

ORIGINAL

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Williamsburg County
Tanya A. Gee, Circuit Court Judge

Lower Court Case No. 2015-CP-45-0037
Appellate Case No. 2016-000615

RECEIVED

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S.C. SUPREME COURT

Robert Troy Taylor, #315084,

Respondent-Petitioner,

v.

STATE OF SOUTH CAROLINA,

Petitioner-Respondent.

**AMENDED APPENDIX
VOLUME 1 OF 2**

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STATE OF SOUTH CAROLINA)
COUNTY OF WILLIAMSBURG)

IN THE COURT OF GENERAL SESSIONS

THE STATE,)
PLAINTIFF,)
v.)
ROBERT TROY TAYLOR,)
DEFENDANT.)
_____)

TRANSCRIPT OF RECORD
C/A #: 2006-GS-45-176

WILLIAMSBURG COUNTY COURTHOUSE
TUESDAY, JULY 10, 2007 -
THURSDAY, JULY 12, 2007

BEFORE:

HONORABLE GEORGE C. JAMES, PRESIDING JUDGE.

APPEARANCES:

ASSISTANT SOLICITOR RONNIE SABB, ESQUIRE
ASSISTANT SOLICITOR KIMBERLY BARR
Attorneys for The State

CHARLES DAVID BARR, ESQUIRE
Attorney for Defendant

TAKEN BY MELISSA R. WINFIELD
CERTIFIED VERBATIM REPORTER

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1 THE COURT: All right, Ms. Barr, Mr. Barr, I'm going
2 to have the bailiff bring the jury out of the jury room
3 and we'll conduct jury selection once again. Any
4 objection to that, Ms. Barr, other than what we've
5 already put on the record?

6 MS. BARR: No, your Honor.

7 THE COURT: Mr. Barr?

8 MR. BARR: None other than what's on the record.

9 THE COURT: Bring the jury back out in the -- the
10 entire panel.

11 (Jury enters the courtroom at 11:31 a.m.)

12 THE COURT: All right. Ladies and gentleman of the
13 jury, I certainly do apologize for the, I guess apologize
14 is probably not the correct term, but I ask you for your
15 understanding and accommodation -- the -- from time to
16 time, issues arise that have to be addressed, and this
17 calls for your exercises the utmost patience. And we
18 certainly do appreciate that. At this time for reasons
19 that are certainly not the fault of anyone, we are going
20 to resume or repeat the jury selection for this
21 particular case. And the clerk will call your names
22 again, and you are to come forward again as you did the
23 last time. And the jury selection will take place just
24 as it did before. All right. Any -- anything else for
25 the record before we begin that process from the State or

HEARING

6

1 from the Defendant?

2 MS. BARR: Nothing from the State, Your Honor.

3 MR. BARR: Nothing from the Defendant.

4 THE COURT: All right.

5 CLERK OF COURT: Members of the petit jury, as I call
6 your name and number, please come forward, follow
7 instructions as before. Juror number 138, Artonya Scott.

8 MS. BARR: Present Ms. Scott.

9 MR. BARR: Please excuse Ms. Scott.

10 CLERK OF COURT: You may return to your seat, Ms.
11 Scott. Number 122, Wilson Nesmith.

12 MS. BARR: Present Mr. Nesmith.

13 MR. BARR: Seat the juror, please.

14 CLERK OF COURT: Have a seat to my right, Mr.
15 Nesmith, in the petit jury box. Number 140, Clarence
16 Scott.

17 MS. BARR: Present Mr. Scott.

18 MR. BARR: Please excuse Mr. Scott.

19 CLERK OF COURT: You may return to your seat, Mr.
20 Scott. Number 103, David McCutchen.

21 MS. BARR: Present Mr. McCutchen.

22 MR. BARR: Seat the juror, please.

23 CLERK OF COURT: Have a seat to my right in the petit
24 jury box. Number 165, Diane Weaver.

25 MS. BARR: Please excuse Ms. Weaver from the trial.

HEARING

7

1 CLERK OF COURT: 146, Mary Smith.

2 MS. BARR: Present Ms. Smith.

3 MR. BARR: Seat the juror, please.

4 CLERK OF COURT: Have a seat to my right in the petit
5 jury box. Number 16, Jerry Brown.

6 MS. BARR: Present Mr. Brown.

7 MR. BARR: Seat the juror, please.

8 CLERK OF COURT: Have a seat to my right in the petit
9 jury box. Number 141, Jessie Scott.

10 MS. BARR: Present Ms. Scott.

11 MR. BARR: Seat the juror, please.

12 CLERK OF COURT: Have a seat in the petit jury box.
13 Number 50, Robert Fore.

14 MS. BARR: Present Mr. Fore.

15 MR. BARR: Please excuse the juror.

16 CLERK OF COURT: You may return to your seat. Number
17 72, Brian Haselton.

18 MS. BARR: Present Mr. Haselton.

19 MR. BARR: Swear the juror.

20 CLERK OF COURT: Have a seat in the petit jury box.
21 Number 75, Benny Hawkins -- Huggins.

22 MS. BARR: Present Mr. Huggins.

23 MR. BARR: Please excuse the juror.

24 CLERK OF COURT: You may return to your seat. 82,
25 Barbara Jones.

1 MS. BARR: Present Ms. Jones.

2 MR. BARR: Seat the juror, please.

3 CLERK OF COURT: Have a seat in the petit jury box.

4 147, Doris Stalnaker.

5 MS. BARR: Present Ms. Stalnaker.

6 MR. BARR: Please excuse the juror from the trial of
7 this case.

8 CLERK OF COURT: 172, Cynthia Wilson.

9 MS. BARR: Please excuse Ms. Wilson from the trial of
10 this case.

11 CLERK OF COURT: You may return to your seat. Number
12 90, Gerald Lewis.

13 MS. BARR: Present Mr. Lewis.

14 Mr. Barr: What number, Ms. Williams.

15 CLERK OF COURT: 90.

16 MR. BARR: Seat the juror.

17 CLERK OF COURT: Have a seat to my right in the petit
18 jury box. 158, Rodney Tisdale.

19 MS. BARR: Present Mr. Tisdale.

20 MR. BARR: Seat the juror, please.

21 CLERK OF COURT: Have a seat to my right in the petit
22 jury box. 44, Barbara McBride.

23 MS. BARR: Present Mrs. McBride.

24 MR. BARR: Seat the juror, please.

25 CLERK OF COURT: Have a seat to my right in the petit

1 jury box. Number 114, Reese Morris, Jr.

2 MS. BARR: Present Mr. Morris.

3 MR. BARR: Please excuse

4 CLERK OF COURT: You're excused, Mr. Morris. 125,
5 Jerry Parker.

6 MS. BARR: Present Mr. Parker.

7 MR. BARR: Please excuse the juror.

8 CLERK OF COURT: 152, John Thomas.

9 MS. BARR: Present Mr. Thomas.

10 MR. BARR: Seat the juror, please.

11 CLERK OF COURT: Have a seat to my right in the petit
12 jury box. 154, Rocky Thompson.

13 MS. BARR: Present Mr. Thompson.

14 MR. BARR: Please excuse the juror.

15 CLERK OF COURT: You may return to your seat. 115,
16 Sharon McDonald.

17 MS. BARR: I believe this juror indicated she's got a
18 test on Thursday.

19 CLERK OF COURT: Thursday, she does.

20 THE COURT: Ms. McDonald, do you have a test on
21 Thursday morning?

22 JUROR: Yes, sir. I do. Ten o'clock.

23 THE COURT: You're excused. Thank you. Thank you,
24 Ms. Barr.

25 CLERK OF COURT: Number 11, Sylvia Brickman.

1 MS. BARR: Present Ms. Brickman.

2 MR. BARR: Please excuse this juror from the trial.

3 CLERK OF COURT: Number 11. 162, Meredith
4 Washington-Greene.

5 MS. BARR: Present Mrs. Greene.

6 MR. BARR: Please excuse the juror from trial of this
7 case.

8 CLERK OF COURT: Number 60, Gennie Campbell.

9 MS. BARR: Please excuse Ms. Campbell from the trial
10 of this case.

11 CLERK OF COURT: You may return to your seat. 176,
12 Henry Pierce.

13 MS. BARR: Present Mr. Pierce.

14 MR. BARR: Your Honor, may we approach the bench.

15 THE COURT: Yes, sir.

16 (Off the record bench discussion).

17 CLERK OF COURT: No, he's used up all his strikes.

18 MR. BARR: Please seat the juror.

19 CLERK OF COURT: Have a seat to my right in the petit
20 jury box.

21 THE COURT: All right, this will be the alternate
22 selection.

23 CLERK OF COURT: Number 130, David Pressley.

24 MS. BARR: Please excuse Mr. Pressley from the trial
25 of this case.

1 CLERK OF COURT: Number 41, Rita Dollard.

2 MS. BARR: Present Ms. Dollard.

3 MR. BARR: Seat the juror, please.

4 CLERK OF COURT: Have a seat to my right in the petit
5 jury box.

6 THE COURT: All right. Any matters pertaining to
7 jury selection from the State or the Defendant?

8 MS. BARR: Nothing from the State.

9 THE COURT: Mr. Barr?

10 MR. BARR: Nothing from the Defense, Judge.

11 THE COURT: All right. Ladies and gentleman of the
12 jury, you have been selected in the trial of this case.
13 I'm going to ask you to go with the bailiff. He will
14 show you to your jury room. I'm going to ask you to be
15 back in your jury room at two o'clock. We will begin the
16 trial of the case at that time. In other words, I'm
17 going to give you a good, long period of time for lunch.
18 If you would be so kind, please follow this instruction
19 during lunch and throughout the remainder of this case
20 until I tell you otherwise: you are not to discuss this
21 case at all, even amongst yourselves, even amongst your
22 family members, coworkers, and so forth until I tell you
23 you can do so, because you have -- you will be swearing
24 an oath to well and truly try this case according to the
25 facts, evidence, and the laws so help you God. And all

1 of that will come to you in this courtroom and from no
2 other source. So, again, please do not discuss the case
3 with anyone. The only thing that you can do is, if
4 someone asks you about your jury service, you can tell
5 them you were selected on a jury. That is it. That is
6 an extremely important instruction that I'm giving you,
7 and I'm going to -- to let you know that if by chance
8 someone on the panel does discuss the case, that always
9 come back to haunt you. So please follow that
10 instruction, because the State of South Carolina and
11 the Defendant are entitled to have this case tried here
12 in this courtroom and not based on any outside influence
13 or input that you might get. So please go with the
14 bailiff at this time and be back in your jury room at two
15 o'clock. Thank you very much.

16 (Jury exits to jury room at 11:55 a.m.)

17 THE COURT: Ms. Barr, Mr. Barr, could y'all come up
18 for a second?

19 (Off the record bench conversation).

20 THE COURT: All right, ladies and gentleman of the
21 jury who have not been selected as jurors in the trial of
22 this case, I'm going to ask you to excuse yourselves at
23 this time. You all have a copy of the letter I believe
24 or jury information form that you have that has the phone
25 number on it that's been referenced to you probably by

1 Ms. Williams since she was speaking to you yesterday
2 morning. Please call that number after six o'clock
3 today, and you will receive further reporting
4 instructions. It will be a tape recorder, so you can't
5 debate what's said on the tape. You can only listen to
6 it. I do know that, Mr. Chandler, you are excused
7 Thursday afternoon and Friday, but continue to follow the
8 instructions until such time as the recording might say
9 to report back after lunch on Thursday, then you will be
10 excused. And I believe, also, Ms. ---

11 MS. WILLIAMS: Ms. McDonald.

12 THE COURT: Ms. McDonald?

13 MS. WILLIAMS: Uh-huh.

14 THE COURT: You have a test tomorrow?

15 MS. McDONALD: Thursday morning.

16 THE COURT: Thursday morning?

17 MS. McDONALD: Yes.

18 THE COURT: So you -- you'll be excused Thursday
19 morning, and that will be all you are excused. And I
20 believe Ms. Jones, Barbara Jones, she is on the jury; is
21 that correct?

22 MS. WILLIAMS: Yes.

23 THE COURT: She's excused on Friday.

24 MS. WILLIAMS: Friday.

25 THE COURT: So ladies and gentleman, just call the

1 number that you have after six o'clock this evening.
2 You're free to go at this time. And if everyone else
3 could remain seated until the jury leaves the courtroom.
4 (Jury panel exits the courtroom at 11:57 a.m.)

5 THE COURT: All right. We're still on the record in
6 this particular case. I wanted to make sure that we are
7 on record taking the Defendant's motion. Mr. Barr had
8 requested before the trial for me to compel the State to
9 produce copies of the NCIC report the State might have
10 gathered and which Mr. Barr says the State does gather
11 pertaining to particular jurors. In chambers, I denied
12 Mr. Barr's motion. Mr. Barr, if you want to restate that
13 motion for the record, then I can make sure -- you can
14 make sure that you've preserved your position in that
15 regard.

16 MR. BARR: Please the Court, Judge. Pursuant to the
17 South Carolina Rules of Criminal Procedure, we
18 requested that the State, through Rule 5, disclose or
19 produce a copy of the NCIC report which, as I understand,
20 they make a request to the sheriff's department. The
21 sheriff's department then goes on the computer, gets the
22 NCIC report, and they utilize that report during the
23 course of jury selection. It is the State's -- Defense's
24 position that we're entitled to a copy of that report at
25 the same time that the prosecution gets the report. It

1 is utilized by the -- by the Court in assisting to
2 properly disqualify jurors who have criminal records.
3 And by the same token, it is exclusively within the
4 providence of the prosecution, and we don't think it
5 ought to be that way. We think we're entitled to it.
6 For that reason, we requested that we be provided a copy
7 of that report.

8 THE COURT: All right. Ms. Barr, your response to
9 that argument?

10 MS. BARR: Your Honor, if it please the Court, the
11 items and documents that the State are required to
12 produce are governed by Rule 5 of South Carolina Rules
13 of Criminal Procedure as well as Brady and, Judge, we
14 would assert to the Court that Defense has -- has put
15 forth no legitimate authority that requires the State to
16 produce the NCIC with respect to jurors. We maintain
17 that's an internal document that's done by the law
18 enforcement at the request of the solicitor's office.
19 Rule 5 requires us to disclose records of Defendants and
20 any potential witnesses when testifying. We're required
21 in Rule 5 to disclose and turn over statements of the
22 Defendants. We're also required to turn over reports of
23 any scientific analysis that may have been done in the
24 natural investigation of the case and any other
25 tangible documents that are material to the prosecution

1 or defense of the case. Judge, under Brady, we're
2 required to disclose exculpatory evidence or evidence
3 that may be used by the Defense to impeach any witnesses
4 when they testify in the State's case. None of those
5 authorities are -- are -- are put forth by the Defense to
6 warrant the information that they are requesting. Judge,
7 we maintain that, given that there is no legal authority
8 on that, given that that is a document, we take the
9 position that it's our work product or certainly an
10 internal document that's prepared for the State and it's
11 not discoverable. There are many documents that are
12 solely within our providence. And, Judge, just because
13 they're solely within our providence doesn't necessarily
14 make them discoverable under either Rule 5 or Brady. So
15 we respectfully request that the Defense motion be
16 denied.

17 THE COURT: All right.

18 MR. BARR: Judge, just -- just to make sure that the
19 record actually reflects what I stated the position was.
20 In addition to what is set forth in Rule 5, it's
21 Defendant's position that under -- under Brady, certainly
22 as it -- as it would embrace the 14th Amendment, the
23 Defense would be entitled to have that information
24 available just as the State where the information would
25 assist the Defense in the preparation of their case. And

1 of course, it would be our position that with respect to
2 jury qualifications, where the Prosecution has the
3 exclusive use of information that's provided by a -- by
4 the State or a County agency such as the sheriff's
5 department in this case and that information is actually
6 utilized by -- by the Court and not by the Prosecution,
7 then it is our position that fundamental fairness in that
8 respect extended through Brady would require that we also
9 be privy to that information.

10 THE COURT: All right. And I want to make sure I --
11 I as well keep the record clear. There was two jurors,
12 as I recall, who were disqualified because of their
13 criminal records based on information provided indeed by
14 Ms. Barr up front here yesterday. I believe you were
15 standing there as well. I believe the jurors were both
16 male, if I recall?

17 MS. BARR: That's correct, Judge. They were number
18 49 and 87 as I remember.

19 THE COURT: Juror number 49 and juror number 87. So
20 in that regard, Mr. Barr, just to keep the record clear,
21 those -- that's the only information that I received.

22 MR. BARR: Yes, sir.

23 THE COURT: And those two jurors were disqualified.
24 I want to make sure that ---

25 MR. BARR: Yes, sir.

1 THE COURT: --- you and I are on the same page with
2 regards to what access I have to information. That's all
3 I had. But you -- you're wanting, as I take it, the
4 records of arrest, conviction, and so forth as to the
5 other jurors as well?

6 MR. BARR: Yes, sir. Judge, it -- it would be our
7 simple position that now, of course, there may very well
8 -- and I'm not suggesting that there was some other
9 person that would've been disqualified, but even if that
10 person was disqualified, that information was solely in
11 the possession of the State. And that was not -- and it
12 certainly -- we don't know whether or not it -- it
13 could've been brought to your attention. If in fact they
14 were, it would be our position that in order to cure
15 this, that the only way to ensure fairness would be to --
16 to make certain that we were provided with a copy of
17 those records as well. Otherwise, the State could simply
18 sit back and if there's a person that's disqualified who
19 they thought would be a favorable juror and not say
20 anything, then I understand what the Court's position is.
21 But, clearly, the Defense would have no way of knowing
22 whether or not they're -- there are other people that are
23 on the jury panel that, based on their criminal records,
24 that they should be disqualified. That information would
25 solely be within the providence of the Prosecution, and,

1 Judge, we don't think it ought to be that way.

2 THE COURT: All right. Mr. Barr, just for the
3 record, Juror number 49, Mr. Footman, Juror number 87,
4 Mr. Lawson, both had convictions for crimes involving
5 imprisonment for more than one year. That's why they
6 were statutorily disqualified just to keep the record
7 clear. The case of State versus Childs, which is cited
8 at 385 SC 2nd 839. In that case, the Defendant was
9 convicted of murder and I believe burglary. The
10 Appellant maintained that the trial judge erred in
11 denying his request for background information in the
12 nature of all arrest records, conviction records, and
13 prior jury service records, including information as to
14 background, attitude, characteristics of the members of
15 the panel, and the Supreme Court said that no right to
16 discovery exist in a criminal case absent statute or
17 court rule. And it says that -- it's stated that because
18 there is no statute or court rule requiring disclosure of
19 that information, they held that the trial judge did not
20 abuse his discretion in denying the request. What I will
21 do to protect the record -- I don't know how extensive or
22 non-extensive the information is that Ms. Barr has, but
23 to protect the record, your right to an appeal should you
24 choose to pursue that issue, we need to make some type of
25 Court's Exhibit and seal it as to what the information is

1 that Ms. Barr did receive from the sheriff's department.
2 Would that be sufficient to at least protect the issue,
3 Mr. Barr?

4 MR. BARR: Judge, I -- I -- I think -- I think that --
5 - that's -- that's sufficient. Of course -- and I'm sure
6 that you can see the scope of -- of -- the logic issue
7 here.

8 THE COURT: Yes, sir. I understand your argument.
9 But the precedent is that there's no right to discovery
10 of that information.

11 MR. BARR: If -- if -- if that -- if this -- if it's
12 made a Court Exhibit, I think that that would be
13 sufficient and get the other issue considered if -- if
14 the matter is heard on appeal.

15 THE COURT: In other words, the danger you are afraid
16 of is to whether or not anyone else would be statutorily
17 disqualified ---

18 MR. BARR: Yes, sir.

19 THE COURT: --- was not made known to me.

20 MR. BARR: Yes, sir.

21 THE COURT: I think -- Ms. Barr indicated yesterday,
22 as an Officer of the Court, at least in chambers, that
23 she would never not bring that to my attention. But your
24 argument would, excuse me, your position on that point
25 would be protected if we make that information a Court's

HEARING

1 Exhibit. Don't have to do it right now, but we need to
2 do it pretty shortly so that we don't forget about it.

3 MS. BARR: Yes, sir.

4 THE COURT: All right. And the court reporter told
5 me after the Batson hearing in chambers that there might
6 be some problem with her mic system having picked up some
7 high-pitched whistling sound in the air conditioner in
8 chambers. She said she could hear me fine playing the
9 tape back, but what we may need to do at the close of
10 this is, today, is make sure we put on the record if need
11 be the content of the Batson hearing because I'm sure Mr.
12 Barr's going to want that protected on the record as
13 well. It would be easier to do it now than have to
14 rebuild a record at a later time. I've got notes. Mr.
15 Barr's got notes. Ms. Barr has notes. I just wanted to
16 make sure you were aware of what the court reporter did
17 tell me.

18 MR. BARR: Just a question. I don't know that that's
19 a cure.

20 THE COURT: It won't cure it, but ---

21 MR. BARR: You know ---

22 THE COURT: --- it will preserve it. Well ---

23 MR. BARR: Yeah, but it would -- it would -- it would
24 preserve the issue from the standpoint of -- of
25 procedure. But respect -- with respect to substance, I

21

t know that that would -- would -- would remedy that
tion. Because, clearly, as it relates to the
nts that were made for or against with respect to
the exercise of the Batson challenges, I -- I certainly
can't say that -- that I could remember verbatim the
rationales that were -- were given. And for that reason,
your decision was based either on what you heard or did
not hear. And -- and I just don't know that that kind of
record would accurately -- accurately reflect ---

10 THE COURT: All right.

11 MR. BARR: --- what -- and I don't know that there's
12 a way to do that.

13 THE COURT: Well, while we're on this point, I'll let
14 you finish in just a minute. But while we're on this
15 point, the State objected to, under Batson versus
16 Kentucky, to your striking of eight jurors. Eight of
17 your ten strikes were exercised by striking members of
18 the white race. And the State objected to that. And the
19 only -- the only objection of the State that I upheld was
20 the strike of Mary Smith, juror number 146 who is the
21 administrative assistant at a local industry. I mean,
22 I'm sure that I've got that noted. She's worked -- she
23 has 12 -- she has a high school degree. 36 years in --
24 as an administrative assistant. Your reason for striking
25 her, as stated on the record initially, was that because

1 of her degree or level of education, that -- that you did
2 not think it would be -- it would behoove your client to
3 accept a juror in that category. And also that you knew
4 her husband and did not particularly see eye to eye with
5 him on a particular issue. The State pointed out the
6 fact that juror number 138, or Tonya Scott, a black
7 female had a higher degree of education, matter of fact
8 16 years of education and had been employed for I believe
9 16 or eight -- oh, excuse me, 18 years as an accountant
10 at Tupperware and that -- that she was therefore a juror
11 who was similarly situated. And then you indicated
12 during chambers that perhaps your use of the term
13 education was misapprehended by me or misposted by you;
14 what you meant was job experience and life experience and
15 becoming and being an administrative assistant or what
16 you consider to be in company management. And I decided
17 with the State on that particular juror. So I believe
18 that summarizes the arguments that were made. And with
19 regard to the other seven strikes that were challenged, I
20 didn't grant that motion -- those motions anyway. So,
21 Mr. Barr, if you're concerned about the record in that
22 regard, I'm sure that even the tape recorder that we do
23 have or any other statement you want to make to clarify
24 the record when we return from lunch, we can -- we can do
25 that then. All right. Anything else, Ms. Barr?

1 MS. BARR: Judge, only thing I would want to add is
2 that we also indicated that Juror number 82, who was
3 Barbara Jones, a black female, was seated by the Defense
4 and she has two years' education beyond high school

5 THE COURT: All right. Okay. Mr. Barr, anything
6 before we break for lunch?

7 MR. BARR: Nothing.

8 THE COURT: What I'd like to do is for you folks to
9 come back about 1:30 after you've gathered your thoughts
10 on any pre-trial motions. And at least I can know where
11 we're headed on that. As far as your Motions in Limine
12 that you handed to me, I want to meet with y'all after we
13 go off the record and we can get into those at least
14 informally and we can get prepared to push forward on the
15 record after lunch. Anything else, Mr. Barr?

16 MR. BARR: No, sir, Judge.

17 THE COURT: All right. Ms. Barr, you have a matter
18 in another case? Are all the folks that are here in the
19 courtroom here on the case involving Mr. Taylor? They're
20 here -- all right. I just didn't know if those folks
21 were waiting to leave. All right, Mr. Barr, if you'd
22 like, you and your client can depart. And I believe Ms.
23 Barr has a matter pertaining to sentencing in another
24 case?

25 MS. BARR: That's correct, Your Honor.

1 (Off the record).

2 THE COURT: All right, Ms. Barr, Mr. Barr, you ready
3 for the jury?

4 MS. BARR: State's ready, Your Honor.

5 THE COURT: Mr. Barr?

6 MR. BARR: Yes.

7 THE COURT: All right, you can bring in the jury.

8 (Jury enters the courtroom at 2:44 p.m.)

9 THE COURT: Ms. Dollard, at the moment, you're the
10 only person who has an assigned seat. Ladies and
11 gentlemen, I certainly do apologize for keeping you
12 waiting in the jury room. And perhaps this will be a
13 good time to emphasize the importance of being on time,
14 because we're not -- we will not be able to start or
15 resume the trial of the case until all the jurors are
16 present. So your presence obviously is tremendously
17 important. At this time, I'm going to ask the clerk to
18 swear you and you will take an oath of -- in this
19 particular case and then I will give you some remarks of
20 my own and then the attorneys will address you and we'll
21 begin the trial of the case.

22 (Jury is sworn).

23 THE COURT: All right. Is there anyone that did not
24 take the oath? All right. All right, ladies and
25 gentlemen of the jury, we're going to begin in a moment

1 the trial of the case of the State of South Carolina
2 versus Robert Troy Taylor. As I indicated to you
3 earlier, Mr. Taylor, Mr. Taylor has been indicted for the
4 offense of criminal sexual conduct with a minor in the
5 second degree and kidnaping. And as I indicated to you
6 earlier, the indictment that I just referred to is not
7 evidence in any manner whatsoever because, throughout the
8 course of the trial, it will be incumbent upon the State
9 of South Carolina through Ms. Barr, the assistant
10 solicitor, to prove the Defendant's guilt by what we call
11 beyond a reasonable doubt. And that term will be
12 referenced several times throughout the course of this
13 trial. It also will be defined for you at some point.
14 Now, I will tell you that the course of this trial, just
15 in case any of you happen to watch the lawyer or trial
16 shows on television, this trial will not be anything like
17 what you see on television or in the movies, because both
18 sides of this case are represented by competent
19 attorneys. They are not actors. They are aware of the
20 Rules of Procedure that we go by. They are aware of the
21 Rules of Evidence that we go by. And I know that the
22 attorneys will follow those rules. As a matter of fact,
23 those rules -- we have Rules of Criminal Procedure. We
24 have Rules of Civil Procedure. We have Rules of
25 Evidence. We have case law. We have all kinds of rules

1 and laws that we go by. And it will be my job to make
2 sure those rules are followed. And I'm sure, again, the
3 attorneys will do that. Again, there will not be
4 theatrics. There will not be intense drama probably in
5 this particular case. The trial that we will engage in
6 in this particular case will be tried according to the
7 rules.

8 Now, from time to time you may hear one of the
9 lawyers object. You may -- the lawyer may say something:
10 I have an objection, Your Honor. From time to time, if
11 that happens, that means -- that does not mean that that
12 particular lawyer is trying to hide something from you.
13 By the same token, the attorney who is perhaps trying to
14 introduce a piece of evidence through questioning is not
15 trying to put anything into evidence that is not
16 correctly for your consideration. The reason for
17 objections and the reason for things of that nature is
18 that from time to time the attorneys will have a good
19 faith differences of opinion as to whether or not a
20 particular piece of evidence should be introduced. It
21 may be necessary for me to send you out of the courtroom,
22 back into your jury room, for me to resolve issues
23 pertaining to the admissibility of that piece of
24 evidence. And, again, it will not be an effort on the
25 part of one side or the other to hide anything.

1 Objections come up sometimes in the most unanticipated
2 points. And it may well be that from time to time I'll
3 send you out of the courtroom, rule on a piece of
4 evidence, and bring you back in and send you right back
5 out. That's not unheard of. What -- the point I'm
6 trying to make is that the lawyers will try the case
7 according to the rules. And if one lawyer objects, that
8 means that lawyer has a reason for thinking that evidence
9 should not come in. Now, do not think during the course
10 of the trial that if I rule in favor of one side over the
11 other more times, that I favor that particular side.
12 Because you will hear several times during the course of
13 this trial you folks on the jury are the sole judges of
14 the facts in this particular case. I am what we call the
15 judge of the law. At the end of this case when you
16 retire to your jury room to deliberate, I won't go with
17 you. Ms. Barr won't go with you. Mr. Barr won't go with
18 you. The court reporter's not going to go with you. It
19 will just be the jurors who will talk -- are called upon
20 to deliberate this case. You'll be back there in the
21 courtroom because you are the judges of the facts.
22 You're the folks who are charged with and determines what
23 the truth is because the word verdict comes from the
24 Latin word verdicto, which means speak the truth. And
25 during the course of this trial, you are to consider --

1 are to consider as evidence testimony of the witnesses in
2 this case, the documents that come into evidence or any
3 other type of -- of evidence that comes in. That will be
4 what you base your decision on, and that will be what you
5 base your decision of what the truth is in this case.
6 And again, I won't go into the jury room with you and
7 neither will the lawyers or any of the witnesses or the
8 court reporter.

9 Now, from time to time -- frankly, continuously
10 throughout this case, witnesses will sit in this chair.
11 Part of your search for the truth is determining whether
12 or not to believe what a witness has to say. There is
13 not a rule in this blue book that I've got up here that
14 tells me how to tell you to evaluate whether or not to
15 believe someone. Frankly, every day you do that in the
16 course of exercising your common sense. And you know
17 there's no cookbook or recipe to tell you how to
18 determine whether or not to believe someone, but you can
19 exercise your good common sense in doing so. Now, how do
20 you do that?

21 You can base your decision on whether or not to
22 believe a person by, first of all, what does the person
23 have to say? Do you believe them? How does the witness
24 appear on the witness stand? Is the witness hesitant?
25 Straightforward in answering questions? Was the witness

1 uncomfortable? Was the witness biased or prejudiced in
2 favor of or against one side or the other? And was the
3 witness's testimony contradicted by the testimony of
4 other witnesses or perhaps contradicted by something that
5 witness had said in the past? So, in other words, you
6 base your decision on whether or not to believe someone
7 just as you would base your decision whether or not to
8 believe someone that you hear speaking every day. And
9 again, it's based on your good common sense. That's how
10 you do that.

11 I will tell you during -- at the end of the trial,
12 I'm going to instruct you on what the law is. The same
13 law that makes you the judge of the facts makes me the
14 judge of the law. At the end of this case, you will have
15 to accept as correct the law as I charge to you. You
16 will not be permitted to base your decisions in this case
17 on what you think the law is or what you think the law
18 should be. You have to accept the law as I give it to
19 you. As I indicated to you before I turned you loose for
20 lunch, until I tell you you can begin discussing this
21 case amongst yourselves, you cannot discuss this case at
22 all amongst yourselves. And that's going to be a little
23 bit awkward. Because, for example, you were back in the
24 jury room for about 45 minutes with a group of people
25 that probably you did not know until you walked into this

1 courtroom yesterday. So the only thing you have in
2 common at this point, ladies and gentlemen, is this
3 particular case. But the rules that we go by are
4 abundantly clear that you cannot discuss this case at all
5 with or amongst yourselves until I tell you you can do
6 that, and that will be at the conclusion of my charge to
7 you of the law. That will probably take place sometime
8 tomorrow or perhaps Thursday morning.

9 Now, it's important that you keep an open mind
10 throughout the trial of this case, because the way the
11 system works is the State of South Carolina has the
12 burden of proof beyond a reasonable doubt. Therefore,
13 the State presents its evidence first. And after that,
14 if the Defense so chooses -- the Defense does not have
15 to, but if the Defense so chooses, it can present
16 evidence through witnesses and other types of evidence.
17 After that occurs, ladies and gentlemen, the State can
18 present reply testimony in accordance with the rules that
19 we have.

20 After that takes place, the lawyers will give their
21 closing arguments to you. After that takes place, I will
22 give you the charge on the law. And as we go through
23 each stage of the process, it's important for you to keep
24 an open mind because, after you hear one thing, you're
25 going to hear something else. It would not be fair to

1 the State, it would not be fair to the Defendant for you
2 to begin making up your mind until you have heard
3 everything that there is to hear in this particular case.
4 So I'm going to ask you to work with me. From time to
5 time, you may become a little bit weary in the jury box,
6 but remember it's going to be extremely important for you
7 to maintain very close attention throughout the trial of
8 this case because the State and the Defendant are
9 counting on your -- on your undivided attention.

10 Now, it's your solemn responsibility to determine
11 the guilt or the innocence of the Defendant. In other
12 words, you will be given a verdict form at the end of
13 this case, and it will have two choices on it basically.
14 One is we find the Defendant guilty; one is we find the
15 Defendant not guilty. The only way you can reach a true
16 verdict in this case is to pay undivided attention
17 throughout the trial. Because if your attention wanders,
18 somebody may say something that's extremely important,
19 and just because it was mentioned at a particular time
20 when your mind was wandering, does not make it any less
21 important.

22 Now, in a moment, the solicitor is going to make
23 what is called an opening statement. An opening
24 statement given by a lawyer is not evidence. And at no
25 time during the course of this trial is what a lawyer

1 says evidence. The lawyers are going to -- they have a
2 job to do. Within the rules, they're going to ask
3 questions. They'll make arguments, and they'll make
4 statements. And those are not designed to be considered
5 by you as evidence in this case. Now, the evidence given
6 will be presented by testimony and other types of
7 evidence, for example, documents that are authorized by
8 our -- our rules. Now, I'm not going to tell you in this
9 case what I think the facts are, because I'm not going to
10 have an opinion on what the facts are. My role in this
11 case is simply to rule on points of law and to instruct
12 you on the law at the end of this case. So, again,
13 anything that I say during the course of this trial is
14 not to be taken by you as any particular view that I have
15 so far as the facts are concerned. Once a particular
16 piece of evidence is ruled admissible, then you can
17 consider it. If from time to time I instruct you to
18 disregard a portion or all of what a witness has to say,
19 it will be your duty to disregard what I tell you to
20 disregard. You have a right to consider anything that
21 comes into evidence in the record. But again, if I
22 exclude something that you've heard, then you must --
23 must honor your oath to not consider that. Again, your
24 job in this case is basically two-fold. Pay attention
25 and use your common sense. And that should get you

1 through to the end of this trial. All right. Any -- any
2 objections or comments on the record, Ms. Barr, in
3 regards to my comments to the jury?

4 MS. BARR: No, sir. Your Honor.

5 THE COURT: All right, Mr. Barr?

6 MR. BARR: No, sir, Judge.

7 THE COURT: All right. Ms. Barr, you can proceed.

8 MS. BARR: Your Honor, may it please the Court, Mr.
9 Barr.

10 MR. BARR: Yes, ma'am.

11 **OPENING STATEMENT BY MS. BARR:**

12 MS. BARR: Ladies and gentlemen, Mr. Barr, Your
13 Honor. My name is Kimberly Barr. I'm one of the
14 assistant solicitor for Williamsburg County, and I want
15 to take this opportunity first to thank you all for your
16 jury service. Now, when I say that, I mean that most
17 sincerely. I understand that probably none of you said,
18 well, I'm not doing anything the week of July. I think
19 I'm going to go hang out in Williamsburg County
20 Courthouse and see if I can get picked for jury duty. I
21 understand and appreciate that we have pulled you away
22 from your families, from your jobs, and other commitments
23 that you have outside this courtroom. But we want you to
24 know how very much we appreciate you being here. Our
25 system of justice could not and would not operate without

1 good folks like you. And I'm sure that Mr. Barr shares
2 my sentiments in that regard.

3 And one of the things that are interesting about
4 juries is that, for the most part, I don't think the
5 jurors know some of you got picked twice. And some of
6 the jurors were excused. And when lawyers are making
7 decisions about who to seat on the jury, the only thing I
8 think for the most part that we want is we want people
9 who are going to be fair and who's going to be open-
10 minded and people who are going to be intelligent and
11 attentive. And I've got to say I think that the State
12 got it right. I think that the Defense got it right.
13 And I think we have a fair, intelligent jury, so thank
14 you.

15 Folks, you all are here today because Robert Troy
16 Taylor, who is seated with Mr. Barr at the Defense table,
17 has been indicted by the Grand Jury and charged with the
18 offenses of criminal sexual conduct with a minor in the
19 second degree and a charge of kidnaping. Let me tell you
20 what those charges mean, and I'll tell you why he was
21 charged. Criminal sexual conduct with a minor in the
22 second degree, under the law, is defined as a person
23 engaging in sexual battery with a child between the ages
24 11 to 14. What is sexual battery? The law defines sexual
25 battery as anal sex, oral sex, or intercourse. Kidnaping

1 is the unlawful seizure, confinement, abduction, carrying
2 away of a person against their will without --- of law,
3 without the authority of law. Folks, you all are seated
4 here in this courtroom today because the evidence is
5 going to show that, back in November of 1998, Pam and
6 Wade Causey, who are the parents of **victim** [REDACTED] --
7 he is seated next to me -- entrusted their child to go on
8 a camping trip with the church pastor. They had no
9 indication, no information as to what happened to their
10 child on that camping trip here in Williamsburg County.
11 And, folks, the evidence is going to show that during the
12 course of that night, that cold November night, that this
13 child, a little boy, was violated in the worst possible
14 way. He was physically violated. His life has been
15 changed forever. And the evidence is going to show that
16 this Defendant raped him on that camping trip.

17 Now, not only was he physically violated. The
18 evidence is -- is going to show that this Defendant used
19 the cloak of God and Christianity as a pastor of a
20 Baptist church -- used that position of authority and
21 trust, and prayed upon this child and violated this
22 child. When you hear what he has to say, the facts are
23 going to turn your stomach. **victim** has waited a long time
24 to come into court. One of the things that you will find
25 out during the course of the trial -- we're not going to

1 hide anything -- is that all this happened back in
2 November of 1998 and was not reported until several years
3 later. He's going to explain to you why he didn't tell
4 anyone. You will also have someone who is an expert in
5 the field of child sexual abuse cases, and she'll explain
6 to you why these types of behaviors of not reporting
7 these types of crimes right away are -- are -- are pretty
8 -- pretty normal for victims of these type crimes.

9 Folks, it's a -- I can tell you that it's a day that **victim**
10 would probably rather not have. He's got to be nervous.
11 He understands and realizes that he's going to have to
12 testify in front of everybody, even strangers, as to the
13 horrible thing that happened to him. He's prepared to do
14 that in front of his mom, his dad, his girlfriend, the
15 world because he wants to see justice done. In our
16 system of government, the only place that justice can be
17 had is in the walls of this courtroom. And ladies and
18 gentlemen, we would submit to you based on everything
19 that you will hear during the course of this trial, that
20 justice can only be served by the return of a guilty
21 verdict. You know, I get a chance to stand up before you
22 again before you begin your deliberations of this case.
23 And at that time, I will be asking you to return a guilty
24 verdict. Thank you all for your time. Thank you all
25 most importantly for your time.

1 THE COURT: Mr. Barr, would you care to make an
2 opening statement?

3 **OPENING STATEMENT FOR THE DEFENSE BY MR. BARR:**

4 MR. BARR: Yes, Judge. Please the Court, ladies and
5 gentlemen, Ms. Barr. I'm -- I'm Charles David Barr. And
6 I practice law here in Kingstree. My brother was in
7 here. He and I practice law together. Now, I represent
8 Troy Taylor. He's the person that's been referred to
9 numerous times by the prosecutor as the Defendant. And I
10 want to start off this opening statement by just -- of
11 course I want to welcome you to jury service, but I want
12 to just talk just a little bit about the roles of the
13 various people that are in this courtroom. Needless to
14 say, you are, in your role, the most important. As
15 jurors, and you see that this morning we took quite a bit
16 of time to try get a panel of 13 people who we believe
17 that could be fair and impartial. Now, let me just say
18 that one of the primary concerns -- I'm sure that you've
19 had experiences whereby you've had people to tell you
20 things and said, look, this is how I want you to do it.
21 Well, you may have very well had it in mind your own way
22 about how you wanted to do it. Well, that's kind of what
23 you're dealing with here. Because as far as the roles
24 are concerned, His Honor who seats here with the black
25 robe is the giver of the law. He's the judge. And of

1 course you all are triers of fact. I am a Defense lawyer
2 and advocate for my client. And of course Ms. Barr is
3 the representative of the solicitor's office. She's the
4 Prosecutor. Now, what we do and what we try to do,
5 ladies and gentlemen, is we try to get some people that
6 are willing to take the law as the Court gives it to you
7 and not develop your own ideas about what ought to be the
8 law and how things ought to be done. And when you're
9 talking about a fair and impartial trial, a Defendant
10 who's charged with a crime can't ask for anything more
11 than somebody who's willing to listen to the evidence,
12 find the facts as they collectively decide that they are,
13 and -- I don't know if anybody has said so earlier this
14 morning, but let me just tell you right now, His Honor
15 may have mentioned this in his preliminary remarks, but
16 sooner or later you all are going to be called upon to
17 make some decisions about this case and to make -- make
18 some factual decision. And I tell you the decision that
19 you ultimately have to make is going to have to be an
20 unanimous decision. When you go to your jury room and
21 start your deliberation, sooner or later you're going to
22 have to come up with a verdict that is a unanimous
23 verdict, and you're all going to have to agree.

24 Now, that doesn't mean that you'll start off
25 agreeing, but eventually if you come back with a verdict

1 that speaks the truth, then you'll have to agree on facts
2 and you'll take the law of course with you. And His
3 Honor will give you the law.

4 Now, if you were in the courtroom I believe earlier
5 when Ms. Carolyn Williams, the clerk, gave her Grand Jury
6 report, you will recall that all of the cases that were
7 before the Grand Jury were indicted. His Honor's already
8 instructed you that this piece of paper that I hold in my
9 hand, this indictment, is -- it has no evidentiary
10 significant to it. All it is is a charging paper.
11 Whenever somebody is charged with having committed a
12 criminal offense, there must be a method by which that
13 charge comes before a jury, and that's what this
14 indictment is. That's all it is. It has no evidentiary
15 value.

16 But now I tell you what does have evidentiary value.
17 The evidence that the prosecution presents to you to try
18 to prove to you that Troy Taylor committed the offense
19 that he is charged with having committed in this
20 indictment. As he sits there right now, ladies and
21 gentlemen, under our law, and this -- this is one of
22 those things I'm about to give you that -- that I hope
23 you'll take it from the Court as we give it to you and
24 understand that it is the law. It's not something that
25 Defense lawyers make up. He is presumed innocent. And

1 it's not just some imaginary presumption. It is a
2 substantive right that right now, at the beginning of
3 this trial, Troy Taylor is presumed innocent of the
4 charges that have been lodged against him. And what does
5 that presumption of innocence mean? It means that, unless
6 the prosecution, that's this table over here, unless they
7 present evidence to you that convinces you in your
8 collective wisdom beyond a reasonable doubt. His Honor
9 may very well described that to you or defined it to you
10 in a different kind of way, generally something that
11 would cause a person to hesitate to act unless the
12 prosecution convinces you beyond a reasonable doubt of
13 the Defendant's guilt, your charge is to find him not
14 guilty. That's what your charge is.

15 Now, ladies and gentlemen, this case is serious.
16 This is not just a serious case for the alleged victim,
17 but it's also a serious case for the Defendant. As I
18 said, he is presumed innocent until proven guilty. And
19 he has no responsibility whatsoever to present any proof.
20 He doesn't even have to be here. He could've been
21 somewhere else, but he's here. And he's standing and
22 depending upon the law. And not just on you, ladies and
23 gentlemen, the law. The law of South Carolina which
24 says when somebody is accused of a crime and they deny
25 their guilt, they are entitled to be tried by a jury of

1 their peers. In order -- and before you can find them
2 guilty, this jury of their peers, that the twelve people
3 must unanimously agree on a person's guilt.

4 Now, Ms. Barr in her opening remarks, defined the
5 nature of the charges that have been brought against Mr.
6 Taylor. Those charges of kidnaping, of course, I agree
7 with the definition she gave. I don't necessarily agree
8 that they may be able to prove that, but that's not my
9 concern. My concern is to defend my client. And as His
10 Honor's already instructed you, during the course of this
11 trial, you may very well see that there might be
12 objections. There might be disagreements. But I would
13 submit to you that those things will be handled by the
14 Court. He will make certain and I will make certain that
15 the rules concerning the Rules of Evidence or whatever
16 other rules that apply during the course of this trial,
17 that those rules are followed.

18 So, again, let me just take this opportunity to
19 initially -- to thank you for your jury service. We
20 realize that it is with some degree of sacrifice. And I
21 hope the commitment -- now, I don't say that a whole lot,
22 but I hope with commitment because jury service is not
23 something to just be taken lightly. Ladies and
24 gentlemen, you stand where you are -- you stand where you
25 are as the difference between what would happen in

1 situations where people are accused of crimes any they're
2 not prosecuted or they are found innocent. And those
3 situations where people are prosecuted and they're found
4 guilty. But that's your role. And it couldn't be a more
5 important role. The only thing on behalf of Mr. Taylor
6 that I ask you to do is to, please, ma'am, and please,
7 sir, listen to the evidence in this case. Because
8 there's another side to what happened in this case or
9 what did not happen in this case other than what Ms. Barr
10 has already told you. There's another side. And as His
11 Honor will instruct you, that side will come from the
12 evidence or lack of evidence. It'll come -- much of it
13 will come from this witness stand. As the judge has
14 already told you, whenever a person gets on this witness
15 stand they put into issue their credibility. And how do
16 you decide how much or if any of a witness to believe?
17 There are a number of things you look at. And I can see
18 that from the ages of everybody on this jury, we don't
19 have any young -- all of y'all are about my age, I'm a
20 little bit younger, but you're all about my age. And
21 you've had those kinds of experiences that allows you to
22 tell when somebody's not telling the truth. And as Your
23 Honor will instruct in his preliminary remarks, you have
24 to use that common sense experience to make decisions in
25 this case as to whether or not -- or whether it's true,

1 what to believe. The demeanor of the person witness,
2 gets up on this witness stand. You're the judge of the
3 witness' credibility. You'll have to make those
4 decisions because all of what you hear, I stopped
5 swearing on The Bible. I've been in the courtroom now
6 most of my life, over 25 years. And I just -- sometimes
7 you hear things that -- that you just don't believe after
8 somebody put their hand on The Bible. But I don't know
9 for what reason, and it's not my call, but it's your
10 call, the juror, to make those decisions. And ladies and
11 gentlemen, I assure you that once you've done that in
12 this case, that is when you make a decision based on the
13 law and evidence, or lack of evidence, nobody will be
14 able to complain, nobody will be able to gripe. The
15 burden of proof in this case is on the prosecution. The
16 standard of proof is proof beyond a reasonable doubt.
17 There is a presumption of not guilty. His Honor will
18 instruct you at the end of this case that if there is
19 some kind of doubt in your mind as to whether or not, not
20 so much who did it or whether it was done are whether or
21 not it's been proven, and that doubt is a reasonable
22 doubt and that you're just not sure, Your Honor will
23 instruct you, ladies and gentlemen, even in that case you
24 have to resolve that on behalf of the Defendant. That's
25 your charge. And I know that's what he'll charge you.

1 I'm going to sit down now. But again, as I hasten to my
2 seat, again I want to thank you for your jury service. I
3 want to thank you on behalf of Troy Taylor and his
4 family. And I certainly hope during the course of this
5 jury service that you experience what we're about to get
6 started and will continue -- hopefully it won't last too
7 long, but that you will come away from this jury service
8 with something meaningful that you can use in your daily
9 lives, something that you can appreciate. Jury service
10 is a high honor. And today, you've been chosen to
11 experience that honor, and you've been chosen as the 12
12 people who will decide the fate of Mr. Troy Taylor. And
13 you will decide at the end of the day whether or not the
14 prosecution has met their burden of proof. There's a
15 whole lot that stands between that request that Ms. Barr
16 has made. And it's called proof. Please, ma'am, please,
17 sir, pay attention. Look for it. Thank you.

18 THE COURT: All right, ladies and gentlemen of the
19 jury, I'm going to ask you to step to your jury room for
20 -- it's going to be less than five minutes. I will tell
21 you this, when you come back out, you can bring water. I
22 don't know water or coffee or soft drinks, but you're
23 certainly welcome to bring that with you. I will remind
24 you again, and not for the last time, not to discuss this
25 case in the jury room. Thank you very much.

1 (Jury retires to the jury room at 3:17 p.m.)

2 THE COURT: All right, Ms. Barr, give you a few
3 minutes.

4 MS. BARR: Thank you, Judge.
5 (Off the record).

6 (Jury enters the courtroom at 3:26)

7 THE COURT: All right, thank you, ladies and
8 gentlemen. This probably won't be the last time I have
9 to instruct you again. All right, Ms. Barr, the State can
10 call its first witness.

11 MS. BARR: At this time, we all Gaye Allen Cooke.
12 (Witness is sworn to tell the truth).

13 MS. BARR: May it please the Court?

14 THE COURT: Yes, ma'am.

15 DIRECT EXAMINATION BY MS. BARR:

16 Q. Please state your full name for the record.

17 A. Gaye Allen Cooke.

18 Q. And were you subpoenaed to testify in this case?

19 A. I was.

20 Q. Tell me where you work?

21 A. I work at the Durant Children's Center in Florence.

22 Q. What type of facility is that?

23 A. The Durant Children's Center is a child advocacy
24 center. We do all forms of maltreatment against
25 children.

1 Q. And does that include physical as well as sexual
2 abuse of children?

3 A. And neglect.

4 Q. And neglect.

5 A. Uh-huh.

6 Q. How long have you been employed there?

7 A. Just shy of two years.

8 Q. And what is it that you do there?

9 A. I am the clinical therapist and also clinical
10 evaluator.

11 Q. Can you tell the ladies and gentlemen of the jury a
12 little bit of information about your background, your
13 training, your education and so forth that qualifies you
14 for the position that you hold?

15 A. I have a bachelor's degree in early childhood
16 education. I have a master's degree in Clinical
17 Psychology recognized by the State. I have had 40 hours
18 forensic training which is recognized by the State. I've
19 also had the advanced forensic training recognized by the
20 State. I also had written multiple journals regarding
21 trauma and I'm currently pursuing a doctrine in
22 psychology. And I'm a licensed clinical therapist in the
23 State of South Carolina and North Carolina.

24 Q. Let me ask you if you will tell the ladies and
25 gentlemen of the jury what it is that you do on a day-to-

1 day basis for the Durant Center in Florence?

2 A. When it comes to forensic evaluations, what I do is
3 children are brought into the agency who have had some
4 type of allegation of maltreatment be it sexual abuse,
5 physical abuse, or -- or neglect. And what happens is I
6 meet with them, evaluate them. And my job is to look at
7 the things that they're presenting as far as their
8 behaviors and to make some type recommendation as far as
9 some judgement call as have they been sexually or
10 physically abused? What kind of treatment do they need?
11 What type of trauma might they experience if they have
12 been sexually abused or what type of treatment they might
13 need to assist them in dealing with the abuse. When it
14 comes to treatment, I do therapy for kids of various
15 allegations that they've had, I'm just helping them work
16 through the trauma that they've gone through and helping
17 them to process the trauma and helping them to become
18 better and not forget the trauma but be able to just be
19 able to become productive citizens.

20 Q. Did I understand you to testify that you had a
21 practice at one point in North Carolina?

22 A. I did.

23 Q. From what year to what year?

24 A. I was in private practice from 2001, to 2004.

25 Q. Okay. And then you moved to South Carolina?

1 A. I did in 2004.

2 Q. Okay. And you had your practice in North Carolina,
3 did you do some of the same types of assessment and
4 treatment of children as you do here?

5 A. I did.

6 Q. Okay. All right. Now, Ms. Cooke, have you ever
7 testified as an expert witness in the Circuit Courts or
8 Family Courts in the state of South Carolina?

9 A. I have.

10 Q. What about in the state of North Carolina?

11 A. I have.

12 Q. How many times have you testified?

13 A. In both states together?

14 Q. Correct.

15 A. In criminal court, 15, 16 times.

16 Q. Okay..

17 A. Family court, probably 40 or 50 times.

18 Q. And have you been qualified as an expert witness in
19 the field of counseling and treatment of children of
20 sexual abused and/or child sexual abuse trauma recovery?

21 A. I have.

22 Q. Okay. And how many patients have you seen during the
23 course of your career who were alleged victims of
24 maltreatment as you indicated?

25 A. Probably close to a hundred.

1 MS. BARR: Judge, at this time, we would tender Ms.
2 Cooke as an expert in the field of child sexual abuse
3 counseling and treatment.

4 THE COURT: All right. Mr. Barr, any voir dire of
5 this witness?

6 MR. BARR: No, sir, Judge.

7 THE COURT: Any objection to her qualification in
8 this regard?

9 MR. BARR: No, sir.

10 THE COURT: All right, ladies and gentlemen, and I
11 will qualify this witness as an expert in the field of
12 counseling and treatment of childhood sexual abuse; is
13 that correct, Ms. Barr?

14 MS. BARR: Yes, sir.

15 THE COURT: All right, ladies and gentlemen,
16 typically you will find in cases that a -- that a witness
17 cannot give opinion testimony. For example, such as an
18 eyewitness is called to testify to what that person saw,
19 heard, felt, and things of that nature. That does not
20 require expert testimony. I will tell you, however, that
21 there is a distinction for what we call expert witnesses,
22 and I will charge you more on this later. But if by
23 virtue of the witness's qualifications, training,
24 experience, and so forth, that witness is qualified to be
25 an expert in a particular field, that witness can give

1 opinions on certain things within that witness's field of
2 expertise. I will tell you, however, that the same
3 rules apply that we discussed earlier or that I discussed
4 with you earlier that you are to give an expert witness's
5 opinion the weight that you think it's entitled to. Just
6 because a witness has been qualified as an expert does
7 not automatically mean that you must accept what that
8 witness's opinion is as true. You can weigh the reasons
9 given for the opinion, the witness's qualifications and
10 things of that nature, and you can use your common sense
11 to determine whether or not you believe what the witness
12 has to say. As with any other witness, you can believe
13 100% of what the witness has to say, you can reject 100%
14 of what the witness has to say, or you can believe parts
15 or -- and reject the rest. And with that instruction.
16 Ms. Barr, you can continue questioning Ms. Cooke.

17 MS. BARR: Thank you, Your Honor.

18 DIRECT EXAMINATION BY MS. BARR RESUMES:

19 Q. Ms. Cooke, let me ask you some questions regarding
20 certain behaviors you've observed in the course of your
21 treatment counseling the children or persons that were
22 abused as children. Are there certain types of quote-
23 unquote typical behaviors that you would expect to see or
24 have seen when you're assessing a person who's alleged to
25 have been maltreated as a child?

1 A. Yes.

2 Q. Okay. Can you describe what types of behaviors
3 that you observed during the course of your career?

4 A. Oftentimes we'll see an individual who may be
5 withdrawn. We'll see an individual who may exhibit some
6 type of suicidal tendencies. Whether or not they act
7 upon those, it kind of depends. Oftentimes we'll see
8 these symptoms in people who haven't had treatment or
9 maybe who started treatment and maybe treatment was a
10 difficult because it made them re-live some things and
11 they stopped treatment, and we'll often see them be
12 suicidal. It's pretty normal to have people who have had
13 some type of trauma to maybe turn to alcohol or drugs.
14 Oftentimes we'll see people do one of two things: they
15 may run to sexualized behaviors, or they may completely
16 run away from sexualized behaviors. It's a very common
17 to see these people sometimes have difficulties with the
18 law. Maybe they might steal or, you know, drive
19 recklessly. Often when people have been traumatized,
20 what they're looking for is some sense of control.
21 They're looking for something that they can take charge
22 of. Because of the trauma that they've experienced, they
23 feel like they've lost control of their whole life.
24 Q. Okay. It one of the things that you interest --
25 that you indicated that was interesting is you said it's

1 not uncommon or it's common to see a person who's been
2 abused as a child abuse alcohol or drugs. Tell me that
3 if the goal is to maintain some sort of control of your
4 life, why do -- why do children turn to alcohol or drugs?

5 A. Oftentimes it's -- it's a little hard to comprehend
6 I guess. But oftentimes that's their way of seeking
7 control it's like if I can get a hold of this substance,
8 then you know, it'll either make me to where I won't have
9 to think about the things that have happened to me or
10 maybe it may make me bigger than life where I can control
11 other things that are in my life.

12 Q. Okay. What about a -- thoughts of suicide or
13 attempted suicide, how does that play in terms of a
14 victim of childhood sexual assault?

15 A. You have to think about sexual assault in terms of a
16 traumatic experience. And when people, when individuals
17 experience trauma, what happens is oftentimes they turn
18 to themselves and they look at themselves and they feel
19 hopeless. They may feel like there is no one in their
20 life that is going to understand. Oftentimes, victims of
21 sexual abuse, sexual trauma, will feel like they're
22 alienated. They will have lived a life of secrecy maybe
23 because they didn't want to tell about what happened to
24 them. And it's kind of like, after a while, they just
25 can't take that anymore. And many of them do turn to

1 suicidal tendencies.

2 Q. Okay. Is it common or uncommon in cases where a
3 person was a victim of a childhood sexual assault to
4 delay reporting the event?

5 A. Yes.

6 Q. Okay. How common is that?

7 A. The latest research tells us that about 69% of child
8 victims often wait to disclose -- many of them wait to
9 disclose until adulthood.

10 Q. Why is that, do you ---

11 A. Well, there's lots of reasons. Some I've already
12 alluded to. What happens is, when someone has been
13 sexually abused, it's like their sense of life has kind
14 of been wounded if we can say that. And it's kind of
15 like they -- they don't know what to do. You know? Many
16 of them turn to themselves, they turn inside. It's like,
17 if I don't talk about it, maybe it didn't happen. And if
18 I tell someone, then that's going to mean lots of things.
19 You know, other people are going to find out; is my man
20 or womanhood going to be called into effect because I
21 couldn't stop this from happening? There are many, many
22 reasons why kids don't disclose. And most of the time,
23 it's because they don't want to be annihilated. And it's
24 easier to live in secrecy than it is to have people find
25 out what happened to you.

1 Q. Now, Ms. Cooke, if you're dealing with a child
2 that's been abused by a family member or someone who is
3 in a position of authority, would that have any impact on
4 whether or not the abuse is disclosed right away or
5 whether or not it's disclosed at some later date?

6 A. Oftentimes, what we'll find is most children who are
7 victimized know their offenders, number one. And most of
8 the time it is someone that they do trust. And when we
9 have someone that we trust and they violated that trust,
10 it's very difficult because it's like, okay, if I come
11 out and tell this, number one, I'm going to hurt the
12 person that's done this to me. I'm going to have to come
13 out and talk about what happened. People are going to
14 ask lots of questions. And when you have a relationship
15 with someone, even though that person has violated you,
16 what happens is victims don't want to talk about it
17 because they don't want that relationship to be tainted.

18 Q. Now, have you found that in your course of treatment
19 of adults or just kids, or both?

20 A. The only adults that I treat are like people have
21 brought their children in and maybe, through the course
22 of treatment with their child, they've recognized, you
23 know, I haven't ever told anybody what happened to me ---

24 Q. I see.

25 A. As a rule, I -- I treat children under the age of

1 18.

2 Q. Okay. And you've indicated that you've treated
3 several individuals who didn't report the child abuse
4 until they were well in their adult life?

5 A. Yes, ma'am.

6 Q. What types of forces, if you will, tells a person to
7 disclose child sexual abuse after some significant period
8 of time has -- has passed?

9 A. Many times we'll see adults who've become parents.
10 And when they become parents, it's kind of like something
11 triggers in their brain. They don't want this to happen
12 to their child, so they go ahead and come out and talk
13 about it because they realize they've got to get
14 themselves together before they can parent properly.
15 Oftentimes, if you're in a community maybe where other
16 people have disclosed, maybe you've seen a trial on TV or
17 if something's on the news where someone has been
18 convicted of sexual abuse or maybe a victim has spoken
19 out, it may trigger something in that person to want to
20 come out and say what's happened to them. It's really
21 hard to tell why people disclose when they -- when they
22 do. It kind of just becomes when they're ready. And,
23 you know, research tells us that many people don't
24 disclose until years and years and years after the abuse.
25 Q. Okay. Is it consistent or inconsistent -- would a

1 victim be or having a traumatic sexual abuse event occur
2 as a child, is it consistent or inconsistent that at some
3 point once they reach their adult lives that they're more
4 likely to disclose it once they reach an adult age
5 particularly if it's a situation where they know the
6 perpetrator?

7 A. I'm sorry, I don't think I understand the question.

8 Q. If you -- that's okay. That's okay. If the
9 perpetrator of the sexual abuse is either an authority
10 figure in the victim's life or a family member of the
11 victim, is it consistent or inconsistent that a victim of
12 sexual assault will delay reporting given that
13 relationship?

14 A. It's consistent.

15 Q. Ms. Cooke, I believe that you've answered all my
16 questions. Thank you so much for your time. Please
17 answer any questions that Mr. Barr may have for you.

18 CROSS EXAMINATION BY MR. BARR:

19 Q. Ms. Cooke, how are you today?

20 A. I'm fine. Thank you.

21 Q. I'm Charles David Barr. I'm a defense lawyer. And
22 I'm sure you've had, over the years, you've had a whole
23 lot of interaction with defense lawyers, haven't you?

24 A. Yeah.

25 Q. Now, I'm -- with respect to your specific field of

1 expertise, I believe you indicated that -- that -- that
2 you are a critical therapist in as far as counseling?

3 A. I am.

4 Q. And you do forensic interviews?

5 A. I do.

6 Q. And for -- for the benefit of the jury, what -- what
7 specifically is a forensic interview?

8 A. A forensic interview is done when there have been
9 allegations of some type of maltreatment, be that
10 physical abuse, sexual abuse, emotional abuse, or
11 neglect. And what happens is a child is referred for a
12 forensic evaluation, and the evaluation includes
13 basically that child having a chance to be asked non-
14 leading questions and they're able to talk about
15 different types of touch, different types of maltreatment
16 that they may have experienced. It's just an opportunity
17 for them to tell what has happened to them.

18 Q. And with respect to the forensic interview, from
19 time to time are these interviews recorded?

20 A. They are videotaped. Yes, sir.

21 Q. All right. And -- and what would be the purpose --
22 would you agree that one of the purposes of recording
23 them would be to give the interviewer an opportunity to
24 actually look at the child in -- in the -- in an
25 appropriate setting and perhaps facilitate therapeutic

1 counseling?

2 A. I'm sorry, I don't understand.

3 Q. Well, would you not agree that -- that one of the --
4 one of the purposes of actually videotaping the interview
5 is to be able to -- to study the interview and make
6 therapeutic decisions concerning counseling a particular
7 child?

8 A. That is one reason. Yes, sir. There are multiple
9 reasons.

10 Q. But that is one?

11 A. That is one.

12 Q. Yeah. Of course, you don't know -- do you know any
13 of the personalities in this case? Do you know **victim**
14 **victim** ?

15 A. I don't know any of the personalities from this
16 case.

17 Q. Never met him in your life?

18 A. No, sir.

19 Q. And of course you don't know if he was sexually
20 abused or not, do you?

21 A. I don't even know who he is.

22 Q. So then, with respect to your testimony today, what
23 you've done is you've kind of given us an introductory
24 lesson into the area of therapeutic counseling through
25 forensic gathering of information for people in general?

1 A. And traumatic responses of sexual abuse.

2 Q. Yes, ma'am. So then, with respect to your
3 testimony, essentially you would agree that to the extent
4 that you've expressed an opinion regarding say, for
5 instance, why a person would not reveal an instance of
6 sexual abuse, your opinions are in general, limited to
7 general application and not to any particular individual?

8 A. Well, my opinions would be based on my studies and
9 my interaction with the patients that I have and have had
10 previously.

11 Q. I see. And you've never spoken to victim [REDACTED]?

12 A. I didn't even know that was his name.

13 Q. Don't even know him. Now, I -- I just have one or
14 two more questions. You were subpoenaed to come to court
15 today?

16 A. Yes, sir.

17 Q. By the prosecution?

18 A. By Ms. Barr, yes, sir.

19 Q. And you've never met Mr. victim [REDACTED], you've never read
20 anything he's written, you've never interviewed him, and
21 you've never counseled him?

22 A. No, sir.

23 Q. Thank you, ma'am.

24 THE COURT: Re-direct, Ms. Barr?

25 MS. BARR: Yes, Judge. Just a few follow-up

1 questions if I may.

2 RE-DIRECT EXAMINATION BY MS. BARR:

3 Q. Ms. Cooke, when you do these forensic interviews,
4 are they normally done or are they exclusively done for
5 children?

6 A. At our office they are, because we're a child
7 advocacy center ---

8 MR. BARR: Objection. Objection. I think we've gone
9 -- that takes us beyond the scope of cross examination.

10 MS. BARR: I disagree, Judge. He asked her
11 specifically about --

12 THE COURT: Let me Rule on the objection. Your
13 objection is outside the scope of cross ---

14 MR. BARR: Yes, sir.

15 THE COURT: And, Ms. Barr, I anticipate what you're
16 is this is in response to his question about not having
17 ever met Mr. victim and interviewed him and so forth?

18 MS. BARR: And specifically the question that he
19 first asked her about explaining how a forensic interview
20 ---

21 MR. BARR: I'll withdraw the objection, Your Honor.

22 THE COURT: All right, Ms. Barr, you can -- if you'll
23 restate the question, please.

24 MS. BARR: All right. Thank you, Your Honor.

25 Q. Ms. Cooke, you're of course employed at the Durant's

1 Children's Advocacy Center; is that correct?

2 A. Yes, ma'am.

3 Q. You testified on cross examination about your
4 forensic interview when you have an allegation of sexual
5 abuse; is that correct?

6 A. Yes, ma'am.

7 Q. My question specifically to you was whether or not
8 the interviews are always conducted on children, or are
9 there points in times where they're conducted on adults
10 in the advocacy center?

11 A. The only time they're conducted -- conducted on an
12 adult would be if our SLED agent that we work with, if
13 she comes and does like a mentally retarded or mentally
14 challenged adult. But I do not perform interviews on
15 anybody over the age of 17.

16 Q. Okay. So if this -- if Mr. victim [REDACTED] reported the
17 sexual assault that happened to him as a child and he
18 reported it when he was an adult, he wouldn't have come
19 see you?

20 A. He would've come to ---

21 MR. BARR: Objection. Improper. Hypothetical.

22 THE COURT: I'll sustain the objection. The witness
23 has stated that he did not come to see her if she
24 would've been able to interview him anyway. I'll sustain
25 that objection.

1 MS. BARR: All right.

2 Q. And you have testified on cross examination that
3 your testimony in this case was based upon your
4 experience and your training and your background?

5 A. Yes, ma'am.

6 Q. Okay. Now, have you ever testified as an expert
7 witness in either South Carolina or North Carolina where
8 you have not specifically treated a particular victim?

9 A. Yes, ma'am.

10 Q. Okay, what was the purpose of you testifying in
11 cases where you've never treated the victim?

12 MR. BARR: Objection to relevancy, Judge.

13 THE COURT: Ms. Barr, your question again is what?

14 MS. BARR: I was asking her ---

15 THE COURT: For her testimony?

16 MS. BARR: Right, in cases where she has not treated
17 the victim.

18 THE COURT: I'll sustain the objection.

19 MS. BARR: Judge, that's all the questions I have.

20 Ms. Cooke, thank you so much. Appreciate it.

21 THE COURT: Re-direct, Mr. Barr? I mean, excuse me -
22 --

23 MR. BARR: No.

24 THE COURT: --- re-cross, Mr. Barr?

25 MR. BARR: No, sir.

1 THE COURT: Okay. Thank you, ma'am. You may step
2 down. State can call its next -- any objection to this
3 witness being excused?

4 MR. BARR: No -- no objection.

5 MS. BARR: No, Judge. We'd ask that she be excused,
6 sir.

7 THE COURT: You can be excused if you'd like.

8 MS. BARR: Judge, we'd call Pam Causey at this time.
9 (Witness is sworn to tell the truth).

10 DIRECT EXAMINATION BY MS. BARR:

11 Q. Ma'am, let me get you to state your full name for
12 the record.

13 A. Pamela J. Causey.

14 Q. And, Ms. Causey, where do you live?

15 A. Surfside Beach.

16 Q. That's in Horry County?

17 A. Yes, ma'am.

18 Q. And who lives there with you?

19 A. My husband and two other children.

20 Q. Now, is your husband in the courtroom?

21 A. Yes, ma'am.

22 Q. That's Mr. Wade Causey?

23 A. Yes, ma'am.

24 Q. How long have the two of you been married?

25 A. 14 years.

HEARING

1 Q. Okay. And your son is victim [REDACTED]
2 correct?

3 A. Yes, ma'am.

4 Q. Now, is he your oldest?

5 A. Yes, ma'am.

6 Q. Okay. And when was he born?

7 A. [REDACTED] 1987.

8 Q. So he is now 19 years old; is that correct?

9 A. Yes, ma'am.

10 Q. Where does he live?

11 A. He lives in Surfside also.

12 Q. Okay, but he's not staying at home with mom and dad?

13 A. No.

14 Q. Okay. And, I'm sorry, tell me how old your children
15 are, the other two children that live with you?

16 A. One is 17 and one is 12.

17 Q. Okay. Ms. Causey, do you know the Defendant Robert
18 Troy Taylor?

19 A. Yes, ma'am.

20 Q. Tell the ladies and gentlemen of the jury how it is
21 that you know him.

22 A. He was the pastor of our church.

23 Q. What church was that?

24 A. Low Country Community Church.

25 Q. Where is that located?

1 A. In Murrells Inlet.

2 Q. At that time, was that a Baptist Church?

3 A. It was before he -- he came and took over, yes.

4 Q. And how long had you been a member of that church?

5 A. I wasn't a member until he came.

6 Q. And what year was it, if you recall, that he came
7 and was the pastor of your church?

8 A. I think it was '97. It could've been -- I think it
9 was 1997.

10 Q. 1997. All right. And when you became a member of
11 the church, was it also true that your husband and sons
12 were also members?

13 A. My husband was not.

14 Q. Okay. What about your boys?

15 A. Two of them were, yes.

16 Q. Okay. Which two were?

17 A. **victim** and David, my middle son.

18 Q. Now, tell me what type of relationship did you have
19 with Robert Troy Taylor while he was pastor at your
20 church.

21 A. We had a close relationship.

22 Q. Did you confide in him as a member of his
23 congregation?

24 A. Yes, I did.

25 Q. Did you trust him?

1 A. Yes, I did.

2 Q. Now, did there come a time back in 1998 when you
3 allowed your son to accompany the Defendant on a camping
4 trip in Williamsburg County?

5 A. Yes, ma'am.

6 Q. Okay. I'm going to show you what's been admitted
7 into evidence as State's Exhibit Number 3, I believe.
8 Your Honor, may I approach the witness?

9 THE COURT: Any objection?

10 MR. BARR: I have no objection.

11 THE COURT: State's Number 3.

12 MS. BARR: May I approach the witness?

13 THE COURT: Yes, ma'am.

14 Q. Ms. Causey, I'm going to show you what's been marked
15 as State's Exhibit 3 and ask if you recognize that
16 particular exhibit.

17 A. Yes, I do.

18 Q. Okay. Tell the jurors what it is.

19 A. It's a church bulletin.

20 Q. Did you all have those church bulletins every year,
21 or I should say every Sunday?

22 A. Yes, ma'am.

23 Q. Okay. And what does the bulletin do, does it
24 outline different church activities?

25 A. Yes, ma'am.

1 Q. And taking you back to November of 1998, is it
2 outlined that there was a scheduled camping trip during
3 that time?

4 A. Yes, ma'am.

5 Q. All right. And if you will, just show me where it
6 is on that particular exhibit.

7 MR. BARR: Objection. Did she move it into evidence?

8 THE COURT: She did. Well, let me ask -- that's what
9 I asked, if you had any objection to it.

10 MR. BARR: Oh....

11 THE COURT: Do you have any objection to it?

12 MR. BARR: No.

13 THE COURT: All right. It's in evidence as Exhibit
14 3.

15 Q. I'm sorry, point to the date. And how is it
16 characterized on the particular bulletin? I need you to
17 call out how it's characterized for me, please.

18 A. November 6th and 7th youth group camping excursion.

19 Q. Okay. All right.

20 MS. BARR: Move to publish State's Exhibit Number 3.

21 THE COURT: What's the year on that?

22 MS. BARR: 1998.

23 THE COURT: All right, ladies and gentlemen, the
24 Exhibit is going to be published to you, which means in
25 general terms it's going to be passed around. I will

1 instruct all of you that while you are reviewing the
2 document to do two things. One is to review the
3 document, and pay very close attention to the witness's
4 testimony as you review it. Keep in mind that this
5 Exhibit will be with you in the jury room when you
6 deliberate this case. All right.

7 MS. BARR: Thank you.

8 Q. Ma'am, that bulletin also indicates that the
9 Defendant was the senior pastor of the church at that
10 time?

11 A. Yes, ma'am.

12 Q. And you have testified that in November of 1998 you
13 allowed your son to go on an overnight camping trip with
14 the Defendant?

15 A. Yes, ma'am.

16 Q. Were there other children who had gone on the
17 camping trip as well?

18 A. Yes, ma'am.

19 Q. How many other children, if you know?

20 A. Maybe six.

21 Q. Okay. Were there any other adults? And if you
22 don't remember, that's fine.

23 A. I don't remember.

24 Q. Okay. Prior to this camping trip, had you ever had
25 any concerns at all about allowing your child to go on a

1 camping trip, or go anywhere for that matter, with the
2 Defendant?

3 A. No.

4 Q. Did you trust him like you would trust a family
5 member with your child?

6 A. Yes, I did.

7 Q. And of course he was a lot taller and a little
8 heavier than he was back then. How old would he have
9 been in November of 1998?

10 A. 11.

11 Q. 11 years old?

12 A. Yes, ma'am.

13 Q. And at my request, did you make copies of
14 photographs showing how he appeared at age 11?

15 A. Yes, ma'am.

16 Q. And have you turned those photographs over to me?

17 A. Yes, ma'am.

18 Q. All right. Now, I'm going to show you what's been
19 marked as Plaintiff's Exhibits 1 and 2 and ask you if you
20 recognize these documents.

21 A. Yes, ma'am.

22 Q. All right. What are they? I need you to talk about
23 them by number. So look down at the corner and see the
24 number.

25 THE COURT: First, the question was what are they.

1 Are they in without objection, Mr. Barr?

2 MR. BARR: Yes, sir. I don't object to them, Judge.

3 THE COURT: All right. Exhibits 1 and 2 are in
4 evidence without objection. Ms. Barr, I apologize for
5 interrupting.

6 MS. BARR: Absolutely. No problem.

7 Q. Now, tell me what's State's Exhibit Number 1?

8 What's depicted in State's Exhibit Number 1?

9 A. Picture of my son.

10 Q. Okay. And that was taken around the time that he
11 was 11 years old?

12 A. Yes, ma'am.

13 Q. All right. And what about State's Exhibit Number 2?
14 I need you to tell me what it is.

15 A. It's a picture of my son.

16 Q. Taken around the same time?

17 A. Yes, ma'am.

18 Q. What is he doing in State's Exhibit Number 2?

19 A. He's posing for a basketball picture.

20 Q. Okay.

21 MS. BARR: Your Honor, at this time, the State would
22 publish Exhibits 1 and 2.

23 THE COURT: All right.

24 Q. Prior to this period of time as **victim** was growing up
25 and when he was a toddler and started kindergarten and

1 elementary school, how would you characterize his
2 childhood?

3 A. Very happy.

4 Q. Had a normal childhood?

5 A. Yes, ma'am.

6 Q. Both parents grew up in the home together?

7 A. Yes, ma'am.

8 Q. Do you and your husband work? Were you working
9 during the time he grew up?

10 A. Yes, ma'am.

11 Q. We see that in State's Exhibit Number 2 that he was
12 involved in baseball; is that correct?

13 A. Yes, ma'am.

14 Q. Was he involved in any other activities?

15 A. Yes, ma'am.

16 Q. What types of other activities were he involved in?

17 A. He played soccer, and he played football. And he
18 was involved with the church youth group.

19 Q. Okay. All right. Was he heavily involved there?

20 A. In the church youth group?

21 Q. Yes, ma'am.

22 A. Yes, ma'am.

23 Q. Now, ma'am, when did you become aware that an
24 allegation had been made against the Defendant by your
25 son that he was raped?

HEARING

1 A. May of 1995.

2 Q. 1995?

3 A. I mean 2005, I'm sorry.

4 Q. May of 2005?

5 A. Yes.

6 Q. And you have to be very specific in your answers,
7 okay, so make sure you hear my question. When you
8 discovered that, what if anything did you advise your son
9 to do or what did you encourage your son to do as a
10 result of that, of learning that?

11 A. To go and file a police report.

12 Q. Now, you all originally filed the police report in
13 Georgetown County; is that correct?

14 A. Yes, ma'am.

15 Q. All right. And at some point later, you met with I
16 believe Sergeant Rogers?

17 A. Yes, ma'am.

18 Q. And you were ---

19 MR. BARR: Objection to hearsay, Your Honor.

20 THE COURT: I'll overrule your objection to the
21 extent that she met with the -- the Sergeant, but of
22 course she can't testify to what the Sergeant said.

23 MS. BARR: Absolutely, Judge. I understand that.

24 Q. You were advised to file the police report with
25 Sergeant Rogers here in Williamsburg County?

1 A. Yes, ma'am.

2 Q. Did you come to Williamsburg County to meet with
3 her?

4 A. Yes, ma'am.

5 Q. Your son came with you?

6 A. Yes, ma'am.

7 Q. Now, between the time that the -- your child was on
8 the camping trip here and the time that you learned that
9 he had indicated that the Defendant had raped him, did
10 you notice any changes at all in his behavior?

11 A. Yes.

12 Q. Okay.

13 A. Yes.

14 Q. I know it's difficult. I need you to tell me what
15 types of changes that you noticed.

16 MR. BARR: We objected to the hearsay that's about to
17 come in from a law enforcement officer. And it came in.
18 And I move to strike that.

19 THE COURT: All right, what testimony is that that
20 came in?

21 MR. BARR: The testimony concerning what she was
22 advised to do.

23 THE COURT: That was from -- that was from Georgetown
24 County?

25 MR. BARR: Yes, sir.

1 THE COURT: All right. Well, I don't think that
2 that's offered for proof of the matter asserted. I'll --
3 I'll overrule that objection, Mr. Barr. In essence, the
4 witness testified that she came to Williamsburg County to
5 meet with Sergeant Rogers. Is that right?

6 MS. BARR: That's correct, Judge.

7 THE COURT: All right. Overruled.

8 Q. Ms. Causey, I think the last question that I posed
9 to you was did you notice any types of behavioral changes
10 in your son between the time this camping trip took place
11 and the time he reported officially what had happened to
12 him?

13 A. Yes, ma'am.

14 Q. All right. And I need you to tell me the types of
15 changes that you noticed in his behavior during that
16 period of time.

17 A. He was very distant with everybody. Very distant.
18 And he turned to drugs and alcohol.

19 Q. What types of drugs was he taking?

20 A. He was -- marijuana -- marijuana, and he was taking
21 Xanax and stuff like that.

22 Q. Now, how old was he during the time you noticed that
23 he was abusing drugs and alcohol?

24 A. 14.

25 Q. Did you have any idea during that period of time he

1 was doing these things what happened to him?

2 A. No, ma'am.

3 Q. Was he ever -- did he ever receive any counseling?

4 A. No, ma'am.

5 Q. Tell me why that was.

6 A. Just didn't.

7 Q. Okay. Was there ever a point in time where he was
8 in your presence that he attempted suicide?

9 A. Yes, ma'am.

10 Q. How did he do it?

11 A. He took a lot of pills.

12 Q. What types of pills?

13 A. Xanax.

14 Q. Is he currently receiving any counseling?

15 A. No, ma'am.

16 Q. Has he received any counseling within the last two
17 years?

18 A. He's been to see someone, yes.

19 Q. Okay. Where has he gone?

20 A. In Myrtle Beach, Strand Psychiatric Associates.

21 Q. Grand Strand Psychiatric Associates?

22 A. It's Strand Psychiatric Associates.

23 Q. Oh, okay. Anybody else?

24 A. He's been to LC3 to talk with Robbie, the past there
25 now.

- 1 Q. Have you noticed a change in his behavior since he
2 went to counseling?
- 3 A. Yes, ma'am.
- 4 Q. He works full time?
- 5 A. Yes, ma'am.
- 6 Q. Is he married or he's about to get married?
- 7 A. He's about to get married.
- 8 Q. Now, do you have any grand babies?
- 9 A. Yes, ma'am. I do.
- 10 Q. And how many grand babies do you have?
- 11 A. One.
- 12 Q. Okay. Is that **victim** daughter?
- 13 A. Yes, ma'am.
- 14 Q. How old is she?
- 15 A. She just turned a year old.
- 16 Q. What was your reaction when you learned that your
17 son had indicated that the Defendant had raped him?
- 18 A. Shocked.
- 19 Q. Okay.
- 20 A. Shut down I guess.
- 21 Q. Did you ever have any reason to believe that he was
22 capable of doing something like that to your child?
- 23 A. No.
- 24 Q. I may have asked you this before, but I want to make
25 sure I've covered it. This camping trip, was that the

1 first time **victim** had been away overnight from you?

2 A. Yes.

3 Q. Did you ever confront the Defendant about what had
4 happened to your son?

5 A. No.

6 Q. You described your relationship with him as being
7 close.

8 A. Yes, ma'am.

9 Q. During this period of time when you were a member of
10 the church in which he pastored, how many times do you
11 think you'd see him in a given month?

12 A. Every day.

13 Q. Every day?

14 A. Every day.

15 Q. Why is it every day? How -- how is it that it was
16 so often?

17 A. His mother had a daycare there, and I worked for his
18 mother.

19 Q. How often would **victim** have seen you interact with the
20 Defendant?

21 A. Every day.

22 Q. Would it have been obvious to him that you trusted
23 the Defendant?

24 MR. BARR: Objection.

25 THE COURT: Sustained.

1 Q. Did he know about the closeness that you and the
2 Defendant shared?

3 A. Yes.

4 Q. Ms. Causey, I believe that's all the questions I
5 have for you at this time. If you will, please answer
6 Mr. Barr's questions.

7 THE COURT: Mr. Barr?

8 MR. BARR: Thank you, Judge.

9 CROSS EXAMINATION BY MR. BARR:

10 Q. Ms. Causey, I don't think that we've ever met
11 before, but I'm Charles David Barr. And of course you
12 know by now that I'm Mr. Taylor's lawyer. I've just got
13 a couple questions I want to ask you. I want to start
14 with State's Exhibit Number 3. But before I do that, I
15 want to make sure that, as I understand it, you were a
16 parishioner at the church at which Troy was pastor?

17 A. Excuse me?

18 Q. You were a parishioner, a member, of the church that
19 Troy pastored?

20 A. Yes.

21 Q. And at the time that you became a member,
22 approximately how many members did the church have?

23 A. Maybe 40.

24 Q. Are you still a member?

25 A. Am I still a member?

1 Q. Yes, ma'am.

2 A. Not to my knowledge.

3 Q. Well, when did you change your membership?

4 A. Usually they just kind of drop you after so many
5 years.

6 Q. So you never changed, actually changed your
7 membership from that church?

8 A. No.

9 Q. And at the time that you stopped attending the
10 church, approximately how many members did they have?

11 A. A good bit.

12 Q. Five, 600? 700?

13 A. Four or 500, a good bit.

14 Q. All right. Now -- now, if you would, take a look at
15 -- at State's Exhibit Number -- Number 3. Here it is.
16 And -- and -- and I would assume that flyer -- and I'm
17 going to call it a flyer -- was issued by the authorities
18 at the church where Troy was pastor, whoever they were;
19 is that correct?

20 A. I don't understand the question.

21 Q. Well, let me rephrase it. With respect to
22 generating that piece of paper, would you not agree that
23 as far as you know and as a member of the church, that --
24 that -- that flyer was prepared by the youth auxiliary at
25 the church?

1 A. The flyer?

2 Q. Yes, ma'am.

3 A. By the youth?

4 Q. By the youth auxiliary at the church?

5 A. By the ---

6 Q. By whoever's responsible for programming at the
7 church for youth?

8 A. Yes.

9 Q. All right. Now -- now to the best of your
10 recollection and as indicated on that flyer, who actually
11 was in charge of the youth activities?

12 A. Troy Taylor, I guess.

13 Q. Pardon?

14 A. Troy Taylor.

15 Q. Does it say Troy Taylor on there?

16 A. Well, I'm looking. That's -- well, there's a
17 children's ministry.

18 Q. Well, children's ministry at the time, you say,
19 right?

20 A. Right.

21 Q. And as far as the children's ministry, who was in
22 charge of the children's ministry?

23 A. His mother.

24 Q. Troy's mother. Ms. Linda Taylor?

25 A. Right.

1 Q. All right. So now, with respect to organizing the
2 youth trip, as far as you know, that trip was actually
3 organized by Troy's mother, Ms. Linda Taylor, who is
4 seated -- let's see, directly next to that gentleman that
5 just raised his -- her hand. As far as you know?

6 A. As far as I know what?

7 Q. The trip was organized by Ms. Linda Taylor?

8 A. As far as I know.

9 Q. Yes, ma'am. It -- it was organized by Ms. Linda
10 Taylor, wasn't it? Her name is written right on there,
11 isn't it?

12 A. It doesn't say that she organized the ---

13 Q. But who does it say ---

14 A. --- youth ---

15 Q. Who does it say in charge of the youth ministry?

16 A. It says pray for a team.

17 Q. Let's see. It says ministries -- children's
18 ministry, Linda Taylor with a telephone number. That's
19 written on there, isn't it?

20 A. Exactly.

21 Q. All right. So now, you -- you -- you testified on
22 direct examination that, of course, that -- that you
23 trusted Mr. Taylor, talked about Troy Taylor, and you --
24 you allowed your son to go on a camping trip with him.
25 Now that's really not quite correct, is it?

1 A. What is not correct?

2 Q. You didn't allow your son to go on a camping trip
3 with Mr. Troy Taylor, did you?

4 A. Yes, I did.

5 Q. Did you see Mr. Troy Taylor take your son from the
6 church? Or where did you deliver your son to Troy
7 Taylor?

8 A. I watched him drive off the church property, and I
9 watched him drive back on to the church property.

10 Q. I see. When did you watch him drive off from the
11 church property?

12 A. They left on a Friday when I was working at the day
13 care..

14 Q. Are you sure about that?

15 A. Yes.

16 Q. And that was on November -- that was on November --
17 I see on here it says, youth camp excursion. Now, is
18 that the same activity that you're saying that you gave
19 your son to Troy Taylor to take camping?

20 A. Yes.

21 Q. November 6th. And he brought him back -- what time
22 did he leave on November 6th?

23 A. It was between five and six. It was a Friday.

24 Q. Friday at five or six in the afternoon?

25 A. Right.

1 Q. And he brought him back what time now?

2 A. Five or six Saturday.

3 Q. Five or six Saturday.

4 A. Which was the 7th.

5 Q. And you -- you saw Mr. Troy Taylor bring your son
6 back and deliver him back -- did he deliver him to the
7 church or your house?

8 A. To the church.

9 Q. And that would've been on November 7th of 1998?

10 A. Yes, sir. When he delivered him back.

11 Q. Now, was your son acting unusual in any way when he
12 brought him back? You did have an opportunity to observe
13 him?

14 A. Observe him?

15 Q. Yes, ma'am. You said he brought him back and
16 delivered him to you.

17 A. Yeah, I was there.

18 Q. Well, you did receive your son ---

19 A. I didn't have any reason to observe him ---

20 Q. No, ma'am. ---

21 A. --- in any way.

22 Q. --- what I said was, was he acting in any way
23 unusual to you? You were thoroughly familiar with his
24 behavior; is that correct?

25 A. At the time?

1 Q. Yes, ma'am.

2 A. Well, that's a good -- I don't remember.

3 Q. You don't remember?

4 A. I don't remember how he was supposed to, you know,
5 be acting when he came back.

6 Q. No, ma'am. I didn't say how he was supposed to be
7 acting. I just said was he acting in any way unusual to
8 you as if say, for instance, as he had been traumatized
9 by a -- a sexual assault?

10 A. No. Not to my knowledge.

11 Q. And of course he would've been placed back,
12 according to you, in your custody? Is that correct?

13 A. Yes.

14 Q. Now -- now you said that he went on a camping trip.
15 Now, you didn't go with him, did you?

16 A. No.

17 Q. So obviously, would it be fair to say that as far as
18 where they went, you have no knowledge where they went?

19 A. I have knowledge of where they went.

20 Q. Did you go?

21 A. I did not go, no.

22 Q. And would you not agree that if you think that
23 you've got any knowledge, it would be something that
24 somebody else told you? Wouldn't you agree with that?

25 A. My son, yeah, what my son told me.

1 Q. Well, I didn't want to go there, but you've said it
2 now. So -- so -- so that's your assertion that he went
3 to Williamsburg County on a camping trip is based on what
4 your son told you?

5 A. Yes.

6 Q. I see. So then, I'll ask you again. With respect
7 to where your son may have gone, if he went, you don't
8 know where he went, do you? Of your own knowledge?

9 A. Except for what my son said? Is that what you're
10 asking?

11 Q. No, I'm asking other than what your son told you,
12 you don't know where -- where he went, if he went
13 anywhere at all, do you?

14 A. I know he went somewhere.

15 Q. But you don't know where, do you?

16 A. Well, what we were told was the other side of
17 Andrews.

18 Q. Well, what I'm talking about, the question is, do
19 you know, and the answer is you really don't know, do
20 you?

21 A. I really don't know where they went?

22 Q. Yes, ma'am.

23 A. I know where they went.

24 Q. Well, I mean you didn't go with them.

25 A. Of course I didn't go with them.

1 Q. And you said that you just answered the question
2 based on what your son told you. And I'm just curious as
3 to whether you will admit that you don't know where they
4 went. All right. I'm -- I'm ... let me ask you this.
5 Now, the State's Exhibit Number 3 says youth group
6 excursion. Youth group camping excursion; is that
7 correct?

8 A. Yes, sir.

9 Q. And as far as you know, how many people
10 approximately were in the youth group at your church? As
11 far as you know?

12 A. Six or seven.

13 Q. Six or seven?

14 A. Yes, sir.

15 Q. And were they all males?

16 A. Yes, sir.

17 Q. You -- you don't have any young females attending
18 your church that are part of the youth group?

19 A. At the time?

20 Q. Yes, ma'am.

21 A. Not to my knowledge.

22 Q. Not to your knowledge?

23 A. If there was, they weren't invited to go on an all-
24 male camping trip.

25 Q. Well, how -- where did this -- how did this become

1 an all-male trip? It was not an all-male trip, was it?

2 It was a camping trip for youth, wasn't it?

3 A. It was a camping trip for youth.

4 Q. And it wasn't all male, was it?

5 A. That's all that went.

6 Q. Well, are you telling us that on November 6th, you
7 gave your son to Mr. -- to Troy. You saw him get in the
8 vehicle -- what kind of vehicle was it now?

9 A. It was a van.

10 Q. A van? And all of the people on the van were males?

11 A. Yes.

12 Q. Ma'am?

13 A. Yes, sir.

14 Q. Now, you -- you indicated earlier that -- that when
15 your son was returned, however he got back from this
16 camping trip, he did not exhibit any kind of unusual
17 behavior?

18 A. Not that I can remember, no.

19 Q. All right. But at some point, he started using
20 drugs, he tried to kill himself -- was he smoking
21 marijuana or ---

22 A. Yes.

23 Q. And you knew about that?

24 A. Yes.

25 Q. And what -- you -- you went to him and told him stop

1 smoking the marijuana?

2 A. Yes.

3 Q. You did?

4 A. Yes, sir.

5 Q. And he didn't stop?

6 A. Not at the time.

7 Q. Well ---

8 A. Not to my knowledge. I mean, you know, kids do what
9 they do.

10 Q. Well, now, I'm sure you must have gotten really
11 concerned at that point and -- and thought that perhaps
12 it would be necessary for you to seek some kind of
13 professional help for him, did you -- smoking marijuana
14 and trying to commit suicide? You -- you -- did you --
15 did you consider getting some help for him?

16 A. Yes.

17 Q. But you did not?

18 A. No, sir.

19 Q. All right. Now, Ms. Causey, and I don't want to be
20 difficult, but I'm sure you understand the nature and
21 importance of these proceedings. When did you -- you
22 didn't notice anything unusual about your son you said
23 when he came back from this trip when he was supposedly
24 sexually assaulted. And that was in -- that would've
25 been November 6th or 7th of 1998. When did you first

1 detect some kind of sign or something that something was
2 not just quite right with your son?

3 A. Age 14.

4 Q. So between 11 and 14, you never noticed anything
5 unusual and any kind of unusual behavior even towards
6 Troy or the church from your son?

7 A. No, not at the time.

8 Q. And surely, if you had, you would've inquired about
9 it, wouldn't you?

10 A. Yes.

11 Q. Now, I've just got a few more questions. Now, when
12 you find out that your son, in addition to smoking
13 marijuana, was abusing the Xanax, were they prescription
14 drugs? They weren't prescription drugs, were they?

15 A. He got them from school.

16 Q. Got them from school. And they weren't prescription,
17 so they were illegal?

18 A. As far as I know.

19 Q. Ma'am? As far as you know?

20 A. As far as I know, yeah.

21 Q. And I'm sure that you -- you at some point, you
22 inquired of him where you getting these illegal drugs?
23 You must have asked him that, or did you?

24 A. Yes, I did.

25 Q. And of course I'm sure you insisted on an answer.

1 Did you get one?

2 A. Yes, I did.

3 Q. And based on the answer you got, did you put a stop
4 to him getting, at 14, illegal Xanax?

5 A. He didn't do illegal Xanax at 14.

6 Q. What ---

7 A. Not that I knew about. This was 17.

8 Q. 17?

9 A. Yes.

10 Q. Put a stop to it?

11 A. Yes. To the best of my knowledge.

12 Q. To the best of your knowledge?

13 A. Yes.

14 Q. I see. So then, insofar as you stopped him to the
15 best of your knowledge, would you not agree that what
16 you're really saying is you don't know whether he stopped
17 the drugs or not?

18 A. Yes.

19 Q. You do know? Or you don't know?

20 A. I do know.

21 Q. So he stopped with drugs when he was 17? And he
22 stopped because you asked him to; is that -- is that
23 correct?

24 A. Yes.

25 Q. Now, do you know whether he was still also smoking

1 marijuana at 17?

2 A. Do I know?

3 Q. Yes, ma'am.

4 A. He was smoking marijuana at 17.

5 Q. And did you tell him to stop the marijuana smoking?

6 A. Yes.

7 Q. And did he stop the marijuana smoking?

8 A. He stopped.

9 Q. Now, you don't know when he started taking the Xanax
10 and smoking the marijuana, do you? I mean, you
11 discovered at some point that he was using ---

12 A. Right.

13 Q. You don't know when he got started, do you?

14 A. No.

15 Q. But whatever made him start, you put an end to it by
16 simply telling him stop using illegal drugs; is that
17 correct?

18 A. Yes.

19 Q. Now, did he ever give you any excuse for abusing and
20 using drugs?

21 A. Just his friends did it.

22 Q. Because his friends did it. So then your son was
23 running around and mixed up with a whole bunch of young
24 people who were doing pot and doing all other kind of
25 drugs, and they all went on that excursion with Mr.

1 Taylor?

2 A. No.

3 Q. Would you not agree that they were doing it because
4 they liked it and enjoyed it?

5 MS. BARR: Objection. Calls for speculation. She
6 can't testify as to why ---

7 MR. BARR: I'll rephrase the question. I'll
8 rephrase.

9 THE COURT: Objection sustained. You can rephrase
10 it.

11 Q. Did it ever occur to you that your son was playing
12 you?

13 A. Excuse me?

14 Q. Did it ever occur to you that your son was playing
15 you?

16 A. Playing me?

17 Q. Yes, ma'am.

18 A. What do you mean by that?

19 Q. Well, you -- you knew he was doing something
20 illegal. And he was doing it for quite some time. And
21 of course at some point you say that you got him to stop.
22 And I'm sure he gave you some rationale as to why he was
23 doing it; did he not?

24 A. What teenager doesn't?

25 Q. Ma'am?

1 A. What teenager doesn't? I don't call playing me, but
2 that's your choice of words, okay.

3 Q. Well, so you feel like all the teenagers in the
4 church was using marijuana and using Xanax and trying to
5 kill themselves?

6 A. You asked me about his friends. You didn't say the
7 church.

8 Q. Well, I'm -- the young people in the church.

9 A. You're asking me?

10 Q. You -- you don't know of any other of his friends in
11 the youth group that he was smoking marijuana with, do
12 you? In the youth group?

13 A. I've never asked.

14 Q. Of course if you had known about something like
15 that, you would've brought it to the attention of the
16 pastor and put a end to it, you would have done that,
17 wouldn't you?

18 A. Oh, yes. Of course.

19 Q. So then it's apparent, would you not agree, that
20 your son had other friends outside of the friends that he
21 associated with in the church?

22 A. Yes.

23 Q. Thank you. I have nothing further at this time.

24 THE COURT: Re-direct, Ms. Barr?

25 MS. BARR: Just a few questions, Judge, if I may.

RE-DIRECT EXAMINATION BY MS. BARR:

1 Q. Ms. Causey, during this period of time when you've
2 indicated that you noticed changes in victim behavior,
3 was there any other significant event going on in your
4 family like separation, divorce, someone dying that could
5 possibly explain this behavior? I need you to speak up
6 for me.
7

8 A. No.

9 Q. All right. Have I -- and I certainly don't mean to
10 offend you by my question, but have you and your husband
11 ever physically abused victim?

12 A. No.

13 Q. You indicated that he was taking the alcohol and the
14 marijuana, what happened to him as a result of his
15 ingesting those substances? What would he -- would he
16 become hyperactive? Would he become sleepy? Moody?
17 What types of behaviors would he exhibit as a result of
18 taking those things?

19 A. Withdrawn.

20 Q. Okay.

21 A. And very moody.

22 Q. Okay. What about when he took the Xanax, what
23 impact would that have on him?

24 A. He was very withdrawn.

25 Q. Now, do you know what Xanax is?

1 A. It's a -- it helps calm you down.

2 Q. Okay. Is it an antidepressant?

3 A. Xanax?

4 Q. Yes.

5 A. Not to my knowledge.

6 Q. All right. Now, how old was **victim** when this was
7 reported to law enforcement?

8 A. When what ...

9 Q. The crime that the Defendant was charged with, how
10 old was he when he reported it?

11 A. 17.

12 Q. He was 17 years old?

13 A. Yes, ma'am.

14 Q. Did he get counseling from, I think you said Strand
15 Psychiatric Services, was that before or after it was
16 reported?

17 A. After.

18 Q. What about the -- you indicated that he also did
19 some form of counseling through the current pastor of the
20 church; is that correct?

21 A. Yes, ma'am.

22 Q. All right. And that happened after this incident
23 was reported?

24 A. Yes, ma'am.

25 Q. Since he's gone through that counseling process,

1 have you ever seen him abuse drugs or alcohol since that
2 time?

3 A. No.

4 Q. He works full time?

5 A. Yes, ma'am.

6 Q. And you indicated that he has a daughter, and he's
7 engaged to be married?

8 A. Yes, ma'am.

9 Q. Did the counseling appear to have helped him resolve
10 some of his issues?

11 A. Yes, ma'am.

12 Q. Did you know of any of his friends who he was
13 associating with at the time, have you ever known them to
14 attempt suicide?

15 A. No.

16 Q. Do you know how old Mr. Taylor was at the time this
17 was reported?

18 A. No, ma'am.

19 Q. Okay. How old is he now; do you know?

20 A. No, ma'am.

21 Q. Was he at least 30 when this happened?

22 A. Yes, ma'am.

23 Q. 30 years old?

24 A. I'm thinking.

25 THE COURT: Re-cross, Mr. Barr?

1 RE-CROSS EXAMINATION BY MR. BARR:

2 Q. . Ms. Causey, you can say that you -- that there
3 weren't any other problems going on in your family. And
4 you specifically said there was no problem with you and
5 your husband. Now, that's -- that's not quite right, is
6 it? I mean, there were -- there were substantial
7 problems, weren't there?

8 A. Substantial?

9 Q. Yes, ma'am. You were -- weren't you in counseling?

10 MS. BARR: Objection. Relevance.

11 THE COURT: I don't know the --- can you all come up
12 just a minute.

13 (Off the record bench discussion).

14 THE COURT: All right, Mr. Barr, you can continue.

15 MR. BARR: Thank you, Judge.

16 Q. You -- during that time, you and your husband were
17 contemplating divorce?

18 A. No.

19 Q. Wasn't he having an affair?

20 MS. BARR: Objection. Relevance, Judge.

21 THE COURT: I think the line of questioning is
22 appropriate to a degree. Mr. Barr, if you would
23 rephrase the question. There has to be some link to what
24 victim [REDACTED] may have known. And I think this witness can
25 accomplish that.

1 Q. During the time that you said that you started
2 noticing that somewhat unwholesome behavior, were you
3 having some marital difficulty?

4 A. Little bit.

5 Q. And does your son know about these marital
6 difficulties?

7 A. No, sir.

8 Q. And, really, you don't think he does. You don't
9 know whether he knew or not, do you?

10 A. I hope he didn't know.

11 Q. So -- so whatever it was, the difficulties, in so
12 much as you hope he didn't know, if he knew, you wanted
13 it kept from him; is that correct?

14 A. That's correct.

15 Q. So you concealed it?

16 A. Excuse me?

17 Q. You concealed it from your son? Or you thought you
18 were concealing it?

19 A. Excuse me?

20 Q. You thought you were concealing you and your
21 husband's difficulties from him?

22 A. I guess.

23 Q. I have nothing further.

24 THE COURT: All right. Ms. Barr, anything else from
25 this witness?

1 MS. BARR: No, Your Honor.

2 THE COURT: Thank you, ma'am. You can step down.

3 All right, Ms. Barr, any other witnesses for the State?

4 MS. BARR: Judge, not today. victim going to be the
5 next witness. He's going to be kind of lengthy. And I
6 think the jury would rather call him in the morning.

7 THE COURT: Is there anybody on the panel that needs
8 to leave at five or -- all right, your name, sir?

9 JUROR: John Thomas.

10 THE COURT: And where do you have to be?

11 JUROR: I have to be at work at six.

12 THE COURT: All right. We're going to concluded,
13 ladies and gentlemen, for today. The next witness I am
14 told is going to take quite a long time. I'm going to
15 ask you to leave at this time and do not discuss the case
16 among each other or among your family members, coworkers
17 where you go to work, or anyone else for that matter.
18 You will find that a lot of people will show a lot of
19 curiosity about what you're doing here today and this
20 week. It is certainly fine for you to tell folks that
21 you are on a jury, but tell those persons if they inquire
22 further that you are bound by an oath that you are not to
23 discuss this case. I expect you to abide by that oath.
24 And I know that you will. Again, do not discuss the case
25 among yourselves. Do not begin to form or express any

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1 opinions in your own mind, because you've not heard all
2 the evidence. Well, begin tomorrow morning let's go with
3 9:45 because what the lawyers and I are going to do this
4 afternoon is continue to move forward with some matters
5 that we can address, if there are any. And we'll also be
6 back before 9:45 tomorrow morning to make sure that we
7 are able to start on time without inconveniencing you
8 again. Do not discuss the case. Enjoy your evening.
9 And I'll see you tomorrow morning at 9:45.

10 (Jury retires for the day at 4:43 p.m.)

11 THE COURT: All right. Ms. Barr, Mr. Barr, what I'd
12 like to do is we'll take a break for about five minutes
13 and then we'll come back in, we'll begin the proffer of
14 Mr. victim testimony. Mr. Barr is that suitable to the
15 Defendant? I assume that will take us up to probably
16 5:30.

17 MS. BARR: You're probably right, Judge.

18 THE COURT: Mr. Barr, any objection to that?

19 MR. BARR: No, sir, Judge.

20 THE COURT: All right. Take about five minutes, and
21 I'll be right back.

22 (Off the record).

23 THE COURT: All right, Mr. Barr has raised a Motion
24 in Limine that I think would probably be a good idea to
25 address it at this point. And that is, he's moved to --

101

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moved me to not allow evidence of the facts and
instances that led to the conviction in General
ons Court in Georgetown County involving, again, I
know the facts because I've not heard the

5 testimony, ~~but what I understand is the Defendant entered~~
6 ~~a plea of guilty to criminal sexual conduct, second~~
7 ~~degree GSC with a minor, second degree in Georgetown~~
8 ~~County last year. And that plea was centered around~~
9 ~~circumstances that occurred in the year 1999; I believe~~
10 ~~some nine months after the trip that is the subject of~~
11 ~~this trial.~~ Is that correct, Ms. Barr?

12 MS. BARR: That is correct, Your Honor.

13 THE COURT: All right. And what I want to do is hear
14 testimony from the Defendant about this particular case
15 that we're here to try and the facts that were the
16 subject of the Georgetown County conviction and then hear
17 the arguments of the attorneys so I can make a
18 determination as to whether or not the evidence of the
19 Georgetown County scenario will come in in the State
20 versus Lyle or otherwise. And the attorneys and I have,
21 of course, spent a fair amount of time on this and
22 everyone knows that it's a general proposition of law
23 than evidence of a prior bad act or another bad act,
24 whether or not it's the subject of a conviction or not,
25 is not admissible simply to show the guilt of a Defendant

1 in these proceedings. However, there are some exceptions
2 for State versus Lyle and we know of those as common
3 scheme and plan. Ms. Barr, you can call victim [REDACTED] to
4 the stand and we can begin to proffer testimony.

5 MS. BARR: Your Honor, at this time, we call victim
6 victim [REDACTED].

7 (Witness is sworn to tell the truth).

8 PROFFER TESTIMONY OF victim [REDACTED] - EXAM BY MS. BARR:

9 Q. victim, let me get you to state your full name.

10 A. victim [REDACTED].

11 Q. And what's your birth date?

12 A. My birthday is July 27th, 1987.

13 Q. Okay. And you're currently 19 years old?

14 A. Yes, ma'am.

15 Q. And you know the Defendant Robert Troy Taylor; is
16 that correct?

17 A. Yes, ma'am.

18 Q. And you know -- knew him I should say in the
19 capacity of him being the pastor at the church you
20 attended with your family?

21 A. Yes, ma'am.

22 Q. How ---

23 THE COURT: Put the microphone in front of his mouth
24 so I can hear him a little bit better. Just a tad.
25 That's good. All right, sir.

1 Q. How long have you known the Defendant?

2 A. Seven, eight years.

3 Q. Now, sir, back on November the 6th of 1998, you
4 attended an overnight camping trip with the Defendant?

5 A. Yes, ma'am.

6 Q. Were there other children who attend as well?

7 A. Yes, ma'am.

8 Q. And you were 11 years old at the time?

9 A. Yes, ma'am.

10 Q. On that occasion, you indicated or alleged to the
11 police that the Defendant sexually assaulted you at that
12 time; is that right?

13 A. Yes, ma'am.

14 Q. Can you tell me specifically -- I mean, details of
15 what he did to you on that occasion?

16 A. You want me to explain how -- the entire night when
17 we left and everything or just ---

18 Q. Just talk about at night I guess when you all were
19 put to bed to go to sleep.

20 A. We went to sleep like ten o'clock. We all slept
21 under a big tarp. Troy had his own tent. And it was
22 really cold. And all the gear and supplies and
23 everything were in his tent, and we all slept up
24 underneath the big tent. He -- he was under there, and I
25 was asleep. And I was awoken by him. ~~And he put his~~

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1 ~~hand on my mouth and picked me up and carried m~~
2 ~~tent. We got to his tent, he undressed me and~~
3 ~~fondle me, touch me ---~~

4 Q. ~~Tell me where he touched you.~~

5 A. ~~He touched my penis.~~

6 Q. ~~Okay.~~

7 A. ~~And my ---~~

8 Q. ~~Your rectum?~~

9 A. ~~Yes, ma'am.~~

10 Q. ~~Okay.~~

11 A. ~~He then proceeded to have me touch him. And...~~

12 Q. ~~It's okay. Take your time.~~

13 A. ~~He proceeded to make me have sex with him.~~

14 Q. When you say he proceeded to make you have sex with
15 him, what specifically did he do to you?

16 A. ~~Have sexual intercourse with his penis in my rectum.~~

17 Q. All right. After the assault took place, what
18 happened?

19 A. ~~He told me very firmly in kind of a threatening way~~
20 ~~not to ever tell anyone and took me back to the tarp~~
21 ~~where he stayed and slept there with me right next to~~
22 ~~him.~~

23 Q. Okay. All right. Was there -- and I'm sorry, you
24 indicated you were 11 years old at the time?

25 A. Yes, ma'am.

- 1 Q. ~~And this was in November of 1998?~~
- 2 A. Yes, ma'am.
- 3 Q. Was there an incident, a sexual assault by the
- 4 victim against you at a later date?
- 5 A. Yes, ma'am.
- 6 Q. ~~Okay. When did that second incident happen?~~
- 7 A. ~~The following summer,~~
- 8 Q. Okay. Now, the -- the assault that happened
- 9 November of 1998, you all were away on a camping trip?
- 10 A. Yes, ma'am.
- 11 Q. And that camping trip was being sponsored by the
- 12 church?
- 13 A. Yes, ma'am.
- 14 Q. And were your parents there with you?
- 15 A. Not on the trip, no.
- 16 Q. Other than the Defendant, were there any other
- 17 adults there?
- 18 A. I remember one, but I don't remember the name.
- 19 Q. Okay.
- 20 THE COURT: This was '98?
- 21 MS. BARR: Yes, sir.
- 22 Q. Okay. One other adult. Was that adult awake or
- 23 asleep at the time the assault took place in '98?
- 24 A. That I don't know. I didn't see anyone else awake.
- 25 Q. Okay. All right. Now, let's talk about the

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1 ~~incident that happened in the summer of 1999. -- Y~~

2 ~~would've been 12 years old at the time?~~

3 A. Yes, ma'am.

4 Q. Okay. And where were you when the assault took
5 place?

6 A. At Troy's home in Murrells Inlet.

7 Q. Okay. All right. And were there any other persons
8 there at the time?

9 A. Yes, ma'am.

10 Q. And who else was there?

11 A. His wife, Allyson, and Charles Harrison.

12 Q. And who?

13 A. Charles Harrison.

14 Q. Okay. Who is Charles Harrison?

15 A. He's a friend of mine that was on the trip with us.

16 Q. Okay. ~~So the incident that happened in the summer~~
17 ~~of 1999, were you all on another trip together?~~

18 A. Yes, ma'am.

19 Q. Okay. And did it happen in Georgetown County or
20 Williamsburg County?

21 A. Georgetown County.

22 Q. And it happened at his house or at a park?

23 A. At his house.

24 Q. All right. And was -- I'm assuming because he was a
25 pastor, ~~was it a church-sponsored trip?~~

- 1 A. ~~Yes, ma'am.~~
- 2 Q. Okay. And **victim**, again, I apologize, but I need you
- 3 to recount the details of that second incident.
- 4 A. As it happened or ---
- 5 Q. Yes, sir.
- 6 A. --- leading up to it?
- 7 Q. As it happened.
- 8 A. ~~I was in the shower in the master bathroom. And~~
- 9 ~~Troy came in. And as I was getting out, I told him that,~~
- 10 ~~you know, been at the beach and the pool, that, you know,~~
- 11 ~~my hair still felt real weird, dry. I got back in the,~~
- 12 ~~shower, and that's when he proceeded to touch me.~~
- 13 Q. Touch you where?
- 14 A. ~~My penis and my rectum, and he made me touch him,~~
- 15 ~~And he proceeded to have intercourse.~~
- 16 Q. ~~Was it anal intercourse?~~
- 17 A. ~~Yes.~~
- 18 Q. Okay. And you indicated that you were at the park
- 19 earlier that day and your hair still felt, I guess dirty
- 20 or whatever?
- 21 A. Yes, ma'am.
- 22 Q. What park did you go to?
- 23 A. ~~Huntington Beach State Park.~~
- 24 Q. ~~And who took you there?~~
- 25 A. ~~Mr. Taylor.~~

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1 Q. ~~And this, again, was a church-sponsored event~~

2 A. ~~Yes, ma'am.~~

3 Q. Okay. Did Mr. Taylor also take you on the camping
4 trip that happened in November of '98?

5 A. Yes, ma'am.

6 THE COURT: And just for the record you all are
7 referring to Mr. Taylor, who are you referring to?

8 Q. You are talking about the Defendant when you talk
9 about Troy or Mr. Taylor; is that correct?

10 A. Yes, ma'am.

11 Q. ~~After he raped you at his home in Georgetown County~~
12 ~~back in summer of 1999, what if anything did he say to,~~
13 ~~you?~~

14 A. Same thing.

15 Q. Same thing would be what? He said don't tell
16 anybody?

17 A. ~~Don't tell anybody.~~

18 Q. Now, is that the particular instance in which he
19 plead guilty to raping you in Georgetown County?

20 A. Yes.

21 MS. BARR: Beg the Court's indulgence. I think
22 that's all the questions I have.

23 THE COURT: Mr. Barr?

24 PROFFER TESTIMONY OF victim [REDACTED] - CROSS BY MR. BARR:

25 Q. In 1998 when you claim that you went on the camping

1 trip, who invited you to go on the camping trip or were
2 you invited?

3 A. Yes, ma'am. The entire youth was invited, just the
4 males.

5 Q. Were you asked by some specific person to go?

6 A. No, sir.

7 Q. Do you know Charles Harrelson?

8 A. Yes, sir. I do.

9 Q. Do you deny that you indicated in a statement that
10 you gave the law enforcement officials that Charles
11 Harris asked you to go?

12 A. No.

13 Q. You don't deny that?

14 A. Not to the camping trip in Williamsburg County, no.
15 Charles was not there. Charles was at the Georgetown
16 County incident.

17 Q. Did Charles ask you to go?

18 A. Georgetown County?

19 Q. Yes.

20 A. He was going.

21 Q. He didn't ask you to go?

22 A. He was going. Everybody was going.

23 Q. Did he ask you to go?

24 A. Not that I remember, no.

25 Q. Take a look at ...

1 MR. BARR: Your Honor, I thought I had another copy
2 of that statement.

3 THE COURT: You're handing the witness what, Mr.
4 Barr?

5 MR. BARR: Identification Defense 1.

6 THE COURT: Okay.

7 (Defendant's Exhibit Number One for I.D. was marked)

8 Q. I'm going to show you now what's been marked for
9 identification purposes as Defense Exhibit Number 1 and
10 ask you to take a look at that.

11 A. Okay.

12 Q. And is that a statement that you gave law
13 enforcement?

14 A. Yes, sir. It is.

15 Q. And what's the date on that statement?

16 A. June 1st, 2005.

17 Q. And does that -- now, don't you say in that
18 statement that Charles asked you to go along?

19 A. Yes, sir. I did.

20 Q. Now, to make sure that I'm clear, Charles was the
21 one that asked you to go along on the trip supposedly,
22 the camping trip? Isn't that what you say in here?

23 A. Yeah.

24 Q. Isn't it fair to say that you went on the trip
25 because Charles asked you?

1 A. Specifically, no. But I did go on the trip because
2 Charles was going, yes.

3 Q. When you say he asked you and in response to him
4 asking you, you decided to go, didn't you say that?

5 A. Yes.

6 Q. Okay. Now, isn't it also true that in this same
7 statement that you gave on the 25th, you did not say one
8 word in that statement to the effect that you had sexual
9 intercourse with Mr. Taylor?

10 THE COURT: You say the 25th. I thought it was June
11 1 ---

12 MR. BARR: June 1. I'm sorry.

13 A. Yes, this was the first statement that I gave.

14 Q. Isn't it true ---

15 A. Yes, it is.

16 Q. --- that you didn't say one word about having sexual
17 intercourse with ---

18 A. Yes, sir. In that statement it is.

19 Q. That is your statement, is it?

20 A. That's is.

21 Q. And it's the truth, isn't it?

22 A. Yes, sir. In that statement. I gave two
23 statements.

24 Q. Now, you indicated that -- in 1999, in Georgetown
25 County when you claim that you were forced to have sexual

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1 intercourse with Troy, I believe you said that
2 to the beach; is that correct?

3 A. Yes, sir.

4 Q. And how far is Troy's house from the beach? How far
5 was it?

6 A. Maybe ten minutes.

7 Q. And according to you, the sexual encounter occurred
8 in the shower in his bathroom?

9 A. Yes, sir.

10 Q. Now, how did you get into the Charles's house?

11 A. Sir?

12 Q. How did you get into Charles's house?

13 A. Charles's house?

14 Q. I mean, how did you get into Troy's house?

15 A. Oh, they had -- one time we used to have showers at
16 the church. And by -- all the showers taken up and Troy
17 was going back to his house. And he asked if, since we,
18 didn't have any showers, if we wanted to go back there to,
19 take a shower. And we said yes.

20 Q. That's in 1999?

21 A. Yes, sir. It is.

22 Q. Now, how many other people went with you?

23 A. Charles.

24 Q. Just Charles?

25 A. Just Charles.

1 Q. And where was Charles -- Charles went with you in
2 1999 to Troy's house?

3 A. Uh-huh.

4 Q. Who else went with you?

5 A. Troy.

6 Q. And anybody else?

7 A. They didn't basically go with us to the house, no.
8 His wife was already home.

9 Q. So then, how many people, young people -- how many
10 people were at the beach?

11 A. About ten or 15.

12 Q. And out of the ten or 15 young people that were at
13 the beach, the only two people that went to Charles's
14 house or went to Troy's house was you and Charles?

15 A. Yes.

16 Q. Now, whose idea was it to go to Charles's house? I
17 mean, to go to Troy's house?

18 A. Troy.

19 Q. And what did Troy tell you that he was taking you to
20 his house for?

21 A. Take a shower.

22 Q. Did the thought occur to you that Troy would abuse
23 you at that time?

24 A. No, sir.

25 Q. Well, that was in 1999, right?

1 A. Yes, sir.

2 Q. And you say, in 1998, he'd already had sexual
3 intercourse with you?

4 A. Yes, sir.

5 Q. And you're aware of that, weren't you?

6 A. Yes.

7 Q. And notwithstanding that, you went back to the house
8 with him in 1999?

9 A. I was awake this time. You know, I had somebody
10 with me. His wife was home. You know, I didn't really
11 think that would happen with other people there that
12 could watch.

13 Q. So there were other people there?

14 A. Yeah, his wife and Charles.

15 Q. Now, in 1998, you said he put his hands over your
16 mouth. Now, I notice you didn't say anything about him
17 putting his hands over your mouth in '99. Did it occur
18 to you, in as much as you said there were other people at
19 the house, to say to somebody or to just yell out and say
20 Charles is having sex -- or Troy's having sex with me?

21 A. I was in the back bathroom. His wife was in the
22 kitchen, and Charles was in the other bathroom. Who am I
23 going to yell for? I mean, I was 12 years old. I was
24 less than a hundred pounds. That's kind of small, you
25 know. Ain't really too much no one there can do, so.

1 Q. When you came out of the bathroom, where was the
2 other members of Troy's family?

3 A. Allyson was in the kitchen. Charles was just coming
4 out of the bathroom.

5 Q. Out of another bathroom.

6 A. Yeah, a guest bathroom.

7 Q. Did you say anything to Allyson about what you claim
8 happened in the shower?

9 A. No, sir. I didn't.

10 Q. Is it your testimony, young man -- I notice you
11 didn't say anything about laying down, getting on your
12 knees, or anything. I'm assuming that this sexual
13 encounter occurred while you were standing up?

14 A. Just about all of it, yes, sir.

15 Q. Just about all of it. You were standing up and
16 somehow Troy managed to get his penis in your anal
17 cavity? Pardon?

18 A. I didn't say anything.

19 Q. You didn't what now?

20 A. So what are you asking me ---

21 Q. I'm asking you how did he manage to get his penis in
22 your anal cavity standing up.

23 A. Well, we sat -- yeah, I got on my knees, and he was
24 down, too. But, you know, we ---

25 Q. Oh. Got on your knees. He was down, too. Why'd

1 you get on your knees?

2 A. (No response).

3 Q. Oh, he told you to get on your knees? Now, when he
4 told you to get on your knees, what'd you think he was
5 about to do?

6 A. I had no idea.

7 Q. Well, you know he wasn't getting ready to ask you to
8 pray, was he?

9 A. No, sir.

10 Q. Did you ask him why are you asking me to get on my
11 knees?

12 A. Yeah, I just -- he said, just do it.

13 Q. So you got on your knees in the shower? Sir?

14 A. Yes, sir.

15 Q. And now you're telling us today Troy got on his
16 knees?

17 A. I wouldn't say his knees, but he sat down. Yes,
18 sir.

19 Q. He sat down?

20 A. Yes, sir.

21 Q. And where was his hands at -- when he sat down?

22 A. Bracing himself as he sat down.

23 Q. Bracing himself? Was his hands touching you at all?

24 A. After he sat down, yeah.

25 Q. How were they touching you?

1 A. Fondling me.

2 Q. Now, he was fondling you and putting his penis in
3 your anal cavity all at one time?

4 A. Not all at once, no.

5 Q. Well, tell me how he was fondling you.

6 A. Well, you asked me how he was when he sat down.

7 Q. Well, tell me how he was putting his anal -- his
8 penis in your anal cavity and fondling you at the same
9 time.

10 A. When he was fondling me, I was still on my knees.

11 Q. Fondling what?

12 A. My penis and my rectum.

13 Q. Now, you don't deny that this is the first time that
14 you ever -- or you've never, you've never given a report
15 to the police indicating that -- that Troy at any time
16 told you to get on your knees, did you?

17 A. Yeah, written there.

18 Q. Written in what?

19 A. That ---

20 Q. In your statement?

21 A. Yes, sir.

22 Q. Show it to me.

23 A. It's not going to be in this one, sir.

24 Q. Is it in the other statement?

25 A. Yeah, it should be. Yes, sir.

1 Q. Now, is that the one that you gave on November 23rd
2 of 2005?

3 A. I don't remember the date. No, sir. I don't.

4 Q. Defense Exhibit, for identification purpose, Number
5 2.

6 THE COURT: This statement dated November '05, Mr.
7 Barr, is that what you indicated?

8 MR. BARR: I think it's November 1st.

9 THE COURT: All right.

10 (Defendant's Exhibit Number 2 for I.d. was marked)

11 A. It's not in that one.

12 Q. Pardon me?

13 A. It's not in that one either.

14 Q. It's not in that one either, is it?

15 A. The incident you're talking about is not in either
16 one of these.

17 Q. November 23rd?

18 A. That one is still Williamsburg County, and we're
19 talking about Georgetown County.

20 Q. So then you do agree that you never gave any
21 statements to -- to police where you told them that
22 Charles -- that Troy told you to get on your knees?

23 A. I did. I've given statements. I've done a voice
24 recording of Georgetown County in Georgetown County. I'm
25 just -- just simply saying that you don't have the

1 Georgetown County statement. Or the Georgetown County
2 incident.

3 Q. So it's your testimony today that at some point you
4 told the police officer that Troy told you to get on your
5 knees?

6 A. Yes, sir.

7 Q. Was the water running in the shower?

8 A. Yes, sir. It was,

9 Q. And when you got out of the shower, what'd you do?

10 A. I dried off and put my clothes on.

11 Q. Thank you. I have nothing further.

12 THE COURT: Re-direct, Ms. Barr.

13 RE-DIRECT EXAMINATION BY MS. BARR:

14 Q. victim, you indicated that you gave a couple of
15 statement to Georgetown County, is that right?

16 A. Yes.

17 Q. Was there an initial thought by the agency there
18 that the incident happened in November of 1998 happened
19 in Georgetown County as opposed to Williamsburg County;
20 was there some confusion over that at some point?

21 A. Say that again, I'm sorry.

22 Q. Was there some confusion by the Georgetown County
23 Sheriff's Office or the police department over where this
24 incident happened of the camping trip, whether it
25 happened in Georgetown or Williamsburg County?

1 A. Yes, ma'am, there was.

2 Q. It was a camping site in Andrews; is that right?

3 A. Yes, ma'am.

4 Q. And Andrews falls -- part of it falls in
5 Williamsburg County, and part falls in Georgetown County?

6 A. Yes, ma'am.

7 Q. Correct? All right. So at some point in time, you
8 gave statements to Georgetown County about this incident
9 because you may have thought it happened there; is that -
10 - is that right?

11 A. Yes, ma'am.

12 Q. And you later learned that it actually occurred in
13 Williamsburg County?

14 A. Yes, ma'am.

15 Q. And in addition to handwritten statements, you gave
16 oral statements and taped statements to Georgetown County
17 Sheriff's Office?

18 A. Yes, ma'am.

19 Q. And in certain statements you were more detailed
20 than in others; would that be fair to say?

21 A. Yes, ma'am.

22 Q. Thank you.

23 RE-CROSS EXAMINATION BY MR. BARR:

24 Q. You said you later learned that it occurred in
25 Georgetown County?

1 A. No, sir. I later learned ---

2 Q. Or in Williamsburg County?

3 A. Yes, sir.

4 Q. And where in Williamsburg County did it occur?

5 THE COURT: Are you talking about the incident that's
6 being tried?

7 MR. BARR: I -- I guess that's -- that's the '78
8 incident, yes.

9 MS. WINFIELD, COURT REPORTER: '98.

10 MR. BARR: '98, yes, sir.

11 THE COURT: There's some question?

12 MR. BARR: Yes, sir.

13 A. I don't know the exact name of the road. I believe
14 it's 17, 521.

15 Q. Now, my understanding is that you indicated that you
16 went down in the woods nine miles, nine and a half miles.

17 A. No. A mile I believe is what I said. We weren't
18 that far back in there.

19 Q. You didn't say that you went down in the woods nine
20 miles ---

21 MS. BARR: Objection. That falls outside the scope
22 of re-cross.

23 THE COURT: I'll allow it. Go ahead.

24 A. No, sir. Not to the best of my knowledge. We
25 weren't that far in the woods.

1 THE COURT: Don't get to far field from what the
2 purpose of the proffer is. Mr. Barr, can you explain the
3 relevance of the nine miles versus one miles, what
4 bearing that has on the evidentiary question at hand?

5 MR. BARR: Well, Judge, well, and this is just in
6 response to the statement he said that he -- he was in
7 Williamsburg County. And my contention is he doesn't
8 know where he was. Now ---

9 THE COURT: That's a venue question, right?

10 MR. BARR: Pardon?

11 MS. BARR: Yes, sir.

12 THE COURT: I would assume you need the Sergeant to
13 clarify that? I don't know.

14 MR. BARR: Yeah.

15 THE COURT: Let's stick to the analysis of Lyle that
16 I asked the proffer to be directed toward.

17 MR. BARR: Thank you, Judge.

18 Q. I'm going to show you again your statement dated
19 June 1. And tell us if you would, please, how far you
20 said you traveled down in the woods.

21 A. No, sir. What this says is about a mile, sir. It
22 says about a mile.

23 Q. So you traveled about a mile?

24 A. About a mile, yes, sir.

25 Q. And when you stopped traveling, do you know where

1 you were?

2 A. I was right next to the Black River, sir.

3 Q. And do you know whether you were in Georgetown or
4 Williamsburg County?

5 MS. BARR: Objection.

6 A. I didn't know at the time, no, sir.

7 THE COURT: I'll overrule the objection keeping in
8 mind that we're in a proffer. Again, let's keep focused
9 on the Lyle issue, because this is not a deposition.

10 Q. So you didn't know what county you were in?

11 A. Not at the time, no, sir, I didn't.

12 MR. BARR: I have nothing further.

13 THE COURT: All right. Anything else, Ms. Barr?

14 MS. BARR: Nothing further.

15 THE COURT: All right. Does the State have anything
16 additional to proffer on the issue on whether or not the
17 Georgetown County resulted in a conviction would be
18 admissible as part of the common scheme plan or under any
19 other exception under State versus Lyle?

20 MS. BARR: Your Honor, I believe we stipulated that
21 the second incident occurred in 1999 plus the fact make
22 sure I put that on the record. If I need to introduce a
23 copy of the sentencing sheet on that to, stipulated to
24 that.

25 THE COURT: Mr. Barr, do you have any response to

1 that statement by Ms. Barr?

2 MR. BARR: Judge, I apologize ---

3 THE COURT: Is there a stipulation from the Defense
4 that the Georgetown County charge resulted in the
5 conviction by virtue of a guilty plea, at least for the
6 purposes of my analysis of the facts under Lyle?

7 MR. BARR: It did occur.

8 THE COURT: I assume that his going --- and that's
9 not going to come into evidence, is it, Ms. Barr?

10 MS. BARR: I wouldn't imagine, Judge.

11 THE COURT: All right. Anything else Ms. Barr?

12 MS. BARR: No, sir, Your Honor.

13 THE COURT: All right. I'm glad to hear from you
14 first, Mr. Barr, since it's your motion.

15 MR. BARR: Yes, sir. Judge ---

16 THE COURT: Well, let me back up. Tell me why it's
17 admissible, Ms. Barr.

18 MS. BARR: Your Honor, it's admissible under Rule 404
19 (d) South Carolina Rules of Evidence which allow the
20 admission of evidence of other crimes, wrongs, or acts
21 that establish motive, identity, the existence of a
22 common scheme or plan or intent. Judge, we would submit
23 that under the authority of Lyle case as well as State v.
24 Wavering, in addition to the Statute that the admission
25 of evidence subsequent assault falls within the exception

1 of the common scheme or plan. Judge, we would show that,
2 based on the testimony in this case, that no -- that in
3 both instances, it was the same victim; that the
4 encounter resulted as a result of pastor-church member
5 relationship; that in each particular assault, the child
6 was away from his parents on a church-sponsored event;
7 that in each particular assault it was a group type of
8 event and occurred apparently in another county from
9 where the child lived; each of these type -- each of
10 these assaults, the method and manner of assault occurred
11 the same. The child was instructed by the Defendant to
12 fondle him. The Defendant fondled the child in the same
13 areas in the exact same instances. In both those cases,
14 began fondling him in his genitalia and on his rectum.
15 That after the fondling took place, of course it
16 graduated to an actual sexual battery that included anal
17 intercourse on both occasions. In both of those
18 occasions, the Defendant instructed this child to not
19 tell anyone. That it was a secret, and he was not
20 supposed to tell anyone. Judge, also on both occasions,
21 it occurred when the child was a pre-teen and was 11 and
22 12 years old. And it happened, both instances, within a
23 year of each other. And so we would submit that there's
24 overwhelming evidence and given the fact it's not just
25 prior bad act, there's clear and convincing evidence that

1 the crime that occurred in Georgetown County resulted in
2 a conviction. And so we would submit that the Lyle Rule
3 requires that the crimes be substantially similar, which
4 they are. They require that there must be clear and
5 convincing evidence of the crimes, and I would submit
6 that there is ---

7 THE COURT: That's for a non-conviction ---

8 MS. BARR: Unindicted.

9 THE COURT: That's satisfied here.

10 MS. BARR: And, Judge, this -- and you're absolutely
11 right. And this is a situation that's certain similar to
12 the set of facts that occurred in the State versus case.
13 And in that case, the Court of Appeals allowed or
14 sustained the admission of the admission into evidence of
15 the prior crimes. And we would submit to the Court that
16 this is no different than those set of circumstances. It
17 is proper that it be brought forth to the jury for its
18 consideration.

19 THE COURT: Mr. Barr?

20 MR. BARR: We disagree with the -- with the
21 conclusion that's been reached by the prosecutor. I
22 think if we look at both these situations assuming that
23 the -- if you look at 19 -- first, not 1978 situation,
24 1999, we see that -- that in terms of the way these
25 things were initiating, which is one of the most

1 important things, they both came about through different
 2 means. That is, in the -- I think the witness admitted
 3 that, and of course in his statement indicates that he
 4 was asked to go along on this trip in 1998 by -- by Mr.
 5 Harrelson - Mr. Harrison. He even wrote it in his
 6 statement. In addition to having been asked to go along,
 7 as far as the particulars as to how the alleged assault
 8 occurred, the Defendant admitted under cross examination
 9 after he was impeached. That nowhere in his statement,
 10 that is the statement that he gave the factual
 11 allegation, did he claim that -- that Mr. Taylor had anal
 12 sexual intercourse with him. So in terms of the common
 13 scheme or plan and motive under the Lyle exception,
 14 Judge, we would submit to the Court that -- that there is
 15 -- as far as the factual similarities, the factual
 16 similarities, they're just not there. Now, looking at
 17 the issue of whether or not this ultimately led to a
 18 conviction, well, it did because he pled guilty. I think
 19 under the rules what we're required to do is look at the
 20 facts to determine whether or not this -- these
 21 situations meet the Lyle exception. And in looking at
 22 the facts, clearly, we don't have the appropriate
 23 components for a Lyle exception. And, Judge, even if --
 24 assuming for the sake of argument that the State has --
 25 has at least some -- some factual scenario that would

1 check a Lyle analysis, Your Honor, we still have Rule
2 403. And -- and 403 still applies on whether or not
3 you're talking about impeachment for other crimes or
4 whether or not you're still talking about using a Lyle
5 analysis. We would submit that the prejudice that the --
6 the prejudice from admitting these confusing statements
7 to the jury would -- would present a situation where
8 there would be substantially outweigh any probative value
9 of this information. And clearly, when we look at the
10 context that's being present for the jury to as nothing
11 else other than draw a conclusion that the Defendant
12 acted in this situation in performing how he would have
13 acted in another situation, Judge. And we would submit
14 that that is improper. This jury's not -- this jury's
15 not going to be able to separate the two things. And --
16 and for that reason, we would ask that the Court not
17 allow this evidence to come in. Not allow the evidence
18 to come in. We -- we're looking for a fair trial, Judge.
19 You know, I don't -- I don't mind defending on the facts
20 of the case the Defendant is charged with, but to have
21 them unduly this case with complicated issues that are
22 designed for no other reason other than to prejudice the
23 jury, Your Honor, we would simply ask the Court -- if for
24 no other reason alone, under 403, not allow this Lyle --
25 Lyle evidence to be used.

1 THE COURT: All right. Any response to that Ms. Barr?
2 I'll let you have the last word. Ms. Barr?

3 MS. BARR: Your Honor, the only thing that I would
4 say in response is that the arguments that counsel made
5 is the same arguments that Defense lawyers made at the
6 trial of State versus Edwards, that the evidence sought
7 to be admitted was more prejudicial than probative and
8 didn't fall under the Lyle exception. Judge, the State v
9 Edwards case is a 2007 case. It's pretty recent, so we
10 would submit that, just for the sake, allow the evidence
11 in and the Court of Appeals affirmed it in this case.
12 Your Honor, you know, it's a situation where Mr. Barr is
13 telling you that it shouldn't come in because the victim
14 didn't say in this particular statement all of the
15 particulars that he was saying on the stand. Judge, it's
16 a handwritten statement by this child. And I'm quite
17 sure he didn't tell every specific detail. I think that
18 certainly goes to the weight of the evidence. I think
19 Mr. Barr, in the trial of the case, to cross examine the
20 victim about why he did or didn't put something in his
21 statement evidence testified to.

22 THE COURT: All right. Ms. Barr.

23 MR. BARR: This statement is not a child's statement.
24 Both these statements were taken in 2005. They're not,
25 you know, the statement is not a child's statement. And

1 as far as the factual allegations, I would assume, Judge,
2 that command the factual scenario certainly ---

3 THE COURT: You talking about the Georgetown
4 incident?

5 MR. BARR: Both of them. The statements concerning
6 the or 2005 statements. But the point is, Judge, you as a
7 trial judge do have discretion. And of course in the
8 exercise of that discretion you -- we simply submit that
9 this factual situation -- and you've heard what the facts
10 are -- commands that -- that while the prosecution may
11 have suggested that -- that it is appropriate to at least
12 analyze the issue under Lyle, clearly there is just
13 simply no that they are actually connect the two
14 incidents to the extent that -- that's required under
15 Lyle. And as indicated earlier notwithstanding knowing
16 at this point what the testimony will be as it relates to
17 the two incidents, Your Honor, clearly you can see there
18 will be substantial prejudice. I think the prosecution
19 has -- they've got enough alone with what they claim has
20 taken place in 1970 -- 1998 is not enough along to
21 proceed, to prosecute that's what we've chosen to do.
22 But to allow them to go back and get 1999 incident simply
23 for no other reason other than to confuse the jury, to
24 prejudice the jury against the Defendant. Your Honor, we
25 would submit that in the court's discretion to not allow

1 this evidence to come in under any Lyle exception.

2 THE COURT: All right. Well, both of you have
3 summarized the law and both of you especially Mr. Barr
4 has accurately stated it's within my discretion. So
5 everybody telling everybody what the law is is the easy
6 part. The hard part is applying the law to the facts of
7 the particular case, which is what I'll have to do. And
8 I certainly -- well, I've got the State versus Mathis,
9 State versus Edwards, State versus Whitener, State versus
10 whoever else that involves this particular issue. Going
11 back a bit, the State versus Mathis case does state that
12 if not the subject of the conviction, the other bad act
13 must be established by clear and convincing evidence.
14 That's why I kept on asking the question. I know he pled
15 to CSC with a minor, second degree. I don't know the
16 specifics of the facts he pled to. That's what I don't
17 know. I heard Mr. victim today testify that it was anal
18 intercourse in both instances. I have no clue what the
19 facts or recitation was by the solicitor at the
20 Georgetown plea. I don't know. It seems to me that the
21 clear and convincing question has been established
22 because Mr. Taylor pled guilty to that. So the question
23 whether or not the Georgetown incident occurred is not
24 within my review, because he's admitted that it occurred.
25 Seems to me. The question then becomes, as Mr. Barr

1 correctly stated, whether or not the two scenarios were
2 similar enough under case law and under Rule 404 (b) to
3 survive an analysis of common scheme or plan. And then,
4 as Mr. Barr indicated, whether or not, even if it
5 survives that analysis, whether or not it's still whether
6 the prejudicial impact outweighs the probative value.
7 The case law clearly states that the common scheme or
8 plan exception is generally applied in cases involving
9 sexual crimes where evidence of acts prior to and
10 subsequent to the act charged in the indictment is held
11 admissible as tending to show continued illicit
12 intercourse between the same parties. And again that's
13 a quote from State versus Mathis that talks about State
14 versus Whitener. If you want that cite, it's 89 SC 2nd,
15 701. That's a 1955 case.

16 And then it -- the Court of Appeals analyzed State
17 versus Weaverling, which Ms. Barr referenced, as follows,
18 it says, we interpret State versus Weaverling to suggest
19 a common scheme or plan evidence in criminal sexual
20 conduct cases will be admitted on a generalized basis
21 only where there's a pattern of continuous illicit
22 conduct. Sex crimes may be unique in this respect
23 because they commonly involve the same victims engaged in
24 repeated incidents occurring under very similar
25 circumstances.

1 Now, whether or not incident in '98, whether or not
2 incident in '99 is sufficient to constitute a pattern, as
3 that word is contemplating by these cases that's what I'm
4 going to have to review. And I'll certainly let you know
5 what my ruling is in the morning. I agree that both
6 sides' philosophical arguments and, of course, it will be
7 up to me to apply your arguments in the facts of these
8 two cases through Rule 404, State versus Lyle, and
9 backwards in time, as Mr. Barr correctly argued, but I
10 have to analyze it all under Rule 403. All right. I'll
11 be back here probably between nine and 9:15, have my
12 ruling by then. And we'll -- if the lawyers could be
13 back at 9:30, that would be a big help. All right?
14 Anything else, Ms. Barr or Mr. Barr in light of what I've
15 said.

16 MS. BARR: Nothing else from the State, Your Honor.

17 MR. BARR: Nothing from the defense, Your Honor.

18 THE COURT: Thank you very much.

19 (Adjourn for the day).

20 **(Wednesday, July 11, 2007)**

21 THE COURT: Ms. Barr, is the State ready to proceed?

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

23 THE COURT: Is, Mr. Barr, the Defense ready?

24 MR. BARR: Yes, sir, Judge.

25 THE COURT: All right, Ms. Barr, from our discussions

1 yesterday or prior to the time we went off the record
2 yesterday, you indicated that your next witness would be
3 Mr. victim [REDACTED]?

4 MS. BARR: That's correct, Your Honor.

5 THE COURT: All right. And then we took a proffer of
6 evidence from Mr. victim [REDACTED] so that I could examine the
7 issues raised by Mr. Barr in his Motion in Limine to
8 exclude evidence concerning the factual scenario that was
9 the subject of the Georgetown County conviction.

10 MS. BARR: That's right.

11 THE COURT: All right. And I have considered the
12 testimony. And obviously, especially for the attorneys,
13 they understand that the extremely difficult challenge
14 this presents to anyone analyzing this evidence under the
15 rules that we have, specifically Rule 404, State versus
16 Lyle and all the cases that have come after it and also
17 turning back to Rule 403. And not to be -- or actually
18 to be repetitive somewhat, Rule 404(b) states that
19 evidence of other crimes -- and it doesn't say prior, it
20 says other -- other crimes, wrongs, or acts are not
21 admissible to prove the character of a person in order to
22 show action and conformity therewith. However, as we
23 discussed yesterday, it can be admissible to show motive,
24 identity, and the existence of a common scheme or plan
25 from the absence of a mistake or accident or intent.

1 Now, the Lyle case, which was a 1923 case, states
2 that the rationale behind the general rule of
3 inadmissability is grounded upon the rule that evidence
4 from other distinct crimes committed by the accused may
5 not be admitted merely to raise an inference of guilt in
6 the case involving the newer charge that has not yet been
7 tried. And the case specifically says to prove that the
8 Defendant has been guilty of another crime equally
9 heinous prompts to a ready acceptance of and belief in
10 the State's theory that the Defendant is therefore guilty
11 of the crime charged.

12 As the case law has progressed throughout the years
13 and as recognized by Lyle, of course, evidence of the
14 other bad act may be admitted to prove those things that
15 I mentioned earlier, and specifically germane to this
16 case is the common scheme or plan exception. Now, there
17 are numerous cases involving non-sexual crimes that have
18 addressed the Lyle issue. State versus Gore says a close
19 degree of similarity between the crime charged and the
20 other bad acts by itself does not satisfy Lyle. And it
21 says, indeed the mere presence of similarity only
22 enhances the potential for prejudice. State versus
23 Hough, H-O-U-G-H, says a common scheme or plan concerns
24 more than the commissions of two similar crimes. Some
25 connection between the crimes is necessary. And State

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1 versus Harper says general similarity is not
2 again, another case that was not a sexual crim
3 State versus Stokes, provides that the Lyle ex
4 requires more than the mere commission of two similar
5 crimes by the same person. There must, again, be some
6 connection between the two. And then we get to cases
7 involving sexual crimes.

8 Some may think that the Appellate Courts in our
9 state have used a more relaxed approach in involving
10 evidence of other crimes in cases involving sexual
11 crimes. I'm not going to comment on whether that is the
12 case or not, but there are some sexual crime cases that
13 are worthy of consideration. And first of all, as we
14 discussed yesterday, there's the case of State versus
15 Mathis, which is a Court of Appeals case from 2004. And
16 it provides that citations to other cases, that the
17 common scheme or plan exception is generally applied to
18 cases involving sexual crimes where evidence of acts
19 prior to and subsequent to the act charge is -- is
20 present. And it's held admissible as tending to show
21 continued illicit intercourse between the same parties.
22 And that case, of course, as we indicated yesterday,
23 cites State versus Weaverling, which in turn quotes a
24 1955 case, State versus Whitener. And in State versus
25 Mathis, the Court indicated that it interpreted State

1 versus Weaverling that a common scheme or plan evidence
2 or a common scheme or planned evidence in criminal sexual
3 conduct cases will be admitted on a generalized basis
4 only where there's a pattern of continuous illicit
5 conduct. So everybody sees that the crucial issue is
6 determination of a pattern of continuous illicit conduct.

7 Which the case further states that sex crimes may be
8 unique in this respect because they commonly involve the
9 same victim engaged in repeated incidents occurring under
10 very similar circumstances. And as the attorneys argued
11 yesterday, the Defense and the State have different takes
12 on whether or not the scenario with which we are faced
13 falls under that general description.

14 The Mathis case further stated that the reason for
15 general admissibility of such evidence under these
16 circumstances is self evident. Where there is a pattern
17 of continuous conduct shown, that pattern clearly
18 supports the inference of the existence of a common
19 scheme or plan, thus bolstering the probability that the
20 charge that occurred in a similar fashion. There's
21 another Court of Appeals case called State versus Adams
22 that conducts a Rule 404 analysis, specifically of course
23 it comes from State versus Lyle. And it repeats the same
24 general propositions that I just mentioned.

25 And that turns us back to the facts at hand. The

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1 Defendant in 1999 or in, excuse me, in 2006, had entered
2 a plea of guilty to criminal sexual conduct with a minor
3 involving Mr. victim here. That occurred, according to
4 the testimony of Mr. victim, in Georgetown County after a
5 -- let me say for the record of course, it bears out that
6 the Defendant was a pastor at Low Country Baptist Church.
7 I believe I got the church name right. And that Mr.
8 victim testified that he was part of a youth group; was
9 12 years old at the time of the Georgetown incident. And
10 the youth had gone on an outing to Huntington Beach State
11 Park. Had swam in the ocean. And when the youth group
12 returned to church, the showers at some point became
13 occupied and Mr. Taylor suggested to Mr. victim, who was
14 then again 12, that perhaps he would want to come to his
15 house and take a shower. And Mr. victim and another
16 young man named, last name of Harrison went and the
17 sexual assault that Mr. Taylor has entered a plea to
18 occurred in the shower in his home.

19 The facts complained of in this particular case
20 involved a youth group outing to a campsite in
21 Williamsburg County where at some point in the night,
22 according to the allegations in the Indictment and from
23 Mr. victim's testimony -- which is more pertinent, at
24 least at this point -- Mr. Taylor allegedly entered the
25 area where Mr. victim was sleeping, put his hand over his

mouth. And I believe the testimony was that he picked him up and took him elsewhere and sexual intercourse occurred. In both instances, it's alleged that the intercourse was anal and was accompanied prior thereto to some touching of each other or by Mr. victim of Mr. Taylor and by Mr. Taylor of Mr. victim, rubbing of the rectum and so forth. And after both instances, there was a -- an admonition by Mr. Taylor not to tell others about the incident that had occurred.

The two incidents occurred within a space of I believe nine to ten months. And both occurred when the Defendant separated the victim in some manner from the rest of the group. And they both occurred of course away from the minor's home and away from -- actually away from the church property.

Now, the difference between the two as I can see is that one involved a situation of alleged kidnaping. In other words, there was some degree of covertness in Mr. Taylor taking Mr. victim away from where he had been to another point to engage in this act. The other involved a situation of what may be considered enticing him or luring him away consensually under the guise of taking a shower at his house because the church showers were in use.

Now, everybody knows what I just said. That's --

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1 that's what the allegations are and the lawyers
2 especially know that that is what the law is. I have
3 concluded at least preliminarily under Rule 404 that the
4 evidence of the other crime, and again the case law and
5 particularly Rule 404 do not talk in terms of prior crime
6 or prior bad acts; it talks in terms of other crimes. I
7 have concluded that the two when considered together do
8 fall within the Lyle exception of a common scheme or
9 plan. And the reason I have concluded that is because I
10 believe that my -- or my interpretation of the case law
11 as applies to this particular case is that the acts
12 complained of do show what State versus Edwards
13 references, and that's the 19, or excuse me, the 2007
14 case, show the same illicit conduct with a victim such as
15 would constitute continued illicit intercourse between
16 the same parties. Then we return to Rule 403 where I
17 have to determine whether or not, even though the
18 evidence is relevant as being within a -- the exception
19 of a common scheme or plan and whether or not, as Rule
20 403 states, evidence may be excluded if it's probative
21 value is substantially outweighed by the danger of unfair
22 prejudice, confusion of the issues, or misleading the
23 jury or by considerations of undue delay, waste of time,
24 or needless presentation of cumulative evidence.

25 Now, Mr. Barr made an excellent argument yesterday

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or that very rule. And the argument was compelling.

then again, you look at the cases involving sex

cases, and particularly at least for the moment I'm

looking at State versus Mathis, the 2004 Court of Appeals

case, and it observed exactly what Mr. Barr argued. Such

evidence is inadmissible unless the close similarity of

the charged events and the previous acts enhances the

probative value of the evidence so as to overrule the

prejudicial effect. And that cites State versus

McClellan, which is another sexual crime case, I

believe.

In my view, reading State versus Mathis case and

reading Rule 403 and considering the facts of this case

as I have in quite detail, and it's not -- it's not an

easy task, and my ruling is that under Rule 403, evidence

of the other conviction, its probative value of the other

conviction is not substantially outweighed by the danger

of unfair prejudice. The -- the two analyses converge

and almost touch. And as reported in some non-sexual

crime cases, the very fact that the crimes are similar is

the very reason that you analyze the prejudicial impact

so closely. In my view, the probative value of the

evidence regarding the other bad act, and that's the

Georgetown County act, clearly outweighs the prejudicial

effect of admitting the evidence. Mr. Barr's arguments,

1 I believe, have been preserved as probably -- I practiced
2 law for 20-some odd years before going on the bench and
3 had a lot of cases with Mr. Barr. And one thing about
4 Mr. Barr is he knows the rules of evidence. In this
5 particular case, I think he's done probably the best job
6 that I have ever seen in making the argument that the --
7 that he made yesterday. Of course he would probably say
8 -- he's probably saying right now, well, it must not have
9 been good enough because I've ruled against the Defense.
10 But it's an extremely difficult situation that in my view
11 of all of the evidence, the situation with which we are
12 faced does fall within the Lyle exception of the common
13 scheme and plan. And again, I have ruled that the
14 probative value of the Georgetown conviction or the
15 Georgetown facts is not substantially outweighed by the
16 danger of unfair prejudice, confusion of the issues, or
17 misleading the jury. And with that ruling, I'm sure that
18 Mr. Barr will, at the appropriate time, will preserve it
19 on the record, object to the testimony of Mr. victim
20 about the Georgetown incident. And I would certainly not
21 prohibit the Defense from making the objections at the
22 appropriate time.

23 One other thing that may arise during the course of
24 this trial is whether or not Mr. Barr can challenge the
25 Defendant's testimony as to how the or as to what

1 occurred in the shower in Georgetown County. In my view,
2 unless Mr. Barr has some argument or authority to the
3 contrary, that particular fact situation has been
4 resolved by a criminal conviction, so I don't have to do
5 the analysis of whether or not the Georgetown scenario
6 has been established by clear and convincing evidence.
7 What's the State's position on whether or not Mr. Barr
8 can re-examine or in essence re-try the Georgetown County
9 case, Ms. Barr?

10 MS. BARR: We take the position as barred by res
11 judicata.

12 THE COURT: All right. Mr. Barr?

13 MR. BARR: Court's indulgence, Judge. Judge, I -- I
14 don't think it's -- I don't think it's res judicata. I -
15 - I think under the rule the Defendant ought to be
16 allowed to challenge the victim's recitation of -- of his
17 perception of the facts that constituted the basis for
18 the criminal conviction. But I think the real issue is
19 what happens when -- if the Defendant takes the witness
20 stand ---

21 THE COURT: Yes, sir.

22 MR. BARR: --- and says, well, it didn't happen that
23 way. Is the State then allowed to introduce the
24 conviction and say, well, you were convicted of it and
25 you pled guilty to it, therefore -- and I think that's

1 the real -- that's -- that's -- that's one of the real
2 issues here. And, again, it's one of the issues that --
3 that's troubling when you get into these situations where
4 you're having to balance this ---

5 THE COURT: I thought about that, too. That's why I
6 asked yesterday, and the question at that time was
7 probably premature. I don't know what the Defendant pled
8 to except for CSC in a general sense. That's all I know.

9 MR. BARR: Yes, sir.

10 THE COURT: I don't know if he fully allocated. I
11 don't know if the judge said tell me what you did. I
12 don't know. I -- so I will examine that at the
13 appropriate time, but at least as far as when the -- Mr.
14 victim on the witness stand ---

15 MR. BARR: Yes, sir.

16 THE COURT: --- I'll give you some latitude on
17 examining him, but I'm not going to allow -- let's put it.
18 this way. If you examine him extensively on the issue of
19 what happened in Georgetown, that may at some point, and
20 I mean, an advanced ruling, but it gives me reason to
21 wonder whether or not you would be opening the door for
22 Ms. Barr to cross examine your client if he takes the
23 stand on the issue of the Georgetown County scenario if
24 my ruling otherwise would've been that it doesn't come in
25 for impeachment purposes.

1 MR. BARR: Well, and -- and see, that's, again,
2 that's one of the -- the issues here if he should elect
3 to take the stand.

4 THE COURT: That's a dilemma. Probably, at least at
5 this point, Mr. Barr, for you.

6 MR. BARR: Well, Your Honor, then -- then I would
7 most certainly by way of -- of what we're intending --
8 intending to -- to address with the Motion in Limine, I
9 would certainly think that -- that -- and -- and -- and
10 we do have a transcript of the guilty plea proceedings.
11 And as I recall the factual scenario was actually recited
12 by the assistant solicitor. And that is to the extent
13 that they constitute a sub-basis for -- for the -- for
14 Judge Cottingham to determine the plea was appropriate.
15 But I -- I would think that -- that given the nature of
16 the Lyle exception and the limited purposes for which the
17 common scheme -- and I'm sure at the appropriate time, if
18 the case should proceed that far, you will give the jury
19 instructions concerning the limited purposes of the Lyle
20 evidence.

21 THE COURT: Yes, sir.

22 MR. BARR: But -- but I would also think that we
23 would then be in a position, at least through a cross
24 examination, to -- to contradict the victim's
25 presentation of what actually took place as the factual

1 basis as opposed to whether or not there was in fact a --
2 a guilty plea entered. And ---

3 THE COURT: Well, I'll tell you what we'll do. The
4 direct examination of the -- of Mr. **victim** can proceed.
5 And then if you think you need to examine something off
6 the record as far as your cross examination is concerned,
7 we can do that during a brief recess ---

8 MR. BARR: All right, sir.

9 THE COURT: --- outside the presence of the jury.

10 MR. BARR: Thank you, Judge.

11 THE COURT: Mr. Barr, I want to make sure that you're
12 satisfied that the record's been preserved on all of your
13 arguments. I think your argument yesterday, frankly, was
14 excellent, because it gave me a great deal of pause.
15 This is not an easy thing to do. And I believe you
16 preserved everything. But if you have anything else you
17 want to put on the record at this point, I'd be glad to
18 let you do that. I will remind you that even though the
19 Appellate cases say that if the Motion in Limine's been
20 ruled upon, which I just did ---

21 MR. BARR: Yes, sir.

22 THE COURT: --- the evidence you seek to exclude is
23 introduced immediately thereafter. And you're not
24 required under the rules to make an objection, but out of
25 an abundance of caution, I suggest that you do so to

1 preserve it.

2 MR. BARR: Judge, would you -- are you saying that in
3 each instance where ---

4 THE COURT: No, I'm talking about the common scheme
5 and plan ---

6 MR. BARR: Yes, sir.

7 THE COURT: --- clearly of the Georgetown scenario
8 through the mouth of Mr. **victim**

9 MR. BARR: All right, sir.

10 THE COURT: My suggestion is you go ahead and make
11 your objection and I'll rule on it so it will be
12 preserved.

13 MR. BARR: All right, sir.

14 THE COURT: All right? Ms. Barr, you ready for the
15 jury?

16 MS. BARR: Judge, just one more final note to make
17 sure that I am correctly, so that I can direct Mr. **victim**
18 appropriately. Your Honor has ruled that he is allowed
19 to testify regarding the Georgetown incident, but can't
20 testify about the fact that it resulted in a conviction.
21 Is that ---

22 THE COURT: No, no. I think Mr. Barr, you've agreed
23 to that, it resulted in a conviction?

24 MR. BARR: No, sir. No, no. Absolutely not.

25 THE COURT: Well, how are you going to prove that,

1 that it resulted in a conviction? I know it did because
2 you -- you -- I thought you admitted that yesterday, Mr.
3 Barr.

4 MR. BARR: Well, Judge, I -- I admitted that it
5 resulted in a conviction. But the standpoint of Lyle
6 evidence.

7 THE COURT: I think -- no. The standpoint of Lyle
8 evidence, if it's a non-convicted event, he's got to
9 prove it by clear and convincing evidence. If it's the
10 subject of a conviction, that requirement is removed
11 because it's been proven conclusively. Mr. **victim** can
12 testify that he saw Mr. Taylor stand up in court and
13 admit during the course of a plea that he committed that
14 crime, the crime of criminal sexual conduct with a minor.
15 That's -- that's my view of the rule.

16 MR. BARR: Your Honor, you -- you -- are you saying
17 that on the direct examination, the prosecution can
18 elicit testimony from Mr. **victim** establishing the
19 conviction during this direct testimony?

20 THE COURT: If he was present at the plea and saw him
21 enter the plea. Because that's an admission right there
22 by the Defendant. Otherwise, Ms. Barr can get on the
23 phone and can call the Georgetown County Clerk of Court
24 and get somebody to come up and prove the conviction.

25 MR. BARR: Your Honor, I just -- I think -- I think

1 we've done -- this is just, you know, this is our
2 position. And you've allowed us, and I thank you for
3 allowing us to completely express our position on the
4 record. But I think, again, Mr. **victim** should be, if
5 he's allowed to discuss the factual scenario under the
6 common scheme or plan ---

7 THE COURT: It should rise and fall on its own?

8 MR. BARR: Yes, sir. And not -- not use the
9 conviction ---

10 THE COURT: All right.

11 MR. BARR: --- as a basis -- as I said, I think that
12 where the problem really came -- would develop whereby
13 that might very well be an issue if the Defendant took
14 the witness stand and said, no, that did not occur.

15 THE COURT: All right. I'm with you there. Then,
16 all right, Ms. Barr, he can testify as to the events that
17 occurred, but let's stay away from the conviction. All
18 right?

19 MR. BARR: Thank you, sir.

20 **(July 11, 2007)**

21 THE COURT: All right. All right, Ms. Barr, are you
22 ready?

23 MS. BARR: The State's ready, Your Honor.

24 THE COURT: Mr. Barr, are you ready?

25 MR. BARR: Yes, sir.

1 THE COURT: All right. Bring in the jury.

2 (Jury enters the courtroom at 10:18)

3 THE COURT: First of all, let me apologize for
4 keeping you in your jury room. I wanted to let you know
5 that at least yesterday afternoon when you folks departed
6 at about, I believe 4:30, maybe shortly before, don't
7 believe for one minute that we did the same. Because we
8 stayed here a substantial amount of time afterwards
9 dealing with issues involving this case. And, again,
10 that's not -- it's not unusual to do because the
11 proceedings that we -- or the rules that we follow do
12 call for certain things to be done to streamline the
13 process. And that's what we've been doing. And even
14 this morning, I know I asked you to be here at 9:45. The
15 lawyers have been working extremely hard in continuing to
16 crystalize the case for your consideration, and that's
17 what we've been trying to accomplish in the courtroom
18 this morning. Again, at the end of the case, when you
19 retire to deliberate, you will be in that room that
20 you've been in so far this week, and we won't be in there
21 with you. And you will have all the time you need to
22 discuss the issues that have arisen in this particular
23 case. I just didn't want you to think that we were
24 twiddling our thumbs out here and had better things to do
25 than worry about keeping you in that room. We have been

1 working on this case and we will continue with the
2 testimony and the presentation of evidence this morning.

3 We probably will work for another 45 minutes and
4 then take a break. And then I will, after you come back
5 out, I will have selected the foreperson for this jury.
6 And then when the foreperson is seated, I'll let the
7 bailiff know who it is and the foreperson will have a
8 seat in the front seat to my far right.

9 Ms. Barr, is the State ready to continue with its
10 presentation of evidence?

11 MS. BARR: Your Honor, we are.

12 THE COURT: All right. You can call your next
13 witness.

14 MS. BARR: Call victim [REDACTED].

15 (victim [REDACTED] is placed under oath).

16 victim [REDACTED] - DIRECT EXAMINATION BY MS. BARR:

17 Q. victim, let me get you to state your full name for me.

18 A. victim [REDACTED].

19 Q. And where do you live now?

20 A. Surfside.

21 Q. Is that in Horry County?

22 A. Yes, ma'am.

23 Q. How long have you lived there?

24 A. 13 years or so.

25 Q. Okay.

HEARING

- 1 A. 16 years.
- 2 Q. How old are you now?
- 3 A. I'm 19 years old.
- 4 Q. And what's your birth date?
- 5 A. [REDACTED], 1987.
- 6 Q. Were you born in Horry County?
- 7 A. No, ma'am. I was born in Darlington.
- 8 Q. All right. Now, your mom is Pam Causey; is that
- 9 correct?
- 10 A. Yes, ma'am.
- 11 Q. She was seated next to you at the Prosecution's
- 12 table; is that correct?
- 13 A. Yes, ma'am.
- 14 Q. Is your father here in the courtroom as well?
- 15 A. Yes, ma'am.
- 16 Q. And what's your dad's name?
- 17 A. Wade Causey.
- 18 Q. And he's right behind your mom?
- 19 A. No, he's right behind you.
- 20 Q. Okay. Do you have any other relatives here?
- 21 A. Yes, ma'am. My littlest brother.
- 22 Q. Okay. And what's his name?
- 23 A. Bryce Causey.
- 24 Q. How old is he?
- 25 A. He'll be 13 this Friday.

1 Q. So your mom mentioned that she has three sons. And
2 it's you, Bryce, and who's the other young man?

3 A. David.

4 Q. Okay. And how old is David?

5 A. David is 17.

6 Q. And your two younger brothers live in -- home with
7 your parents?

8 A. Yes, ma'am.

9 Q. Okay. Now, you're a father? Is that right?

10 A. Say it again, I'm sorry.

11 Q. You're a father now, right?

12 A. Yes, ma'am.

13 Q. Okay. You have a daughter?

14 A. Yes, ma'am.

15 Q. What's her name?

16 A. McKenzie.

17 Q. How old is McKenzie?

18 A. She just turned one.

19 Q. And who is her mother?

20 A. Carla Casper.

21 Q. Now, are you and Carla engaged?

22 A. Yes, ma'am.

23 Q. All right. And does Carla live with you?

24 A. Yes, ma'am. She does.

25 Q. Y'all getting married next year?

1 A. Yes, ma'am, in April.

2 Q. Okay. Now, was Carla here yesterday?

3 A. Yes, ma'am.

4 Q. But she's not here today?

5 A. No, ma'am.

6 Q. She had a doctor's appointment?

7 A. Yes, ma'am.

8 Q. All right. Sir, tell me a little bit about your
9 childhood growing up.

10 A. I played a lot of sports.

11 Q. Okay.

12 A. Played a lot of baseball and football and hockey.
13 Played a little bit of soccer. Went fishing a lot.

14 Q. Did boy things?

15 A. Yes, ma'am.

16 Q. Had a pretty normal childhood growing up?

17 A. For the most part, yes, ma'am.

18 Q. Now, you always lived with your parents?

19 A. Yes, ma'am.

20 Q. Were you ever aware of any serious marital
21 difficulties between the two of them?

22 A. No, ma'am.

23 Q. You were pretty much shielded from anything like
24 that?

25 A. Yes, ma'am.

1 Q. Now, of course you -- you know the Defendant, Robert,
2 Troy Taylor?

3 A. Yes, ma'am.

4 Q. I want you to tell the ladies and gentlemen of the
5 jury how it is that you know him.

6 A. He was a preacher at our church.

7 Q. Okay. And what was the name of the church?

8 A. Low Country Community Church.

9 Q. Okay. Where was it located?

10 A. In Murrells Inlet.

11 Q. Do you know how long he was the preacher over there?

12 A. I want to say it was three years.

13 Q. Okay. Three years being the time that you were
14 there; is that right?

15 A. Yes, ma'am.

16 Q. You all have a new pastor over there?

17 A. I know there is a pastor over there, but we don't go.
18 there no more.

19 Q. Now, in -- prior to November of 1998, what type of
20 relationship did you have with the Defendant?

21 A. It was a very close relationship. Very trusting,
22 you know. He was my preacher, so.

23 Q. Did you see him often prior to that -- to November
24 of 1998?

25 A. Just about every day.

1 Q. Okay. Now what about your -- your mom or your
2 parents, I guess your mom in particular, did she have a
3 close relationship ---

4 A. Yes, ma'am.

5 Q. --- with the Defendant?

6 A. Yes, ma'am.

7 Q. And you observed that?

8 A. Yes, ma'am.

9 Q. Did the two of you confide in him about certain
10 things?

11 A. I wouldn't say in him, you know.

12 THE COURT: Could you move the microphone, Ms.
13 Williams, so it'd be more in front of Mr. **victim**? I
14 don't know if the speakers work better out there, but I'm
15 having a little difficulty. All right. Thank you.

16 Q. Now, do you all have a type of youth activities, an
17 organization within your church during this time, in
18 1998?

19 A. Yes, ma'am.

20 Q. Okay. How many members, if you recall?

21 A. In the youth?

22 Q. Yes.

23 A. At least ten.

24 Q. Were they male and female?

25 A. Yes, ma'am.

1 Q. Okay. Now, back in November of 1998, did you
2 accompany the Defendant on a camping trip that was
3 sponsored by the church?

4 A. Yes, ma'am.

5 Q. Okay. At that time, were there other members of the
6 congregation also with you?

7 A. Yes, ma'am.

8 Q. How many others?

9 A. At least six or seven.

10 Q. Were they both male and female or just male?

11 A. Just all males.

12 Q. Now, do you remember any of the folks who
13 accompanied you on that trip?

14 A. A couple of them.

15 Q. Do you maintain any contact with them now?

16 A. No, ma'am.

17 Q. And I understand that's been some nine years ago.
18 Have you seen any of them within the last year or two?

19 A. I see them from time to time, yes, ma'am.

20 Q. Just in passing?

21 A. Yes, ma'am.

22 Q. Okay. All right. Now, back in November of 1998,
23 what was your understanding as to where you were going
24 and why?

25 A. We just was told we were going on a camping trip.

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1 Q. Okay.

2 A. With the church, with youth group.

3 Q. Do you recall whether any other adult members of the
4 church accompanied you on the trip other than the
5 Defendant?

6 A. Yes, ma'am. But I don't know his name.

7 Q. Where did you leave from to get to the camping site?

8 A. Left from church.

9 Q. And how did you get from the church to the camping
10 site?

11 A. A van.

12 Q. And do you remember who was driving the van?

13 A. As far as I can remember, Mr. Taylor.

14 Q. The Defendant?

15 A. Yes, ma'am.

16 Q. All right. And all of the boys just kind of packed
17 in the van?

18 A. Yes, ma'am.

19 Q. Where'd y'all go?

20 A. Just outside of Andrews.

21 Q. Okay.

22 A. On 521.

23 Q. Okay. And do you recall any of the landmarks, or
24 does anything about where the actual campsite was stand
25 out in your mind?

1 A. The campsite was actually back in the woods right,
2 next to the Black River. You had to pass like a bunch
3 cornfields just to get back there to it.

4 Q. Okay. And you remember that?

5 A. Yes, ma'am.

6 Q. Now, there are certain parts of Andrews that fall
7 within Williamsburg ---

8 MR. BARR: Objection to leading to witness, Your
9 Honor.

10 THE COURT: Sustained.

11 Q. Are there certain parts of Andrews that fall in
12 Williamsburg and Georgetown County?

13 A. Yes, ma'am.

14 Q. All right. Now, tell us what happened when you got
15 to the -- to the campsite.

16 A. When we first got there?

17 Q. Yes, sir.

18 A. We unloaded everything. Set the tent up and had a
19 big tarp we slept under, set that up. And made a bon
20 fire, cooked food and marshmallows.

21 Q. Okay. Did you have a good time?

22 A. Yeah, for the most part.

23 Q. Okay. How long did you all stay up?

24 A. Till around ten or 11.

25 Q. Now, this was in November. What was the temperature

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1 and the weather like?

2 A. It was pretty cold. And it was raining.

3 Q. Okay. You remember that?

4 A. Yes, ma'am.

5 Q. Okay. All right. Now, you all stayed up until
6 about ten or 11. Tell me what happened once you all
7 retired to bed, and what were the sleeping arrangements
8 like?

9 A. We all slept under a big tarp. Everybody. Mr.
10 Taylor had his own tent. We just put all the stuff in
11 there.

12 Q. Okay.

13 A. We were all underneath the tarp.

14 Q. Okay. So you were asleep in the tarp with the other
15 six or seven boys who had gone on the trip?

16 A. Yes, ma'am.

17 Q. Okay. Now, during this time in November of '98, can
18 you tell me what your size was -- was like?

19 A. I was about 11 years old, less than a hundred
20 pounds.

21 Q. Okay. Now, back during this time, was the Defendant
22 pretty much similar to how he appears now in terms of his
23 physical stature?

24 A. Yes, ma'am.

25 Q. Okay. Tell me what happened after you retired to go

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sleep.

I was asleep. And I was awakened by Mr. Taylor. He grabbed me by my mouth and picked me up and took me to the other tent.

Q. Was there anybody else in the other tent when he took you there?

A. No, ma'am.

Q. Okay. Tell us what happened after he grabbed you by the mouth and took you to the other tent.

A. He took me to the tent and proceeded to take my clothes off and make me touch him.

Q. Okay. You -- I understand this is difficult. I need you to tell me specifically where did he make you touch him?

A. He made me touch his penis, rectum, proceeded to touch me in my penis and my rectum.

Q. Was he saying anything during this time?

A. Just be quiet.

Q. All right. What happened next?

A. He continued to touch me. Then he proceeded to make me have anal sex with him.

Q. When you say he made you have anal sex with him, what did he do with his body to your body?

A. He stuck his penis in my rectum.

Q. Was that painful?

1 A. Yes, ma'am.

2 Q. How did you respond to that?

3 A. I couldn't really do anything. I was pretty much
4 helpless.

5 Q. Do you recall whether or not he ejaculated?

6 A. He was ---

7 Q. I'm sorry?

8 A. He was rushed I guess. I don't really recall that,
9 no.

10 Q. What happened after he placed his penis in your
11 anus?

12 A. He proceeded to have sex with me I guess.

13 Q. Then what happened next?

14 A. He stopped. Took me back to the tarp, proceed to
15 make me sleep right next to him the rest of the night.

16 Q. So he didn't sleep in his tent?

17 A. No, ma'am.

18 Q. He slept next to you?

19 A. Yes, ma'am.

20 Q. Did he hold you while he was ---

21 A. Yes, ma'am.

22 Q. --- sleeping next to you? Did he tell you anything
23 after the rape was completed?

24 A. Yes, ma'am. He told me not to tell anyone. He was
25 pretty forceful, stern.

1 Q. Okay. How did you perceive his instructions to you
2 not to tell anyone?

3 A. I was scared. I was threatened. You know, I was
4 just really, really scared.

5 Q. Do you recall what happened, approximately what time
6 it was that you went back to the church from the return
7 trip?

8 A. It was the next day.

9 Q. Okay.

10 A. Next afternoon.

11 Q. Do you remember who came to pick you up?

12 A. My mother.

13 Q. Victim, did you tell anybody on the camping trip at
14 that time what had happened to you?

15 A. No, ma'am.

16 Q. When your mom came to pick you up, did you tell her
17 what had happened to you?

18 A. No, ma'am.

19 Q. I need you to tell us why you didn't tell anybody.

20 A. I was scared. I was ashamed. Just kept trying to
21 pretend like it never happened. Didn't want anybody to
22 find out. I was just a kid, you know.

23 Q. Okay. Now, after that incident for, say, the next
24 six months, what was your contact like with the
25 Defendant?

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1 A. I still had to go to church because my mother
2 there. I still went. I wasn't going to tell
3 happened.

4 Q. Did he treat you any differently?

5 A. He didn't really talk to me too much. And then when
6 he did, he acted like nothing happened.

7 Q. Okay. Did the rape ever happen again?

8 A. Yes, ma'am.

9 MR. BARR: Objection, Your Honor.

10 THE COURT: Objection is noted and overruled, and
11 they'll continue throughout this line of questioning Ms.
12 Barr?

13 Q. Can you tell us about the second time it happened?

14 A. Tell you again exactly what happened?

15 Q. Where did it happen the second time?

16 A. At his house.

17 Q. Tell it how it is that you were occasioned to get to
18 his house.

19 A. We had another youth trip to the beach.

20 Q. Okay. Now, when you say we had another youth trip
21 to the beach, who is -- who are you referring to when you
22 say we?

23 A. The youth group at church.

24 Q. Who were all the adults that accompanied you on the
25 beach trip?

1 A. I don't remember their names.

2 Q. Do you remember how many adults it was?

3 A. A couple. I mean, there was a couple vans.

4 Q. How old were you at the time of this second trip?

5 A. I was 12.

6 Q. 12 years old?

7 A. Yes, ma'am.

8 Q. And this would've happened I guess then in 1999
9 then, if you were 12?

10 A. Yes, ma'am.

11 Q. Do you remember whether it was warm or whether it
12 was cold at the time it happened?

13 A. It was hot.

14 Q. So it was during summer months then?

15 A. Yes, ma'am.

16 Q. 1999?

17 A. Yes, ma'am.

18 Q. Do you -- where'd you go?

19 A. To Huntington Beach State Park.

20 Q. Where is that?

21 A. It's in Murrells Inlet.

22 Q. Okay, that's in Georgetown County?

23 A. Yes, ma'am.

24 Q. And you all had gone to the state park. How many
25 kids were with you?

1 A. At least ten.

2 Q. What did y'all do at the state park?

3 A. We went to the beach.

4 Q. Okay. And what'd you all do at the beach?

5 A. Swam in the ocean.

6 Q. Okay. What happened once you swam in the ocean?

7 What happened next?

8 A. We went back to the church.

9 Q. Okay.

10 A. And we went to take showers, but all the showers
11 were taken up.

12 Q. Okay. So you all -- your church was equipped with
13 showers?

14 A. Yes, ma'am. It had a couple of them.

15 Q. And you wanted to kind of wash the sand and the
16 ocean water off of you?

17 A. Yes, ma'am.

18 Q. And they were all being used by children?

19 A. Yes, ma'am.

20 Q. Okay. What happened after you realized that all of
21 the showers were being occupied?

22 A. That's where Mr. Taylor asked us if we wanted to go
23 back to his house to take a shower.

24 Q. Okay. How far was his house from the church?

25 A. Less than a half a mile.

1 Q. All right. So he asked you the question, and you
2 said you wanted to go take a shower?

3 A. (Nods head affirmatively).

4 Q. I need you to say yes or no.

5 A. Yes, ma'am.

6 Q. Was there anybody else with you?

7 A. Yes, ma'am.

8 Q. Okay. Who -- who else was with you?

9 A. Charles Harrison.

10 Q. Now, who is Charles Harrison?

11 A. He's a friend of mine. He's just a friend.

12 Q. Gotcha. Now, how old was he at the time?

13 A. 12.

14 Q. About the same age as you?

15 A. Yes, ma'am.

16 Q. Okay. He wanted to take a shower, too?

17 A. Yes, ma'am.

18 Q. When you got to the Defendant's house, who was there
19 at the house?

20 A. His wife.

21 Q. Who is his wife?

22 A. Allyson.

23 Q. Is she here today?

24 A. Yes, ma'am.

25 Q. Where is she?

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1 A. She's right behind you.

2 Q. Behind me?

3 A. Yes, ma'am.

4 Q. All right. Now, she was there. Was there anybody
5 else there?

6 A. Besides me and Charles, no. Not that I recall.

7 Q. Okay. Do you recall where Allyson was when you came
8 into the home?

9 A. Yeah, she was in the kitchen.

10 Q. Okay. All right. Well, do you remember what she
11 was doing?

12 A. Cooking.

13 Q. Okay. So you got back. Do you recall -- when you
14 got to his house, do you recall whether it was daylight
15 or night -- nighttime?

16 A. It was still daylight.

17 Q. Okay. So you went into the bathroom to take a
18 shower?

19 A. Yes, ma'am.

20 Q. Where was the Defendant when you first went into the
21 bathroom to take a shower?

22 A. He was out in the living room.

23 Q. Okay. All right. Tell me what happened when you
24 went and you got in the shower to take your shower.

25 A. Mr. Taylor came in and took off his clothes and got

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/ shower. He proceeded to make me touch him, his
and he touched me.

Touched you where?

My penis and my rectum.

Okay. Do you recall whether the water was running
during this time?

A. Yes, ma'am.

Q. Where was Charles?

A. Charles was in the guest bathroom.

Q. Okay. And as far as you know, was Allyson still ---

A. Yes, ma'am.

Q. --- in the kitchen?

A. Yes, ma'am.

Q. Okay. All right. Please continue.

A. And he came in and he started touching me, my penis
and my rectum. And he proceeded to make me have anal sex
with him.

Q. When you say anal sex, do you mean he placed his
penis inside your rectum?

A. Yes, ma'am.

Q. Was this also -- was it painful?

A. Yes, ma'am.

Q. How did it end?

A. He stopped.

Q. Stopped?

1 A. Yes, ma'am.

2 Q. Did he tell you anything once it ended?

3 A. Not to tell anybody.

4 Q. Told you again not to tell anybody?

5 A. Yes, ma'am.

6 Q. And did you tell Charles that day what had happened
7 to you?

8 A. No, ma'am.

9 Q. Did you tell his wife, Mrs. Taylor, what had
10 happened to you?

11 A. No, ma'am.

12 Q. Now, at the time you indicated that he was married.
13 Were there any other children there other than you and
14 Charles? In other words, does he have any children?

15 A. Yes, ma'am. He does.

16 Q. Were they there?

17 A. I think one of them -- the youngest, his son was
18 there.

19 Q. How old was his son at that time?

20 A. He was young. I really don't know.

21 Q. Younger than you?

22 A. Yes.

23 Q. Explain to us as best you can why you didn't run and
24 tell Allyson what had happened to you or didn't scream
25 for help.

1 A. What was I going to do, you know? There wasn't --
2 he was the biggest person in the house. There was not
3 really like somebody -- what was Allyson going to do, you
4 know? What is Charles -- what is he going to do? He's
5 12. Charles is less than a hundred pounds.

6 Q. Now, how did you get from his house, I'm assuming
7 back to the church?

8 A. He drove us.

9 Q. Say again.

10 A. He drove us there.

11 Q. And how'd you get to his house?

12 A. He drove us.

13 Q. And I'm assuming you didn't tell your mom about what
14 happened?

15 A. No, ma'am.

16 Q. **Victim** if you can, describe your life and the four or
17 five years after the rapes.

18 A. Pretty quiet. I kind of kept to myself. Still
19 played baseball and hockey, football for a long time
20 after that. Started doing drugs.

21 Q. Okay.

22 A. And started drinking a lot.

23 Q. Tell me when it was that you first began to do
24 drugs.

25 A. I was 14.

1 Q. What type of drugs would you do?

2 A. I was just smoking weed.

3 Q. Smoking weed. That was marijuana?

4 A. Yes, ma'am.

5 Q. And where were you getting it from, friends or
6 school or?

7 A. Friends.

8 Q. What type of effect would marijuana have on you?

9 A. Made me happy.

10 Q. Made you happy?

11 A. Yeah.

12 Q. At some point did your marijuana usage graduate to
13 more serious drugs?

14 A. Yes, ma'am.

15 Q. And when?

16 A. When I was 16, going on 17.

17 Q. Okay. Now, when did you start drinking? Consuming
18 alcohol?

19 A. When I was 15.

20 Q. Around 15?

21 A. Yes, ma'am.

22 Q. What type of effect would alcohol have on you?

23 A. Made me angry. It kind of calmed me down, too, you
24 know. Just -- only thing about alcohol was that it only
25 drowned out for so long and then I'd start thinking about

1 it.

2 Q. When you say drown it out and start thinking about
3 it, what it are you talking about?

4 A. The rapes. I'd think about it and then, before it
5 was all over, I would think about.

6 Q. What kind of alcohol did you drink?

7 A. Pretty much anything.

8 Q. Anything you could your hands on?

9 A. Anything I could get my hands on, yes, ma'am.

10 Q. Okay. Now you talked about around age 16 is when
11 you graduated to more serious drugs. When we say more
12 serious drugs, tell the jury what you mean, what type of
13 more serious drugs.

14 A. I did cocaine for a little bit and then ---

15 Q. And what kind of effect would cocaine have on you?

16 A. I just forget everything.

17 Q. Is that why you were taking it?

18 A. Yes, ma'am.

19 Q. You wanted to forget?

20 A. Yes, ma'am.

21 Q. Did you take anything, any types of drugs other than
22 cocaine and marijuana?

23 A. Yes, ma'am.

24 Q. What else did you take?

25 A. I used to take a lot of pills.

1 Q. What kind of pills?

2 A. Mostly Xanaxes and Klonopin and stuff like that.

3 Q. Xanax and what else?

4 A. Klonopin.

5 Q. All right. Tell me what Xanax is.

6 A. I believe it's an antidepressant.

7 Q. Okay. What type effect would Xanax have on you?

8 A. Made me very sleepy ---

9 Q. Okay.

10 A. -- mello.

11 Q. All right. Now, were these prescription medications
12 you were getting or not --

13 A. I was getting them from school.

14 Q. Now, Klonopin, tell me what that is.

15 A. That, I honestly don't know. I just would take it.

16 Q. You were putting junk in your body?

17 A. Yes, ma'am.

18 Q. What kind of effect would it have on you?

19 A. Same thing.

20 Q. Make you mellow?

21 A. Yes.

22 Q. Now, would you do these drugs separately or in
23 combination with each other and with alcohol?

24 A. Well, when I started taking the pills, I didn't do
25 cocaine anymore. I didn't have any money.

1 Q. Okay.

2 A. I was still smoking and doing pills, wasn't really
3 drinking though.

4 Q. Now, tell me how it is that you graduated from the
5 marijuana and alcohol to the Xanax and Klonopin and
6 cocaine.

7 A. They were easier to get.

8 Q. Now, did they -- did it ever come a time when you
9 tried to hurt yourself?

10 A. Yes, ma'am.

11 Q. Tell us about that. How old were you?

12 A. I was 17.

13 Q. Okay.

14 A. I took nine Xanaxes and crushed up and passed out in
15 my room..

16 Q. You were at home when it happened?

17 A. Yes, ma'am.

18 Q. Do you remember how long you were out?

19 A. No, ma'am.

20 Q. What's the first thing you remember when you came
21 to?

22 A. My mother. Just looking at my mother.

23 Q. Up until this point in time, had you ever told
24 anybody what had happened to you?

25 A. No, ma'am.

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1 Q. Had you ever gotten any counseling?

2 A. No, ma'am.

3 Q. When was the first time you told somebody
4 happened to you? How old were you?

5 A. 17.

6 Q. Who did you tell?

7 A. A friend at school.

8 Q. What -- is that a male or a female?

9 A. That's a male.

10 Q. What made you decide to tell that person, and in
11 what context was it -- was it revealed?

12 A. Honestly, I don't -- I don't know why I told him. I
13 just felt comfortable around him. And we were talking
14 about something and he said something to me -- I just
15 told him.

16 Q. Now, when you told him, did you then go to law
17 enforcement? Or how is it that it -- it got to the level
18 of a formal complaint arisen?

19 A. Well, his -- his aunt was a -- counseling somebody
20 that she knew -- he knows that his aunt counsels people
21 that their children have been molested or raped. And he
22 asked me if he could tell her. And I said I don't care.
23 He told her, and then they took me out to dinner the next
24 night and I went home and I had -- they told me to tell
25 my parents, and I told my parents.

1 Q. And that's when you told mom and dad?

2 A. Yeah.

3 Q. Now, did -- as a result of that conversation, did
4 you then go to law enforcement with your parents?

5 A. Yes, ma'am.

6 Q. And you reported both the Georgetown County incident
7 as well as the one here in Williamsburg?

8 A. Yes.

9 Q. Did you ever receive any counseling at all for what
10 had happened to you?

11 A. Yes, ma'am.

12 Q. When did you receive the counseling and where?

13 A. I first received counseling. I want to say six
14 months after I went to the police, I was at Strand
15 Psychiatric.

16 Q. Okay. Were you seeing a psychiatrist or a
17 psychologist?

18 A. Psychiatrist.

19 Q. How long did you treat with that person?

20 A. Not very long.

21 Q. Now, **victim**, are you working?

22 A. Yes, ma'am.

23 Q. What do you do for a living?

24 A. I'm a plumber.

25 Q. Okay. How long have you been a plumber?

1 A. Almost two years.

2 Q. Are you clean now?

3 A. Oh, yes, ma'am.

4 Q. How long you been clean?

5 A. Almost three years.

6 Q. Are you required to get random drug screens with
7 your job?

8 A. Yes, ma'am.

9 Q. Passed all your drug screens?

10 A. Yes, ma'am.

11 Q. How is it that you were able to -- to get clean and
12 not mess with drugs anymore?

13 A. I almost killed myself, and I honestly never touched
14 it again.

15 Q. Was counseling helpful to you, beneficial to you?

16 A. Yes, ma'am.

17 MS. BARR: Your Honor, may counsel and I approach the
18 bench?

19 THE COURT: Yes.

20 (Off the record bench conversation).

21 THE COURT: Ladies and gentlemen of the jury, we have
22 a matter that we need to take up outside of your
23 presence, and we'll do that at this point. And when you
24 do come back in, I will -- I already have a foreperson in
25 my mind. So I will instruct the bailiff to have the

1 foreperson come out last. So if you would retire to your
2 jury room at this time. Please do not discuss the case.
3 When the bailiff knocks on the door, if you have not had
4 enough time to take a break yourself, you just let him
5 know and then we'll wait further on you. All right.
6 Thank you very much. Do not discuss the case.
7 (Jury retires to the jury room)

8 THE COURT: All right, Ms. Barr?

9 MS. BARR: Your Honor, if it please the Court, during
10 the courtroom break, the State asks permission to get
11 clarity on the Court's ruling regarding the admission or
12 non-admission, I guess as the case will be, of the
13 Defendant's admission on the Georgetown County incident.
14 I understood Your Honor told him if he would be able to
15 testify regarding the facts of that assault but not
16 testify that the assault resulted in the guilty plea
17 which in turn was only an admission by the Defendant.
18 Your Honor, we are specifically now asking the Court to
19 allow us - allow the victim to testify that Defendant
20 admitted his wrongdoing for the second incident.

21 THE COURT: The second incident being?

22 MS. BARR: In Georgetown County. Judge, we certainly
23 believe that Defense counsel's concerns and the Court's
24 concerns about the prejudices may arise from the fact
25 that a guilty plea of admission was entered. By allowing

1 him to testify that the Defendant admitted and apologized
2 to him for that, but not in the context of it being in a
3 courtroom setting. Not in the context of it being in
4 front of a judge. And not in the context that it was a
5 guilty plea or admission. We believe it is permissible
6 as a hearsay exception because it's -- it is an
7 admission. Judge, I think in any other case even if the
8 Defendant had been prosecuted for that Georgetown County
9 case, I think it would come into evidence. So we take
10 the position that it's appropriate that the victim be
11 allowed to testify the Defendant apologized to him.

12 THE COURT: Well, why don't you go ahead and ask the
13 witness the question and then -- and then I'll hear from
14 Mr. Barr. He then has the right to -- to cross examine
15 the witness outside the presence of the jury --- Mr.
16 Barr?

17 MR. BARR: Yes, sir, Judge. First of all, I would
18 object even outside the presence of the jury to the
19 prosecution eliciting any statements now from this
20 witness which might be attributable -- attributable to
21 the Defendant. We did file a Rule 5 request for
22 discovery. And in that Rule 5 request for discovery, we
23 asked for any statements that were made by this
24 Defendant. And of course, I -- this is oral as well as
25 written statements. And I have no -- this is the first

1 time that I've gotten any -- I've heard that there was a
2 statement made to this Defendant. And the Defendant --
3 or to this -- this witness. And the Defendant denies
4 having made a statement. So really, we're at loss as it
5 relates to the statement. But even -- even if that
6 statement had been made, then it clearly -- it couldn't
7 be used at this time because it would be violation of --
8 of the Rules of Criminal Procedure.

9 THE COURT: How about the Rule 5 argument, Mrs. Barr?

10 MS. BARR: Judge, and I understand Mr. Barr may not
11 have represented the Defendant at the Georgetown County
12 case, but he had a lawyer representing him there. The
13 lawyer was present in the courtroom for the plea. The
14 lawyer knows and the Defendant knows that he made the
15 admission. And he has already indicated that he has got
16 a transcript of that proceeding.

17 THE COURT: All right. Well, I need to get some
18 context here. I'm not clear on where the statement was
19 made by the Defendant.

20 MS. BARR: In the courtroom, Your Honor.

21 THE COURT: All right. Is it in the transcript?

22 MS. BARR: The Defendant -- well, Judge, of course I
23 wasn't there.

24 THE COURT: Well, do you have the transcript?

25 MS. BARR: Mr. Barr has it.

1 THE COURT: All right. Well, let's do this. Just
2 ask the witness the question.

3 MS. BARR: Okay.

4 THE COURT: And then we'll get to the heart of Mr.
5 Barr's concerns.

6 PROFFER TESTIMONY - EXAMINATION BY MS. BARR:

7 Q. victim, let me ask you some questions regarding the
8 second incident that resulted in a guilty plea in
9 Georgetown County. Were you present at the time of that
10 plea?

11 A. Yes, ma'am.

12 Q. All right. Was your family there as well?

13 A. Yes, ma'am.

14 Q. Now, was it your understanding that the Defendant
15 was entering a guilty plea to one count of criminal
16 sexual conduct with a minor in the second degree?

17 A. Yes, ma'am.

18 Q. There were some unrelated charges pending against
19 him for other victims; is that correct?

20 A. Yes, ma'am.

21 Q. And is it your understanding that he entered guilty
22 pleas to those as well?

23 A. Yes, ma'am.

24 Q. Now, were you in the courtroom the entire time that
25 the guilty plea was taking place?

1 A. Yes, ma'am.

2 Q. And according to the sentencing sheet, the date the
3 guilty plea took place was April the 20th, 2006. Does
4 that stand with your recollection?

5 A. I don't remember the exact date, but I know it was
6 in April.

7 Q. Okay. All right. And it was in the courtroom in
8 Georgetown County; is that correct?

9 A. Yes, ma'am.

10 Q. Now, do you recall that the solicitor cited some of
11 the facts regarding your case as well as the other cases?

12 A. Yes, ma'am.

13 Q. And do you recall a time in which the Defendant
14 turned and faced you or faced other members of the
15 courtroom and indicated that he was sorry for what he had
16 done?

17 A. He didn't have to turn toward us. The judge made
18 him say that he did it and he was sorry for it.

19 Q. And he was talking and was referring to your case in
20 particular as well as the other cases?

21 A. Yes, ma'am.

22 Q. So he did make the statement, he admitted he did it
23 and he was sorry?

24 A. Yes, ma'am. He did.

25 THE COURT: All right, Mr. Barr. Do you have any

1 questions of the witness on this point?

2 MR. BARR: No, sir.

3 THE COURT: How about the Rule 5 argument, Mr. Barr,
4 your objection in that vein is that you made a motion
5 under Rule 5 for production of any statements?

6 MR. BARR: Yes, sir. Well, Judge, well, I got the
7 impression, and this is from what she said a few minutes
8 ago. I thought she was talking about a statement that
9 was publicly made outside the record

10 THE COURT: Yes, sir.

11 MR. BARR: But I've got the record. And I'm -- I'll
12 be more than happy to have the record marked as a Court
13 Exhibit or as an Exhibit just for identification and let
14 His Honor inspect the record. But such a statement of --
15 attributable to this Defendant is not in this record.

16 THE COURT: All right. Can I see it?

17 MR. BARR: Yes, sir.

18 CLERK: Judge, you want me to make a copy of that?

19 THE COURT: How long is it? Let's -- let's take a
20 brief recess. And I -- I'm going to appoint Ms. Barbara
21 Jones as the foreperson of the jury. So when the jury
22 comes out, have her, of course, and the alternate come
23 out last. That'd be Ms. Jones. All right, we'll take a
24 recess. And then y'all can get me a copy of that
25 transcript?

1 MR. BARR: Yes, sir.

2 THE COURT: All right. I'm going to ask the witness,
3 Ms. Barr, to step down. He is not to discuss anything
4 remotely involving this case with anyone during the
5 break. That means with -- of course Ms. Barr knows that
6 rule, not with your mother, not with anyone in your
7 family or with anyone else in the world. All right?
8 (Off the record)

9 THE COURT: All right. I've read the transcript and
10 just from the benefit of the record, it's 45 pages long.
11 We'll mark this as Court's Exhibit Number -- will this be
12 Number -- would this be number ---

13 COURT REPORTER: 2.

14 THE COURT: --- 2. Number 1 would've been the NCIC
15 information?

16 COURT REPORTER: No, sir. Number 1 was the jury
17 information I thought.

18 THE COURT: All right. Number 1 is the jury
19 information, you're correct. Number 2 would be this
20 transcript. On page 45 was the reference to: I'm sorry.
21 I am guilty. That was -- that was made by Judge
22 Cottingham. He's stated as follows: I especially give
23 you credit for standing here in open court and telling
24 these young victims I'm sorry, I am guilty. Judge
25 Cottingham did say that, but I didn't see that in the

1 transcript from Mr. Taylor. He did indicate during the
2 plea exchange that he was sorry in the context of what he
3 had done to his family and I believe it was family
4 members who had spoken on his behalf. And I say family
5 members, there may have been some acquaintances as well.
6 He did on more than one occasion and at the --- of Judge
7 Cottingham did say I am guilty because Judge Cottingham
8 said I want to hear you say it. So, Ms. Barr, I don't
9 see anywhere in the transcript the communication to Mr.
10 **victim** was made that I am sorry. That's my reading of
11 the transcript and I'm not going to allow the testimony
12 in that regard so I will, I believe you've asked the
13 question so I will ... I'll deny your request to ask it
14 in the presence of the jury. On a related issue, I will
15 be happy to give the jury an instruction at this point
16 about the evidence of the Georgetown County event insofar
17 as, of course, I'm certainly not going to go through Lyle
18 with them but I can give them an instruction as to how
19 they can consider the evidence of the Georgetown County
20 incident and it will be as follows basically.

21 It will be that they've heard evidence that the
22 Defendant has committed a bad act other than the one for
23 which he is now on trial and that this testimony if you
24 conclude it is true can only be considered by you on the
25 question of whether a common scheme or plan existed and

1 for no other reason and they can give that evidence of
2 the other, the Georgetown County incident the weight and
3 value, if any, to which they deem it is entitled on the
4 issue of whether or not a common scheme or plan existed
5 and they must not consider the evidence of the commission
6 of another bad act as proof in and of itself as to the
7 Defendant's guilt on the charge that we are trying today.

8 Ms. Barr, do you have any comments on that?

9 Ms. Barr: In terms of the juries instructions,
10 your Honor?

11 The Court: Giving that instruction to the jury
12 at this point.

13 Ms. Barr: It think that is important.

14 The Court: All right, Mr. Barr.

15 Mr. Barr: Yes, sir, Judge.

16 The Court: All right. So, your request to
17 illicit that testimony from Mr. **victim** is denied, of
18 course, if Mr. **victim** were to maintain that that apology
19 was given on a prior occasion, that statement certainly
20 hasn't been provided to Mr. Barr. I don't think that was
21 your intention anyway, was it, Ms. Barr?

22 Ms. Barr: No. Just in context of the court
23 room setting. Judge, we had specifically requested two
24 things. One to be allowed for him to testify that he
25 admitted it and two to allow him to testify that he

1 apologized. Of course, the transcript is lengthy and
2 probably would be either 30 or 45 pages and my
3 preliminary reviewing is that in the context in which the
4 plea was made it does not appear to be an overt apology
5 specially to the victim. It does; however, appear to be
6 a condition to the fact that he committed the crime in
7 which he was accused of in regard to his victim in
8 Georgetown County and so, you know, I understand the
9 court's ruling in that the victim will not be allowed to
10 testify that there was an apology made but it seems from
11 the transcript that there was an admission.

12 The Court: The close question is going to come
13 and what I don't ... what I want to avoid quite frankly
14 Ms. Barr and I think I can exercise my discretion this
15 way. I don't want the testimony in the prosecutions case
16 in chief to seem to compel or force the Defendant to take
17 the stand when he has a right not to do so. However, if
18 the defendant does take the stand that he will be
19 instructed that he will be treated like any other witness
20 in the context of the rules of evidence and that's the
21 delimma that Mr. Barr has referenced quite elegotently
22 on two occasions and that will be the next bridge for us
23 to cross that's a bit rocky. So, I will give that
24 instruction to the jury. After that Ms. Barr, are you
25 going to have any additional questions on direct of this

1 witness?

2 Ms. Barr: No.

3 The Court: All right. Then I'm going to ask
4 Mr. victim to resume his position in the witness chair.

5 Mr. victim, you're still under oath. All right?

6 Mr. victim: Yes, sir.

7 The Court: Are you ready for the jury, Ms.
8 Barr?

9 Ms. Barr: Yes, sir.

10 The Court: Mr. Barr?

11 Mr. Barr: Yes, sir, Judge.

12 The Court: All right. Bring in the jury and
13 have the forelady come out and I'll speak to her. Thank
14 you.

15 (Jury in 11:23 a.m.)

16 The Court: All right. Thank you for your patience
17 Ladies and Gentlemen. Ms. Jones, I have selected you to
18 be the foreperson of this jury. I will tell you that the
19 job of foreperson comes with some added responsibility
20 but absolutely no additional pay. As I will tell you
21 later on during the trial, your role as foreperson does
22 not give you any greater authority then any of your
23 fellow jurors. You don't have a greater vote, you don't
24 have a monopoly on discussions during deliberations.
25 Your job will solely be to make sure that orderly

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1 deliberations are conducted and to make sure t
2 everyone who wants to speak will get the chan
3 and to make sure that everyone who wants to s
4 the chance to speak and then to make sure that the
5 decision of the jury is unanimous and then to complete
6 the verdict form accordingly. Some forepersons probably
7 think that being a foreperson gives them the opportunity
8 to run the show that is not going to be the case, that is
9 not the way that the rules work. I will talk to you
10 later during the jury charge about your role. From now
11 on until the conclusion of the trial you'll occupy that
12 seat and Ms. Dollard you'll continue to occupy that seat.
13 All right. Ms. Barr and Mr. Barr at this point I'm going
14 to give instructions to the jury.

15 You've heard evidence that the Defendant Mr.
16 Taylor has committed an act of, another bad act other
17 then the one for which he is now on trial. This
18 testimony, if you conclude it is true, can only be
19 considered by you on the question of whether a common
20 scheme or plan existed and for no other reason and for no
21 other person. Now, you can give this evidence that
22 you've heard about a prior or another bad act, you can
23 give that evidence the weight and value to which you deem
24 it is entitled. Again, on the sole issue of whether or
25 not a common scheme or plan existed. Now, you must not

1 consider the evidence of the commission of another bad
2 act as proof of the Defendant's guilt in this
3 particularly case and we'll speak to that more as part of
4 my charge, but I wanted to give you that charge at this
5 time.

6 Ms. Barr, do you have anymore questions for
7 this witness.

8 Ms. Barr: Judge, I'm sorry, I have just two.

9 The Court: All right. Thank you. You can go
10 forward.

11 Ms. Barr: Thank you, sir.

12 MR. Victim - CONTINUED EXAMINATION BY MS. BARR:

13 Q: Now, victim, when you and I last spoke in front of the
14 jury you were telling us that you had been clean for
15 about three years now.

16 A: Yes, ma'am.

17 Q: Let me ask you one particular question regarding the
18 crime that happened back in November of 1998. It
19 was reported to law enforcement. You testified on
20 direct about the directions and how you got to the
21 camp site, is that correct?

22 A: Yes, ma'am.

23 Q: Did you give those same directions to Law
24 Enforcement to help them find it?

25 A: I don't believe I understand what you're saying.

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1 Q: Did you tell law enforcement where the car
2 in terms of what it was near ...

3 Mr. Barr: Objection, Your Honor, she
4 the witness.

5 The Court: Overruled.

6 Q: Did you give directions to law enforcement about
7 where the camp site was and how you got there?

8 A: I tried to to the best of my knowledge, yes, ma'am.

9 Q: Now, **victim** have you understood all my questions?

10 A: Yes, ma'am.

11 Q: Have you answer them truthfully?

12 A: Yes, ma'am.

13 Ms. Barr: Thank you, sir. Please answer Mr.
14 Barr's questions.

15 Mr. **victim** - Cross Examination by Mr. Barr:

16 Q: The directions that Ms. Barr has indicated that you
17 gave to law enforcement, what were the directions
18 that you gave to law enforcement?

19 A: That we were about a mile in the woods and that it
20 was just outside of Andrews. At the time I didn't
21 know what the highway was. Now, I know. It's 521.

22 Q: That's all you told them?

23 A: Yes.

24 Q: And you're sure about that?

25 A: Pretty sure, yes, sir.

- 1 Q: And you've never been out in the woods and showed
2 law enforcement where you believe that site occurred
3 where you had a camp site?
- 4 A: No, sir.
- 5 Q: All right. Mr. **victim**, let me just ... I introduced
6 myself to you a little bit yesterday and I want to
7 just talk a little bit about a couple of things.
8 First of all, as I understand it you initially
9 attempted to report what you claim to have been and
10 I'll call it the Williamsburg County incident for
11 lack of a better description.
- 12 A: Okay.
- 13 Q: You attempted to make a report to Georgetown County?
- 14 A: Yes, sir.
- 15 Q: And they didn't receive your report?
- 16 A: Who's that?
- 17 Q: Georgetown County officials.
- 18 A: They did, but they couldn't follow it so they ...
- 19 Q: Now, would it be fair to say that your report of the
20 Georgetown County incident which you claim took
21 place at Mr. Taylor's house did not come until 6
22 months after?
- 23 A: Yes.
- 24 Q: Six months. So, now, if I understand this correctly
25 you reported the incident whereby you claim you were

1 sodomized by Mr. Taylor at the camp site and you
2 waited six months after that to report the incident
3 when you claim you were sodomized again at his
4 house? That is correct?

5 A: Well, I thought you were talking about six months in
6 time?

7 Q: Yes, sir.

8 A: You're talking about the time that I reported it or
9 from the time that ...

10 Q: From the time you reported the incident that you
11 claim occurred at the camp site, it was six months
12 before you actually reported the incident that
13 occurred at Mr. Taylor's house.

14 A: About that, yeah.

15 Q: So, now, after Mr. Taylor sodomized you at the camp
16 site for whatever reason you didn't say anything to
17 any law enforcement people about anything that took
18 place at Mr. Taylor's house?

19 A: No.

20 Q: All right. Now, let's talk about, I want to talk
21 first of all about the time lapse between the time
22 that you said that this incident occurred, which is
23 when you were 11 years old and the time that you
24 first divulged it to anybody was when you were
25 seventeen and you found a friend, is that correct?

1 A: Yes.

2 Q: Now, during that time, did you continue to have
3 direct involvement with Troy Taylor?

4 A: For a little bit; yes, sir.

5 Q: This would, of course, been after the alleged
6 incident in 1998?

7 A: Yes.

8 Q: At the time that you claimed the incident occurred
9 in 1998, if Mr. Taylor did what you said he did, did
10 you consider that wrong at that time?

11 A: Yes.

12 Q: But you didn't tell anybody?

13 A: No, I did not.

14 Q: Of course you give an elaborate explanation today of
15 why you didn't. All that changed when you became
16 17?

17 A: I tried to kill myself, sir.

18 Q: Well, you say you tried to kill yourself by
19 overdosing with drugs.

20 A: Yes.

21 Q: When you started taking these drugs, I believe you
22 indicated on direct examination by that you were
23 smoking marijuana?

24 A: Uh-huh (affirmative response).

25 Q: Snorting cocaine?

- 1 A: Yes, sir.
- 2 Q: Did you take any methamphetamine or Xanax or what?
- 3 A: No, sir. I did not.
- 4 Q: You tried to kill yourself?
- 5 A: Yes.
- 6 Q: After you tried to kill yourself, did you go to the
- 7 hospital?
- 8 A: No, sir. I didn't.
- 9 Q: You didn't go to the hospital?
- 10 A: No, I did not.
- 11 Q: Did anybody on the squad have to come and get you
- 12 and pump your stomach?
- 13 A: No, sir. They did not.
- 14 Q: Well, now, your effort to kill yourself really
- 15 wasn't too serious. Apparently, it didn't do you a
- 16 lot of harm, did it?
- 17 A: I wouldn't say that.
- 18 Q: Did you get high when you took them?
- 19 A: I passed out, sir.
- 20 Q: You passed out?
- 21 A: Uh-huh (affirmative response).
- 22 Q: Now, of course, as you graduated from one degree of
- 23 chemical dependency, you went on up to another?
- 24 A: Yes.
- 25 Q: Now, of course, if you were suicidal at 17, you

1 certainly had the ability to seek some kind of
2 medical assistance?

3 A: Yes.

4 Q: But you didn't do that either, did you?

5 A: No, sir.

6 Q: You didn't tell anybody about this alleged incident
7 in 1978 even though you tried to kill yourself, you
8 were strung out on' dope, you were smoking reefer,
9 did it bring you pleasure when you smoked reefer?

10 A: For a little while; yes, sir.

11 Q: You enjoyed it?

12 A: For a little bit; yes, sir.

13 Q: Mr. Taylor's house, what kind of house does he have?

14 A: He had a trailer.

15 Q: He had a mobile home?

16 A: Yes.

17 Q: It was a single wide mobile home, is that not
18 correct?

19 A: Yes, sir. I believe so.

20 Q: And you went to his house on the day that he
21 sodomized you, I believe you said his wife was
22 there?

23 A: Yeah.

24 Q: As well as one of his children?

25 A: Yes.

1 Q: Now, when you go into the house, what room do you go
2 into?

3 A: The livingroom.

4 Q: Into the livingroom.

5 A: Yes, sir. When you open the front door.

6 Q: When you go to that front door what room do you go
7 to when you come out of the living room?

8 A: Into the hallway.

9 Q: Hallway. Where are the bathrooms in the hall.

10 A: I believe the bathroom is there on the right.

11 Q: Now, isn't it true, Mr. victim, that that bathroom
12 door is not closed, is it?

13 A: Say it again.

14 Q: It's not closed, the bathroom door?

15 A: When you enter it.

16 Q: It's open all the time, isn't it?

17 A: I've only been there once, sir. I don't really know.

18 Q: Wasn't it opened when you went in there and it was
19 opened when you went out?

20 A: The door was closed.

21 Q: Who closed it?

22 A: I closed it when I got into the shower.

23 Q: Pardon me.

24 A: I closed it when I got into the shower.

25 Q: You closed it when you got in the shower. Where was

1 Mr. **victim** when you got in the shower and closed the
2 door?

3 A: Sir.

4 Q: Where was Mr. Taylor when you got into the shower
5 and closed the door?

6 A: In the livingroom, sir.

7 Q: Is your testimony that after you closed the door and
8 got into the shower you were taking a shower?

9 A: Yes, sir.

10 Q: You were washing the sand off?

11 A: Yes, sir.

12 Q: Now, when Mr. Taylor came in, did he have clothes on
13 or was he naked or was he clothed?

14 A: I didn't physically see him walk into the bathroom,
15 sir. He was naked when he got into the shower.

16 Q: So, his clothes were off but you don't know whether
17 he took them off before he got into the bathroom or
18 after he got in there?

19 A: Yes.

20 Q: About how far, would you agree that before he came
21 into the bathroom, would you not agree that he would
22 have been no more than five to six feet away from
23 his wife?

24 A: Before?

25 Q: Yes, sir.

- 1 A: I would agree to that, yes, sir.
- 2 Q: And, and where was the child?
- 3 A: I'd say on the floor.
- 4 Q: Now, when you got into the shower, you were standing
- 5 up taking a shower?
- 6 A: Yes, sir.
- 7 Q: Somehow he managed to sodomize you, left out of the
- 8 shower with no clothes on?
- 9 A: Say that again.
- 10 Q: Sodomized you, left out of the shower naked.
- 11 A: Yes.
- 12 Q: Walked right by his wife naked?
- 13 A: I didn't say he did that, sir.
- 14 Q: Well, how did he get by here?
- 15 A: Well, I don't understand what you're saying.
- 16 Q: Well, let me explain it to you. If he got into the
- 17 shower, he didn't take a shower with his clothes on,
- 18 did he?
- 19 A: No, he didn't.
- 20 Q: His wife was standing up no more than five feet
- 21 away.
- 22 A: Not at the time we were in the shower, no she
- 23 wasn't. She was in the kitchen, we were in the back.
- 24 Q: Oh, you were in the back?
- 25 A: Yes, sir. In the bathroom.

1 Q: When he came out of the shower he did have his
2 clothes on?

3 A: Yeah.

4 Q: Now, of course, he would have been in the shower,
5 did he close the door when he came into the shower?

6 A: I guess.

7 Q: Pardon?

8 A: I guess so, yes, sir.

9 Q: Well, I don't want you to tell me unless you know,
10 now.

11 A: Yeah. I don't think anybody takes a shower with the
12 door open.

13 Q: So, with his wife right there, he came into the
14 shower with his clothes off, closed the door behind
15 him, got into the shower with you and got back out
16 naked?

17 A: Yeah.

18 Q: Did he dry himself off when he got out of the
19 shower?

20 A: Yes, sir. He did.

21 Q: And you also dried off?

22 A: Yes, sir.

23 Q: Now, the physical, the sexual act that you claimed
24 occurred in the shower, were you standing up at the
25 time this happened?

1 A: At first we were then we sat down.

2 Q: So you started the sexual act standing up?

3 A: Yes.

4 Q: And he placed his penis in your anal cavity standing
5 up?

6 A: No, sir, not until we sat down.

7 Q: Now, of course, I believe that you might have been
8 asked this question before, now can you tell me
9 whether you ever told any law enforcement people
10 that Troy Taylor took you in the shower and you sat
11 down in the shower?

12 A: I've done written statements and I've done oral
13 statements with the Georgetown County Sheriff's
14 Department.

15 Q: But now in your written statement you never put that
16 in there, did you?

17 A: No, not that one. I have given two.

18 Q: And you said you give it to the Georgetown County
19 Sheriff's Department?

20 A: Yes, sir.

21 Q: That was your oral statement?

22 A: Yes, sir, it was.

23 Q: But now when you were doing the writing, writing it
24 down you never wrote it down in your statement?

25 A: No, sir. Not this.

1 Q: Well, I tell you what I'm concerned about. The
2 actual physical sexual encounter. Let's look at the
3 situation that you said occurred in --- at the camp
4 site.

5 A: Yes, sir.

6 Q: Now, I believe, if I'm not mistaken that you gave a
7 statement on the first of June of 2005 and in that
8 statement you didn't say one word about Mr. Taylor
9 placing his penis in your anal cavity, did you?

10 A: No, sir. I didn't.

11 Q: But the fact is, in that June 5th statement, which is
12 before the other statement you did not say one word
13 about Mr. Troy Taylor placing his penis in your anal
14 cavity?

15 A: Yes, sir. That's correct.

16 Q: In a tent or anywhere else, did you?

17 A: No, sir.

18 Q: In fact, if I'm not mistaken, you in the description
19 of what you claimed took place, identification,
20 Defendant's Exhibit Number 1.

21 The Court: Mr. Barr, you have Defendant's 2?

22 Mr. Barr: Yes, sir. I'm going to have to find
23 it. I've got another copy of it.

24 Q: Isn't it true in your statement in June you
25 indicated that you went on this youth trip camping

1 towards Andrews and it was sometimes between
2 February and April?

3 A: Yes. Because that was the time I thought it
4 happened.

5 Q: That's the time you thought it happened. How did
6 you manage to change what you thought happened?
7 Somebody told you something different?

8 A: No, sir. We found the church bulletin that had the
9 exact date on it.

10 Q: So, then the information that you gave in this
11 statement as far as when you claim this thing took
12 place, what you actually did is you went and matched
13 it with the church bulletin to make sure that
14 everything would come up right, didn't you?

15 A: Well, no, sir. I didn't.

16 Q: Well, what did you do? You said at first it
17 occurred between February and April.

18 Ms. Barr: Your Honor, first of all, we'd ask
19 that the witness be allowed to complete his answer and
20 that Mr. Barr not cut him off.

21 Mr. Barr: Your Honor, I'd be more than happy to
22 do that. I'm sorry if I've ...

23 The Court: All right. I'll sustain the
24 objection to the extent that you don't want that to
25 happen, that's just what happened.

1 Mr. Barr: Yes, sir.

2 The Court: If both Mr. Barr and the witness
3 will allow each other to finish then a space of dead air
4 takes place and the other one can resume. Continue Mr.
5 Barr.

6 Q: So, in other words, in your written statement to the
7 police detailing what you claimed happened you told
8 them that it occurred between February 8 and then
9 you subsequently went and got the Church bullentin
10 and let me find the Church bullentin. That's
11 defense Exhibit Number 3.

12 The Court: State's Exhibit.

13 Mr. Barr: State's Exhibit Number 3. I'm sorry.

14 Q: It's already in evidence, take a look at it if you
15 would, please.

16 Ms. Barr: Your Honor, I apologize for objecting
17 at this point but I think that counsel is referring to
18 two separate incidents. The document that is the State's
19 Exhibit refers to the incident that happened in
20 Williamsburg County and he's examining the witness about
21 the incident that happened in Georgetown County. They
22 are a year apart.

23 The Court: Well, I'll let you figure that out
24 on cross. I don't know because I haven't seen the
25 statements. I haven't seen the bullentin. But Mr. Barr

1 can continue with his questions and I know that he has
2 now in front of the witness State's Exhibit Number Three.

3 Mr. Barr: Judge, this is not in reference to
4 anything that he testified to that happened in Georgetown
5 County. This is what this gentleman is on trial for.

6 The Court: Well, my point is and my ruling on
7 the objection is that the objection is overruled to the
8 extent that Ms. Barr can clarify whatever she thinks
9 needs to be clarified on redirect. So, I'll overrule the
10 objection.

11 Q: Now, this bullentin or flyer says *Items of Interest.*
12 *Youth Group Camping Excursion.* It says November 6
13 and 7. And it also says *Children's Ministry, Ms.*
14 *Linda Taylor.* Now, Are you claiming that this was
15 the Youth Group Excursion that you went on when you
16 were sodomized by Mr. Troy Taylor?

17 A: Yes.

18 Q: And do you not agree that the date of this excursion
19 on this piece of paper says November 6 and November
20 7 and you went back and you now claim that it
21 occurred on November 6 or 7 but your statement was
22 that it occurred in February?

23 A: Yes, sir.

24 Q: Well, you know, would you agree that with respect to
25 your memory, apparently you couldn't even remember

1 if this occurred when it occurred other than to go
2 look at some piece of paper that described when the
3 excursion took place. Would you agree with that?

4 A: No. I don't remember the exact date, you know, I
5 knew it was cold outside, you know, just the place I
6 thought it was at, so.

7 Q: Well, well, let's look at this thing. You said that
8 you were on your way, you remember going home on the
9 way to Andrews and, of course, you do admit now or
10 do you not that as far as your going on this trip
11 that you were asked to go by Mr. Harrelson?

12 A: Yes.

13 Q: Pardon me?

14 A: Yes, sir.

15 Q: And, of course, Troy Taylor, nor his mother ever
16 asked you to go along, did they?

17 A: He asked us, Charles said he wasn't going ...

18 Q: You said in your statement you went because Mr.
19 Harrelson asked you. That was one of the other
20 youths, one of your buds.

21 A: That's what it says.

22 Q: All right, sir. And, of course, I would assume that
23 insomuch as you claim you went because Mr. Harrelson
24 asked you, if Mr. Harrelson hadn't asked you, you
25 wouldn't have gone?

1 A: Probably not.

2 Q: So inasmuch as you probably would not have gone, you
3 would have kind of been out on a camping trip and
4 this sodomizing you claimed took place couldn't have
5 taken place other than the fact that you went at the
6 request of Mr. Harrelson?

7 A: I don't understand what you're saying.

8 Q: Pardon me?

9 A: I said I don't understand what you're saying.

10 Q: Well, let's look at what I'm saying. I'm saying
11 that you indicated that at some point during the
12 night after you were out on this camping trip, Troy
13 Taylor came to your place where ever you were in the
14 sleeping bag and got you out of there. Put his
15 hands over your mouth and told you to be quiet.
16 Now, at that time, do you have any present
17 recollection now what you were thinking, did it
18 occur to you, what is this man up to?

19 A: Yeah.

20 Q: That occurred to you?

21 A: That was my recollection the entire time. Every
22 since it happened.

23 Q: And, of course, inasmuch as you were wondering what
24 was he up to you had a whole bunch of other boys
25 around there, did you not?

1 A: I did.

2 Q: You had fellows all over the place.

3 A: I did.

4 Q: And you were wondering, well, what in the world is
5 he up to. And, of course, you said he put his hands
6 over your mouth and told you to be quiet, you had
7 fellows all over the place, at the same time you
8 said he picked you up and carried you. So, he must
9 have taken his hands from over your mouth.

10 A: No. Sir, I was not very big. I was 11 years old
11 and under 100 pounds. You can put somebodies hand
12 over somebody's mouth and grab them around the legs
13 and pick them up.

14 Q: All right. Tell us how he carried you.

15 A: Just like that.

16 Q: Put one hand around your mouth.

17 A: One like this (illustrating) and put one like that
18 (illustrating).

19 Q: And the entire time that you say that he ... well,
20 you admitted that you, at one point you didn't say
21 anything about any anal sex and you said that you
22 all were just fondling each other. Now, during the
23 time that you all were doing the fondling, where was
24 his hands then?

25 A: On me.

1 Q: On you?

2 A: Yes.

3 Q: You would agree, certainly then, that his hands were
4 removed from your mouth?

5 A: Sir. Yes, sir, they were.

6 Q: If, if you had just Troy's got me, everybody in the
7 camp would have jumped up, wouldn't they?

8 A: Yes, I suppose.

9 Q: Well, now you didn't want what you thought was about
10 to happen, I'm certain you didn't want that to
11 happen and you knew if you just said that, everybody
12 would be --- but you didn't do that, did you?

13 A: No, sir. I didn't.

14 Q: And the reason that you didn't do it is because it
15 didn't take place?

16 A: No. That's not what I said.

17 Q: Well, you said that Mr. Taylor took you and put you
18 in his bunk and kept you there all night.

19 A: I didn't say all night, sir.

20 Q: Well, how long did he keep you?

21 A: Until he was finished. I didn't have a watch on.

22 Q: Until he finished?

23 A: Yeah.

24 Q: Well, I thought you said he brought you and put you
25 close to him ...

1 A: Under the tarp where everyone else was, sir.

2 Q: And, and he laid down and slept beside you until
3 morning?

4 A: Until the morning.

5 Q: And you wake up in front of everybody that morning,
6 in your bunk?

7 A: Not my bunk. There on the floor in a sleeping bag.

8 Q: Well, he woke up sleeping in your bag?

9 A: No, sir. I said I slept next to him.

10 Q: Well, I thought you said he had his own tent.

11 A: He did, but he didn't sleep in it. All our gear was
12 in there.

13 Q: So, he woke up in front of everybody, all those boys
14 there, he woke up with his tent over there and he
15 woke up in your tent or in your bunk?

16 A: Yes, sir.

17 Q: And all the other boys saw him waking up in your
18 bunk?

19 A: Yes, sir.

20 Q: That must have caused some kind of stir up.

21 Ms. Barr: Objection. Move to strike.

22 Q: Well, did the other boys ...

23 The Court: Sustain the objection.

24 Q: Were the other boys concerned about finding him in
25 your bunk that morning?

1 A: No, sir.

2 Q: They didn't say a word?

3 A: No, sir.

4 Q: Now, all of these other boys that were there and saw
5 him wake up in your bunk, I know that at some point,
6 after you told all the investigators supposedly
7 about this, they got the --- the police was
8 concerned about some witnesses, weren't they?

9 A: Yes, sir.

10 Q: I mean, my goodness, you done told somebody that the
11 preacher at the church sodomized you, certainly I
12 know that they were very concerned about that,
13 weren't they?

14 A: Yes, sir.

15 Q: And they wanted to find out how in the world did he
16 do this and could they find anybody to substantiate
17 it give up the names of the witnesses. I know they
18 asked for it, didn't they?

19 A: Yes, sir.

20 Q: And I know you gave them the names, didn't you?

21 A: Yes, sir.

22 Q: So, now, if you gave them the names and they were
23 investigating, of course, you wouldn't know whether
24 or not they went and talk with anyone of those
25 people that saw him wake up in your bunk, do you?

1 A: No, I don't know if they did, no, sir.

2 Q: But now you do know that you're in court today and
3 you know that there ain't one other soul going to
4 come to this court room and say what you just
5 testified to that jury that that happened that
6 night?

7 A: I'm very aware of that.

8 Q: You're aware of that?

9 A: Yes, sir.

10 Q: How many boys did you say, about 10 of them were
11 there?

12 A: I'd say between 6 and 7, yes, sir.

13 Q: And they all woke up and saw him in your bunk and
14 there ain't none of them going to come to court and
15 say, well, yeah, Mr. **victim** is telling the truth?

16 A: No, sir, they're not.

17 Q: They were your friends?

18 A: They were. I don't have anything to do with them
19 anymore.

20 Q: Now, you - I believe in your June 1st statement you
21 said that this place where you went out in the woods
22 there were corn fields with two houses, is that
23 correct?

24 A: Yes, sir.

25 Q: On either side of the street. On either side of the

1 street on Black River?

2 A: Yes, sir.

3 Q: Describe the streets that were on Black River where
4 you all had this camp site.

5 A: Off the main road to the right. Went down the
6 driveway. It was a gravel driveway. Houses on
7 either side of the driveway, you go pass the houses
8 and there is corn fields, go pass the corn fields
9 and you go on that's when the opening into the woods
10 is, trails, old hunting trail. You go back in there
11 and drove through there about a mile and back there,
12 back there on Black River is where we set up camp.

13 Q: So, then the street that you referred to, you really
14 didn't mean street as in the generic streets, like
15 streets out here in the road, you're talking about
16 just a trail? Is that it?

17 A: I wouldn't say a trail, some kind of woods.

18 Mr. Barr: Court's indulgence, Judge.

19 The Court: Okay.

20 Q: Mr. **victim**, I've just got a few more questions and I
21 tell you what it relates to. The anal sex. Now, you
22 were, in 1998, you were 11 years old?

23 A: Yeah.

24 Q: And, you don't know how old Mr. Troy Taylor is, do
25 you?

1 A: I know he's in his thirties, I believe, sir.

2 Q: A grown man. And I know that in terms of any kind
3 of sexual activity whether it was at the beach, at
4 his house or whether it was in the woods, in order
5 for him to penetrate your anal cavity, his penis
6 would have to be rather stiff, wouldn't it?

7 A: Yes, sir.

8 Q: And are you telling the ladies and gentlemen that on
9 the occasion in '98 that it was stiff?

10 A: Yes, sir.

11 Q: And stiff in --- in --- at the beach?

12 A: Yes, sir.

13 Q: And you're an 11 year old boy?

14 A: Yes, sir.

15 Q: Did you notice whether or not Mr. Taylor, did he
16 have any kind of lubrication or anything?

17 A: Not that I remember, sir.

18 Q: Not that you remember. Not that you remember. Now,
19 you, you told Miss --- you told the prosecutor that
20 when he penetrated you in your anal cavity you felt
21 pain?

22 A: Yes, sir.

23 Q: Now, of course, you would agree that you probably
24 never had anything to penetrate your anal cavity
25 before, did you?

1 A: No, sir.

2 Q: And somehow in 1998, when you were in the woods, Mr.
3 Taylor, are you claiming that he just kind of got on
4 top of you and just somehow he found your anal
5 cavity and just popped his penis right in your anal
6 cavity?

7 A: Unfortunately, yeah.

8 Q: Flopped right in the first time?

9 A: I wouldn't say flopped right in there.

10 Q: Were you laying down or were you standing up in the
11 tent?

12 A: Laying down.

13 Q: Were you laying on your stomach, on your back? Of
14 course, if you were on your back, it would have been
15 difficult for him to hold your mouth. How were you?

16 A: I was laying down.

17 Q: How were you laying down?

18 A: Kind of on my side, on my stomach.

19 Q: Kind of on your side and on your stomach?

20 A: Yes, sir.

21 Q: And you were stretched out?

22 A: I wouldn't say stretched out.

23 Q: How were you?

24 A: I was just laying there.

25 Q: Just laying there. I mean, you weren't in a fetal

1 position or anything like that, you were, did you
2 have your legs stretched out, did you have your
3 knees buckled?

4 A: No.

5 Q: And some how he was able to take his penis and enter
6 your anal cavity?

7 A: Yes, sir.

8 Q: And, of course, you didn't feel like you needed to
9 go to a doctor or anything after that?

10 A: What was I going to tell my parents I needed to go
11 to the doctor for?

12 Q: Well, tell them that the preacher had sodomized you.
13 I mean, it would seem to me. You said he didn't
14 have any kind of lubrication and somehow he managed
15 to get his penis inside of you.

16 A: Is that a question?

17 Q: Yes, sir. You didn't have a need to go to a doctor?

18 A: I probably should have, but I didn't.

19 Q: Probably should have done it?

20 A: Yeah.

21 Q: Probably if that would have happened, you probably
22 should of and would have told your mother or told
23 your father because that would seem to me that that
24 would be kind of hard to keep from telling somebody.
25 I know you didn't like it when that happened, did

1 you?

2 A: No, sir, I didn't.

3 Q: And you didn't like it in 1999, when he, according
4 to you invited you to go back to his house to go
5 with just you and Mr. Harrelson?

6 A: Yes, sir.

7 Q: So, notwithstanding the fact that you didn't like it
8 in 1998 when you claim he did these things to you
9 that were so terrible that you knew it was wrong
10 that you went right back to his house again in 1999
11 and went in the shower?

12 A: Yes, sir.

13 Q: The same man?

14 A: Yes, sir.

15 Q: Now, did the thought occur to you, this man has
16 sexually abused me and if he gets another chance, he
17 might do it again? Did that thought occur to you.
18 You were another year old then, weren't you?

19 A: Yes.

20 Q: Did that thought occur to you?

21 A: No, sir. It didn't. Not specifically, no.

22 Q: You didn't even think about that?

23 A: No.

24 Q: But, of course, you still remember, according to you
25 that he had sexually molested you?

1 A: Yes, sir.

2 Q: And you were very much aware of it at the time?

3 A: Yes, sir.

4 Q: And yet the thought never occurred to you that he
5 might do it again?

6 A: No, sir.

7 Q: You felt comfortable with him, you just got in his
8 car with him and rode back to his house, got in the
9 shower and selected to take your clothes off.

10 A: Yeah.

11 Q: Now, of course, when you saw him come in the shower
12 naked, you must of then said, look he might do it
13 again. I know it must have occurred to you then.
14 When he came in there getting in the shower naked
15 again with you it must have dawn on you that he
16 might do it again?

17 A: Yeah.

18 Q: And I know you said now is the time to get him. I
19 think I'll call his wife who is five or ten feet
20 away over there and we'll catch him.

21 A: It didn't occur to me to call her, no, sir.

22 Q: But you didn't do that?

23 A: No, sir.

24 Q: And Mr. [REDACTED] you didn't do it because you had
25 nothing to fear because what you said about Mr.

1 Taylor never happened.

2 A: No, sir. That's not what I said.

3 Q: Well, then you will agree that under those kind of
4 circumstances where a man has taken his penis, a
5 grown man, and had sex with you obviously with
6 force, it had to be forced, you said he had no kind
7 of lubrication and you'd never had any kind of anal
8 sex before.

9 A: No, sir.

10 Q: A virgin. That would be an experience that you
11 wouldn't have wanted to happen again, would it?

12 A: No.

13 Q: Now, you would agree that a man put in your position
14 and not to say anything when you see him coming in
15 there you would have certainly thought that he had
16 something on his mind, didn't you?

17 A: Are you saying do I now?

18 Q: Well, then. When you say he came in there naked you
19 say. You thought he had something - you didn't
20 think he had something on his, knowing what you
21 claim happened before?

22 A: No, sir. I trusted this man, sir. You have to
23 understand that.

24 Q: You trusted him but you claimed that he had already
25 sodomized you?

1 A: Yes, sir.

2 Q: So, now, are you telling the ladies and gentlemen of
3 this jury that even though a year earlier he had
4 sodomized you, you still trusted him?

5 A: Yes, sir.

6 Q: It would be kind of unusual, wouldn't it?

7 A: Yes.

8 Q: Almost unbelievable.

9 A: I wouldn't say that.

10 Q: You wouldn't say that?

11 A: (No response).

12 Mr. Barr: Thank you, sir. Court's indulgence.

13 The Court: All right.

14 Mr. Barr: Mr. **victim**, thank you, sir.

15 The Court: Ms. Barr, does the State have any
16 redirect?

17 Ms. Barr: We do, Your Honor.

18 The Court: All right.

19 **victim** - REDIRECT BY MS. BARR:

20 Q: **victim**, Mr. Barr asked you if a man put in your
21 position would have any idea that he would do that
22 to you a second time. You weren't a man back then
23 you were a what?

24 A: I was 11, 12.

25 Q: You were a child?

1 A: Yes, ma'am.

2 Q: Now, when you went into his home with his wife
3 there, why didn't you believe that it might happen
4 again when you first went in there. What made you
5 feel comfortable that he wouldn't do that to you
6 again?

7 A: Because people could see.

8 Q: It was day night?

9 A: (Nods head affirmatively).

10 Q: I need you to answer verbally.

11 A: Yes, ma'am.

12 Q: And witnesses were there?

13 A: Yes, ma'am.

14 Q: You never thought he would do it to you that way?

15 A: No, ma'am.

16 Q: Now, when you gave your statements regarding these
17 two rapes, the first time you reported it was to
18 whom?

19 A: To Georgetown County.

20 Q: And the Defendant has marked an exhibit regarding
21 that statement and that was made - do you have a
22 copy of that with you?

23 A: No.

24 Q: Let me give you a copy of what I have. That
25 statement was made when?

1 The Court: Can I see a copy?

2 A: Statement given June 1st 2005.

3 Q: And that statement specifically talks about the rape
4 that happened at the camp site here in Williamsburg
5 County, right?

6 A: Yes, ma'am. It does.

7 Q: All right. Now, you talked about how Georgetown
8 County first got the report and they didn't act on
9 it until they tried to do what?

10 A: They wanted to find out where it actually took
11 place. If it was in Georgetown County or
12 Williamsburg County.

13 Q: All right. That was what they were trying to figure
14 out for a period of time.

15 A: Yes, ma'am.

16 Q: And I'm assuming, based on your statements to Laura
17 Rogers in November of that year that they determined
18 that it happened in Williamsburg ...

19 Mr. Barr: Objection, Your Honor. She's leading
20 the witness.

21 Ms. Barr: Let me rephrase.

22 The Court: All right. It is redirect but that
23 does not permit you to lead so I'll sustain his
24 objection.

25 Ms. Barr: I understand.

HEARING

1 Q: If you gave a statement to Georgetown Cou
2 of 2005, why was it that you gave a anothe
3 statement to Williamsburg County six month

4 A: They asked me directly what happened. They actually
5 ask me questions about stuff.

6 Q: Okay. But why was it you started off with Georgetown
7 and ended up here in Williamsburg County, why was
8 that?

9 A: Because they found where the campsite was.

10 Q: It was here?

11 A: They found it was in Williamsburg County.

12 Q: So, it wasn't as if, if I understand it, was there
13 ever a concern that you waited for a long period of
14 time or what was the particular reason why you were
15 waiting for it to come here?

16 A: Because we didn't know the exact location.

17 Q: I understand. You indicated that they were not
18 asking you questions during your first statement to
19 Georgetown County. Is that right?

20 A: Yes, ma'am.

21 Q: Did they ask you to just write something?

22 A: Yes, ma'am.

23 Q: At some point, did it become more detailed?

24 A: Yes, ma'am.

25 Q: You talked about verbal statements?

1 A: Yes, ma'am.

2 Q: Were the law enforcement officials there asking you
3 specific questions?

4 A: Yes, ma'am.

5 Q: And that's when it got more detailed?

6 A: Yes, ma'am.

7 Q: And in those questions you did report that it was
8 actual anal intercourse?

9 A: Yes, ma'am.

10 Q: And you talk about this first incident that happened
11 at the campsite here when the Defendant came and got
12 you out of the tent, what were the other boys doing?

13 A: Sleeping.

14 Q: When he got you out of the tent and took you to his
15 tent, is that when the actual rape occurred?

16 A: Yes, ma'am.

17 Q: Were there any witnesses to the actual rape itself,
18 other than you and other than the Defendant?

19 A: Not that I know of. No, ma'am.

20 Q: As far as you know none of the other boys came to
21 the other tent where you were?

22 A: No.

23 Q: When he got finished with you, where did he take
24 you?

25 A: Back to the tent with everyone else.

1 Q: Were the boys asleep or awake when he took you back?

2 A: They were asleep.

3 Q: So unless they woke up, saw you and then went back
4 to sleep, they wouldn't have witnessed anything?

5 A: That's correct.

6 Q: And you're not in contact with any of these boys
7 now?

8 A: No, I'm not.

9 Ms. Barr: That's all I have, Your Honor.

10 The Court: Mr. Barr?

11 Victim [REDACTED] - RECROSS BY MR. BARR:

12 Q: As I understand it, you told me on direct
13 examination exactly what you told the Georgetown
14 County officials as well as Ms. Rogers where you
15 went to get to this campsite, is that correct?

16 A: Yes, sir.

17 Q: Now, you have never been out to the campsite
18 subsequent to the time that you claim that you were
19 out there on the first occasion?

20 A: No, sir, I haven't.

21 Q: And you certainly don't know whether or not the
22 police ever found the campsite, do you?

23 A: I can't say yes.

24 Q: If you can't say yes, then the answer is no, isn't
25 it?

1 A: Yes.

2 Q: All right, sir. Now, Ms. Laura Rogers, you at some
3 point did have some conversation with her?

4 A: Yes, sir. I did.

5 Q: But with respect to what you told her about the
6 campsite is nothing more that you told us today?

7 A: Yes.

8 Q: And you don't know if he ever went out to the
9 campsite or whether she's got any idea if the
10 campsite is in Horry County or Georgetown County?

11 A: We do know that it is in Williamsburg County.

12 Q: I'm asking you what you know, not we. Who is we? I
13 want to know what you know?

14 A: I do know now it is Williamsburg County.

15 Q: Do you know whether or not Laura Rogers went out
16 there to the campsite, to the same camp that you
17 went?

18 A: No, sir. I do not know that for sure.

19 Q: Then, would you not agree that with respect to where
20 ever she may have gone or anybody else, you don't
21 know whether they went to the same place that you
22 went to or not, do you?

23 A: No, sir. I don't.

24 Q: And you don't know whether you were in Williamsburg
25 County or Georgetown County at the campsite, do you?

1 A: Yes, sir, I do.

2 Q: Didn't you testify yesterday under oath, right here
3 on this witness stand that you did not know?

4 A: At the time, I didn't but now I do know. Is that
5 what you're asking?

6 Q: No, sir. I'm asking you ...

7 A: At the time I did not know.

8 Q: I'm asking you whether or not have you ever been
9 back out to the campsite?

10 A: No, sir.

11 Q: So, now, if you've never been back to the campsite,
12 you didn't have a map?

13 A: No, sir.

14 Q: You don't know where the county lines are?

15 A: No, sir.

16 Q: Then what it is you think you know is something
17 somebody else has told you?

18 A: In other words, yes, sir.

19 Q: All right. Now, of course, you said that you, that
20 the other boys were asleep, but they weren't asleep
21 when you all woke up that morning and according to
22 you Troy Taylor was back under the tent where
23 everybody was, with you?

24 A: Yes, sir.

25 Q: Did he have his son with him?

1 A: No, sir. He didn't.

2 Q: And his tent was just over there empty, nobody in
3 it?

4 A: No, sir. That's where a lot of the gear and stuff
5 was.

6 Q: Well, the gear was in his tent, but nobody was
7 sleeping over there?

8 A: No, sir.

9 Q: But when he had gone to sleep that night, he went to
10 sleep in his own tent?

11 A: No, he went to sleep under the tarp with everyone
12 else.

13 Q: I see. But just in a different area from where you
14 were?

15 A: No, sir. I was sleeping right next to him.

16 Q: Sitting next to him?

17 A: Sleeping next to him.

18 Q: Sleeping next to him. If you were sleeping right
19 next to him, he couldn't have possibly picked you up
20 and moved you. If you were sleeping right next to
21 him, he couldn't have possibly picked you up and
22 carried you anywhere?

23 A: Why couldn't he?

24 Q: Well, you said you were sleeping right next to him.
25 He didn't go back to his tent. He stayed under the

1 tent where the boys were?

2 A: Yeah, but ...

3 Q: And you were sleeping right next to him.

4 Ms. Barr: Judge, let him finish his question,
5 please.

6 Mr. Barr: I have no further questions.

7 The Court: Any additional questions, Ms. Barr?

8 Ms. Barr: Judge, I just want to ask the
9 witness, actually did give him an opportunity to say his
10 answer in completion.

11 The Court: All right. You can restate the
12 question to the extent that you think that can be
13 accomplished.

14 REDIRECT BY MS. BARR:

15 Q: **Victim** the last question Mr. Barr asked you is how
16 was it possible that the Defendant was next to you
17 and where the actual assault occurred. Please tell
18 the jury and finish your responses to where the
19 assault occurred and how you were taken.

20 A: When I went to sleep Mr. Taylor was sleeping right
21 next to me. He woke me up and picked me up, put his
22 hand over my mouth and took me to his tent,
23 sodomized me, brought me back to the same places we
24 were.

25 Ms. Barr: Thank you, sir.

1 The Court: All right. You can step down. Can
2 the lawyers come up for just a minute.

3 (Counsel approach)

4 The Court: All right. Ladies and Gentlemen. I
5 was just speaking with the lawyers about scheduling and I
6 think now is a good time for a lunch break. It's 12:22
7 according to that back clock and my watch is broke so I
8 don't have any clue whether that clock is right or not.
9 Just look at the back wall clock compare it to your watch
10 and be back in your jury room at 2:00. You have a hour
11 and some odd minutes for lunch. Please do not discuss
12 the case. Again, as I indicated to you earlier that
13 would be in appropriate at this stage. You have not
14 heard all the evidence and you have certainly not heard
15 the arguments of counsel and the charges on the law. So,
16 please do not discuss the case with each other or with
17 anyone else and do not begin to form any opinions in your
18 own mind. Thank you very much.

19 (Jury dismissed for lunch break (12:25))

20 (Jury in 2:00 p.m.)

21 THE COURT: All right, ladies and gentlemen, we're
22 ready to complete the trial. I trust you had a nice
23 lunch. We'll move forward the remainder of the
24 afternoon. We're still proceeding with the Defendant's,
25 excuse me, the State's presentation of evidence. Ms.

1 Barr, you can call your next witness.

2 MS. BARR: The State calls Sergeant Laura Rogers.

3 (Witness is sworn).

4 SERGEANT LAURA ROGERS - EXAMINATION BY MS. BARR:

5 Q. Sergeant Rogers, let me get you to state your full
6 name for us.

7 A. Laura B. Rogers.

8 Q. Ms. Rogers, tell me where you're employed.

9 A. Williamsburg County Sheriff's Office.

10 Q. What is it that you do for Williamsburg County
11 Sheriff's Office?

12 A. I'm the victim's advocate for the Sheriff's
13 Department.

14 Q. Now, are you a certified law enforcement officer?

15 A. I am.

16 Q. How long have you been in law enforcement?

17 A. Since May of 1996.

18 Q. May of 1996?

19 A. Yes.

20 Q. Then, what, 11 years?

21 A. Yes.

22 Q. And have you been with the sheriff's department
23 during that entire time?

24 A. Yes.

25 Q. All right. Now, have you grown up -- do you live

1 here in Williamsburg County?

2 A. I do.

3 Q. Okay. How long have you lived in Williamsburg
4 County?

5 A. Really all of my life.

6 Q. All your life? I'm not going to ask you how old you
7 are.

8 A. Okay.

9 Q. Now, tell me -- you indicated that you're a victim
10 witness advocate for the sheriff's department.

11 A. Yes.

12 Q. Now, explain to the jurors what that means.

13 A. Well, it's -- my job is just to advise crime victims
14 about resources that are available to them -- to them
15 through the State Office of Victim's Assistance as in
16 medical assistance or some type of monies that are
17 available to help them to take care of things that --
18 that has happened to them as a result of the crime, I
19 also do referrals in regards to -- to other agencies like
20 people, which is the Department of Social Services for
21 crime victims. And I also do transports when we have a
22 victim or child victims of sexual assaults and direct or
23 physical assaults. I do the transfers for the Durant
24 Children's Center as needed.

25 Q. Okay. Now, we had someone explain earlier that the

1 Durant Center is a facility in Florence.

2 A. It is.

3 Q. And they conduct interviews of children who have
4 alleged that they were victimized by sexual or physical
5 abuse.

6 A. They do.

7 Q. Okay. Now, and you will typically, if necessary,
8 provide transport for the child or the child's parents
9 for that purpose; is that correct?

10 A. Yes.

11 Q. All right. Are there other neighboring counties in
12 which you take them to other than Florence?

13 A. Sometimes -- there is a place in Georgetown ---

14 Q. Okay.

15 A. --- called the Children's Center. I've also gone to
16 Charleston.

17 Q. Okay. All right. Now, when did you actually meet
18 **victim** [REDACTED] with regard to this particular case?

19 A. He came to our office November the 23rd, 2005.

20 Q. Okay. At that time, he would've been what age, if
21 you recall?

22 A. 18.

23 Q. 18 years old?

24 A. Yes.

25 Q. Did his age come into play at all in whether or not

1 he was referred to and transported by you to the Durant
2 Center?

3 A. They don't -- to my understanding, they only do
4 services for victims under the age of 18, or 17.

5 Q. All right. Now, of course I can't get into what all
6 he said to you, but he made a complaint about an abusive,
7 is that correct?

8 A. That's right.

9 Q. And do you know where he was coming from?

10 A. Yes.

11 Q. Okay. All right. Now, did you ever receive any
12 type of information regarding this complaint from the
13 Georgetown County Sheriff's Office?

14 A. I --

15 MR. BARR: Objection. Your Honor, I think that she
16 can answer, can say that she received it, but she can't
17 say what it was.

18 THE COURT: I think she can testify to what she did
19 as a result of any communication she had. Anything else
20 would be hearsay. Well, go ahead, Ms. Barr, with that --
21 with that instruction.

22 Q. Please continue, ma'am.

23 A. I -- I had a copy of the voluntary statement that
24 was given by victim [REDACTED] regarding the incident that
25 happened in -- at Black River.

1 Q. All right. So you had copies of statements that --
2 that victim [REDACTED] gave to who?

3 A. Georgetown County.

4 Q. Okay, Georgetown County faxed those statements to
5 you?

6 A. I'm trying to remember if it faxed to me or what ---

7 Q. Okay.

8 A. I'm not sure.

9 Q. But you received them from Georgetown County, okay.
10 Now, as part of your receiving the official complaint and
11 copies of the statement and so forth regarding the
12 incident that happened near Black River, did you also
13 have victim write out a statement for purposes of the
14 Williamsburg County Sheriff's Department?

15 A. I did.

16 Q. Okay. And that statement was given in November
17 2005?

18 A. Yes.

19 Q. Okay. Now, what was your understanding as to the
20 delay between the statement given by victim to Georgetown
21 County in June of '05 to the point in time where he gave
22 the statement to you here in Williamsburg County in
23 November of '05?

24 A. To my understanding, they couldn't determine where
25 the event actually took place, whether it was in our

1 county -- in our county on this side of Andrews, or ---

2 MR. BARR: Judge, I'm objecting because this is
3 hearsay.

4 THE COURT: Counsel, come on over here for just a
5 second?

6 MS. BARR: Sure.

7 THE COURT: Ms. Barr, you can continue with your
8 questioning. And of course, I'm going to overrule the
9 objection as to -- I'm going to overrule Mr. Barr's
10 objection. But I want you to please stick to the facts
11 at hand. And I think you've done that. But I want to
12 make sure that the witness doesn't get too far in regard
13 to the hearsay insofar as Georgetown County authorities
14 are concerned.

15 MS. BARR: Yes, sir. Thank you.

16 THE COURT: Think the witness can testify on what she
17 did as a result of any communication but stay away from
18 any hearsay.

19 A. I understand.

20 Q. In addition to speaking -- well, in addition to
21 getting a statement, a written statement, from **victim**
22 **victim** did you also talk with him and did he give you a
23 statement orally?

24 A. Yes.

25 Q. Okay. And in that statement, did he indicate to you

1 any time frame in which the assault occurred?

2 A. He did.

3 Q. What about the place at which the assault occurred?

4 MR. BARR: Objection. May we approach the bench,
5 Your Honor?

6 (Off the record bench conference).

7 THE COURT: Yes, sir. I'm going to ask you to step
8 to the jury room, please. You will not be in the jury
9 room long. However, when the bailiff comes to get you,
10 if you have not had sufficient time to take whatever
11 break you'd like to take, you let them know. Do not
12 discuss the case.

13 (Jury retires to jury room).

14 THE COURT: --- made any verbal statements as far as
15 the time frame of the incident and the whereabouts of the
16 incident concerned Mr. Barr, objected. We had a bench
17 conference. Mr. Barr, if you would put on record so it's
18 clear as to what your objection is ---

19 MR. BARR: Your Honor, please the Court, first of
20 all, we would consider any testimony concerning either
21 one of those issues a violation of Rule 5. I
22 specifically, in our Rule 5 request, requested that we be
23 provided with -- with the substance of any oral
24 statements. We have -- we were provided with a number of
25 statements, and all of which -- which I have. In

1 addition, I specifically asked Mr. victim [REDACTED] on the
2 witness stand what, if any, information that he gave to -
3 - and I specifically asked him about Officer Rogers -- to
4 Officer Rogers concerning the location and the time -- or
5 the location of where this incident supposedly took
6 place. And he told me not only during cross examination
7 in the case in chief but also when we did the -- the
8 motion hearing ---

9 THE COURT: Yes, sir.

10 MR. BARR: --- that he specifically said that he was
11 coming in on Highway 521 and he know it was on Black
12 River some place. But he did not know what county he was
13 in.

14 THE COURT: Is 521 in -- I don't know if there was
15 another specific highway or ---

16 MR. BARR: He said 17-A the first day. And 17-A goes
17 -- goes -- runs back to Charleston.

18 THE COURT: Okay.

19 MR. BARR: Off 521 in Georgetown.

20 THE COURT: Okay. So your objection -- if not for --
21 if there was not a Rule 5 problem, would you agree that
22 the witness could testify as to time and place as
23 expressed by the victim?

24 MR. BARR: Well, Judge ---

25 THE COURT: Under Rule 801.

1 MR. BARR: Well, I -- I don't see how she could
2 testify to any time and place expressed by the victim.
3 That would constitute a statement by the victim. And --
4 and as I said, I -- I don't have any such statement from
5 the victim.

6 THE COURT: All right. But if -- let's say, for
7 example, that he had given a verbal statement to this
8 witness and the existence of that verbal statement in its
9 entirety had been made known to you during the Rule 5
10 production. All right. It would be admissible then,
11 wouldn't, as to time and place, because Rule 801 says ---

12 MR. BARR: If it had been given to me ...

13 THE COURT: 80 -- okay. All right. Ms. Barr, why
14 don't we do this. Ask the witness the question again.
15 Let's see what her answer is. Because I want to know
16 what the answer is.

17 Q. Sergeant Rogers, in addition to handwritten
18 statement that you'd taken from victim [REDACTED], did you also
19 review a handwritten statement that was given by victim
20 victim to the Georgetown County Sheriff's Department?

21 A. Yes.

22 Q. And in addition to those two statements, did you
23 also take oral statements from victim as well?

24 A. Yes.

25 Q. Okay. And in those written statements as well as

those oral statements, did Mr. victim indicate to you the time frame in which the crime occurred as well as the place?

A. Yes.

Q. Okay. Did you follow those directions to try to determine the location of the incident?

A. Yes.

Q. Okay. When you followed those directions to determine the location of the incident, did the landmarks, if you will, houses and corn fields that he talked about, were you able to find that particular location consistent with the directions he gave you?

A. I...

Q. And is that location in Williamsburg County?

A. It is.

THE COURT: All right. Let's ask the immediate question. What was the verbal statement?

MR. BARR: That's the immediate question.

THE COURT: All right. What was the verbal statement, Sergeant Rogers?

A. The verbal statement was that the incident happened on -- on November the 6th ---

Q. Of what year?

A. On November the 6th, 1998.

THE COURT: Speak up just a tad.

1 A. November the 6th, 1998,

2 THE COURT: All right. How about any directions or
3 whereabouts?

4 A. That is was near Black River and the Andrews area of
5 Williamsburg County off of Highway 521.

6 THE COURT: All right. That was the extent of the
7 verbal statement as to whereabouts. Mr. Barr, do you
8 have an objection to the statement as to the time?

9 MR. BARR: Judge, I have no objection as to the time.
10 What I do have objection to is that the prosecution --
11 what the -- and really, it amounts to misconduct. This
12 witness along with every other witness heard Mr. **victim**
13 get on that witness stand and testify that he don't know
14 what county he was in. Now this witness comes up and
15 say, Mr. **victim** told me he was in Williamsburg County.
16 And, Judge, that's just -- and aside -- but the problem
17 is, see, I don't have the statement. And that's why I
18 can't -- if I had it, quite frankly, I don't think the
19 statement exists. I don't think it ever exist. And
20 that's the problem with it, and that's why we've got Rule
21 5.

22 THE COURT: Ms. Barr?

23 MS. BARR: Your Honor, I am locating now my Rule 5
24 disclosure that was given to the Defendant's then
25 counsel, Scott Joy. Apparently, Mr. Barr come in at some

point after the discovery process was taken place. I don't know if Scott gave him everything that he had in his possession. But obviously, Judge, the two written statements are in counsel's possession, one of which he admitted into evidence or at least had marked as a Court's Exhibit.

THE COURT: That talks about the corn fields going down ---

MS. BARR: That's correct, Judge. That's absolutely correct. And in addition, Judge, he got a copy of the incident report that says everything that she just testified to. So for him to come up here now and say that he didn't know anything about this, that's not true.

MR. BARR: Your Honor, the ---

MS. BARR: That's absolutely not true.

MR. BARR: -- the incident report -- there's an incident report that's written by this young lady. I've been very carefully ---

MS. BARR: He can -- he can ---

THE COURT: Wait, wait. One person at a time.

MR. BARR: I've been very careful throughout the course of this trial to look for that particular information, and so far we hadn't gotten it. Now, this witness -- and I asked Mr. victim specifically: what did you tell any officer from Williamsburg County or -- and I

1 specifically asked him about Officer Rogers. I was
2 standing right here. And he said, I told her that I was
3 on my way coming towards Andrews on Highway 521. We went
4 to -- we went to a location somewhere on Black River.
5 But now, and I asked him and he, point blank, he said, I
6 don't know what county I was in. He said it more than
7 one time.

8 THE COURT: Well, he also said at one point, and
9 maybe more than once, that he did know -- he did know
10 that it was in Williamsburg County.

11 MR. BARR: Well, but ---

12 THE COURT: I don't know how he came by that
13 knowledge, but that's what he said.

14 MR. BARR: Well, I questioned him on cross
15 examination. I said, are you saying what somebody else
16 told you, or do you know it for yourself? And he
17 admitted that he was repeating what somebody else has
18 said. But he didn't know it of his own knowledge.

19 THE COURT: Well, for me to -- for me to determine
20 whether or not there's -- the Rule 5 responses were --
21 fell short or whether or not you were otherwise notified
22 verbal statements or, to get to the point, if the
23 Sergeant's ability to get to the alleged location was
24 accomplished by the written statements from Georgetown or
25 Williamsburg or wherever, but she got ---

1 MR. BARR: Yes, sir.

2 THE COURT: --- got there, then aren't we talking
3 about a moot point?

4 MR. BARR: No, sir. Judge, there's nothing --
5 there's nothing in the written statements that would've
6 been -- could've possibly enabled the Sergeant to get to
7 any specific location such as having been described by
8 Mr. victim because it's not in there. It's not in either
9 one.

10 THE COURT: And that's what I'm saying. I don't
11 know. The only thing that I've glanced at is the
12 Georgetown County statement marked for ID. I've not --
13 excuse me ---

14 MR. BARR: Yes, sir.

15 THE COURT: --- Georgetown County statement dated
16 June 1, 2005. I've not seen any other written
17 statements. Would that -- you're saying that that
18 doesn't have any ---

19 MR. BARR: No, sir. It doesn't. I've got both
20 statements.

21 THE COURT: I -- I'd like to see them. Ms. Barr,
22 have you found the Rule 5 responses?

23 MS. BARR: I did, Your Honor. They were served on
24 September the 7th of 2006.

25 THE COURT: All right. Can I see those?

1 MS. BARR: Absolutely.

2 THE COURT: All right. The June 1, 2005 statement's
3 already been marked for ID. It states in pertinent part:
4 my friend Charles Harrison asked me if I want to go. We
5 went back in the woods about a mile and a half. There
6 were corn fields all around with two houses on either
7 side of the street. That, I believe, sets forth the
8 whereabouts as far as this statement's concerned.
9 Voluntary statement dated November 23, 2005, later at the
10 Williamsburg County Sheriff's Office says, the church --
11 I can't read that next word -- had a youth camping trip
12 on Friday in November 1998. We left around four o'clock
13 or so. It was pretty cold. We left to go towards
14 Andrews. Arrived around six or 6:30. It was dark
15 outside. The youth got to this campsite on Black River.
16 After we arrived, we made a big bonfire and set up camp.
17 All right, and that is the extent of whereabouts in that
18 statement. All right.

19 MS. BARR: Your Honor, if I may.

20 THE COURT: Yes, ma'am?

21 MS. BARR: Judge, again, we had this -- first of all,
22 the officer is not testifying as to what the Defendant or
23 what the victim told her in terms of directions. She's
24 testifying as to what she did as a result of that
25 conversation with the victim. So it doesn't fall within

1 any hearsay, and it's not violating the Rule 5. In
2 addition, Judge, this is what Mr. Barr seems to forget:
3 just because you request something doesn't in and of
4 itself make it incumbent on the prosecution to produce it
5 pursuant to Rule 5. I'm looking at Rule 5, and I
6 certainly don't see any directive on the part of State to
7 produce oral statements of victims. Now, he asked for
8 the NCIC of jurors under Rule 5. The case law was clear
9 that unless it's covered by rule or statute, we're not
10 compelled to disclose it. So all this -- this argument
11 is moot.

12 THE COURT: All right, Mr. Barr, does the Rule 5
13 require them to produce statements of the Defendant?

14 MS. BARR: Of the Defendant ---

15 MR. BARR: Judge, excuse me. Not only did we file a
16 motion under Rule 5. Judge, in all fairness, under
17 Brady. And we certainly filed a motion under Brady under
18 our Rule 5 requesting that we be provided with
19 information that would be helpful to the Defense. Now,
20 an issue such as this, clearly it would be helpful to the
21 Defense. And, Judge, the thing about it is, as I said, I
22 genuinely believe that this alleged oral statement has
23 never existed and that's the reason why we were not
24 provided with it. Otherwise I think we would've been
25 provided with it. But the only person that knows about

1 the statement is this officer. The person who allegedly
2 made the statement has indicated that he didn't make it.
3

4 THE COURT: All right. Mr. Barr, I think your
5 argument's preserved. I'm going to overrule your
6 objection. You can certainly cross examine the witness
7 of varying factors on that point. I'm going to allow the
8 witness to testify to the verbal statement. And of
9 course that credibility of whether or not that statement
10 was made will rise and fall based on what Mr. **victim** said
11 out of his own mouth, that he didn't make any such
12 statement. I'll let the jury resolve that issue. All
13 right, ready for the jury, Ms. Barr and Mr. Barr?

14 MS. BARR: State's ready, Judge.

15 THE COURT: All right. We need to make the Rule 5 --
16 I don't have your actual Rule 5 request. All I've got is
17 State of South Carolina produces the following material
18 pursuant to Rule 5. I don't have the actual request. If
19 y'all want to leave these out, we can make those Court's
20 Exhibits as well at some point. I just don't want that
21 to get ...

22 MS. BARR: I think I've got the one from Mr. Joy that
23 I responded to.

24 THE COURT: All right. Mr. Barr, did you file one of
25 our own?

1 MR. BARR: Yes, sir.

2 THE COURT: You did?

3 MR. BARR: Yes, sir.

4

5 MS. BARR: We're going to need to make a copy of this

6 ---

7 COURT REPORTER: Court's Exhibit Number 3.

8 (Whereupon, Rule 5 Request as filed by Scott Joy, is
9 marked as Court's Exhibit Number 3 for identification).

10 MS. BARR: Your Honor, this is Court's Exhibit Number
11 3, I believe. It's the Rule 5 Request filed by Scott
12 Joy.

13 THE COURT: Court's Exhibit 3 then will include the
14 State's responses dated August 23, 2006. And Mr. Barr,
15 if you have any additional ones of your own ---

16 MR. BARR: Judge, I've got them. I just -- I just
17 need to find them, please. If I recall, the response to
18 our Rule 5, Ms. Barr referred me back to the material
19 that she had already produced to Scott Joy.

20 THE COURT: All right. Rule 5 requires disclosure of
21 evidence by the prosecution. Information subject to
22 disclosure is the statement of the Defendant does apply
23 here. Defendant's prior record, which does not apply to
24 the issue at hand. Documents and tangible objects and
25 would not -- and the terminology used in paragraphs that

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1 refer to verbal statements also requires disclosure of
2 reports and examinations and tests. And then it gets to
3 the point of information not subject to disclosure. But
4 basically Rule 5 doesn't reference verbal statements, and
5 that's why probably a law at its --- doesn't reduce such
6 statements to writing. And that's certainly ample
7 grounds for Mr. Barr to cross examine. If you want to
8 make your request part of the record at some other time,
9 Mr. Barr ---

10 MR. BARR: Judge, I'll do that.

11 THE COURT: All right. Otherwise, are we ready for
12 the jury, Ms. Barr?

13 MS. BARR: Yes, sir.

14 THE COURT: Mr. Barr?

15 MR. BARR: Yes, sir.

16 THE COURT: All right. Bring them in.

17 (Jury enters the courtroom).

18 THE COURT: All right. Thank you very much, ladies
19 and gentlemen. Ms. Barr, you can continue questioning
20 the witness.

21 MS. BARR: Thank you, Your Honor.

22 DIRECT EXAMINATION BY MS. BARR RESUMES:

23 Q. Sergeant Rogers, when we last spoke in front of the
24 jury, I was asking you questions about whether or not you
25 received a copy of a handwritten statement by victim [REDACTED]

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Georgetown County Sheriff's Office.

I did.

All right. Did you also have him handwrite a
statement to the Williamsburg County Sheriff's Office

5 regarding the incident that happened in November of 1998?

6 A. I did.

7 Q. In addition, did you take a oral statement or a
8 verbal statement from him regarding the incident that
9 happened in 1998?

10 A. Yes.

11 Q. Now, those statements regarding the time in which
12 the crime occurred?

13 A. Yes.

14 Q. Did they also include the place in which the crime
15 occurred?

16 A. Yes.

17 Q. As a result of that conversation and the two
18 handwritten statements of victim [REDACTED], where did that
19 lead you in terms of where the incident occurred?

20 A. In Williamsburg County.

21 Q. Is there any doubt in your mind that it occurred in
22 Williamsburg County?

23 A. No.

24 Q. Now, did you see certain landmarks or certain areas
25 near where the incident occurred and you actually saw and

1 went out to the incident location?

2 A. I did.

3 Q. Now, Mr. **victim** talks something about corn fields I
4 believe. Did you see any indication of that?

5 A. I did.

6 Q. What about houses on either side?

7 A. I did.

8 Q. Is that what you'd call deep in Williamsburg County?

9 A. Very.

10 Q. Now, when you took this initial report from **victim**,
11 how old was Mr. Taylor at the time that the report was
12 made?

13 A. Thirty ...

14 Q. What was his birth date at that time? What was his
15 date of birth, I'm sorry?

16 A. November the 3rd, 1969.

17 Q. 1969?

18 A. Yes.

19 Q. So this happened in November of 1998. He would've
20 been 29, 30?

21 A. 29.

22 Q. And **victim** was how old in November of 1998?

23 A. 11.

24 Q. Thank you, ma'am. Please answer any questions
25 Defense counsel may have.

1 THE COURT: Mr. Barr?

2 CROSS EXAMINATION BY MR. BARR:

3 Q. Ms. Rogers, this oral statement that you claim today
4 that you got from Mr. victim [REDACTED] concerning the location
5 as to where this incident occurred ---

6 A. Yes.

7 Q. How long you say you've been a police officer?

8 A. 11 years.

9 Q. 11 years?

10 A. Yes.

11 Q. And are you taught as a part of your training during
12 the course of your investigation to take notes?

13 A. I did.

14 Q. And are you taught to reduce these notes to an
15 incident report?

16 A. I did.

17 Q. Now wouldn't it be fair to say that, with respect to
18 this information that you claim Mr. victim [REDACTED] related to you
19 orally, it's the kind of information that you would've
20 wanted to reduce to a written record?

21 A. I did.

22 Q. And you've reduced it to a written record?

23 A. In my incident report.

24 Q. Pardon me?

25 A. In my incident report.

1 Q. Do you have a copy of your incident report?

2 A. I do.

3 Q. Pardon me?

4 A. Yes.

5 Q. Now, is it the same report that's dated -- is it the
6 same reports that dated November 23rd, 2005?

7 A. Yes, sir.

8 Q. Now ---

9 MR. BARR: Defense, for identification only, Defense
10 4 -- 3.

11 COURT REPORTER: Defendant's 3.

12 MR. BARR: Defense.

13 COURT REPORTER: Oh, you want it ---

14 MR. BARR: I just want to mark it for identification.
15 (Whereupon, Defendant's 3 was marked for identification
16 purposes)

17 THE COURT: What number is that?

18 COURT REPORTER: It'd be Defendant's 3.

19 THE COURT: All right.

20 Q. Now, I show you now what's been marked for
21 identification purposes as Defendant's Exhibit Number 3.
22 Now, is that a copy of the incident report that you
23 produced and prepared in response to the information Mr.
24 victim gave you concerning the location of the -- where
25 he claimed this incident occurred?

1 A. Yes.

2 Q. Now, if you would, please, ma'am, were you in the
3 courtroom yesterday and today? I believe you were seated
4 right here when you heard -- or did you hear victim [REDACTED]
5 tell me that he did not know what county he was in?

6 A. At the time, yes.

7 Q. And did you hear him also me ask him exactly what
8 information at all that he related to either the
9 Georgetown County deputies or the Williamsburg County
10 deputies concerning how he got to where he was? Did you
11 hear me ask him that question?

12 A. I did.

13 Q. Did you hear his response?

14 A. I did.

15 Q. What was his response?

16 A. He didn't know at the time.

17 Q. Pardon me?

18 A. He didn't know at the time.

19 Q. He didn't know.

20 A. Yes.

21 Q. But now somehow, even though he didn't know at the
22 time and don't know now, do you recall him saying
23 something about traveling along Highway 521?

24 A. I do.

25 Q. Going towards Andrews?

1 A. And he...

2 Q. And he said that's the only information that he gave
3 you.

4 A. Yes.

5 Q. But now today you say that you've got another oral
6 report from Mr. victim whereby he gave you some
7 additional directions?

8 A. No, that he was in the --- Black River and Andrews,
9 and then he was up in Williamsburg County.

10 Q. Now, on Black River ---

11 A. Yes, sir.

12 Q. Now, do you know where the Williamsburg County line
13 runs between Andrews and Georgetown -- or between
14 Williamsburg County and Georgetown County?

15 A. I do.

16 Q. And if you would, please, ma'am, on Black River,
17 tell me the point at which the Williamsburg County line
18 crosses Black River.

19 A. Well ...

20 Q. I want to know where on Black River ---

21 A. Right.

22 Q. --- does Williamsburg County line cross -- separate
23 the Georgetown County from Williamsburg.

24 A. Okay. He said -- he told me that it happened in
25 Andrews on the Williamsburg County side.

1 Q. On the Williamsburg County side -- well ---

2 A. --- Black River. He ---

3 Q. --- he said -- he said -- you just said that he said
4 he didn't know what county he was in.

5 A. At the time, he didn't know. He said he didn't
6 know. That's -- that was one of the reasons it took him
7 long to come to Williamsburg County, because they wasn't
8 sure whether it was in Georgetown County or Williamsburg.

9 Q. Did you ever -- did you ever take victim [REDACTED] out to
10 the location and ask him to show you where he claimed
11 that this incident occurred?

12 A. I did not.

13 Q. You did not?

14 A. No, sir.

15 Q. Now, let me ask you this question. Be very careful,
16 please, ma'am.

17 A. Uh-huh.

18 Q. Do you know for a fact that wherever location you
19 went to was the location that victim [REDACTED] claimed that
20 this incident took place in 1998?

21 A. Say that again now.

22 Q. Do you know for a fact ---

23 A. Uh-huh.

24 Q. --- that the location you went to was the exact
25 location that victim [REDACTED] claimed that this incident

1 occurred in?

2 A. It was familiar to what he had explained.

3 Q. It was familiar to what he explained?

4 A. Yes.

5 Q. Now, you know Black River from Georgetown County to
6 Williamsburg County, in fact all the way from the
7 brackish water goes into Georgetown. It's very familiar
8 coming back to Williamsburg County where all kind of land
9 is on Black River. And a whole lot of them look familiar
10 and a lot of them look alike -- alike. Don't you agree?

11 A. Yes.

12 Q. Now, the fact of the matter is, whatever location
13 you went to on Black River, you don't know today and you
14 don't know the day you went, if you went, whether or not
15 it's the place where **victim** **[REDACTED]** claimed that this
16 incident took place, do you?

17 A. Well, to my understanding ---

18 Q. Do you know?

19 A. I wasn't there. No, I don't know.

20 Q. Thank you, ma'am.

21 THE COURT: Re-direct?

22 RE-DIRECT EXAMINATION BY MS. BARR:

23 Q. Sergeant Rogers, when we talk about he didn't know
24 at the time, what do you mean when you say at the time?
25 What time are you talking about?

1 A. To my understanding, he didn't know at the time that
2 the incident occurred ---

3 Q. The time he was raped?

4 A. Exactly.

5 Q. He was --- he was ...

6 A. Right.

7 Q. You followed his directions?

8 A. I did.

9 Q. The place that you ended up was where?

10 A. In Williamsburg County.

11 Q. Thank you, ma'am.

12 RE-CROSS EXAMINATION BY MR. BARR:

13 Q. Do you know today? Can you take me today, without a
14 cert-- without a doubt, to the location on Black River
15 where this event supposedly took place that victim [REDACTED]
16 described you of ---

17 MS. BARR: Asked and answered. Objection.

18 THE COURT: Overruled.

19 A. I can take you to the familiar place that I had gone
20 to ---

21 Q. And that familiar place that you went to, you don't
22 know whether or not it's where victim [REDACTED] claimed that
23 this incident occurred, do you?

24 A. To my understanding, it's where he said it occurred.

25 Q. Do you know is what that ---

1 A. --- no, I wasn't there.

2 Q. And you never took him out there to verify that
3 that's where it occurred?

4 MS. BARR: Asked and answered, Judge.

5 THE COURT: Sustained.

6 MR. BARR: What was the objection, Judge?

7 MS. BARR: Asked and answered.

8 THE COURT: You asked -- well ---

9 MS. BARR: Sorry, Judge.

10 THE COURT: She -- you asked her again if she ever
11 took **victim** [REDACTED] out there. She objected to that as
12 being asked and answered, and I sustained it.

13 Q. Now, would you not agree that, with respect to this
14 location, based on everything you know -- you were the
15 chief investigator on this file, right?

16 A. Yes.

17 Q. **victim** [REDACTED] was in a better position to know exactly
18 where the location was than anybody.

19 A. Yes.

20 Q. Now, Miss, just -- I just got a few more questions.
21 When you went to the location that you went to, did you
22 take a map?

23 A. I did not.

24 MS. BARR: Objection, Judge. Falls out of the scope
25 of re-cross.

1 THE COURT: All right, Mr. Barr, what was the
2 question again?

3 MR. BARR: I just asked her whether when she went to
4 the location did she take a county map.

5 THE COURT: Well, how is that in response to
6 questions asked on re-direct by Ms. Barr?

7 MR. BARR: Judge, quite frankly I forgot what Ms.
8 Barr question -- what Ms. Barr's question was.

9 THE COURT: She asked the witness follow-up questions
10 in response to your cross about the terminology used by
11 Mr. victim at the time, whether or not he knew where --
12 what county he was in at the time. And the witness
13 testified that, at the time, he meant 1998. So I'll
14 sustain ---

15 MR. BARR: Now, Mr. ---

16 THE COURT: I'll sustain that objection.

17 Q. Now, Mr. victim hadn't given you any additional
18 instruction since 1998, has he?

19 A. What do you mean? Well, he filed a report ---

20 Q. Since he filed the report, he's not given you any
21 additional instructions concerning the whereabouts of - I
22 mean, where he was?

23 A. No.

24 Q. Now, when you found the spot where you believe Mr.
25 victim was, do you know whether you were in Williamsburg

1 County or Georgetown County?

2 A. I was in Williamsburg County.

3 Q. But you don't know whether or not that spot was in
4 fact where Mr. victim was?

5 MS. BARR: Objection, Judge. Asked and answered.

6 THE COURT: Okay. All right, ma'am, you can step
7 down. Are you finished, Mr. Barr?

8 MR. BARR: Yes, sir.

9 THE COURT: All right, you can step down. Thank you,
10 ma'am. All right, the State can call its next witness.
11 Is everybody in the jury okay? If you need to take a
12 break, just raise your right hand. Or raise your left
13 hand. All right. Thank you. Ms. Barr, you can proceed.

14 MS. BARR: Your Honor, at this time, the State
15 respectfully rests its case.

16 THE COURT: All right. All right, ladies and
17 gentlemen, have to take a break now anyway because this
18 rule book that I spoke about requires us to take a break
19 at this point. So I'm going to ask you to go to your
20 jury room and keep in mind that you are not to discuss
21 the case at this time. Do not begin to form any opinions
22 in your own mind about any of the evidence or any
23 conclusions that you would draw, because that would be
24 absolutely inappropriate at this time. We will have you
25 back out very shortly. And we'll proceed at that time.

1 Thank you.

2 (Jury retires to jury room at 2:54 p.m.)

3 THE COURT: All right. Anything from the Defense at
4 this point, Mr. Barr?

5 MR. BARR: Yes, sir. Judge, I'm not going to waste
6 time -- waste the Court's time. Jurisdiction and venue.
7 Of course I'm going to make a motion for a Directed
8 Verdict, but, Judge, quite frankly, I have been listening
9 to the evidence in this case. I have been paying
10 attention to it from the first witness that got on the
11 witness stand. In this indictment, it alleges that this
12 incident occurred in Williamsburg County. The testimony
13 is absolutely unequivocally clear that these officer, and
14 really you're only talking about one officer, because
15 she's the only person that has testified, don't know
16 whether or not this incident occurred in Georgetown or
17 Williamsburg County.

18 Now, what the prosecution has attempted to do and I
19 assume they did this on lunch break, they've attempted to
20 get this woman to come to court and say somehow she
21 managed to glue together these various clues that Mr.
22 victim gave her that enable her to go out on Highway 521
23 where he claimed that he was riding at the time that he
24 supposedly came -- came to this point, turn off of
25 Highway 521 I suppose, and somewhere on Black River.

1 Now, Mr. **victim** testified under oath on more than one
2 occasion that he does not know what county he was in.
3 Ms. Rogers say today, as I said after much, much ado and
4 much preparation, that well, I took and put together the
5 description that I thought based on what he gave. And
6 Lord knows, I don't know how in the world somebody could
7 find a spot on Black River. Black River runs from --
8 from Kingstree back to Georgetown.

9 But, in any event, she now asserts that well, I went
10 to a spot that I believe was the spot that he was at.
11 Your Honor, if in fact what she believe would've been the
12 spot, then what she should've done, come get Mr. **victim**,
13 put him in the car and carried him out there and said, is
14 this the spot. If it is -- and for her -- and determine
15 whether or not it's in Williamsburg County. Judge, I
16 would submit to you that that was never done. The
17 testimony is unquestionably clear on that issue. And,
18 Judge, I would submit failed to establish if jurisdiction
19 -- if they fail to establish that this alleged incident
20 supposedly occurred in Williamsburg County, then it's
21 curtain time.

22 And, Judge, quite frankly, I -- I -- I just -- I
23 don't see how in the world they can get around that in
24 this case because they hadn't -- they have not done it.
25 At the most, at the most, this officer has said -- and

1 nobody's seen those directions but her -- I believe that
2 this where he was. And this point where I believe he was
3 is in Georgetown County. Judge, that's not enough.

4 THE COURT: Williamsburg County.

5 MR. BARR: In Williamsburg County. That's just not
6 enough. They have to establish that it's in Williamsburg
7 County.

8 Now, as far as the Motion for Directed Verdict, Your
9 Honor, quite frankly, I think that if the Court grants
10 our motion, then that makes the issue of Directed Verdict
11 moot. But since I'm standing up, I'll go ahead and make
12 the motion anyhow. We would submit that the evidence is
13 insufficient as a matter of law regarding the elements of
14 criminal sexual conduct in the second degree as well as
15 kidnaping to send this case to the jury. Now, as I read
16 the statute, and as I know our Courts interpret what's
17 called a sexual pattern, a sexual pattern requires
18 penetration whether or not it's vaginal or anal. There
19 has been no testimony, none -- as close as I pushed Mr.
20 victim there's been no testimony in this case that there
21 was anal penetration. The law is very clear on that, and
22 that's actually required in order to establish a sexual
23 assault. And, Your Honor, we ---

24 THE COURT: You're saying that Mr. victim did not
25 testify that there was anal penetration? You used the

1 terminology insert his penis in your anal cavity several
2 times as pretty much a recitation of what he had said on
3 the witness stand.

4 MR. BARR: Yes, sir.

5 THE COURT: How is that not a sexual battery as
6 defined in 16-3-655? If the jury were to except that as
7 true?

8 MR. BARR: Well, Judge, I -- I -- I think that --
9 that of course in response to my question, my question
10 was of the generic nature which follows the statute. But
11 I think insofar as specifying exactly, that is
12 capitulation, I think it becomes necessary that the
13 prosecution actually elicit testimony to that effect.
14 And my only point is I don't think that that was done.

15 Now, on the issue of the kidnaping.

16 THE COURT: Yes, sir.

17 MR. BARR: We would submit that, in this case, of
18 course you know -- you're thoroughly familiar with the
19 elements of kidnaping. I'm -- I'm concerned about the
20 carrying away, in this instance, based on the testimony.
21 Because there -- there's been no testimony concerning the
22 amount of distance. And of course I realize that -- that
23 in terms of the way that the Court interprets this thing
24 there's emphasis placed on the other elements as well
25 such as taking a person against his will and without the

1 lawful right to do so. But in this case, we would submit
2 that -- that kidnaping requires anything -- something
3 more than just slight movement. And in this case, it's
4 unclear as to what distance, if any, the Defendant
5 supposedly moved the victim. So I'm not going to argue,
6 at least not too strenuously for these other issue --
7 other elements because, quite frankly, Judge, I think
8 that depending upon how you look at the evidence, you --
9 you may very well find that there might be something in
10 the record that might support the other elements. But
11 that -- that's one that concerns me.

12 But, however, Judge, I -- I do believe that -- that
13 all of that as it relates to the Motion for Directed
14 Verdict, I think it's all another day. Because this --
15 this case has a jurisdictional defect and it's on --- the
16 front of it. Your Honor, I respectfully request, and I
17 know it's going to be hard for you to do, but, Judge, I
18 do -- would -- I implore the Court to apply the law in
19 this case and dismiss this case because the prosecution
20 hadn't presented any evidence to establish that this case
21 was in Williamsburg County. All, at most, what this
22 does, it establishes the -- the -- Ms. Rogers' opinion
23 concerning where she thought this incident may have
24 occurred based on what she indicated that -- and based on
25 her interpretation, she said, of what she claimed Mr.

1 victim told her.

2 THE COURT: All right. Let me correct something I
3 stated on the record. Sexual battery is defined not in
4 655, but in 651. I'll address that point first. I'll
5 address these in reverse order. Ms. Barr, what do you
6 make of Mr. Barr's argument that there is no evidence
7 from which a jury could base a decision in this case that
8 a sexual battery occurred under 16-3-651?

9 MS. BARR: Judge, my response is that sometimes I
10 wonder if Defense counsel and I were actually in the same
11 trial. I mean, clearly, the victim Mr. victim testified
12 that the Defendant took him out of the tent and took him
13 to another tent. He -- and unfortunately I had to be
14 graphic, but I had to do so for the purpose of this
15 motion. And he testifies the Defendant placed his penis
16 inside his rectum and it was painful. Judge, I don't
17 know what else would be required under the statute to
18 prove sexual battery to the extent that it encompasses
19 anal intercourse. I mean, I ---

20 THE COURT: All right. Mr. Barr, the -- I'm
21 concerned with existence of evidence at this point, not
22 the weight. You can argue that, but I'm going to deny
23 your motion on the sexual battery because it is defined
24 as -- the pertinent part is the anal intercourse or any
25 intrusion however slight of any part of a person's body

1 or any object into the genitals or anal openings of
2 another person's body.

3 As far as kidnaping is concerned, Ms. Barr, does the
4 State continue to -- desire to continue to pursue
5 kidnaping?

6 MS. BARR: Yes, sir.

7 THE COURT: All right. Kidnaping statute is 16-3-910.
8 The case law has interpreted that as kidnaping commences
9 when one is wrongfully deprived of freedom and continues
10 until that freedom is restored. And as far as case law
11 is concerned, the kidnaping has been seen to occur. My
12 recollection of one case is when someone approached one -
13 - someone else with a knife or under some means of force
14 and forced that person to go to the steps of an apartment
15 to the pool complex of the same apartment. So in
16 laymen's terms, it may not be the kidnaping that we see
17 in a movie or television, but as contemplated by case
18 law. Again, I'm denying the motion on that.

19 As far as the evidence of where the event took
20 place, Ms. Barr, do you agree that it is at least vital
21 to have proof that the events complained of occurred in
22 Williamsburg County?

23 MS. BARR: Yes, sir.

24 THE COURT: All right. For example, you would agree
25 that if all of your witnesses got up there and said they

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1 had no clue at all under any circumstance where t
2 happened, would you agree that your case would ha
3 fatal defect?

4 MS. BARR: I would agree. Yes, sir.

5 THE COURT: All right. What's your position on the
6 evidence insofar as proof of the whereabouts of the
7 crime?

8 MS. BARR: Your Honor, the victim in the case -- my
9 recollection of the testimony that the victim testified
10 that he was 11 years old when this happened to him. He
11 had no idea whether he was in Williamsburg County or
12 Georgetown County. He knows that he was in Andrews. He
13 knows that he was on Black River. That's consistent with
14 the handwritten statements that he gave to both
15 Georgetown County as well as Williamsburg County
16 Sheriff's Department. Judge, he testified that later,
17 after it was reported, he knew that it was in
18 Williamsburg County. That testimony went before this
19 jury without objection. In addition, there was testimony
20 that he gave directions to both Georgetown and
21 Williamsburg County Sheriff's Department as to the
22 location. Sergeant Rogers testified that she followed
23 those directions to the letter. Those directions led her
24 to a site in Williamsburg County and she was absolutely
25 without a doubt -- one, she followed the directions.

1 Two, that those directions led her to a location in
2 Williamsburg County.

3 And, Judge, we would submit that based on that
4 testimony coupled with the testimony of the victim as to
5 where it happened is proof that the crime complained of
6 occurred in Williamsburg County. And, Judge, it's -- it
7 certainly -- Mr. Barr wants to argue whether or not
8 there's a certain degree of weight that should be
9 assigned to the victim and/or the officer's testimony,
10 he's free to argue that. But there's certainly enough
11 evidence to submit that issue that -- this particular
12 case to the jury for its consideration.

13 THE COURT: All right. I agree with Mr. Barr that
14 the evidence is hazy. And I may re-visit this at the
15 conclusion of all the evidence when you renew your
16 motion. But at this point I'm going to deny your motion.
17 I think that there is evidence, however weak the
18 whereabouts of the alleged incident. I'm going to deny
19 your motion at this time, Mr. Barr. All right ---

20 MR. BARR: Your Honor, if I might -- if I understand
21 jurisdiction -- and of course I can make that motion any
22 time because the jurisdiction because aside from the
23 issue in the indictment as to where the offense allegedly
24 took place, I think in terms of -- of entertaining the
25 prosecution in this case in this county and in this court

1 the prosecution must prove that the offense occurred in
2 Williamsburg County. And, Judge, I -- I just don't
3 believe -- and I think that that's not a jury issue. I
4 think that's an issue of the Court. Jurisdiction is a --
5 is a -- is a jurisdictional issue, and it's -- it's an
6 issue for the Court to decide. And, Judge, as -- as --
7 in terms of what -- what's presented to you at the 11th
8 hour through that last witness, notwithstanding the fact
9 that this witness, when I say the alleged victim,
10 categorically states that he did not know what county he
11 was in. He'd never been back out there since -- since he
12 was out there at the time that he didn't know what county
13 he was in. But somehow Ms. Rogers can have some kind of
14 homing effect whereby, independent of his verification as
15 to where the location was, that the event did in fact
16 take place if it took place, somehow she just -- she
17 manages to take what she has indicated in script and she
18 found a location that she believes resembles what he has
19 described and she attaches to that the significance of
20 the site of this incident. Judge, that's just -- that's
21 ---

22 THE COURT: I understand your argument. And I'll
23 deny your motion at this time. All right, otherwise you
24 ready to proceed, Mr. Barr?

25 MR. BARR: Your Honor, I would request that the

1 Defendant be advised concerning his right to take the
2 witness stand or not take the witness stand.

3 THE COURT: All right. And I'm not going to hold you
4 to it, but is he -- is he going to be your first witness?

5 MR. BARR: Judge, we really hadn't decided that.
6 After -- once we decide that, I intend to ask the Court
7 for a brief ten-minute recess to make sure that we've got
8 our preparation.

9 THE COURT: All right. And what I'll do then is, if
10 he turns out not to be your first witness -- should he
11 choose to testify, if he turns out not to be your first
12 witness, I wanted to make sure that nothing that any of
13 the other witnesses you may call have to say would cause
14 him to change his mind. Because, in other words, the
15 inquiry may --- immediate time he's going to take or not
16 take the stand. Do you understand that?

17 MR. BARR: Yes, sir.

18 THE COURT: All right. Would you come forward,
19 please, Mr. Taylor.

20 (Mr. Taylor sworn).

21 Questions to Defendant by The Court:

22 THE COURT: All right. What's your name, sir? You
23 can stand right there.

24 A. I'm Robert Troy Taylor.

25 THE COURT: All right, Mr. Taylor, what's your age?

1 A. I am 37 years old.

2 THE COURT: All right. You are represented in this
3 case by Mr. Charles David Barr; is that correct?

4 A. Yes, sir.

5 THE COURT: What's your education?

6 A. I have my bachelor's degree in Christian studies
7 from North Greenville College. I've started work on my
8 master's degree, but at this point it's ...

9 THE COURT: All right. We've now reached a stage in
10 this trial where you can present your defense. You have
11 the right under the Fifth Amendment to the United States
12 Constitution, in layman's terms, it's the right to
13 silence. You have the right to say nothing at all. Do
14 you understand that?

15 A. Yes, sir.

16 THE COURT: Now, the Fifth Amendment states, and I'll
17 read it to you in pertinent part, no person shall be
18 compelled in any criminal case to be a witness against
19 himself. You understand your right?

20 A. Yes, sir.

21 THE COURT: Do you understand that that is your
22 personal right and no one can waive that right except for
23 you?

24 A. Yes, sir.

25 THE COURT: In other words, Mr. Barr can't say I'm

1 calling you to the witness stand whether you want to go
2 or not. Do you understand that?

3 A. Yes, sir.

4 THE COURT: All right. Again, this means you cannot
5 be required to testify in this case. You have a right to
6 testify, however. Again, no one can make you testify. I
7 can't. The State of South Carolina can't. No one can
8 make you testify. Do you understand that?

9 A. Yes, sir.

10 THE COURT: All right. If you decide to testify, you
11 will be subject to the same rules that govern other
12 witnesses' testimony. Do you understand that?

13 A. I believe I ---

14 THE COURT: All right. The same rules ---

15 A. I'm sure you're going to expand, yeah.

16 THE COURT: Sir?

17 A. I'm sure you're going to expand on that, but I think
18 at this point I do.

19 THE COURT: Well, I'm going to expand some extent,
20 but I want to make sure -- one of the questions I will
21 ask you at the end is if you have discussed this
22 particular point, of you testifying or not, with your
23 lawyer sufficiently. Again, you'll have to make that
24 determination along with Mr. Barr. But, to repeat, if
25 you decide to testify, you will be subject to same rules

1 of evidence that govern the testimony of other witnesses.
2 Do you understand that?

3 A. Yes, sir.

4 THE COURT: All right. And you've heard us talk
5 about the rules of evidence numerous times during the
6 trial, have you not?

7 A. Yes, sir.

8 THE COURT: All right. In other words, you may be
9 examined and cross examined on any relevant issue in this
10 case. In addition, if you have any convictions involving
11 dishonesty or false statement or for crimes punishable
12 for imprisonment for more than one year and if I
13 determine at the appropriate time that the probative
14 value of admitting that evidence outweighs its
15 prejudicial effect, then the solicitor will be able to
16 introduce your criminal record to attack your
17 credibility. Do you understand that?

18 A. I do. Yes, sir.

19 THE COURT: All right. If you decide to testify, the
20 decision that you make in that regard has to be made
21 freely, voluntarily, and intelligently. And you have to
22 do that with knowledge of your rights under the Fifth
23 Amendment that I just discussed a few minutes ago, and
24 the consequences of course that would result if you
25 decide to testify. Now, if you decide not to testify, I

1 will instruct the jury that they cannot under any
2 circumstance give any weight to the fact that you did not
3 testify. In other words, I will tell the jury very
4 specifically that they cannot even discuss that in the
5 jury room. Do you understand that?

6 A. Yes, sir.

7 THE COURT: So, in other words, if you decide not to
8 testify, I tell the jury that they cannot give that fact
9 any weight whatsoever. As a matter of fact, the Supreme
10 Court says that I can't even when I talk to the jury use
11 the word failure when I describe the fact that you didn't
12 testify.

13 A. Okay.

14 THE COURT: In other words, I would tell the jury
15 that you didn't testify and they can't hold that against
16 you because you do have the rights that you have under
17 the Fifth Amendment. Do you understand that?

18 A. Yes, sir.

19 THE COURT: All right. It's entirely up to you
20 whether or not you decide to testify. Now, I don't know
21 -- and no one is to be privy to any discussions you have
22 with Mr. Barr, because that's between you and him. You
23 can discuss this further with Mr. Barr. You can discuss
24 it with your family and friends and anybody else that you
25 want to discuss it with. But the final decision will be

1 up to you. Do you understand that?

2 A. Yes, sir.

3 THE COURT: All right. Do you understand everything
4 that I've explained to you?

5 A. Yes, sir.

6 THE COURT: Is there anything you want me to go back
7 over?

8 A. I don't believe so.

9 THE COURT: All right. Do you have any questions at
10 all, again, about what I've explained to you?

11 A. Well, if I invoke the Fifth Amendment, that means I
12 don't take the stand. Now, if I take the stand, I still
13 have the right to invoke the Fifth Amendment at times or
14 do not -- at that point I cannot invoke the Fifth
15 Amendment?

16 THE COURT: Well, again, I -- I'm assuming, in the
17 context of this case, you will not be able to invoke the
18 Fifth Amendment insofar as questions pertaining to this
19 case or concern or of -- if you committed a bank robbery
20 that nobody knows about and somebody asks you a question
21 involving that, you can invoke the Fifth Amendment. But,
22 no, Mr. Barr, I -- I don't want to infringe on your
23 counsel to Mr. Taylor, but his question is whether or not
24 ---

25 MR. BARR: Judge, we -- we've -- he and I have

1 already talked about this -- this issue of the Fifth
2 Amendment ---

3 A. I'm ---

4 MR. BARR: --- and I thought we had that clear.

5 THE COURT: Wouldn't be able to selectively ---

6 MR. BARR: No, sir.

7 THE COURT: --- invoke the Fifth Amendment? You
8 understand that?

9 A. Yes, sir.

10 THE COURT: All right. In the context of this case -
11 --

12 A. Yes.

13 THE COURT: --- you understand that?

14 A. Yes, sir.

15 THE COURT: Now, do you need to talk to your lawyer
16 any additional time about this particular subject?

17 A. Yeah, I would appreciate that.

18 THE COURT: And I want to make sure I tell you one
19 thing that I tell folks that are similarly situated as
20 you: don't take my comments and my statements to you as
21 being indicative of whether I am pushing you to testify
22 or not testify. I'm simply, as the law requires,
23 explaining to you what your rights are. Do you
24 understand that?

25 A. Yes, sir.

1 THE COURT: All right. Now, Mr. Barr, I will
2 certainly give you the time that you need to discuss this
3 issue with your client. And, in addition, you indicated
4 you needed some time to get your ducks in a row
5 otherwise?

6 MR. BARR: Yes, sir. And Judge, of course, I -- you
7 -- you -- you've mentioned this in your -- in your
8 remarks, but if you will recall we filed a Motion in
9 Limine concerning whether or not the Defense would be
10 allowed to use any one of the -- I think there are only
11 three prior convictions.

12 THE COURT: Uh-huh.

13 MR. BARR: Any one of the three prior convictions to
14 impeach if the Defendant should -- should take the
15 witness stand. And quite frankly, I think we're at a
16 point now where I almost need to know whether or not if
17 he chooses to take the witness stand, whether or not he
18 will be -- they will be able to impeach him with -- with
19 a prior conviction.

20 THE COURT: Well, what I can't do, Mr. Barr -- well,
21 let me first get your input on that Ms. Barr.

22 MS. BARR: Judge, it was my understanding that he had
23 decided in chambers that he couldn't make a preliminary
24 ruling regarding that issue. And of course I think
25 that's probably an appropriate response. Of course we

1 know as trial lawyers that the possibility exists that a
2 witness will open the door to certain things that may be
3 otherwise prohibited. So we think the appropriate time
4 to take that matter up is after the Defendant has
5 testified if he so chooses.

6 THE COURT: All right. And the prior convictions
7 you're talking about, Mr. Barr, since I don't -- I ---

8 MR. BARR: Well ---

9 THE COURT: --- frankly, the only ones I know about
10 are what I read in ---

11 MR. BARR: Yes, sir.

12 THE COURT: --- 45-page transcript.

13 MR. BARR: Well, Judge, the prosecutor obviously does
14 not understand what I'm referring to. Because I mean,
15 every day -- any time we put a witness on the witness
16 stand, in advance of putting that witness on the witness
17 stand, we're allowed to examine the impeachment evidence,
18 that is if it's by way of a prior conviction. In other
19 words, we usually sit down and look at the -- the
20 conviction -- whether or not it actually qualifies as an
21 impeachment conviction. And the only thing that I'm
22 asking for here -- and if I -- if I do not know here
23 whether or not the Court is going to allow and -- and --
24 and it's our position that clearly, under the rules, that
25 any one of the three prior convictions ---

1 THE COURT: And that's the two lewd acts and ---

2 MR. BARR: Two lewd acts and one CSC 2nd. He can be
3 impeached with either -- any one of those three, or all
4 three if he takes the witness stand. But our position
5 is, under 403, is that this -- the -- the -- to allow
6 impeachment in this particular case, and Your Honor,
7 you've -- you've now heard all the facts that the
8 prosecution will -- will -- will actually present,
9 assuming that there is no rebuttal. And quite frankly, I
10 don't think it's necessary to get rebuttal in order to
11 make -- make this determination -- but you've now heard
12 what the evidentiary matters are going to be. And Judge,
13 I -- I -- I just -- there's no way we can make a decision
14 now regarding putting him -- whether or not he should
15 take the witness stand not knowing whether or not he will
16 -- the prosecution will be allowed to impeach him with a
17 prior conviction.

18 THE COURT: Well, Mr. Barr, my understanding of the -
19 - of the law is that I'm not to give any advance or
20 advisory ruling on that particular point. Because as I
21 indicated to Mr. Taylor a moment ago, if he takes the
22 stand, then he will be subject to the same rules. What
23 you're looking for, it -- it's obviously an advanced
24 ruling that would impact on his decision in the first
25 place. Now, I will tell you this, if hypothetically a

1 witness who is a Defendant were to take the stand and
2 deny, for example, the admission of a crime for which
3 he's already been convicted that forms part of a common
4 scheme or plan, there would be some serious questions as
5 to whether or not that conviction should come in just
6 because he's denied that he committed the act. In other
7 words, he said on one occasion I'm guilty.

8 MR. BARR: Yes, sir.

9 THE COURT: And if he were to take the stand and say,
10 well, that never happened ---

11 MR. BARR: Yeah.

12 THE COURT: -- well, then certainly that conviction
13 or that ---

14 MR. BARR: Uh-huh.

15 THE COURT: --- context would come.. However, I don't
16 think Rule 609 of the case law says that I have to give
17 an advance ruling, a blanket ruling as to whether or not
18 evidence of prior convictions would come in on the issue
19 of credibility. Now, I'll give you ten or 15 minutes, or
20 however long you need, to talk to Mr. Taylor about that
21 particular subject. And I'll take the book that I have
22 and go back into my office and check, just make sure I'm
23 right.

24 MR. BARR: Yes, sir.

25 THE COURT: But I think I am.

1 MR. BARR: All right, sir, Judge, I -- I just ---

2 THE COURT: And again, I know that this is a serious
3 issue. And ten or 15 minutes, if that's not enough, let
4 me know.

5 MR. BARR: Yes, sir.

6 THE COURT: All right. Now, Mr. Taylor, what I'm
7 going to do when we come back out, I may re-examine these
8 questions with you because these are your rights and
9 they're extremely important rights. They're not rights
10 we give lip service to. They're your rights under the
11 Constitution.

12 A. Thank you.

13 THE COURT: All right.

14 (Off the record)

15 THE COURT: All right. Ms. Barr, Mr. Barr, you
16 ready?

17 MS. BARR: Yes, sir.

18 THE COURT: All right. What we'll do, we'll take one
19 witness of Mr. Barr and out of an abundance of caution,
20 that will allow Mr. Barr and his client the afternoon and
21 the evening and tomorrow morning until 9:30 to resolve
22 the issue of whether or not he will testify. When I
23 bring the jury out -- do you have a timer as to how long
24 they've been out?

25 COURT REPORTER: I have they took a jury break at

1 2:53.

2 THE COURT: 2:53?

3 THE COURT: All right.

4 (Off the record discussion).

5 THE COURT: All right. I'll take the bullet for the
6 length of time the jury's been out. And then we'll
7 continue with the trial. And I will tell the jury that
8 that State has rested. And you've rested in front of the
9 jury, correct?

10 MS. BARR: I did, Your Honor.

11 THE COURT: All right. Anything else, Mr. Barr?

12 MR. BARR: No, sir.

13 THE COURT: All right. Bring in the jury.

14 (Jury enters the courtroom at 3:50 p.m.)

15 THE COURT: And again, I appreciate your patience.
16 We concluded the recess. And I wanted to make sure you
17 understand that neither the State nor the Defense are
18 responsible for any undue delay. As I indicated to you
19 earlier, the rules that we go simply require us to take
20 the breaks from time to time that we do take. I hope
21 that if you choose to hold that against anybody, hold it
22 against me, because I'm the one that has to make sure
23 that the rules are followed. And again, the procedures
24 that we have are --, are -- are set forth, and they're
25 mandatory. Ms. Barr, the State has rested; is that

1 correct?

2 MS. BARR: That is correct, Your Honor.

3 THE COURT: All right, ladies and gentlemen, you've
4 heard the State's presentation of evidence. The next
5 stage in the trial will be to -- for the Defense, if it
6 so chooses, to present evidence for your consideration.
7 Mr. Barr, does the Defense intend to call a witness?

8 MR. BARR: Yes, sir.

9 THE COURT: All right.

10 MR. BARR: The Defense calls Mr. Trevor Morton.

11 (Mr. Morton is sworn).

12 DIRECT EXAMINATION BY MR. BARR:

13 Q. Mr. Morton, would you state your full name for the
14 record, please?

15 A. Christian Trevor Morton.

16 Q. And how old are you?

17 A. I'm 20.

18 Q. Where do you live?

19 A. Murrells, Inlet, South Carolina.

20 Q. And are you married, single?

21 A. Single.

22 Q. Have any children?

23 A. No, sir.

24 Q. Have you lived in Murrells Inlet all your life?

25 A. Yes, sir.

1 Q. And you -- you know Troy Taylor?

2 A. Yes, sir.

3 Q. And do you know Mr. **victim**?

4 A. Uh-huh.

5 Q. How is it that you came to know both of them?

6 A. Mr. Taylor's my uncle. And **victim** I've known since I
7 -- I was a kid through family. Our parents were friends
8 through church or -- or -- or whatnot. And we played in
9 school and in sports together and stuff like that.

10 Q. Was there ever a time when you and -- and Billy ...

11 A. What's that, sir?

12 Q. Do you call him Billy? Mr. **victim**?

13 A. No.

14 Q. What'd you call him, **victim**?

15 A. **victim** yeah.

16 Q. Was there ever a time when y'all -- you attended the
17 same church?

18 A. Yes, sir.

19 Q. And when was that?

20 A. Right around the time I was probably 11, 12, 13,
21 around that area.

22 Q. A long time ago?

23 A. Yes.

24 Q. And while attending that church, were you a part of
25 -- of -- a member of the youth ministry at ---

1 A. Yes, sir.

2 Q. --- that church? What was the name of the church?

3 A. At the time, I believe it was LC3. It might have
4 been the formal name before that, I can't really remember
5 the name, but I believe it was Low Country Community
6 Church.

7 Q. And the name changed, but the same church that Troy
8 Taylor pastored?

9 A. Yes.

10 Q. And you say that you were one of the -- a member of
11 the youth ministry?

12 A. Yes, sir.

13 Q. As you recall, were there women in your youth group?

14 A. There were.

15 Q. These were young ladies?

16 A. Yes, sir.

17 Q. Let me tell you, I specifically want to direct your
18 attention to -- to a -- of course, you're familiar with
19 the allegations that have been raised by Mr. victim
20 against Mr. Taylor, are you not?

21 A. Yes, sir. I am.

22 Q. And are -- do -- are you familiar with the youth
23 excursion that was sponsored by your church November 6th
24 and November 7th in 1998?

25 A. Yes, sir. I actually attended.

1 Q. You attended?

2 A. Yes, sir.

3 Q. And how is that you came to attend that function?

4 A. Because I was a member of the church and the youth,
5 and we had heard about it at one of the meetings.

6 Q. Do you know the names of all of the young people who
7 were part of that group?

8 A. I could not name all of them. No, sir.

9 Q. Just -- but you know some of them?

10 A. Yes, sir.

11 Q. And was victim [REDACTED] one of the people that
12 participated in that -- in that function?

13 A. Yes, sir.

14 Q. Do you remember who -- you went camping, I believe,
15 did you not?

16 A. Yes, sir.

17 Q. And do you remember how you got to the campsite?

18 A. We rode in a van. It's one of those vans that fit
19 around 15 people. We rode in that and then they had one
20 other car with just all the equipment and bags and stuff
21 like that.

22 Q. So you actually used two different vehicles?

23 A. I believe so.

24 Q. Well, can -- do you have a recollection or you're
25 not sure or ---

1 A. As far as I can remember, we only had two -- two
2 cars.

3 Q. So then, if you had two cars and -- and you were
4 about the same age as victim [REDACTED], then there had to be
5 some other adults with you?

6 A. Yes, there were.

7 Q. Do you know who that was?

8 A. My uncle Troy was one of them. There was a couple
9 other adults that were part of the youth ministry. They
10 were helping out and watching. I can't think of any
11 names at the moment. As far as I can remember two other
12 adults.

13 Q. You don't remember any of their names?

14 A. No, sir.

15 Q. But you know there were at least two other adults?

16 A. Uh-huh.

17 Q. You're sure about that?

18 A. Yes, sir.

19 Q. Now, let's talk about the -- the camp -- camp --
20 campsite. When you -- after you got to the campsite and
21 you set up a camp -- set the camp up, how was the camp
22 set up?

23 A. Well, we initially were going to do tents, but there
24 weren't enough tents for everybody because we were
25 supposed to bring tents, but they didn't. So we decided

1 to take a couple of the tarps that we had and set up
2 almost like a canopy and just the tarps ran over the back
3 and came over the top. The sides were open. The front
4 was open. Everybody just kind of laid, you know,
5 parallel and across, that way.

6 Q. And how many of those tarps did you have set up?

7 A. It was just one big canopy that everybody laid
8 under.

9 Q. So everybody that was involved in the camping trip
10 slept under one -- one roof, so to speak?

11 A. Yes, sir.

12 Q. There was not a separate canopy set up for adults
13 and another separate canopy set up for the younger
14 people?

15 A. No, sir.

16 Q. Now, do you have a recollection of -- of -- about --
17 you spent one night; is that correct?

18 A. Yes, sir.

19 Q. And do you recall about what time it was that --
20 that you -- you went to bed that night or you ---

21 A. I believe it was probably around 10:30, 11 o'clock
22 that night, somewhere around in there.

23 Q. And did everybody basically go to sleep about the
24 same time or?

25 A. Yes, sir. I stayed up pretty much all night.

1 Because I couldn't sleep that night. But everybody went
2 and laid down, yes, at the same time.

3 Q. Okay. So do you remember -- do you have a
4 recollection of seeing victim [REDACTED] there in all that
5 time?

6 A. He was there. Yes.

7 Q. And from the time that -- who were you sleeping next
8 to?

9 A. I actually slept next to my uncle Troy. He used my
10 sleeping bag because his son, my -- my cousin Griffin ---

11 Q. That's Griffin?

12 A. --- was sleeping with him.

13 Q. So Griffin was with -- Griffin went with y'all on
14 the camping trip?

15 A. Yes, sir.

16 Q. How old was Griffin?

17 A. Griffin -- I'm not sure how old he was at the time.

18 Q. But he was young -- much younger?

19 A. Yeah, he was very much younger.

20 Q. Three, four years old, something like that?

21 A. Somewhere around in there.

22 Q. And Troy had Griffin with him?

23 A. Yeah, he slept in the sleeping bag with him.

24 Q. And you slept next to him?

25 A. Uh-huh. Just to his right side.

1 Q. Now, I'm not going to ask you whether or not you're
2 a sound sleeper. But do -- do you have a recollection of
3 waking up at all during -- was it cold that night?

4 A. It was very cold that night. That's actually why I
5 let them borrow my sleeping bag, because it was so ---
6 Griffin was getting cold, so ---

7 Q. You let who borrow your sleeping bag?

8 A. Uncle Troy and Griffin.

9 Q. Borrow your sleeping bag?

10 A. Yes.

11 Q. Well, what did you sleep in?

12 A. Griffin's sleeping bag.

13 Q. Well, why did you let them use yours and you slept
14 in his?

15 A. Because mine was a down -- warmer one. I can't
16 think of the name of it, goose down.

17 Q. And you swapped bags with them?

18 A. Uh-huh.

19 Q. So now, do you have a recollection of anything
20 unusual happening that night, anybody getting up or -- or
21 ---

22 A. No, sir. Everybody was pretty silent throughout the
23 whole night. Nobody really got up at all.

24 Q. Do you know whether or not your uncle was next to
25 you all night or ---

1 A. He was next to me all night.

2 Q. How do you know?

3 A. I -- I don't -- I don't sleep very well when I was a
4 kid because I had -- I don't know the medical term for
5 it, but I had bad dreams a lot. And earlier that -- that
6 night, we'd been talking about the Lizard Man. I don't
7 know if anybody's familiar with Lizard Man, but it had me
8 thinking so I didn't really sleep very well that night.
9 So I was up and I never saw anybody move, especially my
10 uncle Troy. He never moved.

11 Q. Was there another tent some place where you -- I
12 believe you had your -- did you have your gear stored in
13 this other -- under this same tent that you were under?

14 A. I believe there was another tent that -- that all
15 our -- our stuff was in just in case it would rain, they
16 had stored in another tent.

17 Q. Were there any people sleeping under that tent?

18 A. No, sir.

19 Q. When you -- when you woke up that morning, do you
20 remember whether you saw your uncle Troy and Griffin, or
21 did you see victim [REDACTED]?

22 A. I saw everybody. Everybody was where they were the
23 night before sleeping.

24 Q. And -- and did you -- you didn't see victim [REDACTED] and
25 your uncle sleeping next to each other?

1 A. No, sir.

2 Q. Everybody woke up pretty much the same time?

3 A. Around about --- you know, everybody kind of
4 staggered out.

5 Q. Do you remember hearing any -- any conversation
6 about -- about victim [REDACTED] and your uncle waking up in --
7 in a -- in a position next to each other?

8 A. No, sir.

9 Q. Was your uncle still in the sleeping bag with
10 Griffin when you woke up that morning?

11 A. Yes, sir.

12 Q. Now, approximately how many young people were
13 present at the campsite that night?

14 A. I'd say right around ten people, give or take a few.

15 Q. And do you -- do you remember who was the first
16 person to go to bed?

17 A. I can't remember that, sir.

18 Q. How about the last -- the first person to wake up?

19 A. I can't remember that to be certain.

20 Q. Y'all have a fire going?

21 A. Yes, sir.

22 Q. Fire wasn't under the tent, though, was it?

23 A. No.

24 Q. Outside the tent?

25 A. It was just outside the tent, yes. Or the canopy.

1 Q. Now, do you know of anything at all that took place
2 during the night that you were asleep that appeared to be
3 unusual in any way?

4 A. Nothing unusual happened at all, that -- that I
5 witnessed.

6 Q. Who slept next -- well, who slept on -- your uncle
7 slept on one side of you. Who slept on the other side;
8 do you remember?

9 A. I can't remember that, sir. It was one of the other
10 younger people that were -- that was there.

11 Q. One of the other young people?

12 A. Yes.

13 Q. And how about the adults, were they all under the
14 same canopy?

15 A. Yes, sir.

16 Q. Were there any females there?

17 A. No, sir.

18 Q. No females?

19 A. No females opted to go to the trip because not too
20 many females like to camp too often.

21 Q. Get out in the wilderness with bugs and all that?

22 A. Right.

23 Q. Thank you, sir. Would you answer any questions that
24 this young lady, the assistant solicitor for the
25 prosecution.

MR. MORTON - CROSS EXAMINATION BY MS. BARR:

Q. Mr. Morton is it? You're Mr. Morton?

A. Yes, ma'am.

Q. And you testified that the Defendant is your uncle?

A. Yes, ma'am.

Q. You all grew up together, or you grew up with him I should say?

A. Yes, ma'am.

Q. You're very close to him?

A. Yes, ma'am.

Q. Now, how are you related, is it your mother that's his sibling or your father that's his sibling?

A. My mother.

Q. Is she close with him as well?

A. Yes, ma'am.

Q. All right. In addition to this camping trip, there were other activities that you were at or were involved in in the -- to the extent that in your uncle's role as pastor of that church at the time?

A. What's the question?

Q. Other activities that you were involved in that you went to as a result of the Defendant being the pastor of the church at the time?

A. Yes, I went to many youth trips.

Q. All right. Now, you, of course, you love your

1 uncle?

2 A. Yes.

3 Q. And you certainly don't want anything bad to happen
4 to him, do you?

5 A. No.

6 Q. You don't want to see him convicted of this crime,
7 do you?

8 A. No.

9 Q. Now, you're not telling this jury that you were
10 awake the entire night, are you?

11 A. No, I'm not saying that at all.

12 Q. And we certainly wouldn't expect you to know what
13 happened while you were asleep, would you?

14 A. Huh-uh.

15 Q. You can't say beyond a shadow of a doubt that the
16 rape of **victim** did or did not happen. You can just
17 ---

18 A. I ---

19 Q. --- say you know what you saw or didn't see; is that
20 right?

21 A. Yes. Uh-huh.

22 Q. You indicated that all boys were on the trip.

23 A. (Nods head affirmatively).

24 Q. I need you to answer verbally.

25 A. Yes, ma'am.

1 Q. Everybody was in the van?

2 A. Two vans.

3 Q. You all left the church and then went to the
4 campsite?

5 A. Yes, ma'am.

6 Q. The campsite -- the campsite was in Andrews, South
7 Carolina?

8 A. That I cannot confirm.

9 Q. Was it off 521?

10 A. It was on a hunting club on Black River.

11 Q. On the Black River? It was on the Black River?

12 A. Yes.

13 Q. All right. You all had a bonfire?

14 A. Yes.

15 Q. Everybody went to sleep about 10:30, 11 o'clock that
16 night?

17 A. Right -- right around that time.

18 Q. Now, you testified that you don't remember all the
19 names of the boys who went on that camping trip, can you?

20 A. Not all of them.

21 Q. Is there anyone other than **victim** that you remember as
22 going on that camping trip?

23 A. A friend of mine Zack Webster.

24 Q. Anybody else?

25 A. There was some people that I never really knew that

1 well, so I don't -- I can't remember the names at this
2 time.

3 Q. So the only persons that you can testify to with any
4 certainty as being on the trip other than yourself would
5 be the Defendant who's your uncle?

6 A. Uh-huh.

7 Q. Zack Webster, who would've been around the same age
8 as you; is that right?

9 A. Yes.

10 Q. And Mr. **victim**; is that right?

11 A. Yes, ma'am.

12 Q. Everybody else you don't remember, including the
13 adults; is that right?

14 A. Uh-huh.

15 Q. And you specifically recollect that there was
16 another tent erected that night, right, other than the
17 ones you all slept on?

18 A. There was one that had the -- all our stuff in it.

19 Q. Okay. Because it was raining that night?

20 A. It was supposed to. I can't remember if it ever
21 actually did or not. We -- we were making sure that
22 nothing got wet or anything.

23 Q. Where was **victim** sleeping when you woke up that
24 morning?

25 A. That I can't remember.

1 Q. But I mean, you just testified to the jury, did you
2 not, that he wasn't sleeping next to your uncle?

3 A. Well, I was sleeping next to my uncle, so ---

4 Q. Well ---

5 A. --- I think I ---

6 Q. --- he -- he would've had two sides, though, right?

7 A. Yeah, but I mean, I'm right there. I would've seen
8 him if ---

9 Q. Okay. Well, who was sleeping next to him?

10 A. He -- we were on the outside of that tent.

11 Q. He -- your uncle was laying down. He has a right
12 side and a left side, right?

13 A. Yeah, because he was on the outside of the tent,
14 there was only one other side.

15 Q. There was no other person on the other side?

16 A. No, ma'am.

17 Q. Okay. You recollect that there was no other person
18 on the other side and you were next to him. Who else was
19 laying in the tent in what order?

20 A. I couldn't tell you exactly ---

21 Q. You have no idea, do you?

22 A. I couldn't tell you the exact order. I was 11 years
23 old at the time.

24 Q. I understand. That's exactly right. You were 11
25 years old at the time, and you don't remember all the

1 details?

2 A. But I do remember laying to the right side of my
3 uncle with my -- my cousin Griffin in the tent -- in the
4 sleeping bag with him. I can tell you that right now for
5 a fact.

6 Q. But everything else you're not certain about because
7 you were 11, right?

8 A. Yeah.

9 Q. Now, if **victim** were laying next to your uncle while
10 you were asleep, you can't dispute that, can you?

11 A. No.

12 Q. When did you first become aware that **victim** had made
13 these allegations against your uncle?

14 A. Probably about somewhere around 2006.

15 Q. About a year or two ago?

16 A. About a year or two ago, yeah.

17 Q. Have you ever seen copies of any of his statements,
18 **victim**'s statements?

19 A. No.

20 Q. Never seen those?

21 A. I sure haven't.

22 Q. Did you ever go to law enforcement and tell them
23 your recollection of the events that happened on the
24 night in November of 1998?

25 A. No, ma'am.

1 Q. Didn't think it was important?

2 A. I am not going to answer that question.

3 Q. Don't want to answer that one?

4 A. Well, I refuse to answer that question.

5 Q. Thank you, sir. Appreciate it.

6 THE COURT: Re-direct, Mr. Barr?

7 RE-DIRECT EXAMINATION BY MR. BARR:

8 Q. Did any -- did any law enforcement officer ever come
9 to you to interview you about ---

10 A. No, sir.

11 Q. --- what you knew or did not know?

12 A. No, sir.

13 Q. And your identity was certainly known to ---

14 MS. BARR: Objection. Leading.

15 MR. BARR: I'll rephrase the question.

16 Q. victim [REDACTED] knew you then, did he not?

17 A. Yes.

18 Q. And he knew you were there?

19 A. Yes.

20 Q. Have you ever gotten involved in any way in this
21 entire incident other than to come here today as a
22 witness?

23 A. No, sir. Today is my first day to even come and
24 talk to you.

25 Q. Thank you, sir.

1 THE COURT: Re-cross?

2 MS. BARR: No, Your Honor.

3 THE COURT: Thank you, sir. You can step down. Any
4 objection to this witness being excused if he desires to
5 be excused?

6 MR. BARR: No, sir.

7 MS. BARR: No objection by the State, Your Honor.

8 THE COURT: All right. Mr. Barr, your next witness
9 is coming from out of town; is that correct?

10 MR. BARR: Yes, sir.

11 THE COURT: All right. Ladies and gentlemen, we're
12 going to --it's 4:15 now. We're going to break for the
13 day. We will finish this trial tomorrow morning. And
14 you will have the case for your consideration easily
15 sometime tomorrow. We'll start back tomorrow morning at
16 9:30. We will not tarry. I will have you in this
17 courtroom at 9:30, so if you would be back in the jury
18 room tomorrow morning shortly before 9:30, we'll be
19 prepared to resume the trial at that time. Please do not
20 discuss the case among yourselves. Do not discuss it
21 among friends, family members, or coworkers because,
22 again, you've not heard all the evidence. It would be
23 inappropriate to discuss it with anyone or to begin to
24 form any opinions in your own mind. Enjoy your evening.
25 It'll be a little bit longer than normal. And we will

1 have you back in the morning at 9:30. Thank you very
2 much.

3 (Jury retires for the day at 4:14 p.m.)

4 THE COURT: All right. Ms. Barr, anything before we
5 break for the day? I would like to take some time this
6 afternoon if we could to either in-chambers or out here
7 go over the charge that I intend to give. Mr. Barr, do
8 you have any problem with that?

9 MR. BARR: No, sir.

10 THE COURT: Ms. Barr, is that suitable to you?

11 MS. BARR: Your Honor, that's certainly fine with me.
12 Just the only thing that I would ask is that the Court
13 allow us to amend if appropriate our request for
14 instructions based on any evidence that may come after --
15 -

16 THE COURT: --- I just have a few preliminary things
17 since we're stopping early today, it will help save us
18 time.

19 MS. BARR: Yes, sir.

20 THE COURT: All right. I'll see the lawyers back
21 here tomorrow around 9:15 and we'll resume trial at 9:30.
22 Thank you very much.

23 (Court adjourned for the day at 4:16 p.m.)

24 The Court: Alright Mr. Taylor could you come
25 forward again. I want to remind you that you are still

1 under oath from yesterday.

2 Defendant: Yes sir.

3 The Court: We went into great detail yesterday your
4 rights under the Fifth Amendment of the United States
5 Constitution, do you remember that?

6 Defendant: Yes sir.

7 The Court: And I indicated to you that you do have
8 the right to remain silent and that no one but you can
9 waive that right, do you understand that?

10 Defendant: Yes sir.

11 The Court: Again, the amendment states the
12 pertinent part that no person shall be compelled in any
13 criminal case to be a witness against himself. And
14 again, I told you yesterday that if you decide to testify
15 in this case that is certainly within your rights as
16 well. But if you do so, I will remind you that you will
17 be treated as any other witness would be treated insofar
18 as the rules of evidence are concerned and insofar as the
19 common law interpretation of those rules. Do you
20 understand that?

21 Defendant: Yes sir.

22 The Court: If you decide to testify, this decision
23 on your part must be freely, voluntarily, knowingly and
24 intelligently made and again I told you yesterday and you
25 took advantage of that opportunity to consult with your

1 attorney and perhaps with other folks that you may have
2 wanted to talk to. Did you have sufficient opportunity
3 to do that?

4 Defendant: Yes sir.

5 The Court: Is there anything that we discussed or
6 that I stated to you yesterday that you do not understand
7 or that you want me to explain further?

8 Defendant: No sir.

9 The Court: Alright, and again, it's entirely left
10 up to you whether or not you want to testify. The final
11 decision is yours. Now, having said all of that, do you
12 want to testify in this case?

13 Defendant: I don't need to.

14 The Court: You do not?

15 Defendant: No sir.

16 The Court: Is that decision on your part made
17 freely, voluntarily, knowingly and intelligently?

18 Defendant: Yes sir.

19 The Court: Have you had sufficient time to consult
20 with your attorney and with your family members?

21 Defendant: Yes sir.

22 The Court: Alright sir, thank you very much.

23 Alright, I find that Mr. Taylor's decision not to testify
24 in this case has been made freely, voluntarily, knowingly
25 and intelligently and certainly with the advice of

1 competent counsel. Alright, anything before we bring the
2 jury in?

3 Solicitor Barr: Your honor, there are a couple of
4 matters I need to address on the record prior to bringing
5 the jury in, defense counsel made a motion on yesterday,
6 to exclude testimony by Sergeant Laura Rogers, as to the
7 statements, oral specifically, that were given by victim
8 victim to her concerning the place in which the crime was
9 allegedly occurred. The basis for that motion as I
10 understand it was the evidence violated rule 5. Mr.
11 Barr, I represented to the court that he had filed a Rule
12 5 motion for discovery and that is absolutely correct.
13 We also indicated in that motion for discovery he had
14 specifically requested any and all statements, whether
15 written or oral, of the victim to law enforcement in that
16 request and Judge I think you had requested a copy of his
17 rule 5.

18 The Court: I've got Mr. Joye's rule 5 and I do not
19 have Mr. Barr's. Mr. Barr indicated that but did not
20 confirm that it might have just been a me too type
21 motion. Are you handing that to me now?

22 Mr. Barr: Yes sir.

23 The Court: Alright.

24 Mr. Barr: January of 07.

25 The Court: Alright, in January of 2007, any

1 objection to this being made a part of Court's exhibit
2 number 3?

3 Solicitor Barr: Your honor may I make sure that is
4 the same one that I have?

5 The Court: Yes ma'am.

6 Solicitor Barr: No objection your honor. Judge, I
7 specifically wanted to note on the record that Mr. Joye's
8 discovery request did not specifically request oral
9 statements from the victim.

10 The Court: It requested oral statements of the
11 Defendant.

12 Solicitor Barr: Right. And the same thing with Mr.
13 Barr's, it did not specifically request oral statements
14 from the victim. Although I believe it might not be
15 covered by Rule 5, but they were specifically not asked
16 for.

17 The Court: Alright, I do note, going backtracking a
18 little bit Mr. Barr, that your, that you did request in
19 your Rule 5, copies of all of the NCIC reports which we
20 covered on Monday. I just want to make sure the record
21 does reflect that.

22 Mr. Barr: It does.

23 The Court: The court's exhibit that you did request
24 that previously and I denied your motion in that regard.
25 My ruling on the Rule 5 argument of Mr. Barr, on the

1 verbal statement of Mr. **victim** to Sergeant Rogers stands
2 that there is nothing in either motion, and probably
3 because neither, most motions extract the content of
4 Rule 5 and correctly so. There is nothing in the motion
5 concerning oral statements of the victim. I think that
6 Mr. Barr, more than likely, at least as far as jury
7 purposes, accomplished his goals yesterday with his
8 cross-examination of Sergeant not producing that the
9 writing, not taking the victim out to the similar
10 location to confirm it, I think that all that being said
11 I am going to let my ruling on the Rule 5 argument made
12 by Mr. Barr stand. If, Ms. Williams, you could staple
13 all of these together. Alright, I want to make sure that
14 the next break that we take that Ms. Barr you produce to
15 the court report the NCIC information so that will be
16 preserved.

17 Ms. Barr: I've done that, Judge.

18 The Court: Has that already been marked.

19 Ms. Barr: Yes sir. The NCIC of the jury?

20 The Court: Ok, let's just make sure of that before
21 the next break.

22 Court Reporter: It has.

23 The Court: Ok, and frankly Mr. Barr, I will review
24 that in camera but if it doesn't make any difference, it
25 doesn't make any difference but I think that you

1 preserved it. But my ruling on The State vs. Chiles
2 still stands on that. Alright, Mr. Barr, not to hold
3 you to it, do you intend to call any other witnesses?

4 Mr. Barr: Judge, at this point, we intend to rest.
5 I think there are two other issues I need to make sure we
6 are clear on for the record.

7 The Court: Alright.

8 Mr. Barr: And that's with respect to the motion
9 that we filed for the motion for impeachment. And I
10 understand the court denied that motion.

11 The Court: Well, what I told you was I would rule
12 on it when the witness took the stand, if he took the
13 stand. Let's put it this way, on cross-examination of
14 the victim, and this may or may not be talking about
15 impeachment, it talks about further on Lyles, on cross-
16 examination of the victim, you ask repeated questions
17 about the circumstances behind the Georgetown county
18 incident.

19 Mr. Barr: Yes sir.

20 The Court: Alright, there was no question asked on
21 re-direct of the victim in response to the circumstances
22 behind the disposition of the Georgetown county incident.
23 If your client were to take the stand, I would be hard
24 pressed not to permit the prosecution not to allow some
25 examination into the disposition of that since you've

1 taken great issue with it and since it does, whether or
2 not he's convicted does have some relevance as to whether
3 or not there was in fact the common scheme of plan. And
4 that's not an advisory ruling and that doesn't have
5 anything to do with impeachment, but of course, your
6 client has already told me he's not going to testify, but
7 that would have been my parameters.

8 Mr. Barr: Judge, of course, now our decision not to
9 testify is certainly to some degree, has been affected by
10 our not knowing whether or not the Defendant would be
11 impeached with a prior conviction and which is altogether
12 different from the Lyles issue.

13 The Court: And Mr. Barr, I don't want to keep you from
14 talking, but I specifically stated yesterday that my
15 decision on whether or not impeachment evidence would be
16 allowed insofar as the Defendant was concerned would be
17 based on a State vs. Bryant analysis when he took the
18 stand. I could not give you an advanced ruling on what
19 my decision would be on impeachment, because if I did so,
20 and then your client through questioning, or however,
21 opened the door to let that impeachment evidence in, then
22 you would cry foul saying I told you ahead of time that I
23 wasn't going to let that in.

24 Mr. Barr: Judge, you know, that's the situation
25 that doesn't stay the same. Depending on what the

1 Defendant says on the witness stand, now of course, I do
2 believe that you could give a ruling where on the,
3 whether or not, you could use a prior conviction to
4 impeach him and depending upon how far he goes on the
5 witness stand in answering questions then that decision
6 can be changed and the impeachment evidence could be
7 allowed.

8 The Court: My inclination would have been not to
9 allow the lewd act convictions for impeachment purposes,
10 but unless he opens the door. So, how can I give you an
11 advanced ruling on what my ultimate decision would be
12 depending on how his testimony was.

13 Mr. Barr: Well, Judge I think you could easily do,
14 I think all you'd have to say is Look, if he gets on the
15 witness stand, I'm not going to allow him to be impeached
16 with any prior conviction unless he opens the door.

17 The Court: Alright, well, I see what you are trying
18 to accomplish here Mr. Barr, my ruling is that I am not
19 going to give you an advanced ruling on impeachment.

20 Mr. Barr: Alright sir.

21 The Court: As far as the evidence of common scheme
22 of plan is concerned, it's two different issues. It's
23 two different issues. I would probably not have
24 prohibited the State from questioning the witness since
25 you have questioned the victim quite extensively on the

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1 Georgetown county incident.. On the issue
2 scheme of plan.

3 Mr. Barr: Yes sir.

4 The Court: And the jury will again
5 that that's how they could use it, come
6 that the State would be able to under a conviction.

7 Mr. Barr: Alright, next thing would be, I think you
8 held in abeyance a final ruling on the issue of, of
9 course, at the time, we probably considered it in
10 somewhat the nature of jurisdiction or venue or what do
11 you call it strictly venue. But if its venue, then we
12 move for a directed verdict on that issue and I think you
13 took that under advisement.

14 The Court: Yes sir, well, I held in, I've denied it
15 for the time being and I told you I would revisit at the
16 end and I will do that right now and I won't prejudice
17 you for bringing it again, since you technically haven't
18 rested. Now, the law is in this State, that the question
19 of venue in a criminal case is not jurisdictional. It
20 used to be. But in the 1990's the Supreme Court
21 clarified that and said venue is not jurisdictional,
22 however, it does say that for whatever difference it
23 makes, that the law when you are entitled to a directed
24 verdict is the same. You are entitled to a directed
25 verdict if the State fails to present evidence that the

offense was committed in the county alleged in the indictment, you are entitled to a directed verdict. Now, the case of State vs. Blaton, says that the question of venue does not involve the merits of the case and that's what I've been trying to get to with y'all, in chambers and not to be doing right now. Now, State vs. Williams, says it is not necessary that the county in which the crime was committed be proved affirmatively if there is sufficient evidence from which it can be inferred. My ruling yesterday, for the time being yesterday, was that there was an inference that the crime was committed in Williamsburg. The inference may not be strong in your estimation, but there was an inference. Alright, now the standard for establishing venue in the State vs. Crocker, which is the most recent case, that is the Court of Appeals case, says that it is not a stringent standard for establishing venue for venue again need not be affirmatively approved, circumstantial evidence of venue, though slight is sufficient. Now, case law also says State vs. Brisbon, it says the argument that venue must be proved beyond a reasonable doubt lacks validity. That's a Supreme Court case from 1996. I will be happy to charge it. One of the cases that I've reviewed says that if the state argues that the crime happened in Williamsburg county, a finding of guilt establishes that

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1 the crime occurred in that county. In a rec
2 goods case, the Judge instructed the jury t
3 indictment could be brought for receiving ste
4 any county where the Defendant possessed the goods.
5 That's not a correct statement of law because you have to
6 prove that's where the crime occurred in the county where
7 he received them. The dilemma that we have is yesterday
8 when you frankly did an effective job of cross-examining
9 Sergeant Rogers and the victim on the question of where
10 this happened, that cross-examination could have been
11 taken to mean two different things. One being the
12 general confusion about where it happened and therefore
13 did it happen. The question of why didn't the law
14 enforcement officer take the young man out there to
15 confirm it again showing that I assume you that you would
16 argue that on the issue of something ain't right here as
17 far as what they've done to prove this, but the dilemma
18 that I've got is the case law that says that venue, and
19 let's just call it place of offense, need not be
20 affirmatively proven, if proven satisfactory as long as
21 they've established an inference. In the case law it
22 says that they don't have to prove it beyond a reasonable
23 doubt. So, that's where we are on venue so as far as the
24 matter of law is concerned, I'm denying your motion
25 because however hazy or weak the testimony was, the

1 victim testified more than once, that he knows it
2 happened in Williamsburg county, he didn't know when he
3 was 11, but he knows now. And I understand exactly what
4 you are talking about, but the case law will not allow me
5 to charge this jury that venue has to be proven beyond a
6 reasonable doubt. Do you disagree with that?

7 Mr. Barr: Well, Judge, for the record, we have
8 submitted a request to charge and that's confirming that
9 my charge is in the record. I'm satisfied with your
10 ruling.

11 The Court: Alright, anything else from you Mr. Barr
12 and I didn't mean to be seen as lecturing you, because
13 you certainly know the criminal law and what I'm trying
14 to do is adequately state more clearly what the law is,
15 at least my interpretation of it. I don't see how State
16 vs. Brisbon hasn't been overruled. But to be candid with
17 you, other case law, Court of Appeals cases say the
18 question of venue is for the trier of fact. And so what
19 do you do? That's what Ms. Barr indicated yesterday.
20 She takes the position that venue is an issue for the
21 trier of fact.

22 Mr. Barr: But Judge, inasmuch, as we are here now,
23 at that point, we had the issue, I would request a charge
24 on venue.

25 The Court: Alright, here's what I'm going to do

1 then, I'm going to bring the jury out and again apologize
2 to them, and it's not you all's fault, that I promised
3 them that I would have them in the courtroom at 9:30 and
4 then I will allow you, should you choose, to call any
5 additional witnesses. If you rest, then I will ask for
6 any reply testimony and if there is none, I will send the
7 jury back out and you can restate your motion for the
8 record on the directed verdict and then I'll certainly
9 tell the jury that the next phase of the trial will be in
10 essence, the last stage of the trial as far as courtroom
11 participation is concerned and then we will argue the
12 charge, are both sides prepared, I assume both sides are
13 prepared to argue.

14 Mr. Barr: The defense is yes.

15 Solicitor Barr: Same here.

16 The Court: Alright, then you can bring the jury
17 back in.

18 (Jury brought back into the courtroom)

19 The Court: Alright ladies and gentlemen, thank you
20 very much. I'm sure what you are thinking now is that I
21 promised you I would have you back out here at 9:30 and
22 the only way I could accomplish that is if I went up
23 there and moved that minute hand back to 9:30, but that's
24 not the case. We have accomplished many things this
25 morning outside of your presence and keep in mind that

1 the ultimate goal in this case is to make sure the State
2 and Defendant receive a fair and impartial and in fact, a
3 complete trial at your hand. So, what we do on many
4 occasions is discuss things outside of your presence that
5 do ensure streamlining of this process and I will commend
6 both lawyers for doing that even though when you are in a
7 15X30 room, it doesn't seem like that, but believe me,
8 especially with excellent lawyers, many things can be
9 accomplished that you don't realize. We are now prepared
10 to proceed with the trial. I am not 100% sure what the
11 schedule will be this morning but we are ready to proceed
12 but the defense is still engaged in submitting its case
13 to you and I will ask you Mr. Barr, does the defense have
14 any additional witnesses?

15 Mr. Barr: May I please the court, Judge, the
16 defense is now resting.

17 The Court: Alright sir. Ms. Barr, does the State
18 have any reply?

19 Ms. Barr: No, your honor.

20 The Court: Alright, well, ladies and gentlemen,
21 that means this, I've held up this blue book that I have
22 a couple of times to you, one thing in the rules requires
23 me at this point to discuss things with the attorneys, to
24 be honest with you, that I can't discuss with them, until
25 we get to this point and that specifically is the nature

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1 of the law, and the specifics of the law that will be
2 charged to you. So what we are going to do is this, I'm
3 going to allow you to go to your jury room and if any of
4 you smoke, you can take a smoke break, of course, with an
5 escort, the bailiff, you can't discuss the case yet, even
6 if you are taking a smoke break. What we are going to
7 accomplish during the break is review the proposed jury
8 charge and I am going to speak to the lawyers about the
9 time that they will argue to you because the next stage
10 of the process is going to be the arguments of the
11 attorneys to you. I will determine how long the
12 attorneys will take and then we will determine the
13 specifics of the law as I give it to you. Based on that,
14 I will probably have you back out of the jury room within
15 30 minutes, after that, I would assume that based upon my
16 experience with these types of things, the arguments and
17 the charge will be concluded before lunch. The attorneys
18 will certainly have every opportunity to fully and
19 completely provide their arguments to you and after that,
20 the jury charge will take place, so I just want to let
21 you know there is light at the end of this tunnel. I
22 commend you for the attention that you have paid so far,
23 again when you retire, don't discuss the case, you can't
24 do that yet but that time is coming shortly. Alright,
25 thank you very much ladies and gentlemen.

(Jury is sent back to jury room)

The Court: Alright, Mr. Barr, would you like to restate your motion for directed verdict.

4 Mr. Barr: Yes sir, Judge, we would again move for a
5 directed verdict of not guilty and we believe that the
6 State has failed to meet the burden of proof required
7 with respect to the elements of the defense of kidnaping,
8 with respect to the elements of the offense of CSC-2nd and
9 also with respect to the requirement of establishing
10 venue. We made arguments at the close of the State's
11 case concerning both of those issue and Judge, I think it
12 would be, probably at this point, I think those arguments
13 are already sufficiently stated in the record.

14 The Court: Alright, what I will do, Mr. Barr is
15 certainly let the record reflect and you can echo this or
16 not, let the record reflect that your motion for directed
17 verdict on the basis of venue is that the State has not
18 even proven by legitimate inference...

19 Mr. Barr: No sir.

20 The Court: Whether or not that is a reasonable
21 doubt burden or not as case law indicates it is not, but
22 you are arguing that the State has not established the
23 location of the offense, whether that's termed venue or
24 otherwise, by any weight of evidence. Is that correct?

25 Mr. Barr: That's it, Judge.

HEARING

1 The Court: Alright, Ms. Barr, how about the venue
2 issue? As far as directed verdict is concerned?

3 Ms. Barr: Judge, of course, in the case that I
4 sited in chambers yesterday, State vs. Brisbon, states
5 the proposition that the question of venue where the
6 State raises evidence, even if it is a slight degree of
7 evidence, that is sufficient, that case also stands in
8 proposition of venue in a criminal case cannot be
9 affirmatively proved, if its sufficient evidence in the
10 record from which it can be inferred that the venue
11 happened, that the crime happened in a certain venue.
12 Judge, also the case also determines that it is not
13 appropriate or it's not good law in South Carolina, for
14 the Court to charge that the State is required to prove
15 venue in a criminal case beyond a reasonable doubt and so
16 we would certainly think that your honor's comments and
17 rulings earlier are the right ones, your honor.

18 The Court: Alright, there is a case called State vs.
19 Henderson, it's in the 1980's, it's a Court of Appeals
20 case, it overrules that only in the sense that venue is
21 no longer jurisdictional, the premise of how you have to
22 prove venue is the same. It says where the crime is
23 committed is a question of fact to be determined by the
24 finder of fact, not by the appellate court on review, and
25 that's what I mentioned earlier, that's what I'm

struggling with, you have a Supreme Court case 7 to 10 years later, that says that argument of venue must be proved beyond a reasonable doubt lacks validity. I'm going to have to go with the Supreme Court case that Mr. Barr, that's why I see what you are saying because there is some conflict of course, the Supreme Court has the final say on that issue as far as current case law is concerned. There is a case from 1956 called State vs. Gregg, that says where the record discloses no possibility of prejudice to the Defendant, justice requires liberality in the application of the rule and that rule being that venue need not be affirmatively proved if there is sufficient evidence from which it can be inferred, that evidence, though slight, that venue has been properly proved. That certainly may be some grounds for examination at a later time, but what I am required to do is go by the current law. Having said that Mr. Barr, I am still not entirely sure what I'm going to do as far as a charge on the location of the crime is concerned. I don't think I can tell the jury that venue or place of the crime has to be proven beyond a reasonable doubt, because the fact in State vs. Brisbon, the Supreme Court says that that would be an improper charge. Let me ask you this, how long, in your motions, Mr. Barr, even though well stated or denied, Ms.

1 Barr, how long will the State need to argue in your
2 opening?

3 Ms. Barr: Judge, we are going to waive opening.

4 The Court: Alright, Mr. Barr, what do you have to
5 say about that?

6 Mr. Barr: I require that the State open, your
7 honor.

8 The Court: Alright, I am going to require you to
9 open Ms. Barr.. I know the case law and the rules are a
10 little bit unclear about that, but I think that request
11 is reasonable. How long will you need?

12 Ms. Barr: Ten minutes.

13 The Court: Alright and Mr. Barr? I'm not going to
14 hold you to it, you can take as long as you want.

15 Mr. Barr: Yes sir, 45 minutes.

16 The Court: Alright, 45 minutes and then Ms. Barr,
17 on reply, I assume substantially longer than 10 minutes.

18 Ms. Barr: Yes sir.

19 The Court: Alright, let's get into the charge. I
20 know... what's the State's position on what the jury should
21 be charged as far as what you have to prove insofar as
22 the location of the crime is concerned.

23 Ms. Barr: I think the language from Brisbon, 474,
24 SE 2d, 433, to the effect that venue in a criminal case
25 should not be affirmatively proved if there is sufficient

1 evidence from which it can be inferred, evidence of
2 venue, although slight is sufficient, in the absence of
3 completed evidence and may be proven by circumstantial as
4 well as direct evidence.

5 The Court: You think that would be a good charge,
6 or is that what your request that I charge is?

7 Ms. Barr: Well, Judge, I think that you probably
8 charge something along the lines that the State has the
9 burden of proof, I think that it's probably appropriate
10 to charge that there is not a requirement that the State
11 prove it affirmatively that it can be inferred based on
12 the evidence.

13 The Court: Alright, is that suitable Mr. Barr? I
14 know you've requested..

15 Mr. Barr: Judge, I will have to stand on the charge
16 that I requested, of course, whatever the Court should
17 decide to charge.

18 The Court: I just want to make sure that you feel
19 like you've had a chance to state everything on the
20 record.

21 Mr. Barr: Judge, with what she has stated, as far
22 as arguments, of course, clearly we can handle that, but
23 as I said for the record..

24 The Court: Well, just don't argue to them even
25 though you want to, you can argue that the State hasn't

1 proven even by scant inference that the crime incurred in
2 Williamsburg county but don't go as far as saying that
3 they've got to prove it beyond a reasonable doubt or that
4 the Judge is going to tell you that they got to prove it
5 by a reasonable doubt.

6 Mr. Barr: Judge, clearly venue has to be
7 established.

8 The Court: Right.

9 Mr. Barr: Whether it's by inference or whatever,
10 and if you look at the holding in that case which is what
11 she is referring to it says that it may be established by
12 circumstantial evidence by inference, and like I said, we
13 can argue that.

14 The Court: Alright now, do you still want a lesser
15 included offense of ABHAN?

16 Mr. Barr: Yes sir.

17 The Court: Alright, Ms. Barr?

18 Ms. Barr: Judge, I would submit to the Court that
19 the lesser included offense charge is only appropriate
20 when there is evidence that the Defendant is guilty of
21 the lesser included offense rather than the original
22 offense, I certainly understand that ABHAN is a lesser
23 included offense of CSC with a minor, however, I don't
24 believe that based on the evidence in the case that jury
25 could find that the Defendant is guilty of ABHAN but not

1 guilty of Criminal Sexual Conduct with a Minor. Judge, I
2 believe that the ABHAN charge typically requires that it
3 is an act of violent injury to person that are
4 accompanied by circumstances of aggravation including the
5 taking of indecent liberties or familiarities of a
6 female, of course the evidence in this case is that the
7 Defendant and victim in the case are both males, Judge, I
8 just don't believe it is appropriate given the facts.

9 The Court: Alright, let me first of all state that
10 the, Mr. victim was examined on the issue of what he said
11 in writing first to the officer, and I'll call it the
12 June of 2005 statement, which it's not marked into
13 evidence, it's just for ID, but he confirmed in that
14 initial statement, he referenced the fact that he and the
15 Defendant engaged in fondling and he confirmed on cross-
16 examination that that's what he said at that time. Later
17 by written statement and otherwise, the victim spoke in
18 terms of anal penetration. If we had a case where that
19 was the only thing that had been stated all along, then I
20 would agree with you Ms. Barr, but since and case law
21 says that Mr. Barr or the Defendant wouldn't be entitled
22 to an ABHAN charge then, just on the argument, well the
23 jury may not believe that there was anal penetration, you
24 wouldn't get an ABHAN charge then, but since one of the
25 factual scenarios as cited by the victim doesn't talk

1 about penetration or intercourse, then I think he is
2 probably entitled to an ABHAN charge. ABHAN if you get
3 past the definition of assault and the definition of
4 battery, the State also has to prove circumstances of
5 aggravation, which include use of a deadly weapon, intent
6 to commit a felony, infliction of serious bodily injury,
7 a great disparity between the ages or physical conditions
8 of the parties, a difference in the genders, the taking
9 of indecent liberties or familiarities with a female,
10 through use of force, purposeful infliction of shame and
11 disgrace, and resistance of lawful authority. I think
12 in this case, that the jury can conclude under the
13 evidence as given by the victim's affirmation of his
14 recitation of the fondling that the jury could conclude
15 that he may not be guilty of CSC, but could be guilty of
16 Assault and Battery High and Aggravated, because of
17 disparity between ages and that being a circumstance of
18 aggravation. Clearly stated, Criminal Sexual Conduct
19 with a minor in the second degree states that the State
20 must prove beyond a reasonable doubt that the Defendant
21 engaged in a sexual battery with the victim who is
22 between the ages of 11 and 14, which we've got here. It
23 says sexual battery is sexual intercourse, cunnilingus,
24 fellatio, anal intercourse or any intrusion, however
25 slight of any part of a person's body or any object into

1 the genital or anal openings of another person's body,
2 except when the intrusion is accomplished for medically
3 recognized treatment for diagnostic purposes. If the
4 jury chose not to believe the subsequent statements and
5 testimony of the victim that there was anal penetration,
6 I agree with the defense that the jury could conclude
7 that there was ABHAN. Of course, Mr. Barr, you can elect
8 an all or nothing approach and then that would be the
9 defense's risk, but since I think the jury could
10 conceivably find the Defendant guilty of Assault and
11 Battery of a High and Aggravated Nature, I will give that
12 charge.

13 Mr. Barr: Thank you, Judge.

14 The Court: Alright, I am not going to give the
15 corroboration charge. There is a case called State vs.
16 Rayfields, a fairly recent case, that says that I need
17 not give the charge that the testimony of a victim in a
18 criminal sexual conduct case need not be corroborated.
19 Ms. Barr, you want the corroboration charge, Mr. Barr,
20 you do not want the corroboration charge, or do you want
21 it?

22 Mr. Barr: I do not want the corroboration charge,
23 Judge.

24 The Court: Alright, I think that it's within my
25 discretion that the case says that the trial court need

1 not give the charge but if it does it has to make sure
2 that the charge as a whole is accurate on the issue of
3 credibility and what the jury can believe. Now, I'm
4 going to charge the jury that they need not believe the
5 testimony of one witness over many or many over another,
6 in other words you don't count up witnesses, but that
7 they have to believe the testimony of each witness
8 through the credibility lens that I will give them.
9 Lastly on that subject, frankly the testimony, there is
10 no law that says the testimony of anybody has to be
11 corroborated. I know in my view, in this particular
12 case, I don't think the corroboration charge would be
13 proper, so I would respectfully, Ms. Barr, deny your
14 request to charge corroboration. Is there anything else
15 as far as the charge is concerned? Let's mark Mr. Barr's
16 Request to Charge, with reasonable doubt on venue, that's
17 a court's exhibit. Anything else from the State on the
18 charge?

19 Ms. Barr: Your honor, I just want to go on the
20 record to make sure that the State has exception to your
21 honor's ruling regarding the admission of the
22 Defendant's, not necessarily plea, I can't use that word
23 as I understand the court's ruling with regard to that,
24 but his admission regarding the sexual assault of the
25 victim in Georgetown back in 1999. I think your honor,

1 under the Lyle exception allowed us to bring in the
2 testimony that the second crime occurred in Georgetown, I
3 think your honor limited the State in terms of being able
4 to bring in evidence that the Defendant admitted that he
5 had committed the second act against the victim.
6 Certainly, we wanted to go on the record as noting our
7 exception.

8 The Court: Alright, what my ruling was was not to
9 permit the State to list the testimony from the victim
10 that the Georgetown county incident was offered as a
11 conviction. And as that time went on and you asked at a
12 bench conference, and then on the record, to allow a
13 question that in some type of setting, frankly the
14 courtroom setting, and you said you wanted to ask in a
15 general sense, did the Defendant ever apologize and say
16 I'm sorry, because that's what your interpretation of
17 that 45 page transcript from Georgetown county was that
18 he said I'm sorry. I denied your motion in that regard
19 because of your request in that regard because the
20 transcript did not indicate that he said I'm sorry,
21 frankly that was Judge Cottingham's words and his
22 interpretation of what the Defendant had done, but the
23 Defendant's statement that he was sorry was directed to
24 his family or other members that were there to support
25 him. I did not restrict any, when Mr. Barr questioned

1 him extensively on cross about the Georgetown county
2 incident, no questions were ever asked on re-direct about
3 that issue. But I understand your position and you
4 certainly have preserved that for the record should that
5 issue come up at any other time.

6 Ms. Barr: And Judge, I may have been wrong, but I
7 do need to make sure that I protect the record and it was
8 my understanding, the State asked two things, one, that
9 the State be allowed to either have the evidence come in
10 as an admission by the Defendant in the form of, perhaps
11 it being a plea, whether or not exactly a guilty plea
12 versus it being an admission saying that he had done it
13 and also that it come in the sense that he had apologized
14 for it. It was my understanding, and I guess I need to
15 be clear that it was the Court's ruling that it wouldn't
16 come in either as an admission or as a conviction or in
17 the form that it may have been an apology and I certainly
18 understand the Court's interpretation of the transcript
19 regarding the apology but the State specifically asked
20 for permission to allow it to come in in the form of an
21 admission.

22 The Court: Alright, I believe you have stated your
23 position.

24 Ms. Barr: Thank you.

25 The Court: Alright, anything else on the issue of

1 the charge or otherwise Ms. Barr?

2 Ms. Barr: Your honor, the only thing that I would
3 say of course is the State had intended to waive opening
4 of the law, I think there may be some authority regarding
5 whether or not the State is required to open on the law
6 when the Defendant has submitted evidence. I think that
7 speaking from the State vs. Rogers, 235, SE 2d, 808, it
8 says the State is entitled but not required to open
9 closing arguments to the jury, ie make the statements to
10 the jury before the defense closing arguments. Then
11 make another statement after the defense unless the
12 Defendant has offered no evidence. We take the position
13 of course, that it's required of the State to open on the
14 law, it's not something that I think the defense can tell
15 us to do, so I would ask your honor to reconsider his
16 ruling in this regard.

17 The Court: Alright, well, I will do that in the
18 next ten minutes because I know you folks want some
19 opportunity to gather your thoughts.

20 Mr. Barr: Judge, we are ready.

21 The Court: Alright, let's see here.

22 Mr. Barr: And your honor to clear up any confusion
23 such that this doesn't become an issue in the record, we
24 are prepared to go first and let them go next.

25 The Court: I think to be honest with Ms. Barr, this

1 is something that is implied relatively inconsistently
 2 amongst trial judges, different judges approach it
 3 different ways. My inclination would be, well Rule, well
 4 the old Rule 58 Circuit Court Rules, that used to apply
 5 to criminal and civil, said that the party having the
 6 opening in the argument shall disclose fully the law upon
 7 he relies as demanded by the opposite party. Even though
 8 the Rules of Civil Procedure and Criminal Procedure have
 9 been split and its in different parts of the book, that
 10 has continued to be the interpretation of some judges.
 11 Rule 58 was deleted and not replaced in the new Criminal
 12 Court Rules and even under the old rule, there was some
 13 thought that it would be up to the opposing party to
 14 request that the State open on the law and as you have
 15 just done, many solicitors act as if it is their complete
 16 right to waive and many times when the question is asked
 17 about whether or not the State is going to waive and the
 18 Judge says no, you get the look, the solicitors give the
 19 look that you are giving me now. So, and the vast
 20 majority of the time the State, excuse me the defense
 21 does demand that the State open, so Mr. Barr if you want
 22 to go first, I think that would be fine.

23 Mr. Barr: Judge, I think that would make the whole
 24 issue move if I go first.

25 The Court: Alright, I just wasted your time then,

1 I'm sorry for doing that.

2 Mr. Barr: No sir, you haven't wasted our time but
3 as I said rather than create an issue out of it, quite
4 frankly, we are prepared to go forward.

5 The Court: Alright, I'll give you a few minutes,
6 I'm going to put together a statement on the venue and I
7 believe Ms. Barr that the case that you were reciting
8 that the State would be satisfied with came from State
9 vs. Brisbon, on inference. I'll copy that and highlight
10 what I am going to charge on that and then we will be
11 ready to go.

12 Ms. Barr: Alright, thank you.

13 The Court: My law clerk is running off a verdict
14 form, actually she may have already shown it to you, do
15 you have that?

16 Ms. Barr: No sir.

17 The Court: The verdict form is going to have
18 basically three inquiries. First I am going to have on
19 the verdict form, even though it's not that way now, it's
20 going to be Kidnaping, Guilty or Not Guilty, sentencing
21 the time frame of the allegations of the State that would
22 have occurred first, second of all, point number two on
23 the verdict form would be Criminal Sexual Conduct with a
24 Minor, second degree, Not Guilty or Guilty and beside the
25 choice of Not Guilty it says if selected, go to question

1 three, which would be ABHAN, and of course, I am going to
2 leave the conclusion of the verdict form to the
3 foreperson. You will have a chance to look at that but
4 in case you wanted to refer in some manner to the verdict
5 form during your closing, Kidnaping would be first, CSC
6 would be second and then ABHAN would be third, any
7 problem with that Ms. Barr?

8 Ms. Barr: None, your honor.

9 The Court: Mr. Barr?

10 Mr. Barr: No, your honor.

11 The Court: Bring in the jury.

12 (Jury brought back into courtroom)

13 The Court: Alright, thank you ladies and gentlemen,
14 we are now prepared at this time to go forward with the
15 closing arguments of the attorneys and then after that I
16 will instruct you on the law in this case. Now, it is
17 extremely important for me to emphasize to you that even
18 though you have all paid very close attention to the
19 testimony in this trial to this point, it is equally
20 important for you to not let your attention wander during
21 the closing arguments of the attorneys, or for that
22 matter during my charge to you on the law, because this
23 is the opportunity for the attorneys to not merely make
24 statements to you as to what they think the evidence will
25 show, but this is their opportunity to argue to you what

1 the evidence has shown and to argue to you what
2 conclusion you should reach during the course of your
3 deliberations. I will remind you however, that even
4 though this is the argument stage, still what either one
5 or both of the attorneys might say is not evidence. For
6 example if you, if one of the attorneys argues a point to
7 you that doesn't correspond with your recollection of the
8 evidence, then you go with your recollection of the
9 evidence. Simply put, the law does not permit the
10 attorneys to testify. I just wanted to make sure that
11 you understand that what the attorneys tell you is not
12 considered evidence. As I understand it Mr. Barr you
13 will be arguing first. The Defendant will argue first
14 and the State since it does have the burden of proof in
15 this case beyond a reasonable doubt, will argue last. And
16 then after that ladies and gentlemen, we will probably
17 take a brief recess and then I will charge you on the
18 law. Mr. Barr?

19 Mr. Barr: Thank you, Judge. Madam forelady,
20 ladies and gentlemen, let me take this opportunity first
21 of all to thank you for your splendid jury service. I
22 have been paying very close attention and I have noticed
23 that each and every one of you have been very attentive
24 throughout the course of this entire trial. Now, I want
25 to share something with you, it's a person experience

1 that I've debated about but I've decided that perhaps it
2 illustrates the point. I don't know how many of you have
3 had a successful marriage, I don't know how many of you
4 are married, divorced, separated or whatever. I got
5 divorced about eight or nine years ago and if any of you
6 have ever gone through a divorce, you know sometimes
7 things get rough, people say all kinds of things to each
8 other, and they want to hurt each other. I had bought
9 my wife, from Washington DC, where we were living at the
10 time we got married, a very expensive ring and when we
11 started having problems she said well, I'm going to take
12 the ring and I'm going to pawn it, so I took the ring out
13 of the house, this is in the middle of the divorce. I
14 took the ring out of the house and went out into the
15 backyard. I didn't want her to find it in the house. I
16 took it and put it in a box, and put the box in a can and
17 I took the posthole diggers and dug a hole and buried it
18 and then I went and got a plant and sat the plant on top
19 of the hole where I had buried the ring. I wanted to
20 make sure that I would always be able to find it. It
21 didn't dawn on me that the plant that I had planted was
22 not a plant that would survive winter but when the winter
23 came, it died. I didn't worry too much about finding the
24 ring then, I just knew I could go right back out there
25 and dig it up. So after we finally got divorced and I

1 figured it was safe to get the ring, so she couldn't pawn
2 it, I went out there and I started digging, where I
3 thought it was. I dug a hole must be about five feet
4 deep, I know I dug deep enough but no ring, I started
5 getting kinda scared, so I got the wheel barrow and I
6 tell you, I went to digging. I tell you what, I dug so
7 much every evening when I went home I would dig. It
8 finally got to a point where I said you know, I've got to
9 tell somebody about this because I can't do all this
10 digging so I went and told my brother about it and he
11 joined in the digging. We dug the shovels and we dug and
12 we couldn't find the ring. Couldn't find the box. I went
13 to Manning and I rented a backhoe, I was desperate then,
14 I got a backhoe and I dug and I dug and until this day, I
15 couldn't remember, every time I dug up one spot, I said
16 you know maybe it's in another spot and I started
17 doubting myself about where the ring was and like I said,
18 I'm pretty sure I had dug up almost all of the yard and
19 people were looking and they didn't know what in the
20 world I was digging up the back yard for, I told them I
21 got water lines back there that leak. I was embarrassed
22 at what I had done, but I couldn't find the ring. When
23 winter came, the plant died and where I thought I had the
24 ring, I couldn't figure out where the ring was. Now, why
25 am I telling you this. I'm telling you this because this

1 situation is an analogy to this trial. In a criminal
2 trial, when his honor read that indictment to you, the
3 first thing he read to you when he read the indictment is
4 he said that in Williamsburg county, in Williamsburg
5 county it is alleged that Troy Taylor committed an act of
6 sexual abuse on victim [REDACTED], in Williamsburg county.
7 His honor will instruct you that under our legal system,
8 the prosecution in this case bears the burden, not only
9 in proving the elements of the offenses, that the
10 gentlemen, that is Troy Taylor is charged with, but they
11 also to prove something in the law that we call venue.
12 It's the place where the crime supposedly took place and
13 if they don't establish that, if they don't establish
14 that, the threshold, then you must find the Defendant not
15 guilty. Ladies and gentlemen I will submit to you that
16 that has been a very important thing throughout the
17 course of this trial. I have watched you very carefully
18 and I'm going to tell you what the prosecution has done
19 with the issue of venue. They put up about three or
20 four witnesses and the first witness that testified, that
21 even so much as came close to the issue of venue was victim
22 victim himself and if I remember victim [REDACTED] testimony
23 and his honor will instruct you Ms. Barr nor myself can
24 testify in this case. We can only argue, but now I want
25 you to recall the evidence as you recall it. Mr. victim

1 got on the witness stand and I believe he testified that
2 what he remembers about this excursion, that is the
3 camping excursion that the church had sponsored and that
4 they were supposed to be going on, but what he remembers
5 is that they were on their way to Andrews, that's coming
6 from Murrells Inlet through Georgetown on Highway 521
7 coming towards Andrews and if any of you know where the
8 county line is between Williamsburg county and Georgetown
9 county, of course, you know part of Andrews is in
10 Williamsburg and part is in Georgetown county. But they
11 were coming from Georgetown towards Andrews and he
12 remembers turning off, I think initially one time he said
13 on 17A, well of course, you have not heard any evidence
14 presented in this courtroom that 17A is anywhere near
15 Williamsburg county and then he said 521, we turned off
16 of that went onto Black River. I asked Mr. victim
17 point blank, do you know what county you were in at the
18 time that supposedly you were camping. His answer ladies
19 and gentlemen was emphatically I did not know, later on I
20 learned. Now, watch this later on I learned because when
21 Ms. Barr comes up here, she is going to tell you
22 something about well, you can infer from the evidence,
23 infer from what was said, based on circumstantial
24 evidence, infer that the location has been established.
25 But now, I would submit to you that with respect to

1 inferring, you are going to have to have something to
2 infer from. Now, according to Mr. **victim** when he went
3 on the Black River, he saw two houses and a street and
4 some corn fields. Now, keep in mind this would have been
5 1998. He had never been back to that location. He never
6 once testified that a deputy from Georgetown county took
7 him back out to that location and said look is this where
8 the thing supposedly took place? You didn't see one
9 deputy from Georgetown county, the only person that you
10 saw that testified concerning the location was this young
11 lady, Miss Rogers, and of course, the prosecution, if you
12 notice Miss Rogers came at the end of the case. Because
13 the prosecution, prosecutors are smart people, I mean Ms.
14 Barr, I take my hat off to her, she is one of the
15 smartest young prosecutors I've ever seen. But she knew
16 that they were in trouble and at the very end of the
17 case, you got Miss Rogers, because she knew that if she
18 couldn't come and present you with evidence that
19 established that this allegedly took place in
20 Williamsburg county then it's over, you would have to
21 find the Defendant not guilty. But now, here's what she
22 did, and I'm sure that there was some kind of preparation
23 made for the testimony on this witness stand. I just
24 don't believe the police officer and prosecutors come
25 together, all together and boom. But now recall her

1 testimony, she said based on what Mr. victim told me, I
2 went out there, this was in 1998, she went out there in
3 2005, 2005, the landscape had changed, the terrain had
4 changed, Lord knows what had changed. There has been not
5 one person that come to this courtroom and tell you and
6 if you remember Miss Rogers' testimony, she said look, I
7 found the place that I believe, based on what, based on
8 what? Based on those items of description that she got
9 from Mr. victim. I doubt that. I doubt that, I don't
10 know if she even went out there and found a place. I
11 would submit to you that an investigator, if you want to
12 establish the place, she would have gotten Mr. victim,
13 somebody would have gotten him and I don't even know if
14 Mr. victim could have taken them back to the place that
15 he claims that they were. There has been no evidence
16 presented, none to establish that. When I asked Miss
17 Rogers, she said what I know, I believe that I was in
18 Williamsburg county and I believe that I found the place
19 where Mr. victim supposedly said that this occurred. She
20 believed she found the place. Now, I would submit to
21 you ladies and gentlemen that establishing venue, that is
22 the place where the offense took place, that just simply
23 does not do it, it just does not do it. I want you to
24 please ma'am, please sir, keep in mind that his honor has
25 already instructed you about using your good common

1 sense. You've got a vast collection of experiences that
2 you have collected over the years and that's one of the
3 things that qualifies you as jurors and it is one of the
4 reasons you saw us working so diligently in screening
5 jurors to try to get 12 jurors that we believe could be,
6 jurors that would listen to the facts of the case, make a
7 decision in a case based on the law and the evidence as
8 you find the evidence here and based on the law your
9 honor will give you. Your honor is going to charge you
10 and I want you to look, he's going to charge you that
11 the prosecution still has the burden of establishing
12 venue and if they don't, if they don't, then you must
13 find the Defendant not guilty. Now I would submit to you
14 that based on what Miss Rogers has said, out of her
15 mouth, even though she believed she was in Williamsburg
16 county and she believed that she had found the place that
17 she claims and notice now, and let me tell you the trick
18 about this thing because you noticed yesterday we got
19 into a big argument, because none of this was written
20 down. Remember us talking about the oral statement,
21 that's the beauty of statements. Oral statements have a
22 way of coming up sometimes where they cannot be
23 confirmed. If you ask me what oral statements do, oral
24 statements put doubt in my mind, that's what they do.
25 Oral to who, the only person that knew about the oral was

1 Miss Rogers. Now, I'm not going to say that she's got a
2 bone in this fight, but now I doubt that Miss Rogers
3 would have gotten up on this stand, I mean, ladies and
4 gentlemen, use your good common sense, use your good
5 common sense. Now, when you are called on to act as
6 jurors, you know a lot of times when people come to jury
7 service and they think that well, we've got to figure out
8 how this thing happened and in terms of your search to
9 find the truth and the truth that you are looking for, is
10 not that you can explain the behavior of other people,
11 but the truth that you are looking for is the truth under
12 the law. In other words when his honor gives you the law
13 and tells you that right now Troy Taylor as he sits here,
14 he's been presumed innocent. There is a presumption of
15 innocence. Right now. If this building was to blow up
16 right now, he would be presumed innocent. That
17 presumption of innocence will remain with him throughout
18 the course of this trial and it is the burden of the
19 prosecution, that's this table over here. Under our
20 system, to prove his guilt to you and to prove it beyond
21 a reasonable doubt. If you are not convinced, the
22 unreasonable doubt that the prosecution has proven Troy
23 Taylor's guilt, as to the offenses that he's charged
24 with, which is second degree CSC, Kidnaping and his honor
25 is going to instruct you that there is a lesser included

1 charge, a lesser included offense that you might find
2 which is something that we call ABHAN, that is Assault
3 and Battery of a High and Aggravated Nature and I'm going
4 to talk about that a little more a little later on. But
5 if you are not firmly convinced, that is if you believe
6 that there is a real possibility that the prosecution,
7 now don't say that he is guilty, but has proven him
8 guilty, then you must find him not guilty, not whether
9 you believe, but what has been proven. There is a
10 difference. Because if it's always what you believe,
11 ladies and gentlemen we could never find out things, we
12 would all be going around in a circle, because even
13 though you may believe something, that may not meet the
14 requirements of the law. The law does not say that you
15 have to decide exactly what happened if anything in
16 November of 1998, somewhere in some county. It says that
17 the prosecution has to come to you and prove to you,
18 that's what it says. So, your question is whether or not
19 it has been proven and I would submit to you it has not
20 been. Now, look here at what we are looking at. Now,
21 we've got a young man here, Mr. victim, you know we are
22 at a terrible atmosphere in our society now where every
23 time you turn on the TV, there is some allegation of some
24 minister abusing some child, there is always some, even
25 right now, every time you turn around, so we find

1 ourselves right here in Williamsburg county today dealing
 2 with a similar situation. How do we handle it? We've
 3 got the means to handle it, because we've got a legal
 4 system that is governed by laws and the law says you
 5 can't look at what you might see on TV, Lord knows every
 6 show you turn on TV now it's something about lawyers, or
 7 hospitals or doctors or whatever. But that's not what,
 8 we are in a real world, so what we have is a situation
 9 that separates us from any kind of fairytale and brings
 10 us into the real world where we deal with facts and laws
 11 and proof and burdens of proof. Now, we've got a young
 12 man, I don't know Mr. victim and I don't know what his
 13 motive would be and you don't know and you don't have to
 14 figure it out. But what you do have to figure out ladies
 15 and gentlemen is whether or not the prosecution has
 16 presented such evidence as to convince you beyond a
 17 reasonable doubt that Troy Taylor in 1998, committed the
 18 offense of second degree CSC and Kidnaping as it relates
 19 to Troy Taylor. They have not proved that. Now if you
 20 talk about reasonable doubt, let me give you a couple of
 21 examples of reasonable doubt. Now here you have a young
 22 man, 11 years old, first of all, who decides to go on a
 23 camping trip, not because he's invited by Troy Taylor,
 24 not because Troy Taylor asked him to go, but because of
 25 his friend asking him to go, Charles Harrison. Now, I

1 don't know where Charles Harrison is, I know that his
2 name has been mentioned but apparently based on what Mr.
3 victim told us, Mr. Harrison asked him to go on this
4 camping trip. Not Mr. Taylor. He went on the camping
5 trip and somehow he claims that after everybody went to
6 sleep, somehow Troy Taylor managed to get him out of his
7 bunk, wherever he was, carry him some place else,
8 kidnaped him he said, had sex with him and brought him
9 back and put him next to him until morning. Now, I asked
10 the young man because you know, any person with common
11 sense, if you woke up, I said did you wake up in the
12 morning and when you woke up in the morning what did the
13 other people say about him got you next to him, nothing,
14 nothing. Now, I would find that rather incredible.
15 First of all, who in their right mind with ten or 12
16 other young people, how do you know they are asleep, how
17 do you know you are not going to step on one of them, how
18 is it that you just happen to pick Mr. victim, somehow
19 you manage to put your hand over his mouth and muffle his
20 mouth and keep him from making a sound, take him
21 somewhere, pick him up, according to Mr. victim, well, he
22 picked me up in one arm and kept the other hand over my
23 mouth. If you look at the exhibit, this young man
24 wasn't a small, he was a big boy, he wasn't a small child
25 and for the life of me, don't tell me that anybody in

1 their reasonable mind, if somebody is going to pick you
2 up, carry you, you are going to say something, there is
3 10 or 11 other people out there. Not only carry them
4 off, but have sexual intercourse, now notice if you
5 remember when I asked him on this witness stand, I asked
6 him point blank, I said now didn't you give a statement
7 on June 15th or June 1st, he said, and you didn't even
8 mention anything about anal intercourse did you and he
9 admitted that he didn't. Now, ladies and gentlemen if
10 you are giving a statement of what took place, and the
11 anal intercourse or the rape is the object of it, how in
12 the world can you forget that in the statement, but by
13 his own testimony and out of his own, out of the mouth of
14 babes, you heard it. Not one thing about any
15 intercourse, he said there was fondling and I'm going to
16 tell you what, I'm glad all of us, are adults in here,
17 grown people, that's what the courtroom is for, it ain't
18 for no children, there ain't no toys in here because I'm
19 getting ready to talk about some things now and really as
20 grown people I know that you are all thoroughly familiar
21 with it. Now, tell me how a young man his age can manage
22 to just walk up to a young child, lay him down, and
23 insert his penis into his rectum. Under our law sexual
24 battery requires penetration, however slight. But now
25 I'm going to tell you why it didn't happen and again you

1 can use your own common sense or experience to figure
2 this out and when I say your own experience, I'm not
3 asking anybody to confess to anything, but now I know
4 everybody in here, you are familiar with sexual
5 intercourse. I know you are familiar with it, some
6 people are familiar with virgins, you don't just walk up,
7 no lubrication, no nothing, a grown man's penis, no
8 blood, no screaming, no telling nobody and besides and
9 the prosecution said well look, not only did he do that
10 in 1998 in November but there was another incident they
11 said that occurred in, coming from Huntington State Park,
12 where this incident took place at Mr. Taylor's house.
13 Now even more bizarre, notwithstanding the fact that this
14 so called rape had occurred, Mr. **Victim** again, as he
15 said, finds himself alone, with the same man that he says
16 had raped him, going to the man's house, going into the
17 shower, when he had mentioned this to nobody. I asked
18 him on the witness stand, I said weren't you just a
19 little bit, and ladies and gentlemen, sometimes you ask
20 people things because you know what the answer is, but
21 you have to ask them because you know that once they've
22 taken themselves so far they continue to dig the hole
23 deeper and deeper and that's where it comes in that you
24 can see and use your good common sense to see, I said
25 well, you mean to tell me that you weren't just a little

1 bit scared of him or reluctant to go- no. Now, my Lord
2 have mercy, 11 year old, 12 year old, I don't care how
3 old you are, you've got some sense and you know and
4 besides all of that, here is Mr. Taylor at his house with
5 his wife standing up in the kitchen and his child playing
6 on the floor. He's going to take off his clothes, get
7 naked and get in the shower with a young boy, with the
8 wife standing right there. Now according to Mr. **Victim**,
9 they stayed in there he said about 30 minutes. Now I
10 asked him, I said have you ever told anybody that you got
11 on your knees or something in there, he admitted and
12 never was there a statement where, because see I mean,
13 sex is a good thing, but it ain't always easy, now it
14 might be easy for some people, but when you start
15 getting, standing up in the shower, you know and having
16 sexual anal intercourse or laying down and in a position
17 where you've got your legs straight, it's just not easy
18 and you ain't going to just do that. I see everybody is
19 saying what in the world is he talking about, I'm talking
20 about sex, that's what I'm talking about and I'm sure
21 that those that have been privileged enough to have been
22 involved in it, know exactly what I'm talking about. You
23 don't just walk into that with somebody that hasn't been
24 having sex. It just doesn't happen that way. Now ladies
25 and gentlemen, aside from that, notice that this incident

1 supposedly occurred at Mr. Taylor's house in Murrells
2 Inlet, six months after the alleged incident that
3 supposedly occurred in Williamsburg county. There was no
4 mentioning of the Huntington Beach incident until six
5 months after he mentioned the incident that supposedly
6 took place in November of 1998. Now I asked Mr. victim
7 right on this witness stand, I said now you mean to tell
8 me, the same man that raped you in 1998, in November, he
9 also raped you and you did not mention the incident until
10 six months after. It was six months after. Now why in
11 the world would you wait six months if this same man has
12 already raped you to even mention the incident at Mr.
13 Taylor's house? Because supposedly the incident in
14 Williamsburg county or wherever it occurred, occurred
15 before the incident down at his house. People, it just
16 doesn't happen that way, use your good common sense. As
17 I said, I don't know what is going on in this young man's
18 mind, he would have to believe that well, sometime when I
19 was 11, because of what Mr. Taylor did to me, I started
20 smoking reefer, then I quit, I stopped smoking so much
21 reefer and then I wanted something a little bit heavier
22 so I started in cocaine, then when I started in cocaine,
23 I started with Xanax, with the pills. You know I don't
24 condone and nobody condones abusive drugs. But now what
25 does his mother say, never once to the doctor, never once

1 to a psychologist, whatever his behavior was, it was
2 never suspicious enough, there was never any, and it
3 seems to me if it was a child that was raped, and you
4 take the child home and you pay any attention to it,
5 there must be some blood somewhere, if it's the first
6 time, or the child must manifest some kind of problem in
7 some way that you would know that something is wrong,
8 that something has been going on, but none of that. None
9 of that and here it comes some 8 or 9 years later,
10 notwithstanding an ongoing relationship, it wasn't like
11 these people were separated, they saw each other and they
12 were involved every single day and nothing said. Nothing
13 said. Ladies and gentlemen, you know I looked at the
14 situation with young Trevor that got on this witness
15 stand yesterday and of course, I think that if we, at
16 least we wanted to make sure that you could see that Mr.
17 Taylor took his son with him on this excursion. His son
18 slept in a sleeping bag with him all night. Now
19 according to Trevor, he was waking up back and forth all
20 night and his uncle was right next to him. Now, Ms. Barr
21 you know and I'm not going to anticipate what she's going
22 to say, but quite frankly, we know that if people are
23 kin, certainly they would be concerned about one another,
24 but now his honor is going to instruct you again when it
25 comes to credibility of a witness, just like how it comes

1 from Mr. **victim**, and I'm going to talk about credibility
2 in just a few minutes, but the believability of a
3 witness, that something in your province, you have the
4 opportunity to look at the demeanor of Trevor on the
5 witness and to ask yourself whether or not he told the
6 truth. He said we had one tarp, we were all under that
7 tarp and my uncle had his son under there right next to
8 him. We went to sleep and got up the next morning.
9 Ain't nobody heard nothing, ain't nobody said nothing,
10 there was nothing unusual that happened. Now ladies and
11 gentlemen, I would submit to you that in the ordinary
12 scheme of things where you've got a situation where
13 you've got 8 or 9 children out like this, first thing
14 that morning, somebody would have said something. When I
15 say somebody, I'm talking about if somebody had been
16 sexually abused by the preacher. The child would have
17 told somebody. It would have been the kind of thing that
18 would be so unusual and notwithstanding that to even
19 suggest that it happened again and nobody said anything
20 and that somehow after 8 or 9 years, when Mr. **victim** felt
21 comfortable enough, or course, Miss Cook, the
22 psychologist came here and gave you what Ms. Barr brought
23 her in here to say, to explain to you well people wait a
24 long time to tell things, the woman ain't never sat down,
25 and never had a conversation with **victim** in her

1 life. Now she's a professional and I certainly don't
2 take anything from her, her credentials and her
3 expertise, but she don't know anything about this case
4 and she doesn't know anything about the particular
5 individual. It would seem to me that you would at least
6 examine the individual, but you know everybody is
7 different, but not one thing, not one thing. You never
8 heard victim [REDACTED] say when he was in the shower that he
9 couldn't make a sound. Now you tell me what kind of man
10 in his right mind would take off his clothes, now you
11 notice, he said take off his clothes, came in the shower,
12 was naked, so he must have taken off his clothes right
13 there in the house, with his wife in the house and get in
14 the shower with the young boy, and the young boy, you'd
15 have to be, it just don't happen that way. Common sense
16 would dictate that it just doesn't happen that way and it
17 didn't happen that way in this case. Ladies and
18 gentlemen, when you go to your jury room and start
19 deliberating after his honor will instruct you on the
20 law, of course, like I said he is going to tell you that
21 as it relates to criminal sexual conduct in the second
22 degree, what is required in terms of the elements of
23 criminal sexual conduct in the second degree is it
24 requires a sexual battery on a person 11 years old or
25 younger, but you have to find that a sexual battery was

1 committed. In the case of kidnaping, when you
2 unlawfully take somebody and carry them away without the
3 authorization of law, that is considered kidnaping.
4 Assault and Battery of a High and Aggravated Nature, is
5 an aggravated assault, battery is the touching, he's
6 going to tell you that there are a number of
7 circumstances of aggravation, that is that make the
8 assault and battery an aggravated assault and he's going
9 to explain that to you. Of course, the reason that he
10 is going to do that is because of what we call a lesser
11 included offense. That is there was testimony, at least
12 from Mr. **victim** that at least by one statement that there
13 was no anal sex, so now, the only thing that seemed to do
14 to me is suggest more confusion, but you take the law as
15 his honor will give it to you and you answer those
16 questions. But now ladies and gentlemen as I said, Troy
17 Taylor is presumed innocent and that presumption of
18 innocence will remain with him throughout the course of
19 this trial, it is only when you as 12 impartial jurors,
20 conclude and that is each and every one of you agree,
21 your verdict is going to have to be a unanimous verdict,
22 you are going to have to agree that the prosecution has
23 proven to you his guilt of these charges beyond a
24 reasonable doubt. His honor is going to instruct you
25 that a reasonable doubt is not just an imaginary doubt,

1 it's the kind of doubt that would cause you to hesitate
2 to act, it causes a reasonable person to hesitate to act.
3 Ladies and gentlemen, and I'd like to say at the end of
4 the day, and at the end of the day refers to after you've
5 gotten your charge on the law from your honor, if you are
6 not convinced that the prosecution has proven each and
7 every one of these offenses, and proven them by a
8 standard beyond a reasonable doubt, in other words if you
9 are not firmly convinced, now notice that there is an
10 adjective there, it says not just convinced, but firmly
11 convinced, that means that your mind is made up in a firm
12 way but if you believe that there is a real possibility
13 that the prosecution hasn't proven the Defendant's guilt
14 beyond a reasonable doubt, then even as to these offenses
15 you would find him not guilty. You must find him not
16 guilt and that's your charge. Now, I'm going to take my
17 seat now, I touched on a couple things that I thought
18 should be highlighted in terms of things that certainly
19 from a reasonable person's standpoint that would really
20 cause a reasonable person to thing, because see we can't
21 turn back time and we can't go back out there in 1998, we
22 just simply can't do that. It will never work that way,
23 but we've got the best system in the world in terms if
24 you want to look at it retroactively and find justice in
25 the situation, we've got the best system in the world.

1 We've got people dying and drowning trying to get to this
2 country. One of the reasons is because our judicial
3 system is the fairest system in the world. We don't put
4 people out there and hang them like they do in Iraq or
5 some places, we give them a trial, and we give them a
6 trial by a jury of 12 impartial people, 12 people that
7 can listen to the law and take the law as it is given to
8 them, 12 people that will be obedient to the law. You
9 know from the very beginning of time, we've always had
10 the problems with abuse, even God's chosen people, from
11 the very beginning of time, their problem was always one
12 of obedience, they were chosen to be an example to the
13 rest of the world, but they always got in trouble because
14 they could not be obedient. What I am asking you to do
15 is be obedient to the law as his honor instructs you and
16 particularly I am asking you now, as I said, I'm not
17 going to give Ms. Barr too much credit, but I want you to
18 keep in mind that whatever she says and whatever I say is
19 not evidence. You have heard all of the evidence that
20 you will hear in this case, but I want you to remember as
21 his honor instructs you in discharging your duty as
22 jurors, the prosecution has the burden of proving the
23 Defendant's guilt and ladies and gentlemen, they can do
24 that in a number of ways, the negative as well as the
25 positive. Sometimes it's not so much as what you show

1 as what you don't show and in this case it simply hasn't
2 been shown. You must look at the credibility of some of
3 this evidence, and of course when I say some of this
4 evidence, I'm talking specifically about the story that
5 you heard from this young man Mr. [victim] and ask yourself
6 at least some of the questions that I've pointed out to
7 you, in terms of determining whether or not this is
8 something real and are you satisfied beyond a reasonable
9 doubt that it occurred under the circumstances. I don't
10 know what would make him say what he said but that's not
11 our responsibility. We don't have to get into that. We
12 just have to ask ourselves based on what we've heard. Is
13 this reasonable to believe this under the circumstances,
14 is it reasonable to believe that somehow Mr. Taylor could
15 have picked Mr. [victim] up and carried him off to some
16 kind of location without anybody noticing anything. That
17 would be a tremendous risk for anybody to take. You ain't
18 going to just do that. My Lord. Is it reasonable to
19 believe that somehow with his wife at home and with his
20 child playing in the floor that he would go in the
21 bathroom and get in the shower and have sex with a young
22 man, knowing the woman can walk in there anytime. I
23 asked Mr. [victim], I said she wasn't no more than just
24 five or six feet away was she and he said yes. How in the
25 world are they going to be in the shower having sex, no,

1 that ain't going to happen unless you want to get killed
2 or something. You ain't going to do nothing like that.
3 Finally, I don't care what anybody says, this thing has
4 not, I don't know what occurred and I'm not going to
5 assert that I know it, but I know what this young man
6 claimed and where he claimed it happened, and the
7 prosecution ladies and gentlemen has not established any
8 site as to where this supposedly happened, they just
9 simply haven't done it. If somehow Miss Rogers had gone
10 and taken Mr. victim and said look, take me back out
11 here, now quite frankly I don't think Mr. victim could
12 have gotten there, after 8 or 9 years, I couldn't do it
13 after 5 or 6 years, dug up the whole place and still
14 couldn't do it. Have you ever been some place, stayed
15 away 8 or 9 years, and went back. My goodness, you live
16 in the city some place and you go back, everything has
17 changed and you get lost. Not only that, nobody said Mr.
18 victim ever went back out there and showed them that this
19 thing occurred in Williamsburg county. Nobody ever did
20 it. I'm not trying to put the blame on anybody, but I
21 got a client to defend and the prosecution has the
22 responsibility and that responsibility is to bring proof
23 into this courtroom that proves to you the Defendant's
24 guilt. In this case, venue, that is the location of
25 where this incident supposedly took place, that is

1 something that his required to be established. It can be
2 established by inference, his honor will instruct you
3 that it can be, but inference from what. You must have
4 something to infer from and there is simply nothing to
5 infer from in this case. That last minute, piecemeal,
6 put together effort that the prosecution made when they
7 put Laura Rogers on that stand, it just simply won't do
8 and ladies and gentlemen, I ask you to come back with a
9 verdict that speaks the truth, and for no other reason
10 but for that reason. Now, if you can tell me how you are
11 going to find your way from Georgetown along back roads
12 all the way to Andrews and pick out a location based on
13 that, then I will just take my wings and fly right on out
14 of here. On behalf of Troy Taylor, on behalf of his
15 honor, on behalf of all of the court staff, on behalf of
16 even the people that are bystanders in this courtroom,
17 and I'm particularly speaking on behalf of Troy's family
18 as well as him, we thank you. You didn't have to come
19 here and stay here and sit here patiently today. There
20 are a lot of people who tried to get out this, they don't
21 want to do it. They would rather somebody else do it.
22 But ladies and gentlemen, any system that is so good, it
23 can't be no better than the people that make it up, but I
24 would submit to you that what you've done in this case,
25 what you've already done, you deserve to be complemented

1 for it, so we all thank you. Even the prosecutors, they
 2 thank you because they are a part of this system as well
 3 and I am quite confident ladies and gentlemen that you
 4 will take the law and like I said listen very carefully,
 5 because his honor is going to tell you that the
 6 prosecution has the responsibility of establishing venue,
 7 even by inference. But now when you've got the man that
 8 supposedly complained of what I said, I don't know where
 9 I was and you've got the only investigator that you've
 10 heard in the courtroom that come before you to say look I
 11 don't know. I don't know if I was in the place where Mr.
 12 victim actually claims that this took place. I know when
 13 I went back out there I was in Williamsburg county but I
 14 don't know. That's what she said, I don't know and two I
 15 don't knows mean I don't know. Ladies and gentlemen, I
 16 don't think you know and I ask you to come back with a
 17 verdict in this case which speaks the truth, one that
 18 says the Defendant is not guilty. Thank you.

19 The court: Alright, everybody on the jury ok, does
 20 anybody need a brief break? Alright Ms. Barr.

21 Ms. Barr: Thank you, your honor, may I please the
 22 court. Madam forelady and ladies and gentlemen of the
 23 jury, good morning. I listened to Mr. Barr's closing
 24 argument and I was impressed and quite intrigued. I
 25 thought it was funny that he starts telling the story

1 about his ex-wife and the ring. Charles, I think your
2 ex-wife has that ring. I think it's right where you
3 planted it and she's got it. Now, folks we've got a case
4 here that is significant to say the least. It is a case
5 where a small boy was the victim of the worse, worse kind
6 of crime and the crime was committed by a person that he
7 trusted, that he looked up to, that his family looked up
8 to, a person who was a leader in the community, and he
9 was 11 years old. I grew up in Richland county and at
10 the risk of telling you all my age, there is probably
11 about 16 or 17 years between he and myself, but I think
12 when I grew up as a child, I think we were in different
13 worlds, we had to have been. I remember growing up as a
14 child and I remember my mama told me three things and
15 when she told me these three things, I think she issued
16 them to me as a warning. If I listened to these three
17 things, I would have a happy healthy childhood. The
18 first thing she told me was stay away from boys, the
19 second thing she told me was don't play in the street and
20 the third thing that I remember that my mother told me
21 was to be weary of strangers. I didn't play in the
22 street and I was very weary of strangers, but we know
23 folks it ain't the strangers that hurt us. It wasn't a
24 stranger that caused this traumatic event to happen to
25 victim [REDACTED], it was someone he knew, someone he

1 respected. I submit to you that it was someone he loved.
2 Gone are the days that we can look at somebody and say
3 that's a pedofile, that person looks like a child
4 molester. Mr. Taylor doesn't look like a child
5 molester. You can no more look at somebody and tell
6 whether they are a child molester than you can look at
7 them and tell their blood type. There is just no way you
8 can do that anymore. Let me tell you something about
9 pedofiles, child molesters. They don't want to stand
10 out, because the type of people that we view as child
11 rapists, we see somebody and look at them and say yes
12 that's a child rapist, people around us are going to say
13 they have issues. He was in the possibly perfect
14 position. He was in a position of authority, he was in a
15 position of respect and he had unlimited access to many
16 children. Who is going to believe the pastor would do
17 something like that? Kids are coming up to church every
18 Sunday, parents are bringing them there, they are going
19 on these trips, who would suspect him? See he was able
20 to use the cloak of prescancy, being pastor and a man
21 of God, he was able to use it as a fertile ground for his
22 deviant sexual desires. Of course, he didn't tell
23 anybody. You know Mr. Barr made this whole point, he
24 said Oh goodness, why wouldn't you tell anybody, if
25 somebody had done this you would go and you would tell

1 right away. Well, when the psychologist got up, what did
2 she say? She started testifying about certain behaviors
3 of children who are victims of sexual assault. What did
4 she say? Sixty-Nine (69%) percent of children don't
5 report abuse right away. Sixty-Nine percent folks,
6 that's two out of three kids who are raped as children,
7 don't tell it right away. You don't think it crossed his
8 mind that he's got to see this man everyday. You don't
9 think it crossed his mind that somebody might not believe
10 him, he's 11 years old. We've got grown folks out there
11 that are raped as adults and they don't tell it right
12 away, so we wonder why a kid wouldn't tell. Are we
13 really surprised that an 11 year old child wouldn't tell
14 when we've got victims of rape who are grown people that
15 don't go out and tell it right away. Why don't they tell
16 it? Let me tell you why they don't tell it. People do
17 the same thing Mr. Barr did. Oh that couldn't happen, he
18 couldn't have done that. Well, what did the kid do, well
19 the defense might as well imply that he asked for it, he
20 wanted to go on the trip, Mr. Taylor didn't ask him to
21 go, he wanted to go. Oh well, he wanted to go on the
22 camping trip as an 11 year old boy, so he must have asked
23 for it. That's why they don't tell it. It's bad enough
24 they have to actually go through that. But if he didn't
25 have enough fun doing this, oh, he gets the opportunity

1 folks to come back on the stand and he gets to have a
2 whole bunch of fun sitting up here in front of strangers,
3 in front of his parents, in front of his girlfriend and
4 get grilled, and berated and badgered about everything
5 that happened to him. Oh man, that was fun, I'm sure he
6 enjoyed that, were your legs opened or were they closed,
7 did he touch you on your penis or on your behind and we
8 wonder why they don't tell. You know what, I told him
9 before we started this process, it's going to be brutal,
10 it's going to be tough, the defense lawyer is going to
11 grill you, he's going to make you look like a liar, he's
12 going to say you were a dope feen, don't believe him. I
13 want to do it, I can do it, I want to tell them what
14 happened and you know what folks, he got pounded, he got
15 grilled, he got badgered, but he did it, he didn't change
16 his story one single bit. His facts were entirely
17 consistent on direct and cross-examination, no matter how
18 hard Mr. Barr denies it. Let's see, here's the problem
19 with their version, that he can't believe, see when you
20 lie particularly when you create this grand lie being
21 raped as a child by your pastor, the problem with lies is
22 you get caught in it, when you tell a lie, you have to
23 make sure that you are wise and on your feet and you are
24 able to cover up when you get cross-examined so many
25 times. I remember my boss, Mr. Saab always talks about

1 the devil is into detail and he loves things, he loves
2 cross-examination because if he feels that a person is
3 being untruthful that he gets into all these details and
4 if they slip up on one detail, then he's got them. That
5 child, and I understand he's a grown man, but he was a
6 child then, that child did not slip up on one detail.
7 You know why he didn't, folks, he was telling the truth.
8 Mr. Taylor can sit over there and smirk and smile all he
9 wants to but that kid was telling the truth when he got
10 on that stand. You know this little boy, I look at his
11 picture, and I start to wonder, this is State's exhibit
12 number 1, it occurred to me that he wasn't smiling in
13 that picture and I started to wonder whether or not it
14 was before or after this happened. I was working last
15 night and thinking about what I wanted to say to you all
16 today, I began to wonder about his testimony. I began to
17 remember it, recollect it and think about it and ponder
18 it and I remember that he had told me or told you all
19 that when he turned 14 that's when he started using drugs
20 and I began to wonder, I said 14, I wonder what the
21 significance of that is. We had two rapes that happened
22 at age 11 and 12 and then two years after the last rape
23 is when he began acting out and I thought about it and I
24 thought about it, and I said age 14, why 14, why not 12,
25 13 or 16 or what have you, and then it dawned, you know

1 around 13 or 14 is when kids start to go through puberty,
2 and you know little girls they start to blossom into
3 young women and little boys start to develop into young
4 men, their voices start to change, they get a little
5 facial hair, and that sort of thing, I wonder if that had
6 something to do with it. I wonder if, you know, while he
7 was going through puberty if he started to question what
8 had happened to him, even more if he started to wonder if
9 people thought he might be gay because he didn't shower
10 because he had been raped and I wondered if that fed into
11 his notion of self destructive behavior and the self
12 hate. This was a kid who hated himself. He didn't want
13 to be here. You know, we all get depressed sometime, but
14 you've got a 17 year old who they want you to believe
15 nothing happened to, who wants to take his life. Why is
16 that? He had self medicated himself, he wanted to
17 change his moods, he didn't want to think about it, he
18 wanted to drown out the memories of this attack, he
19 slowly graduated to heavier drugs to do that, to the
20 point where the drugs weren't working anymore. Robert
21 Troy Taylor stayed here in his psyche and he couldn't
22 live with it anymore. Thank the Lord that he was able to
23 get beyond what had happened to him and leave the drugs
24 alone and clean his life up. By the grace of God, he was
25 able to do that. I think about his statements, you know

1 a lot of time, as prosecutors you have other witnesses
2 come up after the victim has testified, you worry because
3 sometimes you have other witnesses come up and say oh no,
4 he's completely lying and I expected the Trevor guy to
5 come up and say no, we didn't go on a camping trip, no we
6 didn't leave from the church, we left from my uncle's
7 house and that he was completely lying about everything.
8 Their own witness helped us to me. What did he tell you?
9 He corroborated every single fact that that kid testified
10 to. What did they say? We left the church in a van,
11 same thing Trevor said. We got there we had a bonfire,
12 same thing Trevor said. We went to bed about 10:30 -
13 11:00 that night, same thing. **Victim** got up and testified
14 that somewhere in the middle of the night, Mr. Taylor got
15 out, put his hands over his mouth and took him to another
16 tent and Trevor even said that there was another tent set
17 up that had their belongings in it. That's exactly what
18 he said. **Victim** testified when he was raped and brought
19 back to the tent where everybody was, that everybody was
20 still asleep. That boy got up on that stand and did not
21 contradict one thing that **Victim** **██████████** stated about this
22 camping trip. And you mean to tell me this kid, this 11
23 year old, has got enough savvy about him to anticipate
24 what a defense witness is going to say and make his story
25 consistent, no. His story is consistent because it's

1 true. Now, sometimes it's hard to believe when the
2 defense lawyer is arguing about certain things. I
3 noticed out of about 45 minutes, Mr. Barr probably spent
4 half of that time talking about this issue about venue.
5 Folks, that's just a way to muddy the waters. He knows
6 this case happened in Williamsburg county, there was a
7 six month delay between Georgetown and Williamsburg
8 county to make sure that it happened here, there was no
9 question about that. If it was in Georgetown county, you
10 all wouldn't be here. A jury in Georgetown county
11 would be here. Let's just dispense away with that
12 completely. There is no doubt that this case happened in
13 Williamsburg county. If you look at these defenses, they
14 sit there and they tell you, well, first of all it didn't
15 happen, that's defense number one, ok, then if you don't
16 believe that it didn't happen, it didn't happen in
17 Williamsburg county, that's defense number two, and well
18 if you say it happened and it happened in Williamsburg
19 county, well let me throw this at you, it really wasn't
20 anal sex, it was just touching, so you should find him
21 guilty of Assault and Battery of a High and Aggravated
22 Nature rather than Criminal Sexual Conduct. Come on,
23 he's just throwing anything out there and hope something
24 sticks, that's all they are doing. This guy is so
25 arrogant and so conceited, he's not worried about an 11

1 year old. There are some people that are in that position
2 and it is well deserved and it is well earned and there
3 are other people that are in that position that think
4 that because they are quote/unquote a man of God, that
5 they are God, that they are beyond man, that they are
6 beyond laws, that the rules that govern everybody else
7 don't apply to them, that's why he was so bold to go in
8 there and rape this kid inside his house, the rules of
9 man don't apply to him. You see that was his m.o., that
10 was his motis overin, to take a kid, isolate him away
11 from his parents, you take him outside of his home
12 county, you use the guys of a church function, who is
13 going to question going on a church function with the
14 preacher, you use that as an opportunity to rape the
15 child and he did it in both instances. That was his
16 common scheme of plan. Take him away from his parents,
17 do it on a church function, to fondle and rape the child.
18 Now, ladies and gentlemen, to sit there and say this
19 didn't happen, folks, we know it happens everyday. Kids
20 younger than this get raped every day, two and three year
21 old babies, unfortunately in this twisted world, get
22 raped everyday. Don't come up and tell me that that
23 couldn't happen because he was an 11 year old boy and it
24 was the first time. That's crap. Every time somebody is
25 raped, every time a child is raped for the first time,

1 it's the first time, don't buy that. It's difficult to
2 imagine and it turns your stomach to imagine that it
3 happens, but we are all in the real world, it happens.
4 We know sometimes what happens in these churches, pastors
5 violating our churches. This kids got one day, today's
6 that day, he's got one place, this beautiful courtroom is
7 that place. Folks, this is a horrible, horrendous crime
8 that occurred, there has to be justice. We can't send
9 our kids to school anymore, because they are shooting in
10 schools, what a sad world we live in.

11 The Court: Thank you Ms. Barr. Alright, ladies and
12 gentlemen, it is a quarter to 12 and at this point the
13 charge that I am going to give you on the law will
14 probably take a little bit longer than 30 minutes, I am
15 going to ask you to step to your jury room and take a
16 break for about 10 minutes and have you back out, of
17 course, if the bailiff comes to the door and you have not
18 had enough time, simply let the bailiff know and we will
19 give you a little bit more time, and then we will have
20 you back out and I will give you the charge on the law
21 and at that point, ladies and gentlemen, you will be
22 allowed to discuss this case among yourselves, however,
23 until I tell you that you can, continue to refrain from
24 discussing the case, and continue to refrain from forming
25 any opinions in your mind. Please go to your jury room,

1 we will have you back out shortly.

2 (Jury break 9:56)

3 The court: Mr. Barr and Ms. Barr, do either of you
4 have any objections to the verdict form?

5 Ms. Barr: Judge, I haven't seen it.

6 The Court: As I reviewed earlier.

7 Mr. Barr: Judge, I've reviewed it.

8 (The jury is brought back in 10:38)

9 The Court: Alright, thank you very much ladies and
10 gentlemen we appreciate your patience and again, we are
11 drawing near to the time where you will have this case
12 for consideration. The statements that I am going to
13 make to you today are again provided by the Rules of
14 Criminal Procedure, constitute the charge on the law. As
15 I will tell you more than once in this charge, you have
16 to accept the law as I give it to you. In other words,
17 you cannot base your decisions in this case, on what you
18 think the law is or what you think the law ought to be,
19 you have to accept it as I give it to you. For example
20 out front, we have Main Street and if you thought that
21 the proper speed on Main Street ought to be 20 miles and
22 hour, but the law was that it was 30 or whatever it might
23 be, and if a case came before you where that was an
24 issue, you would have to base your decisions in that
25 case, on what the legal speed limit was and not on what

1 you thought it should be and that's just a very desperate
2 example, but that is an example of how you have to accept
3 the law as I give it to you. During the course of this
4 charge, I am unfortunately going to have to read some
5 things to you. I practiced law as a lawyer for about 21
6 years before I became a Judge, and I tried lots of cases
7 right here in this very courtroom and probably not once
8 during the trials that I had in this county and other
9 counties as a lawyer did I use much in the way of notes,
10 when I made arguments or statements to the jury, because
11 that's what I was more comfortable with, from time to
12 time, you may check an outline. But most lawyers, and
13 neither lawyer did here today overtly sit here and read
14 you their argument. Unfortunately, as far as you paying
15 attention to me is concerned, this exchange between me
16 and you is a little bit different, because even though I
17 might be able to sit here for the next 30 minutes, and
18 give you a charge on the law without referring to any
19 notes, I am required by the law, to give you a full and
20 complete charge on the law and for that reason, I may
21 read things to you to make sure I don't leave something
22 out. But again, during the course of this charge, I
23 would certainly appreciate it and I will instruct you of
24 course to pay very close attention because the charge on
25 the law is as equally important as the testimony of

1 witnesses, other exhibits that have been introduced and
2 also the arguments and statements given to you by the
3 lawyers. Again, we are near the end of the courtroom
4 process and you can begin the deliberation process in
5 just a minute, but just bear with me while I review these
6 points of law with you. Now, the State of South
7 Carolina in this case, has charged the Defendant, Robert
8 Troy Taylor, with two offenses, now you will hear
9 ultimately that you will have three offenses for your
10 consideration and all of this will come together in the
11 end, so please bear with me. The indictment in this case
12 charges Robert Troy Taylor that he did in Williamsburg
13 county during the month of November, 1998 willfully and
14 unlawfully commit Criminal Sexual Conduct, with a minor,
15 in the second degree, by engaging in sexual battery with
16 a minor victim, who was 11 years old while on a camping
17 trip, in violation of the statute of this state. Count
18 two says Kidnaping, says that Robert Troy Taylor, did in
19 Williamsburg county, during the month of November,
20 violate S.C. Code Section 16-3-910, which is the
21 Kidnaping statute, in that he unlawfully took a child
22 away from a child's tent to another. Now, I will tell
23 you that the mere fact that I indicated to you earlier,
24 the mere fact that this indictment exists and the mere
25 fact that these charges have been leveled and the mere

1 fact that the Defendant was arrested and brought to trial
2 is evidence of nothing, because at all times, as I will
3 explain to you several times in this charge, the
4 Defendant is, enjoying at this point, a presumption of
5 innocence. He is not presumed guilty of any of these
6 charges and the indictment as I indicated to you at the
7 beginning of the trial, is not evidence in this case, it
8 is simply a charging document. The Defendant has
9 entered a plea of not guilty to the indictment and by
10 that plea he denies all of the charges and by that plea,
11 the burden of proof in this case falls on the State. I
12 am going to instruct you on all those points later. Now,
13 the evidence that you can consider in this case is the
14 testimony of various witness along with such exhibits
15 that might have been introduced into the record in this
16 case. Again the Defendant comes to the court clothed
17 with the presumption of innocence and that presumption
18 carries with him throughout this case and it entitles him
19 to a verdict of not guilty unless and until it is
20 dispelled by evidence satisfying you the jury beyond a
21 reasonable doubt that he is guilty of the offense charged
22 and that the State has proven each and every element of
23 the alleged crimes beyond a reasonable doubt. Now, the
24 charges in the indictment are criminal sexual conduct
25 with a minor and Kidnaping. In a moment, I will go over

1 with you the offense of Assault and Battery of a High and
2 Aggravated Nature, it is considered to be what we call a
3 lesser included offense of the Criminal Sexual Conduct
4 with a Minor in the second degree. The two charges of
5 Kidnaping and Criminal Sexual Conduct are independent of
6 one another but when we get to the verdict form Madam
7 Forelady, I will explain to you the order in which you
8 are to consider the charges in this particular case.

9 Now, during this trial as I have reminded you several
10 times, you and I have had certain duties to perform. As
11 the Trial Judge, it is my responsibility to preside over
12 the trial and I also have the duty to rule on the
13 admissibility of certain evidence. In layman's terms, I
14 have the job of determining what evidences comes in and
15 what evidence does not come in. You are to only consider
16 the evidence that has in fact been introduced into the
17 record. If there was any testimony or evidence that I
18 ordered stricken from the record, you must disregard that
19 evidence if I have ordered you to disregard it. You are
20 again to consider only the testimony that has been
21 presented and any exhibits which have been made a part of
22 the record and any stipulations or agreements between the
23 attorneys that were put on the record in your presence.
24 Now I have the additional duty to charge you the law in
25 this particular case and again as I told you earlier, I

1 am the sole judge of the law and you have to accept the
2 law as I give it to you. I gave you the example at the
3 beginning of this trial that the best way you can
4 distinguish our two jobs is that when you go back into
5 the jury room, I don't go with you, because you are the
6 sole judges of the facts. You have a very important job
7 and it is not appropriate under our rules for me or for
8 the lawyers or for anyone else in this courtroom to go
9 back into your jury room and even passively listen while
10 you deliberate the case. There is no microphone where
11 we can hear from another room what you are talking about.
12 In other words, you are the sole judges of the facts and
13 that jury room will be the location where you will
14 determine where the truth lies in this particular case.
15 By the same token, as unfortunately happened several
16 times during the trial, you were sent out the courtroom
17 so that we could discuss points of law. That was not to
18 hide anything from you, that's just what the rule books
19 says we do and we follow the rules. On TV you may see
20 lawyers argue points of law to the judge in front of the
21 jury, that's just not the way it works in the real world.
22 So, in essence, that is an example of how our roles are
23 different. I am not going to interfere with your
24 judgment on the facts and you are not to interfere with
25 my instructions on the law. Now, having said all of

1 that, if I have said anything during the course of this
2 trial, in your presence, that indicates to you that you
3 think I've got an opinion on the facts of this case,
4 please put that aside. Because necessarily in ruling on
5 certain matters in your presence, I may have had to make
6 some type of oblique reference to some point of testimony
7 that may have been introduced, but the law doesn't allow
8 me to have an opinion on the facts and believe me I don't
9 have an opinion on the facts of this case, and this is a
10 matter solely for you the jury to determine. Again, it
11 is your job as jurors to determine the effect, value,
12 weight, and truth of the evidence presented during this
13 trial. At the beginning of the trial, I gave you a
14 preliminary instruction on the term credibility, because
15 it is your job as jurors when you search for the truth in
16 this case to determine the credibility of witnesses.
17 Credibility simply means believability. You can believe
18 all of what a witness has to say, you can believe every
19 word. You can also, based on your common sense and
20 judgment, and your view of the evidence, believe none of
21 what a witness has to say. Also in your judgment, you
22 can accept the truth, parts of what a witness and you can
23 reject other parts of what a witness says. So, in other
24 words, you can use your common sense and you can believe
25 all of it, none of it or parts of it and that's for you

1 to determine in your wise exercise of common sense. Now,
2 in passing upon the credibility of a witness, you may
3 take into consideration many things, and this is not an
4 inclusive list, you can pick other reasons not to believe
5 or to believe someone. You can consider what was the
6 manner and appearance of the witness who testified. Was
7 the witness straightforward? Was the witness hesitant
8 in answering questions? How did the witness come to know
9 the facts that he or she testified to and what was his or
10 her ability to know those facts that he or she testified
11 to. You can also consider whether or not there might be
12 some reason a witness would want to give testimony which
13 would help or hurt one side or the other. In other words,
14 was the witness biased or prejudiced for or against one
15 side or the other. You can consider whether or not the
16 testimony of a witness was strengthened or weakened by
17 other testimony or evidence presented to you. Again, you
18 can believe as much or as little of what a witness has to
19 say. You can believe again, all or parts of what a
20 witness has to say. The fact that testimony is not
21 controvert or contradicted, does not mean you have to
22 accept it as true, you must still gauge the credibility
23 of the witness to determine the believability or truth of
24 the facts offered throughout the testimony. Now keep in
25 mind, you have one objective in weighing the evidence and

1 determining who to believe insofar as credibility is
2 concerned. Your objective is to seek the truth,
3 regardless of the source from which it comes, as long as
4 the source is competent evidence introduced to you during
5 the trial and again what the attorneys say is not
6 evidence. Now, I've used the word evidence, so far
7 probably 10 or 12 times, maybe more. There are two types
8 of evidence which are generally presented during a trial.
9 These are called direct evidence and circumstantial
10 evidence. Direct evidence is the testimony of a person
11 who asserts or claims to have actual knowledge of a fact
12 such as an eyewitness. Circumstantial evidence is proved
13 from a chain of facts and circumstances indicating the
14 existence of a fact. Now, an example of circumstantial
15 evidence, if you were in an enclosed room with no windows
16 and you were seated in that room and someone walked in
17 who was wet and/or shaking off an umbrella, shaking water
18 off the umbrella, did you see it raining outside no, but
19 you might logically infer from what you did see that it
20 was raining outside. That is an example of
21 circumstantial evidence. Now, the law makes absolutely
22 no distinction between the weight or value that you are
23 to give direct or circumstantial evidence, nor is a
24 greater degree of certainty required of circumstantial
25 evidence than of direct evidence. In other words, you

1 are to weigh all of the evidence in this case using your
2 good common sense to judge it. Now after weighing all of
3 the evidence in this case, if you are not convinced of
4 the guilt of the Defendant on a particular charge, beyond
5 a reasonable doubt, you must find the Defendant not
6 guilty. Now, you just heard the term reasonable doubt
7 and I will define that for you in just a few minutes.
8 Now, you have also heard the witness of a person who has
9 special knowledge, skills, experience, training or
10 education in a particular field and who has given her
11 opinion as an expert as to matters in which she is
12 skilled. In determining the weight to be given to such
13 an expert opinion, you should consider the qualifications
14 and the credibility of the expert and the reasons given
15 for her opinion. You are not bound by that opinion and
16 you can give the weight, if any, that you think it is
17 entitled to. Now, again the value and the effect of
18 expert testimony is a matter to be solely estimated by
19 you and no mere opinion of an expert can be accepted in
20 and of itself as truthful or reliable just because an
21 expert gave it. Again, you must weigh it and it must
22 convince you to the same force and effect as any other
23 witnesses testimony in this particular case. You must
24 consider the testimony in the same manner as you do any
25 other testimony and again give it the weight which you

1 think it is entitled to. The term weighing of evidence
2 ladies and gentlemen, I have indicated to you several
3 times that you are to weigh evidence. Rest assured that
4 there is nothing in our rule book here that tells me how
5 to tell a jury how to weigh evidence. In other words,
6 you don't open up a book and say ok, according to point
7 one, this is how we weigh evidence. I will tell you
8 that you will probably be glad to hear that you weigh
9 evidence using your common sense. You should have
10 listened closely to the evidence presented and again,
11 weigh the evidence using your good common sense and
12 judgment. Weighing evidence is entirely a mental
13 process. Evidence weighs with you that convinces you of
14 its truth regardless of where it came as long as it came
15 from the testimony or exhibits introduced in this case
16 and whether it came from the Defendant or from the State.
17 Your objective again is to find the truth in your
18 weighing of the evidence. Now, in a criminal prosecution
19 of this type as I have already indicated to you, the
20 State of South Carolina has the burden of proof. The
21 defense has no burden whatsoever and again he is presumed
22 innocent. In this State, according to our constitution,
23 as far as the elements of the crimes for which he has
24 been charged, have to be proven beyond a reasonable
25 doubt. Now, insofar as the elements of the crime are

1 concerned, if the State has failed to meet the burden of
 2 proof beyond a reasonable doubt, then the Defendant is
 3 entitled to an acquittal. Now I will tell you, insofar
 4 as the place of the crime is concerned, to move away from
 5 the statement of reasonable doubt for the time being, the
 6 question of where a crime was committed is a question of
 7 fact for you the jury to determine. Now, this need not be
 8 proven to you beyond a reasonable doubt, but the question
 9 of where the particular crime may have occurred need not
 10 be affirmatively proved if there is sufficient evidence
 11 from which it can be inferred. An inference, the word
 12 inferred logically means that I discuss with you what an
 13 inference is. An inference is a conclusion that can be
 14 reasonably reached by you upon consideration of the
 15 evidence as a whole. Again, the place where the crime
 16 was committed need not be proved beyond a reasonable
 17 doubt and evidence of the place of the crime, though
 18 slight, is sufficient in the absence of conflicting
 19 evidence and may be proven by circumstantial as well as
 20 direct evidence. Now ladies and gentlemen, with regard
 21 to the presumption of innocence, the Defendant has pled
 22 not guilty to the crimes for which he has been charged.
 23 Again, that plea puts the burden of proof on the State to
 24 prove the Defendant guilty. Again a person charged with
 25 committing a criminal offense in South Carolina is never

1 required to prove himself or herself innocent. I charge
2 you that it is an important rule of law that the
3 Defendant in a criminal trial, no matter what the
4 seriousness of the charge might be, will always be
5 presumed to be innocent of the crime, unless guilt has
6 been proven by evidence satisfying you of that guilt,
7 beyond a reasonable doubt. Now, this presumption of
8 innocence does not end when you begin your deliberations,
9 but it accompanies the Defendant throughout the trial
10 until you reach a verdict of guilt based on evidence
11 satisfying you of that guilt beyond a reasonable doubt.
12 Some say that the presumption of innocence, and it is, is
13 like a robe of righteousness placed about the shoulders
14 of the Defendant, which remains with the Defendant until
15 it has been stripped from the Defendant by evidence again
16 satisfying you of his guilt beyond a reasonable doubt.
17 The presumption of innocence is not a mere legal theory.
18 It is not a legal catch phrase, it is a substantial right
19 to which every Defendant is entitled until again you are
20 satisfied of the Defendant's guilt beyond a reasonable
21 doubt. Now, the term reasonable doubt I have used
22 several times and I am going to tell you what reasonable
23 doubt is. It is not an imaginary doubt, it is not a
24 fanciful doubt, it is not a weak doubt, it is a
25 substantial doubt. It is a doubt which the words imply,

1 it is a doubt for which you can give or assign a reason
2 based on the testimony and the evidence in this case. A
3 reasonable doubt is not any sort of doubt. You and I
4 know from everyday life that you may sort of a doubt
5 about any matter that arises no matter how trivial it may
6 be or how serious it may be, but a reasonable doubt is a
7 doubt which makes an honest, sincere, conscientious juror
8 in search of the truth, hesitate to act. Proof beyond a
9 reasonable doubt is proof which leaves you firmly
10 convinced of the Defendant's guilt. If you have a doubt
11 for which you can give or assign a reason as I have
12 charged you as to the guilt of the Defendant, then he is
13 entitled to a verdict of not guilty. Now, a reasonable
14 doubt may arise from evidence which is indicated or it
15 may arise from the lack of evidence or the absence of
16 evidence in the case. Again, you the jury make the
17 determinations of whether or not reasonable doubt exists
18 as to the guilt of this Defendant. Now the very fact
19 however that the jury engages in a full and free
20 discussion of the issue of guilt or non-guilt with the
21 normal conversational ebb and flow in the jury room does
22 not automatically mean that reasonable doubt would exist
23 in this or any other type of case. Now ladies and
24 gentlemen, criminal intent is a necessary element of each
25 crime that must be proved by the State beyond a

1 reasonable doubt. Criminal intent is always a matter
2 that you are to determine from the facts and
3 circumstances surrounding the situation or the charges
4 for which the Defendant is standing trial. There is no
5 way to prove criminal intent to any type of any
6 mathematical certainty and I am sure you realize in the
7 exercise of your common sense there is no way that
8 medical science can accomplish by dissecting a person's
9 brain and looking at that person's brain to determine
10 what he or she had in mind or what he or she had intended
11 on any given occasion. So, the law says criminal intent
12 can be inferred from circumstances shown to have existed
13 both before and after the facts and that's how you make a
14 determination of whether or not the elements of criminal
15 intent is present in this particular case. Criminal
16 intent is a state of mind that operates jointly with an
17 act or omission in the commission of a crime. Criminal
18 intent is a mental state of conscious wrongdoing, so it
19 is up to you to determine whether or what the Defendant
20 intended to do, if anything, based on the circumstances
21 shown to have existed and I tell you that that the State
22 must prove criminal intent beyond a reasonable doubt.
23 Now you have heard evidence that the Defendant has
24 committed a bad act other than the one for which the
25 Defendant is now on trial. I previously instructed you

1 on this particular point.. This testimony, if you
2 conclude it is true, may only be considered by you on the
3 question of whether a common scheme or plan existed and
4 for no other reason and no other purpose. You may give
5 the evidence of the other bad act, the weight or value,
6 if any to which you deem it is entitled on the sole issue
7 of whether a common scheme or plan existed. It is not
8 considered evidence of the commission of another bad act
9 of proof of the Defendant's guilt of the charge we are
10 trying today. Again, you are to consider such evidence
11 if you consider it all, in the exercise of your
12 deliberations, on the issue of whether a common scheme or
13 plan existed. I further charge you ladies and gentlemen
14 and I emphasize to you the fact that the Defendant did
15 not testify is not a factor to be considered by you in
16 any way, during your deliberation and in your
17 consideration on the question of the guilt or innocence
18 of the Defendant. The fact that the Defendant did not
19 testify must not be considered by you in any manner
20 whatsoever. A Defendant has the constitutional right to
21 remain silent and the assertion of this right must not be
22 considered by you during your deliberation. I repeat,
23 under your oath, you are to draw no conclusion whatever
24 from the fact that the Defendant in this case did not
25 testify. The fact that the Defendant did not testify

1 should not even be discussed by you in your jury room.
2 The burden of proof as I have stated to you is on the
3 State and the Defendant is not required to prove his
4 innocence. The burden of proof remains on the State to
5 prove the guilt beyond a reasonable doubt. Now, as I
6 indicated to you earlier, the indictment has two counts.
7 I will first discuss with you the charge of Kidnaping.
8 The Defendant is charged with Kidnaping. The State must
9 prove beyond a reasonable doubt that the Defendant
10 knowingly and unlawfully seized, confined, invagled,
11 decoyed, abducted or carried away another person without
12 authority of law. Now, to do a thing unlawfully, which
13 is what I just read to you, to do a thing unlawfully is
14 to do it willfully against the law. To do a thing
15 knowingly means to do it with knowledge, consciously and
16 not accidentally, the word seize means to take hold of
17 suddenly or forcibly, the word confine means to limit,
18 restrict or enclose a person within bounds or imprison or
19 shut or keep in that person. The word inveigle means to
20 lure, entice or lead astray by false representation,
21 promises or other deceitful means, another person. The
22 word kidnap is to remove a person against his will by
23 unlawful force or by fraud and the word abduct means to
24 carry off secretly or by force for an illegal force and
25 the word carry, believe it or not, has a definition and

1 that means to remove. The State does not have to prove
2 that the Defendant did all of those things, instead if
3 you find beyond a reasonable doubt, that the Defendant
4 did any of the things that I just described to you then
5 you may find the Defendant guilty of Kidnaping. Now,
6 something done without authority of law, as I indicated
7 to you, is something that the law does not sanction,
8 permit or allow or provide justification for. Now, the
9 Kidnaping does not have to be for any personal or
10 monetary gain, for any illegal purpose, but may be for
11 any reason whatsoever. Now, the Defendant in this case
12 is also charged with the offense of Second Degree
13 Criminal Sexual Conduct with a minor and the State must
14 prove beyond a reasonable doubt that the Defendant
15 engaged in a sexual battery, and I'll define that word in
16 a moment, with the victim. A sexual battery is sexual
17 intercourse, cunnilingus, fellatio, anal intercourse or
18 any intrusion, however slight, of any part of a person's
19 body or any object into the genital or anal openings of
20 another person's body, except when the intrusion is
21 accomplished for medically recognized treatment for
22 diagnostic purposes. So, therefore, the State must prove
23 beyond a reasonable doubt, that the victim was at least
24 11 years old, but not more than 14 years old at the time
25 of the sexual battery, and again I've already defined the

1 term sexual battery for you. I further charge you that
2 consent, willingness, indifference or ignorance on the
3 part of the minor, if any, as to what was taking place,
4 does not in any way affect the charge of criminal sexual
5 conduct with a minor, in the second degree. Now, if you
6 find that the State has not proven beyond a reasonable
7 doubt that the Defendant is guilty of Second Degree
8 Criminal Sexual Conduct with a minor, you must then
9 determine whether or not the State has proven that the
10 Defendant is guilty beyond a reasonable doubt, of the
11 offense of Assault and Battery of a High and Aggravated
12 Nature, because under the law, Assault and Battery of a
13 High and Aggravated Nature, is what we call a lesser
14 included offense of Criminal Sexual Conduct, with a minor
15 in the second degree. Now, what is Assault and Battery
16 of a High and Aggravated Nature, and again as I'll put it
17 in the verdict form with you, madam forelady, this is the
18 charge that you would consider if you find that the
19 Defendant is not guilty of the offense of Criminal Sexual
20 Conduct with a Minor. Assault and Battery of a High and
21 Aggravated Nature, is an unlawful act of violent injury
22 to the person of another accompanied by circumstances of
23 aggravation. Now, an assault, that term, that is a legal
24 term. An assault occurs when a person unlawfully
25 attempts or offers to commit a violent injury upon

1 another person and have the present ability to complete
2 the attempted injury. An assault is the intentional
3 creation of a reasonable fear of immediate bodily harm.
4 It is not necessary that the attempted injury or harm
5 actually take place and it is simply the creation of a
6 reasonable fear of immediate bodily harm. Now, a
7 battery, again the offense is Assault and Battery of a
8 High and Aggravated Nature, the term battery is the
9 unlawful touching of another person by a person who has
10 committed the assault. An unlawful touching can be
11 caused by a part of the accused body or by any object
12 the accused puts in motion. A battery is the completion
13 of the assault by using or applying force to another
14 person, however slight, in a rude, angry or resentful
15 manner with legal justification for doing so. Now,
16 Assault and Battery, I have defined for you. The State
17 must also prove the circumstances of aggravation beyond a
18 reasonable doubt. Now, circumstances of aggravation may
19 include, but are not limited to, the use of a deadly
20 weapon, the intent to commit a felony, the infliction of
21 serious bodily injury, a great disparity between the ages
22 or physical conditions of the accused and the victim. A
23 difference in genders of the parties or anything else you
24 may consider as circumstances of aggravation, because
25 those are only examples that I have given to you and

1 again madam forelady, I'll go over the verdict form in
2 just a moment and perhaps those points, as far as the
3 order you consider these charges will become clear to
4 you. Now, as you have already heard in this case, the
5 Defendant has multiple charges against him. I charge you
6 that the charges of Kidnaping and Criminal Sexual Conduct
7 with a minor in the second degree are separate and
8 distinct. In other words, your verdict on one does not
9 control your verdict on the other. However, with regard
10 and as I'll review with you in a moment on the verdict
11 form, your conclusion with regard to Criminal Sexual
12 Conduct with a minor and Assault and Battery of a High
13 and Aggravated Nature, do have some logical dependence
14 upon one another, as you consider your verdict on these
15 two particular counts. I further charge you ladies and
16 gentlemen, that the mere presence of the accused at the
17 scene of a crime is insufficient to prove someone is
18 guilty of a crime. The burden is on the State to prove
19 every element of the crime as charged. If you find after
20 reviewing all of the evidence, that the State has proved
21 that the Defendant was only present at the scene of a
22 crime and that the State has not proved beyond a
23 reasonable doubt, some participation in the crime, then
24 you must find the Defendant not guilty. Now, ladies and
25 gentlemen of the jury and specifically madam forelady, at

1 this point I will go over the verdict form with you. It
2 has what we all a case caption on it, it says The State
3 of South Carolina vs. Robert Troy Taylor. It has the
4 indictment number on the caption as well. It says as to
5 the charge of Kidnaping, this is question number 1: As
6 to the charge of Kidnaping, we the jury unanimously find
7 the Defendant and there are two choices, Not Guilty and
8 Guilty, those two choices are not put in any particular
9 order, one had to come first and one had to come second.
10 So, as to the charge of Kidnaping, we the jury
11 unanimously find the Defendant Not Guilty or Guilty and
12 after you dispose of that particular charge, you move to
13 question 2. Question 2 says: As to the charge of
14 Criminal Sexual Conduct with a minor, second degree, we
15 the jury unanimously find the Defendant Not Guilty or
16 Guilty and you check the appropriate block. Now, with
17 regard to Criminal Sexual Conduct with a Minor, if you
18 find the Defendant not guilty, you check block, then you
19 move to question 3. If you find the Defendant is guilty
20 beyond a reasonable doubt, of the crime of Criminal
21 Sexual Conduct, with a minor, check the guilty block and
22 then your deliberations will be over because then you
23 will not consider the charge of Assault and Battery of a
24 High and Aggravated Nature. This will be clear to you
25 when you have the verdict form in front of you. Now, if

1 you have found the Defendant not guilty of Criminal
2 Sexual Conduct with a Minor in the second degree, then
3 again you must consider the lesser included offense of
4 Assault and Battery of a High and Aggravated Nature, so
5 logically that is question 3 on the verdict form and it
6 says as to the lesser included offense of Assault and
7 Battery of a High and Aggravated Nature, we the jury
8 unanimously find the Defendant Not Guilty or Guilty, and
9 you check the appropriate block. Now, madam forelady,
10 your verdict in this case must be unanimous. This is not
11 a majority vote. In other words, your verdict of guilt
12 or non-guilt or not guilty or guilty, would be a better
13 way to put it, must be unanimous. I understand that at
14 some point during the deliberation that there may be
15 differences of opinion on one point or the other, but it
16 is your job, madam forelady, to make sure that orderly
17 deliberations are conducted and you are not to complete a
18 verdict form as to a particular count until all 12 of you
19 have agreed on the choice of not guilty or guilty as to
20 that particular count. Now, ladies and gentlemen of the
21 jury, you have an extremely important job ahead of you.
22 Now, I wish to express my hope that each of you will be
23 extremely mindful of the solemn obligations that you have
24 and the solemn oath that you have taken in this
25 particular case, because this is the day in court for the

1 State of South Carolina and for the Defendant on the
2 charges which are the subject of this trial. You are not
3 called to serve as jurors very often, and the proper
4 performance of your duties requires each of you to
5 exercise your good common sense and judgment and to
6 exercise serious deliberations and thought as to all of
7 the charges in this particular case. Now, I'm not going
8 to, I don't want you to think I'm being overly dramatic,
9 but you have the conscientious of Williamsburg county in
10 the palm of your hand as you deliberate this case. You
11 have given oath to give the State of South Carolina and
12 the Defendant a fair and impartial trial and to render a
13 true verdict in this case, so help you God. That is an
14 extremely solemn oath. When you reach the decision in
15 this case, you must do so thoughtfully, you must do so
16 seriously and you must do so with the sole obligation to
17 seek the truth, because normally ladies and gentlemen,
18 the conclusions that you reach and the cases as to
19 matters of fact, and to guilt or non-guilt are decisions
20 that cannot be revisited at a later time, so in that
21 regard, you have an extremely important job ahead of you
22 in this particular case. Now, again you take into your
23 care the preservation of the honor of Williamsburg county
24 is concerned, because the State of South Carolina and the
25 Defendant are relying on you to reach true verdicts on

1 this particular case. Now, don't think that I'm trying
2 to tell you what your verdict should be because I've
3 already told you that you the jury are sole finders of
4 the facts, I am just trying to impress upon you the
5 importance of what the job is that you have ahead of
6 you. Everyone is entitled to justice in this case, that
7 means the State is entitled to justice and the Defendant
8 is entitled to justice. Nothing more, nothing less. You
9 owe no support and you owe no sympathy to anyone. Your
10 verdict in this case cannot be based on sympathy,
11 passion, or prejudice. It has to be based upon your good
12 common sense exercised as I indicated to you earlier in
13 weighing of the evidence in this case. Again, your
14 verdict has to be unanimous. Now, Ms. Jones, madam
15 forelady, it is your job again to make sure that everyone
16 in that jury room who wants to speak on a particular
17 issue is allowed the opportunity to speak. As I
18 indicated to you earlier, your job is not to have any
19 greater authority in the jury room and you don't have any
20 greater vote than anybody else, but your job is to allow
21 everyone who wants to speak to speak. Ladies and
22 gentlemen, with that having been said, we are just about
23 at the conclusion of the trial portion and I'm going to
24 ask you to go to your jury room one more time and not
25 discuss because this rule book that we have provides that

1 now is the time for the lawyers to have the opportunity
2 to put on the record to me anything that they think I may
3 have left out, anything that they think I may have
4 misstated, so it is entirely possible that I'll have to
5 bring you back out and review or renew some particular
6 charge that I gave or perhaps charge you on a different
7 point of law that I didn't make that I should have made.
8 However, if that does not arise, when the bailiff comes
9 to the door and knocks on the door and hands you the
10 verdict form and the exhibits, then that will be your
11 signal to deliberate madam forelady. Now, after you have
12 reached your verdict in this case, all you have to do is
13 first of all make sure it is unanimous, check each
14 appropriate block, sign the verdict form, date it and
15 knock on the door, and the reason I say knock on the door
16 is because I was involved in a trial one time when nobody
17 could understand why the jury was taking so long to
18 deliberate and the foreperson told us that they didn't
19 know what to do after they had reached a verdict, they
20 didn't know they were supposed to knock on the door. In a
21 moment, the bailiff may come to the door after you have
22 begun your deliberations and talk to you about lunch,
23 because since we are breaking the charge at the lunch
24 hour, we are keeping you here to deliberate during lunch,
25 so lunch will be brought in for you. If from time to

1 time, during your deliberations it becomes necessary for
2 someone to make a phone call, I hope none of you have
3 your cell phones, if you do make sure they are off. If
4 anyone needs to make a phone call or if anyone steps to
5 the restroom, you have to stop your deliberations,
6 because all 12 of you have to be in the jury room at each
7 point during your deliberations. I'm going to ask if you
8 would to go to your jury room with the bailiff and do not
9 discuss the case yet. If the bailiff comes to the door
10 with the exhibits and the verdict form, I'm going to ask
11 you Miss Dollard to come back out from the jury room at
12 that point. Alright, thank you ladies and gentlemen,
13 please go to your jury room but do not discuss the case
14 at this point.

15 The Court: Alright, Ms. Barr anything from the
16 State insofar as exceptions, additions or any other
17 arguments you would like to make as far as the charges?

18 Ms. Barr: Your honor, I would just like to go on
19 the record regarding the jury charge for corroboration of
20 a witnesses testimony, but other than that no exceptions.

21 The Court: And also you did object to the ABHAN
22 charge and I've noted that and I believe that the
23 entirety of my charge was sufficient on the evidence on
24 that point, I think it's discretionary whether or not I
25 charge corroboration.

1 Ms. Barr: Yes sir.

2 The Court: Alright, Mr. Barr, other than your
3 request for a reasonable doubt charge on the place of the
4 crime, do you have any other exceptions or additions?

5 Mr. Barr: Judge, the charge on venue, it seems that
6 you kind of leave the jury dangling. If you had said if
7 you find that the State has not met that burden to
8 establish where the crime occurred, then you must find
9 the Defendant not guilty, but you said you must find that
10 the State has to establish venue and then it drops off.

11 The Court: Well, what I said was by inference,
12 however slight. Then I defined what an inference was.

13 Mr. Barr: But then there are no consequences as far as
14 what the jury is to do in the event they do not find that
15 the venue has been established.

16 The Court: Alright, anything from the State on that
17 particular point.

18 Ms. Barr: Judge, I think the Court's jury charges
19 were appropriately delivered and you talked about how the
20 State has the burden of proof, obviously I think that one
21 of the issues that we run into when you offer further
22 instruction on that is the type of burden regarding the
23 State's burden of proof would be more than what the case
24 law would suggest and Mr. Barr probably wants something
25 saying we have to prove it beyond a reasonable doubt and

1 that's not what the case law says. I think the court's
2 instruction to the jury regarding burden of proof and
3 regarding what is necessary to establish venue certainly
4 is more than sufficient.

5 The Court: Alright, Mr. Barr, I am going to
6 respectfully deny your request. I think that the
7 struggle I of course have, was whether or not the request
8 for law for me to determine the threshold matter or
9 request the facts. I have think I have charged
10 satisfactorily but you have certain protected your record
11 in that regard.

12 Mr. Barr: Thank you Judge.

13 The Court: Anything else Mr. Barr?

14 Mr. Barr: No sir.

15 The Court: I think yesterday you mentioned that
16 you wanted a Lewd Act charge but that's not a lesser
17 included and then you requested ABHAN.

18 Mr. Barr: I think you took care of that.

19 The Court: Alright, I want to make sure that you
20 were satisfied on the record.

21 Mr. Barr: Yes sir.

22 The Court: Alright, if the two lawyers could make
23 sure of two things, one is that the exhibits are in order
24 and the other that the exhibits for ID do not go back to
25 the jury room and also make sure Miss Winfield that the

1 court's exhibits don't go back there.

2 Ms. Winfield: Yes sir.

3 The Court: And the indictment. In this particular
4 case Ms. Barr, do you see any need for the indictment to
5 go back there it doesn't have the ABHAN on there? It
6 used to be that they would write the verdict on the
7 indictment, I think we just leave the indictment out.

8 Ms. Barr: That's fine Judge.

9 The Court: Do we have everything? Alright Mr.
10 Barr or Ms. Barr, any reason the jury shouldn't begin to
11 deliberate?

12 Mr. Barr: No sir Judge.

13 The Court: I will tell in advance I want to get
14 your consent or comment on the record that when Miss
15 Williams or the bailiff one go to the jury room to
16 inquire about lunch, I will instruct them on the record
17 in advance not to discuss the case and that when they do
18 knock on the door to go in, to instruct the jury to stop
19 talking about the case, is that suitable?

20 Mr. Barr: Yes sir.

21 Ms. Barr: Lunch is already here your honor.

22 The Court: Lunch is already here. Alright,
23 whenever you go to the door then Ms. Williams or Mr.
24 Bailiff, just make sure they stop talking when you go to
25 the door. Alright you can tell them to deliberate. Oh, I

1 need Ms. Dollard. Ms. Barr is the jury discharged for
2 the week?

3 (Jury Deliberations Begin 12:49)

4 Ms. Barr: Yes sir.

5 The Court: I can tell Miss Dollard that then?

6 Ms. Barr: Yes sir.

7 The Court: How do they pay jurors here by check or
8 by mail.

9 Ms. Barr: I think they mail a check.

10 The Court: Unfortunately Miss Dollard, I don't want
11 you to think we are wasting your time, but the law
12 requires you wait while they deliberate, I tried a case
13 in Greenville county last month and we had two alternates
14 and we lost two jurors the first half of the first day so
15 both alternates served.

16 The Court: Alright, everybody can stand at ease and
17 I wanted to say in advance to Ms. Barr and Mr. Barr I
18 think you did an excellent job trying the case and I
19 appreciate your efforts and I appreciate your following
20 the rules.

21 Ms. Barr: Thank you, you honor.

22 Mr. Barr: Thank you Judge.

23 (Verdict Reached 2:11 p.m.)

24 The Court: Alright I think the jury has reached a
25 verdict, and I'm going to direct everyone in the

1 courtroom whether or not you have any affiliation in this
2 case at all to maintain complete silence when the verdict
3 is read and of course that would include any what might
4 even be remotely considered an outburst. In other
5 words, if everyone could continue to show the form that
6 you have shown throughout the trial and maintain silence
7 when the verdict is published. Alright, Ms. Barr is the
8 State ready?

9 Ms. Barr: We are ready your honor.

10 The Court: Mr. Barr?

11 Mr. Barr: Yes sir, Judge.

12 The Court: Alright, you can bring in the jury.

13 (The jury is brought back into the courtroom 2:12 p.m.)

14 The Court: Alright, madam forelady, I understand
15 the jury has reached a verdict?

16 Madam Forelady: Yes sir.

17 The Court: Is the verdict unanimous?

18 Madam Forelady: Yes sir.

19 The Court: Alright, please hand it to Miss
20 Williams.

21 (Verdict handed to Ms. Williams)

22 The Court: Alright, please publish the verdict.

23 Miss Williams: Will the Defendant please stand.

24 State vs. Robert Troy Taylor, as to the charge of
25 Kidnaping, we the jury unanimously find the Defendant

HEARING

1 guilty. As to the charge of Criminal Sexual Conduct
2 a minor, second degree, we the jury unanimously find
3 Defendant guilty. If those are your verdicts, so say
4 you all, please let it be known by raising your right
5 hands.

6 The Court: Alright, thank you Mr. Barr and Mr.
7 Taylor, you can have a seat. Mr. Barr, does the
8 Defendant desire to poll the jury?

9 Mr. Barr: Yes sir.

10 The Court: Alright, Miss Williams.
11 (JURY IS POLLED)

12 The Court: Alright, let the record reflect the
13 jury was polled and each of the individual jurors
14 confirmed his or her verdict. Mr. Barr, before the jury
15 is discharged, is there anything further from the
16 defense? Before the jury is discharged.

17 Mr. Barr: No sir.

18 The Court: Alright, Ms. Barr?

19 Ms. Barr: No, your honor.

20 The Court: Alright, would the attorneys approach
21 please. Alright, ladies and gentlemen of the jury, that
22 would conclude your services for the trial of this
23 particular case and also it concludes your service this
24 week. The job that you have performed was certainly not
25 an easy job to perform. The judicial system that we have

1 would not be able to survive without folks like you who
2 are ready, willing and able to serve as jurors. The only
3 thing that I can tell you is the community of
4 Williamsburg county thanks you, the State of South
5 Carolina thanks you and I certainly do thank you. If you
6 ever find yourself in a situation where you are a
7 Plaintiff or a Defendant to a civil suit or a Defendant
8 or a victim in a criminal case, I know that you would
9 want to make sure that if you walked through the
10 courthouse door ready to try your case, that that jury
11 box is going to be occupied by someone or by 12 people
12 who would be prepared to give full attention to both
13 sides and to render a verdict that spoke the truth and I
14 think you've done that in this case. No one can take
15 issue with the verdict that you reached in this case and
16 I will tell you this, in a few moments we will get into
17 some post-trial matters including the sentencing in this
18 case, and if you would like to depart the courthouse, you
19 can do so. If you would like to stay you can do so. I
20 will tell you that now you can discuss this case with
21 anyone you want to discuss it with, that means of course,
22 among yourselves, friends, family or with anyone else.
23 However, if at any time, including today or at any time
24 after today if someone approaches whether or not they are
25 connected with this case or not, if they approach you and

1 want to discuss this case with you, you can do that, but
2 if you do not want to discuss the case with anyone, you
3 tell that person that you don't care to discuss it. Now,
4 if that person persists in discussing the case with you
5 just simply politely get that person's name and then you
6 can let Miss Williams know and she will let me know
7 because the province of the jury is not to be invaded,
8 having said that, you can discuss the case with whom you
9 would like to discuss it, but you don't have to. At
10 this time ladies and gentlemen, you are discharged from
11 the jury service this week, you do have an exemption for
12 jury service for the next three calendar years, that only
13 applies to circuit court, it doesn't apply to Federal, I
14 got a Federal jury summons myself last month and it does
15 not apply to magistrate or municipal court. We do thank
16 you for your service. Again, you can depart the
17 courtroom if you would like or you can remain in the back
18 or wherever you would like to sit and observe the
19 procedures further, but your services as jurors for this
20 week has concluded and we thank you very much.

21 Miss Williams: On behalf of the clerk's office to
22 those of you who need certificates, the Bailiff Ms. Canty
23 has them in the back, if you work and need something to
24 show that you served this week, Ms. Canty has those forms
25 in the back.

1 The Court: Alright, Mr. Barr, does the Defendant
2 have any motions or would you like additional time?

3 Mr. Barr: Pardon me.

4 The Court: Would you like to make your motions now?

5 Mr. Barr: Yes sir. Your honor, based on the record
6 and based on the objections that we made, and with
7 respect to the jury's verdict at this time, we would
8 respectfully move for a new trial. Our position at this
9 time is that there was insufficient evidence for the
10 jury's verdict and we would therefore move for a new
11 trial.

12 The Court: Alright, your motion for a new trial
13 would be based on the insufficiency of the evidence?

14 Mr. Barr: Yes sir.

15 The Court: Alright, your motion is respectfully
16 denied. I think you have reserved your arguments, I
17 believe unless you want to restate those just to protect
18 yourself on the NCIC material, the place of the crime
19 charge and any other trial issues that if you want to
20 redo those fine, I won't disturb you from protecting the
21 record, but if you think that you stated them
22 sufficiently, then I will accept your motions as made and
23 I will deny your motion for a new trial.

24 Mr. Barr: Alright.

25 The Court: Thank you. Alright, is the State

1 prepared to move forward with sentencing at this point?

2 Ms. Barr: Your honor the State is prepared to move
3 forward.

4 The Court: Alright, if you would please just state
5 for the record please who was present and who is going to
6 want to speak, of course, Mr. victim here is the victim,
7 I believe Mr. Barr is going to want to be heard because
8 he has presented you with a motion, along with these
9 other written motions earlier to quash the notice of the
10 state's intention to seek life without parole and Mr.
11 Barr I will allow you to be heard at the appropriate
12 time.

13 Ms. Barr: Judge, may I please the Court?

14 The Court: Yes ma'am.

15 Ms. Barr: Your honor, on or about March 15, 2007,
16 the State pursuant to Section 17-25-45 of the South
17 Carolina Code of Laws served the Notice of Intent to Seek
18 a Sentence of Life without Parole, in the event that the
19 Defendant was convicted of either offenses that he was
20 indicted for, both of those offenses, specifically
21 Criminal Sexual Conduct, with a minor in the second
22 degree as well as the Kidnaping charge are violent crimes
23 and they are considered most serious offenses as defined
24 by the statute that I recited earlier. Your honor, the
25 notice was properly delivered upon the Defendant through

1 his attorney as well as if any person who was served as
2 required by law on the Defendant while he was an inmate
3 in the Williamsburg County Detention Center, so I am
4 going to hand the Court the original Notice of Intent to
5 Seek Life without Parole, which contains a Certificate of
6 Service, as well as a Proof of Service, that it was
7 delivered to the Defendant according to the statute.

8 The Court: Alright, the information handed to me
9 states that the Notice of Intention to Seek a Sentence of
10 Life without Parole, dated March 15, 2007 and references
11 S.C. Code section 17-25-45 and states that the State
12 intends to rely upon the Defendant's prior conviction of
13 criminal sexual conduct with a minor, in the second
14 degree, the statutory enhances punishment, the indictment
15 and sentencing sheet for that matter which was in the
16 Georgetown County Court of General Sessions is attached
17 and that was the indictment that stated on or about
18 August 5, 1999 through August 7, 1999, the Defendant did
19 willfully commit the crime of criminal sexual conduct
20 with a minor in that he did sodomize victim [REDACTED] who
21 was 12 years of age at the time. The sentencing sheet
22 reveals that the Defendant entered a plea of guilty on a
23 waiver of presentment and that it was characterized on
24 the sentencing sheet as a most serious offense and the
25 sentence given was eight years to a state department of

1 corrections, suspended to five years and probation for
2 three. Also, handed to me a Proof of Service on Robert
3 Troy Taylor signed someone with the Sheriff's Department
4 that the Notice of Intention to Seek Sentence of Life
5 without Parole, was delivered to the Defendant on March
6 15, 2007 and certificate of service by mail indicating
7 that on that same date a notice was mailed to Mr. Barr.
8 Alright, Mr. Barr would you like to be heard on this
9 issue, do you seek to quash it on service matters or
10 whether or not this was qualified for life without parole
11 or how would you like to state your position on that?

12 Mr. Barr: Judge, our position is that this offense
13 does not qualify for life without parole. We don't have
14 a problem with the service, but our position was that
15 this does not qualify for life without parole.

16 The Court: Alright, Ms. Barr would you care to
17 respond to that?

18 Ms. Barr: Your honor, pursuant to section 17-25-45
19 in the subpart that I commented on initially for a most
20 serious offense a person must be sentenced to a term of
21 imprisonment for life without possibility of parole if
22 that person has one or more prior convictions for one
23 serious offense and it talks about out of state
24 convictions and federal convictions and then it goes on
25 to define what is meant by a most serious offense.

1 Judge, I am looking at subsection one and it talks about
2 criminal sexual conduct with minors, except where
3 evidence is presented in a criminal proceeding in the
4 court after the conviction leaves a specific finding in
5 the record that the conviction obtained in this offense
6 is criminal sexual conduct where the victim is younger
7 than the actor is contemplated in CSC with a minor second
8 degree statute. Judge, your honor has the benefit of the
9 transcript from the conviction back in 2006 regarding
10 this victim and this Defendant for a separate crime that
11 happened in Georgetown county, which is obvious from an
12 investigation of the facts by the Assistant Solicitor it
13 was not a continuing relationship and that it was a
14 situation where it wouldn't even matter because of the
15 age and the different crimes, so based on his conviction
16 now for criminal sexual conduct with a minor in the
17 second degree and based on his prior conviction, we
18 believe that count one qualifies as a most serious
19 offense as stated in statute.

20 The Court: You are talking about count one being
21 the first conviction?

22 Ms. Barr: Count one in this particular case,
23 criminal sexual conduct and based on his prior conviction
24 of CSC with a minor second degree, it qualifies as a most
25 serious offense for life without parole, in addition,

1 statute 17-25-45 also compensates for Kidnaping as most
2 serious offense and could also carry the sentence of life
3 without parole. Thank you.

4 The Court: Mr. Barr, is it your argument that the
5 earlier conviction, the Georgetown county conviction,
6 makes it such that these two convictions one for
7 Kidnaping and one for criminal sexual conduct with a
8 minor in the second degree in this incident we tried,
9 which is it that makes this not qualified for life
10 without parole, is it Georgetown county?

11 Mr. Barr: The date of the offense in the
12 Georgetown county proceedings.

13 The Court: Yes sir. It was after this incident?

14 Mr. Barr: Yes sir.

15 The Court: The statute is divided into two parts,
16 one is in the hard bound volume of Title 17, 17-25-45
17 states that notwithstanding any other provisions of law
18 except in cases in which the death penalty is imposed,
19 upon a conviction for a most serious offense as defined
20 by this section, a person must and that's a mandatory
21 statement, be sentenced to a term of imprisonment for
22 life without the possibility of parole if that person has
23 one or more prior convictions, a most serious offense.
24 The supplement states that as used in this section, a
25 most serious offense means, and it lists what appears to

1 be two dozen or more, one of which is section 16-3-655
2 criminal sexual conduct with minors, except where
3 evidence is presented at criminal proceedings and the
4 court after the conviction makes a specific finding on
5 the record that the conviction obtained from this offense
6 resulted from consensual sexual conduct where the victim
7 was younger than the actor. Also it includes in that
8 list, the offense of Kidnaping, in section 16-3-910.
9 Mr. Barr, I don't detect anything in the statute or in
10 the case citations which I have read that talks about the
11 fact that this statutory scheme would not apply because
12 at the time of the offense as it compares to the date of
13 convictions were in. So, if you've got any case
14 citations that would support that, I don't know that they
15 exist, but certainly you made that argument, I deny your
16 motion to quash the notice and of course, if you want to
17 make a motion for reconsideration because you detected a
18 case on that regard you can certainly do that, but I have
19 looked for it myself just in case the situation arose but
20 I do not find it, so I would deny your motion to quash.
21 Alright, in order to maintain comfort for everyone, Mr.
22 Barr, would you and Mr. Taylor if you would like, can
23 continue to stand, while the defense, while the State
24 presents for the record or you can have a sit or remain
25 standing, whichever you see fit to do. Ms. Barr, you can

1 continue.

2 Ms. Barr: Judge I have asked **victim** if he wanted to
3 address the court regarding sentencing and he indicated
4 that he would not like to given the fact that he had
5 already been humiliated for what had had happened to him
6 but he completed a victim impact statement, a copy of
7 that will be presented prior to sentencing. Judge he was
8 asked in the victim impact statement if he was going
9 through changes, specifically reading have you noticed
10 any changes in yourself since this happened? Explain
11 your personal habits, the way you deal with other people,
12 the amount of tension and nervousness you feel. His
13 response was "Definitely, as I grew up I started to
14 develop a fear of people being behind me, knowing where
15 people are at all times, and no one, capitalized, touches
16 my behind. I have also developed hate and hostility
17 problems, along with a drug problem that could sometimes
18 be controlling. The next question is has the family
19 situations or relationship lifestyles changed as a result
20 of this? If so, how? Please Explain. His answer is
21 yes, I keep my friends to a minimum and at times I have
22 none. I can count how many people I trust on one hand
23 and that includes my family. The next question asks
24 have you received any counseling or psychological
25 services because of this, if so, how has it helped you.

1 If not, why did you not receive counseling? His
2 response is Yes, I have, it's just great to be able to
3 tell somebody other than my family. I was traumatized
4 over what happened, being sexually assaulted at 11 by a
5 30 year old man. I will never forget it and I will never
6 stop until justice is served. It also asked whether or
7 not he received any compensation for any financial loss
8 and he writes 0 and he writes and underlines, I just want
9 justice, not money, that's what is important. Judge, one
10 of the reasons why I would serve the notice of intent to
11 seek life without parole because the Defendant has a
12 prior conviction for criminal sexual conduct as it
13 relates to this victim.

14 The Court: That's the Georgetown county incident
15 which resulted in a guilty plea by Mr. Taylor.

16 Ms. Barr: Yes sir, that's correct. Judge, he was
17 before a Judge in Georgetown county back on April 20,
18 2006, you may recall that the victim testified about the
19 incident that happened in the trial in Georgetown county.
20 Your honor, the Defendant plead guilty to that charge.
21 Judge, in addition to that charge, there were two other
22 victims, all of whom were ...

23 The Court: Say that again.

24 Ms. Barr: There were two additional victims, all of
25 whom were grown men at the time the plea occurred back in

1 April of 2006, Mr. Wells and Mr. Scott. I believe that
 2 Mr. Wells is actually related to the Defendant. I think
 3 they are cousins if I am not mistaken, but he testified
 4 and gave a statement to the police that back in the late
 5 80s that he was awakened out of his sleep and the
 6 Defendant was fondling him in his genital areas. As a
 7 result of that complaint, an indictment was drafted for a
 8 Lewd Act on a Minor, and the Defendant plead guilty to
 9 that as well. In addition, there was another victim who
 10 basically described the same type of behavior of fondling
 11 and molesting that child by the Defendant. Judge, it is
 12 important to know that both of those additional victims
 13 were all males, that the sexual acts committed against
 14 them by the Defendant occurred at a point in time when
 15 they were --- and Judge he plead guilty to each and every
 16 one of them, I think the transcript if your honor may
 17 recall, or you may not have had a chance to read it all...

18 The Court: Would you hand the transcript back to
 19 me please, that is the proceeding before Judge
 20 Cottingham?

21 Ms. Barr: Yes sir. Judge, one of the victims in
 22 the case really impressed me and struck me and touched my
 23 heart, he had apparently, all of these incidents were
 24 reported much later when they were adults, he was in the
 25 military, he had been stationed in Iraq and made

1 arrangements to come back to South Carolina for the
2 purpose of that plea in Georgetown county and he talked
3 about how and what happened to him was such a traumatic
4 event, how he turned to drugs, just like he did, to deal
5 with the trauma that was associated with that and he was
6 concerned that no one would believe him and that he
7 wanted to come to court and tell the judge what happened
8 so that people would know that he wasn't lying, he was
9 being truthful. Judge, this appears to be a situation
10 where we have a habitual pedofile and it's usually
11 children. Your honor, certainly the statute for life
12 without parole fits and it is certainly our position that
13 serves to protect children in this case and I think there
14 are probably very few other cases where it's warranted
15 more than it is here.

16 The Court: I will allow any one else that chooses
17 to speak in a moment. The life without parole statute
18 that we referred to provides that life without parole
19 would not be, or I would have some type of leeway in a
20 CSC case with a minor, where evidence is presented at the
21 criminal proceeding and the court after the conviction
22 makes a specific finding on the record that the
23 conviction obtained resulted in consensual sexual
24 conduct, I will certainly state for the record that I
25 don't find any such room for movement on my part in the

1 context of these two cases, whether we are talking about
2 consensual context in this incident involving the matter
3 we just tried or the Georgetown county incident, I don't
4 think that I would find any other material on sexual
5 conduct. Ms. Barr, does anyone else with Mr. victim
6 family choose to speak and if they do choose to speak I
7 want to make sure that all of the statements by them are
8 directed exclusively to me and not to anyone else,
9 specifically the Defendant or members of his family, or
10 even his attorney or anyone else involved in this case.
11 I just want to say....

12 The court: Your name, please sir.

13 Wayne Causey: Wayne Causey.

14 The Court: Alright, go ahead.

15 Wayne Causey: Just a couple of things, I first want
16 to thank the court. When this first came out, victim came
17 to my wife and I with this, he didn't want to because he
18 said, Dad, I'm scared you'll go to jail and I said what
19 son, I can handle it. He said Dad, you'll kill him and I
20 promised my son right there that I would let justice do
21 its job. That I would not kill him. It was hard, very
22 hard, but I did let justice take its course and I am
23 thankful I did. God was with me. God was with Troy too.
24 I also want to say that I didn't realize what an impact
25 something like this, I couldn't imagine what an impact

1 this has on a young child being molested, I couldn't
2 fathom it. I mean I was never even around anything like
3 that. But one day it hit me when I was talking to my
4 wife and **victim** was in the shower, you know 15 minutes, 20
5 minutes and I kept noticing that he was taking an hour or
6 hour and a half shower, and I was thinking what in the
7 world, but I come to realize that he was trying to
8 cleanse himself of this that happened to him from Troy.
9 But the bad thing now, he still does that. He cannot
10 cleanse himself of this unlawful deed. He is going to
11 have to live with it the rest of his life. He may have
12 to take hour or hour and a half showers twice a day every
13 day for the rest of his life to try to cleanse himself
14 from his body. That's the part that really gets me.
15 Thank you, Judge.

16 The Court: Thank you sir. Anyone else Ms. Barr?

17 Ms. Barr: No, your honor.

18 The Court: I find that the requirements under the
19 law that the victim be allowed to speed people through
20 recitation from the State order and the requirements have
21 certainly been met. Is there any additional matter from
22 the State pertaining to sentencing?

23 Ms. Barr: No, your honor.

24 The Court: Just for the record, you have indicated
25 that he had a prior conviction for Criminal sexual

1 conduct with a minor in the second degree and two
2 convictions for a Lewd Act on a Minor, involving two
3 other males, is that correct?

4 Ms. Barr: That's correct.

5 The Court: Alright, those are certainly not the
6 subject of the life without parole and I have, during one
7 of the lengthy breaks during the trial, I had the
8 opportunity to review the 45 page transcript and that
9 was in the context of some testimony that you wanted to
10 elicit from Mr. **victim**, we excused the jury, and I read
11 the transcript and it was not within the Lyle exception
12 that I allowed but it did have to do with whether or not
13 the Defendant had said I'm sorry at the guilty plea
14 hearing and of course I struggled very long and hard with
15 number one, the admission of that Georgetown county
16 evidence to begin with and number two whether or not the
17 jury would have been able to learn on direct examination
18 of Mr. **victim** whether that resulted in a conviction. My
19 ultimate ruling was that the evidence from his mouth that
20 it occurred was going to come in but it did not come that
21 there was a conviction unless the door were opened or
22 otherwise the status of the trial reveal that it should
23 come out. But I do think so far as purposes of
24 sentencing, I can certainly consider it now for the life
25 without parole. Alright, Mr. Barr, is there any matter

1 that you would like to discuss for the record or Mr.
2 Taylor or members of his family would like to discuss as
3 far as sentencing is concerned.

4 Mr. Barr: Well, Judge, in view of the
5 interpretation that you have given to the statute, which
6 I'm sure that at the appropriate time, under this record
7 that will be reviewed, I don't know that it would benefit
8 either the court or the ends of justice to present
9 anything else by way of mitigation as under your
10 interpretation you would still wind up sentencing the
11 Defendant for life without parole under any kind of
12 circumstances.

13 The Court: Yes sir, I think that would be my only
14 choice.

15 Mr. Barr: Yes sir.

16 The Court: Of course, the rights of the victims
17 speaker are mandatory regardless of the ..

18 Mr. Barr: Yes sir, I understand that Judge.

19 The Court: I understand where you are coming from,
20 but there is no room for discretion, there is no need to
21 speak.

22 Mr. Barr: I don't think under the circumstances, I
23 don't think there would be, unless the Defendant Mr.
24 Taylor wants to address the court.

25 The Court: Alright, you can discuss that with him

1 at this point or he can speak for himself, however you
2 want to handle it.

3 Mr. Barr: Your honor, he has indicated that he does
4 want to address the court.

5 The Court: Alright, just for the record, you are
6 Robert Troy Taylor, is that correct.

7 Defendant Taylor: Yes sir. Yes sir.

8 Defendant Taylor: I don't really understand what
9 happened today to be quite honest with you and I
10 understand that you have a job to do and I see that
11 you've done it, I guess. I am not guilty of this and
12 only two people know that, and one of them is there and
13 one of them is here. I am not guilty. I feel very
14 sorry for any harm or hurt or anything that might have
15 happened to **victim** because I care about **victim** and have since
16 he was a young child. I counseled **victim** whenever him and
17 his mother had problems, his mother stood by me when
18 these accusations were made in the first place, by other
19 folks, well from my cousin, you are correct in hearing
20 about it through my cousin. When I was young, there was
21 playing doctor that happened between cousins, that was
22 the extent of it. I became a Christian when I was 15
23 years old and nothing happened past that. The lawyer
24 that I had in Georgetown county said because I was a
25 pastor, he could not give me a fair trial, however, he

1 told me to wait the three years and which I wait and lo
2 and behold two years after the first incident was even
3 said anything about it, that's when **victim** came and **victim**
4 said that something had happened in Georgetown county.
5 This thing that you tried in court today, which didn't
6 happen supposedly after all because now you've tried me
7 in Williamsburg county. But at that point in time,
8 nothing was said about a trip to Huntington Beach in
9 which we were unable to get our witnesses here today
10 which we couldn't help, we had two witnesses that were
11 ready to testify today to the fact that they were not
12 there, that what he stated was not true and another one
13 that was there alongside my nephew who said he woke up
14 seeing me on the outside, no one around me except for my
15 nephew and my son in the sleeping bag with me. I think
16 it would have made a tremendous difference but we
17 couldn't get them here. I couldn't take the stand and I
18 understand, I mean I think I understand very clearly the
19 fifth amendment right, and I understand that, however, I
20 have appealed to the state and my lawyer, the ex-lawyer
21 has admitted that he did not do the job that he was
22 supposed to do and I am going back on PCR. According,
23 whatever, I can't think of the right phrase now, but
24 concerning the other incident, not the one we are talking
25 about now, but the one that **victim** says happened at

1 Huntington Beach, there are two grown witnesses that have
2 come forward that testified, one with a diary, that
3 testified that I was not even there at all working with
4 the youth. In fact, I was at her home, refinishing her
5 house, fixing her roof and fixing her floor. Both of them
6 ready to testify. My ex-wife was supposed to stand up
7 and testify but she obviously didn't. I don't know why, I
8 don't think she wanted to put herself in that trailer
9 because it doesn't make a whole lot of sense to be in a
10 single wide trailer and me get into a shower with a young
11 man and her be 15, I can understand why she didn't step
12 forth. Your honor, I know you have nothing you can do
13 about it, I don't mean to sound angry but this is my
14 life, and I do have two young children that have been
15 kept from me for over a year now. I have a son that I
16 adopted from Romania sitting right back there and he's
17 not going to have his daddy anymore. He'll be able to
18 come and play sorry or play cards or play scrabble on the
19 weekends for four hours and I understand your hands are
20 tied. But there are two people in here that know the
21 truth. Two of us, **victim** It's a little late to do
22 anything about it.

23 The Court: Direct your comments to me.

24 Defendant Taylor: I apologize and I apologize to
25 you, I do remember you saying that sir. But there's two

1 folks that know the truth here. Two. The only thing
2 that I can ask and I don't know if you can even answer
3 this or I need to ask my lawyer is this. If in fact this
4 PCR does go forward, and that case is overturned and we
5 are able to go back and fight, what does that mean for
6 this case at that point? Because in that case, I am
7 going to do everything in my power to get right back here
8 and to retry this case so that I can sit there and let my
9 voice be heard, which is all I've wanted for three years
10 now, almost four years, is for my voice to be heard
11 period. I am not an evil man. I did not hide behind
12 the cloak of anything, I was born again when I was 15
13 years old. I sat in that room right back there
14 worshiping the Lord, I sat right there and worshiped the
15 Lord and I worship him right now, I praise his holy name.
16 I will accept whatever happens here as his will, but I
17 will not stop fighting. I want to get in that chair and
18 I want those 12 people to hear the truth. I wasn't able
19 to do that. I wasn't able to step up there and tell the
20 truth. I wasn't able to say a thing. My other lawyer
21 tied my hand the last time. Mr. Barr, at least, and he
22 told me he said you may want to consider the plea that
23 was offered, and I said Mr. Barr, I am an innocent man.
24 He said, I don't know how we are going to give a good
25 fight here, I said I'm an innocent man and there has to

1 come a point where I stand up, where I stand up and I
2 fight. It's correct in saying our relationship continued
3 through the years. It did continue. The last time I
4 remember seeing the Causey family we all were in line at
5 a Coca Cola Museum in Atlanta and the boys all stood
6 around me and my son, and my children as we stood in line
7 and this would have been in 2004, and we all hung out
8 together. It doesn't seem like the attitude of a young
9 man who says that I molested him to stand in line with me
10 and to hang out with me and to try different coca cola
11 products and none of that could come out, because I had
12 to sit there. My nephew told the truth. My nephew told
13 the whole truth. The fact is I slept that night, with my
14 son who was in my sleeping bag, who was 4 years old, or 3
15 and ½ years old crying, he was cold and it was his first
16 time out camping. My nephew slept beside me and we woke
17 up that morning and we went and the kids played war and
18 we came out and that is it. I have never, ever had anal
19 sex, ever period. I don't desire to have anal sex, and I
20 do not desire young boys nor men in general period. I
21 love my wife very much, very much and I still love
22 Allison. I am not a homosexual and I am definitely not a
23 predator. I know your hands are tied. I feel very sorry
24 for my family. I feel very sorry for the people of
25 Murrells Inlet, because they are missing out on a good

1 citizen. I am not this monster I've been made to be and
2 you can smirk now if you'd like to, but the fact of the
3 matter is, there is no smirking. The truth did not win
4 out today, justice was not served today. It was not. I
5 really don't know what else to say, I guess I'm at a
6 loss.

7 The Court: Mr. Taylor, you mentioned one thing
8 about the Georgetown county incident and I want to make
9 sure that I understand the transcript as I have read it.
10 Judge Cottingham conducted a relatively exhaustive plea
11 process and he asked you with regard to the incident
12 involving Mr. **victim** in Georgetown county were you guilty
13 and you said I am guilty.

14 Defendant: Yes sir.

15 The Court: Do you agree that you said that during
16 the plea?

17 Defendant: I will agree that I said that your
18 honor. I have a copy of my PCR on my desk. I know
19 that's nothing that you need.

20 The Court: I just want to make sure that you said

21 Defendant: I did absolutely say it and I cannot
22 deny that I said it. Did I say it under duress, I think
23 he even asked me if I did or not, I was told my lawyer
24 you say yes sir and that's it, don't say another thing.
25 You look him in the eyes and say yes sir which is what I

1 did, until I was given the opportunity to speak from my
2 heart in which I looked at the Judge and I looked at Bo,
3 who was the prosecutor and I said I am not this man that
4 you say I am. When my heart was allowed to speak, I
5 spoke it and I can only hope with the new witnesses and
6 everything else I will have at least a chance to be heard
7 period. I've got witnesses that are willing to step
8 forward at this point, once we finally got a date, we
9 were never even given a date. Just like this case, if
10 you look through all the paperwork, you will see how the
11 dates kept changing, we were never given a date on the
12 last one. See, supposedly this camping trip happened in
13 February or April, then it turns into November. The
14 other case he talked about happened at different times,
15 we never did get a date until about this time last year
16 while I was sitting at Evans in Bennettsville and I got a
17 piece of paper from the lady who works in her place in
18 Georgetown, which said August 5, 6, and 7th. First time
19 we've ever been told a date. My lawyer never even had a
20 date, never talked to the first witness and the people
21 who have come forward were on my witness list, but he
22 never did the job that he was supposed to do. It's just,
23 I know your hands are tied, there is nothing you can do,
24 I don't mean to come across as angry, but this is my life
25 and I do stand firm, I did say what you asked me, I did

1 plead guilty, I cannot say I didn't, I am fighting
2 desperately, the only option I have is the PCR process
3 sir.

4 The court: Thank you Mr. Taylor. Mr. Barr, anyone
5 else who would like to speak for the Defendant?

6 The Court: Your name sir.

7 Marius Taylor: Marius Taylor.

8 The Court: Ok, how do you spell your first name?

9 Marius Taylor: M-A-R-I-U-S.

10 The Court: Alright, sir Mr. Taylor if you would be
11 mindful of the fact to direct your statements to me and
12 not to anyone to your right, do you understand that?

13 Marius Taylor: Yes sir.

14 The Court: Alright, I'll be glad to hear from you.

15 Marius Taylor: I just want to thank you for
16 everything Judge. I want to especially thank Mr. Barr
17 who did a good job. I just want to tell a couple of
18 things about my dad. I am adopted, it was a long process
19 of adoption. Thank God I finally got here after almost
20 four years. When I got here my life was horrible and
21 they brought me here and gave me everything I needed.
22 Love, which is the most important thing and most of all a
23 family. I lived with him and I know what kind of man he
24 is, no matter what you are going to say, the jury is
25 going to see, nothing will ever change my mind about

1 everything. I love him and that's my dad. My mother
2 talked on the phone twice to me in a year, the past year,
3 and she's living me two miles away from me. I'm lost.
4 I'm losing my family. The only thing I have left is my
5 dad. My only candle that I can hold on to knowing the
6 life that I have is dark, it's all gone your honor, I
7 don't have anything. Until the day I die, until the day
8 I fall down and drown not being able to breathe anymore,
9 I will always believe my dad because I live with him, I
10 know what kind of man he is, and he taught me to do
11 things right. He taught me to do things right and he
12 showed me how to be an example for other people,
13 something that's very hard, something that you don't see
14 around this world anymore, you don't see anymore stuff
15 like that. I love my dad. Nothing will ever in this
16 world, no matter what anything says, not a judge, no
17 matter convictions are over him, he will always be my dad
18 and I will always love. I know I live with him in the
19 same house and I know what kind of man he is.

20 The Court: Thank you very much. Anyone else Mr.
21 Barr?

22 The Court: Alright sir, your name sir.

23 Anthony Taylor: My name is Anthony Taylor.

24 The Court: Alright sir, Mr. Taylor.

25 Anthony Taylor: This is my son. Just because 12

1 people said he was guilty, that doesn't make him guilty.
2 Because the inconsistency that was in this testimony was
3 ridiculous. It starts off one person not even being
4 there at all and when Mr. Barr pressured him, he changed
5 his mind and the man was there. There were several other
6 inconsistencies. Now, I wasn't allowed to testify
7 because I have nothing that I could say in particular
8 about this, but I do know some of the facts, Miss Pam
9 Causey came to me because I was a diabetic and she asked
10 me questions about her husband because he was diabetic.
11 There were problems in the family, although they think
12 they had them covered, they didn't have them covered and
13 the boy did want to die. There were many, many different
14 things that caused these things to happen. My son, I do
15 not believe to the day I die, did what he was accused of
16 doing. We now have the proof on the other three cases
17 coming back what Ms. Barr quoted awhile ago about Mr.
18 Scott, is definitely, if you read the transcript, it's
19 nothing like what she said. Nothing like what she said,
20 completely the opposite. Mr. Scott never said that Troy
21 touched him, he said he touched Troy. It's in the
22 transcript. We go from Johnathan, there was a same reason
23 there basically that there was here, we have a drug
24 problem, we've got to cover the drug problem up somehow.
25 We have a young man, his father is not paying him the

1 attention he should be paying him and he' looking for a
2 way to get it. This is my son and I raised him and I
3 know that he didn't do the things they said he did. The
4 man served God, he raised a church from 20 people to 700
5 people in three years. God is not going to bless an
6 effort like that but the devil will try to tear it down
7 and with the help of him and his wife, people who worked
8 with him in the church, it grew. When the devil got in
9 it, an affair started and things like that, that's when
10 it fell apart and that's when his life was destroyed. As
11 he said, two people know the complete truth, it hasn't
12 been told here yet.

13 The Court: Ok, did you care to say anything?

14 Linda Taylor: Yes sir.

15 The Court: Your name ma'am?

16 Linda Taylor: Linda Taylor.

17 The Court: Alright Miss Taylor.

18 Linda Taylor: I'm Troy's mother and I will only
19 say a very few words, we have been dealt something that
20 we will live with, but you know, we'll live with it.
21 I've done three things I thought I could never live
22 through, I buried a son, the second was to see my son go
23 to prison for something he didn't do and the third is to
24 sit through this trial, I did it and I will keep on
25 doing, just like we've always done, and the fruit will

1 show the tale, will tell the story. Troy's been in two
2 places so far, incarcerated 15 months and you go count if
3 you could, the prisoners' lives that have been changed
4 and will be forever changed and whatever happens to Troy
5 Taylor, he's been anointed by God and you can believe
6 whatever the Solicitor wants to believe, I don't really
7 care what she believes at this point, but the day that we
8 have to give an account will be a blessed day and
9 everybody who has told lies and who has done things to
10 tear God's work apart, they will give an account for
11 that, so I wait for my judgment. I take that judgment a
12 whole lot more personal and more important than anything
13 this court, no disrespect to your court, but I will take
14 that, and thank God that will be my judgment and not the
15 court's.

16 The Court: Alright, anything else Mr. Barr?

17 The Court: Your name, ma'am.

18 Michelle Gallagher: Michelle Gallagher.

19 The Court: Michelle Gallagher.

20 Michelle Gallagher: Yes sir.

21 The Court: Alright.

22 Michelle Gallagher: I'm Troy's baby sister and
23 he's my best friend, I have three children, two boys and
24 a little girl and his two youngest kids are my son's age,
25 they haven't seen each other in a year unless we happen

1 to run into each other. My kids don't understand why it
2 is that they have so much loss in their life and as a mom
3 I have a hard time dealing with my own pain from losing
4 my best friend because of trying to protect my three
5 children and trying to explain to them why their uncle is
6 where he is and why their aunt doesn't love them anymore
7 and why their aunt won't let them see their best friends
8 that were raised beside each other next door. There are
9 so many young people and children, of all ages, that
10 might, that wouldn't even fit in this courtroom, I can
11 get him here tomorrow that would tell you that this man
12 has never and would ever lay a hand on them. He is the
13 best dad, I don't care what anybody says. He is the best
14 dad and the best uncle and the best brother and the best
15 friend I've ever known. His character couldn't be shown
16 today because we couldn't get up and nobody could get up
17 because we weren't there when he was 11. One of our
18 family members, I hated that he happened to be a family
19 member, I would give anything at that point if he was not
20 my nephew because I think that would make a difference,
21 but he happened to be related. His character wasn't
22 shown and the truth was not shown and it's just an
23 injustice and if there is anything that I could say to
24 change this. Do you have any words I could encourage my
25 kids with because now they grow up not trusting anyone.

1 Maybe he could speak to someone and make them understand
2 how painful, this doesn't affect just this, it has
3 affected so many people in our community and all around
4 on both sides.

5 The Court: Sir, your name please.

6 Gary Wells: Gary Wells.

7 The Court: Ok, Mr. Wells.

8 Gary Wells: Anything I say here is not going to
9 change the sentence of this court.

10 The Court: Sir.

11 Gary Wells: Anything that I say here will not
12 change the sentence at this point is that correct?

13 The Court: Well, I'll address that with Mr. Barr,
14 the only thing I can tell you is that you can speak if
15 you would like and I will be happy to hear from you.

16 Gary Wells: At the last case, at the last trial,
17 our mouths were tied. When we got to this point where we
18 could speak, we were threatened basically by the lawyer,
19 don't say anything that would upset the judge. Before we
20 went into case, they sat us in a room on the side and
21 Troy's lawyer told him, you are going to get 20 years the
22 Judge has already promised you that or you can take five.
23 It scared him to death. We were sitting about half way
24 back in the courtroom and I leaned over to Troy and I
25 said Troy you cannot lie, you've got to tell the truth no

1 matter what it does to you. He said Uncle Gary I can't
2 I'll never see my children graduate from high school if I
3 don't because they've already promised me. So this time,
4 Troy tried to stand on what was right, on what was true,
5 the first time he lied, the second time he tells the
6 truth, he can't win in this country. My son is an
7 anarchist, I didn't raise him that way, but I gotta honor
8 my children. Thank you sir.

9 The Court: Alright. Alright anything else from the
10 state before I pronounce sentencing?

11 Ms. Barr: No, your honor.

12 The Court: Alright Mr. Taylor, according to the
13 provisions of the South Carolina Code Section 17-25-45,
14 the convictions that have come forth today, those being
15 Kidnaping and Criminal Sexual Conduct with a minor, in
16 the second degree, pursuant to that statute, I will
17 recite it in pertinent part, it says upon conviction for
18 a most serious offense, as defined by this section after
19 being convicted of another most serious offense, a person
20 must be sentenced to a term of imprisonment for life
21 without the possibility of parole. As the jury has
22 pronounced its verdict of these two offenses, both of
23 which are most serious offenses in the eyes of the law,
24 and since the prior conviction was a most serious offense
25 conviction, pursuant to the statute for the offense of

1 Criminal Sexual Conduct with a minor in the second
2 degree, the sentence of the court is that you committed
3 to the State Department of Corrections for the balance of
4 your natural life and likewise the sentence for
5 Kidnaping, you are committed to the State Department of
6 Corrections for the balance of your natural life. Those
7 two sentences will be consecutive and Mr. Barr will, he
8 indicated will be filing a Motion for Reconsideration of
9 sentencing so that he can more fully set forth his
10 position to inapplicability of this code section to these
11 proceedings. Of course, Mr. Barr, that does not prevent
12 you from filing any other types of similar motions that
13 are permitted by the Rules of Procedure.

14 Mr. Barr: Judge, did I understand you to run the
15 sentences consecutively?

16 The Court: Yes sir. To the extent that makes a
17 practical difference, but that is something to be
18 examined on reconsideration as well but each one in the
19 context of this statute, must stand on its own. So
20 that's why the sentence was pronounced in that fashion.

21 Ms. Barr: Thank you, your honor.

22 The Court: Mr. victim, I wish you luck, I wish you
23 and your family luck. Mr. Taylor, I wish you luck and I
24 wish you and your family luck. I commend both attorneys
25 for the job you did in the courtroom and the preparation

1 for this trial. I think Mr. Taylor that you had
2 excellent representation as did the State of South
3 Carolina. I would request that the folks, if Mr.
4 **victim** s family on my right hand side of the courtroom,
5 if you would depart from the courthouse first and I would
6 suggest to you, I just don't want there to be any
7 hereafter outside of this courtroom. The sheriff is in
8 the courtroom, he will maintain order but there needs to
9 be some order on the premises and I will leave it to you
10 fine folks on both sides to make sure that doesn't occur.
11

12 Mr. Taylor: Would you at least let me tell my
13 family goodbye.

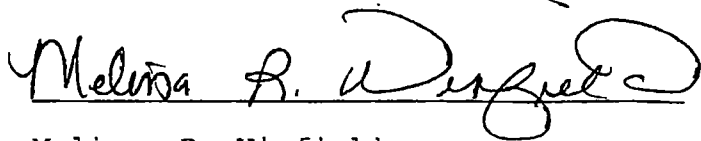
14 The Court: That will be up to these two gentlemen
15 here.
16
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CERTIFICATE

This is to certify that the hearing in the matter of State vs. Robert Troy Taylor, consisting of Four Hundred Forty (440) pages is a true and correct transcript; said hearing was reported by the method of Stenomask with Backup.

I further certify that I am not employed by any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.

IN WITNESS WHEREOF I have hereunto set my hand and seal this 23rd day of September, 2008.



Melissa R. Winfield
Certified Court Reporter

Notary Public for South Carolina
My Commission Expires: 3-5-2014

FORM 5

15 CP45 03 7

STATE OF SOUTH CAROLINA

COUNTY OF WILLIAMSBURG

Robert Troy Taylor, #315084,
Full name and prison number (if any) of Applicant.

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

APPLICATION FOR

POST-CONVICTION RELIEF

FILED
2014 DEC 31 AM 8:52
SHARON B. HARRIS
CLERK OF COURT
WILLIAMSBURG, S.C.

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Perry Correctional Institution, 430 Oaklawn Road, Pelzer, SC 29669
2. Name and location of Court which imposed sentence Williamsburg County Court of General Sessions, 125 W. Main Street, Kingstree, SC 29566
3. Name(s) of co-defendant(s) (if any) _____
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2006-GS-45-176: Criminal Sexual Conduct, 2nd Degree
 - (b) 2006-GS-45-176: Kidnapping
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) July 12, 2007: life without parole



- (b) July 12, 2007: consecutive life without parole
- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty X
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
Yes.
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. South Carolina Court of Appeals
- ii. South Carolina Supreme Court
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Conviction affirmed.
- ii. Petition for Writ of Certiorari denied.
- iii. _____
- (c) the date of each such result:
- i. December 21, 2011, June 6, 2012
- ii. April 3, 2014
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. State v. Taylor, 396 S.C. 193, 720 S.E.2d 522 (Ct. App. 2011); State v. Taylor, 399 S.C. 51, 731 S.E.2d 596 (S.C. Ct. App. 2012)
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) _____
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in

custody unlawfully:

- (a) Ineffective assistance of trial counsel.
- (b) Ineffective assistance of appellate counsel.
- (c) _____

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) Failure to prepare and investigate.
- (b) Failure to utilize witnesses at trial.
- (c) Failure to raise all meritorious issues on appeal.

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? No.
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No.
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No.
- (d) any other petitions, motions or applications in this or any other Court? No.

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

- i. _____
- ii. _____
- iii. _____
- iv. _____

(b) the name and location of the Court in which each was filed:

- i. _____
- ii. _____
- iii. _____
- iv. _____

(c) the disposition thereof:

- i. _____
- ii. _____
- iii. _____

- iv. _____
- (d) the date of each such disposition:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____
- 14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?
No.
- 15. If you answered "yes" to (14) identify:
 - (a) which grounds have been presented:
 - i. _____
 - ii. _____
 - iii. _____
 - (b) the proceedings in which each ground was raised:
 - i. _____
 - ii. _____
 - iii. _____
- 16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
 - (a) PCR is the proper forum.
 - (b) _____
 - (c) _____
- 17. Were you represented by an attorney at any time during the course of:
 - (a) your arraignment and plea? _____

- (b) your trial, if any? Yes.
- (c) your sentencing? Yes.
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes.
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

i. Charles D. Barr, 319 W. Main Street, Kingstree, SC 29566

ii. Jeremy Thompson, PO Box 12891, Columbia, SC 29211

iii. _____

(b) the proceedings at which each such attorney represented you:

i. Trial and sentencing.

ii. Direct appeal.

iii. _____

19. State clearly the relief you seek in filing this application:

A new trial.

20. Are you now under sentence from any other court that you have not challenged?

No.

STATE OF SOUTH CAROLINA

County of Greenville

VERIFICATION

I, Robert Troy Taylor, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Robert Troy Taylor

SWORN to and subscribed before me this 17th
day of December, 2014.

Nancy C. Merchant (L.S.)
Notary Public

My Commission Expires: 1-23-2023

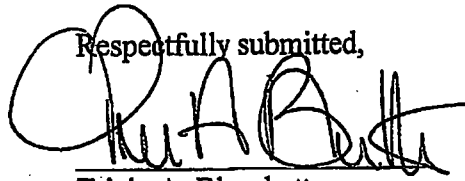
STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
COUNTY OF WILLIAMSBURG)	THIRD JUDICIAL CIRCUIT
Robert Troy Taylor, 315084,)	2015-CP-45-037
Applicant,)	
v.)	
State of South Carolina,)	AMENDMENT TO APPLICATION
<u>Respondent.</u>)	FOR POST CONVICTION RELIEF

This matter comes before the Court pursuant to an Application for Post Conviction Relief filed on December 31, 2014, Applicant would amend his original Application by adding the following specific allegations to his original claims of ineffective assistance of trial and appellate counsel:

1. Ineffective assistance of trial counsel for failure to prepare and investigate prior to trial, which resulted in a failure to present a reasonable defense at trial. See Lounds v. State, 380 S.C. 454, 670 S.E.2d 646 (2008). Specifically, but not limited to:
 - a. Ineffective assistance of trial counsel for failure to investigate the scene and be aware of notice from the State regarding time and place of the alleged incident. (Transcript pp. 240-9).
 - b. Ineffective assistance of trial counsel for pursuing a primary defense (as was addressed pretrial, during trial motions, in closing and in post-trial motions) based upon venue, which was unreasonable based upon information that should have been obtained from a minimal investigation.
 - c. Ineffective assistance of trial counsel for failure to speak to witnesses prior to trial and call witnesses on Applicant's behalf at trial.
 - d. Ineffective assistance of trial counsel for failure to properly prepare witnesses utilized at trial.
 - e. Ineffective assistance of trial counsel for failure to utilize exculpatory and rebuttal evidence.
2. Ineffective assistance of trial and appellate counsel in the handling of the Batson motion matter at trial and on appeal.

3. Ineffective assistance of trial counsel for failure to properly impeach and/or cross-examine the State's witnesses at trial.
4. Ineffective assistance of trial counsel for the handling of the expert testimony of Gaye Allen-Cook. Specifically, but not limited to:
 - a. Failure to request information regarding her findings / opinions prior to trial and to discuss such with her.
 - b. Failure to object to and/or move to suppress her testimony.
 - c. Alternatively, newly discovered evidence that Gaye Allen-Cook would not have taken the stand for the State if given the opportunity to review the case and would have been willing to assist with the defense of Applicant.
5. Ineffective assistance of trial counsel in closing argument, for:
 - a. Appealing negatively and prejudicially to the jury with the story used to illustrate counsel's argument regarding venue, and
 - b. Focusing solely on venue, which the trial court later ruled was not a proper question for the jury.
6. Ineffective assistance of trial counsel for failure to make a proper arguments against the imposition of a sentence of life without parole based upon Rule 404(b), SCRE, and S.C. Code 17-25-50 (2003). Ineffective assistance of counsel for failure to properly preserve arguments regarding the imposition of a sentence of life without parole for appeal. Alternatively, ineffective assistance of appellate counsel for failing to properly raise the argument made at trial against the imposition of a sentence of life without parole.
7. Ineffective assistance of trial counsel in the handling of reconsideration and/or post trial motion.
8. Ineffective assistance of appellate counsel for failure to raise all meritorious issues on appeal:
 - a. Objection regarding verbal statement of victim regarding time and place.
9. Pursuant to Rule 15(b), SCRCP, Applicant would move to amend to conform to the evidence and testimony presented at the evidentiary hearing.

October 7, 2015
Columbia, SC

Respectfully submitted,


Tricia A. Blanchette
Attorney for Applicant
Post Office Box 12725
Columbia, South Carolina 29211

STATE OF SOUTH CAROLINA)
COUNTY OF WILLIAMSBURG)

IN THE COURT OF COMMON PLEAS
THIRD JUDICIAL CIRCUIT

Robert Troy Taylor, 315084,)
Applicant,)

2015-CP-45-037

v.)

CERTIFICATE OF SERVICE

State of South Carolina,)
Respondent.)

I, Tricia A. Blanchette, Attorney at Law, hereby certify that I placed in the United States Mail this 7th day of October 2015, a copy of an Amendment to Application for Post Conviction Relief, to Dan Gourley of the Attorney General's Office, at:

Office of the Attorney General
Att: Dan Gourley, Ast. AG
P.O. Box 11549
Columbia, SC 29211-1549



Tricia A. Blanchette
PO Box 12725
Columbia, SC 29211
(803) 988-0008

October 7, 2015

STATE OF SOUTH CAROLINA

COUNTY OF WILLIAMSBURG

Robert Troy Taylor, 315084,

☒ Plaintiff

v.

State Of South Carolina

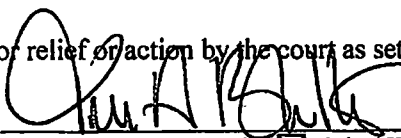
☐ Defendant.

IN THE COURT OF COMMON PLEAS

CASE NO.

2015-CP-45-037

MOTION AND ORDER INFORMATION
FORM AND COVER SHEET

Plaintiff's Attorney: Tricia A. Blanchette, Bar No. 74904 Address: PO Box 12725 Columbia, SC 29211 phone: 803-988-0008 fax: 803-988-8070 e-mail: blanchettelaw@gmail.com other:	Defendant's Attorney: Daniel Gourley, Bar No. Address: PO Box 11549 Columbia, SC 29211 phone: 803-734-3737 fax: 803-734-4113 e-mail: other:
☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) ☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) ☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
SECTION I: Hearing Information	
Nature of Motion: Amendment to PCR Estimated Time Needed: Full day Court Reporter Needed: ☒ YES / ☐ NO	
SECTION II: Motion/Order Type	
☒ Written motion attached ☐ Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.  _____ Signature of Attorney for ☒ Plaintiff / ☐ Defendant October 7, 2015 _____ Date submitted	
SECTION III: Motion Fee	
☐ PAID – AMOUNT: ☒ EXEMPT: ☐ Rule to Show Cause in Child or Spousal Support (check reason) ☐ Domestic Abuse or Abuse and Neglect ☐ Indigent Status ☐ State Agency v. Indigent Party ☐ Sexually Violent Predator Act ☒ Post-Conviction Relief ☐ Motion for Stay in Bankruptcy ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP) ☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____ ☐ Other:	
JUDGE'S SECTION ☐ Motion Fee to be paid upon filing of the attached order. ☐ Other:	_____ JUDGE CODE: _____ Date: _____
CLERK'S VERIFICATION	
Collected by: _____ Date Filed: _____	
☐ MOTION FEE COLLECTED: _____ ☐ CONTESTED – AMOUNT DUE: _____	

IN THE COURT OF COMMON PLEAS
FOR THE THIRD JUDICIAL CIRCUIT

2015-CP-45-037

Applicant,

V.

RETURN

State of South Carolina,

Respondent.

The Respondent, making its Return to the application for post conviction relief (PCR) filed December 31, 2014, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Williamsburg County Clerk of Court. The Applicant was true bill indicted at the May 2006 term of the Williamsburg County Grand Jury for criminal sexual conduct-second degree and kidnapping (2006-CP-45-176). Charles D. Barr, Esquire represented Applicant. Applicant proceeded to trial before the Honorable George C. James, Jr. Applicant was convicted as indicted. On July 12, 2007, Judge James sentenced Applicant to life without the possibility of parole for kidnapping and criminal sexual conduct-second degree.

A timely Notice of Appeal was filed on Applicant's behalf. Jeremy A. Thompson, represented Applicant on appeal. On June 6, 2012, the South Carolina Court of Appeals affirmed Applicant's conviction and sentence. *State v. Taylor*, Op. No. 4920 (refiled June 2012). Petitioner sought certiorari to the South Carolina Supreme Court. The South Carolina Supreme Court denied certiorari on April 3, 2014. The Remittitur was issued on April 7, 2014.

Attached herewith and incorporated herein are the records of the Williamsburg County Clerk of Court regarding the subject conviction, the Applicant's records from the South Carolina Department of Corrections, appellate records, and the trial transcript. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

In his current Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of Counsel
 - a. Failure to prepare and investigate.
 - b. Failure to utilize all witnesses at trial.
2. Ineffective Assistance of Appellate Counsel
 - a. Failure to raise all meritorious issues on appeal.

Any claims not specifically enumerated in the PCR application or amendments will be opposed by the State at an evidentiary hearing, and the State will seek summary dismissal of vague or general claims at an evidentiary hearing. S.C. Code §17-27-50. All amendments should be made well in advance of an evidentiary hearing by counsel of record. Rule 11, SCRCP.

III.

The Respondent asserts the Applicant's allegation that his attorney was ineffective is without merit. The Respondent asserts the Applicant's attorney rendered effective assistance well within the standard of "reasonableness within professional norms" for a defense attorney.

Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result." Strickland v. Washington, 466 U.S. 668, 686, 104 S. Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume counsel "rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Strickland, 466 U.S. at 690, 104 S. Ct. at 2066. The Applicant must overcome this presumption in order to receive relief. See Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under prevailing professional norms." Cherry v. State, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 688, 104 S. Ct. at 2065). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984)).

The Respondent submits the Applicant cannot satisfy either requirement of the Strickland v. Washington test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (citing Norman v. State, 276 S.C. 278, 277 S.E.2d 707 (1981)).

IV.

The allegation that appellate counsel was ineffective is without merit. The Respondent contends that the Applicant's appellate counsel rendered adequate assistance and provided representation within the range of competence required by appellate attorneys. A defendant is constitutionally entitled to the effective assistance of appellate counsel. Evitts v. Lucey, 469 U.S. 387, 105 S.Ct. 830 (1985). Where ineffective assistance of appellate counsel is alleged, the Applicant must show that appellate counsel's performance was (1) deficient; and (2) that there was prejudice from the appellate counsel's deficiency. Southerland v. State, 337 S.C. 610, 524 S.E.2d 833 (1999). To be effective, appellate counsel must give assistance of such quality as to make appellate proceedings fair. Id. Appellate counsel must provide effective assistance but need not raise every non-frivolous issue presented by the record. Id. Appellate counsel has a professional duty to choose among potential issues according to their merit. Jones v. Barnes, 463 U.S. 745, 103 S.Ct. 3308 (1983). Where the strategic decision to exclude certain issues on appeal is based on reasonable professional judgment, the failure to appeal all trial errors is not ineffective assistance of counsel. Griffin v. Aiken, 775 F.2d 1226 (4th Cir. 1985).

When a claim of ineffective assistance of appellate counsel is based upon failure to raise viable issues, the court must examine the record to determine "whether appellate counsel failed to present significant and obvious issues on appeal." Gray v. Greer, 800 F.2d 644, 646 (7th Cir. 1986). Generally, the presumption of effective assistance of counsel will be overcome only when the alleged ignored issues are clearly stronger than those actually raised on appeal. Id.

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland v. Washington test with regard to the ineffectiveness claims against appellate counsel. However, the allegation of ineffective assistance of appellate counsel probably raises questions

of fact that cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue. Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

V.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied.

VI.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

DANIEL GOURLEY
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

June 5, 2015.

STATE OF SOUTH CAROLINA

COUNTY OF WILLIAMSBURG

ROBERT TROY TAYLOR, #315084,

Applicant,

vs.

STATE OF SOUTH CAROLINA,

Respondent.

IN THE COURT OF COMMON PLEAS

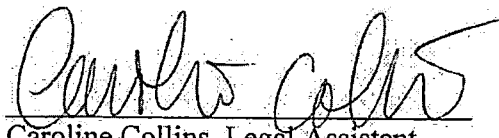
2015-CP-45-037

AFFIDAVIT OF SERVICE BY MAIL

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Tricia A. Blanchette, Esquire
Law Office of Tricia A. Blanchette, LLC
PO Box 12725
Columbia, SC 29211

DATED this 5th day of June, 2015.



Caroline Collins, Legal Assistant
For Respondent

State of South Carolina) Court of Common Pleas
County of Williamsburg) Third Judicial Circuit
Case No. 2015-CP-45-00037

Robert Troy Taylor,

Plaintiff,

-vs-

Transcript of Record

State of South Carolina,

Defendant.

November 19, 2015
Sumter, South Carolina

B E F O R E:

The Honorable Tanya A. Gee, Judge

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

Tricia A. Blanchette, Esquire
Attorney for the Plaintiff

Daniel Gourley, Esquire
Attorney for the Defendant

Krystal J. Smith
Court Reporter

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1 NOVEMBER 19, 2015

2 (WHEREAS this matter was scheduled for a post-conviction
3 relief hearing, the applicant appeared along with his
4 counsel of record. The State appeared through attorney
5 of record. The hearing began at 9:39 a.m.)

6 THE COURT: Good morning, everyone.

7 MS. BLANCHETTE: Good morning.

8 MR. GOURLEY: Good morning.

9 THE COURT: All right. Mr. Gourley?

10 MR. GOURLEY: Thank you, Your Honor. This is Robert
11 Taylor v. the State of South Carolina, Docket Number 2015-CP-
12 45-037. He's presently confined in the South Carolina
13 Department of Corrections pursuant to orders of commitment of
14 the Williamsburg County Clerk of Court.

15 He was true-bill indicted at the May 2006 term of the
16 Williamsburg County Grand Jury for CSC second-degree and
17 kidnapping. Mr. Barr represented him.

18 He proceeded to trial before the Honorable George C.
19 James Jr. and was convicted as indicted. On July 12th, 2007,
20 Judge James sentenced the applicant to life without the
21 possibility of parole for kidnapping and CSC second-degree.

22 A timely notice of appeal was filed. Mr. Thompson
23 represented him. On June 6th, 2012, the South Carolina Court
24 of Appeals affirmed the applicant's conviction and sentence.
25 He sought certiorari to the Supreme Court and the Supreme

1 Court denied certiorari on April 3rd, 2014. And that
2 remittitur was issued on April 7th, 2014.

3 Subsequently, he filed a timely application for post-
4 conviction relief on December 31st, 2014, alleging various
5 claims of ineffective assistance of counsel and ineffective
6 assistance of appellate counsel. Ms. Blanchette filed an
7 amendment on his behalf and the State filed its return on June
8 5th, 2015.

9 THE COURT: And do you have a copy of that amendment? I
10 have the initial application for PCR.

11 MR. GOURLEY: I do, Your Honor. Sorry, Judge. It should
12 have been in the packet.

13 THE COURT: Thank you. Thank you.

14 MR. GOURLEY: Uh-huh.

15 THE COURT: All right. Ms. Blanchette?

16 MS. BLANCHETTE: Your Honor, may it please the Court.
17 Tricia Blanchette on behalf of Troy Taylor. Just a couple of
18 preliminary matters before I dive into the hearing.

19 The case -- as the State indicated, Mr. Taylor was
20 statutorily enhanced to a life without parole sentence. The
21 prior conviction used for that enhancement was a conviction
22 out of Georgetown County for CSC in the second degree
23 regarding the same victim. He was sentenced there on April
24 20th of 2006 and he received a sentence of eight years,
25 suspended to five years' incarceration with three years'

1 probation.

2 I have spoken with Dan Gourley prior to today. Since
3 this conviction was the enhanced -- used to enhance and these
4 cases are very closely tied together, especially when it comes
5 to some issues we're raising regarding the life without parole
6 sentence, I have a copy of the appendix from the Petition for
7 Writ of Certiorari that was filed in that case for Your Honor
8 just to have as a reference.

9 THE COURT: Thank you. I appreciate that.

10 MS. BLANCHETTE: And a copy of this has also been
11 provided to Mr. Gourley.

12 THE COURT: Okay. Thank you.

13 MS. BLANCHETTE: Your Honor, secondly, I had originally
14 contacted you and you graciously agreed to take witness
15 testimony tomorrow for two witnesses that were unavailable.
16 Last week, Mr. Gourley agreed to allow me to submit affidavits
17 to Your Honor in lieu of their testimony.

18 THE COURT: Okay.

19 MS. BLANCHETTE: So the next matter that I would have is
20 I have an affidavit of Charles Harrison and Zack Webster.
21 They're marked as Applicant's Number 1 and 2.

22 I must note that yesterday I received what I thought was
23 going to be the original affidavit in the mail from Zack
24 Webster and it was not contained in the envelope. So he is
25 resubmitting that and I just have a copy that was scanned to

1 me today, but I can make sure that their original gets to the
2 Clerk of Court if everyone prefers that.

3 THE COURT: Yes, please. We definitely need the
4 original, but for now a copy will be sufficient for me.

5 MS. BLANCHETTE: Okay. And, Your Honor, I have a copy of
6 this for you as well.

7 THE COURT: Great. Thank you.

8 MS. BLANCHETTE: And I will hand to the court reporter
9 what's been marked as Applicant's Number 1, which is the
10 affidavit of Zack Webster, and what has been marked as
11 Applicant's Number 2, which is the affidavit of Charles
12 Harrison.

13 (WHEREUPON, Applicant's Exhibit Number 1, affidavit of
14 Zack Webster, and Applicant's Exhibit Number 2, affidavit
15 of Charles Harrison, were admitted into evidence by
16 agreement.)

17 MS. BLANCHETTE: And, Your Honor, one final preliminary
18 matter. We don't intend today to get into the slippery slope
19 of calling character witnesses. As I understand Judge James'
20 ruling regarding the prior conviction at the trial, we have
21 not made any allegations that Mr. Barr should have called
22 character witnesses and opened the door to the prior
23 conviction coming in.

24 With that cited, if for some reason that door does get
25 open, we have a number of witnesses that we could call as

1 character witnesses and reply rebuttal, but I don't intend to
2 call them in my case in chief today.

3 THE COURT: Okay.

4 MS. BLANCHETTE: Your Honor, would you like for me to go
5 over the allegations or go ahead and call my first witness?

6 THE COURT: If you don't mind going ahead and go over the
7 allegations, I certainly can read them myself. But since I'm
8 just getting them, I knew that you were alleging ineffective
9 assistance of counsel and -- trial counsel and appellate
10 counsel, but the specific nature of how trial counsel was
11 ineffective I was unclear about. And so as I read it, if you
12 will also say it to me, that will give me a chance to write it
13 down and really --

14 MS. BLANCHETTE: Okay. I'll do that.

15 MS. BLANCHETTE: -- sort of marinate it inside..

16 MS. BLANCHETTE: Yes.

17 THE COURT: Thank you.

18 MS. BLANCHETTE: Our first allegation is ineffective
19 assistance of trial counsel for failure to prepare and
20 investigate prior to trial, which resulted in a failure to
21 present a reasonable defense at trial. We've alleged that
22 specifically, but not limited to ineffective assistance for
23 failure to investigate the scene and be aware of notice from
24 the State regarding the time and place of the alleged
25 incident.

1 Ineffective assistance of trial counsel for pursuing a
2 primary defense -- and we've given a number of examples of
3 that -- based upon venue in this case, which was unreasonable
4 based upon information that should have been obtained from a
5 minimum investigation regarding venue being proper.

6 Our subpart C is ineffective assistance of counsel for
7 failure to speak to witnesses prior to trial and call
8 witnesses on applicant's behalf at trial. Ineffective
9 assistance of trial counsel for failure to properly prepare
10 the witnesses that were utilized at trial.

11 And then ineffective assistance of trial counsel for
12 failure to utilize exculpatory and rebuttal evidence.

13 THE COURT: Okay.

14 MS. BLANCHETTE: Our second issue, Your Honor, deals with
15 ineffective assistance of both trial and appellate counsel
16 regarding the *Batson* motion that was raised at trial and on
17 appeal.

18 THE COURT: Okay.

19 MS. BLANCHETTE: Our third issue is ineffective
20 assistance of trial counsel for failure to properly impeach
21 and/or cross-examine the State's witnesses at trial, and that
22 ties back into our investigation and preparation issue.

23 The fourth issue is ineffective assistance of trial
24 counsel for the handling of the expert testimony of Gaye
25 Allen-Cook, specifically but not limited to failure to request

1 information regarding her findings and opinions prior to trial
2 and to discuss such with her, failure to object and/or move to
3 suppress her testimony, and alternatively newly discovered
4 evidence that Gaye Allen-Cook would not have taken the stand
5 for the State if given the opportunity to review the case and
6 would have been willing to assist with the defense of
7 applicant.

8 THE COURT: Okay.

9 MS. BLANCHETTE: And she will be our first witness here
10 today.

11 THE COURT: Okay. I was just about -- that was my next
12 question. All right.

13 MS. BLANCHETTE: Ineffective assistance of trial counsel
14 in closing argument for appealing negatively and prejudicially
15 to the jury with the story used to illustrate counsel's
16 argument regarding venue and for focusing solely on venue,
17 which the trial court later ruled -- and that was in his order
18 on the reconsideration hearing -- that it was not a proper
19 question for the jury.

20 Our sixth claim is ineffective assistance of trial
21 counsel for failure to make a proper argument against the
22 imposition of a sentence of life without parole based upon
23 Rule 404(b), SCR -- sorry -- the South Carolina Rules of
24 Evidence and South Carolina Code 17-25-50.

25 Ineffective assistance of counsel for failure to properly

1 preserve arguments regarding the imposition of a sentence of
2 life without parole for appeal. Alternatively, ineffective
3 assistance of appellate counsel for failing to properly raise
4 the argument made at trial against the imposition of a
5 sentence of life without parole.

6 Our issue number seven is ineffective assistance of
7 counsel in the handling of the reconsideration and/or post-
8 trial motion.

9 And then finally we have ineffective assistance of
10 appellate counsel for failure to raise all meritorious issues
11 on appeal. This goes back to issue number one. Counsel made
12 an objection originally under *Brady* regarding not having
13 notice of the time and place of the incident.

14 And then I've included, pursuant to Rule 15(b), we'd move
15 to amend to conform to any evidence and testimony presented
16 today. As you know, things may be said today that we weren't
17 prepared for, issues may come up; so we would just ask to be
18 allowed to move to amend to any issues that do arise today as
19 a result of the testimony.

20 THE COURT: All right. Thank you very much. You may
21 call your first witness.

22 MS. BLANCHETTE: Your Honor, I would call Gaye Allen-Cook
23 to the stand.

24 THE CLERK: Place your left hand on the Bible and raise
25 your right hand. State your name, please.

GAYE ALLEN-COOK - DIRECT BY MS. BLANCHETTE

1 THE WITNESS: Gaye Allen-Cook.

2 THE CLERK: Do you solemnly swear or affirm your
3 testimony to the Court shall be the truth, the whole truth,
4 and nothing but the truth, so help you God?

5 THE WITNESS: I do.

6 THE CLERK: Thank you. Have a seat up here, please.
7 Excuse me.

8 THE WITNESS: Sorry.

9 THE CLERK: Please state your full name and spell your
10 last name for the record.

11 THE WITNESS: Gaye Allen-Cook, A-l-l-e-n hyphen C-o-o-k.

12 GAYE ALLEN-COOK, being first
13 duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MS. BLANCHETTE:

16 Q: And, Mrs. Cook, how are you presently -- what is your
17 present profession?

18 A: I am in private practice in Florence. I practice as a
19 child and family therapist specializing in trauma and abuse.

20 Q: And do you recall being called as an expert witness in
21 the trial of Robert Troy Taylor?

22 A: I do.

23 Q: In 2007?

24 A: I do.

25 MS. BLANCHETTE: Your Honor, at this time, I would ask

GAYE ALLEN-COOK - DIRECT BY MS. BLANCHETTE

1 the State to stipulate to her expert qualifications. They
2 were set forth by the Court at trial on page 50, lines 2
3 through 3, and on page 50, lines 11 to 12, and that would be
4 she was qualified as an expert in the field of child sexual
5 abuse counseling and treatment at trial.

6 THE COURT: Mr. Gourley?

7 MR. GOURLEY: Judge, I don't have any objection to that.

8 THE COURT: All right. She'll be -- it's so stipulated
9 and she will be considered an expert in those fields.

10 MS. BLANCHETTE: Thank you, Your Honor.

11 BY MS. BLANCHETTE:

12 Q: Now, Mrs. Cook, how did you originally become involved in
13 the case of Robert Troy Taylor prior to trial?

14 A: I received a call from Kimberly Barr, who was -- I
15 believe she's an assistant solicitor in Williamsburg County.
16 I had worked with her on other cases and she called to talk
17 with me and asked me if I would testify.

18 Q: And in what capacity were you anticipating that you would
19 testify at the trial?

20 A: It was my understanding I would testify to the dynamics
21 of child sexual abuse and also in delayed disclosure.

22 Q: Prior to the trial in July of 2007, were you ever
23 contacted by Charles Barr, the defense attorney for Mr.
24 Taylor?

25 A: No, ma'am.

GAYE ALLEN-COOK - DIRECT BY MS. BLANCHETTE

1 Q: If he would have contacted you, would you have spoken to
2 him?

3 A: Yes, ma'am.

4 Q: And if he would have asked you to review case materials,
5 would you have reviewed those materials?

6 A: Yes, ma'am.

7 Q: Now, let me fast-forward to the actual trial itself on
8 July 10th, 2007. What was your impression when you walked into
9 the courtroom?

10 A: I remember walking in and being a bit overwhelmed with
11 all of the people that were in the courtroom that day. It's a
12 fairly large courtroom and to the right of me was where
13 defense counsel and Mr. Taylor were seated, along with so many
14 people that there were standing room only. And I remember
15 looking over to the left and seeing a man and an older lady
16 seated at a table where Ms. Barr and a couple of her
17 assistants were seated. And I was just a bit overwhelmed at
18 all the people that were in the courtroom and, in my years of
19 testimony, I had not been exposed to anything quite like that.

20 Q: Now, on cross-examination -- and you've reviewed your
21 testimony that you provided at trial; is that correct? Prior
22 to today?

23 A: I have.

24 Q: Okay. On cross-examination on pages 59 through 60,
25 you're asked about whether or not you had -- you knew any of

GAYE ALLEN-COOK - DIRECT BY MS. BLANCHETTE

1 the specific details or anything about the victim in this
2 case. Did you have knowledge of the specific details or the
3 victim in this case?

4 A: No, I did not.

5 Q: Now, if any -- if statements from the victim or case
6 materials had been handed up to you during cross-examination,
7 would you have had to answer questions about those materials?

8 A: Yes.

9 Q: And how would that potentially have impacted your
10 testimony?

11 MR. GOURLEY: Your Honor, I'm going to object to this.
12 If Ms. Cook has reviewed anything regarding this case, we're
13 basically talking about the allegations asserted by the
14 victim, which would be kind of a reverse *Kromah* situation.
15 Clearly, you know, I understand this is a PCR, but obviously
16 Mr. Barr can't go higher than Ms. Cook to review this case and
17 use her as an expert witness to come in and talk about the
18 credibility of the allegations of the victim.

19 THE COURT: Okay. I don't think that that was the
20 question. I'm worried that we might be getting there --

21 MR. GOURLEY: Yes, ma'am.

22 THE COURT: -- but at this point, as I understand, Ms.
23 Blanchette is asking if this particular witness would have had
24 to answer questions had she -- about the case had she reviewed
25 case-specific material. We are getting in the area of

GAYE ALLEN-COOK - DIRECT BY MS. BLANCHETTE

1 speculation certainly, but being as this is a judge

2 considering a PCR, I think that I can separate the two.

3 So I'll let you ask that question. I'll let her answer
4 it. I'd ask you to ask the question again so that we can get
5 back on track and allow her to answer it, but, Mr. Gourley, I
6 am understanding of where you're going with your objection and
7 I'm also hyperaware of it.

8 MR. GOURLEY: All right.

9 THE COURT: So be prepared to object again if necessary.

10 MR. GOURLEY: All right. Thank you, Judge.

11 MS. BLANCHETTE: And, Your Honor, I will try to -- I
12 understand at the time -- *Weaverling* was essentially at the
13 time this was tried was the controlling case. We've had the
14 *Kromah* line of cases leading up to the 2015 decision. So
15 we've had -- I'm going to be very mindful of that, but at the
16 time that she testified, it was -- I would say *Weaverling* was
17 the accepted standard at that time.

18 THE COURT: Okay. How about have -- if the attorneys
19 will come up for a second so I can ask a question that I don't
20 want to affect the witness' answer.

21 THE WITNESS: May I get some water?

22 THE COURT: Absolutely.

23 THE WITNESS: I'm sorry.

24 THE COURT: Can someone please get her some water?

25 THE CLERK: I would be glad to.

GAYE ALLEN-COOK - DIRECT BY MS. BLANCHETTE

1 THE COURT: Thank you.

2 THE WITNESS: Thank you.

3 (WHEREUPON, a bench conference was held as follows.)

4 THE COURT: Are you allowed to ask her whether she
5 believes that --

6 MS. BLANCHETTE: I don't intend to go there. What she
7 has done is I've provided her all the case materials,
8 including the Georgetown case. She's gone ahead and done
9 interviews and consulted with me. So where I intend to go is
10 that she could have or someone in her capacity could have
11 consulted with Mr. Barr and assisted Mr. Barr.

12 Like I was trying to allude to, we didn't have the clear
13 line of cases like *Jennings* and *McKerley* and *Kromah* at the
14 time she testified, but I think no matter what the line of
15 cases were, she couldn't have come in and just bolstered the
16 credibility or discredited the credibility. I'm not going to
17 ask her --

18 THE COURT: And all -- and all -- so just to make sure
19 that I'm aware, all she testified to at trial was to say kids
20 often do not disclose right away?

21 MS. BLANCHETTE: And then she went into the signs and
22 symptoms because this was a case with drug use and different
23 types of --

24 THE COURT: Right.

25 MS. BLANCHETTE: -- abusive behaviors. And she testified

GAYE ALLEN-COOK - DIRECT BY MS. BLANCHETTE

1 that in 69 percent of cases, you know, you see symptoms and
2 different things like that. Which at the end of the day I
3 would argue is bolstering his testimony, which kind of evolves
4 in those cases, and I think is why we got to *Kromah*.

5 THE COURT: I think you --

6 MS. BLANCHETTE: But under *Weaverling*, it's kind of
7 textbook *Weaverling* how she testified.

8 THE COURT: Okay.

9 MR. GOURLEY: And, Judge, my main concern is now that
10 she's associated herself with the case, we're going down the
11 slippery slope of her talking about the credibility of the
12 allegations because now she's reviewed the statements and
13 she's talked to -- she's interviewed the witnesses. She's
14 rendered an opinion about this case.

15 THE COURT: Right.

16 MR. GOURLEY: Clearly, Mr. Barr can't use her.

17 THE COURT: Right. We're in a PCR.

18 MR. GOURLEY: Right.

19 THE COURT: So --

20 MS. BLANCHETTE: And she testified for the State, which
21 is the strange thing. Like, that's why I provided her all the
22 materials and got her to review it is because she was the
23 original State's expert.

24 MR. GOURLEY: And I guess my other concern is that she's
25 used as a consultant and she's going to say Charles Barr

GAYE ALLEN-COOK - DIRECT BY MS. BLANCHETTE

1 should have done A, B, and C. Well, that's an allegation
2 against Mr. Barr. So it can be raised as a PCR issue by Ms.
3 Blanchette and Ms. Blanchette can certainly use Ms. Cook as a
4 consultant to figure out what Mr. Barr did not do, which this
5 is kind of then at this point irrelevant. It's a middle man
6 kind of -- Ms. Cook is kind of the middle man. I think it
7 could be raised as, well, Mr. Barr, why didn't you do A? Why
8 didn't you do B? Why didn't you do C?

9 THE COURT: But I do think it's okay for Ms. Blanchette
10 to get into how had she reviewed all the material whether she
11 would have testified differently. I mean that's the key.

12 MS. BLANCHETTE: And I was going to have her go into what
13 she's done now and why that opinion was changed because I
14 think we have to lay a foundation for that. Otherwise, you
15 know, it's just speculation if I don't lay the foundation of
16 why that opinion has changed.

17 MR. GOURLEY: And I think her saying her -- she didn't
18 render an opinion at trial. She just got up there and talked
19 about the characteristics of delayed disclosure. There was no
20 opinion rendered. And then clearly, if there was an opinion
21 rendered about it, then it would have been a *Kromah* case and
22 -- you know.

23 THE COURT: Okay. I think that's going to be more
24 arguments y'all make to me.

25 MR. GOURLEY: Okay.

GAYE ALLEN-COOK - DIRECT BY MS. BLANCHETTE

1 THE COURT: I think I'm going to let her testify.

2 MR. GOURLEY: Okay.

3 MS. BLANCHETTE: And I'm going to be very careful.

4 THE COURT: Okay.

5 (WHEREUPON, the bench conference ended.)

6 THE COURT: Thank you:

7 BY MS. BLANCHETTE:

8 Q: Ms. Cook, I believe I was asking you about if counsel had
9 handed you up case documents if you would have had to review
10 them. My next question would be has that happened to you
11 before when you were on the stand that you have to review
12 documents instantaneously and provide answers regarding those
13 documents?

14 A: Yes.

15 Q: Now, on cross-examination, counsel did ask you about
16 forensic interviews. What was your reaction to the line of
17 questions regarding forensic interviews?

18 A: It didn't really to me make a lot of sense because I had
19 not reviewed forensic interviews for this case and I had
20 certainly not been the professional that had performed any
21 forensic interviews in this case.

22 Q: And, in fact, the victim in this case was an adult when
23 he disclosed; is that correct?

24 A: Correct. And forensic interviews are not utilized for
25 adults unless we have an adult that is emotionally or mentally

GAYE ALLEN-COOK - DIRECT BY MS. BLANCHETTE

1 challenged and then sometimes forensic interviews are utilized
2 in that capacity.

3 Q: Now, you came in and you testified to delayed disclosure
4 and explained that to the judge and to the jury. You also
5 testified regarding signs and symptoms such as abusive
6 behaviors that could be the result of sexual abuse. Did you
7 anticipate a line of questions discrediting your testimony on
8 those issues?

9 A: Yes.

10 Q: And is that something you typically encounter?

11 A: Most always I encounter some type of questioning where my
12 credibility is called into question or typically with defense
13 attorneys they will use the line of, okay, well, you're saying
14 this is a sign and symptom of abuse; could that be a sign and
15 symptom of something else? And that is a pretty typical day
16 for me when I -- when I testify regarding signs and symptoms
17 of abuse.

18 Q: And you weren't asked those questions in this case; is
19 that correct?

20 A: I was not.

21 Q: What was your reaction when you are leaving the stand
22 after testifying in this case?

23 A: I remember getting to my car and thinking to myself, wow,
24 that was the easiest testimony I've ever, ever done.

25 Typically, with defense counsel, they can beat me up quite

GAYE ALLEN-COOK - DIRECT BY MS. BLANCHETTE

1 hard when I testify, especially in a case involving abuse
2 allegations when we're looking at someone either being found
3 guilty or not guilty of something, and that was not the case
4 this particular day.

5 Q: Now let's fast-forward to the present time. Do you
6 recall how I contacted you when you got a call involved in
7 this case and can you recount that for us today?

8 A: I do. You made a phone call to me that I remember back
9 in December of 2014 and, because you and I had worked together
10 prior, this was an interesting one for me because I had never
11 had one of these where I had been the State's expert witness.

12 And so I remember I was having some discussions over how
13 we proceed in that manner. I also remember asking to review
14 my testimony because I didn't even really remember what my
15 capacity had been in this case.

16 And then I remember you and I discussing the file and how
17 you would send that to me, and you only had small pieces of it
18 from what I recall. I think there were issues with maybe it
19 had been supposedly destroyed or something of that nature.
20 And so, typically when I work with you, I get everything at
21 one time, but this was pretty piecemealed. It came just small
22 pieces at a time. As you began to get those documents, you
23 sent them to me.

24 Q: And as part of your review, did I provide you the
25 complete copy of the file provided to us by Mr. Barr

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1 eventually?

2 A: Yes, eventually.

3 Q: Did you review the transcript and appellate records for
4 the trial in this case in Williamsburg?

5 A: I did.

6 Q: Did you review the appendix that I've already handed up
7 to Judge Gee from the Georgetown case?

8 A: I did.

9 Q: And did you have the opportunity to also review the
10 solicitor's file in this case?

11 A: I did. (Coughs.) I'm sorry.

12 Q: As part of these reviews --

13 MS. BLANCHETTE: Your Honor, may I approach the witness?

14 THE COURT: You may.

15 BY MS. BLANCHETTE:

16 Q: Do you recall identifying the document -- or reviewing
17 the document that I just handed to you?

18 A: I do.

19 Q: And what is that document?

20 A: It is a determination fact sheet from the South Carolina
21 -- thank you -- Department of Social Services.

22 MS. BLANCHETTE: And, Your Honor, at this time I would
23 mark this as Applicant's Number 3 for identification purposes.

24 THE COURT: All right.

25 (WHEREUPON, Applicant's Exhibit Number 3, DSS

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1 determination fact sheet, was marked for identification.)

2 BY MS. BLANCHETTE:

3 Q: And, Ms. Cook, why was this document important for you to
4 review?

5 A: Well, because based on the allegations and what led Mr.
6 Taylor to a prison sentence, to me this was quite important
7 because this was an investigation that DSS had done on him
8 regarding his own children.

9 Q: And what did you take away from the findings in that --
10 in that paperwork there?

11 A: There was no threat of harm of sexual abuse. There was
12 no -- no concern of the Department of Social Services that Mr.
13 Taylor had caused any sexual abuse or even had any threat of
14 sexual abuse to his own children.

15 Q: And if that had been provided to you prior to trial, how
16 would that have factored in your decision to testify for the
17 State in this case?

18 A: I don't -- I don't know that this particularly would have
19 made me decide not to testify. It certainly would've made me
20 ask for further documents that I could have reviewed.

21 Q: And what have you reviewed? I already went through with
22 you the documents that you reviewed, but have you spoken to
23 people and initiated interviews as a result of your review of
24 the file?

25 A: I have.

GAYE ALLEN-COOK - DIRECT BY MS. BLANCHETTE

1 Q: Okay. And who have you spoken with?

2 A: I have -- I've interviewed Zack Webster. I've
3 interviewed Trevor Morton. I've interviewed Chad Bernard. I
4 went and met with Troy Taylor. I've interviewed Tony and
5 Linda Taylor, who are Troy Taylor's parents. And I also
6 interviewed Jimmy and Peggy Morse.

7 Q: And, Ms. Cook, did you share your findings regarding
8 those interviews with myself to assist me in the preparation
9 of this PCR case?

10 A: I did.

11 Q: And who else did you share those findings with?

12 A: Your private investigator, Pete.

13 Q: Okay. And did you have a number of interactions with the
14 private investigator, Pete Skidmore?

15 A: I did. I had a numerous -- numerous phone calls with
16 him.

17 Q: Okay. And why were you sharing your insights and
18 findings with him?

19 A: Well, based on when I interviewed particularly Zack
20 Webster -- he was there on the camping trip, as were several
21 of the other people that I interviewed. But just some of the
22 information that he provided for me I felt that I needed to
23 discuss with your private investigator.

24 Of course, when I'm in this role, I wear a different hat
25 than the private investigator does, but we were able to work

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1 together as far as, you know, some of the descriptions of the
2 campsite, some of -- some of the descriptions of things that
3 the now-grown men, who were once boys when this happened,
4 describe as occurring or not occurring at the camping trip.

5 Q: What other findings from your interviews did you share
6 with me in my preparation of this case?

7 A: When we look at people who sexually abuse children, you
8 know, we have to look at various things that go on. And when
9 I interviewed Zack Webster, just interviewing him alone caused
10 me to have some red flags about --

11 MR. GOURLEY: Judge, I'm going to object. This is all
12 getting into the credibility of the allegations of the victim
13 again.

14 THE COURT: All right. I believe that this is getting
15 into whether or not Ms. -- I know you're a hyphenated name. I
16 was going to say Cook, but Allen-Cook. If she would have
17 testified differently had she had this information, which I
18 think is distinguishable and I'm going to allow her to
19 continue to testify.

20 MS. BLANCHETTE: Thank you, Your Honor.

21 BY MS. BLANCHETTE:

22 A: Just -- just things that he shared about his own life,
23 about where he was at that time, being from a broken family,
24 having his own set of baggage, for lack of a better word, and
25 just his relationship with Mr. Taylor. Per his own

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1 disclosures, he spent lots of time -- the majority of his time
2 was with Mr. Taylor up at the church, up in various places
3 and, per his disclosure, most of these interactions were just
4 he and Mr. Taylor.

5 And so, you know, when we look at someone who is accused
6 of sexually abusing boys, you know, we certainly have to look
7 at other people -- other boys that this particular person
8 interacted with. And Zack Webster just, you know, not to be
9 offensive to him, of course, but, you know, he fit the mold I
10 guess for a child that would have been someone that would have
11 been easy for a sexual predator to make advances at. And in
12 my discussions with him, we were very candid. I was very
13 candid about my own concerns as far as did anything ever
14 happen with him and he completely denies that.

15 And so for me as an expert, I have to take great
16 consideration into that and great consideration into here was
17 a boy that would have been a very easy target, for lack of a
18 better word, and a very easy victim and, per his disclosure,
19 he was never victimized.

20 Q: You also said you spoke with Jim and Peggy Morse. What
21 was your reason for speaking with them?

22 A: Based on the things that I had been provided, they were
23 missionaries in Romania and, based on what they explained to
24 me, they ran an orphanage for children. And so when Mr.
25 Taylor would go over to Romania on mission trips, which is my

GAYE ALLEN-COOK - DIRECT BY MS. BLANCHETTE

1 understanding he did numerous times, he spent lots of time
2 with Mr. and Ms. Morse. He spent lots of time with their
3 children that they call -- they call the children in the
4 orphanage their children. Had numerous interactions with all
5 of these children.

6 Mr. and Ms. Morse in my opinion are extremely appropriate
7 people, very much into their ministry there in Romania, and
8 they just had wonderful things to say about him and his
9 interaction with children and had no red flags at all in how
10 he ever interacted with children, even their own biological
11 children.

12 Q: Mrs. Allen-Cook, I apologize. Was there any other
13 takeaways from your interviews that you would like to share
14 with us today?

15 A: Well, I mean obviously Pete is the private investigator
16 and so based on some of the things that the boys had shared
17 with me as far as the layout of the campsite and various
18 things that they recalled, I shared those with Pete so that he
19 could follow up from his end as a private investigator. So I
20 guess I acted maybe as somewhat of a consultant role for him
21 in helping him maybe have different things that he could look
22 at.

23 Q: Now, let's go back to the trial in 2007. Having reviewed
24 what you've reviewed now and knowing what you know now, would
25 you have been willing to testify for the State?

GAYE ALLEN-COOK - DIRECT BY MS. BLANCHETTE

1 A: No.

2 Q: Why is that?

3 A: I don't ever take any type of testimony that I do
4 lightly. You know, I consider it a privilege to do what I do
5 for a living and I certainly want my name and my reputation to
6 be appropriate and reputable. I don't typically get involved
7 in cases where there are red flags for me.

8 Currently, I am in a private practice and so it's a
9 typical week for me to have numerous phone calls from the
10 State, from public defenders, from attorneys in private
11 defense practices, and they will ask me to come on and, you
12 know, consult on a case or review a case or they'll want to
13 hire me as the expert, and I don't take all of those cases.

14 What my protocol is is I will say you can send me the
15 documents. You know, this is what I charge to review, and
16 then I will come back and let you know as to whether or not
17 I'm comfortable being a part of this process and whether or
18 not I'm comfortable testifying or being an expert in this
19 case. And I will tell you that about as many as I accept are
20 about the same number as I decline.

21 Q: If Mr. Barr had provided you even some of the materials
22 that you've reviewed now, your testimony is you would not have
23 testified in this case; is that correct?

24 A: I would not have testified for the State in this case had
25 I known and had I reviewed documents that I have currently

GAYE ALLEN-COOK - DIRECT BY MS. BLANCHETTE

1 reviewed.

2 Q: Now, you spoke about your common practice and how you
3 work with both the State and the defense. Are there cases
4 where you merely act, for lack of a better word, as a
5 consultant and you never take the stand?

6 A: Yes.

7 Q: And explain how that usually works?

8 A: Sometimes I'll get a call from maybe a solicitor or maybe
9 a defense attorney and they'll be, you know, deciding maybe in
10 their own mind whether or not they're going to pursue this
11 case or maybe they're thinking there may be some loopholes and
12 they may want me to take a look at the forensic interview of
13 the children or they may want me to take a look at the file.
14 And so, you know, they'll send me the documents.

15 I'll review them and I'll typically follow up with a
16 conference call where I'll -- where I'll give them my
17 findings, for lack of a better word. Maybe if I think that
18 there were inappropriate questions asked during the forensic
19 interview or maybe if I think -- if my opinion shows that
20 there are maybe some loopholes in things that maybe they could
21 utilize, sometimes they may come on and hire me as the expert
22 to do that. There have been times when I've said, you know, I
23 think this person -- this expert may be a better person to act
24 in that capacity versus me.

25 Q: And, Ms. Allen-Cook, I forgot to ask you a few things on

GAYE ALLEN-COOK - DIRECT BY MS. BLANCHETTE

1 this case. Are you familiar with Charles Barr? Attorney
2 Charles Barr?

3 A: I have testified in a couple of cases actually as the
4 State's witness where he has defended the accused.

5 Q: Now, I understand you testified for the State in this
6 case, but if you had not been the State's expert, would you
7 have been willing to come alongside and assist Charles Barr in
8 this case?

9 A: Yes.

10 Q: And if, based upon, you know, 2007 where you were at the
11 time, if you couldn't assist him, could you have referred him
12 to someone in your capacity to assist him?

13 A: Yes.

14 MS. BLANCHETTE: Your Honor, if I could beg the Court's
15 indulgence one moment?

16 THE COURT: Okay.

17 BY MS. BLANCHETTE:

18 Q: Ms. Allen-Cook, I know you've worked extensively on this
19 case. Is there anything else that you would like to add to
20 your testimony today?

21 A: No, ma'am.

22 MS. BLANCHETTE: Your Honor, I have no further questions.

23 THE COURT: All right. Mr. Gourley?

24 THE WITNESS: May I get some more water?

25 THE COURT: Yes, please.

GAYE ALLEN-COOK - CROSS BY MR. GOURLEY

1 THE WITNESS: I do apologize.

2 THE COURT: Do we have any bigger --

3 THE WITNESS: I'm sorry.

4 THE COURT: -- cups we could give her. I think she's
5 drinking out of a Dixie cup.

6 THE WITNESS: I'm so sorry.

7 THE COURT: No. It's okay. It's like here, here's one
8 little sip.

9 THE WITNESS: Yeah. I was thinking of maybe asking for
10 three or four different cups. Thank you, sir. I appreciate
11 that.

12 MR. GOURLEY: Are you ready, Ms. Cook?

13 THE WITNESS: Yes, sir. Thank you.

14 MR. GOURLEY: May it please the Court, Your Honor.

15 THE COURT: Yes, sir.

16 CROSS-EXAMINATION

17 BY MR. GOURLEY:

18 Q: Ms. Cook, if I understood your testimony correctly, you
19 always review the file prior to your testimony at trial?

20 A: Not always.

21 Q: Not always?

22 A: Typically, but not always.

23 Q: Typically? Okay. And you're concerned about your
24 reputation; correct?

25 A: Yes, sir.

GAYE ALLEN-COOK - CROSS BY MR. GOURLEY

1 Q: Okay. So why is it that you didn't review the file in
2 this situation?

3 A: I was -- I was not provided a file.

4 Q: Okay.

5 A: Ms. Barr contacted me and asked me to specifically
6 testify to delayed disclosure and specifically to the dynamics
7 of child sexual abuse signs and symptoms of that.

8 Q: Okay. And you didn't render an opinion in this case
9 because you weren't familiar with this case; correct?

10 A: I don't recall rendering an opinion, no, sir.

11 Q: Okay. And so when you're talking about the delayed
12 disclosure characteristics and the sexual abuse
13 characteristics that you were qualified for, what specifically
14 did you testify to at trial? Just the characteristics in
15 general; correct?

16 A: That's correct.

17 Q: Okay. So your testimony today wouldn't change as to what
18 you testified to at trial; right?

19 A: Oh, I stand by what I testified to.

20 Q: Okay.

21 A: I've actually gone back and read that a couple of times
22 in preparing for this. No, I would not have changed as far as
23 the dynamics of sexual abuse and delayed disclosure. That's
24 basically what the research said at that time.

25 Q: Right.

GAYE ALLEN-COOK - CROSS BY MR. GOURLEY

1 A: And that's what I testified to.

2 Q: Okay. So regardless of whether or not you testified for
3 the State or you testified for the defense, your testimony was
4 truthful?

5 A: Yes, sir.

6 Q: Okay. And again, why -- if you're concerned about your
7 reputation and you don't want it tarnished and you review
8 files prior to testimony, why didn't you contact Solicitor
9 Barr when she -- and asked to review the file prior to
10 testifying?

11 A: I would -- I would tell you that was eight -- eight years
12 ago.

13 Q: Right.

14 A: And you're -- you have me seated in front of you today
15 with eight years of further experience. Looking back, should
16 I have done that? Yes, I should have. She and I had worked
17 together before and typically when I worked with her it was
18 because I had treated a child --

19 Q: Uh-huh.

20 A: -- that, you know, was -- the trial was going forth with
21 that child as a victim.

22 Q: Okay. And you don't treat men or anybody under the age
23 of -- what? 17 or 18?

24 A: I do. Yes, sir.

25 Q: You do?

GAYE ALLEN-COOK - CROSS BY MR. GOURLEY

1 A: I mean at that time in my career I was treating only
2 children --
3 Q: Okay.
4 A: -- but today I treat a gamut of ages.
5 Q: So going back to 2007, if Mr. Barr had contacted you to
6 review this case, you wouldn't have gone out and interviewed
7 these victims -- or not the victims, but Mr. Webster and the
8 other interview -- the other witnesses that you interviewed
9 today because they were over the age of 18?
10 A: No. That's not correct.
11 Q: Okay.
12 A: If he -- if any defense attorney or anyone, you know,
13 hires me as an expert on a case and those things are provided
14 for me, yes. I mean it wouldn't matter to me if they were 55
15 or 75. I'm not doing interviews on them to decide, you know,
16 whether or not they've been sexually abused. I'm doing
17 interviews on them to corroborate information and evidence
18 that maybe could be used in a trial.
19 Q: But again, in this case you were hired by the State;
20 right?
21 A: The State --
22 Q: Initially?
23 A: Yeah.
24 Q: And did not review the file in advance?
25 A: I did not.

GAYE ALLEN-COOK - CROSS BY MR. GOURLEY

1 Q: Okay. And you did not render an opinion on this case?

2 A: I did not.

3 Q: Okay. You were just there merely to testify about the
4 characteristics of delayed disclosure?

5 A: Correct.

6 Q: Okay.

7 MR. GOURLEY: I beg the Court's indulgence, Your Honor.

8 BY MR. GOURLEY:

9 Q: Did you issue any kind of reports in this case? You said
10 you went out and interviewed all these witnesses. Did you --
11 and you obviously have an opinion on those witnesses. Did you
12 do a report?

13 A: I was not asked to do a report. No, sir.

14 Q: Okay.

15 MR. GOURLEY: I beg the Court's indulgence, Your Honor.

16 BY MR. GOURLEY:

17 Q: How often do you testify without having reviewed the
18 file?

19 A: Not often.

20 Q: Not often? And why is that?

21 A: Well, typically when I get asked to be a part of a case,
22 the -- the entire file is -- is given to me and I review
23 things. And like I stated when Ms. Blanchette was questioning
24 me, sometimes I won't even be involved based on things that
25 I've reviewed.

GAYE ALLEN-COOK - CROSS BY MR. GOURLEY

1 Q: Okay. Because we don't want you issuing an opinion on
2 the credibility of the victims; right?

3 A: Not today, obviously. There was a time in my career when
4 I did that.

5 Q: Right.

6 A: Yes, sir.

7 Q: But the Court said that that's not appropriate anymore?

8 A: And I do agree with that.

9 MR. GOURLEY: I beg the Court's indulgence, Your Honor.

10 THE COURT: Yes, sir.

11 MR. GOURLEY: Your Honor, I don't have any other
12 questions.

13 THE COURT: All right. Any redirect?

14 MS. BLANCHETTE: Very briefly, Your Honor.

15 THE COURT: Sure.

16 REDIRECT EXAMINATION

17 BY MS. BLANCHETTE:

18 Q: Ms. Cook, just based upon the last line of questions you
19 got about what testimony is proper, have you reviewed the
20 entire trial transcript from the Williamsburg trial?

21 A: I have.

22 Q: And does it appear to you that your testimony was
23 actually used to bolster the then testimony of the victim and
24 his mother regarding his signs and symptoms?

25 MR. GOURLEY: Your Honor, I'm going to object to that.

GAYE ALLEN-COOK - REDIRECT BY MS. BLANCHETTE

1 That's opinion testimony. It's not appropriate.

2 THE COURT: All right. Overruled. Go ahead.

3 BY MS. BLANCHETTE:

4 A: I do have some concerns about that now that I've gone
5 back and read everything I guess in context, which I obviously
6 wouldn't have had the day that I testified.

7 Q: And no objections were made to your testimony; is that
8 correct?

9 A: Not that I recall.

10 MS. BLANCHETTE: Your Honor, I have no further questions.

11 THE COURT: All right. Thank you very much. You may
12 step down.

13 THE WITNESS: Thank you.

14 MS. BLANCHETTE: And, Your Honor, Ms. Allen-Cook is here
15 under subpoena today. I'd ask that she be released.

16 THE COURT: Any objection?

17 MR. GOURLEY: No, Your Honor.

18 THE COURT: All right.

19 THE WITNESS: Thank you.

20 THE COURT: You may be released. Go get a big glass of
21 ice water. Sorry about that.

22 THE WITNESS: Thank you.

23 MS. BLANCHETTE: Your Honor, I would call William Eddie
24 Brown to the stand.

25 THE COURT: Okay.

WILLIAM EDDIE BROWN - DIRECT BY MS. BLANCHETTE

1 THE CLERK: Place your left hand on the Bible and raise
2 your right hand. State your name, please.

3 THE WITNESS: William Edward Brown.

4 THE CLERK: Do you solemnly swear or affirm your
5 testimony to the Court shall be the truth, the whole truth,
6 and nothing but the truth, so help you God?

7 THE WITNESS: Yes, sir.

8 THE CLERK: Thank you, sir. Have a seat up here, please.
9 Please state your full name and spell your last name for the
10 record.

11 THE WITNESS: William Edward Brown, B-r-o-w-n.

12 WILLIAM EDDIE BROWN, being first
13 duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MS. BLANCHETTE:

16 Q: And, Mr. Brown, do you go by Eddie?

17 A: Yes, ma'am.

18 Q: Okay. -Mr. Brown, how is it that you know Troy Taylor?

19 A: He -- I've been going to the church that his mother and
20 father have been going to since I was knee-high to a
21 grasshopper.

22 Q: And --

23 A: But he's been --

24 Q: I'm sorry. Go ahead.

25 A: He's been my youth pastor. He was my minister. So I've

WILLIAM EDDIE BROWN - DIRECT BY MS. BLANCHETTE

1 known him pretty well all my life.

2 MS. BLANCHETTE: And, Your Honor, everyone in the
3 courtroom and the witnesses that I'm going to call today
4 actually call him Troy Taylor.

5 THE COURT: Okay.

6 MS. BLANCHETTE: Instead of Robert Troy Taylor.

7 THE COURT: Sure.

8 MS. BLANCHETTE: So if Your Honor doesn't mind if I refer
9 to him as Troy Taylor?

10 THE COURT: I don't mind at all.

11 MS. BLANCHETTE: Okay. Thank you, Your Honor.

12 BY MS. BLANCHETTE:

13 Q: Now, Mr. Brown, we are here today and there was a trial
14 back in 2007 about a camping trip that took place on November
15 6th through 7th of 1998 near the Black River. Do you recall
16 being on that camping trip?

17 A: Yes, ma'am.

18 Q: Now, do you remember what the setup was of your campsite
19 on that camping trip?

20 A: Yes, ma'am.

21 Q: Okay. What was the setup as far as you recall it?

22 A: Well, it was actually like a kidney been. We come in on
23 the right-hand side and it opened up and kind of shaped this
24 way. The Black River was -- the river was at this end and we
25 came in on this end. We parked the vehicles down here and

WILLIAM EDDIE BROWN - DIRECT BY MS. BLANCHETTE

1 there was a little -- I guess you would call it a shed. It's
2 got open doors all the way through it. It wasn't -- it was
3 probably eight by ten at the most.

4 Just past the shed where we parked the cars, that was a
5 bridge going over to, like, a little swamp. We had an awning
6 to the left of the shed, which is probably -- looking back at
7 it, it's probably 30 foot long, about ten foot wide. That's
8 where we slept at. Just past the awning, 15 to 20 yards, we
9 had a big old bonfire there. I can draw it out better than I
10 can talk about it, but --

11 Q: Now, when you say you slept under the awning, does that
12 mean you slept kind of in the open?

13 A: Yes, ma'am. I mean we all -- we all had sleeping bags as
14 far as I can recall or we had blankets. I mean we had
15 something to sleep on. I believe it had concrete, but I'm not
16 a hundred percent sure.

17 Q: Okay. And were you just lined up one after another under
18 this awning?

19 A: Yes, ma'am, we all laid side-by-side.

20 Q: Okay. Do you recall there being a tent set up?

21 A: I do not recall any tents.

22 Q: Do you recall Troy's son -- young son, Griffin, being on
23 the trip?

24 A: Yes, ma'am.

25 Q: And what do you recall about Griffin being on the trip?