

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM SUMTER COUNTY

Maite Murphy, Circuit Court Judge

Case No. 2015-000884

The State,

Respondent,

v.

Robert Wazney,

Appellant.

SUPPLEMENTAL BRIEF OF APPELLANT

ROBERT WAZNEY
Convicted Felon

990 Wisacky Hwy
Bishopville, S.C. 29010
Indigent Appellant

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SEP 28 2016

SC Court of Appeals

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STATEMENT OF ISSUES ON APPEAL

I.

HOW CAN ANY QUESTION OF LAW BE ASCERTAINED WITH AN INACCURATE RECORD?

II.

HAS THE COURTS IMPROPER EXCLUSION OF CRITICAL EXCULPATORY EVIDENCE PREJUDICED THE APPELLANT?

III.

WHETHER THE APPELLANTS STATUTORY OR CONSTITUTION RIGHT TO A SPEEDY TRIAL BEEN ABRIDGED.

IV.

DURING THE APPELLANTS DETENTION, HAVE THE AUTHORITIES VIOLATED HIS CONSTITUTIONAL RIGHT TO REMEDY?

STATEMENT OF THE CASE

December 6, 2013 Appellant is arrested and incarcerated by Sumter County Sheriff's Office under five charges of criminal sexual conduct with a minor brought subsequent appellant's youngest step-granddaughters failed lie detector test, and "a believable story" as stated by Sumter County Sheriffs Office investigator Boland.

Appellant had temporary emergency custody of the child and her siblings from the biological father after their family home was found in dangerous condition by the children's guardian ad Litem (See Exhibit ¹⁷¹DDDD).

Appellants charges, leading to his incarceration were brought soon after the children spent the weekend with their estranged biological mother at her home in Sumter County.

December 6-10, 2013, Appellant arrives at Sumter Lee Regional Detention Center where he was not permitted access to phone and / or writing materials to contact family or attorney subsequent lockdown for seventeen days deeming all outside communication prohibited (See Exhibits March Tr. p.63 l.15-25, E, ¹⁷⁴ F, G, H, I). Appellant forced to attend bond hearing without counsel. Court ruled no bond. (Cannot supply exhibit: Appellant does not have, nor can obtain complete client file from trial attorney)

December 16, 2013, Biological mother of victim discovers she obtained custody of her children (See Exhibit ²³⁵CC). On same day, Appellant as suspect, a video taped forensic interview was conducted for the Sumter County Sheriffs Office by the Durant Children's Center of the oldest child in which the child (victim) denied any inappropriate behavior by the appellant (See Exhibit ¹⁷¹D,DD). The appellant was not shown the forensic videos throughout the proceedings. Appellant viewed the video pertaining to his conviction after his imprisonment at Lee Correctional Institution (See S.C.D.C. Kiosk #'s 16-993076,

16-993793, 16-008406, 16-009577, 16-014685, 16-019943, 16-024013, 16-024017, 16-032595, 16-032600, 16-035860, 16-037791, 16-037810, 16-052469, 16-058394, 16-059832, and 16-062900).

January 9, 2014, the oldest child submits a four (4) page statement to police. The statement took over two (2) hours to write, and alleged appellant of drugging spouse, sexual acts, threat to own life, life of victim, lives of others, and pelvic inflammatory disease due to acts and actions (See Exhibit I).

January 10, 2014, appellant's wife files for divorce.

January 13, 2014, appellant receives twenty six (26) charges of criminal sexual conduct with a minor for the oldest child.

January 15, 2014 appellant attends bond court, with counsel this time, for the twenty six (26) charges, no bond.

April 10, 2014, a grand jury indicted appellant for two counts of second degree criminal sexual conduct with a minor (oldest child). No true bill rubber stamped indictment available.

March 12 2015, a grand jury indicted appellant for two counts of second degree criminal sexual conduct with a minor (oldest child). No true bill rubber stamped indictment available.

March 23, 2015, trial was held in front of the honorable Ferrell Cotheran and a jury. John Meadors represented the State, John S. Keffer represented the Appellant.

March 24, 2015, mistrial was declared on behalf of the prosecution.

April 13-15, 2015, appellant was tried before the Honorable Matie D. Murphy and Jury. John P. Meadors represented the State, John S. Keffer represented the appellant. The jury convicted the appellant upon a victim statement, testimony, and circumstantial evidence. Judge Murphy sentences

the appellant to four consecutive terms of twenty years imprisonment.

April 21, 2015, a bail proceeding dated January 15, 2014 is filed with the court.

April 24, 2015, Notice of appeal is filed with the SC Supreme Court.

April 27, 2015, appeal is transferred to Court of Appeals.

August 24, 2015, Appellate attorney David Alexander sent transcript of April 2015 trial to appellant (See Exhibit R).

September 1, 2015, appellant received transcript of April 2015 trial (See Exhibit P).

September 24, 2015, appellant complained to appellate attorney and Court Administration that the April 2015 transcript is not fully transcribed (See Exhibit S).

September 30, 2015, appellate attorney replies to appellants complaint (See Exhibit T).

October 2, 2015, court reporter manger replies to appellant's complaint indicating the receipt of his complaint on September 30, 2015, and for appellant to contact his legal representative concerning transcript issues (See Exhibit J).

October 8, 2015, appellant requests a more detailed response from court reporter manger (See Exhibit K).

October 12, 2015, Appellant complains to appellate attorneys about the inaccurate April 2015 transcript (See Exhibit U).

October 15, 2015, Attorney claims will not be challenging transcript (Ex. V)

November 12, 2015, court reporter manager proclaims appellants Ineligibility to challenge transcript inaccuracies due to timeliness (See Exhibit L).

November 4, 2015, appellant inquires from court reporter manager the procedure for obtaining accurate transcripts when legal representative refuses to challenge accuracy (See Exhibit M). Appellant notifies appellate attorney

of specific incident of error as well as the logical reasoning to expect others within the transcript (See Exhibit W).

November 6, 2015, appellate attorney refuses to challenge transcript errors (See Exhibit X).

November 19, 2015, appellant informs court reporter manager of his ignorance of the court rules and indicates the timeliness of the complaint of the erroneous transcript (See Exhibit N).

December 7, 2015, appellant updates court reporter manager of his actions for obtaining proof of timeliness (See Exhibit O).

December 9, 2015, appellant proves to court reporter manager the timeliness of the complaint of the erroneous transcript, and requests information on how to obtain an accurate transcript (See Exhibit P).

December 14, 2015, appellate attorney makes an excuse for a court reporters error in the April 2015 transcript, justifying the error as being correct by its reference on a different page (See Exhibit Y). Court Reporter Manager claims I am too late. (See Exhibit Q).

January 2, 2016, appellant expresses concerns about March 2015 transcript (See Exhibit Z).

January 3, 2016, appellant expresses concerns about April 2015 transcript (See Exhibit AA).

May 19, 2016, appellant receives March 2015 transcript (See Exhibit BB), then calls appellate attorney and leave message that it was not fully transcribed.

May 26, 2016, appellant reports March 2015 transcript as being inaccurate containing eighteen point six percent (18.6%) error, and having construction flaws, to appellate attorney, court reporter, court reporter manager, clerk of court of appeals, and Judge Cotheran (See Exhibit CC).

March 28, 2016, Appellant views victim forensic video for first time.
This appeal follows:

FACTS

NOW COMES Rober W. Wazney, who being duly sworn, deposes and says:

"The transcripts for my March and April 2015 trials are inaccurate. There are things that were said and things that happened in court that are not in the record, and are wrong in the record. There is significant amounts of error that changes the meaning of sentences and paragraphs, altering construction (as in understanding). And the records are not a complete reflection of what happened.

I remember when Judge Murphy said to me "we have a place for people like you", that statement is not in the record.

Whether those words are relevant or not, they are not there. Also, Judge Cotheran asked me at trial if I wanted to relieve my counsel, that is not in the record either.

I said at the March 2015 trial, "...I was held for over four hundred seventy days before trial, abridging my sixth amendment right to a speedy trial...". The transcript reads: "...I was held for over 470 days before trial. (Inaudible) my 6th amendment right to a speedy trial..." (Mar. Tr. p. 64 l. 16-18) That objection was to preserve my right.

The record states that I said that my trial attorney did a "great job". I never said that. It was around the time when I was explaining to the Judge about how there is a conflict of interest with my attorney after he had disclosed at trial that he knew the victim for years prior to this case (Apr. Tr.

p. 255 l. 10-17)). That error changed the objectional wording which I had intended when it was spoken also.

And, when we were going through the evidence during the second trial, I was escorted out of the court room. While I was out, the forensic interview video evidence which I had not been permitted to view, was ruled to be completely excluded and could not even mention the word video during trial (Apr. Tr. p. 32 l. 8-14 & p. 33 l. 2-4). Then, when I was escorted back into the court room, it was dead silent, and when I walked up to the table where my attorney was sitting, I noticed he was very red, like a beet, it was as if he had just been in a fight or something. Something happened in that court room, and I was not told what it was.

Specifically, this part of the trial, which I was not permitted to attend and witness, is not documented in the record that I had left or entered the court room, and the mode of the attendants of the court does not match what is in the transcript around and at that time (Apr. Tr. p. 31-35).

And, now that I have for the first time seen that forensic interview video evidence of the victim after I was put in prison, I understand why that testimony was not desired in trial; the Judge told the jury that "... the testimony of a victim need not be corroborated in prosecutions for criminal sexual conduct ..." (Apr. Tr p. 245 l. 1-3). That basically means, anything the victim says, goes. Because the jury was instructed to believe anything the victim said, if the jury had seen the video, they would not have had to believe those things she said, that

prejudiced me.

The exclusion of that relevant, exculpatory, forensic interview video evidence of the victim admitting that I never inappropriately touched her also abridges my right to present a complete defense. And, not being allowed in the court room during that part of the trial was harmful because I was unaware of, and could not advise my attorney what to do about the exclusion of the video or its lack of reference to the jury. That video was the sole piece of evidence which the entire defense pivoted upon. That video evidence was allowed to be mentioned in my first trial, but not in my second trial. I believe the evidence should have been allowed in the second trial, it is relevant, and exculpatory, and would have changed the outcome of the trial if had been presented.

The record does not show attorney objection or my objection to the exclusion of that video evidence. I believe my attorney objected to the exclusion of the video evidence, and that I was escorted out of the court room so I did not witness any of that. But that's not in the transcript, and I was not in the court room at that time to witness and verify it. And the objection I made is not in the record/transcript either; at the end of the second trial I specifically said that "...the jury did not see all of the evidence...", which was an objection referring to the excluded forensic video interview of the victim who was asked in that video interview if I had inappropriately touched her, which she denied (See Exhibit D, DD), and other relevant questions.

That objection was not in the transcript either. I spoke those exact words, I clearly remember speaking them.

These are some of the things I have remembered. The things I had written down, which I had during trial, dont match the transcripts either. I reported some of that in my May 26, 2016 letter (See Exhibit CC). I know the transcripts are wrong because the script I read from during court, is not word for word in the transcript. I have those scripts I read from, the transcripts are wrong.

There are more places within both transcripts where I believe my attorney objected, but the transcripts read differently.

The written record should be a verbatim of what was said and what conspired in the court room. The appellate courts function is to determine whether the appellants right to a fair trial has been impaired based on the written record. Additionally, the appellate court reviews the written record of trial and or sentencing to ascertain whether the law was applied properly. Any issue raised must be in the written record of the trial proceedings.

Regarding the reservation of such issues, when considering factors in determining finality in appealable matters upon appellate review, the transcripts of the proceedings of the trials in this matter are necessary because the appeal involves issues of fact and evidence. I, the appellant, Robert W. Wazney, intend to urge on appeal that findings or conclusions by the court are contrary to law. I must include in the record a transcript of the evidence relvant to such findings or conclusions.

Upon review of the transcripts for the March and April 2015 trials, I have determined both are inaccurate, and I have timely challenged those inaccuracies by informing the appropriate authorities in regards to that fact (See Exhibit J-CC). The authorities have not corrected the errors on the records.

This absence of accurate and reliable written records prevents meaningful review of facts or evidence on particular points which denies me opportunities for the ascertainment of the truth to which I am entitled, and impairs my appeal, consequently inflicting prejudice. Therefore, any determination of finality in regards to this proceeding prior the correction of the record shall violate my state and federal constitutional right to due process, resulting in a miscarriage of justice.

Regarding the amount of error discovered through the aforesaid transcripts, I have no confidence in the court reporters claims of accuracy (See Exhibit B,C).

I believe the court should order the records corrected verbatim of their backups in their entirety, and the original information supplied to me to confirm its accuracy so to prevent such recurrent error, or if the tapes have been destroyed, which would cause the ascertainment of the truth unattainable, the judgement of this case reversed.

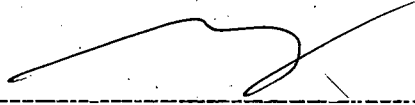
Also, I was held for over four hundred seventy days (470) before I was brought to trial, I never even seen bond court after I was denied bond on January 15, 2014. After Six months of incarceration at the county jail, my mind was numb to what was going on. I did things to remind myself what to do because my mind was so numb. What kept me going is the punishment I recieved from the Jail while I was there. They played with my mail, like kept it from

me, and did everyting they could to keep me away from obtaining law information like statues, court rules, and anything of the sort. I went as far as filing a lawsuit because they were so bad. I was never told why it took so long to go to court, I always asked my attorney what was taking so long. When I got to court in March 2015, I was 'out of it', my mind was super foggy. My brother Edward said I was out of it too when he saw me in the courtroom. Even today he tells me how out of it I was. I objected to the court about the delay the first chance I had.

And, when I got to The county jail, they did not allow me to use the phone or write anyone because of 'lockdown'. I was forced to attend bond court without any legal representation. (See Exhibits E, F, G, H).

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and understanding.

September 25, 2016
Date



Robert W. Wazney
990 Wisacky Highway
Bishopville, SC 29010

ARGUMENT

I.

In every decision rendered by an appellate court, every point distinctly stated in the case which is necessary to the decision of the appeal and fairly arising upon the record of the court must be stated in writing and must, with the reason for the courts decision, be preserved in the record of the case, SCARC Rule 220 (b).

The appellant is responsible for compiling adequate record from which court of appeals can make intelligent review, and court will not consider facts that do not appear in transcript of record Goodson v. American Bankers Ins. Co of Florida 368 SE2d 687, 295 SC 400.

The trial transcripts contain inaccuracies, areas within them where the construction may be materially flawed or if the appearance of words are not subject to attack.

The appellants ability to effect meaningful appeal cannot be attained because the transcripts errors are material to the proper determination of the appeal. State v. Moore, 6-875 La. App. 5 Cir. 4/11/07 2007 WL1077253 (La. Ct. App. 5th Cir. 2007).

Without an accurate transcript, Assignment of Error is deprived, impairing the appellants appeal which inflicts prejudice.

The following meritorious argueable grounds affected by these ereoneous transcripts include but are not limited to:

- | | |
|-------------------------|------------------------|
| 1. Judge Bias | 5. Speedy Trial |
| 2. Double Jeopardy | 6. Jury Bias/Prejudice |
| 3. Trial Fairness | 7. Directed Verdict |
| 4. Jury Charge Fairness | |

ARGUMENT

II.

Rule 103, SCRE, governs rulings on evidence and the requirements for preserving the issues of appellate review ... the broad rule is that the admission of evidence is a matter addressed to the sound discretion of the trial judge, and absent an abuse of discretion amounting to an error of law ... as a general rule, the test is whether the admission or exclusion of the evidence affected the result at trial. State ex. rel. Medlock v. Nest Egg Soc. Today, Inc. 348 SE2d 381 (Ct. App. 1986).

... when improperly excluded evidence goes to the very heart of a [defendants] case and might well have affected the outcome of the trial, the exclusion of the evidence warrants a new trial. (58 Am. Jur. 2d §234 Exclusion of Evidence Sept. 2016 update).

The relevant, forensic interview video evidence of the victim, unseen by the appellant, which was improperly excluded from the appellant's second trial, likely affected the outcome of the case. The excluded videos recording was specifically scheduled and occurred for the exclusive purpose regarding investigation of the appellant.

"...Mr. Keffer: Yes your honor. First of all, she was down at the Durant Center specifically for this incident. The counselor knows that. The forensic interview identifies my client as the offender and for forty-five minutes of video, it is replete with questions about my client. That's exactly why she was there..." (Mar. Tr. p.159 l.10-15)

"...And to come here to court and say that she had no idea why she was going to the Durant Center is not true. It's right here. Offender: Robert Waz Wazney..." (Mar. Tr. p.159 l.22-24)

The videos information is not simply cumulative. The video is entirely exculpatory to the defendant, the evidence is material to the defense since the prosecution's case relied almost entirely on testimony by the victim, and the video was the primary evidence to be used for defense.

When the court limited the cross examination of the witness,

"...defense counsel not to use the word video [because] its not admissable under our rules..." (Apr. Tr. p.32 l.9-10)

"...there will be no mention of the video considering its not admissable evidence..." (Apr. Tr. p.33 l.2-4)

it deprived it of an opportunity to be persuaded to one parties view of the facts, it's findings are entitled to less weight than there would be had the testimony been allowed, giving reasonable likelihood that the jurys verdict would have been different, and highly probable that it affected the outcome of the case.

Whether the forensic video of the victim being excluded, amounted to an error of law. That particular issue becomes unaddressable without objection, the appellant objected and believes trial counsel objected also but cannot claim witness to attorney objection due to appellants removal from the courtroom midterm the evidentiary hearing at trial, inaccurate transcripts show no objection where the appellant claims where he objected which inflicts prejudice and injustice upon the appellant regarding these matters.

ARGUMENT
III.

The right to a speedy trial is coextensive under the Federal and State constitutions (US Const. Amend. VI; SC Const. Art. 1, §14; State v. Chapman, 344 SE2d 611 (1986)). To determine whether the appellant has been denied his constitutional speedy trial rights, a four part test is applied:

- (1) The length of the Delay
- (2) The reason for the Delay
- (3) The defendant's assertion of his rights
- (4) Prejudice to the defendant

The appellant was held for more than Four Hundred Seventy (470) days before he was brought to trial. The State intentionally delayed trial for as long as they did to inflict a prejudicial disability upon the appellant. There is no reason why the State did not bring the appellant to trial at an earlier date. Nothing constitutes the delay. The appellant diligently asserted his right at his first court appearance in March of 2015 (Tr. p.64.1.16-18).

Delay in excess of one year is presumptively prejudicial Doggett, 505 U.S. at 652. Assertion of speedy trial right at trial and appeal weighted in defenses favor U.S. v. Munoz-Franco 487 F.3d 25, 60. In criminal prosecutions, the right of a defendant to have a trial within a short time, premised on the Fifth Amendment's guarantee of Due Process. Each state has a statute or constitutional provision limiting the time an accused person may be held before trial. Charges must be dismissed and the defendant released if the period expires without trial.

ARGUMENT

IV.

The appellant was denied access to the courts by the detention center in which he was held, disrupting legal access to remedy, violating the appellant's right to due process guaranteed by the State and Federal constitutions (U.S. Const. Amend. XIV, S.C. Const. Art. 1 §3)

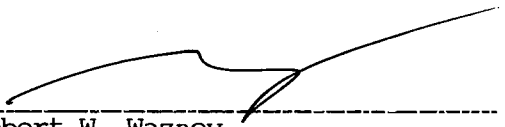
The detention center denied the appellant phone usage and writing materials by consequence of a seventeen day 'lockdown'. According to the detention center's administration: "Lock-down status is necessary to maintain the security of the facility, to provide for the safety of inmates, staff members, and visitors, and to ensure the good order of the institution. While housed in a pod on lock-down status, inmates are unavoidably subject to a higher degree of restriction over their movements and privileges...Where possible, all inmates in the housing pods receive access to privileges such as telephone calls, visitation, canteen access, and access to the legal kiosk." Because of this prohibition of outside communication, upon arrival, for days, Jail officials prevented the appellant from taking any meritorious legal action, forcing the appellant to attend a bond hearing without legal representation, harming the appellant, effectively amounting to a denial of access to the courts. Thaddeus-X v. Blatter, ___ F.3d ___ (6th Cir. 1997), 1999 U.S. App. LEXIS 3497 (1999).

CONCLUSION

For the foregoing reasons, and for overall fairness, It is hereby requested that this honorable court order the records of this proceeding, in their entirety, corrected, and reverse the appellant's conviction and sentence in the interest of justice.

Respectfully Submitted,

September 25 2016
Date


Robert W. Wazney
990 Wisacky Highway
Bishopville, SC 29010
Indigent Appellant

Date: September 25, 2016

THE HON. Jenny Abbott Kitchings
Clerk, SC. Court of Appeals
1220 Senate Street
Columbia SC 29201

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SEP 28 2016

SC Court of Appeals

RE: 2015-000884

Dear Ms. Kitchings:

Please Find enclosed for filing:

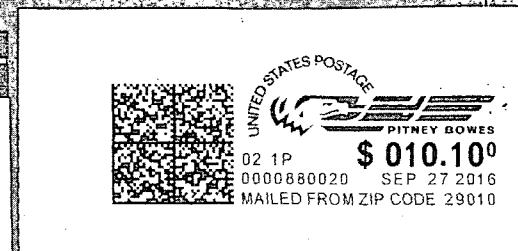
- (1) Supplemental Brief of Appellant
- (2) Designation of Matter to be Included in Record on Appeal Supplemental
- (3) Record on Appeal Supplemental
- (4) Certificate of Service

Respectfully Submitted



Robert Wazney
990 Wisacky Hwy.
Bishopville, SC 29010

Robert Wazney 363679 F4B2247
Lee Correctional Institution
990 Wisacky Highway
Bishopville, S.C. 29010



Clerk, South Carolina Court of Appeals
1220 Senate Street
Columbia, SC. 29201

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SEP 28 2016
SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM SUMTER COUNTY

Maite Murphy, Circuit Court Judge

Case No. 2015-000884

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SEP 28 2016

SC Court of Appeals

The State,

Respondent,

v.

Robert Wazney,

Appellant.

RECORD ON APPEAL
SUPPLEMENTAL

ROBERT WAZNEY
Convicted Felon

990 Wisacky Hwy.
Bishopville, SC 29010
Indigent Appellant

David Alexander, SCCID
1330 Lady Street, Suite 401
Columbia SC 29201
Attorney for Appellant

J. Benjamin Aplin
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia SC 29201
Attorney for Respondent

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THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM SUMTER COUNTY

Maite Murphy, Circuit Court Judge

Case No. 2015-000884

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SC Court of Appeals

The State,

Respondent,

v.

Robert Wazney,

Appellant.

DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL
SUPPLEMENTAL

Appellant proposes the following be included in the record on appeal:

- (1) All matter submitted by Appellant Counsel as indicated in his motion "Designation of Matter to be Included in Record on Appeal" which includes:
 - (a) Unstamped true-billed Indictments
 - (b) The April 2015 Transcript
- (2) Appellant correspondence with:
 - (a) David Alexander, Attorney for Appellant
 - (b) Melissa Ray Singletary, CVR
 - (c) Desiree Allen, Court Reporter Manger
 - (d) Jenny Abbot Kitchings, Clerk of Court
 - (e) Hon. R. Ferrell Cotheran, Third Circuit Judge

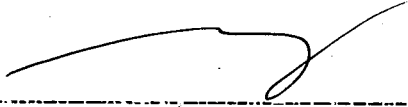
Regarding transcript inaccuracy.

- (3) Court reporter certificates
- (4) Victim Forensic Interview Summary
- (5) Detention Center grievances submitted December 2013
- (6) Victim Volunatary Statement
- (7) Victim Forensic Video Transcript
- (8) The March 2015 Trial Transcript

I certify that theis designation contains no matter which is irrelevant to this appeal.

September 25, 2016

Date



Robert W. Wazney
990 Wisacky Highway
Bishopville, SC 29010
Indigent Appellant

EXHIBIT
A

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

COURT OF GENERAL SESSIONS

Robert William Wazney,

PLAINTIFF,

v.

The State of South Carolina,

DEFENDANT.

TRANSCRIPT OF TRIAL

2014-GS-43-0317;

2015-GS-43-0333

2-15-GS-43-0334

Sumter County Courthouse
March 23, 2015-March 24, 2015

BEFORE:

HONORABLE R. FERRELL COTHRAN, PRESIDING JUDGE.

APPEARANCES:

Assistant Solicitor John Meadors
Attorney for State of South Carolina

John Keffer, Esquire
Attorney for Robert William Wazney

TAKEN BY MELISSA R. SINGLETARY
CERTIFIED VERBATIM REPORTER

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STATE'S EXHIBIT NUMBER 49 (Pictures)

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STATE'S EXHIBIT NUMBER 51 ID (Letter)

1 The Court: All right. Solicitor call your case.

2 Mr. Meadors: The State calls the case of State of
3 South Carolina vs. Robert W. Wazney. Indictment numbers
4 2014-GS-43-00317, 2015-GS-43-0333 and 2015-GS-43-0334.

5 The Court: All right. Is anybody in the jury panel
6 connected by blood or marriage, close personal friends,
7 or social relations with Mr. Wazney, if so please stand.
8 Potential witnesses in this case is Marian Hornak, Erin
9 Bolen, Pam Shields, Travis Porter, Kamie Wilds, Sharon
10 Wazney, Robin Griggs, Angela Puente, Jamison Hornak,
11 Richie Hornak, Ashley Benda(sp), Andrew Mark, Corporal
12 Darren Soloman. Any members of the jury panel connected
13 by blood or marriage, close personal friends, or social
14 relations with any of those potential witnesses, if so
15 please stand. The attorneys in this case: representing
16 The State is John Meadors and John Keffer is representing
17 the defendant. Any members of the jury panel connected
18 by blood or marriage, close personal friends, social
19 relations, or have been represented by either two of
20 these attorneys, if so please stand. Any member of the
21 jury panel performed or expressed an opinion about any
22 malice involved in this case, if so please stand. Any
23 member of the jury panel know anything about this case at
24 all, if so please stand. Any member of the jury panel
25 aware of any bias or prejudice either toward The State of

1 South Carolina or this defendant, if so please stand.
2 Any members of the jury panel served on the Grand Jury
3 that have heard this case, if so please stand. Any
4 members of the jury panel been a victim or ever been
5 charged with commission of a violent crime? Okay, any
6 member of the jury panel or member of your immediate
7 family ever been a victim of a sexual crime, if so please
8 stand. Yes, sir. Give me your name and number.

9 Mr. Hughens: 75. Kelly Hughens.

10 The Court: Okay. And can you tell me a little bit
11 about it.

12 Mr. Hughens: My sister, one of my oldest sisters was
13 raped.

14 The Court: Okay, how long ago was that?

15 Mr. Hughens: That's been ten, fifteen years ago.

16 The Court: Okay. And the fact that that happened in
17 your family, would that affect your ability in this case
18 because the charges may be similar ...

19 Mr. Hughens: It could.

20 The Court: Okay so there is a chance you don't think
21 you could be fair?

22 Mr. Hughens: I don't know to be honest with you.

23 The Court: Alright, well I appreciate your letting
24 me know that but you know, what I'm looking for is a fair
25 and impartial jury panel that can listen to the facts and

1 give both the State and this defendant a fair and
2 impartial trial. And if you tell me you don't think you
3 can do that, I'll have to excuse you.

4 Mr. Hughens: I'd rather not take that chance, to be
5 honest.

6 The Court: Okay. Thank you sir and I will excuse
7 you for this trial. Now you can't go now. That's just
8 for this one trial. We've got a week-long so you may get
9 on something else. Yes?

10 Ms. Bryant: Both my sister and I were sexually
11 molested as children.

12 The Court: Okay. And can you give me your number
13 please ma'am?

14 Ms. Bryant: 25.

15 The Court: Okay and Ms. Bryant, would that affect
16 your ability to be fair and impartial?

17 Ms. Bryant: Yes.

18 The Court: Thank you. Anyone else?

19 Ms. Brown: Your Honor?

20 The Court: Yes ma'am?

21 Ms. Brown: My brother-in-law had sexually molested
22 my niece. It's been probably fifteen, twenty years ago.

23 The Court: Okay, and give me your number please
24 ma'am.

25 Ms. Brown: 23.

1 The Court: Okay would that affect your ability to be
2 fair and impartial?

3 Ms. Brown: No sir.

4 The Court: Thank you. Yes ma'am?

5 Ms. Hurst: My family was involved in a situation
6 fifteen years ago and I don't think I can sit in here for
7 this.

8 The Court: Tell me your name and number please
9 ma'am.

10 Ms. Hurst: I'm 77.

11 The Court: Okay and so you don't think you can be
12 fair and impartial?

13 Ms. Hurst: I just can't --- I can't listen. I'm
14 sorry.

15 The Court: Okay. Well I'll excuse you for this
16 trial then. Thank you ma'am.. Anyone else? Any members
17 of the jury panel due to religious reasons unable to sit
18 in judgement of your fellow man, if so please stand. Any
19 member of the jury panel have any reason whatsoever they
20 can't give The State of South Carolina and this defendant
21 a fair and impartial trial, if so please stand. Any
22 further questions from the State?

23 Mr. Meadors: May we approach briefly?

24 (Counsel approach bench without court reporter)

25 The Court: I had asked the question if anybody had

1 been a victim of a sexual crime. Has anybody ever been
2 charged with committing a sexual crime, if so please
3 stand. Anything else from the State or defense?

4 Mr. Meadors: No sir, thank you.

5 Mr. Keffer: Nothing Your Honor.

6 The Court: Okay. The clerk's office has scrambled
7 the names in random order. And we will begin the
8 selection process. It's five and ten for strikes.

9 Bailiff: May it please The Court?

10 The Court: Yes, sir.

11 Bailiff: Ladies and gentlemen, as I call your name
12 and number, please come to this podium and face the back
13 of the courtroom and bring all your personal belongings
14 with you when you come. Number 11 Dorothy Black. Face
15 your back to the court. That's good right there. What
16 says The State?

17 Mr. Meadors: Please present the juror.

18 Mr. Keffer: Please excuse the juror.

19 Bailiff: You can have a seat. You have been excused
20 from the trial at this time. Number 90 James Kelly.
21 What says The State?

22 Mr. Meadors: Please excuse the juror.

23 Bailiff: Have a seat. You have been excused from
24 the trial at this time. Number 171 Brenda Wilson. What
25 says The State?

1 Mr. Meadors: Please present the juror.

2 Mr. Keffer: Please seat the juror.

3 Bailiff: Have a seat. Number 7 Jennifer Barber.

4 What says The State?

5 Mr. Meadors: Please present the juror.

6 Mr. Keffer: Please excuse the juror.

7 Bailiff: Please have a seat. You have been excused
8 from the trial at this time. Number 126 Lealand Parsons.

9 What says The State?

10 Mr. Meadors: Please present the juror.

11 Mr. Keffer: Please seat the juror.

12 Bailiff: Have a seat. Number 25 Hannah Bryant.

13 What says The State?

14 Mr. Meadors: Please present the juror.

15 Bailiff: What says the defense?

16 Mr. Keffer: Please excuse the juror.

17 Bailiff: Have a seat. You have been excused from
18 this trial at this time. Number 49 Lenora Evans. What
19 says The State?

20 Mr. Meadors: Please present the juror.

21 Mr. Keffer: Please excuse the juror.

22 Bailiff: Have a seat. You have been excused from
23 the trial of this case. Number 137 Patrick Reames. What
24 says The State?

25 Mr. Meadors: Please excuse the juror

1 Bailiff: Have a seat. You have been excused from
2 the trial at this time. Number 86 James Johnson, Jr.
3 What says The State?

4 Mr. Meadors: Please present the juror.

5 Bailiff: What says the defense?

6 Mr. Keffer: Please seat the juror.

7 Bailiff: Have a seat. Number 69 Isiah Hicks. What
8 says The State?

9 Mr. Meadors: Please present the juror.

10 Bailiff: What says the defense?

11 Mr. Keffer: Please excuse the juror.

12 Bailiff: Have a seat. You have been excused from
13 the trial at this time. Number 128 Wendell Patterson.
14 What says The State?

15 Mr. Meadors: Please present the juror.

16 Bailiff: What says the defense?

17 Mr. Keffer: Please seat the juror.

18 Bailiff: Have a seat in the jury box there. Number
19 143 Diana Roof. What says The State?

20 Mr. Meadors: Please present the juror.

21 Mr. Keffer: Please seat the juror.

22 Bailiff: Have a seat in the jury box. Number 40
23 Jamaal Davis. What says The State?

24 Mr. Meadors: Please present the juror.

25 Bailiff: What says the defense?

1 Mr. Keffer: Please seat the juror.

2 Bailiff: Have a seat in the jury box there. Number
3 48 Sakaya Epps. What says The State?

4 Mr. Meadors: May we approach?

5 The Court: Yes, sir. The Court will excuse Ms.
6 Epps.

7 Bailiff: You have been excused from the trial at
8 this time. Number 165 Raymond Weatherly. What says The
9 State?

10 Mr. Meadors: Present the juror.

11 Bailiff: What says the defense?

12 Mr. Keffer: Please excuse the juror.

13 Bailiff: Have a seat in the jury box. Number 23
14 Clara Brown. What says The State?

15 Mr. Meadors: Please present the juror.

16 Bailiff: What says the defense?

17 Mr. Keffer: Please excuse the juror.

18 Bailiff: Have a seat. You have been excused from
19 the trial at this time. Number 70 Charlotte Hill. What
20 says The State?

21 Mr. Meadors: Please present the juror.

22 Bailiff: What says the defense?

23 Mr. Keffer: Please seat the juror.

24 Bailiff: Have a seat. Number 3 Endre Alston. What
25 says The State?

1 Mr. Meadors: Please present the juror.

2 Bailiff: What says the defense?

3 Mr. Keffer: Please seat the juror.

4 Bailiff: Have a seat in the jury box there. Number
5 72 Valerie Holland. What says The State?

6 Mr. Meadors: Please present the juror.

7 Bailiff: What says the defense?

8 Mr. Keffer: Please seat the juror.

9 Bailiff: Have a seat in the jury box ma'am. Number
10 133 Melinda Phillips. What says The State?

11 Mr. Meadors: Please present the juror.

12 Bailiff: What says the defense?

13 Mr. Keffer: Please excuse the juror.

14 Bailiff: Have a seat back in the jury box. Number
15 44 Kerry Draper. What says The State?

16 Mr. Meadors: Present the juror please.

17 Bailiff: What says the defense?

18 Mr. Keffer: Please seat the juror.

19 Bailiff: Have a seat. Number 107 Kevin Mccall.

20 What says The State?

21 Mr. Meadors: Please excuse the juror.

22 Bailiff: Have a seat. You have been excused from
23 this trial at this time. Number 177 Michael Pereira.

24 What says The State?

25 Mr. Meadors: Please present the juror.

1 Bailiff: What says the defense?

2 Mr. Keffer: Please excuse the juror.

3 Bailiff: Juror number 123 Linda Owens. What says
4 The State?

5 Mr. Meadors: Please present the juror.

6 Bailiff: What says the defense?

7 Mr. Keffer: Please seat the juror.

8 Bailiff: Have a seat in the jury box.

9 The Court: Are there any matters of the law for the
10 jury on behalf of The State?

11 Mr. Meadors: May I respectfully ask for a moment
12 please?

13 The Court: Sure.

14 Mr. Meadors: Nothing from the State.

15 Mr. Keffer: Nothing from the defense Your Honor.

16 The Court: Okay. Mr. Solicitor, what do you want me
17 to do with the panel?

18 Mr. Meadors: If we could move them down to 3B.

19 The Court: Okay. Ladies and gentlemen who were not
20 selected to serve on this case, if you would go down to
21 the next courtroom, which is 3B. Judge Young is down
22 there. We'll see what happens.

23 (Panel is excused from Courtroom 3A at 11:42)

24 The Court: Ladies and gentlemen, I've been informed
25 by the attorneys that we have some matters of the law

1 that I need to deal with. And they may take the rest of
2 the day. So I'm going to send you home and ask you to
3 come back at nine-thirty in the morning. Now, and I need
4 all of you to come back because I can't start until all
5 thirteen of you show up so if you have an emergency
6 tonight and you're not going to be here, you need to call
7 the clerk's office. Because if I don't hear from you and
8 you don't show up, I'm going to send the sheriff's deputy
9 to look for you. Because I can't do anything unless
10 you're here. Having said that, when you go home, or
11 whatever you do the rest of the day, I don't want you to
12 do any research on this case. I don't want you to talk
13 to anybody about it, I don't want you to talk among
14 yourselves about it, I don't want you to get on the
15 internet and Google anybody, or read anything in the
16 newspaper or anything. Everything you know about this
17 case, I want you to learn in this courtroom. Because
18 that's essential to having both sides getting a fair and
19 impartial trial. So having said that, please don't
20 discuss it, allow anyone to discuss it with you, you
21 can't discuss it with your family. Now when the case is
22 over with, you can talk to anybody you want to about it.
23 But until you reach a verdict in this case, I want you to
24 not discuss it at all. I will see you at nine-thirty in
25 the morning. You have a nice day. Thank you. When you

1 come back, you'll go straight to the jury room, not in
2 here okay?

3 (Jury exits courtroom 11:46)

4 The Court: Okay.

5 Mr. Meadors: Judge, could we break for lunch and
6 then I'll decide if we're going to do our - he's got an
7 objection -

8 The Court: Okay.

9 Mr. Meadors: And I've got my younger victim here who
10 is not in the courtroom, but I can resolve that and get
11 pictures and meet back whenever you say.

12 The Court: Alright. Convene how long? One-thirty?

13 Mr. Meadors: Yes, sir. And

14 The Court: Will that work? Will that give y'all
15 enough time?

16 Mr. Meadors: I think so.

17 The Court: Okay. It's quarter til twelve now. Will
18 one-thirty suit everybody?

19 Mr. Meadors: If you want to say one-fortyfive,
20 that'll be great.

21 The Court: Well, I'll be back probably one.

22 Mr. Meadors: We'll convene at one-thirty.

23 The Court: But I'll be here whatever time after
24 that.

25 Mr. Meadors: We'll be in here at one-thirty Judge.

1 Thank you.

2 The Court: If it's not - I'm not going to have a
3 jury waiting so I'm not pushing you. Whenever you're
4 ready, we're ready. If I had a jury sitting in there,
5 it'd be different. I'll be back anytime so when you're
6 ready, just come get me.

7 Mr. Meadors: Thank you sir.

8 (3/23 pm)

9 Mr. Meadors: May it please The Court?

10 The Court: Yes, sir.

11 Mr. Meadors: Thank you. For the record, the State
12 of South Carolina vs. Robert William Wazney 2014-GS-43-
13 317-333 and 334. I believe at this point I'm going to
14 turn it over to Mr. Keffer for this motion. Because I've
15 had a few specific requests for potential evidence that
16 we'd like to mark today.

17 The Court: Okay.

18 Mr. Keffer: Judge, we're renewing our Brady Rule 5
19 Motion prior to this trial. I did receive some
20 information last week so I just want to make sure of
21 everything before we get started tomorrow. I have not
22 reason to suspect I don't have everything Judge, but just
23 make that on the record.

24 The Court: Okay. What about that Mr. Solicitor?

25 Mr. Meador: Judge the only, I know we copied a disc

1 that had some contents of Mr. Wazney's phone. I think we
2 gave that to him last week but I just want to check that
3 with Mr. Keffer again. In addition to that, there's a
4 report from a guardian ad litem Miss Katie Wiles W-I-L-D-
5 S, I think and she's in the courtroom. Ms. Wild's
6 testimony basically is, that's who our, well the victim
7 in this case, Ms. Marian Hornak, disclosed to, if you
8 will. We would be offering her as to time and place
9 primarily with us. But she had a guardiam ad litem
10 report. I don't practice in that field. I've met with
11 her and have seen the guardian ad litem report and told
12 Mr. Keffer about it. It's just basically a summary of
13 her conversations, nothing new that's added from the
14 information we already have that I'm aware of. There's
15 also some other information about other family members.
16 She initially got involved in this case because one of
17 the brothers, a Wilson Hornak had assaulted the other
18 sister, a Ms. Jasmine Hornak and that's how this started.
19 After that investigation began, it then led to step-
20 grandfather, Robert Wazney who allegedly was also
21 assaulting Jasmine Hornak and Marian Hornak. Anyway, we
22 have that report. I told him about it. I just wanted to
23 make sure through the guardian ad litem, I could
24 technically turn it over without violating anything. I'm
25 willing to do that. I told him about it. I'm just

1 waiting to hear from the guardian ad litem. I have no
2 problem turning it over and I'll give that to him. If
3 Your Honor tells me right now to give it to him, I'll
4 give it to him. I just want to make sure. And I told
5 Mr. Keffer that too so he's not surprised with the
6 report.

7 Mr. Keffer: We talked about this last week.

8 Mr. Meador: I'll give it to him. I'll do that...

9 The Court: You know, and I don't know if it's
10 something --- if he's entitled to get under Rule 5. If
11 you're not introducing it into evidence ...

12 Mr. Meador: I'm not.

13 The Court: Or on the Brady beforehand unless it is
14 exculpatory information. Now the other issue is if the
15 witness takes the stand, he may could use it to cross-
16 examine her but if it's any prior statement that she's
17 given.

18 Mr. Meador: I don't have a problem giving it. I
19 just want to make sure I wasn't violating any family
20 court. That was my only concern. And it's summaries.
21 Summaries is what she did.

22 The Court: And if it's basically summaries of facts
23 ...

24 Mr. Meador: Your recommendation for the family
25 court.

1 The Court: If it deals with this particular case and
2 those facts are coming out anyway when there's no
3 confidentiality issues. If there's other potential
4 confidentiality issues on other cases, then we'll have to
5 address that.

6 Mr. Meadors: May the record reflect I'm turning over
7 the report from Ms. Wilds. Looks like it was for the
8 merits hearing to Mr. Keffer and again we had discussed
9 it last week.

10 The Court: Okay.

11 Mr. Keffer: Judge, there's other motions out there
12 as well. I'm not sure if The State intends to offer the
13 video recordings of the forensic interviews that were
14 done pursuant to the statute. I think the State was
15 trying to decide how they were going to handle it. If
16 they do intend to offer it, I would ask that we have a
17 hearing on the admissibility on those particular
18 recordings. I'm not sure if the State's going to do that
19 at this point, but if they are, we would ask the Court to
20 have a hearing on the statute.

21 Mr. Meadors: Which obviously we respectfully would
22 have a hearing. I don't want to one hundred percent bind
23 myself, but I do not at this point plan on that. If
24 something came up where we thought that we would like,
25 Your Honor, to consider it, I'd like to keep that open,

1 but it's not our intent to offer that.

2 Mr. Keffer: Okay.

3 Mr. Meador: If something came up on cross, I can't
4 anticipate what it might or might not be, I just wanted
5 to keep that potential option open, if possible.

6 Mr. Keffer: Okay

7 Mr. Meador: But we do not plan on doing that at this
8 point.

9 The Court: Okay.

10 Mr. Keffer: And Judge, the last issue we may have
11 has to do with Lyle and the introduction of prior bad
12 acts for my client and I'm not sure how the State's going
13 to handle that or if they've already handled that.

14 The Court: Alright, what do you say about that Mr.
15 Solicitor?

16 Mr. Meadors: Judge, the alleged victims in this case
17 are two sisters. Judge, I do not plan on offering the
18 bad acts on the younger sister, Jasmine Hornak. So that
19 will not be something that you'll have to rule on. Now,
20 if something else Mr. Keffer is asking, Your Honor, to
21 consider as far as Marian Hornak is concerned, I'm not
22 sure. I just want clarification on that, obviously
23 before she testifies. She is the primary victim in this
24 and we're planning on asking her to tell it all, quite
25 frankly. We think it's relevant her relationship with

1 her step-grandfather when this started, specifically what
2 happened, where it happened, any items that do
3 corroborate her testimony so the indictment period pretty
4 much covers 2009 til at least 2013. It's divided into
5 four indictments. There were roughly forty-something
6 charges in this. I narrowed it down to four Judge on
7 this particular victim. Obviously, anything in that time
8 period, we plan on offering. I think we'll be able to
9 get pretty specific to each indictment of the acts that
10 she's alleging. I don't know if they're any other prior
11 bad act evidence as far as Marian that he's objected to.

12 Mr. Keffer: I just wanted to make sure that we're
13 not going to allow the younger sister to testify to
14 possible allegations, that's all.

15 The Court: Okay.

16 Mr. Meadors: And Judge, some of these acts, and a
17 lot of this was discovered in the last few weeks quite
18 candidly with the Court as far as some of the warrants.
19 Some of the incidents happened after her fifteenth
20 birthday. One of the indictments alleges through
21 December 2013, that's approximately when he was arrested.
22 So, there will be some testimony about some specific
23 facts we think that are relevant up through the end of
24 2013.

25 The Court: Okay.

1 Mr. Meadors: Judge, in addition to that, there's ---
2 Judge, there are approximately two hundred emails between
3 Marian Hornak and Robert Wazney that we are --- have
4 recovered from her Gmail account to his and vice versa.
5 She can authenticate the ones she sent and the ones she
6 received from him. We've downloaded I think all of them
7 and blown up either the message or the picture. We don't
8 plan on offering all two hundred of them. I think we
9 plan on offering forty to fifty.

10 Mr. Keffer: Judge, we're trying to identify those
11 today, this afternoon in an effort to speed up this
12 process a little bit. Showing them to my client right
13 now, if we're able to agree we'll get them marked.

14 Mr. Meadors: I'd like to mark them. It would really
15 speed things up tomorrow. And obviously, Ms. Hornak,
16 would be prepared to say she recognizes every one of them
17 that has either sent or received them, is familiar with,
18 especially the pictures and I would like to get those
19 identified potentially, if they aren't objected to,
20 entered before we start.

21 The Court: Okay.

22 Mr. Meadors: Judge, in addition to that, there's a
23 plunger. I always get it mixed up, it references a
24 plumber sticking in. It's actually a plunger that, Your
25 Honor, goes in the toilet for a stopped-up toilet. Law

1 enforcement has recovered one of those. There's an
2 allegation of Ms. Hornak which included in one of the
3 indictments that the defendant had her put that in her
4 vagina. We have recovered that plunger and I know
5 earlier Mr. Keffer said he might have an objection for
6 that. Law enforcement has it in their custody. And
7 she's obviously going, we believe, say that's the one
8 that she recognizes was used. And we'd like to use that
9 in her testimony. Just so, Your Honor, will be thinking
10 about that's another piece of evidence we'll be offering.

11 The Court: Okay. Is there anything that makes it
12 fungible.

13 Mr. Meadors: No sir. None whatsoever.

14 The Court: There's no testing or anything. So
15 there's ...

16 Mr. Meadors: Obviously, I wish they had got it as
17 soon as they found out about it but they didn't and our
18 investigation going out to Batteries Plus, we asked to
19 look at it and found out that it had been there a couple
20 of years. Asked Mr. Mims to have someone in law
21 enforcement to come pick it up. The victim has
22 identified that as the same plunger that she's familiar
23 with.

24 The Court: Okay.

25 Mr. Meadors: In addition to that Judge ...

1 The Court: ... you let it be tested and if evidence
2 was found on it, then chain of custody ...

3 Mr. Meadors: We did not perform any testing
4 whatsoever on it.

5 The Court: Okay.

6 Mr. Meadors: In addition to that, there's some
7 tinted windows that the, we're going to provide testimony
8 that the defendant's cars windows were tinted. Some of
9 these allegations happened in a car. Anyway, I'm just
10 trying to get everything, so he has those pictures.

11 The Court: Okay.

12 Mr. Meadors: Beg the court's indulgence. Judge,
13 there may or may not be some family members testifying.
14 Obviously they would be for time and place. There is a,
15 the way this broke, was as I said earlier, another
16 sibling was molesting another sibling. Not the victim in
17 this case. I know, Your Honor, I hope I'm being clear.
18 That's how we got it. We were going to object to any
19 fact coming in on cross. As far as the allegations of
20 the brother assaulted another ... our other victim in
21 this case we will not be going forward on. Which there
22 are not allegations whatsoever that that brother had any
23 contact with this sister, Marian Hornak. His contact was
24 with Jasmine Hornak who is the younger sister. But
25 that's how all of this broke. They were investigating

1 that and as a result of that they basically said well
2 what about step-grandparent. That led into Robert
3 Wazney. At this point, we would instruct Mister, ask,
4 Your Honor, too --- we aren't planning on going into
5 that. We'll just ask, Your Honor, to either if not rule,
6 may consider that that wouldn't be relevant to this
7 proceeding. It may become relevant. I don't know. May
8 become if we open the door but that's something I would
9 just like to put out there for the record for the Court's
10 behalf for Mr. Keffer.

11 The Court: Okay. What's your position, Mr. Keffer?

12 Mr. Keffer: Judge, there's evidence out there that
13 at least two individuals were sexually abusing these
14 girls. There's Wilson and there was another uncle that
15 was out there. How we found that out is through the
16 forensic interview and the videotape. We certainly were
17 going to question and cross-examine the victim in this
18 case as to other allegations that she's made against
19 other family members. Now as to Wilson, there isn't
20 anything in the record to show that Wilson had touched
21 this particular victim. Perhaps her sister, who I
22 understand is not testifying and none of that will be
23 brought out. However there is another family individual
24 who's out there who she identified in this forensic
25 interview that we believe that is subject to cross-

1 examination.

2 The Court: Okay what about that Mr. Solicitor?

3 Mr. Meador: I don't have it, it's a vague reference
4 to an uncle. I don't know when it happened. I just
5 think we need some proper evidence from somebody before
6 he's allowed to go in. I think this was a good while
7 prior to this. In the past. I don't know if any charges
8 were brought whatsoever. I want clarification on that,
9 about what he's going to ask because I know there's a
10 reference in the forensic interview that this may have
11 happened with an uncle, may have touched her before.
12 That's it.

13 The Court: Okay.

14 Mr. Meadors: And I don't know what specifically
15 other than that he'd try to ask her.

16 Mr. Keffer: It's on the tape and it's on the
17 forensic interview report. There's no names, there's no
18 mention of dates or anything. It's just another
19 allegation that's out there.

20 Mr. Keffer: Just what would he be offering it for?
21 I mean the rape shield

22 The Court: Well I'm trying to figure out if this is
23 an exception to the rape shield statute. If, obviously,
24 I guess his argument would be it goes to her credibility.
25 If this case boils down to her credibility and she's on

1 the stand and that's the issue for the jury as to whether
2 her testimony is credible. And many times when you're
3 offering that it's to impeach their credibility. Now
4 what protection she --- depends on the rape shield
5 statute, that's going to limit where he can go as far as
6 that's concerned. Now, and I haven't looked at the
7 statute in probably two or three months. My recollection
8 the exception is prior contact with the same defendant is
9 an exclusion but not other people.

10 Mr. Meadors: Correct.

11 The Court: That's exactly what the rape shield
12 statute protects against. Now, I need to look at, unless
13 you know right off hand under what exception you think
14 this would come under.

15 Mr. Keffer: Your Honor, we would offer it as a prior
16 inconsistent statement and to go to her credibility.
17 Because also in that same interview, she flatly denies
18 any allegations against this particular defendant.

19 The Court: Well, clearly, you know, if you cross-
20 examine her, I mean that's a different story now.

21 Mr. Meadors: I understand that. We're not
22 contesting that. He can ask her that question.

23 The Court: But that's the rape shield is exactly
24 what ...

25 Mr. Meadors: I wasn't anticipating --- I thought

1 Wilson might be an issue but since we're not doing that
2 victim, I did not think this other would be an issue but
3 I certainly want to bring it forward.

4 Mr. Keffer: Your Honor, we weren't offering anything
5 on Wilson for this particular victim. I just didn't know
6 that that was going to be the case today.

7 The Court: Okay.

8 Mr. Meadors: For the record, Wilson is the brother
9 of the two victims. Judge we'll resolve it.

10 The Court: And if you can't, you know, I'll rule on
11 it. When it comes down to me, you've got the rape shield
12 out there that protects it.

13 Mr. Meadors: Your Honor I found my State V. Tennant.
14 It's T-E-N-N-A-N-T 37 14 SC2d 297. That deals with
15 testimony to the same defendant victims, I believe.
16 Prior to contact with the same ...

17 The Court: And that's admissable, an exception under
18 the rape shield. But my recollection in all the cases
19 the rape shield it protects against testimony from
20 anybody else.

21 Mr. Meadors: Judge, State V. Grovenstein G-R-O-V-E-
22 N-S-T-E-I-N 530 SC2d 406, evidence of a child's prior
23 sexual experience is relevant to demonstrate the
24 defendant is not necessarily the source of the victim's
25 ability to testify about alleged sexual conduct.

1 However, such evidence is not admissible to impeding the
2 victim's character and is still subject to the probative
3 value, prejudicial test. So just bring that to the
4 Court's attention.

5 The Court: In that case, the argument was how a
6 child of a certain age would even have sexual knowledge
7 ...

8 Mr. Meadors: That was the next sentence.

9 The Court: I remember that case.

10 Mr. Meadors: Those seem to be the two.

11 The Court: Okay.

12 Mr. Meadors: That was 530SE2d4.

13 The Court: I have a computer glitch here so I'm
14 telling you from memory and not from the benefit of any
15 research. But, I will read the current law before we
16 actually rule on it. But I think that's kind of where we
17 are. You know that, you're working in the parameters, if
18 you get there, you make an objection, I'm going to rule.
19 Off hand, I just don't think you can get the testimony by
20 anybody else but this defendant. Okay, anything else we
21 need to deal with?

22 Mr. Meadors: Are you going to move to sequestor? I
23 just want to plan in the morning.

24 Mr. Keffer: We're going to move to sequestor.

25 The Court: Okay. And do you have anything, any

1 argument that would prevent such a thing?

2 Mr. Meadors: Our victim's going to be first or
3 second quite frankly so I don't think it's going to be an
4 issue.

5 The Court: Well, the victim has a right to be here.
6 The lead officer has a right to be here.

7 Mr. Meadors: We question her mother who will be a
8 witness, just for the --- I was looking at some cases
9 last night. Obviously, it's all them, you know, just the
10 support of being there. We'd ask that mom and daddy's
11 here too to tell you the truth. The daddy is actually
12 hugging her right now for moral support. So, I don't
13 know, I ask you to consider that. They are time and
14 place witnesses. But anyway, just to throw that out
15 there. They can move in the morning, I want to go ahead
16 and get that on the record today so they can be prepared.

17 The Court: If they are going to testify about time
18 and places, you know, she's going to testify, if they're
19 going to testify first, it would be different.

20 Mr. Meadors: And they may.

21 The Court: In all probability, it'd be sequestered.
22 And you may have to find some other support.

23 Mr. Meadors: Thank you Sir.

24 The Court: Okay.

25 Mr. Meador: As, Your Honor, ordered, Mr. Keffer and

1 I will stay here and get these marked if the court
2 reporter will let us this afternoon?

3 The Court: Sure. She can't spend all afternoon
4 waiting on you now. That will be if y'all put the
5 stickers on it and she can initial and what you don't
6 agree on, put in a separate pile and I'll rule on.

7 Mr. Meadors: Thank you sir.

8 The Court: Okay.

9 (End of the Day)

10 (3/24/15 am)

11 (State's Exhibit Numbers 1-47 were marked)

12 Mr. Keffer: My understanding that the State intends
13 to offer as evidence 46 exhibits which the court reporter
14 has just --- I'm sorry 47. We would note an objection on
15 those 47 exhibits. Those exhibits represent various
16 communications, emails, possibly text messages allegedly
17 between the defendant and the victim in this matter as
18 well as what's marked as exhibit number 2 of 47 contents
19 of that box, which as we understand it the victim will
20 testify that they were gifts, letters and momentos that
21 were given by the defendant to her over the course of the
22 time of the time that this indictment from July 1, 2009
23 through December 1, 2013. Our objection would be that
24 the exhibits as presented do not specifically contain or
25 reference material that we believe is material to these

1 allegations. We do feel like the cumulative effect of
2 having all 47 of these exhibits admit as evidence will be
3 extremely prejudicial and any probative value will be far
4 outweighed by the prejudicial effect of these exhibits
5 cumulatively. Your Honor, it's my understanding I've had
6 a chance to look through all 46 just before this
7 particular hearing my client has received three hundred
8 pages in excess of what the State has offered here. And
9 looking through that material, there is nothing specific
10 linking any type of behavior, sexual or otherwise that
11 are the basis for this case between the defendant and the
12 victim. Whether or not these communications are proper,
13 we feel that taken as a whole, these exhibits are
14 extremely prejudicial, far more prejudicial than any
15 probative value. There are no emails in there, for
16 example, that memorialize any type of relationship,
17 sexual or otherwise, which is the basis for this
18 incident. The emails themselves are vague. The emails
19 themselves are not specific. However, taken as a whole,
20 they could be extremely prejudicial to the defendant in
21 this case and any probative value would not be, would be
22 material at this point. So we would ask the Court to
23 consider that.

24 The Court: Okay. I need to look at the exhibits.
25 The exhibits that have been introduced into evidence. I

1 don't see anything here that I think will unfairly
2 prejudice the jury or even suggest that they will make a
3 finding on an emotional decision and not a factual
4 decision. Even though some of it is prejudicial, I would
5 not find that the prejudicial value outweighs the
6 probative value. I think that the probative value
7 substantially outweighs the prejudicial value. I think
8 it's admissible because I don't see anything that would
9 invoke their passions and emotions of the jury that would
10 cause them to make a decision outside the factual realms
11 in this case.

12 Mr. Meadors: Judge, in addition to that, while
13 we're here. Number 47. I don't know if, Your Honor,
14 looked at that.

15 The Court: The box?

16 Mr. Meadors: Just the context of those items. If
17 you included it in, I apologize.

18 The Court: I looked through all the context and
19 unless there's some specific issue in here that, you
20 know, I don't see anything in here that necessarily would
21 in flame the prejudice of the jury that they would make a
22 decision based on, you know, emotion and passion versus
23 in their fact-finding role. Do you have anything in this
24 box specifically that you think is inappropriate?
25 Because I didn't see anything that appeared to be to me.

1 Mr. Keffer: No, Your Honor. Again, the argument is
2 the cumulative effect of all 47 of these exhibits given
3 the nature of the allegations and the relationship
4 between the defendant and the victim. In this case,
5 we're dealing with the step-grandparent relationship as
6 it exists between the defendant and the victim in this
7 matter. Our concern was that clearly the State is trying
8 to show the nature of the relationship through this
9 evidence cumulatively and not just one specific piece but
10 cumulatively all 47 of these exhibits are far more
11 prejudicial than probative.

12 The Court: And I understand your objection but I
13 think the jury in making a factual determination in this
14 case, they've got to determine the credibility of the
15 witnesses and what relationship, if any, existed between
16 the victim in this case and the defendant. And I see
17 nothing in here that on it's face would inflame the jury
18 to the point that they would make an emotional decision
19 based on just observing this piece of evidence versus
20 using it in their fact-finding role to determine
21 credibility of the witnesses and the fact that a
22 relationship or an inappropriate relationship existed
23 between the two parties in this case.

24 Mr. Meador: Thank you Your Honor. And finally we
25 did mark and I don't think, Your Honor, I think we

1 discussed it previously this would be State's 48. Mr.
2 Keffer wanted to address this now --- through the
3 testimony of the identification of the victim.

4 The Court: Okay.

5 Mr. Meador: And we would move all of these in, Your
6 Honor, based on your ruling.

7 The Court: Now, they are making a motion to move all
8 of this in. Do you have --- I can move it in subject to
9 your objection. I assume if your only objection to it is
10 prejudicial value outweighs the probative value rule on
11 that. Now, if you have some other objection, then we can
12 deal with it.

13 Mr. Keffer: In addition to the previous argument as
14 pertains to number 48, which is the yellow plunger, our
15 objection would be it has no foundation, laid the chain
16 of custody. Time, date, and place of the alleged
17 allegations concerning that specific exhibit and the
18 defendant and the victim in this matter. Perhaps we can
19 take that up during the trial or we take it up now.

20 The Court: We can, assuming that they, you know,
21 assuming that they do lay a proper foundation then I can
22 rule on that one item during trial. If they can't,
23 unless there's some specific issue, whatever y'all want
24 to do, I can --- we can deal with it now.

25 Mr. Meadors: The officer that actually picked it up

1 is here from law enforcement. I'm going to ask someone
2 to come from Batteries Plus later who will say it's been
3 there during the time period and the victim's going to
4 identify it. Obviously, I'll be offering it through her
5 to start but the evidence after that will be the officer
6 and then later on, Batteries Plus.

7 The Court: Okay. And, you know, unless you want to
8 stipulate to that as far as the witnesses are concerned,
9 we can just go through it and it won't even be in
10 evidence at this time. If in fact, they cover those
11 bases, we'll deal with whether it comes in or not.

12 Mr. Keffer: We can cover it during trial Your Honor.
13 There is one other issue as it relates to Batteries Plus.
14 There has been two employees that are identified with
15 Batteries Plus. Batteries Plus is where the defendant
16 had worked previously to his incarceration. It's my
17 understanding that the witnesses from Batteries Plus are
18 not, their testimony is not going to be limited to this
19 specific item. They may get into materials related to
20 text messages, that have not been provided yet. As well
21 as what they perceived as an improper cell phone
22 communication between the alleged victim, or the victim
23 rather, Your Honor, and the defendant in this matter.
24 And I just wanted to be clear as to the scope of the
25 testimony that's going to be offered by employees from

1 Batteries Plus. Because if they are permitted to go into
2 these other areas, several things: we've not been
3 provided any text messages specifically. I do understand
4 that his cell phone was taken. There have been
5 statements out there that there's over thirty thousand
6 text messages per month. However, I don't have them and
7 I'm not sure what the State intends to offer them but if
8 they don't then that issue has been resolved. I didn't
9 want and don't want an employee from Batteries Plus to go
10 beyond the scope of exhibit number 48. I didn't see the
11 relevancy into it, but again, if that can be dealt with
12 during trial, I really don't know how the State intends
13 to offer Batteries Plus other than through the plunger.

14 The Court: Okay.

15 Mr. Meador: May it please The Court? I don't want to
16 bind myself but I can tell, Your Honor, that I think the
17 testimony would be, obviously the plunger, the defendant
18 worked there, approximately the time he worked there, the
19 time period, his role there. He spent a lot of time in
20 his office by himself but the victim would come up and
21 visit. I'm not going to offer any evidence what went on
22 between them but there is testimony that she came up
23 there and they saw her there. I think testimony that he
24 would close the store and go pick them up from school
25 sometimes, which is part of the victim's testimony that

1 he would pick them up, pick her up from school and that's
2 where some of the sexual acts, according to the State,
3 happened. But it would be a general, no specific emails
4 we're offering from there, it would be more of a general
5 his relationship to the store, what they know about the
6 victim as far as her presence there. Obviously, they
7 thought his conduct was weird. I wouldn't offer in that
8 perspective but if something else came up though I would
9 obviously proffer it before, Your Honor, before we
10 present it to the jury.

11 The Court: Okay. We'll deal with that. They
12 certainly can testify of their observations of what went
13 on. And if it gets into any hearsay issues or anything
14 under the rules that are admissible you will just have to
15 object at that time and I'll rule on it. Okay? Anything
16 else?

17 Mr. Keffer: Nothing from the defendant, Your Honor?

18 The Court: As far as the emails, the 46 or 47 is it,
19 do you have any other objections to that their
20 admissibility except what you've already told me and I
21 can rule to put the whole thing in for time purposes or
22 do you have any other specific?

23 Mr. Keffer: Nothing Your Honor.

24 Mr. Meadors: No, Your Honor.

25 The Court: Then they are in over your objection.

1 (State's Exhibit Numbers 46 and 47 admitted)

2 The Court: Your objection is noted on the record.
3 Now, the plunger, we'll deal with, it's not in at this
4 point. It's for i.d. purposes only and assuming that the
5 State will be able to, you know, and my understanding
6 it's a non fungible item so the chain is not a big an
7 issue, but based on what y'all have told me because
8 there's no, you know, DNA or anything that's been
9 recovered that would turn it in to a fungible item.
10 Therefor the chain would be credible. So we'll deal with
11 that when it's presented ...

12 Mr. Meadors: This officer that's here said he
13 didn't have anything else planned today. Obviously, I'll
14 bring him up right after the victim. As far as
15 sequestration, is he okay staying in here since he's not
16 a fact witness?

17 The Court: Do you have any issues as far as that's
18 concerned. He's simply the one that recovered it.

19 Mr. Keffer: No objection Your Honor.

20 The Court: Okay.

21 Mr. Meadors: And Your Honor, the rest of the family
22 is here. I just want, I know they're going to be
23 sequestered when testimony started. I'd ask, Your Honor,
24 to allow them to be here in opening just so that the jury
25 can see them during opening and then they'll leave if

1 you'd consider it. I don't want them to think the
2 family's not in here to start. I just throw that out
3 there respectfully. They'll leave as soon as she starts
4 testifying.

5 The Court: Do you have any objections to that?

6 Mr. Keffer: No objection, Your Honor.

7 The Court: Okay. Alright, anything before I bring
8 the jury in?

9 Mr. Keffer: Nothing from the defendant, Your Honor.

10 Mr. Meador: Nothing from the State, thank you.

11 (Jury enters courtroom 10:38)

12 Bailiff: All of the jurors are back in the
13 courtroom, Your Honor.

14 The Court: Okay, thank you sir. Ladies and
15 gentlemen, I know y'all don't think I have a clock. And
16 I'm sorry for keeping y'all back there. But I had some
17 other matters of law that I needed to deal with that I
18 wasn't aware of yesterday afternoon. So I had to deal
19 with them this morning. I appreciate your patience. I'm
20 just going to give you some brief opening remarks as to
21 what you can expect and what your role is in this case.
22 Now the defendant in this case has been indicted and he
23 is - and the indictment is not evidence in this case.
24 It's simply a formal document that brings this court -
25 this case to court. And to these indictments he's

1 entered a plea of not guilty. Therefore, it puts the
2 burden upon the State to prove each and every element of
3 these indictments beyond a reasonable doubt. And I will
4 explain to you the law at the end of this case as well as
5 the definition of reasonable doubt but basically your job
6 is to listen to the evidence and find what the true facts
7 are in this case. My job is to rule upon the
8 admissibility of that evidence under our rules, what
9 evidence you can and cannot hear. At the end of the
10 case, I will charge you on the law that you are to apply
11 to this case. What I need you to do is to pay close
12 attention to the evidence. And the evidence is going to
13 come to you in basically three forms: first of all,
14 through sworn testimony through the witness stand.
15 Witnesses will come to you under oath and testify. The
16 other way you may receive evidence in this case is
17 through exhibits that are introduced in the trial of this
18 case. And the third way that you're going to receive
19 evidence is through stipulation of the party. Now, I've
20 done some --- I started before I swore you in. I've got
21 to stop right now and have the clerk swear you in. I
22 didn't do that because I thought I swore you in yesterday
23 afternoon and we didn't. So, if you'll administer the
24 oath then I'll finish.

25 Bailiff: Ladies and gentlemen, please stand and

1 raise your right hand to be sworn in. The State of South
2 Carolina, the County of Sumter, in the Third Judicial
3 Circuit, indictment number 2014-GS-43-0317, 2015-GS-43-
4 0333, 2015-GS-43-0334. State of South Carolina vs.
5 Robert W. Wazney. You shall well and truly try and true
6 deliverance make between the State of South Carolina and
7 Robert Wazney whom you have been charged and a fair and
8 just verdict given according to the evidence, so help you
9 God? Please respond by saying "I will."

10 Jury: I will.

11 Bailiff: Thank you. You can be seated.

12 The Court: Thank you, sir. Now ladies and
13 gentlemen, in a few minutes, the lawyers are going to get
14 up and make an opening statement to you. And they're
15 going to simply tell you what this case is about, try to
16 give you a road map of what they think the evidence is
17 going to show in this case and explain to you the
18 elements in this case and at least what it's about.
19 Their opening statements is not evidence. At the end of
20 the trial, they're going to get up and make a closing
21 argument to you and they will argue to you as to what the
22 evidence showed or did not show. The State has the
23 burden of proof in this case and they must prove their
24 elements to you beyond a reasonable doubt. The defendant
25 does not have to prove anything. He doesn't have to

1 testify, he doesn't have to put up any evidence and his
2 lawyer doesn't even have to make any opening statements,
3 but usually his lawyer will. The State has the burden of
4 proof in this case. Your job is to determine what the
5 facts are based on the evidence that comes before you.
6 So I need you to pay close attention throughout this
7 trial. I'll try to take a break every hour, hour and a
8 half between witnesses. I try not to break up a
9 witnesses testimony and at the end of the witness
10 testimony and we try to take a break. Having said that,
11 sometimes witnesses testimony are too long and we can't
12 go that far. If at any time during the trial you need a
13 break, simply raise your hand and then we'll take a break
14 because I need each and every one of you to pay close
15 attention. If you're uncomfortable, you can't pay
16 attention. It's important --- you've got to rule upon
17 the believability of the witnesses. You've got to use
18 your common sense and your day to day experiences and
19 you've got to rule upon what evidence that you think's
20 important in this case. Because if you make a mistake,
21 it's very hard to correct that mistake. If I make a
22 mistake at some other time and some other place, that
23 will be reviewed. But if you make a mistake, it is very
24 hard to correct it. That's why we've got twelve of you.
25 And your job is to determine what the true facts are in

1 this case based on the evidence that comes before you.
2 Now I'm going to --- when we do take a break and we'll
3 send you back to the jury room. I'm going to tell you:
4 you can't discuss this case among yourselves. And you're
5 going to say "Why can't we, you know, after we've heard
6 from one of two witnesses why can't we talk about what
7 the witnesses said. Here's the reason I don't want that.
8 Because if you do do that and you start forming an
9 opinion or come up with some theory about what you think
10 this case is about or what's important in this case, at
11 the end of trial you're going to want to defend that
12 opinion that you had the beginning of the trial to your
13 fellow jurors and therefore I don't want you to start
14 forming an opinion until you've heard all the facts in
15 this case. Once you've heard all the facts and the law
16 that I'm going to give you in this case then and only
17 then will it be proper for you to discuss it among
18 yourselves. Both sides are entitled to a fair and
19 impartial jury that's going to listen to the facts and
20 find the truth to this case. That's what we're about,
21 we're about justice. Justice to both parties in this
22 case. So, it's very important that you pay attention,
23 that you determine what the true facts are. Now, I'm
24 going to explain to you after all the evidence is in this
25 case, the law in this case. I'm going to explain to you

1 and define the charges in the indictment as well as the
2 other law that you apply to this case. You're to take
3 that law and apply it, just I can't make a determination
4 of facts, you've got to accept the law as I give it to
5 you and apply it to the facts as you determine them to be
6 truth. If you'll pay attention to the attorneys they are
7 going to get up and make an opening statement to you.
8 Then we'll begin the testimony in this case.

9 The Court: Mr. Solicitor.

10 Mr. Wazney: Your Honor, I'd like to make a
11 statement.

12 The Court: Hang on just a minute, you'll get a turn
13 in a second. The solicitor gets to go first, okay?

14 Mr. Wazney: Yes, sir.

15 The Court: All right, solicitor.

16 Mr. Meadors: May it please the Court?

17 The Court: Yes, sir.

18 Mr. Meadors: Mr. Keffer. What's the relationship,
19 what's the relationship of a grandfather and a
20 granddaughter? Going to the movies. Going to the park.
21 Going out to a restaurant. A relationship between a
22 grandfather and a granddaughter. It's not teaching and
23 showing your granddaughter how to have sex. It's not
24 touching your granddaughter. It's not putting your finger
25 inside your granddaughter's vagina. It's not having your

1 granddaughter suck your finger so that you'll get
2 excited. That's what this case is about.

3 Good-morning Ladies and Gentlemen. Thank you for
4 being here. I am honored to be here on behalf of my boss,
5 your elected solicitor, Ernest A. "Chip" Finney, III, who
6 was sitting with me earlier and sitting in the back of
7 the courtroom. I'm here with Thomas Miller and Ms.
8 Harrison and we are on behalf of Solicitor Finney
9 representing the people of the State of South Carolina,
10 the people of Sumter against the Defendant Robert Wazney,
11 who is represented by Mr. John Keffer, a member of the
12 Sumter Bar. Thank you for being here. Thank you for
13 answering the call, the letter to come in here and serve.
14 Being a juror is not easy, but without y'all the system,
15 we don't need this new courthouse. Thank you for being
16 here. Now, Mr. Campbell didn't put you through jury
17 school yesterday when you came in here or a crash course
18 on how to be a juror, but I submit to you that you've
19 been going through that school your whole life. It's the
20 experiences you gather from everyday living. From your
21 childhood, through school, through your adult life,
22 through your jobs, through your interaction with your
23 family, with everybody, you gather all of that and it
24 stays with you and you use that in evaluating people in
25 your real life. You deal with people you work with and

1 you're going to use those same skills, intutions,
2 observations when you decide what's credible and
3 believeable in this case and that's all you can do and
4 that's all we can ask you to do. You've taken a oath
5 that you will do it and we know you will. It's called
6 common sense, I like to say. But you'll use that as you
7 watch and evaluate the witnesses that take this stand and
8 tell you what happened. That's the only evidence that you
9 can consider. The testimony, the exhibits, as Your
10 Honor, said and any other documents that come through
11 this stand, that's what you will decide this case on.
12 You're going to decide what the truth is. It's true in
13 every case. What's the truth. You'll take that testimony
14 and apply it to the law that His Honor, no question His
15 Honor, Judge Cothran, is the law. He is the law. He
16 tells us all what the law is and he knows the law as well
17 as any judge in this State, if not better. He knows the
18 law and he'll tell us the law, tell you the law and you
19 will take the facts that you decide are true based on the
20 law that the judge gives to you and you'll decide what
21 the verdict is. What happened? Is he guilty or not
22 guilty? And that's why this system is beautiful. People
23 from the community come in, listen to the State, hold us
24 to our burden and y'all decide what the truth is. What
25 is our burden, you all know it. You can say it as much

1 as I can. You've seen it on the t.v., movies. We have
2 the burden of beyond a reasonable doubt. Beyond a doubt
3 that makes reasonable folks hesitate to act. I submit
4 you won't have that when this is through.

5 What's the Defendant charged with? The Defendant
6 Robert Wazney is charged with four counts of criminal
7 sexual conduct with a minor in the second degree. His
8 Honor is going to go over this when we get through, but
9 again, he's the law, listen to him. I'm going to, I'm
10 allowed to in opening statement to give you a brief
11 overview of the law.

12 Criminal sexual conduct with a minor in the second
13 degree. Back when I started it use to be called rape.
14 Criminal sexual conduct with a minor in the second
15 degree. What have we got to prove to you? We've got to
16 prove to you that the victim, and this is the victim in
17 this case, Marian Hornak. Raise your hand.

18 (Victim complies)

19 Granddaughter. We're going to have to prove to you
20 that she was between the age of at least fourteen but
21 less than sixteen. And during that age period that the
22 defendant committed sexual battery and that he was in the
23 position of familial custodial, in a position of
24 authority over --- a granddad would fit that or that he's
25 older than the victim. I can prove both of those but

1 we've got both of them in this case. Sexual battery.
2 She's between these ages, at least fourteen and less than
3 sixteen and he's in the position of familial custodial or
4 in the position of authority over her or he's older than
5 her. So what is that next step. Well, what's a sexual
6 battery? A sexual battery and a lot of this stuff is not
7 going to be easy to offer and not going to be easy to
8 hear but we've got to, it's time. It's time to present
9 it. It's time to tell it, it's time to hear it and
10 tomorrow perhaps or the next day it's going to be time
11 for y'all to decide. This isn't going to be a terribly
12 long case but I believe in taking my time. I don't rush
13 things unless the judge tells me to, but I believe in
14 taking my time but even with that this is going to take,
15 maybe finish tomorrow, maybe Thursday, it's not a long
16 trial, but it's an important trial to the Defendant Mr.
17 Wazney and to Marian Hornak. It's both their days in
18 court. So listen. We're going to take our time and it
19 make take some time to see this evidence, but it's
20 important.

21 Now, what's sexual battery, I got off of track
22 there. Sexual battery, fellatio, that's giving a man
23 oral sex, cunnilingus, giving a woman oral sex.
24 Definitions of sexual battery. Sexual intercourse, just
25 regular old sexual intercourse. This stuff isn't easy but

1 might as well break into it now. Penis, vagina, anal
2 intercourse. Any intrusion however slight, however slight
3 in a persons body with another persons body or with an
4 object into another persons body. That's sexual battery.
5 That's what we must proof to you beyond a reasonable
6 doubt. That during the time frames of these four
7 indictments that Robert Wazney, her grandfather,
8 committed sexual battery on the victim Marian Hornak.

9 Now, very briefly, and I've touched on it. What kind
10 of evidence are you going to hear? Well, you're going to
11 hear from Marian Hornak in just a little bit before
12 lunch. She's going to take the stand and tell you this is
13 what I've experienced. This is what happened to me.
14 This is what my grandfather did to me. This is what I
15 experienced. A beautiful, we believe the evidence will
16 show, what should have been a grandfather, granddaughter
17 relationship which was turned upside down and I was
18 sexually assaulted. You're going to hear from her and
19 we're going to go through it and you're going to see
20 emails that were exchanged between the defendant and
21 victim and back and forth. You'll be evaluating those
22 and considering those when you go to deliberate. But
23 that's the example of direct evidence. A witness who has
24 gathered facts that we argue are relevant in the case and
25 they come up here and they say this is what happened.

1 That's evidence that they've gathered with their senses.
2 They've heard it, they saw it, they felt it, they touched
3 it and they come in here and they tell you this is what
4 happened to me. I know this because I was there and this
5 happened. That's direct evidence. Circumstantial
6 evidence is proof of a chain of facts and circumstances
7 which indicate the existence of a fact.

8 The evidence in this case will show that at one time
9 she was at Batteries Plus and the defendant stuck a
10 plunger in her vagina or had her put a plunger in her
11 vagina. We're going to offer that as evidence, the
12 plunger. Circumstantial evidence. You'll have some of
13 that and documentary evidence as I said. What happened.
14 The indictments --- this ain't easy for anybody. It's
15 not easy for anybody. The time periods 2014-317, between
16 September 1st 2009 and July 20, 2012, July 20, 2012,
17 December 1, 2013, those are two counts of CSC with a
18 minor in the second degree. So as we go through the
19 testimony, we'll present evidence between those time
20 periods, what happened, and you'll decide if we did that.
21 2015-333 on or about July 21, 2011, evidence will show
22 that's her birthday and the evidence will show that on
23 her birthday, on her fourteenth birthday, on or about her
24 fourteenth birthday either that night at twelve just when
25 she turned fourteen sometime later in the day, the

1 evidence will show that he got her to give him oral sex,
2 fellatio, a sexual battery. That's the allegation in
3 that indictment. You'll decide if it's true. You'll
4 decide if it's credible. And, finally, 2015-334, between
5 the dates of September 1st, 2011 and June 1st, 2012,
6 again alleged sexual battery. We only have to show one
7 but those are the time periods. We've got to show what
8 happened in Sumter. What's the evidence going to show.
9 She had a pen pal in Japan and she was corresponding with
10 him. He didn't like that. Actually we're going to show
11 you screen shots of these emails where she had to give
12 them to him to show her conversation with him because we
13 believe the evidence will show he was jealous. He
14 developed a relationship between grandfather and
15 granddaughter which led to him touching her from about
16 the seventh grade initially on her breast, initially on
17 her privates, that that initially led to him touching her
18 more to him putting his hands in her pants and putting
19 his finger in her vagina, which is a sexual battery.
20 That eventually led to fellicio. Where did this happen?
21 Well, the evidence will show that some of it happened at
22 Hideaway, that's where her nana and grandpa, she called
23 him Waz, lived. She's going to tell you all about that.
24 When the first incident happened, she was at her keyboard
25 playing her piano, listen to her. It happened some when

1 she waiting to pick up her sister Jasamine and it
2 happened in a car. We're going to present evidence of
3 that and he had tinted windows in his car and she gave
4 him oral sex in the car and he touched her in the car and
5 then we're going to present evidence that he worked at
6 Batteries Plus and the plunger and the other incidences
7 that happened at Batteries Plus.

8 The evidence will show that he had her try a remote
9 control vibrator and you're going to hear somebody from
10 Batteries Plus that said after he was fired they saw a
11 remote control vibrator there. We're going to argue
12 that's a good example of circumstantial evidence. But
13 this non normal relationship lasted until the end of
14 December 2015, approximately. That's what the case is
15 about. She's going to get up here in a minute. Listen to
16 her. Use that common sense you have gathered and you
17 decide what is the truth. That's the case. Listen to the
18 emails, watch the emails, you decide. What's going to
19 happen after that? Well, under the law we're allowed to
20 present time and place witnesses, very specific. Hearsay
21 is not admissible usually in court if somebody says
22 something you can't come in and say what somebody else
23 has said because that person has to be here. The law
24 does say under specific circumstances of sexual assault
25 cases reports of assault is just specifically as far as

1 time and place, cannot mention anybody's name, is
2 allowed. And you don't have to -- well, she told me
3 about an assault at a time and a place. You'll hear some
4 of those witnesses that will be coming in. You'll have
5 some witnesses from Batteries Plus. An officer from the
6 Sheriff's Department who has now moved on to other
7 employment, we will be talking to you about his role.
8 But that's the case. Now, in a minute, once we start,
9 under the rules of sequestration all of the facts
10 witnesses will have to leave. Her mom, her dad and Ricky
11 Hornak and her mom, Angie, here will have to go out of
12 the courtroom until they testify. That's just the law,
13 but I wanted to tell you that. That's why they are
14 leaving and they'll come back in and testify and once
15 they do they can stay. I don't think I'm going to say
16 much more. I never say this, probably regret it, because
17 it's not what I say, it's from up here. It's coming
18 soon. All I can ask you is please listen and use your
19 common sense. After we get through tomorrow, Thursday at
20 the latest, I don't know, we'll be allowed to argue the
21 evidence, and the reasonable inferences and at that point
22 we'll be able to ask you for a verdict. Isn't that
23 beautiful, you'll decide. Y'all decide. We will be able
24 to ask you for a verdict. Verdict simply means to speak
25 the truth. Then y'all decide. We'll be able to ask you

1 for a verdict. And we respectfully submit that after you
2 have heard all the evidence from the witnesses there's
3 only one verdict that will speak the truth and that says
4 roughly between 2011, 2013 Mr. Wazney you did not have a
5 normal grandfather, granddaughter relationship. What you
6 did was wrong and we're going to find you guilty. Thank
7 you.

8 Mr. Keffer: Ladies and Gentlemen of the jury, I'm
9 John Keffer. We met the other day during jury selection.
10 These cases, though the most heinous type of cases you
11 can hear, it's what you read about in the paper and see
12 on the news all the time. Sexual predator, molestation
13 cases. It's sickening, it's horrible to think about. But
14 remember there is always three sides to every story. I
15 find it interesting that what you weren't told was that
16 this bright sixteen year old girl was interviewed for
17 over forty-five minutes to an hour with a State agency
18 and guess what not one thing the State said came out.
19 Not one. Not one thing. Nothing about a plunger,
20 nothing about emails, nothing about any relationship,
21 nothing about touching, nothing about intercourse, anal
22 or otherwise. Nothing. When she was brought in and
23 questioned, she knew where she was going, she knew who
24 she was speaking to. Didn't say a word. There's nothing
25 wrong with the victim in this case. There's nothing wrong

1 with her at all. Why didn't she say it then, why did
2 she wait for two weeks to go by. Why did she wait for
3 the defendant to be in a horrible divorce case involving
4 her grandmother. Why did she wait for that. Why did she
5 wait until law enforcement had two to three weeks with
6 her. You're going to hear that too. That's the part you
7 haven't heard. See, it's easy to come up to twelve people
8 and throw these words out like emails, molestation, anal
9 sex, plungers, it's real easy to do that. What's hard to
10 do is explain the case, because that's what you're going
11 to hear and you're going to have to hear that testimony
12 as well. So, we're going to come up here and we can use
13 these words, we can through out these what I call fire
14 alarm words but let's concentrate on what your role is.
15 Your role is the facts. Not the facts as the State wants
16 you to hear them but the facts, the entire facts.
17 There's a reason you didn't hear that from the State. Ask
18 yourself why. The State talks about credibility of
19 witnesses. Who's credible. I think I've got your
20 attention now is because what you've been put through the
21 first thirty minutes would make any person mad. If I
22 were you I couldn't wait to see what happens in this
23 case. Well, that should be true for my client as well
24 because he has a case as well and you have to weigh that
25 and that's the hardest thing that you have to do in these

1 cases. Every case is weigh the evidence. But remember
2 there is a reason why the State didn't bring that out to
3 you. There's a reason why they didn't bring that
4 information out but you're going to hear it in a little
5 bit and you're going to hear it right from her mouth and
6 let's see whether or not she can convince you as to why
7 she did a 180 when she was questioned for almost an hour
8 by law enforcement and the circumstances surrounding that
9 question and who questioned her and what she was talking
10 about and what statement she made when she was
11 questioned. Because none of the statements implicate this
12 man, no, they don't. Ask yourself why.

13 Again, my name is John Keffer and I represent the
14 Defendant. You have a tough job to do and I just ask for
15 fairness throughtout this whole entire process. Thank
16 you.

17 The Court: Can I see counsel, both counsel real
18 quick.

19 (Counsel approaches without court reporter)

20 The Court: I need to take up a brief issue outside
21 of your presences, so I'm going to ask you to go to the
22 jury room for a few minutes and then I'll get you back
23 out and we'll begin the testimony. I'll remind you don't
24 discuss this case yet.

25 (Jury break 11:08)

1 The Court: Okay, Mr. Wazney you wanted to make a
2 statement.

3 Mr. Wazney: I would really prefer the jury to be
4 here, sir.

5 The Court: I understand that and I need to first
6 though find out what you want to say ...

7 Mr. Wazney: Yes, sir.

8 The Court: ... before you do that.

9 Mr. Wazney: Should I approach the podium or just
10 stand here.

11 The Court: You can stay right there and just tell
12 me. Now, I don't know whether there is something you
13 wanted to tell me.

14 Mr. Keffer: Can I please have five minutes with him
15 out here with him in one of these rooms?

16 Mr. Wazney: I'd rather speak to you, sir. I can
17 speak to you personally or in front of these people. I
18 would really prefer that it's recorded.

19 The Court: I understand ...

20 Mr. Keffer: I just don't want him to make any
21 statements that can be used against him.

22 The Court: You know you understand any statements
23 you say to me can be used against you ...

24 Mr. Wazney: Yes, sir. Absolutely.

25 The Court: Why don't you take a few minutes and at

1 least talk to you lawyer about your rights and then you
2 can come back in here and tell me anything you want to on
3 the record, okay.

4 Mr. Keffer: If we could do that, Judge, that would
5 be great.

6 The Court: Okay. So, go back there and talk with
7 your lawyer briefly and then I'll be glad to hear
8 anything you want to tell me and I will explain your
9 rights to you in detail when you come back.

10 Mr. Wazney: Can I take these with me?

11 The Court: Certainly.

12 (Court break was taken 11:10 a.m.)

13 Mr. Keffer: Your Honor, may we approach?

14 The Court: Yes, sir.

15 (Counsel approach without court reporter)

16 The Court: All right. Mr. Wazney, your lawyer tells
17 me you want to tell me something.

18 Mr. Wazney: Yes, sir.

19 The Court: Now, let me do a little bit of explaining
20 to you and then I'll let you tell me anything you want
21 to.

22 Mr. Wazney: Yes, sir.

23 The Court: You understand that you're on trial and
24 you have a right to testify in front of this jury and I
25 will go over that in detail at the end of the State's

1 case. That right is a constitutional right you have to
2 testify or to remain silent. You can talk with your
3 attorney, you can get advice from him, but ultimately it
4 is your decision as to whether to testify or not testify
5 in this particular case, you understand that?

6 Mr. Wazney: I understand that.

7 The Court: If you do testify you will be subject to
8 cross examination like any other witness. And if you
9 don't testify I will instruct the jury that they cannot
10 hold that against you in anyway. They can't consider
11 that, they can't even talk about it in the jury room
12 because you have a constitutional right to remain silent.

13 Mr. Wazney: Yes, sir.

14 The Court: You understand that? Okay. I don't know
15 what you're going to talk to me about but if you do say
16 certain things that incriminate you, it can be held
17 against you. You understand that?

18 Mr. Wazney: Yes, sir.

19 The Court: All right. Now, you can tell me anything
20 you want to, but I can't let you talk to this jury
21 without testifying. So, at the end of the State's case if
22 you decide you want to tell the jury anything you have to
23 testify and you are subject to cross examination by the
24 State, do you understand?

25 Mr. Wazney: Yes, sir.

1 The Court: All right. Tell me what you want to tell
2 me.

3 Mr. Wazney: Okay. I guess this kind of started
4 yesterday. After I left here yesterday my attorney gave
5 me this information which obviously is evidence we had
6 just picked up to bring back to the jail to look over.
7 When I got to the jails, I can give you a big basis time
8 span of what happened. I got to the jail they questioned
9 it at the front desk at the pod that I'm staying in. I
10 got to think about something. When I got there the lady
11 asked me what it was, I told her what it was, they
12 flipped through, they just did an inspection. I brought
13 it up to my room. I got a shower, because they wouldn't
14 let me shower that morning. Got out, got some food for
15 dinner and then she called me to the desk and she said
16 she needed to see this and she wouldn't allow me to have
17 it. I filed a grievance. I actually have a copy of the
18 grievance hand written here that will tell you exactly
19 what happened.

20 The Court: Okay.

21 Mr. Wazney: This is only the beginning, sir. I've
22 got some more behind it. I brought back a binder ---
23 this is verbatim of the grievance number, 189 dated 3-23-
24 15. I brought back a binder with information about my
25 case from court today. It was from my attorney. Officer

1 Perkins told me I could not have it and took it into the
2 front desk until morning. I told her it was evidence but
3 she insisted. I removed the contents put them into
4 sealed envelopes then turned everything in as instructed.
5 Officer Perkins called me down to the desk and instructed
6 me to open the envelopes. I told her it was private case
7 information, she insisted, so I opened, so I offered to
8 get new envelopes and she said no and to open them now.
9 I opened one and flipped through to show her she then
10 told the other officer, Ms. Lawton(sp) to put everything
11 into my property. I feel this is unlawful and should be
12 able to have the documents for study and now my private
13 information is unsealed and out of my presence. I turned
14 it in at 7:45. The officer was Lawton(sp) who wrote down
15 the grievance, the receiving officer was Benefield(sp) that
16 night after shift change. It's not the first incident,
17 sir. Sumter-Lee Regional Detention Center Department of
18 Prosecution, where I am currently detained, has still,
19 I'm sorry, excuse me, the Sumter-Lee Regional Detention
20 Center Department of the Prosecution and where I am
21 currently detained has and still intentionally obstructs
22 and impedes my efforts to obtain legal information for
23 self defense violating due process of law. This is
24 against my civil rights as set forth in civil action with
25 the United States District Court. It's current

1 disposition is I am waiting for it to get fullfilled,
2 they're missing a couple of papers so I assume it's
3 pending. There's a pacer nubmer 6:15-116-HNH-KFM, if you
4 wish to look at that, if you have access. Other civil
5 rights by the Detention Center include but are not
6 limited to negligent mail handling which includes ingoing
7 and outgoing mailings from John Keffer, Edward Wazney and
8 the United States District Court in Columbia, South
9 Carolina. The contact there is Robin Bloom. It's a
10 violation of article 1 section 8 of the United States
11 Constitution. The mailings I've mailed back and forth to
12 them John has not received some of mine. My brother Ed
13 can testify that he's mailed certain legal documents,
14 realms of paper of law in which to try to study and try
15 to defend myself in this extremely large case which has
16 blown up into something preposterous. It's just insane.
17 Either way. Invasion of privacy. Privileged marked
18 sealed envelops containing case defense documents opened,
19 unauthorized, out of my presence during a strip search
20 apparently for someone who had drugs in the rec yard.
21 There is a grievance, two grievances out on that. 18250
22 on 2/28, 18272 on 3/11/15. The Director came in with a
23 team of correctional officers, cleared the entire pod
24 out. Everybody went to Bravo pod, sat down and they strip
25 search us naked. They went into each room and stripped

1 the room completely. And, out of my presence, I
2 intentionally sealed an envelope as soon as I seen it
3 happening to protect my personal documents for this case.
4 That man, apparently, and his team opened up. I filled
5 out grievances for that. Discrimination. Others were
6 able to visit legal services where I was not allowed.
7 Grievance number 18267 dated 3/9/15. The previous
8 invasion of privacy was --- you probably know all this
9 stuff. Anyway, that there, they started something called
10 the law library. I've been fighting this since, if you
11 look at the document for the United States District
12 Court, I started looking for defense information almost
13 since I got to the facility, which was December 6, 2013.
14 Trying to look up legal documents, anything I could find
15 to find out what was going on with my case. I didn't
16 have a lawyer. As soon as I got there, we were on lock
17 down for, I think, seventeen days, couldn't make a call.
18 When I got into the facility, I couldn't call anybody.
19 When I got into the pod I couldn't call anybody from
20 there. There was no writing materials, nothing available
21 to get envelopes. Nothing like that. The canteen was shut
22 off, we were on lock down. Apparently, somebody called
23 one of the CO's a bitch. I believe it was the tenant in
24 the office upstairs and apparently it happened on that
25 night.

1 I didn't receive any information about this case
2 until Sunday. Sunday. The only think I got was a 52 page
3 investigative report which, I guess, that's about the ---
4 There's no real indictment. From what I understand the
5 indictment has like certain things on it. The charges
6 and all that good stuff. Mr. Keffer has told me about
7 what was going on but I actually physically haven't
8 handled it, I don't know if that's good and he handles it
9 and he represents me, you know, that's good there. It
10 just seems very, very unfair. Held without bond.
11 Obstructed from requiring legal information. Cannot
12 confidentially send or receive legal mail. And after
13 suffering the apparent effects of prolonged incarceration,
14 and expected to defend myself, receiving only the
15 investigative report from law enforcement and the
16 indictment one day before trial. I was held for over 470
17 days before trial. (Inaudible) my 6th Amendment right to
18 a speedy trial. It had something to do with the
19 agreement on Interstate Retainers Act. I don't know if
20 you're familiar with that.

21 The Court: Yes, sir.

22 Mr. Wazney: There's --- hold on a second, let me
23 look at my papers here. I wrote down this. A little
24 knowledge of the judicial system I have learned that the
25 accuser incarcerated is kept oblivious of the law and

1 legal procedures before the public defenders in
2 conjunction with law enforcement, the solicitor's office
3 can insure maximum number of convictions for generations
4 of revenue. The attorneys once in part are influenced by
5 the system because it is their livelihood and they must
6 play nice to keep their reputation as well. That's all I
7 have to say, sir.

8 The Court: Okay. Mr. Wazney, some of the issues
9 that you brought up if you feel like the jail has
10 violated certain of your rights, then that is something
11 you can certainly have a opportunity to litigate in civil
12 court in State or Federal Court. As far as these issues
13 are concerned here in this trial, you have an attorney
14 who, and I don't know if you hired Mr. Keffer or he was
15 appointed.

16 Mr. Wazney: He was appointed. My family purchased
17 him for me, sir.

18 The Court: He is a very competent attorney who tries
19 many cases. And he's there to protect your legal rights
20 and understanding you couldn't have access to law
21 library, whatever, that's what he's here for. If you
22 were pro se and you did not have an attorney, it would be
23 totally different. But you have an attorney to protect
24 your legal rights, who knows the law and can be sure that
25 that's taken into account. Now, as far as the discovery

1 material is concerned, that the State has provided for
2 you, I'd be glad to give you whatever opportunity you
3 need if you haven't been able to review that with your
4 attorney and I assume that you have because in most
5 situations the State provides you discovery under the
6 rule, under Rule 5 and under Brady other issues that they
7 give your attorney, so as far as this trial is concerned,
8 if the jail took those from you and you haven't had an
9 opportunity to review those I can give you time overnight
10 or whatever to be sure that does happen again. You know,
11 you certainly have a right to file any grievance and/or
12 sue against the jail if you think they have violated your
13 right.

14 Mr. Wazney: Sir, there's a little issue. After
15 being detained this long, I don't know if you know
16 anything about, I'm sure you know the law, you know how
17 people respond to long periods of being detained. It's
18 very, it's very unfair to have my judgment cloudy as much
19 as it is and have this evidence dumped on me the last two
20 days regardless, I mean, whether it's two weeks, two days
21 regardless, whatever, I'm still very much --- I mean, I
22 talk to Mr. Keffer and he speaks to me like I'm crazy and
23 sometimes I wonder if I am. It could be part of the
24 incarceration process, I'm not sure. But, there's ---
25 that's all.

1 The Court: I understand that and unfortunately I
2 can't do anything about it.

3 Mr. Wazney: I just know the State has intentionally
4 done what they've done to prevent me, not the State, I
5 should say the jail, but, of course, it's contracted with
6 the State. I feel it's intentional that they've rejected
7 legal access. Before this law library opened which was I
8 think was like a month ago, they use to have everything
9 done through grievance and all individual grievances that
10 I've asked they just diverted me.

11 The Court: I understand, but you have a lawyer. If
12 you didn't have a lawyer, if you were representing
13 yourself pro se that would be a issue but you've got a
14 lawyer that deals with your legal issues and he's got
15 access to the law and look up your rights and your
16 communications with him. He covers all that aspect. Now,
17 what evidence of Rule 5 that is going to be introduced
18 into evidence here that you have not been able, that
19 you've just got and have not reviewed with your attorney?

20 Mr. Keffer: Judge, he's referencing the 46, 47, 48
21 emails and just by background, the emails were provided
22 on Friday from the Solicitor's office. There's actually
23 300 plus pages. I made a complete copy for Mr. Wazney
24 and gave them to him yesterday. I didn't find out until
25 he just told the Court that he hasn't had a chance to

1 look at any of that. As far as Exhibits 47, 48. Forty-
2 seven is the contents of that box. He's not seen that
3 content, he did, he just saw it a few minutes ago, and
4 the plunger. Those items were just produced. They were
5 mentioned last week. He knew about them. My client and I
6 spoke about them. I guess what he's saying is that he
7 has not had a chance to look at those items in detail. I
8 mean, he has them, but I guess the jail has them now. I
9 guess that's what he is saying.

10 The Court: Okay. I'll be, you know, glad to give
11 you that opportunity, you know, tonight or over lunch,
12 I'll be sure before you have to testify or before --- and
13 you may or may not testify that you have an opportunity
14 to go over each one of those.

15 Mr. Wazney: Yes, sir.

16 The Court: You know, rather than means either leave
17 you here long enough for you to go over that with your
18 attorney or instructing the jail, you know, they've got
19 security issues down there that they've got to deal with
20 but you certainly have a right to review your discovery
21 and I'll be sure that happens. Okay?

22 Mr. Wazney: Okay. Can I speak to my lawyer for just
23 one second?

24 The Court: Sure.

25 (Mr. Keffer and Mr. Wazney meet privately 11:40)

1 (Court Break 11:40/Back on 11:48)

2 (Jury enters courtroom 11:49)

3 Bailiff: All the jurors are back in the courtroom,
4 Your Honor.

5 The Court: Thank you. Ladies and Gentlemen, I
6 apologize and I've still got some matters that I need to
7 deal with. Instead of keeping y'all locked up back there
8 I'm just going to send y'all to lunch and ask you to be
9 back at 1:30. When you come back, come straight to the
10 jury room. Don't discuss this case, don't do any
11 research during lunch and if you have an emergency call
12 in because if not I can't do anything until all thirteen
13 of you come back. Have a nice lunch. Thank you.

14 (Jury excused for lunch break 11:48)

15 The Court: Okay. Anything else I need to be aware
16 of?

17 Mr. Keffer: Nothing, Your Honor.

18 Mr. Meadors: No, sir. Thank you.

19 The Court: Y'all approach real quick.

20 (Counsel approach bench without court reporter)

21 (Court lunch break)

22 The Court: State ready?

23 Mr. Meador: State's ready.

24 The Court: The State's ready? Defendant's ready?

25 Mr. Keffer: Yes, Your Honor.

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

COURT OF GENERAL SESSIONS

Robert William Wazney,

PLAINTIFF,

v.

The State of South Carolina,

DEFENDANT.

TRANSCRIPT OF TRIAL

2014-GS-43-0317;

2015-GS-43-0333

2-15-GS-43-0334

Sumter County Courthouse
March 23, 2015-March 24, 2015

SECOND BINDER

BEFORE:

HONORABLE R. FERRELL COTHRAN, PRESIDING JUDGE.

APPEARANCES:

Assistant Solicitor John Meadors
Attorney for State of South Carolina

John Keffer, Esquire
Attorney for Robert William Wazney

TAKEN BY MELISSA R. SINGLETARY
CERTIFIED VERBATIM REPORTER

1 The Court: Okay. Bring us the jury.

2 (Jury enters courtroom 1: 29)

3 The Court: Call your first witness.

4 Mr. Meadors: The State calls Marian Hornak.

5 Bailiff: Place your left hand on the Bible and raise
6 your right hand. State your name please.

7 Ms. Hornak: Marian Hornak.

8 Bailiff: Do you solemnly swear and affirm the
9 testimony you are going to give in this court will be the
10 truth, the whole truth, and nothing but the truth so help
11 you God?

12 Ms. Hornak: Yes, sir.

13 Bailiff: State your name and spell your last for the
14 record.

15 Ms. Hornak: Marian Hornak H-O-R-N-A-K.

16 Mr. Meadors: Beg the Court's indulgence.

17 The Court: Yes, sir.

18 **MS. HORNAK - EXAMINATION BY MR. MEADORS:**

19 Q: Good afternoon Ms. Hornak. You're going to have to
20 say something when I ask you a question or Mr.
21 Keffer ask a question, so this lady can take it
22 down. Do you understand that?

23 A: Yes, sir.

24 Q: Speak into there so this jury and that court
25 reporter can hear you please ma'am. Ms. Hornak,

1 tell the ladies and gentlemen of this jury about
2 you. Where were you born?

3 A: Tuomey Hospital.

4 Q: What's your date of birth?

5 A: July 21, 1997.

6 Q: July 21, 1997?

7 A: Yes, sir.

8 Q: So how old are you today?

9 A: 17.

10 Q: Tell these folks about where you went to school.
11 Where did you go to elementary school?

12 A: Millwood Elementary.

13 Q: To where?

14 A: Millwood Elementary.

15 Q: Where did you go after that?

16 A: Alice Drive Middle.

17 Q: Alice Drive Middle.

18 A: Yes, sir.

19 Q: What grade at Alice Drive Middle?

20 A: Sixth, seventh, and eighth.

21 Q: Where did you go to high school?

22 A: Sumter High School.

23 Q: And are you currently in school?

24 A: Yes, sir.

25 Q: Ms. Hornak, can I call you Marian sometimes?

1 A: Yes, sir.

2 Q: What's your middle name?

3 A: Alexandria.

4 Q: What year are you at Sumter High School?

5 A: Eleventh grade.

6 Q: And have you gone chronologically all the way
7 through or were you held back or started a year
8 late? Where are you in the school system? Are you
9 where you're supposed to be?

10 A: Yes, sir.

11 Q: Okay. What classes are you taking in Sumter High
12 School?

13 A: Chemistry Honors, Algebra Two Honors, Orchestra
14 Honors, and ROTC.

15 Q: Algebra Two Honors, Chemistry Honors, ROTC, and what
16 was the other one?

17 A: Orchestra Honors.

18 Q: Let's briefly talk about your ROTC. What experience
19 do you have in that?

20 A: I'm a cadet major right now. I'm about to be
21 promoted. And I'm the Colonel Commander; personal
22 flight commander and I'm the Inspector General.

23 Q: What do y'all do? Do y'all go around having
24 competitions?

25 A: It's a drill team.

- 1 Q: Did you have one recently?
- 2 A: Yes, sir.
- 3 Q: Where was it at?
- 4 A: Irmo High.
- 5 Q: How'd y'all do?
- 6 A: We did good.
- 7 Q: You mentioned orchestra. What instrument do you
- 8 play?
- 9 A: I play the ...
- 10 Q: And do y'all perform, does the schools, does the
- 11 orchestra perform in the community?
- 12 A: Yes, sir.
- 13 Q: And the grade you're in right now, if you said it.
- 14 Forgive me, I'm nervous.
- 15 A: Eleventh grade.
- 16 Q: Alright. Tell the ladies and gentlemen about your -
- 17 -- who's your mother?
- 18 A: My mom is Angela.
- 19 Q: Was she here earlier?
- 20 A: Yes, sir.
- 21 Q: She's out because of sequestration rules now. Who's
- 22 your father?
- 23 A: Richie James Hornak.
- 24 Q: Okay. And he also was here with you earlier?
- 25 A: Yes, sir.

1 Q: And who is your grandmother?

2 A: Sharon Wazney.

3 Q: And Ms. Wazney was here, was she here earlier?

4 A: Yes, sir.

5 Q: She's out because she's going to testify later on
6 right?

7 A: Yes, sir.

8 Q: How about your granddaddy?

9 A: On my dad's side?

10 Q: Well, Sharon's husband.

11 A: Yes sir, Robert Wazney.

12 Q: Is that who's sitting over here? The defendant?

13 A: Yes, sir.

14 Q: What did you call him before all of this?

15 A: Waz.

16 Q: Waz?

17 A: Uh-huh.

18 Q: And is he your grandfather?

19 A: Yes, sir.

20 Q: Is it your step-grandfather or grandfather?

21 A: Step-grandfather.

22 Q: Alright, and what happened to your other
23 grandfather?

24 A: My other grandfather? My grandmother and him
25 divorced.

1 Q: So that was Sharon and your other grandfather. Did
2 she marry Mr. Wazney? Robert Wazney, the defendant?

3 A: Yes, sir.

4 Q: What about your maternal grandparents? Your mom's?

5 A: I do not know my grandmother but my grandfather is
6 Jerry Geddings.

7 Q: And just a few more questions. Do you have any
8 uncles?

9 A: Chris, sitting right there.

10 Q: Chris raise your hand. Is that your Uncle Chris,
11 that's your dad's brother?

12 A: Yes, sir.

13 Q: And do you have any uncles on your other side of
14 your family?

15 A: Yes, sir.

16 Q: Who is that?

17 A: Jerry Geddings.

18 Q: Any cousins?

19 A: Yes, sir.

20 Q: Let me ask you about your siblings; your brothers
21 and sisters. Do you have a brother?

22 A: Yes, sir.

23 Q: What's his name?

24 A: Wilson James Hornak.

25 Q: Okay and how old's he?

- 1 A: He is sixteen.
- 2 Q: Do you have another sister?
- 3 A: Yes, sir.
- 4 Q: Do you have a sister, not another sister? And
- 5 what's her name?
- 6 A: Jasmine Star Hornak.
- 7 Q: And how old is Jasmine Star Hornak?
- 8 A: Eleven.
- 9 Q: Now, your mom is remarried?
- 10 A: Yes, sir.
- 11 Q: Okay and who is she married to?
- 12 A: Ceasar.
- 13 Q: And does he have or do you have any step-sister or
- 14 brothers through that relationship?
- 15 A: Yes sir but I do not live with them?
- 16 Q: Okay. Where do they live?
- 17 A: They live in Mexico.
- 18 Q: Have you ever met them in person?
- 19 A: No sir.
- 20 Q: Have you communicated with them otherwise either by
- 21 phone or Skype or some ...
- 22 A: Yes sir, on Skype.
- 23 Q: Okay. Where are you living right now?
- 24 A: I live with my mom.
- 25 Q: And where is that?

- 1 A: It's on Broad Street.
- 2 Q: Is it out near Shaw?
- 3 A: Yes, sir.
- 4 Q: The little brick house across from - before you get
- 5 to Shaw Airport if you're leaving on the left?
- 6 A: Yes, sir.
- 7 Q: And who do you live there with?
- 8 A: My mother, step-dad, and my sister.
- 9 Q: Ceasar and Jasmine?
- 10 A: Yes, sir.
- 11 Q: Where did you live prior to that?
- 12 A: I lived with my dad.
- 13 Q: And that's Richie Hornak?
- 14 A: Yes, sir.
- 15 Q: Where was his residence? Where'd you stay with him?
- 16 A: He was on Griffin Lane.
- 17 Q: I'm sorry?
- 18 A: Griffin Lane.
- 19 Q: And where did you live prior to that?
- 20 A: Nowhere else.
- 21 Q: So you stayed with your dad, Richie, until you moved
- 22 with your mom?
- 23 A: Yes, sir.
- 24 Q: Where does your grandmother, Sharon Wazney, and at
- 25 the time Robert Wazney, where did they live?

1 A: It's on Hideaway.

2 Q: Hideaway?

3 A: Yes, sir.

4 Q: And did you ever go to their house?

5 A: Yes, sir.

6 Q: Would you ever go to spend the night?

7 A: Yes, sir.

8 Q: Did you go there a lot?

9 A: Yes, sir.

10 Q: How long have you known the defendant, Robert
11 Wazney?

12 A: All my life.

13 Q: Can you tell the ladies and gentlemen of this jury -
14 what was your relationship like with him when you
15 were a little girl?

16 A: We were like friends.

17 Q: What do you mean by that?

18 A: We would like play together and stuff. Normal
19 grandfather and granddaughter.

20 Q: Did there come a point in I guess your life that
21 that seemed to change?

22 A: Yes, sir.

23 Q: And that's what we're here about isn't it?

24 A: Yes, sir.

25 Q: Can you tell these folks what's the first time that

1 you remember that that changed? Or something
2 different?

3 A: Yes, sir.

4 Q: Can you tell them what you remember?

5 A: Yes, sir. My cousin was in town. He lives in
6 Pennsylvania and he brought me a keyboard because I
7 like to play instruments. While I was testing it in
8 the computer room, Waz was in there and the whole
9 family went in the living room and Waz was with me.

10 Q: And your cousin, who was this cousin Marian?

11 A: Steven.

12 Q: What was Steven's last name?

13 A: (Inaudible).

14 Q: Is that how one of the reasons you remember this
15 incident?

16 A: Yes, sir. Because I don't see him much.

17 Q: Where does Steven live?

18 A: Pittsburgh. Near Pittsburgh.

19 Q: Okay. Who did you get this --- tell us about the
20 keyboard.

21 A: He has his own band and ...

22 Q: Who does?

23 A: My cousin Steven. And he gave me one of his
24 keyboards saying that he didn't se anymore and it
25 was a ...keyboard.

1 Q: And did you try it out?

2 A: Yes, sir.

3 Q: Okay. And I think the initial question we got on
4 this was there some point when your relationship
5 changed with the defendant. How does that relate to
6 what you're talking about now?

7 A: We were sitting together on the couch in the
8 computer room and everybody was in the living room
9 and I was playing with it. And we had like a best
10 friend kind of relationship.

11 Q: Say it again.

12 A: We had a best friend kind of relationship.

13 Q: You and the defendant, Robert Wazney?

14 A: Yes, sir. And I told him something like I was
15 curious like being touched by a boy but I didn't
16 think that he would do anything.

17 Q: What was going on in your world during this time?

18 A: I was just playing the keyboard.

19 Q: Did you have many friends?

20 A: No sir.

21 Q: Did Wazney know that, the defendant?

22 A: Yes, sir.

23 Mr. Keffer: Objection Your Honor.

24 Q: Did y'all talk about that?

25 A: Yes, sir.

1 The Court: Let me deal with that objection. Tell me
2 what your basis is.

3 Mr. Keffer: Speculation Your Honor. Doesn't lay the
4 foundation as to what my client knew or state of mind or
5 anything.

6 The Court: Okay. I'll sustain that objection. You
7 need to lay a better foundation.

8 Mr. Meadors: I apologize if jumped ...

9 The Court: That's okay.

10 Q: Did you and Wazney, Defendant Wazney, talk about
11 your friends or lack of friends?

12 A: Yes, sir.

13 Q: Was he your friend then?

14 A: Yes, sir.

15 Q: Was he your best friend?

16 A: Yes, sir.

17 Q: And you said you had a conversation with him about
18 what at the keyboard?

19 A: I said something about I was curious about a boy,
20 being touched, but I didn't really think there would
21 be action. I was telling him like a best friend
22 conversation.

23 Q: Like a what friend? A best friend?

24 A: Best friend, Yes, sir.

25 Q: What happened next?

1 A: He tried. He put his hand under my clothes but then
2 I got up and left.

3 Q: And how did he put his hand under --- where on your
4 clothes did he touch you?

5 A: Around my vagina area.

6 Q: And was it on the outside of your clothes or ...

7 A: No, sir.

8 Q: When was this?

9 A: I can't remember the day. I believe it was four or
10 five years ago.

11 Q: What year were you in the seventh grade?

12 A: Say it again.

13 Q: In the seventh grade, where were you in school?

14 A: Alice Drive.

15 Q: Alice Drive.

16 A: Yes, sir.

17 Q: And do you remember that 2010 and 2011 year?

18 A: Yes, sir.

19 Q: With that as a backdrop, where did this incident
20 happen at the keyboard, with the defendant?

21 A: Towards the end of my seventh grade year.

22 Q: Towards the end of your seventh grade year?

23 A: Yes, sir.

24 Q: And again, that would've been 2010, 2011?

25 A: Yes, sir.

1 Mr. Meadors: Your Honor, may I bring this down?

2 The Court: Yes, sir.

3 Mr. Meadors: Mr. Miller tells me that the jury may
4 be having a hard time hearing you. If they are, will you
5 please speak up. I don't know if they are or not but if
6 you will ...

7 Ms. Hornak: Yes, sir.

8 Mr. Meadors: Thank you.

9 Juror: I'm having trouble trying to decipher whether
10 she's saying yes sir or no sir.

11 Mr. Meadors: Thank you. Please be clear. I know
12 you're being polite but please say it.

13 Ms. Hornak: Yes, sir.

14 Q: So in the seventh grade, I believe you said that was
15 2011 to 2012 is your testimony?

16 A: Yes, sir.

17 Q: Strike that. 2010, 2011. I wrote it down wrong.

18 A: (Nods head affirmatively).

19 Q: Say yes sir if you ...

20 A: Yes, sir.

21 Q: It's your testimony, 2010 to 2011 you were in the
22 seventh grade?

23 A: Yes, sir.

24 Q: That was my mistake there. I apologize okay? Did
25 this incident happen - you said it happened at the

1 end of your seventh grade year?

2 A: Yes, sir.

3 Q: Where did it happen?

4 A: At Nana's house.

5 Q: Say it again.

6 A: At Nana's house. Sharon's house.

7 Q: Okay now I haven't asked you before, is Sharon your
8 grandmomma? And you call her?

9 A: Nana.

10 Q: Nana. You call the defendant?

11 A: Waz.

12 Q: Waz. And what street's that on?

13 A: Hideaway.

14 Q: May 2011 --- May of 2011, if you were born on July
15 21, 1997, you were thirteen?

16 A: Yes, sir.

17 Q: Is that right?

18 A: Yes, sir.

19 Q: So the incident that you just talked about happened
20 when you were thirteen?

21 A: Yes, sir.

22 Q: Was that the first time the defendant had touched
23 you in that way?

24 A: Yes, sir.

25 Q: Prior to that, what there any touching prior to

1 that? Just regular old touching, I call it. Or
2 hugging or anything prior to that?

3 A: Hugging.

4 Q: Hugging?

5 A: Yes, sir.

6 Q: Did you ever kiss him? Did he ever try to kiss you?

7 A: Yes, sir. That same day.

8 Q: I didn't understand - did you just say yes sir?

9 A: Yes, sir.

10 Q: Okay, and that same day?

11 A: Yes, sir.

12 Q: And how did he try to kiss you?

13 A: When people were leaving and everybody was outside
14 the house and he turned me around and tried to
15 french kiss me.

16 Q: I can't hear you. Say again what you just said.

17 A: Everyone was outside the house and he turned me
18 around and tried to french kiss me and we were
19 kissing.

20 Q: French kissing you?

21 A: Yes, sir.

22 Q: And did you know what that was when you were doing
23 it?

24 A: No sir.

25 Q: Had you ever done that before?

1 A: No sir.

2 Q: What was the reaction when he did that?

3 A: I pushed him away.

4 Q: And that was the same time you were talking about?

5 A: Yes, sir.

6 Q: Did something happen after that Marian?

7 A: The same day?

8 Q: That was a terrible question. You took it very
9 literal the way I said that and that was an awful
10 question.

11 A: Sorry.

12 Q: Was there any more contact from Mr. Wazney of a,
13 that kind of nature to you? Of a sexual nature to
14 you after that, either that day or later?

15 A: Yes, sir.

16 Q: Okay. Can you tell these folks about that? The
17 best you can remember the next time that in your,
18 you remember something happening that wasn't like it
19 was when you were little.

20 A: Yes, sir. He took me to school every day. He
21 picked me up from school every day and my sister.
22 And I got out later than my sister so my sister, he
23 would drop my sister off first and he would come
24 pick me up and then he slowly got into after school,
25 he would touched me.

1 Q: Where did your sister go to school?

2 A: Millwood Elementary.

3 Q: Ma'am?

4 A: Millwood Elementary.

5 Q: And where would you be when he would try to touch
6 you after he picked your sister up and came and got
7 you?

8 A: In the car.

9 Q: What kind of car was it?

10 A: He picked me up in different cars.

11 Q: Can you tell us about each one of them?

12 A: Yes, sir. The red Fiero, black Thunderbird, and I
13 think that's all. And I don't think he had his blue
14 truck at the time.

15 Q: You say you do not think he had his blue truck at
16 the time?

17 A: No, sir.

18 Q: Let me ask you now ...

19 Mr. Meadors: Let me beg the Court's indulgence.

20 Q: The time you're talking about right now, when he
21 picked you up and took you or picked you up from
22 school, when was that?

23 A: Eighth grade.

24 Q: Okay so would that be 2011, 2012?

25 A: Yes, sir.

1 Q: Prior to you starting the eighth grade, prior to
2 2011, was there any other improper touching or
3 anything else inappropriate, in your mind, between
4 you and granddaddy, defendant, Robert Wazney?

5 A: Yes, sir.

6 Q: When was that?

7 A: My fourteenth birthday. July 21st.

8 Q: July 21 of 2011?

9 A: Yes, sir.

10 Q: Marian Alexandria Hornak turned fourteen?

11 A: Yes, sir.

12 Q: And would you ever go anywhere to spend the night
13 before your fourteenth birthday?

14 A: Yes, sir.

15 Q: Okay, where would you go?

16 A: I would spend the night with my grandmother.

17 Q: That's Mrs. Sharon Wazney?

18 A: Yes, sir.

19 Q: Wife of defendant, Robert Wazney?

20 A: Yes, sir.

21 Q: Do you remember anything about your fourteenth
22 birthday as it relates to Robert Wazney?

23 A: We were playing video games late in the computer
24 game and he wanted, it was like my grandmother went
25 to bed and he told me he had put some sleeping

- 1 medicine in her drink so that she would stay asleep.
- 2 And he wanted to, he wanted me to suck him off for
- 3 the first time and give him oral.
- 4 Q: I'm sorry sweetie, but he wanted you to suck him off
- 5 for the first time and what?
- 6 A: And give him oral.
- 7 Q: Give him oral?
- 8 A: Yes, sir.
- 9 Q: And had that happened prior to your birthday?
- 10 A: No sir.
- 11 Q: And did he ask you to do that?
- 12 A: Yes, sir.
- 13 Q: And where were you when that happened?
- 14 A: Computer room.
- 15 Q: On what address?
- 16 A: Hideaway.
- 17 Q: And where was Nana, Sharon Wazney?
- 18 A: She was asleep.
- 19 Q: Had anything else happened between, I'll call it
- 20 keyboard, you've told us about somewhere toward the
- 21 end of the school year and birthday?
- 22 A: Yes, sir.
- 23 Q: Do what?
- 24 A: Yes, sir.
- 25 Q: Well, I'll come back to that. Go to your birthday.

1 Finish telling us about your birthday.

2 A: That's really all that happened. He told me he put
3 sleeping medicine in my grandmother's drink and he
4 wanted me to give him oral. Then he came in my
5 mouth and I spit it out.

6 Q: I have to do this for the record; he put his penis
7 in your mouth?

8 A: Yes, sir.

9 Q: Had you ever done that before?

10 A: No sir.

11 Q: Did you say something came out?

12 A: Yes, sir.

13 Q: What did you do?

14 A: I spit it out.

15 Q: And that was the night of your birthday?

16 A: Yes, sir.

17 Q: Where would you usually go on your birthday or the
18 night before your birthday?

19 A: I would spend the night with Sharon and we would go
20 to Columbia and birthday shopping for clothes.

21 Q: I'm thinking, if I ask you between the keyboard,
22 which you testified was sometime the end of seventh
23 grade year, which would be September to May?

24 A: Yes, sir.

25 Q: That school year September 2010 to May 2011?

1 A: Yes, sir.

2 Q: I believe your testimony was toward the end of the
3 school year 2011, initially the keyboard, you
4 testified this happened on July 21, or the night
5 before your birthday correct?

6 A: Yes, sir.

7 Q: I asked you if anything happened in between there
8 and you said it had?

9 A: Yes, sir.

10 Q: What happened in between there as best as you can
11 remember?

12 A: It was regular touching under clothes.

13 Q: Where had that happened and....

14 A: I'm sorry.

15 Q: I'm sorry. That's the place. And your answer
16 was...

17 A: It was in the car, in his car.

18 Q: Okay, where? Where was the car? I'm sorry.

19 A: When he picked me up from school, he usually did it
20 in the McDonald's parking lot. Or at a house down
21 the street.

22 Q: Or at your what?

23 A: Or at a house down the street.

24 Q: And you're not sure which car? Would he change
25 cars?

1 A: Yes, sir.

2 Q: Describe the windows on these cars.

3 A: They were tinted very dark.

4 (State's Exhibit Number 49 was marked for I.D.)

5 Q: I'll show you what's marked as State's 49. Just
6 tell me does it, do you recognize it as it relating
7 to what you were just talking about?

8 A: Yes.

9 Mr. Meadors: Your Honor, we're offering State's 49.

10 Mr. Keffer: No objection Your Honor.

11 Mr. Meadors: There are two of them that we just got.

12 We could staple them together, it might just make it
13 easier. 49.

14 The Court: State's exhibit what?

15 Mr. Meadors: 49, without objection.

16 The Court: It's in without objection.

17 (State's Exhibit Number 49 was marked)

18 Q: And is that second page the same picture?

19 A: Yes, sir.

20 Q: Different view but the same object?

21 A: Yes, sir.

22 Q: Is that the car that --- one of the cars that had
23 the tinted windows?

24 A: Yes, sir.

25 Q: Would it have happened in this car some?

1 A: Yes, sir.

2 Q: Where would you be sitting?

3 A: In the passenger seat.

4 Q: During 2011, after your birthday, how were you and
5 Robert Wazney, the defendant, communicating?

6 A: Through texting.

7 Q: Did you email?

8 A: Yes, some.

9 Q: Can you email on your phone too?

10 A: Yes, sir.

11 Q: So would y'all email or text back and forth?

12 A: Yes, sir.

13 Q: I don't know what to call it, but when you're
14 sending emails back and forth, that's a text and
15 email?

16 A: Yes, sir.

17 Q: Did you communicate with him in that way?

18 A: Yes, sir.

19 Q: You knew his email site?

20 A: Yes, sir.

21 Q: He knew yours?

22 A: Yes, sir.

23 Q: And y'all would communicate back and forth that way?

24 A: Yes, sir.

25 Q: Did you have any other, I don't want to ask you

1 about your friends, but did you have any other
2 people closer to your own age you were communicating
3 with during this time?

4 A: Not much.

5 Q: Okay. Was it somebody who lives outside the
6 country?

7 A: Yes, sir.

8 Q: Is that, yes, sir?

9 A: Yes.

10 Q: Okay. Who was that?

11 A: I have a pen pal in Japan.

12 Q: And did you ever meet this person in person?

13 A: No sir.

14 Q: And when did you start pen palling?

15 A: It was in middle school.

16 Q: So during this time period, 2010, 2011, you'd been
17 still communicating?

18 A: Yes, sir.

19 Q: How did that come about?

20 A: I had a twitter and I was interested in learning
21 that culture better so I would talk to what they
22 call pen pals. It's like an online friend and we
23 would talk on twitter.

24 Q: Did you enjoy doing that?

25 A: Yes, sir.

1 Q: Did Robert Wazney become aware of that?

2 A: Yes, sir.

3 Q: What was his reaction to that?

4 A: He seemed angry about it. He always asked me to
5 send him screenshots of our conversations.

6 Q: With you and this person from Japan?

7 A: Yes, sir.

8 Q: And what did you --- he asked for screenshots?

9 A: Yes, sir.

10 Q: And did you do that?

11 A: Yes, sir.

12 Q: What would you do?

13 A: I would do the screenshot of the emails that we sent
14 and email them to him on his cell phone.

15 Mr. Meadors: Beg the Court's indulgence.

16 The Court: Okay.

17 Mr. Meadors: Your Honor, I guess, it's okay if I
18 approach when doing this?

19 The Court: Yes.

20 Q: I'm going to show you what's marked State's 15
21 that's in evidence. Is that any of it that you sent
22 to Robert Wazney?

23 A: Yes, sir.

24 Q: And what is that?

25 A: It's my screenshots of my conversations.

1 Q: So you had a conversation with your pen pal in Japan
2 and you would sent him a copy of it?

3 A: Yes, sir.

4 Q: And again, why did you do that?

5 A: He was upset about me talking to someone.

6 Q: He was upset because what?

7 A: He was upset about me talking to other people.

8 Q: Now did he tell you that?

9 A: Yes, sir.

10 Q: So State's 15 is a copy of the email of your
11 conversation with your pen pal that you sent to
12 Robert Wazney?

13 A: Yes, sir.

14 Q: State's 17.

15 A: Yes, sir.

16 Q: What is that?

17 A: Another screen shot of my conversations.

18 Q: How would you describe your relationship with this
19 person? With this person?

20 A: We were like best friends. We talked about
21 everything.

22 Q: State's 16. What is that?

23 A: Another screenshot of our conversations.

24 Q: And who's email were they sent from?

25 A: They were sent from my email.

1 Q: And who were they sent to?

2 A: Waz.

3 Q: Robert Wazney?

4 A: Yes, sir.

5 Q: Just read that screenshot on that. What does it
6 say?

7 A: We were talking about picture and I was talking
8 about --- he was saying something about - I'll have
9 to read it first. Oh we were just talking about
10 classes.

11 Q: About what?

12 A: About classes.

13 Q: Classes?

14 A: Yes, sir.

15 Q: How old's this person?

16 A: How old's this person? I believe in his twenties.

17 Q: Do you know his name?

18 A: Hiabachi(sp).

19 Q: I'll get you that spelling later on to the court
20 reporter. I apologize.

21 The Court: Okay.

22 Q: Japanese fellow?

23 A: Yes, sir.

24 Q: State's 18. Is this another text that you sent to
25 Robert Wazney that memorialize your conversations

1 with this Japanese individual?

2 A: Yes, sir.

3 Q: Did you want to send him these screenshots of your
4 conversations?

5 A: No sir.

6 Mr. Meadors: Beg the Court's indulgence.

7 Q: On the top of 16, is that your, Marian Hornak. Is
8 that you?

9 A: Yes, sir.

10 Q: And Robert Wazney?

11 A: Yes, sir.

12 Q: Above that it's got a message and a notation. What
13 does that say?

14 A: It says happy now.

15 Q: Happy now?

16 A: Yes, sir.

17 Q: Was that to Robert?

18 A: Yes, sir.

19 Q: Now why did you put that on there?

20 A: I believe we were arguing at the time about this so
21 I sent the screenshots and asked him "Are you happy
22 now?"

23 Q: So it's your testimony that he was jealous of your
24 relationship with this person?

25 A: Yes, sir.

1 Q: How many times were y'all communicating daily
2 Marian?

3 A: A lot. Throughout the day.

4 Q: Ma'am?

5 A: Throughout the day.

6 Q: And I guess it went over into your eighth grade
7 year, 2011 and 2012 you may have started to say
8 something earlier. What other types of sexual
9 activities between you and Robert Wazney occurred?

10 A: He started fingering me in the car in ninth grade.
11 He would pick me up if I was sick because nobody
12 else could pick me up.

13 Q: Nobody what?

14 A: Because nobody else could pick me up, he would pick
15 me up.

16 Q: And what grade were you in?

17 A: Eighth grade.

18 Q: Where were you going to school then?

19 A: Alice Drive.

20 Q: And you're still, at this point, fourteen correct?

21 A: Yes, sir.

22 Q: You were still fourteen?

23 A: Yes, sir.

24 Q: Because I guess you stay fourteen for the next
25 school year since your birthday is in the summer?

1 A: Yes, sir.

2 Q: Specifically, when he'd pick you up, this would be
3 after school?

4 A: Yes, sir.

5 Q: Specifically what would you do during the school
6 year 2011, 2012?

7 A: He would pick me up after school. He would go to
8 McDonald's parking lot.

9 Q: He did what?

10 A: The McDonald's parking lot. We would go there and
11 he would finger me there.

12 Q: Vaginal penetration?

13 A: Yes, sir.

14 Q: Had you ever had that happen to you by any other man
15 prior to this?

16 A: No sir.

17 Q: Did you touch his privates during 2011, 2012?

18 A: Yes, sir.

19 Q: And would that happen in the car?

20 A: Yes, sir.

21 Q: I hate to ask you this but how did it happen? Tell
22 us how it happened. I'm sorry to ask you to tell
23 us.

24 A: The first time it happened, he grabbed my hand and
25 put it there.

1 Q: He grabbed your what?

2 A: My hand and put it there. And it went on from
3 there. And he would touch me through my clothes and
4 then he'd unzip his pants.

5 Q: Do you want to cry?

6 A: No sir. I'm okay.

7 Q: It's alright if you do. Who would undo his pants?

8 A: He would

9 Q: And the first time, he put your hand on his
10 privates?

11 A: Yes, sir.

12 Q: Alright. Where was he working during this time
13 during 2011, 2012? Robert Wazney, the defendant,
14 where was he working?

15 A: Batteries Plus.

16 Q: Batteries Plus. What did he do there?

17 A: I guess stocking.

18 Q: Stocking?

19 A: Stocking and lifting.

20 Q: Did he have a manager role there or do you know?

21 A: I don't, I'm not sure. I think so.

22 Q: Did you ever go to Batteries Plus with the
23 defendant?

24 A: Yes, sir.

25 Q: Do you remember when you would go?

1 A: Yes, sir.

2 Q: Tell these folks.

3 A: I went there if I was sick from school. He would
4 pick me up. And my family worked there often, also.

5 Q: The last part? Tell some of them what?

6 A: My family worked there often, also.

7 Q: What did you do when you were there?

8 A: When I went there like chilling with everybody. I
9 would go in his office and play on the computer.

10 Q: Was it ever just the two of you, Robert Wazney, at
11 Batteries Plus?

12 A: Yes, sir.

13 Q: And did you ever, did anything non-grandpa-like
14 happen there as far as a sexual nature?

15 A: Yes, sir.

16 Q: Tell them - tell them about this. Tell them about
17 that. What do you remember happening at Batteries
18 Plus?

19 A: In my eighth grade year, I was sick often so he had
20 picked me up and we went to work. And I remember
21 this day because my nurse was complaining.

22 Q: I'm having a hard time, what?

23 A: My nurse was complaining about me being absent.

24 Q: And what happened?

25 A: We went to his work and he put a ten minute break on

1 his door and he wanted me to do anal.

2 Q: He what?

3 A: Anal. He wanted me to do anal.

4 Q: Did you know what that was? I guess, did you know
5 what he was talking about?

6 A: Yes, sir.

7 Q: Alright. What happened?

8 A: So he tried and it hurt too much. And beause of
9 that I gave him oral. I think three or so times
10 because I didn't want to do anal.

11 Q: Was that punishment? You say you did it three or
12 more times since you couldn't do that. Explain,
13 what is that? What are you saying?

14 A: The anal hurt too much so I --- he wanted me to do
15 oral.

16 Q: That's the way he ---- and did you?

17 A: Yes, sir.

18 Q: And this was in the eighth grade school year?

19 A: Yes, sir.

20 Q: Do you remember was it the first part or the end or
21 you don't?

22 A: It was towards the end.

23 Q: So at the end of the school year of the eighth
24 grade, 2012.

25 A: Yes, sir.

1 Q: School usually gets out in May?

2 A: First of June.

3 Q: First of June. Of 2012?

4 A: Yes, sir.

5 Q: Still not fifteen yet are you? Where we are in your
6 story. I know you're seventeen now. What you're
7 telling, you were still fourteen?

8 A: Yes, sir.

9 Q: And did you ever go back to Batteries Plus where any
10 other type of sexual activity occurred?

11 A: Yes, sir. That happened later on.

12 Q: When did that happen?

13 A: I believe it was summer and I was working there ...

14 Q: I'm having a hard time hearing you. You were what?

15 A: I'm sorry. I was working there so I wanted to get
16 out. So I worked there for a few days but when I
17 was working there, there was that time he liked oral
18 a whole lot and there was the plunger stick.

19 Q: When was the plunger stick.

20 A: It was the end of my eighth grade year over summer
21 time.

22 Q: When you were fourteen or fifteen?

23 A: I believe I was fifteen.

24 Q: You turned fifteen when?

25 A: July 21st.

1 Q: Okay. Of 2012?

2 A: Yes.

3 Q: And you said --- when would the plumber stick have
4 been. Was it before your fifteenth birthday or
5 after?

6 A: I believe it was after.

7 Q: Tell us about what happened.

8 A: He ..when I was there, he liked oral a lot and one
9 time when I was there, he was sitting --- he wanted
10 to use a plumber's stick on me, actually. Do you
11 want me to explain how?

12 Q: Yes ma'am.

13 A: He was in the storage room. It's now the office.
14 But when I was there, it was a storage room and he
15 had a chair in there and he was sitting on the
16 chair. And he wanted me to give him oral while I
17 was on the plumber's stick. I was rocking back and
18 forth on the plumber's stick.

19 Q: Had you ever done that before?

20 A: No sir.

21 Q: When you testified a minute ago, I thought you said
22 that was towards the end of your eighth grade year.
23 Do you remember specifically when it was?

24 A: I don't remember specifically.

25 Q: Where were you in the store when this happened?

1 A: In the storage room.

2 Mr. Keffer: Your Honor, just note our objection that
3 we noted earlier.

4 The Court: Okay.

5 Q: Do you recognize this?

6 A: Yes, sir.

7 Q: Does this relate to the testimony you just gave?

8 A: Yes, sir.

9 Q: Is this the plumber's stick that he asked you ---
10 for the record, what did he ask you to do with it?
11 Or what happened with this?

12 A: He wanted me to grind up on it while I was sucking
13 him.

14 Q: Was this in your body?

15 A: Yes, sir.

16 Q: And what were you doing to him when this happened?

17 A: Giving him a blow job.

18 Q: And that's what Robert Wazney asked you to do?

19 A: Yes, sir.

20 Q: At Batteries Plus?

21 A: Yes, sir.

22 Q: Put this inside of you?

23 A: Yes, sir.

24 Q: Okay. That's your granddaddy.

25 A: Yes, sir.

1 Q: And you did it? And you gave him oral sex.

2 A: Yes, sir.

3 Mr. Meadors: I think it --- 48. I think it's in.
4 We offered 48. Pending the coming from the store Judge,
5 we have a witness that brought it from that store. I
6 understand. So 48 for ID. I do apologize. I'm sorry.
7 48 for the record for identification.

8 The Court: Okay.

9 (State's Exhibit Number 48 was marked for id)

10 Q: Staying in your eighth grade year, what kind of
11 emails, in addition to the ones we discussed, with
12 you and Wazney, or the defendant, excuse me, Robert
13 Wazney, send each other?

14 A: Some were just regular YouTube links. Some random
15 pictures, some things were inappropriate.

16 Q: I want to show you what's marked as State's number 1
17 in evidence. Who is this email from?

18 A: It's from Waz to me.

19 Q: And you say Waz. Is that Robertwazney@gmail.com?

20 A: Yes, sir.

21 Q: From him?

22 A: Yes, sir.

23 Q: To who?

24 A: To me.

25 Q: Okay, what was your gmail address?

1 A: Sumtersunshine@gmail.com.

2 Q: Sumtersunshine. Sumtersunshine, was that your name?
3 Sumtersunshine, your gmail account or whatever it
4 is?

5 A: Yes, sir.

6 Q: That was you?

7 A: Yes, sir.

8 Q: And what was written underneath that?

9 A: He wrote check it out and had a website to it.

10 Q: And did you check it out?

11 A: Yes, sir.

12 Q: And did you look at it?

13 A: Yes, sir.

14 Q: And what was it related to?

15 A: Mostly about sex and masturbation.

16 Q: Sex, masturbation, diseases?

17 A: Yes, sir.

18 Q: Did Waz ever sit down and try to talk to you about
19 the birds and the bees?

20 A: No sir.

21 Q: Does it have anything here about sexual variety?

22 And I'm sorry to ask you this but did he send you
23 those? Does it have anything your grandpa sent you
24 about sexual variety?

25 A: Yes, sir.

1 Q: What does it say?

2 A: One is sixty-nine, ...play, eating feces, once
3 sixteen and more.

4 Q: Once sixteen and more. What did you do for your
5 fifteenth birthday on July 21, 2012? On the night
6 before? On or about July 21st, either the night
7 before or the day of, what did you do?

8 A: On that night I was spending the night with my
9 grandmother then.

10 Q: Sharon Wazney.

11 A: Yes, sir.

12 Q: Who else lived there?

13 A: Robert Wazney.

14 Q: The defendant. Go ahead.

15 A: And it was late again. I believe Sharon and Robert
16 got into a fight so she left and then he came back
17 in and wanted to do the sixty-nine.

18 Q: Had you ever done that before?

19 A: No sir.

20 Q: And how did you learn how to do it?

21 A: I didn't know how.

22 Q: Okay. And then - but did he -

23 A: He told me what to do.

24 Q: So he put each of you in that position?

25 A: Yes, sir.

1 Q: And where was this?

2 A: In the computer room at Sharon's house.

3 Q: On Hideaway?

4 A: Yes, sir.

5 Q: In Sumter County?

6 A: Yes, sir.

7 Q: On or about your birthday; September 21st - excuse
8 me, July 21, 2012?

9 A: Yes, sir.

10 Q: And did you go there the night before your birthday?

11 A: Yes, sir.

12 Q: Spend the night? Did you stay there for your
13 birthday?

14 A: Yes, sir.

15 Q: And that's when this happened?

16 A: Yes, sir.

17 Q: At this point in your relationship with the
18 defendant, did you realize this wasn't a usual
19 grandparent, granddaughter relationship?

20 A: Yes, sir.

21 Q: Did you ever tell anybody?

22 A: No sir. Actually, especially towards the end, I
23 tried, I told him to give me like a month break
24 because I was tired of it. And he was angry about
25 it but we did but I continued on past a month and he

- 1 was very angry about that.
- 2 Q: When was that? When are you talking about?
- 3 A: When I tried stopping it. Towards the end of 2013.
- 4 Q: So in the fall of your ninth grade year, would that
- 5 have been 2012, 2013?
- 6 A: Yes, sir.
- 7 Q: That's the school year?
- 8 A: Yes, sir.
- 9 Q: And you're now fifteen when you start?
- 10 A: Yes, sir.
- 11 Q: From your first sixty-nine on your birthday here
- 12 that you've testified about, was there any
- 13 inappropriate granddaddy/granddaughter contact
- 14 between there and when you started the school year?
- 15 A: Yes, sir.
- 16 Q: Okay. Can you tell us about that?
- 17 A: He picked me up from school so it's there in the
- 18 parking lots.
- 19 Q: Starting this school year?
- 20 A: Yes, sir.
- 21 Q: Okay and what school were you in this 2012, 2013?
- 22 A: Sumter High School.
- 23 Q: So you're now at Sumter.
- 24 A: (Affirmative response).
- 25 Q: So you're a freshman?

1 A: Yes, sir.

2 Q: This was your ninth grade year?

3 A: Yes, sir.

4 Q: And you say he would pick you up?

5 A: Yes, sir.

6 Q: And specifically where would he pick you up?

7 A: At Sumter High School.

8 Q: And I'm just not doing a good job. It's my fault.
9 Where at Sumter High School did he pick you up?

10 A: It was either in the parking lot, the teacher
11 parking lot, across the road, or just pick me up
12 normally where everyone else picks me up.

13 Q: And what activity would happen in that car, if
14 anything? Did he do something to you in the car?

15 A: Yes, sir. He would either finger me or do oral.

16 Q: Do oral. Does that mean he'd have you give him oral
17 sex?

18 A: Yes, sir.

19 Q: Were you getting tired of it?

20 A: Yes, sir.

21 Q: How often during your freshman year - you were
22 fifteen when this happened 2012 to 2013?

23 A: It was almost --- it was like everyday.

24 Q: Were y'all still communicating by text then or
25 whatever these things are? Emails?

1 A: Yes, sir.

2 Q: Did there come a point where Jasmine was - was he
3 picking up you and Jasmine during the year you just
4 talked about?

5 A: Yes, sir.

6 Q: Your first ninth grade year, what was going on with
7 Jasmine as far as how she was getting home from
8 school?

9 A: It changed. Sometimes she would be in the car too
10 when he picked me up.

11 Q: And where would she be sitting?

12 A: In the back seat behind me.

13 Q: And sometime you'd be alone?

14 A: Yes, sir.

15 Q: In the time when you said you wanted to stop and you
16 got angry and wanted a break was that this school
17 year or next school year?

18 A: Next school year.

19 Q: Okay. That's 2013 to 2014?

20 A: Yes, sir.

21 Q: That would be your tenth grade?

22 A: Yes, sir.

23 Q: What grade are you in now?

24 A: I'm in eleventh grade.

25 Q: Sumter High School's in Sumter County isn't it?

1 A: Yes, sir.

2 Q: And that's where you would give him oral sex in the
3 parking lot?

4 A: Yes, sir.

5 Q: Was it in the car that's tinted windows?

6 A: Yes, sir.

7 Q: Could you see, could YOU see, have trouble seeing in
8 that car if you were outside?

9 A: Yes, sir.

10 Q: With your own eyes? You'd have a hard time?

11 A: Yes, sir.

12 Q: At the Mcdonald's you were talking about earlier,
13 back in your eighth grade. What school was that
14 year?

15 A: Millwood.

16 Q: So back to your freshman year, during this year, he
17 assaulted you either by putting his penis in your --
18 - did he put his penis in your mouth?

19 A: Yes, sir.

20 Q: And you were in the car?

21 A: Yes, sir.

22 Q: Did that happen anywhere else? During this school
23 year? Your freshman year?

24 A: It was just usually in the car most of the time.

25 Q: Your freshman year?

1 A: Yes, sir.

2 Q: Now, I don't know how, we've talked about
3 everything. You know what a sex toy is?

4 A: Yes, sir.

5 Q: And did ever, did grandpa ever introduce you to the
6 world of sex toys?

7 A: Yes, sir.

8 Q: And how did he do that?

9 A: At his job, he had a vibrator. He had a remote
10 control one shaped like an egg and he had another
11 one that was silver with a black tip on the side.

12 Q: Did he get you to put one of those inside of you?

13 A: Yes, sir.

14 Q: Okay. Where did that happen?

15 A: In his car. In his truck.

16 Q: Did it ever happen at Batteries Plus?

17 A: Yes, sir.

18 Q: Did you say "yes, sir?"

19 A: Yes, sir.

20 Q: When was that Marian Hornak?

21 A: During eighth grade year.

22 Q: So the eighth grade year was the remote control egg
23 that happened at Batteries Plus?

24 A: Yes, sir.

25 Q: And you said also in the car?

1 A: Yes, sir.

2 Q: That was eighth grade year?

3 A: Yes, sir.

4 Q: Had you ever seen one of those before?

5 A: No sir.

6 Q: Had you ever used one of those before?

7 A: No sir.

8 Q: And I'm sorry but did he activate it?

9 A: Yes, sir.

10 Q: Did you like it?

11 A: No sir.

12 Q: Did you ask him to do it again?

13 A: No sir.

14 Q: Staying on your freshman year, what time would he
15 pick you up from school?

16 A: Around three o'clock.

17 Q: And your sister had gotten off - did she get out at
18 a different time?

19 A: Yes, around two o'clock.

20 Q: So when he picked you up some, you said some with
21 her some without?

22 A: Yes, sir.

23 Q: When he was without, had Jasmine already gotten
24 home?

25 A: Yes, sir.

1 Q: And how had she gotten home?

2 A: He would take her home. My brother was being home
3 schooled so he would babysit her.

4 Q: And then he'd come back and get you?

5 A: Yes, sir.

6 Q: You mentioned something earlier about it - did he
7 ever make you or force you to swallow his semen?

8 A: Yes, sir.

9 Q: Tell us about that. Where did that happen?

10 A: In the car at the McDonald's parking lot, whenever
11 he ejaculated, he would tell me to swallow it.

12 Q: I mean would he say "swallow it"? I mean did he
13 tell you, did you know he was --- how did you know
14 he wanted you to?

15 A: He would get angry if I didn't.

16 Q: So did you do it?

17 A: Yes, sir.

18 Q: Did you want to do that?

19 A: No sir.

20 Q: Did there come a point where you left your daddy and
21 went to live with Nana?

22 A: Yes, sir.

23 Q: When was that? If you can ...

24 A: September. It was in the fall of, before he was
25 arrested, I believe 2013.

1 Q: Did there come a time, either in that time period or
2 somewhere else, where you tried to get him to stop?

3 A: Yes, sir.

4 Q: And how did you do that?

5 A: I texted him about it and talked to him about it and
6 asked for a month. I believe that was during ...

7 Q: You asked for what?

8 A: I asked him to just give me a month, like just give
9 me a month break. And that was during the summer, I
10 believe in August. So a month before I moved to in,
11 I asked him for a break.

12 Q: Did there come a point where you stopped, stopped
13 swallowing his ejaculation?

14 A: Yes, sir.

15 Q: Did he get mad at that?

16 A: Yes, sir.

17 Q: And you say he would get angry. Did he ever do
18 anything at the school to show he was angry?

19 A: Yes, sir. When I was living with them, he would
20 take me to school and when he was mad, he gets
21 really big outbursts so he started, he was driving
22 recklessly and then he dropped me off and he revved
23 his engine up in front of everybody at school.

24 Q: Was it embarrassing?

25 A: Yes, sir.

1 Q: And he was mad at you?

2 A: Yes, sir.

3 Q: Did he ever do anything with your WiFi?

4 A: Yes, sir.

5 Q: What'd he do?

6 A: He would turn off almost all our communications I
7 had with anybody.

8 Q: Did you - was there any other times that he got you
9 to use a sex toy that you can remember?

10 A: Yes, sir. My grandmother had one of those in his
11 drawer in his room and when he moved it to the
12 bathroom closet and he wanted me to use it.

13 Q: Did you do it?

14 A: Yes, sir.

15 Q: You did?

16 A: Yes, sir.

17 Q: Did he ever ask you to do anything to his anus?

18 A: Yes, sir.

19 Q: What did he ask you?

20 A: One day he wanted me to give him oral and he asked
21 me to finger him while I was doing it.

22 Q: When would that take place?

23 A: In his computer room at Sharon's house.

24 Q: Hideaway?

25 A: Yes, sir.

1 Q: When was that?

2 A: The computer room. It's in the back corner.

3 Q: I messed up on my question. Time frame, when was
4 that?

5 A: It was during when I was living with them.

6 Q: Were you depressed?

7 A: Yes, sir.

8 Q: State's number 2. An email from Wazney to you?

9 A: Yes, sir.

10 Q: Does one of those pictures depict a lady with her
11 legs upside down almost?

12 A: Yes, sir.

13 Q: Another one sitting on a table or it looks like a
14 stool looks like they've got ...

15 A: Yes, sir.

16 Q: State's 3 that's a message to you from Wazney.

17 State's 3?

18 A: Yes, sir.

19 Q: Does it say from Robert Wazney to ...

20 A: Yes, sir.

21 Q: Summersunshine. That's you?

22 A: Yes, sir.

23 Q: Okay and what's that titled?

24 A: How to know if you're loved by the one you love.

25 Q: How to know if you're loved by the one you love.

1 Did he love you?

2 A: He said he did.

3 Q: Did he seem to love you in a more than a granddaddy
4 way?

5 A: Yes, sir.

6 Q: More of an adult way?

7 A: Yes, sir.

8 Q: He didn't like you talking with your pen pal?

9 A: No sir.

10 Q: Wanted those screenshots. From Wazney to
11 Sumtershine June 29, 2011. I'm sorry to ask you to
12 do that but read the first sentence. Read it out
13 loud.

14 A: Only once in your life I truly believe you find
15 someone who can completely turn your world around.

16 Q: That was Waz sending a message to you wasn't it?

17 A: Yes, sir.

18 Q: Did you also send pictures to him?

19 A: Yes, sir.

20 Q: State's 5 is a picture you sent him?

21 A: Yes, sir.

22 Q: What was that about, do you know?

23 A: It's just a cartoon maker.

24 Q: That was dated July 14, 2011. August 16, 2011 is
25 State's 6. It appears to be a bunch of pictures of

1 younger folks showing boots and legs. Do you
2 remember that?

3 A: Yes, sir.

4 Q: That was sent from Wazney to you?

5 A: Yes, sir.

6 Q: Do you know why, did y'all talk about it or did he
7 tell you why he sent those to you?

8 A: Yes, sir.

9 Q: Please tell the ladies and gentlemen of the jury.

10 A: He sent me a bunch of pictures of Japanese girls
11 with a certain fashion and he thought it was hot and
12 he wanted me to dress that way.

13 Q: Did he ever make any promises to you about sending
14 you to Japan?

15 A: No sir but I did talk to him a lot about it.

16 Q: About what?

17 A: Going to Japan.

18 Q: Is that what you wanted to do?

19 A: Yes, sir.

20 Q: And did he start to get interested in Japan?

21 A: Yes, sir.

22 Q: State's 7. What's the title of that?

23 A: He wrote whatever and the website put on it it says
24 lovingyou.com.

25 Q: State's 8 appears to be some Japanese symbols there.

1 And what's the whatever you call that blue thing the

2 ...

3 A: It was ehow.com about pains during menstruation.

4 Q: State's 19 was a picture that you sent?

5 A: Yes, sir.

6 Q: What was that?

7 A: It was an art idea.

8 Q: A what?

9 A: It was an art idea of people kissing.

10 Q: This was sent to Robert, and then it's got
11 Robertwazney@gmail.

12 A: Yes, sir.

13 Q: Was this his gmail account too?

14 A: Yes, sir.

15 Q: Did y'all ever --- did y'all text back and forth,
16 did y'all ever have any signals like if Nana came in
17 or somebody came in at Batteries Plus where you let
18 each other know let's don't signal or something?

19 A: Yes, sir.

20 Q: What was that?

21 A: If there was ever an emergency that somebody took my
22 phone or something, I could delete the messages
23 really fast and send him a period and that would let
24 him know not to text me.

25 Q: That indicated to you that he knew what he was doing

1 was wrong?

2 A: Yes, sir.

3 Q: And you knew the relationship was wrong didn't you?

4 A: Yes, sir.

5 Q: But you were fourteen and fifteen.

6 A: Yes, sir.

7 Q: He was your granddaddy.

8 A: Yes, sir.

9 Q: This is State's 20, working through these. Did
10 Robert --- it says Robert Wazney sent these to you?

11 A: Yes, sir.

12 Q: First picture on here is a young lady. What, if
13 anything, did he tell you about that?

14 A: He said it looked like me.

15 Q: Did that look like you?

16 A: Yes, sir.

17 Q: Does the picture look like folks kissing?

18 A: Yes, sir.

19 Q: Some other pictures in here. Did he ever talk to
20 you about that picture?

21 A: Yes, sir.

22 Q: And this came from your granddaddy?

23 A: Yes, sir.

24 Q: And what did he tell you about this picture?

25 A: He thought it looked hot. I guess he wanted to try

1 it.

2 Q: And the next picture is emails he sent you?

3 A: Yes, sir.

4 Q: What's that a picture of?

5 A: Two people kissing.

6 Q: That's right after the two lips picture?

7 A: Yes, sir.

8 Q: He send you this?

9 A: Yes, sir.

10 Q: Kisses kept are wasted. Love is to be tasted.

11 There's some you love, tell them so. Lips go dry

12 and eyes go wet waiting to be warmly met. Keep in

13 not waiting yet, kisses kept are wasted. Granddaddy

14 send you that?

15 A: Yes, sir.

16 Q: Granddaddy send you that?

17 A: Yes, sir.

18 Q: That? Say that one more time. Granddaddy send you
19 this?

20 A: Yes, sir.

21 Q: What about this from the same email State's 20?

22 A: It was blind love.

23 Q: How do you know that?

24 A: He told me about it because of the age difference

25 and since he was married to my grandmother, he was

1 like, he was saying love is blind, you can love
2 anybody.

3 Q: He told you that?

4 A: Yes, sir.

5 Q: And he didn't mean granddaddy, granddaughter love
6 did he?

7 A: No sir.

8 Q: Then this is on there?

9 A: Yes, sir.

10 Q: This is on there?

11 A: Yes, sir.

12 Q: This is on there?

13 A: Yes, sir.

14 Q: And that's all of State's 20. You sent him some
15 sketches?

16 A: Yes, sir.

17 Q: For the jury, all of these are in evidence. That's
18 State's 21. Now State's 22 from you to Waz?

19 A: Yes, sir.

20 Q: Tell me what this is. State's 22.

21 A: This is the same thing that I read with the once in
22 your life and I was just resending it to him.

23 Q: I'm sorry. What?

24 A: I was just resending him the same message he sent
25 me.

1 Q: That's what I thought. That was once in your life I
2 truly believe you find someone who completely turns
3 the world around?

4 A: Yes, sir.

5 Q: Now this is State's 23. Please explain, and you
6 sent this right?

7 A: Yes, sir.

8 Q: State's 23 - we're getting closer to the end okay?

9 A: Yes, sir.

10 Q: State's 23 you sent this to your grandfather, Robert
11 Wazney. Can you explain why you sent, what this is
12 and why you sent it?

13 A: It was my new shirt and he wanted to see me wear it
14 and send him pictures.

15 Q: It doesn't have your face in it?

16 A: No sir.

17 Q: State's 24. What is that?

18 A: It was a joke about me sleeping in bed in cuddling.

19 Q: Sleeping in bed cuddling?

20 A: Yes, sir.

21 Q: And you sent that?

22 A: Yes, sir.

23 Q: Cuddling.

24 A: Yes.

25 Q: And that was May 15th of 2012.

1 A: Yes, sir.

2 Q: And you would've been at the end of your eighth
3 grade year. Right?

4 A: Yes, sir.

5 Q: When you initially said the plumber's stick happened
6 at the end of that, the end of the school year.

7 May 2012. Do you remember that?

8 A: Yes, sir.

9 Q: And then later, July 21st was the sixty-nine?

10 A: Yes, sir.

11 Q: Is that the kind of relationship you had with your
12 granddad then?

13 A: Yes, sir.

14 Q: This love, those sexual encounters.

15 A: Yes, sir.

16 Q: I'm not fussing, I'm just asking. Here's something
17 you sent to him. Are you romantic?

18 A: Yes, sir.

19 Q: State's 27 are those pictures you sent to Waz?

20 A: Yes, sir.

21 Q: From the defendant, Robert Wazney. You sent your
22 granddaddy these pictures?

23 A: Yes, sir.

24 Q: He wanted you to send him pictures?

25 A: Yes, sir.

1 Q: So these are pictures of you and your granddaddy
2 together?

3 A: Yes, sir.

4 Q: State's 28?

5 A: Yes, sir.

6 Q: The fellow you've been talking about, this is him
7 right over here right?

8 A: Yes, sir.

9 Q: It does sound --- you're saying, yes, sir.?

10 A: Yes, sir.

11 Q: More pictures of you and your granddaddy, State's
12 29?

13 A: Yes, sir.

14 Q: Y'all making a funny face together?

15 A: Yes, sir.

16 Q: State's, this is July 21st, 2012. What's that a
17 picture of?

18 A: It was me on my birthday.

19 Q: So this would've been around your fifteenth
20 birthday?

21 A: Yes, sir.

22 Q: Do you remember where y'all went that night?

23 A: We were at Pizza Lane.

24 Q: In the incident you've told these ladies and
25 gentlemen about where he told you about sixty-nine,

1 showed you about sixty-nine, did it happen around
2 this birthday?

3 A: Yes, sir.

4 Q: And it happened at where?

5 A: At his house in the computer room. Hideaway.

6 Q: And here's a picture of you on July 21st, 2012.

7 That's at Pizza Lane?

8 A: Yes, sir.

9 Q: The incident you told this jury about with the
10 sixty-nine at their residence, did it happen before
11 the birthday or after?

12 A: Before.

13 Q: Okay so the night before?

14 A: Yes, sir.

15 Q: When you went to stay with Waz and Sharon?

16 A: Yes, sir.

17 Q: I think you said something about it earlier - did
18 you go shopping that next day?

19 A: Yes, sir.

20 Q: Was it your habit to go over to your grandmomma's
21 and your granddaddy's on your birthday?

22 A: Yes, sir.

23 Q: Here's something about crystal art you sent to
24 Wazney?

25 A: Yes, sir.

- 1 Q: Crystal art.
- 2 A: Yes, sir.
- 3 Q: Picture of you in your pajamas?
- 4 A: Yes, sir.
- 5 Q: That he sent to you. Is that one night you stayed
- 6 over there?
- 7 A: No sir.
- 8 Q: December 24th, 2012.
- 9 A: Yes, sir.
- 10 Q: What is that?
- 11 A: My grandmother buys us pajamas before Christmas and
- 12 it was just a picture of me trying them on.
- 13 Q: State's 35 is something you sent to Waz?
- 14 A: Yes, sir.
- 15 Q: And one of them is about a guess who just got laid?
- 16 A: Yes, sir.
- 17 Q: You sent that to him?
- 18 A: Yes, sir.
- 19 Q: About ...
- 20 A: Yes, sir.
- 21 Q: Is that the type of relationship y'all had?
- 22 A: Yes, sir.
- 23 Q: You sent inappropriate things?
- 24 A: Yes, sir.
- 25 Q: He sent them to you? When you were fourteen and

1 fifteen?

2 A: Yes, sir.

3 Q: How old's Waz?

4 A: Forty-two.

5 Q: Young man. Forty-eight? You don't know his
6 birthday? That's fine. He's older than you isn't
7 he?

8 A: Yes, sir.

9 Q: According to the indictment, he's older than you
10 isn't he?

11 A: Yes, sir.

12 Q: Forget his birthday. He's older than you are.

13 A: Yes, sir.

14 Q: Pictures of you on a horse on here?

15 A: Yes, sir.

16 Q: Riding a horse you sent to Waz? A picture of you in
17 a dress, sundresses?

18 A: Yes, sir. It was my sixteenth birthday.

19 Q: July 14, 2014, July 14, 2013, July 14 pictures of
20 you in a dress.

21 A: Yes, sir.

22 Q: Is that your birthday dress?

23 A: Yes, sir.

24 Q: Did anything happen that birthday?

25 A: No sir.

1 Q: You didn't save all the emails did you? Or did you?

2 A: Yes, sir.

3 Q: Pictures of you smelling a flower. July 14.

4 A: Yes, sir.

5 Q: And that's 2013 for the record.

6 A: Yes, sir.

7 Q: 42 and 43.

8 Mr. Meadors: Judge, I'm going through these as

9 quick as I can. I just...

10 Q: Who's this fellow down here on State's 44?

11 A: That's my brother.

12 Q: Here's a picture of you and your friends?

13 A: Yes, sir. That was at my birthday dinner.

14 Q: And that's birthday July 24, 2013? Excuse me, July

15 24, 2013 is when you sent them?

16 A: Yes, sir.

17 Q: Robert Wazney sent them to you July 24. You say

18 that's from your birthday?

19 A: Yes, sir.

20 Q: I need to slow down. I'm sorry. State's 45,

21 another picture of your dress?

22 A: Yes, sir.

23 Q: Now this is State's 46. It's got from Robert to

24 you. Where are you right there?

25 A: I was at Batteries Plus.

1 Q: Okay so this is one time at Batteries Plus. What
2 were you doing then do you remember?

3 A: I was working.

4 Q: When did you work at Batteries Plus?

5 A: I don't really remember the date.

6 Q: How long did you work there?

7 A: How long? Not long. Just like a few days.

8 Q: Okay so just a few days.

9 A: Yes, sir.

10 Q: What were you doing there?

11 A: I was doing stocking.

12 Q: Stocking? Just a few of these to go. Here's
13 something you sent to Waz on October 24, 2011
14 regarding your charts, right?

15 A: Yes, sir.

16 Q: Primary sexual, primary romantic, secondary
17 romantic?

18 A: Yes, sir.

19 Q: Okay that's October 24, 2011. You'd have been in
20 the eighth grade?

21 A: Yes, sir.

22 Q: Types of kisses, October 25, 2011? You to Waz. Now
23 there's something here on December 26, 2011 from Waz
24 to you. It says something about designing your own
25 ring and wedding rings on here. State's 12. Tell

- 1 them about that.
- 2 A: I don't recall any conversations but I was
- 3 interested in rings.
- 4 Q: So he sent you pictures of these rings?
- 5 A: Yes, sir.
- 6 Q: What type of rings are they? It says design your
- 7 own what?
- 8 A: Engagement rings.
- 9 Q: Engagement rings. You weren't planning on getting
- 10 married were you?
- 11 A: No sir.
- 12 Q: Did he ever talk to you about a long-term
- 13 relationship with him?
- 14 A: Yes, sir.
- 15 Q: Tell them about that.
- 16 A: He --- relationship, it was weird, it had some love
- 17 in it. And he always said one day, which meant one
- 18 day after I turn eighteen, I'd run away with him.
- 19 Q: He told you that? Did you believe him?
- 20 A: Parts of me did.
- 21 Q: Do you want to believe him?
- 22 A: No, sir.
- 23 Q: July 12, 2011 Robert Wazney to you; love with an
- 24 open heart, more to love, accept the diversity of
- 25 love, don't run away. He send you that?

1 A: Yes, sir.

2 Q: Now State's 30. Is this something you sent to Waz
3 on June 22, 2012?

4 A: Yes, sir.

5 Q: Tell the ladies and gentlemen what this is.

6 A: We were in his truck and he wanted to do a heart and
7 so I believe I took that on my ipod.

8 Q: And who's hands - who's fingers are those?

9 A: It's mine and his.

10 Q: And then he sent it back to you?

11 A: Yes, sir.

12 Q: You sent it to him.

13 A: Yes, sir.

14 Q: I'm sorry. Now is there any way --- would Waz ever
15 ask you to do something to get him stimulated or get
16 him excited?

17 A: Yes, sir.

18 Q: What would he ask you to do?

19 A: Sometimes he liked fingering me and other times he
20 wanted me to suck his fingers.

21 Q: Suck his fingers?

22 A: Yes, sir.

23 Q: And when would you do that?

24 A: That could be anytime. The towels were in the car.

25 Q: And did that get him excited?

- 1 A: Sir?
- 2 Q: Did that get him excited?
- 3 A: Yes, sir.
- 4 Q: Now looking at State's 26, who is that?
- 5 A: That's me and his hand.
- 6 Q: That's his hand?
- 7 A: Yes, sir.
- 8 Q: Is that his finger?
- 9 A: Yes, sir.
- 10 Q: Your granddaddy's finger that you're sucking on?
- 11 A: Yes, sir.
- 12 Q: And where was this?
- 13 A: I believe it was in the truck.
- 14 Q: And who took that picture?
- 15 A: He did.
- 16 Q: Robert Wazney took that picture?
- 17 A: Yes, sir.
- 18 Q: This is State's 47. You brought this to me recently
- 19 didn't you?
- 20 A: Yes, sir.
- 21 Q: Did he give you this box?
- 22 A: No sir. I bought it.
- 23 Q: That's what you kept the stuff in?
- 24 A: Yes, sir.
- 25 Q: Did Robert Wazney give you this stuff?

- 1 A: Yes, sir.
- 2 Q: And what is this? Is this - what are these things?
- 3 A: Those are Japanese symbols...
- 4 Q: These things?
- 5 A: That's a box of hearts.
- 6 Q: And what's this little thing?
- 7 A: I'm not sure what it's called but when you look
- 8 inside of it, it has pretty colors.
- 9 Q: I don't know what this is.
- 10 A: It was a puzzle, I believe, it's just a template.
- 11 That's the same thing.
- 12 Q: All this is part of State's 24. 27. I can't see.
- 13 Sorry. What was this?
- 14 A: It's a Japanese - made out of bamboo and it has mine
- 15 and his name in it.
- 16 Q: It's his name and your name on it?
- 17 A: Yes, sir.
- 18 Q: When did he give you that?
- 19 A: I believe it was eighth grade sometime.
- 20 Q: What's it got inside?
- 21 A: He wrote my name and Mary and then a kissy face.
- 22 Q: What does Mary, what's that? Mary?
- 23 A: That's my nickname.
- 24 Q: And a kissy face?
- 25 A: Yes, sir.

1 Q: And a heart? Is that a heart?

2 A: Yes, sir.

3 Q: Did he also give you this poem in the shape of a
4 heart?

5 A: Yes, sir.

6 Q: And when did you get this?

7 A: I believe in middle school.

8 Q: Can you read that?

9 A: Yes, sir.

10 Q: Please do.

11 A: Only you can see who I am, only you can love me the
12 way I want to be loved. I love you more than you
13 can imagine. It's more than I've ever loved before.
14 As long as we're together, there will never be a

15 dark or lonely night. No matter how far you are
16 away from me. You mean everything to me. It means
17 I have nothing and you have everything. That's the
18 way it has to be. Your smile gives me direction.
19 One day it will happen and all our dreams will come
20 true. My life I dedicate to your happiness. One
21 day my love, one day.

22 Q: What did you think when you read that?

23 A: Like I said one day when I turn eighteen, I could
24 run away with him and nobody could be in the way,
25 so.

1 Q: Did your grandmomma get jealous that you saw - or
2 did she express to you about the amount of time you
3 were spending with your granddad?

4 A: Yes, sir.

5 Q: Did she ever, without saying what she said, did she
6 ever approach you about it?

7 A: Yes, sir.

8 Q: Did you deny the relationship?

9 A: Yes, sir.

10 Q: Why?

11 A: I didn't want anyone to think I was weird or
12 anything. I didn't want drama to happen.

13 Q: You're not weird. Did Robert Wazney, Waz, the
14 defendant, ever tell you what would happen if you
15 told anybody about your relationship?

16 A: Yes, sir.

17 Q: Tell these folks what he said.

18 A: We were in the car and we were driving by Dillon
19 Park and I think it was to his work. And he was
20 getting upset and he said if he ever got caught he
21 would kill me, his boss, and himself.

22 Q: Did he said his boss where?

23 A: At Batteries Plus.

24 Q: He'd kill you, he'd kill his boss at Batteries Plus,
25 and he'd kill himself?

1 A: Yes, sir.

2 Q: Did you believe him when he said that?

3 A: He was tense whenever he said it so, yes.

4 Q: He was what?

5 A: He was tense whenever he told me so yes. And he was
6 driving recklessly.

7 Q: Just a second. I think you've testified this but
8 did there come a point where you wanted the
9 relationship to stop?

10 A: Yes, sir.

11 Q: Now did you have an occasion to talk with an
12 interviewer approximately December 16 of 2013?

13 A: Yes, sir.

14 Q: And you remember that?

15 A: Yes, sir.

16 Mr. Meadors: Can we approach?

17 The Court: Yes, sir.

18 Mr. Meadors: May it please The Court?

19 The Court: Yes, sir.

20 Q: December 16, 2013. I don't have the address but you
21 were talking with someone, an interviewer, about
22 some other family matters, correct?

23 A: Yes, sir.

24 Q: And at that point, you were asked if anybody had
25 touched you correct?

1 A: Yes, sir.

2 Q: What did you tell them?

3 A: I denied it.

4 Q: And why did you do that?

5 A: I was scared, uncomfortable. And I was embarrassed
6 and protecting him.

7 Q: And January 4, 2013, did you talk to a lady named
8 Ms. Wilds?

9 A: Yes, sir.

10 Q: And did you know her as a guardian ad litem?

11 A: Yes, sir.

12 Q: Had you ever met her before?

13 A: No sir.

14 Q: Did you talk to her?

15 A: Yes, sir.

16 (State's Exhibit Number 50 for id)

17 Q: I'm going to ask you to look what's marked as
18 State's 50 for ID only at this point. Do you
19 recognize that?

20 A: Yes, sir.

21 Q: Who wrote that?

22 A: I did.

23 Q: When did you write this?

24 A: I wrote this a few weeks prior before she came.

25 Q: Who was that letter intended to?

- 1 A: It was for my mom.
- 2 Q: And did you give it to your mom?
- 3 A: No sir.
- 4 Q: Why not?
- 5 A: I was thinking of a way to give it to her. I was
- 6 going to put it in her purse or in her car before
- 7 she went to work.
- 8 Q: Your mom's Angela Puente, P-U-E-N-T-E?
- 9 A: Yes, sir.
- 10 Q: How do you pronounce her last name?
- 11 A: Puente.
- 12 Q: Puente. And did you have that letter when Ms. Wilds
- 13 came to talk to you?
- 14 A: Yes, sir.
- 15 Q: And did you give Ms. Wilds that letter?
- 16 A: Yes, sir.
- 17 Q: And does that letter concern you and Waz?
- 18 A: Yes, sir.
- 19 Q: What did he tell you if you ever told? What did he
- 20 say he'd do?
- 21 A: He would kill me, his boss, and himself.
- 22 Q: Now, the person that started touching you with the
- 23 keyboard ...
- 24 A: Yes, sir.
- 25 Q: And the person that on the night before your

1 birthday got you to give him oral sex. The person
2 that touched you in the eighth grade, in the car in
3 Hideaway, at Batteries Plus, the person that put his
4 hands on your body, the person who put his fingers
5 inside of you, the person that you swallowed his
6 semen to start with, then stopped, the person that
7 talked to you about sixty-nine on July 21, 2012, the
8 person that kept assaulting you during your ninth
9 grade year in Sumter County, in a car at Sumter
10 High, McDonalds, at Hideaway, and Batteries Plus,
11 the person that put a vibrator, had you put two
12 vibrators in you, remote controlled, and the person
13 who put this stick inside of you while you gave him
14 oral sex, the person that you wanted to stop. Is
15 that person in this courtroom?

16 A: Yes, sir.

17 Q: Please point him out to the jury.

18 A: (Witness complies).

19 Q: Blue and white shirt next to Mr. Keffer?

20 A: Yes, sir.

21 Mr. Meadors: Let the record reflect she's pointing
22 the defendant out. Beg the Court's indulgence.

23 Q: The person that wrote you that love letter with the
24 heart and the person that had you suck his fingers
25 to get him excited, is that the defendant?

1 A: Yes, sir.

2 Mr. Meadors: That's all. Thank you.

3 The Court: Okay ladies and gentlemen, we're going to
4 take a fifteen minute break. I'll remind you please
5 don't discuss this case. We'll come back in fifteen
6 minutes. Thank you.

7 (Jury exits courtroom 3:14)

8 The Court: You can step down but because you're
9 still on the stand, you can't discuss your testimony with
10 anyone, do you understand?

11 Ms. Hornak: Yes, sir.

12 The Court: Okay. We'll be in recess for fifteen
13 minutes.

14 (Court Break)

15 (Jury enters courtroom 3:30)

16 The Court: Ladies and gentlemen, we're going to have
17 to stop for the day. So I'll ask you to be back at ten
18 o'clock in the morning. I have some other matters I need
19 to deal with. So instead of having you sit around, I
20 remind you don't discuss this case, don't allow anyone to
21 discuss it with you, don't read anything, or don't Google
22 anybody. I'll see you at ten o'clock in the morning. If
23 you have an emergency, please call in and let us know.
24 If not, I expect to see all of you at ten o'clock. Thank
25 you.

1 (Jury exits courtroom for the day at 3:30)

2 A: The Court: Okay, we'll be in recess until nine-
3 thirty tomorrow.

4 Mr. Meadors: Thank you sir.

5 Mr. Keffer: Thank you.

6 (3/25 am)

7 The Court: The State ready?

8 Mr. Meadors: Yes sir, State's ready.

9 The Court: Defense ready?

10 Mr. Keffer: Yes, sir.

11 The Court: Bring in the jury.

12 (Jury enters courtroom 10:03)

13 Bailiff: All the jurors are back in the courtroom
14 Your Honor.

15 The Court: Okay. Alright, if the witness will
16 return to the stand. And I'll remind you: you're still
17 under oath okay?

18 Ms. Hornak: Sir?

19 The Court: You're still under oath from yesterday.

20 Ms. Hornak: Yes, sir.

21 The Court: Mr. Keffer?

22 Mr. Keffer: Yes Your Honor.

23 MARION HORNAK CROSS-EXAMINATION BY MR. KEFFER

24 Q: Good morning Mary. How are you?

25 A: Good morning. I'm good.

1 Q: Do you mind if I call you Mary this morning?

2 A: No sir.

3 Q: Is that your nickname, I think you said yesterday?

4 A: Yes, sir.

5 Q: Mary, we're going to talk about your testimony that
6 you offered yesterday. I want you to do a good job
7 of answering loud and clear like you did yesterday.

8 But we do need to go over some things. As I
9 understand, you're a junior at Sumter High School?

10 Is that right?

11 A: Yes, sir.

12 Q: You are in Honors Chemistry?

13 A: Yes, sir.

14 Q: And you are in Honors Math. Is that right?

15 A: Yes, sir.

16 Q: You're also in the orchestra. Is that right?

17 A: Yes, sir.

18 Q: Your testimony yesterday had to do with certain
19 allegations against the gentleman to my right,
20 otherwise known as Waz. Is that right?

21 A: Yes, sir.

22 Q: Do you recall going to Florence December of 2013?

23 A: For ...

24 Q: For an interview?

25 A: Okay. Yes, sir.

1 Q: At the Durant Center?

2 A: Yes, sir.

3 Q: And I believe that interview was on December 16,
4 2013?

5 A: I believe so.

6 Q: And during that interview, you were videotaped by
7 law enforcement. Is that correct?

8 A: Yes, sir.

9 Q: And you were videotaped for approximately an hour.
10 Does that sound about right?

11 A: I think so.

12 Q: And that had to do with the exact allegations for
13 which we're here today.

14 A: Yes, sir.

15 Q: Is that right?

16 A: Yes, sir.

17 Q: And you would agree with me that Florence is about
18 an hour away?

19 A: Yes, sir.

20 Q: In fact, on that particular day, wasn't that the day
21 that the day that your mother regained custody of
22 you and your siblings?

23 A: I'm not sure.

24 Q: Isn't that what you told the interviewer? That that
25 was the same day?

1 A: I believe so.

2 Q: And as I understand your testimony, you and your
3 siblings were living with Waz and his wife from
4 August until November 2013?

5 A: Yes, sir.

6 Q: That sound about right?

7 A: Yes, sir.

8 Q: And before that you were living with your biological
9 father?

10 A: Yes, sir.

11 Q: And you were removed from your biological father's
12 house due to conditions at the home?

13 A: Yes, sir.

14 Q: Unrelated to this. Just conditions at the home.
15 Would you agree?

16 A: Yes, sir.

17 Q: So it had been a period of time where you were not
18 under the care and custody of your mother. Is that
19 right?

20 A: Yes, sir.

21 Q: And when you went to the Durant Center in Florence,
22 you knew what that interview was about.

23 A: Yes, sir.

24 Q: It wasn't a surprise. Is that correct?

25 A: Yes, sir.

1 Q: And you were questioned extensively about your
2 relationship with Waz?

3 A: Yes, sir.

4 Q: And to be clear, you never referred to Waz as your
5 grandad or grandpa. Is that right?

6 A: I'm not sure.

7 Q: It's always been Waz. Would you ...

8 A: Yes, sir.

9 Q: Would you agree? Okay. And you spent an hour in
10 the car on the way there with your mother, I think
11 your mother took you. Is that right?

12 A: Yes, sir.

13 Q: And you knew what the interview was about.

14 A: Yes, sir.

15 Q: And you were videotaped and it lasted approximately
16 an hour?

17 A: Yes, sir.

18 Q: And would agree with me at no point did you testify
19 or tell that interviewer, that was being videotaped,
20 you didn't say anything about Waz. Is that right?

21 A: No, sir; Yes, sir.

22 Q: I will agree with the prosecutor it's hard sometimes
23 to understand your yes and nos. So if I ask you to
24 repeat, its really for our benefit. So again you
25 would agree that during that hour interview, you

1 never mentioned anything about Waz?

2 A: I believe I mentioned he tried but it didn't go
3 beyond that.

4 Q: Okay. You mentioned that he tried but it didn't go
5 beyond that?

6 A: Yes, sir.

7 Q: You didn't mention anything about Batteries Plus?

8 A: No sir.

9 Q: You didn't mention anything about the plunger?

10 A: No sir.

11 Q: You didn't mention anything about oral sex in front
12 of the high school?

13 A: No sir.

14 Q: You didn't mention anything about anal sex?

15 A: No sir.

16 Q: You didn't mention anything about him picking you up
17 when you were in middle school at Alice Drive?

18 A: No sir.

19 Q: You didn't mention any of those things.

20 A: No sir.

21 Q: And that was December 16, 2013?

22 A: Yes, sir.

23 Q: I want to apologize to the jury for my handwriting.
24 And that's the first time that you were questioned
25 regarding these allegations?

1 A: Yes, sir.

2 Q: And you were questioned by a licensed professional
3 in the State of South Carolina.

4 A: Yes, sir.

5 Q: And that was your understanding. Is that right? At
6 no point did any of this come out? Other than the
7 attempt. You mentioned the attempt. Right?

8 A: Yes, sir.

9 Q: But you didn't go into any specifics about dates,
10 times, or when it started?

11 A: No sir.

12 Q: Is that right? I think yesterday you testified at
13 least on three birthday occasions, these things
14 occurred?

15 A: Yes, sir.

16 Q: But you didn't tell anything to this interviewer.

17 A: No sir.

18 Q: In fact, after that incident, you wrote a letter.
19 Do you recall?

20 A: Yes, sir.

21 Q: And that letter was for your mother.

22 A: Yes, sir. Yes, sir.

23 Q: Is that right? And in that letter, you had stated
24 certain things about these allegations.

25 A: Yes, sir.

1 Q: Would you agree? Do you need to see a copy of the
2 letter to refresh your memory?

3 A: No sir.

4 Q: Are you familiar with the contents of that letter?

5 A: Yes, sir.

6 Q: Would you agree with me that even in that letter,
7 you don't mention anything about Batteries Plus?

8 A: No sir. I mentioned everything --- I mentioned the
9 basics of it.

10 Q: You mentioned the basics of it?

11 A: Yes, sir.

12 Q: In fact, your statement in that letter says that
13 there was no penetration. Do you recall?

14 A: Yes, sir. Yes, sir.

15 Q: Okay, you do recall that. In fact, I think that
16 what you had wrote is he almost put it in. Were
17 those your words?

18 A: I don't remember. I can see the letter if you want?
19 Mr. Meadors: We've got the original here. The copy
20 was put in yesterday. I think he wants to mark this for
21 ID.

22 The Court: Okay.

23 Mr. Meadors: We'll mark this 51 for ID.

24 The Court: Okay.

25 (State's Exhibit Number 51 for id)

1 Mr. Keffer: Your Honor, if I could briefly look over
2 this letter.

3 The Court: Okay.

4 Mr. Keffer: To compare it to the one that I have.

5 Mr. Meadors: It's the same letter.

6 Mr. Keffer: It appears to be the same one, Your
7 Honor.

8 Q: Mary, can you look at State's exhibit number 51 and
9 verify that's your handwriting?

10 A: Yes, sir.

11 Q: That's a front page document. Is that correct?

12 A: Yes, sir.

13 Mr. Meadors: Your Honor, we have no objection if he
14 wants to offer that.

15 Mr. Keffer: I'm not offering that right now, Your
16 Honor.

17 The Court: Okay.

18 Q: In this statement that's in your handwriting, you
19 would agree that that's your handwriting. Is that
20 correct?

21 A: Yes, sir.

22 Q: You don't mention anything about anal sex did you?

23 A: No sir.

24 Q: In fact, your statement goes on to state that there
25 were attempts but he never --- there's no

1 penetration. Would you agree?

2 A: Yes, sir.

3 Q: I'm sorry?

4 A: Yes, sir.

5 Q: Okay. And you wrote this after being interviewed by
6 The State after December 16, 2013. Is that right?

7 A: Yes, sir.

8 Q: Now the copy I have doesn't have a date on it.

9 Could you tell the jury the date you wrote that
10 letter?

11 A: I don't know the date but it was a few weeks --- it
12 was right after this. I believe it was the same day
13 I wrote this.

14 Q: You'd say it was the same day?

15 A: Yes, sir.

16 Q: So the same day that you're interviewed, your
17 testimony is you wrote that letter?

18 A: Yes, sir.

19 Q: And who did you give that letter to?

20 A: I gave it to Ms. Wilds.

21 Q: And when did you give it to Ms. Wilds?

22 A: It was a few days after new years. I believe
23 January 4th.

24 Q: So you had waited til after the holidays? Is that
25 right?

1 A: Yes, sir.

2 Q: Was that letter for Ms. Wilds?

3 A: No sir.

4 Q: Who was that letter for?

5 A: It was for my mom.

6 Q: Why didn't you give it to your mom?

7 A: I was going to give it to her. I was going to put
8 it in her purse, or somewhere where she could find
9 it because I was too embarrassed but Ms. Wilds came
10 and I thought I would just give it to her.

11 Q: You love your mother, is that right?

12 A: Yes, sir.

13 Q: You trust your mother, is that right?

14 A: Yes, sir.

15 Q: You trust your mother?

16 A: Yes, sir.

17 Q: She drove you to the interview session to Florence?

18 A: Yes, sir.

19 Q: And you knew what the interview was about.

20 A: Yes, sir.

21 Q: Now when you were asked in Florence, isn't it true
22 you had told that interviewer that you were molested
23 by an uncle at the age of eleven?

24 Mr. Meadors: Judge you have ruled on this. That has
25 nothing to do with this. She was ten, he was five. No

1 charges came. You've already ruled. He can't ask this.
2 I object.

3 The Court: Okay.

4 Mr. Keffer: Prior inconsistent statement, Your
5 Honor. She was asked specifically about this incident
6 and she identified an uncle when she was aged eleven.
7 It's in the interview.

8 Mr. Meadors: Judge, this has nothing to do with
9 this. You told him not to bring this up.

10 The Court: Come here a minute.

11 (Counsel approach bench without court reporter)

12 The Court: Ladies and gentlemen, I need to send you
13 out for a few minutes. I need to deal with a matter of
14 law. I'll remind you please don't discuss this case.

15 (Jurors exit courtroom 10:16)

16 The Court: Okay. Put your grounds for your objection
17 on the record, please.

18 Mr. Meadors: Your Honor, first of all, we object to
19 Mr. Keffer asking her about a prior sexual encounter.
20 Specifically number one, I thought that, I know we talked
21 about this yesterday. We talked about it Monday and then
22 yesterday. I clarified that it was a ten year old, she
23 was five. It dealt with just underwear. No charges were
24 brought. DSS got involved. It was unfounded. Second of
25 all, there's no prior inconsistent statement she was

1 asked about that incident that he's bringing into
2 question. I think he's just trying to prejudice the
3 jury. I've never seen anything quite like it. I think
4 it was wrong, he said he wasn't going to bring it up. I
5 think, Your Honor's, ruling was it couldn't come up.
6 Before he brought it up, we were going to go before the
7 Court. I, quite frankly, can't believe he asked the
8 question. And nothing came up in her testimony. Didn't
9 ask her about it. First of all, he said he wouldn't. He
10 certainly didn't ask her about it to get a prior
11 inconsistent statement about that. He was asking all the
12 questions about Waz. And the other thing he asked her is
13 the whole interview was about Waz. That's misleading.
14 She was down there about Wilson and something else. So
15 he makes this look like she's down there for an hour
16 about Waz and that's a lie. That isn't even why she was
17 down there. Now he's opening the door and I got to
18 explain everything why she was down there for an hour.
19 She was down there talking about Wilson and the family
20 and this comes up in the conversation and that's just
21 sneaky. That ain't right. And that's opening that - I
22 have almost got to go back and explain why she's down
23 there. She wasn't there for Waz. She was surprised when
24 she was asked about Waz when she was down there. And he
25 knows that. That wasn't the point of this interview.

1 But for this - I don't know what I'm going to ask Your
2 Honor to do. But this - I object to asking her about an
3 incident when she was ten - excuse me, she was five. Her
4 uncle was ten and it had nothing to do with this case.
5 It's not relevant. It's prejudicial to the State.
6 Covered by rape shield, it's got nothing to do with this
7 case. And I don't know why he asked that. I don't know
8 what I'm going to ask Your Honor to do about it.

9 The Court: Do you want to respond?

10 Mr. Keffer: Yes, Your Honor. First of all, she was
11 down at the Durant Center specifically for this incident.
12 The counselor knows that. The forensic interview
13 identifies my client as the offender and for forty-five
14 minutes of video, it is replete with questions about my
15 client. That's exactly why she was there. The second
16 part of this is that she testified for almost two hours
17 yesterday to all these allegations. And I asked her in
18 one of the opening statements does she recall her
19 testimony and allegations to this incident. I was merely
20 trying to point out, as indicated in the report, that the
21 only perpetrator she identified was an uncle. And that's
22 in their report. And to come here to court and say that
23 she had no idea why she was going to the Durant Center is
24 not true. It's right here. Offender: Robert Waz Wazney.
25 It doesn't say anything, there's nothing in here about

1 Wilson being the offender or nothing. It's right here.
 2 So he's aware of that. I'm merely trying to show that
 3 when she was asked about instances she had brought this
 4 up. Now I don't know if it was unfounded. I don't have
 5 that information. I don't know that if there's a DSS
 6 investigation to this uncle. I don't know. I don't have
 7 any of that information. All's I have is this. And when
 8 she was asked about this, that was what she said. That's
 9 all I was trying to point out. I didn't bring up Wilson.
 10 I didn't mention Wilson. I didn't bring up any of that.

11 The Court: Yeah but the problem is earlier when we,
 12 that was an issue in pre-trial before we actually started
 13 testimony about this alleged uncle. And my understanding
 14 that that was covered under rape shield, that you weren't
 15 going there, that I said --- I asked you then to explain
 16 to me how it was an exception to the rape shield statute
 17 and that you're allowed to go there. And you didn't -
 18 you told me you weren't going there and it wasn't an
 19 exception to the rape shield statute. So now...

20 Mr. Keffer: Judge, I wasn't offering it for the
 21 truth of the matter. I was offering it...

22 The Court: You can't offer it for anything.

23 Mr. Keffer: As an inconsistent statement...

24 The Court: Listen. How's it an inconsistent
 25 statement?

1 Mr. Keffer: Because when she was asked about this
2 instance, she brought that up. I don't know what
3 happened in that investigation. My client doesn't have
4 that information. I don't have any of that.

5 The Court: What - I mean, how do you know she
6 brought that up?

7 Mr. Keffer: Because I watched the video and I can
8 read the report.

9 The Court: I understand that but how come y'all
10 didn't tell me that that it was, you know, because I
11 ruled under rape shield statute that you couldn't bring
12 up anything about anybody else or any other potential
13 perpetrator and then you --- that's exact --- we
14 should've dealt --- I need to look at the video then.
15 And how --- I don't know the response to the question and
16 that she's saying. You know, it's one thing if she was
17 asked had she ever been touched inappropriately, if she
18 ever did anything. And she said yeah I was touched
19 inappropriately when I was five years old by my uncle who
20 was ten. That's not admissible. That's not an
21 inconsistent statement. That's covered under the rape
22 shield statute. Now if she, you know, if she's asked
23 about this specific thing and she says, you know, you
24 know why you're here? Yeah because I was molested and
25 they claim that, you know, Waz molested me and it wasn't

1 him at all, it was somebody else. That's a different
2 situation. So I need to know which one was it. A prior
3 inconsistent statement she's saying no it wasn't him, it
4 was somebody else versus were you ever touched
5 inappropriately and she says yeah I was touched
6 inappropriately when I was five. And yeah I was touched
7 inappropriately or never says anything about him. But
8 that's not a prior inconsistent statement, is it?

9 Mr. Keffer: No Your Honor, it's not. To be clear,
10 when we spoke earlier, counselor and I, I was focused on
11 Wilson. I wasn't bringing anything up about Wilson, the
12 brother, or anything like that. I did, however, think we
13 had a right to go back to the forensic interview and get
14 into why, number one: why she was there. And number two:
15 how she presented what she had test- what she at least
16 told the interviewer. Any curative instruction from the
17 Court that The Court finds appropriate is fine.

18 The Court: Well, I don't know how I'm going to cure
19 it. Because I haven't seen the interview. I thought we
20 had all that worked out beforehand. And, you know, you
21 asked about inconsistent statement; how's that
22 inconsistent. Normally inconsistent statement is she's
23 saying now that the defendant did it and she said some
24 other time, somebody else did it. That he didn't do it
25 at all, that's an inconsistent statement. The fact that

1 she had been molested by more than one person in the past
2 is not an inconsistent statement. That's what's covered
3 under the rape shield statute.

4 Mr. Keffer: Well, Your Honor, again, we go back to
5 the basis for the interview at the Durant Center. The
6 video itself and the statements that the interviewer
7 recorded to the interviewer notes to indicate. As she
8 testified, that the only thing she said about my client
9 was improper touching at one point and stopped there.

10 The Court: No you, you bought that out but to bring
11 in something that I thought we ruled on, you know, and I
12 don't know what's in the interview, but if she's saying
13 she was touched inappropriately by somebody else, that's
14 not in here. She's got to claim, you know, that's not an
15 inconsistent statement. Mr. Solicitor.

16 Mr. Meadors: Judge, there's no way it's a prior
17 inconsistent statement. It's just not there. And I ---
18 I mean you ruled on this. I mean he just wasn't going to
19 there and she didn't open the door to it. And it's just
20 going back, trying to pick out a something to prejudice
21 the jury, well, wait a minute, you didn't tell this, but
22 what you did tell them was a sexual assault back by your
23 uncle, back in whenever. I mean, that's just wrong. I
24 don't know what to ask, Your Honor, to do. I need a few
25 minutes to think.

1 The Court: Okay. We'll take a fifteen break. And
2 I'll need to talk to y'all in chambers and then I'll come
3 out here and rule.

4 Mr. Meadors: Thank you.

5 (There was a court break 10:27)

6 (Back on 11:47)

7 Mr. Meadors: May it please The Court?

8 The Court: Yes, sir.

9 Mr. Meadors: Judge, I don't know if I've ever done
10 this but I feel I have no choice based on the testimony
11 that came out just previous before the break. The State
12 is going to respectfully ask, Your Honor, for a mistrial.
13 Based on the questioning of the victim, Marian Hornak by
14 Mr. Keffer, specifically when he asked her when you were
15 asked in Florence, isn't it true that in that interview
16 that you were molested by an uncle at the age of eleven.
17 Your Honor, age of eleven is around when this incident
18 started when she gave testimony yesterday that the
19 defendant had molested her over a course of several
20 years. This was followed up by questioning Mr. Keffer
21 where he said you didn't tell any of this to the
22 interview. But be that it may, I think what we feel is a
23 manifest necessity in this case is prior to her
24 testimony, Your Honor, had ruled that this was not
25 admissible under the rape shield statute. And

1 specifically, this reference came from an interview with
2 Ms. Hornak and she was five. Her uncle at the time was
3 eleven. She wasn't eleven. There wasn't a sexual
4 assault. There was maybe some underwear that were taken.
5 DSS got involved and I'm not sure if it was founded or
6 unfounded. But I think it - but either way, it didn't
7 involve sexual assault. She wasn't eleven. He went to
8 the heart of the issue in this case and after
9 respectfully, Your Honor, had ruled that this was not to
10 come in under the rape shield act. I don't know how to
11 cure it, Your Honor. We were thinking and trying to
12 figure out how to cure it and I don't think it can be
13 cured because it goes to the heart of this issue and to
14 cure it, I think we'd have to bring everything out. We
15 would respectfully ask Your Honor to consider a mistrial
16 under the circumstances of testimony elicited by the
17 defense from the victim, Marian Hornak. Thank you.

18 The Court: Okay. Thank you. Yes, sir.

19 Mr. Keffer: I agree with counsel, Your Honor.

20 The Court: Okay. And I will grant counsel's motion.

21 And I do feel as a manifest necessity, I don't know how
22 to unring that bell with the jury. And the fact that we
23 had dealt with this in pretrial and that I'd asked them
24 whether this was any exception to the rape shield statute
25 and then this alleged incident with the uncle had

1 absolutely nothing to do with this case. It was not a
2 prior inconsistent statement. It wasn't like the law
3 enforcement was investigating a sexual assault and she
4 named some other perpetrator and then changed her story.
5 So this was definitely covered under the rape shield
6 statute. And like I said, I don't know how to cure this
7 with this jury to explain other than telling them about
8 the incident when she was five and her uncle was eleven.
9 And then dealing with why she was present at the
10 interview in the first place without going into evidence,
11 a potential Lyle evidence. That would ultimately may
12 hurt the defense case and I don't know where that would
13 take us but I don't know. In the interest of justice as
14 a manifest necessity. I know of no way that I can unring
15 that bell and give both The State and the defendant a
16 fair and impartial trial. So I'm going to grant your
17 motion. Bring in the jury.

18 (Jury enters courtroom 11:52)

19 Bailiff: All of the jury is back in the courtroom
20 Your Honor.

21 The Court: Okay. Ladies and gentlemen, I apologize
22 for keeping y'all locked up back there, but I had some
23 matters that I had to deal with in the law. And as a
24 result of my rulings on those matters, you will not have
25 to decide this case. So I'm going to send you home. My

1 instructions, or at least they tell me, your fellow
2 jurors are going to have to call back after six o'clock
3 at night to see if we will need you for tomorrow. So if
4 you will call after six o'clock tonight, the recording
5 will be there to tell you to either call back or report
6 back. You have a nice day. Thank you.

7 (Jurors exit courtroom)

8 The Court: Okay, we'll be in recess.

9 (This portion of the trial ended)

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CERTIFICATE

This is to certify that the transcript in the matter of Robert W. Wazney vs. State of South Carolina, consisting of One Hundred Sixty-Seven (167) 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 28thth day of April, 2016.

Melissa R. Singletary

Melissa R. Singletary
Certified Court Reporter

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IN WITNESS WHEREOF I have hereunto set my hand and seal this 28thth day of April, 2016.

Melissa R. Singletary

Melissa R. Singletary
Certified Court Reporter

CERTIFICATE OF REPORTER

170

EXHIBIT

C

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

I, FRANCES B. RAY, Registered Professional Reporter (RPR), court reporter for the State of South Carolina, Third Judicial Circuit, do hereby certify that the foregoing proceeding is a stenographic report and was transcribed through computer-aided transcription; that the foregoing transcript contains a true record of the proceedings.

I further certify that I am neither counsel for, nor related to nor employed by any of the parties connected to the action, nor am I financially interested in the action.

Witness my hand at Florence, South Carolina, this 6th day of August, 2015.

S/Frances B. Ray

FRANCES B. RAY, RPR

INTERVIEW SUMMARY

EXHIBIT

2

171

Client Name: Marian Hornak

Vidiotaped: ☒ yes ☐ no

Age at Interview: 16

Individuals Viewing Interview: None

Date of Interview(s): 12/16/13

Medical Exam: ☐ yes ☒ no

Child able to provide:

Name: ☒ yes ☐ no

Age: ☒ yes ☐ no

DOB: ☒ yes ☐ no

Colors: ☐ yes ☐ no

Oriented to concepts:

Time: ☒ yes ☐ no

Place: ☒ yes ☐ no

Summary of Statements by Child:

The following is a summary of the forensic interview conducted. For complete details, please inquire with the Center about policies regarding viewing the videotape or obtaining a copy. The forensic interview report contains information of a highly sensitive and confidential nature. This information is intended for investigative purposes and is not to be released to any person not employed by the agency with which it has been released. DO NOT PROVIDE THIS REPORT TO PARENTS, CARETAKERS OR ALLEGED PERPETRATORS. All media containing recorded material (i.e. video of recordings of forensic interviews) remains the sole property of the Durant Children's Center. Release of typed forensic reports is not permitted except to investigative agencies or unless a request by order of a subpoena signed by a Judge or Clerk of Court is provided to the Durant Children's Center.

Rapport Building Phase: Marian easily entered interview room.

Introduction to task/ Information gathering- Marian was oriented to the room and rules of the room.

Anatomy Identification / Touch Inquiry/ Abuse scenario- Marian was shown the anatomic drawings.

Closure/Education: Marian was given the opportunity to ask questions.

This interviewer used the above format, in whole or part, to conduct a forensic interview with this child.

See the first four pages of this report. This information was provided by Marian's mother, Angela Puente, on 12/16/13 when Marian was seen for an interview. She did not receive a medical exam. Marian was being interviewed because of concerns that Marian has been molested.

Marian easily entered interview room. She spelled her name, gave her age, date of birth and household information. She was oriented to the room and the rules of the room. Marian agreed to talk about things that really happened, agreed to use "I don't know" and agreed to correct interviewer.

Marian said this morning her mama got custody of her. She said her step-father, Cesar, is "cool".

Marian was living with her Nana and Waz, Robert Wazney. Marian said things were good at Nana's house. Marian said at nana's house Waz cut the wi-fi every night because he thought she was suing it. Marian denied this. She said nana and Waz would fuss and shout but she did not know why. Marian said nana and Waz "were always mad at each other and one small thing happens they blow up on each other". When this happened, Marian said jasmine would cry and Marian would leave the room.

Before she lived with Nana Marian lived with her daddy. She said they had to leave daddy's house because it was "filthy" and there were weapons left out. Marian said they all knew about safety for the guns but did say the house was filthy. She said she returned after being out of the house and couldn't stand the smell. Marian said she had to baby-sit her brother and sister for free and they could be annoying at times. She said recently they have not listened to her as they have in the past. Marian said he daddy told them stories about mama and she didn't like mama. Marian is now realizing the lies daddy told her. Marian said at daddy's house there was little food. She said there would be food but nothing that needed to go with what was in the house to make a meal- for example: Hamburger Helper but no meat and jelly and peanut butter but no bread. Marian said daddy would buy food when nana was coming and Nana thought Marian was lying about the food. Marian said at daddy's house she was yelled at when she was in trouble. Sometimes she was sent to her room.

Marian knew about alcohol and rugs. She said her daddy drinks beer but he doesn't get drunk.

Marian knew what pornography was but denied seeing any. She was shown the anatomic drawings and named body parts on both drawings. Marian said when she was seven or eight, her uncle was touching her. She said she would wake up in the mornings and her pants were down. Her uncle, whom she would not name, was eleven at the time. Marian said she told about her uncle and he got into trouble. She said she has not seen him since.

Marian said Jasmine told them the day before Thanksgiving that Wilson, their brother, "did stuff to her". When asked for more information Marian said touching her, "gross stuff". She denied Wilson doing anything to her. Interviewer asked Marian how Wilson got the idea and she

said they first thought Waz had something to do with hit. Marian said Wilson said the uncle that touched her was doing things to Wilson but she did not know until recently.

Marian said she recently found out that Waz did something to Jasmine. She found out when Jasmine took a lie detector test. When asked what she thought about the allegations she said "it's sick and nasty". Marian said at first she did not want to think anything happened and thought Jasmine was doing it for attention.

Marian said Nana took Wilson to DSS the other day and he is in foster care. Waz is in jail. Marian said at first she was sad about Waz but now "I'm like stay in there". She said she does not cry about it any more. Marian said Waz did not touch her but "almost" did one time. She said "I was a curious person", "nothing really, like just upper leg". Marian said this was three years ago "I guess he just went for it but I kinda got up". She said Nana thinks Waz did something to her because he favors Marian. Marian said Waz did favor her because she was "more mature". She said Nana thinks Waz gave her money because he would not have money right after Nana gave him money. Marian said that sometimes if she asked Waz would give her money. She said she thinks Nana was "jealous of our friendship". Marian said Waz acted "childish" and dressed like a gay thirty year old. She said Waz watches Disney even when they aren't there.

Marian said she has not had sex with anyone. She said she has an abstinence ring and plans to keep her virginity.

Conclusions/Recommendations:

Marian denied any inappropriate touching. Her relationship with Waz is suspect.

Based on the information received the following recommendations are made. These recommendations may be amended after the case is staffed at Durant or at MDT:

1. Marian and her family should be referred for counseling.

Respectfully Submitted,

**Robin Griggs, MA, DCFI
Forensic Interviewer**

SUMTER-LEE REGIONAL DETENT

GRIEVANCE / REA

EXHIBIT

E

174
19734

FROM:

Wazny, Robert

POD/BE

PRINT NAME

DATE: 12-10-13

This form is for your use in filing a grievance or making a request. It must be completed by offender. Step 2 Signatures of Offender and Receiving Officer. Step 3 Action Taken. Step 4 Captains Review. If you need additional space you may use the back of this form. When you have completed this form please give it to a correctional officer who will sign it and place it in the grievance box.

STEP 1:

COMPLAINT TYPE: () Medical () Property () Religious (X) Legal () Other
Nature of Complaint:

HAVEN'T BEEN ABLE TO MAKE 1 ST
PLS. NO C.H. ; NO OFFER AND ONLY OFFICIAL

REQUEST FOR ASSISTANCE:

(1) Medical/Dental

(2) Mental Health/Vocational Rehab/Education

(3) Other I need to call ATTORNEY,
I ALREADY BEEN TO 3RD HEARING
w/o LEGAL ASSISTANCE

STEP 2

Inmate Signature

Grievance Date: 12-6-13

Receiving Officer:

Print Name

Date Received: 12-10-13

Received by:

L.C. Kelley

Date Received: 12-18-13

STEP 3 ACTION TAKEN

You should have gotten a call when you
come in

Action Taken By:

L.C. Kelley

Date Action Taken: 12-18-13

STEP 4

REVIEWED BY: SERVICE CAPTAIN or DESIGNEE

BY:

Signature

R2CS

12-20-13

D-126

comfy, Rel/g/ars, new, Hygiene, Medication, Grooming, Laundry

Robert William Wagner

SUMTER-LEE REGIONAL DETENTION

GRIEVANCE / REQUEST

175
19827



FROM: ROBERT WILLIAM WAGNER POD/BED: 1A-11-13

PRINT NAME

This form is for your use in filing a grievance or making a request. Signatures of Offender and Receiving Officer. Step 3 Action Taken. Step 4 Captain's Review. If you need additional space you may use the back of this form. When you have completed this form please give it to a correctional officer who will sign it and place it in the grievance box.

STEP 1:

COMPLAINT TYPE: (X) Medical () Property () Religious (X) Legal (X) Other

Nature of Complaint:

SINCE I HAVE BEEN ARRESTED AND INCARCERATED
(10 DAYS) I HAVE BEEN DENIED ALL OUTSIDE COMMUNICATION
BY PHONE, MAIL, VISITING, SUPPLY, AND TALKING.
DENIED SICKLE, UNDERWEAR AND ARABESQUE PHYSICAL
THERAPY FROM EACH DAY. DURING ONLY PHYSICAL

REQUEST FOR ASSISTANCE:

ACTIVITY

(1) Medical/Dental

(2) Mental Health/Vocational Rehab/Education

(3) Other

STEP 2

Inmate Signature

Grievance Date: 12-10-13

Receiving Officer:

Print Name

Date Received: 12-16-13

Received by:

Date Received: 12-17-13

STEP 3 ACTION TAKEN

If you have money you will have to buy socks
and underwear. The jail will provide soap, toothpaste
and toothbrush. (all physical activity will resume when the
pod comes off a lock) down.

Action Taken By:

Date Action Taken: 12-19-13

STEP 4

REVIEWED BY: SERVICE CAPTAIN or DESIGNEE

BY:

Signature

Original: Booking Report

Yellow: Captains Copy

Pink: Action Provider

Goldenrod: Detainee Copy

Robert Wagney

SUMTER-LEE REGIONAL DETENTION

GRIEVANCE / REQUEST

EXHIBIT

G

176
NO 19842

FROM: ROBERT WAGNEY
PRINT NAME

POD/BED: D

12-8-13

This form is for your use in filing a grievance or making a request. Step 1 to be completed by offender. Step 2 Signatures of Offender and Receiving Officer. Step 3 Action Taken. Step 4 Captains Review. If you need additional space you may use the back of this form. When you have completed this form please give it to a correctional officer who will sign it and place it in the grievance box.

STEP 1:

COMPLAINT TYPE: () Medical () Property (X) Religious () Legal () Other
Nature of Complaint:

No Christmas cards, writing materials, envelopes, stamps acceptable for religious holiday

REQUEST FOR ASSISTANCE:

- (1) Medical/Dental _____

(2) Mental Health/Vocational Rehab/Education _____

(3) Other _____

STEP 2

Inmate Signature _____

Grievance Date: 12-18-13

Receiving Officer: (H. Dickey)
Print Name

Date Received: 12-18-13

Received by: Lt. C. Kelley

Date Received: 12-23-13

STEP 3 ACTION TAKEN

I'm checking on that now.

Action Taken By: Lt. C. Kelley

Date Action Taken: 12-23-13

STEP 4

REVIEWED BY: SERVICE CAPTAIN or DESIGNEE

BY: _____
Signature

SUMTER-LEE REGIONAL DETENTION
GRIEVANCE / REQUEST FORM



177
19681

FROM: ROBERT WAZUEY INT POD/BED: D 1X1
PRINT NAME

DATE: 12-22-13

This form is for your use in filing a grievance or making a request. Step 1 to be completed by offender. Step 2 Signatures of Offender and Receiving Officer. Step 3 Action Taken. Step 4 Captains Review. If you need additional space you may use the back of this form. When you have completed this form please give it to a correctional officer who will sign it and place it in the grievance box.

STEP 1:

COMPLAINT TYPE: ☒ Medical ☐ Property ☒ Religious ☒ Legal ☒ Other
Nature of Complaint:

SEEK BACK

REQUEST FOR ASSISTANCE:

- (1) Medical/Dental NEED TO CONTINUE PRESCRIBED PHYSICAL THERAPY AND TO HAVE SURGERY
(2) Mental Health/Vocational Rehab/Education NA
(3) Other NA

STEP 2

Inmate Signature: [Signature]

Grievance Date: 12-22-13

Receiving Officer: MC Neese 302C
Print Name

Date Received: 12-22-13

Received by: Lt. C. Kelley

Date Received: 12-23-13

STEP 3 ACTION TAKEN

The lock down situation is out of my control. However I will let the nurse know about your physical therapy.

Action Taken By: Lt. C. Kelley

Date Action Taken: 12-23-13

STEP 4

REVIEWED BY: SERVICE CAPTAIN or DESIGNEE

BY: _____
Signature

I HAVE BEEN ON POO RESTRICTED SINCE
LOCK DOWN

I HAVE COME TO THIS TAIL. WHEN I
WALKED IN THE WHILE POO WAS ON THIS
"Restriction"
LOCK DOWN I FEEL THAT I AM GETTING
UNDER TREATMENT AND AM SUFFERING
PUNISHMENT FROM WHAT SOMEONE ELSE HAS
DONE. (SOMEONE CALLED A C.O. A "BITCH").

There is a list of things NOT AVAILABLE
with this "Restriction"
LOCK DOWN AND I HAVEN'T SEEN
ANY OF IT SINCE MY VISIT. NO PHONE
CALL, WRITING MATERIAL, HYGIENE (DEODORANT),
CHRISTMAS CARDS, LOCKS, UNDERWEAR, PHYSICAL
ACTIVITY, BOOKS ON LAW SUCH AS PRIMA
COKE. PRESCRIBED PHYSICAL THERAPY. THE
CORRECTIONAL OFFICIALS CONTINUE TO SAY THE
"LOCK DOWN/ CUBE RESTRICTION" WILL CONTINUE
SO LONG AS WE KEEP MISBEHAVING. IT HAS
BEEN 16 DAYS W/O ANY OUTSIDE COMMUNICATION
WHAT IF I HAD PETS OR AM A SINGLE FATHER
AND LEFT CHILD AT HOME? I HAVE BEEN
DEVOID THE RIGHT TO REMOY ANY AFFAIRS
OUTSIDE THE WALLS



15/41

179

VOLUNTARY STATEMENT

CASE # _____

LAST NAME <u>Hornah</u>		FIRST NAME <u>Marian</u>		MIDDLE NAME <u>Alexandria</u>	AGE <u>16</u>	D.O.B. <u>7/21/97</u>
NICKNAME/AKA _____		☐ M ☒ P	SSN _____	STREET ADDRESS <u>4254 Broad Street</u>		
CITY <u>Sumter</u>	STATE <u>SC</u>	ZIP <u>29154</u>	MAILING ADDRESS IF DIFFERENT _____			
HOME TELEPHONE _____	WORK TELEPHONE _____	CELL TELEPHONE <u>(803) 607-0035</u>	OCCUPATION <u>Student</u>			
EMPLOYER <u>Student</u>		EMPLOYER ADDRESS <u>Sumter High</u>				
DRIVER'S LICENSE NUMBER/STATE _____		DATE AND TIME OF INTERVIEW <u>1/9/2014 @ 1:25 pm</u>				
LOCATION OF INTERVIEW <u>SCSO 1081 N. Main St. Sumter SC</u>						
INTERVIEWING AGENT <u>E.R. Boland, SK</u>		DEPARTMENT <u>SCSO</u>	INTERVIEWING AGENT _____		DEPARTMENT _____	

1. Marian Hornah

information of my own free will, for whatever purposes it may serve. I can understand I do not have to say anything, and I volunteer the following grade in school. 9th

(MH) Starting in 7th grade (mid 2009) when I was around 13 years of age, (12- MH) I was texted me a lot like he was my best friend. We called a lot esp during the summer. One day, we were at my Nana's house in the computer room playing with a piano size keyboard. I was curious about what it was. Felt like to be touched and since he my best friend, I told him I was curious, but I didn't know he would actually try to touch me. He started to go to my vaginal area (over clothes) but I got too shy and walked out of the room. During that same day, we were leaving to go home (Dad's house). I was the last one to leave out of Nana's house so me and Waz were alone. He grabbed me and tried to kiss me (French kiss). I never kissed anyone in my life and thought it was gross so I backed away. This is how it all started. Since he was picking me up from school everyday from Alice Drive Middle, we had lots of chances. He slowly started touching me over clothes and my breasts. After I became more "used" to the feeling, he started fingering me inside my vagina. He would also grab my hand and actually make me jack off his dick. He would attempt and do this all throughout my 7th grade year. The first time I gave him a blow job was (MH)

I have read each page of this statement consisting of 4 page(s), each page of which bears my signature, and corrections, if any, bears my initials, and I certify that the facts contained herein are true and correct.

Date: 1/9/14 Time: 3:34pmMarian Hornah

Signature of person giving voluntary statement

WITNESS: S.R. Truitt

WITNESS: _____

I certify that I have been given a copy of this statement consisting of 4

VOLUNTARY STATEMENT SUPPLEMENTAL

Marion Harrah
Statement of, Continued.

(114) on my birthday night. I think I was turning 14. I was spending the night with Nana. War put medication in Nana's drink so she would stay asleep through the whole night. Me and War would go play on the x-box in the computer room. During that time around 10 pm at night, he started touching me everywhere such as my boobs and vaginal area. Then he layed on the floor telling me to suck his dick off. It was forced and I thought it was very nasty. He did come in my mouth, but I thought it was so gross, I spit it out.

School is starting again and War picks me up everyday. And everyday, he does more and more. He never took off his pants but always pulled out his dick and make me play with it. I would give him orals almost everyday all school year. After school. Once, I was sick and he picked me up and took me to Batteries Plus. No one else was working there. He tried to give me anal sex, but it hurt so bad, I made him stop. But because of it, I had to give him oral about 3 times that same day! Lies. He would also finger me a few times cause it made him horny. He would also make me do a sexual position called the "69" once and stuck a plumber stick up my vagina (I think that's what it was). All of this was very uncomfortable for me.

On the way home to school almost everyday, he would get his jacket and cover our legs with it so I could jack off his dick when Jasmine (my sister) was in the back seat and so she couldn't see. This happend all school year.

He also tried the "69" again on my 15th birthday night since I spend the night every birthday. (At Nana's)

As ~~Tom~~ ^(my) now a Freshman in Sumter High School, I get off in home after Jasmine gets off of school. Because of this, he would drop Jasmine off at my home and then pick me up from school at 3:30. We would always go ~~to~~ ^{to} the McDonalds parking lot across by the school. (int)

Person giving statement to place initials behind last word of statement as appears on last page.

VOLUNTARY STATEMENT SUPPLEMENTAL

Marian Hornak
Statement of, Continued.

(MH) He got more in depth of what he made me do. He forced me to swallow his cum after giving him an oral, he'd finger me so hard, it hurt for days, and he'd pull my hair forcing me to give him oral. I kept telling him to stop but he'd get mad and start shaking and shouting at me. He even started to cuss me out and argue at me through text messaging. This made me very depressed. Once, we were driving and he told me that if he ever went to jail for molesting me, he would kill me, his boss (batteries Plus) and then himself. I was never free from being molested, never free of getting harsh texts. The sexual touching became worse, the arguing became worse, and my fear was worse.

During the beginning of my 10th grade year (2013), he started to act weirder and a lot more forceful. I texted him in August/September (2013) that we needed to stop. He was very upset with me. He shouted, drove to school wrecklessly, and after dropping me off, he would embarrass me (MH) by rolling up his engine as he left the school. This was the time when he started touching me and other sexual stuff on the school grounds when he ~~was at school~~ (MH) he took me to school in the mornings when I lived with Nana (September-November, 2013) around 7:30-8 am. We did this in the front parking lot at S.H.S.

The last time he did this was when I moved in with my mom after Thanksgiving. War took me and Jasmine to school only once because Cesar had to work early (step dad). We were at the Hangeron gas station and he made me give him a blow job.

During Aug.-November, I tried my hardest to stop him touching me and I stopped swallowing his cum (MH) as I became more disgusted with him. Also, when we moved in with Nana, he cut off his wifi so I couldn't talk (MH)

Person giving statement to place initials behind last word of statement as appears on last page.

SL. Inv. EL [Signature]

Marian Hornak

VOLUNTARY STATEMENT SUPPLEMENTAL

Marian Hornak
Statement of, Continued.

(MH) to my friends and also cut off my phone pictures so I couldn't text my friends pictures and so I ~~wasn't~~ couldn't talk at all. He did this from jealousy since I had guy friends. Most of our texts in the beginning were him trying to get me to be more open with him and was more of a best friend relationship. Last year, the texts and phone calls were arguing about me not being open with him and scaring me. He even made me send a few pics of me naked. Only parts though, not full body or face pictures. I hated it and I didn't know it was illegal till recently. (Was has even let me use a vibrator (was too uncomfortable to use it) and told me ^{where} the ~~vibrators~~ dildos (dick toys) were in his house. He made me use one the time I lived with Nana once and he even made me finger his butt. (once).

I hated all of this and became very depressed during the last few years. The more I tried stopping it, the more angry and forceful he became.

Right now, I believe I have pelvic inflammatory disease and have right side pain and not sure if he is the cause.

The reason I'd send pics was from threat of cutting off my phone completely and his angry outbursts when he got mad.

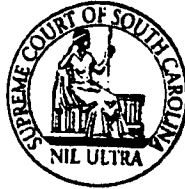
And the pain in my right side has stopped a little bit ever since I made him "play" with me less and ever since ~~that~~ he went to jail. (MH)

(MH)

Person giving statement to place initials behind last word of statement as appears on last page.

SK INV- ELP, SK

Marian Hornak
Signature of person giving voluntary statement



182

South Carolina Court Administration
South Carolina Supreme Court
Columbia, South Carolina

ROSALYN FRIERSON
DIRECTOR

1220 SENATE STREET, SUITE 200
COLUMBIA, SOUTH CAROLINA
29201

October 2, 2015

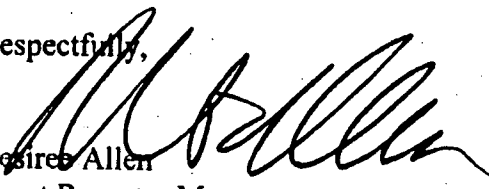
Robert Wazney #3636798
LCI
990 Wisacky Hwy.
Bishopville, SC 29010-1775

Dear Mr. Wazney:

I am writing in response to your letter received on September 30, 2015. In that letter you are inquiring about not receiving a full copy of your transcript.

Please contact your legal representative to determine if you will receive a full copy of this transcript from them. If you have further questions regarding court reporters and/or transcripts, please do not hesitate to contact this office again.

Respectfully,


Desiree Allen
Court Reporter Manager



10-8-15

DESIREE ALLEN
COURT REPORTER MANAGER
1220 SENATE STREET, SUITE 200
COLUMBIA, SC. 29201

RE: TRANSCRIPT FOR WARNEY (MAIN)

DEAR DESIREE ALLEN,

THANK YOU FOR THE SPEEDY RESPONSE
DATED OCTOBER 2, 2015. MY LETTER
YOU RECEIVED FROM ME ON SEPTEMBER
30, 2015 (DATED 9-24-15) HAD TWO
INQUIRIES IN IT.

- #1. A PARTIAL TRANSCRIPT (NO
INITIAL TRIAL INCLUDED)

- #2. THE TRANSCRIPT I RECEIVED
WAS NOT FULLY TRANSCRIBED
[THE CONTENTS ARE INCORRECT
[i.e. I SAID THINGS IN COURT
BUT THE TRANSCRIPT READS
DIFFERENTLY COMPARED TO WHAT
I SAID]]

I WILL COMMUNICATE WITH MY
ATTORNEY ABOUT NOT RECEIVING THE
INITIAL TRANSCRIPT, #1; BUT WHAT
ABOUT #2? IS THERE A SPECIAL
PROCEDURE FOR GETTING AN ACCURATE
COPY OF AN INCORRECT TRANSCRIPT?
I ALSO NEED THE AUDIO AND/OR
VIDEO TAPE. I HOPE YOU CAN HELP.

THANK YOU,

ROBERT WARNEY, SCDL # 363679

- ROBERT WARNEY, SCDL # 363679
LCI

990 WISACKY HWY.

BISHOPVILLE, SC. 29010

RECEIVED
OCT 12 2008
SOUTH CAROLINA
CORRECTIONAL INSTITUTE



186

South Carolina Court Administration
South Carolina Supreme Court
Columbia, South Carolina

ROSALYN FRIERSON
DIRECTOR

1220 SENATE STREET, SUITE 200
COLUMBIA, SOUTH CAROLINA 29201

November 2, 2015

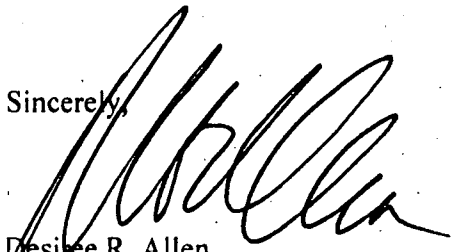
Robert Wazney #3636798
LCI
990 Wisacky Hwy.
Bishopville, SC 29010-1775

Dear Mr. Wazney:

This is in response to your letter dated October 8, 2015. In that letter you are inquiring about pages that are incorrect from your transcript. Pursuant to the transcript challenge procedure you had 30 days from the date your transcript was delivered to notify the court reporter of any discrepancies. Therefore these records are no longer available.

With regard to your request for audio and video there is no provision for obtaining tapes from trials. Pursuant to Rule 607, court reporters are not required to retain those tapes for more than 30 days after the transcript is delivered. The typed written transcript is the official record of the proceedings.

Sincerely,


Desiree R. Allen
Court Reporter Manager

<copy>

EXHIBIT

M

COURT REPORTER MANAGER
1120 SENATE STREET, SUITE 200
COLUMBIA, SC 29201

RE: TRANSCRIPT INQUIRY

TO WHOM IT MAY CONCERN,

I HAVE A QUESTION REGARDING
COURT REPORTERS AND/OR TRANSCRIPTS.

I HAVE AN ISSUE WITH A TRANSCRIPT
BEING ~~REMOVED~~ ERRONEOUS, IF MY
LEGAL REPRESENTATIVE DECIDES NOT TO

~~REPEAL~~ CHALLENGE THE ACCURACY OF

~~A MISCONDUCTED~~ MY TRANSCRIPT, WHAT
OTHER OPTIONS DO I HAVE ~~IN~~ ~~TO~~

TO OBTAIN A CORRECTED COPY AND
AUDIO TAPE/CD OF THE PROCEEDING?

PLEASE SEE ENCLOSED

THANK YOU,

ROBERT WAZWAY

ENCL. (5)

188

Inmate's Name:	SCDC #:	Housing Unit:	Date:
ROBERT WENZLEY	363679	F4-2247	11-4-15

**** Inmate must have the funds in his/her account to pay for the materials.**

Item	Amount
Envelope	
Pen	
Paper	
Postage	
Tape	
Box	
Electronic Repair	
Other	

[illegible]

RECEIVED
NOV 4 2015
FEE CHARGE ROOM
Sub-Total:

**** Inmate is not required to have the funds in his/her account to pay for the materials; however, his/her account must be debited for all materials s/he elects to receive.**

Item	Amount
Envelope	
Pen	
Paper	
Postage	
Other	

COURT REPORTER MANNAGOLD
 1220 SOMERSET STREET
 COLORED 292015

Cost
1.22

**** Inmate may be required to have funds in his/her account. See SCDC Procedure GA-01.03(OP), "Inmate Access to the Courts," to determine if inmate may receive copies with/without funds.**

Item	Amount
Photocopies	

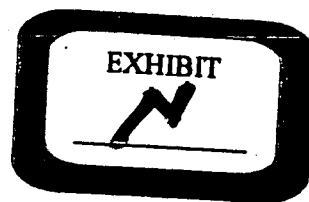
Cost
22

TOTAL

Mailroom/Canteen Signature (Request filled by)

11/4/15
Date

White - Inmate
Canary - Mailroom/Canteen Employee



11-19-15

DESIREE ALLEN

1220 SENATE STREET, SUITE 200
COLUMBIA, SC. 29201

RE: ERRONEOUS TRANSCRIPT

DEAR MS. DESIREE ALLEN,

IN RESPONSE TO YOUR REPLY
ON NOVEMBER 2, 2015 WHICH I RECEIVED
ON NOVEMBER 12, 2015, I DO NOT KNOW
ABOUT THIS RULE BECAUSE I AM NOT
AN ATTORNEY, AND MY APPELLATE ATTORNEY
DID NOT MENTION ANYTHING ABOUT
THIS RULE EITHER.

I DID SEND A COMPLAINT TO
YOU AND DAVID ALEXANDER (APPELLATE
ATTORNEY) ON 9-24-15 INDICATING
THE ERROR(S) WITHIN THE TRANSCRIPT.
IF TIMING IS AN ISSUE, DAVID SENT
THE TRANSCRIPT FROM HIS OFFICE ON
8-24-15 AND I AM IN THE PROCESS
OF OBTAINING THE DATE IN WHICH
I RECEIVED IT FROM THE MAIL ROOM.

HERE AT THE INSTITUTION, I'M SURE
THE COMPLAINT WILL BE WITHIN 30
DAYS, I WILL RELAY THIS INFORMATION
AS SOON AS IT BECOMES AVAILABLE.

WITH REGARDS,



ROBERT WAGNER,

CC: FRANCES GAZIS-RAY RPR
DAVID ALEXANDER

EXHIBIT

0

12-7-15

COURT REPORTER MANAGER

1220 SENATE STREET, SUITE 200

COLUMBIA, SC 29201

RE: TRANSCRIPT FOR 2014-GS-43-0317

DEAR MS. ALLEN:

I HAVE NOT HEARD BACK FROM
MS. SINGLETARY FROM MY PREVIOUS
REQUESTS FOR THE ABOVE MENTIONED
INDICTMENT NUMBER. PLEASE FIND
ENCLOSED A COPY OF:

- MY LATEST REQUEST(S) TO MS.
SINGLETARY
- CLERK OF COURT VERIFICATION
OF THE REPORTERS PARTICIPATION
OF AFORESAID INDICTMENT
FOR YOUR FILES, RECORDS, AND IN-
FORMATION.

ALSO, CONCERNING THE DATE OF
RECEIVING OF THE ERRONEOUS TRANSCRIPT
MENTIONED IN MY 11-19-15 LETTER
ADDRESSED TO YOU. I AM STILL WAIT-
ING FOR A REPLY / ANSWER FROM
THE INSTITUTION. THEY ARE

192

AWARE OF THE ISSUE,

WITH kindest regards,

ROBERT WARNEY 363679

U.S. Postal Service
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com

OFFICIAL USE

DEC 8 2015

Postmark Here

LEE C MAIL ROOM

PS Form 3800, April 2015 PSN 7530-02-000-9047-31 See Reverse for Instructions

Extra Services & Fees (check box, add fee as appropriate)

☐ Return Receipt (hardcopy)	
☐ Return Receipt (electronic)	
☐ Certified Mail Restricted Delivery	
☐ Adult Signature Required	
☐ Adult Signature Restricted Delivery	

Postage

Total Postage and Fees

Sent To

Street and Apt. No. or PO Box

City, State, ZIP+4

PS Form 3800, April 2015 PSN 7530-02-000-9047-31 See Reverse for Instructions

ENCL. (4)

12-7-15

MELISSA RAYE SINGLETARY CUR
2797 STATE ROAD

SUMMERVILLE, SC 29483

RE: THE STATE VS ROBERT WILLIAM WARNEY
CASE NO.: 2014-65-43-0317

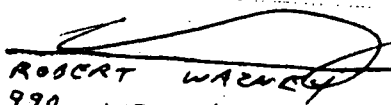
DEAR MS. SINGLETARY:

ON MARCH 23-25, 2015, THE ABOVE CASE
WAS TRIED BEFORE THE HONORABLE RALPH
COTHERAN JR., CIRCUIT COURT JUDGE, IN
SUMTER COUNTY. MY RECORDS INDICATE THAT YOU
WERE THE COURT REPORTER IN THIS CASE.

I REQUEST THAT YOU PROVIDE ME WITH A
TRANSCRIPT OF THE PROCEEDINGS. PLEASE
FULLY TRANSCRIBE THE ENTIRE RECORD. THIS
IS MY THIRD (3RD) REQUEST.

MY D.O.B. 6-1-71; SSAN# 247-71-9677

THANK YOU,


ROBERT WARNEY
990 WISACKY HWY
BISHOPVILLE, SC 29010

CC: EMT AGENT MGR.

194

0009 9459 5000 0490 5102

U.S. Postal Service
CERTIFIED MAIL® RECEIPT
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For delivery information, visit our website at www.usps.com

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RECEIVED

DEC 8 2015

Postmark Here

EE CI MAIL ROOM

Certified Mail Fee 3.45

Extra Services & Fees (check box, add fee as appropriate)

☐ Return Receipt (hardcopy)	
☐ Return Receipt (electronic)	
☐ Certified Mail Restricted Delivery	
☐ Adult Signature Required	
☐ Adult Signature Restricted Delivery	

Postage \$0.00

Total Postage and Fees 3.45

Sent To Melissa Ray Smiley CVR

Street and Apt. No. or PO Box No. 2797 State Road

City, State, ZIP+4® Summerville, SC 29483

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

11-5-15

MELISSA RAY SINGLETARY CVR

2797 STATE ROAD

SUMMERVILLE, SC 29483

RE: THE STATE VS. ROBERT WILLIAM WARNEY
CASE NO. 2014-65-43-0317

DEAR MS. SINGLETARY:

ON MARCH 23-25, 2015, THE ABOVE CASE WAS
TAKEO BEARE THE HONORABLE RALPH COTHRAN JR.,
CIRCUIT COURT JUDGE, IN SUMTER COUNTY. MY
RECORDS INDICATE THAT YOU WERE THE COURT
REDACTED IN THIS CASE.

I REQUEST THAT YOU PROVIDE ME WITH A TRAN-
SCRIPT OF THE PROCEEDINGS. PLEASE FULLY
TRANSCRIBE THE ENTIRE RECORD.

INFO: ROBERT WILLIAM WARNEY; ^{DOB} ~~DOB~~ 6-1-71;
SSAN#: 247-71-9677

SINCERELY


ROBERT WARNEY

LCJ

990 WISNACHY HWY.
BISHOPVILLE, SC 29010

196

14-15-40

Copy

8-4-15

MELISSA RAYE SINGLETARE CVR
2797 STATE ROAD
SUMMERVILLE, SC 29483

RE: 2014-65-43-0317 INDICTMENT

DEAR MELISSA SINGLETARE,
YOU WERE THE COURT REPORTER
FOR JUDGE COYNEAN AND THE ABOVE
REFERENCED INDICTMENT. IF YOU
COULD PLEASE SEND ME A COPY
OF ~~THE~~ ^{ITS} TRANSCRIPT IN ITS
ENTIRETY PLEASE. OP

SEND TO:
- RW
LCZ
890
3, SC

THANK YOU AND
BESS BLESS

NOTARY

WOM



197

SUMTER COUNTY CLERK OF COURT

JAMES C. CAMPBELL

Sumter County Judicial Center ■ 215 North Harvin Street ■ Sumter, South Carolina 29150

Clerk's Office
(803) 436-2227
Fax (803) 436-2223

Family Court
(803) 436-2366
Fax (803) 436-2396

Common Pleas
(803) 436-2228
(803) 436-2231

Jury Information
(803) 436-2233

Fines & Restitution
(803) 436-2230

General Sessions
(803) 436-2264
(803) 436-2265

July 30, 2015

Robert Wazney SCDC # 363679
Lee County Corr Inst.
990 Wisacky Highway
Bishopville, SC 29010

Mr. Wazney,

The court reporter on the 2014-GS-43-0317 indictment
was, Melissa Raye Singletary CVR
2797 State Road
Summerville, SC 29483.

The court reporter on the 2015-GS-43-0333 & 334 indictments
was, Frances Bakis-Ray RPR
555 Jeffries Lane
Florence, SC 29505-2733

You would need to write each court reporter and request a copy of your transcript. We do not keep the transcripts in our records. Also we do not keep a calendar of the Grand Jury meetings since we do not refer back to them.

Clerk of Court's Office

14-15-40

COPY

8-4-15

MELISSA RAYE SINGLETARE CVR
 2797 STATE ROAD
 SUMMERVILLE, SC 29483

RE: 2014-65-43-0317 INDICTMENT

DEAR MELISSA SINGLETARE,
 YOU WERE THE COURT REPORTER
 FOR JUDGE COYNE AND THE ABOVE
 REFERENCED INDICTMENT. IF YOU
 COULD PLEASE SEND ME A COPY
 OF ~~THE~~ ^{ITS} TRANSCRIPT IN ITS
ENTIRETY PLEASE. OP

SEND TO:

- RW

LCZ

890

3, SC

THANK YOU AND

VERY BLESS

NOTARY

NAME



12-9-15

COUNT REPORTER MANAGER
1220 SENATE STREET, SUITE 200
COLUMBIA, SC 29201
RE: ERRONEOUS TRANSCRIPT

DEAR MS. ALLEN,

IN REFERENCE TO MY 10-8-15
LETTER, YOUR 11-2-15 RESPONSE, AND
MY 11-19-15 AND 12-7-15 REPLIES, CONCERNING
ACQUIRING AN ACCURATE TRANSCRIPT.
YOU MENTIONED A 30 DAY NOTIFICATION
REQUIREMENT IN ORDER TO CHALLENGE
THE TRANSCRIPT.

AKIOSA # 15-895240 12-7-15 10:21 AM
AUTHOR <38044> WROTE @ 10:19 AM:

" ... ON 8/28/15 WE RECEIVED IN
OUR OFFICE FROM SCCID A LETTER
THAT YOU RECEIVED AND SIGNED
FOR ON 9/1/15. "

PLEASE REFERENCE YOUR 10/2/15
RESPONSE TO MY ORIGINAL 9/24/15
COMPLAINT ABOUT THE TRANSCRIPT

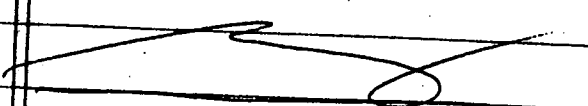
IN QUESTION NOT BEING FULLY
TRANSCRIBED.

WHAT STEPS CAN I TAKE TO
OBTAIN AN ACCURATE TRANSCRIPT?

PLEASE FIND ENCLOSED A COPY
OF THE COVER LETTER SENT TO
ME, FROM MR. DAVID ALEXANDER, WHICH
ACCOMPANIED THE ERRONEOUS TRAN-
SCRIPT.

THIS INFORMATION INDICATES A
COMPLAINT WITHIN 30 DAYS AS IS
REQUIRED. PLEASE LET ME KNOW WHAT
NEEDS DONE NEXT.

THANK YOU,



ROBERT WARNLEY

990 WISACKY HWY.

AISHOPVILLE SC 29010

CC: FRANCES GATTS-RAY APR

DAVID ALEXANDER

ENCLOSURES



SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1387

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

August 24, 2015

Mr. Robert William Wazney, #363679
Lee Correctional Institution
990 Wisacky Hwy.
Bishopville, SC 29010

Re: Your case

Dear Mr. Wazney:

I am the lawyer who will be handling your case in the appellate court. I will be reviewing the record of the proceedings at the trial court to see what legal errors to present to the court on your behalf. I will submit these arguments in the form of a written "brief."

With this letter, I am sending you copies of all hearing transcripts relevant to your case. I will send you copies of the brief when I filed it with the appellate court. Please be patient while the court considers your case. This process is very slow, but there is nothing I can do to speed up the process. It will probably be at least six months before I submit a brief to the appellate court and at least a year after that before the court decides your case. Some cases take even longer. You will be notified when the court makes a decision and letters asking the status of your case do not speed up the process.

Please keep these points in mind. In a direct appeal, the appellate court can only consider the information that was in front of the trial court. Any new information cannot be brought to their attention at this point. The appellate court does not decide guilt or innocence. In general, it only looks to see if the trial judge made errors of law. A reversible error only occurs when your lawyer makes an objection or motion and the judge rules against you when legally he should not have. In addition, usually the error must not have been harmless. That is, the error must be something that could have changed the result of the trial.

Mr. Robert William Wazney, #363679

Page 2

August 24, 2015

In addition, the court decides the case based on the written briefs submitted by the attorney general's office and me. It occasionally sets oral arguments, which are an opportunity for me to focus its attention on the information in the brief. If you are in prison, you cannot attend.

I receive a tremendous amount of mail. I try my best to respond to all letters in a timely fashion, but at times this can be difficult. If there are issues in your case you want me to consider, the best way to let me know about them is to send me a short letter describing them. I will consider your letters when I review and research your case. This does not mean I will include every issue you think is important when I write your brief, but I will read and consider your letters. Please note that the decision about which issues to submit is mine. Only if I submit a "no merits" or Anders brief, stating I could not find any good issues, will the court let you submit your own legal arguments to the court.

You are also free to telephone me collect. An SCDC Telephone Privilege Request has already been submitted for the following number: (803) 734-1330. However, please understand that if you call me soon after you receive this letter, I will not know much about the specifics of your case as it will be some time before I can read your transcript. This is why I suggest that you write me a letter about which issues you think are important so I can have it when I read your transcript. If you wish to telephone me, the best time to reach me is after 2:00 PM. I try to reserve my mornings for research, writing, and thinking. When I get to your case, I am sure you want me to have this undisturbed time during which I can concentrate solely on your issues.

In addition, we are not able to visit our clients personally but feel free to call collect.

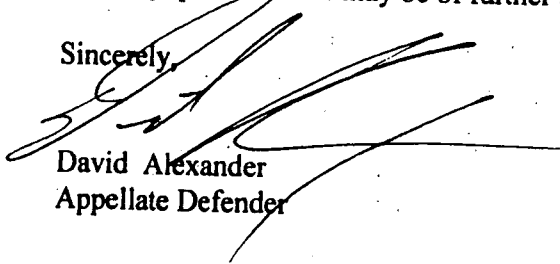
Be assured that I will try my best to find reversible error. I will submit the best brief I possibly can to the appellate court.

If you have a family member with whom you want me to discuss your case, you must send me a letter giving me that person's name and stating that you give me permission to do so.

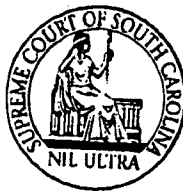
Finally, if you are transferred to another facility or released, you must write and let me know where you are. The Department of Corrections will not notify us of your new address.

I hope this letter answers some of the questions you may have at this time. Again, please do not hesitate to contact me by letter if you have any questions or I may be of further assistance.

Sincerely,



David Alexander
Appellate Defender



South Carolina Court Administration
South Carolina Supreme Court
Columbia, South Carolina

ROSALYN FRIERSON
DIRECTOR

1220 SENATE STREET, SUITE 200
COLUMBIA, SOUTH CAROLINA 29201

December 14, 2015

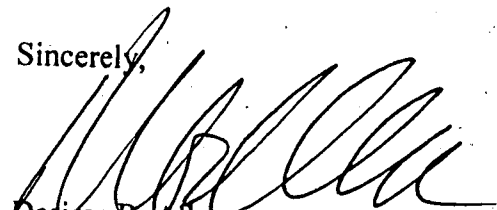
Robert Wazney #3636798
LCI
990 Wisacky Hwy.
Bishopville, SC 29010-1775

Dear Mr. Wazney:

This is in response to your letter dated December 9, 2015. I am including the letter sent to you on November 2, 2015 inquiring about pages that are incorrect from your transcript. Pursuant to the transcript challenge procedure you had 30 days from the date your transcript was delivered to notify the court reporter of any discrepancies.

The 30 days from the date you received your transcript has passed. Therefore these records are no longer available.

Sincerely,


Desiree R. Allen
Court Reporter Manager



Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

August 24, 2015

Mr. Robert William Wazney, #363679
Lee Correctional Institution
990 Wisacky Hwy.
Bishopville, SC 29010

Re: Your case

Dear Mr. Wazney:

I am the lawyer who will be handling your case in the appellate court. I will be reviewing the record of the proceedings at the trial court to see what legal errors to present to the court on your behalf. I will submit these arguments in the form of a written "brief."

With this letter, I am sending you copies of all hearing transcripts relevant to your case. I will send you copies of the brief when I filed it with the appellate court. Please be patient while the court considers your case. This process is very slow, but there is nothing I can do to speed up the process. It will probably be at least six months before I submit a brief to the appellate court and at least a year after that before the court decides your case. Some cases take even longer. You will be notified when the court makes a decision and letters asking the status of your case do not speed up the process.

Please keep these points in mind. In a direct appeal, the appellate court can only consider the information that was in front of the trial court. Any new information cannot be brought to their attention at this point. The appellate court does not decide guilt or innocence. In general, it only looks to see if the trial judge made errors of law. A reversible error only occurs when your lawyer makes an objection or motion and the judge rules against you when legally he should not have. In addition, usually the error must not have been harmless. That is, the error must be something that could have changed the result of the trial.



9-24-15

SOUTH CAROLINA COURT ADMINISTRATION
1015 SUMNER STREET, SUITE 200
COLUMBIA, SC. 29201-3739

RE: 2015 - 000 884

TO WHOM IT MAY CONCERN

I RECEIVED A PARTIAL TRANSCRIPT
FROM SOUTH CAROLINA COMMISSION
ON INDIGENT DEFENSE COUNSEL
AND WISH TO COMPLAIN THAT
IT IS NOT FULLY TRANSCRIBED.
I WOULD LIKE A FULLY TRANS-
CRIBED COPY AS WELL AS A COPY
OF THE AUDIO RECORDING FOR
REVIEW.

SEND TO: ROBERT WARNEY, SC# 383679
LEE CORRECTIONAL INSTITUTION
990 WISKEY HIGHWAY
BISHOPVILLE SC 29010

THANKS,
ROBERT

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Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11588
Columbia, South Carolina 29211-1588
Telephone: (803) 734-1330
Facsimile: (803) 734-1367

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

September 30, 2015

Mr. Robert William Wazney, #363679
Lee Correctional Institution
990 Wisacky Hwy.
Bishopville, SC 29010

Re: Your case

Dear Mr. Wazney:

I received your voice mails. I am sorry I missed your calls. Please keep trying to call me. The afternoons after 2:00 are usually the best time to reach me.

I also

[REDACTED]

appeal.

As for

[REDACTED]

Court.

[REDACTED]

In the letter you wrote to Court Administration, you state that the trial was not fully transcribed.

[REDACTED]

17-3-710 (6)

20

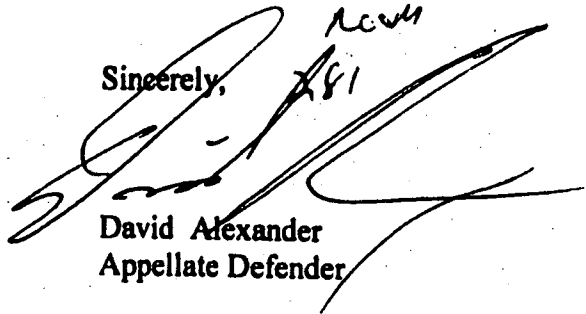
[REDACTED]

Finally, my advice to my clients is not to copy anyone else on our correspondence. The attorney-client privilege protects our communications, but if you share our communications with a third-party, the privilege is waived. [REDACTED]

[REDACTED]

I look forward to hearing from you and working on your case.

Sincerely,

*For [unclear]
[unclear]*

David Alexander
Appellate Defender

EXHIBIT

U

10 - 12 - 15

SCCIZO, DAVID ALEXANDER
1330 LADY STREET
COLUMBIA, SC 29201-3332

DEAR DAVID ALEXANDER,

THIS LETTER IS IN RESPONSE
TO YOUR SEPTEMBER 30 LETTER WHICH
I RECEIVED OCTOBER 9, 2015.

[illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

THE COURT ADMINISTRATION LETTER
REFERENCING TRANSCRIPTS, I WAS REFERENCING
BOTH; THE PRIOR (MARCH) TRIAL AND SOME-
THING NOT PROPERLY TRANSCRIBED. TO
BE SPECIFIC ABOUT THE UNTRANSCRIBED
TRANSCRIPTION, ON PAGE 255 OF THE
APRIL TRANSCRIPT, I KNOW WHAT I
SAID, AND THOSE ARE NOT MY WORDS.
THIS "ERROR" NEEDS TO BE ADDRESSED
AND HAS CAST DOUBT THROUGHOUT THE
ENTIRE SCRIPT AND I DEMAND AN
AUDIO OR VIDEO OF THIS PROCEEDING.
THAT'S ONLY FAIR. I SPECIFICALLY
SPOKE CERTAIN WORDS, I KNOW
WHAT THEY WERE, THEY ARE NOT
IN THIS TRANSCRIPTION.

10.

[REDACTED]

APRIL TRANSCRIPT PG. 8-12

[REDACTED]

WITH REGARDS,



ROBERT WAZNEY



Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1337

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

October 15, 2015

Mr. Robert William Wazney, #363679
Lee Correctional Institution
990 Wisacky Hwy.
Bishopville, SC 29010

Re: Your case

Dear Mr. Wazney:

Thank you for your letter dated October 12, 2015. I also received a voice mail from you, but due to the recent flooding in Columbia, I was out of the office a good bit. So please do call back as I would like to speak with you.

In your letter, [REDACTED]

[REDACTED]

With [REDACTED]

[REDACTED] appeal.

Second, [REDACTED]

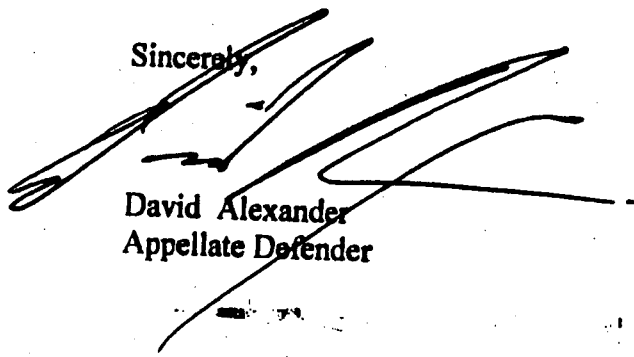
[REDACTED]

As for your assertion that the transcript is incorrect on page 255, I will not be challenging the transcript on this basis. I reviewed this page. This was not your testimony, but what you said at sentencing. [REDACTED]

[REDACTED]
requests.

I do appreciate your thoughts on the potential issues for appeal. I will review these again when I prepare your brief.

Sincerely,


David Alexander
Appellate Defender

W

214

11-4-15-

SECTO, DAVID ALEXANDER
1330 LADY STREET, SUITE 401
COLUMBIA, SC. 29201 - 3332

DEAR MR. ALEXANDER

IN RESPONSE TO YOUR LETTER
DATED OCTOBER 15, 2015.

A document page with approximately 15 lines of text, all of which have been completely redacted with thick black horizontal bars. The redactions are uniform in thickness and cover the entire width of the text area for each line. The background is white, and the redacted text is black.

AS FOR THE TRANSLAT ERROR ON
PAGE 255 OF THE APRIL TRANSLAT, MY
ALLEGATIONS THAT THERE ARE POTENTIALLY
MORE ERRORS THROUGHOUT, AND THAT IT
IS UNDOUBTABLY INCORRECT BECAUSE MY WORDS
WERE MISCONSTRUED; IT IS COMMON SENSE
THAT IF ANYONE LOOKS INTO JUST ONE
SECTION OF A TRANSCRIPT AND THAT
SECTION IS INCORRECT, THE LIKELIHOOD
THAT OTHER SECTIONS OF THAT SAME
TRANSCRIPT, WILL BE ERRONEOUS, ARE
FAVORABLY HIGH. YOU WROTE YOU WILL
NOT BE CHALLENGING THIS ISSUE BECAUSE
IT WAS NOT MY TESTIMONY, YES, IT
WAS MY TESTIMONY, IT WAS THE FACTS
AND I WAS UNDER OATH SPEAKING ON THE
RECORD DURING A TRIAL IN FRONT OF
THE COURT RESPONDING TO A JUDGE.

FURTHERMORE, THIS ERROR REFLECTS ON
WHAT OTHER ERRORS MAY CONSIST WITHIN
THIS TRANSCRIPT WHICH MAY REVEAL
ERRORS OF LAW WHICH WILL BE
OVERLOOKED WITHOUT THE FULL, CORRECT
TRANSCRIPTION OF THIS TRIAL. I STILL
DEMAND AN AUDIO OR VIDEO OF THIS
PROCEEDING AND FOR THIS "ERROR" AND
ANY OTHER ERRORS TO BE CORRECTED
IN THIS TRANSCRIPT.

NEXT [REDACTED]

I [REDACTED]

[REDACTED]

END NOTES

1

APAZL TRANSCRIPT P 255 LINES
20-14; P 257 LINES 1-5

RESPECTFULLY


ROBERT WAGNER



218

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1387

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

November 6, 2015

Mr. Robert William Wazney, #363679
Lee Correctional Institution
990 Wisacky Hwy.
Bishopville, SC 29010

Re: Your case

Dear Mr. Wazney:

This letter will respond to your letter of November 4, 2015, which I received today. I will not know which issues I will raise in your brief until I read the transcript and research the issues. It will probably be several months before I can read the transcript. I hope we can discuss the issues in advance of filing the brief, but I cannot promise this. If I file an Anders brief, the Court will allow you to submit whatever issues you like.

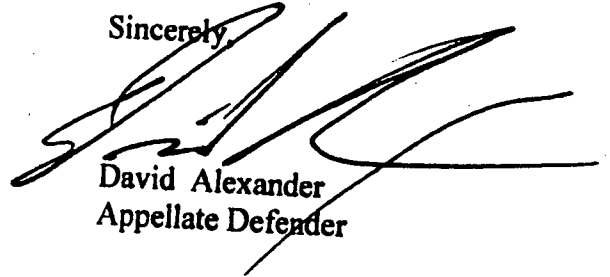
As for your question about the prior trial transcript, I can raise legal errors in the current trial, not the prior trial. I do not know Mr. Keffer. Our office frequently consults with the trial lawyers. I am sorry you believe that Mr. Keffer did not act in your best interest, but as I pointed out in my last letter, that is a matter for PCR, not a direct appeal. When I read your trial transcript, if I think the prior transcript is relevant for some reason, I will not hesitate to order it.

I am not going to engage in hypothetical discussions about a stay. I do not need a stay.

I am not going to challenge a transcript based on your vague assertions of errors. Transcript challenges must be specific. I have already given you my reason why I will not challenge the transcript on the one portion where you do claim there was some kind of error.

If you are unsatisfied with my responses, as you indicated might be your intention, you are free to ask the Court to relieve me as counsel. I would strongly advise you against making such a motion. I will prepare the best brief I can based on the record below. I very much hope your case has a winning issue.

Sincerely,

A handwritten signature in dark ink, appearing to read 'D. Alexander', with a long horizontal flourish extending to the right.

David Alexander
Appellate Defender



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE



Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

December 21, 2015

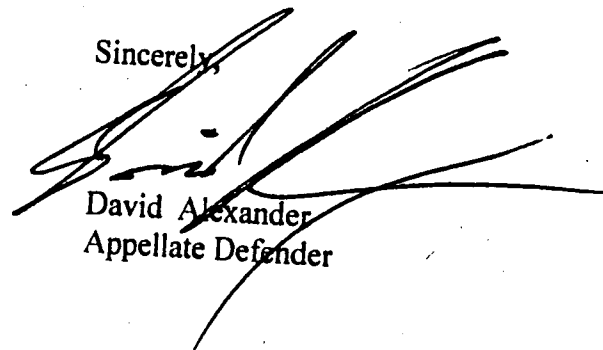
Mr. Robert William Wazney, #363679
Lee Correctional Institution
990 Wisacky Hwy.
Bishopville, SC 29010

Re: Your case

Dear Mr. Wazney:

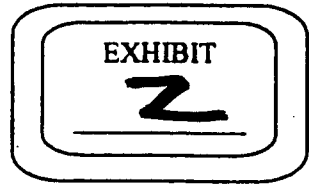
This letter will respond to your letter dated December 16, 2015, which I received on December 18, 2015. You have the only transcript I have. The front page has a typographical error in listing the indictments as 2014 indictments, but if you will look on page 4, you will see the solicitor call the case with the 2014 and 2015 indictments.

Sincerely,



David Alexander
Appellate Defender

1-2-16



SCCID, DAVID ALEXANDER
1330 LADY STREET, SUITE 401
COLUMBIA SC, 29201

RE: 2015-000884

DEAR DAVID ALEXANDER,
IN RESPONSE TO YOUR LETTER DATED
DECEMBER 21, 2015, WHICH I RECEIVED ON
DECEMBER 30, 2015.

[REDACTED]

[REDACTED]

I INTENTIONALLY OBTAINED
TO ISSUES ON THE RECORD SPECIFICALLY
FOR MY PRESERVATION OF RIGHTS FOR
REVIEW.

I HAVE NOT RECEIVED FROM YOU
THE REST OF THE TRANSCRIPT AND PRAY
FOR YOU TO SEND IT TO ME.

WITH kindest regards,

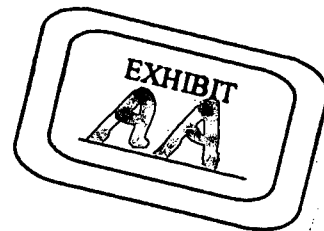
ROBERT WAYNE AMELLANT

ENCL. (2)

CC: COURT ADMINISTRATION

JANUARY 3, 2016

SCC20, DAVID ALEXANDER
1330 LADY STREET
COLUMBIA, SC, 29201



RE: 2015 - 000884

DEAR DAVID ALEXANDER,

THIS LETTER WILL SECONDLY ANSWER YOUR LETTER DATED DECEMBER 21, 2015 WHICH I RECEIVED ON DECEMBER 30, 2015. CONCERNING THE TYPOGRAPHICAL ERROR YOU POINT OUT ON THE FRONT PAGE OF THE TRANSCRIPT WHICH YOU AND I BOTH HAVE, AND THE MIS TRANSCRIPTION OF THIS SAME DOCUMENT INDICATED TO YOU IN MY NOVEMBER 04, 2015 AND OCTOBER 12, 2015 AND SEPTEMBER 24, 2015 CORRESPONDENCE:

THE APPELLATE COURT REVIEWS THE WRITTEN RECORD OF TRIAL AND ON SENTENCING TO ASCERTAIN WHETHER THE LAW WAS APPLIED PROPERLY. ANY ISSUE RAISED MUST BE IN THE WRITTEN RECORD OF THE TRIAL PROCEEDINGS.

WOULD IT NOT BE OF THE UTMOST IMPORTANCE THAT THE RECORD IS CORRECT TO SUPPORT FUNDAMENTAL FAIRNESS FOR THE APPELLANT AS WELL AS THE RESPONDENT?

OBTAINING THE ERRORS IN THIS TRANSCRIPT ARE NOT ISOLATED TO PAGE 255 AS I CLAIMED EARLIER. NOW, ADDITIONALLY, YOU HAVE FOUND ERROR ON THE FRONT COVER. ALSO I HAVE NOTICED THERE IS AN AREA OF SIGNIFICANCE WITHIN THIS TRANSCRIPT WHERE, WITHOUT DOUBT, THERE SHOULD BE OBJECTION, BUT THERE IS NOT.

IN THE EVENT THE ADVERSARY FINDS ERROR IN THIS TRANSCRIPT DETRIMENTAL TO THE SECURITY OF THE APPELLANTS CONVICTION,

WOULD THEY NOT ATTEMPT TO CORRECT, OR
BE PERMITTED TO MAKE CORRECTIONS, UPON
DISCOVERY OF SUCH?

UNLESS THIS TRANSCRIPT IS 100%
CORRECT, IT IS PREJUDICE TO THE APPELLANT.

RESPECTFULLY SUBMITTED,


ROBERT WARNLEY, APPELLANT



S.C. Commission on Indigent Defense
Division of Appellate Defense
P.O. Box 11589
Columbia, SC 29211-1589

CONFIDENTIAL LEGAL MAIL

fy - 2247

Mr. Robert William Wazney, #363679
Lee Correctional Institution
990 Wisacky Highway
Bishopville, SC 29010

Signed
MAY 19 2016

p. 227



MAY 26, 2016

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S.C. COURT ADMINISTRATION
1015 SUMTER ST. ~~ROOM 1015~~
COLUMBIA SC 29201

RE: 2015-000884

TO WHOM IT MAY CONCERN:

PLEASE FIND ENCLOSED MY CORRESPONDENCE
REGARDING TRANSCRIPT INACCURACY IN
YOUR FILES, RECORDS AND INFORMATION.

Kindest regards,

ROBERT WARNEY
990 WISJACKY HWY
BISHOPVILLE SC 29010

RE: 2015 - 000884 MAY 26, 2016

TO: DAVIO ALEXANDER, SCCID
1330 LADY ST., SUITE 401
COLUMBIA, SC. 29201

MELISSA RAY SINGLETARY, CVR
2797 STATE ROAD
SUMMERVILLE, SC. 29483

DESIREE ALLEN
1220 SENATE STREET, SUITE 200
COLUMBIA, SC. 29201

JENNY ABBOTT KITCHINGS
1220 SENATE STREET
COLUMBIA, SC. 29201

HONORABLE R. FERRELL COTHERAN
215 NORTH HARVARD STREET
SUMTER, SC. 29150

PLEASE FIND ENCLOSED HERewith
A COPY OF MY CHALLENGE TO THE
ACCURACY OF THE "MARCH 23-24, 2015"
TRANSCRIPT FOR THE HEARING HELD
FROM MARCH 23, 2015 THROUGH MARCH
25, 2015.

RESPECTFULLY SUBMITTED

ROBERT WAZNEY

THE TRANSCRIPT DESCRIBED AS
 "ROBERT W. WARNEY VS. STATE OF SOUTH
 CAROLINA", CONSISTING OF ONE HUNDRED
 SIXTY SEVEN (167) PAGES, DATED
 MARCH 23-24, 2015, DELIVERED TO MR.
 WARNEY ON MAY 19, 2016, IS NOT
 ACCURATE, TRUE, OR CORRECT. THE
 TRANSCRIPT NEEDS TO BE FULLY AND
 ACCURATELY TRANSCRIBED FOR MR. WARNEY
 OR HIS COUNSEL TO INDICATE ERRORS
 OF LAW MADE DURING THE PROCEEDING,
 TO THE COURT.

RULE 607 (i) SCACR READS: "... IN
 ANY PROCEEDING WHICH HAS BEEN TRANSCRIBED,
 THE COURT REPORTER SHALL RETAIN THE
 PRIMARY AND BACKUP TAPES WHICH HAVE
 BEEN TRANSCRIBED FOR A PERIOD OF AT
 LEAST THIRTY (30) DAYS AFTER THE
 ORIGINAL TRANSCRIPT IS SENT TO
 THE REQUESTING PARTY, TO ALLOW
 ANY PARTY TO CHALLENGE THE
 ACCURACY OF THE TRANSCRIPTION..."

ROBERT W. WARNEY IS THE REQUESTING PARTY OF THE TRANSCRIPT AND RECEIVED THE TRANSCRIPT ON MAY 19, 2016. AFTER READING A SECTION OF THE MARCH 2015 TRANSCRIPT ON MAY 25, 2016, MR. WARNEY DISCOVERED WITHIN A SINGLE PARAGRAPH OF TESTIMONY OF SEVENTY FIVE (75) WORDS SPOKEN BY MR. WARNEY, THERE ARE FOURTEEN (14) ERRORS FOUND WITHIN THAT SEVENTY FIVE (75) WORD SELECTION (18.6% ERROR).

ADDITIONALLY, ERRORS WERE FOUND THROUGHOUT THE ENTIRE TRANSCRIPT UPON FURTHER READING BY MR. WARNEY.

DECLARATION

NOW COMES ROBERT W. WARNEY, WHO BEING ONLY SWORN, DEPOSES AND STATES:

" I REQUESTED MY TRIAL TRANSCRIPT

DATED MARCH 23-25, 2015 FROM MY APPELLATE ATTORNEY. WHEN I RECEIVED THE TRANSCRIPT ON MAY 19, 2016, I READ THROUGH IT AND FOUND ERRORS EVERYWHERE THROUGHOUT IT. MY TESTIMONY THAT IS IN THE TRANSCRIPT IS NOT ACCURATE JUST LIKE THE TESTIMONY OF THE APRIL 13-15, 2015 TRANSCRIPT IS NOT ACCURATE. I SPECIFICALLY SAID THINGS IN COURT DURING MY TESTIMONIES WHICH PRESERVE ISSUES FOR APPEAL DURING BOTH TRIALS, AND THAT TESTIMONY DOES NOT APPEAR IN EITHER TRANSCRIPT. THE RECORDS DO NOT SPEAK THE TRUTH."

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND UNDERSTANDING.

MAY 26, 2016

DATE


ROBERT W. WAZNEY
990 WISACHY HWY.
BISHOPVILLE SC 29010

THEREFORE, ROBERT W. WARNEY
 TIMELY CHALLENGES THE ACCURACY OF
 THE MARCH 23-24, 2015 TRANSCRIPT
 TAKEN BY MELISSA R. SINGLETARY,
 IN THE COURT OF GENERAL SESSIONS,
 JUMPER COUNTY, SOUTH CAROLINA. BEFORE
 THE HONORABLE R. PERRELL COTHERAN,
 PRESIDING JUDGE, IN ITS ENTIRETY.

RESPECTFULLY SUBMITTED,

MAY 26, 2016

DATE


 ROBERT W. WARNEY
 990 WISACKY HWY
 BISHOPVILLE SC 29010

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

COURT OF GENERAL SESSIONS

Robert William Wazney,

PLAINTIFF,

v.

The State of South Carolina,

DEFENDANT.

TRANSCRIPT OF TRIAL

2014-GS-43-0317;

2015-GS-43-0333

2-15-GS-43-0334

Sumter County Courthouse
March 23, 3015-March 24, 2015

BEFORE:

HONORABLE R. FERRELL COTHRAN, PRESIDING JUDGE.

APPEARANCES:

Assistant Solicitor John Meadors
Attorney for State of South Carolina

John Keffer, Esquire
Attorney for Robert William Wazney

TAKEN BY MELISSA R. SINGLETARY
CERTIFIED VERBATIM REPORTER

CERTIFICATE

This is to certify that the transcript in the matter of Robert W. Wazney vs. State of South Carolina, consisting of One Hundred Sixty-Seven (167) 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 28thth day of April, 2016.

Melissa R. Singletary

Melissa R. Singletary
Certified Court Reporter

233



Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11689
Columbia, South Carolina 29211-1689
Telephone: (803) 734-1330
Facsimile: (803) 734-1329

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

May 12, 2016

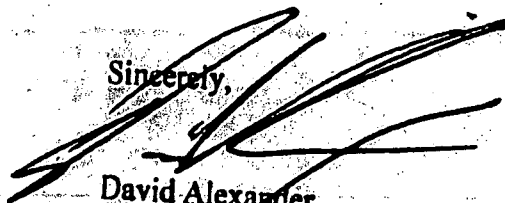
Mr. Robert William Wazney, #363679
Lee Correctional Institution
990 Wisacky Highway
Bishopville, SC 29010

Re: Your case

Robert
Dear Mr. Wazney: /

Enclosed is a copy of your trial transcript dated March 23-24, 2015. Please read the transcript at your earliest convenience. Call me afterwards so we can discuss it.

Sincerely,



David Alexander
Appellate Defender

DAA/lmv

E. 5/27/14

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
Division of Inmate Services

RECEIVED

MAY 27 2018

AGREEMENT TO DEBIT E.H. COOPER ACCOUNT

Inmate's Name: <u>TRAVIS</u> <u>ROBERT WARNEY</u>	SCDC #: <u>363679</u>	Housing Unit: <u>FY 2247</u>	Date: <u>5-26-18</u>
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GENERAL MATERIAL

** Inmate must have the funds in his/her account to pay for the materials.

Item	Amount
Envelope	
Pen	
Paper	
Postage	
Tape	
Box	
Electronic Repair	
Other	

To be completed by
SCDC staff:

Item	Amount

RECEIVED

MAY 27 2018
Sub-Total:

LEGAL MATERIAL MAIL ROOM

** Inmate is not required to have the funds in his/her account to pay for the materials; however, his/her account must be debited for all materials s/he elects to receive.

Item	Amount
Envelope	
Pen	
Paper	
Postage	
Other	

To be completed by
SCDC staff:

Item	Amount

Sub-Total:

PHOTOCOPIES

** Inmate may be required to have funds in his/her account. See SCDC Procedure GA-01.03(OP), "Inmate Access to the Courts," to determine if inmate may receive copies with/without funds.

Item	Amount
Photocopies	

To be completed by
SCDC staff:

Item	Amount

TOTAL

Inmate's Signature

Mailroom/Canteen Signature (Request filled by)

5/27/14
Date

White - Inmate



235

**VIDEO DVD INTERVIEW OF VICTIM
December 16, 2013**

I am only including mostly possible relevant information to help establish a better "picture" of the scenario.

Some of the content on the video is inaudible or difficult to understand. This is what I could get in the time allowed.

This interviewer introduced herself as "Robin". The camera views a 'third person' view / angle from the ceiling of one of the rooms corners facing the victim. The room has two chairs across from one another and a grease board used for displays / exhibits within reach of each chair. Once seated, on the victims left side is the grease board. Sitting directly across from the victim is the interviewer's chair which is partly out of the cameras view.

INTERVIEWED:	MARIAN HORNAK
SISTER:	JASMINE
MOM:	ANGELA PUENTE
DAD:	RICHIE HORNAK
STEPPAD:	CESAR PUENTE
WAZ:	APPELLANT
NANA:	SHARON WAZNEY, A.K.A. SHARON RENEE CHABOSSAL (EX WIFE OF APPELLANT, MOHTER OF RITCHIE, FORMER STEPMOTHER OF ANGELA)

VTS_01-1.VOB

Q: <who came with you?>

A: My mom and sister (in lobby)

Q: <Anyone else live with you?>

A: Cesar, my stepdad

Q: <How long has he been your stepdad?>

A: My mom officially got custody of us last week, but she found out today,
so I guess about a week (*happy*)

Q: <What about court going on?>

A: I was so stressed out and had PMS symptoms...cramping... cut it was
so stressful charging mom and dad with neglecting my brother.

Q: <.....?>

A: Lived with Nana and Waz for three months... left dads because of living conditions, it was filthy and it stinks after moving out for three to four months... I have been babysitting my brother and sister since ten years old.

Dad told stories about mom ... Lied ... I had a phone on the side and was talking to her.

We would see her once a month every two to three months, disliked her since she left.

Q: <Things ok at moms house?>

A: Its fun, Cesar is cool... I hated living at home... mom is going to make me fat, ha-ha

.... conversation about food at dads house

.... Punish questions and answers

Q: <What about at nanas house, how did you get punished?>

A: I was a good girl... If I got in trouble, nana would shout at me and take away my phone.. and I-pod

Q: <What would Waz do?>

A: Chill, He wouldn't get on me. He cut off wi-fi.

Q: <Have you ever seen any grownups fight?>

A: Yes, nana and Waz- shouting and arguing- always mad. A small thing would happen and they blow up on each other. Jasmine would cry....

Q: <Do you know about pornography?>

A: Yes - Police came to school to tell us about "sexting"

.... Conversation about anatomy, drew some pictures for grease board

Q: <Has anyone ever touched you where you didn't want them to?>

A: Yes - My uncle when I was seven years old - would wake up with my pants down

Q: <Did you ever tell?>

A: Yes, They got in trouble... I never seen them since ha-ha

Q: <What about anybody else? Any grownups or other kids?>

A: No

Q: <Do you think something happened to your sister or your brother?>

A: I do know something happened to Jasmine

Q: <What happened?>

A: She told us the day before thanksgiving, she told us Wilson did stuff to her

Q: <What did she say?>

A: He was touching her, gross stuff

Q: <Where did Wilson get the Idea?>

A: I am not sure, for a minute we thought Waz ... and then Wilson did it to jasmine and waz did it to my sister, I'm not sure it really happened, maybe he did it waz introduced him, and I also heard something else that my uncle when he was doing it to me he got into trouble Wilson said that he did it to him too and I didn't know that until today, I just found out about that. But maybe Wilson found out from there.

...

Q: <So waz did something to your sister?>

A: umm hum (yes)

Q: <That's when you found out before thanksgiving too?>

A: No, Actually I found out not long ago. Cuz jasmine was taking a lie detector test and he asked her if he ever did anything, she said no and it (*lie detector*) said she was lying, so that is how I found out

Q: <Has Waz ever said anything to you that made you uncomfortable?>

A: No, like, I would ask him questions if I was curious.

Q: <What kind of things?>

A: ha-ha, I asked him whats it called when people have sex with themselves, I didn't know, it was masturbate, I was like okay haha that was so weird ha

Q: <do you believe that your sister ?>

A: At first I didn't. I didn't want to believe it I just thought she was just trying to get attention. But then after taking the lie detector test I knew she was telling the truth, and Wilson confessed. But I'm not sure

about Waz but I heard that the lie detector test said she was lying so
...

Q: <Where is Waz?>

A: Waz is in jail and he can't get bailed out and his court date is in February. Dang that's a long time.

Q: <And what do you think about that?>

A: I was sad at first but now that I know what he did and all this stay in there ha-ha, so, I don't cry or anything about it anymore.

Q: <How is your mom handling it?>

A: My mom is super happy cuz today she found out she has custody of us. At first she was so stressed out and sad cuz she thought she was going to lose us and what happened to jasmine was really sick.

.....

Q: <DSS ever been involved with you before?>

A: Just recently ... for house

.....

Q: <Did she say why she can't take him anymore?> (*talking about nana*)

A: Since Waz isn't getting paid, she is on disability, she is sixty two, she's too old and also cuz she cant see us anymore, me or jasmine, she said whats the point in him living and all this stuff.

.....

Q: <How does she feel about Waz and Jasmine?>

A: (*unknown gesture with a pause*) She is SICK about it. Everyone is sick about it.

Q: <Has Waz ever done anything to you....?>

A: Almost

Q: <What happened?>

A: We were on the couch, I was like a curious person, it was like nothing really, it was like upper leg, that was all.

Q: <But you were uncomfortable?>

A: No, I was curious, I should have felt bad but I didn't ha-ha I was just curious though

.....

I wish that I have

Q: <what did you do?>

A: We were in the computer room

Q: <Did you ever see his dick?>

A: No

Q: <Ever seen any porno?>

A: Found some on computer – my sister pulled it up and left it.

Q: <Did Waz treat you or Jasmine any differently?>

A: No, I'm just saying, he favored me, for example I wanted x-box, he said yes, others... not right now

Q: <Did he give you things he didn't give others?>

A: umm.....my grandma said he gave me money, he didn't. I'm not sure, once he gave me a few dollars but that's cuz I had to buy something. No, not really.

Q: <Why does nana think that Waz gave you money?>

A: He would be missing money, like, she would give him money and it would be gone, and she don't know where it went. and then I told her no and she said "don't lie to me".. I'm like.. okay...

.....?

every now he did it. But that's only if I asked him and I would pay it back later and stuff like that or if she is talking about buying stuff off I-tunes.

Q: <Do you think your family needs counseling?>

A: My brother and sister.

Q: <Have you ever had sex with anyone?>

A: No, I have an abstinence ring... *(elaborates)*

VTs_01_2(2).VOB

(second video file)

Q: <Do you think you mom thinks Waz did something to you?>

A: I know grandma does

Q: <What makes grandma think?>

A: I'm not sure, I guess cuz he favored me and she was jealous of our friendship.

Q: <Did he act younger than what he was?>

A: Yeah haha

Q: <How old do you think he acted?>

A: Nana was thinking he dressed like a teen. I guess he acted childish, like twenty's

Q: <Did he like watch some of the same things that kids like teenagers would watch?>

A: Disney, we watched Disney ha-ha

Q: <Do you think Waz or Wilson did anything to others?>

A: No

Q: <Any inappropriate comments made to you?>

A: No, (told mini-ipod joke)

.....violin story.....

.....CAP field trip story....

Q: <What does your mom think about you going into the military?>

A: I don't know, she kinda rooting for me.

..... career choices talk....

..... last two boyfriends talk.....

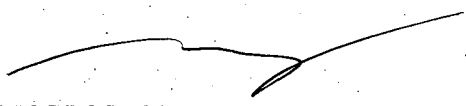
END

CERTIFICATE OF APPELLANT

The undersigned hereby certifies that the Record on Appeal Supplemental contains all material proposed to be included by any of the parties and not any other material.

September 25, 2016

Date



Robert W. Wazney
Convicted Felon

990 Wisacky Hwy.
Bishopville, SC 29010
Indigent Appellant

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM SUMTER COUNTY

Maite Murphy, Circuit Court Judge

Case No. 2015-000884

The State, Respondent,
v.
Robert Wazney Appellant.

CERTIFICATE OF SERVICE

I certify that I have served the Supplemental Brief of Appellant, Designation of Matter to be Included in Record on Appeal Supplemental, and Record on Appeal Supplemental on J. Benjamin Aplin, Esquire, Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, South Carolina 29201 by depositing it in the prison mail system, certified and postage prepaid on

SEPTEMBER 26 2016


Robert Wazney
990 Wisacky Hwy.
Bishopville SC 29010
Indigent Appellant