

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of General Sessions
D. Garrsion Hill, Circuit Court Judge

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Case No.: 2013-GS-23-003231; 003232; 003233; 003234; 003235; 003236
Appellate Case No.: 2015-000312

The State, ... Respondent,
vs.
Jerald Denton Gaskins, Jr., ... Appellant.

RECORD ON APPEAL Volume I

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2013-GS-23-03231

2013-GS-23-03232

2013-GS-23-03233

2013-GS-23-03234

2013-GS-23-03235

2013-GS-23-03236

vs.

TRANSCRIPT OF RECORD

JERALD DENTON GASKINS, JR.,
DEFENDANT.

ORIGINAL

February 4th and 5th, 2015
Greenville, South Carolina

THE HONORABLE D. GARRISON HILL, JUDGE; and a jury.

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 (DW) - Denotes Defense Witness
 (IC) - Denotes In Camera

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P R O C E E D I N G S

THE COURT: Good morning.

This is --

Well, Solicitor, I'll let you announce the case.

MS. HODGE: Thank you, Your Honor.

We're here for the trial of State v. Jerald Denton Gaskins, Jr. Indictments 2013-GS-23-3231; 3232; 3233; 3234; 3235; 3536, three counts of criminal sexual conduct with a minor second degree, and three counts of lewd act upon a minor.

THE COURT: Okay. Mr. Gaskins is present with his counsel, Mr. Chambers.

And are there any pre-trial matters?

I see a motion from the State.

Is there anything other than this motion?

MS. HODGE: Your Honor, the State has informed Defense that we may have a Lyle witness, 404(B), under common scheme and plan. That witness is going to be here at lunch time.

I know the Court usually likes to hear the testimony first. I'm happy to address what I think the similarities would be at this point. But if we wanted to just wait until the lunch break and address that, I'm happy to do that as well.

MR. CHAMBERS: I -- my position would be just to

1 wait, Your Honor.

2 THE COURT: Okay. We'll wait.

3 MS. HODGE: And then there's the State's motion under
4 the rape shield statute. I told Mr. Chambers I have not
5 heard anything from him that he intended to introduce
6 anything. I know it's just a matter, of course, of motion
7 I normally file.

8 MR. CHAMBERS: Yeah. I don't have any information
9 relative to any past sexual history. I don't intend to
10 offer anything like that. I don't think that's going to
11 be an issue.

12 THE COURT: Okay. Well, is there any voir dire
13 either of you wish me to ask, specifically, other than the
14 standard ones?

15 MR. CHAMBERS: In cases like this, Your Honor, I
16 normally ask the Court to inquire if anybody on the jury
17 pool or immediate family members has ever been accused of
18 or a victim of any kind of sexual type of assault offense.

19 THE COURT: Okay. And do you have any witnesses
20 different than the ones on this list?

21 MR. CHAMBERS: I do, Your Honor. And I came straight
22 from home this morning and, apparently, I left my list at
23 the office. And my paralegal is en route with that list
24 right now. So I hope to have it any minute. I apologize.

25 THE COURT: Oh, okay. You don't know the names?

1 MR. CHAMBERS: I do. I can tell you right now.

2 THE COURT: Yes. Just tell me the names. That's all
3 we've got to do.

4 MR. CHAMBERS: I have a Wilma Gosnell, Jacqueline
5 Parker, Michael Garner, Jerald Gaskins, Sr., and Gina
6 Gaskins.

7 And I'm going to provide addresses to the Solicitor
8 now.

9 THE COURT: Is it pronounced Mushenko?

10 MS. HODGE: Mucienko.

11 THE COURT: Mucienko.

12 All right. Anything else before we bring the jury
13 panel up?

14 MR. CHAMBERS: Not from the Defense, Your Honor.

15 MS. HODGE: Not from the State.

16 THE COURT: Okay.

17 MR. CHAMBERS: Your Honor, one other thing before we
18 get started. I would request that the witnesses be
19 sequestered.

20 THE COURT: All right.

21 MS. HODGE: Your Honor, we don't have any problem
22 with that, other than the fact we -- obviously, the victim
23 can be allowed to be in here. I have not asked her how
24 much she would like to be in here. She's still a
25 juvenile. But -- and then Investigator Perry is my lead

1 investigator.

2 THE COURT: I grant the motion with that condition.

3 (Pause.)

4 (WHEREUPON, the jury panel entered the courtroom.)

5 THE COURT: Good morning, ladies and gentlemen.

6 We're about to start the trial of the State v. Jerald
7 Denton Gaskins, Jr.

8 And this is another criminal case. So I'm going to
9 go over some principles of criminal law that apply to this
10 matter. And the first is that any time someone is charged
11 with a crime, no matter what the crime may be, they're
12 always presumed innocent. No one has to prove himself
13 innocent or prove himself not guilty.

14 The indictments in this case have been pled to not
15 guilty by Mr. Gaskins. So that puts the burden of proof
16 entirely on the State. Mr. Gaskins has no burden of
17 proof. He doesn't have to offer any evidence or
18 explanation whatsoever. And these indictments I'm about
19 to read to you don't constitute evidence. They don't even
20 raise a suspicion of guilt.

21 An indictment is simply the way a citizen is notified
22 of what they're charged with. And it is the ticket, so to
23 speak, that allows the State to come in the courtroom and
24 begin a criminal case against a defendant.

25 So with those principles in mind, I'm going to read

1 to you these indictments. There are six of them. And the
2 first one is 2013-GS-23-03231. The allegation is that
3 Jerald Denton Gaskins, Jr., did in Greenville County
4 between March 2012 and August 2012 commit a sexual battery
5 on initials VICTIM who was 14 years of age or less, but who
6 was, at least, 11 years of age. This is in violation of
7 Section 16-3-655(B) (1) of the South Carolina Code of Laws.

8 The next indictment is 2013-GS-23-03232. It alleges
9 that Jerald Denton Gaskins, Jr., did in Greenville County
10 between March 2012 and August 2012 commit a sexual battery
11 on initials VICTIM who was 14 years of age or less, but who
12 was, at least, 11 years of age. This is in violation of
13 Section 16-3-655(B) (1) of the South Carolina Code of Laws.

14 The next indictment is 2013-GS-23-03233. It alleges
15 that Jerald Denton Gaskins, Jr., did in Greenville County
16 between August 2011 and November 2011 willfully and lewdly
17 commit or attempt a lewd and lascivious act upon or with
18 the body or its parts of initials VICTIM a child under the
19 age of 16 years, with the intent of arousing, appealing to
20 or gratifying the lusts, passions, or sexual desires of
21 himself or such child. This is in violation of Section
22 16-15-140 of the South Carolina Code of Laws.

23 The next indictment is 2013-GS-23-03234, which
24 alleges that Jerald Denton Gaskins, Jr., did in Greenville
25 County between August 20th, 2011 and November 2011 commit

1 a sexual battery on initials VICTIM who was 14 years of age
2 or less, but who was, at least, 11 years of age. This is
3 in violation of Section 16-3-655 (B) (1) of the South
4 Carolina Code of Laws.

5 The next indictment alleges that Jerald Denton
6 Gaskins, Jr. -- and this is 2013-GS-23-03235, that Jerald
7 Denton Gaskins, Jr., did in Greenville County between
8 March 2011 and August 2011 commit a sexual battery on
9 initials VICTIM who was 14 years of age or less, but who
10 was, at least, 11 years of age. This is in violation of
11 Section 16-3-655 (B) (1) of the South Carolina Code of Laws.

12 The last indictment is 2013-GS-23-03236, which
13 alleges that Jerald Denton Gaskins, Jr., did in Greenville
14 County between March 2011 and August 2011 willfully and
15 lewdly commit or attempt a lewd and lascivious act upon or
16 with the body or its parts of VICTIM a child under the age
17 of 16 years, with the intent of arousing, appealing to, or
18 gratifying the lusts, passions, or sexual desires of
19 himself or such child. This is in violation of Section
20 16-15-140 of the South Carolina Code of Laws.

21 Now, those are the indictments, which are merely
22 allegations.

23 JURY QUALIFICATION

24 THE COURT: And the first question is, is there
25 anyone here who is kin to or related to in any way by

1 blood or marriage Jerald Denton Gaskins, Jr.?

2 Mr. Gaskins, if you can just stand up so everybody
3 can see you.

4 Thank you.

5 If so, please, stand.

6 (WHEREUPON, there was no response.)

7 THE COURT: Does anyone have any --

8 You can have a seat, sir.

9 Thank you.

10 Does anyone have any social, business, or personal
11 relationship with Mr. Gaskins? If so, please, stand.

12 (WHEREUPON, there was no response.)

13 THE COURT: The people who may testify in this case
14 include the following: Robert Perry, Paul Floyd, Patrick
15 Kelly. Those three gentlemen are with the sheriff's
16 office. VICTIM [REDACTED] Sandra Mucienko, Jamie
17 Mucienko, Wilma Gosnell, Jacqueline Parker, Michael
18 Garner, Rachel Lane Gaskins, Jerald Gaskins, Sr., #1 [REDACTED]
19 Barton, Mary Fran Croswell, Gina Gaskins, and Erica Van
20 Wagner.

21 Is that all the witnesses?

22 MR. CHAMBERS: Yes, Your Honor.

23 THE COURT: Okay. Is anyone related by blood or
24 marriage, or kin to any of theses potential witnesses? If
25 so, please, stand.

1 (WHEREUPON, there was no response.)

2 THE COURT: Does anyone have any business, personal,
3 or social relationship with any of those potential
4 witnesses? If so, please, stand.

5 (WHEREUPON, there was no response.)

6 THE COURT: I'm going to ask the lawyers to introduce
7 themselves and the people who are at their table who have
8 not previously been introduced.

9 Yes, ma'am, Ms. Hodge.

10 MS. HODGE: Thank you, Your Honor.

11 My name is Kris Hodge. I'm an assistant solicitor
12 with the Thirteenth Judicial Circuit. This is Melissa
13 Bishop. She, also, works with the Solicitor's office.
14 She's my investigator. And this is Investigator Bob Perry
15 with the Greenville County Sheriff's Office.

16 THE COURT: Yes, sir, Mr. Chambers.

17 MR. CHAMBERS: My name is Randy Chambers. I practice
18 law primarily here in Greenville. And I'm representing
19 Mr. Gaskins today.

20 THE COURT: Thank you.

21 Is anyone related by blood or marriage or kin to any
22 of the lawyers or anyone they introduced? If so, please,
23 stand.

24 (WHEREUPON, there was no response.)

25 THE COURT: Does anyone have any personal, social, or

1 business relationship with any of these lawyers or anyone
2 they introduced? If so, please, stand.

3 JUROR 135, KATHRINE NEPON: We go to the same -- Kris
4 and I go to the same church. And we know each other from
5 the gym as well.

6 THE COURT: All right. Well --

7 JUROR 135, KATHRINE NEPON: Just socially to speak,
8 not...

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

11 JUROR KATHRINE NEPON: No, sir.

12 THE COURT: You could decide the case on the evidence
13 and the law?

14 JUROR #135, KATHRINE NEPON: Yes, sir.

15 THE COURT: Now, tell me your name.

16 JUROR #135, KATHRINE NEPON: Kathrine Nepon.

17 THE COURT: Has anyone ever been represented by
18 either Mr. Chambers or Ms. Hodge, or been involved in a
19 dispute, or transaction, or lawsuit, or charge where the
20 other side was represented by either Ms. Hodge or
21 Mr. Chambers? If so, please, stand.

22 (WHEREUPON, there was no response.)

23 THE COURT: Has anyone ever been employed by or had a
24 member of their immediate family be employed by the
25 Solicitor's Office, which is the prosecutor's office here

1 in Greenville and Pickens Counties? If so, please, stand.

2 (WHEREUPON, there was no response.)

3 THE COURT: Has anyone here or had a member of their
4 immediate family be employed by any type of prosecutor's
5 office or law enforcement office or agency? If so,
6 please, stand.

7 JUROR #143, CAROLYN PERRY: In Greenville County
8 or --

9 THE COURT: Anywhere.

10 Okay. We're just going to go from --

11 JUROR #143, CAROLYN PERRY: I have several
12 brother-in-law's that are highway patrol, city police
13 officers.

14 THE COURT: And your name, ma'am?

15 JUROR #143, CAROLYN PERRY: Carolyn Perry.

16 THE COURT: Thank you, Ms. Perry.

17 JUROR #107, COREY LEE: And my brother is in law
18 enforcement in Berkley County.

19 THE COURT: Your name, sir?

20 JUROR #107, COREY LEE: Corey Lee.

21 THE COURT: Thank you.

22 JUROR #178, TAMMY THURSTON: My brother-in-law used
23 to be a Greenville County Sheriff's Office police officer.

24 THE COURT: What's your name?

25 JUROR #178, TAMMY THURSTON: Tammy Thurston.

1 THE COURT: What's your name?

2 JUROR #178, TAMMY THURSTON: Tammy Thurston.

3 THE COURT: Okay. Thank you.

4 Yes, sir.

5 JUROR #122, ROBERT MCKEE: Bob McKee.

6 Law enforcement officer, United States Air Force.

7 And I served as a police officer at a police department in
8 Colorado.

9 THE COURT: Thank you.

10 JUROR #181, LISA TRULL: My sister and brother-in-law
11 are officers in Charlotte, North Carolina.

12 THE COURT: Tell me your name, ma'am.

13 JUROR #181, LISA TRULL: Lisa Trull.

14 THE COURT: Thank you.

15 Of those of you who just stood and responded, do you
16 believe you -- do any of you believe you could not be fair
17 and impartial in this case given the family connection
18 with law enforcement? If so, please, stand.

19 (WHEREUPON, there was no response.)

20 THE COURT: This case involves allegations of a
21 sexual offense. So I'm going to ask several questions now
22 that are going to ask for personal information. And if
23 you need to respond, we will do it up here on the record
24 in a little more private atmosphere.

25 So the questions are as follow: First of all, has

1 anyone been a member of or a contributor to, whether it's
2 your time or your money, any organization whose primary
3 purpose is to promote law enforcement or victim's rights?

4 The second question is: Is there anyone here who has
5 been a victim of, or arrested for, or convicted of any
6 type of sexual offense?

7 And, finally, is there anyone who does not believe,
8 given the nature of the allegations, they could give
9 either the State or the Defense a fair and impartial
10 trial?

11 In other words, is there anyone who has such strong
12 feelings about these types of offenses that they do not
13 feel they could be fair and impartial, and could not base
14 their decision on the evidence and the law?

15 So those are the questions. If you need to respond,
16 as I said, we'll do it up here in a little more private
17 setting.

18 JUROR #121, AUDREY MCINERNEY: Come up?

19 THE COURT: Yes.

20 (WHEREUPON, a sidebar was held with the Court, the
21 attorneys, and Juror #121, Audrey McInerney.)

22 (WHEREUPON, Juror #121, Audry, McInerney, came
23 forward.)

24 THE CLERK: #121, Ms. McInerney.

25 THE COURT: Let me get you to stand right here.

1 She's got to be able to take down what's said.

2 JUROR #121, AUDREY MCINERNEY: I was sexually
3 molested when I was 12 years old by a great-uncle.

4 THE COURT: All right. Do you believe you could
5 still be fair and impartial in this case?

6 JUROR #121, AUDREY MCINERNEY: Uh-huh.

7 THE COURT: Is that a "yes" you could --

8 JUROR #121, AUDREY MCINERNEY: Yes. Sorry.

9 THE COURT: You could decide the case on the evidence
10 and the law?

11 JUROR #121, AUDREY MCINERNEY: Yes.

12 THE COURT: All right. Thank you.

13 (WHEREUPON, Juror #121, Audrey McInerney, was
14 seated.)

15 MR. CHAMBERS: What was her juror number?

16 THE COURT: #121.

17 MR. CHAMBERS: Thank you.

18 THE COURT: All right. Mr. Chambers, do y'all have
19 any more voir dire you want to ask?

20 MR. CHAMBERS: No. That satisfies me.

21 Thank you.

22 (WHEREUPON, the sidebar was concluded.)

23 THE COURT: Okay. Is there anyone who is aware of
24 any bias or prejudice they may have about any matter
25 involving this case, or anyone involved in the case? If

1 so, please, stand.

2 (WHEREUPON, there was no response.)

3 THE COURT: We'll proceed with the jury selection.

4 Yes, ma'am.

5 JURY SELECTION

6 THE CLERK: When I call your name, if you'll, please,
7 stand in place and then wait for further instructions.

8 Juror #111, Timothy March.

9 (WHEREUPON, Timothy March, a white male, stood.)

10 THE CLERK: What says the State?

11 MS. HODGE: Please excuse this juror.

12 THE CLERK: I'm sorry, Ms. Hodge. I couldn't --

13 MS. HODGE: I'm sorry. Please excuse this juror.

14 THE CLERK: You may be seated, sir. You have been
15 excused from this case.

16 Juror #135, Kathrine Nepon.

17 (WHEREUPON, Kathrine Nepon, a white female, stood.)

18 THE CLERK: What says the State?

19 MS. HODGE: Please present the juror.

20 THE CLERK: What says the Defendant?

21 MR. CHAMBERS: Excuse Ms. Nepon from this case,
22 please.

23 THE CLERK: All right. Ma'am, please be seated. You
24 have been excused from this case.

25 Juror #110, Caesar Machado.

1 (WHEREUPON, Caesar Machado, a white male, stood.)
2 THE CLERK: What says the State?
3 MS. HODGE: Please present the juror.
4 THE CLERK: What says the Defendant?
5 MR. CHAMBERS: Swear Mr. Machado, please.
6 THE CLERK: Sir, please, come have a seat in the jury
7 box.
8 Juror #175, Michael Sullivan.
9 (WHEREUPON, Michael Sullivan, a male, stood.)
10 THE CLERK: What says the State?
11 MS. HODGE: Please present the juror.
12 THE CLERK: What says the Defendant?
13 MR. CHAMBERS: Swear Mr. Sullivan, please.
14 THE CLERK: All right. Mr. Sullivan, please, have a
15 seat in the jury box.
16 Juror #122, Robert McKee.
17 (WHEREUPON, Robert McKee, a white male, stood.)
18 THE CLERK: What says the State?
19 MS. HODGE: Please present the juror.
20 THE CLERK: What says the Defendant?
21 MR. CHAMBERS: Excuse Mr. McKee from this case,
22 please.
23 THE CLERK: All right. Sir, please, be seated. You
24 have been excused from this case.
25 Juror #170, Edward Snow.

1 (WHEREUPON, Edward Snow, a white male, stood.)
2 THE CLERK: What says the State?
3 MS. HODGE: Please present the juror.
4 THE CLERK: What says the Defendant?
5 MR. CHAMBERS: Swear Mr. Snow, please.
6 THE CLERK: Mr. Snow, please, bring your things.
7 Come have a seat in the jury box.
8 Juror #9, Audrey Ballenger.
9 (WHEREUPON, Audrey Ballenger, a white female, stood.)
10 THE CLERK: What says the State?
11 MS. HODGE: Please present the juror.
12 THE CLERK: What says the Defendant?
13 MR. CHAMBERS: Excuse Ms. Ballenger from this case.
14 THE COURT: All right. Ma'am, please, be seated.
15 Juror #152, Letitia Rhodes.
16 (WHEREUPON, Letitia Rhodes, a white female, stood.)
17 THE CLERK: What says the State?
18 MS. HODGE: Please present the juror.
19 THE CLERK: What says the Defendant?
20 MR. CHAMBERS: Swear Ms. Rhodes, please.
21 THE CLERK: Ms. Rhodes, please, come have a seat in
22 the jury box.
23 Juror #37, Barbara Cooke.
24 (WHEREUPON, Barbara Cooke, a white female, stood.)
25 THE CLERK: What says the State?

1 MS. HODGE: Please present the juror.

2 THE CLERK: What says the Defendant?

3 MR. CHAMBERS: Excuse Ms. Cooke from this case,
4 please.

5 THE CLERK: All right. Ma'am, please, be seated.

6 Juror #109, Regina Lysak.

7 (WHEREUPON, Regina Lysak, a white female, stood.)

8 THE CLERK: What says the State?

9 MS. HODGE: Please present the juror.

10 THE CLERK: What says the Defendant?

11 MR. CHAMBERS: Swear Ms. Lysak, please.

12 THE CLERK: Ma'am, please, come have a seat in the
13 jury box.

14 Juror #7, Kevin Bain.

15 (WHEREUPON, Kevin Bain, a white male, stood.)

16 THE CLERK: What says the State?

17 MS. HODGE: Please present the juror.

18 THE CLERK: What says the Defendant?

19 MR. CHAMBERS: Excuse Mr. Bain from this case,
20 please.

21 THE CLERK: All right, sir. Please be seated.

22 Juror #76, Stephen Gresham.

23 (WHEREUPON, Stephen Gresham, a white male, stood.)

24 THE CLERK: What says the State?

25 MS. HODGE: Please present the juror.

1 THE CLERK: What says the Defendant?

2 MR. CHAMBERS: Swear Mr. Gresham, please.

3 THE CLERK: Mr. Gresham, please, have a seat in the
4 jury box.

5 Juror #181, Lisa Trull.

6 (WHEREUPON, Lisa Trull, a white female, stood.)

7 THE CLERK: What says the State?

8 MS. HODGE: Please present the juror.

9 THE CLERK: What says the Defendant?

10 MR. CHAMBERS: Excuse Ms. Trull from this case,
11 please.

12 THE CLERK: Please be seated.

13 Juror #62, Elizabeth Flak.

14 (WHEREUPON, Elizabeth Flak, a white female, stood.)

15 THE CLERK: What says the State.

16 MS. HODGE: Please present the juror.

17 THE CLERK: What says the Defendant?

18 MR. CHAMBERS: Excuse Ms. Flak from this case,
19 please.

20 THE CLERK: All right. Ma'am, please, be seated.

21 Juror #156, Sonya Robinson.

22 (WHEREUPON, Sonya Robinson, a black female, stood.)

23 THE CLERK: What says the State?

24 MS. HODGE: Please excuse this juror.

25 THE CLERK: All right. Ma'am, please, be seated.

1 Juror #13, Ralph Belcher.

2 (WHEREUPON, Ralph Belcher, a black male, stood.)

3 THE CLERK: What says the State?

4 MS. HODGE: Please excuse this juror.

5 THE CLERK: All right. Please be seated.

6 Juror #17, Blake Berreth.

7 (WHEREUPON, Blake Berreth, a white male, stood.)

8 THE CLERK: What says the State?

9 MS. HODGE: Please present the juror.

10 THE CLERK: What says the Defendant?

11 MR. CHAMBERS: Excuse Mr. Berreth from this case,
12 please.

13 THE CLERK: All right, sir. Please be seated.

14 Juror #83, Jerome Harris.

15 (WHEREUPON, Jerome Harris, a black male, stood.)

16 THE CLERK: What says the State?

17 (WHEREUPON, there was an interruption in the
18 courtroom.)

19 MS. HODGE: Please present the juror.

20 THE CLERK: Thank you.

21 What says the Defendant?

22 MR. CHAMBERS: I was distracted by the phone. What
23 number were we on?

24 THE CLERK: #83, Jerome Harris.

25 MR. CHAMBERS: Thank you.

1 Swear Mr. Harris, please.

2 THE CLERK: Mr. Harris, please, come have a seat in
3 the jury box.

4 Juror #112, Alice Marks.

5 (WHEREUPON, Alice Marks, a white female, stood.)

6 THE CLERK: What says the State?

7 MS. HODGE: Please present the juror.

8 MR. CHAMBERS: Swear Ms. Marks, please.

9 THE CLERK: Thank you.

10 Ms. Marks, please, have a seat in the jury box.

11 Juror #36, Valerie Clark.

12 (WHEREUPON, Valerie Clark, a white female, stood.)

13 THE CLERK: What says the State?

14 MS. HODGE: Please present the juror.

15 THE CLERK: What says the Defendant?

16 MR. CHAMBERS: Swear Ms. Clark, please.

17 THE CLERK: Ms. Clark, please, have a seat in the
18 jury box.

19 Juror #107, Corey Lee.

20 (WHEREUPON, Corey Lee, a white male, stood.)

21 THE CLERK: What says the State?

22 MS. HODGE: Please present the juror.

23 THE CLERK: What says the Defendant?

24 MR. CHAMBERS: Excuse Mr. Lee from this case, please.

25 THE CLERK: All right, sir. Please have a seat.

1 Juror #143, Carolyn Perry.

2 (WHEREUPON, Carolyn Perry, a white female, stood.)

3 THE CLERK: What says the State?

4 MS. HODGE: Please present the juror.

5 THE CLERK: What says the Defendant?

6 MR. CHAMBERS: Excuse Ms. Perry from this case,
7 please.

8 THE CLERK: All right, ma'am. Please be seated.

9 Juror #121, Audrey McInerney.

10 (WHEREUPON, Audrey McInerney, a white female, stood.)

11 THE CLERK: What says the State?

12 MR. CHAMBERS: Your Honor, may we approach?

13 THE COURT: Sure.

14 (WHEREUPON, a bench conference was held.)

15 THE CLERK: What says the Defendant?

16 MR. CHAMBERS: Swear the juror.

17 MS. HODGE: I'm sorry. I didn't put it on the record
18 yet.

19 THE CLERK: I beg your pardon.

20 What says the State?

21 I beg your pardon.

22 MS. HODGE: Please present the juror.

23 THE CLERK: Thank you.

24 MR. CHAMBERS: Swear the juror.

25 THE CLERK: Thank you.

1 Ms. McInerney, please, have a seat in the jury box.

2 Juror #178, Tammy Thurston.

3 (WHEREUPON, Tammy Thurston, a white female, stood.)

4 THE CLERK: What says the State?

5 MS. HODGE: Please present the juror.

6 THE CLERK: What says the Defendant?

7 MR. CHAMBERS: Swear Ms. Thurston, please.

8 THE CLERK: Ma'am, please, have a seat in the jury
9 box.

10 Juror #188, Erik Weikel.

11 (WHEREUPON, Erik Weikel, a white male, stood.)

12 THE CLERK: What says the State?

13 MS. HODGE: Please present the juror.

14 THE CLERK: What says the Defendant?

15 MR. CHAMBERS: Swear Mr. Weikel, please.

16 THE CLERK: Sir, please, have a seat in the jury box.
17 Would you care for an alternate, sir?

18 THE COURT: Yes.

19 Let me talk to the lawyers real quick about
20 something.

21 (WHEREUPON, a bench conference was held.)

22 THE CLERK: For alternate one, Juror #147, Charles
23 Price.

24 (WHEREUPON, Charles Price, a white male, stood.)

25 THE CLERK: What says the State?

1 MS. HODGE: Please present the juror.

2 THE CLERK: What says the Defendant?

3 MR. CHAMBERS: Excuse Mr. Price from this case,
4 please.

5 THE CLERK: All right, sir. Please be seated.

6 Juror #126, John Melson.

7 (WHEREUPON, John Melson, a white male, stood.)

8 THE CLERK: What says the State?

9 MS. HODGE: Please excuse this juror.

10 THE CLERK: All right, sir. Please be seated.

11 Juror #50, Mary Devon.

12 (WHEREUPON, Mary Devon, a white female, stood.)

13 MS. HODGE: Please present the juror.

14 THE CLERK: Thank you.

15 What says the Defendant?

16 MR. CHAMBERS: Please excuse Ms. Devon from the case.

17 THE CLERK: All right, ma'am. Please be seated.

18 Juror #183, Patricia Waldrep.

19 MS. HODGE: Please present the juror.

20 THE CLERK: Thank you.

21 What says the Defendant?

22 MR. CHAMBERS: Swear Ms. Waldrep, please.

23 THE CLERK: Ma'am, please, have a seat in the juror
24 box.

25 For the second alternate, Juror #78, Priscilla

1 Hamblin.

2 (WHEREUPON, Priscilla Hamblin, a white female,
3 stood.)

4 THE CLERK: What says the State?

5 MS. HODGE: Please present the juror.

6 THE CLERK: What says the Defendant?

7 MR. CHAMBERS: Swear Ms. Hamblin, please.

8 THE CLERK: All right. Ma'am, please, have a seat in
9 the jury box.

10 THE COURT: Any matters or motions related to the
11 selection process or the composition of the jury?

12 MS. HODGE: Not from the State.

13 MR. CHAMBERS: None from the Defense, Your Honor.

14 THE COURT: All right. I find it complied with all
15 statutory Constitutional requirements.

16 Ladies and gentlemen, you've been selected to be the
17 jury in the case of the State v. Jerald Denton Gaskins
18 Jr. And we will start the trial in just a few minutes.

19 I'm going to ask you to go to the jury room at this
20 point. Don't talk about the case. And we will have the
21 opening statements here in just a few minutes.

22 (WHEREUPON, the jury was excused from open court at
23 approximately 10:22 a.m.)

24 THE COURT: I don't know what happened with that
25 phone earlier, but it happens a lot since cell phones are

1 everywhere. But it reminded me, I read a story several
2 years ago about a Broadway play that was going on. It was
3 a very famous actor. I can't remember who it was. But he
4 was performing and somebody's phone in the audience went
5 off. And he just stopped and looked at them and said,
6 Tell them you're busy.

7 At any rate, y'all just need to go back downstairs if
8 you weren't chosen. And Ms. Olson will give you more
9 instructions.

10 Thank you.

11 (WHEREUPON, the remaining jury panel members exited
12 the courtroom.)

13 THE COURT: Anything before we have the opening
14 statements?

15 MS. HODGE: No, sir.

16 MR. CHAMBERS: No, Your Honor.

17 THE COURT: Okay. You can bring the jury out.

18 MS. HODGE: May I -- I'm sorry. I didn't realize we
19 were going to do that. I thought we were going to take a
20 break. But my victim and --

21 THE COURT: Well, we can take a break.

22 MS. HODGE: -- witnesses are in my office. Can I
23 bring them over?

24 THE COURT: Yes. We'll take a break and let y'all --
25 if you need to --

1 MS. HODGE: Thank you.

2 Sorry.

3 THE COURT: We'll just take a break.

4 MR. CHAMBERS: Your Honor, I just don't want there to
5 be any issues. But is it going to be okay for my client
6 to remain out on bond throughout the trial?

7 MS. HODGE: We would need to revisit that at the end
8 of today.

9 THE COURT: Okay.

10 MR. CHAMBERS: But he's fine today to sort of leave
11 the courtroom?

12 THE COURT: Yes, sir.

13 The -- I'm sure your lawyer has explained to you that
14 your bond is evaporated because the jury has been sworn.
15 All right. If -- and I have to tell everybody this in
16 your situation. But if for some reason you did not
17 return, we would continue the trial in your absence.

18 DEFENDANT GASKINS: I understand.

19 THE COURT: And if you were convicted, you'd be
20 sentenced in your absence.

21 So do you understand that, sir?

22 DEFENDANT GASKINS: Yes, sir, I do.

23 THE COURT: Okay. Thank you.

24 (WHEREUPON, a break was taken.)

25 THE COURT: Is everybody ready?

1 MR. CHAMBERS: Yes, sir.

2 MS. HODGE: Yes, sir.

3 THE COURT: Okay. Bring the jury in.

4 (WHEREUPON, the jury came into open court at
5 approximately 10:39 a.m.)

6 INTRODUCTORY REMARKS

7 THE COURT: Ladies and gentlemen, we're going to
8 begin the trial of the State v. Jerald Denton Gaskins,
9 Jr. And before we get underway, I just want to give you a
10 few preliminary remarks.

11 First of all, again, thank you for your service this
12 week.

13 And to let you know that the reason you were chosen
14 to sit on this particular case is because both sides
15 believe you can be fair and impartial, and you could
16 decide this case without any kind of bias, or prejudice,
17 or preconceived ideas.

18 So the lawyers have introduced themselves to you.
19 And I've introduced myself to you, I believe, earlier in
20 the week, but my name is Gary Hill. I'm one of the
21 circuit judges here in Greenville and Pickens Counties.
22 And there's some other people who are involved in the
23 trial process here in the courtroom who you may not have
24 met or been introduced to. And I'm going to introduce
25 them to you now to sort of demystify the surroundings a

1 bit more.

2 And the first person I'm going to introduce is the
3 court reporter, Hollie Jenkins. As you see, she's seated
4 in front of me. She takes down the proceedings, because
5 circuit court is a court of record. And then to her right
6 is Mary Troop, who is the -- one of the assistant clerks
7 of court. And she helped with the jury selection, as you
8 saw earlier, and helps things run efficiently during the
9 trial. And Lisa Garris is with her as well to her right.
10 She's, also, an assistant clerk of court.

11 And up here on the bench with me is Weston White.
12 She is my law clerk. She's a lawyer. And she helps me
13 with legal research and issues that arise during the
14 trials. And the bailiffs in this case are Mr. Bobby
15 Thompson here in the back, and Mr. James Sims here to my
16 left. And they're here for your assistance while you
17 serve on the jury.

18 Now, everybody I just introduced to you and,
19 certainly, the lawyers have done this and I have done it,
20 we've all taken an oath to do our jobs. And you're going
21 to take an oath to do your job. And then after you take
22 the oath, I'm going to tell you what your job is. But the
23 oath itself tells you in a nutshell what your
24 responsibilities are. So listen to the words very
25 carefully because they've been around a long time.

1 So, yes, ma'am.

2 THE CLERK: All right. Would you, please, stand and
3 raise your right hand for the oath. And the proper
4 response is "I will."

5 (WHEREUPON, the jury was sworn at approximately
6 10:42 a.m.)

7 THE CLERK: Thank you.

8 Please be seated.

9 THE COURT: Any time a trial is held in circuit court
10 with a jury, there are always two judges. Our
11 Constitution requires that there be two judges. And
12 there's the judge of the law, which is the role that I
13 fulfill, and there's the judges of the facts, which is the
14 role you, the jury, fulfill.

15 Since my job is a lot easier than yours, I'm going to
16 tell you what my job is first. And that is to be the
17 judge of the law. And I have two main responsibilities.
18 The first is to rule on the admissibility of evidence.

19 Now, I know very little about this trial, not much
20 more than you do at this point. That's just the way our
21 system is set up. But I anticipate that at some point
22 during the trial, some party may object to evidence. And
23 don't hold it against a lawyer for objecting to evidence.
24 That's their job after all. They have to object. They
25 have an ethical duty to do that when they think evidence

1 is improper.

2 But, nevertheless, if an objection is made, I have to
3 decide whether it's proper under the law. Usually, I can
4 do that right on the spot. Sometimes, we have to take a
5 break if things get complex. But, nevertheless, if I
6 sustain the objection, that just means the evidence is
7 improper for this particular case and you can't consider
8 it. If I overrule the objection, that means the evidence
9 is something you can consider during this trial.

10 The second job I have as the judge of the law is that
11 I will tell you the law that applies to the facts of this
12 case. And I'll do that at the end of the trial after
13 you've heard all the evidence and the arguments of the
14 lawyers.

15 Now, your job is much more difficult. You're the
16 judge of the facts. And our Constitution makes you the
17 exclusive judge of the facts. I'm not going to do
18 anything during this trial that will suggest to you or
19 indicate to you what I think the facts are, or what your
20 verdict should be. Even if I have an opinion, I could not
21 share it with you because you are the sole and exclusive
22 judge of the facts. And I'm not going to intrude on your
23 prerogative to determine the facts just as you would not
24 intrude on my prerogative to tell you what the law is.

25 So how do you determine what the facts are? You do

1 that by weighing and evaluating the evidence you're going
2 to hear during this trial.

3 Evidence consists of two sources. The first is by
4 way of sworn witness testimony. The second source of
5 evidence is by way of an exhibit. An exhibit is simply a
6 physical, tangible object. It might be a map, or a
7 photograph, or something of that nature. But you'll know
8 it's an exhibit. And you'll know it's evidence you can
9 consider in determining the facts because it will be back
10 in the jury room with you at the end of the trial and will
11 have a sticker on it that says exhibit number so and so.
12 Now, those are the only two things, typically, that you
13 can use to determine what the facts are.

14 So, as the judge of the facts, you will have to, by
15 necessity, determine the credibility of all the evidence.
16 So that means for every witness who takes the stand and
17 testifies, and every exhibit that's admitted into
18 evidence, you'll have to determine its believability.

19 In the case of a witness who testifies, I can give
20 you some general guidelines that you may or may not find
21 useful in gauging credibility. But you can consider, for
22 instance, what opportunity the witness had to observe the
23 things they're here to tell you about. You may consider
24 if they have some interest in the outcome of this case,
25 whether they have something to gain or lose by the

1 decision in the case. That is, whether they're biased or
2 prejudiced towards someone or some issue in the case.

3 You may consider how their testimony stacks up to the
4 other evidence in the case, whether it's consistent or
5 inconsistent. You may consider their demeanor on the
6 stand. And you may use whatever it is you use in your
7 daily life to determine whether someone is being truthful.
8 You can use your common sense. It didn't evaporate when
9 you walked into the courthouse. So you will make this
10 decision, however, about credibility, I know, using your
11 good common sense and your sense of logic and reason and
12 not arbitrarily.

13 So the criminal process has very definite rules and a
14 structure. And I already went over with you some of the
15 principles of criminal law that, certainly, apply in this
16 trial. But just to briefly recap, Mr. Gaskins is presumed
17 innocent. And this presumption of innocence will
18 accompany him throughout the trial. And it can only be
19 removed if you find unanimously the State has proven each
20 and every element of the crime beyond a reasonable doubt.

21 Now, there are six indictments in this case. And, as
22 I told you, the indictments are not evidence. They're,
23 certainly, not witnesses or exhibits. So you may not draw
24 any conclusion from the mere fact that he has been charged
25 and indicted. He has pled not guilty to all of these

1 charges. And the burden of proof is not on him. It's on
2 the State. He has no burden whatsoever. He doesn't have
3 to produce any evidence or explanation. And the
4 allegations are simply that.

5 So you will have to weigh and evaluate the evidence
6 separately as to each charge, and decide each charge on
7 its own and not let your decision on one influence your
8 decision on the others. But those general principles of
9 criminal law apply in this case.

10 Now, how many of y'all have sat on a jury in a
11 criminal case before?

12 (WHEREUPON, one juror raised their hand.)

13 THE COURT: Well, those of you who haven't may know
14 from your own experience a little bit about how a criminal
15 trial unfolds or the structure of it. But just to further
16 demystify things, let me tell you about that structure so
17 you'll know what to expect.

18 First of all, you're probably wondering how long is
19 this trial going to take. And I have been told that it's
20 estimated to, at least, go through tomorrow and, perhaps,
21 into Friday. We don't know yet. But, regardless of how
22 long or short the trial is, this case is, obviously, very
23 important to both sides. This is their day in court after
24 all.

25 But a criminal trial has a definite structure. And

1 in just a moment, you're going to hear the opening
2 statement of the Solicitor, who is the prosecutor. And
3 that's Ms. Hodge. And she's going to give you a brief
4 summary or outline of what she thinks the evidence will be
5 and what the issues are in the case. And she goes first
6 because the State has the burden of proof.

7 After she gives her opening statement, Mr. Chambers,
8 on behalf of the Defendant, Mr. Gaskins, has the
9 opportunity, but not the obligation, to give an opening
10 statement as well.

11 Then we will go to the presentation of evidence where
12 the State, again, bearing the burden of proof will present
13 their evidence first, which the Defense may confront. And
14 then after the State finishes its presentation of
15 evidence, the Defense may, again, choose to, but they do
16 not have the obligation to, present any evidence they wish
17 to, which the State may confront.

18 After you've heard the presentation of evidence, we
19 will have the closing arguments of the lawyers where they
20 will tell you what they think the evidence showed and what
21 your verdict should be. Then I'll give you the
22 instruction on the law that you are to apply to the facts
23 of the case. And then you will go deliberate and
24 determine what the facts are, apply the law I gave you to
25 those facts, and you'll be able to reach a verdict.

1 Now, until we get to that point, don't talk about
2 this case with anyone. Don't discuss it amongst
3 yourselves or with any third party. Don't do any kind of
4 outside investigation. Don't get on any kind of social
5 media and announce that you're sitting on the jury in such
6 and such case. You'd be amazed at how many times that
7 occurs and the problems -- serious problems it causes. So
8 you have to confine your decision to the evidence you hear
9 in this courtroom, and not from any other source.

10 Now, we spent a good bit of time this morning trying
11 to find a jury that could have an open mind. So we want
12 to keep you that way. So don't talk about the case.

13 It would be very easy for me to just stop right there
14 and say don't talk about the case and not explain why it's
15 so important. But just let me give you an example. You
16 may hear this morning from a witness and you may wonder
17 after they testify -- if you could go back and talk about
18 it, you might start talking about what the witness said,
19 or didn't say, or should have said. And when you do that,
20 you're starting to draw conclusions about the case. And
21 you may very well hear from a witness this afternoon or
22 tomorrow who says something completely opposite to what a
23 witness said earlier.

24 So keep an open mind. And remember that we are not
25 partisans or advocates for either the State or the

1 Defense. You and I are supposed to be fair and impartial.
2 And your job is to determine the facts and determine
3 whether the State has met its burden of proof.

4 So, with that, we'll have the opening statement.

5 Yes, ma'am, Ms. Hodge.

6 OPENING STATEMENTS

7 MS. HODGE: Thank you, Your Honor.

8 May it please the Court.

9 Mr. Chambers.

10 Ladies and gentlemen of the jury, this is a case
11 about a man, a grown man, 28, 29, 30 years old, a married
12 man and a father, who manipulated, who groomed, seduced,
13 if you will, a young impressionable naive 13-year-old
14 girl. Why? For the sole purpose of his sexual
15 gratification, wanting to have sex with this child. The
16 Defendant is that man, the 28, 29, 30-year-old married man
17 with a child, who seduced, groomed, manipulated the victim
18 in this case, **VICTIM** She was 13 at the time.
19 By the time this case concluded, she will be 14 years old.

20 The evidence will show that the Defendant manipulated
21 her through means that are very simple and tend to work on
22 most people. It started with flattery, attention. It
23 moved on to gifts, small things, going to McDonald, going
24 to Waffle House, maybe a token something from Wal-Mart.
25 It graduated to giving her a cell phone. Things that kids

1 think are really cool and really important. Also, cell
2 phones can give some freedom and access to the child away
3 from the parents knowing about it.

4 The evidence will show that the Defendant not only
5 manipulated the girl, but her family as well with the same
6 kinds of things. This girl was the daughter of his family
7 friends. He was friends with the parents. And he made
8 himself a part of the family, calling them mom and dad,
9 saying that this was like his little sister, kind of
10 blinding them to what was really going on.

11 And he was, also, very generous with them. He gave
12 them things. And he offered to pay their bills, and did
13 pay some bills when they were on hard times. The evidence
14 will show they tried to pay him back. And he would be
15 like, no, no, don't worry about it, all the while
16 manipulating the daughter for the purpose of sexual
17 gratification.

18 The evidence will show his plan worked, that he, in
19 fact, did coerce and convince this girl to have sex with
20 him over 10 times at various locations in Greenville
21 County. He moved and was in several different residences.
22 This happened in his residences, and as well as in two of
23 his cars that he parked in front of an abandoned house in
24 Travelers Rest.

25 The evidence will show this took place between the

1 spring of 2011 and the fall of 2012. By the fall of 2012,
2 the parents were kind of catching on. They were thinking
3 things were odd. And they had, basically, ended that
4 relationship friendship and said, no, I don't think we
5 need to -- you need to be hanging out with VICTIM
6 anymore.

7 The evidence will show the child never intended to
8 tell anyone about this. This was not something she was
9 eager to talk about, and she, certainly, wasn't about to
10 come forward. But on November the 10th of 2012, through a
11 totally unrelated set of circumstances, the mother in this
12 case received a Facebook post. As a result of something
13 she saw on Facebook, she called the Defendant's
14 mother-in-law and soon to be ex-wife. There was a
15 conversation had.

16 And the ex-wife, who will testify, will say that she
17 talked to the mother and said, You need to talk to your
18 daughter. I think that there was something going on, that
19 she had been suspicious for a little while. And, as a
20 result of that conversation, the mother then confronted
21 VICTIM who started to deny it, but then came forward
22 with everything.

23 At that point, the parents called the police. An
24 investigation was started by the Greenville County
25 Sheriff's Office. As a result, the Defendant was charged

1 with three counts of criminal sexual conduct with a minor
2 second degree and lewd act on a minor.

3 The Judge is going to tell you the law at the end.
4 But just so you know what we're talking about here, in
5 South Carolina, criminal sexual conduct with a minor
6 second degree means that the Defendant has committed a
7 sexual battery with a child between the ages of 11 and 14.
8 Sexual battery is defined as any type of sexual act that
9 has some type of penetrating -- injury is what they call
10 it. But it can be digital penetration of either the
11 vaginal area or anal area, penile penetration of the
12 vaginal or anal area, oral copulation of the vaginal area.
13 The evidence will show that the Defendant committed a
14 sexual battery, penile-vaginal penetration and oral
15 copulation on the victim during this time frame.

16 In addition, he was charged with lewd act on a minor.
17 Lewd act is simply the fondling or the touching of the
18 private parts of a minor, someone under the age of 16 with
19 the intent or arousing lusts, passions either of the child
20 or of the perpetrator themselves.

21 There are three charges. There were three time
22 frames and several different locations. And that's why
23 there are -- off three indictments for each charge -- or
24 three charges -- excuse me, two indictments, three sets of
25 each. That was confusing. I'll clear that up later.

1 The State will prove its case through the evidence.
2 As you heard Judge Hill tell you, there are two types of
3 evidence, testimonial and then there are the exhibits.
4 This case will be almost entirely testimonial, which means
5 you're going to hear from witnesses who saw, heard, spoke
6 with the Defendant or the victim. And you will, also,
7 have actual eyewitness testimony. The victim herself is
8 going to testify and tell you in embarrassingly great
9 detail what occurred between she and the Defendant.

10 At the conclusion of the evidence, the State and the
11 Defense will both be back in front of you asking for a
12 verdict. Verdict comes from a Latin term, veredicto,
13 which means to speak the truth. And the State will be
14 asking you to return a verdict that speaks the truth in
15 this case, which is guilty on all counts.

16 Thank you.

17 THE COURT: Thank you, Ms. Hodge.

18 Yes, sir, Mr. Chambers.

19 MR. CHAMBERS: May it please the Court, Your Honor.
20 Solicitor.

21 MS. HODGE: Yes, sir.

22 MR. CHAMBERS: Ladies and gentlemen, you met him
23 earlier. This is Jerald Gaskins, who's seated over here
24 beside me. And he is the accused. As His Honor told you,
25 what we have at this stage of the proceedings is nothing

1 more than an accusation.

2 And the Solicitor very concisely and I think very
3 thoroughly summed up for you what their accusation is in
4 this case. And these accusations arose against Jerald
5 back around the December 2011 time frame. There was a lot
6 going on in his life at that time that you're going to
7 hear about.

8 He had been friends with the Mucienkos. They met
9 having horseshoe tournaments and hanging out and, frankly,
10 drinking, carrying on, having a good time, and doing that
11 sort of thing on a frequent basis. That was, basically,
12 normal life at the Mucienkos house. There's lots of
13 people that would gather there. And they would play
14 horseshoes. And they would drink. And they would party.
15 And that's, basically, what went on most of the time.

16 That's where he first came into contact -- Jerald
17 with VICTIM She wanted to babysit for Jerald and for
18 Rachel, his wife. She started to do that. And Jerald is
19 a very generous person. He saw that she needed help with
20 things. He helped her. He helped this family. He did
21 that on a continuing basis until he started to feel like
22 he was being taken advantage of.

23 You'll hear that his father came to him and told him,
24 You're being taken advantage of. At one point, you'll
25 hear that they even without his knowledge or his authority

1 put cars that they owned on his insurance. And he said
2 enough is enough. I can't do this anymore. At that
3 point, they got mad at him. They told him that he would
4 be sorry.

5 At the same time, he and his wife, Rachel, were
6 having problems. They were beginning to go through a
7 divorce. There was a custody battle. And all of those
8 things were going on at the time that this allegation came
9 out.

10 Now, I'm not going to stand up here and talk about it
11 at length, because there's a trial that has to take place.
12 The Solicitor is going to present her case to you. She
13 presents her case because she has the burden of proof.

14 As His Honor has already told you, as -- when a
15 person is sitting over here as the accused the way Jerald
16 is, he is presumed innocent. That's something that all of
17 us in one capacity or another have heard probably
18 hundreds, if not thousands, of times in our lives. We
19 hear it almost daily in this age of the 24-hour news cycle
20 where we have all theses cable channels that are devoted
21 to this sort of thing. We hear about trials, and cases,
22 and things all the time. We are inundated with
23 information. And it's one of those things that everybody
24 has an opinion about.

25 But here is the thing, you're here as the triers of

1 fact. It's a hard job. It's not an easy job. But it is
2 an important job.

3 I stole this, actually, from Judge Hill, who's
4 presiding over this Court, but John Adams, who's one of
5 our founding father's, said that trial by jury is so
6 important that he deemed it the very heart and lungs of
7 liberty. Thomas Jefferson -- and I'm paraphrasing because
8 it's a fairly long quote -- essentially, said that trial
9 by jury is the greatest safeguard that our liberty has.
10 And I tell you that not to give you a civics lesson, but
11 to let you know how important what's going to take place
12 in this courtroom is, and how important your job here is.

13 There are other courts where very important things
14 get decided. We have civil court, which we call Common
15 Pleas here in South Carolina, where millions of dollars
16 sometimes are at stake where people have been injured for
17 life, and are looking to be taken care of for life because
18 of somebody else's negligence or somebody else's
19 recklessness. And, in those cases, the plaintiff is the
20 person bringing the case. And the Plaintiff is the person
21 that has the burden of proof. And even though those
22 matters are very important, we have said that, as a
23 society, the burden of proof is by a preponderance of the
24 evidence.

25 So if we think of a scale that we start with at the

1 beginning of the trial that is perfectly balanced, the
2 plaintiff merely has to move that scale ever so slightly
3 in his or her favor. It's the greater weight of the
4 evidence. Do you believe the Plaintiff by just a little
5 bit more than you do the other side?

6 There are other tribunals, mainly arbitrations and
7 things like that, where the level of proof is by clear and
8 convincing evidence, which sounds like a very high
9 standard, and it is. But we saved the highest standard,
10 the greatest burden of all for General Sessions, for
11 criminal court. And there's a reason for that.

12 This is the only court where a person can be deprived
13 of their life or their liberty. There's nothing greater
14 that we can take away from somebody than their liberty.
15 And so that's what's at stake here for Jerald today. And
16 as you consider this case, you have to consider that
17 burden of proof.

18 If you think about that scale, that means the
19 Solicitor has to move that scale almost all the way to her
20 side, almost all the way in her favor. In other words,
21 she has to remove any reasonable doubt from your
22 consciousness. If at the end of this you are left with
23 questions, that's reasonable doubt. If at the end of
24 this, you would find him guilty and then hesitate about
25 that, then that's reasonable doubt. If you had to stake

1 something that was very important to you on that decision,
2 would you feel comfortable with it?

3 There are lots of ways to define reasonable doubt.
4 But what most people will tell you is that does it leave
5 you firmly convinced? It's another way of saying
6 definitely sure. And I'm not going to stand up here and
7 try and tell you that they have to remove any doubt,
8 because that's really not possible. You know, you can
9 always have doubt. You could probably -- or some people,
10 I don't want to say you could. But people could be led to
11 believe that the sun is not going to come up tomorrow.
12 But, folks, that's not a reasonable doubt. You know,
13 short of an asteroid or something hitting the earth and
14 pretty much eliminating all life, it's going to come up
15 tomorrow. So that is not a reasonable doubt. And I'm not
16 here to tell you that that's the kind of doubt you need to
17 have.

18 Now, I expect that at the end of this, His Honor is
19 going to charge you when he charges the law, among other
20 things, that you can convict based on the testimony of the
21 alleged victim in this case alone. So it's important.
22 It's important that you listen. And you have to ask
23 yourself, do I believe what she is telling me? Does it
24 make sense to me when I consider all of the facts, and all
25 of the circumstances, and all of the collateral issues in

1 this case? Do I believe that? It doesn't relieve them of
2 the burden of proof. You have to believe beyond a
3 reasonable doubt.

4 Here is really what you're going to be doing. His
5 Honor made reference to your common sense. As the triers
6 of fact, what you're going to do is, first of all, you're
7 going to take the law as His Honor gives it to you. We
8 have an excellent judge in this case. And he will charge
9 you on the law. You're going to take the evidence that's
10 presented to you from this witness stand. There's a
11 ritual that we have people go through to -- so that
12 they're struck with the importance of what they're about
13 to do. And it is that they come up here and they put
14 their hand on the Bible. They raise their right hand and
15 they swear that they're going to tell the truth.

16 So you're going to take the testimony. And what
17 you're going to do is what to one degree or another you do
18 every day. You're going to ask yourself, do I believe
19 what this person is telling me? You're going to judge
20 that by the person's demeanor. You're going to judge that
21 by whether there's anything at all to corroborate what
22 they have to say.

23 And here is where the common sense comes in. You're
24 going to judge it based on does it make sense to me when I
25 think about the circumstances? Anybody can say something

1 happened. Anybody can make an allegation against
2 somebody. But what is their motive for doing that? What
3 is their reason for doing that? And does it make sense
4 under the circumstance? And, more importantly, do you
5 believe it beyond a reasonable doubt? Do you believe it
6 beyond a reasonable doubt? That's what it comes down to.

7 Ladies and gentlemen, I, obviously, have been privy
8 to some of the information the Solicitor is going to
9 present because those are the rules. But I don't know
10 everything. And I don't know exactly how she's going to
11 proceed. So, like you, I look forward to hearing what she
12 has to present to us here today.

13 I can tell you that Jerald is thankful that you're
14 here. The specter of this case has been hanging over his
15 head for a long time. And, frankly, there's not a worse
16 accusation you could make against somebody in our society
17 than what he is accused of doing. This is his day in
18 court. And without you being here, he would continue to
19 languish with this hanging over his head.

20 We appreciate you being here. We look forward to
21 hearing the Solicitor's case.

22 THE COURT: Thank you, Mr. Chambers.

23 Yes, ma'am, Ms. Hodge. You may call your first
24 witness.

25 MS. HODGE: Thank you, Your Honor.

1 The State calls Deputy Paul Floyd.

2 THE CLERK: Officer Floyd, please, come forward.

3 If you would, please, place your left hand on the
4 Bible and raise your right hand.

5 WHEREUPON,

6 PAUL FLOYD,

7 after first having been duly sworn, testified as follows:

8 THE CLERK: Thank you.

9 Please be seated.

10 Would you, please, state your name for the record?

11 THE WITNESS: Master Deputy Paul Floyd.

12 THE CLERK: Thank you.

13 DIRECT EXAMINATION

14 BY MS. HODGE:

15 Q Master Deputy, who are you employed with?

16 A The Greenville County Sheriff's Office.

17 Q And how long have you been with the sheriff's office?

18 A Over five years now.

19 Q Did you have any law enforcement experience prior to
20 that?

21 A No, ma'am, I did not.

22 Q What's your educational background?

23 A I've got a bachelor's from Clemson University. And I
24 graduated from the South Carolina Criminal Justice
25 Academy.

1 Q And what are your duties or responsibilities with the
2 sheriff's office?

3 A I'm a uniform patrol master deputy and intermediate
4 supervisor with -- I'm out on the road patrolling every
5 day.

6 Q And what kinds of things do road deputies -- or
7 uniform patrol do for the community?

8 A Address any kind of issue that comes up. Any time
9 somebody comes -- has a problem, we try to help them out,
10 point them in the right direction, take law enforcement
11 action, if necessary.

12 Q Do you respond to calls for service to people's homes
13 or --

14 A Absolutely, yes.

15 Q And were you employed in this same capacity back on
16 November 10th, 2012?

17 A I was just as a deputy two. I have since been
18 promoted.

19 Q And did you have a trainee or anybody with you on
20 that day?

21 A Yes, ma'am, I did, Deputy Kelly.

22 Q Did you receive a call for service at a residence
23 located at 206 Valley Road?

24 A I did. We responded for a complaint about a criminal
25 sexual conduct with a minor that occurred.

1 Q Was this something that had recently occurred or
2 previously occurred?

3 A When I arrived, I met with the victim and the
4 parents. And they told me that they had found out that
5 their daughter had been --

6 MR. CHAMBERS: Objection, Your Honor. Hearsay.

7 THE WITNESS: Excuse me.

8 THE COURT: Sustained.

9 BY MS. HODGE:

10 Q Let me back up a little bit. So the -- there was
11 not -- this was not a criminal sexual conduct that was
12 occurring at that moment. You were not responding to an
13 urgent situation?

14 A Correct. It had already occurred.

15 Q Okay. And do you remember what time you ended up
16 going to this residence?

17 A I believe it was around 11:30 p.m. on the 10th of
18 November.

19 Q All right. Of 2012 --

20 A 2012, yes, ma'am.

21 Q Okay. And is this residence in Greenville County,
22 the one you responded to?

23 A Yes, ma'am, it is.

24 Q All right. And were you the lead deputy in this
25 case --

1 A Yes, ma'am.

2 Q -- in responding to the call?

3 A Yes, ma'am.

4 Q All right. So tell us what you did upon arrival.

5 A I arrived on scene and made contact with the victim's
6 parents. It was Walter and Sandra Mucienko. They told me
7 they just --

8 Q Well, hang on one second --

9 A Excuse me.

10 Q -- without telling me what the parents said --

11 A Sorry.

12 Q That's all right. Was this a case involving their
13 daughter?

14 A Yes, ma'am.

15 Q All right. And who was their daughter?

16 A It was VICTIM

17 Q All right. And how old was VICTIM

18 A I believe she was 15 years old at the time of the
19 report.

20 Q All right. And did you speak to the parents briefly
21 about why they had called you out there?

22 A Yes, ma'am, I did.

23 Q After speaking to the parents -- or what did you tell
24 the parents that you needed to do, or what you wanted to
25 do?

1 A I told them that I would like to speak to their
2 daughter alone, if possible, to establish whether a
3 complaint of a criminal act had occurred and the
4 jurisdiction.

5 Q All right. And did they give you permission to speak
6 to VICTIM

7 A Yes, ma'am, they did.

8 Q And was there a place that you and VICTIM went to
9 talk?

10 A I believe we went into an adjacent room with the door
11 open, obviously, just out of earshot so I could -- the
12 victim could feel comfortable speaking with me.

13 Q All right. And, at that time, did VICTIM tell you
14 that she had been involved in a sexual battery?

15 A Yes, ma'am, she did.

16 Q All right. And did she tell you when this sexual
17 battery had occurred, or if it was multiple occurrences?

18 A She said it was several times over about a period of
19 a year and three months is the best estimate I could
20 obtain.

21 Q And did she tell you how old she was at the time of
22 this?

23 A She said the first time it happened, it was -- she
24 was 13 years old.

25 Q And was she able to tell you where the sexual

1 batteries occurred?

2 A She -- we went through and she told me it was several
3 different locations, one of which was out of my
4 jurisdiction in Central, South Carolina. But then we went
5 on and started identifying that there were some instances
6 in some residences in TR city -- Travelers Rest city.

7 And then I was able to obtain that one residence in
8 Greenville County jurisdiction was 46 Quail Roost. I
9 believe it's Quail Roost in Travelers Rest.

10 Q Which was within the county?

11 A Yes, ma'am.

12 Q Okay. And Travelers Rest city is within Greenville
13 County as well; correct?

14 A Yes, ma'am. All of Travelers Rest city is within
15 Greenville County.

16 Q All right. Was a suspect identified?

17 A She identified by name and general description only.

18 Q All right. And so who was the suspect in this case?

19 A She told me that Jerald Gaskins was the suspect.

20 Q All right. Is there a senior, or junior, or --

21 A He's a junior. And she told me this.

22 Q All right. Now, what was her demeanor like, or how
23 was she in response to your questions and telling you what
24 had gone on?

25 A She appeared to me that she was ashamed. She even

1 said that she was ashamed and felt stupid for letting
2 herself get in this situation.

3 Q Okay. After talking to her -- well, did you try to
4 get a really detailed statement from her or --

5 A No, ma'am. I would like to -- I usually like to
6 leave that to the investigators who have much more
7 experience and training in conducting these
8 investigations. I just -- like I said, I just mainly
9 wanted to establish that I had jurisdiction in some of the
10 instances and that an allegation of a criminal act had
11 occurred.

12 Q And what did you do after speaking with VICTIM

13 A I contacted -- I went back and spoke with the
14 victim's parents, and did some standard paperwork. I had
15 them sign it as her legal guardians. And then I notified
16 my immediate supervisor and our on-call juvenile
17 investigator, which was Investigator Motes.

18 Q Was someone going to follow-up with VICTIM
19 parents?

20 A Absolutely, yes, ma'am.

21 Q Okay. And did you attempt to locate or speak to the
22 Defendant -- or suspect, Jerald Gaskins?

23 A No, ma'am. That needs -- that's better for the
24 investigator to do. Because I didn't want to get too far
25 into the investigation and have it be contrary to the way

1 the investigator would like to go.

2 Q Was there any urgent need or emergency to have him
3 located at that time?

4 A No, ma'am. I -- the juvenile was safe, in my
5 opinion, at this location and had not seen the suspect
6 recently -- excuse me, the Defendant.

7 Q All right. And that suspect is the Defendant?

8 A Yes, ma'am, Jerald Gaskins.

9 Q Jerald Gaskins. All right. After you left the
10 Mucienkos home, did you have any other involvement
11 investigating this case?

12 A No, ma'am.

13 MS. HODGE: Thank you.

14 Please answer any of the Defense's questions.

15 MR. CHAMBERS: Your Honor, I don't have any questions
16 for Deputy Floyd.

17 THE COURT: All right. Thank you, Officer Floyd.
18 You can step down, sir.

19 THE WITNESS: Thank you.

20 MS. HODGE: Your Honor, may he be excused?

21 MR. CHAMBERS: No objection from me, Your Honor.

22 THE COURT: All right. He's excused.

23 MS. HODGE: Thank you.

24 The State calls Sandra Mucienko.

25 THE CLERK: Ma'am, if you'll, please, place your left

1 hand on the Bible and raise your right hand.

2 WHEREUPON,

3 SANDRA MUCIENKO,

4 after first having been duly sworn, testified as follows:

5 THE CLERK: Thank you.

6 Please be seated.

7 Would you, please, state your name for the record?

8 THE WITNESS: Sandra Mucienko.

9 THE CLERK: Move in a little bit, please.

10 All right. Thank you.

11 DIRECT EXAMINATION

12 BY MS. HODGE:

13 Q Ms. Mucienko, tell us a little bit about yourself.

14 Let's start with, how old are you?

15 A 46.

16 Q And are you, currently, married?

17 A Yes, ma'am.

18 Q Are you separated?

19 A Yes.

20 Q And who were you married to -- who are you married
21 to?

22 A Walter Mucienko.

23 Q And how long have you been married to him?

24 A 25 years.

25 Q And do you have any children?

1 A Yes, three.

2 Q And what are their names and ages?

3 A My son, Walter, is 25. My daughter Jamie is 23. And
4 my youngest daughter, VICTIM is 17.

5 Q And are you, currently, employed?

6 A Yes, ma'am.

7 Q Have you worked most of your life?

8 A Yes.

9 Q Do you live in the Greenville area?

10 A I do, in Travelers Rest.

11 Q Have you -- did you grow up in Greenville, or did you
12 move here?

13 A No. I moved here in 2006.

14 Q Where did you move from?

15 A West Palm Beach.

16 Q Do you know the Defendant in this case?

17 A Yes, ma'am.

18 Q All right. How do you know him?

19 A We used to play horseshoes together. That's how we
20 met.

21 Q That's how you met him?

22 A Uh-huh.

23 Q All right. And do you recall about when it was that
24 you met him?

25 A It was around the spring of 2011.

1 Q And is this a horseshoe tournament kind of a thing,
2 or was it --

3 A It was a weekly deal. We played every Sunday. It
4 would be at different people's house.

5 Q And how did y'all get involved in that?

6 A Just through some friends that we knew. And then we
7 started playing.

8 Q Had you been playing before the spring of 2011, or is
9 that when you started getting into --

10 A No. That's when we started.

11 Q Okay. And you met the Defendant at that time?

12 A Yes.

13 Q And did you meet -- was he married at the time?

14 A Yes.

15 Q Did you meet his wife?

16 A Yes.

17 Q And what was her name?

18 A Rachel.

19 Q And did he have any children at that time?

20 A At that time, it was just his daughter, Skyland. And
21 I think she was about five months old.

22 Q Did you and your husband get along with the Defendant
23 and his wife?

24 A Oh, yes.

25 Q Would your daughters -- or let's see. Let's start

1 with your son -- your oldest son, and then your middle
2 daughter, and your youngest, would they come to the
3 horseshoe --

4 A No, not at the time. Because my son and my middle
5 daughter were living still in Florida. So it was just me,
6 my husband, and my younger daughter.

7 Q And VICTIM

8 A Yes.

9 Q Okay. And so the relationship -- how was the -- how
10 did y'all form a relationship with the Gaskins?

11 A They would come hang out at our house. We'd
12 barbecue, you know. It was family and friends, you know.

13 Q And were they a little bit younger than you guys?

14 A Yes. His wife is my daughter's -- my middle
15 daughter's age. They went to school together at Travelers
16 Rest. And he was a bit older than that.

17 Q Do you know approximately how old he was when you met
18 him?

19 A 28, maybe 29.

20 Q Okay. And his wife is the same age as your
21 daughter --

22 A Right.

23 Q All right. And so did they -- did you guys get close
24 as two families?

25 A Oh, yes. He used to call me mom. He'd call my

1 husband dad or pops, you know. He'd call my children like
2 his little sister, you know, or sis. So it was -- we were
3 pretty close.

4 Q And did you allow VICTIM to hang out with him and
5 his wife --

6 A Yeah.

7 Q -- and that kind of stuff?

8 A Yeah.

9 Q Do you know where they lived when you first met them?

10 A It was on Tigerville Road. I don't know the address.

11 Q Okay. Was that close to you guys or --

12 A Yeah. About 10 minutes from my house.

13 Q And was VICTIM allowed to go over there when you
14 guys weren't there?

15 A Yes.

16 Q And what was the purpose of her going over there?

17 A She'd go over there and hang out with Rachel, and
18 play with the baby. They'd play video games. Sometimes,
19 she'd babysit if they had to run out to the store, or
20 whatnot. She'd stay there with the baby.

21 Q Was she getting paid to babysit?

22 A Oh, no.

23 Q Did she like little kids?

24 A Yes.

25 Q And was there anything in your mind, at that time,

1 like she shouldn't be doing this, or this is weird?

2 A No. I was not uncomfortable with that at all.

3 Q Okay. And there were times, obviously, you and your
4 husband would be there as well hanging out?

5 A Oh, yeah.

6 Q Okay. And did the Defendant and his family come to
7 your home and hang out?

8 A Yes. Because we would host some of the horseshoes.
9 It would be like at four people's houses. And each
10 Sunday, it would switch houses. So the whole family was
11 there when it was at our house.

12 Q All right. And so how old was VICTIM at this time?
13 Did we say?

14 A 13.

15 Q Do you remember what grade she would have been in?

16 A It was the end of the eighth grade, closer -- yeah,
17 closer to the end of the eighth grade. Because it was
18 spring.

19 Q All right. And what school was she going to for
20 middle school?

21 A Northwest Middle.

22 Q All right. And what kind of a student was VICTIM

23 A She's always been pretty good, not all A's, but A's
24 and B's.

25 Q All right. And was she involved in any activities or

1 anything at school?

2 A She was always into volleyball every year.

3 (WHEREUPON, State's Exhibit No. 1 was marked for
4 identification only.)

5 MS. HODGE: Thank you.

6 THE COURT REPORTER: You're welcome.

7 BY MS. HODGE:

8 Q I'm showing you State's Exhibit No. 1. Are you
9 familiar with that?

10 A Yes.

11 Q Okay. What is that?

12 A That's her volleyball picture from middle school.

13 Q All right. Is that the age she was when you guys met
14 the Gaskins?

15 A Yes.

16 MS. HODGE: All right. And, at this time, we'd move
17 to admit State's Exhibit No. 1 into evidence.

18 MR. CHAMBERS: No objection, Your Honor.

19 THE COURT: It's in evidence.

20 (WHEREUPON, State's Exhibit No. 1 was admitted into
21 evidence.)

22 BY MS. HODGE:

23 Q Has **VICTIM** grown up a little since that --

24 A Absolutely.

25 Q She doesn't look like that today?

1 A No.

2 Q All right. Did the Defendant ever come to any of her
3 volleyball games?

4 A Yes. There was times that we would go together to
5 support her. Other times when I was working and I
6 couldn't make it to her games, he would go there and watch
7 to support her.

8 Q And did you think anything of that at the time, that
9 he would go without anybody else going?

10 A No.

11 Q How about church? Was VICTIM involved in a church
12 or a youth group?

13 A Yes. She was going to North Greenville Christian
14 Fellowship in Travelers Rest.

15 Q Was this on Sundays, or Wednesdays?

16 A Sundays and Wednesdays, yes. There would be a church
17 van that would pick her up.

18 Q Okay. Has that changed names now? Is it something
19 else?

20 A It's call God's Way now. It's still the same
21 location.

22 Q Okay. And during this time, did VICTIM have
23 friends, kind of a normal --

24 A Yes.

25 Q -- life as a 13-year-old?

1 A Yes, plenty of friends.

2 Q Was she social? Did she like to do things with her
3 friends?

4 A Very social.

5 Q Did she have a friend named #1 (Minor)

6 A Yes.

7 Q And how long had she and #1 (Minor) been friends?

8 A It wasn't too long after we moved up here from
9 Florida. Her and #1 met at school. And I think she
10 was in the fourth grade, fourth grade and on. And #1
11 lived like around the corner from us. So they stayed
12 pretty close friends the whole time.

13 Q Would #1 ever come over on the Sundays that
14 horseshoes might be going on?

15 A Very rarely. She had moved to Greenville to stay
16 with her nanny and papa.

17 Q Did #1 have kind of a difficult home life?

18 A She did. She was -- her and her sister were taken
19 away from her mother at one point. That's why she moved
20 to Greenville to stay with her grandparents.

21 Q Okay. And how about her father, was her father
22 alive?

23 A No. Her father passed away.

24 Q Would she be at your house a good bit, though, when
25 they were friends, even if they were on horseshoe days,

1 but --

2 A Oh, yeah.

3 Q All right. Now, let's go back to VICTIM How often
4 would you say that VICTIM would go over to the
5 Defendant's house once y'all, finally, met?

6 A Mostly weekends, because she was still in school.
7 Over the summer, it could be any time, you know, but,
8 mostly, on the weekends.

9 Q And how would she get there?

10 A Either they'd come and pick her up -- Jerald or
11 Rachel would come and get her. Because there was a time
12 when they lived out in Central. So it was a good ride.
13 Or there'd be times if we were hanging out over there that
14 she would ask to stay after we left, so.

15 Q You let her stay?

16 A Yeah.

17 Q Okay. So she spent the night over at their homes?

18 A Yes.

19 Q Okay. Did they have -- did they move several times
20 during this period --

21 A Yes.

22 Q -- that y'all were friends?

23 A Yes.

24 Q Okay. And did -- you said one time they were in
25 Central. Were the other times local like in TR or --

1 A Travelers Rest.

2 Q Travelers Rest. Sorry.

3 And, again, she's spending the night over there.
4 You're not -- at this point, you're not thinking anything
5 odd with that?

6 A No. Because Rachel was there, and the baby, you
7 know. And they just liked to hang out.

8 Q Okay. Did it help that Rachel and your middle
9 daughter were --

10 A Friends.

11 Q -- also friends --

12 A Yes.

13 Q -- and knew each other?

14 A Yes.

15 Q And was the Defendant nice to you guys, or generous
16 to you guys, or help you guys out?

17 A Always.

18 Q Okay. What were some examples of him doing that?

19 A There were times I was short on some of my bills.
20 And he offered to help me out, you know, lend me money. I
21 had told him I'd pay him back. And he said, Don't worry
22 about it, you know.

23 Q All right. When you would have the money, would you
24 try to give it to him?

25 A Yes.

1 Q And he would say, Don't worry about it?

2 A He always told me, Don't worry about it. He said he
3 had me covered.

4 Q Now, during the time that **VICTIM** started spending
5 time over at his home, did you notice any behavior changes
6 in her?

7 A There was a time she was pretty sassy, back talking.
8 She'd hide out in her room all the time, on her phone all
9 the time, just kind of pushing herself away from us, you
10 know. We used to have a good relationship. And she just
11 kind of didn't want -- you know, didn't want to bother
12 with me anymore.

13 Q Okay. And did you think anything about that?

14 A No. I just thought she was being a teenager. I went
15 through two of them already before her. So I just...

16 Q All right. So you're not really keying in on that as
17 some bigger problem?

18 A No.

19 Q Okay. How about was she usually outgoing and bubbly?

20 A Oh, yes, very social, happy, always had her friends.

21 Q And did that change some?

22 A It did. She didn't talk to any of her friends.

23 Q Did she continue to go to church and do those things?

24 A That started to slack off as well. There wasn't so
25 much of a -- maybe on Sundays. And then it started being

1 every other Sunday. And then maybe once a month. It just
2 wasn't -- it wasn't her. Because she was very much into
3 her church.

4 Q And did she -- did you provide her a cell phone
5 during this time in her life?

6 A Yeah. She had a cell phone. It got shut off,
7 though, because she went over her minutes -- or her
8 roaming. She would -- had excessive roaming. So I had to
9 have it shut off.

10 Q At some point, did she get a phone as a gift?

11 A She did.

12 Q All right. And where did that come from?

13 A That came from Jerald.

14 Q And did you know about that?

15 A Yes. He offered to put her on his plan since I
16 couldn't put her back on my plan.

17 Q And did you have any problem with that?

18 A Not at all.

19 Q At any point, did **VICTIM** have her phone taken from
20 her?

21 A Yes. When her grades were bad, she would -- her
22 phone would always be taken away if she had a bad grade.

23 Q Was she ever -- did you ever catch her using her
24 phone when she wasn't supposed to, or anything like that?

25 A Not at that time. After her phone was taken away

1 permanently, she was provided with another phone, not to
2 my knowledge.

3 Q Okay.

4 A And then I found her with that phone.

5 Q All right. And where did that phone come from?

6 A That came, also, from Jerald.

7 Q Did you ever ask her, specifically, about anything
8 going on possibly between them that was inappropriate,
9 initially?

10 A No.

11 Q Okay. Did you ever talk to him about it, or question
12 him about why he was so interested in her, or supportive
13 of her?

14 A No.

15 Q At some point, did you -- did that change? Did you
16 become uneasy or suspicious?

17 A Well, there -- he started to act a little more
18 controlling towards her. We -- my husband had asked him
19 to bring her home one night. And he kept coming up with
20 excuses saying, no, his clutch went out, he couldn't bring
21 her home, or he didn't want to bring her home because he
22 said my husband was drunk, and he wasn't going to bring
23 her home.

24 And I was at work. I couldn't do anything about it.
25 After that, I just -- I told him, I said, This isn't

1 working. I think our friendship has run its course, you
2 know.

3 Q And what were your feelings about that because he was
4 disregarding --

5 A Yes.

6 Q -- you all's wishes?

7 A Because -- yes. He was not doing as we said, you
8 know. That's my daughter, you know. She needed to get
9 home. Just too many things -- you know, like I said, just
10 being too possessive over her.

11 Q And then later, did you come to confront VICTIM
12 about what -- some allegations of maybe a sexual
13 relationship?

14 A I had received a Facebook message from Allison Lane.

15 Q And tell us, who is Allison Lane?

16 A That is Jerald's ex-wife's mother.

17 Q Rachel's --

18 A Rachel's mother.

19 Q -- mother.

20 A I asked her if I could call her to find out what the
21 full message was about. After speaking to her, Rachel got
22 on the phone. And I talked to her for a bit. And after
23 that is what -- after the conversation we had is what
24 brought me to confront VICTIM

25 Q All right.

1 A To ask her if there was something going on that she
2 needed to tell me about.

3 Q All right. And what -- when was this? Do you
4 remember when this was?

5 A It was in November of 2012.

6 Q And had -- the conversation that you had with the
7 Defendant about not seeing VICTIM anymore, had that been
8 before this?

9 A Yes. That was around October, the beginning of
10 October.

11 Q Okay. So maybe a month --

12 A Yeah.

13 Q -- prior to you now having this talk with VICTIM

14 A Right.

15 Q Okay. And, to your knowledge, had they seen each
16 other, or had anything happened in that month?

17 A No, not that I know.

18 Q So tell us what happened when you went to VICTIM

19 A I confronted her. She, initially, denied it. We
20 were all in the living room, my husband, myself, my
21 daughter.

22 And when she denied it, my daughter said, There's
23 something you need to tell mom. You need to tell her. So
24 she started to tell me, you know. She was crying and
25 upset. After that is when I called the sheriff.

1 Q Was that the same time --

2 A Same evening, yes.

3 Q Okay. Did she go into detail with you about where or
4 when this sexual battery --

5 A Not at that point. There was a few things she said.
6 But when the sheriffs got there, they took her into the
7 kitchen. We went to another room. And they questioned
8 her then.

9 I think it was shortly after that is when
10 Investigator Perry met her at school. And she had put a
11 few details in that -- in that statement.

12 Q So did the investigators contact you ahead of time to
13 see if it was okay --

14 A Yes.

15 Q -- to go to school?

16 A Yes. To meet her at the school, yes.

17 Q Okay. And after they'd interviewed her, they came
18 back and spoke to you about what she had disclosed?

19 A Yes.

20 Q Okay. And did they, also, set up a medical
21 appointment for VICTIM

22 A He had given me a pamphlet for the Julie Valentine
23 Center. I called and set up the appointment for her
24 there. They did the medical exam there. And then upon
25 that, they set her up with counseling.

1 Q Counseling therapy type counseling?

2 A Yes.

3 Q And where did she go for counseling, or did she go?

4 A She went to the Julie Valentine Center. It was a
5 12-week program.

6 Q And did she successfully complete her counseling?

7 A She did.

8 Q Once she -- let's go back a little bit. Once she,
9 finally, told and this was kind of off her plate or off
10 her chest, did you notice anything about her, anything
11 concerning about her? Did it change any patterns of
12 sleep, or any fearfulness, or any --

13 A Her anxiety level was pretty high. She wasn't
14 sleeping in her own room. She was sleeping with her
15 sister. But with the counseling, that helped, that
16 changed.

17 Q Okay. I think -- well, I'm sorry. I don't believe
18 you were in here during opening statements.

19 But let's go back to the time you had the
20 conversation with the Defendant and said, you know, I
21 don't think this is working anymore. We just need to go
22 our separate ways. Was there some kind of argument or
23 discussion that he -- you had put some cars on his
24 insurance, and he was paying for them, and he didn't want
25 to pay for them anymore?

1 A I know that we had a car on his insurance. Because
2 it made our rates lower. But I don't remember why that
3 was taken off.

4 Q Was there a discussion between you and him or your
5 family and him and -- that got heated about that?

6 A It may have been between him and my husband. I don't
7 know about that.

8 Q Okay. And when you said it's not working with us
9 anymore as far as being friends, what was your -- what was
10 the reason for that?

11 A Just the way he was possessing over VICTIM It was
12 getting a little weird.

13 Q Okay. And during that time frame, did the Defendant
14 become separated from his wife during some of this time?

15 A Yes. That was in April, April of 2012.

16 Q So April --

17 A When she left the home.

18 Q Okay. And when she -- when the wife, Rachel, left,
19 did you continue to maintain -- or did your family
20 continue --

21 A We did.

22 Q -- to maintain a relationship with the Defendant?

23 A We did for a while, yes.

24 Q Okay. Were you supportive of the Defendant during
25 that time?

1 A Yes.

2 Q And did you ever try to concoct anything with Rachel,
3 his ex-wife, to make things more difficult for him
4 regarding his divorce?

5 A Actually, we -- I hadn't talked to Rachel after she
6 had left. It was months after. Actually, I didn't talk
7 to her until I spoke to her on the phone in November.

8 So from April until then when I spoke with her and
9 her mother on the phone, we hadn't spoken at all.

10 Q All right. So you had not been a part of or privy to
11 anything with her and their divorce, or anything like
12 that?

13 A No.

14 Q So you didn't have some vendetta against the
15 Defendant to make this up?

16 A No.

17 Q Or to be in cahoots with his ex-wife?

18 A No.

19 Q And once your daughter told you that something had
20 gone on, did you look back and see maybe some signs?

21 A Absolutely. Some things popped up. There was a time
22 they were supposed to go to a concert. He said he had
23 tickets for him, her, his mother and father. And then
24 when they came back from the concert, there was no
25 pictures. They didn't talk about the concert.

1 So that -- after all was said, I thought, well, that
2 was -- you know, maybe that's why there was no pictures or
3 anything because they never went to the concert. He never
4 had tickets. Because my other daughter had asked him, Can
5 I go to the concert, too?

6 And he was like, I only have four ticket.

7 He never had tickets. So, yeah, that popped up after
8 she had told me.

9 Q Okay. And thinking back, just as much time as they
10 spent together and those kind --

11 A Right.

12 Q -- of things --

13 A Right.

14 Q -- did any of that start to be a red flag for you?

15 A Yeah.

16 Q All right. And is -- the person that you know as
17 Jerald Gaskins, is he present in court today?

18 A Yes, ma'am.

19 Q And where is he?

20 A He's sitting over there.

21 Q Okay. In the gray shirt with the black tie?

22 A Yes, ma'am.

23 MS. HODGE: Please let the record reflect that she
24 has identified the Defendant.

25 Thank you.

1 Answer any of Defense's questions.

2 THE COURT: Cross-examination, Mr. Chambers.

3 CROSS-EXAMINATION

4 BY MR. CHAMBERS:

5 Q So you met Jerald and Rachel through these horseshoe
6 tournaments; is that correct?

7 A Yes, sir.

8 Q And how is it that you -- that y'all became involved
9 with this group that had horseshoe tournaments? I mean,
10 how did that happen?

11 A It was, actually, one of the hosts that hosted the
12 horseshoes lived down the street from us. And my husband
13 used to go down there and every now and then play
14 horseshoes. And then we got involved in playing as well.

15 Q And where did y'all live at the time?

16 A In Travelers Rest.

17 Q And y'all had moved there from Florida; is that
18 correct?

19 A Yes.

20 Q And how long had you been living there when you met
21 Jerald?

22 A At that home, two years, I believe.

23 Q All right.

24 A We had lived at another residence before that.

25 Q And you met him at one of these horseshoe

1 tournaments?

2 A Yes.

3 Q And so you really became friends. Your whole family,
4 essentially, became friends with his family?

5 A Yes.

6 Q Rachel -- they had a baby. Their little girl was a
7 baby; is that correct?

8 A Yes.

9 Q And so y'all started to hang out?

10 A Yes.

11 Q And you would hang out not only at these horseshoe
12 tournaments, but, also, at your home, also, at their home;
13 is that correct?

14 A Yes.

15 Q And so how often would y'all be together as families?

16 A A lot of times, it would be on a daily basis, not
17 just on the weekends.

18 Q All right. And this was -- these were social events.
19 I mean, there was eating. And y'all liked to drink
20 alcohol, those sorts of things; right?

21 A Sure.

22 Q Play horseshoes, shoot pool, things like that?

23 A Shoot pool, no.

24 Q Oh, okay. And you said that I believe your middle
25 daughter, who was living in Florida, at least, for part of

1 this time, actually, went to school with Rachel. So there
2 was that relationship?

3 A Yes.

4 Q All right. And over the course of this, your
5 daughter, **VICTIM** started to sometimes go to the home of
6 Rachel and Jerald?

7 A Yes.

8 Q And this is something she wanted to do; am I correct?

9 A Yes.

10 Q I mean, she was never at any point forced into going?

11 A No.

12 Q And she never seemed reluctant about going?

13 A No.

14 Q And she wanted to go?

15 A Yes.

16 Q Because you described her as sort of a normal, happy,
17 healthy 13, 14-year-old girl during this time frame; is
18 that correct?

19 A Yes.

20 Q In fact, she was very social. She had lots of
21 friends?

22 A Yes.

23 Q She had the outlet of playing volleyball?

24 A Yes.

25 Q So there were lots of things she could be doing with

1 her time?

2 A Yes.

3 Q But her choice was, at least, in these instances to
4 go over and spend time with Rachel and with Jerald at
5 their house?

6 A Yes.

7 Q And you said that -- it sounds as though Jerald was
8 very generous with your entire family?

9 A Yes.

10 Q He not only helped y'all pay bills, but he helped
11 with things with VICTIM And he did that on a fairly
12 frequent basis?

13 A Yes.

14 Q He went so far as -- y'all even put your cars on his
15 insurance policy; is that correct?

16 A Yes.

17 Q And during this time frame, I believe that you were
18 the breadwinner, I guess, for your family; is that
19 correct?

20 A Yes.

21 Q You worked for a while at the Olive Garden?

22 A I don't think I was working at the Olive Garden
23 during that --

24 Q You worked as a waitress somewhere?

25 A There was a restaurant in Travelers Rest.

1 Q Okay.

2 A I worked there.

3 Q And you worked as a bartender, I believe, for a
4 while?

5 A Yes.

6 Q But your husband, Walt, he did not work, did he?

7 A Not often. If he did, it was just casual labor.

8 Q Okay. So he was home pretty much most of the time?

9 A Yes.

10 Q And had -- he sort of took care of things at the
11 house?

12 A Yes.

13 Q It'd be fair to say that Walt liked to drink beer,
14 would it not?

15 A Yes.

16 Q And was he -- did he have a car at his disposal? Was
17 he able to drive, go places, do things?

18 A Yeah.

19 Q And, at some point, the -- Jerald came to y'all and
20 said that he couldn't help you with your bills and things
21 anymore, didn't he?

22 A No.

23 Q He didn't tell you -- he told you that he felt like
24 he was being taken advantage of?

25 A He never said that to me.

1 Q Do you remember, specifically, there was a
2 disagreement, I believe, that you, or Walt, or somebody
3 had, actually, put these cars on his insurance without his
4 authority and without his knowledge. And he found out
5 about it and he was angry. Do you recall that?

6 A No.

7 Q You don't recall that. But there was a time when he
8 no longer helped you with your bills, regardless of
9 what -- the reason for that; is that correct?

10 A I'm sorry. Say that again.

11 Q There did come a time when he was no longer helping
12 you with your bills; is that correct?

13 A No. If I asked him, he would help.

14 Q And the cell phone was on his plan and Rachel's plan,
15 presumedly. You knew about it, and you approved of it?

16 A The first cell phone, yes.

17 Q Okay. After these allegations -- well, the first
18 time you said that you began to have any suspicion is you
19 got this phone call from Rachel's mother-in-law -- or
20 mother?

21 A Mother.

22 Q Mother. Which would be Jerald's mother-in-law?

23 A Right.

24 Q And you were aware when you got that phone call that
25 they were in the middle of a fairly nasty divorce

1 proceeding; correct?

2 A The divorce hadn't started then. They were
3 separated. Because it was only from April until October.

4 Q Okay. And you were aware that there was an issue
5 about custody between the two of them?

6 A Yes.

7 Q And Jerald wanted custody of his daughter, and his
8 wife wanted custody of his daughter?

9 A Right.

10 Q And it was within that time frame that you got this
11 call from his mother-in-law, Rachel's mother?

12 A Uh-huh.

13 Q And that's when she said, You need to take a look at
14 what's going on between Rachel and your daughter -- I
15 mean, between Jerald and your daughter?

16 A Rachel said that, not her mother.

17 Q Okay. And this was, also, after the time that you
18 had -- that he was no longer paying your bills, and
19 we [sic] had this disagreement about car insurance?

20 A I don't -- I don't even know what the whole car
21 insurance thing is. That had to have been between him and
22 my husband. I know he had put the vehicle on there. As
23 far as taking it off or saying we put it on there without
24 his knowledge, no, I don't know anything about that.

25 Q And, again, what was the date that you called the

1 sheriff's office?

2 A It was November, I believe, 10th.

3 Q Of what year?

4 A 2012.

5 Q And did you see Jerald anymore after that?

6 A No.

7 Q You never saw him again?

8 A I may have seen him at Wal-Mart. But I never talked
9 to him. I tried to avoid him if I saw him in public.

10 Q Was there a cookout last summer where you and your
11 husband were at -- were there with Jerald and some other
12 people?

13 A Last summer?

14 Q Yes. Last summer around June?

15 A No, not that I would have been at.

16 MR. CHAMBERS: I want to -- first of all, let me get
17 this marked.

18 We'll call that Defendant's Exhibit No. 1 for
19 identification.

20 (WHEREUPON, Defendant's Exhibit No. 1 was marked for
21 identification only.)

22 BY MR. CHAMBERS:

23 Q I want to show you a picture, and see if you
24 recognize anybody that's present in that picture that's
25 marked Defendant's Exhibit No. 1 for identification.

- 1 A My husband.
- 2 Q In the green shirt?
- 3 A In the green shirt, and Jerald.
- 4 Q And who is that? Do you know?
- 5 A That's Jerald's brother, Shaun.
- 6 Q Do you know where that picture was taken?
- 7 A That looks at -- like nanny's house, horseshoes.
- 8 Q Okay. And were you present there?
- 9 A No.
- 10 Q All right. So you don't know when that picture was
- 11 taken?
- 12 A I do not. But I can almost tell it was a while ago
- 13 because my husband was a lot heavier.
- 14 Q Okay.
- 15 A And after I had called the sheriff's, I did not go to
- 16 any of those horseshoe events after that.
- 17 Q You didn't go to any horseshoe events?
- 18 A Not after that, no.
- 19 Q Do you know if Walt went to any horseshoe events?
- 20 A Yes.
- 21 Q He did go to some horseshoe events?
- 22 A He used to go to the bars, the horseshoe events.
- 23 Q Okay. Do you know if he saw Jerald at any --
- 24 A Absolutely, I know he did.
- 25 Q He did see Jerald at some --

1 A He told me he did.

2 Q So he continued to see Jerald?

3 A He did.

4 Q Both at these horseshoe events, and, also, at the
5 VFW?

6 A Yes.

7 Q And you're aware of that?

8 A Yes.

9 Q Okay. No trouble arose out of that?

10 A Well, my husband and I aren't together anymore. And
11 that was one of the reasons as well.

12 MR. CHAMBERS: That's all the questions I have for
13 you.

14 Thank you.

15 THE COURT: Redirect?

16 MS. HODGE: No, Your Honor.

17 THE COURT: You may step down.

18 THE WITNESS: Thank you.

19 MS. HODGE: May she be excused, please?

20 MR. CHAMBERS: No objection, Your Honor.

21 THE COURT: She's excused.

22 MS. HODGE: Thank you.

23 Would you like me to call my next witness?

24 THE COURT: Is it fairly short?

25 MS. HODGE: It will be probably about that same

1 length.

2 THE COURT: Let's take about a 10-minute break.

3 Don't talk about the case. Continue to keep an open
4 mind.

5 Thank you.

6 (WHEREUPON, the jury was excused from open court at
7 approximately 11:48 a.m.)

8 THE COURT: Mr. Chambers, did you wish to put
9 anything on the record about Juror #121 that you earlier
10 spoke to me at the bench conference --

11 MR. CHAMBERS: Yes, Your Honor.

12 At the time she was called, I had used my preemptory
13 strikes. And when she stood up, I realized that that was
14 the person who had identified herself as the -- having
15 been the victim of sexual molestation from an uncle, I
16 believe, when she was, if I remember correctly, around
17 12 years old.

18 So I had made a motion during the bench conference to
19 have her stricken for cause, which the Court, at that
20 point, overruled. And so I just wanted to put that on the
21 record.

22 THE COURT: Okay. Well, I found that she could be
23 fair and impartial based on her responses. I don't have
24 any evidence that would support a finding that she
25 couldn't follow her oath, or any other basis for good

1 cause to excuse her.

2 So I respectfully deny the motion.

3 All right. We'll take about a 10-minute break.

4 MR. CHAMBERS: Thank you, Your Honor.

5 THE COURT: Thank you.

6 (WHEREUPON, a break was taken.)

7 THE COURT: Anything else before we bring the jury
8 in?

9 MS. HODGE: No, sir.

10 MR. CHAMBERS: No, Your Honor.

11 THE COURT: Have you got --

12 Go ahead and bring them in.

13 I'm trying to figure out about breaking for lunch.
14 What do y'all think? I don't know your order of witnesses
15 or length.

16 MS. HODGE: Right. The next witness might be a
17 little bit lengthy. But then the victim would be after
18 that. So I anticipate the victim would be after lunch,
19 but --

20 THE COURT: Okay. That's fine.

21 MS. HODGE: But the next witness after -- well, I'm
22 calling the sister, Jamie. And then it would be Rachel,
23 the ex-wife.

24 THE COURT: So you want to --

25 MS. HODGE: And then the victim.

1 THE COURT: -- do those two and then we can --

2 MS. HODGE: I would like to do that.

3 THE COURT: Okay. Sure.

4 (WHEREUPON, the jury came into open court at
5 approximately 12:04 p.m.)

6 THE COURT: You may call your next witness.

7 MS. HODGE: Thank you.

8 The State calls Jamie Mucienko.

9 THE CLERK: Ma'am, if you'll, please, come here and
10 pause at the end of the bench.

11 Please place your left hand on the Bible and raise
12 your right hand.

13 WHEREUPON,

14 JAMIE MUCIENKO,
15 after first having been duly sworn, testified as follows:

16 THE CLERK: Thank you.

17 Please be seated.

18 Would you, please, state your name for the record?

19 THE WITNESS: Jamie Mucienko.

20 THE CLERK: Thank you.

21 DIRECT EXAMINATION

22 BY MS. HODGE:

23 Q Jamie, tell us a little bit about yourself. Now, how
24 old are you?

25 A 23.

1 Q All right. And are you married?

2 A No.

3 Q All right. Do you have any children?

4 A One of my own, and two stepchildren.

5 Q All right. And are the stepchildren from a previous
6 marriage?

7 A On his side, yes.

8 Q On his side?

9 A Uh-huh.

10 Q So is this your boyfriend?

11 A Yes.

12 Q Okay. And how old is your child?

13 A Four months old today.

14 Q How about the two stepchildren?

15 A The oldest is eight, and the middle child is three.

16 Q Do you -- did you grow up in the Greenville area?

17 A No, ma'am. I grew up in Florida.

18 Q When did you move to Greenville?

19 A August of 2012.

20 Q Had you been in Greenville previously for some school
21 before that?

22 A Yes. I moved up here in 2006. And when I graduated
23 high school, I moved back to Florida. And it's been back
24 and forth. But I'm here to stay.

25 Q All right. When you came here for school, what high

1 school did you graduate from?

2 A Travelers Rest High School.

3 Q And did you know a girl named Rachel Lane?

4 A I did and do.

5 Q You still do?

6 A Yes, I do.

7 Q All right. Is she -- or was she married to the
8 Defendant at one time?

9 A No.

10 Q Was she married to Jerald Gaskins?

11 A Not while we were in high school.

12 Q Okay. Not in high school. But at some point in her
13 life --

14 A Yeah.

15 Q -- she ended up marrying the Defendant?

16 A Yes.

17 Q All right. Now, how did you know the Defendant -- or
18 how do you know the Defendant?

19 A Through Rachel.

20 Q Through them being married, that's how you met him --

21 A Well, it wasn't until they came over to my parents
22 and I saw that Rachel was there, and that's how, you
23 know...

24 Q You kind of made the connection?

25 A Yeah.

1 Q All right. And was this -- when was this that we're
2 talking about that you met the Defendant, finally, through
3 this connection?

4 A February of 2012 when they came to Florida with my
5 parents to visit us.

6 Q All right. Tell me who all came to Florida, and when
7 was that.

8 A It was my mom, my dad, my sister, Jerald, and Rachel.

9 Q And your sister is VICTIM

10 A Yes.

11 Q Okay. And they came -- did they stay with you?

12 A Yes. My mother, my sister, VICTIM Jerald, and
13 Rachel did stay with me.

14 Q Did they have their child at the time?

15 A No.

16 Q All right. And, during that time, did you notice
17 while they were in Florida anything odd or strange about
18 any relationship?

19 A Not while in Florida, no.

20 Q And did you think that the Gaskins were just family
21 friends with your family?

22 A Well, I never really knew the Gaskins, other than
23 Jerald himself.

24 Q Okay.

25 A I hadn't met anybody else but Jerald at that point.

1 Q So how about Jerald and Rachel, did they just appear
2 to be family friends?

3 A Uh-huh.

4 Q All right. And you said you moved back here in
5 August of 2012?

6 A Yes, ma'am.

7 Q Did you live in the home with VICTIM and your mom,
8 and dad?

9 A Yes.

10 Q All right. Once you moved back, was VICTIM hanging
11 out with the Defendant a good bit?

12 A Yes.

13 Q At this point, August of 2012, when you moved back,
14 was the Defendant still living with his wife?

15 A No.

16 Q Was he living alone?

17 A As far as I know, yes. I never really went over to
18 the Defendant's house as much. He was more so with us and
19 hung out with us.

20 Q All right. And did you have any suspicions about
21 anything between he and your sister when you moved back?

22 A I did.

23 Q All right. Tell me about that. What did -- what
24 were you suspicious of, and what made you suspicious?

25 A Just the way he acted around her, you know. We'd go

1 somewhere and he would buy her something, such as like a
2 candy bar or a soda, you know. Why buy that one person
3 something and not offer the other person, you know, and
4 treat the others as an outcast?

5 So that's when I figured I had to go into depth and
6 see what I had to do to find out what I needed to find
7 out.

8 Q All right. So you suspected there was some kind of
9 deeper relationship possibly --

10 A Yes.

11 Q -- going on.

12 A I didn't want to question it, one, because I wanted,
13 you know, to find out. But I didn't want to scare him
14 away.

15 Q All right. And what about your sister, did you think
16 you could just talk to VICTIM about it?

17 A No.

18 Q Why is that?

19 A Because she's scared to tell people other things.

20 Q Okay. Did -- would it have been possible to get in
21 trouble if she had disclosed something like that?

22 A Yeah.

23 Q Trouble like with your --

24 A My mom.

25 Q -- mother?

1 A Yeah.

2 Q Right. So when you said you needed to go into depth,
3 what did you -- what were you thinking? What were you
4 trying to do?

5 A Become good with him, I guess you could say, to make
6 him trust me to want to tell me more. I wanted
7 information, but I didn't want to get too deep into
8 information. Because there was a question I didn't want
9 to ask, because I didn't want the answer to. But I didn't
10 find out until VICTIM filled out her report.

11 Q All right. Is that they had, actually, had sex?

12 A Yes, ma'am.

13 Q Okay. So you were curious, trying to find out, but
14 didn't ask the point blank question?

15 A Right.

16 Q All right. And, during that time, did you and the
17 Defendant -- did you guys either talk or hang out like at
18 your house and things?

19 A A couple of times.

20 Q Did you ever try to, specifically, ask him if
21 something was going on?

22 A No.

23 Q Did you hope he would just slip up and say something?

24 A Yes.

25 Q All right. Did you guys have phone conversations, or

1 texting conversations?

2 A Yes, on numerous occasions.

3 Q All right. And was there ever anything in those text
4 conversations that made you go, uh-huh, I'm --

5 A Yes --

6 MR. CHAMBERS: Objection, Your Honor.

7 THE COURT: What's the objection?

8 MR. CHAMBERS: Could I be heard outside the presence
9 of the jury, Your Honor?

10 THE COURT: Yes.

11 Ladies and gentlemen, we'll just take a short recess.
12 Don't talk about the case.

13 Thank you.

14 (WHEREUPON, the jury was excused from open court at
15 approximately 12:11 p.m.)

16 MR. CHAMBERS: Your Honor, I have some concerns about
17 this witness getting into discussions about texts. First
18 of all, our position would be that it's hearsay. We -- if
19 this were a face-to-face conversation with my client, then
20 I don't believe that it would be -- because, obviously, it
21 would be -- it's not hearsay, specifically, at that point
22 under the rules.

23 But with a text, you know, she can't give a
24 secondhand account of that. And if they want to present
25 the text, then there has to be some way of laying a

1 foundation to show that these texts, in fact, came from my
2 client.

3 I was provided yesterday with a stack of what are
4 purported to be texts from my client. We received these
5 yesterday at 2:11 p.m. I was not able to discuss them
6 with my client until this morning. I was able to get them
7 to him last night so that he could look at them. But they
8 were not timely disclosed.

9 Now, I understand from the Solicitor -- because I've
10 dealt with Kris for a long time. I don't think she was
11 trying to hide the ball on me or anything. She said that
12 she didn't get these from this witness until yesterday.

13 So our position would be that these were not timely
14 disclosed. They're not admissible. And she shouldn't be
15 able to testify about anything to do with these texts.

16 MS. HODGE: Your Honor, that is correct as far as
17 when I received the texts and when they were given over to
18 Mr. Chambers.

19 I do not believe this is going to violate hearsay.
20 For starters, it's a conversation between this witness and
21 the Defendant. And they are statements against his
22 interest. They're statements about how he loves VICTIM
23 and misses VICTIM things along those lines. I don't
24 think that's any different than if the Defendant would
25 have wrote her a letter and said those things in a letter.

1 It's the same thing. They're admissions of a party
2 opponent.

3 As far as laying the foundation, I didn't intend to
4 introduce the photocopy of the text. I intended to let
5 the witness recall from memory. If she couldn't recall,
6 then she had taken a picture of the text and provided a
7 copy of the picture of the text, to refresh her memory and
8 talk about, yes, there were texts on this day about him
9 missing VICTIM about him loving VICTIM

10 I think she can lay that foundation. She can say
11 this is a conversation I was engaged in. This was the
12 contact that came from Jerald. We texted numerous times
13 back and forth throughout this. It's not a random text.
14 I think anything as far as admissibility would go to the
15 weight of -- for the jury to decide whether those came
16 from him or not. But I don't think they exclude them.

17 THE COURT: Can you lay some foundation about the
18 number it came from, and her knowledge of that number?

19 MS. HODGE: Yes, sir.

20 Okay. Would you like me to proffer that, or do you
21 want to do that in front of the jury?

22 THE COURT: Well, you can do both. You can proffer
23 it now and we'll see --

24 MS. HODGE: Okay.

25 THE COURT: -- if there's any --

1 MS. HODGE: All right.

2 DIRECT EXAMINATION

3 BY MS. HODGE:

4 Q Jamie, did you have the Defendant's phone number in
5 your phone at the time of September and October of 2012?

6 A Yes.

7 Q As a contact?

8 A Yes.

9 Q All right. And had you communicated -- do you know
10 what that number was?

11 A I don't, but I can get it.

12 Q Did you label his contact with his name, Jerald?

13 A Yes.

14 Q All right. Did you have numerous texts or phone
15 conversations with the Defendant, and it would appear as
16 Jerald on your phone?

17 A Yes.

18 Q All right. And, specifically, as to the text from
19 September 30th, October 2nd, October 6th, 7th, 8th, and
20 13th, the text that we -- you sent me yesterday, can you
21 state that you know that those came from the Defendant,
22 that you and the Defendant were having these
23 communications?

24 A Yes.

25 Q And to preserve these, did you not delete them?

1 A Correct -- well, I don't have that phone anymore.

2 Q There's no service on this phone; is that correct?

3 A Right. The phone is like two or three years old now.

4 Q Okay. And do you still have the phone?

5 A (There was no audible response.)

6 Q Okay. Did you take pictures of these texts back at
7 the time you had the phone?

8 A Yes.

9 Q Okay. And what did you take a picture with?

10 A My iPad.

11 Q All right. And you just had screen shots, basically,
12 of texts between you and the Defendant?

13 A Right.

14 Q All right. And then you e-mailed those photographs
15 to me yesterday. And if I showed you these documents,
16 would these be true and accurate pictures of the texts
17 between you and the Defendant that you sent to me, or that
18 you took at the time that that phone was operating?

19 A Yes.

20 Q Yes?

21 A (Witness nodded.)

22 MS. HODGE: That would be all my questions regarding
23 the foundation for these, Your Honor.

24 MR. CHAMBERS: I don't have anything further on it,
25 Your Honor.

1 THE COURT: I overrule the objection.

2 MS. HODGE: Thank you, Your Honor.

3 THE COURT: Okay. You can bring the jury back in.
4 Thank you.

5 (WHEREUPON, the jury came into open court at
6 approximately 12:18 p.m.)

7 THE COURT: Yes, ma'am, Ms. Hodge.

8 MS. HODGE: Thank you, Your Honor.

9 CONTINUED DIRECT EXAMINATION

10 BY MS. HODGE:

11 Q Jamie, when we -- when the jury stepped out, we were
12 going to talk about some texts. But I want to back up
13 just one second.

14 When you moved back to Travelers Rest in August of
15 2012, now, how old was your sister, and what grade was she
16 in school at that time?

17 A She was 15, and in tenth grade.

18 Q All right. And do you know how old the Defendant was
19 at that time?

20 A I believe 29.

21 Q Okay. Did -- and we were talking -- did you and the
22 Defendant exchange text messages after you came back kind
23 of in your friendship, if you will?

24 A You could say that.

25 Q Okay. And I'm going to need you to speak up just a

1 little bit when you answer. You're kind of falling off.

2 A I'm sorry.

3 Q That's okay.

4 Did you get his phone number and put it in your
5 phone?

6 A Yes.

7 Q And did you name it a certain contact name?

8 A Yes.

9 Q What was that?

10 A Jerald.

11 Q And how did he spell that?

12 A J-E-R-A-L-D.

13 Q All right. Did you give him your phone number?

14 A Yes.

15 Q And would you say there were texts from August,
16 September, October between you guys?

17 A Yes.

18 Q And did he start to call you like sister, or sissey,
19 or something like that?

20 A Yes.

21 Q All right. Would there be texts that might have that
22 in there referring to yourself?

23 A Yes, ma'am.

24 Q And did he text you some things about his feelings
25 towards **VICTIM** during these times?

1 A I got text messages and verbal.

2 Q All right. And what was he saying about his feelings
3 for VICTIM

4 A Text message or verbally?

5 Q You can give us both, you know, general or as
6 specific as you can get.

7 A Text messages that he loves her most of all out of
8 all of us. And verbally was pretty much the same. He
9 can't ever be with her, and whatnot.

10 Q Okay. And when you said he said he couldn't be with
11 her, what was that about? Was that after your parents had
12 said he couldn't be with her, or was he implying --

13 A That was more so after they kind of wanted him to not
14 have connections. But there was several occasions where
15 there was no connections. But I think this was like the
16 third or -- second or third time. And then he said he was
17 going to move. And that's when we had the verbal
18 conversation about him and VICTIM -- or how he felt about
19 VICTIM

20 Q All right. And, at this time, was your family still
21 friends with him for the most part?

22 A One at a time, I guess you could say. It was one
23 time my father, and the next time my mother. Like I said,
24 it was that he's not allowed to, and then one would say he
25 is allowed to. And it was like a back and forth deal.

1 Q Okay. But he's not allowed to see VICTIM

2 A Right.

3 Q This was all about him seeing VICTIM

4 A Right.

5 Q Okay. And did it have anything to do with paying
6 bills for your family, or car insurance, or anything like
7 that?

8 A Not at that time.

9 Q Okay. Did it ever have anything to do with that
10 regarding why he could see VICTIM

11 A Do you mean in how he would do stuff to see VICTIM
12 Is that what you're saying?

13 Q I'm sorry. My question may not have been clear.

14 When your parents said that he could no longer hang
15 out with VICTIM --

16 A Right.

17 Q -- meaning the Defendant, was there a reasoning? If
18 you're aware of their reasoning, was it because now the
19 Defendant wasn't paying -- helping pay some bills?

20 A No. It was through just suspicions themselves.

21 Q All right. And, during this time, the Defendant was
22 separated from his wife; is that right?

23 A Yes.

24 Q Was there ever any plan concocted about some
25 relationship he had with VICTIM so that could be used to

1 help his ex-wife in court?

2 A Not to my knowledge.

3 Q Was your family, initially, supportive, or were they
4 supportive of him during his separation from Rachel?

5 A Yes.

6 Q And Rachel was your friend; correct?

7 A Yes. But I hadn't spoken to Rachel in years since
8 that happened.

9 Q Okay.

10 A Since before -- since high school.

11 Q So you just kind of got reacquainted with her at the
12 same time you --

13 A Met Jerald, yes.

14 Q -- met him?

15 A Yes.

16 Q All right. Let me back up a little bit on the texts.
17 So you had a phone back in September or October of 2012.
18 And is that phone still the phone that you use today?

19 A No.

20 Q Okay. Is that phone out of service?

21 A It's out of service and out of my sight.

22 Q Okay. You don't have that phone anymore.

23 Before you quit using that phone, did you do anything
24 to document or to preserve any text messages that you
25 received from the Defendant?

1 A I just took pictures with my iPad of the text
2 messages on my phone.

3 Q Okay. So you had it on your screen, and you took a
4 picture of it?

5 A Yes, ma'am.

6 Q All right. And why did do you that?

7 A Because of my suspicions. And that if today were to
8 come that I'd have that to back me up.

9 Q All right. To help your -- you remember, is that
10 another reason?

11 A Uh-huh.

12 Q Okay. And then once you had those pictures, did
13 you -- of those messages, did you send them to the
14 Prosecution, the pictures of the texts?

15 A No.

16 Q Okay. When did you provide those to us?

17 A Yesterday when I sent them to you.

18 Q Yesterday. Okay. And so I'm going to show you --
19 was there a text sent or a text conversation between
20 you and the Defendant on September 30th around
21 9:30 p.m.?

22 A Yes, ma'am.

23 MR. CHAMBERS: Your Honor, I'm going to object.
24 She's leading the witness --

25 THE COURT: Sustained.

1 BY MS. HODGE:

2 Q What was the basis or what was one of the things that
3 came out of that text conversation as it related to

4 VICTIM

5 A What are you and my beautiful future wife doing?

6 Q Okay. I need you to speak up. Because I can
7 hardly --

8 A What are you and my beautiful future wife doing?

9 Q Okay. So he sent that to you. And the "beautiful
10 future wife" would have been who?

11 A VICTIM

12 Q Okay. Would there have been text messages on
13 October --

14 MR. CHAMBERS: Objection, Your Honor. She's leading.

15 THE COURT: Sustained.

16 BY MS. HODGE:

17 Q Did you continue to have text conversations with the
18 Defendant?

19 A Yes, ma'am.

20 Q Okay. Was there one about him missing --

21 MR. CHAMBERS: Objection, Your Honor. She's leading.

22 THE COURT: Sustained.

23 BY MS. HODGE:

24 Q Can you tell me every text message that you got, or
25 do you need something to refresh your memory in regard to

1 VICTIM

2 A Word for word, I can't.

3 Q Okay.

4 A Bits and pieces, yes, I can.

5 Q Okay. If I showed you a document, could it refresh
6 your memory to tell us what it was?

7 A Yes, ma'am.

8 Q All right. Please look at that.

9 A (Witness complied.)

10 Q Can you tell me any text message or anything that the
11 Defendant may have said about missing or loving VICTIM in
12 the text?

13 A Just saying that he missed VICTIM And out of --
14 you know, out of all of us -- he says he's worried about
15 us, but only stated really who he missed the most out of
16 all.

17 Q Okay. And was this -- when was this?

18 A October 2nd around 1:40 a.m.

19 Q Okay. And was he allowed to see your daughter --
20 your sister during that time?

21 A I don't believe it was -- it was one of those times
22 where he wasn't allowed to.

23 Q Okay. Now, did the Defendant ever offer to take your
24 sister to a concert?

25 A Yes.

1 Q Okay. And what concert was that?

2 A Luke Bryan.

3 Q Do you remember when that was?

4 A The date I can't remember.

5 Q Okay. If I showed you this document, could it
6 refresh your memory?

7 A Yes.

8 Q Okay. If you'll look at that.

9 A I want to say it was October 3rd. It was the day
10 before I texted him and asked.

11 Q Okay. What did you text and ask?

12 A I asked if I could go with them to the concert.

13 Q All right. And what did he say?

14 A He said he only had four tickets.

15 Q All right. And who was going to go with those four
16 tickets?

17 A It was going to be VICTIM Jerald, his father, and
18 his mom, Angie.

19 Q And you asked if you could go as well?

20 A Yes, ma'am.

21 Q And his response was?

22 A I only have four tickets, hon.

23 Q All right. There continued to be a couple -- did
24 y'all continue to talk or text over the next few days?

25 A Yes.

1 Q All right. Did he say anything about -- well, let
2 me let you look at this and see if it refreshes your
3 memory.

4 Did he text again about VICTIM or his feelings
5 towards VICTIM

6 A Yes. This was around the time that he wasn't allowed
7 to see VICTIM And he planned on leaving. And when --
8 he stated that he would miss us all, but most of all
9 VICTIM

10 Q All right. And was there any time that -- did
11 VICTIM get in trouble for anything, or have her phone
12 taken away that you remember?

13 A Yes.

14 Q All right. And what was that all about? Do you
15 recall?

16 A My mother took her phone away. Jerald bought her a
17 phone and she kept it a secret. My mother found out and
18 took it.

19 Q All right. So did VICTIM get in trouble for that
20 or --

21 A She just got the phone taken away. And she wasn't
22 allowed to see him. That's pretty much --

23 Q Okay. Was there any texting conversation between you
24 and the Defendant regarding that?

25 A Just, basically, him saying that she lost her phone

1 because of him.

2 Q Okay. And let me show you this document.

3 Was there ever any conversations about VICTIM
4 leaving with him, or running off with him that you're
5 aware of between you and the Defendant?

6 A It wasn't exactly stated that she was running off
7 with him. But he did state that we would regret doing
8 what we do or say to her when she's gone.

9 Q Okay. And doing what you do or say to her, what was
10 that about?

11 A Downing her, being jealous of her, as he would say.

12 Q Okay. And was that to you or to everybody?

13 A Everybody.

14 Q In the family?

15 A We were all jealous of VICTIM according to Jerald.

16 Q Okay. At some point, did VICTIM disclose that a
17 sexual relationship had gone on between her and the
18 Defendant?

19 A After the report.

20 Q Okay. So tell me -- were you present when the police
21 were called?

22 A Yes.

23 Q Were you living at the home during that time?

24 A Yes.

25 Q And tell us from your point from what you did, not

1 what you heard at that time, but what did you do after
2 VICTIM talked to the police?

3 A I told her she needed to write a statement. But she
4 didn't want to do it right then and there. So I told her
5 to go in the room with me. I recorded it on that phone
6 that I did have.

7 And I let her go back and write what she heard.
8 Because it was easier for her to tell me than to sit there
9 and write it.

10 Q Did she go -- without telling me what the details
11 were, did she go into pretty great detail?

12 A Yes.

13 Q And did she tell you when these sexual encounters
14 occurred, and where they occurred?

15 A In the statement, yes.

16 Q Okay. And then did she write everything down that
17 she stated to you verbally?

18 A Yes, ma'am.

19 Q And did you witness her doing that as well?

20 A Yes, ma'am. I provided her with paper and a pen.

21 Q Was she hesitant about doing that?

22 A No, because it was just me.

23 Q All right. And was that something that the police
24 had told her to do, or this was more --

25 A Something I told her to do.

1 Q And why did you tell her she needed to do that?

2 A Because they needed to know every detail.

3 Q And have you had any contact with the Defendant at
4 all since he's been arrested for these --

5 A Once. And that was at the Ob-Gyn while I was still
6 pregnant.

7 Q Did y'all have a discussion?

8 A Yes. He noticed me. I tried to avoid him, but he
9 noticed me and apologized for everything. He didn't say
10 what for. He just said, I apologize for everything.

11 Q Did you say anything back?

12 A Other than there was like a brief conversation about
13 my father, and that's it.

14 Q Okay.

15 A And then I got called back.

16 Q All right. So is -- the person that you know as
17 Jerald Gaskins, the one that you were texting with and
18 all, is he present in court today?

19 A Yes, ma'am.

20 Q And which person is he?

21 A The one over there with the black tie and the gray
22 shirt.

23 MS. HODGE: Thank you.

24 Please answer any of Defense's questions.

25 THE COURT: Cross-examination.

CROSS-EXAMINATION

BY MR. CHAMBERS:

Q So you had been living in Florida while your parents and VICTIM were up here in South Carolina; is that correct?

A Yes, sir.

Q Had you ever lived here in South Carolina with them prior to August of 2012?

A Yes, sir.

Q Did you grow up in Florida?

A Yes, sir.

Q And graduated -- but you went to school with Rachel. So did you go to school here?

A Yes, for my tenth, eleventh, and twelfth year.

Q All right. So you lived here then. And then right after graduation, did you then go back to Florida?

A Yes, sir.

Q What year did you graduate?

A 2010.

Q And so you were gone for a couple of years in Florida?

A Yes, two years.

Q All right. Now, your parents had been together how long at that point when you came back?

A 23 years.

1 Q Okay. And did they have what you would refer to as a
2 stormy relationship?

3 A Yes.

4 Q Was your father abusive to your mother?

5 A Not in the present. In the past when we were
6 younger, yes.

7 Q Did he drink a lot?

8 A Yes --

9 MS. HODGE: Your Honor, I'm going to object to the
10 relevance of these questions.

11 MR. CHAMBERS: I'm just trying to establish the
12 family dynamic, Your Honor, which existed in this
13 household. I think it's relevant to this witnesses
14 testimony and, perhaps, future witnesses testimony as to
15 how -- what the dynamic was inside the house.

16 THE COURT: All right. Overruled

17 BY MR. CHAMBERS:

18 Q Was your father a heavy drinker?

19 A Yes.

20 Q And did your mom drink?

21 A Occasionally.

22 Q Did they have lots of get-togethers and have people
23 over all the time, and there would be lots of drinking and
24 things going on?

25 A No. We couldn't afford that.

1 Q All right. Did -- your mother was really the
2 breadwinner around this time frame; is that correct, 2011,
3 2012?

4 A Breadwinner?

5 Q In other words, she's the one that was out working
6 for a living?

7 A Yes.

8 Q Your dad was not working, was he?

9 A No.

10 Q He was playing horseshoes, and hanging out, doing
11 those sorts of things?

12 A That's something we all did as a family.

13 Q I understand.

14 And were there times when there was -- when y'all --
15 sort of unease in the house and a lot of anxiety and sort
16 of upset because of the nature of the relationship between
17 your mom and your dad?

18 A Yeah. But that's every family.

19 Q Okay. Did you ever feel neglected by them?

20 A No.

21 Q Okay. So when you got here in 2012, you then became
22 acquainted with Jerald. And the way you became acquainted
23 with him is he was friends with your family?

24 A Correct.

25 Q And you, also, knew, I guess, that he was married to

1 your old high school friend, Rachel?

2 A Yes.

3 Q And Rachel is a little bit younger, I guess, than
4 Jerald; is that correct?

5 A Yes.

6 Q At the time in 2012, you would have been, what, 21?

7 A I hadn't turned 21 yet. I was on my way there.

8 Q Close to that?

9 A Yeah.

10 Q And Rachel would have been about the same age?

11 A I think she's like a year older, but that's about it.

12 Q And Jerald, you said you believed, was 29 at the
13 time?

14 A Yes.

15 Q And so, specifically, when in August did you move
16 back here and move in with your parents?

17 A August 14th, 2012.

18 Q Okay. And Rachel was already separated from Jerald
19 at that time, wasn't she?

20 A Correct.

21 Q And you said that you not only became acquainted with
22 Jerald, but you, also, became reacquainted with Rachel?

23 A In 2012, when they came down to Florida in February.
24 They came down together. That's how I reacquainted with
25 Rachel.

1 Q And then when you moved back here, you had contact
2 with Rachel?

3 A No.

4 Q You didn't have any contact at all with Rachel?

5 A No, not until after the fact of everything happened.

6 Q I understand.

7 And you said that immediately after coming back, you
8 started to have these suspicions about what was going on
9 between your sister and Jerald?

10 A Yes.

11 Q So you devised this plan that you were going to gain
12 his trust and confidence, and see if you could get
13 information out of him?

14 A Correct.

15 Q And, according to you, he e-mailed these things -- or
16 texted these things to you about how he loved **VICTIM** the
17 best, and he wanted to marry her, and all these things?

18 A Correct.

19 Q And all of this happened, you said, between August
20 and November -- the middle of November when these
21 allegations first came to light; is that correct?

22 A That was the horseshoes between August and November.
23 It was the horseshoe deal is when we were really
24 acquainted, I guess you could say. Because that's when
25 everybody hung out most.

1 Q Well, it is a fact, isn't it, that your mother and
2 father called the police in November of 2012?

3 A Correct.

4 Q So -- and you didn't move here until August of 2012?

5 A Correct.

6 Q So everything that we're talking about occurred
7 within about a two-month span?

8 A Two or three months, yes.

9 Q So your testimony is that you were so quickly able to
10 gain the confidence of somebody that you had never met
11 before, you the friend of his estranged wife, that he
12 would then start sending you what we would refer to as
13 damning text messages?

14 A Yes. Because if you agree with him, he's willing to
15 do it.

16 Q Okay. And you -- having these concerns and having
17 these texts in your possession, you did not go to your
18 sister and talk to her about it, you, her older sister;
19 correct?

20 A Correct.

21 Q And you did not go to your parents and say, you need
22 to look at these. I've had some concerns about this guy
23 and you need to see these text messages?

24 A I didn't have enough evidence for them to believe me,
25 because he manipulated us and blinded them.

1 Q Okay. And, in fact, on November the 12th, were you
2 aware that the police were only called after Rachel's
3 mother-in-law called your mom and dad?

4 A Say that one more time.

5 Q Were you aware that the police were only contacted
6 after Rachel's mother-in-law -- or mother, I'm sorry,
7 Rachel's mother, who was Jerald's mother-in-law, contacted
8 your parents?

9 A Correct.

10 Q You were aware of that?

11 A Yes.

12 Q And even after knowing that they were going to call
13 the police, you didn't go to your mom and dad and say,
14 hey, I think you need to take a look at these text
15 messages?

16 A I showed it to them. But by me providing that to the
17 cops right then and there, it wouldn't have done anything.
18 Because I told them I had text messages.

19 Q And, yet, nobody seemed to share that with the
20 police. You didn't share it with the police.

21 A I told them I had text messages.

22 Q In fact, you didn't share it with anybody, with the
23 police, or with law enforcement until yesterday, did you?

24 A Correct.

25 Q On the eve of trial?

1 A Correct. Well, I was supposed to send it to her a
2 couple days prior to the eve of trial. But I have three
3 kids. So to find the time to send something to somebody
4 is rare.

5 Plus, living in the sticks, I guess you could say,
6 you have no service. So I had to wait until I was in to a
7 place where I could get service to send her these e-mails
8 that were on my computer that I had to get Internet from
9 to get back to my phone to send to her.

10 Q And so I guess over the course of over the last two
11 years, it took you until this week to say, you know what,
12 I've got these, you need to take a look at them?

13 A I didn't know I was going to be here today.

14 Q And, conveniently, you don't -- well, you didn't know
15 you were going to be called as a witness today?

16 A It wasn't until a couple days ago. I knew I had to
17 come in as a witness, but I just didn't know I was going
18 to testify.

19 Q So the only reason you thought those text messages
20 would be of any importance at all would be is if you were
21 going to be called as a witness. And you had no idea you
22 were going to be a witness?

23 A Well, I knew I was going to be a witness. I didn't
24 know I was going to testify. I didn't find out that I
25 still had those text messages until the other day. I was

1 going through pictures on my computer. I transferred all
2 of my pictures from my iPad to my computer. So I had
3 nothing left on my iPad. So I had to get them from the
4 computer. And in order for me to send them to her in an
5 e-mail, I had to get Internet on my computer.

6 Q When did you lose this phone?

7 A Not too long -- I'd say February two years ago.

8 Q Okay. But you had the phone when the police came to
9 the house to talk to your parents?

10 A Yes. I still had that phone.

11 Q And you had the phone as this police investigation
12 continued for months thereafter?

13 A Yes.

14 Q And you could have produced that phone to law
15 enforcement --

16 A I didn't have it for much longer, though.

17 Q Okay.

18 A Because it went -- blacked out on me.

19 Q But if you had produced that phone to them in a
20 timely manner, they could have forensically examined that
21 phone to verify where the text messages came from, and
22 that sort of thing; correct?

23 A Then why didn't they take it when I told them I had
24 text messages?

25 Q The only evidence we have that you told them is you.

1 And what you testified to a few minutes ago, if I heard
2 you correctly, was that you didn't give them anything
3 until yesterday?

4 A And I told you why I didn't give it to them till
5 yesterday.

6 Q And then this statement that your sister gave, again,
7 the first time you go to talk to her is after you're aware
8 that the police have gotten involved; correct?

9 A Correct.

10 Q And you sat down with her as she gave the statement.
11 And then under your supervision -- excuse me, she wrote
12 out the statement; is that correct?

13 A She wrote it out, yes.

14 Q All done under your supervision?

15 A Correct.

16 Q Just the two of you in a room together?

17 A Correct.

18 Q And all done after the police were called?

19 A Correct.

20 Q All done after your mom and dad were contacted by
21 Rachel's mother?

22 A Correct.

23 MR. CHAMBERS: That's all the questions I have for
24 you.

25 Thank you.

1 THE COURT: Redirect?

2 MS. HODGE: No.

3 THE COURT: All right. Thank you.

4 You may step down, ma'am.

5 You may call your next witness.

6 MS. HODGE: Thank you.

7 The State calls Rachel Lane.

8 Oh, may this witness be excused?

9 THE COURT: Sure.

10 MR. CHAMBERS: No objection, Your Honor.

11 THE CLERK: Ma'am, if you'll, please, come forward.

12 And, please, stop at the end of the bench.

13 Place your left hand on the Bible and raise your

14 right hand. And if you'll face me, please.

15 WHEREUPON,

16 RACHEL LEANNE GASKINS,

17 after first having been duly sworn, testified as follows:

18 THE CLERK: Thank you.

19 Please be seated.

20 Would you, please, state your name for the record?

21 THE WITNESS: Rachel Leanne Gaskins.

22 THE CLERK: Thank you.

23 DIRECT EXAMINATION

24 BY MS. HODGE:

25 Q Do you still go by Gaskins?

1 A Yes, ma'am.

2 Q Okay. And is Lane your maiden name?

3 A Yes, ma'am.

4 Q Okay. Rachel, how old are you?

5 A 23.

6 Q All right. When's your birthday?

7 A REDACTED

8 Q Okay. Are you, currently, married?

9 A No.

10 Q All right. But you kept your married name?

11 A For my kids.

12 Q Okay. And who were you married to?

13 A Jerald Gaskins, Jr.

14 Q All right. And how many children did you have with

15 the Defendant?

16 A Two.

17 Q And how old are they?

18 A My daughter is four, and my son is two.

19 Q And when did you and the Defendant get divorced?

20 A May 12th, 2014.

21 Q And tell me, are you, currently, in school or working

22 anywhere.

23 A I go to school.

24 Q And where do you go to school?

25 A Greenville Tech.

1 Q What are you studying at Greenville Tech?

2 A Paralegal.

3 Q Do you live in Greenville County?

4 A Yes, ma'am.

5 Q And have you lived in Greenville County your whole
6 life?

7 A Yes, ma'am.

8 Q What area did you grow up in?

9 A Travelers Rest.

10 Q What high school did you go to?

11 A Travelers Rest High.

12 Q Okay. Tell us how you met the Defendant.

13 A When I was working at CVS as a cashier.

14 Q When was that?

15 A 2008, September of 2008.

16 Q And how -- were you still in school? How old were
17 you?

18 A I was 17. I was a senior.

19 Q And how about him? How old was he?

20 A 26.

21 Q And so you just -- you met him at CVS?

22 A Yes, ma'am.

23 Q Was he working there or --

24 A He just came in a lot.

25 Q Just a customer?

1 A Yes, ma'am.

2 Q And you guys started talking?

3 A Yes, ma'am.

4 Q Did you date for some period of time?

5 A We talked on the phone for about two weeks. And he
6 convinced me to move in with him. We never went on a date
7 or spent any time outside of him coming to CVS.

8 Q Okay. And were you living at home with your parents
9 at that point?

10 A Yes.

11 Q And was that a big deal for you to move out of your
12 parents home and move in with this guy?

13 A Yes.

14 Q Okay. And why did you do that?

15 A Honestly, looking back, because I was naïve,
16 brainwashed. I thought he loved me.

17 Q Okay. And where did you guys live when you moved in
18 with him?

19 A In a trailer on Coleman Road with his parents.

20 Q Did you finish high school?

21 A No. He made me quit.

22 Q And you agreed to just not go?

23 A Not willingly, but...

24 Q All right. And did you -- how did you get your --
25 did you get your -- well, obviously, you're at Greenville

1 Tech. You got your diploma.

2 A I got my GED in 2012 when I was going through the DSS
3 investigation.

4 Q So by the time -- after you separated from the
5 Defendant?

6 A Yes, ma'am.

7 Q So during the time you were married -- when did you
8 get married?

9 A February 12th, 2009.

10 Q 2009 in February. So from that time until -- when
11 did you separate from him?

12 A April 15th, 2012.

13 Q So two years -- three years?

14 A Yes.

15 Q All right. During that time, did you go to school or
16 work anywhere?

17 A He let me work for three days when we moved to
18 Central.

19 Q Did you want to work, but you were not allowed to
20 work or --

21 A Yes. He wouldn't let me work.

22 Q And how -- when you say he wouldn't let you, would he
23 like physically hold you in the house? How did that work?

24 A No. It was just angry outbursts. He would yell and
25 throw things, break things. I just -- he was the only way

1 I had around. I didn't have a car.

2 Q And you had a baby, I guess?

3 A Yes.

4 Q And when was your daughter born?

5 A REDACTED .

6 Q And then your son, when was he born?

7 A REDACTED .

8 Q So you had already separated by the time your son was
9 born?

10 A Yes, ma'am.

11 Q At some point, did you and the Defendant become
12 acquaintances or friends with the Mucienkos?

13 A Yes.

14 Q All right. And can you tell us about how you met
15 them and when that was?

16 A It was the spring of 2011. I think it was around
17 March.

18 Q And how did you meet them?

19 A Jerald played horseshoes at a horseshoe tournament.
20 And VICTIM dad, Walter, had came to meet someone else
21 that was at the tournament. And they started talking.
22 And then we went to their house that night.

23 Q Okay. So you kind of hit it off and went and hung
24 out at their house that night?

25 A Yes.

1 Q And who was at the home when you went there that
2 night? Did you meet the entire family or --

3 A Yes, except for Jamie and her brother. They were
4 living in Florida.

5 Q Did you recall Jamie from high school?

6 A Yes.

7 Q Were y'all close friends in high school, or just
8 acquaintances?

9 A We were pretty close.

10 Q So then you put together this was Jamie's family?

11 A I saw the name Mucienko on the wall. And I asked
12 them if they knew Jamie. And then I found out that that
13 was VICTIM sister.

14 Q Okay. At that point, how old was VICTIM

15 A 13.

16 Q Was she in high school yet?

17 A No, ma'am. She was in eighth grade.

18 Q All right. And did you hit it off with VICTIM I
19 mean, did you like her?

20 A Yeah. I mean, I had never really hung out with
21 younger people, except for my sister.

22 Q And she was how much younger than you?

23 A Four, five -- five years.

24 Q Five years younger than you at that time?

25 A (Witness nodded.)

1 Q Were you more friendly with her mom than with her, or
2 was it just kind of an odd --

3 A It was just odd for me.

4 Q Okay. And how old were her parents, I guess?

5 A I don't want to make anybody mad.

6 Q Okay. Let's do this. Were they older than the
7 Defendant?

8 A Right, yes.

9 Q Okay. Closer maybe to your parents age?

10 A Yes.

11 Q Okay. After meeting and hanging out with them this
12 first night, did that family, and you, and the Defendant,
13 and your daughter, I guess by this point, start going to
14 each others houses, or hanging out, or having cookouts, or
15 doing stuff?

16 A Yes. It was mostly we would go to their house.

17 Q Okay. And what kind of things would y'all to do?

18 A Cookouts or listen to music. Jerald and Walter would
19 go back to the back room and play the guitar. And I was
20 just kind of hanging out.

21 Q Okay. Did VICTIM ever come to your home, or did --
22 or her parents ever come to your home. Let's start with
23 some -- because I understand y'all moved a lot?

24 A Right.

25 Q When you first met them, did you live -- where did

1 you live?

2 A Tigerville Road.

3 Q Okay. Was that a house, or apartment, trailer?

4 A A house.

5 Q Did the parents or VICTIM ever come to that house
6 and hang out?

7 A I think her parents came over once. But VICTIM came
8 over most of the time.

9 Q And would you invite her, or how would it be that she
10 would be there?

11 A Jerald initiated all of that through text messages or
12 calling, I guess.

13 Q Okay. Did he -- did you ever witness him or see him
14 text VICTIM directly?

15 A Yes.

16 Q And so you were -- were you ever the one inviting
17 VICTIM over?

18 A I may have over the course of the -- I can't
19 accurately answer that.

20 Q Initially, were you the one inviting her over?

21 A No.

22 Q Did you get to know her more over the year, year and
23 a half?

24 A Yes.

25 Q Okay. And, at some point, maybe you and she talked

1 about hanging out?

2 A No. It always felt uncomfortable for me.

3 Q All right. Why did it feel uncomfortable? Tell me
4 about that.

5 A Because she was a child. I wasn't raised to hang out
6 with people that were that much younger.

7 Q Okay. Did you ever think to maybe say anything to
8 her mom about that, or her parents?

9 A I wanted to, but I was too scared.

10 Q What were you scared of?

11 A Of his reaction.

12 Q When you say "his," who are you talking about?

13 A Jerald.

14 Q Okay. Did you think it would make him mad?

15 A Yes. I had said stuff to him before.

16 Q All right. And when you say that, what are you
17 talking about?

18 A Just asking why he was hanging out with her, why he
19 thought that she was his best friend, what the connection
20 was.

21 Q All right. Would he go to school events, or things
22 like that of hers?

23 A Yes.

24 Q And what kind of things would that be?

25 A Volleyball tournaments or practices. He would pick

1 her up from practice.

2 Q And would you be along as well?

3 A No.

4 Q How often would you say VICTIM would be -- well,
5 again, we're talking -- let's talk Tigerville. How often
6 do you say she came to that residence while y'all lived
7 there?

8 A Maybe once or twice a week. It could be more.

9 Q And did she ever spend the night that you can recall
10 at that residence?

11 A Yes.

12 Q When did you -- did you move from Tigerville -- the
13 Tigerville residence?

14 A When?

15 Q Did you? Did you move from that house?

16 A Yes.

17 Q And when do you think you moved from that house?

18 A The end of 2011, maybe the beginning of -- no. It
19 had to be the end of 2011.

20 Q Okay. And where did you move to?

21 A Magnolia Trailer Park.

22 Q And during -- how long did you live at Magnolia
23 Trailer Park. Do you recall?

24 A Not long.

25 Q Not very long?

1 A No.

2 Q And when you moved to Magnolia Trailer Park, did the
3 Defendant and VICTIM still have this friendship, or was
4 she still coming around?

5 A Yes. It had became more frequent by then.

6 Q All right. And would she spend the night over at
7 that location?

8 A Yes. He gave her a bedroom there.

9 Q Okay. Did y'all have an extra bedroom, a spare
10 bedroom?

11 A Yes.

12 Q Okay. Did you have any roommates at that house -- or
13 that trailer?

14 A There was Joshua Pruitt that lived over there for a
15 little bit. And then his girlfriend moved in. And then
16 they moved out. And Josh's cousin, Rachel, moved in for a
17 little bit.

18 Q All right. And when VICTIM would come over to your
19 house, what kind of things -- I mean, would you
20 participate in hanging out? I mean, what would y'all do?

21 A We would -- I mean, to be honest, I just did what I
22 had to do to stay out of the line of fire. But it was
23 mostly just video games, and music, and talking. I would
24 help her with her homework sometimes, if she asked.

25 Q And would she help with Skyland or --

1 A Yes.

2 Q Okay.

3 A She played with her a lot.

4 Q Did that help you out a little bit, give you a little
5 relief?

6 A Yes.

7 Q Okay. Did y'all ever go out places together, or was
8 this always really at your home?

9 A It was mostly at home. But every now and then, we
10 would go to the movies or bowling.

11 Q Okay. And just about every time you went somewhere,
12 was **VICTIM** along or --

13 A Every time.

14 Q How about -- well, let me ask you this. Let me
15 switch over to cars. Do you recall if you -- I don't know
16 if you had a car, but if the Defendant ever owned or had a
17 green Jeep during this time frame?

18 A Yes.

19 Q How about a silver Grand Prix?

20 A Yes.

21 Q Did he ever own or drive a black pickup truck?

22 A Yes. But I don't think it was ever registered in his
23 name. He didn't have it for very long.

24 Q And are these cars that he had consistently
25 throughout the time y'all were together or --

1 A No. They changed.

2 Q Did they change kind of like the houses changed, the
3 residences changed?

4 A More frequently than the houses.

5 Q Okay. And where was the Defendant working during
6 this time?

7 A He never worked.

8 Q Do you know how money was -- was he on disability, or
9 any kind of government assistance?

10 A Yes, disability.

11 Q All right. Now, you said you only lived at the
12 Magnolia Trailer Park for a little while. Did you move
13 somewhere after that?

14 A Yes. We moved to Central, South Carolina.

15 Q And what was -- do you know the reason for moving to
16 Central away from Travelers Rest?

17 A No, ma'am.

18 Q Okay. Did you have a lot of input into where you
19 moved, or when you moved?

20 A No, ma'am.

21 Q Did you keep communication with your family at all
22 during this time?

23 A No. He cut me -- he isolated me away from my family
24 and friends.

25 Q How did that happen? What would he do?

1 A He would say the -- they were bad, and they hated
2 him, and they didn't want us together, and everything. It
3 just always led into an argument.

4 Q Were you believing this as he was saying this, or
5 were you --

6 A At the time, I think, at one point, I did, but, no.

7 Q How was your relationship during this time? I mean,
8 it doesn't sound good. But were there good times during
9 this marriage?

10 A No. It was abusive.

11 Q Did you ever think about leaving?

12 A Yes. I did leave multiple times.

13 Q All right. And where would you go when you left?

14 A I went to my aunt's one time, my biological father's
15 another time, a friend's another time.

16 Q And, eventually, would you come back?

17 A It would only last a day or two.

18 Q When you left, it would only last a day or two? Is
19 that what you're saying?

20 A Yes.

21 Q And would you come back willingly, or were you talked
22 into coming back? How did that work?

23 A Talked into it. The last few times, he would use my
24 daughter against me. He took her away from me and would
25 call and say that they had been in a wreck, or she wasn't

1 breathing, or he would take her to Georgia and I wouldn't
2 know if she was okay or not. So I would go back.

3 Q All right. Now, did you ever go visit your grandma
4 sometimes while y'all were still together, or still living
5 in the house together?

6 A Yes. She's the only one I could go visit.

7 Q And where does she live? You don't have to give me
8 the address. But where does she live?

9 A Right outside of Travelers Rest. Her address is
10 Greenville, but it's still in Travelers Rest.

11 Q Okay. And would there have been times that you would
12 have left and maybe gone to your grandmother's, and the
13 Defendant and VICTIM would be at your house?

14 A Yes.

15 Q And would anyone else be there?

16 A No, except for maybe the times that Josh Pruitt was
17 living there.

18 Q Did you think anything of leaving them alone at your
19 house when you would go visit --

20 A Yes. But there was -- I was too scared to say
21 anything.

22 Q Okay. Now, I'm sorry. I kind of want to go back
23 just a little bit. When you guys lived at a Magnolia
24 Trailer Park, was there a Waffle House close by?

25 A Yes.

1 Q Would y'all order food from there?

2 A Yes.

3 Q Was VICTIM ever over there when y'all would order
4 food to be picked up?

5 A Yes.

6 Q Would she and the Defendant ride together to get the
7 food?

8 A Yes.

9 Q Would you go along?

10 A No.

11 Q So they would be alone when they went to get the
12 food?

13 A Yes.

14 Q All right. So I'm sorry. We've gone on to Central.
15 When you guys -- when was that do you think approximately
16 that you moved to Central?

17 A Right before my daughter's first birthday, 2011.

18 Q Okay.

19 A We moved around too much. It's hard to keep up with
20 dates and places.

21 Q Okay. And about how long did you live in Central?

22 A Just a few months.

23 Q All right. And when you moved to Central, did this
24 relationship with VICTIM -- did she continue to come
25 visit in Central?

1 A Yes.

2 Q Now, did you have some health problems when you were
3 in Central?

4 A Yes.

5 Q Okay. What happened there -- or what kind of problem
6 did you have?

7 A I had to go to the emergency room because we thought
8 that I was having an allergic reaction.

9 Q Okay. And who took you to the emergency room?

10 A Jerald and VICTIM

11 Q Did they stay with you at the hospital?

12 A No. He dropped me off at the front door.

13 Q And then how -- did you get a ride home, or how did
14 you get home?

15 A Him and -- Jerald and VICTIM picked me back up.

16 Q How long do you think you were at the hospital?

17 A It was a few hours. They had to run a bunch of
18 tests. And they wanted to do a chest X-ray, but I had to
19 take a pregnancy test before they could do that. And I
20 found out I was pregnant again.

21 Q Okay. So that was when you found out you were
22 pregnant with your second child?

23 A Yes.

24 Q Did you have an allergic reaction to something?

25 A I don't even think we ever found out.

1 Q Okay. Did you just get to feeling better and went
2 home or --

3 A No, ma'am. I had stayed in the bed for a few days
4 after that.

5 Q Now, at that location, was that a trailer, or a
6 house, or what in Central?

7 A A trailer.

8 Q Did that one, also, have a spare bedroom or guest
9 bedroom?

10 A Yes.

11 Q Okay. Were there any roommates that lived with you
12 guys at that trailer?

13 A Jamie McCrary lived there for a while, but I can't
14 remember for how long.

15 Q And did you guys have a futon in your house?

16 A Yes.

17 Q Okay. And was it -- for anybody that doesn't know,
18 what's a futon?

19 A It's a fold out -- it looks like a couch. And then
20 you can fold it out, but it's a single-size bed.

21 Q And where would -- where was that when y'all lived in
22 the Central place?

23 A The spare bedroom.

24 Q Okay. Now, when you guys were in Central, was there
25 a time that you would have gone to Wal-Mart with Jamie?

1 Is it Jamie?

2 A Yes.

3 Q Is it McCrary?

4 A Yes.

5 Q Okay. Would you have left the Defendant at home, or
6 did he come along?

7 A I think he let me go to Wal-Mart with Jamie without
8 him once.

9 Q And do you recall if VICTIM was over at your house
10 visiting that time?

11 A Yes.

12 Q All right. Did anything ever happen in Central that
13 raised your suspicions about a relationship going on?

14 A Yes.

15 Q Okay. Tell us what that was.

16 A I woke up in the middle of the night one night
17 because I had gotten up with my daughter. And I walked
18 out of the bedroom to the living room. And VICTIM was
19 laying on the couch with a coverling [phonetic] over her.
20 And Jerald was laying beside her with his leg over her
21 legs.

22 Q Did they have clothes on?

23 A Yes -- well, I don't know if VICTIM did underneath
24 the cover, but he had clothes on.

25 Q Okay. Did you ever say anything to him about that?

1 A Yes.

2 Q What happened when you said something about that?

3 A It became a very violent argument that escalated.
4 And we were arguing outside.

5 Q Did it become physical?

6 A No, just threatening.

7 Q And the basis of it was you confronting him about
8 VICTIM

9 A Yes.

10 Q Did you ever say anything to her personally about it?

11 A No. He told me -- he threatened me. And I wasn't
12 allowed to say anything to her.

13 Q Okay. What about her parents? Since you did know
14 them, did you ever think to say anything to them either?

15 A When we went to Florida, I tried to hint around about
16 it. But I was too scared to say anything outright.

17 Q Okay. You went to Florida. Tell me when that was,
18 and where did you go.

19 A We went to Florida. It was around my birthday. I
20 think we went down there the day before my birthday. And
21 that was 2012. Because they were -- Sandy and Walter were
22 going down there to visit Jamie and their son, Walter.
23 And so Jerald wanted to go to follow VICTIM

24 Q Did he tell you that, or is that just what you put
25 together?

1 A I put it together. He made it sound like he wanted
2 to take me down there for my birthday, but...

3 Q And that was to go to the Mucienkos house?

4 A Yes.

5 Q Did you ask to go down there for your birthday?

6 A No.

7 Q Did you ask to go there, period?

8 A No.

9 Q So that's in February of what year?

10 A 2012.

11 Q Did you guys move from Central back to TR at some
12 point?

13 A Yes.

14 Q And where did you move? And give me a ballpark maybe
15 when, a time frame.

16 A We moved right after we got back from Florida, so the
17 middle or the end of February.

18 Q Of 2012?

19 A Yes, ma'am.

20 Q Where did y'all move?

21 A To Quail Roost. I can't remember the house number.

22 Q And who all lived in that house?

23 A Me, Jerald, my daughter. His brother, and his
24 brother's girlfriend, and their child lived there for a
25 little while.

1 Q And did the relationship with VICTIM continue? Was
2 she coming over to that location as well?

3 A Yes.

4 Q Okay. So did she ever come over there and spend the
5 night at that location?

6 A Yes.

7 Q And did -- actually, did, in fact, her mom or her
8 come over and help y'all get moved in, or paint, or things
9 like that?

10 A Yes.

11 Q Did you ask them for that help?

12 A No.

13 Q Did they offer, or how did they --

14 A I think Sandy offered.

15 Q Okay. And when they were over there, did you think
16 of telling them anything or saying anything at this point
17 still?

18 A No. He was there.

19 Q And during -- I don't know if you remember. Do you
20 remember on that day, did you and Sandy go get some food
21 for people that day that y'all were painting and moving
22 in?

23 A Yes.

24 Q And who did you leave behind at the house?

25 A Jerald and VICTIM

1 Q Was your child there, or did you take your child with
2 you?

3 A No. She was at my grandmother's.

4 Q Okay. Now, this trailer in Quail Roost, did it have
5 a guest bedroom?

6 A Yes.

7 Q And did the futon make it back over to this residence
8 as well?

9 A Yes.

10 Q And how about bathrooms and showers? How many
11 bathrooms and showers were in this residence?

12 A There was a big bathroom in the master bedroom, and a
13 smaller one right next to the spare bedroom.

14 Q Did you and the Defendant have the master bedroom?

15 A Yes.

16 Q Would you ever take a shower in the smaller shower?

17 A Me?

18 Q Uh-huh.

19 A No, ma'am.

20 Q Okay. So how long did you live at Quail Roost?

21 A From February whenever we moved in until April 15th
22 of 2012.

23 Q And what happened on April 15th, 2012?

24 A He kicked me out.

25 Q And did you take your daughter with you?

1 A When we started arguing, he took her out of my arms
2 and gave her to VICTIM He called his dad to come get
3 VICTIM and Skyland, and her friend, Daylin [phonetic],
4 that had spent the night.

5 Q Did y'all have a big argument, I guess?

6 A Yes, ma'am.

7 Q Did you decide to leave?

8 A I was made to leave.

9 Q Did you have a car or any way to get out?

10 A No, ma'am.

11 Q So how did you leave?

12 A He had taken my phone before that, so I wasn't able
13 to call anyone. But I just remember putting all of my
14 stuff in trash bags and I put them out on the porch. And
15 I was going to carry what I could, which was this picture
16 that my mom had given me that had the 12-month pictures of
17 my daughter in one bag. And I was going to walk to the
18 gas station that was 10 minutes down the road.

19 Q Is that what you did?

20 A No. He blocked the driveway and wouldn't let me
21 leave. He told me that I was only leaving with him or his
22 father. So his father took me to my grandmother's.

23 Q And did you bring your bag and picture and --

24 A Yes.

25 Q After you left that day, did you ever move back in

1 with him, or get back together with him?

2 A No. I never talked to him.

3 Q You never talked to him again after that day?

4 A No.

5 Q Did you ever talk to VICTIM or her mom, or sister,
6 or anybody during that time frame?

7 A No. I completely cut myself off from everyone
8 associated with him.

9 Q All right. Did you file for a divorce, or did he
10 file for divorce?

11 A He filed for divorce.

12 Q And during that time, where were you living?

13 A When?

14 Q From April until, let's say, November of 2012.

15 A With my parents.

16 Q Okay. Was there something that occurred that caused
17 you to, finally, talk to VICTIM mom about your
18 concerns?

19 A Yes.

20 Q Okay. So tell us about that.

21 A On November 8th, me and my sister went to a Brantley
22 Gilbert concert that the Defendant was at. And he caused
23 a big scene there. And my mom was angry and sent a
24 Facebook message to all of Jerald's friends.

25 THE COURT: I'll tell you what. Let's break right

1 here for lunch.

2 Ladies and gentlemen, just be back in the jury room
3 at 2:30. It's about 1:10 right now. So be back at 2:30.

4 Don't talk about the case. Don't do any outside
5 investigation. And continue to keep an open mind.

6 Thank you.

7 (WHEREUPON, the jury was excused from open court at
8 approximately 1:13 p.m.)

9 THE COURT: All right. We'll see you back at 2:30.

10 (WHEREUPON, a lunch break was taken.)

11 THE COURT: Are y'all ready to proceed?

12 MS. HODGE: Yes, sir.

13 MR. CHAMBERS: Yes, Your Honor.

14 THE COURT: Bring the jury in.

15 (WHEREUPON, the jury came into open court at
16 approximately 2:51 p.m.)

17 THE COURT: Yes, ma'am, Ms. Hodge.

18 MS. HODGE: Thank you, Your Honor.

19 THE COURT: The witness can come back up.

20 BY MS. HODGE:

21 Q Ms. Gaskins, we were kind of getting to the end of
22 your testimony. And I think we left off around the time
23 that you had an occasion to contact VICTIM mom -- or
24 spoke to VICTIM mom regarding your suspicions about
25 VICTIM and the Defendant?

1 A Yes.

2 Q So, now, you were telling me about -- telling us
3 about something that happened in November, a concert or
4 something like that that y'all went to, you and somebody
5 went to?

6 A Yes.

7 Q Okay. So why don't you start back with that.

8 A We had -- me, and my sister, and her friend had went
9 to a Brantley Gilbert concert. And when Jerald saw that
10 we were there, he followed us around the area, and then
11 followed me outside and caused a big scene. And we had to
12 get the security that was at the concert involved. And
13 then my dad had to come there and take me home.

14 Q All right. And, as a result of that incident, did
15 your mom do something?

16 A Yes. She sent the message to everyone that was on
17 his friend's list.

18 Q Okay. And were you any part of that message? Did
19 you do that, or tell her to do that, or anything like
20 that?

21 A No, ma'am. She, actually, sent it while we were
22 still in Clemson.

23 Q All right. And up until this point -- now, we're
24 talking November of 2012. Since you and the Defendant
25 split, had you had any contact with anybody in **VICTIM**

1 family?

2 A No.

3 Q As -- were you back at home -- or at your home with
4 your mom?

5 A Yes.

6 Q Okay. And did your mom get a phone call while you
7 were present as a result of this Facebook post?

8 A Yes. I believe so.

9 Q Okay. Let me ask this, did you ever have a phone
10 conversation with Sandy, VICTIM mother, that came after
11 this Facebook post by your mom?

12 A Yes.

13 Q And how did that conversation start, and what did you
14 say in that?

15 A I just told her about what I thought about his
16 relationship with VICTIM being not normal, and about the
17 incident with me finding him asleep on the couch with his
18 legs on her.

19 Q Okay. Did you say anything about her needing to
20 confront VICTIM or --

21 A Yes.

22 Q -- anything like that?

23 A Yes.

24 Q Was that the last conversation you had with VICTIM
25 mom or anyone in VICTIM family for a while?

1 A Yes.

2 Q All right. And were your divorce proceedings or
3 court proceedings, had those things been going on during
4 that time period?

5 A Yes. We had already been involved in a DSS
6 investigation and it was, actually, over a few weeks after
7 the concert. But it had been going on since April.

8 Q And had you brought any of VICTIM family into
9 court on your behalf during that case?

10 A No, ma'am.

11 Q Did you get with her family now on this November 10th
12 date and concoct some story about the Defendant and
13 VICTIM to help your future court case?

14 A No. I didn't need their help.

15 Q Did any of that information ever come into your DSS
16 case or divorce case?

17 A No, ma'am.

18 Q Were you contacted by Investigator Perry with the
19 Greenville County Sheriff's Office after you spoke to
20 VICTIM mom?

21 A Yes.

22 Q Did you ever come down to the police station, or was
23 this on the phone?

24 A It was on the phone. He said he was going to call me
25 in for an interview, but he never -- he never did.

1 Q Okay. Did you tell him, basically, what you told us
2 in here?

3 A Yes.

4 Q Did you ever personally witness any specific sexual
5 activity between the two of them?

6 A No.

7 Q Okay. But you did have the incident of seeing them
8 asleep together on the couch?

9 A Yes.

10 Q And is it your testimony that they were alone
11 numerous times throughout the time you were with him?

12 A Yes.

13 Q Is your -- are all your court dates completed as far
14 as you and the Defendant with divorce, or custody, or any
15 of those kinds of things?

16 A There's still one pending charge with Greenville
17 city.

18 Q Okay. As far as your court dates for --

19 A It's not set. It's still continuing because he kept
20 having it continued.

21 Q Okay. Is it related to your children or --

22 A A violation of an order of protection.

23 Q Okay. But, other than that, your divorce is final --

24 A Yes.

25 Q -- and the custody is settled?

1 A Yes. We still have joint custody of my son
2 technically, but...

3 Q Well, has he seen your son?

4 A No.

5 Q Okay. And how about your daughter? Who has custody
6 of your daughter?

7 A I do.

8 Q Sole custody or joint?

9 A No. It's sole.

10 Q Sole custody. Okay. And is -- the person you were
11 married to, the father of your kids, is he present in
12 court today?

13 A Yes.

14 Q And who is that?

15 A Jerald Gaskins.

16 Q Can you tell us who he is and where he is?

17 A The Defendant sitting beside Randy Chambers.

18 MS. HODGE: Thank you.

19 Please answer any of Defense's questions.

20 CROSS-EXAMINATION

21 BY MR. CHAMBERS:

22 Q All right. Ms. Gaskins, when did you meet Jerald?

23 A September of 2008.

24 Q And how old were you at the time?

25 A 17.

1 Q And you were in school. What grade were you in?

2 A I was a senior.

3 Q All right. And how did you meet him?

4 A I met him at CVS when I was working as a cashier.

5 Q So he was just a customer that came in, and the two
6 of you hit it off?

7 A Yes.

8 Q And you were living at home at the time --

9 A Yes.

10 Q -- with your mom?

11 A Yes.

12 Q And who else? Who else lived with you?

13 A My dad, and my nephew, and my sister.

14 Q And when you say "dad," is that your natural father
15 or your stepfather?

16 A He is my adopted father. He is my father.

17 Q Is that Kenyard Matthew Lane?

18 A Yes.

19 Q So there were four of you living there. Did you have
20 a good relationship with your mom and your stepfather?

21 A Yes. It was a typical relationship with a teenage
22 girl.

23 Q How so? I mean, describe your life.

24 A I felt like I wanted more freedom. But my dad wanted
25 to protect me from people like him.

1 Q Okay. So you met Jerald at CVS. And did the two of
2 you at that point -- you -- I believe you said earlier
3 that you wouldn't call it dating. In fact, it sounded
4 like y'all didn't really have a whole lot to do with each
5 other up before the time you got married. Describe that
6 for me a little bit.

7 A We talked on the phone constantly until I ran away
8 from home and moved in with him.

9 Q So you ran away from home and moved in with him. And
10 you -- but you were only 17 at the time; is that correct?

11 A Yes.

12 Q You were still under your parents roof top?

13 A Yes.

14 Q Did the police become involved? I mean, you're a
15 teenage run away. You're under age.

16 A Yes.

17 Q They did get involved. They didn't take you back to
18 the house?

19 A No.

20 Q Why not?

21 A Because in the state of South Carolina, you can move
22 out when you're 17.

23 Q Is that right? You don't have to be 18?

24 A No.

25 Q So what you're saying is that your mom and your dad

1 never approved, never liked Jerald, never wanted you to
2 have anything to do with Jerald?

3 A Yes.

4 Q And, despite that, you moved in with him?

5 A Yes.

6 Q Based on phone conversations that you had with him?

7 A Yes.

8 Q I mean, y'all didn't date?

9 A No.

10 Q But these phone conversations were attractive enough
11 to you that you simply ran away from home, moved in with
12 him, and then that was that?

13 A Yes.

14 Q And then just listening to you describe the events as
15 the Solicitor talked to you, it sounded like from that
16 point forward, it was just, basically, a living hell for
17 you. Is that how you would describe it? I realize that's
18 my term. But was it a living hell for you?

19 A Yes.

20 Q I mean, he made you quit high school; is that right?

21 A Yes.

22 Q He made you quit. And then he made you quit your job
23 at CVS; is that right?

24 A Yes.

25 Q He made you -- he would not let you work anywhere; is

1 that correct?

2 A Correct.

3 Q He just made you sit at home all the time?

4 A Yes.

5 Q And he was just abusive and mean to you all the time?

6 A Yes.

7 Q Never any happiness, never any joy; is that correct?

8 A Correct.

9 Q And, yet, you didn't pick up the phone and call
10 mom -- this is your mom seated right here, isn't it?

11 A Yes.

12 Q And that's your grandmother seated right here?

13 A Yes.

14 Q And isn't that your stepdad?

15 A That's my dad.

16 Q Your dad. And they've been here in the courtroom
17 since this trial began, haven't they?

18 A Yes.

19 Q So you, as a family, are taking a great interest in
20 this case that involves the Mucienko family; is that
21 correct?

22 A Yes.

23 Q Okay. But you never called any of these people to
24 say, I made a mistake, I'm in hell over here, please help
25 me. You never did that, did you?

1 A No. Because I had my life and their lives
2 threatened.

3 Q Okay. Well, you know, there's -- you can always pick
4 up the phone and dial 911 and say, please, help me. I've
5 been threatened. I'm in a terrible situation. Did you
6 ever do that?

7 A No.

8 Q This man, your father, who you said was so protective
9 of you protecting you from people like Jerald, you knew he
10 would come to your rescue, didn't you?

11 A Yes.

12 Q The truth of the matter is you didn't have a very
13 good relationship with this man, did you, with this father
14 who you say protected you; is that right?

15 A I did. But I was a teenage girl. I rejected his
16 authority.

17 Q The truth of the matter is you, actually, accused him
18 of cutting and raping you; isn't that correct?

19 A No. That is what I was made to accuse him of.

20 Q So -- but you don't deny you made the accusation?

21 A No.

22 Q You don't deny that you, initially, told your
23 grandmother that; is that correct?

24 A Correct.

25 Q You don't deny that you told the police that?

1 A No. I don't deny it.

2 Q And, yet, when it came time to prosecute, you had to
3 come forward and say none of that happened, I made it up?

4 A No. It never made it to trial -- or my dad was never
5 arrested.

6 Q But you did make it up?

7 A Yes.

8 Q And you say you were made to say that?

9 A Yes.

10 Q And I assume the person that you say made you do that
11 was Jerald?

12 A Yes.

13 Q So he didn't want you to work. He didn't want you to
14 go to school. He wanted you at home all the time. So it
15 would seem like you were always there. You were very
16 seldom ever out of the house, were you?

17 A Yes.

18 Q Yes what? Yes, you were almost always in the house?

19 A Yes, or at his father's house, or his sister's house.

20 Q Okay. So, normally, you know, you were around him or
21 his family. But you were never just off -- you weren't
22 just out of the house hanging out where he had lots of
23 time where he was there home alone ever, did you?

24 A No.

25 Q And the truth of the matter is that all these places

1 that y'all lived, they were usually very small places,
2 weren't they?

3 A Yes.

4 Q Not -- I mean, we're not talking about big 2,500,
5 3,000 square foot homes. Usually, one or two bedrooms,
6 small places; correct?

7 A Correct.

8 Q And there were normally other people living with you
9 at each one of these addresses; am I correct?

10 A Correct.

11 Q You already talked about Josh and his girlfriend that
12 lived with you at two different places; correct?

13 A Correct.

14 Q You talked about that, I believe, Jamie McCrary lived
15 with you for a while?

16 A Correct.

17 Q So, typically, in these small houses that y'all lived
18 in where you were almost always present by your own
19 testimony, and then there were other people living in the
20 home who were almost always there, all that's correct?

21 A Correct.

22 Q All right. Now, at some point, as you already
23 testified, y'all became friends, Jerald and you, with the
24 Mucienko family?

25 A Yes.

1 Q You, initially, met at a horseshoe tournament?

2 A Yes.

3 Q And you were there with Jerald at the horseshoe
4 tournament?

5 A Yes.

6 Q So he did let you out of the house sometimes. Y'all
7 went out and socialized and did things together?

8 A As long as I was under his supervision.

9 Q You didn't enjoy any of that. It was misery for you?

10 A There were times when I enjoyed being at the
11 horseshoe tournaments, because I was getting relief from
12 him.

13 Q Okay. And y'all, actually, spent a lot of time
14 together, you said, mostly going over to their house; is
15 that correct?

16 A Yes.

17 Q And they would come -- they came to your house on a
18 couple of occasions; correct?

19 A Yes.

20 Q And, at some point, **VICTIM** began to come over to the
21 house; is that correct?

22 A Correct.

23 Q And you said that you never really wanted that, that
24 was all Jerald's idea?

25 A Correct.

1 Q In fact, you would prefer that she not come?

2 A Correct.

3 Q But you were afraid to say anything to him about it?

4 A Correct.

5 Q And you were afraid to say anything to the Mucienkos
6 about it?

7 A Correct.

8 Q Why were you afraid to talk to the Mucienkos? I find
9 that kind of odd.

10 A Because there had been an incident when we lived at
11 Tigerville when Sandy's friend, Andy, had mentioned to me
12 having suspicions. And it was a crisis when I got back.

13 Q Okay. But you were a mother at that point, weren't
14 you? I mean, wouldn't you think that Sandy would want to
15 know about these concerns that you claim to have?

16 A Yes. And my first priority was to keep my child
17 safe.

18 Q And you didn't have -- and you had those concerns,
19 but you didn't tell anybody?

20 A Correct.

21 Q There was even -- and you said a lot of that was
22 because you were never alone with anybody. But you talked
23 to the Solicitor about an incident where you and Sandy
24 were, actually, in the car together when she had come over
25 there to help y'all get moved into your new place, and

1 paint, and that stuff. Y'all got in the car to go get
2 some food, and it was just the two of you. Do you
3 remember telling the Solicitor about that?

4 A Yes.

5 Q That would have been the perfect time to say, you
6 need to look into what's going on between your daughter
7 and Jerald. But you didn't do that, did you?

8 A No.

9 Q In fact, you didn't do any of that until you had
10 moved out and divorce proceedings had been started by
11 Jerald?

12 A Correct.

13 Q Jerald started the divorce proceedings?

14 A Correct.

15 Q And you indicated that he made you leave the house?

16 A Correct.

17 Q Okay. And you, also, indicated that, basically, even
18 though you were never allowed to go anywhere and you were
19 always there that Jerald really wasn't spending any time
20 with you. He was ignoring you. He wasn't having any kind
21 of a relationship with you, other than making you afraid.
22 Is that fair to say?

23 A Yes.

24 Q And, yet, you became pregnant with a second child?

25 A Yes.

1 Q Is he the father of that child?

2 A Yes.

3 Q So the two of you were engaging in a sexual
4 relationship?

5 A It was not my choice.

6 Q Okay. I mean, you didn't want to have sex with him,
7 but, apparently, you were having sex?

8 A Yes.

9 Q So he was interested in having sex with you?

10 A Yes.

11 Q And y'all did have a sex life?

12 A Very few.

13 Q That resulted in your second child?

14 A Yes.

15 Q And do you remember when you met with Investigator
16 Perry? Because I believe you said today that Jerald just
17 told you to leave, to get out of the house. And you were
18 going to walk off, but your -- his dad ended up taking you
19 over to your grandmother's house?

20 A Yes.

21 Q You're saying it wasn't your idea to leave, it was
22 Jerald's idea for you to leave?

23 A I was already planning to leave him the day after
24 that.

25 Q Because you remember telling Investigator Perry,

1 don't you, that you had decided to leave because you had
2 caught him in numerous lies. Is that -- do you remember
3 saying that?

4 A No.

5 Q Okay. The truth is that Jerald wanted you to leave
6 because you were fooling around on him, weren't you?

7 A No.

8 Q He filed a divorce action against you and he alleged
9 adultery against you; correct?

10 A No.

11 Q He didn't?

12 A No.

13 Q So you --

14 A To my understanding, it was based on the one year of
15 separation.

16 Q So you weren't having an affair with his brother?

17 A No.

18 Q Jerald -- with Joseph Gaskins?

19 A No.

20 Q You weren't having an affair with Joshua Pool?

21 A No.

22 Q And so just out of the blue then, apparently, after
23 having, basically -- had you under his thumb for all these
24 years, you were living in abject misery, he suddenly
25 decides he just wants -- just leave, get the hell on out

1 of here; is that right?

2 A No. It started with an argument. And I told him
3 that I already had plans with my mom to leave on Monday
4 when he left.

5 Q He was mad at you because you were cheating on him?

6 A No.

7 Q And when he filed this divorce action, he was trying
8 to get custody of the kids. And you didn't like that;
9 right?

10 A No.

11 Q You didn't like him trying to get custody?

12 A He never filed for visitation or for custody.

13 Q He filed the divorce action for adultery; correct?

14 A No.

15 Q He -- so you're saying he didn't want any -- he
16 didn't even want visitation. He didn't even ask for
17 visitation?

18 A No. He did not ask for --

19 Q And, yet, your testimony a few minutes ago was he got
20 joint custody?

21 A No. He got joint custody because we were still
22 legally married when I had my son.

23 Q Well, it sounds like you never went to court.

24 A No, not for custody of my son.

25 Q Okay. Now, when you were up there with the

1 Solicitor, it seemed like she sort of guided you through
2 hitting certain touch stones about where you lived and
3 what kind of cars you had. You've spent some time with
4 her preparing for this testimony before you came in here
5 today, haven't you?

6 A No. I've only met with her one time.

7 Q Okay. And you got an opportunity to see or, at
8 least, hear about the statement that the victim in this
9 case, **VICTIM** made; is that correct?

10 A Yes.

11 Q So you were familiar with what she had said before
12 you came in here to testify today?

13 A Yes.

14 Q And you did meet with the Solicitor before trial?

15 A Once.

16 Q And, in fact, after you were placed under oath today,
17 before we reconvened, you were huddled up in this
18 conference room right here with the Solicitor discussing
19 your testimony, weren't you?

20 A No.

21 Q You deny that you were in that room talking to her?

22 A No. I deny that I was discussing my testimony.

23 Q So you were talking to her after you had left the
24 stand and you were under oath before you came back in here
25 and testified?

1 A Yes, about his witnesses.

2 Q You could have had that conversation any time,
3 couldn't you?

4 MS. HODGE: Your Honor, I'm going to object. This is
5 perfectly legitimate for me to talk to the witness. I
6 don't know what he's trying to imply to the jury, some
7 false things that have happened.

8 THE COURT: All right. Overruled.
9 Go ahead.

10 MR. CHAMBERS: Actually, that's all the questions I
11 have for you.

12 Thank you.

13 REDIRECT EXAMINATION

14 BY MS. HODGE:

15 Q All right. So would it be fair to say that the
16 Defendant was a pretty good talker to get you to leave
17 home and move in with him?

18 A Yes.

19 Q Pretty smooth?

20 A Yes.

21 Q Pretty manipulative?

22 A Yes.

23 Q Pretty convincing?

24 A Yes.

25 Q Told you things you wanted to hear?

1 A Yes.

2 Q Made you feel good?

3 A Yes.

4 Q Made you feel special?

5 A Yes.

6 Q He was going to provide you with things, give you
7 stuff. You weren't going to have to work or go to school?

8 A Yes.

9 Q Telling you that he loved you?

10 A Yes.

11 Q And you were 17; is that right?

12 A Yes.

13 Q And by the time this thing is all said and done,
14 you're only 20? 21?

15 A I'm 23.

16 Q By the time you were out of the house with him?

17 A 21.

18 Q And things changed pretty fast after him smooth
19 talking, and manipulating, and all that kind of stuff; is
20 that true?

21 A Yes.

22 Q Was he very controlling?

23 A Yes.

24 Q Were you given a car to use to drive yourself where
25 you needed to go?

1 A No.

2 Q Would he take your phone away if he didn't want you
3 to call people or have a phone at all?

4 A He would break it.

5 Q How many phones do you think you may have gone
6 through?

7 A Over a hundred.

8 Q Over a hundred. Are these like phones that have
9 plans? Are these throw-away phones?

10 A They were straight talk.

11 Q Straight talk phones. And did he make threats to
12 hurt you or your child if you were to ever go against him?

13 A Yes.

14 Q Threats to take your child away from you?

15 A Yes. And he did take her.

16 Q And where did he take her?

17 A To Georgia.

18 Q Was that with your permission?

19 A No.

20 Q Did he threaten you with -- or did he, actually, use
21 any physical harm ever to keep you from doing things, or
22 going against him?

23 A Yes.

24 Q And what did he do?

25 A He held a gun to my head. And he strangled me twice.

1 Q And when you confronted him about this thing with
2 VICTIM did things escalate?

3 A Yes.

4 Q All right. And what happened then?

5 A He had put the gun to the side of my head and told me
6 that if I told anybody or said anything to VICTIM or her
7 parents that he would kill me.

8 Q So did you think that you could go to VICTIM
9 parents and tell them what happened?

10 A No.

11 Q Did you think you could call the police and still be
12 safe?

13 A No.

14 Q Did you worry not only for your safety, but your
15 child's safety?

16 A Yes.

17 Q Again, you're somewhere around 19 years old at this
18 point?

19 A Yes.

20 Q Had you been isolated from your parents who did love
21 and care about you?

22 A Yes.

23 Q And you even made some false claim, you said, that
24 Jerald wanted you to make against your parents?

25 A Yes.

1 Q Was that to keep you further away from them?

2 A Yes.

3 Q Did you want to say those things about your dad?

4 A No.

5 Q And none of that was true?

6 A No.

7 Q Did you think you might be killed or something? I
8 mean, what was the motivation for you?

9 A I was just trying to keep myself safe.

10 Q Since you've been away from him, have you been doing
11 better?

12 A Yes.

13 Q All right. And do you, actually, attend any kind of
14 therapy or counseling?

15 A Yes. I go to Greenville Mental Health and the Julie
16 Valentine Center.

17 Q Have you had a reconciled relationship with your
18 family?

19 A Yes.

20 Q And you're in school studying to be a paralegal?

21 A Yes.

22 Q So once you got away from him, things looked up. Is
23 that fair to say?

24 A Yes.

25 MS. HODGE: Thank you.

RECROSS-EXAMINATION

BY MR. CHAMBERS:

Q So, now, you say for the first time, apparently, that he held a gun to your head, that he threatened you, that he did all these things to you; is that right?

A The threatening wasn't the first time. The gun I didn't elaborate on because I wasn't asked.

Q And then you -- but you never called the police?

A No.

Q I mean, you're smart enough to know even at a young age that the police would come to your house, that they would investigate, that if they thought there was danger, they would take you out of it. You know that; right?

A A woman in an abusive relationship leaves seven to eight times. I knew that if I called the police that I probably wouldn't make it out of his trailer alive.

Q And you knew that your family who's, apparently, supportive enough that they all came here to watch this trial, they would, certainly, have helped you?

A Yes. And I did go to them for help in 2011 when he took my daughter to Georgia.

Q Took his daughter to Georgia. Would that be fair to say? It was his daughter, too?

A DNA.

Q Pardon?

1 A By DNA.

2 Q Okay. But, I mean, he didn't break any laws. I
3 mean, he's allowed to travel with his child?

4 A He broke a law when he lied and said that I had
5 scratched him, and torn up the house, and had me arrested.
6 And that's when he took her to Georgia.

7 Q And, yet, you didn't contact these folks for any
8 help, even though you knew that -- you already said your
9 dad would protect you. You knew that?

10 A And, in 2011, when he took my daughter to Georgia and
11 had me arrested, I was at home.

12 Q Okay. So that you were fine with. You weren't
13 worried about reporting that. But somebody holding a gun
14 to your head and threatening you --

15 A I wasn't reporting what?

16 Q Well, I mean, you said that you got them involved
17 over him taking his daughter to Georgia?

18 A No. I was in jail and the police gave my daughter to
19 him.

20 Q But you didn't say --

21 A And then he took her to Georgia.

22 Q But you didn't say anything to anybody ever about him
23 being such a bad guy that he threatened you, that he hit
24 you, that he held a gun to your head --

25 A Yes, I did.

1 Q -- that he did all these terrible things?

2 A Yes, I did.

3 Q Who did you tell?

4 A I told my family when I went to their house in 2011.

5 Q Okay. But you didn't tell them when they were able
6 to do anything about it?

7 A While I was still with him, no, I did not tell them.

8 MR. CHAMBERS: All right. Thank you.

9 MS. HODGE: Nothing further from the State.

10 THE COURT: Thank you, ma'am.

11 You can step down.

12 MS. HODGE: And may she be excused?

13 MR. CHAMBERS: No objection.

14 THE COURT: You may call your next witness.

15 MS. HODGE: Thank you.

16 The State calls VICTIM

17 THE CLERK: Ma'am, if you'll, please, pause at the
18 end of the bench.

19 Please place your left hand on the Bible and raise
20 your right hand.

21 WHEREUPON,

22 VICTIM

23 after first having been duly sworn, testified as follows:

24 THE CLERK: Thank you.

25 Please be seated.

1 Would you, please, state your name for the record?

2 THE WITNESS: VICTIM

3 THE CLERK: Thank you.

4 DIRECT EXAMINATION

5 BY MS. HODGE:

6 Q VICTIM how old are you?

7 A 17.

8 Q And where do you go to school?

9 A Travelers Rest.

10 Q What year are you?

11 A I'm a senior.

12 Q And do you have any plans after graduation?

13 A I plan to go to a four-year college to be a nurse.

14 Q And do you -- is that something you've always thought
15 about doing?

16 A No. I did want to do law enforcement at one point,
17 but then I changed my mind.

18 Q And at school -- how are you doing in school?

19 A Good.

20 Q Do you enjoy going to school?

21 A Yeah.

22 Q How about, do you participate or have you
23 participated in any school activities, or sports, or
24 anything like --

25 A I did play volleyball this past fall and three years

1 prior.

2 Q Do you work while you're going to school?

3 A I babysit sometimes.

4 Q But you don't have a job at a business or
5 something like that?

6 A Not at the moment, no.

7 Q Okay. And where are you living right now?

8 A With my mom.

9 Q With your mom. All right.

10 A And everybody who lives with us.

11 Q Who else lives with you?

12 A My brother, my sister, her boyfriend, the three kids,
13 and my brother's girlfriend.

14 Q You have a full house.

15 A Yeah.

16 Q All right. Is that in Greenville County?

17 A Yes.

18 Q In the Travelers Rest area?

19 A Yes, ma'am.

20 Q Okay. Is that the house that you've lived in the
21 whole time you've lived in Greenville?

22 A No, ma'am.

23 Q How long have y'all been in that house?

24 A That house we've been in for -- we've been here for
25 nine years, so I'd say seven.

1 Q Okay. So for about --

2 A Seven years.

3 Q Seven years. Okay. And so do you know the Defendant
4 in this case?

5 A Yes, ma'am.

6 Q All right. Tell me when you met him and how you met
7 him.

8 A I met him in the spring of 2011, so about
9 Marchish [sic]. And it was at a horseshoe tournament. I
10 rode up there with my dad just to get out of the house for a
11 little bit. And he was up there.

12 Q Okay.

13 A And he came to the house later on after that.

14 Q How many people participate in this -- these
15 horseshoe --

16 A You never know. It can vary from a small group to a
17 larger group. Just some people come one week, some people
18 won't the next.

19 Q This is not like a tournament thing where you --

20 A It was like money.

21 Q For money?

22 A Yeah. You kind of put a little bit in, and whoever
23 wins the game gets the money.

24 Q Okay. And this was on -- what day of the week did
25 this happen?

1 A Sundays.

2 Q So you weren't supposed to be at school or anything?

3 A No.

4 Q This is a weekend activity. Okay. And how old were
5 you in the spring of 2011?

6 A I was 13.

7 Q And what grade were you in?

8 A I was in the eighth.

9 Q Where did you go to school for eighth grade?

10 A Northwest Middle.

11 Q And when you met the Defendant, was his wife, Rachel,
12 also, at that tournament?

13 A Yes, ma'am.

14 Q Did they have their child at that time?

15 A No, ma'am.

16 Q Okay. Did you know if they had kids?

17 A Later on that night, we were talking. And they said
18 that they had a five-month old daughter.

19 Q Were your parents friends with other people in the
20 horseshoe group as well?

21 A They were friends with the people that was hosting
22 the horseshoes. That's why my dad went up there, just to
23 kind of see everybody or talk to somebody. I just wanted
24 to ride up there to get out of the house. That's -- and
25 then we kind of made more friends as we went along.

1 Q Okay. Did -- that very first time that you met the
2 Defendant, did y'all talk about phones, or exchange phone
3 numbers, or anything --

4 A I had a ring tone on my phone that he wanted. So I
5 got his number -- or he gave me his number and was like,
6 Can you send me this ring tone?

7 Well, later on, I got my phone taken because one
8 grade slipped up. And then after that, I got it back.
9 And he had texted me and was like, Why haven't you sent me
10 the ring tone? You know, I wanted that ring tone and --
11 yeah.

12 Q Okay. So pretty innocent stuff right there?

13 A Uh-huh.

14 Q Okay. But from the first day, he had given you his
15 phone number and wanted you to send him something?

16 A Yeah.

17 Q Okay. And did your family, initially, like him --

18 A Yes.

19 Q -- and his wife. Okay. And they spent time at your
20 home with your family?

21 A Yeah.

22 Q Over the course of months, did things get closer and
23 closer, the friendship get closer and closer?

24 A Yeah.

25 Q Where was the Defendant living at that time when you

1 first met him?

2 A A house on Tigerville Road.

3 Q Okay. Did you and your family ever go to his place?

4 A They -- my parents went a few times. I was over
5 there often.

6 Q Okay. And whose choice was that for you to go over
7 there? Did you ask to go, or were you invited?

8 A I was invited. There were times I would ask to go to
9 see their daughter and just to hang out, get away from the
10 house. I did like to go out and get away from the house a
11 little bit. But most of the time, I was invited to go
12 over.

13 Q Who would do the inviting?

14 A Jerald.

15 Q And how would you be invited?

16 A It would be like a text message or a call. It would
17 be like, Do you want to come over, you know, hang out,
18 play some video games, chill out with me, you know, stuff
19 like that.

20 Q And would you have to ask your parents permission to
21 be able to go do that?

22 A Yes.

23 Q And would they give you permission to go?

24 A Yes.

25 Q How would you get over there?

1 A Either him or Rachel would come pick me up.

2 Q Okay. And would they bring you back home as well?

3 A Uh-huh, unless my parents came over that night and I
4 had to go home.

5 Q Initially, did you spend the night over there when
6 you went to visit or --

7 A At first, no. But then when I started going over
8 there more often, I did start spending the night. And
9 then just kind of helping out with the baby every now and
10 then.

11 Q Did you like to play with the baby?

12 A Yeah.

13 Q Now, during this time, they, obviously, know how old
14 you are, what grade you're in, those kinds of things?

15 A Yes, ma'am.

16 Q Okay. And was there a point in time that the
17 Defendant started asking you things that were maybe
18 inappropriate, or in relation to sex, or something of that
19 nature?

20 A Yes, ma'am.

21 Q Okay. How did that come about?

22 A We were sitting in the living room. And I think
23 Rachel was putting the baby to sleep. And he started
24 talking about his past, you know, just kind of talking
25 about it.

1 And then he asked me if I was a virgin. And I told
2 him, yes. And he -- we just kind of went on with that
3 conversation. And he was like, Well, why hasn't anybody
4 taken it?

5 And I was like, Because I don't want them to.

6 And he was like, Well, if it was me -- he said, If it
7 was me, I'd make love to you and spoil you for the rest of
8 your life.

9 Q And did you say anything to that?

10 A I kind of kept quiet. I was just kind of in shock
11 that somebody would say that to me. But, on the other
12 hand, I was 13. And if somebody would spoil me -- any
13 13-year-old girl would love to be spoiled.

14 Q Did it make you feel special or --

15 A Yeah.

16 Q And did that kind of start the ball rolling with some
17 other conversations, or more in-depth type relationship?

18 A Yes, ma'am.

19 Q Did anything happen that day or night when the
20 conversation --

21 A No, ma'am. It happened a couple weeks later.

22 Q And do you have any idea what time frame we're
23 talking about at this point? Is it summertime by now or
24 is it --

25 A It's still spring. It's about April or May. So just

1 kind of almost going into the summer.

2 Q Okay. Of your eighth grade year?

3 A Yes, ma'am.

4 Q Okay. Did you happen to have a boyfriend or anything
5 at that time?

6 A No.

7 Q And did you tell anybody about that comment that he
8 made to you?

9 A No.

10 Q Why didn't you say anything to anybody?

11 A I thought it, you know, was just a small thing, just
12 blow it off, don't worry about it, kind of go on with life
13 type thing.

14 Q But did it kind of make you feel good in a way?

15 A It made me feel good in a way because of the
16 spoiling. But the fact that he got a little bit deeper
17 with it, it felt awkward. It felt a little weird.

18 Q Okay. Did you tell him that?

19 A No. I just kind of stayed quiet and was like okay.

20 Q Now, you said that his wife was at the house, but she
21 wasn't in the room for that conversation?

22 A Yes, ma'am.

23 Q When you would be over there, where would Rachel be
24 most of the time?

25 A She would be either tending to the baby, because she

1 was still little, or she would go to her grandma's house.

2 Q So she was in the home sometimes while you were
3 there, and sometimes at her grandma's house?

4 A Yes.

5 Q Okay. And you would still stay at the house, even if
6 Rachel wasn't at the house?

7 A Yes, sometimes.

8 Q Sometimes. So what was the next thing that happened
9 between you and the Defendant?

10 A We ended up having sex.

11 Q Okay. How did that come about?

12 A We were sitting there and he brought it back up again
13 about the whole thing that he said that he would make love
14 and spoil me. And I was still kind of in shock about it
15 and just was like okay. And we kind of -- I don't know
16 how to put it.

17 But then he went -- and Rachel was in the house. He
18 went to find out how long she was going to be in the
19 shower, because she was taking a bath, how long she was
20 going to be in there. And she said about 30 to
21 45 minutes.

22 Well, he came back out. And he was like, Well, she's
23 going to be in there for a while. And we went back into a
24 spare bedroom. And then he kind of checked one more time
25 to make sure that she was in there for a while. And then

1 he came back in and everything started.

2 Q Would you say that, at this point, you're a willing
3 participant? Are you -- how are you feeling at this
4 point?

5 A Kind of like I feel now, kind of anxious and shaky,
6 not knowing what's going to happen. And just -- I didn't
7 know what to think, whether I was willing. But I was,
8 also, 13.

9 Q When you get to this -- is it a guest bedroom?

10 A Yes, ma'am.

11 Q Okay. Tell us what happens. I know we're going to
12 start going into some very personal stuff. But just give
13 us, if you can, the best recollection of what happened.

14 A We went in there. I laid down. And he took my bra
15 off. And then he started to fondle me and, basically, was
16 seducing, if that's how you would say it. And he started
17 doing that. And then he...

18 Q Did he have his clothes on at this point?

19 A No, ma'am.

20 Q Okay. Was he completely undressed?

21 A No. He had his shirt on.

22 Q Any underwear, or boxers, or anything?

23 A No.

24 Q And what about you? What clothing did you have --

25 A I have no -- from my waist down, there was no

1 clothing.

2 Q Did he kiss you, or do anything like that, or --

3 A Yeah.

4 Q Okay.

5 A He did.

6 Q And did he touch your vaginal area?

7 A Uh-huh.

8 Q With his -- with what parts?

9 A At first his hands, and then his penis.

10 Q And did he use a condom?

11 A Yes, ma'am.

12 Q And what did he do with his penis?

13 A He put it in. And I kind of made sure that I didn't
14 say anything like I was quiet so that she would never find
15 out. And then the sex occurred.

16 Q Was this the first time that you had ever had sex?

17 A Ever.

18 Q And about how long did that last?

19 A Only a few minutes, just for the safety of her coming
20 out.

21 Q All right. And when it was over, what happened?

22 A We just went back to playing games or sitting out in
23 the living room watching TV.

24 Q So did you get yourself dressed --

25 A Yes.

1 Q And he got himself dressed?

2 A Uh-huh.

3 Q And then --

4 A We just kind of acted like nothing ever happened.

5 Q How are you feeling at that point?

6 A Disgusting, honestly. I was -- told myself I would
7 wait and keep it for somebody that cared and I thought I
8 cared for.

9 Q Did you feel like he cared for you?

10 A Yes, ma'am.

11 Q At that point?

12 A Yes, ma'am.

13 Q What were you basing that on?

14 A The way he treated me, how he kind of gave me this if
15 I asked for it, gave me that, you know, just small things
16 if I'd ask I got. So it was, basically, just material
17 things.

18 Q Did he give you attention?

19 A A lot of that, a lot of attention.

20 Q And then little stuff, you're talking about if you
21 asked for stuff, it would be --

22 A Like I could ask for a candy bar, a drink, and it
23 would just simply just be put in my hand in an instant.

24 Q Did you end up staying there that night that this all
25 happened?

1 A Yes, ma'am.

2 Q And was there any discussion about you not telling
3 anyone or --

4 A He, basically, told me don't -- everything will be
5 okay if you don't tell anyone. Just don't tell anyone.
6 And I'll give you whatever you want.

7 Q Okay. And did you believe that to be true?

8 A Yes.

9 Q Had you wanted to tell anyone?

10 A No. Because I wanted what I asked for. I mean, you
11 can't always get what you ask for, but it was nice to get
12 it when I asked for it.

13 But then I did want to tell. Because I felt really
14 bad like it was the worst thing I could have done. And
15 that's something that you -- you know, have to wait for
16 and not just give it. And to tell somebody is a lot
17 harder if you didn't willingly want to give it completely.

18 Q Did you think you'd get in trouble, also, like --

19 A Yeah, by far.

20 Q Okay. Did you -- but, at some point, did you kind of
21 grow to like him, or the relationship, or --

22 A Yes.

23 Q Were you conflicted about that?

24 A I really liked the things that I got and the
25 attention I was given.

1 Q Is that -- you're now at 17 looking back, is that
2 kind of how you're processing this, or at 13, were you
3 thinking that?

4 A This is me at 17 looking back realizing that it was
5 just a material thing.

6 Q So you continued to have a -- some kind of
7 relationship with him?

8 A Yes, ma'am.

9 Q And this progressed on for maybe about a year, a year
10 and a half?

11 A A year and a half.

12 Q All right. So I'm going to kind of go through the
13 rest of that year and a half, if you will. Did anything
14 else happen with him sexually at that Tigerville house?

15 A No.

16 Q Was this something that happened every single time
17 you saw him?

18 A No.

19 Q Okay. About how many times would you say total did
20 any sex happen?

21 A Every -- a little over -- it was over 10 times. I
22 can say that much.

23 Q Okay. But not like a hundred times?

24 A No.

25 Q All right. So, as we've heard, the Defendant moved

1 several times?

2 A Yes, ma'am.

3 Q And did you ever visit him when he moved to 12
4 Magnolia Trailer Park?

5 A Yes, ma'am.

6 Q So is it -- you tell us. Did you maintain this kind
7 of friendship thing for that year -- for a year and a
8 half, and maintained it every place that he moved?

9 A Yes, ma'am.

10 Q So 12 Magnolia, you'd go over there and hang out?

11 A Yes, ma'am.

12 Q Kind of like before?

13 A Yeah.

14 Q All right. And, at that location, did any type of
15 sexual activity happen?

16 A Yes.

17 Q Okay. Can you tell us about that?

18 A Rachel had went to her grandma's, took Skyland to her
19 grandma's. And he said, She's gone. Let's, you know, do
20 something.

21 I was like, Why?

22 And he was like, Because we never have the chance.

23 So why not try it now?

24 And I was like, No. I really don't want to.

25 And he was like, Well, why not?

1 I just don't want to.

2 He was like, Please.

3 And I kept telling him no. And he kept begging me.
4 And then I just got sick of the begging. It was
5 overwhelming. He wouldn't stop.

6 So I then agreed. We went to the back room, the
7 spare room. And then, again, we were both -- had no
8 clothes on from the waist down. And the same thing
9 happened again. And then he inserted and it happened.
10 But he used a condom.

11 Q Did he use a condom every time?

12 A Yes, ma'am.

13 Q All right. And, again, how long did this maybe go
14 on?

15 A Maybe 10 minutes.

16 Q What happened after it was over?

17 A The same thing, just put the clothes on and go back
18 like everything is okay. He'd either go make dinner, or
19 do something in his bedroom. And I'd sit out in the
20 living room and watch TV, or play a game, or go on the
21 game system. I've forgot what game system it was, or just
22 go on YouTube, or something.

23 Q How many times do you think it happened at that
24 location?

25 A The full -- like actual full sex?

1 Q Actual -- right. Full vaginal-penile penetration?

2 A Only one time.

3 Q What, if anything, happened there that wasn't that?

4 A Oral.

5 Q Okay. So what happened during that occasion?

6 A Once again, Rachel went to her grandma's. I think
7 this time to pick up Skyland. She went over there. And,
8 you know, she usually stayed there for a good hour and a
9 half or so, maybe shorter.

10 And then he kind of pulled me into the back in his
11 room. And it was -- you know, he turned out the lights,
12 turned on the TV with music on, just kind of -- I don't
13 know what type of music was on. And he took my pants off,
14 everything waist down was gone. And he did oral.

15 Q So he put what part of his body --

16 A Mouth.

17 Q His mouth. On what part of your body?

18 A My vagina.

19 Q And how long did that last?

20 A Maybe five minutes.

21 Q Did he ask you to do anything in return?

22 A Not then, no.

23 Q Did that lead to any other sexual activity?

24 A No, ma'am.

25 Q Okay. Is -- did -- was time running short on that,

1 or was there -- did -- was there some reason that it was
2 just that, or you don't recall, or not?

3 A (Witness shook her head.)

4 Q While he was living at this residence, did y'all ever
5 go to the Waffle House to pick up some food for everybody?

6 A Yes, ma'am.

7 Q Okay. Tell us about that.

8 A He had a silver Grand Prix, at first. And everyone
9 was sitting in the house. And he was like, Does everybody
10 want some Waffle House? It was like 10:00, 11:00 at
11 night. Excuse me. And everyone was like, Yeah. Let's
12 get some Waffle House. And we all got the -- we both got
13 the order down. And on the way out, he called it in.

14 And he said that it would be about a 10 or 15 minute
15 wait. I was, Okay.

16 So he was like, Well, I know this place behind the
17 shop behind the BP station off of the highway.

18 I was like, Okay.

19 And he was like, We're going to go there.

20 And I was like, Why?

21 He said, Because we're going to do it.

22 I was like, Why?

23 He said, We've got time. He's like, It's the chance.
24 There's always a chance.

25 And then we went behind -- it was behind an abandoned

1 house in the Grand Prix. And we never went in the house.
2 We stayed in the car. It was in the backseat. It was,
3 basically, the same thing all over again, pants --
4 waist -- sorry. From the waist down was taken off. He had
5 a condom on. And we had sex.

6 Q Okay. Did any other type of sexual activity happen
7 at that time?

8 A At that time, oral was, also, taking place there,
9 too. But that was it at that time.

10 Q Okay. And where in the car did this happen?

11 A The backseat.

12 Q Okay. So this -- how long did that last?

13 A Maybe the 10 minutes that we had to wait.

14 Q And did you just get back dressed?

15 A Yeah.

16 Q Get back in the front seat --

17 A It was, basically, the same thing all over every
18 time.

19 Q And you went and got the food?

20 A Yeah. We went back to the house.

21 Q You brought it back. You all acted like nothing was
22 wrong or different?

23 A Uh-huh.

24 Q Now, were you over there every single weekend or --

25 A No. There were weekends I wasn't over there. I

1 would go to a friend's house. But most of the weekends, I
2 was there.

3 Q Okay. And, speaking of that, did you stop spending
4 less and less time with your friends or --

5 A Yes.

6 Q Okay. And why did that happen?

7 A He would tell me -- like we'd be -- this was later
8 on. He would tell me that, you know, they're not good
9 friends. They're bad influences. You know, I heard this
10 about them, I heard that. And, you know, he was like,
11 They're not real friends. He said, I'm your best friend.

12 Q Did you believe him when he said that stuff, or sort
13 of believe him?

14 A I sort of believed him. Because, I mean, at the
15 time, I was going through arguments with my friends, but
16 what friendship doesn't, so.

17 Q Okay. And are you in ninth grade by this point? Are
18 we getting --

19 A Yes.

20 Q Okay.

21 A Or it was -- yes, ninth grade.

22 Q Okay. Did -- would you say that your relationship
23 with the Defendant was getting more and more like
24 boyfriend-girlfriendly type, or how is that?

25 A In a way, yeah. Like it was more -- you know, we

1 were together, always together. Yeah, boyfriend-girlfriend
2 type.

3 Q Is that how you looked at it, or --

4 A (Witness nodded.)

5 Q Somewhat?

6 A Yeah, somewhat.

7 Q I mean, you couldn't tell your parents -- or you
8 didn't tell your parents about it; right?

9 A Yeah. I didn't tell my parents yet.

10 Q Okay. And his wife is right there. Are you not
11 thinking, you know, this is wrong, I shouldn't be doing
12 this?

13 A I did.

14 Q Did you ever think about telling her anything?

15 A No. Because he made her seem like she was a liar, a
16 constant liar. So you couldn't tell her anything without
17 her telling somebody, or that she always ran her mouth
18 about something is what he made her out to be.

19 Q He made her out to be a bad guy?

20 A Yeah.

21 Q So did you try to form any friendship with her, or
22 not really?

23 A I tried, you know, just to keep it kind of civil and,
24 you know, keep it kind of pushed back that anything was
25 going on.

1 Q Keep it looking normal, I guess?

2 A Yeah.

3 Q While you're over there. All right. So then I guess
4 they moved to Central. Did you ever go visit when they
5 moved to Central?

6 A Yes.

7 Q Okay. Tell us about going over to Central, if
8 anything happened over there.

9 A Yes.

10 Q Okay. What happened?

11 A The first time, there was two incidents. The first
12 time is when Rachel -- she was sick like really sick. So
13 we took her to the hospital and we dropped her off. He
14 said, We'll call -- call me when, you know, you find out
15 something. So we dropped her off, you know, and went back
16 to the house.

17 And I went to the bathroom and came out. And he kind
18 of pulled me into the room like he did at Magnolia. And
19 he kind of -- he turned on the music again, turned out the
20 lights. This time, completely unclothed, everything. And
21 he used KY during this. And it was -- I'm sorry. And
22 then the sex was going to happen. And then when that was
23 done -- because Rachel had called. We both got dressed.
24 I had to clean myself because it burned.

25 Q The KY?

1 A Yeah. It burned like a bad burn.

2 Q Okay.

3 A And then we went and picked up Rachel, and then found
4 out she was pregnant.

5 Q Did you ever say to yourself I'm not doing this
6 anymore, I'm just going to stop hanging out with him, I'm
7 going to stop doing this?

8 A I told myself that I wasn't going to do -- I was
9 telling myself I'm not going to do this anymore, you know.
10 They have a family they're going to raise, you know.
11 They're going to have a kid again. I shouldn't -- this is
12 wrong. I want to stop hanging out with them. Because I
13 did start to get a friendship with Rachel.

14 And I started to grow fond of the child, Skyland. I
15 did like going over there seeing her. So I went to see
16 her sometimes. And then other times, he invited me.

17 Q Was this kind of like a sense of freedom from your
18 parents, or kind of giving you free rein --

19 A It was --

20 Q -- to hang out and --

21 A -- go over there, you know, hang out. It was a fun
22 type of thing.

23 Q Nobody is telling you to get off the phone, or off
24 the games, or go to bed, or any of that?

25 A Yeah.

1 Q So you're kind of --

2 A Free.

3 Q All right. So after that incident happened, did you
4 go back and hang out with no intentions of doing anything?

5 A Yes.

6 Q Okay. But did something happen?

7 A Yes, ma'am.

8 Q Okay. So what happened the next time you went over
9 there?

10 A It was in the spare room that they had the futon in
11 it. And I was going to sleep. I was laying down getting
12 ready to go to sleep. And he came in there. Because
13 Rachel still wasn't feeling good. He came in there and
14 told me, Hey, she's asleep. Come on.

15 I was like, No, just flat out, No, I don't want to.
16 You know, I wanted to go to sleep. That's my intentions,
17 to go to sleep.

18 And he was like, Come on, come on.

19 And I was like, No, just no.

20 And then he started to kiss me, put his hands all
21 over me and, basically, seduce me to do it even though I
22 really didn't want to. Because I had told myself before
23 that this is wrong, don't ever do it again. And I did --
24 at the time, I like to keep my promises to myself. And he
25 made it to where I started breaking my promises. And I

1 felt like the worst person in world. I told him no. He
2 didn't go away. And then it was waist down this time, no
3 clothes, same deal.

4 Q Okay. And is it safe to say he used a condom this
5 time as well?

6 A Yes, ma'am, every time.

7 Q Okay. And was there oral sex on this one as well?

8 A Yes.

9 Q And was there anything -- did he talk about it while
10 all this was going on? Were there ever things -- again,
11 him reminding you not to say anything, or nothing?

12 A He was just like, you know, Just keep quiet. While
13 it's going on, he was like, Just like keep quiet, you
14 know. Because you don't know when she's going to walk out
15 of the room, you know. Because she did like to get up,
16 you know, and get a drink. He was like, Just stay quiet,
17 you know. She won't ever know.

18 And by the time it -- maybe 10 minutes again. And by
19 the time it stopped, you know, clothes were back on. He
20 got rid of the condom every time. He either flushed it
21 down the toilet or threw it out somewhere. And he just
22 kind of left the room. And by the time he went back into
23 the living room and sat on the couch, Rachel had walked
24 out of the bedroom to go get a drink, or some sort of
25 thing.

1 Q Okay. So she came out and --

2 A I could see her come out because I left the door
3 open. Because it would get either really hot or really
4 cold, depending on the weather. And I could see her walk
5 out into the kitchen.

6 Q Was there ever a time that you fell asleep with the
7 Defendant on the couch purposely or accidentally?

8 A No, ma'am. I was asleep already on the couch. I
9 think that was when Jamie was living at the house and he
10 had that spare room. And the other room still had some of
11 Skyland's toys in it. They hadn't gotten that room
12 situated yet. And I slept on the couch.

13 And I was playing games, you know, watching YouTube,
14 doing that. Well, I fell asleep. Well, I was in a
15 complete sleep. And it woke me out of my sleep when
16 Rachel came out. And he was laying next to me. I had no
17 idea he had laid down next to me with his leg thrown over.
18 I mean, he was like on me, not on top. But it was kind of
19 thrown over me sleeping.

20 Q And did something -- did an argument start at that
21 point, or did anything happen?

22 A (Witness nodded.)

23 Q Okay. Did you witness that?

24 A I didn't see it. I could hear it because it was a
25 trailer. It was through the walls. You could hear it

1 pretty clearly. They were -- at first, they went in their
2 bedroom -- bathroom -- between the two. And I could still
3 hear it because I was doing my own laundry. And I could
4 hear them screaming and yelling at each other. I really
5 couldn't make out what they said. And then one bolted out
6 the door, and then the other bolted out the door. And I
7 couldn't hear it from then on.

8 Q Did you ever hear any other arguments or fights that
9 they had?

10 A When she was kicked out, I did. I heard that one.

11 Q Okay. You were there?

12 A Yes, ma'am.

13 Q Was there anything that -- did you see, hear, witness
14 anything that would be considered threatening or physical
15 harm to Rachel?

16 A I don't recall hearing. I could barely hear what
17 they were saying through the walls or outside. But when
18 she left, it was just an all out brawl of words.

19 Q Okay. Would you say that -- what was the Defendant's
20 temper like?

21 A Short.

22 Q Did you witness that?

23 A Yes.

24 Q On more than one occasion?

25 A Yes.

1 Q Who would be on the receiving end of that short
2 temper?

3 A Anybody who -- I mean, you could just barely have
4 said something the wrong way and he'd snap like his
5 temper would -- like the fuse would go.

6 Q Did that ever make you concerned?

7 A Yes.

8 Q Did that make you more likely to say yes when he was
9 pushing you to have sex?

10 A Yes.

11 Q Did he ever make any specific threats to you if you
12 didn't do it, though?

13 A No.

14 Q That was just at the back of your mind --

15 A Yeah.

16 Q All right. Was there a time that Rachel and Jamie
17 went to Wal-Mart that something happened in Central?

18 A Yes, ma'am.

19 Q Do you recall that?

20 A Yes.

21 Q Okay. Can you tell us what happened then?

22 A It was -- if I may literally say -- or say,
23 literally, it was the same as before on the futon, spare
24 room, everything.

25 Q Okay. Kind of a pattern?

1 A Yeah.

2 Q A routine, if you will?

3 A (Witness nodded.)

4 Q They ended up moving from Magnolia; is that correct?

5 A No, Central.

6 Q I'm sorry. Central.

7 A Back to TR.

8 Q Back to TR. At this point, are you still texting,
9 talking, hanging out?

10 A Uh-huh.

11 Q Did you go and visit or help them move in to 46 Quail
12 Roost?

13 A Yes.

14 Q All right. Who all did that?

15 A Me, him, Rachel, and my mom.

16 Q Now, your mom came this time. Was that -- was she
17 normally coming with you, or not --

18 A No. I think it was just because they were moving and
19 they needed help moving, so she came.

20 Q All right. So what happened at Quail Roost?

21 A Rachel and my mom had went to go get something to eat
22 because we had been moving all day. So we were like,
23 Well, we're hungry. They were like, Well, we're going to
24 go grab a couple of pizzas and maybe some drinks.

25 I was like, Okay.

1 And we stayed at the house. Well, then he was like,
2 Well, time to break in the new house.

3 I was like, What?

4 He was like, Break in the new house.

5 And I was like, Why? It was more of a why.

6 And he was like, Let's just do it.

7 I was like, No. I didn't want to. And I was still
8 promising myself, I was like, you can't do that, you
9 can't. I was always telling myself, you can't, you can't.
10 Well, I kept breaking my promises. And I was scared he
11 was going to blow up if I kept telling him no, but not
12 physically hurt me, just yell. And I didn't want to be
13 yelled at.

14 Q Were you still on the receiving end of good things?

15 A Yes.

16 Q Was there some point that he -- you lost your phone
17 and he got you a phone, or you got your phone taken away?

18 A I got my phone taken away because of the excessive
19 talking to him and isolating myself in my room all the
20 time, you know. I was always over there. I wasn't really
21 talking to my parents, you know, kind of just would push
22 myself away. And my mom took my phone.

23 And she was like, Well, no more of this, you know,
24 kind of took it, put it off inside of the drawer. Excuse
25 me.

1 And he asked for it back. And then by the time that
2 one had got taken and shut off, then he got one of the
3 kind of little prepaid phones or two of those -- three of
4 those. Sorry. Three of those. And he gave one to me.
5 He had one. And then he tried to give my brother one.

6 Q Were you supposed to let your parents know you had
7 that?

8 A No, ma'am.

9 Q Did they find out that you had it?

10 A Yes, my mom did.

11 Q And did you get in trouble for that?

12 A Yes.

13 Q Did you think to tell her I just need to tell you
14 everything that's going on?

15 A No.

16 Q Did that ever pop into your head?

17 A No. Not at that time, no.

18 Q Did you ever think you would tell her?

19 A Eventually.

20 Q How did you see this ending? Did you ever think
21 about how this was going to end?

22 A No. Honestly, I didn't really think about how it was
23 going to end or how badly it would end.

24 Q All right. You were just trying to be in ninth
25 grade, do what ninth graders do?

1 A Right.

2 Q So tell us, did any other instances happen -- well,
3 did something happen on the day of moving in? Did we go
4 through that?

5 A Yeah.

6 Q Okay. Was it the same old, same old?

7 A Yeah.

8 Q Okay. And then did it ever happen again at that
9 place?

10 A Two more times in the spare bedroom that they had on
11 the futon.

12 Q Okay.

13 A Same --

14 Q Same kind of thing --

15 A Same thing.

16 Q Was there ever any time that he wanted you to perform
17 oral sex on him?

18 A Yes.

19 Q Did you ever do that?

20 A No.

21 Q And was that a discussion or --

22 A Yes. He asked me a few times. And I kept telling
23 him no. He asked me why. And I said, Because I don't
24 want to. It's nasty. It's disgusting to me.

25 And he would tell me, Well, I do it to you. What's

1 the difference?

2 I'd still tell him, no. I wouldn't do it at all.
3 But he'd still be persistent and try to get me to, but I
4 wouldn't.

5 Q Okay. Was there something he'd said to you about he
6 could make you do it one day?

7 A Yeah. He said that one night while I was sleeping on
8 the futon in the spare room that he was going to come in
9 there and do it. He was going to put it in my mouth and
10 make me do it.

11 Q Did that ever happen?

12 A No.

13 Q Was there ever anything that happened in his green
14 Jeep?

15 A Yes.

16 Q Okay. And where was he living at this time, and what
17 happened?

18 A The green Jeep, he was living in Central. And then
19 it was with him when he went to Quail Roost.

20 Q Okay. So did --

21 A And it was another Waffle House occasion.

22 Q Okay. And where did y'all go in the Jeep?

23 A Behind the abandoned house again.

24 Q Was it the same kind of thing in the Jeep?

25 A Yeah. The backseat was folded down and it was the

1 same thing again.

2 Q Okay. So did he ever give you any ideas or things to
3 tell your parents if they ever questioned you or asked
4 about anything?

5 A He said to tell them that a tampon -- that I used a
6 tampon and it's how I lost it.

7 Q How you lost your virginity?

8 A Yes, ma'am.

9 Q If they ever asked or --

10 A Yeah. If they ever had suspicions or anything, you
11 know, maybe why or, you know, if they had me examined,
12 that's what he was saying. He was like, If they have you
13 checked out that it would -- you know, say that a tampon
14 did it, that I used a tampon and it did it.

15 Q All right. And did he ever tell you anything else to
16 say that maybe you did it to yourself or --

17 A The main one that he would use was the tampon one.
18 But he did say, you know, you did it to yourself, just
19 tell them you did it to yourself, you used this or -- I
20 don't know. Thinking back, I can't recall what it was.
21 But it was anything that could do it. It was just tell
22 them that, just tell them this.

23 Q So there was going to be a plan if they ever got
24 suspicious?

25 A Yeah. There was a set plan on if they asked.

1 Q Now, at Quail Roost, did -- is this -- was Rachel
2 still living at Quail Roost?

3 A Yes. That's where they separated at.

4 Q Okay. And you said you were present that day?

5 A Yes, ma'am.

6 Q Okay. So when -- you said an all out brawl, I think
7 is what you said before?

8 A It was a verbal brawl.

9 Q Okay. A verbal brawl. And so what -- he kicked her
10 out?

11 A Yeah. It was screaming and yelling, of course. I
12 had Skyland inside at first. And then, you know, I kind
13 of took her outside on the other side of the house so she
14 could still play outside while they're inside the house.

15 Because it was -- it started inside, so I took her
16 outside. And then they moved outside. And he told me to
17 take Skyland -- call his dad, take Skyland, me, and my
18 friend, Gaylon, to -- you know, to take us to the
19 horseshoe tournament that we were about to go to when he
20 decided to kick her out.

21 Q And was she pregnant at that time?

22 A Yes.

23 Q And did she have a car, or anything?

24 A No.

25 Q Okay. How was she supposed to go? Did you hear any

1 of that?

2 A No.

3 Q Were you present when, I guess, his dad -- did his
4 dad come and get you?

5 A His dad came and got me and my friend, Gaylon, and
6 Skyland. And we went to the horseshoe tournament. And,
7 after that, I really didn't quite know what happened.
8 Because I was there and they were over there. And he came
9 and told just a story.

10 Q So did he come to the horseshoe tournament --

11 A Yeah.

12 Q -- after kicking his pregnant wife out?

13 A Yes.

14 Q Okay. He comes to the horseshoe tournament. And did
15 you continue to see and talk to him and hang out with him
16 after he and Rachel split?

17 A Yes.

18 Q And your parents allowed you to hang out with him
19 without Rachel being around?

20 A Yes.

21 Q Did anything ever happen between y'all once Rachel
22 was gone?

23 A There was a time he came and got me from a volleyball
24 game. And he kind of -- I had to change clothes, of
25 course. And we went to the mall and just kind of walked

1 around. We went to Krystal Burgers. We went to the
2 movies. And then we went to his dad's house and just kind
3 of hung out. And then he took me home.

4 Q Okay. Did you stop at his house and anything happen
5 at his house on this time?

6 A No, ma'am. Not that time, no.

7 Q Okay. Did you write out a really long statement for
8 yourself, I guess, and then send it to law enforcement?

9 A Yes, ma'am.

10 Q Okay. Is it 16 pages? Would that be accurate?

11 A 16 pages front and back, eight full pages like
12 sheets, eight pages.

13 Q Okay.

14 A 16 front and back.

15 Q And you've been doing very well, but if I -- would it
16 refresh your memory if I could show you Page 11 of your
17 statement?

18 A Yes, ma'am.

19 Q Now, is this statement -- would this statement be
20 accurate for you making this from your memory back in
21 November of 2012?

22 A This is all from memory.

23 Q This is all from memory?

24 A Yeah. Well, this was written in November, so I'm
25 trying to remember it.

1 Q Okay. Was there an occurrence that day after the --
2 Krystal was --

3 A Yes, ma'am.

4 Q Okay. Are you sure about that?

5 A Yes.

6 Q Okay. And --

7 A I had to go back.

8 Q And when we say a sexual occurrence, was it the --

9 A Same thing.

10 Q -- same exact thing?

11 A Same thing.

12 Q Okay. Did the Defendant ever want you to take
13 pictures of yourself?

14 A Yes.

15 Q Okay. What kind of pictures?

16 A Nude.

17 Q And did you ever do that?

18 A Yes.

19 Q Did you do that on the phone that your parents knew
20 about, or the other phone?

21 A Both.

22 Q Did he ever send any pictures to you of him?

23 A One.

24 Q Do you happen to have those phones, or did y'all have
25 those phones --

1 A No. He took those back. He took them all back.

2 Q Okay. And did the Defendant move to one last place
3 before, I guess, all of this kind of came to light where
4 you would visit?

5 A Yes, ma'am.

6 Q Okay. Which place was that?

7 A 505 Belvue Road.

8 Q All right. And did you ever go over there or hang
9 out over at that house?

10 A I did. But we didn't really hang out. We had just
11 went there to look at it. He was kind of showing me,
12 look, this is my house, you know. He said, This is where
13 we're going to start our life when I get Skyland. This is
14 where we're going to start our life.

15 Q Okay.

16 A And that was the only time we really, you know, hung
17 out, if you would say that.

18 Q Okay. So were you thinking that now that he was
19 separated, y'all were going to be an item?

20 A He had me thinking that once I was old enough that I
21 was his.

22 Q Okay.

23 A That we were going to get married and we were going
24 to live together forever. He had me thinking forever.

25 Q And, at this point -- was there some talk of you

1 trying to be emancipated?

2 A Yes. He tried to convince me to get emancipated,
3 telling me, you know, kind of like -- he was like disown
4 your parents type of thing. He was like they don't treat
5 you right. And he just kept telling me, you know, they're
6 not good people. They treat you so badly. And why would
7 you want to stay with them? You know, get yourself out of
8 the house. You can do it. You're old enough.

9 Q Pushing you away from your family. Did you kind of
10 believe what he was saying?

11 A Yes and no.

12 Q Did your parents loved [sic] you?

13 A I knew my parents loved me.

14 Q But did they make you do chores and have rules?

15 A Yeah. I mean, I've got to do chores still. But it's
16 just my job that I've got to do.

17 Q Did that bother him that you had to do chores?

18 A He would tell me that I -- that they treated me like
19 a slave. I had to do everything for everybody, that
20 nobody treated me right. That I was their slave,
21 basically.

22 Q But was he going to treat you right?

23 A He claimed that, yeah.

24 Q So, again, I'm going to show you Page 11 and see if I
25 can refresh your memory here. Belvue Road, did

1 anything -- did something sexual happen there? Do you
2 remember that?

3 A Yes.

4 Q Okay. Will it help to review your statement?

5 A That was when the Luke Bryan concert came about.

6 Q Okay. So back at the Belvue place, did anything
7 happen sexually there?

8 A Yes.

9 Q So can you tell us what happened there?

10 A We were supposed to go to the Luke Bryan concert. I
11 was pretty excited. And he picked me up from another
12 volleyball after. And he told me that the tickets were
13 sold out. And he told my parents -- after he had told my
14 parents he had already gotten them and that, you know,
15 they were all going to get used, so nobody else could go.
16 Well, we never went.

17 And then we went to his dad's house, kind of just
18 hung out there for a little bit watching TV. And then we
19 went to Belvue -- I take that back. We went to S&S
20 Cafeteria over in Greenville off of Wade Hampton.

21 And then we went back to Belvue. And this time I was
22 completely naked. It was like a -- one of the side rooms.
23 It was a small room. He kind of put buckets down and made
24 a pallet out of it. And he -- we were both stripped down.

25 And then he started doing oral again, fondling, oral,

1 same thing, everything. And then he told me -- he asked
2 me to do it. And, again, I told him, no, that I wasn't
3 going to do it. And we argued about it for a good 10
4 minutes. And then he started doing it to me again. And
5 then he had put a condom on. And we had sex.

6 Q Okay. And you had sex?

7 A Yes.

8 Q Okay. The Luke Bryan thing, so he had told your
9 parents y'all were going?

10 A Yeah.

11 Q You believed you were going?

12 A Yeah.

13 Q And your sister had asked to go?

14 A Yeah. And he denied it.

15 Q The tickets were all --

16 A Yeah.

17 Q -- used up?

18 A Yeah.

19 Q So once you found out you weren't going, were you
20 disappointed?

21 A Yeah.

22 Q Do you like Luke Bryan?

23 A I like him.

24 Q Okay. And did you think to call your parents and say
25 looks like we're not really going or --

1 A No.

2 Q Okay. Was that an agreement between y'all not to
3 do -- or was it even --

4 A No. Because I can't recall -- I think our phones
5 were shut off at the time because of a bill.

6 Q Okay. But so, now, there was this really big block
7 of time that you were given permission to be gone --

8 A Yeah.

9 Q -- I guess by your parents to go to the concert?

10 A Yeah. My dad was not -- you know, he was drinking,
11 so he was like whatever.

12 Q Oh, okay.

13 A He had bought my dad some beer. And I was like, Hey,
14 dad, we're going to the Luke Bryan concert. And they were
15 like, Okay. And I think my mom was at work. And we were
16 supposed to go and we didn't.

17 Q Okay. And that's a good -- you know, a couple of
18 hours to go to a concert, I guess. So that y'all had that
19 time --

20 A We just kind of, you know, went to the cafeteria.
21 And we went to his house -- or his dad's house, the
22 cafeteria, and then Belvue. And by the time that ended, I
23 had went home. And that was the last time anything
24 happened.

25 Q Okay. That was the last time anything --

1 A Sexual happened.

2 Q -- sexual happened?

3 A Yes, ma'am.

4 Q Did you continue to have a relationship of just
5 talking with him?

6 A The -- that's when the prepaid cell phone came into
7 play.

8 Q Okay.

9 A Because my phone had gotten taken. It was shut off.
10 So he was like, Well, I'm going to get you this other one.
11 Don't tell your mom. Don't let your mom know.

12 I was like, Okay. You know, I still had a phone.
13 And we just kept talking. And my mom found out about that
14 phone and took it. And then that -- all contact was
15 completely cut off.

16 Q Okay. So did you -- was there a discussion between
17 you and your mom where your mom said, hey, you can't hang
18 out with him anymore?

19 A She, basically, told me, you know, look, this is
20 ending, no more. This is done. She cut it off with him.
21 And she made sure I knew you're done hanging out with him.

22 Q Did she ask you if anything inappropriate had ever
23 happened between y'all, at that point, or did she --

24 A No. She just wanted to end things --

25 Q All right. So --

1 A -- because she was upset about me having a phone.

2 Q Right. Without her permission. And so do you --
3 what time frame are we talking here? Do you remember what
4 month and what year this would have been?

5 A Getting my phone taken, it was --

6 Q And the concert?

7 A The concert, it was the fall of 2012.

8 Q Okay. From that point on, no more seeing him?

9 A Uh-huh.

10 Q No more talking to him?

11 A Uh-huh.

12 Q All right. How long did that go on before you were
13 confronted by your mom and family about the relationship?

14 A A little over a month.

15 Q A little over a month?

16 A Because it was early October. And then it was the
17 10th of November of 2012 when I was confronted.

18 Q When you were confronted. All right. So let's go to
19 that. Tell us how it came about that -- from your
20 perspective, what happened on November 10th of 2012?

21 A I was just sitting there watching TV. And it was
22 really just calm in my house, you know. Everyone was laid
23 back, just watching TV.

24 And my mom had walked in and was like, I need to ask
25 you a question.

1 I was like, What?

2 She was like, It's about Jerald.

3 I was like, What?

4 And I was just watching TV. I was watching Criminal
5 Minds. I was like, What?

6 And she asked me if anything had went on. She told
7 me that she had spoke to Rachel and, you know -- and asked
8 me. And I denied it. I was scared. I was shaking,
9 crying. But I denied it. And then I came forward with
10 everything.

11 Q All right. Like in that same conversation?

12 A In that same conversation, the whole thing. My
13 sister came in there -- or my sister was in there. My dad
14 was standing up in front of the TV. And my sister was
15 just like, You need to tell mom. You need to tell her
16 everything and anything that needs to be said now. And I
17 did. I cried. I was ashamed. I felt like this big -- a
18 piece of dirt. And I told them everything. And they
19 called the cops. And the cops came to the house. And I
20 talked to the officer.

21 Q Was that your plan for that night or any time --

22 A No.

23 Q -- that that was going to happen?

24 A No. I was just set on watching Criminal Minds.

25 Q All right. And was that something you were probably

1 going to keep to yourself for many, many years or --

2 A Oh, I was -- well, not many years. Excuse me. My
3 eye itches.

4 I was -- I would have had to build myself up the
5 courage to tell is what I was waiting to do, kind of let
6 him slide out of our lives like he did, and build up the
7 courage to tell my mom what happened and -- until she
8 asked me.

9 So I just -- I mean, my plan was just to sit in the
10 chair like I was doing for the past month sitting at home
11 watching TV, doing nothing. And, you know, then she asked
12 me.

13 Q And the police came and you spoke to them kind of
14 briefly --

15 A Yes.

16 Q -- or a little bit that night?

17 A Yes.

18 Q And did you have to talk to Investigator Perry later?

19 A I did at school. I was called out of class. They
20 pulled me into the guidance conference room, my guidance
21 counselor, somebody else -- I really don't remember the
22 name -- and Investigator Perry were in the room. And I
23 wrote three and a half pages of a statement page.

24 Q All right. And did you tell them in that statement
25 a, I guess, more generalized version of what you told us

1 today?

2 A Yes. It was very simple, a small version of what was
3 told today.

4 Q Did you go home and tell your parents about the
5 statement or what you said -- what they'd asked you, or
6 anything like that?

7 A They had asked me, you know, what did they ask you?
8 What did you need to do? And I just told them, you know,
9 I had to write a statement. They just needed me to write
10 a statement. Excuse me. And it was just simple
11 questions, you know, what did they say? What did they do?
12 What did they ask you?

13 Q At some point, did you -- or did your sister or
14 somebody suggest to you that you needed to write your own
15 statement, or document things?

16 A Yes, ma'am.

17 Q Okay. How did that come about?

18 A We were kind of sitting there. And I think -- if I
19 do recall, we had a copy of my statements. And we were
20 going over that. And they were saying it was too short.
21 It's too incomplete.

22 So me and my sister went in her room by ourselves
23 with her phone, recorded it. And I went back over the
24 recording and wrote down what I said so I could remember
25 word for word. I didn't want to skip a part, skip a beat,

1 nothing. And I just wrote it down. And it came to 16
2 pages.

3 Q And, again, would you say maybe your two and a half
4 page one is kind of an outline or a rough --

5 A It was just a -- brief.

6 Q Okay. And then you had your more in detail one. And
7 did that more detailed statement get sent to the police
8 officer -- or Investigator Perry, I mean?

9 A Yeah.

10 Q Okay. Once you had to talk to law enforcement and
11 you gave your statements, did you, also, have to go have a
12 medical exam done?

13 A Yes.

14 Q All right. And --

15 A I was signed up for Julie Valentine. They sent me to
16 Julie Valentine. And they gave me a medical exam. And I
17 went to therapy for 12 weeks.

18 Q And was the therapy helpful to you, do you think?

19 A Yes.

20 Q Okay. And did you successfully complete therapy?

21 A Yes, ma'am.

22 Q And have you been able to kind of, I guess, get
23 yourself thinking right about this?

24 A Yes, ma'am.

25 Q At this point -- up until this point, I guess today,

1 had you seen the Defendant again since you had --

2 A I would see him occasionally throughout stores, you
3 know, just kind of pass by. I would try to avoid it, try
4 to avoid anything -- a confrontation.

5 Q A confrontation?

6 A Yeah.

7 Q Okay. And no small talk even, or anything like that?

8 A Nothing.

9 Q All right. And were you in any way, shape, or form
10 encouraged or told to make this story up by anybody?

11 A No.

12 Q Did Rachel ever come to you and want you to give a
13 statement, or go to their divorce hearings or custody
14 case, or anything like that?

15 A No.

16 Q And, to your knowledge, was there any big financial
17 feud between your dad and the Defendant where your dad
18 asked you to make this up?

19 A No.

20 Q And why are you telling us? And why did you write
21 this 16-page statement?

22 A Because it was pulled to -- aside for a year and a
23 half everything that was going on. Everyone was being
24 blinded by the gifts and the giving, not realize -- they
25 weren't realizing and neither was I that there was more or

1 less manipulation to it. And nobody else in this world
2 needs to go through that.

3 Q Do you have a friend named #1 (Minor)

4 A Yes, I do.

5 Q And how long have you known #1 (Minor)

6 A Since fourth grade.

7 Q And would #1 have been around you or your family
8 during these horseshoe tournaments?

9 A It was -- she was scarce, very scarce. She was there
10 when me and my dad -- it was me, my dad, and #1 We
11 pulled up -- we rode in the back of the truck because it
12 was warm out. And we rode in the back of the truck up
13 there.

14 But once it started getting further in, she made
15 herself scarce, not only on top -- she had a lot of her
16 own stuff going on. But she made herself very scarce.

17 Q All right. When you say we met or we rode up
18 together, was that the -- what are you referring to? What
19 day was that?

20 A The day I met the Defendant.

21 Q Okay. So #1 was with you the day you met the
22 Defendant?

23 A Yes.

24 Q And she met the Defendant that day as well?

25 A She went home before the Defendant came to my house.

1 Q Okay. But at the horseshoe place?

2 A Yes.

3 Q Okay.

4 A She was there.

5 Q Okay. Was her mom there at that point?

6 A No.

7 Q Was there another time maybe her mom would have come,
8 or is that -- am I thinking of something different?

9 A Not that I remember, no, ma'am.

10 Q Okay. And would #1 ever go with you when you
11 went over to hang out at the Defendant's house?

12 A No. I don't recall. I do remember Gaylon. I think
13 maybe twice #1 came over, or he would come over to my
14 house and #1 would be there.

15 Q Okay. And are y'all still friends at this point?

16 A Yes.

17 Q Do you see her very much?

18 A Not lately. She's been working. And I'm trying to
19 find a job. But even though it's small talk, we still --
20 we're still friends.

21 MS. HODGE: Can we approach the bench one second?

22 THE COURT: Sure.

23 (WHEREUPON, a bench conference was held.)

24 THE COURT: We're going to take a short recess.

25 Don't talk about the case.

1 And, if you would, select someone to be the
2 Foreperson of the jury. It has to be one of the regular
3 jurors, not one of the alternates. But write their name
4 down and give it to the bailiff when you make the choice.

5 Thank you.

6 (WHEREUPON, the jury was excused from open court at
7 approximately 4:27 p.m.)

8 THE COURT: Ms. Hodge.

9 MS. HODGE: Your Honor, I was about to go into a line
10 of questioning with the victim in regard to any
11 conversations she and #1 (Minor) may have about the
12 Defendant having a sexual relationship with Ms. Barton.
13 Ms. Barton would be the State's 404(B) witness under
14 common scheme or plan. And we would intend to call her as
15 our next witness.

16 So I was just inquiring of the Court as to how to
17 proceed at this point since we've not had a ruling on that
18 information -- or the admissibility of that witnesses
19 testimony yet. My offer was to ask this witness two
20 questions. Number one, did you ever tell #1 (Minor)
21 about your sexual relationship with the Defendant? And,
22 two, did #1 (Minor) ever tell you about a sexual
23 relationship she had with the Defendant?

24 So a few of these trials that I've done, it appears
25 that defense attorneys seem to think the victims collude

1 and get their stories together. And so I just wanted to
2 be able to ask that question before I excused my witness
3 and/or was finished with my direct.

4 THE COURT: Mr. Chambers.

5 MR. CHAMBERS: Well, first of all, Your Honor, I
6 don't think -- it was not my intent to ask her anything
7 about #1 (Minor) I would, certainly, object. I
8 wouldn't necessarily object to her asking if she told her
9 friend, #1 (Minor) anything about the relationship she
10 had with this Defendant. But I would, certainly, object
11 to her asking if #1 (Minor) ever told her anything.

12 First of all, anything that #1 (Minor) would have
13 to say to her would be hearsay.

14 Secondly, it starts down the road of 404(B) Lyle
15 evidence, which I would, also, object to because -- for a
16 couple of reasons. One, the only notice that I ever
17 received about #1 (Minor) and any 404(B) information
18 was in an e-mail that I got from the Solicitor. I don't
19 remember the exact date. And I've looked in my file
20 trying to find it, because I did print it out a few days
21 ago.

22 And, really, all it said was there was #1 (Minor)
23 and there was another potential witness listed, Heather
24 Gosnell [sic], that would be testifying pursuant to Lyle.
25 I didn't receive any information about what they might

1 say, about what the facts and circumstances were, but
2 absolutely nothing to -- I had no expectation about what
3 that might be. So I, certainly, at this point, don't know
4 whether it meets the standard, which I think are strict
5 standards, under Lyle, under 404(B).

6 So I would object to her testifying. And I would
7 object to this witness testifying at all about anything
8 she may have been told about a sexual relationship.

9 THE COURT: Okay. Why don't we all take a break
10 right now. We'll come back and hash this out in about 10
11 minutes.

12 MR. CHAMBERS: Thank you.

13 THE COURT: I did notice, and y'all might be aware,
14 that the Supreme Court today issued an opinion in State v.
15 George Chavis. I don't think it has anything earth
16 shattering. But it talks about expert qualifications in
17 sexual abuse cases. You might want to look at it.

18 MR. CHAMBERS: Yes, sir.

19 What's the name of that case, Your Honor? Chavis?

20 THE COURT: Sir?

21 MR. CHAMBERS: Chavis?

22 THE COURT: State v. George Chavis, C-H-A-V-I-S.

23 All right. Thanks.

24 We'll just take about a 10-minute break.

25 (WHEREUPON, a break was taken.)

1 THE COURT: Okay. Did y'all work it out or --

2 MR. CHAMBERS: Oh, I didn't know we were supposed to
3 be working anything out. I'm sorry.

4 THE COURT: No. I'm just eternally optimistic.

5 MS. HODGE: No. I don't know -- I did not respond to
6 his saying that the Lyle witness should not be admissible.
7 So I didn't know if that -- if we were getting ready to
8 hear that. Because this would be a good time while the
9 jury is out to go ahead and decide that. That would be my
10 next witness that I would intend to call.

11 In regards to what Mr. Chambers said, I did send him
12 a letter on January 22nd stating that, Let this letter,
13 please, serve as notice that we intend to introduce 404(B)
14 evidence through the testimony of two potential witnesses,
15 a #1 (Minor) and Heather Gaskins.

16 At that point, they had not been served. And we have
17 still not been able to serve Ms. Gaskins. But we do have
18 #1 (Minor) under subpoena. She's been here since noon
19 today.

20 If you would like, I can state what I -- why I feel
21 that her testimony is relevant and admissible under
22 404(B).

23 THE COURT: Yes, ma'am. Go ahead.

24 MS. HODGE: All right. Your Honor, as you know, in
25 sexual abuse cases, the Court's have come down with

1 numerous cases, especially recently in the case of McCombs
2 that talks about common scheme or plan, and what the State
3 must show in order to be able to introduce evidence of
4 other victims.

5 In this case, Your Honor, this was an uncharged
6 incident. The Defendant -- the victim never came forward
7 to law enforcement. So there's not been any police
8 report. The child, also, never gave a statement during
9 the course of this investigation. The State found out
10 about this potential victim when interviewing the victim
11 herself. In preparation for trial, the victim and the
12 mother told me there might be another girl. That girl may
13 be #1 (Minor) [REDACTED].

14 So, at that point, I tried to locate her, speak to
15 her about what, if any, experience she had with the
16 Defendant. And as far as 404(B) goes, what her testimony
17 would show is that there was a common scheme or plan
18 between this victim and Ms. #1 (Minor) [REDACTED] and the fact
19 that they were both females, age 13. They were both
20 friends that met the Defendant on the very same day at
21 this horseshoe tournament. They were in the eighth grade.

22 They -- #1 (Minor) [REDACTED] would testify that the
23 Defendant started texting her, talking to her almost
24 immediately upon meeting her at the horseshoe tournament.
25 That he then engaged her in some flirtatious kind of talk.

1 It led to him having sex with her at a residence of
2 his where his wife and child were present in the guest
3 bedroom. He then, also, took her to an abandoned house,
4 the abandoned house the victim had discussed, attempting
5 to have sex in the car, but she refused to have it in
6 the car, so they, actually, went inside the abandoned
7 house.

8 This was during the time frame almost immediately
9 preceding the victim's case within the month of March of
10 2011. The Defendant told her, you know, don't tell
11 anyone, made her, again, believe that she was special.
12 This was fondling, touching of the vaginal area and
13 vaginal-penile penetration, which was a type of sexual
14 battery. And, in addition, the Defendant used condoms
15 with this victim as well. There would be three instances
16 of sexual battery with this victim.

17 And then, basically, her testimony is that he said he
18 was -- that she didn't want to do that anymore. He said
19 he was done with her and he was moving on to **VICTIM**
20 anyway. So that would be the essence of her testimony.

21 And, clearly, it's in line with what the victim has
22 testified to. They were 13, eighth grade, met at
23 horseshoes, had sex in the Defendant's residence, went to
24 the abandoned house and had sex. And the Defendant used a
25 condom. It was vaginal-penile penetration.

1 So the State believes we've met our burden under
2 404(B) once, you know, this witness testifies. I mean,
3 obviously, I've been telling you this as an officer of the
4 Court, but that would be the essence of her testimony.

5 THE COURT: Mr. Chambers.

6 MR. CHAMBERS: Your Honor, in response, I mean, first
7 of all, I would go back to the issue that -- and it was --
8 January 26th sounds about right. I mean, the only notice
9 that I got was that these witnesses would be offered up
10 and they would illicit 404(B) evidence. I was never given
11 any information via a statement or anything.

12 I mean, I heard what #1 (Minor) will testify to
13 for the first time just now. And, for that reason, we
14 don't believe there was a timely disclosure. And that it
15 shouldn't -- that even if this were admissible under
16 404(B) that it should be precluded for that reason.

17 Beyond that, though, Your Honor, we realize that, at
18 least, as things stand now, the majority of the Court, at
19 least, in the past in State v. Wallace and some other
20 cases have held that a close degree of similarity
21 establishes and would require a connection between two
22 acts and that no further connection must be shown for
23 admissibility, which in our position would be -- and this
24 was, actually, sounded out by Justice Pleicones in the
25 dissent of that very case, in Wallace, is that what the

1 Court has, essentially, done is carved out an exception
2 from 404(B) itself, and, basically, said we're not going
3 to require you to satisfy all the elements of 404(B) if
4 it's a sex case.

5 And Justice Pleicones wrote a very good dissent
6 saying that that was improper. There's reason to believe
7 that if a case like that were to go up on appeal now that
8 the Court would rule differently. We just believe it's
9 bad law.

10 But even if we apply the law in this particular case,
11 I don't believe what they've established is under the
12 prevailing law of Wallace and some other cases that
13 followed Wallace -- still a common scheme and plan.

14 Basically, what we have is that he may have had sex
15 with another 13-year-old girl. There -- you know, this
16 girl testified to a good many things that I didn't hear
17 when the Solicitor stood up and talked about the common
18 scheme and plan in this case. I mean, essentially, there
19 has to be some sort of something -- sort of a modus
20 operandi that somebody has that would make it a common
21 scheme or plan. And our position would be that that's not
22 present here.

23 So for all of those reasons, we would object to it
24 coming in. As the Court well knows, obviously, this is
25 probably the most prejudicial kind of evidence that can

1 come in before a jury. And this is not even a prior
2 conviction. This is completely not just uncharged
3 misconduct, but misconduct that, apparently, was never
4 reported or mentioned to anybody until this case arose.
5 And I heard about it, as I said, for the first time when
6 the Solicitor sent me that letter. So that's the position
7 that we're in.

8 And, Your Honor, I would, also -- this is not related
9 to our argument, which I know is going on now. But just
10 before we get too far into this, I'm probably going to be
11 in a position to have to ask the Court if I can do my
12 cross-examination first thing in the morning. Because
13 we're almost at 5:00. And my wife needs me home early
14 tonight because she has somewhere that she has to go. So
15 I just want to throw that out.

16 THE COURT: What rule is that?

17 MR. CHAMBERS: That's the --

18 THE COURT: That's the one that trumps all the other
19 rules, isn't it?

20 MR. CHAMBERS: Yes, sir.

21 THE COURT: Okay. Well, why don't we do this. What
22 time do you have to leave?

23 MR. CHAMBERS: Well, I mean, as long as I can leave
24 around 5:00, 5:10, I'm good, you know. I just can't go
25 much -- too much past that.

1 And I, of course, told her when I talked to her today
2 that I can't always control when the Court stops, but she
3 said as much as I could, so.

4 THE COURT: Why don't we let the jury go, bring in
5 Ms. Barton, and let you proffer what her testimony is
6 going to be.

7 And then you can head out.

8 MR. CHAMBERS: Yes, sir.

9 THE COURT: Does that suit everybody?

10 MS. HODGE: Yes, sir.

11 MR. CHAMBERS: Yes, sir.

12 THE COURT: Okay. If you'll bring the jury back in
13 just briefly.

14 (WHEREUPON, the jury came into open court at
15 approximately 4:52 p.m.)

16 THE COURT: Ladies and gentlemen, I'm sorry to bring
17 you back in here to tell you this, but we are going to go
18 ahead and break for the evening. We've got some matters
19 we need to take up. And it doesn't make any sense for
20 y'all to have to stay here while we do that.

21 So just be back at 9:00 in the morning, and we'll
22 resume the testimony at that time. Don't talk about the
23 case. Don't do any outside investigation. And continue
24 to keep an open mind.

25 Have a good evening.

1 (WHEREUPON, the jury was excused from open court at
2 approximately 4:53 p.m.)

3 THE COURT: Do we have Ms. Barton? Is she here?

4 MS. HODGE: Oh, yes.

5 (Pause.)

6 THE CLERK: Ms. Barton, if you would, please, come
7 forward. Pause at the end of the bench there.

8 If you'll, please, place your left hand on the Bible
9 and raise your right hand.

10 WHEREUPON,

11 [REDACTED] #1 [REDACTED]
12 after first having been duly sworn, testified as follows:

13 THE CLERK: Thank you.

14 Please be seated.

15 Would you, please, state your name for the record?

16 THE WITNESS: #1 (Minor) [REDACTED]

17 THE CLERK: Thank you.

18 DIRECT EXAMINATION

19 BY MS. HODGE:

20 Q Ms. Barton, do you -- how old are you?

21 A 18.

22 Q And do you know VICTIM [REDACTED] Am I saying her
23 name properly?

24 A Yeah.

25 Q Okay. How do you know her?

1 A I've known her since like fourth grade.

2 Q Have y'all been friends?

3 A Yeah.

4 Q Okay. And do you know the Defendant in this case,
5 Jerald Gaskins?

6 A Yes.

7 Q All right. And how do you know the Defendant? When
8 did you meet him? How did you meet him?

9 A When we were doing like the horseshoe tournaments
10 over at my friend VICTIM house.

11 Q All right. Were you over at VICTIM house and
12 y'all went to a horseshoe tournament?

13 A No. It was -- we had them played separate at the
14 house.

15 Q Okay. They would play over at VICTIM house?

16 A Yes.

17 Q Did they play other places as well?

18 A If they did, I never went.

19 Q Okay. And did you meet the Defendant at the
20 horseshoe stuff?

21 A Yeah.

22 Q Okay. What time -- what year, and what time of year?
23 Can you tell us?

24 A Oh, goodness. I guess spring of 2011.

25 Q And how old would you have been at that time?

1 A 13 or 14 -- just turned 14.

2 Q And what grade would you have been in school?

3 A Eighth.

4 Q Did you and VICTIM go to the same school for eighth
5 grade?

6 A No. In middle school, we separated.

7 Q All right. What middle school did you go to?

8 A Lakeview.

9 Q All right. And when you met the Defendant, did you
10 immediately start talking to him, or was there some kind
11 of conversation that started up with you two?

12 A Yeah. We immediately started talking.

13 Q All right. And how about phone numbers? Did y'all
14 exchange phone numbers, or text each other, or stuff?

15 A Yeah.

16 Q Do you remember how that happened?

17 A I think it was -- we were having a little get
18 together. And we sat in the car just playing the radio
19 and just exchanged phone numbers.

20 Q Well, how would you characterize what y'all were
21 talking about, like was it just general stuff?

22 A It was just general.

23 Q Did it ever get to a point where it was flirtatious,
24 or anything overtly --

25 A Immediately.

1 Q All right. And what happened?

2 A Just talking about hanging out sometime.

3 Q Okay. Together like the two of y'all hanging out?

4 A Yeah.

5 Q Okay. Was he married at the time?

6 A Yes.

7 Q Okay. And where was his wife at the time?

8 A They were inside the house playing with VICTIM and

9 the baby.

10 Q Okay. And were you agreeable to hanging out

11 sometimes with him?

12 A Yes.

13 Q Okay. Was he saying nice things to you or --

14 A Very.

15 Q And did y'all make some time to meet or hang out?

16 A It was about like two weeks later, or maybe even a

17 month, I think. I vaguely remember, but...

18 Q And what -- tell us about that. Where did you meet?

19 What happened?

20 A I think the first time, VICTIM was, actually,

21 babysitting with Rachel. And I'd come over to the house.

22 And we just sat there and talked. And we were in the back

23 room. And they were, actually, watching Fear Factor in

24 the bed. And we just started talking.

25 Q All right. And when you say "started talking," kind

1 of fill me in, like talking about what?

2 A Just flirtatious things.

3 Q Did that lead to anything?

4 A Just kissing.

5 Q All right. Did anything else happen at that time?

6 A Huh-uh.

7 Q Okay. And did you see him or talk to him again after
8 that, or text, or --

9 A Yeah. It was probably -- I don't know like time
10 distance wise. I think it was -- in school weeks, it was
11 a while.

12 Q Right. Sure. So did a couple of weeks go by?

13 A Yeah, a few weeks went by.

14 Q Was this something that -- was he texting you or
15 calling you on a regular basis?

16 A Over Facebook occasionally.

17 Q All right. Facebook. And how and when did y'all
18 meet up or hang out the next time?

19 A I think it was about two or four weeks after that,
20 about four weeks, I think. It was -- I can't remember if
21 we went to the house first or we went to an abandoned
22 house.

23 Q Okay.

24 A And we just started flirting again. And one thing
25 led to another.

1 Q And so I know it's embarrassing. I know it's not
2 anything -- I mean, I don't want to sit here and talk
3 about it either. But you've got to tell me what happened
4 next.

5 A We had just started talking about -- he was making me
6 feel very special, and that, you know, not to tell
7 anybody, or whatever. And we had sex on the bed. Nobody
8 was around in the house at that time.

9 Q Okay. Just you and he were there?

10 A Yeah.

11 Q Okay. And so did you like -- what kind -- how was
12 your clothing? Was it on, off, part on?

13 A On. Pretty much all on, but the pants.

14 Q But the pants. And how about him?

15 A On, but the pants.

16 Q Okay. And what type of sexual thing happened?

17 A Quick, fast, and in a hurry.

18 Q Quick, fast, and in a hurry. Okay. Did he touch any
19 part of your body with any part of his body?

20 A Just chest area.

21 Q With his hands or --

22 A Yeah.

23 Q Okay. Did he touch your vaginal area?

24 A Yes.

25 Q Okay. Did he touch with his hands?

1 A No.

2 Q Did he touch with another body part?

3 A Yeah.

4 Q Okay. What part?

5 A His penis.

6 Q Okay. And did he put his penis inside your vagina?

7 A Yes.

8 Q Did he wear a condom?

9 A Yes.

10 Q And how long did this incident last? I think you

11 just said quick and fast, but --

12 A Five, 10 minutes. I didn't -- I wasn't comfortable

13 with it, so he took me home.

14 Q Okay. And would you characterize yourself as a

15 willing participant when this happened?

16 A Oh, yeah, very. I was at a point in my life like I

17 had just gotten taken away from my mom. And I was very

18 rebellious and dumb.

19 Q Vulnerable maybe?

20 A Yeah.

21 Q Okay. And so did you think -- did he make you think

22 that he liked you, or you were special?

23 A I was the most special person in the world. I felt

24 as if, you know, I -- very cooperative.

25 Q Okay. Did he give you anything, or buy you things,

1 or anything like that?

2 A Yeah. We'd get something to eat or any kind of
3 money, if I wanted anything. But I'm really not the kind
4 of person to ask for much.

5 Q Okay. Are we talking a large amount of stuff or --

6 A No.

7 Q Just small things?

8 A Just small things.

9 Q And so this would have been at his house, you think?

10 A The first time, yes.

11 Q All right. And then was there a second time?

12 A The second time was in an abandoned house.

13 **VICTIM** -- they said that she had gotten taken [sic] to
14 it as well.

15 Q Okay. Did -- okay. So we're just going to talk
16 about what you know about it.

17 A Yeah.

18 Q Then we'll get to that piece of it. So he took you
19 to an abandoned house. Where was the abandoned house?

20 A It was dark. I, honestly, do not know.

21 Q All right. Was it in the Travelers Rest area?

22 A Yeah.

23 Q And did you -- did he want you to go in the house, or
24 stay in the car?

25 A At first, it was just in the car, but I was not

1 comfortable with the car. So he laid down his wife's
2 clothes in the cabin, or whatever. And I had a little bit
3 of glass in my knees at first.

4 So it was just a -- it was a quick five, just him on
5 top. And we went to the Spinx gas station so I could get
6 my knees cleaned up. And then I went home.

7 Q Was that, again, vaginal-penile --

8 A Uh-huh.

9 Q Okay. And did he wear a condom that time?

10 A Yes.

11 Q Okay. Do you know what he did with it?

12 A Just disposed of it on the floor.

13 Q Did you know whose abandoned house that was or --

14 A I think he said it was like one of his -- like his
15 father's, or just some family owned it. I'm not sure.

16 Q Okay. And are we still -- what month or time frame
17 are we talking here? How far were those two instances
18 apart?

19 A Probably a month -- or less than a month.

20 Q And was there a third time?

21 A The third time was in the same house the first time
22 with no one in it again.

23 Q Do you know where the other people had gone, or why
24 they weren't there?

25 A No. It was late at night and there was no one there.

1 Q And how did you get over there?

2 A He picked me up from my house.

3 Q Because y'all were Facebooking, or texting, or --

4 A Uh-huh.

5 Q So you knew to be on the lookout or --

6 A I walked up the street to meet him.

7 Q Did -- who were you living with at the time?

8 A My grandparents.

9 Q Did they have any idea you were going?

10 A They didn't have any idea of anything.

11 Q And what happened that third time? Was it at the
12 house?

13 A Yes.

14 Q The first -- the same as the first place?

15 A Uh-huh.

16 Q Okay. And where was it inside the house?

17 A On the bed.

18 Q And the same kind of thing happened?

19 A Yeah. Although, it was quicker and I -- that was the
20 final time. I kind of felt totally uncomfortable with it.
21 So he took me home. And we never really spoke again.

22 Q And was there something -- did you tell him, this is
23 it, I'm done, or --

24 A Yeah. I was starting to feel -- like really knowing
25 what's going on like this is not a smart thing to do.

1 And, actually, I wasn't comfortable with it. So I told
2 him that was going to be it.

3 Q And what was his response to that?

4 A He seemed disappointed like, okay, I understand
5 you're a child and you couldn't possibly understand what
6 love is, or something like that.

7 Q Okay. So he was trying to make you feel like this
8 was some love relationship?

9 A Or to feel like you're a kid, how could you possibly
10 understand, yes.

11 Q Did he make any mention of liking VICTIM or
12 anything like that?

13 A Right at the end, as I left, he said he was going to
14 make his next move on VICTIM And I stayed away for a
15 while to cope with everything.

16 Q Did you think you needed to tell VICTIM or did you
17 try, or --

18 A I broke down mentally. So I didn't contact anyone.
19 Then later on, my grandmother died. And I forgot about
20 the whole incident, so.

21 Q Did you ever think about going to the police or
22 telling anybody?

23 A I was too ashamed. But, later on, when I did contact
24 VICTIM about six months later, I found out it had
25 happened to her. So I told her I would testify for her.

1 She's my sister.

2 Q So you didn't know if anything ever really did happen
3 with VICTIM You weren't hanging out with her?

4 A I figured out when it was too late.

5 Q Okay. And then you heard about the Defendant being
6 arrested, or you heard about VICTIM having this
7 experience, or --

8 A I heard that somebody -- I guess Sandy had finally --
9 once it had happened to VICTIM -- VICTIM actually,
10 didn't know it happened to me before. And then I filled
11 them in. And I said I would testify, so.

12 Q Okay. And, as far as whatever happened to you, you
13 never told VICTIM that. You just kind of -- things kind
14 of took a turn in your life and you kind of fell off the
15 radar a little bit?

16 A Yeah.

17 Q And so not until after she came forward to the police
18 and all that did you hear that it, actually, happened to
19 her?

20 A Yeah.

21 Q Okay. And then you came to her and said, guess what,
22 it happened to me, too, kind of thing?

23 A Uh-huh.

24 Q Did you -- have you and VICTIM ever really talked in
25 detail about this?

1 A No.

2 Q Okay. And, just to be clear on the record, that
3 third time at that house, it was vaginal-penile
4 penetration?

5 A Yeah.

6 Q He used a condom?

7 A Yeah.

8 MS. HODGE: Thank you.

9 Your Honor, I think that would be -- at least, for
10 Lyle purposes -- or 404(B) purposes, that would be the
11 evidence that we would seek to admit.

12 THE COURT: Okay. Mr. Chambers.

13 MR. CHAMBERS: I don't have any questions, Your
14 Honor.

15 THE COURT: All right. Thank you.

16 Mr. Chambers, are you contending there are
17 dissimilarities in this witnesses alleged encounter with
18 the Defendant from the encounters that have already been
19 testified to?

20 MR. CHAMBERS: There are dissimilarities, Your Honor.
21 I do contend that.

22 THE COURT: What are they in your view?

23 MR. CHAMBERS: Well, Your Honor, I mean, really, the
24 only similarities are that these people are close -- that
25 these girls are close in age and that they engaged in

1 sexual activity. I mean, beyond that, the whole series of
2 events lays out much differently.

3 I mean, they, apparently, talked, and met, and had
4 sex at several locations, if what she says is to be believed.
5 With the alleged victim in this case, there was an ongoing
6 relationship with the family where he, basically,
7 ingratiated himself with the whole family, where she spent
8 lots and lots of time at his home, that he supposedly gave
9 her gifts, and gave help to the family, and just lots of
10 things like that.

11 So while there are, certainly, some similarities, I'd
12 be stupid to stand up here and say that there aren't
13 similarities. It doesn't rise to the -- to common scheme
14 and plan.

15 THE COURT: I may have missed something, but was
16 the -- before Ms. Barton testified, was -- had there been
17 any evidence about this abandoned house?

18 MS. HODGE: Yes. The victim testified that twice the
19 Defendant took her to the abandoned house.

20 THE COURT: Okay. Yes, sir.

21 MR. CHAMBERS: Well, I was just going to add, Your
22 Honor, that because, obviously, you know, I do want to
23 reiterate again that just now is the first time that I've
24 heard anything about what this girl is going to testify
25 to. Beyond that, I've already stated that we think there

1 are substantial dissimilarities between the two.

2 So even under the prevailing law as it applies to sex
3 cases, we believe they haven't met their 404(B). And this
4 is, certainly, the most prejudicial type of evidence that
5 can be introduced.

6 But beyond that, we believe that Wallace, which sort
7 of carves out this exception, is bad law and is really an
8 exception that's been created to the general rule of
9 404(B) under which the Solicitor would have to prove
10 either motive, which is, clearly, not the case here,
11 intent, which is not the case here, the absence of mistake
12 or accident, which is not the case here, which would then
13 take us to a common scheme or plan embracing the
14 commission of two or more crimes so related to each other
15 that proof of one tends to establish proof of the other.

16 And we don't believe -- certainly, don't believe this
17 evidence would go that far. And it would, also, require
18 the Court to do a 403 balancing act of whether it's more
19 probative than prejudicial.

20 So we -- I, certainly, want to make sure the record
21 is clear that we're also -- if nothing else, it's a last
22 ditch effort saying that prevailing law in South Carolina
23 is bad law.

24 THE COURT: Well, of course, I don't have any
25 authority to do anything but follow the law. And Wallace

1 and McCombs are the controlling authority. Although I am
2 familiar with Justice Pleicones dissent that you referred
3 to earlier.

4 The unfair prejudice that's in Rule 403 means an
5 undue tendency to decide the case on an improper basis.

6 So why doesn't the prejudicial value substantially
7 outweigh the probative value, Ms. Hodge?

8 MS. HODGE: I believe that the probative value
9 outweighs the prejudicial value. What we've got in sexual
10 abuse and assault cases are, essentially, victims
11 testimony, because there are nine times out of ten delayed
12 disclosures. We have no other forensic proof or
13 scientific proof. So you've got the credibility of one
14 witness against -- if the Defendant chooses to testify or
15 put up witnesses, it's a he said she said, if you will.

16 The Courts have stated that this type of evidence is,
17 actually, relevant to CSC cases, that it can assist jurors
18 in determining defendants guilt on the current charge.
19 Therefore, it's relevant that the proof of one is strong
20 proof of another.

21 They have stated in McCombs and I believe, also, in
22 Wallace that it's, clearly, probative. It's not
23 prejudicial -- not more prejudicial than probative. It
24 helps them -- the jury determine guilt of the case at
25 hand. It does not cause jurors to make their decision

1 based on some improper bias such as emotion. They're
2 getting a fact pattern, an MO, if you will.

3 If the person committed this crime, he committed it
4 this way, now, we have a second crime and he committed it
5 this way. It aids in them determining what, actually,
6 happened here, what are the facts of this case. And
7 that's the way the Courts have ruled and allowed this
8 evidence to be admitted.

9 THE COURT: So when would it ever be -- if you found
10 the similarities outweighed the dissimilarities, based on
11 Wallace, in these types of cases, when would Rule 403 ever
12 operate to exclude it?

13 MS. HODGE: I'm not sure. I guess if you had some
14 extremely aggravating circumstances in your 404(B)
15 evidence and you might have many similarities, but
16 something just crazy off the wall that people would get
17 real upset about and say, wow, if he did that heinous
18 thing, then he must have done this thing. I don't think --

19 THE COURT: Well, then it would be dissimilar,
20 wouldn't it?

21 MS. HODGE: It would go towards the dissimilarities.
22 But I'm thinking if that's the balancing test, I mean,
23 you've got to have something really over the top to kick
24 it out. And I don't know. I think they're just very wise
25 in allowing this type of evidence. Because these are the

1 hardest kinds of cases to prove because they are --
2 technically, they come down to the credibility of a child.

3 THE COURT: But I thought that the rule that barred
4 character evidence was decided by some pretty wise people
5 for centuries.

6 MS. HODGE: Oh, I don't think we're introducing this
7 for his character. In fact, it's not supposed to be --

8 THE COURT: But that's what Lyle is, isn't it?

9 MS. HODGE: Well, it's common scheme or plan. We're
10 not attacking his character. We're saying that he
11 operates in the same manner. Good, bad, or indifferent,
12 we're not saying. But we're saying that he operates
13 consistently the same way, targeting young girls,
14 schmoozing, talking big, talking good, talking them into
15 sex, having sex with them.

16 THE COURT: Well, but Rule --

17 MS. HODGE: Capitalizing on them.

18 THE COURT: I think Rule 404 says character
19 evidence is not admissible to prove the conduct exception.
20 Isn't that what it says?

21 MS. HODGE: Well, that is what it says. But we're
22 not saying, hey, he's a bad guy. I guess that's how I
23 read that. I mean, if we could do that, I would be happy
24 to put many witnesses on the stand to say, 404(B), we're
25 just going to talk about what a bad guy he is. We're

1 talking fact specific instances of conduct by the Defendant.

2 THE COURT: Which is an exception to the rule against
3 character evidence?

4 MS. HODGE: Under 404(B), I guess it is.

5 THE COURT: All right. Well, I'm going to have to
6 think about this one over the overnight recess. I
7 understand how powerful this evidence is. Frankly, I
8 don't think McCombs gives us very much guidance on a 403
9 analysis. So it's -- and Wallace doesn't even discuss it,
10 other than mentioning the rule.

11 So I'm not sure that once you determine the
12 similarities outweigh the dissimilarities, which I find
13 they do here based on the age of the victims, when the
14 abuse occurred, the relationship between the victims and
15 the perpetrator, the location where the abuse occurred,
16 the use of coercion or seduction by this Defendant
17 allegedly, and the manner of the occurrence, including the
18 type of battery. So I find that it meets that.

19 I'm just struggling with the Rule 403 requirement,
20 which I don't think is just a technicality.

21 All right. We'll have -- we'll be back at 9:00.

22 Thanks.

23 (WHEREUPON, the proceedings were concluded at
24 approximately 5:21 p.m., to be reconvened on
25 Thursday, February 2, 2015.)

1 THURSDAY, FEBRUARY 5, 2015

2 THE COURT: Let's see. We were discussing the
3 admissibility of the testimony of Ms. Barton.

4 Is that her name?

5 MS. HODGE: Yes, sir.

6 THE COURT: And I find that, as I did yesterday,
7 State v. Wallace and McCombs would require that I find
8 that it meets the exception under Rule 404(B), common
9 scheme or plan.

10 As to the Rule 403 analysis, Rule 403, at least,
11 generally, is designed to keep out of evidence testimony
12 or exhibits that can cause unfair prejudice. And it
13 doesn't offer protection against evidence that's merely
14 prejudicial in the sense of hurting a parties case. It
15 only protects against evidence that's unfairly prejudicial
16 and evidence that's unfairly prejudicial only if it has an
17 undue tendency to suggest a decision on an improper basis,
18 commonly, but not necessarily, an emotional one.

19 It is unfairly prejudicial if it appeals to the
20 juries sympathies, or arouses its sense of horror, or
21 provokes instinct to punish, or otherwise may cause the
22 jury to base its decision on something other than the
23 established propositions in the case. And I cite for that
24 the advisory committee notes to the Federal Rule 403,
25 Carter v. Hewitt, 617 F.2d. 961, Third Circuit 1980, and

1 Old Chief v. United States, which is a U.S. Supreme Court
2 case.

3 This is somewhat of a new trend that started with
4 Wallace, which was six years ago. But in the scheme of
5 things, it's a fairly new trend that these previous sexual
6 offenses sometimes uncharged as they are here can be
7 admitted in a trial of criminal sexual conduct in an
8 unrelated matter. But, nevertheless, that is the law.

9 I understand Justice Pleicones dissent where he
10 alludes to the federal rules of evidence, which in Rule
11 413 and 414 that expressly makes this evidence admissible
12 in sexual conduct cases. And he points out that those
13 rules were passed by Congress after public comment and
14 hearing. And his argument is that Wallace was a
15 judge-made rule, and it turns Rule 404 on its head is,
16 basically, what he's saying. But it is the law. And I
17 don't find that it is unfairly prejudicial within the
18 meaning of Rule 403.

19 So I overrule the objection to it.

20 MS. HODGE: Thank you, Your Honor.

21 THE COURT: Anything else before we resume?

22 MS. HODGE: Nothing from the State, Your Honor.

23 MR. CHAMBERS: Nothing from the Defense, Your Honor.

24 THE COURT: Okay. You can bring the jury on in.

25 Now, I don't know if the Defense -- when this

1 evidence is elicited if the Defense wants a limiting
2 instruction or what that limiting instruction would be.
3 But I'll, certainly, consider that, if you would wish me
4 to.

5 MR. CHAMBERS: You know, I -- it's always a good
6 idea, but I'm not sure what it should say either, to be
7 quite honest with you.

8 THE COURT: Which, again, might be indicative of some
9 defect in the entire rule.

10 THE BAILIFF: Are you ready, Your Honor?

11 THE COURT: Yes, sir.

12 (WHEREUPON, the jury came into open court at
13 approximately 9:41 a.m.)

14 THE COURT: Good morning.

15 I had to take care of one matter this morning. I'm
16 sorry for not starting right at 9:00. But we're ready to
17 proceed.

18 Yes, ma'am, Ms. Hodge.

19 MS. HODGE: Thank you, Your Honor.

20 I believe that VICTIM was still on direct
21 examination. So if she'll come up to the stand.

22 THE CLERK: Your Honor, she's still under oath?

23 THE COURT: Yes.

24 THE CLERK: Okay.

25 THE COURT: Before we get started, Ms. Marks, you've

1 been selected as the Forelady. So if you need to
2 communicate with me or if anybody on the jury needs to
3 communicate with me, I can only do so out here on the
4 record or by way of a written note. A written note is the
5 preferred way, which will be made a part of the record.
6 And then you'll preside over the deliberations.

7 So, yes, ma'am. You may proceed.

8 MS. HODGE: Thank you, Your Honor.

9 CONTINUED DIRECT EXAMINATION

10 BY MS. HODGE:

11 Q I think we were about at the end of your direct exam.
12 And we were discussing your friend, #1 (Minor) [REDACTED]

13 A Yes, ma'am.

14 Q Okay. Did you ever tell #1 (Minor) [REDACTED] anything about
15 you and the Defendant's relationship before you went to --
16 or were talking to law enforcement about it?

17 A No.

18 Q Did she ever have any conversations with you about
19 anything regarding the Defendant before you went to law
20 enforcement about it?

21 A No.

22 Q At some point after the police had become involved,
23 did you and #1 [REDACTED] ever talk about anything regarding the
24 Defendant?

25 A No.

1 Q Now, I guess we're really probably to the end here.
2 Is the person that you had the sexual battery -- the
3 sexual relationship with from the spring of 2011 until
4 fall of 2012, is that person who you call Jerald present
5 in court today?

6 A Yes, ma'am.

7 Q And who is that?

8 A The man sitting next to Mr. Chambers in the green
9 shirt and black tie.

10 Q And have you had any personal communication with him
11 since the police were called regarding this case?

12 A No, ma'am.

13 MS. HODGE: Thank you.

14 Answer any of Mr. Chambers questions.

15 CROSS-EXAMINATION

16 BY MR. CHAMBERS:

17 Q VICTIM it's been a while. You've had overnight.
18 Tell us, again, when did -- as specifically as you can
19 about the date. When did you meet Jerald?

20 A It was sometime in March, I believe, in 2011. I'm
21 not sure of the date. It was on a Sunday because the
22 horseshoes.

23 Q And that was at a horseshoe tournament?

24 A Yes, sir.

25 Q And do you recall where this horseshoe tournament was

1 held?

2 A It was down the road from my house.

3 Q And how was it -- describe the meeting and how you
4 met Jerald that day at the horseshoe tournament.

5 A I was in the back of my dad's truck with my friend,
6 #1 Because we had just rode down there. And he was
7 on -- across the driveway talking with somebody else. And
8 he looked over. And we kind of looked and talked. And
9 then he came to the house later.

10 Q Okay. And he went to the house at the invitation of
11 your parents?

12 A Yes, my dad.

13 Q And it wasn't just him, Rachel was there as well?

14 A Yes.

15 Q But their -- they had a baby; correct?

16 A Yes.

17 Q The baby was not with them, I don't think.

18 A No, sir.

19 Q And would it be fair to say that, at that point, a
20 friendship began between your parents, and Jerald, and
21 Rachel?

22 A Yes, sir.

23 Q And I believe that it's been testified by you and
24 several other people that they spent quite a bit of time
25 together?

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of General Sessions
D. Garrsion Hill, Circuit Court Judge

RECEIVED

AUG 17 2016

SC Court of Appeals

Case No.: 2013-GS-23-003231; 003232; 003233; 003234; 003235; 003236
Appellate Case No.: 2015-000312

The State, ... Respondent,
vs.
Jerald Denton Gaskins, Jr., ... Appellant.

CERTIFICATE

I certify that the Final Brief of Appellant and Record on Appeal has been
redacted in accordance with the Supreme Court Order 2014-04-15-02..

Respectfully submitted,



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