that report to the Department of Social Services?
A I did.
Q And you stated before that you're a mandatory reporter?
A Yes, ma'am.
Q What does that mean?
A That means if I -- if it is brought to my attention or if there are suspicions of any type of abuse or neglect going on in the home, I am mandated by the law to report it to the proper authorities.
Q And you testified that you actually met with Daughter 1 [redacted] one on one regarding those allegations. What, if anything, can you tell us about her demeanor when you met with her?
A When I met with her, of course she was crying; I

could tell she was in crisis. And after she disclosed to me the information, I knew that I had to report, so I wanted to prepare her and I let her know this is something that we need to call and get some help on and get somebody in here who can help us help make things better. So when she found out that I was going to make a report she became very fearful. She was crying.

MR. WILLIAMS: Objection to that, Your Honor. It's speculation why she became fearful.

THE COURT: She can testify to her observations about the child, what she observed. But I will sustain as to the comment "fearful," but she can testify to her observations.

MR. WILLIAMS: Thank you, Your Honor.

MS. MAYES: I can rephrase that, Your Honor.

BY MS. MAYES:

Q Specifically as to what you observed about her demeanor or any physical reaction, what, if anything, did you observe after you informed her that you would have to make a report to authorities?

A Yes, ma'am. A lot of nervous fidgeting, more crying, begging me not to report.

Q All right. And I'd ask that you not say anything --

MR. WILLIAMS: Your Honor, move to strike the last comment.

THE COURT: Sustain. That last comment is stricken from the record.

BY MS. MAYES:

Q Now, Ms. Brackett, moving forward to the year 2011, moving forward two years.

A Yes, ma'am.

Q Can you tell us whether or not Daughter 2 [redacted] and Daughter 3 [redacted] the middle child and the youngest child, were students there at Batesburg-Leesville Elementary?

A Yes, ma'am, they were.

Q Now, you mentioned that Daughter 2 [redacted] had actually had to repeat a grade?

A Yes, ma'am.

Q Do you know approximately when or what school year that would have been?

A That would have been in her primary years, either K4-K5, first grade, or second grade.

Q And ultimately were they in the same grade, although they were sisters?

A Yes, they were in the same grade, Daughter 3 [redacted] and Daughter 1 [redacted]. I mean Daughter 3 [redacted] and Daughter 2 [redacted]. I'm sorry.

Q And while they were students there, did there come a point in time when they I guess you would classify it as withdrew or transferred elsewhere?

A Yes, ma'am.

Q And you're familiar with that information?
A Yes, ma'am, I have it right here.
Q All right. I'm going to refer first specifically to Megan.
A Okay.
Q Do you have a date in which she withdrew from or was withdrawn from enrollment at Batesburg-Leesville Elementary?
A Yes, ma'am, September 1, 2011, to relocate to Missouri.
Q And so the purpose of that, of her being withdrawn from the school is that she was relocating to the state of Missouri?
A Yes, ma'am.
Q And just to clarify, does it have to be a guardian or parent goes actually goes through the process of withdrawing a student?
A Yes, ma'am.
Q And do you have any information as to when -- or let me ask you this: Ultimately did Daughter 3 reenroll as a student at Batesburg-Leesville Elementary?
A Yes, ma'am.
Q And do you have the information concerning her re-enrollment?
A Yes, ma'am. Daughter 3 re-enrolled September 21, 2011,

and she is still currently enrolled in our school district.

Q All right. So after she was withdrawn on September 1st, she returned approximately 20 days later and reenrolled as a student and has remained both at that school and ultimately on into middle school at this point with the school district?

A Yes, ma'am.

Q All right. Now, as to Daughter 2 [redacted], do you have any information concerning whether or not she was withdrawn from Batesburg-Leesville Elementary?

A Yes, ma'am, she was withdrawn September 1, 2011, to relocate to Missouri.

Q So it was for the same purpose, to relocate?

A Yes, ma'am.

Q And again, can you tell us whether or not that withdrawal would have been carried out by a parent or guardian?

A Yes, ma'am.

Q And did Daughter 2 [redacted] ever return to Batesburg-Leesville Elementary?

A No, ma'am.

Q Now, as for Daughter 1 [redacted], do you have information concerning when or whether or not she would have been withdrawn from the school district, specifically

Batesburg-Leesville Middle School?

A Yes, ma'am. She withdrew -- they have 9, which would be September 2, 2011, and she was transferring to Campbell, Missouri.

Q So she was also relocated to Missouri?

A Yes, ma'am.

Q Can you tell us whether or not there was a re-enrollment of Daughter 1 [redacted] within the school district?

A Yes, ma'am, it was January 18, 2012, until -- and this at the middle school.

Q Okay. So she was withdrawn on September 2nd for Missouri and then reenrolled on or about January 18, 2012?

A Yes, ma'am.

Q So looking here at this calendar, I hope you can see it from where you are, but September of 2011, there are withdrawals on the 1st and the 2nd and from there two of the students ended up returning back, being Daughter 3 [redacted] and Daughter 1 [redacted]?

A Yes, ma'am.

Q And the Daughter 2 [redacted] did not return back from Missouri at all; is that correct?

A That's correct.

Q Now, are you familiar with the current -- through your role there as a guidance staff member, are you familiar with whether or not Daughter 3 [redacted] and Daughter 1 [redacted] who

returned to the school district are in the custody of their mother Christy Earnest?

A No. When they were returned, the guardian is their aunt, Ashley Rodriguez.

Q Okay. So the guardian would be for [redacted] (Daughter 1) and [redacted] (Daughter 3) is Ashley Rodriguez, an aunt; is that correct?

A Yes, ma'am.

Q And when they returned from Missouri in -- for [redacted] (Daughter 3), September 21, 2011, can you tell us whether or not Ashley Rodriguez would have been in the role of guardian at that point?

A Yes, ma'am.

Q And when [redacted] (Daughter 1) returned back in early 2012, whether or not Ashley Rodriguez would have been in the role of a guardian at that point?

A Yes, ma'am.

Q Prior to going to Missouri, whose custody or guardianship were they in?

A The mother's.

Q So up to the point they withdrew they had been in their mother's custody?

A Yes, ma'am.

Q Did you actually have the opportunity to see their mother there at Batesburg-Leesville High School (sic) on any occasion?

A I saw her the day that she withdrew the children.
Q All right. Now, once Daughter 3 [redacted] had returned to the school and reenrolled, September 21, 2011, and she is in the care and guardianship of her aunt, Ashley Rodriguez, can you tell us whether or not you had the opportunity to make any additional reports concerning this family?
A Yes, ma'am.
Q And please don't say what anyone said to you. Let me phrase the question like this: Ultimately did you make a report to any authorities?
A Yes, ma'am, I made a report to the Lexington County Sheriff's Office.
Q And what was the nature of that report?
A Sexual abuse.
Q And can you tell us whether or not that concerned Daughter 3 [redacted]?

MR. WILLIAMS: Objection, speculation. Whether or not -- whether it concerns -- I guess it depends on the verb "concerns", Your Honor. I'll wait until the end.

MS. MAYES: I can rephrase that, Your Honor.

THE COURT: All right.

BY MS. MAYES:
Q You stated before that you are a mandatory reporter?
A Yes, ma'am.

Q Do you recall whether or not that also includes sexual abuse in addition to physical abuse?
A Yes, ma'am, it does.
Q Can you tell us whether or not your concern about sexual abuse involved one student or more than one student?
A More than one student.
Q And specifically, can you tell us whether or not you made a report concerning Daughter 3 [redacted]?
A Yes, sir.
Q And whether or not you made a report concerning Daughter 2 [redacted]?
A Yes, ma'am.
Q And whether or not you made a report Daughter 1 [redacted]?
A Yes, ma'am.
Q And when you say you made a report, how did you actually go about making that happen?
A I reported to the Lexington County Sheriff's Office.
Q So an officer actually spoke with you in order to get some of the initial information?
A Yes, ma'am.
Q Now, you can't say what was said to you, but who is the person that you had learned information from that led you to make this report?
A Ashley Rodriguez.

Q And that would be the aunt or the guardian of both Megan and later on Daughter 1 [redacted]?
A Yes, ma'am.
Q Can you tell us whether or not she's a resident of Lexington County?
A I believe she is.
Q Can you tell us whether or not you informed law enforcement of Ashley Rodriguez so that they could make contact with her?
A Yes, ma'am.

MS. MAYES: Beg the Court's indulgence.

(Pause.)

MS. MAYES: Nothing further of the witness at this time, Your Honor.

MR. WILLIAMS: May it please the Court.

THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. WILLIAMS:

Q Ms. Brackett, do you live in Batesburg?
A No, sir. But I don't live far.
Q Good. Good.

You said you're a guidance counselor at you said Batesburg-Leesville Elementary School?

A Yes, sir.
Q And what grades does that encompass?

A Third, fourth, and fifth.
Q Is that the new school?
A I don't think so.
Q Okay. And I believe your testimony is that you were the guidance counselor for all three of the children that we just referenced?
A I have been at one point in time.
Q Well, let me take you back to the date of -- well, when did you first -- when were you -- which child were you the guidance counselor for first? What year would that have been?
A [Daughter 1].
Q So you were a guidance counselor for [Daughter 1] in what year?
A 2008/2009.
Q All right. And you were a guidance counselor for [Daughter 3] and [Daughter 2] when? Because they were the same grades, right?
A Yes.

I'm not really certain of the years that I was for them, but I can figure it out if you give me a calculator.

And can I ask the kids their ages?

Q Well, see, we're trying to get questions from you right now. I don't know how you're going to do it. You

say calculator would do it?

A What I have to do is do the difference in the age, however old Daughter 1 [redacted] is, just subtract Daughter 3 [redacted]s age.

Q If I hold this back up for you, does that help?

A Well, let me see. I already know that it was in 2000 -- no, that wouldn't really help, no. Not me anyway. That just tells me the withdrawal dates.

Q Okay.

A Or if I have access to my --

Q Which grade would Daughter 3 [redacted] and Daughter 2 [redacted] have been in when they withdrew?

A I'm sorry? What grade would they have been in?

Q Right. Daughter 3 [redacted] and Daughter 2 [redacted].

A I believe it was right at the end -- let's see, December -- I think it was right at the beginning of fourth grade, uh-huh.

Q So they withdrew in the fourth grade?

A The very beginning of September 1st.

Q So that would have been what year?

A 2009.

Q That's when they withdrew?

A Yes, sir.

No. Wait. They withdrew 2011. No, wait a minute. I'm all confused.

Let me look at my notes here before I answer.

Yeah. Okay, September 2011.
Q Okay.
A Currently enrolled, that's when she came back, but September 1st, 2011, yeah, they left. That would have been in the beginning of the fourth grade year. So I would have had them all in third grade and then they left at the beginning of fourth. And then Daughter 3 [redacted] came back that same month, so I had Daughter 3 [redacted] for the rest of fourth and then fifth grade.
Q Okay. So Megan came back first?
A She -- yes, to the district. She was the only one that came back to my school. But Daughter 1 [redacted] came back to the middle school.
Q What about Daughter 2 [redacted]?
A Heaven did not return.
Q Okay. So since you're the guidance counselor, part of what you do, would that be to conduct IEP meetings?
A No.
Q You don't do IEP meetings?
A I did at that time. I would participate in IEP meetings. I would be the chairperson. I'm not doing that now. I haven't done it for three years now.
Q Let's talk about those children that are the subject of this trial.
A Sure.

Q Did you do IEP meetings for those children?
A I would have attended them, but I wouldn't have been the one who sent out the invites and set it all up.
Q All right. When you say send out invites for IEP meetings, what do you mean by that? Who would you send invites out to?
A I wouldn't.
Q Okay. When you attended those IEP meetings, who would be present?
A The special ed teacher. Myself, I served as the local educational administrator, the LEA, and a regular ed teacher, and the parents if they decided to come.
Q Okay. So which of those three children would have been the subject of IEP meetings?
A Well, Daughter 1 [redacted] was enrolled in a special education self-contained class, so that means she had to be on an IEP.
Q So Daughter 1 [redacted] would have been the one that --
A No, not Daughter 1 [redacted]. I'm sorry. Daughter 2 [redacted]. I do get them confused. I'm sorry. I have over 500 kids at my school.
Q So it's hard to remember exactly who's who?
A Well, not if you give me time. I can get it.
Q I will slow down.
A Okay. Do that.
Q All right. Daughter 2 [redacted]?

A Daughter 2 [redacted].
Q Heaven would have been subject to IEP meetings?
A Yes, she would have been the only one.
Q Okay.
A That I'm aware of.
Q Well, you would have been aware if the other two children --
A During my time, yes, if they were at my elementary school.
Q Okay. So Daughter 2 [redacted] would have had IEP meetings for which two years or three years or four years?
A Well, she was only there really in third grade.
Q So she only was at your school for third grade?
A No, she would have been there a little bit before. Anyway, Daughter 2 [redacted] -- is your question that we had IEP meetings on Daughter 2 [redacted]? Is that your question?
Q That's a good one. Did you have IEP meetings on Daughter 2 [redacted]?
A Our school would have conducted IEP meetings on Daughter 2 [redacted], yes, sir.
Q And when you had those IEP meetings on Daughter 2 [redacted], what parents came to the IEP meetings?
A I'm uncertain as to who came to her IEP meetings. I don't have anything in writing on that. But she cannot be in a self-contained class unless there were IEP meetings.

Q And can she be in a self-contained education class if the parents don't participate and consent to it?
A They can consent to it. They can be sent a letter that can be signed. They don't necessarily have to come.
Q You don't know if you've ever met the parents?
A I have. I've met the mother.
Q When you meet the mother?
A I met her when she withdrew the children.
Q That's the only time that you met the mother?
A That I can recall.
Q What's her name?
A I think it's Christy.
Q Christy what?
A Earnest. I could be wrong, though.
Q So you don't even know the mother's last name?
A No, sir. I don't know a lot of my children's mother's last names.
Q And you've only met her one time as far as can you tell?
A Uh-huh.
Q When she withdrew?
A Yes, sir.
Q Where is the mother today?
A I do not know.
Q Well, you gave -- but you know that the mother is no

longer the guardian since they've been enrolled in your school, those two children?
A That's right.
Q And you know that because her sister is the guardian?
A That's correct.
Q Well, who is the guardian for this other child that's not here?
A I'm not sure. I don't know. She not in my school district.
Q The one who's not in your school?
A Well, I admit, if she's not in my school district.
Q So you only know what's in your school district?
A That's correct. That would be Daughter 3 and Daughter 1. Not Daughter 2.
Q Not Daughter 2?
A Right.
Q Okay.
A But Daughter 2 did come to my school.
Q Which school does she go to now?
A I don't know what school she goes to now.
Q Okay.
A She did come to my school, though. All three of them came to my school.
Q And if she relocated to Missouri and if she's ever came back to your school district, it would be safe to

assume that her aunt is not the guardian of her in Missouri?

A Well, I'm not going to assume anything, but I think that's something you could ask them.

Q Okay. Well, when you were talking about when they relocated, you referenced Daughter 3 [redacted] and said that she relocated to Missouri and Daughter 2 [redacted] relocated to Missouri, but with Daughter 1 [redacted], you had some specific information that she transferred to Campbell, Missouri?

A That's correct. She was at the middle school.

Q All right. Well, I guess what I'm asking is, why were those first two children it was designated just Missouri and then --

A Because of two different schools. So there's two different people that put the information into the system, so whenever they were filling it out it could have been like, yeah, we're taking them to Campbell, Missouri, or could have just been, oh, we're taking them to Missouri, I mean.

Q You really just don't know?

A It's really just tit for tat.

Q Okay. Well, when this report was made, I think you said there was some report that was in 2009?

A Yes, sir.

Q Of physical abuse?

A Yes, sir.
Q Do you know where the children were staying at that time?
A Yes, sir. They were staying with their mother and Mr. Hayes.
Q So she were staying with their mother?
A Yes, sir.
Q And they're no longer staying with their mother?
A As far as I know. I mean, I would -- I know that the aunt, Ashley Rodriguez, has Daughter 1 [redacted] and Daughter 3 [redacted].
Q And that was back in 2009?
A Back in 2009, that they were living with their mother and Mr. Hayes.
Q And they left in 2011?
A Uh-huh.
Q Right?
A Hold on. Yes, 2011.
Q Did they ever leave the location they were staying at in 2009?
A Not -- I --
Q Until 2011?
A As far as I know, I mean, unless they moved somewhere. I don't know.
Q As far as you know they stayed --
A I know that they were at our school system. That's

what I can tell you. So they would have been living within district.

Q Well, you knew where they were staying in 2009? You had the address of their location?

A When I made the report, yes, sir.

Q And do you have any information that they changed location from 2009 up until to 2011?

A No, sir.

Q You could produce that if you had to?

A If I had to, yeah, but I don't have that information. So I mean, I can't say for a fact that they did or didn't move.

Q So you made a report in 2009 and they continued going to your school and they eventually left in 2011?

A Yes, sir.

Q I mean, you can't say they ever left that location in 2009?

A I mean, no -- if I could look at my records I could tell you my -- not those records. These are the school records that are not here.

Q And they were in the custody and control of their mother back then?

A That is to my belief, yes, sir.

Q But they no longer are?

A I know that Daughter 3 [redacted] and Daughter 1 [redacted] are with Ashley

Rodriguez, their aunt.
Q Do you know where they were staying before they were living with their mother and Chad Hayes?
A No, sir.
Q Do you know who the father of these children is?
A No, sir.
Q Do you know if there's more than one father?
A No, sir, I don't know.
Q Well, they would obviously have more than one father because one's an Earnest?
A Not necessarily.
Q Okay.
A Because just not necessarily. There are some fathers that will claim certain kids and not other kids or the mother might put down one name or another name. You just don't know. That wasn't anything I ever asked or discussed with them.
MR. WILLIAMS: That's all the questions I have, Your Honor.

REDIRECT EXAMINATION

BY MS. MAYES:
Q Ms. Brackett, just to clarify here, in 2009, you made a report of physical abuse after meeting with Daughter 1 [redacted]; is that correct?
A Yes, ma'am.

Q Now Mr. Williams was asking you specifically where they lived at the time. Is that information that you would know right now concerning the actual street address?
A No, ma'am, I don't know their street address.
Q Well, what was your understanding of who the children were residing with when you made that report of physical abuse in 2009?
A I can tell you when I made that report in 2009 that I made the report, that they were living with their mother and Mr. Hayes.
Q All right. And you're referring to the defendant, Chad Hayes?
A Yes, ma'am.
Q Now, would you describe their mother as someone who was overly involved there in school activities?
A No, ma'am.
Q Did you ever meet a biological father for the children?
A No, ma'am.
Q And moving forward to the date of 2011, you testified that Megan and Heaven withdrew in September. That would be the very start of the school year, correct?
A Yes, ma'am.
Q Can you tell us whether or not that would have been fifth grade?

A It could have been fifth grade.
Q Fourth or fifth grade?
MR. WILLIAMS: Objection, leading.
A It could have been fourth or fifth grade.
BY MS. MAYES:
Q Now, in 2011, you testified that after [redacted] (Daughter 2) and [redacted] (Daughter 3) withdrew, ultimately [redacted] (Daughter 3) came back and you made a report to law enforcement concerning sexual abuse, correct?
A Yes, ma'am.
Q Now, Mr. Williams asked you were they in the same location, had they moved. Let me ask you this: When you make that report, was there an actual street address?
A Yes, there would have been to have been an actual street address because you've got to figure out jurisdiction it's in.
Q All right. And can you tell us the date of your report?
A Yes, ma'am. For 2011, would have been December 9, 2011.
Q And that is actually the date that you made the call to law enforcement and reported your concerns regarding sexual abuse, correct?
A Yes, ma'am.
Q And that is December 9 of 2011?

A Yes, ma'am.
Q Now, you mentioned that you would have had to have given a street address. Do you know or do you have with you any information in terms of what street address was provided to law enforcement when you made that report December 9th?
MR. WILLIAMS: Your Honor, I'm going to object to her reading off of a document, which obviously she should be able to know or not know the answer to the question.
THE COURT: She can use that to recollect her memory. That's not a problem. It's overruled.
THE WITNESS: The location of the incident, 2251 Broad Street, Leesville, South Carolina 29070.
BY MS. MAYES:
Q All right. Now, let me ask you this: At that point when you made that report on December 9 of 2011, your report at that address, 2251 Broad Street, was that a report about something that was going on right then or did you report concerns about something that had happened in the past?
A Something that had happened in the past.
Q All right. And when you refer to something that happened in the past and that address, Mr. Williams was asking you whether or not they had changed addresses, but

let me ask you this: What was your understanding of who resided at that address at 2251 Broad Street?

A Chad Hayes.

Q The defendant?

A Yes, ma'am.

Q And can you tell us whether or not you had information that the mother and children had previously resided at that residence?

A Whether or not I had information that they had previously, yes, in our school records it would have indicated whenever I made the report.

MS. MAYES: Beg the Court's indulgence.

THE COURT: Yes, ma'am.

(Pause.)

MS. MAYES: Nothing further.

MR. WILLIAMS: Just a couple of questions.

RECROSS-EXAMINATION

BY MR. WILLIAMS:

Q You said that would be in your school records. Are you saying that you looked on your school records when you made your report as to where the location was?

A Back when they would have lived there when the incident happened. Yeah, we can go back on their KUHN file and look at the residence and say, okay, this is where they resided at this time.

Q Are you saying that in 2000 and --
A 2011. I can look back at 2009 for the address.
Q And do you recall doing that?
A I don't recall doing that, but I'm going to guess that I did because it's on this paper.
Q So you're actually testifying from what's on the paper, not what you remember?
A Well, I do remember that they resided with Chad Hayes during the time of the abuse. That I do recall. I just didn't know his address.
Q And their mother?
A Or their mother.
Q But they resided with their mother?
A And Chad Hayes.
Q Have you ever been to that location?
A No, sir.
Q So when you say you know they resided there, you know that based on people telling you?
A No, I know that because our records indicated that they had resided there whenever they attended our school.
Q So that's a location for the school to know they're living in the district; is that right?
A The location for what?
Q That they could attend the school because their residence was in that district?

A Yes.
Q Do you know where the aunt lives?
A No.
Q If they were attending school in your district, you would have to know that address, wouldn't you?
A It would be on file. It's on file.
MR. WILLIAMS: I don't have any other questions, Your Honor.
THE COURT: Thank you, ma'am.
THE WITNESS: Thank you, sir.
MS. MAYES: Your Honor, may this witness be excused?
THE COURT: Any objection?
MR. WILLIAMS: No objection.
THE COURT: Thank you, ma'am.
You may call your next witness.
MS. MAYES: The State calls Constance Lambert.
THE CLERK: Place your left hand on the Bible and raise your right.
CONSTANCE LAMBERT WATKINS, after being duly sworn, testified as follows:
THE CLERK: Have a seat, please, ma'am.
Once you're seated, state your full name, spelling your last on the record, please.
THE WITNESS: Constance Watkins, W-A-T-K-I-N-S.

DIRECT EXAMINATION

BY MS. MAYES:

Q Can you tell us whether or not you also were previously Constance Lambert?

A Yes. Constance Lambert is my maiden name.

Q And that was your name up until when?

A Up until 2012.

Q All right. Now I want to ask you whether or not you have had the opportunity to previously be employed?

A Yes.

Q All right. And where were you employed?

A I was mostly employed at the Dickerson Center for Children. Prior to that I was employed by Lexington County Department of Social Services.

Q All right. How many years were you at Lexington County Department of Social Services?

A Three years.

Q And you mentioned the Dickerson Center for Children. Can you tell us whether or not that also involved similar type work?

A It does.

Q And what kind of background did you have that led you to become an employee of the Department of Social Services?

A I have a bachelor's degree in psychology and have

worked in various aspects of the human services field.
Q Specifically at DSS, what type of work did you do?
A I worked in child protective services. I was a case worker in the assessment unit. We are essentially the first responders. When there is a report or allegation of child abuse or neglect, an assessment worker is the first person who makes contact with the family involved.
Q All right. And while you were at the Child Protective Services Division of the Department of Social Services, can you tell us whether or not you had contact with a child by the name of Daughter 1 [redacted]?
A Yes, I did.
Q And I want to refer you specifically back to the time frame of 2008/2009. Can you tell us whether or not you would have had contact with Daughter 1 [redacted] in that time frame?
A Yes, ma'am.
Q And did you meet with her personally on any occasion?
A I did. I met with her personally on several occasions.
Q And without going into anything that was said to you, can you tell us what was the nature or type of assessment that you were conducting?
A There were allegations of physical abuse.
Q All right. Did you have the opportunity to actually

observe her physically, such as her body?
A I did.
Q And what did you observe?
A She had some red marks on her buttocks that were consistent with a spanking.
Q All right. And when you talk about red marks on the buttocks, can you tell us whether or not corporal punishment, a spanking, including spanking with a belt, things of that nature, is that allowed by the Department of Social Services guidelines?
A It is. In the state of South Carolina corporal punishment is legal and therefore appropriate corporal punishment is allowed under DSS guidelines.
Q All right. And given those guidelines, can you tell us ultimately what the classification was of that particular investigation for Child Protective Services that you conducted during that time frame?
A Ultimately the case was unfounded, category two. What that means essentially is we could not rule out entirely the abuse had occurred, but there was not sufficient evidence during that time period to substantiate those claims.
Q All right. Such as physical abuse?
A Of physical abuse, yes.
Q Just to clarify, corporal punishment alone or marks

on the buttocks alone, is that sufficient for a physical abuse finding?

A Well, it depends on the nature of the marks, the severity of the marks.

Q Now, you mentioned that you met with [redacted] (Daughter 1) personally. What, if anything, can you tell us about her demeanor when you met with her in regards to this case?

A She was very fearful and appeared quite anxious.

MS. MAYES: Beg the Court's indulgence.

(Pause.)

BY MS. MAYES:

Q And just to clarify, you're referring to contact that you had with her in 2009 concerning physical abuse, correct?

A That's correct.

Q And by 2011, were you still employed at DSS?

A I was employed at DSS at the beginning of 2011, but during the course of the year I left that position to take the position at the Dickerson Center.

Q All right. So your role is limited just to the 2009 physical abuse investigation?

A Yes, ma'am.

MS. MAYES: Nothing further, Your Honor.

MR. WILLIAMS: May it please the Court.

THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. WILLIAMS:

Q Ma'am, I apologize. I called your name as Ms. Lambert, but you're remarried and your last name now is?

A Watkins.

Q All right. Ms. Watkins, I think you said you had several conversations with Constance?

A My name is Constance.

Q Okay. Daughter 1 [redacted]?

A Yes, sir.

Q So you had conversations with Daughter 1 [redacted]. I've got two C's here I have to worry about.

And when did you have these -- when was this allegation about the spanking or whatever?

A I believe it began -- the allegation -- well, the report came to DSS in December of 2008.

Q Okay. So 2008. And so you talked to Daughter 1 [redacted]e. You went to the house where Daughter 1 [redacted] lives?

A I did. I also spoke with her at school.

Q And did you speak to her mother?

A I did.

Q And what's her mother's name?

A Her mother's name is Christy Ernst or Earnest. I'm not sure of the exact spelling.

Q And as a result of your conversations with I guess

her mother and going out to the house, did you have any follow-up meetings with Christy Earnest?

A I believe so. It's pretty hard to remember, you know, five years or six years and however many hundreds of DSS cases later.

Q Did you remove the children from the home?

A No, sir.

Q Because you unfounded it?

A Yes, sir, that was the agency's decision.

Q Do you know where Christy Earnest is now?

A I have no idea.

Q Well, you said that was the agency's decision.

A Well --

Q You filled out the report, didn't you?

A I say the agency because it's not a decision that one person makes on their own. It's made at least with consultation with a supervisor.

Q Did you report anything other than unfounding the report back then?

A I'm not sure I understand your question.

Q Did you tell the supervisor that it needed to be founded or did you say it needed to be unfounded?

A At the time what -- to the best of my recollection, I felt that unfounded category two was the appropriate determination. Nothing that -- the marks that I saw at

that time did not rise to the level of physical abuse.
Q Spanking?
A Yes.
MR. WILLIAMS: That's all I have, Your Honor.
THE COURT: Any redirect?
MS. MAYES: Yes, sir, Your Honor.

REDIRECT EXAMINATION

BY MS. MAYES:
Q And just to clarify, Ms. Lambert or Ms. Watkins, when you say that you went to the house in connection with this physical abuse investigation in 2009, who were the adults residing in that home with the children?
A The children's mother Christy Earnest and Chad Hayes, who was her boyfriend at that time.
Q So that would be the defendant Chad Hayes and Christy Earnest, the mother of the girls?
A Yes.
Q Now, Mr. Williams was asking you specifically about unfounded and that classification. Does unfounded completely rule out the possibility of abuse?
A No, it does not.
Q Is it based on your actual observations at the time?
A It is based on the observations and information that is available at that time. It's -- investigations can run no longer than 45 days by law, so during that 45-day

window what we are able to observe and the information we're able to gather determines what the outcome of that particular investigation will be.

Q All right. And by the time you were -- well, let me ask you this: Did you observe the marks on the child the same day they allegedly occurred or do you know?

A I don't know.

Q And what do you recall about the marks you observed?

A They were red, linear in nature, you know, consistent in appearance with what I have seen from a spanking with a belt.

Q And where were they located on the body?

A On her buttocks.

MS. MAYES: Nothing further.

MR. WILLIAMS: Just one question.

RECROSS-EXAMINATION

BY MR. WILLIAMS:

Q You said that you talked to Mr. Hayes and Christy?

A Christy, I believe.

Q Did you also talk to Mr. Hayes' mother and father?

A I did.

Q Who live next door?

A Who live next door, yes, sir.

MR. WILLIAMS: That's all I have, Your Honor.

THE COURT: Thank you, ma'am. You may step

down.

Any objection to this witness being excused?

MR. WILLIAMS: No objection, Your Honor.

THE COURT: All right. You may call your next witness.

MS. PATTERSON: The State calls Ashley Rodriguez.

THE COURT: Ms. Rodriguez, if you'd please come around and be sworn, ma'am.

ASHLEY RODRIGUEZ, after being duly sworn, testified as follows:

THE CLERK: Have a seat, please, ma'am.

Once you're seated, state your full name, spelling your last on the record, please.

THE WITNESS: Ashley Rodriguez, R-O-D-R-I-G-U-E-Z.

DIRECT EXAMINATION

BY MS. PATTERSON:

Q Thank you. Ms. Rodriguez, do you know the defendant Chad Hayes?

A Yes.

Q And how do you know him?

A He's my sister's boyfriend.

Q And do you remember when he and your sister started dating?

A Yes.
Q Do you remember when that was?
A In 2008.
Q And do you remember when your sister moved in with him?
A Like two or three days after they started dating.
Q And where was your sister living before she moved in with him?
A With me in Monetta.
Q And who else lived with you in Monetta when your sister did?
A Me and my nieces and my sister.
Q And with your nieces, who are your nieces?
A [Daughter 1], [Daughter 2], and [Daughter 3].
Q And so they lived with you also?
A Yes, they've always lived with me.
Q Now, when your sister went to live with the defendant, did the girls go along with her?
A Yes.
Q And can you kind of describe the relationship you had with your nieces when they lived with you?
A They've always lived with me and always been happy girls.
Q Can you describe your relationship you had with your sister?

A Normal. I mean, we're sisters. We argue for a day and then we're happy then, but she's my sister. We're going to argue.

Q Now, once your sister moved in with the defendant, did you see your sister often?

A I never got to see her or talk to her or talk to my nieces. They weren't allowed to talk to me or any of our side of the family at all.

Q Do you know why that was that you wasn't allowed to talk to them?

MR. WILLIAMS: Objection, speculation.

THE COURT: Well, I don't know that it's speculation. She may know. Overruled.

BY MS. PATTERSON:

Q Do you know why you wasn't allowed to talk to them?

A I'm not sure what the reason was.

Q But you do know you didn't talk to your sister once she moved in with Chad?

A The whole -- from 2008 until 2011, we were out of contact from them. We were not allowed to see or speak to them by phone or any other means, by email, text message, no way could we speak to her.

Q Did you know where Chad was living?

A Yes. If I saw them in a store or anything they had to look the other way or duck their head. They could not

even look my way.
Q And do you know where he was living when Christy and the girls were living with him?
A Yes.
Q And about how far was it from your house?
A About 15 minutes after I moved to Batesburg. In 2009 -- the end of 2009 I moved to Batesburg.
Q Did you want to see them?
A Every day.
Q Do you remember a time when you snuck Daughter 1 [redacted] a cell phone?
A Yes.
Q And why did you send her a cell phone?
A Because I was worried about them.
Q And how did you get the cell phone to her?
A My brother came to live with me for a couple of months, and he was in the same class as Daughter 1 [redacted], and I sent a phone to school with him, and he took it to her mom.
Q And do you know whether or not her mom got the phone?
A Yes.
Q How do you know?
A Because she called me the next day.
Q And were you able to talk to her?
A Yes.

Q And without saying what your conversation was, once you talked to her, what did you do?
A I went the next day and picked her up.
Q Where did you pick her up from?
A From Chad's house.
Q Was Chad home?
A No, he was working.
Q And who was at the house?
A Only her. The girls were at school.
Q And when you got to the house, did she have anything with her?
A Only what few clothes of the girls she could get.
Q Did you help her pack up anything?
A She just threw them out the door and I put them in the car and we went to get the girls from school.
Q And who did you pick up first?
A [Daughter 1].
Q And then did you get the other girls afterwards?
A Yes, we went to pick up [Daughter 2] and [Daughter 3].
Q And after you got the girls from their school, where did you all go?
A Back to my house.
Q And how long did they stay at your house?
A Until the next day and my other sister came from Missouri to pick them up.

Q Who did she pick up?
A My sister Christy and my nieces.
Q And did anybody ever return back to South Carolina?
A Yes.
Q And who came?
A Megan came first and then Daughter 1 [redacted] came.
Q Do you remember when Daughter 3 [redacted] came?
A Yes, it was September 20 -- I don't remember exactly the date, but it was 20-something.
Q So it was shortly after they left?
A Yes.
Q And when she came back, did you reenroll her in school?
A Yes.
Q And when she came back, did you notice anything about her behavior that concerned you?
A Just that she couldn't sleep well at night. She would just start telling me this little stuff about pictures.
MR. WILLIAMS: Objection, Your Honor, hearsay.
BY MS. PATTERSON:
Q Without saying what she told you.
A Uh-huh.
THE COURT: Sustained.
THE WITNESS: Just she couldn't sleep at night,

she would like pinch herself.
BY MS. PATTERSON:
Q I'm sorry, she did what?
A She would pinch herself.
Q And did this behavior concern you?
A Yes.
Q And again without saying what she told you, did she ever tell you about anything ever happening to her while she lived with Chad?
A Yes.
Q And did she tell you these things right when she came back to South Carolina?
A Yes.
Q And when she told you these things, what did you do?
A I didn't know what to do because I only had -- I only had her here with me and the other girls were in Missouri so I had to take -- I could only talk to the guidance counselor, Ms. Brackett.
Q And how did you know to go to Ms. Brackett?
A I didn't know to go to her. That was the only thing I could think of to do.
Q Did you tell Ms. Brackett what Daughter 3 had told you?
A Yes.
Q And did you know what Ms. Brackett did with that information?

A She reported it to Detective Collins.
Q And did you -- and then when did Daughter 1 come back?
A The end of December.
Q And when Candace came back did you already have that information from Daughter 3?
A Yes.
Q Had you already went to Ms. Brackett?
A Yes.
Q And so when Daughter 1 and Daughter 3 were both here together, did you do anything to follow up about what had been told to you?
A Detective Collins had helped me get them appointments with Ms. Constance Lambert at the Dickerson Center.
Q Did you take the girls there?
A Yes.
Q And do both girls -- where do they live now?
A With me still.
Q Are you their guardian?
A Yes.
Q And did you get them back into school?
A Yes, they're still currently in school.

MS. PATTERSON: Beg the Court's indulgence.

(Pause.)

BY MS. PATTERSON:

Q Now I just want to clarify one thing about the cell

phone. You said -- how many -- how long after you sent the cell phone did you talk to your sister?
A The next day.
Q And then when did you go to your sister's house?
A Like, I talked to her the next day and that same day I talked to her.
Q You went to her house then?
A Yes.

MS. PATTERSON: Beg the Court's indulgence.

THE COURT: Yes, ma'am.

(Pause.)

MS. PATTERSON: Your Honor, we have no further questions at this time.

MR. WILLIAMS: May it please the Court.

CROSS-EXAMINATION

BY MR. WILLIAMS:
Q Your name is Ashley Rodriguez; is that correct?
A Yes, sir.
Q And you said that the girls had always stayed with you; is that correct?
A I've been around my nieces my whole life.
Q Were they born in South Carolina?
A No. I wasn't born here either.
Q Okay. Did all of you all move to South Carolina at the same time?

A No.
Q Okay. Who moved to South Carolina first?
A I did.
Q So how long were you in South Carolina before your nieces moved to South Carolina?
A I moved here and then Daughter 3 [redacted] came here and then shortly after Christy came here with the rest of the girls.
Q How long were you in South Carolina before the girls moved to South Carolina?
A About three years.
Q So you weren't always around the girls?
A Outside of the three years that I moved here before that to better my life and my child.
Q You have a child?
A Yes, I have a child.
Q And so the child would be staying with the nieces and husband? Does your husband live with you also?
A Yes.
Q So when you were talking about people who were staying at the house were your nieces and your sister, your child also stayed at the house along with your husband and yourself?
A Yes.
Q Okay. And they moved in with you when?

A In 2008.
Q So up until 2008, since you lived here for three years before they came to stay with you, from 2005 until 2008, they lived in Missouri?
A Yes.
Q With the momma and who else?
A And my mom.
Q And your mom?
A Yes.
Q Anybody else?
A My other sister.
Q Anybody else?
A Not that I know of. I mean, I don't know while I wasn't at their house to know who lived there.
Q That's right. So you didn't have contact with them for those three years?
A Via Internet, phone, text.
Q You always found a way to get in touch with them, right?
A Exactly. I could talk to them every single day. They weren't kept from me.
Q You still have Internet and text at your house?
A Yes.
Q Do you know if they had Internet and text at school?
A They go to school to learn, not to play on phones.

Q Now, they were staying with you in 2008; is that right?
A Yes, sir.
Q How long did they stay with you before they moved out?
A They had been there about three months, maybe four months.
Q So they were there for three months in 2008?
A Yes.
Q And did they leave abruptly?
A Pretty much.
Q You and your sister had a fight?
A We argued, we didn't fight. We don't fight, we argue.
Q How did she pick up her clothes that were in the house? Did she pick them all up at one time?
A No, because I still had clothes of hers.
Q So she left abruptly and did she come back to get the rest of her clothes?
A No.
Q So she never came back to get her clothes, right?
A No.
Q Now, so that would have meant that she would have been staying with Chad Hayes in 2008, right?
A Yes.

Q Who's the young lady right here with the black hair and the gray hair?
A My mom.
Q And do you and Christy have the same mom?
A Yes.
Q And during 2008 when those children were staying with Chad Hayes, did they go visit your mom in Missouri?
A No.
Q They never visited with your mom in Missouri?
A No.
Q What about 2009?
A No.
Q Never visited with her up there as far as you know.
Now, where is Christy now?
A In Missouri.
Q Have you talked to her?
A Yes.
Q Is she planning on coming?
A She can't come. She is sick, very sick.
Q Let me ask you about this. You say one child came to stay with you and then the other child followed. And did the child come back here with a sister, is that what I understood, a sister brought the child back to you?
A Yes.
Q Who brought the other child back?

A I went to get the children.
Q Okay. So you drove to Missouri and got the children?
A Yes.
Q From Christy?
A Yes.
Q I mean, you got them from Christy, right?
A They chose to come here. They wanted to come here. She asked me to get them. I drove to get them.
Q And all of this occurred back in September of 2011?
A No. I drove to get [Daughter 3] in September of 2011. Candace decided to come the end of December when they were out for Christmas break.
Q So she was staying down there with her mother?
A Yes.
Q Now you said you gave a cell phone to?
A My brother who was here.
Q So your brother lives up here, too?
A He does, but he's in Missouri right now on summer vacation.
Q How old is your brother?
A He just turned 17.
Q So he was in school with the --
A He was in the same class as [Daughter 1].
Q The same class?
A Yes.

Q Did he and Daughter 1 get along?
A Yes.
Q And he gave the cell phone to Daughter 1 and Daughter 1 called you?
A No. She gave it to her mom. Her mom called me.
Q That's -- okay. So is the brother staying down there with your sister?
A No.
Q He's 17, right?
A He just turned 17.
Q Is he in school?
A Yes, he goes to school.
Q Is he in school with your momma? I mean, does he stay with your mom?
A He lives with my mom.
Q Who is up here now?
A Yes. He's just down there on summer vacation.
Q Okay. So he would have had contact, a lot of contact with Daughter 1, right?
A At that point, no, because he had just came down here. He was living in Missouri. My mom lived in Missouri at that time. He had just came down here because she was transferring from Missouri to here as well. He had came down here two weeks before she came back down here.

Q What is your brother's name?
A Nicholas Garcia.
He got here two weeks before she did and he enrolled in school. And when he enrolled in school, he got put in the same class as Daughter 1 [redacted].
Q What is your maiden name?
A My maiden name? Fraser.
MR. WILLIAMS: I don't have any questions, Your Honor.
THE COURT: Anything further?
MS. PATTERSON: No, sir, Your Honor.
THE COURT: Thank you very much, ma'am. You may step down.
If you all would step up here for something real quick.
(A bench conference was held with the judge and attorneys in the presence of the jury but out of the hearing of the jury.)
THE COURT: Ladies and gentlemen, I'm just talking with the attorneys to get an idea on the witnesses and how long it will take. It's about three minutes to 12. We're going to go ahead and break at this time for the lunch break.
I'm going to give you a little bit of an extended lunch. I have a minor settlement that I have to

THE COURT: Okay. Well, ladies and gentlemen, we'll be back at 1:30 and we'll start back at 1:45.

(A lunch break was taken.)

(WHEREUPON, State's Exhibits Nos. 6-70 were marked for identification only.)

THE COURT: Anything from the State before we bring them out?

MS. MAYES: No, Your Honor.

THE COURT: Defense?

MR. WILLIAMS: Nothing from defense, Your Honor.

THE COURT: All right. Bring them out, please.

(The jury came into open court at approximately 2:30 p.m.)

THE COURT: All right. Ladies and gentlemen, I apologize for the delay. It wasn't because of my 1:30 appointment. It was something else that caused the delay on my end, so I apologize for you having to have to wait.

If you recall, when we broke for lunch we were on the State's case, and so what we're going to do, we're just going to pick up right where we left off this morning and I would recognize the State for your next witness.

MS. MAYES: The State calls [redacted] Daughter 1.

THE COURT: All right. [redacted] Daughter 1, if you'd please come around to be sworn, ma'am.

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

Daughter 1 [redacted], after being duly sworn, testified as follows:

THE CLERK: Once you're seat, I need you to state your full name, spelling your last.

THE WITNESS: Yes, ma'am.

My name is Daughter 1 [redacted].

DIRECT EXAMINATION

BY MS. MAYES:

Q And, Daughter 1 [redacted], I'm going to back away from you a little bit. And if you see me come forward, it's probably because you need to raise your voice and you're not talking loud enough. It's going to be very important for even this last juror to hear you when you testify.

A Yes, ma'am.

MS. MAYES: Beg the Court's indulgence.

THE COURT: Yes, ma'am.

(Pause.)

BY MS. MAYES:

Q Daughter 1 [redacted], how old are you today?

A Seventeen.

Q What is your actual date of birth?

A [redacted], 1996.

Q So 1996?

A Yes, ma'am.
Q That's your date of birth and you're now 17?
A Yes, ma'am.
Q If you'd scoot forward a little bit more.
Tell us a little bit about yourself right now. Where do you attend school?
A At Batesburg-Leesville High School.
Q I know it's summertime, but what grade did you just finish?
A My sophomore year.
Q Are you working anywhere?
A Yes, ma'am. I'm working at McDonald's in Batesburg-Leesville.
Q And did you take that job during the school year?
A Yes, ma'am.
Q And prior to that job, were you involved in any type of school activities?
A Yes, ma'am, I was playing high school soccer.
Q Is that for Batesburg-Leesville?
A Yes, ma'am.
Q Where did you attend middle school?
A At Batesburg-Leesville Middle School.
Q Middle School?
A Yes, ma'am.
Q And where did you attend elementary school?

A At Batesburg-Leesville Elementary School.
Q Let me take you back to that time period when you were in Batesburg-Leesville Elementary School up through middle school.
A Yes, ma'am.
Q During that point in time, tell me if you know the defendant in this case, Chad Hayes?
A We lived with him. He was my mom's boyfriend.
Q What is your mother's name?
A Christy Earnest.
Q Can you tell us whether or not you have a sister named Megan?
A Yes, I do.
Q Is she older or younger?
A Younger.
Q Can you tell us whether or not you have a sister named Heaven?
A Yes, ma'am, I do.
Q Is she older or younger?
A Younger.
Q So you're the oldest of the three of you?
A Yes, ma'am.
Q Now, you said that your mom's name is Christy. Is she your biological mother?
A Yes, ma'am.

Daughter 2

Q Is she the biological mother of [redacted]?
A Yes, ma'am.
Daughter 3
Q Is she the biological mother of [redacted]?
A Yes, ma'am.
Q You said that Chad Hayes was her boyfriend?
A Yes, ma'am.
Q Do you know how it is that they met?
Let me rephrase that.
Do you know where they met?
A In Wal-Mart.
Q And that was here in Lexington County?
A Yes, ma'am.
Q In Batesburg-Leesville?
A Yes, ma'am.
Q Do you remember that period of time when your mom met Chad Hayes?
A Yes, ma'am.
Q What school were you attending back then?
A At -- when she first met him I was going to Ridge Springs.
Q And that's because you were living with who back then?
A My Aunt Ashley and my mom and uncle.
Q And Ridge Springs includes Monetta, South Carolina?
A Yes, ma'am.

Q So when she first met him, you were living with your Aunt Ashley?
A Yes, ma'am.
Q Was your mom living there, too?
A Yes, ma'am.
Q And what about your two younger sisters?
A Yes, ma'am.
Q Then after she met Chad, where did you go to live?
A At Chad's house.
Q And what city or county is that in?
A Leesville, I think.
Q Leesville?
A Yes, ma'am.
Q About how long was it after your mom met him at Wal-Mart that she and you three girls moved in with Chad?
A Not very long.
Q Do you think it was less than a month?
A It was way less than a month.
Q Once you started living with Chad, where did you go to school?
A At Batesburg.
Q So you switched from Ridge Springs/Monetta over to Batesburg-Leesville Elementary School?
A Yes, ma'am.
Q When you were living with Chad, [redacted], can you tell

us whether or not there was ever a time that something happened that made you feel uncomfortable?
A Yes, ma'am.
Q Did that happen one time or more than one time?
A More than one time.
Q And who was the person that did something that made you uncomfortable?
A Chad.
Q Can you tell us what it was that he did?
A He would touch us between our legs and bite and touch our boobs.
Q And you say "our" --
A Me and my sister.
Q Okay. How is it that you know something also happened to your sisters, Daughter 2 [redacted] and Daughter 3 [redacted]?
A Because I saw it.
Q You talked about touching. Did anything else happen in the house with Chad that made you feel uncomfortable?
A Yes, ma'am.
Q What was that?
A He took pictures of us.
Q What kind of pictures were these?
A Like when we'd go take a shower he'd take pictures or when we was changing, he would take pictures.
Q Okay. What did he use to take the pictures?

A Cameras.
Q Whose cameras were those?
A His.
Q Where all do you remember pictures being taken?
A From the bathrooms and the bedrooms.
Q Let's talk a little bit about the house. How many bedrooms were in that house?
A Two.
Q And who all had bedrooms in the house?
A My mom and Chad slept in his room and then me and my sister slept in the other room.
Q So one bedroom was for Chad and your mom?
A Yes, ma'am.
Q And then you and your two sisters had the other bedroom?
A Yes, ma'am.
Q You said "bathrooms." How many bathrooms were there?
A Two.
Q And where was those?
A One was beside the room we slept in and one was made into Chad's bedroom.
Q Where else, if anywhere, do you remember something happening?
A Outside.
Q Where outside?

A In the tree.
Q What happened in the tree?
A We took pictures in the tree.
Q When you say "we," do you know whether anyone else -- whether pictures were taken of anyone else?
A Daughter 2 [redacted].
Q Okay. Who took those pictures?
A Chad.
Q What was the occasion where you all were outside and he took pictures in a tree?
A It was New Year's.
Q When you say "New Year's," what do you remember specifically about that?
A We had like a little get-together thing. It was just us and then we was outside and we took pictures in a tree.
Q When you say "get-together," was your mom there?
A Yes.
Q Was the defendant Chad Hayes there?
A Yes, ma'am.
Q Were you two sisters Daughter 3 [redacted] and Daughter 2 [redacted] there?
A Yes, ma'am.
Q What had you all done outside that night?
A We made a fire and we ate.
Q Okay. And when you say "New Year's," what time of day was it?

A It was late.
Q And when you say "late," are you talking about daytime or nighttime?
A Nighttime.
Q So it was nighttime. Was it New Year's Day?
A It was between 11 and January 1st.
Q All right. So do you know what the day is called before New Year's Day?
A New Year's Eve.
Q So what time period are we talking about?
A It was between 11 -- or New Year's Eve and New Year's Day.
Q So it went from New Year's Eve and then turned into New Year's Day after midnight?
A Yes, ma'am.
Q The pictures in the tree that you mentioned, did you have your clothes on in all of those pictures?
A No, ma'am.
Daughter 2
Q About what [redacted]?
A No, ma'am.
Daughter 1
Q You talked about touching, [redacted]. Was there touching one time or more than one time in a way that made you uncomfortable?
A More than once.
Q What part or parts of your body do you remember being

touched?
A Between the legs and our boobs.
Q And when you say "ours," how do you know it was more than just you?
A Because I saw it.
Q So right now I'm going to ask only about you. Okay?
A Yes, ma'am.
Q I'm going to show you this diagram and ask you if you see the part or parts of the body that you talked about being touched on this diagram.
A Yes, ma'am, I do.
Q I want to you take a look at the front of the girl and the back of the girl and I'm going to ask you to show us exactly what part or parts of your body you're referring to.
A Yes, ma'am.
Q And can you write your name here?
A (Witness complying.)
Daughter 1
Q [redacted], when you talk about being touched between your legs, you drew a circle here at the private parts?
A Yes, ma'am.
Q Can you tell us whether or not touching ever occurred there on the outside of your clothes?
A Yes, ma'am.
Q Can you tell us whether or not touching ever occurred

there on the inside of your clothes or with no clothes?
A Yes, ma'am.
Q You also circled this part of the girl which would be the chest area?
A Yes, ma'am.
Q Can you tell us whether or not touching ever occurred there that was outside of the clothes?
A Yes, ma'am.
Q Can you tell us whether or not it ever happened inside of the clothes?
A Yes, ma'am.
Q Take a look at this diagram from the top of the head all the way down to the bottom of the feet, the front side and the back side. Do you see the part or parts that were used to touch you?
A Yes, ma'am.
Q Can you point to where those parts are?
A (Witness complying.)
Q And then I need you to say what parts you're point to.
A His hands and his mouth.
Q Hands and mouth.
What part or parts of the hand touched you, Daughter 1 [redacted]?
A His fingers.

Q When you talk about hands or fingers, can you show us here where he touched?
A (Witness complying.)
Q Specifically where did he place his mouth?
A On our boobs.
Q And did you see that happen to anyone else?
A Yes, ma'am.
Q Who else did you see that happen to?
Daughter 2
A [redacted].
Q And when you say that he put his mouth on your boob, can you tell us whether or not that ever happened without clothes on?
A Yes, ma'am.
Q Can you tell us whether or not you ever saw Chad Hayes touch [redacted]?
Daughter 3
A Yes, he's touched [redacted].
Daughter 3
Q Where did you see that happen?
A Can you be more specific, please?
Q Can you tell us where you all were when that happened?
A It would be in the bedroom or bathroom, front room.
Q When you talk about touching of your front part --
A Yes, ma'am.
Q -- can you tell us whether or not he ever touched that part without clothes on?

A Yes, ma'am.
Q And what part or parts of his body was actually touching you there?
A His hands.
Q What part of his hands?
A His fingers.
Q What, if anything, did he do with his fingers?
A He would touch us and then he would put his fingers in me.
Q And when you say "in me," how do you know that he touched you on the inside?
A Because I felt it.
Q Did you ever ask for Chad to touch you in that way?
A No, ma'am.
Q What if anything else happened in the house that made you uncomfortable?
A Him taking pictures and hitting us.
Q All right. And when you say hitting you, has that happened one time or more than one time?
A More than once.
Q While you were living in the house with Chad and your mom and your sisters, did you ever tell anyone about touching underneath the clothes?
A No, ma'am.
Q Did you ever tell anyone about being spanked?

A Yes, ma'am.
Q Who did you talk to about that?
A Ms. Brackett.
Q Ms. Brackett, the guidance counselor at the elementary school?
A Yes, ma'am.
Q What reason, if any, did you not tell Ms. Brackett about the touching and the pictures?
A Because I didn't -- I didn't know what would happen.
Q And while you were living with -- how long did you live with him?
A From in the fourth grade to the beginning of eighth grade.
Q By the time you were towards the end, in seventh and eighth grade, how had things changed in the house?
A It really hadn't changed.
Q What about the pictures? When were they starting to happen?
A They just started happening after we started living there.
Q Did that keep happening up towards the end of when you moved there?
A Yes, ma'am.
Q What about the touching?
A Yes, ma'am.

Q Did you ever tell any grownups outside of your house what was happening?
A No, ma'am.
Q Why or why not?
A Because I was scared to.
Q Why were you scared?
A Because I didn't want anything to happen to me or my sisters.
Q Like what?
A Like us get split up or anything else.
Q You talk about getting split up. Why did you think that might happen?
A Because if somebody else knew about it then they'd tell DSS and DSS would take us away.
Q Was that scary for you?
A Yes, ma'am.
Q Did you get split up?
A No, ma'am.
Q What about now?
A We're split apart now.
Q Okay. In 2011, how did -- let me ask it like this. Did your sister [redacted] (Daughter 3) finally tell someone?
A Yes, ma'am.
Q And in 2011, did you talk to the police and some staff members at the Dickerson Center for Children?

A Yes, ma'am.
Q And was that about the touching and the pictures?
A Yes, ma'am.
Q And by that point in time was your mother allowed to have any of you three girls anymore?
A No, ma'am.
Q Have you lived with your mother since then?
A No, ma'am.
Daughter 2
Q Have you lived with [redacted] since then?
A No, ma'am.
Daughter 3
Q And you and [redacted] are living where?
A With Aunt Ashley.
Q With your Aunt Ashley. How is your Aunt Ashley kind to you?
A She's my mom's sister.
Daughter 3
Q What about [redacted], where is she living now?
A With my Aunt Peggy.
Q In what state?
A Missouri.
Q And how is Peggy kin to you?
A She's my mom's older sister.
Q And you three girls have gone to your mom's sister?
A Yes, ma'am.
Daughter 1
Q [redacted], does your mom know about some of the pictures that Chad was taking of you all?

A Yes, ma'am.
Q How does that make you feel towards your mom?
A Angry.
Q When Ms. Lambert walked in and talked to you back in 2009 about spanking, do you remember that?
A Yes, ma'am.
Q Did you tell her about the touching or picture back then?
A No, ma'am.
Q Why not?
A Because I was scared to.
Q How many times were you spanked like that?
A A lot.
Q With what?
A A belt, his hand.
Q Were you the only one?
A No, ma'am.
Daughter 2
Q What about [redacted]?
A She had whoopings, too.
Daughter 3
Q What about [redacted]?
Daughter 3
A [redacted], too.
Q Did anyone else -- let me ask it like this. What about your mom? How would you describe her relationship with Chad?
A They argued. They had their fights.

Q Did they ever have physical fights?
A Yes, ma'am.
Q Did you witness that?
A Yes, ma'am.
Q Who set the rules in the house?
A Chad.
Q What would happen if you broke the rules?
A We would get in trouble.
Q The pictures that you talked about, did you ever resist the pictures?
A Tried to.
Q And what would happen?
A He would tell us to stop or he would raise his voice and we'd do it.
Q Let me show you some of the pictures from this case and ask you which ones you can identify.
A Yes, ma'am.
Q And if there's a picture that you can't identify, you don't recognize, just let us know that you don't recognize it. If you do, tell us how it is that you recognize it. Okay?
A Yes, ma'am.
MR. WILLIAMS: Your Honor, in terms of how these pictures are being shown, they're actually being shown to the jury before they've been identified and marked into

evidence, so we would object to this particular method of asking the witness to identify the picture because it may be published before it's actually identified and/or put into evidence.

THE COURT: I think you're going to have to go over that with the witness before they're actually published.

BY MS. MAYES:

Q If you could just take a look at these photos that I'm handing you. Do you recognize the photos so far?

A Yes, ma'am.

Q Where were those photos taken?

A In Chad's house and outside of Chad's house.

Q Okay. All of the photos that I have shown you so far, do you recognize these?

A Yes, ma'am.

Q And can you tell us whether or not they are fair and accurate representations of Chad's house as you remember it?

A Yes, ma'am.

MS. MAYES: And for the record, Your Honor, these are photos S-9, State's 36, State's 35, State's 29, State's 30, State's 31, State's 32, State's 34, and State's 33.

BY MS. MAYES:

Q I want to show you these three additional photos and ask you whether or not you recognize them.
A Yes, ma'am.
Q And what are those photos of?
A Chad's vehicles.
Q And can you tell us whether or not they are a fair representation of the outside of the house as you recall it?
A Yes, ma'am.
Q What kind of truck do you remember him having?
A A red Ford.

MS. MAYES: Your Honor, this would be State's Exhibit 26, 27, and 28.

BY MS. MAYES:

Q Now, this final group is going to be State's 7, State's 8, State's 24, State's 70, and State's 17. Do you recognize those items?
A Yes, ma'am.
Q And what part of the house are those items located in?
A The living room.
Q And then is there one photo of the outside?
A Yes, ma'am.
Q And do you recognize those photos of the outside?
A Yes, ma'am.

Q What are they outside of?
A Chad's sheds and a swimming pool.
Q Are these fair and accurate representations of the area around his house and items inside his house?
A Yes, ma'am.

MS. MAYES: All of these items that we've named, Your Honor, the State would offer as evidence at this time.

MR. WILLIAMS: If I could see them.

THE COURT: Let Mr. Williams look through those and then I'll entertain any objections at that time.

MR. WILLIAMS: Your Honor, I have no objection to the introduction of State's Exhibit 9, State's Exhibit 36, State's Exhibit 35, State's Exhibit 29, State's Exhibit 30, State's Exhibit 31, State's Exhibit 32, State's Exhibit 34, State's Exhibit 33, State's Exhibit 27, State's Exhibit 26, State's Exhibit 28, State's Exhibit 17, State's Exhibit 7, State's Exhibit 8, State's Exhibit 24, and State's Exhibit 70.

THE COURT: All right. Those exhibits that you just went through, Mr. Williams, are in evidence without objection.

(WHEREUPON, State's Exhibits Nos. 7, 8, 9, 17, 24, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 70 were admitted into evidence.)

MS. MAYES: We also have State's Exhibit 66 and State's Exhibit 67 which I will question the witness about at this time.

BY MS. MAYES:

Q Do you recognize the area shown in this photograph?

A Yes, ma'am.

Q And how is it that you recognize it?

A That's Chad's living area.

Q Okay. And can you tell us whether the location of the places shown in this aerial photograph are a fair and accurate representation of how you remember those places being?

A Yes, ma'am.

Q State's Exhibit 67, do you recognize that?

A Yes, ma'am.

Q Who is in the photo?

A Chad.

Q Do you recognize the place that photo was taken?

A Yes, ma'am.

Q Can you tell us whether or not it's a fair and accurate representation of both the defendant and his home as you recall it?

A Yes, ma'am.

MS. MAYES: This will be State's 67 and State's 66 for evidence as well.

THE COURT: Any objection?

MR. WILLIAMS: No objection, Your Honor.

THE COURT: Without objection they're in evidence.

(WHEREUPON, State's Exhibits Nos. 66-67 were admitted into evidence.)

BY MS. MAYES:

Q Daughter 1 [redacted], I want to start with this photo here, the aerial photo. What different types of homes do you recognize in this photo?

A They have single wides and then a house.

Q Okay. And I'm going to move over here and place it right here.

Now, are you able to see the photo from where you are?

A Yes, ma'am.

Q Do you recognize where Chad's home is in this aerial photograph?

A Yes, ma'am.

Q Where is it?

A Right here.

Q Right here in this trailer?

A Yes, ma'am.

Q Do you recognize where his mother's home is?

A Yes, ma'am.

Q Where is it?
A In the far corner.
Q Right here?
A Yes, ma'am.
Q And what is around her house, if you know?
A An open area, sheds, swimming pool.
Q Okay. Now, what, if anything, is around Chad's house?
A Open area, sheds, cars.
Q Okay. About how many cars did Chad have?
A Eight or nine.
Q I'm going to need you to pull the microphone up so that even the last juror can hear you.
A Yes, ma'am.
Q Where all did he keep his cars?
A In the yard under sheds.
Q What kind of cars do you remember him having?
A Mustangs and big trucks.
Q Big trucks and Mustangs.
Did he have more than one big truck?
A Yes, ma'am.
Q Did he have a place to keep the cars?
A In the yard and under car ports.
Q What are some of these other buildings around where Chad lived?

A Sheds.
Q Do you know whether or not Chad worked on cars?
A On his cars, yes.
Q Where would he do that?
A In the yard.
Q Now, is there anything else that you see in this photo relating back to what you testified about on New Year's Eve?
A The tree area where the shed is.
Q Okay. I need you to speak up a little bit more.
A The tree area where the sheds are.
Q Can you point to where that is?
A Right here.
Q Now you also mentioned a fire. Where was the fire night?
A In a fire pit.
Q Okay. Can you see the fire pit on here?
A Yes, ma'am.
Q Where is it?
A Right there.
Q Who made the fire?
A Chad.
Q What about on New Year's Eve?
A Chad.
Q Going to show you State's Exhibit 67 which is in

evidence. Do you recognize the person in this photo?
A Yes.
Q Who is it?
A Chad.
Q Where was this photo taken?
A In his bedroom.
Q Is that how the bedroom looked when you lived there?
A Yes, ma'am.
Q In fact, is there anything specific to this photo that you remember him having?
A Yes, ma'am, his cameras.
Q All right. I'm going to need you to speak up a little bit more.
A Yes, ma'am, cameras.
Q And what camera are you referring to?
A This camera.
Q So we're looking at his bedroom. Where is that camera laying in this photograph?
A On his bed.
Q What else is beside that camera on his bed?
A A chip for his camera.
Q Where is that?
A Right there.
Q And how is it you recognize that as a chip for his camera?

A Because we bought it.
Q And when you say "we," you're referring to who?
A Chad. We went to Wal-Mart and bought it.
Q You were with him when he bought it?
A Yes, ma'am.
Q And in that particular package is the chip still in there or has it been removed?
A It's been removed.
Q All right. I want to talk here about some of these photos. These are all photos that are in evidence and photos that you testified that you recognize. I'm showing you what is State's Exhibit 33. How do you recognize this photo?
A That's the living room.
Q You need to speak up a little bit more, if you can, and pull the microphone up to you.
A The living room.
Q Is that how you recall the living room when you lived with Chad?
A Yes, ma'am.
Q What are we looking at here in State's Exhibit 34?
A The kitchen.
Q State's Exhibit 32?
A Where we slept.
Q You mentioned that there were two bedrooms in the

home, one was Chad and your mom's and the other was for you girls?
A Yes, ma'am.
Q Are those the same beds that you and your sisters slept on?
A Yes, ma'am.
Q In this photo, Daughter 1 [redacted], there are some items that are shown. What it is that you recognize in this photo?
A The bed sets, the karaoke machine, the truck on top of the desk, Guitar Hero.
Q And when you say Guitar Hero, how is it that you recognize it?
A We played with it.
Q Okay. Is there anything specific that you remember about the Guitar Hero?
A Yes, ma'am. I got smacked on the back with the drumsticks.
Q By who?
A Chad.
Q And did that leave a bruise?
A I'm not sure.
Q And when he did that was he playing or was he angry? What can you tell us about that?
A He was mad because I showed Daughter 2 [redacted] where -- what button to hit.

Q On the game?
A Yes, ma'am.
Q There are some other items that are shown in that photograph. Are the majority of those items yours or your sisters?
A Yes, ma'am.
Q Those photos in Chad's house, did you take them with you -- I'm sorry, those items in Chad's house, did you take them with you when you moved out?
A No, ma'am.
Q Why or why not?
A Because I wasn't there to get them.
Q When you moved out from Chad's, how did that come about?
A We was at school and my uncle just started school back and I told him that we needed help and he told my aunt and my aunt sent a phone to school.
Q Okay.
A I took the phone home and I gave it to my mom and she hid it until Chad went to work and then she called my aunt.
Q Okay. Let me back up a little bit.
When you say you had just started school, are you talking about the school year of 2011?
A Yes, ma'am.

Q Before you withdrew from school on September 2, 2011?
A Yes, ma'am.
Q And when you say your uncle, what is his name?
A Nicholas Garcia.
Q And what grade was he in?
A Eighth.
Q He was in the same grade as you?
A Yes, ma'am.
Q Why did you tell him you needed help?
A Because we did. We was being abused.
Q And you told him that you needed help and who got a phone to use?
A He told my aunt that I came to him for help and my aunt sent a phone to school with him and he gave it to me and I took it to my mom.
Q Your Aunt Ashley?
A Yes, ma'am.
Q So your Aunt Ashley got the phone to Nick, Nick brought it to school to you?
A Yes, ma'am.
Q Who did you give the phone to?
A My mom when we got home.
Q How long was it after you got that phone from Nick at school until you gave it to your mom?
A I gave it to her as soon as I got home.

Q How long was it after that that your mom left that home?
A The day after.
Q And when she left that home, did you get to pack your belongings yourself?
A No, ma'am.
Q Who packed them for you?
A My mom.
Q And those items there, did you all's family take them with you or did they stay behind in Chad's house?
A They stayed behind.
Q Looking at this photo, State's Exhibit 31, what are we looking at here?
A A picture of the bedroom where we slept.
Q Is it the same bedroom that we just looked at before with the bunk beds?
A Yes, ma'am.
Q For you and your sisters?
A Yes, ma'am.
Q There's a lot of shoes in that photograph?
A Yes, ma'am.
Q Were any of those shoes your or your sisters?
A Yes, ma'am.
Q When your aunt and your mom packed your stuff and you left that house, how many pairs of shoes did you have?

A One.
Q What are we looking at here in State's Exhibit 30?
A A picture of the bedroom where we slept.
Q And those toys in the bedroom belong to who?
A My little sisters.
Q State's Exhibit 29, what are we looking at here?
A The picture of the bathroom by our bedroom.
Q Can you tell us whether or not pictures of you were ever taken in this bathroom?
A Yes, ma'am.
Q Did that include any pictures without clothing?
A Yes, ma'am.
Q State's Exhibit 35?
A That is Chad's bedroom.
Q How is it that you recognize it as Chad's bedroom?
A Because that is where my mom slept.
Q Is that the same bed he had when you all lived there?
A Yes, ma'am.
Q You testified before that Chad had a bathroom?
A Uh-huh.
Q Where was the bathroom that he had?
A In his room.
Q Can you see it in this picture?
A Yes, ma'am.
Q Specifically where is it located?

A The doorway to my left.
Q Okay. This particular photo, which is State's Exhibit 36, did it look different? Did the decorations in there look different when you lived there?
A Yes, ma'am.
Q How did the decorations look different?
A He had an old, like, shower curtain.
Q Is the tub and the area around the tub the same?
A Yes, ma'am.
Q But the shower curtain's different than when you lived there?
A Yes, ma'am.
Q How did the shower curtain look back when you lived there?
A It was old and it was the same as like the curtains in the living room and the other bathroom.
Q So it matched curtains in other parts of the residence?
A Yes, ma'am.
Q All right. And this is State's Exhibit 9. What are we looking at here?
A A picture of the outside of Chad's house.
Q All right. State's Exhibit 28, do you recognize that?
A Yes, ma'am.

Q How so?
A That's Chad's drag car.
Q When you say "drag car," can you tell us whether or not he had an interest in that?
A Yes, ma'am.
Q Now I want to go back to this photo for a minute. This is State's Exhibit 67. This is the photo where you talk with the camera and the package for the memory card.
A Yes, ma'am.
Q What type of camera was that?
A Sony.
Q Well, let me ask you this: What did the camera do?
A It's a digital camera.
Q Okay. So it's a digital camera, it's not the old fashioned type?
A Yes, ma'am.
Q And with that digital camera, how many times did you see him using that? Was that one time or more than one time?
A More than one time.
Q To your knowledge, all of the pictures that were taken of you, can you tell us what type of camera was used to take those pictures?
A A digital camera.
Q Can you tell us whether or not you ever saw him

taking pictures of Daughter 2 [redacted]?
A Yes, ma'am.
Q Did that include pictures without her clothing, all of her clothing on?
A Yes, ma'am.
Q Did that ever happen inside the house?
A Yes, ma'am.
Q What about outside the house?
A Yes, ma'am.
Q What type of camera did he use to take those pictures?
A A digital camera.
Q On New Year's Eve, the pictures outside, what type of camera did he use?
A A digital camera.
Q What about the photos of Daughter 2 [redacted]?
A A digital camera.
Q Candace, do you yourself know what happened with the pictures once he took them or what happened to some of the pictures once he took them?
A They got put them on the computer.
Q And how do you know that?
A Because I saw them.
Q What exactly did you see?
A Him looking at them.

Q And when you saw him looking at the pictures, what type of computer was he looking at them on?
A A laptop.
Q And where did he keep that laptop?
A In a drawer beside -- in a cabinet beside the front door.
Q Okay. So that would be somewhere in the living room area?
A Yes, ma'am.
Q I want to show you State's Exhibit 17 and ask you if you recognize what is shown in this photograph?
A Yes, ma'am.
Q How is it that you recognize that?
A That's the cabinet where he kept his computer.
Q Now, during the whole time that you lived there, did he have one computer or more than one computer?
A More than one computer.
Q What are the types of computers you remember him having?
A He had an old computer.
Q When you say "old," what do you mean?
A Like a dinosaur computer.
Q When you say "dinosaur computer," how is it different than a newer kind of computer?
A It's not as little as the new ones.

Q So it's large and it sits on top of something?
A Yes, ma'am.
Q Where did he have that?
A In there.
Q In this same area?
A Yes, ma'am.
Q Where did it fit?
A Where that printer is.
Q Right here?
A Yes, ma'am.
Q And where did he normally keep that laptop?
A In there, too.
Q In this same area of the cabinet?
A Yes, ma'am.
Q There are some other items in this photograph, Daughter 1 [redacted]. There's an item here and an item here and an item here. Do you know what type of items these are?
A They're printers.
Q Can those printers print pictures?
A Yes, ma'am.
Q I'm going to show you a picture that you looked at before, it's State's Exhibit 7. It's a little dark, so it's going to be hard to see on the projector.
A Yes, ma'am.
Q Do you recognize what is in that photo?

A Yes, ma'am.
Q How, if at all, does this photo relate to New Year's Eve?
A We took pictures in the trees behind the shed.
Q Do you see that area where pictures were taken in this photo?
A Yes, ma'am.
Q Is there anything different about how some of the trees look now as opposed to how they looked back on New Year's Eve when the pictures were taken?
A No, ma'am.
Q State's Exhibit 7, what are we looking at right here?
A His shed.
Q What about behind the shed?
A A tree.
Q What about this area here?
A That's a porch for another shed.
Q And the area of the trees that you described, where are they?
A Behind the shed.
Q Would that be this area around here?
A Yes, ma'am.
Q When you talk about some of the photos being taken in the bathroom?
A Yes, ma'am.

Q What was it about being in the bathroom where -- that called for photos to be taken?
A We'd be changing or in the shower.
Q Was there ever any touching in those locations as well?
A Yes, ma'am.
Q Do you remember anything else about the type of photos that were taking place in these bathrooms?
A We was getting shaved, we was shaving the pubic area.
Q I want to talk with you about that. Okay?
A Yes, ma'am.
Q When you say "we was getting shaved," whose idea was it for you to shave?
A We were going to the beach and to Carowinds and we were in bikinis and they said we needed to be shaved up, so they told us that they were going to shave us.
Q Okay. And when you say "they," you're referring to who?
A Chad.
Q Did your mom know about that?
A Yes, ma'am.
Q And who is the person that actually shaved you?
A Chad.
Q What part of your body did he shave?
A My pubic area.

Q And your pubic hair?
A Yes, ma'am.
Q What did he use to shave you there?
A Like a beard trimmer.
Q Who had a beard trimmer?
A Chad.
Q Can you tell us whether or not photos were taken when that happened?
A Yes, ma'am.
Q How did he actually go about shaving that part of your body?
A He just told us to go there, sit on the towel and he'd shave us.
Q All right. Did he put his hands on you when that occurred?
A Yes, ma'am.
Q Did you ever ask him to shave you in that way?
A No, ma'am.
Q I'm going to show you some pictures. Now these pictures have parts of them that are covered up, but I'm going to ask if you recognize the pictures from everything else that's around it. Okay?
A Yes, ma'am.
Q So we're going to keep those parts covered up.
A Yes, ma'am.

Q State's Exhibit 46, 47, 48, 49, 50, 51, do you recognize those photos?
A Yes, ma'am.
Q Who's in the pictures?
A Me.
Q Who took them?
A Chad.
Q 52, 53?
A Yes, ma'am.
Q Who is the person in these photos?
A Me.
Q How do you know that?
A By the freckles on my leg.
Q Can you tell looking at the background where this picture was taken?
A In Chad's bathroom.
Q Who took the picture?
A Chad.
Q Were they all taken at the same time?
A I'm not sure.
Q What is different about his bathroom in these pictures?
A The shower curtain.
Q Is it the same bathroom that we saw before just with a different shower curtain?

A Yes, ma'am.
Q Daughter 1 [redacted], I'm going to ask you about one of these pictures, State's Exhibit 47. Okay?
A Yes, ma'am.
Q What is underneath you in this picture?
A A towel.
Q Do you see anything on the towel?
A Yes, ma'am.
Q What?
A Pubic hair.
Q How did pubic hair get there?
A He shaved us.
Q Did he shave you the same time he took the pictures? You know what I mean by that?
A No, ma'am.
Q Okay. Did he shave you on the same day that he took the picture?
A Yes, ma'am.
Q Was the picture taken before you were shaved or after you were shaved in this picture?
A After.
Q What, if anything, would he say for these pictures to be taken?
A To smile.
Q Did you smile in some of the pictures?

A Yes, ma'am.
Q What if anything else would he say?
A He would just tell us to smile and stuff.
Q I'm going to show you State's Exhibit 34. Do you recognize what is in that photo?
A Yes, ma'am.
Q What is that?
A His beard trimmer.
Q You talked before about him using something to shave you. Do you see in this photo what was used?
A Yes, ma'am.
Q What is it?
A The beard trimmer.
Q Did you see it in this photo?
A Yes, ma'am.
Q You talked about the pictures that were taken on New Year's Eve in a tree.
A Yes, ma'am.
Q I'm going to show you these photos and ask you if you recognize them, State's Exhibit 54, 55, 56, 57, 58, 59, and also State's 71. If you could look at those.
A Yes, ma'am, I recognize these.

(WHEREUPON, State's Exhibit No. 71 was marked for identification only.)

BY MS. MAYES:

Q Okay. When were those photos taken?
A On New Year's.
Q All right. I need you to speak up a little louder so the last juror can hear you.
A On New Year's.
Q Where were those photos taken at specifically?
A In the tree.
Q Who took the photos?
A Chad.

MS. MAYES: Now, Your Honor, at this time the State would offer these exhibits that have been named on the record as evidence.

Beg the Court's indulgence.

(Pause.)

MR. WILLIAMS: Your Honor, I have several objections. Probably we'd need to discuss this off the record.

THE COURT: All right. We'll stay on the record, but I'll send the jury out.

Ladies and gentlemen, I'm going to get you to step back in the jury room. If you need anything snack-wise or whatever, just let the bailiffs know and I'll bring you back out as soon as I handle this matter of law.

(The jury left open court at approximately 3:40 p.m.)

THE COURT: Yes, sir.

MR. WILLIAMS: Referring to State's Exhibit No. 59, State's Exhibit No. 71, State's Exhibit No. 58, State's Exhibit No. 57, State's Exhibit No. 56, State's Exhibit No. 54, and I'm assuming State's Exhibit No. 55 it's my understanding, Your Honor, that there were no pictures that were recovered off of the computer, that what was recovered -- there was nothing downloaded in the files. The only thing that was recovered was alleged images off the computer. And without the forensic person who removed those pictures from the computer to say that they indeed were pictures, then we would say two things: Number one, that there's a lack of a foundation, if you will, because there were never any pictures that were found.

These may look like pictures. These may look like pictures, but they're not pictures. They're images which were captured from the computer.

I realize I'm not talking about chain of custody or anything like that when I talk about that, but they were images, they were never pictures, and I think for these to be entered into evidence we would need some sort of forensic guy to say that these indeed are pictures that

were taken off and go through the steps.

The second objection, Your Honor, is that there's a lack of foundation established for the introduction of these documents.

THE COURT: How so?

MR. WILLIAMS: And that is that we have yet to hear what New Year's Eve this occurred on. I've yet to hear that. All I heard was something about New Year's Eve, but not what year or nothing.

I think the bigger problem is the forensic issue. I would just think the forensic person would have to be the one here to testify that he took it off the computer. Because these were manipulated, Your Honor. And I use that word "manipulated." They didn't seize pictures, they created pictures. My client didn't create these pictures, the State of South Carolina created the pictures by taking images off of a computer allegedly. And before they can be called as pictures and introduced into evidence, Your Honor, we would think that the forensic expert would have to be here to establish that he was capable of doing it and that these are an accurate depiction of what was actually seized off the computer.

THE COURT: All right.

MR. WILLIAMS: It would be different if there were pictures.

MS. MAYES: These were deleted images, Your Honor, and the forensic analyst is prepared to testify tomorrow. I am satisfied that the record reflects that she has identified the images.

THE COURT: Let's do this, though. Let's make it so the record is clear. If I may, let me just get you to read off onto the record right now the images that she has identified, just the exhibit numbers that she has identified.

MS. MAYES: That would be 58, 71, 59, 55, 54, 56, 57, 47, 46, 51, 52, 53, 48, 49, 50. And then there are two additional photos that I will ask her about which are State's Exhibit 60 and State's Exhibit 61.

THE COURT: All right. I'm going to sustain the objection at this time subject to that foundation being laid.

MR. WILLIAMS: Yes, sir.

THE COURT: For the record, do you want to go ahead and show her those two?

MS. MAYES: Yes, sir, Your Honor.

IN CAMERA DIRECT EXAMINATION

BY MS. MAYES:

Q [redacted], I want to have you take a look at State's Exhibit 58 and State's Exhibit 71, and if you could here take a look at the area across the chest, that would be

the area from the upper right breast over to the left armpit.

Now if could you take a look at State's 60 and State's 61. Do you recognize the person in those photos?

A Yes, ma'am.

Q Who is it?

A Me.

Q Do you have any unique markings?

A Freckles on my chest.

Q Who took those photos?

A Chad.

MS. MAYES: Your Honor, this would be State's Exhibit 60 and 61.

THE COURT: I will note that they have been identified by Ms. Sapp, but they're not in evidence subject to your objection at this time.

MS. MAYES: Yes, sir, Your Honor.

THE COURT: All right. Anything else while the jury is out? Does anybody need a break while the jury's out?

MR. WILLIAMS: Yes, Your Honor.

THE COURT: We'll do that. We'll take a few minutes at ease and then we'll start back.

MS. MAYES: Your Honor, if the victim advocate may just check with the witness, not about her testimony,

but --

THE COURT: Yes.

[redacted], you may step down if you need to use the restroom or you want to get something to drink. The only thing that you're not allowed to do is talk with anybody about your testimony. Okay?

THE WITNESS: Yes, sir.

THE COURT: All right. If you'd like to step down, you're welcome to do that.

(A break was taken.)

THE COURT: Is the State ready to proceed?

MS. MAYES: Yes, Your Honor.

THE COURT: Defense ready?

MR. WILLIAMS: Yes, Your Honor.

THE COURT: All right. Bring the jury in, please.

(The jury came into open court at approximately 3:53 p.m.)

THE COURT: Ladies and gentlemen, thank you for your patience. We've resolved that matter of law and now we'll proceed with Ms. Mayes's direct examination.

Ms. Mayes, you may continue, ma'am.

CONTINUED DIRECT EXAMINATION

BY MS. MAYES:

Daughter 1

Q [redacted], there are two photos that I'm going to show

where you do not see the person's face. I'm going to show you what is State's Exhibit 58 and State's Exhibit 71. These are already in evidence. Who is in these photos?

A Me.

Q And when were these photos taken?

A On New Year's.

Q Are we talking about more than one New Year's Eve or all the same New Year's Eve?

A All the same New Year's Eve.

Q Can you tell us, thinking of all the New Year's Eves that you spent during the time that you lived in Chad's house, was it the first New Year's Eve or the last New Year's Eve?

A The last.

Q And do you know what year it was that you ended up leaving Chad's house with your mom and your sisters?

A 2011.

Q Okay. So we'd be talking about New Year's Eve that is the last night of 2010 into the first day of 2011?

A Yes, ma'am.

Q These photos that you've said were taken on New Year's Eve, these are the photos in the tree that you mentioned?

A Yes, ma'am.

Q I'm going to ask you to take a look at the top of the

chest area from the right side all the way across to the left armpit.

A Yes, ma'am.

Q Now I'm going to show you the two photos where there is no face in these photos. This is State's Exhibit 60 and State's Exhibit 61. Do you recognize who these photos are of?

A Yes, ma'am.

Q Who?

A Me.

Q And who took these photos?

A Chad.

Q What is it that you recognize about the person in the photos?

A The freckles on the chest.

Q Are those your freckles?

A Yes, ma'am.

Q Now I want to ask you a few more questions just about the time line of how all of these things that you've testified about came about --

A Yes, ma'am.

Q -- and even after that time period that you and your sisters and your mom left Chad's house and what happened then. Let's go back to the point in time that you were last living in Chad's house with your mom and your

sisters. What year was that?
A In 2011.
Q Okay. Now you talked about someone sneaking a cell phone to you and then you getting it to your mom?
A Yes, ma'am.
Q And was that at the end of the school year or the start of the school year?
A The beginning of the school year.
Q And that would be what year?
A 2011.
Q So the beginning of the 2011 school year?
A Yes, ma'am.
Q And then right after you got it to your mom, what happened?
A My mom hid it until after Chad left again and then she called my aunt.
Q Okay. And when you say after Chad left again, what did she -- did Chad work?
A Yes, ma'am.
Q And when he worked, where was he working at?
A Michelin.
Q And did your mom work?
A No, ma'am.
Q So did there come a point in time when Chad wasn't home and your mom was home?

A Yes, ma'am.
Q And when you say she called your aunt, which aunt is that?
A My Aunt Ashley.
Q All right. And when she called your Aunt Ashley, can you tell us whether or not you were pulled out of school?
A I was pulled out of school that day.
Q And when you say "that day," you talked before about a day that all your stuff got packed up by your aunt and your mom?
A Yes, ma'am. That's that same day. I was signed out of school that day.
Q Okay. And were you sisters also signed out that day or the day before?
A Yes, ma'am.
Q Okay. Now looking here at the date that you left the Batesburg-Leesville School District and the date that your sisters left the Batesburg-Leesville School District, where did you go in early September in 2011 when you all got signed out?
A We went to my aunt's house and then we waited until my other aunt got there and then we went to Missouri.
Q Okay. Which aunt was that?
A My Aunt Peggy.
Q Okay. Which aunt did you -- whose house did you go

to?
A My Aunt Ashley's house.
Q So you went to your Aunt Ashley's house and then you waited on another aunt to get there?
A Yes, ma'am.
Q Which aunt was that?
A Peggy.
Q And what state was she coming from?
A Missouri.
Q Okay. So your Aunt Peggy came from Missouri. And where did you and your mom and your two sisters go?
A To Missouri.
Q So when you got pulled out here, you were taken to Missouri with your mother and your Aunt Peggy?
A Yes, ma'am.
Q How is it that you ended up coming back and reenrolling Daughter 3 [redacted] on September 21, 2011, and you January 18, 2012, which would be that same school year?
A Daughter 3 [redacted] came back to South Carolina before I did.
Q From where?
A Missouri.
Q To stay with who?
A My Aunt Ashley.
Q And why did you come back during that period of time in December to January 2012?

A Why did I?
Q Where did you come back from?
A Missouri.
Q And who did you leave there in Missouri?
A My mom.
Q To stay where?
A Here in South Carolina with my Aunt Ashley.
Q And I believe your testimony before is that Daughter 2 [redacted] stayed behind with your Aunt Peggy?
A Yes, ma'am.
Q What state does your mother live in now?
A Missouri.
Q This was reported to the police December 9, 2011. Were you back in South Carolina when it was actually reported to the police by Ms. Brackett?
A No, ma'am.
Q Where were you?
A Missouri.
Q When you came back to South Carolina and the police investigation was going on, did you cooperate with that investigation?
A Yes, ma'am.
Q I'm going to show you an item and ask you whether or not you recognize it.
A Yes, ma'am.

Q How so?
A That's Chad's computer.
Q Can you tell us whether or not this is the computer that he had when you lived there with him?
A Yes, ma'am.
Q The laptop?
A Yes, ma'am.
Q When you talked about seeing him looking at pictures of you on a laptop, which laptop are you referring to?
A That one.
Q And were those the pictures of with you no clothes on?
A Yes, ma'am.

MS. MAYES: This would be for identification only at this time, Your Honor.

(WHEREUPON, State's Exhibit No. 72 was marked for identification only.)

THE COURT: State's 72 for identification purposes only.

BY MS. MAYES:

Daughter 1

Q And finally, [redacted], let me ask you this: How old were you in September of 2011 when your mom and your sisters and you left Chad's home and went back to Missouri?
A Fifteen. I'd just turned -- well, I was about to

turn 15.
Q So what month do you turn 15?
A In October.
Q So you turned 15 in October?
A Yes, ma'am.
Q When you all actually left and you got signed out you were how old still?
A Fourteen.
Q So you were 14 at that point in time.
All the things that you testified about today, you testified about Chad's house. Did Chad have the same house always or more than one house?
A Just that house.
Q Same house?
A Yes, ma'am.
Q And I believe you testified before where that house was, but can you tell us again?
A It's in between his mom's house and his grandma's house.
Q Okay. What city or town?
A Leesville.
Q And the trees that you testified about are in what city or town?
A Leesville.
MS. MAYES: Nothing further, Your Honor.

MR. WILLIAMS: May it please the Court.

THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. WILLIAMS:

Q What is your full name?

A Daughter 1 [redacted].

Q And you have done some identifying of some photographs and things like that?

A Yes, sir.

Q And let's start with this big one right here. And I believe this in evidence. It's State's Exhibit No. 67. And you identified that as who?

A Chad Hayes.

Q Right. And I believe you pointed out something about a package and a camera on the bed; is that right?

A Yes, sir.

Q Now you're certain that that's a package and a camera on the bed?

A Yes, sir.

Q Well, if that's a camera on the bed, how was the picture made?

A Off of a camera.

Q So there's more than one camera?

A Yes, sir.

Q And who took the picture then?

A I'm not sure.
Q Well, whose camera is on the bed?
A Chad's.
Q What kind of camera is it?
A It's a digital camera.
Q Well, I mean, what color is it?
A Like a dark navy blue color.
Q So what color is the camera which is taking the picture of Chad?
A I'm not sure.
Q Which camera is it that you allege that Chad took pictures of you with?
A A digital camera, the navy blue one of his.
Q So you're saying it's this camera right here?
A I'm not saying it's that camera. It could be a different camera.
Q So you can't really identify what type of camera actually took pictures of you? It's navy blue?
A No. I know the camera took pictures of me. It's a navy blue digital camera.
Q All right. But you don't know if that's a navy blue digital camera or not, do you?
A No. You asked me if the camera that's taking the picture of Chad was that camera.
Q Okay. And you don't know if that's the camera or

not?
A I know that's the camera.
Q But you don't know if that's the camera that took the pictures?
A I don't know if that's the camera that took the picture of him.
Q Well, obviously another camera took the picture of him, right, because there's a camera on the bed, right?
A Yes.
Q Okay. But you don't know if the camera that's on the bed is the one that took the picture of you; is that right?
A I do know.
Q Is it?
A Yes, it is.
Q And you know that how?
A Because that's the only camera he put in that camera case.
Q Then what did the other camera look like?
A It's a digital camera.
Q So he had two digital cameras?
A Yes. He had more than one digital camera.
Q Didn't your mother have a camera?
A I'm not sure.
Q Why are you not sure that your mother had a camera?

A Because it's not mine.
Q You seem to know that Chad had a camera. You don't know if your mother had a camera or not?
A No, I don't.
Q Well, obviously Chad didn't take the picture of himself, did he?
A No.
Q Because it's not a selfie, you can't take a selfie like that, can you?
A No.
Q So it's either one of you girls or your mother that took the picture, right?
A Yes, sir.
Q So are we assuming that the camera that was used to take Chad's picture here was Chad's camera and not your mother's camera?
A I'm not sure.
Q Right. Let me just kind of take you back to some things. Let me ask you to look at State's Exhibit 17. Is this the photograph which you say indicated where the computer was?
A Yes, sir.
Q Is that the computer right there?
A I'm not sure.
Q Let me hand you State's Exhibit No. 17 a little close

up.
A No, sir, it's not.
Q And how do you know it's not?
A Because that's totally different.
Q How is it totally different?
A That computer doesn't look like that one.
Q How is it different?
A That's more square and that one's not.
Q Well, you can't see the whole -- you can't see the whole --
A I know. I know in my experience he had more than one computer.
Q He had more than one laptop?
A Yes, sir.
Q So how many laptops did he have?
A I'm not sure.
Q Three?
A I'm not sure.
Q Who had access to his computers?
A Him.
Q Did you ever play on the computers?
A On the old one. I did school work. I didn't play on it.
Q Well, you went into his computer and used the computer, didn't you?

A The old one, yes, sir.
Q You never used either one of -- how many laptops did he have?
A He had more than one laptop.
Q You didn't use any of the laptops?
A Not that I remember you.
Q Well, you would know if you used some of his laptops, wouldn't you? You'd be the one doing it, right?
A Yes.
Q So do you think maybe you did use his laptops?
A No. I said I don't remember.
Q Where was the -- where was the pad that included his passwords into the computer?
A I'm not sure.
Q You knew he had a pad next to the computers, didn't you?
A Yes, sir.
Q And you knew that he had the password into the computer right next to the computer, didn't you?
A No, I didn't.
Q So you knew he had more than one computer. You don't remember whether or not you used the computers or not. But you don't know if he had a pad that had the access or the password to get into the computer?
A No, I don't.

Q Well, how did you get into the computers?
A He logged in for us.
Q He always logged in for you?
A Yes, sir.
Q Now, where did he work?
A At Michelin.
Q What hours did he work at Michelin?
A He did different shifts.
Q And when you say "different shifts," what does that mean? What different hours does he work?
A Night shift. He had morning shift.
Q And when he would be at work at night on night shift and you all had to do your homework, did you call him up to get the passwords to use his computer?
A No, because we didn't use the computer when he wasn't there.
Q You never used the computer when he wasn't there?
A No, we didn't.
Q Well, now who was there at the house when he wasn't there?
A My mom, my sisters, and me.
Q And your mom used the computer, too, didn't she?
A Yes, sir.
Q You saw your mom use the computer, didn't you?
A Yes, sir.

Q Now, one thing you've indicated to the jury is that you were afraid that you were trapped there at the house?
A What do you mean?
Q You could leave, couldn't you? You and your mother could leave, couldn't you?
A We could.
Q Because he was at work at Michelin, right?
A Yes, sir.
Q How many vehicles were at the house?
A Seven or eight.
Q Where were the keys to all the vehicles at the house?
A On the wall or with him.
Q So you had access to vehicles, didn't you?
A Yes, sir.
Q Was there any reason why you couldn't drive over to see your aunt, why your momma couldn't do that?
A My mom didn't have a South Carolina driver's license.
Q So that's why she didn't do it? Did you -- because she didn't have a South Carolina driver's license?
A No.
Q Let me ask you this: When he was working at Michelin, did you all have a phone at the house?
A A house phone, yes.
Q Did you have access to the house phone?
A Yes.

Q Was there anything to prevent you from calling your aunt to come pick you up or come see you?
A No, but he told us we wasn't -- we wasn't allowed to use the phone.
Q Well, he wasn't there, was he?
A No.
Q How would he have known if you called?
A The phone bill, phone records.
Q The phone record would include some sort of local call?
A What do you mean by "local"?
Q Well, was it a cell phone or was it a landline phone?
A It was a cell phone.
Q And you say that because of that, that it would show that you had called her?
A Yes.
Q Do you have any friends at school? Did you have friends at school?
A Yes, sir, I had millions of friends at school.
Q Did they have cell phones?
A Yes, sir.
Q Did they ever let you use their cell phones?
A Yes, sir, they did.
Q Was there any reason why you couldn't use their cell phone and call your aunt?

A I did more than once.
Q And when you called your aunt more than one, did you ever tell your aunt that something terrible was going on at your house?
A Yes, sir, I did.
Q On how many times did you tell your aunt that something terrible was going on at your house?
A Once, maybe twice.
Q During what years?
A My last year there.
Q That's the only time you called your aunt?
A Yes, sir, that's the only time I had her number.
Q And how did you get her number?
A Nicholas.
Q So you weren't able to call your aunt until your uncle came to come to Batesburg-Leesville?
A Yes, sir.
Q Is the aunt's number not listed in the phone book?
A No, sir, it's a Missouri number.
Q Your aunt has a Missouri number but she lives here in Lexington County?
A Yes, sir. She's had the same number for years.
Q So you know she's had the same number for years, right?
A Yes, sir.

Q So you know the number, right?
A No, I didn't.
Q Well, how do you know she's had the same number for years?
A Because it's always been like that. Why change your number when you move to a different state?
Q Let's talk about moving to a different state.
When did you move to South Carolina?
A 2007, I think.
Q Not 2008?
A 2007, 2008, I'm not sure.
Q Well, what grade were you in?
A I was in fourth grade.
Q Why did you move to South Carolina?
A Because we wanted to move here.
Q Why did you want to move here?
A Because that's what my mom wanted for us.
Q What was the purpose? Why -- what was --
MS. MAYES: Objection, Your Honor, calls for speculation as to her mother's thoughts and actions.
MR. WILLIAMS: I withdraw that question.
THE COURT: Sustained.
BY MR. WILLIAMS:
Q Where were you staying before you moved to South Carolina?

A In Camden, Missouri.
Q With whom?
A My mom and my grandma.
Q Is she the young lady sitting on the front row?
A Yes, sir, she is.
Q And when you moved to Lexington, South Carolina, you moved in with your aunt, right?
A Yes, sir, I did.
Q And she's the young lady with the brown hair, the white sweater on, right?
A Yes, sir.
Q How long did you and your sister stay with your aunt and your mother there?
A Two or three months.
Q Two or three months?
A Then we moved with Chad.
Q Two or three months?
A I'm not sure of the exact -- we was there a couple of months and then we moved in with Chad.
Q When did you meet Chad?
A After my mom started talking to him.
Q Do you remember when she met Chad?
A No, sir, I don't.
Q All right. How is it that you ended up moving in with Chad? Was there an occasion that caused you to move

in with Chad?
A My mom and my aunt had an argument. Then my mom made us go with him.
Q Your mom made you go with Chad to Chad's house that weekend?
A Yes, sir, she did.
Q And you didn't want to go?
A No, I didn't.
Q You never wanted to leave your aunt, right?
A No, I haven't. I have no reason to.
Q And how long did you stay with Chad Hayes?
A From the end of fourth grade to the beginning of eighth grade.
Q And during that time span, was he always beating on you and taking pictures of you?
A Not at the beginning, no.
Q When did he start that?
A Not until after we moved in good with him.
Q How long was that?
A I'm not sure.
Q Do you remember what grade you were in?
A Fifth grade.
Q And is that when you talked to the guidance counselor and told her about it?
A Yes, sir, it is.

Q Before that nothing had ever happened?
A Not until -- not until before I told her.
Q Was he taking pictures of you back then?
A He started, yes, he did.
Q So he was actually taking pictures of you when you actually met with the DSS counselor or the guidance counselor, I guess?
A Yes, sir.
Q You didn't tell her about that?
A No, sir, I didn't.
Q You didn't tell her about that because you were afraid?
A Yes, sir, I was.
Q But you weren't afraid to tell the guidance counselor that he was beating on you, right?
A No, sir, I wasn't.
Q Just the pictures?
A Just the pictures.
Q Well, you met with the Dickerson Center, which is a group that checks out people who are raising allegations about sex abuse. Do you remember doing that?
A Yes, sir.
Q Do you remember sitting down and talking to some lady?
A Yes, sir, I remember sitting down and talking to more

than one lady.
Q Do you remember sitting down and talking to an employee of the Dickerson Center and talking to her about everything that had been going on?
A Yes, sir.
Q Did you tell her that Chad broke your mother's tailbone over a piece of fish?
A I said injured.
Q Over a piece of fish?
A Yes, over a piece of fish.
Q Did you tell the interviewer that you told his mother and -- referring to Chad's mother, which is this young lady right here and her lovely mother -- that Chad was abusing you and taking pictures of you and doing sexual things to you?
A We told them the day he was hitting us, yes, we did. I never said anything about the pictures or sexual abuse.
Q So you didn't tell Chad's mother and grandmother that he was touching you and your sisters?
A Not that I remember.
Q You didn't tell the lady at the Dickerson Center that?
A Not that I remember.
Q Could you have told her that?
A I could have, yes. But do I remember, no.

Q Well, if you could have told her that, why wouldn't you have told her that? It's not true, is it?
A We told them that he was -- we told them.
Q You told --
A That he was hitting us, yes, we did.
Q What about touching, improper touching?
A I'm not sure.
Q Did you tell the lady at the Dickerson Center that Chad had took a frying pan and hit his grandmother in the side of her face?
A That's secondhand.
Q Did you tell her that?
A Yes, I told her that.
Q Why would you tell this lady at the Dickerson Center that he struck his grandmother with a frying pan?
A That's secondhand. I heard that from someone else.
Q So you heard some tale from someone else?
A Yes.
Q And then you told the Dickerson lady that my client struck his 86-year-old grandmother with a frying pan?
A Yes, sir, I did.
Q Why would you say things like that?
A Because it's important.
Q Why would it have been?
A You wouldn't tell -- you wouldn't tell somebody that

if that happened to you?
Q Well, did you tell the lady at the Dickerson Center that Chad Hayes hit his mother and busted his sick father's head right here and point at a portion of your head?
A They were fighting. Yes, he shoved him, he fell, he hit his head. He told us to get up and go inside.
Q So you saw him strike his mother?
A His father.
Q Thank you. You didn't tell the lady at the Dickerson Center that he's hit his mom?
A Maybe.
Q So that would be important, wouldn't it?
A Yes, it is.
Q Smacking his grandmother with a frying pan, hitting his mom, cutting his dad's head?
A I never said he cut his dad's head.
Q Did you ever tell the lady from the Dickerson Center that he stabbed you with a fork?
A He has stabbed me with a fork.
Q Did you seek medical attention for him stabbing you with the fork?
A No, I didn't.
Q Did you ever tell the interviewer at the Dickerson Center that Chad threw a butcher knife at you?

A Not that I remember.
Q Could you have said that?
A I could have, yes.
Q Because you could say just about anything, couldn't you?
A Anybody could say anything.
Q Well, let's talk about -- let's talk about the improper touching.

Now, you and your sisters and your mother lived with Chad for three and a half years, right?
A Yes, sir.
Q Who bought all these things that you've picked out in the photographs?
A What do you mean?
Q Who purchased those items? Did you have those items when you came to stay with Chad?
A No, sir.
Q Who bought them?
A Chad and my mom.
Q Was your momma working?
A No.
Q Did you go off on vacations with Chad?
A Yes, sir, we did.
Q Where you go?
A The beach, Carowinds.

Q So the same guy that beats up his momma, beats up his daddy and his grandmomma, throws butcher knives at you takes you and, I don't know, vacations to the beach?
A Yes, sir.
Q Buys you clothes and toys?
A Yes, sir.
Q Keeps you from calling anybody or talking to anybody?
A Yes, sir.
Q Where was your mother when Chad Hayes was beating on you and touching you improperly?
A In the house.
Q What was she doing in the house?
A In the house.
Q Did she see him do all these things?
A Yes, sir, she did.
Q She saw it, but she didn't do a thing about it?
A No, she didn't.
Q Could she have been the person who took the photographs?
A No, she couldn't have.
Q Why?
A Because Chad did.
Q Certainly nothing wrong with her ability to take the photographs, is there?
A No, there's not.

Q She had a camera?
A Not sure if she did or not.
Q The New Year's Eve that you've referenced is New Year's of what, December 30th of what year?
A 2010 going on 2011.
Q All right. And it was 30th or 31st?
A December has 31 days.
Q 31st, right. And that would have been at Chad's house; is that right?
A Yes, sir.
Q And who was out there in the yard taking these nudie pictures of you in the chair -- I'm sorry, in the tree or whatever you're doing?
A Chad.
Q He was taking nudie pictures of you?
A Yes, he was.
Q Where was your momma?
A In the house.
Q What was she doing in the house?
A My mom was sick.
Q Well, on New Year's Eve most people shoot fireworks, don't they?
A Yes, sir.
Q Do you think you might have been outside shooting fireworks with Chad and his brother and grandmomma and

momma and all that?
A His dad, his brother, his mom and his grandma wasn't there. They were at their own houses.
Q So they didn't do anything on New Year's Eve?
A Not with us.
Q So where is Chad's momma's house in relationship to where this tree is?
A In front of the shed.
Q So --
A In between the tree and his mom's house there's a shed.
Q So she couldn't have seen anything, right?
A No.
Q Now, you told -- you left Lexington County when?
A What do you mean?
Q What I said. When did you leave Lexington County?
A When?
Q Yes. You left after some -- something happened between your mother and Chad, right?
A Yes, sir.
Q And you went to your aunt's house and then --
A Which is still Lexington County.
Q Right. So when did you do all this?
A My -- beginning of eighth grade year. Late August, early September.

Q And you rode to Missouri to stay with your momma and who?
A My mom.
Q Anybody else?
A No.
Q Did your mom already have a place to stay down in Missouri?
A My aunt helped her get a place, yes, she did.
Q And you stayed down there with your mom how long?
A A couple of months.
Q You had no conversation with law enforcement for those couple of months that you there down there in Missouri; is that right?
A No, sir, I didn't.
Q So even though the reason you left -- is that the reason why you left Lexington County to go to Missouri is because he was taking pictures of you and touching you incorrectly, touching you improperly? That's why you left Lexington County to go to Missouri, right?
A We left to get away, yeah.
Q So did you talk to grandmomma about what was going on when you got down to Missouri?
A No, sir. Not right off the bat, no. I didn't talk to anybody.
Q But you're down there in Missouri. How many hundreds

of miles away do you think that is?
A I'm not sure. It's eight, nine hours from here.
Q So you're down there with grandmomma down there in Missouri, you don't say a thing about any of this, right?
A No, not right off the bat.
Q When is it that you decide you're going to start talking about this, these events?
A When I felt it was safe to.
Q And how long was that?
A I'm not sure.
Q What spurred your conversation about these things?
A What do you mean?
Q What caused you to say something about them?
A Questions.
Q Who questioned you?
A Family. It wasn't bad questions.
Q Which family member questioned you about it?
A We were asked about it by a bunch of people.
Q Well, name some.
A Aunt, uncle.
Q Which aunt, which uncle?
A My Aunt Peggy asked us about it, yeah, she did.
Q Aunt Peggy?
A Yes.
Q Is she here today?

A No, sir, she's not.
Q Who else asked you about it?
A Family when we got there, my dad.
Q Is your dad here today?
A No, sir, he's not.
Q Who else asked you about it?
A Family, cousins, uncles.
Q Which cousins asked you about it?
A My aunt's kids.
Q And who are they?
A Rusty and Austin, Jr.
Q Are they here today?
A No, sir, they're not.
Q Who else asked you about it?
A I told you. That's all the people I remember.
Q Who here today in this courtroom asked you about it when you were in Missouri?
A What do you mean when I was in Missouri?
Q Well, you stayed down in Missouri for a period of time, didn't you?
A Yes.
Q How long?
A From September to December, early December, late December, something like that.
Q So September, October, November, December, that's

four months, right?
A I believe so.
Q Who asked you about it for those four months?
A We started to -- nobody asked me. I slowly started talking about it.
Q And who did you talk to about it?
A My aunts, mom, uncles, family.
Q Those same people who are not here today, right?
A Oh, I've talked to my Aunt Ashley about it more than once.
Q That's when you got back here, right?
A No. I talked to her over the phone.
Q All right. So you come back to Lexington County and you stay with your Aunt Ashley, right?
A Yes, sir.
Q And who else are you staying with?
A My uncle, my little sister [redacted] (Daughter 3), my cousin.
Q All right. So at that point in time you come back here, is that when you first start talking to any DSS people or police officers or anything like that is when you come back in December?
A Yes, sir.
Q Do you know when Chad Hayes was arrested?
A No, sir, I don't.
Q Who was the first police officer that you talked to

about this?
A It talked to a DSS lady.
Q Who was that?
A It was with the Dickerson Center.
Q Who was that?
A Ms. Lambert. I talked with Ms. Lambert and then I talked to another lady which was Ms. Tracy. I talked to several people from the Dickerson Center.
Q Which one of them did you tell about throwing the butcher knife and him hitting his grandmomma and all that?
A I don't know.
Q But you're saying those things are not true, right?
A What do you mean?
Q He didn't hit this grandmother, did he?
A I'm not sure.
Q You identified State's Exhibit No. 24. Do you remember identifying that for the Solicitor?
A Yes, sir.
Q And you said that's a razor or a hair trimmer?
A Yes, sir, it is.
Q That Chad Hayes used to trim your hair; is that right?
A Yes, sir.
Q Well, that's more than just a hair trimmer, isn't it?
A Yes, sir.

Q What is it?
A It's a razor, hair trimmer.
Q What are you referring to was used to trim the hair?
A The hair trimmer. The object to your right. To your right, not my right.
Q Over here?
A Yes, sir.
Q Because there are two hair trimmers, aren't there?
A I'm not sure what that other thing is.
Q You're not sure what that is?
A No, I'm not.
Q Do you know what this thing is right here?
A No.
Q Did you know whether or not Chad had two hair trimmers or one hair trimmer?
A What do you mean?
Q Let's assume that the second item in that picture might be a hair trimmer.
A I only knew about the one, the one he used.
Q Which one was that?
A The right on your right.
Q That's the one because it's not separated, right? The other one is taken apart, right?
A I'm not sure.
Q Who was present when he trimmed your hair?

A My sisters. My mom.
Q Your mom?
A Him.
Q Your mom?
A Yeah.
Q Your mom was there?
A Yes, my mom was always at the house.
Q So she saw all of this?
A Yes, sir.
Q And she didn't do a thing about it?
A No, she didn't.

MR. WILLIAMS: That's all I have, Your Honor.

THE COURT: Redirect.

MS. MAYES: Yes, sir, Your Honor.

REDIRECT EXAMINATION

BY MS. MAYES:

Daughter 1
Q [redacted], just to follow up on a few things, is it possible for you to even give a number on how many times you were touched while you were in Chad's home in a way that was inappropriate?
A No, it's not.
Q Now, you testified that your mom didn't work.
A No, she didn't.
Q Can you tell us whether or not there were times your mom was present in the house when touching occurred?

A My mom was in the house all the time when it happened.
Q Were there ever times that Chad was alone with you?
A My mom was in the other room, yes.
Q And when I say "alone with you," what are some times Chad was alone with you?
A When we was in the shower, when he'd go in the bedroom, when my mom was in his room on an oxygen machine, when we was in the front room.
Q I'll ask you about that in a minute, but I want to talk about the times that you were alone with Chad.
Can you tell us whether or not touching occurred on those occasions?
A Yes, ma'am.
Q By that I mean touching that you described on your private parts?
A Yes, ma'am.
Q And in the shower?
A Yes, ma'am.
Q Were there certain things your mom didn't see?
A My mom, she didn't see a lot.
Q But she was in the house?
A She was in the house when it happened, yes, ma'am.
Q And you testified before that your mom was aware that he had taken some inappropriate photos?

A Yes, she was.
Q Mr. Williams was asking about why your mom didn't leave in one of the cars or just leave Chad all together. Can you speak for your mom --
A No, I can't.
Q -- on why she stayed in that relationship?
A No, I can't. I can only speak for myself.
Q What was your mom's medical condition?
A I'm not sure.
Q When you talk about her being on oxygen, how often did she use oxygen?
A Every night.
Q Do you know what disease she has?
A No, I don't.
Q Mr. Williams was asking about when you went to the Dickerson Center. Is one of the things that happened at the Dickerson Center that you talked to various people?
A Yes, ma'am.
Q All right. And were you asked a lot of questions not only about yourself but also about the person who was alleged to have done something to you?
A Yes, ma'am.
Q And in this case that was Chad?
A Yes, ma'am.
Q Can you tell us whether or not you were asked

specifically about physically in addition to touching and items such as that?
A Yes, ma'am.
Q And what are some of the reasons that you talked -- if at all, that you talked with the people at the Dickerson Center about stories that you heard or things that you didn't see but heard about Chad?
A Because it was important.
Q How would you describe Chad's personality behavior when he was angry based on what you've seen with your own eyes?
A He's fearful.
Q How would you describe his behavior towards you when he's angry?
A He'd raise his voice, yell at us.
Q Now, Mr. Williams was asking you about using computers in the home. You had testified before about an old computer. Which one is that that you're talking about?
A One that was no longer in the pictures that was there.
Q Is that the one you were calling the dinosaur?
A Yes, ma'am.
Q And which one was it that he logged on for you?
A He logged on to that one and I'm not sure if I've

used the laptops.
Q All right. And you remember the dinosaur and that he would log on?
A Yes, I do.
Q Whose computer was the laptop?
A His.
Q And who's the person who would log on or have the password to that laptop?
A He did.
Q Now, Mr. Williams was asking about some of the items that were left behind in the home that belonged to you and your siblings, the toys, the clothes, the shoes in that bedroom. Daughter 1 [redacted], did Chad help buy that stuff?
A Yes.
Q And did Chad pay for the vacations that you took both to the beach and to the Carowinds?
A Yes, I guess.
Q Daughter 1 [redacted], did the fact that he paid for those presents and took you on trips give you the right to touch you in a way he shouldn't?
A No, it didn't.
Q Or take photos of you without your clothes on?
A No, it didn't.
Q In this photo, which is State's Exhibit 67, Mr. Williams was asking you specifically about what is on

the bed. I'm going to bring it up here for you to look at. You recognize that as what?

A The camera case that he always kept his camera in.

Q Okay. That's a camera case.

Looking at this photo, do you know for sure that the camera is in the case or could it be out of the case?

A It could be out.

Q But you recognize the case?

A Yes, ma'am.

MS. MAYES: Nothing further.

MR. WILLIAMS: I have no questions on recross.

THE COURT: Thank you, Miss [redacted] (Daughter 1). You may step down.

(A bench conference was held with the judge and attorneys in the presence of the jury but out of the hearing of the jury.)

THE COURT: All right. Ladies and gentlemen, it's quarter to five and I was just talking to Ms. Mayes regarding the length of the next witness, which could possibly be lengthy. So we're going to go ahead and adjourn for the afternoon now.

I'm going to send you with the same instructions I've given you with regards to having no conversation about the case, but it's a little bit different this evening than it was last night when you went home.

jury in, please.

(The jury came into open court at approximately 9:25 a.m.)

THE COURT: All right. Ladies and gentlemen, welcome back this morning. I hope everyone had a good evening, a restful evening.

If you recall when we adjourned yesterday we were still on the State's case, and we will pick up with the testimony of the State's -- I think we were finished with that witness that was here yesterday and ready to call your next witness.

MS. MAYES: The State calls Daughter 3 [redacted].

THE COURT: Daughter 3 [redacted], if you'd please come around to be sworn, ma'am.

Daughter 3 [redacted], after being duly sworn, testified as follows:

THE CLERK: Have a seat right up there.

Once you're seated, speak up loud and clear. State your full name and spell your last.

DIRECT EXAMINATION

BY MS. MAYES:

Q State your full name.

A Daughter 3 [redacted].

Q And your last name?

A Daughter 3 [redacted].

Q And can you spell your last name for the court reporter?

Daughter 3

A [redacted].

Q Okay. Now, I'm going to move this just a little bit closer so you.

Daughter 3

[redacted], how old are you today?

A Thirteen.

Q Okay. And where do you go to school currently?

A Batesburg-Leesville Middle School.

Q And what grade did you just finish there?

A Seventh.

Q Now, there was someone who testified yesterday named Daughter 1 [redacted], Daughter 1 [redacted]. How is it that you know her?

A She's my sister.

Q All right. And can you tell us whether or not you have a sister named Daughter 2 [redacted]?

A Yes.

Q So of the three of you, Daughter 1 [redacted], Daughter 2 [redacted] and you, which one is the youngest?

A Me.

Q Now, what is your mother's name?

A Christy Earnest.

Q How is it, Daughter 3 [redacted], that you know the defendant in this case, Chad Hayes?

A We lived with him and he was my momma's boyfriend.

Q And about how long was it that you lived with him?
A Two, two and a half years.
Q All right. Do you know how many grades you were in that you lived with him?
A I don't know. I was eight through ten.
Q Okay. Eight through ten. Well, that answers the question then. So you were ten when you stop living with him? When you moved out, let me put it that way.
A I don't know.
Q Okay. What is your actual date of birth, [redacted]? (Daughter 3)
A [redacted], 2001.
Q [redacted], 2001. Okay.
And do you remember whether or not there was a time that you were attending school here in Batesburg and then you didn't anymore?
A Yes.
Q And when you didn't anymore, where did you go?
A Missouri.
Q All right. We're going to talk a little bit about that. You were attending school in Batesburg and what was the name of that?
A Middle school.
Q Let me ask you like this. When you left school here in Batesburg and you went to Missouri, what kind of school did you go to? Do you remember?

A No.
Q Okay. So we're talking about things that happened three years ago, right?
A Yes.
Q Let me ask you this: How do you feel about being here today in court?
A Good.
Q Okay. You said that you know the defendant Chad Hayes?
A Yes.
Q Because he used to be your mom's boyfriend?
A Yes.
Q And do you remember when you lived with him whether Daughter 1 [redacted] and Daughter 2 [redacted] lived there, too?
A Yes.
Q And your mom was there, too?
A Yes.
Q Now, who all had rooms in that house?
A Chad and my momma and me and Daughter 1 [redacted] and Daughter 2 [redacted].
Q Okay. So Chad and your momma had their own room?
A Yes.
Q And then Daughter 1 [redacted] and Daughter 2 [redacted] had a room?
A With me.
Q And what kind of beds did you all sleep in?
A Bunk beds.

Q All right. And did there come a time that you all ended up not living there anymore?
A Yes.
Q All right. Do you remember who it was that packed your stuff together?
A My momma.
Q Okay. Were you there when the stuff got packed?
A No.
Q And after the stuff got packed, what happened?
A My aunt and my momma came to get us from school and then we went to live with my aunt.
Q Okay. I'm going to show you a picture which is State's Exhibit 32. Do you recognize what is in that picture?
A Yes.
Q What is it?
A The beds, the Guitar Hero, and the truck.
Q And where was that picture taken at?
A Our bedroom.
Q At what house?
A Chad's.
Q All right. I'm going to show you a couple more pictures. This is State's Exhibit 29. And what was in this photo? I'll show it to you again.
A The bathroom.

Q Okay. And this is State's Exhibit 35.
A Chad's bedroom.
Q Go ahead. Say that again.
A Chad's bedroom.
Q All right. I didn't mean to interrupt you, so if I do that again you just can repeat your answer.
In Chad's bedroom, is that how it looked when you lived there?
A Yes.
Q Can you tell us whether or not that's the same bed?
A Yes.
Q And State's Exhibit 33?
A The living room.
Q Of what, what place?
A Chad's.
Q Let me show you one more photo. This is State's Exhibit 17.
A Yes.
Q How do you recognize that? Where was that at?
A Chad's house.
Q Okay. And what do you call that? What's in the picture?
A Books.
Q And can you tell us whether or not he had that cabinet when you lived there?

A Yes.
Q All right. One more picture. Do you recognize the person in this photo?
A Yes.
Q Who is it?
A Chad.
Q Can you look at this photo, State's Exhibit 67, can you look at where he is and tell us whether or not you recognize the place that he is?
A In his bedroom at his house.
Q Okay. Now, do you know whether or not Chad had a camera?
A Yes.
Q How is it you know that?
A Because I saw it.
Q Did you see it one time or more one time?
A More than one.
Q And do you know whether or not he had a computer?
A Yes.
Q Did he have one or more than one?
A More than one.
Q Okay. Now in this photograph, which is taken from up in the air, it's State's 66, let me walk around here -- can you take a look at that for a minute. Do you recognize where the house you lived in with Chad would be

on this photograph?
A Yes.
Q Where?
A (Witness indicating.)
Q All right. Now, did you all ever build fires at Chad's house?
A Sometimes.
Q Who would build the fires?
A He would or we would help.
Q Okay. And did anybody have cars at Chad's house?
A Yes.
Q Who?
A He did.
Q Do you know how many cars he had? One or more than one?
A More than one.
Q What are some of the car you remember him having?
A Mustangs, trucks.
Q Mustangs and trucks?
A And an Expedition.
Q Did he have more than one truck?
A Yes.
Q Now, when you lived at Chad's house with your sisters, can you tell us whether or not there was ever a time that something happened that made you feel

uncomfortable?
A Yes.
Q What was that?
A Touching and taking pictures.
Q Okay. When you say "touching," what kind of touching are you talking about?
A What do you mean?
Q Okay. When you say "touching," what part or parts of the body are you talking about?
A Boobs, butts, and privates.
Q Okay. And when you say "privates," we're not always sure what part or what private you're referring to. Okay? I want you to take a look at this girl from the top of her head all the way down to the bottom of feet, the front of her and the back of her. Do you see the part you're talking about being the private parts?
A Yes.
Daughter 3
Q [redacted], can you show us here on this diagram the part you're talking about when you say private parts?
A (Witness indicating.)
Q All right. And can you tell us whether or not that ever happened when your clothes weren't on or your private part wasn't covered up?
A Yes.
Q And when you said "boob," what part or parts of the

body are you talking about?

MR. WILLIAMS: Your Honor, if could entertain a small objection. Your Honor, shouldn't this be marked in some way as a Court's exhibit or something if they're going to be describing something because it's going to be part of the record at some point in time.

MS. MAYES: I will move it into evidence at this point, Your Honor.

THE COURT: All right. Any objection to that?

MR. WILLIAMS: No, Your Honor.

THE COURT: All right. So we'll mark that as State's 73.

(WHEREUPON, State's Exhibit No. 73 was marked for identification and received into evidence.)

BY MS. MAYES:

Q Now, you also said that -- if you could show us the part or parts that you're referring to.

A (Witness indicating.)

Q Okay. Did that ever happen when your clothes were off?

A Yes.

Q All right. And when you marked this, can you tell us whether or not that ever happened when your shirt was off?

A Yes.

Q This private part between the girl's legs, can you

tell us whether or not that you've been touched there one time or more than one time?
A More than one.
Q And who was the person who did that?
A Chad.
Q Can you tell us whether or not that happened during the time you were living at Chad's house?
A Yes.
Q Megan, if you could take a look at the diagram of the man from the top of his head all the way down to the bottom of his feet, the front and the back, this being Exhibit 68, do you see the part or parts of his body that he used to touch your private part?
A Yes.
Q All right. And do you see the part or parts of his body that he used to touch your -- what you called your boob?
A Yes.
Q Okay. Can you show us where those parts are on this diagram?
A (Witness indicating.)
Q For the record, you noted the mouth. What part of your body did his mouth touch?
A Boob and butt.
Q And did that ever happen when your shirt was off?

A Yes.
Q And when you said "butt," did that ever happen when you underwear were off or pulled down?
A Yes.
Q And you drew a circle here. What part or parts of the body is that?
A Hand.
Q And what part of the hand?
A Fingers.
Q Okay. Talking about the hand and the fingers, what part or part of the body has that touched?
A Butt, private, and boob.
Q Okay. When you say "boob," has that been one time or more than one time?
A More than one.
Q What about privates?
A More than one.
Q I'm going to ask you a few question about that. Okay?

Touching of the private part with the hand, who is the person who did that?

A Chad.
Q Looking here at the private part between the girl's legs, what kind of touch was it? How would you describe that kind of touch? Could you say what he was doing with

his hands?
A Rubbing.
Q And you -- what part of his hand was doing that?
A Finger.
Q Now, do you know whether or not he ever touched on the inside of your privates?
A Yes.
Q How do you know?
A Because it felt different.
Q Sometime did his hand stay on the outside of your privates?
A Yes.
Q What is it about when he touched on the inside of your privates that felt different? Could you tell that it felt different?
A Yes.
Q Have you ever seen him touch one of your two sisters?
A Yes.
Q Which one?
A [redacted] (Daughter 2) and [redacted] (Daughter 1).
Q Where do you remember seeing him touch [redacted] (Daughter 1)?
A Butt, boobs, and privates.
Q Okay. Have you ever seen him take pictures?
A Yes.
Q What did he use to take the pictures?

A A digital camera.
Q Okay. The digital camera, who did it belong to?
A Chad.
Q And what do you remember about the pictures that he took of Daughter 1 [redacted]?
Let me ask you this: Where do you remember seeing him take pictures?
A In the bathroom and outside.
Q Okay. Now, were you usually home when your sisters were home?
A Yes.
Q When you say "outside," where do you remember seeing him take pictures outside?
A The tree.
Q Do you remember what it was, what the occasion was that he took pictures outside in the tree?
A New Year's Eve.
Q What do you remember about New Year's Eve?
A We had the fire and then he made us take our shirt off and go in the peach field.
Q You talk about the peach field. Where is the peach field near your house?
A Behind his house.
Q Okay. When you say he made you, what do you mean by that?

A Like he got loud and raised his voice and his voice changed.
Q In what way did it change?
A Like in -- like loud, angry.
Q And if he talked to you like that, would you argue with him?
A No.
Q And what was he asking you to do?
A Take our shirt off and then go in the field.
Q And did you take your shirt off?
A Yes.
Q Do you know whether Daughter 2 [redacted] took her shirt off?
A Yes.
Q Do you know whether Daughter 1 [redacted] took her shirt off?
A Yes.
Q Was that the same night he was taking pictures in the tree?
A Yes.
Q Was your mom out there in the peach field with you or was she somewhere else?
A Somewhere else.
Q This is State's Exhibit 66, the picture from up in the air. Do you see where the peach field is in this picture?
A Yes.

Q Where is it?
A (Witness indicating.)
Q Right here?
A Yes.
Q That's the peach orchard?
A Yes.
Q Did that belong to Chad or someone else?
A Someone else.
Q Okay. What do you remember about the pictures that he took in the tree?
A He made us take our shirt off.
Q And what kind of voice did he use when he did that?
A The same as angry, loud.
Q And you said there was another time that he took pictures in the bathroom. Whose house was that?
A His.
Q And do you know whether or not -- let me ask it like this. Do you remember which bathroom you remember seeing that in?
A The one that we used.
Q Okay. And do you know whether or not he's ever taken pictures inside the house of Daughter 1 [redacted]?
A Yes, ma'am.
Q Do you know whether or not he has taken pictures of her inside the house without all her clothes on?

A Yes.
Daughter 2
Q What about [redacted]?
A The same.
Q Do you want to talk about pictures of you?
A No.
Q When you all packed all your stuff up and went to Missouri, who did you end up living with?
A Can you ask that again?
Q Yes, I will.

After you all packed up all your stuff and left Chad's house, do you remember when you were ten who you were living with from that point on?
A My aunt or my grandma.
Q Okay. And was that here or was that in Missouri?
A Here and Missouri.
Q Did you ever live with your mom again after you came back here to South Carolina?
A No.
Q Do you know how long it's been since you have been seen your mom in person?
A No.
Q Is it longer than a year?
A Yes.
Q And your aunt that you live with now, what is her name?

A Ashley Rodriguez.
Q The computer that you said that there was more than one computer in the house -- and I need you to just say yes or no for the court reporter.
A Yes.
Q Because she has to type down every single word.
Who did the computers belong to?
A Chad.
Q Do you know whether or not he had -- or what color laptop computer?
A Yes.
Q Who did that belong to?
A Him.
Q By "him" you mean who?
A Chad.
Q And you mentioned the digital camera. The digital camera that was used to take the pictures that you saw him taking of Daughter 1 [redacted] and Daughter 2 [redacted], whose camera was that?
A Chad's.
Q So just to clarify, Daughter 3 [redacted], all the times that you talked about being touched, was that when you still lived with Chad?
A Yes.
Q And all the times you talked about seeing pictures or being there when pictures were taken, is that when you all

still lived with Chad?
A Yes.
Q Since you all packed up your stuff and moved to Missouri, do you remember that you got pulled out of school?
A Yes.
Q Since that time have you ever lived with Chad since then?
A No.
Q Have you ever been to his house since then?
A No.
Q Has he ever talked to you since then?
A No.
Q And you talked about his mouth touching your boobs. What exactly happened when he did that?
A He'd tell me to take my shirt off.
Q Did that happen one time or more than one time?
A More than one.

MS. MAYES: Nothing further.

MR. WILLIAMS: May it please the Court.

THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. WILLIAMS:
Q You were asked by the Solicitor as to whether or not you'd had any conversations with Chad since you left

Lexington County. You've obviously had conversations with your sisters, haven't you, since then?
A Yes.
Q And you've obviously had conversations with the Solicitor since then, haven't you?
A Yes.
Q And you've obviously had conversations with police officers since then, haven't you?
A Yes.
Q And you've obviously had conversation with your Aunt Ashley since then, haven't you?
A Yes.
Q And you've had conversations with your grandmother who would be Ashley's mother, right?
A Yes.
Q Well, you were asked questions about whether or not pictures were taken of your two sisters, Daughter 2 [redacted] and Daughter 1 [redacted]. Is that her name?
A Yes.
Q And you said that they were taken by a digital camera?
A Yes.
Q And you know this because you were there?
A Yes.
Q So all three of you would have been there when he was

allegedly taking these pictures, right?
A Yes.
Q Did he use the same camera?
A Yes.
Q And describe that camera, if you will.
A It was either silver or gray and it was a digital camera.
Q And was it a Sony?
A I don't know.
Q Well, now you were here yesterday during all the testimony yesterday, right?
A Yes.
Q And you've seen the camera on how many occasions?
A What do you mean?
Q How many times have you seen the camera?
A A lot.
Q When did you first start seeing the camera?
A I don't know.
Q Did you see the camera before you moved into Chad Hayes' house?
A No.
Q When did you first see the camera?
A After we moved in with him.
Q All right. And how long after you had moved in with him?

A I don't know.
Q You gave an interview, didn't you, at the Dickerson Center?
A Yes.
Q Do you remember sitting down and talking to the lady about what you testified to today?
A Yes.
Q Did you tell that lady that Chad took pictures of you and your sisters' boobs and crotch when they were nude?
A Yes.
Q Are you saying today that he took pictures of you and your sisters' boobs and crotch?
A What?
Q Did he take pictures of your private areas also?
A No.
Q But you told the lady back -- how long ago was that? Do you remember it?
A No.
Q You remember going to the Dickerson Center?
A Yes.
Q So you're saying today he didn't take any pictures of you, right?
A He may have.
Q But you never saw him take any pictures of you?
A I don't remember.

Q Have you and you sisters talked about all of the testimony that you're going to give today?
A What do you mean?
Q Have you talked about your testimony with your sisters?
A No.
Q Have you talked about it with anyone else?
A No.
Q So you haven't talked to anybody about what you were going to testify to today?
THE COURT: You need to answer the question, ma'am. If you need him to repeat it, you can ask him to repeat it.
THE WITNESS: Repeat it.
BY MR. WILLIAMS:
Q Have you talked to anybody about what you were supposed to testify to today?
A Other than what happened.
Q Have you talked to anyone about what you were supposed to testify to today?
A No.
Q All right. Do you remember that they actually did a videotape of you when you were at the Dickerson Center?
A Yes.
Q And you remember the lady was talking to you and you

were telling her these things that went on and things of that nature, right?
A Yes.
Q Do you remember what your last words were that you gave -- after the lady left the room, do you remember what your last words were when you looked at the camera?
A No.
Q Do you remember looking at the camera and saying, "It's really sad that he did this to us and sometimes it is like he made us cry, but remember, we're not living with him no more"? Do you remember saying those words and staring at the camera with no one in the room?
A Yes.
Q And you knew no one was in the room, but you knew the camera was playing, didn't you?
A Yes.
Q Now, you said you were living with him from eight until ten?
A Yes.
Q And how often would he make you all get nude and touch you and do stuff like that?
A I don't know.
Q Every day?
A No.
Q At least once a month?

A No.
Q Once every two months?
A No.
Q Once every three months?
A No.
Q Once every four months?
A No.
Q Once every five months?
A No.
Q Once every six months?
A No.
Q Once every seven months?
A No.
Q Once a year?
A No.
Q Well, let's talk about the pictures, the pictures of the house. Looking at --

MR. WILLIAMS: Your Honor, if I could have the Court's indulgence.

THE COURT: Sure.

(Pause.)

BY MR. WILLIAMS:

Q All right. We're going see if this thing shows up here.

All right. That's a little bit better. That

way you don't have to step down.

We're just going to kind of look at some pictures. That's State's Exhibit No. 13. Now what is that a picture of?

A Chad's living room.

Q And does the living room look the same in this picture as it did when you lived there?

A Yes.

Q All right. What is that a picture of?

A Chad's front yard.

Q Does that look the same in this picture as it did when you lived there?

A Yes.

Q I'll show you this picture. What is that a picture of?

A Chad's mom's backyard.

Q Does it look the same as when you lived there?

A Yes.

Q Okay. How about that picture? What is that a picture of?

A Chad in his room.

Q Does it look the same now as it did back then?

A Yes.

Q Or in this picture anyway.

All right. What is that a picture of?

A The kitchen.
Q Does it look the same in this picture as it did back then?
A Yes.
Q All right. Now, what is that a picture of?
A The room we stayed in.
Q Does it look the same in this picture as it did back then?
A Other than the game and the thing right beside the game.
Q When you're referring to the game, are you referring to something on the left side of the photograph or something on the right side of the photograph?
A Your right.
Q The right side?
A No.
Q The left side? This side?
A Guitar Hero.
Q All right. The Guitar Hero would be where? Is this the Guitar Hero?
A No.
Q Is that the Guitar Hero?
A No.
Q Is that the Guitar Hero?
A Yes.

Q Okay. And that's the left side, right?
A Yeah.
Q And you say it looks -- it doesn't look the same as it did back then why?
A Because that was the living room and thing beside it wasn't there.
Q Okay. So back then he used to keep it in the living room but now it's kept in the bedroom?
A Yes.
Q Or it was when the picture was taken. All right.
A Yes.
Q What is that a picture of?
A Chad's bedroom.
Q That's Chad's bedroom?
A Yes.
Q What is this area back there?
A The bathroom.
Q And whose bathroom is that?
A Chad's.
Q And does that look the same in this picture as it did back then?
A Yes.
Q All right. What is that?
A The bathroom we used.
Q I'm sorry?

A The bathroom we used.
Q All right. And does that bathroom look the same back then as it does now, as it did in this picture?
A Yes.
Q Do you want to think about it?
A Other than the shower curtain. I don't know if it's a new one.
Q Other than it might be a new shower curtain?
A Yes.
Q You think that shower curtain might be a new shower curtain?
A It might be.
Q I mean, is it or is it not?
A I don't know.
Q Is it the one that was on it back then?
A I don't know.
Q How long did you live with Chad Hayes?
A About two, two and a half years.
Q And where did he work?
A Michelin.
Q And what hours did he work at Michelin?
A I know he worked days, nights.
Q When he would work at night who stayed with you children?
A Our mom.

Q And when you would stay -- when he was not there at night and you would stay there with your mom, would you and the girls ever go outside?
A No.
Q You never went outside?
A He wouldn't let us.
Q Now, he wasn't there, right? So when you were there with your mom, did you and the girls go outside with your mom at night?
A Just when she smoked.
Q When she smoked? And how often did she smoke? She smoked every night when she was there, wouldn't she?
A Yes.
Q So any time that he was working at Michelin, she would go outside and smoke and when she would go outside and smoke, then you all would go outside, right?
A Yes.
Q Did you all ever go off when Chad wasn't there, when he was at work?
A No, unless his mom took us somewhere.
Q So his mom took you all places?
A Yes.
Q Where did his mom take you all?
A Vacation with them, to the store, anywhere.
Q So his mom would take you all on vacations and take

you to the grocery store and take you to all kind of places, right?
A Yes.
Q So you weren't trapped there at that house by any means, were you?
Did your mom ever drive?
A Unless Chad let her.
Q So your momma did drive?
A Once.
Q Okay. When was this?
A When she went to the grocery store.
Q Well, how did your momma drive? She didn't have a driver's license, did she?
A I don't know.
Q So she did drive?
A Yes, sir.
Q As a matter of fact, she had her own car, didn't she?
A No.
Q Didn't Chad buy her an Expedition or an Explorer?
A For him.
Q He bought it for him? Where were the keys kept for all these vehicles that were there?
A Either with him or on the wall.
Q And when they were on the wall, who had access to the keys to drive the vehicles?

A Him or my mom.
Q So your mom could drive, use any key she wanted to drive any vehicle that she wanted to drive, right?
A No.
Q Were there particular vehicles she couldn't drive?
A Yes.
Q Which ones?
A All of them except for the Expedition.
Q The reason why she had permission to drive the Expedition was because it was your mom's car, right?
A No.
Q Why did you all come to stay with Chad? What caused you all to come stay with him?
A My mom.
Q Was there a big fight between your mom and your aunt?
A Yes.
Q And did you all know when you went there that weekend that you all would end up staying there for three or four years?
A No.
Q Well, I notice you're not wearing glasses today. Do you need glasses to see?
A No.
Q Does [Daughter 1 redacted] or does [Daughter 2 redacted] need glasses to see?
A They see perfectly fine, so I guess not.

Q Did Chad take you girls to the eye doctor to have glasses, to buy you glasses?
A Once.
Q And who did he buy glasses for?
A Me, Daughter 1 [redacted], and Daughter 2 [redacted].
Q What kind of glasses did he buy you? He bought you prescription glasses, didn't he?
A Yes.
Q But do you have contacts in now?
A No.
Q So it would be your testimony that neither you nor Daughter 1 [redacted] nor Daughter 2 [redacted] need glasses to see, but an eye doctor prescribed eyeglasses for all three of you and Chad went and bought eye glasses for all three of you?
A At that point we needed glasses.
Q Was that to see close up or far away?
A What do you mean?
Q Could you see close up okay and not see far away okay or could you see far away okay and couldn't see close up okay?
A I could see close up good but not far away.
Q So you'd be nearsighted?
A Huh?
Q I'm not sure either. But you don't need glasses any more?

A No.
Q What happened to those glasses?
A They were left in Missouri.
Q So you took them with you?
A Yes.
Q So when you all left Chad's house, you were able to get a lot of the stuff that you had left at Chad's house, right?
A I didn't.
Q You got your glasses, right?
A Because I had them with me at school.
Q Because you needed glasses to see?
A Yes.
Q Now, did you ever see Chad beat his momma?
A No.
Q Did you ever see Chad beat his grandmomma?
A No.
Q Did you ever see Chad beat his daddy?
A They had a fight.
Q They did?
A And he pushed him, he fell and hit his head and he cut his head.
Q So you saw this, too?
A Yes.
Q And what happened after he fell and cut his head?

A Chad helped him up and he told us to go inside.
Q Do you know where Chad's daddy is now?
A No.
Q Where is your momma?
A Missouri.
Q Was she present when these photographs were made of Daughter 1 [redacted] and Daughter 2 [redacted]?
A Did she -- if she was there?
Q Yes.
A Yes.
Q So she saw these photographs being made?
A Yes.
Q And it was on Chad's camera?
A Yes.
Q Did he do anything with the photographs? Did he put it on a computer?
A I don't know.
Q You don't know if he put it on a computer?
A I wasn't with him all the time.
Q Did he have them developed? You know what "developed" means right?
A Printed?
Q Yes.
A Yes.
Q So he had them printed, right? Correct?

A Yes.
Q So those pictures would be in -- they'd look like -- they'd be like a photograph, wouldn't they? You could hold them, you could touch them? You didn't need to look at a computer to see them, could you?
A I guess not.
Q Did you see those pictures?
A Yes.
Q All right. And when did you see those pictures?
A When I was in Chad's bedroom.
Q So they were printed up in Chad's bedroom. Where were those pictures kept?
A The drawers beside his bed.
Q So he had those pictures in the drawer beside where he stayed, right?
A Yes.
Q And did the other two girls go in there and look at pictures in the drawers in his bedroom?
A No.
Q Just you?
A Yes.
Q And those were just pictures of -- those were pictures of [redacted] (Daughter 1) and [redacted] (Daughter 2), but they were not pictures of you?
A Yes.

Q Who do you live with now?
A My aunt.
Q What kind of camera does your momma have?
A I don't know if she had a camera.
Q I'm sorry, did you say she did not have a camera or did you say you didn't know if she had a camera?
A I didn't know if she had one.
Q You would know if your momma had a camera, wouldn't you?
A No.
Q How many laptop computers did Chad have?
A He had an old computer and one laptop that I know of.
Q So he didn't have more than one laptop computer?
A He could have. I only saw one.
Q What New Year's was this that you saw Chad taking pictures of the girls?
A I don't remember.
Q Was anybody shooting fireworks?
A No.
Q And where was your momma?
A With us.
Q So she was outside with you all when the pictures were being made?
A Yes.
Q Because she was the one taking the pictures, right?

A No.

MR. WILLIAMS: That's all I have, Your Honor.

THE COURT: Any redirect?

MS. MAYES: Yes, sir, Your Honor.

REDIRECT EXAMINATION

BY MS. MAYES:

Q Who was the person who took the pictures of your sisters with no clothes on?

A Chad.

Q Who was the person who told you to take off your shirt and go in the peach field?

A Chad.

Q Was that the same night he had taken the pictures in the tree?

A Yes.

Q I want to ask you a few questions just to kind of follow up on some of the things that you were just talking about.

Daughter 3

What, [redacted], is the most embarrassing part for you about being here and talking about this case?

MR. WILLIAMS: Objection, Your Honor. That was not directed to anything I brought up in cross-examination, that question was not.

MS. MAYES: I can rephrase it, Your Honor.

THE COURT: All right.

BY MS. MAYES:

Q Mr. Williams was asking you about the pictures. Do you remember talking to the lady at the house that you went to that's two stories and the ladies who worked there would have asked you some questions in the interview?

A Yes.

Q Do you remember going for that interview?

A Yes.

Q Do you remember talking to them about pictures?

A Yes.

Q Is that something you want to talk about?

A No.

Q He was asking about some of the places in the house. I just want to follow up on that a little bit more.

He was asking about parts of the house and how they looked at the time. This photo is a bedroom. Whose bedroom was that?

A The one that we stayed in.

Q Okay. And are the bunk beds the same?

A Yes.

Q Are the curtains the same?

A Yes.

Q Did you have a Guitar Hero back then?

A Yes.

Q What room did you all keep the Guitar Hero in

usually?
A The living room.
Q Okay. So what's different about this picture is that the Guitar Hero is now in this room?
A Yes.
Q Is this cabinet the same? Let me show it to you. This is State's Exhibit 70. Do you remember where that was in the house?
A Yes.
Q Where?
A By the front door.
Q Okay. If it's by the front door, would that be a bedroom or like a living room?
A Living room.
Q Okay. Now this is the picture that Mr. Williams was asking you about of a bathroom. And that's a little dark when we put pictures up there. I'm going to ask you to look at it now. Do you recognize it?
A Yes.
Q As what?
A The bathroom that we used.
Q Okay. Now one of the things he was asking you about was seeing pictures that were printed. Where is it you remember seeing pictures that had been printed?
A In a drawer that was on -- under -- made into the

bed.
Q Made into the bed. I'm going to ask you about that a little bit more. This is State's Exhibit 35. What is in this picture?
A What do you mean?
Q Okay. What is this picture of?
A Chad's bedroom.
Q Okay. Chad's bedroom. The bed that you told us about with drawers made into the bed, is it in this picture?
A Yes.
Q Okay. Now the pictures that you saw printed out, did you recognize anyone in the picture?
A Yes.
Q Who did you recognize?
A My sisters.
Q And did they have their clothes on?
A In some of them.
Q What do you mean by that?
A Like some pictures they had their clothes on and some they didn't.
Q Okay. So some they were dressed and some they weren't dressed.
Now that same picture I just showed you and you said the bed is the same, this is State's Exhibit 35,

again, what room is this?
A Chad's bedroom.
Q What is this room right here?
A The bathroom.
Q So that bathroom is right there and it's made part of his room; is that right?
A Yes.
Q And you said the bed is the same?
A Yes, sir.
Q Do you see here in the bed the part with what you said the drawers were made into the bed?
A The side.
Q On this side? Would that be right here?
A Yes.
Q And do those drawers pull out?
A Yes, sir.
Q Where was it that you saw the pictures that had been printed?
A There in the drawers.
Q The same drawers that are made into the bed?
A Yes.
Q And some of those were pictures of them without clothes on?
A Yes.
Q Now this photograph, is that the same room that we

just looked at there on the projector?
A Yes.
Q What is behind Chad in this photograph?
A The back door and the kitchen.
Q What else do you see in the room in this picture?
A The camera and --
Q What did he usually keep the camera in?
A The camera case.
Q Do you see the camera case in this picture?
A Yes.
Q Where is it?
A (Witness indicating.)
Q And looking at that picture, can you tell whether or not the camera was in that case?
A Yes.
Q What makes you think that?
A Because you can see it.
Q Where do you see it?
A (Witness indicating.) It's gray.
Q You remember him having a gray --
A Yes.
Q And that particular camera case, have you ever seen Chad with it before?
A Yes.
Q Who did it belong to?

A Chad.
Q Now Mr. Williams was asking you about whether you talked with anybody about this case and you said other than what happened. What does that mean?
A I --
Q Have you come up here and seen me before?
A Yes.
Q Have you seen Miss Wendy before?
A Yes.
Q And what is your job as a witness?
A To tell the truth.
Q And when you say other than what happened, did you tell us about what happened?
A Yes.
Q Mr. Williams was asking you how many times a year you got touched. Do you know the number of how many times?
A No.
Q Do you know if it was more than one time?
A Yes.
Q Was it more than one time?
A Yes.
Q Was the touching more at the beginning or more at the end of when you lived with Chad?
A Close to the beginning.
Q And when we talk about the end and when you actually

left the house, I believe your testimony was you were ten. So in the beginning how old were you?

A I was eight.

Q Do you remember every single thing that happened when you were eight?

A No.

Q Mr. Williams was asking about you about whether or not you've seen him get in a fight with father. Did you see that with your own eyes?

A Yes.

Q Do you know what they were fighting about?

A Because Chad wanted to use his dad's tractor.

Q And how did that turn into a fight?

A His dad said no and then Chad got mad.

Q And then what did Chad do when he got mad?

A Pushed him.

Q And did he bleed anywhere?

A His head.

Q And then what happened after he fell down?

A He helped him up and then he told us to go inside.

Q So you saw him help his dad up after that.

Have you ever seen him get in a fight with your mom?

A Yes.

Q And what happened?

A He pushed her.
Q And what happened?
A And -- well, some injury on her tailbone.
Q Where did you see him push her at?
A From the kitchen to his bedroom door.
Q Do you know what they were fighting about?
A Not at that time.
Q Who was angry in that fight?
A Chad.
Q Do you know why it is that your mom wouldn't drive anywhere when even he was at work?

MR. WILLIAMS: Objection, speculation.

MS. MAYES: Well, this issue --

THE COURT: She can answer if she knows.

MS. MAYES: Yes, sir, Your Honor.

BY MS. MAYES:
Q Let me ask you this: Based on what you saw, who set the rules in the house?
A Chad.
Q Did you follow the rules?
A We had to, and yes.
Q Did your mom follow the rules?
A Yes.
Q Did he have a rule about your mom driving his cars?
A Yes, sir.

Q Was she allowed to drive his cars?
A Unless she had his permission.
Q Okay. If your mom broke a rule of Chad's, what would happen?
A Argument, fight.
Q If you broke a rule, what would happen?
A We'd get in trouble.
Q What do you mean by that?
A Like get a whooping or cursing.
Q What kind of whooping did you get?
A With his hands, belt.
Q And who gave the whipping?
A Chad.
Q Did you ever ask him to touch your private parts?
A No.

MS. MAYES: Beg the Court's indulgence.

THE COURT: Yes, ma'am.

(Pause.)

MS. MAYES: Nothing further, Your Honor.

MR. WILLIAMS: Just two follow-up questions.

THE COURT: Yes, sir.

RECROSS-EXAMINATION

BY MR. WILLIAMS:

Q Now your mother's not here today to testify, is she?
A No.

Q In State's Exhibit No. 37 where you say that you see the silver phone which is in the case, right?
A Yes.
Q That's Chad's phone, right?
A Camera.
Q Camera. I'm sorry, that's his camera?
A Yes.
Q And is that the camera that he used to take the pictures?
A Yes.
Q How did this picture get taken?
A I don't know.
Q Did you take the picture?
A No.
Q You know what a selfie is, right?
A Yes.
Q That means that the individual that has the camera takes a picture of himself?
A Yes.
Q Chad couldn't have done a selfie with that, could he?
A No.
Q So there's probably another camera involved in that picture?
A Probably, yeah.
Q And since Chad's not taking the picture, somebody

else is taking the picture with another camera?
A Yes.
MR. WILLIAMS: That's all I have, Your Honor.
THE COURT: Thank you very much, ma'am. You may step down.
Call your next witness.
MS. PATTERSON: The State calls [redacted] (Daughter 2).
THE COURT: [redacted], please come around and be sworn, ma'am.
[redacted] (Daughter 2), after being duly sworn, testified as follows:
THE CLERK: Have a seat, please, ma'am. Once you're seated, speak up loud and clear. State your full name, spelling your last, please.
THE WITNESS: [redacted] (Daughter 2).

DIRECT EXAMINATION

BY MS. PATTERSON:
Q [redacted] (Daughter 2), how old are you?
A Fourteen.
Q When is your birthday?
A [redacted], 1999.
Q And where do you live, [redacted] (Daughter 2)?
A Campbell, Missouri.
Q And who do you live with in Campbell, Missouri?
A My aunt Peggy.

Q And when did you get to South Carolina this week?
A I got here Sunday, I think.
Q How did you get here?
A A plane.
Q Is that your first time riding a plane?
A Yes.
Q Were you scared?
A Uh-huh, yeah.
Q And what grade are you in?
A I'm going into eighth.
Q And what kind of subjects do you like in school?
A I like math, I like gym, I like social studies.
Q Let's talk about school for a moment. Do you take special classes at school?
A Uh-huh.
Q What kind of special classes?
A I take -- I'm not in there the whole time we have school, but, like, I have certain classes in there, like math, English, and I go in there if I need help on tests.
Q Is it like a resource class?
A Uh-huh.
Q And do you have a sister named [redacted] (Daughter 3)?
A Yes.
Q And you have a sister named [redacted] (Daughter 1)?
A Yes.

Q And who's the oldest out of your girls?
Daughter 1
A [redacted].
Q How do you girls get along?
A We argue a little every now and then.
Q And before you got here on Sunday, when was the last time that you'd seen your sisters?
A It's been a few years.
Q Do you miss them? Were you glad to them on Sunday?
A Uh-huh.
Q Now, where is your -- what's your mother's name?
A Christy Earnest.
Q And where does Christy live?
A Somewhere in Missouri.
Q Who do you live with in Missouri?
A My Aunt Peggy.
Q And how is your Aunt Peggy your aunt, is she related to your mom or dad?
A My mom.
Q And how is she related to your mom?
A It's her sister.
Q And when's the last time you saw your mom?
A A few day before I came here.
Q How's your mom doing?
A She's sick and she's on oxygen and she has emphysema and COPD.

Q And do you know the defendant Chad Hayes?
A Yes, ma'am.
Q Before we talk about Chad Hayes, do you know the difference between the truth and a lie?
A Uh-huh.
Q And what would happen if you told a lie like to your Aunt Peggy?
A I'd get in trouble.
Q And what do you think will happen if you tell a lie today in court?
A I'd probably get in trouble by the judge or something.
Q So today your testimony will be the truth or a lie?
A The truth.
Q And do you know the defendant Chad Hayes?
A Yes, ma'am.
Q How do you know him?
A We lived with him for four years and he was my mom's boyfriend.
Q And do you remember how old you were when you lived with him?
A I moved in when I was seven and I left when I was 11.
Q And your mom lived in the house, too?
A Yes, sir.
Q And your sisters [redacted] (Daughter 3) and [redacted] (Daughter 1) lived there as

well?
A Yes, ma'am.
Q And where did you girls -- where would you sleep when you lived with Chad?
A In the back bedroom on the --
Q I'm sorry.
A -- on the beds.
Q How many bedrooms were in the house?
A Two.
Q And who slept in the other bedroom?
A My mom and Chad.
Q How many bathrooms were in the house?
A Two.
Q And when you lived with Chad, when you first went to live there, did you want to live there with him?
A No.
Q Did your mom make you live there?
A Yes, ma'am.
Q And who were you living with before you moved in with Chad?
A My Aunt Ashley.
Q And how were you related to Aunt Ashley?
A It's my mom's sister.
Q So your mom has two sisters, Peggy and Ashley?
A Uh-huh.

Q Where did Ashley live in?
A In Monetta.
Q How long had you lived with Ashley before you moved in with Chad?
A Three or four months.
Q And when you first moved in with Chad was everything fine?
A Uh-huh.
Q Was he treating you girls okay?
A Uh-huh.
Q And do you remember a time when you lived with Chad that something inappropriate began to happen?
A Yes, ma'am.
Q And who would do these inappropriate things to you?
A Chad.
Q What would Chad do to you?
A He would touch us and whoop us.
Q And do you mean you and your sister Megan and Candace?
A Yes, ma'am.
Q Let's first talk about what Chad would do to you. Where would Chad touch you?
A In my vaginal area and my butt and my boobs.
Q When he would touch your boobs would your clothes be on or off?

A Sometimes both.
Q And what would he touch your boobs with?
A His hands.
Q What part of his hands?
A His fingers.
Q And when he would touch your butt, would your clothes be on or off?
A Sometimes both.
Q And when he'd touch your butt, what would he touch your butt with?
A His hands.
Q And when he would touch your vaginal area, would your clothes be on or off?
A Sometimes both.
Q Would he touch on the inside or outside or somewhere else on your vaginal area?
A Both.
Q And how do you know it was inside?
A Because I had could feel it and it felt different.
Q And what would he touch with you in your vaginal area?
A His fingers.
Q Did you ever ask Chad to touch you?
A No, ma'am.
Q And what would you see him do to your sisters?

A Take pictures and touch them and whoop them.
Q And who did you see him touch?
A Daughter 1 [redacted] and Daughter 3 [redacted].
Q Let's talk about Daughter 1 [redacted]. When you would see Chad touch Daughter 1 [redacted], where again on her body would he touch her?
A Her vaginal area, her boobs and her butt.
Q Would she have clothes on when he would touch her boobs?
A Sometimes.
Q And what did he touch her boobs with?
A His mouth and his hands.
Q And when he would touch her butt, would her clothes be on or off?
A Sometimes both.
Q And what would he touch her butt with?
A His hands.
Q And when he would touch her vaginal area, would her clothes be on or off?
A Sometimes both.
Q When he would touch her vaginal area, what did he touch her with?
A His fingers.
Q And Megan, when he would touch her, would her clothes be on or off?
A Sometimes both.

Q And what areas of her body would he touch?
A Her vaginal area, her boobs, and her butt.
Q And what part of his -- what would he touch those body parts with?
A His hands and his mouth.
Q Now you talked about taking photographs. Do you remember what Chad would use to take these photographs of you girls?
A A camera.
Q Do you remember what that camera looks like?
A It was a gray Sony camera, and then he had another camera, but I don't remember what color it was. I think it was turquoise.
Q So you remember Chad having two cameras?
A Uh-huh.
Q Did anybody else in the house use those cameras?
A No, ma'am.
Q When he would take pictures of you girls, where would you be?
A In different parts of the house and outside.
Q And in different parts of the house, which rooms do you mean?
A Like in the bathroom, in the bedrooms, and the living room.
Q And let's just talk about the pictures in the

bathroom. Who would be in the bathroom?
A Sometimes me and my sisters and Chad.
Q How would Chad get into the bathroom?
A We wasn't allowed to shut the door or lock it or anything. We always had to keep it open when we took a bath or whatever.
Q And whose rule was that?
A Chad's.
Q And what would happen if you tried to lock the door?
A We would get in trouble and get a whooping.
Q So would he just let himself in the bathroom?
MR. WILLIAMS: Objection to leading.
THE COURT: Sustained.
BY MS. PATTERSON:
Q And how would he get in the bathroom?
A He would just walk in.
Q And when he would take these pictures of you in the bathroom, would you have your clothes on or off?
A Sometimes both.
Q And what would you be doing in the bathroom?
A We would be taking a shower or using the restroom.
Q And would he tell you how to pose for these pictures?
A Yes, ma'am.
Q And what would he tell to you do?
A He would tell -- like if we was dressed, then he

would tell us to get undressed and do a pose, and if we didn't, then we was going to get in trouble.
Q When you talk about getting in trouble, did Chad discipline you girls?
A Yes, ma'am.
Q What kind of ways would he punish you?
A He would whoop us, send us to our room or make us write sentences.
Q And what kind of things would you get in trouble for?
A For saying -- accidentally slipping bad words out or hitting my mom or being mean to my sisters or breaking something that wasn't mine.
Q And what would he do to you?
A He would whoop me and send me to my room and make me write.
Q What would he whoop you with?
A A belt or his hands.
Q Did Chad ever yell at you?
A Yes, ma'am.
Q And do you remember seeing him do things to your mom?
A Yes, ma'am.
Q What kind of things would he do to your mom if he was mad at her?
A He would push her and make her fall and he would slap her and stuff like that.

Q And did your mom work outside the house?
A Only in our yard and he would help his grandma and them -- I meant she would help his grandma and mom out in the garden.
Q So did she have a job outside the house?
A No.
Q Did she really go anywhere?
A Not unless it was with Chad.
Q And let's get back to the pictures and the bathroom. Do you remember anything else ever going on in the bathroom besides taking a bath that Chad photographed?
A He showed us how to shave.
Q And when you mean shave, what area of your body?
A Our vaginal area.
Q And whose idea was it for Chad to shave your vaginal area?
A Chad's.
Q And did he approach you about shaving your vaginal area?

MR. WILLIAMS: Objection to leading.

THE COURT: Sustained.

BY MS. PATTERSON:

Q Who approached you about shaving your vaginal area?
A Chad.
Q And do you remember which bathroom you were in when

he shaved your vaginal area?

MR. WILLIAMS: Objection to heading. She didn't testify that Chad did the shaving up until this point when she's leading with the question, Your Honor.

THE COURT: She has testified to that. So what was the question?

MS. PATTERSON: Do you remember which bathroom you were in?

THE COURT: That's not leading. Overruled.

BY MS. PATTERSON:

Q But you remember -- who shaved you?

A Chad.

Q When he shaved you, did he touch your vaginal area?

A I don't remember. With the razor he did or with the shaver. I don't remember what it was.

Q And do you remember what that razor or shaver looked like?

A Uh-huh.

Q What did it look like?

A It was gray and it had a power button at the front of it.

Q Did you know who it belonged to?

A Chad.

Q Do you know where he kept it?

A In the bathroom on a white shelf beside the door and

beside the bathroom sink.
Q Whose bathroom was it kept in?
A Chad's.
Q And you testified that Chad would do the shaving. And where would you be inside the bathroom when he was shaving you?
A Either sitting on a towel on the toilet or in the bathtub.
Q Who would tell you where to sit?
A Chad.
Q And after he shaved you, what would he do?
A Take pictures.
Q And about how times would he shave you -- did he shave you?
A A few times.
Q And did he take pictures every time he shaved you?
A No.
Q Do you remember the first time he shaved you?
A (Witness nodding.)
Q And did he take pictures then?
A Uh-huh.
Q And do you remember any other occasions that Chad would take pictures of you?
A Uh-huh.
Q Did Chad ever take any other pictures of you without

your clothes on?
A Uh-huh.
Q Do you remember when that was?
A On New Year's Eve outside in the tree.
Q Do you remember which New Year's Eve this was?
A The last New Year's Eve we spent at his house.
Q Do you remember what year you left his house?
A 2011.
Q So this would have been like New Year's Eve 2010 to New Year's Day 2011?
A Uh-huh.
Q And what do you remember about that day?
A We made a fire outside and we ate, and after that he told -- he went and got his camera and told us to take our clothes off and get in the tree.
Q And did this include your sisters [redacted] (Daughter 1) and your sister [redacted] (Daughter 3)?
A Yes.
Q And did you all do what he said?
A Yes, ma'am.
Q And you took your own shirt off?
A (Witness nodding.)
Q And who would tell you how to pose?
A Chad.
Q And did he take the pictures?

A Yes.
Q And where was your mom?
A Inside on her oxygen machine.
Q And did he photograph you?
A Yes, ma'am.
Q Do you remember him photographing Candace?
A Uh-huh.
Q Do you know if he photographed Megan?
A I don't know.
Q And did he have you girls do anything else that evening?
A Not that I remember.
Q And going back to the shaving, do you remember seeing if he shaved anybody else?
A Yes.
Q And who else did you see him shave?
A Daughter 1 [redacted].
Q And was she in the same room with you?
A Not that I remember.
Q Do you know if he photographed her as well shaving?
A Uh-huh.
Q Did you ever see your mom use Chad's camera?
A No, ma'am.
Q Do you know what Chad would do with the pictures?
A I know he would take them to -- his SD card in his

camera and he would take his SD card out when he was done and I think that one day I seen him putting it in his computer, but I'm not real sure if it was the same SD card or not.

Q And how many computers were in the house?

A Three.

Q And did you ever use any of the computers?

A No, ma'am.

Q You never had to use them for your homework or anything?

A Huh-huh.

Q And who you see use the computers?

A Chad, and our mom used it once.

Q Which computer did your mom use?

A My mom used the laptop.

Q And you said you saw her use it only once?

A (Witness nodding.)

Q Now when Chad would touch you, do you know how many times he would touch you? Was it more than once?

A Uh-huh.

Q When he would take pictures of you, was it more than once?

A Yes, ma'am.

Q How many times did you see him touch your sisters?

A More than once.

Q How many times did you see him take pictures of them?
A More than once.
Q And before this week do you remember the last time you saw Chad?
A That we seen him the night before we left for school. Like he went to work early that morning and we was already at school before he got home.
Q Do you remember the day that your Aunt Ashley came to your school -- and your mom -- to get you?
A Uh-huh.
Q What school were you attending?
A Batesburg-Leesville Elementary.
Q Do you remember which grade you were in?
A Third or fourth.
Q How old were you?
A I don't remember.
Q And what do you remember about that day?
A I was, I think, 11. Yeah, I was 11 when we left.
Q And what do you remember about that day?
A My mom and my -- my mom packed our stuff and called my aunt to come get us and my aunt came and got us and went to the school and picked us up and we went to my Aunt Ashley's house.
Q And how long did you stay at your Aunt Ashley's house?

A Until my Aunt Peggy and my grandma got from Missouri to South Carolina.
Q Do you know about how long that it took them to come?
A I think it was the next day. They got there late that night.
Q And when they got there, did all of you and your mom and sisters go back with them?
A Yes.
Q And where did you live when you first got back to Missouri?
A In an apartment that my grandma was renting that went to her house.
Q And who lived in the apartment?
A Me and my sisters and my mom.
Q And did any of your sisters ever come back to South Carolina?
A Yes.
Q Who came back first?
A Megan.
Q And did anybody else come back?
Daughter 1
A And then [redacted] came.
Q And do you remember when you found out that -- do you know who told about all the touching with Chad?
A I think [redacted] or [redacted] told my Aunt Ashley and my Aunt Ashley reported it.

Q And do you remember when you found out that your Aunt Ashley did?
A Can you say that again?
Q Do you remember when you found out that someone had told your Aunt Ashley?
A Uh-huh.
Q And how did you find out?
A This lady contacted us and said that we had to come to Benton to do a video recording and talk to her and that's how we found out, and my Aunt Peggy called my Aunt Ashley and asked her what it was about.
Q Did you go to talk to that lady?
A Uh-huh.
Q Where again did you have to go and talk to her?
A I think it was Benton.
Q Do you know what kind of place that was?
A Huh-huh.
Q Do you remember the lady's name you talked to?
A (Witness shaking head.)
Q And do you remember telling her about the touching by Chad?
A Yes, ma'am.
Q And did you tell her all kind of other things about when you lived with Chad?
A Yes, ma'am.

Q Now when you lived with Chad, did Chad own any cars?
A Yes, ma'am.
Q Do you know how many cars he had?
A He had three cars and a few trucks.
Q And did anybody drive these vehicles?
A Chad and my mom drove one of his trucks to the store and back one day.
Q You just remember your mom -- how many times do you remember your mom driving?
A Once.
Q And do you know why she didn't drive?
A Because she didn't have a South Carolina driver's license and Chad wouldn't let her.
Q What kind of cars do you remember Chad having?
A He had three Mustangs and some trucks and an Expedition.
Q And what -- do you know what kind of trucks these were?
A Fords and -- I don't remember the other one.
Q So was anybody in the house into cars?
A Chad.
Q Did Chad have any weapons in the house?
A Yes.
Q What kind of weapons?
A Gun and knives.

Q Where would he keep the guns?
A In a safe beside his bed and he kept a pistol up above his head in a cabinet.
Q Do you know if Chad also had any other things that he would use with his computer?
A What do you mean?
Q Was anything else attached to his computer?
A I don't remember.
Q I'm going to show you what's been entered as State's Exhibit No. 7. I'd ask you to take a look at that picture. Do you recognize what's in that picture?
A Yes.
Q What's in that photograph?
A The tree that we took pictures on on New Year's.
Q And which tree do you recognize being the tree?
A The one behind -- right behind the shed.
Q And that's the picture -- I mean, that's the tree?
A That's the tree.
Q And did you point out this tree here?
A Yes, ma'am.
Q Now, do you remember when your Aunt Ashley and your mom came to pick you girls up from school?
A Yes.
Q Did you girls return back to Chad's house?
A No, ma'am.

Q So who packed up all your belongings?
A My mom.
Q And were you able to -- was she able to get everything?
A No, ma'am.
Q I'm going to show you what's been marked as State's Exhibit No. 30 and 32 and that's been entered. Do you recognize those pictures?
A Uh-huh.
Q And what do they show? What's shown in those photographs?
A Our toys and some of our clothes and our karaoke machines and your bedspreads and the toy on top of the desk. Our book bags.
Q Is there anything special in those pictures that you would have liked to take with you if you were leaving Chad's house?
A Yes.
Q But you all weren't able to return?
A (Witness shaking head.)
Q I'm going to show you what's entered as State's Exhibit No. 17 and ask you if you recognize this picture.
A Yes.
Q And what does that picture show?
A Chad's printers and his movie -- well, his CDs.

Q So do you remember Chad having those printers?
A Yes, ma'am.
Q And do you remember where Chad keep his computers?
A In this cabinet. There was one, like a dinosaur computer, right there where this printer was and then the laptop sat on top of this -- well, I think this printer was there, and I don't know where that printer was.
Q I'm going to show you what's been entered as State's Exhibit No. 35 and ask if you recognize that room. What's in that picture?
A Chad's bed and his bathroom and closet.
Q Okay. And where is his bathroom in that picture?
A Right here.
Q Where is the bathroom?
A Right here.
Q And I'm going to show you what's been entered as State's Exhibit No. 24. Do you recognize what's in that picture?
A Yes.
Q What it's that picture?
A The razors that he shaved our vaginal area with.
Q And this is the razor that you remember him using?
A Yes.
Q And whose razor was that?
A Chad's.

Q And whose bathroom is that?
A Chad's.
Q I'm going to show you what's been entered as State's Exhibit 29. Do you recognize what's in that photograph?
A It's the bathroom that was beside our room when we lived there.
Q And that's the bathroom that you girls used?
A Yes, ma'am.
Q I'm going to show you what's been entered as State's Exhibit No. 36. Do you recognize that room?
A Yes, ma'am.
Q And what room is that?
A Chad's bathroom.
Q And is there anything different in that picture than when you lived there?
A The shower curtain.
Q Okay. But other than the shower curtain does it look the same?
A Yes.
Q Heaven, I'm going to show you a couple of pictures. They haven't been entered into evidence, but I want you to take a look at them and see if you recognize them. This is State's Exhibit No. 58. Who is in that picture?
A Me.
Q And do you remember who took that picture?

A Chad.
Q And where was that picture taken?
A In his bedroom by his closet and bathroom.
Q Who told you to stand like that?
A Chad.
Q State's Exhibit No. 40, do you recognize who is in that picture?
A Me.
Q And who took that picture?
A Chad.
Q And where was that picture taken?
A By his bathroom and closet in his room.
Q Who had you stand like that?
A Chad.
Q I'll show you what's been marked State's Exhibit No. 39. Who is in that picture?
A Me.
Q And where was that picture taken?
A In Chad's room by his closet and bathroom.
Q Who took that picture?
A Chad.
Q And who had you to pose like that?
A Chad.

(WHEREUPON, State's Exhibit No. 74 was marked for identification only.)

BY MS. PATTERSON:

Q And this has been marked as State's Exhibit No. 74. Do you recognize -- there's not a head in that picture, but do you recognize who this is?

A Yes.

Q Who was this?

A Me.

Q How do you know?

A Because I have a scar on my stomach.

Q Okay. And do you know where that picture was taken?

A In Chad's room beside his bed.

Q Who took this picture?

A Chad.

Q And do you know what just had happened before you took this picture?

A He had just shaved me.

Q This has been marked as State's Exhibit No. 54. Who is in that photograph?

A My sister.

Q Do you remember seeing Chad take those pictures?

A Yes.

Q And where was that picture taken?

A In the tree behind the shed.

Q This is State's Exhibit No. 42. Do you recognize who's in that picture?

A Yes.
Q Who is that?
A Me.
Q And do you remember when that picture was taken?
A On New Year's Eve.
Q Who took that picture?
A Chad.
Q And where was it taken?
A Outside on -- behind the shed in a tree.
Q State's Exhibit No. 41, who's in that picture?
A Me.
Q And who took that picture?
A Chad.
Q And where was that picture taken?
A Outside on New Year's Eve in the tree behind the shed.
Q State's Exhibit 44, what about that picture?
A Me outside on New Year's Eve behind the shed.
Q Who took that picture?
A Chad.
Q State's Exhibit 62 and 63, who's in those pictures?
A Me.
Q And who took those pictures?
A Chad.
Q And where were they taken?

A Outside in the tree on New Year's Eve.
Q And who told you to stand like that?
A Chad.
Q 64 and 65, who's in those pictures?
A Me.
Q And where were they taken?
A Outside in the tree on New Year's.
Q Who took them?
A Chad.
Q And who told you to get in the tree like that?
A Chad.
Q State's Exhibit 43 and 45, you can't see the face, but do you recognize those, who's in those pictures?
A Yes.
Q And who was that?
A Me.
Q And how do you know?
A Because of the scar on my arm up there.
Q And do you remember when these pictures were taken?
A On New Year's.
Q Do you remember who took these pictures?
A Chad.
Q Do you remember what kind of car Chad drove most of the time?
A He drove a red Ford sometimes when we went out

somewhere and he drove a black truck to work and then sometimes he drove his motorcycle to work.

Q I'm going to show you what's been entered as State's Exhibit 26, 27, and 28, and ask you if you recognize first 26?

A Uh-huh.

Q Do you recognize --

A Uh-huh.

Q Whose car is that?

A Chad's.

Q And who drove that?

A Chad.

Q Did anybody else drive that vehicle?

A Huh-huh.

Q And what's in State's Exhibit 27?

A The green Mustang and the drag strip car.

Q Who was into drag racing?

A Chad.

Q And who was that -- who did that car belong to?

A Chad.

Q And did anybody else -- who drove that car?

A Chad.

Q Did anybody else drive that car besides Chad?

A Huh-huh.

Q I'll show you what's been marked and entered as

State's Exhibit 28. What's in that picture?
A His drag car.
Q And did you see anybody drive that car?
A No.
Q Do you know where it's located?
A By the shed by the front door.
Q When did you first meet me?
A Meet you?
Q Yes.
A Sunday.
Q And was that -- did we talk about anything?
A Yes, ma'am.
Q And is that the first time we ever talked?
A I believe so.
Q And -- but you do remember talking to a lady about this case?
A Yes, ma'am.
Q And when was that, if you remember?
A It was on the phone one day.
Q And did you say -- your Aunt Peggy, did she take you to talk to somebody in Missouri?
A Yes.
Q You told her about what you testified about today? Did you tell her about what happened at Chad's house?
A Yes.

Q And are those the same things that you told us about today?
A Yes, ma'am.
MS. PATTERSON: Beg the Court's indulgence, Your Honor.
THE COURT: Yes, ma'am.
(Pause.)
THE BAILIFF: Your Honor?
THE COURT: Yes.
THE BAILIFF: The juror I think needs a break.
THE COURT: All right. While you all converse we're going to take a break.
And if you would, ladies and gentlemen, please have no conversation about the case, but if you need something, a snack or whatever, please let them know.
(The jury left open court at approximately 11:18 a.m.)
THE COURT: All right. Now, while we take this break, ma'am, if you want to step down, you can step down and talk with folks, but don't have any conversation about your testimony. Okay?
THE WITNESS: Yes, sir.
THE COURT: Thank you, ma'am.
We'll be at ease for just a few minutes while the jury takes a break.

(A break was taken.)

THE COURT: Is the State ready to proceed?

MS. PATTERSON: Yes, sir, Your Honor, the State's ready.

THE COURT: Defense ready to proceed?

MR. WILLIAMS: Defense is ready, Your Honor.

THE COURT: You all help me out. We took a break, you were going to confer with counsel, and that's when the jury needed a break. So we're still on direct, correct?

MS. PATTERSON: Yes, sir.

THE COURT: All right. Let's bring the jury out, please.

(The jury came into open court at approximately 11:36 a.m.)

THE COURT: All right. Folks, thank you. And if you recall, we're still on Ms. Patterson's direct examination, so we'll continue with that.

MS. PATTERSON: Thank you, Your Honor. May it please the Court.

BY MS. PATTERSON:

Q Heaven, when you lived with Chad, do you know whether or not there was a peach orchard near the property?

A Yes, ma'am.

Q Had you ever been there?

A Uh-huh.
Q Do you remember under what circumstances you went there?
A He made us run in the peach orchard without our shirt on and then we'd ride go-carts back there.
Q Do you remember when it was he made run through the peach orchard without your shirt?
A On New Year's.
Q This is State's Exhibit 66, Court's Exhibit 6. Do you recognize what's in this diagram?
A Yes. The peach orchard is right there.
Q And where is the peach orchard?
A Right here.
Q And do you see Chad's house in this photograph?
A Yes, ma'am.
Q Where is it?
A The middle house right there.
Q And do you remember where the tree was that he would make you pose in?
A Right here.
Q And where is the peach orchard again?
A (Witness indicating.)
Q And do you recognize all those cars in the photographs?
A Uh-huh.

Q Are those Chad's vehicles?
A Yes, ma'am.
Q What did Chad's mom live?
A Over in the corner, in the house with the swimming pool.
Q Do you know where his grandmother lives?
A She lived right here.
Q You testified that Chad touched you in your vaginal area more than once?
A Yes, ma'am.
Q Do you remember it happening before you left for Missouri?
A Yes, ma'am.
Q And do you remember it happening -- do you remember when it happened before you left?
A A few days or weeks before we left, before my Aunt Ashley came and got us from Chad's.
Q Do you remember if during that time did you have clothes on or off?
A I don't remember.
Q Do you remember any of the other times that he would touch your vaginal area, do you remember about how old you may have been?
A (Witness shaking head.)
Q Do you remember if it happened after the New Year's

incident?
A Yes.
Q And would your clothes have been on or off?
A I don't remember.
Q And why didn't you tell anybody about what happened?
A Because I was scared that it would get back to Chad before we got home and that I'd get in trouble.
Q And just briefly, when it -- going back to the touching -- let me back up.

When you left Missouri, what grade were you in?
A I don't remember.
Q Do you remember how old you were?
A When we left to go to Missouri I was 11.
Q And again, when's your birthday?
A [redacted], 1999.

MS. PATTERSON: Beg the Court's indulgence, Your Honor.

(Pause.)

BY MS. PATTERSON:
Q You're doing really well, [redacted]. I have a few more things I'd like to clear up.

You testified earlier about him touching your vaginal area and about it being the inside and outside, and I asked how do you know it was the inside and you said it felt different. Do you know if that was still going on

before you left for Missouri?
A Yes, ma'am.
Q And, again, when you left for Missouri how old were you?
A Eleven.
MS. PATTERSON: Your Honor, I have no further questions.
THE COURT: All right. Cross.
MR. WILLIAMS: May it please the Court.

CROSS-EXAMINATION

BY MR. WILLIAMS:
Q How are you doing, [redacted]
A Good.
Q As I understand it, you don't remember the ages you were when my client allegedly touched you? You don't know if you were 11, 10, 9, 8, 7, 6?
A Huh-huh.
Q And let's talk about the location of where Chad Hayes' house is. Can you point to where Chad Hayes' mother lived?
A In the far corner over here by the swimming pool.
Q Right here?
A Yes.
Q Can you point to where Chad Hayes lived?
A Right in the middle.

Q Right here?
A Yes, sir.
Q And what is this right here?
A His dad's garage that he works in.
Q All right. And what's this right here?
A A carport that Chad kept his red truck under and his drag car.
Q What's this right here?
A It's where the next-door neighbor lived.
Q So the next-door neighbor actually used the same driveway that Chad used, right?
A Yeah, but they went over to this part.
Q So that when the neighbor would come in he would go back behind, right?
A Or she, yeah.
Q Or she. It's a woman?
A Yeah, and her little girl.
Q All right. Now, where is the tree that you said the photographs were taken at, where is that tree?

I'm going to ask you to step up this time, because I want you to -- if you don't mind, just kind of point at it.

A Behind the shed back here.
Q Behind the shed?
A Yes.

Q Can you see the tree on the picture?
A Yes.
Q All right. Can I ask you to stand back up again?
A Right there.
Q That's the tree right there, right?
A Yes.
Q Do you remember having a conversation -- I say conversation. When you were in Missouri you met with a lady, and I think you've already been asked about it, where they did a videotape, right?
A Uh-huh.
Q Her name was Catherine Blevins; is that right? Do you remember her name?
A I think it was her.
Q Well, even if you don't remember her name, you at least remember talking to some lady in Missouri?
A Yes.
Q And do you remember talking about what happened?
A Yes, sir.
Q Did you tell this lady while this videotape or this video was going on that the neighbor was out in the yard when these pictures were taken?
A The neighbor was walking down out of the driveway on to the road.
Q So you could see the neighbor from the tree?

A Yes.
Q So the neighbor could see you in the tree, right?
A I don't know if they seen us or not.
Q Let me ask you -- let's do a little test in physics All right. Let's see how this is going to work.

I can see you because my eye's pointed right at you and I can see you sitting on that bench, right? Can you see me?
A Uh-huh.
Q So normally unless there's an obstruction or something that turns so that you can't see, if a person can see the other person, the other person can see them?
A Well, they came out the front door and they walked down the driveway. I don't know if they turned around or not.
Q So you saw them come out of the front door?
A Well, that's where they came from, so I assume they came from out of the front door.
Q What did you observe about them walking around?
A What does that mean?
Q Did you see them walking down the road?
A Yes, because he was wearing a light shirt.
Q He?
A There was a guy that lived next door.
Q I thought you said a lady lived next door?

A There's been several people that lived there. His mom rented it out to several people. First there was a man and a lady and then there was some -- there's like three or four people that lived in that house when we lived with Chad.
Q Let's talk about when you were up in a tree.
A There was a man that lived -- a man and a woman that lived next door.
Q So when you told the lady that you saw the neighbors walking, you were referring to not the lady, but you were referring to?
A The man.
Q The man?
A Yes.
Q Because he had a white T-shirt on?
A Yes, and you could see it.
Q So are you saying that both of them were not out of the trailer or that just he was out of the trailer?
A Just he was out of the trailer walking down the driveway down to the road.
Q Walking down the driveway, so that's the same driveway --
A That we used when we lived there.
Q How far away was that location that he was walking down to where this tree was?

A I'm not sure.
Q Twenty yards?
A I don't know. It was quite a ways from -- the trailer was like passed out front -- well, like our trailer set back a little more than theirs and then the road was far a ways from their trailer and the tree was like way back behind and the shed blocked it.
Q So you're saying that you couldn't see the tree from where he was?
A I don't know if he could see it or not.
Q But you could see him?
A Yes.
Q Now are you saying that could you see him when you were in the tree or are you saying that you could see him when you're standing next to the tree?
A I could see him when I was in the tree.
Q How tall up in the tree were you?
A I was just right there where it split off to two branches.
Q How high up in the tree were you?
A Not very high, but I could see our driveway still, but I couldn't see their back door or their front door.
Q You could see the driveway where the guy was, right?
A Yes.
Q And when you say not very high, you didn't have to

have somebody help you get in the tree, did you?
A No.
Q Because you're talking about just stepping up into it?
A Well, like I had to pull myself up a little bit. Like, I had to like stick my foot pretty high up to step in the tree.
Q And where were your two sisters when this was going on?
A They were outside with me.
Q Did everybody have their tops off?
A Me and [redacted] did.
Q All right. So was your momma out there?
A No. She was inside of her oxygen machine.
Q You remember her distinctly being inside on her oxygen machine?
A Yes.
Q So you and [redacted] (Daughter 1) had your tops off. Were both of you all in the tree at the same time?
A No, sir.
Q Who was in the tree first?
A I don't remember that.
Q Did [redacted] (Daughter 1) get in the tree before you got in the tree?
A I don't remember that.

Daughter 1

Q Do you remember [redacted] getting in the tree?
A Yes.
MR. WILLIAMS: Beg the Court's indulgence one second.
(Pause.)
BY MR. WILLIAMS:
Daughter 3
Q Where was [redacted]?
A She was outside with us.
Q And did she have her top off?
A Not that I know of.
Q Did she ever take her top off and get in the tree?
A No.
Q So she never did that, right?
A Right.
Q Now let's talk about New Year's. You said that was New Year's Eve; is that right?
A Yeap.
Q Of what year?
A Going into 2011 maybe. Yeah, it was going into 2011.
Q So it was 2011, New Year's Eve of 2011?
A Well, it was actually the 2010 New Year's Eve, but it was changing over to the new year.
Q So it was 2010?
A Yeah.
Q Going into 2011?

A Yes.
Q And what had you all been doing?
A We had a bonfire and then we ate and then Chad made us take pictures in the tree and he made us run in the peach orchard without our shirt on.
Q All right. So you said you made an bonfire and you ate. Did you eat outside?
A Yes.
Q Did your momma get anything to eat?
A Yes.
Q Did you all bring it inside to her on the oxygen tent or was she out there eating?
A I think she came outside to get a plate and then she went back in.
Q You all didn't take the plate to her?
A No, because she was coming outside for a minute to smoke and she came and got her plate while she was outside.
Q So she came outside to smoke, then she got her plate, she went inside to eat and then went on the oxygen machine?
A Yes.
Q How long were you all outside having your pictures made?
A I don't remember.

Q Did Daughter 3 [redacted] ever take her top off?
A No, not that I remember.
Q So she didn't go running in the peach orchard with the other two girls?
A I don't remember that. All I remember is me and Daughter 1 [redacted] running in the peach orchard.
Q Well, what -- you don't remember Daughter 3 [redacted] running in the peach orchard?
A No.
Q Did Daughter 3 [redacted] go back inside?
A I don't know. We was in the peach orchard, me and Daughter 1 [redacted] were. How would I know if she went back inside?
Q I don't know.
A She was outside when we got back to our yard.
Q Okay. So you were running in the peach orchard, you came back and Daughter 3 [redacted] was outside in the yard standing there with Chad?
A Yeah, that's where she was when we was going to the peach orchard, but I don't know if she followed along.
Q Okay. So you didn't see her out there running, but she was back there when you got back?
A Yes.
Q How far did you run in the peach orchard?
A To a light pole and back.
Q Did you all stop and pick any peaches?

A No.
Q Were there a lot of peaches on the trees?
A I don't remember that.
Q Well, if there had been peaches on the trees you would have remembered it, wouldn't you?
A I don't know.
Q Do you remember whether or not that field produced a lot of peaches?
A Yes, it did.
Q So you remember seeing a bunch of peaches in the field?
A In the summertime we did because we used to go out there and pick them.
Q But you don't remember if you all picked any peaches when you all were out there?
A Yeah, I don't remember.
Q All right. Do you remember what you had on?
A No. Pants and -- before we were in the peach orchard I had a pants and a shirt on.
Q Do you remember what color the shirt was?
A No.
Q Let's talk about one other thing here before we move along. Is that the gray Mustang that Chad Hayes had?
A Yes.
Q Is that his drag car?

A Yes, sir.
Q Did he have another gray drag Mustang car?
A No.
Q That's the only gray Mustang he had?
A Uh-huh.
Q It's the only gray car he had, wasn't it?
A Uh-huh.
Q Is that a picture of how his gray quick silver drag racing Mustang car was when you lived there?
A He had -- when we first moved there, he had it over in the other part and then he -- no, it was sitting out in his yard because he didn't have the sheds at the time and then he built the sheds and he put it underneath the shed for a long time and then he transferred it over to that shed by the front door.
Q Okay. So he always -- I don't want to put words in your mouth, but at least from the time he had a shed, he always parked that gray Mustang in a shed?
A Yes.
Q Have you even ever seen him drive -- I use the word "drive" -- that dragster?
A Once.
Q And where did you see him drive that dragster?
A At a drag strip that we went to one night.
Q But you have never seen him drive that in his yard,

have you?
A I don't remember.
Q You've never even seen him move it out of a shed once he had a shed?
A I know we've pushed it before.
Q That's right, because it wouldn't run, right?
A Uh-huh.
Q So how many of it would it take you to push that gray Mustang?
A All of us.
Q It was heavy, wasn't it? He had to put it out of gear?
A Yeah.
Q It's pretty to look at, but it wasn't much to drive if it didn't run, was it?
A Uh-huh.
Q And it looked just like that?
A Yes, sir.
Q When the pictures were taken which you've talked about, when the pictures were taken which you say you were in a tree, do you know where the gray drag Mustang was?
A It might have been underneath the carport by the tree.
Q Underneath the carport by the tree?
A Well, the shed thing.

Q By the shed by the tree?
A Yes.
Q So there's a shed by the tree?
A Well, I called that thing a shed. It's actually a carport that you park under, which I call it a shed.
Q And again, the shed that we just saw in this picture, that's the one where he kept it in, right?
A He kept it in that one or the other one.
Q Well, when did he move -- when did he move to this one?
A After we got that one and put it up.
Q And when was that?
A I don't remember.
Q Well, you left -- you left to go to --
A Missouri.
Q Yeah. When did you leave to go to Missouri?
A In 2011.
Q What month?
A I don't remember.
Q You don't know what month you left?
A No. I think it was like in September or something like that.
Q Did you tell the lady in Missouri that you left in November?
A Not that I remember. I could have, but I don't know.

Q Well, let's say you left in 2011. When you left in 2011 -- so you say that these pictures were taken New Year's Eve of 2011, right? Isn't that what you said?
A It was going into 2011.
Q 2010 to 2011?
A Yes.
Q Did Chad Hayes have the shed which is reflected on that picture?
A Yes, he did.
Q So his car would have been in that shed, correct?
A Possibly.
Q Well --
A Well, I don't know if it was in that shed on New Year's or the other one because he rotated them back and forth sometimes. He never kept his cars in one spot. He always moved them around every day.
Q So he moved his cars around every day?
A Yes.
Q That includes the gray dragster which it took all of you all to push to move?
A He didn't move the drag strip car every day, but he moved all the other cars every day.
Q Let's focus on the -- let's focus on the dragster. Let's focus on the gray dragster.
That gray dragster would have been in the new

shed, wouldn't it?
A I don't know if it was there on New Year's. I don't know if he transferred it before New Year's or after.
Q When was the shed built?
A I don't remember that. They delivered it and we put it together.
Q All right. Let's go back to when you moved in, if you will, to Chad's house.
Where were you living before you moved in to Chad's house?
A In Monetta with my Aunt Ashley.
Q And how long you live with your aunt in Monetta?
A About three months, three or four months.
Q Three months or four months?
A It was either three or four. I don't remember.
Q Could it have been as little as two weeks to a month?
A I don't know for sure.
Q Could the time period that you lived with your aunt have been -- could it have possibly have been as little as two weeks to a month?
A I'm going to say it was three months.
Q Okay. And that's in Monetta?
A Yes.
Q So soon as you got to South Carolina you enrolled in school in Monetta?

A Yes.
Q And you stayed at that location approximately three months?
A Yes.
Q And you moved in in what part of the year?
A I don't remember.
Q When did you move into Chad's house?
A When him and my mom met. I don't remember what year.
Q Was it summer?
A We wasn't in school then, I don't think.
Q So you didn't have to move from school to school when you moved from Monetta to Batesburg-Leesville?
A Can you repeat that again?
Q You didn't have to move in the school year? You didn't have to leave one school -- because when you move from one residence to another residence, if it's in a different school district you have to move schools, don't U?
A Uh-huh.
Q Do you recall whether or not you had to leave your friends at whatever school you were in in Monetta and enroll in a different school within, say, a week or two, because you have to do it within a short period of time? You remember doing that?
A No.

Q So it would have been in the summer maybe?
A Maybe.
Q What year was that?
A I don't remember.
Q 2010?
A No. We lived with Chad in 2010.
Q 2009?
A We lived with Chad then.
Q All right. I'm getting there. 2008?
A We lived with Chad then.
Q 2007?
A Yeah, I think that's when.
Q Okay. So you moved in with Chad --
A We moved in with him in 2008. So I went to school in Monetta in 2007. Because 2008, I would have been seven and until 2011, I would have been 11.
Q Well, if you moved in -- you say you moved into Chad's in 2008?
A Something like that.
Q And it was -- or 2007? I want to make sure now.
A Well, we lived with him for four years and we moved out when I was 11 in 2011, so that would have been we moved in with him in 2008.
Q And you went to school in Ridge Springs/Monetta in 2007?

A Yes.
Q And you didn't go to Ridge Springs/Monetta in 2008?
A No.
Q Ever?
A No.
Q So that means you moved locations in the summer of 2008, right?
A It could have been. And it could have been on a weekend that we moved.
Q So you lived three months with your aunt. You moved in with Chad in the summer of 2008. So that means you moved to Lexington County in 2008, right?
A Yes, when we moved in with Chad.
Q You moved to -- wait a minute. If you moved to Aiken County in 2008 -- is Ridge Springs/Monetta in Aiken County?
A I don't know.
Q A different county, right?
A I don't know.
Q All right. You moved to South Carolina in 2008?
A No, I was there before 2008.
Q Where did you live?
A I lived with my Aunt Ashley in Monetta for like three months.
Q Did you live with anybody else in South Carolina?

A No, just my Aunt Ashley and her husband and her kid.
Q So you would have had to move in with your aunt in Monetta in 2008, right?
A How is that when we lived with Chad in 2008?
Q I'm sorry. I thought you said you moved from one school district to another after you stayed with your aunt for three months and it happened in the summertime.
A What I said is we lived with my aunt for three months and we went to Ridge Springs/Monetta Schools and then my mom and Chad met and then my mom was supposed to stay the weekend with Chad and then it happened to be us living with him for four years.
Q Why did you leave -- where you living before you moved to South Carolina?
A In Missouri.
Q With who? Who did you live with in Missouri?
A My mom and my grandma.
Q Anybody else?
A And my uncle and my sisters.
Q Why did you leave Missouri?
A Because my mom didn't want to live there no more because she didn't want us around drugheads.
Q What drugheads were you living around?
A Our whole town is full of drugheads. That's nothing but -- our town is full of drugheads. Every corner

there's a drughead.
Q Every corner?
A Yes, every corner. Every street has a house that has drugs on it. You can't even go to the park without somebody offering you drugs.
Q So she left because there were a bunch of drugs in that town, right?
A Yes.
Q Did she leave for any other reason?
A Not that I know of.
Q And she stayed in Missouri with her mother and her aunt?
A No. She lived with my -- we lived with my grandma and uncle.
Q All right. Your grandma and your uncle. Did you live with them the whole time that you all were in Missouri?
A No.
Q Who did you live with besides your grandma and your aunt?
A My mom in a trailer that my aunt owned.
Q And did anybody other than family live with you there?
A My mom's boyfriend, which he didn't stay long, and my uncle stayed with us for a little bit.

Q What was your mom's boyfriend's name?
A Rick.
Q Who is Justin Counts?
A One of my mom's ex-boyfriends that lived in Hawthorne or Gibson. We lived with him for a little bit.
Q All right. And who is the other guy that lived there?
A When we moved back to Campbell, a guy that my mom met. His name was Rick.
Q So you all lived with Rick how long?
A He lived with us.
Q How long?
A I don't remember that. I don't keep track of that.
Q How long did you all live with Justin Counts?
A I don't know.
Q Now, why is it that you left Missouri and moved to South Carolina?
A Because there was too many drugs there and my mom didn't want us around it.
Q Now, your mom didn't beat you, did she?
A No.
Q Do you remember telling the Solicitor that the times you would get in trouble would be when you would hit your momma?
A I would hit my mom, but my mom never beat me. My mom

has whooped me, but she has not beat me.
Q What's the difference between a whooping and a beating?
A A beating is where you leave bruises and stuff and a whooping is like one hit and it's not even hard.
Q And why would your mother whoop you?
A Because I would get in trouble and I deserved a whooping. I would call her bad names or whatever or I'd get in trouble at schools, hit my sisters, break something that wasn't mine.
Q And Chad would discipline you when you would beat on your mother?
A I never -- I hit my mom once in front of him and that was it.
Q How many times did you hit her when he wasn't around?
A I didn't hit my mom when Chad wasn't around.
Q All right. Well, let's talk about you said Chad beat on you all the time; is that right?
A He beat on all of us, even my mom.
Q And he took pictures of you all the time?
A Yes.
Q And your mother was where when this was going on?
A She was at our house.
Q Did she see Chad hitting you?
A Yes, but she wouldn't say nothing because if she said

something then he would hit her, and I wasn't about to let my mom get hit by somebody.
Q You hit her?
A I hit her along time ago. That's when I was littler and I got my butt whooped for it.
Q Did you have to go to the doctor because you had bruises on you?
A No.
Q Did you ever have any bruises?
A From who, my mom or Chad?
Q Either one.
A No, my mother never left a bruise on me, but Chad's left bruises on me and his sisters.
Q And where were those bruises on you?
A On my butt.
Q Anywhere else?
A Not that I remember.
Q So the only time you got a bruise is when you got a spanking, right?
A Yes. Or unless I fell or something or he pushed us into something.
Q In case you fell?
A Yeah, because I am clumsy.
Q So you got some bruises when he didn't spank you?
A Yes, but not on my butt.

Q So did you ever tell the guidance counselor that you were getting spankings from Chad?
A Yes, I did.
Q And they came out and checked that out; is that right?
A Yes.
Q And determined that it's okay to spank someone if they're your child and not doing correctly, right?
A I don't know exactly what they said, but Ms. Lambert asked them not to whoop us and Chad did not follow those rules, so...
Q So did you report it again?
A No.
Q Did you tell Mrs. Lambert that they were taking pictures of you and you were being sexually touched?
A No. Because I didn't want me and my sisters to get split up and not be able to ever see each other until we was like 20.
Q Well, the photographs, the camera that you say that pictures were used to take, describe that camera.
A It was gray and the lens came out on it and it was a Sony camera.

And then he had another one that was like an aqua color or it might have been like a bluish color.

Q So he had two cameras?

A Yes, he did.
Q Where did he keep his cameras?
A In his bedroom in a cabinet on his dresser. I never seen him put his cameras up because we was barely allowed to enter his room because every time we went in his room we got in trouble unless they told us to.
Q What did you do when you went inside his room?
A We was either talking to my mom or we was going to get something.
Q Were you using cameras in his room?
A No.
Q Is that silver camera the one right here?
A Yes, it is.
Q So you're telling us now that the turquoise camera would have been the camera that would have taken this picture; is that right?
A I don't know.
Q Well, did you take the picture?
A No, I didn't.
Q Did your momma take the picture?
A I don't know.
Q Did your momma have a camera?
A No, she did not.
Q Did you use the computer?
A No, I did not.

Q You don't want to know which computer I'm talking about? Did you use any computer?
A No, I did not.
Q How many computers did he have?
A He had two laptops and then like a -- I refer to a dinosaur computer.
Q So he had three computers?
A Yep.
Q Two laptops. And did you ever see him download pictures on a laptop?
A Not that I recall. I know I seen him putting something into the computer, but I don't know if it was an SD card with pictures of us on it or what it was. It could have been the pictures of us on vacation with his parents.
Q You went on vacations with his parents?
A Yes, and him. Well, we went on a vacation to Carowinds with just us girls and our mom and Chad and then his mom and them invited us to the beach with them.
Q And that would have been -- now during those times that you went with him, did mom -- did mom -- referring to his mom, did she ever take you all to the grocery store?
A Yes. Sometimes we went to the grocery store with them. We went to church with them. They took us out to eat.

Q Were you restricted in any way, meaning could you leave the house?
A Not without Chad, and we didn't go nowhere without him or his parents unless we went to school.
Q So he wanted to make sure that if you left the house you were with his mother or some adult supervision?
A Yes. He would only let us leave with his mom or his grandma or him. He wouldn't let us go spend the night with any of our friends, see any of our family, or anything.
Q Let me ask you this. When you were living with Chad, did you ever go visit with your aunt and your grandmother?
A No, I didn't.
Q Never?
A Never. We seen them -- my aunt in Walmart and we either had to duck our heads or turn the other way. And we seen them at the Poultry Festival and we went over there and talked to them and Chad got mad and walked off and was going to leave us and my mom ran after him.
Q So Chad wasn't concerned about keeping a hold of you, he was willing to leave you there with them; is that right?
A He said that he was going to the truck and we could talk to them and he got mad and so my mom went after him.
Q Was there problems between Chad and your aunt?

A He didn't like my aunt.
Q Did your aunt like him?
A I don't know. She never told me if she liked him. She probably didn't.
Q All right. Did your momma drive?
A She drove once.
Q Only once?
A Yeah.
Q And she drove the Explorer, is that right, or Expedition?
A No.
Q What did she drive?
A She drove the truck that Chad drove to work.
Q So she didn't drive an Expedition?
A No.
Q Did you ever see Chad hit his mother?
A No.
Q Did you ever see Chad hit his grandmother with a flying pan?
A No.
Q Because he wouldn't do that, would he?
A I don't know. He's hit his dad before I know.
Q You saw him hit his dad?
A Yeah. We was outside when he hit him.
Q So you three girls just happened to be outside and

saw him hit his dad?
A Yeah. Me, my sisters and my mom was outside.
Q Oh, your mom saw it?
A Yeah. My mom was sitting on the porch on the picnic table smoking when it happened. And when Chad hit his dad and then helped him up, then he told us to go inside.
Q Do you know where his dad is now?
A No.
Q Did you have access to -- why didn't -- why didn't you just call somebody and tell them that all these terrible things were going on in this house?
A Because Chad had us convinced that he had a camera recorder recording everything that we did and that he checked the phone bill.
Q When did you leave South Carolina?
A In 2011.
Q And how long was it from the time -- whatever month you left, how long was it from that time until you first told somebody that all these terrible things were going on?
A I don't remember that.
Q How many months?
A I don't know.
Q Were you living in South Carolina or Missouri at the time?

A I don't know. We were not -- I think when my aunt came and picked us up, we talked about it on the way to Missouri.
Q So it's your testimony you told your aunt back when you left the house when you all were going to Missouri that these things were happening?
A Yes. Our whole family knew when. My aunt and grandma got there, they knew he beat us and stuff.
Q And the sexual stuff?
A I don't know if they knew about the sexual stuff because I never mentioned it.
Q When did you mention the sexual stuff?
A I don't remember. But I know we mentioned the beating and stuff when they came to pick us up to take us to Missouri.
Q Had you told anybody before you were interviewed by the lady in Missouri about anything kind of sexual thing going on?
A I told my Aunt Peggy that I lived with.
Q And is she here today?
A No, she isn't.

MR. WILLIAMS: That's all I have, Your Honor.

THE COURT: Anything on redirect?

MS. PATTERSON: Just briefly, Your Honor.

REDIRECT EXAMINATION

BY MS. PATTERSON:

Q Heaven, when you and Candace was running in the peach orchard, you said you didn't know if Daughter 3 [redacted] was behind you or not in the peach orchard?

A (Witness nodding.)

Q And when you all were outside taking the pictures, was it daylight or dark outside?

A It was dark.

Q And how old -- do you remember how old you were when you went and talked to Ms. Blevins in Missouri?

A No.

Q Do you remember how old you were when you left South Carolina?

A I was 11.

Q And when would you have turned 12?

A December 30th.

Q And do you remember if you talked to Ms. Blevins before or after your birthday?

A I think it was before, yeah, because I talked to her on the 29th of 2012 and my birthday was the next day.

Q And when you left South Carolina had school been in very long?

A I don't remember.

Q And when you first moved in with Chad, you said how old were you?

A I was seven.
Q So do you think that when you were seven you remember all the details of when you first moved in or how you moved in?
A Like -- repeat that?
Q Do you remember when you moved in with him?
A No.
Q Do you remember what season it was in?
A Huh-huh.
Q When you were away from Daughter 3 [redacted], do you know what Chad was doing with her?
A No, I don't.
Q And how long was it when you and Candace was running through the peach orchard? How long were you running?
A Long enough to run to a light pole and back.

MS. PATTERSON: Beg the Court's indulgence.

(Pause.)

MS. PATTERSON: No further questions.

MR. WILLIAMS: One question, Your Honor.

RECROSS-EXAMINATION

BY MR. WILLIAMS:

Q You told the Solicitor that this interview was done the day before your birthday?
A Yes.
Q And the birthday being you would have become what age

that following day after the interview?
A Twelve.
Q Do you know why you would have done it the day before you turned twelve?
A No.
MR. WILLIAMS: That's all I have, Your Honor.
THE COURT: Thank you very much, ma'am. You may step down.
Come on up.
(A bench conference was held with the judge and attorneys in the presence of the jury but out of the hearing of the jury.)
THE COURT: Call your next witness.
MS. MAYES: The State calls Daryl Ballard.
DARYL BALLARD, after being duly sworn, testified as follows:
THE CLERK: Have a seat right up there.
Once you're seated, speak up loud and clear. State your full name and spell your last.
THE WITNESS: Daryl Lamont Ballard, B-A-L-L-A-R-D.

DIRECT EXAMINATION

BY MS. MAYES:
Q Mr. Ballard, where are you currently employed?
A Michelin North America, Lexington manufacturing

normally flow in and out, but if you would, ma'am, I'm going to get you to kind of lag back and take the first seat there. And then of course the two alternates -- there's only three reserved seats in the jury box and it's those three. The rest of you sit wherever you're comfortable. Okay?

All right. Well, we're back from the lunch break and we're still on the State's case, so I would recognize Ms. Mayes for the State's next witness.

MS. MAYES: The State calls Laurie Caldwell.

THE COURT: Ms. Caldwell, if you'd please come around and be sworn.

LAURIE CALDWELL, after being duly sworn, testified as follows:

THE CLERK: Have a seat right up there.

Once you're seated, speak up loud and clear. State your full name and spelling your last on the record, please.

THE WITNESS: My name is Laurie Bernadette Caldwell, C-A-L-D-W-E-L-L.

DIRECT EXAMINATION

BY MS. MAYES:

Q Ms. Caldwell, could you tell us where you're currently employed?

A I am currently employed at the State Law Enforcement

Division, more commonly known as SLED.

Q And tell us a little bit about your work history and what led you in the position you're at currently.

A I started at SLED in 1986 in the missing person and missing and exploited children section and went to the police academy several months later. And during those five years in that particular section, I investigated mostly missing and exploited children, but some missing adults.

After that I transferred to what we refer to as the Midlands region, in which I spent the next 25 years, and in that region is ten counties, to include Lexington, and I did criminal investigations, primarily a huge focus on crimes against children and crimes against vulnerable adults, but it included a lot of other things like officer-related shootings or support to local law enforcement on major events or disasters like hurricanes or just for support and -- go ahead.

Q What can you tell us about your educational background and training that led you to become a SLED agent?

A Well, becoming a SLED agent was somewhat an accident. I attended the University of South Carolina, started in 1980 and ultimately graduated in 1986 with my master's in social work. My last semester in graduate school I took a

part-time job in the missing persons center. And I do have an associate's degree in criminal justice, so I have an interest in the criminal justice system, but always knew that I would most likely work with juveniles in some capacity.

From there I took the full-time job and then my training started overlapping with the missing person and missing child -- at that time missing children was the hot legislative topic because of an incident that had taken place in another state, and so states started passing legislation and opening missing person centers within their state police. And when a child is missing, so often there is exploitation, so my training started overlapping with the missing child aspect as well as the exploitation, whether it be that they're missing, whether they be physically abused, sexually abused, neglected, whatever type of exploitation.

Q Now, have you ever worked outside of the State Law Enforcement Division?

A I have.

Q And most recently in what capacity?

A I retired from SLED May 28, 2011, and May 7 -- excuse me -- I hope I said February 28, 2011, and then started on March 17, 2011, at the Dickerson Center for Children.

On March 1, 2011, I took my social work

licensing exam, which is a national exam, passed that and began my employment at the Dickerson Center on the 17th of March.

There I oversaw the forensic interview program and I was the primary forensic interviewer. I interviewed the majority of the children that came through our doors, but also supervised those and other responsibilities as well.

Q Now, the Dickerson Center for Children, what exactly is meant by the term "child advocacy center"?

A A child advocacy center is just as the name sounds, it is if a child has possibly experienced violence or been a witness to violence, an advocacy center is designed to be like a one-stop shop for them that is child friendly to prevent them from having to go into a sheriff's department, a police department. It is child friendly and it's comprehensive. Everything they need to meet their needs takes place under that one roof, making it more child friendly.

Q Now, did the work at the Dickerson Center for Children include an assessment of child abuse?

A Yes, it does.

Q Does that include child sexual abuse?

A Yes, it does include child sexual abuse.

Q Does that include child sexual exploitation?

A Yes, it does.
Q What is mean by the term "forensic interview"?
A Forensic interview is basically a real fancy term for an interview that's designed for children. We question children different than we question adults. Because children can be quite suggestible, we approach children in open-ended questions so that we can solicit their narrative and not ours. We leave it to the what, when, where, who, how, so that we can have them tell us instead of us suggesting a direction to go in.
Q All right. And now specifically as to children under the age of 12, what, if anything, is significant about forensic interviews for children in that age group, under 12?
A Well, South Carolina has a special law concerning that. They have made a provision where that all children under the age of 12, they have to be videoed during their forensic interview. That is standard operating procedure that is mandated, and then the mandate, the provisions made for that video to be admitted into court.
Q All right. Now, when a forensic interview is conducted with a child, who is allowed to be present in the room for that interview?
A No one's allowed other than the child and the person conducting the interview.

Q And for what reason is that?
A We're seeking uncontaminated information. We do not want any influence from an outside party, whether it be a caretaker, a parent, a law enforcement officer, Department of Social Services.
Q What type of questioning format is used during the course of the forensic interview?
A Open-ended questions, like who, what, where, how, and when.
Q And how do you go about assessing a child's knowledge of their physical anatomy?
A At the time we were using a model called Child First and we use an acronym called RATAC, and we would introduce anatomical drawings. They are not actual pictures of children. They are, like I said, a drawing. And we start at the head and go all the way to the toes asking them to name the different body parts. We do not draw any special attention to any part of the body.
Q What training specifically have you received that relates to interviewing child victims or witnesses?
A I started training back in 1986, starting with the South Carolina Police Academy, I went through their child abuse, two-week child abuse investigative school. I've attended numerous seminars through Greenville Technical College, the FBI, the Federal Law Enforcement Training

Center, the Southern Police Institute which is located at University of Kentucky, the Children's Law Center located at the University of South Carolina. I have been to some national symposiums, always trying to keep -- there's always a review of forensic interviewing. There's always colleagues out there that are looking to see how can we improve it or what's working, what's not working, so it's a continuous educational process.

Q All right. And can you tell us whether or not during the course of your work at the Dickerson Center for Children you had the opportunity to conduct a forensic interview with a child by the name of Daughter 3 [redacted]?

A Yes, I did.

Q Can you tell us whether or not the procedures that you've mentioned previously, which include non-leading questions, were utilized during Daughter 3 [redacted]'s forensic interview?

A Yes. I interviewed her with an open-ended process.

Q Can you tell us whether or not an audio and visual recording of that interview occurred?

A Yes, I video recorded it.

MS. MAYES: Your Honor, may we approach?

THE COURT: Yes, ma'am.

(A bench conference was held with the judge and attorneys in the presence of the jury but out of the

hearing of the jury.)

THE COURT: All right. Ladies and gentlemen, I have a matter of law that I need to take up, so if you would step back into the jury room, I'll bring you back out shortly.

(The jury left open court at approximately 3:10 p.m.)

THE COURT: Yes, ma'am, Ms. Mayes.

IN CAMERA DIRECT EXAMINATION

BY MS. MAYES:

Q Ms. Caldwell, before you do you have a copy of your CV?

A Yes, I do.

Q And does it note any specific training you have received that would include forensic interviewing?

A Yes, it does.

Q And does that generally just name what you previously testified about on the record?

A Yes, without naming all the different sponsors of the training.

Q Did you prepare that CV yourself?

A Yes, I did.

MS. MAYES: Your Honor, at this time we would ask it be marked as a Court's exhibit.

THE WITNESS: It's just missing my current

employment under "work experience."

(WHEREUPON, The Court's Exhibit No. 7 was marked for purposes of the record.)

BY MS. MAYES:

Q Is it possible for you to estimate how many forensic interviews you've conducted while at the Dickerson Center for Children?

A I've conducted well over two thousand.

Q All right. And prior to your leaving to go back to the State Law Enforcement Division --

A May I go back for a second?

Q Yes.

A Did you say at the Dickerson Center for Children or my entire career?

Q Well, I'll ask about your entire career.

A Yes, I'm sorry, because the Dickerson Center, those three years I did not interview two thousand, but over my entire career it would be well over two thousand.

Q And then during the time you were at the Dickerson Center, what role did you play at the Dickerson Center? What was your specific assignment concerning forensic interviews?

A I was a supervisor over the forensic interviews and the primary interviewer for quite sometime.

Q Now, can you tell us whether or not your training and

experience include asking questions during the investigative interview which are non-leading in nature?
A Yes.
Q And can you tell us whether that was utilized during Daughter 3 [redacted]'s forensic interview?
A That was utilized, yes.
Q And can you tell us whether or not you reviewed her interview?
A I did review her interview.
Q Can you tell us whether or not the information that she provided during the course of interview represented a detailed account of the allege events?
A It did.
Q How so?
A She talked about location and her age and the grade she was in and who all was living in the home and different sexual acts.
Q All right. And based upon your training and experience, you would consider that a detailed account?
A Yes.
Q Can you tell us whether or not having viewed the statement and interview in its totality it contained internal coherent?
A Yes. It was logical, it had no fantastical elements to it like, you know, a monster came out of the closet and

touched me.
Q All right. Did it seem to flow from a starting point to an ending point?
A It did. It flowed from -- she gave the age that it began and the age that it ended.
Q Did she appear to be competent?
A Yes, she did.
Q She understood your questions?
A Yes, very much.
Q And she spoke with you logically?
A Yes, she did.
Q She was able to respond to the questions that you posed?
A She responded to the open-ended questions, yes.
Q And in addition to that, was she able to give specific information about various rooms of the house?
A Yes, she was.
Q About events that occurred outside the house?
A Yes, she did.
Q About her family members?
A Yes.
Q Was she able to distinguish between events in the past and current events?
A Yes.
MS. MAYES: Your Honor, that is all we would

proffer at this point from Agent Caldwell.

THE COURT: Does defendant have any questions?

MR. WILLIAMS: Just a couple of question, Your Honor.

IN CAMERA CROSS-EXAMINATION

BY MR. WILLIAMS:

Q You said that there was an error in your curriculum vitae which I assume would be because you're now working with SLED?

A Correct.

Q And you can't work for both at one time?

A No. No. I will say that in my first employment with SLED, I was on loan to the Dickerson Center, but not drawing a paycheck from them.

Q So how long did you actually work at the Dickerson Center?

A Three years, two months.

Q And during that time span how many forensic interviews did you do?

A I'm going to have to estimate.

Q Okay.

A Well over five hundred because I do remember my first year conducting about 256.

Q And the last time you worked at Dickerson Center is when?

A I left there April 18, 2014.

MR. WILLIAMS: Thank you, Your Honor. I think that's all the questions I have.

THE COURT: All right. Anything further, Ms. Mayes?

MS. MAYES: No, sir, Your Honor.

I do want to inform the Court while we are in camera, that at the close of any testimony concerning the child forensic interviewing and the potential publication of that interview to the jury, we will proffer testimony in front of the jury of Ms. Caldwell in a completely separate area, which is child abuse and assessment, to discuss the manner of delayed reporting, but that's a separate area of testimony and separate area of expertise, so I just wanted to go ahead and inform the Court that we would proffer that at a later point.

THE COURT: Well, I find based on the testimony that I've heard and that's been presented, that the forensic interview, a copy of the forensic interview, a video of the forensic interview does appear to have the proper and appropriate indicia of reliability based on the method used to conduct the interview, the environment regarding the interview.

And let me ask: Is there an objection to the admission of the video?

MR. WILLIAMS: Your Honor, there is not an objection to it because I think she's entitled to play this. The child is under the age of 12.

THE COURT: Clearly you can cross-examine the witness.

MR. WILLIAMS: The only concern I have is, as I heard, that she was going to be qualified or at least be asked questions in regards to delayed reporting and has to do with the mechanics of how that process is conducted. Because the Court and I'm sure the Solicitor knows about State versus Cromer talks about what forensic examiners can testify to and how they're not supposed to give their opinion in reference to the validity or truthfulness of the person they're interviewing. I want to make sure that there's not any questions when they talk about delayed reporting and abuse like --

THE COURT: Well, I don't mean to interrupt you, but this may -- I don't know, this may be appropriate to take up at the point that you want to proffer that testimony regarding that. Right now I just want to really deal with the admissibility of the video.

MR. WILLIAMS: I'm okay on that, Your Honor.

THE COURT: And I find that it is admissible and appropriate.

MS. MAYES: We're going to go ahead and bring

the equipment over and make sure it's in working order.

THE COURT: Go ahead and do that.

But hold on to that thought, Mr. Williams, and we'll address that when we come to that.

MR. WILLIAMS: Yes, sir.

MS. MAYES: And for the record, just to go ahead and take up any concerns, we do not intend to ask any questions on the delayed report that are specific to Daughter 3 [redacted]. It will be general questions of those matters.

MR. WILLIAMS: Then I should be fine.

THE COURT: Okay.

(A break was taken.)

THE COURT: All right. Are we ready?

MS. MAYES: Yes, Your Honor.

THE COURT: Defense ready?

MR. WILLIAMS: Yes, Your Honor.

THE COURT: Bring them out, please.

(The jury came into open court at approximately 3:29 p.m.)

THE COURT: All right.

MS. MAYES: Yes, sir, Your Honor.

CONTINUED DIRECT EXAMINATION

BY MS. MAYES:

Q I believe just before that matter, I had questioned you as to whether or not a forensic interview was

conducted at the Dickerson Center for Children with a child by the name of Daughter 3 [redacted].

A Yes.

Q And did you have information as to the age of Daughter 3 [redacted] at the time she received her forensic interview?

A At the time I interviewed Daughter 3 [redacted] she was ten.

Q And what was the date of that interview?

A I interviewed her on January 10, 2012.

Q So at the time you're conducting the interview she is ten years of age?

A That's correct.

Q Can you tell us whether or not it was recorded as you mentioned previously pursuant to protocol?

A Yes, it was recorded.

MS. MAYES: Your Honor, at this time the State offers the forensic interview of Daughter 3 [redacted] for evidence.

THE COURT: It's in evidence without objection.

(WHEREUPON, State's Exhibit No. 76 was marked for identification and received into evidence.)

MS. MAYES: We ask permission to publish.

THE COURT: Yes, ma'am.

(The DVD of the forensic interview was played for the jury but not transcribed.)

BY MS. MAYES:

Q Now during the course of that interview, you had the child identify certain body parts?
A Yes, I did.
Q In addition to that, can you tell us whether or not at different points in the interview you questioned the child to distinguish between touching of the inside and the outside?
A Yes, I did.
Q Specifically as to the inside and outside of the vagina?
A Correct, I did.
Q And how many times did you ask her about that?
A I didn't count, but I believe it was more than one time.
Q Okay. Did you pose a general question concerning touching inside or outside?
A Yes, I did pose a general question.
Q And later did you ask an additional question concerning the bathroom?
A Yes, I did.
Q All right. And why did you ask the additional question about touching inside or outside on that occasion in the bathroom?
A Well, she was pointing out a specific incident, so I wanted to know exactly what had happened, had it been a

touch on the outside of her vagina area or on the inside.
Q Okay. As to that specific incident that you were questioning about in the bathroom, what was her response?
A She stated that he'd touched her on the outside.
Q And as to the general question you posed earlier as to whether there had been touching on the inside or the outside of the vaginal area, what was her response?
A She said both.
Q Now, at a point in the interview you stepped out of the room. Why was that?
A It is normal for us to consult with someone that might be watching the interview, and let me just say that the only individuals that watch an interview would be the investigating officer if they're able to attend the interview, or Department of Social Services if they're able to attend, or a co-worker that also conducts forensic interviews. I guess the old saying two heads is better than one because it is very easy to miss something, so it's nice to have that backup. And we also in this case Brooke Wymer was watching and it also allows for peer review within our own agency.
Q And at a point where you stepped out, Daughter 3 [redacted] spoke out loud while she was alone in the room.
A Yes, she did. She started speaking directly to the camera.

Q Can you tell us during your experience there at the Dickerson Center, whether that's happened before with other kids in other cases?
A That has happened before.
Q And through your training and experience, can you tell us whether or not children express themselves in different ways?
A Yes, they do.
Q Now, I want to go into an additional area of questioning that is beyond what we discussed here with Daughter 3 [redacted] and her forensic interview, which was the forensic interview that you conducted in January of 2012.

You testified previously that you had experience through the years investigating cases of child, alleged child sexual assault and child sexual exploitation with the State Law Enforcement Division; is that correct?
A Yes, 25 years at the State Law Enforcement Division and then my three years at the Dickerson Center for Children.
Q Is it possible for you to estimate how many cases you have worked in the past concerning child sexual assaults? Just a general number?
A A general number.
Q Would it be over two hundred?
A Yes. And often my role was assisting. Sometimes I

was the lead investigator depending on the county or the city police department, what they requested, and then other times I assisted maybe with just the forensic interview and that was all I did. It just depended on their request.

Q All right. And have you also attended courses, seminars and additional training in the area of child sexual abuse and sexual exploitation?

A Yes, I have.

Q In addition to that, have you had an opportunity to work in the field of social work?

A Yes.

Q In what capacity?

A I am still, even though I'm a certified law enforcement officer, I'm a licensed social worker, and during those three years at the Dickerson Center for Children, I conducted on a very limited basis therapy. And the therapy model that is used at the Dickerson Center for Children is trauma focused cognitive behavioral therapy, which is an evidence-based therapeutic model. I also worked with the non-offending caregivers and conducted protection clarification therapy.

Q All right. And just to clarify, your work as a social worker, are you licensed?

A I am licensed in the state of South Carolina.

Q And that's to provide therapy as you mentioned previously?
A Yes.
Q And that includes therapy to victims of sexual abuse?
A Yes.
Q Through that training and experience, are you also familiar with the literature in the field of child sexual abuse?
A Yes, I am.

MS. MAYES: Your Honor, at this time the State would offer Laurie Caldwell as an expert in the field of child abuse assessment.

MR. WILLIAMS: I have a question, Your Honor, on qualifications.

THE COURT: Certainly.

VOIR DIRE EXAMINATION

BY MR. WILLIAMS:

Q Ms. Caldwell, as I understand it, essentially you were with SLED up until three years when you worked at the Dickerson Center?
A That's correct.
Q And you subsequently have gone back to SLED?
A Yes. I returned to SLED on April 23rd of this year.
Q And you hold a master's, is that right, in social work?

A Yes, sir.
Q And you hold an associate's degree in criminal justice?
A Correct.
Q You do not hold a BA degree --
A No, actually I do.
Q -- or a BS degree in anything?
A No, I have a bachelor of arts in interdisciplinary studies. I finished that in 1984 and went directly into graduate school.
Q And what is interdisciplinary studies?
A It was a program -- I don't know if Carolina has it still -- where you can go -- you know, after I completed my associate's degree, I could continue and finish a bachelor's degree with a focus. My focus was in sociology and social work, but they don't call it that. They call it bachelor of arts of interdisciplinary studies.
Q And what societies are you a member of?
A I believe that a couple of my memberships have elapsed, but I was a member for quite sometime and served on the board for the South Carolina -- all right, it's called SCPSAC, South Carolina Professional Association of Professionals in Child Abuse, and the national association for that, which is called APSAC, American Professional Society -- I always forget exactly what it is because

nobody ever calls it that, they use the acronym all the time -- American Professional Society of Professionals in Child Abuse. And I served on the board for SCPSAC, which is the South Carolina chapter, the managing board for two years while I was at the Dickerson Center for Children.

Q So my question was, what memberships are you currently a member of? What societies are you a member of now?

A I'm not now because they lapsed earlier this year and I have not renewed them.

Q And to maintain that membership are you required to take any additional studies or is it just simply a test, if you will?

A No. I have to pay a fee. I still maintain my license in social work; it is current, it is up to date.

Q And your license in social work, is that a yearly license in social work or does it carry over for more than one year?

A It carries over for two years.

Q And the reason why you would still have that is you've gone back to SLED recently, right?

A That is not the reason that I still have my license. I have my license because I keep up with continuing education.

Q Tell me what continuing education you have taken for

child abuse. I think you've been qualified as an expert in child abuse --

A Assessment?

Q Assessment. What programs have you attended this year to maintain your, I guess, expertise if you will in child abuse assessment?

A I don't believe I've attended any this year, and I would have to go back and look, but I was in training last year. I will have to -- I'm required I believe it's 40 hours within two years, and I know I have at least 20 from 2013 and will be taking some more continuing education classes this year before the end of the year.

Q And that is simply to maintain your position as a social worker?

A To maintain my license in social work.

Q But not as an expert in any type of child abuse? Social work encompasses more than just child abuse, doesn't it?

A Correct. People go to different areas. Some work with alcohol and drug abuse. Some work in domestic violence. The field is wide.

MR. WILLIAMS: Your Honor, that's all the questions I have for her.

I do not stipulate that she is an expert in child abuse.

THE COURT: All right. I find that she's qualified based on her experience and her training in that area and I'm going to qualify this witness as an expert in the field of child abuse assessment.

BY MS. MAYES:

Q And just some brief follow-up, Ms. Caldwell.

Have you testified previously in a court of law as an expert in the field of child abuse assessment?

A Yes.

Q And does that include as recently as February of this past year, 2014?

A That's correct, in this courtroom.

Q Now, discussing child abuse assessment, let me ask you this: What is meant among child abuse professionals by the term delayed disclosure or delayed reporting?

A Exactly what it sounds like. It means that after an incident something was not reported immediately. There was a delay, whether it's one day, whether it's one year, whether it's month or years.

Q What are some examples that you have seen through your various training and your own clinical experience of the various time frames that there may be a delayed report of child sexual abuse?

A I have seen a delay anywhere where -- I've seen it where there's no delay, where a child tells immediately,

or a child tells two years later, or I've had parents sitting in the room while I'm gathering background information and getting legal forms signed, that they break down and cry and say, I've never told anybody this, but I'm a victim of sexual abuse. So it's a very, very wide range.

Q And in your experience, how common is delayed reporting among victims of child sexual abuse?

A It is more common than a child telling immediately.

Q What, if any, statistics have you personally had the opportunity to compile from a clinical experience concerning delayed reporting?

A When I was still at the Dickerson Center for Children, I looked at some of the cases that had come in and -- excuse me -- between January 1st, 2014, through February 25th, 2014, and we had at the Dickerson Center interviewed 35 children. Of those 35, 29 were delayed disclosures.

Q So 29 out of 35?

A Correct.

Q Now, can you give us some information concerning the various factors that may play a role in a child's delayed reporter of sexual abuse or sexual exploitation?

A There are a lot of factors. You know, it depends on the child and everything. But it can be fear where

there's threats. There may be domestic violence, there may be physical abuse. There may be abuse of animals.

There's -- you think about a child, too, they're dependent on grownups. Where are they going to go? They can't say I'm going to stop this abuse and move out and get my own apartment and they're under the age of 18. So -- and if there's a lot of confusion, their sexuality is developing in an abnormal way and they may think it's normal because they've been told it's normal, and sometimes negative attention is better than no attention at all.

There could be a caretaker in the home that is not protective, so now you've got a caretaker that is doing the abuse and a caretaker that's not protective or embarrassment and shame. We think about how many of us want to go to work or school and say, well, let me tell you about my last sexual experience. So again, their sexuality is developing in an abnormal way and it's very confusing to them.

There often are gifts. There could be -- there's no secret that if you have a parent that is unemployed, if you tell them the home is going to be disrupted, so there could be a place, a situation where there is not a second income or we're going to lose our home, somebody is going to possibly go to jail, and often

they are very fond of their perpetrator even though they don't like what they're doing.

Q And you're speaking in general about various cases you're seen through the years?

A Yes, just what I've seen over the course of years.

Q How may a child's delayed report of abuse be affected if the perpetrator, the person committing the abuse, is a family member or someone in the home?

A It is more common for children not to report right away if it is someone they're close to, someone in their home more so -- they may be quicker to report if it's their bus driver or their coach or the next-door neighbor.

Q Through your training and experience, what are some tactics or measures that may be used by a perpetrator to encourage a child to not report?

A With children -- I mean, the perpetrators often make a conscious decision to befriend a child. They want to gain their trust. They want them to like them and they may shower them with gifts or special trips or special privileges. They make that friendship, they make that bond. And they start to do so -- when they start doing that, then it lowers the child's inhibitions. Sometimes there's alcohol and drugs involved, sometimes there's pornography involved, I mean in allowing the child to look at it. That's not out of the ordinary at all.

Excuse me. Let me just refresh my memory.

There could be a fear of retaliation or, you know, nobody's going to believe you or where are you going to go, so there's threats.

And also, if you think, too, what do we teach our children? Children obey adults. And it is not just the adults in our home. We're talking about police officers, teachers, principals, coaches. So we've got a conflicting message to kids, you know, you have to obey your adults and we've got an adult that is abusing a child. So it's a conflicting message. It doesn't give them permission to tell.

Q What, if anything, is meant among child abuse professionals by the term "grooming process"?

A Grooming is exactly what I just described. It's when an alleged perpetrator deliberately directs his attention or her attention on a child to befriend them, to gain their trust, and it's done in the various ways like gifts, special trips, privileges, money, alcohol, drugs.

Q What, if any, impact on delayed reporting can occur when the non-offending parent, meaning the other caretaker in the home, is not supportive of the child?

A They're trapped. Where do they go if the other caretaker does not support them and back them. If I may give a case example, this young girl told her mother one

time, my dad, my biological dad is sexually abusing me and the mother slapped her and told her never to mention it again, and she did not until she was an adult. She grew up with it. So it's devastating to have -- it's already devastating that one caretaker --

MR. WILLIAMS: Your Honor, I'm going to object to specific instances being reported by the expert. It's my understanding, Your Honor, the information should be in a hypothetical nature as opposed to reporting stories of this nature. So we would except to that type of testimony.

THE COURT: Sustained.

BY MS. MAYES:

Q Let me ask you this. Can you tell us through your own experience, both as an agent with the State Law Enforcement Division working these type of cases and once you became affiliated with the Dickerson Center for Children, whether it's common or uncommon to see the other parent in the home not support the child, or a child?

A It is common to see the other parent not support the child during the allegations.

Q Now, what you testified today about, that you've seen from your own clinical experience at the Dickerson Center with the delayed reporting being common among victims of child sexual abuse, can you tell us whether or not that is

also supported by the literature in this field?
A Yes. The literature supports it. It is the norm and it is accepted among my colleagues statewide, nationally and internationally that it is more common for the disclosure of sexual abuse to be delayed.
MS. MAYES: Beg the Court's indulgence.
(Pause.)
MS. MAYES: Nothing further, Your Honor.
MR. WILLIAMS: May it please the Court.
THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. WILLIAMS:
Q Ms. Caldwell, as I understand the -- if there is a family member who is the alleged perpetrator, then it's more likely that there be a delayed reporting until the family member is no longer around the alleged victim; is that right?
A Typically you'll see it when a child feels safe. When they get out of the situation, they more often will report.
Q So normally what happens is, as soon as they're out of the situation, then all these things come forward, they just kind of roll out?
A That is the norm.
Q So if there was a delay from the time in which the

person was in the situation for an extended period of time, taking your analysis, if you will, then does that mean that it's more related, if you will, to taking away the problem? Is that the direct relationship: When you take away the problem, that's when the reporting occurs?

A Often it does occur when you take away the problem.

Q All right. And in your role as an assessment person -- or what was your role in this particular case? You weren't there as a police officer, were you?

A No, sir.

Q You were there as an examiner?

A Yes.

Q Did you have any conversations with the mother of this child?

A No, I never to this day have not met the child's mother.

Q Did you know at that time that that child was no longer with the mother?

A Yes, I did know that she was not with the mother.

Q And did you learn how long it had been since she had been with the mother?

A I did know. That would be in the paperwork that I don't possess, but I'm sure it was reported.

Q You talked a good little bit about grooming. Grooming sounds like giving presents and doing nice things

to somebody.
A It can, yes.
Q So that's different from spanking, telling children to go to bed, being a parent?
A Yes, that's different.
Q So what you envision as grooming would be more than likely somebody not in a parental position but maybe some stranger, somebody next door?
A No, I disagree with that. Grooming can take place within the home with a parent, a step-parent, a significant other of the other parent.
Q But it certainly would be -- it certainly would involve being kind, if you will, to the child and giving presents and not spanking and not --
A Grooming would be -- well, grooming does not mean that spankings are eliminated or any type of discipline.
Q So what does grooming mean?
A Grooming means that they are -- it is a process of gaining a child's trust and lowering the child's inhibitions through various ways, whether it might be privileges -- it could be staying up 30 minutes later then the other children or an extra piece of bubble gum or dessert after supper. It just depends on the individual.
Q All of those are things that the child would want, right?

A Yes, those are things that children like.
Q So when we talk about grooming, it's giving the child what he wants so that you can establish a closer relationship with the child?
A Yes, it is a deliberate decision by the perpetrator to befriend the child.
Q So doing things that the child doesn't like is not grooming?
A No. But grooming does not mean that discipline is absent within a caretaker's role.
Q And actually grooming is kind of like a -- I don't want to break it down to this, but it's if you're nice to whomever, whatever that you're dealing with, then you expect there to be some sort of a relationship to be established, right?
A Yes. They're establishing a relationship of dependency and trust, an emotional bond of some type.
Q Who brought this young lady to the Dickerson Center for you to interview?
A Their aunt, Ashley Rodriguez I believe is the last name.
Q And who was with the aunt? Was the sister with her?
A Yes, one sister and the aunt's child.
Q That is Constance?
A No, Constance -- there's not a Constance in that

family that I'm aware of.

Q [redacted]?

A Excuse me?

Q [redacted]?

A [redacted], yes. [redacted] is [redacted]'s sister.

Q She was the young lady who your other co-worker had interviewed?

A That's correct.

Q And she had completed her interview before you started your interview?

A That's correct.

Q So you knew what had occurred during the other person's interview before you conducted your interview?

A I did. I watched the interview.

MR. WILLIAMS: That's all the questions I have.

REDIRECT EXAMINATION

BY MS. MAYES:

Q In response to Mr. Williams' questions to you about your experience observing the grooming process, you mentioned lowering inhibitions. How does lowering inhibitions relate to offenses such as sexual exploitation?

A It -- you lower -- I mean it kind of takes away that "uh-oh" feeling that we often have in our gut. That's such a simplistic way of putting it, but lowering the

inhibitions makes things okay. It gives permission for things to happen and permission to not talk about it I guess you'd say and for it to continue on for quite sometimes because at that point it becomes normal, it becomes more normal because that's how it's been presented.

Q All right. And specifically as to the grooming process and lowering inhibitions, some of the examples you gave, can you tell us whether or not that can also be carried out by a person who's a parent or an authority figure or a disciplinarian?

A Very much so. Grooming is used frequently by people in authority figures, police officers, coaches, doctors, dentists, parents, preachers, step-parents, boyfriends, girlfriends, babysitters.

MS. MAYES: Nothing further.

MR. WILLIAMS: No questions on re-cross, Your Honor.

THE COURT: Ma'am, thank you very much. You may step down.

Any objection to this witness being excused?

MS. MAYES: None from the State, Your Honor.

MR. WILLIAMS: None from the defendant, Your Honor.

THE COURT: Thank you, ma'am. You're free to

video and I assume at some point in time they'll be laying the foundation for that with the witness who would qualify underneath that statute before the Court makes a ruling on that. Well, I have an additional argument in regards to the application of that statute in terms of this case, but I guess we can do that whenever she lays that foundation for the Court to make a decision of whether or not it should or should not be played.

THE COURT: All right.

MS. MAYES: I will add that the resume of the interviewer from Missouri has been provided to Mr. Williams, which goes over her experience and training.

THE COURT: We'll deal with that -- as the old saying goes, we'll cross that bridge when we get to it.

All right. Let's bring the jury in, please.

(The jury came into open court at approximately 9:26 a.m.)

THE COURT: Ladies and gentlemen, welcome back this morning. I hope everyone had a good evening and ready to get back to work.

We'll resume now with the State's case where we left off yesterday. I'll recognize Ms. Mayes for her next witness, or Ms. Patterson, I'm sorry.

MS. PATTERSON: Thank you, Your Honor.

The State calls Brooke Wymer.

THE COURT: Would you please come around and be sworn.

BROOKE WYMER, after being duly sworn, testified as follows:

THE CLERK: Have a seat up there, please, ma'am. Once you're seated, speak up loud and clear. State your full name, spelling your last, please.

THE WITNESS: My name is Brooke Wymer. My last name is spelled W-Y-M-E-R.

DIRECT EXAMINATION

BY MS. PATTERSON:

Q And, Ms. Wymer, where are you employed?

A At the Dickerson Center for Children.

Q And what type of services do the Dickerson Center for Children provide?

A The Dickerson Center for Children is a child advocacy center. We provide services to children during the investigation of trauma, of some type of trauma or child abuse, and we provide forensic interviews, medical examinations and treatment services as well as victim advocacy.

Q And what is your job title at the Dickerson Center?

A I am the director of clinical services and forensic interviewer.

Q And what is your educational background?

A I have a master's degree in social work. I also have a bachelor's degree in social work. And that's my educational background.

I graduated from the University of South Carolina with my master's degree in 2010 and graduated from Columbia College with my bachelor's degree in 2009.

Q And you said you were a trained forensic interviewer?

A I haven't mentioned that yet, but yes, I am a trained forensic interviewer. I received my forensic interview training in October of 2010 at -- through Child First, which is provided by the Children's Law Center of the University of South Carolina and the Assessment Resource Center. It's also sponsored by the National Child Protection Training Center.

Q And do you know how many forensic interviews you've conducted?

A Yes. As of this week, 305.

Q And could you explain to the jury what is a forensic interview?

A A forensic interview is a non-leading fact finding interview that's conducted by a trained professional as part of an investigation.

Q And what type of rules or guidelines are followed during a forensic interview?

A The main thing that is very important for a forensic

interviewer is that we provide questions in a way that's non-leading, very open-ended, making sure that we just get a narrative explanation from the child regarding anything that may or may not have occurred.

Q And is the forensic interview recorded?

A Yes.

Q How do you record it?

A The forensic interviews are recorded using DVD-R equipment. I'm not really sure about all of the electronics.

Q Are parents or guardians or whoever brings the child to the center, are they allowed in the interview room?

A No, they are not. Parents and guardians are not allowed to be in the interview room. Children are not exposed to the parent or guardian during the time that they are receiving their forensic interview, during the interview process.

Q And is anyone allowed to observe the interviews?

A Yes, those that are investigating the allegations are allowed to watch, that would be Department of Social Services or law enforcement, and sometimes for peer review we do have staff that may observe the interview.

Q And again, what type of questioning is used during forensic interviews?

A Non-leading open-ended questions.

Q And did you have an interview with a child named Daughter 1 [redacted]?

A Yes.

Q Do you remember what date you did the interview?

A It was January 10, 2012.

Q And do you know how old she was when you interviewed her?

A She was 15 years old.

Q Do you know how she was referred to your agency?

A She was referred to our agency by Detective Steve Collins at the Lexington County Sheriff's Department.

Q Do you know who brought her in for her interview?

A Her aunt, Ashley Rodriguez, brought her to the interview.

Q During the interview, without saying what she told you, but during the interview did Daughter 1 [redacted] tell you anything that have happened to her by Chad Hayes?

A Yes.

Q And what, if anything, did she say about the time or time frame the incidents occurred?

MR. WILLIAMS: Objection, hearsay, Your Honor.

MS. PATTERSON: Time and place, Your Honor.

THE COURT: I'm sorry?

MS. PATTERSON: She can testify about time and place.

THE COURT: Sure. Overruled.

THE WITNESS: She stated that the incidents occurred between the ages -- of her ages of 11 to 15 when she was in the fourth through the eighth grade.

BY MS. PATTERSON:

Q Did she tell you about any other times that it happened?

A She did give specific time frames at some points. She discussed that something occurred on New Year's Eve. She didn't specify which year that was, but she did state that something occurred on New Year's Eve.

She also specified that there was an incident that took place right after the birthday party of her sister Heaven, when her sister Heaven turned ten years old, and that Daughter 1 [redacted] was approximately 14 at that time.

Q What, if anything, did she tell you about the place or places that these incidents occurred?

A She stated that the incidents occurred in the home where she lived with Chad Hayes and her sisters and her mother, and she stated that they occurred in the bathroom, getting into and out of the shower, and that it occurred also outside of the home where she lived on a tree. And she stated that there was also some incidents that occurred in the front room. One particular incident occurred in the front room on the love seat while she was

watching television.

MS. PATTERSON: Your Honor, beg the Court's indulgence.

THE COURT: Yes, ma'am.

(Pause.)

MS. PATTERSON: Your Honor, at this time we have a matter to take up outside of the presence of the jury.

THE COURT: All right. Folks, if you would, please retire to the jury room. Have no conversation about the case. I will get you back out shortly.

(The jury left open court at approximately 9:34 a.m.)

THE COURT: Yes, ma'am.

MS. PATTERSON: Your Honor, at this time we seek to introduce the forensic interview of Daughter 2 [redacted]. Heaven's interview was conducted at the Beacon Health Center in Missouri. The forensic interviewer was Katherine Blevins.

We have provided a copy of Ms. Blevins' curriculum vitae to Ms. Wymer and she's also had an opportunity to consult with Ms. Blevins about her qualifications as a trained interviewer, and Ms. Wymer has also had the opportunity to view Heaven's forensic interview to be able to testify to the Court that it does follow protocol as required under SC law.

MR. WILLIAMS: Your Honor, I don't see under the law where they can bootstrap this. This is a court which has the right to make that determination as to the qualifications of the person who is conducting that video recording. What they're attempting to do is pit the witness over here to make that call versus the Court. That statute doesn't allow that. That statute says the Court makes that determination.

So -- and in accordance with Kromer, which is the case which we were talking about yesterday, where it talks about all those things, what an examiner can do, can testify to and what they can't testify to, our Supreme Court was quite careful in terms of talking about bolstering, by having one witness bolster the credibility of another witness.

In essence, that's what we're doing here. We're doing two things. We're using that witness to bolster what the testimony would be of another witness. And the second part of it is is that it's preventing the Court from having that witness before the Court, having that witness which is subject to cross-examination by me as to what her qualifications are. And I don't think that statute allows that.

THE COURT: Do you have a reply to that, Ms. Patterson?

MS. PATTERSON: Your Honor, the State is not attempting to bolster anyone's credibility. We're just basically using Ms. Wymer to be able to testify as to Ms. Blevins' qualifications as a trained forensic interviewer and that the right protocol was followed during the interview.

THE COURT: But it precludes the defense from being able to cross-examine her on those issues.

MS. PATTERSON: Right. But, Your Honor, we do have Skype available and Ms. Blevins is on standby if the Court would feel the need to or would like us to Skype Ms. Blevins in and if Mr. Williams has any questions pertaining to her qualifications, we can do that. She's in Cape Girardeau, Missouri.

MR. WILLIAMS: Your Honor, even in circuit court, if we were going to attempt to use this Skypeing technique for depositions and things of that nature, there'd be some notice issues that would be involved. There's absolutely no way that I could be in a position where I can tell if that witness is being fed questions, answers, or what have you to give a truthful -- and I would think, Your Honor, in General Sessions court since we have beyond a reasonable doubt, we have a stricter requirement dealing with the quality of witnesses.

And in all honesty, it's not necessary here when

you have the witness who has been present to testify. Why do they need to do that? They should at least have the Court to have that witness where we could cross-examine that witness and make that determination. I see nothing in the rules, underneath the criminal rules that allows for that type of activity.

You know, Your Honor, if we were dealing -- if we were dealing with -- even in federal court, if we were dealing with some sort of witness who lives out of state, then essentially there would be ground rules that would be set up, there would be notice provisions that would be set up. I haven't been notified of that in any way whatsoever, that this was an attempt or that they would try to use this technique to get around what I'm entitled to do and, that is, be prepared to cross-examine that witness in my presence.

And obviously, Your Honor, to a certain extent, the cross-examination of a witness is not just the questions which are asked. It's the method in which you ask the question and it is the complete atmosphere to be allowed to determine whether or not that person has honestly and truthfully answered the questions which are present. It's a violation of the due process clause, the confrontation of witnesses clause, of the State and the Federal Constitution.

THE COURT: Ms. Patterson.

MS. PATTERSON: Your Honor, Skype has been allowed -- has been allowed in certain cases, Your Honor. I know SLED has used Skype for certain cases.

THE COURT: I'm just going to stop here.

I'm going to sustain the objection. In those cases I'm assuming it was prepared for, it was noticed, it was -- you come in here from what I can gather, from what Mr. Williams is telling me, and gave him no prior warning that you were going Skype somebody in on this case. I'm not going to allow it.

MS. PATTERSON: Beg the Court's indulgence.

THE COURT: Yes, ma'am.

(Pause.)

MS. PATTERSON: Your Honor, can I just put one thing on the record with regard to notice?

THE COURT: Yes, ma'am, whatever you want to put on the record.

MS. PATTERSON: We did provide Mr. Williams notice that we would attempt to use this video and enter it in through Ms. Wymer. We also provided him with Ms. Blevins' curriculum vitae, so he was -- and her name was placed on the witness list, so he was given some type of notice.

MR. WILLIAMS: Your Honor, putting the name of

this witness on the witness list who was there at the Dickerson Center is not notice that they're going to do a Skype with a witness who is not going to be here when that witness was listed on the witness list.

THE COURT: All right. Well, so the record is clear, I'm going to sustain the objection.

Ready for the jury?

MS. PATTERSON: Yes, sir, Your Honor.

THE COURT: All right. Bring the jury back in, please.

(The jury came into open court at approximately 9:42 a.m.)

THE COURT: Thank you, ladies and gentlemen.

Ms. Patterson, you may continue.

MS. PATTERSON: Thank you.

BY MS. PATTERSON:

Q Ms. Wymer, during your interview with Daughter 1 [redacted], do you know if any of her other -- if she had any sisters?

A Yes.

Q And did any of her sisters come in with her that day to have an interview done?

A Yes, Daughter 3 [redacted].

Q And do you know if she had another sister named Daughter 2 [redacted]?

A Yes.

Daughter 2

Q And do you know if [redacted] came to your agency to have an interview done?

A No.

Q Do you know if she had an interview done?

A Yes.

Q Do you know where it was?

A Yes.

Q Where?

A It was done at the Beacon Health Center in Missouri.

MS. PATTERSON: Beg the Court's indulgence, Your Honor.

(Pause.)

MS. PATTERSON: Your Honor, no further questions.

MR. WILLIAMS: I have no questions for this witness, Your Honor.

THE COURT: Thank you very much, ma'am. You may step down.

MS. PATTERSON: Your Honor, may this witness be excused?

THE COURT: Any objection?

MR. WILLIAMS: No objection.

THE COURT: Yes, ma'am, you're free to go. Thank you very much for being here.

THE WITNESS: Thank you.